



Western Australia

# **Electoral Amendment (Finance and Other Matters) Act 2023**



# Electoral Amendment (Finance and Other Matters) Act 2023

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Western Australia

## **Electoral Amendment (Finance and Other Matters) Act 2023**

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**No. 30 of 2023**

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**An Act to amend the *Electoral Act 1907* and to make consequential amendments to the *Adoption Act 1994*, the *Local Government Act 1995* and the *Referendums Act 1983*.**

*[Assented to 11 December 2023]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Electoral Amendment (Finance and Other Matters) Act 2023*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 (but only sections 3, 176, 177, 178 and 179) — on the day after assent day;
- (c) the rest of the Act — on 1 July 2024.

## Part 2 — *Electoral Act 1907* amended

### 3. Act amended

This Part amends the *Electoral Act 1907*.

### 4. Section 4 amended

- (1) In section 4(1) delete the following definitions:

*above the line*

*Australian citizen*

*authorised witness*

*below the line*

*candidate*

*christian name*

*early ballot paper*

*elector*

*electoral census*

*enrolment information*

*general polling place*

*hour of nomination*

*official paper*

*registered political party*

*returning officer*

*roll*

*secretary*

*sub-district*

- (2) In section 4(1) insert in alphabetical order:

*above-the-line square*, in relation to a ballot paper for a Council election, means a square that is printed on the ballot paper under section 94D(6)(b)(ii);

**s. 4**

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***accountable person***, for a how-to-vote card, means —

- (a) the person who is named under section 89C(4)(d) in the application for the how-to-vote card; or
- (b) the person who is the accountable person for the how-to-vote card under section 89H(2); or
- (c) if paragraphs (a) and (b) do not apply and the card is distributed on behalf of a political party — the secretary of the party; or
- (d) in any other case — the distributor of the how-to-vote card identified in the application for the how-to-vote card under section 89C(4)(b);

***amalgamated roll*** has the meaning given in section 76AD(1);

***assistant returning officer*** means an assistant returning officer appointed under section 141(5);

***Australian citizen*** has the meaning given in the *Australian Citizenship Act 2007* (Commonwealth) section 4;

***below-the-line square***, in relation to a ballot paper for a Council election that has at least 1 above-the-line square printed on the ballot paper, means a square that is printed on the ballot paper under section 94D(6)(a);

***business day*** means a day other than a Saturday, a Sunday or a public holiday;

***candidate***, in Parts II and VII, includes any person who, within 3 months before polling day in an election, publicly announces that they will be a candidate in the election;

***close of nominations*** means the time a writ fixes under section 69(a) for an election;

***close of the roll*** means the time stated in section 69A;

**counting place** means —

- (a) a polling place that is a counting place under section 141(1); or
- (b) a place appointed to be a counting place under section 141(2);

**designated entrance**, for a mobile voting place or polling place, means an entrance designated under section 93A(1) or (2);

**disclose** includes to give and give access to;

**early polling place** means a polling place appointed under section 90(1)(c)(i) as a place at which a person may vote in an election on an early voting day for the election;

**early voting days**, for an election, means the early voting days for the election fixed under section 91;

**elected member** means a member of the Council or the Assembly;

**election campaign worker** —

- (a) means a person who works or volunteers for a candidate, group or political party at a place to vote or a counting place; and
- (b) includes a scrutineer;

**elector** means a person who is enrolled;

Note for this definition:

Under section 17AA(2), a person who is entitled to be enrolled under section 17AA(1) is taken not to be an elector until the person attains 18 years of age.

**electoral address**, in relation to an elector, means the address entered on the register of electors under section 40A(c) or (d) in relation to the elector;

***endorsed candidate*** means a candidate in an election who has been endorsed by a political party;

Note for this definition:

See also subsection (4C).

***enrolled*** has the meaning given in section 40A;

Note for this definition:

See also subsection (4B) in relation to persons enrolled in the district.

***enrolment information*** means —

- (a) a register extract; or
- (b) information on the register; or
- (c) a roll; or
- (d) other information relating to electors;

***enrolment officer*** means an officer who the Electoral Commissioner directs to enrol persons on the register of electors and perform the other functions of an enrolment officer;

***error notice*** has the meaning given in section 89F(2);

***general postal voter*** has the meaning given in section 61(1);

***how-to-vote card*** has the meaning given in section 89A;

***illegal practices*** has the meaning given in section 187(1);

***issuing officer*** means each of the following persons —

- (a) the Electoral Commissioner;
- (b) the Deputy Electoral Commissioner;
- (c) a returning officer;
- (d) a person appointed under section 15;
- (e) a person employed in the Western Australian Electoral Commission;



- (f) a person appointed to be an issuing officer under section 92A;

**lack of capacity notice** has the meaning given in section 206A(3);

**mental impairment** means any of, or a combination of, the following —

- (a) an intellectual disability;
- (b) a mental illness as defined in *The Criminal Code* section 1(1);
- (c) an acquired brain injury;
- (d) dementia;

**mobile voting officer**, for a mobile voting place, means the presiding officer and other officer appointed for the mobile voting place under section 90D(1);

**mobile voting place** means a place appointed as a mobile voting place under section 90(1)(d) or (e);

**mobile voting times**, for a mobile voting place, means the times decided under section 90D(3)(b) for the mobile voting place;

**non-party candidate** means a candidate in an election who is not an endorsed candidate;

**official paper** has the meaning given in section 94A(2);

**parliamentary party** means a political party of which at least 1 member is a member of the Council or the Assembly;

**permitted purpose** means —

- (a) for a member of the Council or the Assembly —
  - (i) performing the member's functions; or
  - (ii) a purpose connected with an election or referendum; or

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(iii) monitoring the accuracy of information in the register of electors or a roll; or

(iv) researching in relation to electoral matters;

and

(b) for a parliamentary party —

(i) assisting a member of the Council or the Assembly to perform the member's functions; or

(ii) a purpose connected with an election or referendum; or

(iii) monitoring the accuracy of information in the register of electors or a roll; or

(iv) researching in relation to electoral matters;

and

(c) for a person to whom enrolment information is disclosed under section 62AC — the purpose for which the Electoral Commissioner agreed to disclose the enrolment information; and

(d) for a person employed in a department or an organisation referred to in section 62AD to whom enrolment information is disclosed under that section — performing functions of that department or organisation;

***place to vote*** means a polling place or mobile voting place;

***polling day*** has the meaning given in section 69(b);

***postal ballot paper*** has the meaning given in section 100D(2)(a);

***postal voting*** means voting by means of a postal ballot paper;

**presiding officer** —

- (a) for a polling place — means the person appointed as the presiding officer for the polling place under section 92C(1)(a); or
- (b) for a mobile voting place — means the person appointed as the presiding officer for the mobile voting place under section 90D(1)(a);

**primary residential address**, of a person, means the address of the person's sole or principal place of residence;

Note for this definition:

See also subsections (4) and (4A).

**register extract** has the meaning given in section 62A(1);

**registered how-to-vote card** means a how-to-vote card that is registered under Part IV Division 2A;

**registered officer**, of a political party, means —

- (a) the secretary of the party; or
- (b) another person registered as a registered officer in the register of political parties;

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

**register of electors** has the meaning given in section 19(1);

**register of political parties** means the register kept under section 62D;

**Registrar of Births, Deaths and Marriages** means the Registrar of Births, Deaths and Marriages referred to in the *Births, Deaths and Marriages Registration Act 1998* section 5;

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**returning officer** means a returning officer appointed under section 6(1);

Note for this definition:

See also subsection (7).

**roll** means a roll prepared for an election under section 76AA(1);

**scrutineer** means a person appointed as a scrutineer under section 92F, 101D(1), 137(1), 146C or 156D(11);

**secretary**, in relation to a political party, means —

- (a) the person who holds the office of secretary or chief administrative officer (however described) of the party; or
- (b) a person acting on behalf of the person mentioned in paragraph (a);

**silent elector** means an elector —

- (a) whose application to be a silent elector is granted under section 51B(3); and
- (b) whose status as a silent elector is not revoked under section 51C(3);

Note for this definition:

A person who is enrolled under section 17AA(1) is taken, under section 17AA(2)(c), to be a silent elector until the person attains 18 years of age.

**suitable to be registered**, in relation to a how-to-vote card, has the meaning given in section 89B;

**supplementary roll** means a supplementary roll made under section 76AC(1);

**voting area**, in relation to a place to vote, means the voting area fixed under section 90(1)(f) for the place;

- (3) In section 4(1) in the definition of *absent voter* delete “the provisions of section 99A;” and insert:

section 97A(2);

- (4) In section 4(1) in the definition of *conjoint election* delete “are both to be held on the same day” and insert:

both have the same polling day

- (5) In section 4(1) in the definition of *officer* delete “Act, except as an honorary Government electoral agent;” and insert:

Act;

- (6) In section 4(1) in the definition of *political party*:

- (a) in paragraph (a) delete “a candidate or candidates endorsed by it or by a body or organisation that forms part of it; or” and insert:

an endorsed candidate; or

- (b) in paragraph (b)(iii) delete “a candidate or candidates endorsed by it or by a body or organisation that forms part of it;” and insert:

an endorsed candidate;

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- (7) In section 4(1) at the end of the definition of *political party* insert:

Note for this definition:

See also subsection (4D).

- (8) In section 4(1) in the definition of *polling place* delete “place;” and insert:

place under section 90(1)(a) or (b);

- (9) In section 4(1) in the definition of *vote record* delete “section 99E(1);” and insert:

section 101B(1);

- (10) After section 4(3) insert:

- (4) A reference in this Act to a person living within a district is a reference to the person’s primary residential address being in the district, even if the person is not always living in the district.
- (4A) A reference in this Act to a person’s primary residential address in relation to a person who is serving a sentence of imprisonment for an offence or is otherwise in lawful custody or detention in relation to an offence —
- (a) is a reference to the person’s primary residential address before the person’s imprisonment, custody or detention; and
  - (b) is not a reference to the place of imprisonment, custody or detention.

- (4B) For the purposes of this Act, a person is enrolled for a district if the person's electoral address is in the district.
- (4C) In this Act —
- (a) a reference to an endorsed candidate of a political party includes a reference to a candidate endorsed by a body or organisation of which the party forms part or by a division of the party; and
  - (b) a reference to the endorsement by a political party of a candidate or group in an election includes a reference to the endorsement of that candidate or group by a body or organisation of which the party forms part or by a division of the party.
- (4D) A reference in this Act to a political party, other than a reference to an endorsed candidate of the party or the endorsement by the party of a candidate or group in an election, does not include a reference to a part of the party.
- (11) After section 4(6) insert:
- (7) A reference in this Act to the returning officer, without reference to the returning officer being for the whole of State electorate or a district, is a reference to —
- (a) in relation to an election in a district — the returning officer for the district; or
  - (b) in relation to a Council election — the returning officer for the whole of State electorate.

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- (8) A reference in this Act to a Commonwealth subdivision is —
- (a) a reference to a Subdivision as defined in the *Commonwealth Electoral Act 1918* section 4(1); or
  - (b) a reference to a Division as defined in the *Commonwealth Electoral Act 1918* section 4(1) that is not divided into Subdivisions under that Act.

**5. Section 4AA amended**

In section 4AA(1):

- (a) delete “99G, 114,” and insert:  
  
92F, 101D(1),
- (b) delete paragraph (a) and insert:
  - (a) in the case of an endorsed candidate of a registered political party not included in a group — a registered officer of the registered political party;
- (c) delete paragraph (c) and insert:
  - (c) in the case of a candidate included in a group in which each of the candidates is an endorsed candidate of the same registered political party — a registered officer of the registered political party;



(d) delete paragraph (e) and insert:

(e) in the case of a group in which all of the candidates are endorsed candidates of the same registered political party — a registered officer of the registered political party;

**6. Section 5B amended**

(1) In section 5B(2):

(a) delete “shall be” and insert:

must be

(b) delete “shall hold” and insert:

holds

(2) In section 5B(3):

(a) delete “shall” and insert:

must

(b) delete “party in the Parliament.” and insert:

parliamentary party.

(3) In section 5B(4):

(a) delete “shall hold” and insert:

holds

**s. 6**

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- (b) delete “his”.
- (4) Delete section 5B(5) and insert:
  - (5) The Electoral Commissioner may resign from office by written notice signed by the Electoral Commissioner and given to the Governor.
  - (6) The resignation takes effect and the office is vacated —
    - (a) if a day for the resignation to take effect is specified in the written notice and that day is after the day on which the Governor receives the written notice — on the specified day; or
    - (b) otherwise — when the Governor receives the written notice.
- (5) In section 5B(10):
  - (a) delete “No person” and insert:

A person
  - (b) delete “shall be” and insert:

cannot be
  - (c) delete “he shall vacate office as Electoral Commissioner.” and insert:

the office of Electoral Commissioner becomes vacant.

- (6) Delete section 5B(11) and insert:
- (11) The Electoral Commissioner is guilty of misconduct for the purposes of section 5C(2)(d) if —
- (a) the Electoral Commissioner does any of the following actions (each a *relevant action*) —
    - (i) hold any office of profit or trust (other than the office as Electoral Commissioner);
    - (ii) engage in any occupation for reward outside the duties of the office;
  - and
  - (b) the relevant action is not authorised by resolutions of both Houses of Parliament.

Note: The heading to amended section 5B is to read:

**Appointment of Electoral Commissioner and Deputy Electoral Commissioner**

**7. Section 5D amended**

- (1) In section 5D(2):
- (a) delete “shall” and insert:  
  
must
  - (b) delete “party in the Parliament.” and insert:  
  
parliamentary party.

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- (2) In section 5D(3):
- (a) in paragraph (a) delete “he” and insert:  
  
the Acting Electoral Commissioner
  - (b) in paragraph (a) delete “him” and insert:  
  
the Acting Electoral Commissioner
  - (c) in paragraph (b) delete “shall” and insert:  
  
must
- (3) In section 5D(5):
- (a) delete “shall” and insert:  
  
must
  - (b) delete “party in the Parliament.” and insert:  
  
parliamentary party.
- (4) In section 5D(6):
- (a) in paragraph (a) delete “he” and insert:  
  
the Acting Deputy Electoral Commissioner
  - (b) in paragraph (a) delete “him” and insert:  
  
the Acting Deputy Electoral Commissioner

- (c) in paragraph (b) delete “shall” and insert:

must

Note: The heading to amended section 5D is to read:

**Appointment of Acting Commissioners**

**8. Section 5F amended**

- (1) In section 5F(1):

- (a) in paragraph (b) delete “electoral”;  
(b) in paragraph (c) delete “him” and insert:

the Electoral Commissioner

- (c) after paragraph (eb) insert:

- (ec) may perform a function of a returning officer conferred under this Act if —
- (i) the returning officer cannot exercise the function; or
  - (ii) it is necessary or convenient for conducting an election;
- and

- (d) in paragraphs (f) and (g) delete “his” and insert:

their

- (e) in paragraph (h) delete “him” and insert:

the Electoral Commissioner

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- (2) In section 5F(2) delete “his” and insert:

their

Note: The heading to amended section 5F is to read:

**Functions of Electoral Commissioner**

**9. Section 5G amended**

- (1) Delete section 5G(1) and insert:

- (1) The Electoral Commissioner may, by written notice, delegate a function of the Electoral Commissioner under this Act, other than the power to delegate a function, to an officer.
- (1A) The Electoral Commissioner may, by written notice, delegate a function of the Electoral Commissioner under another written law to the Deputy Electoral Commissioner.
- (1B) A delegation under subsection (1) or (1A) may be general or limited in accordance with the written notice.

- (2) In section 5G(2) delete “subsection (1)” and insert:

this section

Note: The heading to amended section 5G is to read:

**Delegation by Electoral Commissioner**

**10. Section 5I inserted**

After section 5H insert:

**5I. Commissioners to have regard to particular groups when performing functions**

(1) In this section —

*inclusivity principle* means the principle that the following persons should be given a reasonable opportunity to enrol and vote —

- (a) Aboriginal persons;
- (b) persons who are from culturally or linguistically diverse communities;
- (c) persons with disability;
- (d) persons who are homeless.

(2) The Electoral Commissioner and Deputy Electoral Commissioner must have regard to the inclusivity principle when performing a function under this Act.

**11. Section 6 replaced**

Delete section 6 and insert:

**6. Appointing returning officers**

(1) The Electoral Commissioner must appoint, in writing —

- (a) a returning officer for the whole of State electorate; and
- (b) a returning officer for each district.

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- (2) A returning officer appointed under subsection (1) is taken to have been appointed on the day of the appointing instrument unless another day is specified in the appointing instrument as the day of appointment.

**12. Section 7 amended**

- (1) In section 7 delete “The” and insert:

- (1) The

- (2) At the end of section 7 insert:

- (2) However, if the returning officer is prevented from acting by illness or other sufficient cause, and time does not permit a substitute being appointed under subsection (1), the returning officer may appoint a substitute in writing to perform the functions of the returning officer.

Note: The heading to amended section 7 is to read:

**Appointment of substitute for returning officer**

**13. Sections 9 and 10 deleted**

Delete sections 9 and 10.

**14. Part III Division 1 heading replaced**

Delete the heading to Part III Division 1 and insert:

**Division 1 — Entitlement to be elector**



**15. Section 17 amended**

- (1) In section 17(1):
- (a) in paragraph (c) delete “or sub-district for at least one” and insert:  
  
for at least 1
  - (b) in paragraph (d) delete “enrolled as an elector for the Council and the Assembly; and” and insert:  
  
enrolled; and
  - (c) in paragraph (e) delete “he continues to live in that district or sub-district, to vote at —” and insert:  
  
continuing to live in that district, to vote in —
  - (d) in paragraph (e)(ii) delete “district or the district of which the sub-district forms part.” and insert:  
  
district.
- (2) Delete section 17(2) and (3) and insert:
- (2) Subsection (3) applies to a person if —
- (a) the person fulfils the requirements of subsection (1)(a) and (b); and
  - (b) the person has lived in a district (the *relevant district*) for a period of at least 1 month ending immediately before the day (the *relevant day*) on which the person intends to vote in an

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election in the relevant district or a Council election (the *election*); and

- (c) on the relevant day —
    - (i) the person is not enrolled, or is not enrolled for the relevant district; and
    - (ii) the person presents at a place to vote.
- (3) Subject to sections 145(7) and 172(1)(c), the person is —
- (a) entitled to be enrolled for the relevant district; and
  - (b) if the person makes a claim for enrolment, or a claim for enrolment or transfer of enrolment under the *Commonwealth Electoral Act 1918* to be enrolled on a Commonwealth roll for this State, entitled to vote in the election on the relevant day as a provisional voter under section 97G; and
  - (c) once the person is enrolled for the relevant district and while continuing to live in that district, entitled to vote in —
    - (i) a Council election; and
    - (ii) an election in the district.
- (3) In section 17(4) delete “represents and, when so enrolled, are deemed to live in that district.” and insert:
- represents.
- (4) Delete section 17(4a) to (5).

**16. Section 17AA inserted**

After section 17 insert:

**17AA. Entitlement to be enrolled for persons who attain 16 years of age**

- (1) A person is entitled to be enrolled for a district if —
  - (a) the person has attained 16 years of age but has not attained 18 years of age or subsection (3) applies; and
  - (b) the person would be entitled to be enrolled for the district if the person had attained 18 years of age.
- (2) For the purposes of this Act, until a person who is enrolled under subsection (1) attains 18 years of age, the person —
  - (a) is taken not to be an elector; and
  - (b) is not entitled to vote in an election; and
  - (c) is taken to be a silent elector.
- (3) For the purposes of subsection (1)(a) and section 44(4)(a), this subsection applies if —
  - (a) the person who claims to be entitled to be enrolled does not know their age; and
  - (b) a claim for enrolment contains a statement to that effect; and
  - (c) a person who may attest as to the person's identity under the *Commonwealth Electoral Act 1918* section 98AA(2)(c), in relation to an application or claim to which that section applies, certifies in writing that they are

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satisfied that the claimant has attained 16 years of age and is under 18 years of age.

**17. Section 17A amended**

(1) In section 17A(1):

(a) delete paragraph (a) and insert:

- (a) the person is enrolled for a district; and
- (aa) the person's name appears on the electoral roll maintained under the *Commonwealth Electoral Act 1918* for a Commonwealth subdivision in the State in respect of an address that is the same as the person's electoral address; and

(b) in paragraph (b) delete "paragraph (a)(ii); and" and insert:

paragraph (aa); and

(2) In section 17A(2):

(a) delete paragraph (a) and insert:

- (a) the person is entitled to be, and continues to be, enrolled for the district referred to in subsection (1)(a); and

(b) in paragraph (b) delete "at —" and insert:

in —

- (c) in paragraph (b)(ii) delete “or the district of which the sub-district forms part.” and insert:

for which the person continues to be enrolled.

Note: The heading to amended section 17A is to read:

**Electors leaving Australia but staying on Commonwealth roll to stay on register of electors**

**18. Section 17B amended**

- (1) In section 17B(1):

- (a) in paragraph (a) delete “or sub-district”;
- (b) delete “on the roll for the district or sub-district” and insert:

for the district

- (2) In section 17B(2):

- (a) in paragraph (a) delete “on the roll for the district or sub-district” and insert:

for the district

- (b) in paragraph (b) delete “at —” and insert:

in —

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- (c) in paragraph (b)(ii) delete “district or the district of which the sub-district forms part.” and insert:

district.

Note: The heading to amended section 17B is to read:

**Enrolment of elector with no fixed address if enrolled on Commonwealth roll**

**19. Section 18 amended**

- (1) In section 18(1):

- (a) delete “Every person, nevertheless, shall be disqualified from voting at any election, who —” and insert:

A person is not entitled to vote in an election if the person —

- (b) delete paragraphs (a) and (b) and insert:

- (a) is the subject of a lack of capacity notice; or  
(aa) is not on the Commonwealth roll for this State under the ground specified in the *Commonwealth Electoral Act 1918* section 93(8)(a); or  
(b) has been convicted of treason and has not been granted a pardon for the offence; or

- (c) in paragraph (c) delete “one” and insert:

1

- (d) in paragraph (ca) delete “Part 14 of the *Sentencing Act 1995*; or” and insert:

the *Sentencing Act 1995* Part 14; or

- (e) delete paragraph (d) and insert:

(d) is the holder of a temporary visa for the purposes of the *Migration Act 1958* (Commonwealth) or is an unlawful non-citizen under that Act.

- (2) In section 18(2):

- (a) delete “subsection (1)(a),” and insert:

subsection (1)(a), (aa),

- (b) delete “disqualified from being” and insert:

not entitled to be

Note: The heading to amended section 18 is to read:

**People not entitled to vote and be enrolled**

**20. Part III Division 2 heading replaced**

Delete the heading to Part III Division 2 and insert:

**Division 2 — Register of electors**

**s. 21**

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**21. Sections 19 to 30 replaced**

Delete sections 19 to 30 and insert:

**19. Register of electors**

- (1) The Electoral Commissioner must establish a register (the *register of electors*) for the purposes of enrolling persons under this Act.
- (2) The register of electors must —
  - (a) include the details entered under section 40A of the persons who are enrolled; and
  - (b) not include the names of persons whose names are removed or omitted from the register under this Act.
- (3) The register of electors may be in electronic form.
- (4) The Electoral Commissioner must update the register of electors in accordance with this Part.

**22. Section 31 amended**

- (1) In section 31(1)(b) delete “the preparation, alteration, and revision of rolls” and insert:

changes to be made to the register of electors

- (2) In section 31(2):
  - (a) in paragraph (b) delete “45(4); and” and insert:  
  
45(6); and



- (b) delete “roll” and insert:

register of electors

Note: The heading to amended section 31 is to read:

**Arrangement with Commonwealth for single enrolment procedure**

**23. Section 31A amended**

In section 31A(2):

- (a) delete “section 31AB” and insert:

section 35A

- (b) delete “section 53.” and insert:

section 76AB.

Note: The heading to amended section 31A is to read:

**Arrangement with Commonwealth for sharing of information to  
revise register of electors**

**24. Section 31AB deleted**

Delete section 31AB.

**25. Section 31B amended**

- (1) In section 31B(1) delete “requests” and insert:

applications to be a silent elector

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- (2) In section 31B(2):
- (a) in paragraph (a) delete “a request under section 51B, but that a request” and insert:  
  
an application under section 51B to be a silent elector,  
but that an application
  - (b) in paragraph (c) delete “a request” (1<sup>st</sup> occurrence) and insert:  
  
an application to be a silent elector
  - (c) in paragraph (c) delete “a request” (2<sup>nd</sup> occurrence) and insert:  
  
an application
  - (d) in paragraph (c) delete “section 104 of the *Commonwealth Electoral Act 1918*.” and insert:  
  
the *Commonwealth Electoral Act 1918* section 104.
- (3) In section 31B(3) delete “a request under section 51B of this Act and section 104 of the *Commonwealth Electoral Act 1918*” and insert:  
  
an application to be a silent elector under section 51B of this Act and the *Commonwealth Electoral Act 1918* section 104

- (4) In section 31B(4)(a) delete “a request” and insert:

an application to be a silent elector

Note: The heading to amended section 31B is to read:

**Arrangement with Commonwealth in relation to silent elector applications under s. 51B**

**26. Section 34 replaced**

Delete section 34 and insert:

**34. Register of electors and other documents not invalid in particular cases**

The register of electors, or another document, is not invalid only because the register of electors or the document —

- (a) is not printed, kept or published as required under this Act; or
- (b) contains an error in copying or printing.

**27. Section 35 amended**

In section 35 delete “of his officers all such information as he requires to enable him to prepare or to revise the rolls.” and insert:

officers information the Electoral Commissioner requires to prepare or to revise the register of electors.

Note: The heading to amended section 35 is to read:

**Public officers to give particular persons information to revise register of electors**

**28. Section 35A inserted**

After section 35 insert:

**35A. Electoral Commissioner may revise register of electors due to information received from Commonwealth or State**

- (1) In this section —  
*received information*, about a person, means information the Electoral Commissioner receives about the person under section 31A or 35.
- (2) If the Electoral Commissioner considers, based on received information about a person, that the person is entitled to be enrolled, the Electoral Commissioner may enrol the person.
- (3) If the Electoral Commissioner considers, based on received information about a person who is enrolled for a district, that the person's primary residential address in the district (the *new address*) is different to the elector's electoral address, the Electoral Commissioner may change the elector's electoral address to the new address.
- (4) If the Electoral Commissioner considers, based on received information about a person, that the person is incorrectly enrolled for a district (the *first district*), but that person is entitled to be enrolled for another district (the *second district*), the Electoral Commissioner may amend the register of electors to change the district for which the person is enrolled from the first district to the second district.
- (5) If the Electoral Commissioner considers, based on received information about a person who is enrolled for a district, that the person is not entitled to be enrolled

for that district, the Electoral Commissioner may remove the person's name from the register of electors in relation to the district.

**29. Sections 37 to 39 replaced**

Delete sections 37 to 39 and insert:

**38. Regulation-making power in relation to enrolment**

- (1) The Governor may make regulations for and in relation to —
  - (a) enrolment as an elector; and
  - (b) compulsory enrolment of persons as electors, including a procedure for imposing and recovery of penalties by the Electoral Commissioner for offences against the compulsory enrolment provisions of this Act; and
  - (c) anything necessary or convenient to be prescribed for paragraphs (a) and (b).
- (2) Without limiting subsection (1), the regulations may provide —
  - (a) subject to subsection (3), that a person entitled to be enrolled must send a claim for enrolment and comply with particular provisions of this Act; and
  - (b) a penalty not exceeding \$50 for the contravention of a regulation made under this section.
- (3) Regulations under subsection (1) must not require a person who has sent a claim for enrolment to sign or

send in another claim unless the person has changed their primary residential address.

**30. Section 40 replaced**

Delete section 40 and insert:

**40. Changes to register of electors**

- (1) The following persons must be removed from the register of electors —
  - (a) subject to section 51A, a person who is not entitled to be enrolled, including under section 18;
  - (b) a person who, from information supplied by the chief executive officer as defined in the *Prisons Act 1981* section 3(1), appears to not be entitled to be an elector;
  - (c) a person who does not appear to live in the district for which they are enrolled, unless the person is enrolled under section 17(4), 17A or 17B.
- (2) If a person's name appeared on the register of electors and was removed under subsection (1), an enrolment officer must give notice to the person stating —
  - (a) the person's name was removed from the register of electors under subsection (1); and
  - (b) the person may be enrolled again if the person makes and sends a claim to be enrolled.

**31. Part III Division 3 heading replaced**

Delete the heading to Part III Division 3 and insert:

**Division 3 — Enrolment**

**32. Section 41 replaced**

Delete section 41 and insert:

**40A. When persons are enrolled**

A person is *enrolled* if the following details about the person are entered on the register of electors —

- (a) the person's surname;
- (b) the person's given name;
- (c) if a person is enrolled under section 17B — the address referred to in section 17B(1)(b);
- (d) if paragraph (c) does not apply — the person's primary residential address;
- (e) the district for which the person is enrolled;
- (f) the person's gender;
- (g) other prescribed details about the person;
- (h) other details about the person the Electoral Commissioner considers are appropriate or necessary to include in the register of electors.

**41. How persons may be enrolled**

A person may be enrolled —

- (a) by an enrolment officer pursuant to a claim; or

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- (b) by the Electoral Commissioner under section 35A(2).

**33. Section 42 amended**

- (1) In section 42(1):
  - (a) in paragraphs (b) and (ca) delete “shall” and insert:  
  
must
  - (b) delete paragraph (c) and insert:  
  
(c) must be sent to the Electoral Commissioner.
- (2) After section 42(2) insert:
- (3) If the Electoral Commissioner receives a claim under subsection (1)(c), the Electoral Commissioner must cause the claim, and any application to be a silent elector lodged with it under section 51B(1), to be referred to an officer.
- (4) An officer who receives a claim under subsection (3) must record the claim.

Note: The heading to amended section 42 is to read:

**Form of claims**



**34. Section 44 amended**

(1) Delete section 44(1) and insert:

(1) For the purposes of section 44A(1), a claim complies with this section if it includes —

- (a) the surname and given names in full of the claimant; and
- (b) the claimant’s primary residential address in accordance with subsection (2) or (3); and
- (c) subject to subsection (4), the date of birth of the claimant.

(2) In section 44(2):

(a) delete “residence of the claimant” and insert:

claimant’s primary residential address

(b) delete “shall” (each occurrence) and insert:

must

(c) delete “claimant’s residence” and insert:

claimant’s primary residential address

(3) In section 44(3):

(a) delete “residence of a claimant” and insert:

claimant’s primary residential address

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(b) delete “his residence shall” and insert:

the claimant’s address must

(c) delete “claimant’s residence” and insert:

claimant’s primary residential address

(4) Delete section 44(4) and insert:

(4) A claimant need not comply with subsection (1)(c) if —

(a) the claimant is entitled to be enrolled under section 17AA(1) and section 17AA(3) applies to the claimant; or

(b) in any other case —

(i) the claimant is unable to include in their claim the date of birth because it is not known to them; and

(ii) the claim contains a statement to that effect; and

(iii) a person who may attest as to the claimant’s identity under the *Commonwealth Electoral Act 1918* section 98AA(2)(c), in relation to an application or claim to which that section applies, certifies in writing that they are satisfied that the claimant is not under 18 years of age.

Note: The heading to amended section 44 is to read:

**Essential parts of claims**

**35. Section 44A amended**

(1) In section 44A(2):

(a) delete “If a claim —” and insert:

The enrolment officer must enrol a claimant if the claimant’s claim —

(b) in paragraph (b)(ii) delete “section 47,” and insert:

section 47.

(c) delete “the enrolment officer shall enrol the claimant by entering his name and the other prescribed particulars on the roll.”.

(2) After section 44A(2) insert:

(2A) After enrolling the claimant under subsection (2), the enrolment officer must give the claimant a notice stating that —

(a) the claimant has been enrolled; and

(b) if the claimant is enrolled under section 17AA(1) —

(i) the claimant is taken to be a silent elector under section 17AA(2)(c); and

(ii) unless the claimant applies to be a silent elector under section 51B, the claimant will no longer be a silent elector when the claimant attains 18 years of age.

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- (3) In section 44A(3) delete “shall —” and insert:

must —

- (4) In section 44A(5) delete the passage that begins with “he may,” and ends with “until he” and insert:

the enrolment officer may, for that purpose and without prejudice to enrolment as provided in subsection (2)(b), defer rejection of the claim until the enrolment officer

**36. Section 45 replaced**

Delete section 45 and insert:

**45. Offences in relation to compulsory enrolment**

- (1) A person who is entitled to be enrolled for a district, otherwise than under section 17AA(1), and who is not enrolled for the district at the end of the period of 21 days beginning on the day they become entitled to be enrolled, or on any subsequent day while they continue to be entitled to be enrolled, commits an offence.

Penalty for this subsection: a fine of \$50.

- (2) A person (including a silent elector) who is enrolled for a district, and who changes their primary residential address from 1 address in the district to another address in the district, must, within 21 days after the change, give notice in writing of the new address to the Electoral Commissioner.

Penalty for this subsection: a fine of \$50.

- (3) The fact that a person who is entitled to be enrolled for a district is not enrolled at the end of the period of 21 days beginning on the day they become entitled to be enrolled for the district is prima facie evidence of a contravention of subsection (1).
- (4) A person does not contravene subsection (1) if they prove that their non-enrolment is not because of their failure to send or deliver to the Electoral Commissioner a claim in the prescribed form duly filled in and signed in accordance with the directions printed on the form.
- (5) A person does not contravene this section if the person is not enrolled as provided in subsection (1), or fails to comply with subsection (2), because the person has a physical or mental impairment.
- (6) The Electoral Commissioner or the enrolment officer must issue a receipt to a person for each claim received from the person.
- (7) If a person sends a claim for enrolment to the Electoral Commissioner or lodges a claim for enrolment under the *Commonwealth Electoral Act 1918*, proceedings must not be instituted against the person for any offence against subsection (1) before the claim was sent or the person was enrolled.
- (8) If a person gives a notice in writing of a new primary residential address to the Electoral Commissioner or lodges a claim for enrolment under the *Commonwealth Electoral Act 1918*, proceedings must not be instituted against the person for any offence against subsection (2) committed before the notice was sent.

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**37. Section 46 amended**

(1) Delete section 46(1) and insert:

- (1) If the enrolment officer has reason to believe that the claimant's entitlement to be enrolled as set out in the claimant's claim is insufficient or incorrect, the enrolment officer may, if the enrolment officer thinks fit, refer the claim to —
- (a) any officer mentioned in section 35, qualified in the enrolment officer's opinion to report on the claim;
  - (b) an officer of the Australian Electoral Commission established by the *Commonwealth Electoral Act 1918* section 6, if the enrolment officer has reason to believe that an officer of that Commission is willing to report on the claim.

(2) In section 46(2) and (3) delete “shall” and insert:

must

(3) In section 46(3):

(a) delete “section 47(3)(a)” and insert:

section 47(1)

(b) delete “section 48(3)(a).” and insert:

section 48(1)(b).

Note: The heading to amended section 46 is to read:

**Enrolment officer’s functions in relation to entitlement of claimant  
considered insufficient or incorrect**

**38. Section 47 amended**

(1) In section 47(1):

(a) delete “shall” and insert:

must

(b) delete “he” and insert:

the officer

(2) In section 47(3):

(a) in paragraph (e) delete “shall” (1<sup>st</sup> occurrence) and insert:

must

(b) in paragraph (e) delete “he” and insert:

the Electoral Commissioner

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- (c) in paragraph (e) delete “shall” (2<sup>nd</sup> occurrence) and insert:

can

- (d) in paragraph (f) delete “No notice of objection shall” and insert:

A notice of objection cannot

- (e) in paragraph (f) delete “one” and insert:

1

- (f) in paragraph (f) delete “voting at” and insert:

voting in

- (g) in paragraph (g) delete “it shall be the duty of the enrolment officer to enrol the claimant but the enrolment officer shall place a mark in the prescribed manner” and insert:

the enrolment officer must enrol the claimant but the enrolment officer must place a mark in the prescribed manner in the register of electors

- (h) in paragraph (g) delete “section 122” and insert:

section 97C



(3) Delete section 47(4) and insert:

(4) Subsection (3)(f) and (g) do not apply if the claim is for enrolment under section 17AA(1) and the polling day in the election is before the claimant attains 18 years of age.

**39. Section 48 amended**

(1) In section 48(1):

(a) delete “Any name on the roll” and insert:

A person’s enrolment

(b) in paragraph (a) delete “on the same roll; or” and insert:

for the district; or

(c) in paragraph (b) delete “roll.” and insert:

register of electors.

(2) In section 48(2):

(a) in paragraph (e) delete “his” (each occurrence) and insert:

their

(b) in paragraph (e)(iii) delete “roll.” and insert:

register of electors.

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- (c) in paragraph (f) delete “shall” (1<sup>st</sup> occurrence) and insert:

must

- (d) in paragraph (f) delete “roll, or to strike the name off the roll,” and insert:

register of electors, or to remove the name from the register of electors,

- (e) in paragraph (f) delete “shall” (2<sup>nd</sup> occurrence) and insert:

can

- (3) In section 48(3):

- (a) in paragraph (a)(ii) delete “struck off the roll.” and insert:

removed from the register of electors.

- (b) in paragraph (a)(ii) delete “shall be annexed thereto.” and insert:

must be attached to the notice.

- (c) in paragraph (b) delete “strike the name off the roll.” and insert:

remove the name from the register of electors.

- (d) in paragraph (e) delete “shall” (1<sup>st</sup> occurrence) and insert:

must

- (e) in paragraph (e) delete “roll, or to strike the name off the roll,” and insert:

register of electors, or to remove the name from the register of electors,

- (f) in paragraph (e) delete “shall” (2<sup>nd</sup> occurrence) and insert:

can

- (4) Delete section 48(5).

**40. Section 51 amended**

- (1) In section 51(1):

- (a) delete “same roll, or on more than one district roll,” and insert:

register of electors, or is enrolled in relation to more than 1 district,

- (b) delete “is to” and insert:

must

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- (2) In section 51(2) delete “he considers necessary in order for the rolls” and insert:

the Electoral Commissioner considers necessary in order for the register of electors

Note: The heading to amended section 51 is to read:

**Removing repeated names and adjusting register of electors**

**41. Section 51A replaced**

Delete section 51A and insert:

**51A. Persons who lack capacity to vote not to be on register of electors**

- (1) The Electoral Commissioner must not include, or must remove, a person’s name from the register of electors if the person —
- (a) is the subject of a lack of capacity notice; or
  - (b) is not on the Commonwealth roll for this State under the ground specified in the *Commonwealth Electoral Act 1918* section 93(8)(a).

Note for this subsection:

Under section 18(1)(a) and (aa) and (2), a person is not entitled to vote in an election nor be enrolled as an elector if paragraph (a) or (b) of this subsection applies.

- (2) If the Electoral Commissioner takes action under subsection (1), the Electoral Commissioner must give the relevant person a notice stating —
- (a) the action taken; and
  - (b) the reason the action has been taken; and
  - (c) the effect of subsection (3).

- (3) A person whose name has not been included, or has been removed, from the register of electors under subsection (1) may be enrolled if —
- (a) subsection (1)(a) or (b) no longer apply to the person; and
  - (b) the person is entitled to be enrolled; and
  - (c) the person makes a claim for enrolment.

**42. Section 51AA amended**

- (1) In section 51AA(1):

- (a) delete “section 111 of the *Guardianship and Administration Act 1990*” and insert:

*the Guardianship and Administration Act 1990*  
section 111

- (b) delete “Tribunal the Electoral Commissioner shall” and insert:

Tribunal, the Electoral Commissioner must

- (c) delete “roll.” and insert:

register of electors.

(2) Delete section 51AA(2) and insert:

- (2) A person whose name has been removed from the register of electors under subsection (1) may be enrolled if —
- (a) the declaration referred to in subsection (1) is no longer in force; and
  - (b) the person is entitled to be enrolled; and
  - (c) the person makes a claim for enrolment.

Note: The heading to amended section 51AA is to read:

**Removal of name following declaration by SAT**

**43. Section 51B replaced**

Delete section 51B and insert:

**51B. Silent electors**

- (1) A person may apply to the Electoral Commissioner to be a silent elector if the person —
- (a) is an elector or is claiming enrolment; and
  - (b) considers that having the person's electoral address shown on a roll or a register extract places, or would place, the personal safety of that person, or members of the family of that person, at risk (the *relevant risk*).
- (2) An application under subsection (1) must —
- (a) be in the approved form; and
  - (b) state the particulars of the relevant risk; and
  - (c) be verified by statutory declaration either by the person making the application or another person.

- (3) If the Electoral Commissioner is satisfied of the relevant risk, the Electoral Commissioner must —
  - (a) grant the application; and
  - (b) give the person a written notice stating the decision; and
  - (c) indicate in the register of electors the person's status as a silent elector.
  
- (4) If the Electoral Commissioner is not satisfied of the relevant risk, the Electoral Commissioner must —
  - (a) refuse the application; and
  - (b) give the person a written notice stating —
    - (i) the decision; and
    - (ii) the reasons for the decision.

Notes for this section:

- 1. Under section 62A(2)(b)(ii), a register extract must not include a silent elector's electoral address.
- 2. Under sections 76AA(5) and 76AC(3)(d), rolls prepared under those sections must not include a silent elector's electoral address.

**51C. Review of register of electors in relation to silent electors**

- (1) The Electoral Commissioner may request that an enrolment officer conduct a review of the register of electors in relation to silent electors.
  
- (2) If an enrolment officer considers that the relevant risk as defined in section 51B(1)(b) may not exist in relation to a silent elector, the enrolment officer must give the silent elector a written notice stating that —
  - (a) the enrolment officer considers that the relevant risk may not exist; and

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- (b) as a result, the enrolment officer may revoke the silent elector's status as a silent elector under subsection (3); and
  - (c) within a reasonable period stated in the notice, the silent elector may make submissions about whether the silent elector's status should be revoked.
- (3) If the enrolment officer is satisfied that, after having regard to submissions (if any) received under subsection (2)(c), the relevant risk does not exist, the enrolment officer must revoke the elector's status as a silent elector.
- (4) If the enrolment officer makes a decision under subsection (3), the enrolment officer must —
  - (a) give the elector a notice in writing stating —
    - (i) the decision; and
    - (ii) if the decision is to revoke the elector's status as a silent elector — the reasons for the decision;
  - and
  - (b) if the decision is to revoke the elector's status as a silent elector — alter the register of electors to remove the elector's status as a silent elector.

**44. Section 52 amended**

In section 52(1):

- (a) delete “rolls” and insert:

the register of electors



(b) in paragraph (a) delete “roll” and insert:

register of electors

(c) in paragraph (b) delete “his name may be removed from the roll.” and insert:

their name may be removed from the register of electors.

(d) in paragraph (c) after “original name or” insert:

electoral

(e) in paragraph (f) delete “struck off” and insert:

removed

(f) delete paragraph (g).

Note: The heading to amended section 52 is to read:

**Permitted alterations to register of electors**

**45. Sections 53 to 55 deleted**

Delete sections 53 to 55.

**46. Section 56 amended**

In section 56:

(a) delete “shall,” and insert:

must,

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- (b) delete “17 years” and insert:

16 years

Note: The heading to amended section 56 is to read:

**Registrar of Births, Deaths and Marriages to notify Electoral  
Commissioner of deaths in State**

**47. Section 59 amended**

In section 59(3)(a)(i) and (ii) and (b)(i) and (ii) delete “a list was last” and insert:

the end of the most recent month in relation to which a list was

Note: The heading to amended section 59 is to read:

**Electoral Commissioner to be informed about particular prisoners  
and detained persons**

**48. Section 60 amended**

- (1) In section 60(1):  
(a) delete “shall” and insert:

must

- (b) delete “rolls.” and insert:

register of electors.

- (2) In section 60(2):
- (a) delete “shall” and insert:

must

- (b) delete “roll” and insert:

register of electors

- (3) In section 60(3):

- (a) delete “shall” and insert:

must

- (b) delete “roll.” and insert:

register of electors.

Note: The heading to amended section 60 is to read:

**Changes to register of electors required due to information given under s. 56 and 59**

**49. Sections 61 and 62 inserted**

After section 60 insert:

**61. General postal voters**

- (1) An elector may apply to the Electoral Commissioner to be registered as an elector who votes by postal voting

in every election and referendum (a *general postal voter*) if the elector —

- (a) has an electoral address that will not be within 20 km, by the nearest practicable route, of a polling place; or
- (b) is seriously ill or infirm or has a permanent mental impairment or physical impairment; or
- (c) has attained 70 years of age; or
- (d) will be unable to attend a polling place because the elector is caring for a person mentioned in paragraph (b); or
- (e) will be unable to attend a polling place because the elector is a member of a religious order or because of the elector's religious beliefs; or
- (f) is a silent elector; or
- (g) is entitled to vote under section 17A(2).

Note for this subsection:

See sections 62 and 100P for offences in relation to an application made under this subsection.

- (2) The application must be in writing and —
  - (a) state the applicant's name and electoral address; and
  - (b) contain a statement by the applicant —
    - (i) to the effect that the applicant is an elector; and
    - (ii) that the applicant is eligible to be a general postal voter, and the basis for the eligibility;and
  - (c) subject to subsection (3), be signed by the applicant; and

- (d) if the applicant expects to be absent from the applicant's electoral address when the postal ballot paper will be sent by the issuing officer — state an address to which the postal ballot paper must be sent.
- (3) If an elector who wishes to make an application under subsection (2) satisfies a witness that the elector is unable to sign the application because the elector has a sight impairment or other physical impairment or has insufficient literacy skills, the elector may, before the witness, make a distinguishing mark on the application.
- (4) The Electoral Commissioner may grant an application if —
  - (a) the application is validly made; and
  - (b) the Electoral Commissioner is satisfied the elector is entitled to be registered as a general postal voter.

Note for this subsection:

A person whose application is granted under this provision must be sent a postal ballot paper and other documents for an election under section 100D, for a referendum under section 100D as applied by the *Referendums Act 1983* section 18(c), or for an election and referendum held on the same day under the *Referendums Act 1983* section 19(aa).

- (5) Upon making a decision under subsection (4), the Electoral Commissioner must —
  - (a) give the elector a written notice of the decision; and
  - (b) if the decision is to reject the application — state the reasons for the decision.
- (6) The Electoral Commissioner may, by written notice given to an elector, revoke the elector's registration as

a general postal voter at any time other than during the period —

- (a) beginning on the issue of the writ for an election in which the elector is entitled to vote or a referendum; and
- (b) ending on the return of the writ for the election or referendum.

**62. Offences in relation to applications to be general postal voters**

- (1) A person commits a crime if the person distributes or makes available a form for making an application under section 61(1), or causes or permits a form for making an application to be distributed or made available, unless —
  - (a) the person is authorised by the Electoral Commissioner to do so; or
  - (b) the form is accompanied by a statement advising that when the application has been completed it must be returned directly to the Electoral Commissioner.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2) A person must not persuade or induce an elector, or associate with any other person in persuading or inducing an elector, to make an application under section 61(1).

Penalty for this subsection: a fine of \$1 000.

- (3) An elector must not make, and a person must not induce an elector to make, a false statement in an application under section 61(1).

Penalty for this subsection: a fine of \$1 000.

- (4) If an elector gives a person an application made under section 61(1) so that the person can send or deliver the application to an officer, the person must send or deliver it to an officer.

Penalty for this subsection: a fine of \$1 000.

**50. Section 62A deleted**

Delete section 62A.

**51. Part III Division 6 inserted**

At the end of Part III insert:

**Division 6 — Accessing enrolment information**

**62A. Preparing register extracts for disclosure**

- (1) The Electoral Commissioner must cause an extract of the register of electors (a *register extract*) to be prepared for the purposes of being disclosed or made available to persons under this Act.
- (2) A register extract —
- (a) may relate to —
    - (i) the electors in 1 or more districts; or
    - (ii) the electors in the whole of State electorate;
  - and
  - (b) if the extract relates to 1 district — must include —
    - (i) subject to regulations made under subsection (4), the name of each elector who is enrolled for the district when the extract is prepared; and

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- (ii) the electoral address of an elector, other than a silent elector, whose name appears on the extract under subparagraph (i);
  - and
  - (c) if the extract relates to more than 1 district or the whole of State electorate — must include —
    - (i) subject to regulations made under subsection (4), the name of each elector who is enrolled when the extract is prepared and the district for which they are enrolled; and
    - (ii) the electoral address of an elector, other than a silent elector, whose name appears on the extract under subparagraph (i);
  - and
  - (d) must state the date on which it was prepared;
  - and
  - (e) must not include the names of persons whose names are removed or omitted from the register of electors under this Act; and
  - (f) must not be inconsistent with regulations made under subsection (4).
- (3) A register extract may be in electronic form.
- (4) The regulations may provide for and in relation to the information that is included on the register extract, including —
- (a) requiring that the register extract include, or not include, certain names or details of electors contained in the register of electors; or



- (b) permitting the register extract to include, or not include, certain details contained in the register of electors.

Example for this subsection:

The regulations may provide that the names of silent electors must not be included in a register extract.

**62AA. Public inspection of register extracts**

- (1) The Electoral Commissioner must make a register extract available for inspection by the public, without fee, at the office of the Electoral Commissioner.
- (2) The Electoral Commissioner may, subject to regulations made under section 62A(4), decide on the form in which a register extract or roll is made available for inspection by the public under subsection (1).

**62AB. Disclosing particular information to members of Parliament and parliamentary parties**

- (1) In this section —  
*relevant information*, in relation to an elector, means —
  - (a) if the elector is not a silent elector —
    - (i) the elector’s electoral address; and
    - (ii) if the elector has provided a separate postal address to the Electoral Commissioner — the postal address;
  - and
  - (b) details of when the particulars on the register of electors relating to the elector were entered or most recently changed; and
  - (c) the local government district in which, and if that local government district is divided into

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wards, the ward in which, the elector's electoral address is situated; and

(d) the elector's date of birth.

(2) A parliamentary party that has a branch or division in a district may request that the Electoral Commissioner disclose any or all of the following —

(a) a register extract in relation to the district;

(b) a roll for a district that has been prepared for an election;

(c) the relevant information relating to each elector in the district.

(3) A member of the Council may request that the Electoral Commissioner disclose any or all of the following —

(a) a register extract;

(b) a roll that has been prepared for a Council election;

(c) the relevant information relating to each elector.

(4) A member of the Assembly may request that the Electoral Commissioner disclose any or all of the following —

(a) a register extract in relation to the district for which the member was elected;

(b) the relevant information relating to each elector in the district.

(5) The Electoral Commissioner —

(a) must disclose the information in accordance with a request made under this section without charge; and

(b) may disclose the information electronically.

- (6) However, the Electoral Commissioner must not disclose the addresses of silent electors under subsection (5).

**62AC. Disclosing particular information to persons other than parliamentary parties and members of Parliament**

- (1) A person who is not a parliamentary party or a member of the Council or the Assembly may request that the Electoral Commissioner disclose enrolment information.
- (2) The Electoral Commissioner may disclose enrolment information to the person.
- (3) However, the Electoral Commissioner must not disclose the enrolment information under subsection (2) unless —
- (a) the Electoral Commissioner considers that the public interest in making the enrolment information available outweighs the public interest in protecting the privacy of personal information; and
  - (b) the person gives the Electoral Commissioner an undertaking that the person —
    - (i) will only use the requested enrolment information for the purpose for which the Electoral Commissioner agreed to disclose it; and
    - (ii) will not copy the enrolment information or disclose it to any other person or organisation; and
    - (iii) will return the enrolment information to the Electoral Commissioner or destroy the enrolment information after using it

for the purpose for which the Electoral Commissioner agreed to disclose it.

- (4) The Electoral Commissioner must not disclose the addresses of silent electors under subsection (2).
- (5) The regulations may provide that a silent elector's name may be omitted when the Electoral Commissioner discloses enrolment information available under subsection (2).
- (6) The Electoral Commissioner may charge a fee that covers the cost of disclosing enrolment information under this section.

**62AD. Disclosing enrolment information to government departments**

The Electoral Commissioner may disclose enrolment information to a person employed in a department or an organisation as those terms are defined in the *Public Sector Management Act 1994* section 3(1) in accordance with an arrangement with its chief executive officer or chief employee.

**62AE. Restricted use of information given under this Division**

A person to whom information has been disclosed under section 62AB(5), 62AC(2) or 62AD must not use that information except for a permitted purpose.

Penalty: a fine of \$10 000.

**62AF. Restricted use of protected information given under this Division**

- (1) For the purposes of this section, information disclosed under section 62AB(5), 62AC(2) or 62AD is ***protected information*** in relation to a person if the person knows,

or has reasonable grounds for believing, that the information has been disclosed under section 62AB(5), 62AC(2) or 62AD.

- (2) A person must not use or disclose protected information unless the use or disclosure is for a permitted purpose.

Penalty for this subsection:

- (a) if the information is used or disclosed for a commercial purpose — a fine of \$100 000;  
(b) otherwise — a fine of \$10 000.

**52. Section 62C amended**

- (1) In section 62C(1) delete the definitions of:

*parliamentary party*  
*register of political parties*  
*registered political party*

- (2) In section 62C(1) in the definition of *eligible political party*:

- (a) delete “one” and insert:

1

- (b) delete “it;” and insert:

it.

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**53. Section 62E amended**

Delete section 62E(4)(c) and insert:

- (c) set out the name and address of —
    - (i) the secretary of the political party; and
    - (ii) another person who is to be a registered officer of the political party;
- and

**54. Section 62G amended**

(1) In section 62G(1):

(a) delete “application in —” and insert:

application —

(b) in paragraph (a) before “the” insert:

in

(c) delete paragraph (b) and insert:

(b) on the Commission website; and

(c) in another manner approved by the Electoral Commissioner.

- (2) In section 62G(4)(b) delete “residential” and insert:

enrolled

Note: The heading to amended section 62G is to read:

**Public notice of application to be given**

**55. Section 62HA amended**

In section 62HA delete “Part VI Division 2A and section 113C,” and insert:

Part 6 Division 2A and sections 94B and 94C,

**56. Section 62L amended**

- (1) In section 62L(2):

- (a) in paragraph (c) delete “one candidate endorsed by the party; or” and insert:

1 endorsed candidate of the party; or

- (b) in paragraph (e) delete “Part VI” and insert:

Part 6

- (2) In section 62L(3):

- (a) delete “is to —” and insert:

must —

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(b) in paragraph (b) delete “cancellation in —” and insert:

cancellation —

(c) in paragraph (b)(i) before “the” insert:

in

(d) delete paragraph (b)(ii) and insert:

(ii) on the Commission website; and

(iii) in another manner approved by the  
Electoral Commissioner;

**57. Section 62M amended**

In section 62M(2)(b) delete “secretaries” and insert:

registered officers

Note: The heading to amended section 62M is to read:

**Public inspection and notice of register**

**58. Section 62P amended**

In section 62P delete “the secretary” (each occurrence) and  
insert:

a registered officer

Note: The heading to amended section 62P is to read:

**Electoral Commissioner may request information from political  
party**



**59. Section 69 amended**

Delete section 69(a) and insert:

- (a) the time before which a person may nominate as a candidate; and

Note: The heading to amended section 69 is to read:

**Form and content of writs**

**60. Section 69A amended**

- (1) In section 69A delete “rolls” and insert:

roll for an election

- (2) At the end of section 69A insert:

Note for this section:

Under section 76AA(7), the roll for a Council election is formed by all of the rolls for the districts.

Note: The heading to amended section 69A is to read:

**When close of rolls occurs after issue of writ**

**61. Section 70 replaced**

Delete section 70 and insert:

**70. Rules for fixing close of nominations**

For the purposes of section 69(a), the close of nominations for an election must be fixed as —

- (a) for a periodic election — 12 noon on the second Thursday next following the date of the writ; or

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- (b) otherwise — 12 noon on a day that is not less than 7 nor more than 45 days after the date of the writ.

**62. Section 71 amended**

- (1) In section 71(1) in the definition of *excluded day* after paragraph (a) insert:

- (aa) Christmas Day; or

- (2) In section 71(3):

- (a) delete “shall” and insert:

- must

- (b) in paragraph (a) delete “date of nomination; and” and insert:

- day on which the close of nominations occurs; and

Note: The heading to amended section 71 is to read:

**Rules for fixing polling day**

**63. Section 74 amended**

In section 74(a) delete “deputy returning officers for the whole of State electorate;” and insert:

the returning officer for each district;

**64. Section 75 amended**

(1) In section 75(2):

(a) in paragraph (a) before “advertise” insert:

within 24 hours after receiving the writ,

(b) in paragraph (c) delete “polling places at which the poll will be taken and polling areas declared under section 100(1)(i) in relation to polling places.” and insert:

places to vote and voting areas for places to vote.

(2) Delete section 75(3).

**65. Part IV Division 1A inserted**

After Part IV Division 1 insert:

**Division 1A — Rolls for elections**

**76AA. Rolls for elections to be prepared**

- (1) As soon as is practicable after the close of the roll for an election, the Electoral Commissioner must cause a roll to be prepared for the election.
- (2) The roll prepared under subsection (1) —
  - (a) must include persons who are electors at the close of the roll and who may vote in the election; and

- (b) may include a person who —
  - (i) made a claim for enrolment before the close of the roll that is not decided before the close of the roll; and
  - (ii) is enrolled during the period (the *preparation period*) beginning on the day after the close of the roll and ending on the day the roll is prepared under subsection (1); and
  - (iii) once enrolled, may vote in the election; and
- (c) must include a person if —
  - (i) at the close of the roll, the person is not on the register of electors due to an error; and
  - (ii) the error is identified before the end of the preparation period;and
- (d) may include a person who is enrolled under section 47(3)(g) during the preparation period and who may vote in the election; and
- (e) must reflect the removal of names from the register of electors under section 51 during the preparation period; and
- (f) must not include a person removed from the register of electors under section 51A or 51AA during the preparation period; and
- (g) may include changes to reflect changes made to the register of electors under section 40 or 52 during the preparation period; and
- (h) must include changes to reflect changes made to the register of electors under section 60 during the preparation period.

- (3) The roll must —
- (a) subject to regulations made under section 76AF, include the following details of each person who is included on the roll under subsection (2) —
    - (i) the person's name;
    - (ii) the person's gender;
    - (iii) subject to subsection (5) — the person's electoral address;and
  - (b) arrange the names of persons who are included on the roll under subsection (2) —
    - (i) in alphabetical order by surname; and
    - (ii) if more than 1 person has the same surname — in alphabetical order by given name;and
  - (c) include a number for the name of each person who is included on the roll under subsection (2) starting at number 1.
- (4) The roll —
- (a) may be in printed or electronic form; and
  - (b) if the roll is printed — must be in the prescribed form; and
  - (c) if the roll is in electronic form — must be in the form approved by the Electoral Commissioner; and
  - (d) must state the day on which the roll is prepared; and
  - (e) must state the election for which the roll is to be used; and

- (f) must contain any marks required by section 47(3)(g) or other annotations or marks required to be made on the roll under this Act; and
  - (g) if the roll is for a Council election — must be a roll for the whole of State electorate; and
  - (h) if the roll is for a district election — must be a roll for the district.
- (5) The roll must not include an elector's electoral address if the elector —
  - (a) is a silent elector when the roll is prepared; or
  - (b) is enrolled under section 17(4), 17A or 17B.
- (6) Despite subsection (5)(a), the roll must not include an elector's status as a silent elector if the register of electors is altered under section 51C(4)(b) during the preparation period.
- (7) When a roll is prepared under subsection (1) for a general election for the Council held as part of a conjoint election, the roll for the election is formed by all of the rolls for the districts.
- (8) When a roll is prepared under subsection (1) for any other Council election, rolls are to be prepared for all of the districts and the roll for the election is formed by all of those rolls.

**76AB. Altering or amending rolls after they are prepared**

- (1) A roll must not be amended unless it is done in accordance with this section.
- (2) A roll may be amended —
  - (a) to include a person who is not on the roll when it is prepared if the person is not on the register of electors or the roll due to an error; and

- (b) to include a person who made a claim for enrolment before the close of the roll but who is not enrolled when the roll is prepared if —
  - (i) a notice of objection to the claim has not been given under section 47; and
  - (ii) the person is enrolled during the period (the ***amendment period***) beginning on the day on which the roll is prepared but before the 14<sup>th</sup> day before the polling day in the election;and
- (c) to include a claimant who is enrolled under section 47(3)(g) during the amendment period; and
- (d) to reflect the removal of names from the register of electors under section 51, 51A or 51AA during the amendment period; and
- (e) to remove a silent elector's electoral address from the roll if an application is granted under section 51B(3) during the amendment period; and
- (f) to reflect the alteration of the register of electors under section 51C(4)(b) during the period ending on the day that is 14 days before polling day; and
- (g) to reflect changes made to the register of electors under section 40 or 52 during the period ending on the day that is 14 days before polling day; and
- (h) to reflect changes made to the register of electors under section 60 during the period ending on the day that is 14 days before polling day.

- (3) An amendment to a roll under this section —
  - (a) must not be made after the 14<sup>th</sup> day before the polling day in the election; and
  - (b) must be made by supplementary roll.

**76AC. Supplementary rolls**

- (1) The Electoral Commissioner may make a supplementary roll to alter or amend a roll.
- (2) If a supplementary roll (a *previous supplementary roll*) is made and an amalgamated roll has not been issued that incorporates the previous supplementary roll, the Electoral Commissioner may make a further supplementary roll that —
  - (a) shows the additions and alterations to the roll since the previous supplementary roll was made; and
  - (b) includes the names in the previous supplementary roll in lexicographical order.
- (3) A supplementary roll —
  - (a) must be numbered and, if a previous supplementary roll is made, the numbering must start at the number after the last number used in the most recent previous supplementary roll; and
  - (b) must state the day on which the supplementary roll is made; and
  - (c) may omit the particulars prescribed under section 76AF(2)(a)(i); and
  - (d) must not include an elector's electoral address if the elector is a silent elector or is enrolled under section 17(4), 17A or 17B.



**76AD. Amalgamated rolls**

- (1) If a supplementary roll has been made, the Electoral Commissioner may issue an amalgamated version of the roll (an *amalgamated roll*) that amalgamates —
  - (a) either —
    - (i) a roll issued under section 76AA(1); or
    - (ii) a previous amalgamated roll;and
  - (b) the supplementary roll.
- (2) The amalgamated roll —
  - (a) must comply with section 76AA(3) and (4); and
  - (b) must state the day on which the amalgamated roll is issued; and
  - (c) must state which supplementary rolls have been amalgamated into the roll, including by reference to the numbers of the supplementary rolls; and
  - (d) may omit the particulars prescribed under section 76AF(2)(a)(ii).

**76AE. Rolls not invalid in particular cases**

A roll is not invalid only because the roll —

- (a) is not printed, kept or published as required under this Act; or
- (b) contains an error in copying or printing.

**76AF. Regulation-making power in relation to preparing rolls**

- (1) The Governor may make regulations prescribing —
  - (a) how rolls, supplementary rolls and amalgamated rolls are to be prepared or made; and
  - (b) anything else necessary or convenient to be prescribed in relation to the preparation or making of rolls, supplementary rolls and amalgamated rolls.
- (2) Without limiting subsection (1), the regulations may —
  - (a) provide that prescribed details of electors may be omitted when —
    - (i) a supplementary roll is made; or
    - (ii) an amalgamated roll is prepared and issued; or
    - (iii) rolls are made accessible or delivered under section 93C;and
  - (b) apply generally or to a particular roll.

**66. Section 76A amended**

- (1) In section 76A(1)(e) delete “vote at” and insert:

vote in

(2) In section 76A(2):

(a) delete “vote at” (1<sup>st</sup> occurrence) and insert:

vote in

(b) in paragraph (a) delete “qualified to be an elector entitled to vote at” and insert:

entitled to be an elector enrolled to vote in

(c) in paragraph (b) delete “a roll” and insert:

the register of electors

(d) in paragraph (c) delete “a roll or has not included the person’s name on a roll.” and insert:

the register of electors or has not included the person’s name on the register of electors.

**67. Section 77 amended**

(1) In section 77(1):

(a) delete “shall not be capable of being elected at an election unless he —” and insert:

is not capable of being elected at an election unless —

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(b) delete paragraph (a) and insert:

(a) the person has nominated as a candidate in the election and the nomination is valid and has effect; and

(c) in paragraph (b) before “is qualified” insert:

the person

(2) In section 77(2)(b) delete “hour of nomination” and insert:

close of nominations

(3) In section 77(3):

(a) delete “himself in relation to” and insert:

as a candidate in

(b) delete “hour of nomination, the nomination of the person for the election shall be” and insert:

close of nominations, the nomination of the person is

(4) In section 77(3a) delete “himself”.

(5) Delete section 77(4) and (5) and insert:

(4) A person commits an offence if —

(a) the person nominates as a candidate in an election; and

(b) at the close of nominations for the election, the person is disqualified —

- (i) from being elected at that election as a member of the House for which the election is held; or
- (ii) from being a member of the House for which the election is held.

Penalty for this subsection: a fine of \$2 500.

(5) If there is a contravention of subsection (4) in relation to a nomination, the nomination is invalid.

Note: The heading to amended section 77 is to read:

**Rules about nominating candidates**

**68. Section 78 amended**

(1) In section 78(1):

- (a) in paragraph (b) delete “surname and each christian or given name, the place of residence” and insert:

surname and each given name, the primary residential address

(b) after paragraph (b) insert:

- (ba) include details of a means by which the candidate can be contacted in connection with the election; and

(c) in paragraph (c) delete “vote at” and insert:

vote in

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- (2) In section 78(2A):
- (a) delete “place of residence of a candidate” and insert:  
  
candidate’s primary residential address
  - (b) delete “candidate’s residence is not shown on the roll because a request under section 51B has been granted.” and insert:  
  
candidate is a silent elector.

- (3) In section 78(2) delete “shall” and insert:

must

Note: The heading to amended section 78 is to read:

**Form and content of nominations**

**69. Section 79 amended**

In section 79:

- (a) delete “Nominations” and insert:
  - (1) Nominations
  - (b) delete “hour of nomination.” and insert:  
  
close of nominations.

(2) At the end of section 79 insert:

- (2) In the case of a Council election, a nomination may also be given to the returning officer for any district.
- (3) A nomination received by the returning officer for a district under subsection (2) is taken to have been received by the returning officer for the whole of State electorate at the time at which it was received by the returning officer for a district.
- (4) A candidate whose nomination is received under subsection (2) cannot participate in a group claim under section 80.

Note: The heading to amended section 79 is to read:

**When returning officer may receive nominations**

**70. Section 80 amended**

(1) In section 80(1) delete “hour of nomination,” and insert:

close of nominations,

(2) In section 80(2A):

(a) in paragraph (a) delete “the secretary” and insert:

a registered officer

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- (b) delete paragraph (b) and insert:
  - (b) if the candidates in the group are endorsed candidates of different registered political parties — jointly by at least 1 registered officer of each political party.
  
- (3) In section 80(3):
  - (a) delete “a secretary of a political party, or the secretaries of political parties,” and insert:

a registered officer of a political party, or at least 1 registered officer of each political party,
  - (b) delete “hour of nomination,” and insert:

close of nominations,
  
- (4) In section 80(4):
  - (a) in paragraph (b) delete “82.” and insert:

82; or
  - (b) after paragraph (b) insert:
    - (c) the group claim includes more candidates than the relevant number for the election to which the claim relates.



**71. Section 80A inserted**

After section 80 insert:

**80A. Lodging group claims with Electoral Commissioner**

- (1) If a group claim under section 80 is made to the Electoral Commissioner, the claim is taken to have been made to the returning officer for the whole of State electorate when the claim was received by the Electoral Commissioner.
- (2) This section does not affect the operation of section 81A.

**72. Section 81 amended**

In section 81(1):

- (a) delete “No nomination shall be” and insert:

A nomination is not

- (b) in paragraph (a) delete “hour of nomination; and” and insert:

close of nominations; and

- (c) in paragraph (b) delete “hour of nomination,” and insert:

close of nominations,

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- (d) in paragraph (b) delete “Commissioner” and insert:

Commissioner, by electronic transfer

**73. Section 81A amended**

- (1) Delete section 81A(1) and insert:

- (1) In this section —

*party nomination* means the nomination of an endorsed candidate in an election by a registered political party.

- (2) In section 81A(2):

- (a) in paragraph (b) delete “hour of nomination; and” and insert:

close of nominations; and

- (b) in paragraph (c) delete “hour of nomination,” and insert:

close of nominations,

- (3) After section 81A(2) insert:

- (2A) Subsection (2B) applies if —

- (a) the Electoral Commissioner receives 2 or more party nominations by the same registered political party for a single member election; and  
(b) all but 1 of the party nominations are not withdrawn under section 82.

- (2B) When this subsection applies, all of the party nominations for the single member election by the registered political party are of no force or effect.
- (4) After section 81A(4) insert:
- (4A) Subsection (4B) applies if —
- (a) for a Council election where the relevant number is more than one, the Electoral Commissioner receives more party nominations by the same registered political party than the relevant number for the election; and
  - (b) all but the relevant number of the party nominations are not withdrawn under section 82.
- (4B) When this subsection applies, all of the party nominations for the Council election by the registered political party are of no force or effect.
- (5) In section 81A(5):
- (a) delete “is to —” and insert:  
  
must —
  - (b) in paragraph (a) delete “the secretary” and insert:  
  
a registered officer

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- (c) in paragraph (b) delete “hour of nomination —” and insert:

close of nominations —

Note: The heading to amended section 81A is to read:

**Making and effect of party nominations**

**74. Section 82 amended**

In section 82(1):

- (a) delete “his” (1<sup>st</sup> occurrence) and insert:

their

- (b) delete “withdrawal of his” and insert:

the withdrawal of the

- (c) delete “hour of nomination,” and insert:

close of nominations,

- (d) delete “shall be” (each occurrence) and insert:

is

Note: The heading to amended section 82 is to read:

**Withdrawing nominations**

**75. Section 85 amended**

Delete section 85(2).

Note: The heading to amended section 85 is to read:

**Place of declaration of nominations**

**76. Section 86 amended**

(1) In section 86(1a):

(a) delete “shall” and insert:

must

(b) delete “one” and insert:

1

(c) delete “hour of nomination.” and insert:

close of nominations.

(2) Delete section 86(2) and insert:

(2) As soon as practicable after the close of nominations, the returning officer must —

(a) publicly produce all nomination papers and copies of nomination papers received by the officer under section 81(1)(a) or 81A(5)(b)(i) between the issue of the writ and the close of nominations; and

(b) declare the names of all candidates nominated; and

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- (c) state that the name of each candidate nominated, and details of a means by which the candidate can be contacted, will be published on the Commission website as soon as practicable after the close of nominations; and
- (d) ensure the name of each candidate nominated, and details of a means by which the candidate can be contacted, are published on the Commission website.

(3) Delete section 86(2AAA) and insert:

(2AAA) Despite subsection (2), if a candidate is a silent elector the returning officer must not publish information that might enable the candidate's residential address to be ascertained.

(4) In section 86(2aa) delete "shall" and insert:

must

(5) In section 86(2a):

- (a) delete "as they shall be placed on the ballot papers shall" and insert:

to be placed on the ballot papers must

- (b) in paragraph (a) delete "shall," and insert:

must,

(c) in paragraph (a) delete “his” and insert:

the candidate’s

(d) in paragraph (b) delete “shall” (each occurrence) and insert:

must

(6) In section 86(2b):

(a) delete “shall” and insert:

must

(b) delete “telegraph” and insert:

electronic communication

(c) delete “order and also advertise those names and particulars in such order on the Commission website and in any other way the returning officer considers appropriate.” and insert:

order.

(7) In section 86(3) delete “shall” and insert:

must

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**77. Section 87 amended**

- (1) In section 87(2):
  - (a) delete “shall attend at” and insert:

must attend
  - (b) delete “one” and insert:

1
  - (c) delete “hour of nomination.” and insert:

close of nominations.
- (2) Delete section 87(3) and (4A) and insert:
- (3) As soon as practicable after the close of nominations, the returning officer must —
  - (a) publicly produce all nomination papers received by the officer under section 81(1)(a) or 81A(5)(b)(i) between the issue of the writ and the close of nominations; and
  - (b) declare the names of all candidates nominated; and
  - (c) state that the name of each candidate nominated, and details of a means by which the candidate can be contacted, will be published on the Commission website as soon as practicable after the close of nominations; and
  - (d) ensure the name of each candidate nominated, and details of a means by which the candidate can be contacted, are published on the



Commission website in the order required by section 94D.

- (3A) Despite subsection (3), if a candidate is a silent elector the returning officer must not publish information that might enable the candidate's residential address to be ascertained.
- (3) In section 87(5):
- (a) delete “as they shall be placed on the ballot papers shall” and insert:  
  
to be placed on the ballot papers must
  - (b) in paragraph (a) delete “immediately” and insert:  
  
as soon as practicable
  - (c) in paragraph (a)(i) delete “candidate is endorsed by a” and insert:  
  
of the candidates is an endorsed candidate of the same
  - (d) in paragraph (b) delete “shall” (each occurrence) and insert:  
  
must
- (4) In section 87(6):
- (a) delete “as they shall be placed on the ballot papers shall” and insert:  
  
to be placed on the ballot papers must

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- (b) in paragraph (a) delete “shall, at the place of declaration of nominations, immediately after the close of nominations and before all persons then present, make out in respect of each of those candidates, a slip bearing his” and insert:

must, at the place of declaration of nominations, as soon as practicable after the close of nominations and before all persons present, make out in respect of each of those candidates, a slip bearing the candidate’s

- (c) in paragraph (b) delete “shall,” (each occurrence) and insert:

must,

- (5) Delete section 87(7).

**78. Section 88 amended**

- (1) In section 88(2):

- (a) delete “election shall,” and insert:

election must,

- (b) delete “provisions shall” and insert:

provisions

- (c) in paragraph (a) delete “shall,” and insert:

must,

(d) in paragraph (a)(ii) delete “Commissioner.” and insert:

Commissioner; and

(e) after paragraph (a)(ii) insert:

(iii) if a polling place for the single member election is an early polling place for another election that is also being held — keep the polling place open for receiving votes for the other election on the early voting days.

(f) in paragraph (b) delete “shall,” and insert:

must,

(g) in paragraph (b)(i) delete the passage that begins with “nominated” and ends with “held; and” and insert:

nominated; and

(h) after paragraph (b)(i) insert:

(ia) keep the polling place open for receiving votes for candidates for any other elections then being held; and

(i) in paragraph (c) delete “shall” (1<sup>st</sup> and 2<sup>nd</sup> occurrences) and insert:

must

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- (j) in paragraph (c) delete “or deputy returning officer, who shall forthwith,” and insert:

for the whole of State electorate or returning officer for a district who must,

- (k) in paragraph (d) delete “shall” (each occurrence) and insert:

must

- (l) in paragraph (e) delete “roll which was in force and required to be used at the election which has failed shall,” and insert:

roll prepared for the election which has failed must,

- (m) in paragraph (g) delete “shall” (1<sup>st</sup> occurrence) and insert:

is

- (n) in paragraph (g) delete “shall operate” and insert:

operates

- (2) In section 88(3) delete “shall be returned as elected at the election, and section 89 shall apply.” and insert:

is returned as elected at the election, and section 89 applies.

- (3) Delete section 88(4) and insert:
- (4) Subsection (5) applies if —
  - (a) a candidate in a Council election where the relevant number is more than one dies during the period beginning on the close of the poll for the election and ending when the counting of the votes in the election has been completed; and
  - (b) the candidate is elected.
- (5) The candidate is taken for the purposes of the *Constitution Acts Amendment Act 1899* section 10 and Part IVA of this Act to have vacated a seat in the Council immediately after being elected.

**79. Part IV Division 2A inserted**

After Part IV Division 2 insert:

**Division 2A — Registration of how-to-vote cards**

Note for this Division:

See sections 191B, 191C and 191D for offences in relation to distributing or publishing how-to-vote cards.

**89A. How-to-vote cards**

- (1) A *how-to-vote card* is a card, pamphlet, handbill or other similar document that is —
  - (a) given to an elector in an election for the purpose of instructing the elector on how to vote for —
    - (i) a particular candidate or particular candidates in the election; or

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- (ii) a particular group in the election;
- and
- (b) lists or shows any or all candidates or groups, or candidates and groups, in the election and —
  - (i) indicates the candidate or group to vote for or a numerical order of voting preference for candidates or groups; or
  - (ii) specifies the manner in which a ballot paper for the election should be marked.
- (2) Without limiting subsection (1)(b), a how-to-vote card may be in a form that is a representation, or purports to be a representation, of all or part of a ballot paper for the election.

**89B. When how-to-vote cards are suitable to be registered**

- (1) In this Division, a how-to-vote card is *suitable to be registered* if —
  - (a) the how-to-vote card clearly identifies the person, political party or group on whose behalf the how-to-vote card is to be distributed or published; and
  - (b) the how-to-vote card —
    - (i) if the ballot paper is for a single member election — indicates or specifies a method of marking an elector’s vote on the ballot paper that is in accordance with section 98C; and
    - (ii) if the ballot paper is for a Council election where the relevant number is more than one — indicates or specifies a method or methods of marking an elector’s vote on the ballot paper that is

or are in accordance with sections 98D and 98E;

and

- (c) the name and address of the person, political party or group authorising the how-to-vote card is stated on each side of the how-to-vote card where a statement referred to in paragraph (b) is stated.
- (2) However, a how-to-vote card is not *suitable to be registered* if the how-to-vote card —
- (a) is likely to mislead or deceive an elector in relation to the casting of an elector's vote for a particular candidate, political party or group; or
  - (b) is likely to induce an elector to mark their ballot paper otherwise than in accordance with the directions on the ballot paper, including by containing a representation or purported representation of a ballot paper for use in the election; or
  - (c) contains an error or abusive, obscene, threatening, violent or unlawful or similarly offensive material.

### **89C. Applications to register how-to-vote cards**

- (1) In this section —
- registration period*, for an election, means the period —
- (a) beginning on the day after the day on which the close of nominations occurs for the election; and
  - (b) ending on the day that is 6 business days before polling day in the election.

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- (2) During the registration period for an election a person, political party or group wishing to distribute or publish a how-to-vote card (the *distributor*) may apply to the Electoral Commissioner to register a how-to-vote card for the election.
- (3) If an application to register a how-to-vote card has been refused under section 89D(1), the distributor may apply, within the period of 3 days beginning on the day on which the distributor receives a written notice under section 89D(4), to the Electoral Commissioner to register a modified version of the how-to-vote card for the election.
- (4) An application made under subsection (2) or (3) must —
  - (a) be in the approved form; and
  - (b) identify the distributor; and
  - (c) state the contact details of the distributor; and
  - (d) if the distributor is not a legal person, or a person other than the distributor is to be accountable for the publication and distribution of the how-to-vote card — state the name and contact details of the person; and
  - (e) state the election for which the how-to-vote card will be distributed or published; and
  - (f) be accompanied by the how-to-vote card that is proposed to be distributed or published; and
  - (g) state that the distributor considers the how-to-vote card is suitable to be registered; and



- (h) if the how-to-vote card includes or gives access to audio, or audio-visual material — be accompanied by —
  - (i) a copy of the audio or audio-visual material; or
  - (ii) a transcript of the audio or audio-visual material;and
- (i) if the how-to-vote card includes a language other than English — be accompanied by —
  - (i) a translation into English; and
  - (ii) a certificate from the person who did the translation stating the translator's name and address, their qualifications to translate the language into English and that the translation is a correct translation.

- (5) A person who translates a how-to-vote card must not make a false statement in relation to the translation or certificate accompanying the application under subsection (4)(i).

Penalty for this subsection: a fine of \$1 000.

**89D. Commissioner must register suitable how-to-vote cards**

- (1) If the Electoral Commissioner receives an application to register a how-to-vote card under section 89C, the Electoral Commissioner must register, or refuse to register, the how-to-vote card.
- (2) If the Electoral Commissioner is satisfied the how-to-vote card is suitable to be registered, the Electoral Commissioner must register the how-to-vote card.

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- (3) However, the Electoral Commissioner may refuse to register the how-to-vote card if —
- (a) the person, political party or group wishing to distribute or publish the how-to-vote card (the *second card*) for an election already has a registered how-to-vote card (the *first card*) for the election; and
  - (b) the first card's registration has not been cancelled under section 89E(3)(b), 89F(3)(b) or (4) or 89G(2)(a); and
  - (c) the second card is —
    - (i) substantially similar to the first card; or
    - (ii) not intended to be used in respect of more than 1 election or district.
- (4) If the Electoral Commissioner makes a decision under subsection (1), the Electoral Commissioner must give the accountable person for the how-to-vote card a written notice —
- (a) stating the decision; and
  - (b) if the decision is to refuse to register the how-to-vote card, stating —
    - (i) the reasons for the decision; and
    - (ii) that the person, political party or group may, within the period of 3 days beginning on the day on which the written notice is received, apply again to register the how-to-vote card under section 89C(3).

**89E. Replacing registered how-to-vote cards**

- (1) The accountable person for a registered how-to-vote card may apply to the Electoral Commissioner to

replace the registered how-to-vote card with another how-to-vote card (the *replacement how-to-vote card*).

- (2) The application must —
  - (a) be in writing; and
  - (b) state that the person, political party or group seeks to replace a registered how-to-vote card; and
  - (c) be accompanied by the replacement how-to-vote card; and
  - (d) state the differences between the registered how-to-vote card and the replacement how-to-vote card; and
  - (e) if the differences correct an error on the registered how-to-vote card — state the error.
- (3) If the Electoral Commissioner considers the replacement how-to-vote card is suitable to be registered, the Electoral Commissioner must —
  - (a) register the replacement how-to-vote card; and
  - (b) cancel the registration of the previous how-to-vote card; and
  - (c) give the applicant under subsection (1) a written notice stating the decision and the reasons for the decision.
- (4) If the Electoral Commissioner considers the replacement how-to-vote card is not suitable to be registered, the Electoral Commissioner must —
  - (a) refuse to register the replacement how-to-vote card; and
  - (b) give the applicant under subsection (1) a written notice stating —
    - (i) the decision; and
    - (ii) the reasons for the decision.

**89F. Correcting errors identified by Electoral Commissioner in registered how-to-vote cards**

- (1) This section applies if the Electoral Commissioner becomes aware of an error in a registered how-to-vote card.
- (2) The Electoral Commissioner may give the accountable person for the registered how-to-vote card a notice (an *error notice*) that —
  - (a) states the error (the *identified error*); and
  - (b) if the Electoral Commissioner considers the identified error to be material and serious, states that —
    - (i) the Electoral Commissioner considers the identified error to be material and serious; and
    - (ii) the accountable person for the how-to-vote card must take immediate steps to ensure that the how-to-vote card is no longer distributed or published unless and until the Electoral Commissioner gives the accountable person a notice under subsection (6);and
  - (c) states that the accountable person must, within the reasonable time stated in the notice —
    - (i) give the Electoral Commissioner a replacement how-to-vote card with the identified error corrected on it and a statement explaining the amendments made to correct the identified error; or

- (ii) make submissions to the Electoral Commissioner disputing the existence of the identified error;
  - and
  - (d) states that the registration of the registered how-to-vote card may be cancelled unless the person, political party or group —
    - (i) complies with paragraph (c)(i); or
    - (ii) makes submissions under paragraph (c)(ii) and satisfies the Electoral Commissioner that the identified error is not an error;
  - and
  - (e) states that —
    - (i) if the error notice states that the Electoral Commissioner considered the identified error was material and serious — the accountable person may commit a crime against section 191C(1) if the person fails to comply with a requirement under paragraph (b)(ii) stated in the error notice; or
    - (ii) the accountable person may commit an offence against section 191C(2) if the person fails to comply with a requirement under paragraph (c)(i) or (ii) stated in the error notice.
- (3) If the Electoral Commissioner receives a replacement how-to-vote card from the accountable person for a how-to-vote card in compliance with an error notice and considers the replacement how-to-vote card corrects the error identified in the error notice and is

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suitable to be registered, the Electoral Commissioner must —

- (a) register the replacement how-to-vote card; and
  - (b) cancel the registration of the previous how-to-vote card; and
  - (c) give the accountable person a written notice stating the decision and the effect of the decision.
- (4) The Electoral Commissioner may cancel the registration of a registered how-to-vote card in which an error has been identified in an error notice if —
- (a) the Electoral Commissioner receives a replacement how-to-vote card and considers that the replacement card does not correct the error or is not suitable to be registered; or
  - (b) the accountable person that is given the error notice —
    - (i) does not comply with subsection (2)(c)(i); or
    - (ii) does not make submissions under subsection (2)(c)(ii);
- or
- (c) the Electoral Commissioner receives submissions under subsection (2)(c)(ii) and is satisfied, despite the submissions, that the identified error in the registered how-to-vote card is an error.
- (5) If the Electoral Commissioner cancels the registration of a registered how-to-vote card under subsection (4), the Electoral Commissioner must give the accountable

person for the registered how-to-vote card a written notice stating —

- (a) the decision; and
  - (b) the reasons for the decision.
- (6) If the Electoral Commissioner decides not to apply the provisions of subsection (4), the Electoral Commissioner must give the accountable person for the registered how-to-vote card a written notice stating the decision.

**89G. Cancelling registration of registered how-to-vote cards on request**

- (1) The accountable person for a registered how-to-vote card may, by notice in writing, request the Electoral Commissioner to cancel the registration of the how-to-vote card.
- (2) If the Electoral Commissioner receives a request under subsection (1), the Electoral Commissioner must —
  - (a) cancel the registration of the registered how-to-vote card; and
  - (b) give the person, political party or group who made the request written notice of the cancellation.

**89H. Nominating or changing accountable person for how-to-vote cards**

- (1) The accountable person for a registered how-to-vote card, or the person, political party or group on whose behalf the how-to-vote card is registered, may, by written notice given to the Electoral Commissioner, nominate a person to be the accountable person for a registered how-to-vote card.

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- (2) If a person is nominated as the accountable person for a registered how-to-vote card under subsection (1) —
  - (a) the person becomes the accountable person for the how-to-vote card; and
  - (b) any other person who was the accountable person ceases to be the accountable person.

**89I. Publishing registered how-to-vote cards on Commission website**

- (1) The Electoral Commissioner must publish each registered how-to-vote card on the Commission website.
- (2) A failure to comply with subsection (1) in relation to 1 or more registered how-to-vote cards for an election does not invalidate the election.

**80. Part IV Division 3 replaced**

Delete Part IV Division 3 and insert:

**Division 3 — Procedural provisions about voting**

**Subdivision 1 — Establishing places to vote**

**90. Appointing places in relation to voting**

- (1) For the purpose of an election, the Electoral Commissioner may, by written notice published on the Commission website, do any or all of the following —
  - (a) appoint a place as a polling place for the whole of State electorate;
  - (b) appoint a place as a polling place for 1 or more districts;



- (c) appoint a polling place as either or both of the following —
    - (i) a polling place at which a person may vote in an election on an early voting day;
    - (ii) a polling place at which a person may vote in an election on polling day;
  - (d) appoint, or appoint part of, any of the following as a mobile voting place —
    - (i) an institution or hospital where persons reside;
    - (ii) a prison as defined in the *Prisons Act 1981* section 3(1);
    - (iii) a psychiatric hospital;
    - (iv) a nursing home;
  - (e) if the Electoral Commissioner considers it is difficult for persons to vote at a polling place in an area of the State because of the area's remoteness or for another reason, appoint, or appoint part of, any other location or place in that area as a mobile voting place;
  - (f) fix a voting area in relation to each polling place and mobile voting place.
- (2) Each place appointed as a place to vote for a district or districts is taken to have been appointed as a place to vote for the whole of State electorate.
  - (3) If a place is a licensed premises, as defined in the *Liquor Control Act 1988* section 3(1), a notice under subsection (1) cannot appoint the place, or a part of it, as a place to vote unless the Electoral Commissioner considers, and states in the notice, that there are exceptional circumstances justifying the appointment.

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- (4) An appointment under subsection (3) may be the subject of conditions.
- (5) A voting area fixed under subsection (1)(f) must —
  - (a) be adjacent to an entrance for the place to vote; and
  - (b) have boundaries that are no more than 100 m from an entrance for the place to vote.
- (6) A written notice made under subsection (1) is not subsidiary legislation.

**90A. Amending notices made under s. 90**

- (1) The Electoral Commissioner may, by written notice published on the Commission website, amend a notice published under section 90(1) (the *original notice*) —
  - (a) to abolish a polling place; or
  - (b) to cancel a declaration under section 90(1)(f) or amend the areas fixed under that paragraph; or
  - (c) for any other purpose.
- (2) The original notice as amended under subsection (1) must comply with section 90.
- (3) The Electoral Commissioner may, by written notice published on the Commission website, repeal a notice published under section 90(1).
- (4) A written notice made under subsection (1) or (3) is not subsidiary legislation.

**90B. Certain buildings to be used for free**

The following places may be used free of charge as a place of declaration of nominations under section 86(1a) or 87(2) or as a place to vote —

- (a) a place under the control of the State;

- (b) a place owned by, or under the control of, a local government;
- (c) an Agricultural Hall;
- (d) a building —
  - (i) to which the public is entitled to have access; and
  - (ii) the construction of which has been subsidised by the State.

**90C. Liquor not to be sold in licensed premises where people vote**

While a licensed premises, as defined in the *Liquor Control Act 1988* section 3(1), is being used as a place to vote, the part of the licensed premises that is being used for that purpose must not be —

- (a) used for the sale of liquor; or
- (b) accessible from a part of the licensed premises where liquor is sold.

**90D. Officers and times to vote at mobile voting places**

- (1) The returning officer for a district must appoint, for each mobile voting place in the district —
  - (a) a presiding officer to preside at the mobile voting place; and
  - (b) another officer to work at the mobile voting place.
- (2) In a conjoint election, a person appointed under subsection (1)(a) or (b) for a mobile voting place in a district is also appointed to the same position for the

mobile voting place for the general election for the Council.

Note for this subsection:

Other officers may be appointed under section 92D in relation to mobile voting places.

- (3) The Electoral Commissioner must —
  - (a) decide how many mobile ballot boxes are to be present at the mobile voting place for an election; and
  - (b) decide the times in the period of 14 days up to and including polling day during which the officers appointed for the mobile voting place under subsection (1) are required to attend the mobile voting place.
- (4) In making a decision under subsection (3), the Electoral Commissioner must have regard to giving an opportunity to vote to persons who will vote in an election at mobile voting places for the election.

**90E. Notice to be given in relation to mobile voting places**

- (1) The Electoral Commissioner must ensure that, before the end of the period of 48 hours before the first mobile voting time for a mobile voting place for an election, each candidate in the election is given a written notice of —
  - (a) each mobile voting place for the election; and
  - (b) the mobile voting times for the mobile voting place.
- (2) An election and the result of an election are not affected if a notice is not given under subsection (1) if the Electoral Commissioner has a reasonable excuse for failing to give a written notice.

**Subdivision 2 — Early voting days for elections****91. Rules for fixing early voting days**

- (1) In this section —  
*available day* means any day that is not —
  - (a) a day appointed as polling day in an election of the Senate or a general election of the House of Representatives or as the voting day for a referendum as defined in the *Referendum (Machinery Provisions) Act 1984* (Commonwealth) section 3(1); or
  - (b) Christmas Day; or
  - (c) Easter Saturday; or
  - (d) a Sunday.
- (2) The 11 consecutive available days ending on the Friday before the polling day in an election are the early voting days on which a person can vote in the election at an early polling place.
- (3) However, if the polling day in an election is postponed under section 71(6), the early voting days for the election are —
  - (a) if the polling day is postponed before the first early voting day fixed under subsection (2) — the 11 consecutive available days ending on the Friday before the polling day as postponed; or
  - (b) otherwise — each available day that falls between the period beginning on the day on which the polling day is postponed and ending on the day before the polling day as postponed.

- (4) The Electoral Commissioner must publish a written notice on the Commission website stating —
- (a) the early voting days under subsection (2) for an election; and
  - (b) if the polling day in an election is postponed under section 71(6) — the early voting days under subsection (3) for the election.

**Subdivision 3 — Appointments and functions of persons in relation to holding an election**

**92. Returning officer's duties in relation to elections**

If the proceedings after the close of nominations stand adjourned to polling day under section 87(8), the returning officer must make all necessary arrangements for taking the poll in accordance with this Subdivision and Subdivisions 4 and 5.

**92A. Electoral Commissioner and returning officers may appoint issuing officers**

For the purposes of paragraph (f) of the definition of *issuing officer* in section 4(1) —

- (a) the Electoral Commissioner may, in writing, appoint a person to be an issuing officer; and
- (b) a returning officer may, in writing, appoint a person to be an issuing officer.

**92B. Electoral Commissioner may give directions in relation to elections**

- (1) The Electoral Commissioner may give a direction if the Electoral Commissioner considers the direction necessary or expedient to implement the provisions of this Act for the proper and efficient conduct of an election.

- (2) Without limiting subsection (1), the Electoral Commissioner may, for the purpose of assisting an elector to vote under section 98F, give a direction the Electoral Commissioner considers is necessary or expedient about and in relation to methods of —
- (a) conveying details on the ballot paper to the elector without conveying political information other than names or words printed in accordance with section 94B or 94C; and
  - (b) translating the elector’s instructions; and
  - (c) eliciting the exact direction of the elector’s preferences.

**92C. Appointing presiding officers and assistant presiding officers at polling places**

- (1) The returning officer for a district must appoint, for each polling place in the district —
- (a) a presiding officer to preside at the polling place; and
  - (b) all necessary assistant presiding officers and other officers to work at the polling place.
- (2) An appointment under subsection (1) must be in writing in the approved form.
- (3) In a conjoint election, a person appointed under subsection (1)(a) or (b) for a polling place in a district is also appointed to the same position for the polling place for the purposes of the general election for the Council.

**92D. Substitute and assistant presiding officers**

- (1) The presiding officer for a place to vote may appoint a substitute presiding officer to act as presiding officer for the place to vote during the presiding officer’s

temporary absence or when the presiding officer is prevented from acting, including due to illness.

- (2) A substitute presiding officer for a place to vote who is acting as presiding officer has, and may perform, the functions of the presiding officer for the place to vote.
- (3) The Electoral Commissioner or returning officer for a district may authorise the presiding officer for a place to vote to appoint under subsection (4) an assistant presiding officer for the place to vote.
- (4) The presiding officer for a place to vote may, if authorised under subsection (3), appoint an assistant presiding officer for the place to vote.
- (5) An assistant presiding officer appointed under subsection (4) or section 92C(1)(b) has, and subject to the direction of the presiding officer, may perform, the functions of the presiding officer.

**92E. Effect of failure to take poll if presiding officer is absent**

- (1) If a poll is not taken at a place to vote on polling day because neither the presiding officer appointed for the place to vote, nor a substitute presiding officer appointed under section 92D(1), is present on polling day —
  - (a) the election is not void by reason only of the poll not being taken; and
  - (b) the returning officer may appoint another day not later than 21 days after polling day for taking the poll at the place to vote.
- (2) If another day for the taking of the poll is appointed under subsection (1)(b), the Electoral Commissioner must ensure a written notice is published on the



Commission website, or that other public notice is given, of the day appointed.

- (3) If the poll is taken on the day appointed under subsection (1)(b), the poll is taken to have been taken on the original polling day.

**92F. Appointment of scrutineers during polling**

- (1) A candidate in an election, or the candidate's official agent, may appoint a scrutineer to represent the candidate at a place to vote during the polling for the election.
- (2) A candidate in a group, or the official agent of a group, in a Council election where the relevant number is more than one may appoint a scrutineer to represent the group at a place to vote during the polling for the election.
- (3) An appointment under subsection (1) or (2) must —
- (a) be in writing given to the returning officer for the district in which the place to vote is located or the presiding officer at the place to vote; and
  - (b) unless subsection (4) applies — state the scrutineer's name and address; and
  - (c) be signed by —
    - (i) the candidate or the candidate's official agent; or
    - (ii) if the scrutineer is representing a group in a Council election — a candidate included in the group or the group's official agent.
- (4) The returning officer for the district in which the place to vote is located or the presiding officer for the place to vote may approve an appointment under

subsection (1) or (2) that does not comply with subsection (3)(b).

- (5) Before a scrutineer appointed under subsection (1) or (2) acts as a scrutineer at a place to vote, the scrutineer must make a declaration, in the approved form, in the presence of the returning officer for the district in which the place to vote is located or the presiding officer for the place to vote.

**92G. Election campaign workers to have access to toilet facilities**

The Electoral Commissioner must ensure that, to the extent practicable, election campaign workers have access to toilet facilities at places to vote.

**92H. Responsibilities in relation to election campaign workers**

- (1) A candidate, group or political party must ensure that an election campaign worker for the candidate, group or political party —
  - (a) complies with this Act; and
  - (b) while acting as an election campaign worker, behaves in a respectful and otherwise appropriate manner to all persons, including electors, officers and other election campaign workers; and
  - (c) while acting as an election campaign worker (otherwise than as a scrutineer), wears or displays identification identifying the candidate, group or political party for which they are working or volunteering; and
  - (d) complies with a direction given under subsection (2).

- (2) The presiding officer or assistant returning officer for a place to vote or counting place may direct an election campaign worker at the place to do, or refrain from doing, something in order to ensure the election campaign worker complies with subsection (1)(a) to (c).
- (3) An election campaign worker who is given a direction under subsection (2) must comply with the direction.

**92I. Returning officer may provide or require persons to wear identification**

- (1) The returning officer may require any of the following persons to wear or display identification at a place to vote —
  - (a) presiding officers;
  - (b) assistant presiding officers;
  - (c) other officers working at the place to vote;
  - (d) scrutineers.
- (2) If the returning officer requires a person to wear or display identification under subsection (1), the person must comply with the requirement.
- (3) The returning officer may provide identification for the purposes of subsection (1).

**92J. Police at places to vote**

- (1) The Electoral Commissioner, returning officer or presiding officer may request a police officer to attend a place to vote to do any of the following —
  - (a) preserve order at the place to vote;
  - (b) remove from the place to vote a person considered by the Electoral Commissioner, returning officer or presiding officer to be

obstructing the polling or contravening this Act;

- (c) cause a person who obstructs an approach to, or a designated entrance of, the place to vote to be removed.
- (2) A police officer must aid and assist the returning officer or presiding officer in the performance of their duty.

**92K. Candidate not to conduct election**

The following persons must not take part in the conduct of an election —

- (a) a candidate in the election;
- (b) an election campaign worker, other than a scrutineer, at a place to vote or counting place at the election.

**Subdivision 4 — Requirements for places to vote**

**93. Duties for places to vote, ballot boxes and ballot papers**

The returning officer for a district must —

- (a) ensure that each polling place in the district has adequate and appropriate furniture, fittings and equipment; and
- (b) ensure that each mobile voting place in the district has adequate and appropriate furniture, fittings and equipment, having regard to the nature of the place or location where the mobile voting place is located; and

- (c) provide each place to vote in the district with —
  - (i) a ballot box that has a cleft for receiving ballot papers; and
  - (ii) a sealing device for the ballot box.

**93A. Designated entrances for places to vote**

- (1) Before opening a mobile voting place for voting, the presiding officer may place a sign at an entrance to the mobile voting place to designate that it is an entrance for use by electors to enter the mobile voting place.
- (2) Before opening a polling place for voting, the presiding officer must place a sign at at least 1 entrance to the polling place to designate that it is an entrance for use by electors to enter the polling place.

**93B. Returning officer to ensure separate voting compartments and pens or pencils are provided**

The returning officer for a district must ensure that —

- (a) separate voting compartments are erected at each polling place in the district to allow persons to mark their ballot papers without being observed; and
- (b) pens or pencils are available for persons to use to mark their ballot papers at each place to vote in the district.

**93C. Ensuring access to rolls for elections**

- (1) The Electoral Commissioner, in accordance with the regulations, must ensure that access to any rolls for

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elections that are in electronic form is available to each of the following —

- (a) for a Council election —
    - (i) the returning officer;
    - (ii) the returning officer for the district;
    - (iii) the presiding officers and other officers at places to vote;
  - (b) for an election in a district —
    - (i) the returning officer for the district;
    - (ii) the presiding officers and other officers at places to vote in the district.
- (2) If the roll for a district that forms part of the roll for a Council election is in printed form —
- (a) the Electoral Commissioner must ensure that a copy of the printed roll is delivered to the returning officer; and
  - (b) before voting in the election occurs in the district —
    - (i) the Electoral Commissioner must ensure that sufficient copies of the printed roll are delivered to the returning officer for the district; and
    - (ii) the returning officer for the district must ensure that sufficient copies of the printed roll are delivered to each presiding officer for a place to vote in the district.
- (3) If the roll for an election in a district is in printed form, before voting in the election occurs in the district —
- (a) the Electoral Commissioner must ensure that sufficient copies of the printed roll are

delivered to the returning officer for the district;  
and

- (b) the returning officer must ensure that sufficient copies of the printed roll are delivered to each presiding officer for a place to vote in the district.
- (4) Subsection (3) does not have to be complied with if the election has the same polling day as a Council election and copies of the roll are delivered under subsection (2)(b).
- (5) Subsection (2)(b) or (3) does not apply if voting in the election is not required or the election is deemed to have wholly failed.

#### **Subdivision 5 — Ballot papers**

#### **94. Providing ballot papers to places to vote**

The returning officer for a district must provide ballot papers that comply with this Subdivision to each place to vote in the district.

#### **94A. Form and content of ballot papers generally**

- (1) A ballot paper must —
  - (a) be in an approved form; and
  - (b) contain the names of all the persons nominated as candidates; and
  - (c) contain typeface of a size, or sizes, approved by the Electoral Commissioner.
- (2) A ballot paper may be printed on paper (*official paper*) that —
  - (a) has a prescribed watermark; or
  - (b) incorporates security features or devices approved by the Electoral Commissioner by

written notice published on the Commission website.

- (3) If 2 or more candidates have similar names that the Electoral Commissioner considers are likely to cause confusion, the ballot paper may include a description or addition to the names that distinguishes them from each other.

**94B. Printing political party names on ballot papers**

- (1) In this section —  
*name* includes an abbreviation or acronym of a name.
- (2) A candidate in an election may apply to the returning officer before the close of nominations to have either of the following printed adjacent to the candidate's name on the ballot papers for the election —
  - (a) the name of a registered political party;
  - (b) the composite name of the names of 2 registered political parties.
- (3) An application under subsection (2) must —
  - (a) be in an approved form; and
  - (b) be signed by the candidate; and
  - (c) specify the name to be printed adjacent to the candidate's name; and
  - (d) contain a declaration signed by a registered officer of the registered political party or, if the application is for the printing of a composite name, by a registered officer of each registered political party concerned, stating that the party supports the application; and
  - (e) if the name of the candidate is to be included in a group — be in the form of a joint application by all the candidates to be included in the group



to have the same name (the *specified name*) adjacent to the name of each of those candidates.

- (4) If an application under subsection (2) is received by the returning officer before the close of nominations and the returning officer is satisfied that the application is in accordance with subsection (3), a ballot paper must —
- (a) have the specified name printed adjacent to the candidate's name; and
  - (b) if the ballot paper is for a Council election and the application is for a group under subsection (3)(e) —
    - (i) have the specified name printed adjacent to the name of each candidate in that group; and
    - (ii) if there is an above-the-line square printed for the group on the ballot paper — include the specified name adjacent to that square.
- (5) If an application under subsection (2) is received by the Electoral Commissioner, the application is taken to have been made to the returning officer when the application is received by the Electoral Commissioner.

#### **94C. Printing “Independent” on ballot papers**

- (1) A non-party candidate in an election may apply to the returning officer before the close of nominations to have the word “Independent” printed adjacent to the candidate's name on the ballot papers for the election.
- (2) An application under subsection (1) must —
- (a) be in an approved form; and
  - (b) be signed by the candidate; and

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- (c) if the name of the candidate is to be included in a group — be in the form of a joint application by all the candidates to be included in the group to have the word “Independent” printed adjacent to the name of each of those candidates.
- (3) If an application under subsection (1) is received by the returning officer before the close of nominations and the returning officer is satisfied that the application is in accordance with subsection (2), a ballot paper must —
- (a) include the word “Independent” adjacent to the candidate’s name; or
  - (b) if the ballot paper is for a Council election and the application is for a group under subsection (2)(c) —
    - (i) include the word “Independent” adjacent to the name of each candidate in the group; and
    - (ii) if there is an above-the-line square printed for the group on the ballot paper — include the word “Independent” adjacent to that square.
- (4) If an application under subsection (1) is received by the Electoral Commissioner, it is taken to have been received by the returning officer when it was received by the Electoral Commissioner.

**94D. Printing Council ballot papers**

- (1) A ballot paper for a Council election where the relevant number is one must include —
- (a) the names of the candidates in the order determined under section 87(6); and

- (b) a square opposite the name of each candidate.
- (2) A ballot paper for a Council election where the relevant number is more than one must comply with subsections (3) to (6).
- (3) If there is only 1 group, the names of candidates included in the group must be printed on the ballot paper in a group before the names of candidates, if any, not included in the group.
- (4) If there are 2 or more groups, the following apply —
  - (a) if in only 1 of the groups each of the candidates is an endorsed candidate of the same registered political party — the names of candidates included in the group must be printed on the ballot paper in a group before the names of candidates included in the other group or groups;
  - (b) if in 2 or more of the groups each of the candidates is an endorsed candidate of the same registered political party — the names of candidates included in the groups must be printed in groups in columns sequentially from the left across the ballot paper in the order determined under section 87(5), before the names of candidates included in any other group or, if there is no other group, before the names of candidates, if any, not included in a group;
  - (c) if only 1 of the groups remains after the application of paragraph (a) or (b) — the names of candidates included in the group must be printed on the ballot paper in a group before the names of candidates, if any, not included in a group;

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- (d) if 2 or more of the groups remain after the application of paragraph (a) or (b) or neither of those paragraphs applies — the names of candidates included in the groups must be printed in groups in columns sequentially from the left across the ballot papers in the order determined under section 87(5), before the names of candidates, if any, not included in a group;
- (e) the order, within a group, in which the names of candidates in that group are printed must be the order specified in the claim made by them under section 80(1);
- (f) the names of candidates, if any, not included in a group must be printed —
  - (i) in a column or, if there are too many names to print in 1 column, in 2 or more columns; and
  - (ii) in the order determined under section 87(6).
- (5) If there are no groups, the names of the candidates must be printed on the ballot paper in the order determined under section 87(6).
- (6) In printing the ballot papers —
  - (a) a square must be printed opposite the name of each candidate; and
  - (b) if the names of 5 or more candidates are included in a group —
    - (i) a dividing line must be printed above the squares printed opposite those names; and
    - (ii) a square must be printed above the dividing line and above the

below-the-line squares printed opposite those names.

- (7) If, before polling day in a Council election where the relevant number is more than one, a candidate is declared by a court to be incapable of being elected at that election, the returning officer may take any action in relation to the printing of the ballot papers the returning officer considers necessary as a consequence of the declaration, including the following —
- (a) causing the ballot papers to be reprinted;
  - (b) causing notations or marks to be made on the ballot papers;
  - (c) again applying section 87(6).

**94E. Printing Assembly ballot papers**

A ballot paper for an election in a district must include —

- (a) the names of the candidates in the order determined under section 86(2a); and
- (b) a square opposite the name of each candidate.

**Division 3A — Voting**

**Subdivision 1 — Entitlement to vote if person on roll**

**95. Person may vote if name on roll**

Subject to this Act, the inclusion of an elector's name on the roll for an election is conclusive evidence that the elector is entitled to vote in the election.

Note for this section:

See sections 96C and 97F.

**Subdivision 2 — Polling places**

**96. Persons who may be at polling places**

- (1) A person must not enter or remain at a polling place for an election while the presiding officer is complying with section 96A or during the polling unless the person is —
  - (a) the Electoral Commissioner; or
  - (b) a returning officer; or
  - (c) the presiding officer or an assistant presiding officer; or
  - (d) another officer working at the polling place; or
  - (e) a scrutineer appointed for the polling place and allowed at the polling place under subsection (2) or (3); or
  - (f) a police officer on duty at the polling place; or
  - (g) a person who is voting or about to vote; or
  - (h) a person nominated under section 98F(2) to assist a person who is voting or about to vote; or
  - (i) if the election is held on the same day as a referendum — a scrutineer for the polling place appointed under an enactment for the purposes of the referendum.
- (2) At a polling place for a single member election, only 1 scrutineer at a time is allowed for each candidate.
- (3) At a polling place for a Council election where the relevant number is more than one —
  - (a) only 1 scrutineer at a time is allowed for each group; and
  - (b) only 1 scrutineer at a time is allowed for each candidate who is not included in a group.

**96A. Ballot box to be exhibited and sealed before voting commences**

- (1) Before opening a polling place for voting, the presiding officer must exhibit the open and empty ballot box.
- (2) The presiding officer must then —
  - (a) securely fasten and secure the ballot box with a sealing device so that nothing can be removed from the ballot box without breaking the seal; and
  - (b) place the sealed ballot box in a position in full view of all persons present in the polling place.

**96B. When electors can vote at polling places**

- (1) An elector can vote at a polling place —
  - (a) if the polling place is appointed as a place at which an elector may vote in an election on polling day under section 90(1)(c)(ii) — when the polling place is open on polling day; and
  - (b) if the polling place is an early polling place — when the early polling place is open on each early voting day.
- (2) On each early voting day, an early polling place must open and close at the times decided by the Electoral Commissioner under subsection (3).
- (3) The Electoral Commissioner must decide the opening and closing times for early polling places on each early voting day and publish those times on the Commission website.
- (4) On polling day the polls at a polling place must —
  - (a) open at 8 am; and
  - (b) close when all electors who are at the polling place at 6 pm and want to vote have voted.

- (5) If there is a dispute about when a polling place is to open or close, the decision of the presiding officer is final.

**96C. Questions to be put to people claiming to vote at polling place**

- (1) This section applies if, at a polling place for a district, a person claims to vote in an election as an elector enrolled for that district.
- (2) An officer working at the polling place must ask the person the following questions —
  - (a) *Have you already voted in this election (or, if there is more than 1 election, these elections)?*
  - (b) *What is your full name?*
  - (c) *What is the address of where you live?*
- (3) If the officer considers that the person does not understand a question asked under subsection (2) —
  - (a) the officer may ask the question in a less formal manner; and
  - (b) if the person finds it difficult to answer that question even when it is asked in that manner, the officer may assist the person to answer the question.
- (4) The officer may also ask the person any other question the officer considers necessary to determine whether and where the person is enrolled.
- (5) Subject to subsection (6), the person's answers to the questions are conclusive and the matter must not be further inquired into during the polling.



- (6) The person's claim to vote in an election must be rejected if any of the following applies —
  - (a) the person refuses to fully answer a question asked by an officer under this section;
  - (b) despite section 95, the officer is not satisfied, based on the answers to the questions asked under this section, that the person is entitled to vote in the election;
  - (c) the officer is satisfied that the person has previously voted in the election;
  - (d) the person refuses to make a declaration when required under Subdivision 3.
- (7) However, subsection (6)(a) does not apply if the person is a silent elector to the extent the person refuses to answer a question the answer to which might enable their electoral address to be ascertained.

**96D. Voting at polling place for person's district**

- (1) Subsection (2) applies if —
  - (a) under section 96C(1), a person claims to vote in an election at a polling place for a district; and
  - (b) the person's name is on the roll for the district; and
  - (c) the claim is not rejected under section 96C.
- (2) The person may vote in the election in accordance with Subdivision 4.
- (3) For the purposes of subsection (1)(b) —
  - (a) the person's surname is taken to be on the roll for the district as long as the name on the roll is a surname that the person is entitled to use; and
  - (b) if an officer working at the polling place is satisfied of the identity of the person, the

occurrence of 1 or more of the following on the roll for the district is to be ignored in determining whether the person's name is on the roll —

- (i) a name of the person (other than a surname) being omitted;
- (ii) a wrong name (other than a surname) being entered for the person;
- (iii) a name of the person being misspelled.

**Subdivision 3 — Absent and provisional voting at polling places**

**97. Term used: vote as a provisional voter**

In this Subdivision —

*vote as a provisional voter* means to vote in the manner prescribed under section 97I and in accordance with Subdivision 4.

**97A. Absent voting**

- (1) Subsection (2) applies if —
  - (a) at a polling place for a district, a person claims to vote in an election as an elector enrolled for another district; and
  - (b) an officer working at the polling place is satisfied that the person has not otherwise voted in the election.
- (2) The person may, subject to the regulations, vote as an absent voter at the polling place in the manner prescribed under section 97I and in accordance with Subdivision 4.
- (3) The Electoral Commissioner may make arrangements for the taking of absent votes at a polling place in a

district for which a candidate has been declared elected before polling day under section 86(2aa).

**97B. Provisional voting when required by officers**

- (1) An officer working at a polling place may require a person claiming under section 96C(1) or 97A(1)(a) to vote in an election at the polling place to make a prescribed declaration before the officer.
- (2) Without limiting subsection (1), if the officer is satisfied that the person has not otherwise voted in the election, the officer may require the person to make a prescribed declaration if —
  - (a) the person refuses to fully answer a question asked under section 96C; or
  - (b) despite section 95, the officer is not satisfied, on the basis of the answers to the questions asked under section 96C, that the person is entitled to vote in the election.
- (3) However, subsection (2)(a) does not apply to a person who is a silent elector to the extent the person refuses to answer a question the answer to which might enable their electoral address to be ascertained.
- (4) A scrutineer may request that the presiding officer for a polling place require a person to make a prescribed declaration before the person is permitted to vote in an election at the polling place under section 96D(2) or 97A(2).
- (5) If the presiding officer receives a request under subsection (4), the presiding officer must require the person to make a prescribed declaration before an officer working at the polling place before the person is permitted to vote.

- (6) A person who makes a declaration as required under subsection (1) or (5) may vote as a provisional voter.

**97C. Provisional voting when enrolled under s. 47**

- (1) If a person claiming under section 96C(1) or 97A(1)(a) to vote in an election at a polling place has been enrolled under section 47(3)(g), an officer working at the polling place must require the person to make a prescribed declaration before the officer.
- (2) A person who makes a declaration as required under subsection (1) may vote as a provisional voter.

**97D. Provisional voting when not on or removed from roll**

- (1) If subsection (2) applies to a person who claims under section 96C(1) or 97A(1)(a) to vote in an election at a polling place, the person may, after making a prescribed declaration before an officer working at the polling place, vote as a provisional voter.
- (2) This subsection applies to the person if the name of the person is not on the roll for the district and —
  - (a) the person's name is on the register of electors for the district but has been omitted from the roll because of an error of an officer or a mistake of fact; or
  - (b) the person's name is not on the register of electors for the district because of an error of an officer or a mistake of fact; or
  - (c) the person's name was on the register of electors for the district but was removed under section 48 because of an error of an officer or a mistake of fact and —
    - (i) the person's name was not, to the best of their knowledge, removed from the

register of electors due to objection to, or duplication of, their enrolment or because the person is not entitled to be enrolled for the district; and

- (ii) from the time of the person's enrolment for the district to the time of the close of the roll for the election, the person continuously retained their right to enrolment for the district;

or

- (d) a duly completed claim for the enrolment of the person for the district was received under section 42 before the close of the roll for the election and no circumstances existed after the sending or delivery of the claim that would have compelled or authorised an enrolment officer to —
  - (i) reject the claim under section 47; or
  - (ii) remove the name of the person from the register of electors under section 48.

**97E. Provisional voting when name cannot be found on roll**

A person who claims under section 96C(1) or 97A(1)(a) to vote in an election at a polling place may vote as a provisional voter if —

- (a) the person's name cannot be found on the roll by an officer working at the polling place; and
- (b) section 97D is not applicable; and
- (c) the person makes a prescribed declaration before the officer.

**97F. Provisional voting if record made that person has received ballot paper**

A person who claims under section 96C(1) or 97A(1)(a) to vote in an election at a polling place may vote as a provisional voter if —

- (a) the person's name is on a roll but a record has been made in respect of their name on the roll under section 98A(1)(b), 100D(5)(a) or 102C(2); and
- (b) the person claims that they have not received a ballot paper for the election; and
- (c) the person makes a prescribed declaration before an officer working at the polling place.

**97G. Provisional voting if person applies to enrol on day on which they intend to vote**

- (1) A person entitled to be enrolled under section 17(3) may vote as a provisional voter in an election if, at a polling place in a district on the day on which the person intends to vote, the person —
  - (a) makes —
    - (i) a claim for enrolment under this Act; or
    - (ii) a claim for enrolment or transfer of enrolment under the *Commonwealth Electoral Act 1918* to be enrolled on a Commonwealth roll for this State;
  - and
  - (b) makes a prescribed declaration before an officer working at the polling place.
- (2) Subsection (1) applies even if the claim relates to enrolment for another district.

**97H. Declaration made under this Subdivision sufficient for elections that have same polling day**

If an election in a district and a Council election have the same polling day, a person's declaration made under this Subdivision applies in relation to each of the elections.

**97I. Regulations about absent and provisional voting**

(1) In this section —

*absent voting* means voting as an absent voter under section 97A;

*provisional voting* means voting as a provisional voter under this Subdivision;

*relevant ballot paper* means a ballot paper given under Subdivision 4 if a person is absent voting or provisional voting.

(2) The regulations may make provision for and in relation to —

(a) absent voting and provisional voting; and

(b) anything necessary or convenient to be prescribed for carrying the provisions of this Act relating to absent voting and provisional voting into effect.

(3) Without limiting subsection (2), the regulations may provide for and in relation to —

(a) the manner of absent voting or provisional voting; and

(b) the manner of dealing with relevant ballot papers, including the placing of relevant ballot papers into prescribed envelopes and the placing of those envelopes into ballot boxes in use at the polling place; and

- (c) the manner of the scrutiny and counting of votes on the relevant ballot papers; and
  - (d) the retention and preservation of documents likely to be required in case of a disputed election, including envelopes, rejected votes and relevant ballot papers, until the validity of the election in respect of which they are used cannot be disputed.
- (4) Subject to sections 144(2b), 146, 146I(1) and 146J, if under subsection (3)(b) the regulations require prescribed ballot papers to be placed into prescribed envelopes then, unless the regulations provide otherwise, the following things can only be done by the Electoral Commissioner or a directed officer under section 142A(1) or that section as applied by section 146B(1) —
- (a) the opening of a prescribed envelope and removal of the prescribed ballot paper from it;
  - (b) the scrutiny of the prescribed ballot paper and counting of the votes on it.
- (5) A returning officer or another officer who is authorised under this Act to open a ballot box must, without opening the envelope containing any relevant ballot paper, transmit it in the manner prescribed to the Electoral Commissioner.

#### **Subdivision 4 — How to vote**

#### **98. Terms used**

In this Subdivision —

***claim voter*** means an elector to whom section 96D(2) applies;

***declaration voter*** means a person who makes a declaration under Subdivision 3;



*voter* means a claim voter or declaration voter.

**98A. Giving ballot papers to persons who have right to vote or who made declarations**

- (1) An officer working at a polling place must —
  - (a) give a voter at the polling place a ballot paper that is printed on official paper or initialled by the officer in a place that can be easily seen when the ballot paper is folded to conceal the vote; and
  - (b) make a record, in a prescribed manner, in respect of the voter's name on the electronic roll, if the officer has access to it, or on a copy of the printed roll in use at the polling place to show that the voter has received a ballot paper.
- (2) A record made on the electronic roll or on a copy of the printed roll under subsection (1)(b) is evidence —
  - (a) of the identity of the voter; and
  - (b) that the voter voted in the election.

**98B. Method of voting at polling place**

After a voter has received a ballot paper under section 98A(1)(a), the voter must —

- (a) go to an unoccupied voting compartment at the polling place; and
- (b) mark the voter's vote on the ballot paper in accordance with —
  - (i) if the ballot paper is for a single member election — section 98C; or
  - (ii) if the ballot paper is for a Council election where the relevant number is more than one — section 98D or 98E;

and

- (c) fold the ballot paper to conceal the vote and —
  - (i) in the case of a claim voter — deposit the folded ballot paper in the ballot box; or
  - (ii) in the case of a declaration voter — deal with the ballot paper in accordance with the method prescribed under section 97I(3)(b);
- and
- (d) leave the polling place.

**98C. How ballot paper is to be marked by voter for single member election**

In a single member election, a voter must mark the voter's vote on the ballot paper —

- (a) if there are only 2 candidates — by placing the numeral 1 in the square opposite the name of the candidate for whom the voter votes; or
- (b) if there are more than 2 candidates — by placing —
  - (i) the numeral 1 in the square opposite the name of the candidate for whom the voter votes as the voter's first preference; and
  - (ii) consecutive numerals from 2 in the squares opposite the names of the remaining candidates in order of the voter's preference for those candidates.

**98D. Marking ballot paper for Council election where relevant number is more than one if at least 1 above-the-line square**

- (1) This section applies in a Council election where the relevant number is more than one if there is at least 1 above-the-line square on the ballot paper.
- (2) If there are 3 or more above-the-line squares, a voter must mark the voter's vote on the ballot paper by either —
  - (a) placing the numeral 1 in the square relating to the group for which the voter votes as the voter's first preference and, if the voter wishes —
    - (i) placing the numeral 2 in the square relating to the group for which the voter votes as the voter's second preference;  
or
    - (ii) placing consecutive numerals from 2 in 2 or more of the other squares in order of the voter's preference for the groups to which those squares relate;
  - or
  - (b) marking below-the-line squares on the ballot paper in accordance with section 98E.
- (3) If there are 2 above-the-line squares, a voter must mark the voter's vote on the ballot paper by either —
  - (a) placing the numeral 1 in the square relating to the group for which the voter votes as the voter's first preference and, if the voter wishes, placing the numeral 2 in the square relating to the group for which the voter votes as the voter's second preference; or

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- (b) marking below-the-line squares on the ballot paper in accordance with section 98E.
- (4) If there is 1 above-the-line square, a voter must mark the voter's vote on the ballot paper by either —
  - (a) placing the numeral 1 in the square; or
  - (b) marking below-the-line squares on the ballot paper in accordance with section 98E.

**98E. Voting in below-the-line-squares or if no above-the-line squares**

- (1) This section applies in a Council election where the relevant number is more than one if —
  - (a) under section 98D(2)(b), (3)(b) or (4)(b), a voter votes by marking below-the-line squares on the ballot paper; or
  - (b) there are no above-the-line squares on the ballot paper.
- (2) If this section applies because of subsection (1)(a), references in subsections (3), (4) and (5) to squares are references to below-the-line squares.
- (3) If there are 22 or more squares on the ballot paper, a voter must mark the voter's vote on the ballot paper by —
  - (a) placing —
    - (i) the numeral 1 in the square opposite the name of the candidate for whom the voter votes as the voter's first preference; and
    - (ii) consecutive numerals from 2 to 20 in the squares opposite the names of 19

other candidates in order of the voter's preference for those candidates;

and

- (b) if the voter wishes, placing —
  - (i) the numeral 21 in the square opposite the name of the candidate for whom the voter votes as the voter's 21<sup>st</sup> preference; or
  - (ii) consecutive numerals from 21 in 2 or more of the squares opposite the names of other candidates in order of the voter's preference for those candidates.

(4) If there are 21 squares on the ballot paper, a voter must mark the voter's vote on the ballot paper by —

- (a) placing —
  - (i) the numeral 1 in the square opposite the name of the candidate for whom the voter votes as the voter's first preference; and
  - (ii) consecutive numerals from 2 to 20 in the squares opposite the names of 19 other candidates in order of the voter's preference for those candidates;

and

- (b) if the voter wishes, placing the numeral 21 in the square opposite the name of the candidate for whom the voter votes as the voter's 21<sup>st</sup> preference.

- (5) If there are 20 or fewer squares on the ballot paper, a voter must mark the voter's vote on the ballot paper by placing —
  - (a) the numeral 1 in the square opposite the name of the candidate for whom the voter votes as the voter's first preference; and
  - (b) consecutive numerals from 2 in the squares opposite the names of the other candidates in order of the voter's preference for those candidates.

**98F. Assisting particular voters to vote at polling place**

- (1) This section applies if a voter who is voting at a polling place cannot vote without assistance because the voter has a sight impairment or other physical impairment or has insufficient literacy skills.
- (2) The voter may nominate a person (the *nominated person*) to assist the voter.
- (3) The nominated person cannot be a candidate in the election or an election campaign worker.
- (4) The nominated person must mark the voter's vote on the ballot paper in the presence of an officer working at the polling place according to the directions of the voter and must —
  - (a) fold the ballot paper to conceal the vote and, subject to section 98G(2) —
    - (i) if the voter is a claim voter — deposit the folded ballot paper in the ballot box; or
    - (b) if the voter is a declaration voter — deal with the ballot paper in accordance with

the method prescribed under  
section 97I(3)(b);

and

- (b) otherwise carry out any of the functions of the voter under this Subdivision according to the directions of the voter; and
  - (c) leave the polling place.
- (5) Without limiting subsection (4), the voter may indicate the manner in which the voter wishes the ballot paper to be marked by presenting to the nominated person a statement in writing (which may be, or include, a registered how-to-vote card) that specifies the manner in which the ballot paper is to be marked.

**98G. Person with physical impairment voting at place near polling place**

- (1) If a voter with a physical impairment is at a place (the *external place*) that is in close proximity to a polling place and is unable to enter the polling place because of their impairment, sections 96B to 96D and this Subdivision apply, or may be applied, to the voter at the external place as if the voter were at the polling place and an officer attending at the external place were working at the polling place.
- (2) After the voter's vote has been marked on the ballot paper by the voter or, if there is a nominated person under section 98F as applied by subsection (1), by the nominated person, the voter or nominated person must fold the ballot paper to conceal the vote and —
- (a) if the voter is a claim voter — hand the ballot paper to an officer attending at the external place; or
  - (b) if the voter is a declaration voter — deal with the voting paper in the manner prescribed under

section 97I(3)(b) except that the prescribed envelope must be handed to an officer attending at the external place.

- (3) The voter's ballot paper may be marked under subsection (2) in the presence of any scrutineers who are at the place where the ballot paper is marked.
- (4) After being handed a ballot paper or prescribed envelope under subsection (2)(a) or (b), an officer attending at the external place must return to the polling place and deposit ballot paper or prescribed envelope in the ballot box.

**98H. Spoilt ballot papers**

- (1) This section applies if, before a voter's ballot paper is placed in a ballot box at a polling place —
  - (a) the voter satisfies an officer working at the polling place that the ballot paper has been spoilt by mistake or accident; and
  - (b) the voter gives up the spoilt ballot paper to the officer.
- (2) The officer must —
  - (a) give the voter a new ballot paper; and
  - (b) immediately cancel the spoilt ballot paper by writing "spoilt" on the back of it; and
  - (c) place the spoilt ballot paper in an envelope and —
    - (i) seal the envelope; and
    - (ii) write on the envelope an indication of the type of ballot paper enclosed and that it is spoilt; and
    - (iii) sign the envelope.



- (3) The envelopes containing spoiled ballot papers cancelled at a polling place must be sealed up in a packet that must be given to the returning officer after the close of the poll.

**98I. Rules for ballot boxes and rolls at close of poll**

- (1) At the close of the poll the presiding officer for a polling place must take charge of the ballot box and —
  - (a) publicly close, fasten and secure the ballot box with a sealing device; and
  - (b) if the ballot box is to be transported — close and seal the cleft; and
  - (c) as soon as possible, forward the ballot box to the counting place for the purposes of scrutiny.
- (2) A scrutineer present may sign the record of the sealing device secured on the ballot box.
- (3) A ballot box closed, fastened and secured under subsection (1) must not be opened except as allowed by this Act.
- (4) If a copy of the printed roll is used at a polling place, the presiding officer for the polling place must —
  - (a) endorse and sign the marked roll used at the polling place; and
  - (b) forward to the counting place —
    - (i) the marked roll; and
    - (ii) any other documents received before or during the polling.
- (5) If the roll used at a polling place is in electronic form, the presiding officer for the polling place must —
  - (a) ensure the roll is returned to, or is accessible by, the Electoral Commissioner; and

- (b) forward to the counting place any other documents received before or during the polling.

**Subdivision 5 — Voting at mobile voting places**

**99. Persons who may be at mobile voting places**

- (1) To enable persons to vote at a mobile voting place, the mobile voting officers for the mobile voting place must attend the mobile voting place during mobile voting times for the mobile voting place with the amount of mobile ballot boxes decided for the mobile voting place under section 90D(3)(a).
- (2) The failure of a mobile voting officer to attend a mobile voting place under subsection (1) does not affect an election, or the result of an election, if the officer has a reasonable excuse for failing to attend.
- (3) A person must not be near a mobile ballot box at a mobile voting place during the polling unless the person is —
  - (a) the Electoral Commissioner; or
  - (b) a returning officer; or
  - (c) the presiding officer or an assistant presiding officer; or
  - (d) a mobile voting officer; or
  - (e) a scrutineer appointed for the mobile voting place and allowed at the mobile voting place under subsection (4) or (5); or
  - (f) an election campaign worker accompanying a mobile ballot box to distribute registered how-to-vote cards to persons casting their votes at the mobile voting place; or

- (g) a police officer on duty at the mobile voting place; or
  - (h) a person who is voting or about to vote; or
  - (i) a nominated person under section 98F(2) as applied under section 99B(2) to assist a person who is voting or about to vote; or
  - (j) if the election is held on the same day as a referendum — a scrutineer for the mobile voting place appointed under an enactment for the purposes of the referendum.
- (4) At a mobile voting place for a single member election, only 1 scrutineer at a time is allowed for each candidate.
- (5) At a mobile voting place for a Council election where the relevant number is more than one —
- (a) only 1 scrutineer at a time is allowed for each group; and
  - (b) only 1 scrutineer at a time is allowed for each candidate who is not included in a group.

**99A. When electors can vote at mobile voting places**

A mobile voting place must be opened and closed in accordance with the mobile voting times for the mobile voting place.

**99B. Voting at mobile voting places to be generally conducted consistently with voting at polling places**

- (1) Subject to sections 99 and 99A, the presiding officer for a mobile voting place must, so far as is practicable, operate the mobile voting place in accordance with

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Subdivisions 2 (other than sections 96 and 96B) and 3 and those provisions apply —

- (a) as if a reference in them to a polling place were a reference to a mobile voting place; and
  - (b) as if a reference in them to a ballot box were a reference to a mobile ballot box; and
  - (c) as if a reference in them to an officer were a reference to a mobile voting officer; and
  - (d) with any other necessary modifications.
- (2) Subdivision 4 applies, as far as practicable, to voting at a mobile voting place —
- (a) as if a reference in that Subdivision to a polling place were a reference to a mobile voting place; and
  - (b) as if a reference in that Subdivision to a ballot box were a reference to a mobile ballot box; and
  - (c) as if a reference in that Subdivision to an officer were a reference to a mobile voting officer; and
  - (d) as if the reference in section 98B(a) to an unoccupied voting compartment were a reference to a place at the mobile voting place where no one else can see the voter's ballot paper; and
  - (e) with any other necessary modifications.

**Subdivision 6 — Postal voting**

**100. Terms used**

In this Subdivision —

*postal application period*, for an election, means the period —

- (a) beginning on —
  - (i) a day that is fixed under section 100A for the purposes of the election; or
  - (ii) if a day is not fixed under section 100A — the day after the day on which the writ for the election is issued;

and

- (b) ending at 6 pm on the Wednesday before polling day;

*postal vote application* has the meaning given in section 100B(1).

**100A. Fixing day for commencement of postal application period**

- (1) The Electoral Commissioner may, by written notice published on the Commission website, fix a day as the day on which the postal application period for an election begins.
- (2) For the purposes of subsection (1), the day fixed must be —
  - (a) after —
    - (i) for a periodic election — 1 November of the year before the year in which the polling day will occur; or

- (ii) for any other election — the public announcement of the polling day by the Government;

and

- (b) before the day on which the writ for the election is issued.

**100B. Postal vote applications**

- (1) During the postal application period for an election, an elector may make an application (a *postal vote application*) in the approved form to an issuing officer to vote by postal voting in the election.
- (2) The postal vote application —
  - (a) may be made within or outside the State; and
  - (b) must —
    - (i) state the applicant's name and electoral address; and
    - (ii) contain a statement by the applicant to the effect that the applicant is an elector; and
    - (iii) subject to subsection (3), be signed by the applicant; and
    - (iv) if the elector expects to be absent from their electoral address if and when documents are sent under section 100D — state an address to which the documents must be sent.
- (3) If the elector satisfies a witness that the elector is unable to sign the postal vote application because the elector has a sight impairment or other physical impairment or has insufficient literacy skills, the elector may make a distinguishing mark on the postal vote application before the witness.

- (4) A person may be a witness for the purposes of subsection (3) if the person —
  - (a) has attained the age of 18 years; and
  - (b) is not a candidate in an election in relation to which the postal vote application is made.
- (5) If an election in a district and a Council election have the same polling day, the elector's application is taken to be an application to vote by postal voting at each of those elections.

**100C. Dealing with postal vote applications**

- (1) If an issuing officer receives a postal vote application, the issuing officer must —
  - (a) endorse on the application the date of its receipt and sign the endorsement; and
  - (b) if the postal vote application complies with section 100B — number it in the manner prescribed by the regulations.
- (2) If the postal vote application complies with section 100B, the issuing officer must approve the postal vote application.

Note for this subsection:

A person whose postal vote application is approved under this subsection must be sent a postal ballot paper and other documents under section 100D.

- (3) If the issuing officer considers the postal vote application does not comply with section 100B, the issuing officer must reject the postal vote application by written notice given to the applicant stating —
  - (a) that the postal vote application has been rejected because it does not comply with section 100B; and
  - (b) the reasons why it does not comply; and

- (c) that the applicant may make another postal vote application during the postal application period.
- (4) However, the issuing officer must not reject the postal vote application under subsection (3) only because there is an omission or incorrect description in respect of any of the particulars required to be contained in it if the application is signed by the applicant or a distinguishing mark is made under section 100B(3).

**100D. Sending postal ballot papers**

- (1) This section applies in an election to the following persons (each a *postal voter*) —
  - (a) an elector whose postal vote application in relation to the election has been approved under section 100C(2);
  - (b) a general postal voter.
- (2) The Electoral Commissioner must, after the period of 24 hours after the close of nominations for the election, send the following to a postal voter —
  - (a) a ballot paper (a *postal ballot paper*) for the election that is —
    - (i) printed on official paper; or
    - (ii) initialled by an issuing officer in a place that can be easily seen when the ballot paper is folded to conceal the vote;
  - (b) a declaration in the approved form;
  - (c) an envelope marked “postal ballot paper”;
  - (d) another envelope addressed to the Electoral Commissioner for the purpose of returning the envelope containing the postal ballot paper and the declaration.



- (3) If an election in a district and a Council election have the same polling day —
  - (a) only 1 declaration mentioned in subsection (2)(b) is required for the elections; and
  - (b) the Electoral Commissioner must send the postal voter a postal ballot paper and envelopes under subsection (2)(a), (c) and (d) for each election.
- (4) The Electoral Commissioner is not required to send the documents required under subsection (2) before the end of the period of 8 days after the close of nominations.
- (5) Immediately after sending the documents required under subsection (2), the Electoral Commissioner must —
  - (a) make a record of the postal voter's name on the roll in the manner prescribed for the purposes of section 98A(1)(b); or
  - (b) if neither the electronic roll nor a copy of the printed roll is available — make a record of the postal voter's name and the other prescribed particulars of the postal voter.
- (6) A record made on the electronic roll or on a copy of the printed roll under subsection (5) is evidence —
  - (a) of the identity of the postal voter; and
  - (b) subject to section 100H(5), that the postal voter voted in the election.

**100E. Replacing postal ballot papers**

- (1) This section applies if —
  - (a) an elector satisfies an issuing officer that any or all of the documents sent to the elector under section 100D have been lost or destroyed; or
  - (b) an elector —
    - (i) satisfies an issuing officer that any or all of the documents sent to the elector under section 100D have been spoilt by mistake or accident; and
    - (ii) delivers up the spoilt documents;or
  - (c) an elector satisfies an issuing officer that the documents required to be sent under section 100D have not been delivered to the elector.
- (2) The issuing officer must send to the elector the documents required to be sent under section 100D that were lost, destroyed, spoilt or not delivered.

**100F. Informing political parties and candidates of postal voters**

- (1) If a candidate in an election is endorsed by a registered political party, the political party may, in the approved form, ask the Electoral Commissioner for the name and electoral address of —
  - (a) each elector whose postal vote application has been approved under section 100C(2); and
  - (b) each general postal voter.

- (2) A non-party candidate may, in the approved form, ask the Electoral Commissioner for the name and electoral address of —
- (a) each elector whose postal vote application has been approved under section 100C(2); and
  - (b) each general postal voter.
- (3) The Electoral Commissioner must comply with a request under subsection (1) or (2) except in relation to an elector who is —
- (a) enrolled under section 17B; or
  - (b) a silent elector.
- (4) A person must not use or disclose information the person receives under subsection (3) unless the use or disclosure is for a permitted purpose.

Penalty for this subsection:

- (a) if the information is used or disclosed for a commercial purpose — a fine of \$100 000;
- (b) otherwise — a fine of \$10 000.

**100G. Method of postal voting**

- (1) If an elector receives documents sent to the elector under section 100D, whether within or outside of the State, the elector must —
- (a) mark the elector's vote on the postal ballot paper in accordance with —
    - (i) if the ballot paper is for a single member election — section 98C; or
    - (ii) if the ballot paper is for a Council election where the relevant number is more than one — section 98D or 98E;
- and

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- (b) enclose the postal ballot paper in the envelope marked “postal ballot paper”; and
  - (c) sign and date the declaration provided with the postal ballot paper; and
  - (d) enclose the envelope marked “postal ballot paper” and the declaration in the envelope addressed to the Electoral Commissioner; and
  - (e) ensure that the envelope addressed to the Electoral Commissioner —
    - (i) is sent to the Electoral Commissioner under subsection (3); or
    - (ii) is delivered to the Electoral Commissioner before the close of the poll.
- (2) If an election in a district and a Council election have the same polling day, a declaration made in relation to a postal ballot paper under subsection (1)(c) applies in relation to both of the elections.
- (3) The envelope addressed to the Electoral Commissioner is sent to the Electoral Commissioner under this subsection if —
- (a) the envelope is received before 9 am on the Thursday after polling day; and
  - (b) any of the following apply —
    - (i) the postmark on the envelope is dated on or before polling day;
    - (ii) the postmark on the envelope is dated with the date of the Sunday immediately after polling day and the declaration is signed on or before polling day;
    - (iii) the postmark on the envelope is not legible, or there is no postmark on the

envelope, but the declaration is signed on or before polling day.

**100H. Return of postal ballot paper unopened by elector**

- (1) This section applies if an elector —
  - (a) receives a postal ballot paper for an election, whether within or outside of the State; and
  - (b) believes on reasonable grounds that the envelope addressed to the Electoral Commissioner cannot be sent to the Electoral Commissioner under section 100G(3) or delivered to the Electoral Commissioner before the close of the poll for the election.
- (2) The elector may deliver the envelope and its contents unopened to the returning officer or presiding officer for a place to vote for the election before the close of the poll.
- (3) The returning officer or a presiding officer for a place to vote who receives an envelope under subsection (2) before the close of the poll must, in accordance with any regulations made for the purposes of this subsection —
  - (a) send the envelope to the Electoral Commissioner; and
  - (b) make a record of the elector's name on the roll for the election.
- (4) A record made on the roll under subsection (3)(b) is evidence that the elector has not voted by postal voting in the election.
- (5) The returning officer or a presiding officer for a place to vote who receives an envelope after the close of the poll must not accept it.

**100I. Assisting elector to vote by postal voting**

- (1) This section applies if an elector who receives a postal ballot paper cannot vote without assistance because the elector has a sight impairment or other physical impairment or has insufficient literacy skills.
- (2) The elector may nominate a person (the *nominated person*) to assist the elector.
- (3) The nominated person cannot be a candidate at the election or an election campaign worker.
- (4) The nominated person must, in accordance with the elector's directions, mark the elector's vote on the postal ballot paper and perform the functions in section 100G(1)(b), (d) and (e) and 100H instead of the elector.
- (5) If the nominated person performs a function under subsection (4), the nominated person must —
  - (a) state on the declaration provided with the postal ballot paper under section 100G(1)(c) their full name and address; and
  - (b) state on the declaration that the person is the nominated person to assist the elector; and
  - (c) sign and date the declaration.
- (6) Subsection (4) or (5) does not prevent the elector from personally performing a function in section 100G(1)(b) to (e) or 100H if the elector wishes and is able to do so.
- (7) If an elector has not appointed a nominated person and has completed the declaration accompanying the elector's postal ballot paper but is unable to mark the elector's vote on the postal ballot paper or perform another function under section 100G(1)(b), (d) or (e) or 100H, the elector may ask another person to assist

the elector in carrying out the function according to the directions of the elector.

**100J. Offence to sign declaration as another person**

- (1) A person commits an offence if the person signs or makes a mark on a declaration under this Subdivision as another person.

Penalty for this subsection: a fine of \$1 000.

- (2) A person commits the offence against subsection (1) whether or not they have the authority of the other person.

**100K. Postal voting in particular places**

- (1) In this section —

*medical practitioner* means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession (other than as a student);

*relevant place* means —

- (a) a mobile voting place that is a location or place, or part of a location or place, referred to in section 90(1)(d); or
- (b) an institution, or an institution in a class, prescribed by the regulations as an institution or class to which this section applies.
- (2) A medical practitioner may direct a person not to visit an elector who resides, or is temporarily staying, in a relevant place in connection with or in relation to the elector voting by postal voting at the relevant place.
- (3) If a medical practitioner directs under subsection (2) a person not to visit an elector, the person must not visit the elector at the relevant place in connection with or in

relation to the elector voting by postal voting at the relevant place.

Penalty for this subsection: a fine of \$1 000.

**100L. Electoral Commissioner must store postal ballot papers until scrutinised**

The Electoral Commissioner must retain in a ballot box secured with a sealing device all envelopes containing postal ballot papers received by the Electoral Commissioner during the period —

- (a) beginning on the close of nominations; and
- (b) ending when the Electoral Commissioner begins the scrutiny of declarations under section 100M.

**100M. Preliminary scrutiny of declarations relating to postal ballot papers**

- (1) The Electoral Commissioner, or officers directed by the Electoral Commissioner, must, at a time not earlier than 72 hours before the commencement of the poll on polling day, begin the scrutiny of declarations relating to postal ballot papers in the prescribed manner.
- (2) A postal ballot paper must be rejected if —
  - (a) the declaration to which the ballot paper relates is not signed by —
    - (i) the elector to whom it was sent; or
    - (ii) if section 100I applies — a person authorised to sign the declaration under that section;
  - or
  - (b) the postal ballot paper contained in an envelope marked “postal ballot paper” is not the ballot



paper for the election in relation to which the vote is cast.

- (3) Without limiting sections 140 and 146E, a postal ballot paper must not be rejected because of a mistake in spelling.
- (4) A postal ballot paper must not be rejected only because a declaration relating to the ballot paper is enclosed in the envelope marked “postal ballot paper”.
- (5) If the Electoral Commissioner believes that a declaration relating to a postal ballot paper is enclosed in the envelope marked “postal ballot paper”, the Electoral Commissioner may —
  - (a) open that envelope and look for a declaration in that envelope, without permitting anyone to see the postal ballot paper; and
  - (b) if there is a declaration in that envelope — extract the declaration; and
  - (c) close and reseal the envelope containing the postal ballot paper; and
  - (d) deal with the envelope in the prescribed manner.

**100N. Decisions in relation to postal ballot papers subject to review by Court of Disputed Returns**

A decision of an officer to reject, disallow, allow or admit a postal ballot paper is final, subject to —

- (a) sections 144(2b), 146, 146I(1) and 146J; and
- (b) review only by the Court of Disputed Returns under Part V.

**100O. Dealing with postal ballot papers**

The Electoral Commissioner, or officers directed by the Electoral Commissioner, may open an envelope containing a postal ballot paper and deal with the ballot paper in the prescribed manner once the envelope has been dealt with under —

- (a) the regulations made for the purposes of section 100M(1); or
- (b) section 100M(5)(d).

**100P. Offences in relation to postal vote applications and applications to be general postal voter**

- (1) A person must not obtain a postal ballot paper by —
  - (a) impersonating another person in relation to a postal vote application or an application made under section 61(1); or
  - (b) making a false statement in relation to a postal vote application or an application made under section 61(1).

Penalty for this subsection: imprisonment for 12 months.

- (2) A person commits a crime if the person distributes or makes available a form for making a postal vote application, or causes or permits a form for making a postal vote application to be distributed or made available, unless —
  - (a) the person is authorised by the Electoral Commissioner to do so; or
  - (b) the form is —
    - (i) the approved form; and
    - (ii) accompanied by a statement advising that when the postal vote application has

been completed it must be returned  
directly to the Electoral Commissioner.

Penalty for this subsection: imprisonment for 2 years  
and a fine of \$24 000.

**100Q. Offences about influencing persons in relation to postal voting**

- (1) A person must not persuade or induce an elector, or associate with any other person in persuading or inducing an elector, to make a postal vote application.

Penalty for this subsection: a fine of \$1 000.

- (2) A person must not persuade or induce an elector to hand over to them a postal ballot paper upon which a vote has been recorded.

Penalty for this subsection: a fine of \$1 000.

- (3) Subsections (1) and (2) do not apply to —

- (a) publishing advertising material authorised by the Electoral Commissioner or a returning officer that states that a person may vote in an election by means of postal voting or a postal ballot paper; or
- (b) actions taken by officers that are authorised by the Electoral Commissioner or a returning officer and relate to providing information that a person may vote in an election by means of postal voting or a postal ballot paper.

**100R. Offence about false statements in relation to postal voting**

An elector must not make, and a person must not induce an elector to make, a false statement in a postal vote application.

Penalty: a fine of \$1 000.

**100S. Offences about marking postal ballot papers**

- (1) A person must not mark a vote on a postal ballot paper unless the person is —
- (a) the elector to whom the postal ballot paper was sent; or
  - (b) if section 100I applies — a person authorised to sign the declaration under that section.

Penalty for this subsection: a fine of \$1 000.

- (2) A person nominated under section 100I(2) or a person assisting an elector under section 100I(7) must not disclose any knowledge of the vote of the elector on whose behalf they marked the vote on the postal ballot paper.

Penalty for this subsection: a fine of \$1 000.

**100T. Offences about custody of documents**

- (1) If an elector gives a person a postal vote application or an envelope containing or purporting to contain a postal ballot paper so that the person can send or deliver the application or envelope to an officer, the person must send or deliver it to an officer.

Penalty for this subsection: a fine of \$1 000.

- (2) A person must not open an envelope which is addressed to the Electoral Commissioner and in which a postal ballot paper or an envelope containing a postal ballot paper has been enclosed unless the person is the Electoral Commissioner or is authorised to do so by the Electoral Commissioner.

Penalty for this subsection: a fine of \$1 000.

**100U. Regulations about postal voting**

- (1) The regulations may make provision for and in relation to —
  - (a) postal voting and postal ballot papers; and
  - (b) anything necessary or convenient to be prescribed for carrying the provisions of this Act relating to postal voting and postal ballot papers into effect.
- (2) Without limiting subsection (1), the regulations may provide for and in relation to —
  - (a) the method of dealing with postal ballot papers, including the scrutiny and counting of votes on the postal ballot papers; and
  - (b) retaining and preserving documents likely to be required if an election is disputed, including envelopes, rejected votes and postal ballot papers, until the validity of the election in respect of which they are used cannot be disputed.

**100V. Electors enrolled under s. 47 who vote by postal voting taken to have made declaration**

If a declaration required under section 100G(1)(c) is made by an elector who has been enrolled under section 47(3)(g), or by the elector's person nominated under section 100I(2), the elector is taken to have made a prescribed declaration as required under section 97C(1).

**Subdivision 7 — Technology assisted voting**

**101. Terms used**

In this Subdivision —

*approved procedures* means the procedures approved under section 101A;

*eligible elector* —

- (a) means an elector who cannot vote without assistance because the elector has a sight impairment or other physical impairment or has insufficient literacy skills; but
- (b) does not include an elector of a class that is excluded from this definition under the regulations;

*technology assisted voting* means a method of voting by which an eligible elector votes by means of an electronic device, such as by a telephone or by a computer linked to the internet.

**101A. Electoral Commissioner may approve procedures for technology assisted voting**

- (1) The Electoral Commissioner may approve procedures to facilitate voting by eligible electors in an election by means of technology assisted voting.
- (2) The approved procedures must be in writing and published on the Commission website.
- (3) The approved procedures must provide for the following —
  - (a) the registration of an eligible elector before the eligible elector votes by means of technology assisted voting;

- (b) the making of a record of each eligible elector who has voted by means of technology assisted voting;
  - (c) the authentication of the eligible elector's vote;
  - (d) the secrecy of the eligible elector's vote;
  - (e) the means of ensuring that any vote cast in accordance with the approved procedures is securely transmitted to the Electoral Commissioner and securely stored by the Electoral Commissioner;
  - (f) the scrutiny and counting of votes cast in accordance with the approved procedures.
- (4) The validity of a vote cast in accordance with the approved procedures cannot be disputed on the ground that the elector could have voted without assistance.

**101B. Record of vote**

- (1) The regulations may provide, in relation to each vote cast by a person using technology assisted voting, for the production of a record (a *vote record*) of the vote the person has cast.
- (2) The vote record must not contain any means of identifying the person who cast the vote.
- (3) A vote record must be in a form that enables the vote cast by an eligible elector to be accurately determined.

**101C. Independent auditing of technology assisted voting**

- (1) The Electoral Commissioner must engage an independent person (the *independent auditor*) to conduct audits of the information technology used under the approved procedures.

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- (2) Without limiting the content of the audit, the independent auditor must determine whether test votes cast in accordance with the approved procedures were accurately reflected in the corresponding test vote record produced under those procedures.
- (3) The independent auditor may make recommendations to the Electoral Commissioner to reduce or eliminate any risks that could affect the security, accuracy or secrecy of voting in accordance with the approved procedures.
- (4) The results of any audit of the information technology used under subsection (1) must be published on the Commission website as soon as practicable and no later than 30 days following the close of polling.

**101D. Scrutineers**

- (1) A candidate or the candidate's official agent may appoint a scrutineer to represent the candidate in observing —
  - (a) any production of the vote record; and
  - (b) any other element of the technology assisted voting process that is approved by the Electoral Commissioner for the purposes of this section.
- (2) At the place where the observation mentioned in subsection (1) occurs for a single member election only 1 scrutineer at a time is allowed for each candidate.
- (3) At the place where the observation mentioned in subsection (1) occurs for a Council election where the relevant number is more than one —
  - (a) 1 scrutineer at a time is allowed for each group; and
  - (b) 1 scrutineer at a time is allowed for each candidate who is not included in a group.



- (4) An appointment of a scrutineer under subsection (1) must be —
  - (a) made by written notice given to the Electoral Commissioner; and
  - (b) signed by the candidate or the candidate's official agent.
- (5) Section 137 does not apply to the scrutiny of votes cast under this Subdivision.

**101E. Counting of technology assisted votes**

A vote cast in an election by an eligible elector and transmitted to the Electoral Commissioner in accordance with the approved procedures is to be counted as if it were a vote cast by a person voting at a polling place under Subdivision 3.

**101F. Secrecy relating to technology assisted voting**

- (1) A person commits a crime if the person —
  - (a) becomes aware of how an eligible elector, voting in accordance with the approved procedures, voted; and
  - (b) gives that information to any other person except in accordance with the approved procedures.

Penalty for this subsection: imprisonment for 2 years.

Summary conviction penalty for this subsection: a fine of \$6 000.

- (2) A person commits a crime if the person discloses to any other person any source code or other computer software that relates to technology assisted voting under the approved procedures, except in accordance with the approved procedures or in accordance with

any arrangement entered into by the person with the Electoral Commissioner.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection:  
imprisonment for 2 years and a fine of \$24 000.

**101G. False or misleading statements in relation to technology assisted voting**

A person must not make a statement (whether orally, in writing or by means of electronic communication) that the person knows to be false or misleading in a material particular for the purposes of or in connection with —

- (a) making an application for registration for technology assisted voting; or
- (b) casting a vote using technology assisted voting.

Penalty: a fine of \$1 000.

**101H. Protection of computer hardware and software**

A person commits a crime if the person, without reasonable excuse, destroys or interferes with any computer program, data file or electronic device used, or intended to be used, by the Electoral Commissioner for or in connection with technology assisted voting.

Penalty: imprisonment for 5 years.

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

**101I. Regulations relating to technology assisted voting**

- (1) The regulations may make provision for or in relation to voting by eligible electors by means of technology assisted voting.

- (2) Without limiting subsection (1), the regulations may make provision for or in relation to the period during which voting by eligible electors using technology assisted voting is permitted (including a period before polling day).
- (3) The regulations may provide that technology assisted voting is not to be used at a specified election.
- (4) Neither this section nor any regulations made under this section prevent approved procedures dealing with matters referred to in this section.
- (5) If a regulation made under this section is inconsistent with an approved procedure, the regulation prevails to the extent of the inconsistency.

**101J. How this Act applies in relation to technology assisted voting**

- (1) If an eligible elector casts a vote in accordance with the approved procedures —
  - (a) the requirements of this Act relating to the elector's right to receive a ballot paper are taken to have been satisfied; and
  - (b) the requirements of this Act relating to the elector's duties on receiving a ballot paper are taken to have been satisfied; and
  - (c) the requirements of this Act relating to the marking of a ballot paper are taken to have been satisfied.
- (2) The regulations may make provision for additional matters relating to how this Act applies in relation to votes cast using technology assisted voting.

**101K. Electoral Commissioner may determine that technology assisted voting is not to be used**

- (1) The Electoral Commissioner may determine that technology assisted voting is not to be used at a specified election.
- (2) A determination under this section must be in writing and published on the Commission website.

**101L. Eligible electors enrolled under s. 47 who vote by means of technology assisted voting taken to have made declaration**

If an eligible elector is enrolled under section 47(3)(g) and votes by means of technology assisted voting in accordance with the approved procedures under this Subdivision, the elector is taken to have made a prescribed declaration as required under section 97C(1).

**Subdivision 8 — Visiting electors who need assistance**

**102. Application of Subdivision**

This Subdivision applies to an elector who —

- (a) cannot go to a place to vote in order to vote in an election during the hours of polling because the elector has a physical impairment; and
- (b) has not applied to vote by postal voting.

**102A. Issuing officer not to visit elector to take vote unless under Subdivision**

An issuing officer must not visit an elector for the purpose of taking an elector's vote unless the visit is made under this Subdivision.

**102B. Visiting electors to take vote**

- (1) An elector, or a person acting on behalf of an elector, may contact an issuing officer to request that an issuing officer visit the elector for the purpose of taking the elector's vote under this section.
- (2) A request under subsection (1) may be made only in the period of 7 days ending at 6 pm on the day immediately before polling day.
- (3) If a request is made in accordance with subsections (1) and (2), an issuing officer may visit the elector for the purpose of taking the elector's vote.
- (4) During a visit under subsection (3), the elector must —
  - (a) apply to the issuing officer to vote under this Subdivision; and
  - (b) state that they are an elector; and
  - (c) state the district for which they are enrolled.

**102C. Giving electors ballot papers**

- (1) After an application is made under section 102B(4), the issuing officer must give the elector —
  - (a) a ballot paper that is —
    - (i) printed on official paper; or
    - (ii) initialled by the issuing officer in a place that can be easily seen when the ballot paper is folded to conceal the vote;and
  - (b) a declaration in the approved form; and
  - (c) an envelope marked “postal ballot paper”; and
  - (d) an envelope addressed to the Electoral Commissioner.

- (2) Immediately after giving the documents under subsection (1), the issuing officer must —
  - (a) make a record of the elector's name on the roll in the manner prescribed for the purposes of section 98A(1)(b); or
  - (b) if neither the electronic roll nor a copy of the printed roll is available — make a record of the elector's name and the other prescribed particulars of the elector.
- (3) A record made on the electronic roll or on a copy of the printed roll under subsection (2) is evidence —
  - (a) of the identity of the elector; and
  - (b) that the elector voted in the election.
- (4) If an election in a district and a Council election have the same polling day —
  - (a) only 1 declaration mentioned in subsection (1)(b) is required in relation to all ballot papers for the elections; and
  - (b) the issuing officer must give the elector the documents required under subsection (1)(a), (c) and (d) for each election.

**102D. Method of marking ballot paper**

- (1) If an elector is given the documents under section 102C(1), the elector must —
  - (a) mark the elector's vote on the ballot paper given under that section in a manner so that no other person can see the elector's vote in accordance with —
    - (i) if the ballot paper is for a single member election — section 98C; or

- 
- (ii) if the ballot paper is for a Council election where the relevant number is more than one — section 98D or 98E;  
and
  - (b) enclose the ballot paper in the envelope marked “postal ballot paper”; and
  - (c) sign and date the declaration provided with the ballot paper; and
  - (d) enclose the envelope marked “postal ballot paper” and the declaration in the envelope addressed to the Electoral Commissioner; and
  - (e) return the envelope to the issuing officer.
- (2) If an elector who receives a ballot paper under section 102C cannot vote without assistance because the elector has a sight impairment or other physical impairment or has insufficient literacy skills, the elector may nominate a person (the *nominated person*) to assist the elector.
- (3) The nominated person cannot be a candidate at the election or an election campaign worker.
- (4) The nominated person must, in accordance with the elector’s directions, mark the elector’s vote on the ballot paper and perform the functions in subsection (1)(b), (d) and (e) instead of the elector.
- (5) If the nominated person performs a function under subsection (4), the nominated person must —
- (a) state on the declaration provided with the ballot paper under section 102C(1)(b) their full name and address; and
  - (b) state on the declaration that the person is the nominated person to assist the elector; and
  - (c) sign and date the declaration.

- (6) Subsection (4) or (5) does not prevent the elector from personally performing a function in subsection (1) if the elector wishes and is able to do so.

**102E. Dealing with envelope received under s. 102D**

- (1) If an issuing officer receives an envelope under section 102D(1), the issuing officer must give the envelope to the Electoral Commissioner.
- (2) If an envelope is given to the Electoral Commissioner under subsection (1) —
  - (a) the ballot paper in it is taken to be a postal ballot paper; and
  - (b) the envelope is taken to be an envelope containing a postal ballot paper.

Note for this subsection:

See Subdivision 6 in relation to envelopes containing postal ballot papers.

**102F. Offence to sign declaration as another person**

- (1) A person commits an offence if the person signs or makes a mark on a declaration under this Subdivision as another person.  
Penalty for this subsection: a fine of \$1 000.
- (2) A person commits the offence against subsection (1) whether or not they have the authority of the other person.

**Subdivision 9 — Adjourning and postponing voting**

**103. Adjourning and postponing polling**

- (1) If polling at a place to vote is interrupted or obstructed due to a threat to safety, including from a fire or flood or from a riot or other acts of violence, the presiding



officer for the place to vote may adjourn polling until the threat has ended.

- (2) If a presiding officer adjourns polling under subsection (1) for a period of more than 24 hours, the presiding officer must give public notice of the adjournment.
- (3) If, for any reason, a polling place at which voting will occur on polling day is not opened on polling day, or opens but polling cannot proceed, the Electoral Commissioner or presiding officer for the polling place may postpone or adjourn polling at the place for a period not longer than 21 days.
- (4) If, for any reason, polling cannot commence or proceed at a mobile voting place on polling day, the Electoral Commissioner or presiding officer for the mobile voting place may postpone or adjourn polling at the place for a period not longer than 21 days.
- (5) If the Electoral Commissioner or a presiding officer postpones or adjourns polling under subsection (3) or (4), the Electoral Commissioner or presiding officer must give public notice of the postponement or adjournment.

**103A. Voting after postponed or adjourned polling**

If polling is postponed or adjourned at a place to vote under section 103, only those electors who are entitled to vote at the place and who have not already voted are entitled to vote at the postponed or adjourned polling at that place to vote.

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**81. Section 134 amended**

- (1) In section 134:
  - (a) delete “polling shall” and insert:

polling must
  - (b) delete “section 99H,” and insert:

section 101E or
  - (c) delete “and shall” and insert:

and must
  
- (2) In section 134(1) delete “shall” and insert:

must
  
- (3) In section 134(2a):
  - (a) delete “shall” and insert:

must
  
  - (b) delete “officer.” and insert:

officer for the district.

- (4) In section 134(3):
- (a) delete “shall” and insert:  
  
must
  - (b) delete “him.” and insert:  
  
the officer.
- (5) In section 134(4) delete “shall be” and insert:

are

- (6) In section 134(5) delete “shall” and insert:

must

Note: The heading to amended section 134 is to read:

**Rules for conducting count of votes**

**82. Section 136 amended**

- (1) In section 136(1):
- (a) delete “such count shall be placed in one” and insert:  
  
that count must be placed in 1
  - (b) delete “shall then,” and insert:  
  
must then,

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- (c) delete the passage that begins with “seal such” and ends with “a cleft.” and insert:

secure a ballot box or boxes with a sealing device.

- (2) After section 136(1) insert:

(1A) A scrutineer may sign the record of the sealing device secured on the ballot box.

(1B) The officer conducting the count must also close and seal the cleft.

- (3) In section 136(2) delete “such seals shall” and insert:

the sealing device must

Note: The heading to amended section 136 is to read:

**Ballot papers to be sealed in boxes before adjournment**

**83. Section 137 amended**

- (1) In section 137(1) delete “place where such scrutiny and count are conducted.” and insert:

counting place.

- (2) In section 137(2) delete “shall be made in writing and addressed to the returning officer,” and insert:

must be made in writing and addressed to the returning officer for the district,

- (3) In section 137(3):
- (a) delete “place where the scrutiny and count of votes are conducted,” and insert:  
  
counting place,
  - (b) delete “returning officer, or” and insert:  
  
returning officer for the district, or

Note: The heading to amended section 137 is to read:

**Appointment of scrutineers**

**84. Section 139 amended**

In section 139:

- (a) delete “shall be” and insert:  
  
is
- (b) in paragraph (a) delete “the presiding officer, or, in the case of an early” and insert:  
  
an officer working at a polling place, or, in the case of a postal
- (c) in paragraph (a) delete “presiding officer or the issuing”;
- (d) in paragraph (a) delete “shall” and insert:  
  
does

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**85. Section 140 amended**

In section 140(3):

(a) in paragraph (a) delete “section 128(2);” and insert:

section 98C(a); or

(b) in paragraph (b) delete “section 128(3).” and insert:

section 98C(b).

**86. Section 140A amended**

In section 140A(1):

(a) in paragraphs (a) and (e) delete “ “1” ” and insert:

1

(b) in paragraph (f) delete “ “1”,” and insert:

1,

**87. Section 141 replaced**

Delete section 141 and insert:

**141. Counting places**

- (1) Each polling place in a district is a counting place unless the returning officer for the district declares, by written notice, that it is not a counting place.
- (2) The returning officer for a district may, by written notice, appoint as many places in the district, other than

polling places, as counting places as the returning officer considers necessary.

- (3) A written notice made under subsection (1) or (2) must be published —
  - (a) on the Commission website; and
  - (b) in another manner approved by the Electoral Commissioner.
- (4) If a place referred to in section 90B(a) to (d) is a counting place under subsection (1) or (2), it may be used as a counting place free of charge.
- (5) The returning officer must appoint an assistant returning officer at each counting place to count, at the counting place, votes cast at 1 or more polling places.
- (6) This section does not limit section 134(3).

**88. Section 142 amended**

- (1) In section 142 delete “shall be” and insert:

is

- (2) In section 142(1):

- (a) delete “Each assistant returning officer shall” and insert:

An assistant returning officer at a counting place must

- (b) delete “received at his” and insert:

at the

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- (3) In section 142(2):
- (a) delete “The assistant returning officer shall” and insert:  
  
An assistant returning officer must
  - (b) delete “himself,” and insert:  
  
the assistant returning officer,
  - (c) delete “shall” (2<sup>nd</sup> occurrence) and insert:  
  
must
  - (d) delete “him” and insert:  
  
the assistant returning officer
- (4) In section 142(4):
- (a) delete “shall” and insert:  
  
at a counting place must
  - (b) delete “his” and insert:  
  
the
- (5) In section 142(5) delete “he” and insert:  
  
the assistant returning officer



- (6) In section 142(6):
- (a) delete “shall —” and insert:  
  
must —
  - (b) in paragraph (a)(i) delete “one” and insert:  
  
1
  - (c) in paragraph (a) delete “his” (each occurrence) and insert:  
  
their
  - (d) in paragraph (b) delete “said packets to the returning officer.” and insert:  
  
packets to the returning officer; and
  - (e) delete paragraph (c) and insert:
    - (c) seal up the packet containing the used ballot papers in front of the scrutineers, if any, present at the count.
- (7) After section 142(6) insert:
- (7) A scrutineer may sign a packet sealed in front of the scrutineer under subsection (6)(c).

Note: The heading to amended section 142 is to read:

**Procedure for count of votes by assistant returning officers**

**89. Section 142A amended**

(1) Delete section 142A(1) and insert:

(1) The Electoral Commissioner may direct an officer (a *directed officer*) to count, under the direction of the Electoral Commissioner, postal ballot papers, and absent votes and provisional votes cast under Division 3A Subdivision 3.

(2) In section 142A(2):

(a) delete “Each such assistant returning officer shall” and insert:

A directed officer must

(b) delete “of the district concerned,” and insert:

for the district concerned

(c) delete “the ballot papers used for voting at general polling places, early and” and insert:

postal ballot papers, and

(d) delete “section 119(4a), 122(2), or 122A counted by him.” and insert:

Division 3A Subdivision 3, counted by the directed officer.

(3) In section 142A(3):

- (a) delete “Any such assistant returning officer” and insert:

A directed officer

- (b) delete “of the district concerned,” and insert:

for the district concerned

- (c) delete “the ballot papers used for voting at general polling places, early and” and insert:

postal ballot papers, and

- (d) delete “section 119(4a), 122(2) or 122A counted by him,” and insert:

Division 3A Subdivision 3, counted by the directed officer,

(4) In section 142A(4):

- (a) delete “Each such assistant returning officer shall,” and insert:

A directed officer must,

- (b) delete “ballot papers used for voting at general polling places, early and” and insert:

postal ballot papers,

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- (c) delete “section 119(4a), 122(2), or 122A,” and insert:

Division 3A Subdivision 3,

- (d) delete “of the district” and insert:

for the district

Note: The heading to amended section 142A is to read:

**Counting postal, absent and provisional votes**

**90. Section 144 amended**

- (1) In section 144(1):

- (a) delete “shall, if there are only 2 candidates, be” and insert:

is, if there are only 2 candidates,

- (b) in paragraph (a) delete “shall —” and insert:

must —

- (c) in paragraph (b) delete “shall” and insert:

must

- (d) in paragraph (b)(i) delete “assistant returning” (1<sup>st</sup> occurrence);

- (e) in paragraph (b)(i) delete “officers and by persons voting at general polling places, absent voters and persons voting provisionally under section 119(4a),

122(2), or 122A and persons voting by early vote; and”  
and insert:

officers, by persons voting as absent voters and  
provisional voters under Division 3A Subdivision 3 and  
by persons who vote by postal voting; and

- (f) in paragraph (b)(ia) delete “Division 3 Subdivision 2;  
and” and insert:

Division 3A Subdivision 7; and

- (g) in paragraph (b)(ii) delete “himself” and insert:

the returning officer

- (h) in paragraph (c) delete “shall” and insert:

must

- (2) In section 144(2):

- (a) delete “shall be” (1<sup>st</sup> occurrence) and insert:

is

- (b) in paragraph (a) delete “shall —” and insert:

must —

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- (c) in paragraph (a)(iv) delete “him” and insert:  
  
the returning officer
- (d) in paragraph (b) delete “shall” and insert:  
  
must
- (e) in paragraph (b)(i) delete “assistant returning” (1<sup>st</sup> occurrence);
- (f) in paragraph (b)(i) delete “and by persons voting at general polling places, absent voters and persons voting provisionally under section 119(4a), 122(2), or 122A and persons voting by early vote; and” and insert:  
  
by persons voting as absent voters and provisional voters under Division 3A Subdivision 3 and persons who vote by postal voting; and
- (g) in paragraph (b)(ia) delete “Division 3 Subdivision 2; and” and insert:  
  
Division 3A Subdivision 7; and
- (h) in paragraph (b)(ii) delete “himself” and insert:  
  
the returning officer
- (i) in paragraph (c) delete “shall,” and insert:  
  
must,

- (j) in paragraph (d)(i) delete “shall open the packets of ballot papers received from the assistant returning” and insert:

must open the packets of ballot papers received from the

- (k) in paragraph (d)(i) delete “ballot papers used for voting at general polling places,”;
- (l) in paragraph (d)(i) delete “section 119(4a), 122(2), or 122A and early ballot papers” and insert:

Division 3A Subdivision 3 and postal ballot papers,

- (m) in paragraph (d)(i) delete “himself” and insert:

the returning officer

- (n) in paragraph (d)(ia) delete “shall” and insert:

must

- (o) in paragraph (d)(ia) delete “Division 3 Subdivision 2,” and insert:

Division 3A Subdivision 7,

- (p) in paragraphs (d)(ii) and (e) delete “shall” (each occurrence) and insert:

must

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(q) in paragraph (ea) delete “shall,” and insert:

must,

(r) in paragraph (f) delete “his” and insert:

that candidate’s

(s) in paragraph (f) delete “voter’s preference shall” and insert:

elector’s preference must

(t) in paragraph (f) delete “one” and insert:

1

(u) in paragraph (f) delete “shall then” and insert:

must then

(v) in paragraphs (fa) and (g) delete “shall” (each occurrence) and insert:

must

(3) In section 144(2a) delete “shall” and insert:

must



- (4) In section 144(2b):
- (a) delete “he” and insert:  
  
the returning officer
  - (b) delete “assistant returning”;
  - (c) delete “one” and insert:  
  
1
  - (d) delete “shall” and insert:  
  
must
- (5) In section 144(4):
- (a) in paragraph (a) delete “some remote polling place in connection with the election, which” and insert:  
  
a mobile voting place in connection with the election that
  - (b) in paragraph (a) delete “him; and” and insert:  
  
the returning officer; and
  - (c) in paragraph (b) delete “any ballot papers used for voting at general polling places or”;

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- (d) in paragraph (b) delete “section 119(4a), 122(2), or 122A or ballot papers used for voting by early vote which have not been received by him,” and insert:

Division 3A Subdivision 3 or postal ballot papers used for voting that have not been received by the returning officer,

- (e) delete “he may” and insert:

the returning officer may,

- (f) in paragraph (d) delete “one” and insert:

1

- (g) delete “him.” and insert:

the returning officer.

Note: The heading to amended section 144 is to read:

**Procedure for counting votes**

**91. Section 146 amended**

In section 146(1) delete “he thinks fit, at the request of any scrutineer, or of his” and insert:

the returning officer thinks fit, on the written request of any candidate setting forth the reasons for the request, or of the returning officer’s

Note: The heading to amended section 146 is to read:

**When re-count may be conducted**

**92. Section 146B amended**

In section 146B(2) delete “places under section 141, and of assistant returning officers under section 142A,” and insert:

places, and of directed officers under section 142A(1),

Note: The heading to amended section 146B is to read:

**Rules about officers and counting places**

**93. Section 146C amended**

- (1) In section 146C(1) and (2)(a) delete “each place” (each occurrence) and insert:

each counting place

- (2) In section 146C(3) delete “officer, deputy returning officer” and insert:

officer for the whole of State electorate, returning officer for the district

Note: The heading to amended section 146C is to read:

**Appointment of scrutineers**

**94. Section 146E amended**

- (1) At the end of section 146E(2) insert:

Note for this subsection:

See section 98C in relation to the method for an elector to mark their vote in relation to a Council election where the relevant number is one.

- (2) Delete section 146E(3) and insert:
- (3) Subsection (3A) applies to a Council ballot paper if —
- (a) the relevant number in the election is more than one; and
  - (b) there is at least 1 above-the-line square on the ballot paper; and
  - (c) there are more than 20 below-the-line squares on the ballot paper.
- (3A) The ballot paper is informal if neither of the following applies —
- (a) at least 1 above-the-line square is marked to indicate the elector's preference for a group or groups;
  - (b) 20 or more below-the-line squares are marked to indicate the elector's preference for candidates.
- (3B) Subsection (3C) applies to a Council ballot paper if —
- (a) the relevant number in the election is more than one; and
  - (b) there is at least 1 above-the-line square on the ballot paper; and
  - (c) there are 20 or fewer below-the-line squares on the ballot paper opposite the names of candidates.
- (3C) The ballot paper is informal if neither of the following applies —
- (a) at least 1 above-the-line square is marked to indicate the elector's preference for a group or groups;

- (b) all the below-the-line squares are marked to indicate the elector's preference for candidates.
- (3D) Subsection (3E) applies to a Council ballot paper if —
  - (a) the relevant number in the election is more than one; and
  - (b) there are no above-the-line squares on the ballot paper; and
  - (c) there are more than 20 squares on the ballot paper opposite the names of candidates.
- (3E) The ballot paper is informal if fewer than 20 of the squares are marked to indicate the elector's preference for candidates.
- (3F) Subsection (3G) applies to a Council ballot paper if —
  - (a) the relevant number in the election is more than one; and
  - (b) there are no above-the-line squares on the ballot paper; and
  - (c) there are 20 or fewer squares on the ballot paper opposite the names of candidates.
- (3G) The ballot paper is informal if the squares are not all marked to indicate the elector's preference for candidates.

Note for subsections (3) to (3G):

See sections 98D and 98E in relation to the method for an elector to mark their vote in relation to a Council election where the relevant number is more than one.

- (3) In section 146E(4) delete “subsection (3) is” and insert:

subsections (3) to (3G) are

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- (4) In section 146E(5) delete “(2) and (3)” and insert:
- (2) to (3G)
- (5) Delete section 146E(6).
- (6) In section 146E(7)(c) delete “voter’s” and insert:
- elector’s
- (7) In section 146E(8):
- (a) delete “than the prescribed” and insert:
- than a prescribed
- (b) delete “(3)(a) or (b)” and insert:
- (3) to (3G)
- (8) In section 146E(9) in the definition of *prescribed manner*:
- (a) in paragraph (a) delete “section 128(2);” and insert:
- section 98C(a); or
- (b) in paragraph (b) delete “section 128(3);” and insert:
- section 98C(b); or

- (c) delete paragraph (c) and insert:
- (c) where the relevant number is more than one and there is at least 1 above-the-line square on the ballot paper —
- (i) the manner applicable to the ballot paper under section 98D(2)(a), (3)(a) or (4)(a); or
  - (ii) the manner applicable to the ballot paper under section 98D(2)(b), (3)(b) or (4)(b) and section 98E(3), (4) or (5);
- or
- (d) where the relevant number in the election is more than one and there are no above the line squares on the ballot paper, the manner applicable to the ballot paper under section 98E(3), (4) or (5).

**95. Section 146EA amended**

- (1) In section 146EA(1) delete “squares printed on the ballot papers under section 113B(5)(b), the following numerals placed in a square printed” and insert:

above-the-line squares on the ballot papers, the following numerals placed in a square

- (2) In section 146EA(2) delete “one or more squares printed on the ballot papers under section 113B(5)(b), the following numerals

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placed in a square printed on a ballot paper below the line” and insert:

1 or more above-the-line squares on the ballot papers, the following numerals placed in a below-the-line square on a ballot paper

**96. Section 146EB amended**

(1) In section 146EB(1):

(a) delete “a square printed on a ballot paper above the line,” and insert:

an above-the-line square on a ballot paper,

(b) delete “section 128(6).” and insert:

section 98D or 98E.

(2) In section 146EB(2) delete “a square printed on a ballot paper above the line” and insert:

an above-the-line square on a ballot paper

(3) Delete section 146EB(3) and (4) and insert:

(3) If above-the-line squares on a ballot paper are marked in accordance with section 98D and below-the-line squares on the ballot paper are marked but not in accordance with section 98E, then, for the purposes of sections 146EC, 146G and 146H, the only squares that



are taken to have been marked on the ballot paper are the marked above-the-line squares.

- (4) If above-the-line squares on a ballot paper are marked, whether in accordance with section 98D or not, and below-the-line squares on the ballot paper are marked in accordance with section 98E, then, for the purposes of sections 146EC, 146G and 146H, the only squares that are taken to have been marked on the ballot paper are the marked below-the-line squares.

**97. Section 146EC amended**

In section 146EC(1):

- (a) in paragraph (a) delete “section 128(6); and” and insert:

section 98D or 98E; and

- (b) in paragraph (b) delete “squares printed on the ballot paper above the line” and insert:

above-the-line squares on the ballot paper

**98. Section 146G amended**

- (1) In section 146G(1):

- (a) in paragraph (b)(i) delete “one or more squares above the line,” and insert:

1 or more above-the-line squares on the ballot paper,

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- (b) in paragraph (b)(ii) delete “squares printed on the ballot papers under section 113B(5)(b),” and insert:

above-the-line squares on the ballot paper,

- (c) in paragraph (d) delete “deputy”;  
(d) in paragraph (d)(i) delete “square, or each of the squares, above the line” and insert:

above-the-line square, or each of the above-the-line squares,

- (2) In section 146G(2) delete “any scrutineer who desires to do so shall be permitted by the assistant returning officer to affix his seal on” and insert:

a scrutineer may sign

Note: The heading to amended section 146G is to read:

**Procedure for count of votes by assistant returning officers**

**99. Section 146H amended**

- (1) In section 146H(1):  
(a) delete “the deputy returning officer for each district (the *DRO*)” and insert:

an officer

- (b) in paragraph (aa)(i) delete “one or more squares above the line,” and insert:

1 or more above-the-line squares on the ballot paper,

- (c) in paragraph (aa)(ii) delete “squares printed on the ballot papers under section 113B(5)(b),” and insert:

above-the-line squares on the ballot paper,

- (d) in paragraph (b)(i) delete “one” and insert:

1

- (e) in paragraph (b)(i), (ii) and (iii) delete “DRO’s” and insert:

officer’s

- (f) in paragraph (b) delete “DRO under” and insert:

returning officer for the district under

- (g) in paragraph (d)(i) delete “square, or each of the squares, above the line” and insert:

above-the-line square, or each of the above-the-line squares,

- (h) in paragraph (e)(i) delete “one” and insert:

1

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- (i) in paragraph (e) delete “DRO” (each occurrence) and insert:

officer

- (2) In section 146H(2):

- (a) delete “shall” (each occurrence) and insert:

must

- (b) delete “the deputy returning officer to affix his seal on any such” and insert:

an officer to sign the record of the sealing device secured on the

- (3) In section 146H(3) delete “deputy returning officer” and insert:

returning officer for the district

Note: The heading to amended section 146H is to read:

**Procedure for count of votes**

**100. Section 146I amended**

- (1) In section 146I(1):

- (a) delete “shall open” and insert:

must open

(b) delete “him” (1<sup>st</sup> occurrence) and insert:

the returning officer

(c) delete “shall make” and insert:

must make

(d) delete “him” (2<sup>nd</sup> occurrence) and insert:

the returning officer

(e) delete “he shall have” and insert:

the returning officer has

(f) delete “officer or deputy returning” and insert:

officer, returning officer for the district or any other

(2) After section 146I(5)(b) insert:

(ba) despite section 155(2), books, documents or papers used for or in connection with a general election for the Council may be destroyed under section 155(1) if the books, documents and papers have been recorded in an automated form; and

Note: The heading to amended section 146I is to read:

**Procedure for count of votes by returning officers**

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**101. Section 150 amended**

- (1) In section 150(1):
  - (a) delete “shall forthwith,” and insert:

must,
  - (b) after “any election,” insert:

immediately
  
- (2) After section 150(1) insert:
  - (1A) The returning officer must ensure that, if an electronic roll is used in the election by the returning officer and the presiding officers, the roll is made available to the Electoral Commissioner.
  
- (3) In section 150(2):
  - (a) after “certified” insert:

printed
  - (b) delete “section 126” and insert:

sections 98A(1)(b), 100D(5)(a) and 102C(2)(a)

- (c) delete “voted at” and insert:

voted in

Note: The heading to amended section 150 is to read:

**Dealing with statistical returns and rolls**

**102. Section 151 amended**

In section 151:

- (a) delete “shall also,” and insert:

must also,

- (b) in paragraph (b) delete “shall sign” and insert:

must sign

- (c) in paragraph (c) delete “him or by deputy or assistant returning officers or presiding officers;” and insert:

an officer;

- (d) in paragraph (d) delete “the marked rolls used at the election and”;

- (e) in paragraph (d) delete “early” and insert:

postal

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- (f) in paragraph (d) delete “section 119(4a), 122(2), or 122A, received by himself” and insert:

Division 3A Subdivision 3, received by the Electoral Commissioner

- (g) after paragraph (d) insert:

(da) if printed rolls are used in the election — seal up, endorse and transmit the marked rolls to the Electoral Commissioner;

(db) if an electronic roll is used in the election — return the roll to, or ensure the roll is accessible by, the Electoral Commissioner;

- (h) in paragraph (e) delete “shall forthwith” and insert:

must immediately

- (i) in paragraph (e) delete “under his hand for the said packets.” and insert:

for the packets, declarations and the printed rolls or electronic roll.

Note: The heading to amended section 151 is to read:

**Returning officer to provide other election material to Electoral Commissioner**



**103. Section 152 amended**

At the end of section 152(1) insert:

Note for this subsection:

Subsection (1)(b) is subject to section 146I(5)(b).

Note: The heading to amended section 152 is to read:

**Keeping election material**

**104. Section 153 amended**

(1) In section 153(1):

- (a) delete “the returning officer requiring production of the rolls used by him and any assistant returning officers” and insert:

the Electoral Commissioner requiring disclosure of the electronic roll or production of the printed rolls

- (b) delete “shall produce such roll or rolls” and insert:

must disclose the electronic roll or produce the printed rolls

(2) In section 153(2) delete “he” and insert:

the returning officer

Note: The heading to amended section 153 is to read:

**Disclosure or production of rolls used in election to candidates**

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**105. Section 155 amended**

- (1) In section 155(1) delete “his approval,” and insert:

the Electoral Commissioner’s approval,

- (2) At the end of section 155(2) insert:

Note for this subsection:

This subsection is subject to section 146I(5)(ba).

Note: The heading to amended section 155 is to read:

**Destruction of election papers**

**106. Section 156 amended**

- (1) Before section 156(1) insert:

(1A) In this section, a *valid and sufficient reason* in relation to a failure to vote includes an honest belief on the part of an elector that abstaining from voting is part of their religious duty.

- (2) In section 156(1):

- (a) delete “at any” (each occurrence) and insert:

in any

- (b) delete “by illness or infirmity, or any physical incapacity on the day of the election.” and insert:

because the person has a mental or physical impairment on the days on which voting occurs in the election.

- (3) In section 156(2) delete “enrolled”.

- (4) In section 156(2), (3), (5)(c) and (6)(a) and (b) delete “vote at” and insert:

vote in

- (5) Delete section 156(8) and insert:

- (8) The modified penalty set out in a penalty notice must be an amount not exceeding —

(a) if the elector has not previously paid a modified penalty under this section or been convicted of an offence against this section — \$50; or

(b) otherwise — \$75.

- (6) In section 156(11) delete “subsection (16)(a).” and insert:

subsection (16).

- (7) In section 156(13A)(b) delete “vote at” and insert:

vote in

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- (8) In section 156(14a) delete “his” and insert:

their

- (9) In section 156(15):

- (a) delete “shall —” and insert:

must —

- (b) in paragraph (b) delete “he” and insert:

the Electoral Commissioner

- (c) in paragraph (b) delete the passage that begins with “roll,” and continues to the end of the subsection and insert:

register of electors.

- (10) Delete section 156(16) and insert:

- (15A) A person whose name has been removed from the register of electors under subsection (15) must make a new claim for enrolment before their name is reinstated on the register of electors.

- (16) If an elector fails to vote in an election without a valid and sufficient reason, the elector commits an offence.  
Penalty for this subsection: a fine of \$200.

- (16A) If, in response to a penalty notice or to an infringement notice, an elector makes a statement that the elector

knows to be false or misleading in a material particular,  
the elector commits an offence.

Penalty for this subsection: a fine of \$1 000.

Note: The heading to amended section 156 is to read:

**Electors' voting obligations**

**107. Section 156AA amended**

In section 156AA(2)(c) delete “vote at” and insert:

vote in

**108. Section 156D amended**

(1) In section 156D(3) delete “one” and insert:

1

(2) At the end of section 156D insert:

Note for this section:

This section is subject to section 146I(5).

Note: The heading to amended section 156D is to read:

**Procedure at close of nominations if vacancy being filled by  
re-count**

**109. Section 158 amended**

(1) In section 158 delete “shall —” and insert:

must —

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- (2) In section 158(2) delete “prayer asking” and insert:

request

Note: The heading to amended section 158 is to read:

**Content of petition to Court of Disputed Returns**

**110. Section 163 amended**

- (1) In section 163(1):

- (a) delete “shall inquire” and insert:

must inquire

- (b) delete “the Court shall deem the roll” and insert:

the roll is

- (c) delete “enrolled were, at the date of the completion of the roll, entitled to be enrolled.” and insert:

shown on the roll are, on the day stated in the roll as the day on which the roll is prepared, entitled to be included on the roll.

- (2) Delete section 163(2) and insert:

- (2) An election cannot be declared void on the ground that a person whose name appears on the roll for the whole

of State electorate or a district, and who has voted as an elector for that electorate or district —

- (a) was not entitled to be enrolled, or to continue to be enrolled, as an elector for that electorate or district; or
- (b) was not entitled to be included on that roll.

Note: The heading to amended section 163 is to read:

**Court's functions in relation to status of roll and electors' entitlement to be included on roll**

**111. Section 172 amended**

(1) In section 172(1):

- (a) delete “Effect shall” and insert:

Effect must

- (b) in paragraph (a) delete “he shall cease to be a member of the Council or” and insert:

the person ceases to be a member of the Council or the

- (c) in paragraph (b) delete “he may take his” and insert:

they may take their

- (d) in paragraph (c) delete “shall” (each occurrence) and insert:

must

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- (2) In section 172(2):
- (a) delete “shall not be” and insert:  
  
are not
  - (b) in paragraph (a) delete “he” and insert:  
  
the person
  - (c) in paragraph (b) delete “his” and insert:  
  
the person’s
- (3) In section 172(3):
- (a) delete “one” and insert:  
  
1
  - (b) delete “he is” and insert:  
  
the person is
  - (c) in paragraph (a) delete “he was” and insert:  
  
they were
  - (d) delete “his” (each occurrence) and insert:  
  
their



(e) delete “shall not be” and insert:

are not

Note: The heading to amended section 172 is to read:

**Effect of Court’s decision**

**112. Part VI heading amended**

In the heading to Part VI delete “**Part VI — Electoral funding**” and insert:

**Part 6 — Electoral finance**

**113. Section 175 amended**

(1) In section 175 delete the definitions of:

*associated entity*

*campaign committee*

*election period*

*electoral expenditure*

*entity*

*gift*

*specified amount*

(2) In section 175 insert in alphabetical order:

*affiliate fee* means a fee paid by a person (who is not an associated entity) to an associated entity or political party so the person can affiliate with the associated entity or party;

***associated entity*** means an incorporated body, unincorporated body or trustee of a trust that —

- (a) is controlled by 1 or more political parties; or
- (b) operates for the benefit of 1 or more political parties;

***campaign committee***, in relation to a registered political party, means a body of persons appointed or engaged to form a committee to assist the campaign of —

- (a) the endorsed candidates of the political party in a general election; or
- (b) an endorsed candidate of the political party in a single member election; or
- (c) a group in a Council election all the persons included in which are endorsed candidates of the political party;

***capped expenditure period***, for an election, means the period —

- (a) commencing on the day of issue of the writ for the election; and
- (b) ending at the latest time on polling day in the election at which an elector in the State could enter a place to vote for the purpose of casting a vote in the election;

***compulsory party levy*** means an amount a political party requires to be paid to the party by —

- (a) an elected member who is a member of the political party; or
- (b) a person employed by, or appointed or employed to assist, an elected member who is a member of the political party, including an electorate officer as defined in the

*Parliamentary and Electorate Staff  
(Employment) Act 1992* section 3(1); or

(c) a person employed by the political party;

**electoral expenditure**, in relation to an election, has the meaning given in section 175AA(1);

**foreign contribution** means a political contribution the donor of which is a foreign donor;

**foreign donor** means a person who makes a political contribution who is any of the following —

- (a) a body politic of a foreign country;
- (b) a body politic of a part of a foreign country;
- (c) a part of a body politic mentioned in paragraph (a) or (b);
- (d) a foreign public enterprise as defined in the *Criminal Code* (Commonwealth) section 70.1;
- (e) a body (whether or not incorporated) that does not meet any of the following conditions —
  - (i) the body is incorporated in Australia;
  - (ii) the body's head office is in Australia;
  - (iii) the body's principal place of activity is, or is in, Australia;
- (f) an individual who is none of the following —
  - (i) an elector;
  - (ii) an Australian citizen;
  - (iii) an Australian resident;
  - (iv) a New Zealand citizen who holds a Subclass 444 (Special Category) visa under the *Migration Act 1958* (Commonwealth), or if that Subclass ceases to exist, the kind of visa that replaces the Subclass;

*gift* has the meaning given in section 175AB;

*higher reimbursement amount* has the meaning given in section 175LB(1);

*LA by-election cap amount*, for an election in a district not held as part of a general election for the Assembly, means —

- (a) if polling day in the election is before 1 July 2025 — \$390 000; or
- (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the financial year in which polling day in the election occurs;

*LA candidate cap amount*, for an election in a district held as part of a general election for the Assembly, means —

- (a) if polling day in the election is before 1 July 2025 — \$130 000; or
- (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the financial year in which polling day in the election occurs;

*LC by-election cap amount*, for a Council election that is not a general election, means —

- (a) if polling day in the election is before 1 July 2025 — \$195 000; or
- (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the

financial year in which polling day in the election occurs;

**LC candidate cap amount**, for a general election for the Council, means —

- (a) if polling day in the election is before 1 July 2025 — \$65 000; or
- (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the financial year in which polling day in the election occurs;

**lower reimbursement amount** has the meaning given in section 175LB(2);

**non-party group** means a group that is not a party group;

**party group** means a group all the endorsed candidates included in which have been endorsed by —

- (a) the same registered political party; or
- (b) 1 or more registered political parties;

**political contribution** means any of the following —

- (a) an affiliate fee;
- (b) a compulsory party levy;
- (c) a gift;

**political entity** means —

- (a) a member of the Council or the Assembly; or
- (b) a political party; or
- (c) an associated entity; or
- (d) a candidate in an election; or

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- (e) a group in an election; or
- (f) a third-party campaigner;

***political purpose*** means 1 or more of the following purposes —

- (a) to promote or oppose a political party;
- (b) to have a candidate elected;
- (c) to otherwise influence voting in an election;

***registered third-party campaigner*** means a person who is registered on the third-party campaigners register;

***responsible person*** means —

- (a) for a member of the Council or the Assembly — the agent of the member; or
- (b) for a political party — the agent of the party; or
- (c) for an associated entity — the financial controller of the associated entity; or
- (d) for a candidate in an election — the agent of the candidate; or
- (e) for a group in an election — the agent of the group; or
- (f) for a third-party campaigner — the agent of the third-party campaigner under section 175DA;

***specified amount*** means —

- (a) before 1 July 2025 — \$2 600; or
- (b) otherwise — the amount worked out for a financial year under section 175AC;

***third-party campaigner*** —

- (a) means a person who —
  - (i) incurs, or authorises another person to incur, electoral expenditure in relation to an election; or

- (ii) receives a gift that is made for a political purpose;

but

- (b) does not include —
  - (i) a member of the Council or the Assembly; or
  - (ii) a registered political party; or
  - (iii) an associated entity; or
  - (iv) a candidate; or
  - (v) a group;

***third-party campaigners register*** has the meaning given in section 175SS(1);

***third-party general cap amount***, in relation to an election, means —

- (a) if polling day in the election is before 1 July 2025 — \$500 000; or
- (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the financial year in which polling day in the election occurs;

***third-party LC cap amount***, in relation to an election, means —

- (a) if polling day in the election is before 1 July 2025 — \$19 500; or
- (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the financial year in which polling day in the election occurs.

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- (3) In section 175 in the definition of *broadcast* delete “radio or televise;” and insert:

radio, television, the internet or another form of electronic communication;

- (4) In section 175 in the definition of *disposition of property*:

- (a) in paragraph (d) after “debt,” insert:

loan,

- (b) after paragraph (d) insert:

- (da) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of interest payments in respect of a debt or loan; and

- (5) In section 175 in the definition of *principal officer*:

- (a) in paragraph (a) delete “organisation specified in column 2 of the Schedule to the *Public Service Act 1978* — ” and insert:

SES organisation under the *Public Sector Management Act 1994* —

- (b) in paragraph (e)(ii) delete “he or she” and insert:

the person



**114. Sections 175AA to 175AC inserted**

After section 175 insert:

**175AA. Electoral expenditure and when it is incurred in relation to election and capped expenditure period**

- (1) In this Part, *electoral expenditure* is expenditure in relation to an election that is incurred on the following goods and services —
  - (a) broadcasting an advertisement;
  - (b) publishing an advertisement in a journal;
  - (c) displaying an advertisement at a theatre or other place of entertainment;
  - (d) producing an advertisement that is broadcast, published or displayed as referred to in paragraph (a), (b) or (c);
  - (e) producing any material (other than an advertisement relating to the election mentioned in paragraph (a), (b) or (c)) that is required under section 187 to include the name and address of the person authorising the material;
  - (f) producing and distributing electoral matter that is addressed to particular persons or organisations;
  - (g) paying an advertising agent's or a consultant's fees in relation to the provision of material or services relating to a political purpose;
  - (h) carrying out an opinion poll, or other research, for a political purpose.
- (2) For the purposes of this Part, electoral expenditure in relation to an election is incurred during the capped expenditure period if it is incurred on goods and

services that are to be provided during the capped expenditure period, whether or not it is incurred during the capped expenditure period.

Notes for this section:

1. See section 175SM(2) and (4) in relation to when electoral expenditure is substantially incurred in relation to a candidate in a particular district in a general election for the Assembly for the purposes of that section.
2. See section 175SN(2) and (4) in relation to when electoral expenditure is substantially incurred in relation to a candidate in a general election for the Council for the purposes of that section.

**175AB. Gifts**

- (1) In this Part, a *gift* is —
  - (a) a disposition of property made by a person to another person (otherwise than by will) without consideration in money or money's worth or with inadequate consideration; or
  - (b) the provision of a service by a person to another person without consideration in money or money's worth or for inadequate consideration if the service is one that would normally only be provided in return for adequate consideration.
- (2) However, a *gift* does not include —
  - (a) a disposition of property, or the provision of a service, to a candidate or third-party campaigner for a purpose other than a political purpose; and
  - (b) an annual subscription of not more than \$200 paid by a person to a political party or to a division of a political party in respect of the person's membership of the party or division.

**175AC. Recalculation of amounts under Part**

(1) In this section —

**CPI number** means the all groups consumer price index number for Perth published by the Australian Bureau of Statistics established by the *Australian Bureau of Statistics Act 1975* (Commonwealth) section 5(1);

**previous amount**, in relation to a relevant amount, means that relevant amount applicable in the previous financial year;

**relevant amount** means —

- (a) the LA by-election cap amount; or
  - (b) the LA candidate cap amount; or
  - (c) the LC by-election cap amount; or
  - (d) the LC candidate cap amount; or
  - (e) the third-party general cap amount; or
  - (f) the third-party LC cap amount; or
  - (g) an expenditure cap for a third-party campaigner that is —
    - (i) specified in the Table to section 175SL(3); or
    - (ii) specified in section 175SM(3) or 175SN(3);
- or
- (h) the higher reimbursement amount; or
  - (i) the lower reimbursement amount; or
  - (j) the specified amount.

(2) For the financial year beginning on 1 July 2025 and each subsequent financial year, each relevant amount

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must be calculated on 1 July of that financial year using the formula —

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

where —

- A is the previous amount for the relevant amount;
  - B is the CPI number published for the March quarter in the previous financial year or another number from a similar index nominated by the Electoral Commissioner under subsection (7);
  - C is the CPI number published for the March quarter in the financial year before the previous financial year or another number from a similar index nominated by the Electoral Commissioner under subsection (7).
- (3) However, if, for a particular financial year, a relevant amount calculated under subsection (2) is less than the previous amount for the relevant amount, the relevant amount for the financial year is the same as the previous amount.
- (4) If the calculation of a relevant amount other than the higher reimbursement amount or lower reimbursement amount for a financial year results in an amount that is not a whole number multiple of \$100, the amount must be rounded up to the nearest whole number multiple of \$100 and the amount as rounded is, subject to subsection (3), the relevant amount for the financial year.
- (5) If the calculation of the higher reimbursement amount or lower reimbursement amount for a financial year results in an amount that has more than 5 decimal places and the 6<sup>th</sup> decimal place is more than 4, the

amount is, subject to subsection (3), the amount calculated to 5 decimal places and increased by 0.00001.

- (6) The Electoral Commissioner must publish each relevant amount for a financial year calculated under this section on the Commission website.
- (7) If the CPI number is not published for a March quarter for the previous financial year or the financial year before the previous financial year, the Electoral Commissioner may, by written notice published on the Commission website, nominate a number for the variables B and C in the formula in subsection (2) from a similar index.

**115. Section 175A amended**

- (1) Delete section 175A(2) and (3).
- (2) After section 175A(4) insert:
  - (4A) For the purposes of this Part, the amount or value of a gift for which inadequate consideration is provided is the difference between the consideration provided and the value of the gift.
- (3) Delete section 175A(6).

**116. Section 175C amended**

- (1) In section 175C(1) delete “election.” and insert:

election in accordance with section 175E.

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- (2) In section 175C(2)(a) delete “candidate has been endorsed by a” and insert:

candidate is an endorsed candidate of a registered

Note: The heading to amended section 175C is to read:

**Agents of candidates**

**117. Section 175CA inserted**

After section 175C insert:

**175CA. Agents of members of Council or Assembly**

- (1) A member of the Council or the Assembly may appoint a person as the agent of the member in accordance with section 175E.
- (2) If there is no appointment in force under subsection (1) of an agent of a member, the agent of the member is —
- (a) if the member is a member of a political party — the agent of the political party; or
  - (b) if the member is a candidate in an election and is not a member of a political party — the agent of the candidate under section 175C; or
  - (c) otherwise — the member.

**118. Section 175D amended**

- (1) In section 175D(1) delete “election.” and insert:

election in accordance with section 175E.

- (2) In section 175D(2) delete “have been endorsed by the same” and insert:

are endorsed candidates of the same registered

- (3) In section 175D(3) delete “section 113B(3)(c)” and insert:

section 94D(4)(e)

Note: The heading to amended section 175D is to read:

**Agents of groups**

**119. Section 175DA inserted**

After section 175D insert:

**175DA. Agents of third-party campaigners**

- (1) A third-party campaigner may appoint a person as the agent of the third-party campaigner in accordance with section 175E.
- (2) If there is no appointment in force under subsection (1) of an agent, the agent of the third-party campaigner is —
- (a) if the third-party campaigner is an unincorporated body —
- (i) if the third-party campaigner has an executive committee (however described) — each member of the executive committee, and an obligation on an agent of a third-party campaigner under this Act applies to that member as

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if the obligation rested on that member alone; or

- (ii) otherwise — each member of the third-party campaigner, and an obligation on an agent of a third-party campaigner under this Act applies to that member as if the obligation rested on that member alone;

or

- (b) in any other case — the third-party campaigner.

**120. Section 175E amended**

In section 175E(1):

- (a) delete “175C(1) or 175D(1)” and insert:

175C(1), 175CA(1), 175D(1) or 175DA(1)

- (b) in paragraph (b) delete “or each person included in the group,” and insert:

the member of the Council or Assembly, each candidate included in the group, or the third-party campaigner

Note: The heading to amended section 175E is to read:

**Appointing agents for political entities other than associated entities**



**121. Sections 175K and 175L replaced**

Delete sections 175K and 175L and insert:

**175K. Ending appointment of agents for political entities other than political parties and associated entities**

(1) In this section —

*principal*, in relation to an agent under section 175C(1), 175CA(1), 175D(1) or 175DA(1), means —

- (a) if the agent is appointed under section 175C(1) — the candidate who appointed the agent; or
  - (b) if the agent is appointed under section 175CA(1) — the member of the Council or the Assembly who appointed the agent; or
  - (c) if the agent is appointed under section 175D(1) — each person included in the group who appointed the agent; or
  - (d) if the agent is appointed under section 175DA(1) — the third-party campaigner who appointed the agent.
- (2) The agent's principal may, by giving notice to the Electoral Commissioner, revoke the appointment of the agent.
- (3) The notice must —
- (a) be in the approved form; and
  - (b) be signed by the agent's principal.

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- (4) If an agent under section 175C(1), 175CA(1), 175D(1) or 175DA(1) dies or resigns, the agent's principal must, without delay, give to the Electoral Commissioner notice, in the approved form, of the death or resignation.

**122. Section 175LA amended**

- (1) In section 175LA(1) delete the definition of *party group*.
- (2) In section 175LA(1) in the definition of *eligible vote* delete "rejected;" and insert:  
  
rejected.
- (3) Delete section 175LA(3) and insert:
  - (3) For the purposes of this Division, electoral expenditure incurred in relation to an election by or with the authority of an endorsed candidate of a registered political party who is not included in a group is taken to have been incurred by or with the authority of the registered political party.
  - (4) For the purposes of this Division, electoral expenditure incurred in relation to an election by or with the authority of an endorsed candidate of a registered political party who is included in a group, and who incurs electoral expenditure substantially for the purposes of the candidate and not the group, is taken to incur the electoral expenditure by or with the authority of the registered political party.

- (5) For the purposes of this Division, electoral expenditure incurred in relation to an election by or with the authority of a party group is taken to have been incurred by or with the authority of —
- (a) if all of the endorsed candidates in the group are endorsed by the same registered political party — the registered political party; or
  - (b) if all of the endorsed candidates in the group are endorsed by more than 1 registered political party — each registered political party with an endorsed candidate in the group in a proportion —
    - (i) agreed between the parties; or
    - (ii) if subparagraph (i) does not apply — worked out in accordance with the following formula —

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

where —

A is the total electoral expenditure incurred in relation to an election by or with the authority of the party group;

B is the number of endorsed candidates of the registered political party in the party group;

C is the total number of candidates in the party group.

**123. Sections 175LB and 175LC replaced**

Delete sections 175LB and 175LC and insert:

**175LB. Higher reimbursement amount and lower reimbursement amount**

- (1) The *higher reimbursement amount*, in relation to an election, is —
  - (a) if polling day in the election is before 1 July 2025 — \$4.40; or
  - (b) for a financial year that begins on or after 1 July 2025 — the amount worked out for the financial year under section 175AC.
- (2) The *lower reimbursement amount*, in relation to an election, is —
  - (a) if polling day in the election is before 1 July 2025 — \$2.26; or
  - (b) if polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount worked out for the financial year under section 175AC.

**175LC. Registered political party opting in and out of receiving higher reimbursement amount**

- (1) A registered officer of a registered political party may, within the period of 28 days beginning on the day after the day on which the party is given written notice of the party's registration under section 62H(5)(a), lodge a request (a *party opt-in request*) in writing to the Electoral Commissioner to receive the higher reimbursement amount under this Division.

- (2) After a party opt-in request for a registered political party has been lodged under subsection (1), a registered officer of the party may lodge a request in writing with the Electoral Commissioner to withdraw the party opt-in request.
- (3) If a party opt-in request for a registered political party is withdrawn under subsection (2) and the party endorses at least 1 candidate in a subsequent election, a registered officer of the party may lodge another party opt-in request within the period of 10 days beginning on the day on which the writ for the election is issued.

**175LCA. Non-party candidates may opt in and out of receiving higher reimbursement amount**

- (1) The agent of a non-party candidate in an election may, on or before the day of the close of nominations for every election at which the non-party candidate will be a candidate in the election, lodge an opt-in request (a *non-party opt-in request*) in writing with the Electoral Commissioner to receive the higher reimbursement amount under this Division.
- (2) After a non-party opt-in request for a non-party candidate has been lodged under subsection (1), the agent of the candidate may lodge a request in writing with the Electoral Commissioner to withdraw the non-party opt-in request.
- (3) If a non-party opt-in request for a non-party candidate is withdrawn under subsection (2) and the candidate becomes a non-party candidate in a subsequent election, the agent of the candidate may lodge another non-party opt-in request within the period of 10 days beginning on the day on which the writ for the election is issued.

**175LCB. Publishing information about who has opted in to receive higher reimbursement amount**

- (1) Within 5 days after the day on which the Electoral Commissioner receives a party opt-in request, the Electoral Commissioner must publish on the Commission website the name of the registered political party in relation to which the party opt-in request has been lodged.
- (2) On the next business day after the close of nominations, the Electoral Commissioner must publish on the Commission website the names of all non-party candidates in relation to whom a non-party opt-in request has been lodged.
- (3) If the Electoral Commissioner receives a written withdrawal under section 175LC(2) of a party opt-in request, or a written withdrawal of a non-party opt-in request under section 175LCA(2), the Electoral Commissioner must publish on the Commission website that the opt-in request has been withdrawn.

**175LCC. Entitlement to election funding reimbursement amount**

- (1) In this section —  
*eligible candidate* means—
  - (a) an endorsed candidate of a registered political party in relation to which a party opt-in request is lodged under section 175LC and is not withdrawn; or
  - (b) a non-party candidate in relation to whom a non-party opt-in request is lodged under section 175LCA and is not withdrawn.

- (2) Subject to this Division, after an election the higher reimbursement amount is payable for each eligible vote given in the election for an eligible candidate.
- (3) Subject to this Division, after an election the lower reimbursement amount is payable for each eligible vote given in the election for a candidate who is not an eligible candidate.

**124. Section 175LD amended**

- (1) In section 175LD(2):
  - (a) delete “a candidate endorsed by” and insert:

an endorsed candidate of
  - (b) in paragraph (c) delete “group, other than a party group,” and insert:

non-party group,
- (2) In section 175LD(3) delete “endorsed candidates in 2 or more elections held on the same day,” and insert:

has endorsed candidates in 2 or more elections that have the same polling day,
- (3) In section 175LD(4) delete “candidate not endorsed by a registered political party” and insert:

non-party candidate

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**125. Section 175LF amended**

In section 175LF(3):

- (a) delete “a candidate endorsed by” and insert:

an endorsed candidate of

- (b) delete “candidates endorsed by” and insert:

endorsed candidates of

**126. Section 175LH amended**

In section 175LH(1) delete “a candidate or candidates endorsed by” and insert:

an endorsed candidate or endorsed candidates of

Note: The heading to amended section 175LH is to read:

**Payments to be made in respect of claims**

**127. Section 175LJ amended**

- (1) Delete section 175LJ(2)(a) and insert:

(a) was a non-party candidate; and

- (2) Delete section 175LJ(3)(a) and insert:

(a) was included in a non-party group; and

Note: The heading to amended section 175LJ is to read:

**Payments to be made in respect of candidate who died**



**128. Part VI Division 2B inserted**

After Part VI Division 2A insert:

**Division 2B — State campaign accounts****175LL. Terms used**

In this Division —

**authorised deposit-taking institution** has the meaning given in the *Banking Act 1959* (Commonwealth) section 5(1);

**eligible SCA nominee**, in relation to a political entity, means —

- (a) for an endorsed candidate — the political party that endorsed the candidate; or
- (b) for a candidate included in a group — the group; or
- (c) for an elected member —
  - (i) if the elected member is a member of a political party — the political party; or
  - (ii) if the member is a member of a group — the group;

or

- (d) for an associated entity — a political party, or the party group of a political party, to which the associated entity relates;

**group terminating event** has the meaning given in section 175LT(1)(a);

**participation day**, in relation to a political entity, means the day on which —

- (a) if the political entity is a political party — the party becomes a registered political party; or

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- (b) if the political entity is a group — the group becomes constituted for an election; or
- (c) if the political entity is a candidate — the candidate becomes nominated in relation to an election; or
- (d) if the political entity is a third-party campaigner or associated entity — the third-party campaigner or associated entity incurs electoral expenditure in relation to an election;

**State campaign account**, in relation to a political entity, means an account for the purposes of money being paid into, and out of, the account for the political entity's electoral expenditure in relation to an election.

**175LM. State campaign accounts to be kept for electoral expenditure**

- (1) The responsible person for a political entity must, unless the responsible person has a reasonable excuse, ensure that a State campaign account for the political entity is —
  - (a) established at an authorised deposit-taking institution within the period of 5 business days after the first participation day in relation to the political entity; and
  - (b) kept during the period in which the political entity engages in incurring electoral expenditure in relation to elections.

Penalty for this subsection:

- (a) if the political entity is a political party — a fine of \$36 000;
- (b) otherwise — a fine of \$24 000.

- (2) Subsection (1) does not apply if —
- (a) a political entity (the *relevant political entity*) who or which is not a group, political party or third-party campaigner does not have a State campaign account because the relevant political entity intends to make use of the State campaign account of another political entity; and
  - (b) the other political entity is an eligible SCA nominee in relation to the relevant political entity; and
  - (c) the other political entity consents to make payments for electoral expenditure on behalf of the relevant political entity out of the other political entity's State campaign account; and
  - (d) the responsible person for the relevant political entity lodges a notice under section 175LN(1).

**175LN. Notifying Electoral Commissioner about State campaign accounts**

- (1) The responsible person for a political entity must, unless the responsible person has a reasonable excuse, lodge with the Electoral Commissioner a written notice in the approved form within the period of 5 business days after the first participation day in relation to the political entity stating —
- (a) that the political entity —
    - (i) has a State campaign account; or
    - (ii) intends to make use of the State campaign account of another political entity named in the notice that is an eligible SCA nominee in relation to the political entity and has given

the consent mentioned in  
section 175LM(2)(c);

and

- (b) the name of the authorised deposit-taking institution at which the account is kept; and
  - (c) the details about the account required by the approved form.
- (2) If information given to the Electoral Commissioner under this section changes, the responsible person for the political entity must, unless the responsible person has a reasonable excuse, lodge with the Electoral Commissioner a written notice in the approved form stating, within the period of 5 business days after the day on which the change occurs, details about the changes to the information, including —
- (a) if the change is that a new State campaign account is established — the information about that State campaign account mentioned in subsection (1)(b) and (c); and
  - (b) if the change is that the political entity intends to make use of the State campaign account of another political entity — that the other political entity is an eligible SCA nominee in relation to the relevant political entity and has given the consent mentioned in section 175LM(2)(c).

Note for this section:

Division 5 contains offences in relation to notices to be given under this section.

### **175LO. Money in State campaign accounts**

- (1) The responsible person for a political entity must ensure that money is not paid into the political entity's

State campaign account unless the money may be paid into the account under this section.

Penalty for this subsection:

- (a) if the political entity is a political party — a fine of \$36 000;
  - (b) otherwise — a fine of \$24 000.
- (2) The following may be paid into a State campaign account of a political entity —
- (a) a political contribution;
  - (b) a subscription in respect of a person's membership of a political party, a division of a political party, an associated entity or a third-party campaigner;
  - (c) income that consists of a payment received under Division 2A;
  - (d) other income received by the political entity;
  - (e) a payment for interest paid on amounts in the account, a refund for electoral expenditure in relation to an election or other similar amounts;
  - (f) a payment of a kind determined by the Electoral Commissioner under subsection (5) as a payment that may be paid into a State campaign account.
- (3) However, the following must not be paid into a State campaign account of a political entity —
- (a) money to be used for a purpose related to an election or a by-election under the *Commonwealth Electoral Act 1918*;
  - (b) a foreign contribution.
- (4) The responsible person for a political entity does not commit an offence under subsection (1) if the responsible person or another person takes all

reasonable steps to ensure the money paid into the political entity's State campaign account contrary to subsection (1) is withdrawn from the account within 5 business days after the day on which the person becomes aware that the money has been paid contrary to subsection (1).

- (5) The Electoral Commissioner may, by a written notice published on the Commission website, determine that a kind of payment (other than a payment referred to in subsection (3)) is a payment that may be paid into the State campaign account.
- (6) The Electoral Commissioner may, by a written notice published on the Commission website, amend or repeal a determination published under subsection (5).
- (7) The responsible person for a political entity does not commit an offence under subsection (1) if money is paid into the political entity's State campaign account in reliance on a determination or purported determination of the Electoral Commissioner under subsection (5) in force when the money is paid into the account.

**175LP. Electoral expenditure to be paid out of State campaign accounts**

- (1) The responsible person for a political entity must ensure that the political entity does not make a payment for electoral expenditure in relation to an election unless the payment is made out of the political entity's State campaign account.

Penalty for this subsection:

- (a) a fine of an amount equal to 2 times the payment; or

- (b) if the amount worked out under paragraph (a) is less than \$36 000 — a fine of \$36 000.
- (2) The responsible person for a political entity must ensure that the political entity does not make a payment out of the political entity's State campaign account unless the payment is —
  - (a) for electoral expenditure incurred in relation to an election by the political entity; or
  - (b) made under section 175LR, 175LS, 175LT, 175LU or 175LV.

Penalty for this subsection:

- (a) a fine of an amount equal to 2 times the payment; or
- (b) if the amount worked out under paragraph (a) is less than \$36 000 — a fine of \$36 000.

**175LQ. Lodging annual returns in relation to State campaign accounts**

- (1) The responsible person for a political entity must, by 30 November in each year, lodge with the Electoral Commissioner —
  - (a) an annual return in the approved form setting out —
    - (i) amounts paid into, and out of, the political entity's State campaign account during the financial year ending on the previous 30 June; and
    - (ii) details of the amounts paid into, and out of, the account, including to whom the amounts were paid;

and

- (b) either —
- (i) a report for the financial year prepared by an auditor registered under the *Corporations Act 2001* (Commonwealth) Part 9.2 in relation to the accuracy of the matters stated in the document referred to in paragraph (a); or
  - (ii) a document for the financial year approved by the Electoral Commissioner under subsection (2) in relation to the accuracy of the matters stated in the document referred to in paragraph (a).

Note for this subsection:

Division 5 contains offences in relation to documents to be given under this section.

- (2) The Electoral Commissioner may, by written notice published on the Commission website, approve a document for the purposes of subsection (1)(b)(ii) if the Electoral Commissioner is satisfied that the document provides sufficient evidence of the accuracy of the matters to be stated in an annual return referred to in subsection (1)(a).

**175LR. Candidates to pay amounts out of State campaign accounts after candidate terminating events**

- (1) This section applies if —
- (a) 1 of the following events (a *candidate terminating event*) occurs in relation to a



candidate who is not a member of the Council or the Assembly —

- (i) the candidate is not elected and does not intend to incur additional electoral expenditure in relation to an election;
- (ii) the candidate dies;

and

- (b) the candidate's State campaign account has an amount remaining in it after debts owing in relation to the candidate's electoral expenditure in relation to an election or the account have been satisfied.

- (2) Within the period set out in subsection (3), the responsible person for the candidate must pay the amount remaining in the candidate's State campaign account to —

- (a) if the candidate was a part of a group and a group terminating event has not occurred in relation to the group — the group's State campaign account; or
- (b) if paragraph (a) does not apply and the candidate is an endorsed candidate of a registered political party when the candidate terminating event occurs — the State campaign account of the registered political party; or
- (c) if paragraphs (a) and (b) do not apply — a charity nominated by the candidate or responsible person.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

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- (3) For the purposes of subsection (2), the period is 28 days beginning on —
  - (a) if this section applies because of subsection (1)(a)(i) — the day on which the responsible person for the candidate becomes aware that the candidate does not intend to incur additional electoral expenditure in relation to an election; or
  - (b) otherwise — the day on which the candidate terminating event occurs.

**175LS. Members to pay amounts out of State campaign accounts after member terminating events**

- (1) This section applies if —
  - (a) 1 of the following events (a *member terminating event*) occurs after a candidate has been elected a member of the Council or the Assembly —
    - (i) the member ceases to be a member and does not intend to incur additional electoral expenditure in relation to an election;
    - (ii) the member dies;and
  - (b) the member's State campaign account has an amount remaining in it after debts owing in relation to the account have been satisfied.
- (2) Within the period set out in subsection (3), the responsible person for the member must pay the

amount remaining in the member's State campaign account to —

- (a) if, as a candidate, the member was a part of a group and a group terminating event has not occurred in relation to the group — the group's State campaign account; or
- (b) if paragraph (a) does not apply and the member is a member of a political party when the member terminating event occurs — the political party's State campaign account; or
- (c) if paragraphs (a) and (b) do not apply — a charity nominated by the member or responsible person.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (3) For the purposes of subsection (2), the period is 28 days beginning on —
  - (a) if this section applies because of subsection (1)(a)(i) — the day on which the responsible person for the member becomes aware that the member does not intend to incur additional electoral expenditure in relation to an election; or
  - (b) otherwise — the day on which the member terminating event occurs.

**175LT. Groups to pay amounts out of State campaign accounts after group terminating events**

- (1) This section applies if —
  - (a) 1 of the following events (a *group terminating event*) occurs in relation to a group —
    - (i) the writ for the election for which the group is constituted is returned and the

group does not intend to incur additional electoral expenditure in relation to an election;

(ii) the group ceases to exist;

and

(b) the group's State campaign account has an amount remaining in it after debts owing in relation to the account have been satisfied.

(2) Within the period set out in subsection (3), the responsible person for the group must pay the amount remaining in the group's State campaign account to —

(a) if the group is a party group — the State campaign account of the registered political party that endorsed all the candidates in the group; or

(b) if paragraph (a) does not apply — a charity nominated by the group or responsible person.

(3) For the purposes of subsection (2), the period is 28 days beginning on —

(a) if this section applies because of subsection (1)(a)(i) — the day on which the responsible person for the group becomes aware that the group does not intend to incur additional electoral expenditure in relation to an election; or

(b) otherwise — the day on which the group terminating event occurs.

**175LU. Political parties to pay amounts out of State campaign accounts after party terminating events**

- (1) This section applies if —
  - (a) 1 of the following events (a *party terminating event*) occurs in relation to a political party —
    - (i) the political party ceases to be registered;
    - (ii) the political party does not intend to incur additional electoral expenditure in relation to an election;
    - (iii) the political party ceases to exist;and
  - (b) the party's State campaign account has an amount remaining in it after debts owing in relation to the account have been satisfied.
- (2) Within the period set out in subsection (3), the responsible person for the political party must pay the amount remaining in the party's State campaign account to a charity nominated by the party or responsible person.
- (3) For the purposes of subsection (2), the period is 28 days beginning on —
  - (a) if this section applies because of subsection (1)(a)(ii) — the day on which the responsible person for the political party becomes aware that the political party does not intend to incur additional electoral expenditure in relation to an election; or
  - (b) otherwise — the day on which the party terminating event occurs.

**175LV. Third-party campaigners to pay amounts out of State campaign accounts after campaigner terminating events**

- (1) This section applies if —
  - (a) 1 of the following events (a *campaigner terminating event*) occurs in relation to a third-party campaigner —
    - (i) the third-party campaigner does not intend to incur additional electoral expenditure in relation to an election;
    - (ii) the third-party campaigner is an individual who dies;
    - (iii) the third-party campaigner is not an individual and the campaigner ceases to exist;
  - and
  - (b) the third-party campaigner's State campaign account has an amount remaining in it after debts owing in relation to the account have been satisfied.
- (2) Within the period set out in subsection (3), the responsible person for a third-party campaigner must pay the amount remaining in the third-party campaigner's State campaign account to a charity nominated by the third-party campaigner or responsible person.
- (3) For the purposes of subsection (2), the period is 28 days beginning on —
  - (a) if this section applies because of subsection (1)(a)(i) — the day on which the responsible person for the third-party campaigner becomes aware that the third-party campaigner does not intend to incur additional

electoral expenditure in relation to an election;  
or

- (b) otherwise — the day on which the campaigner terminating event occurs.

**129. Part VI Division 3 heading amended**

In the heading to Part VI Division 3 delete “**gifts**” and insert:

**political contributions**

**130. Section 175M replaced**

Delete section 175M and insert:

**175M. Relevant details of political contributions**

- (1) In this Division, the *relevant details* of a political contribution are the following —
- (a) the amount or value of the contribution;
  - (b) the date on which the contribution was made or paid;
  - (c) if the contribution is a gift or affiliate fee — the information under subsection (2) in relation to the person who made the gift or paid the fee;
  - (d) if the contribution is a compulsory party levy — a description of the position held by the person who paid the levy.

Examples for the purposes of paragraph (d):

- 1. A person appointed by a political party to assist an elected member who is a member of the political party.
- 2. A person employed by a political party.
- 3. An elected member who is a member of a political party.

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- (2) For the purposes of subsection (1)(c), information in relation to the person who made the gift or paid the affiliate fee is —
- (a) if the gift is made or fee is paid on behalf of the members of an unincorporated body —
    - (i) the name of the body; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the body;

or

  - (b) if the gift is, or is purportedly, made or fee is, or is purportedly, paid out of a trust fund or out of the funds of a foundation —
    - (i) the names and addresses of the trustees of the trust fund or of the foundation and of the person for whose benefit the funds are held; and
    - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires;

or

  - (c) otherwise — the name and address of the person who made the gift or paid the fee.

**175MA. Disclosure of political contributions that are more than specified amount**

- (1) If a political entity receives a political contribution, the amount or value of which is more than the specified amount, the responsible person for the political entity must lodge a notice with the Electoral Commissioner by —
- (a) if the political contribution is received during the capped expenditure period for an



- election — the end of the next business day after the day on which the political entity receives the political contribution; or
- (b) otherwise — the end of the period of 7 days after the day on which the political entity receives the political contribution.
- (2) The notice must —
- (a) be in writing; and
- (b) state —
- (i) the political entity has received a political contribution the amount or value of which is more than the specified amount; and
- (ii) the relevant details of the political contribution.

Note for this section:

Division 5 contains offences in relation to notices to be lodged under this section.

**175MB. Disclosure when multiple political contributions have combined value more than specified amount**

- (1) This section applies if, in a financial year —
- (a) a political entity receives more than 1 political contribution from the same person; and
- (b) each political contribution is of an amount or value that is equal to or less than the specified amount; and
- (c) the political entity receives a political contribution (a *trigger contribution*) from that person, the amount or value of which means the combined amount or value of the political contributions received from that person in the

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financial year is more than the specified amount.

- (2) The responsible person for the political entity must lodge a notice with the Electoral Commissioner by —
  - (a) if the trigger contribution is received during the capped expenditure period for an election — the end of the next business day after the day on which the political entity receives the trigger contribution; or
  - (b) otherwise — the end of the period of 7 days after the day on which the political entity receives the trigger contribution.
- (3) The notice under subsection (2) must —
  - (a) be in writing; and
  - (b) state the political entity has received a trigger contribution from a person in a financial year so the combined amount or value of all of the political contributions received from the person in the financial year is more than the specified amount; and
  - (c) state the relevant details of each political contribution received from the person in the financial year.
- (4) If the political entity receives an additional political contribution from the same person in a financial year after receiving the trigger contribution, the responsible person for the political entity must, by the end of the next business day after the day on which the political entity receives the additional political contribution, lodge a notice with the Electoral Commissioner in accordance with subsection (5).
- (5) The notice under subsection (4) must —
  - (a) be in writing; and

- (b) state the political entity has received an additional political contribution from a person in a financial year after receiving a trigger contribution from the person in the financial year; and
- (c) state the relevant details of the additional political contribution.

Note for this section:

Division 5 contains offences in relation to notices to be lodged under this section.

**175MC. Publication of information in notices on Commission website**

- (1) If the Electoral Commissioner receives a notice under section 175MA(1) or 175MB(2) or (4), the Electoral Commissioner must publish the information contained in the notice on the Commission website as soon as practicable after receiving the notice.
- (2) However, if the Electoral Commissioner considers that the information contained in the notice is false or misleading in a material particular, the Electoral Commissioner may refuse to publish the information contained in the notice.

Note for this subsection:

Under section 175U(3) and (4) it is an offence to provide a false or misleading notice in particular circumstances.

- (3) The Electoral Commissioner must ensure that the following information contained in a notice under section 175MA(1) or 175MB(2) or (4) is not published under subsection (1) —
  - (a) information about a person’s bank accounts or other similar financial details;
  - (b) other personal information the Electoral Commissioner considers is not appropriate to

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publish because publication of the information places the personal safety of the person to whom the information relates, or the members of the family of that person, at risk.

- (4) If a person informs the Electoral Commissioner when giving a notice under section 175MA(1) or 175MB(2) or (4) that the person is a silent elector, or enrolled on a roll in the Commonwealth or another State or a Territory with equivalent status as a silent elector, the Electoral Commissioner must ensure that the person's address is not published under subsection (1).

**131. Section 175N amended**

- (1) In section 175N(1) delete "gifts" and insert:

political contributions under subsection (3)

- (2) In section 175N(2) delete "gifts" (1<sup>st</sup> occurrence) and insert:

political contributions

- (3) In section 175N(3):

- (a) delete "In the case of gifts the details" and insert:

For the purposes of subsection (1), the details of the political contributions

- (b) in paragraph (a) delete "gifts; and" and insert:

political contributions;

- (c) delete paragraph (b) and insert:
  - (b) the relevant details of each political contribution the amount or value of which is more than the specified amount;
  - (c) the relevant details of each political contribution from the same person if —
    - (i) each contribution is of an amount or value that is equal to or less than the specified amount; but
    - (ii) the combined value or amount of all of the contributions is more than the specified amount.
- (4) Delete section 175N(4) and (5).
- (5) At the end of section 175N insert:

Note for this section:

Division 5 contains offences in relation to returns to be lodged under this section.

Note: The heading to amended section 175N is to read:

**Political parties to lodge annual return of political contributions and other income**

**132. Section 175NA amended**

- (1) In section 175NA(1):
  - (a) delete “an entity” and insert:

an incorporated body, unincorporated body or trustee of a trust

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(b) delete “gifts” and insert:

political contributions under subsection (2)

(2) Delete section 175NA(2) and (3) and insert:

(2) For the purposes of subsection (1), the details of political contributions to be set out in the return are as follows —

- (a) the amount or value of all political contributions;
- (b) the relevant details of each political contribution the amount or value of which is more than the specified amount;
- (c) the relevant details of each political contribution from the same person, if —
  - (i) each contribution is of an amount or value that is equal to or less than the specified amount; but
  - (ii) the combined value or amount of all of the contributions is more than the specified amount.

(3) At the end of section 175NA insert:

Note for this section:

Division 5 contains offences in relation to returns to be lodged under this section.

Note: The heading to amended section 175NA is to read:

**Associated entities to lodge annual return of political contributions and other income**

**133. Section 175O amended**

- (1) In section 175O(1) delete “15 weeks” and insert:

12 weeks

- (2) In section 175O(2)(a) delete “polling day for the previous election” and insert:

polling day in the previous election

- (3) Delete section 175O(5).

- (4) At the end of section 175O insert:

Note for this section:

Division 5 contains offences in relation to returns to be lodged under this section.

Note: The heading to amended section 175O is to read:

**Candidates to lodge return of gifts received during disclosure period**

**134. Section 175P amended**

- (1) In section 175P(1) delete “15 weeks” and insert:

12 weeks

- (2) In section 175P(3) delete “have been endorsed by the same” and insert:

are endorsed candidates of the same

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- (3) Delete section 175P(5).
- (4) At the end of section 175P insert:

Note for this section:

Division 5 contains offences in relation to returns to be lodged under this section.

Note: The heading to amended section 175P is to read:

**Groups to lodge return of gifts received during disclosure period**

**135. Section 175Q amended**

- (1) Delete section 175Q(1) and insert:
  - (1) If a third-party campaigner incurs expenditure of more than \$500 for a political purpose in relation to an election, the third-party campaigner must, within 12 weeks after polling day in the election, lodge a return with the Electoral Commissioner in the approved form setting out the relevant details of all gifts received by the third-party campaigner during the disclosure period for the election.
- (2) In section 175Q(2):
  - (a) in paragraph (a) delete “the person —” and insert:

the third-party campaigner —
  - (b) in paragraph (a)(ii) delete “person” and insert:

campaigner



(3) Delete section 175Q(3) and insert:

- (3) A third-party campaigner does not have to lodge a return under subsection (1) if —
- (a) the third-party campaigner is not registered on the third-party campaigners register for the election and the electoral expenditure incurred in relation to the election by or with the authority of the third-party campaigner does not exceed \$500; or
  - (b) the third-party campaigner —
    - (i) is registered on the third-party campaigners register for the election; and
    - (ii) incurs expenditure for political purposes during the disclosure period for the election of less than or equal to the specified amount.

(4) In section 175Q(7):

(a) delete “another person” and insert:

a third-party campaigner

(b) delete “shall be taken to be one” and insert:

is taken to be 1

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- (5) In section 175Q(8):
- (a) delete “person may lodge one” and insert:  
  
third-party campaigner may lodge 1
  - (b) delete “one general” and insert:  
  
1 general

Note: The heading to amended section 175Q is to read:

**Third-party campaigners to lodge return of gifts received during disclosure period**

**136. Section 175R amended**

- (1) In section 175R(1):
- (a) in paragraph (a) delete “gift” (each occurrence) and insert:  
  
political contribution
  - (b) after paragraph (a) insert:
    - (aa) an associated entity to receive a political contribution made to or for the benefit of the associated entity by another person of an amount or value that is more than the specified amount; or
  - (c) in paragraphs (b) and (c) delete “gift” (each occurrence) and insert:  
  
political contribution

- (d) in paragraph (d) delete “person (not being a political party, a candidate or a group)” and insert:

third-party campaigner

- (e) in paragraph (d) delete “gift” (1<sup>st</sup> occurrence) and insert:

political contribution

- (f) in paragraph (d) delete “the person” and insert:

the third-party campaigner

- (g) in paragraph (d) delete “gift” (2<sup>nd</sup> occurrence) and insert:

political contribution

- (h) delete “gift (the *donor*) are known to the person receiving the gift (the *recipient*) or, at the time when the gift” and insert:

political contribution (the *donor*) are known to the person receiving the political contribution (the *recipient*) or, at the time when the political contribution

- (2) Delete section 175R(2) and insert:

- (2) A reference in subsection (1) to the name and address of a donor making a political contribution is —

- (a) if the political contribution is made on behalf of the members of an unincorporated body —

- (i) the name of the body; and

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- (ii) the names and addresses of the members of the executive committee (however described) of the body;

and

- (b) if the political contribution is, or is purportedly, made out of a trust fund or out of the funds of a foundation —

- (i) the names and addresses of the trustees of the trust fund or of the foundation and of the person for whose benefit the funds are held; and

- (ii) the title or other description of the trust fund or the name of the foundation, as the case requires;

and

- (c) otherwise — the name and address of the donor who made the political contribution.

- (3) In section 175R(3):

- (a) delete paragraph (c) and insert:

- (c) 2 or more political contributions made during a prescribed period by the same person to or for the benefit of a political party, candidate, group or third-party campaigner is taken to be 1 political contribution; and

- (b) in paragraph (d) delete “gift” (each occurrence) and insert:

political contribution

(4) In section 175R(3) after each of paragraphs (a) and (b) insert:

and

(5) In section 175R(4)(d) delete “person (not being a political party, an associated entity, a candidate or a group)” and insert:

third-party campaigner,

(6) In section 175R(4) after each of paragraphs (a) to (c) insert:

or

(7) Delete section 175R(5) and insert:

(5) If a person receives a political contribution and it is unlawful for the person to receive that political contribution under subsection (1), an amount equal to the amount or value of the political contribution is payable by that person to the State.

(6) An amount equal to the amount or value of the political contribution referred to in subsection (5) may be recovered by the State as a debt due to the State by action, in a court of competent jurisdiction, against —

(a) in the case of a political contribution to or for the benefit of a political party —

(i) if the party is a body corporate — the party; or

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- (ii) in any other case — the agent of the party;
- or
- (b) in the case of a political contribution to or for the benefit of an associated entity —
    - (i) if the associated entity is a body corporate — the associated entity; or
    - (ii) in any other case — the agent of the associated entity;
- or
- (c) in the case of a political contribution to or for the benefit of a candidate — the candidate or the agent of the candidate; or
  - (d) in the case of a political contribution to or for the benefit of a group — a person included in the group or the agent of the group; or
  - (e) in the case of a political contribution to or for the benefit of a third-party campaigner — the third-party campaigner.

Note: The heading to amended section 175R is to read:

**Political contributions not to be accepted unless identity known, or believed to be known**

**137. Section 175S amended**

- (1) In section 175S(1):
  - (a) after “175N,” insert:

175NA,

- (b) delete “shall” (each occurrence) and insert:

must

- (c) delete “gifts of a kind required to be disclosed” and insert:

political contributions of a kind required to be the subject of a return

- (2) In section 175S(2):

- (a) delete “gift or gifts” insert:

political contribution or political contributions

- (b) after “175N,” and insert:

175NA,

- (c) delete “gifts or income of a kind required to be disclosed” and insert:

political contributions or income of a kind required to be the subject of a return

Note: The heading to amended section 175S is to read:

**Reporting of political contributions under certain provisions required even if no details are required to be included in return**

**138. Part VI Division 3A inserted**

After Part VI Division 3 insert:

**Division 3A — Prohibition on receiving foreign contributions**

**175SAA. Terms used**

In this Division —

***acceptable action***, in relation to a foreign contribution, means —

- (a) an amount equal to the amount or value of the foreign contribution is transferred to the State for the purposes of this Division; or
- (b) the foreign contribution is returned to the donor or the person who made the contribution on behalf of the donor; or
- (c) an amount equal to the amount or value of the foreign contribution is transferred to the donor or the person who made the contribution on behalf of the donor;

***acceptable action period***, in relation to a foreign contribution, means —

- (a) if the foreign contribution is made to a member of the Council or the Assembly — the period of 6 weeks beginning on the day on which the foreign contribution is made; or
- (b) if the foreign contribution is made to a candidate in an election after they nominate as a candidate — the period of 6 weeks beginning on the day on which the foreign contribution is made; or



- (c) if the foreign contribution is made to a person before they nominate as a candidate in an election but after they publicly announce that they will be a candidate — the period of 6 weeks beginning on the day on which the foreign contribution is made; or
- (d) if the foreign contribution is made to a person before the person publicly announces that they will be a candidate in an election — the period of 6 weeks beginning on the day of the announcement; or
- (e) if the foreign contribution is made to a person who does not publicly announce that they will be a candidate in an election before nominating as a candidate — the period of 6 weeks beginning on the day on which the person nominates as a candidate; or
- (f) if the foreign contribution is made to a group — the period of 6 weeks beginning on the later of the following —
  - (i) the day on which the foreign contribution is made;
  - (ii) the day on which the group claim is lodged under section 80;or
- (g) if the foreign contribution is made to a responsible person or political entity to which paragraphs (a) to (f) do not apply — the period of 6 weeks beginning on the day on which the foreign contribution is made;

***appropriate donor information***, about a donor,  
means —

- (a) if the donor is an individual —
  - (i) the particulars relating to the individual on the register of electors; or
  - (ii) a copy of a passport, a certificate evidencing the individual's naturalisation, or any other document evidencing the individual's Australian citizenship; or
  - (iii) a copy of a visa evidencing the individual's permanent residency in Australia; or
  - (iv) a copy of the individual's Subclass 444 (Special Category) visa under the *Migration Act 1958* (Commonwealth) or, if that Subclass ceases to exist, the kind of visa that replaces the Subclass; or
  - (v) any information, or a copy of any document, prescribed by the regulations for the purposes of this subparagraph;

or

- (b) if the donor is not an individual and is incorporated —
  - (i) a copy of the donor's incorporation in Australia; or
  - (ii) particulars of the donor's registration under Australian law evidencing the donor's incorporation in Australia; or

- (iii) any information, or a copy of any document, prescribed by the regulations for the purposes of this subparagraph;
- or
- (c) if the donor is not an individual (whether or not it is incorporated), the information or documents referred to in 1 of the following (whether or not information is omitted, redacted or deleted from the documents) —
    - (i) copies of at least 3 recent minutes, or other documents, of the donor evidencing management actions of the donor are taken in Australia, with each document evidencing a different kind of decision;
    - (ii) copies of at least 3 official documents of the donor establishing that the donor's activities are principally carried out in Australia;
    - (iii) for a donor that is a trust or foundation — a trust deed or other document indicating that the law of an Australian jurisdiction is the governing law of the trust or foundation, or that the head office or principal place of activity is within Australia;
    - (iv) any information, or a copy of any document, prescribed by the regulations for the purposes of this subparagraph;

**donor**, in relation to a political contribution, means the person who makes the political contribution, or on whose behalf the political contribution is made;

***management actions***, in relation to a donor that is not an individual, include —

- (a) decisions setting the operational policies of the donor; and
- (b) decisions appointing officers of the donor, or granting powers to such officers to carry on the donor's activities; and
- (c) directions to persons appointed to carry on the donor's activities as to how to perform functions; and
- (d) decisions on matters of finance, such as how profits are to be used;

***official documents***, in relation to a donor that is not an individual, include —

- (a) documents recording separately the number of staff or members of the donor in Australia, and overseas, carrying on activities for the donor; and
- (b) documents recording separately the scale or volume of the activities of the donor carried on in Australia and overseas (for example by reference to revenue derived in Australia and overseas).

**175SAB. Particular political entities not to accept foreign contributions**

- (1) This section applies to a political entity other than a third-party campaigner.
- (2) The responsible person for a political entity commits a crime if —
  - (a) the political entity or the responsible person receives a foreign contribution or the benefit of a foreign contribution; and

- (b) at the end of the acceptable action period in relation to the foreign contribution, acceptable action has not been taken in relation to the foreign contribution.

Penalty for this subsection:

- (a) imprisonment for 3 years or a fine of \$36 000;
  - (b) a daily penalty of a fine of \$500 for each day or part of a day after the end of the acceptable action period until the acceptable action is taken in relation to the foreign contribution.
- (3) Subsection (2) does not apply if the foreign contribution is made in a private capacity to the political entity or the responsible person for private use.
  - (4) Subsection (2) does not apply if the terms on which the foreign contribution is made are inconsistent with the contribution's use as electoral expenditure in relation to an election.
  - (5) In proceedings against the responsible person for a political entity for an offence under subsection (2), it is a defence for the accused person to prove —
    - (a) that before the end of the acceptable action period —
      - (i) the donor affirmed in writing to the political entity or the responsible person that the donor was not a foreign donor; or
      - (ii) the political entity or the responsible person obtained appropriate donor

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information about the donor to verify  
that the donor was not a foreign donor;

and

- (b) that neither the political entity nor the responsible person knew, or had reasonable grounds to believe, at any time during the acceptable action period, that the donor was a foreign donor.
- (6) Without limiting subsection (5), if in proceedings against the responsible person for a political entity for an offence under subsection (2) it is proved that a foreign contribution, or the benefit of a foreign contribution, has been received by the political entity or the responsible person, the onus of proving that the contribution was not a foreign contribution is on the accused person.
- (7) For the purposes of subsection (2), a person who is a candidate in an election is taken to —
- (a) begin to be a candidate —
    - (i) if the person publicly announces that they will be a candidate in the election before nominating as a candidate — on the day that is 6 months before the day of the announcement; or
    - (ii) if the person does not publicly announce that they will be a candidate in the election before nominating as a candidate — on the day that is 6 months before the day on which the person nominates as a candidate;
- and
- (b) stop being a candidate at the end of the day that is 30 days after polling day in the election.

- (8) For the purposes of subsection (2), a group in an election is taken to —
- (a) begin to be a group on the day that is 6 months before the day on which a group claim for the group is lodged under section 80; and
  - (b) stop being a group in the election at the end of the day that is 30 days after polling day in the election.

**175SAC. Third-party campaigners not to receive foreign contributions**

- (1) A third-party campaigner, and the responsible person for the third-party campaigner, commit a crime if —
- (a) the third-party campaigner receives a foreign contribution, or the benefit of a foreign contribution, the amount or value of which is more than the specified amount and uses it for the purposes of incurring electoral expenditure or creating or communicating electoral matter; and
  - (b) at the end of the acceptable action period in relation to the foreign contribution, acceptable action has not been taken in relation to the foreign contribution.

Penalty for this subsection:

- (a) imprisonment for 3 years or a fine of \$36 000;
- (b) a daily penalty of a fine of \$500 for each day or part of a day after the end of the acceptable action period until the acceptable action is taken in relation to the foreign contribution.

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- (2) In proceedings against a third-party campaigner, or the responsible person for a third-party campaigner, for an offence under subsection (1), it is a defence for the accused person to prove —
- (a) that before the end of the acceptable action period —
    - (i) the donor affirmed in writing to the third-party campaigner or the responsible person that the donor was not a foreign donor; or
    - (ii) the third-party campaigner or the responsible person obtained appropriate donor information about the donor to verify that the donor was not a foreign donor;
- and
- (b) that neither the third-party campaigner nor the responsible person knew, or had reasonable grounds to believe, at any time during the acceptable action period, that the donor was a foreign donor.
- (3) If, in any proceedings against a third-party campaigner, or the responsible person for a third-party campaigner, for an offence under subsection (1), it is proved that a foreign contribution, or the benefit of a foreign contribution, has been received by the third-party campaigner, the onus of proving that the contribution was not a foreign contribution is on the accused person.

**175SAD. Recovery of foreign contribution**

- (1) This section applies if —
- (a) a person receives a foreign contribution; and



- (b) a court determines that a person has contravened section 175SAB or 175SAC.
- (2) An amount equal to the value or amount of the foreign contribution may be recovered by the State as a debt due to the State by action, in a court of competent jurisdiction against the person who contravened the provision.

**175SAE. False affirmation or information about being foreign donor**

- (1) A person commits a crime if the person makes an affirmation or gives appropriate donor information or other information under section 175SAB(5) or 175SAC(2) that the person knows is false or misleading in a material particular.

Penalty for this subsection: imprisonment for 3 years or a fine of \$36 000.

- (2) This section applies whether the person makes the affirmation or gives the information within or outside the State.

**175SAF. Offence to enter scheme to receive foreign contribution not permitted under Division**

A person commits a crime if the person enters into or carries out an arrangement, understanding, course of conduct or other scheme, whether alone or with others, for the purpose of receiving a foreign contribution that is not permitted under this Division.

Penalty: imprisonment for 3 years and a fine of \$36 000.

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**139. Section 175SAG inserted**

At the beginning of Part VI Division 4 insert:

**175SAG. Term used: expenditure disclosure period**

In this Division —

*expenditure disclosure period*, for an election, means the longer of the following periods —

- (a) the period —
  - (i) beginning on 1 July immediately before the election; and
  - (ii) ending on polling day in the election;
- (b) the capped expenditure period for the election.

**140. Section 175SA amended**

In section 175SA:

- (a) delete “political party, the agent of the party shall, before the expiration of 15 weeks” and insert:

registered political party during the expenditure disclosure period for the election, the agent of the party must, before the expiration of 12 weeks

- (b) delete “setting out details of that electoral expenditure.” and insert:

setting out —

- (a) details of the party’s electoral expenditure in relation to the election incurred during the expenditure disclosure period for the election; and

- (b) if the election is an election in a district and the party had an endorsed candidate in the election — the electoral expenditure substantially incurred, during the capped expenditure period for the election, in relation to the party’s endorsed candidate in the district under section 175SM.

Note: The heading to amended section 175SA is to read:

**Return required for political party’s electoral expenditure**

**141. Section 175SB amended**

In section 175SB:

- (a) delete “15 weeks” and insert:

12 weeks

- (b) after “incurred” insert:

during the expenditure disclosure period for the election

Note: The heading to amended section 175SB is to read:

**Return required for candidate’s electoral expenditure**

**142. Section 175SC amended**

- (1) In section 175SC(1):

- (a) delete “15 weeks” and insert:

12 weeks

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(b) after “incurred” insert:

during the expenditure disclosure period for the election

(2) In section 175SC(2):

(a) after “is incurred” insert:

during the expenditure disclosure period for the election

(b) delete “have been endorsed by the same” and insert:

are endorsed candidates of the same registered

Note: The heading to amended section 175SC is to read:

**Return required for group’s electoral expenditure**

**143. Section 175SD replaced**

Delete section 175SD and insert:

**175SD. Return required for third-party campaigner’s electoral expenditure**

If electoral expenditure that exceeds \$500 is incurred in relation to an election by or with the authority of a third-party campaigner during the expenditure disclosure period for the election, the third-party campaigner must, before the expiry of 12 weeks after polling day in the election, lodge a return with the Electoral Commissioner in the approved form setting out details of that electoral expenditure.

**144. Section 175SE amended**

In section 175SE(1) and (2) delete “disclosed” and insert:

the subject of a return

Note: The heading to amended section 175SE is to read:

**Reporting of expenditure under certain provisions required even if no details are required to be included in return**

**145. Part VI Division 4A inserted**

After Part VI Division 4 insert:

**Division 4A — Caps on electoral expenditure in relation to elections**

**Subdivision 1 — Preliminary**

**175SG. Terms used**

In this Division —

*expenditure cap* means an expenditure cap specified in Subdivision 2;

*permitted*, in relation to incurring electoral expenditure in relation to an election, has the meaning given in section 175SH.

**175SH. When incurring electoral expenditure is permitted in relation to election**

- (1) Incurring electoral expenditure in relation to an election is *permitted* during a capped expenditure period for the election under this Division if —
  - (a) the electoral expenditure is incurred, or authorised to be incurred, in relation to the

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election by a person to whom an expenditure cap in Subdivision 2 applies for the election; and

- (b) the total amount of the electoral expenditure incurred during the capped expenditure period for the election is the same as, or less than, the expenditure cap in Subdivision 2 that applies to the person for the election.
- (2) In addition to an expenditure cap in Subdivision 2 that applies to a registered political party, electoral expenditure that is substantially incurred by the party —
- (a) in a general election for the Assembly in relation to the party's endorsed candidate in a district is *permitted* if it is incurred, or authorised to be incurred, in accordance with the expenditure cap stated in section 175SM(1); and
  - (b) in a general election for the Council in relation to a particular endorsed candidate of the party is *permitted* if it is incurred, or authorised to be incurred, in accordance with the expenditure cap stated in section 175SN(1).
- (3) In addition to an expenditure cap in Subdivision 2 that applies to a third-party campaigner, electoral expenditure that is substantially incurred by the third-party campaigner —
- (a) in a general election for the Assembly in relation to a district is *permitted* if it is incurred, or authorised to be incurred, in accordance with the expenditure cap stated in section 175SM(3); and
  - (b) in a general election for the Council in relation to a particular candidate is *permitted* if it is

incurred, or authorised to be incurred, in accordance with the expenditure cap stated in section 175SN(3).

**175SI. Certain electoral expenditure taken to be incurred by or with authority of political party or group**

- (1) For the purposes of this Division, electoral expenditure incurred during the capped expenditure period for an election by or with the authority of an endorsed candidate of a registered political party (other than a candidate included in a group) is taken to have been incurred by or with the authority of the political party that endorsed the candidate.
- (2) Subsection (1) does not apply to a candidate in a Council election who is included in a group.
- (3) For the purposes of this Division, electoral expenditure incurred during the capped expenditure period for an election by or with the authority of an elected member who is a member of a registered political party is taken to have been incurred by or with the authority of the registered political party.
- (4) For the purposes of this Division, electoral expenditure incurred during the capped expenditure period for an election by or with the authority of a registered political party's associated entity is taken to have been incurred by or with the authority of the registered political party.
- (5) For the purposes of this Division, electoral expenditure incurred during the capped expenditure period for an election by or with the authority of a party group is taken to have been incurred by or with the authority of —

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- (a) if all of the endorsed candidates in the group are endorsed by the same registered political party — the registered political party; or
- (b) if the endorsed candidates in the group are endorsed by more than 1 registered political party — each registered political party with an endorsed candidate in the group in a proportion —
  - (i) agreed between the parties; or
  - (ii) if subparagraph (i) does not apply — worked out in accordance with the following formula —

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

where —

A is the total electoral expenditure incurred during the capped expenditure period for an election by or with the authority of the party group;

B is the number of endorsed candidates of the registered political party in the party group;

C is the total number of candidates in the party group.

- (6) For the purposes of this Division, electoral expenditure incurred during the capped expenditure period for an election by or with the authority of a candidate included in a non-party group is taken to have been incurred by or with the authority of the non-party group.



**Subdivision 2 — Expenditure caps for particular elections**

**175SJ. Expenditure caps for conjoint elections**

- (1) The expenditure cap that applies to a person specified in column 1 of the Table in relation to electoral expenditure incurred during the capped expenditure period for a conjoint election is set out, or is to be worked out in accordance with the method set out, opposite the person in column 2 of the Table.

**Table**

<b>Column 1</b> <b>Political entity</b>	<b>Column 2</b> <b>Expenditure cap for election</b>
Non-party candidate in an election in a district	The LA candidate cap amount
Non-party candidate in the general election for the Council who is not included in a group	The LC candidate cap amount
Non-party group	The number of candidates in the group multiplied by the LC candidate cap amount
Registered political party	The amount worked out under subsection (2)
Third-party campaigner	The third-party general cap amount

Notes for this subsection:

- 1. See section 80(4)(c) in relation to the maximum number of candidates in a valid group claim.

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2. See section 175SM(1) in relation to the expenditure cap that applies to registered political parties for electoral expenditure substantially incurred, during the capped expenditure period, in relation to the party's endorsed candidate in a particular district in a general election for the Assembly.
  3. See section 175SM(3) in relation to the expenditure cap that applies to third-party campaigners for electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular district in a general election for the Assembly.
  4. See section 175SN(1) in relation to the expenditure cap that applies to registered political parties for electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular endorsed candidate of the party in a general election for the Council.
  5. See section 175SN(3) in relation to the expenditure cap that applies to third-party campaigners for electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular candidate in a general election for the Council.
- (2) The expenditure cap that applies to a registered political party in relation to electoral expenditure incurred during the capped expenditure period for a conjoint election is the sum of —
- (a) the number of the party's endorsed candidates for the general election for the Council, multiplied by the LC candidate cap amount; and
  - (b) the number of the party's endorsed candidates for the general election for the Assembly, multiplied by the LA candidate cap amount.

Note for this subsection:

See section 81A(2A), (2B), (4A) and (4B) in relation to the maximum number of valid party nominations for elections that can be made by registered political parties.

**175SK. Expenditure caps for Council elections not part of conjoint elections**

- (1) This section applies to a Council election other than a general election held as part of a conjoint election.
- (2) For a general election for the Council, the expenditure cap that applies to a person specified in column 1 of the Table in relation to electoral expenditure incurred during the capped expenditure period for the election is set out, or is to be worked out in accordance with the method set out, opposite the person in column 2 of the Table.

**Table**

<b>Column 1</b> <b>Political entity</b>	<b>Column 2</b> <b>Expenditure cap for general election for Council</b>
Non-party candidate who is not included in a group	The LC candidate cap amount
Non-party group	The number of candidates in the group multiplied by the LC candidate cap amount
Registered political party	The number of the party's endorsed candidates in the election multiplied by the LC candidate cap amount
Third-party campaigner	The third-party general cap amount

Notes for this subsection:

- 1. See section 80(4)(c) in relation to the maximum number of candidates in a valid group claim.

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2. See section 81A(4A) and (4B) in relation to the maximum number of valid party nominations for Council elections where the relevant number is more than one that can be made by registered political parties.
  3. See section 175SN(1) in relation to the expenditure cap that applies to registered political parties for electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular endorsed candidate of the party in a general election for the Council.
  4. See section 175SN(3) in relation to the expenditure cap that applies to third-party campaigners for electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular candidate in a general election for the Council.
- (3) For a Council election, other than a general election, where the relevant number is more than one, the expenditure cap that applies to a person specified in column 1 of the Table in relation to electoral expenditure incurred during the capped expenditure period is set out, or is to be worked out in accordance with the method set out, opposite the person in column 2 of the Table.

**Table**

<b>Column 1</b> <b>Political entity</b>	<b>Column 2</b> <b>Expenditure cap for Council election, other than general election, where relevant number is more than one</b>
Non-party candidate who is not included in a group	The LC by-election cap amount

<p align="center"><b>Column 1</b></p> <p align="center"><b>Political entity</b></p>	<p align="center"><b>Column 2</b></p> <p align="center"><b>Expenditure cap for Council election, other than general election, where relevant number is more than one</b></p>
<p>Non-party group</p>	<p>The number of candidates in the group multiplied by the LC by-election cap amount</p>
<p>Registered political party</p>	<p>The number of the party's endorsed candidates in the election multiplied by the LC by-election cap amount</p>
<p>Third-party campaigner</p>	<p>The third-party LC cap amount</p>

Notes for this subsection:

1. See section 80(4)(c) in relation to the maximum number of candidates in a valid group claim.
  2. See section 81A(4A) and (4B) in relation to the maximum number of valid party nominations for Council elections where the relevant number is more than one that can be made by registered political parties.
- (4) For a Council election where the relevant number is one, the expenditure cap that applies to a person specified in column 1 of the Table in relation to electoral expenditure incurred during the capped expenditure period for the election is set out opposite the person in column 2 of the Table.

**Table**

<b>Column 1</b> <b>Political entity</b>	<b>Column 2</b> <b>Expenditure cap for Council election where relevant number is one</b>
Non-party candidate	The LC by-election cap amount
Registered political party with an endorsed candidate in the election	The LC by-election cap amount
Third-party campaigner	The third-party LC cap amount

**175SL. Expenditure caps for elections in districts not part of conjoint elections**

- (1) This section applies to an election in a district that is not held as part of a conjoint election.
- (2) For a general election for the Assembly, the expenditure cap that applies to a person specified in column 1 of the Table in relation to electoral expenditure incurred during the capped expenditure period for the election is set out, or is to be worked out in accordance with the method set out, opposite the person in column 2 of the Table.

**Table**

<b>Column 1 Political entity</b>	<b>Column 2 Expenditure cap for general election for the Assembly</b>
Non-party candidate	The LA candidate cap amount
Registered political party	The number of the party's endorsed candidates in the general election multiplied by the LA candidate cap amount
Third-party campaigner	The third-party general cap amount

Notes for this subsection:

1. See section 175SM(1) in relation to the expenditure cap that applies to registered political parties for electoral expenditure substantially incurred, during the capped expenditure period, in relation to the party's endorsed candidate in a particular district in a general election for the Assembly.
2. See section 175SM(3) in relation to the expenditure cap that applies to third-party campaigners for electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular district in a general election for the Assembly.
3. See section 81A(2A) and (2B) in relation to the maximum number of valid party nominations for single member elections that can be made by registered political parties.

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- (3) For an election in a district, other than an election held as part of a general election for the Assembly, the expenditure cap that applies to a person specified in column 1 of the Table in relation to electoral expenditure incurred during the capped expenditure period for the election is set out, or is to be worked out in accordance with the method set out, opposite the person in column 2 of the Table.

**Table**

<b>Column 1</b> <b>Political entity</b>	<b>Column 2</b> <b>Expenditure cap for election in district that is not part of general election</b>
Non-party candidate	The LA by-election cap amount
Registered political party with an endorsed candidate in the election	The LA by-election cap amount
Third-party campaigner	If polling day in the election is before 1 July 2025 — \$39 000; or If polling day in the election is in a financial year that begins on or after 1 July 2025 — the amount calculated under section 175AC for the financial year in which polling day occurs



**Subdivision 3 — Additional expenditure caps for political parties and third-party campaigners**

**175SM. Expenditure caps for electoral expenditure on particular district**

- (1) The expenditure cap that applies to a registered political party in relation to electoral expenditure substantially incurred, during the capped expenditure period, in relation to the party's endorsed candidate in a district in a general election for the Assembly is the LA candidate cap amount.
- (2) For the purposes of subsection (1), electoral expenditure is substantially incurred in relation to a registered political party's endorsed candidate in a district in a general election for the Assembly if the expenditure relates to —
  - (a) the production and broadcasting, publication or display of advertising or other material relating to the election that —
    - (i) explicitly mentions the name of the candidate; and
    - (ii) is communicated to electors in the district; and
    - (iii) is not mainly communicated to electors outside the district;
  - or
  - (b) a consultant's or advertising agent's fees in respect of services or material substantially used to promote the candidate or for the purposes of having the candidate elected.
- (3) The expenditure cap that applies to a third-party campaigner in relation to electoral expenditure substantially incurred, during the capped expenditure

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period, in relation to a particular candidate in a district in a general election for the Assembly is —

- (a) if polling day is before 1 July 2025 — \$13 000; or
  - (b) otherwise — the amount calculated under section 175AC for the financial year in which polling day occurs.
- (4) For the purposes of subsection (3), electoral expenditure is substantially incurred in a general election for the Assembly in relation to a candidate in a district in a general election for the Assembly if the expenditure relates to —
- (a) the production and broadcasting, publication or display of advertising or other material relating to the election that —
    - (i) explicitly mentions the name of the candidate; and
    - (ii) is communicated to electors in the district; and
    - (iii) is not mainly communicated to electors outside the district;or
  - (b) a consultant's or advertising agent's fees in respect of services or material relating to the election that are used in relation to electoral expenditure on the candidate, including for the purposes of having the candidate elected or not elected.

**175SN. Expenditure cap in relation to candidates for Legislative Council**

- (1) The expenditure cap that applies to a registered political party in relation to electoral expenditure

substantially incurred, during the capped expenditure period, in relation to a particular endorsed candidate of the party in a general election for the Council is the LC candidate cap amount.

- (2) For the purposes of subsection (1), electoral expenditure is substantially incurred in relation to an endorsed candidate of a registered political party in a general election for the Council if the expenditure relates to —
  - (a) the production and broadcasting, publication or display of advertising or other material relating to the election that explicitly mentions the name of the candidate; or
  - (b) a consultant's or advertising agent's fees in respect of services or material substantially used to promote the candidate or for the purposes of having the candidate elected.
- (3) The expenditure cap that applies to the third-party campaigner in relation to electoral expenditure substantially incurred, during the capped expenditure period, in relation to a particular candidate in a general election for the Council is —
  - (a) if polling day is before 1 July 2025 — \$6 500; or
  - (b) otherwise — the amount calculated under section 175AC for the financial year in which polling day occurs.
- (4) For the purposes of subsection (3), electoral expenditure is substantially incurred in relation to a particular candidate in a general election for the Council if the expenditure relates to —
  - (a) the production and broadcasting, publication or display of advertising or other material relating

to the election that explicitly mentions the name of the candidate; or

- (b) a consultant's or advertising agent's fees in respect of services or material relating to the election that are used in relation to electoral expenditure on the candidate, including for the purposes of having the candidate elected or not elected.

**Subdivision 4 — Miscellaneous**

**175SO. Recovery of electoral expenditure not permitted to be incurred under Division**

- (1) This section applies if an amount of electoral expenditure that is not permitted to be incurred under this Division (the *unlawful amount*) is incurred in relation to an election by or with the authority of a person during the capped expenditure period for the election.
- (2) An amount equal to twice the unlawful amount is payable to the State as a debt due to the State by action, in a court of competent jurisdiction, against —
  - (a) if the unlawful amount is incurred, or authorised to be incurred, by a political party —
    - (i) if the party is a body corporate — the party; or
    - (ii) otherwise — the agent of the party;
  - or
  - (b) if the unlawful amount is incurred, or authorised to be incurred, by a non-party candidate — the non-party candidate or the agent of the non-party candidate; or
  - (c) if the unlawful amount is incurred, or authorised to be incurred, by a non-party

- group — a candidate included in the non-party group or the agent of the non-party group; or
- (d) if the unlawful amount is incurred, or authorised to be incurred, by a third-party campaigner — the agent of the third-party campaigner; or
  - (e) if the unlawful amount is incurred, or authorised to be incurred, by a person to whom paragraphs (a) to (d) do not apply — the person.
- (3) Nothing in this section affects the liability of a person to be convicted of an offence under section 175SP or 175SQ or the penalty that can be imposed for those offences.

**175SP. Offence to incur electoral expenditure not permitted under Division**

- (1) The agent of a registered political party commits a crime if —
  - (a) electoral expenditure is incurred in relation to an election during the capped expenditure period for the election by or with the authority of the registered political party; and
  - (b) the incurring of the electoral expenditure is not permitted to be incurred under this Division.

Penalty for this subsection: imprisonment for 3 years and a fine of —

- (a) if an expenditure cap applies to the political party for the election and it is exceeded — an amount equal to 3 times the amount by which the electoral expenditure in relation to the election exceeds the expenditure cap; or

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- (b) if paragraph (a) does not apply, or the amount worked out under paragraph (a) is less than \$36 000 — \$36 000.
- (2) The agent of a non-party candidate who is not included in a group commits a crime if —
  - (a) electoral expenditure is incurred in relation to an election during the capped expenditure period for the election by or with the authority of the non-party candidate; and
  - (b) the incurring of the electoral expenditure is not permitted to be incurred under this Division.Penalty for this subsection: imprisonment for 3 years and a fine of —
  - (a) if an expenditure cap applies to the non-party candidate for the election and it is exceeded — an amount equal to 3 times the amount by which the electoral expenditure in relation to the election exceeds the expenditure cap; or
  - (b) if paragraph (a) does not apply, or the amount worked out under paragraph (a) is less than \$36 000 — \$36 000.
- (3) The agent of a non-party group who is not included in a group commits a crime if —
  - (a) electoral expenditure is incurred in relation to an election during the capped expenditure period for the election by or with the authority of the non-party group; and

- (b) the incurring of the electoral expenditure is not permitted to be incurred under this Division.

Penalty for this subsection: imprisonment for 3 years and a fine of —

- (a) if an expenditure cap applies to the non-party group for the election and it is exceeded — an amount equal to 3 times the amount by which the electoral expenditure in relation to the election exceeds the expenditure cap; or
  - (b) if the amount worked out under paragraph (a) is less than \$36 000 — \$36 000.
- (4) The agent of a third-party campaigner commits a crime if —
- (a) electoral expenditure is incurred in relation to an election during the capped expenditure period for the election by or with the authority of the third-party campaigner; and
  - (b) the incurring of the electoral expenditure is not permitted to be incurred under this Division.

Penalty for this subsection: imprisonment for 3 years and a fine of —

- (a) an amount equal to 3 times the amount by which the electoral expenditure in relation to the election exceeds the expenditure cap; or
- (b) if the amount worked out under paragraph (a) is less than \$36 000 — \$36 000.

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- (5) A person to whom subsections (1) to (4) do not apply commits a crime if —
- (a) electoral expenditure is incurred in relation to an election during the capped expenditure period for the election by or with the authority of the person; and
  - (b) the incurring of the electoral expenditure is not permitted to be incurred under this Division.

Penalty for this subsection: imprisonment for 3 years and a fine of —

- (a) if an expenditure cap applies to the person for the election and it is exceeded — an amount equal to 3 times the amount by which the electoral expenditure in relation to the election exceeds the expenditure cap; or
- (b) if paragraph (a) does not apply, or the amount worked out under paragraph (a) is less than \$36 000 — \$36 000.

**175SQ. Offence to enter scheme to incur electoral expenditure not permitted under Division**

A person must not enter into or carry out an arrangement, understanding, course of conduct or other scheme, whether alone or with others, for the purpose of incurring electoral expenditure that is not permitted under this Division.

Penalty: imprisonment for 3 years and a fine of \$36 000.



**146. Part VI Division 4B inserted**

Before Part VI Division 5 insert:

**Division 4B — Registration of third-party campaigners**

**175SR. Particular third-party campaigners to be registered**

- (1) The responsible person for a third-party campaigner for an election not registered on the third-party campaigners register for the election must take all action necessary to ensure that the electoral expenditure incurred in relation to the election by or with the authority of the third-party campaigner (the *electoral expenditure*) does not exceed \$500.

Penalty for this subsection: a fine of an amount equal to twice the amount by which the electoral expenditure exceeds \$500.

- (2) Proceedings against a responsible person for a third-party campaigner for an offence under subsection (1) must not be instituted if the responsible person applies under section 175ST(1) to register the third-party campaigner within the period of 7 days beginning on the day on which the electoral expenditure exceeds \$500.

**175SS. Third-party campaigners register**

- (1) The Electoral Commissioner must keep a list of persons who are registered as third-party campaigners (the *third-party campaigners register*).

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- (2) The third-party campaigners register —
- (a) must state for each registered third-party campaigner —
    - (i) the name and address of the registered third-party campaigner; and
    - (ii) a contact telephone number and email address of the registered third-party campaigner; and
    - (iii) the name of the responsible person for the third-party campaigner; and
    - (iv) the election for which the registered third-party campaigner is registered; and
    - (v) any other details prescribed by the regulations;
  - and
  - (b) may be kept in the manner and form the Electoral Commissioner considers appropriate.
- (3) The Electoral Commissioner must ensure the third-party campaigners register is published on the Commission website.
- (4) However, if a registered third-party campaigner is an individual, the Electoral Commissioner must ensure that —
- (a) the registered third-party campaigner's contact telephone number and email address are not published without the consent of the registered third-party campaigner; and
  - (b) if subsection (5) applies — the address of the registered third-party campaigner is not published; and
  - (c) if subsection (5) does not apply — the published address of the registered third-party

campaigner does not include the street name and number; and

- (d) other personal information of the registered third-party campaigner is not published if the Electoral Commissioner considers it is not appropriate to publish the information because publishing it would place the personal safety of the person to whom the information relates, or the members of the family of that person, at risk.
- (5) This subsection applies if a person has informed the Electoral Commissioner when applying under section 175ST(1) or (2) that the registered third-party campaigner is a silent elector, or enrolled on a roll in the Commonwealth or another State or a Territory with equivalent status as a silent elector.

**175ST. Application to be registered**

- (1) A third-party campaigner in relation to an election, or the responsible person for the third-party campaigner, may apply to the Electoral Commissioner for the third-party campaigner to be registered on the third-party campaigners register in relation to the election.
- (2) A person who wishes to become a third-party campaigner in relation to an election, or a person who is authorised to act on behalf of the first person, may apply to the Electoral Commissioner for the first person to be registered on the third-party campaigners register in relation to the election.
- (3) The application must —
  - (a) be made before the day before polling day in the election; and
  - (b) be in the approved form; and

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- (c) state the details required by subsection (4); and
  - (d) state any other details prescribed under section 175SS(2)(a)(v).
- (4) The details required by this subsection are —
- (a) if the application is made under subsection (1) —
    - (i) the name, address, contact telephone number and email address of the third-party campaigner; and
    - (ii) if another person is the responsible person for the third-party campaigner — the name, address, contact telephone number and email address of that other person;
  - or
  - (b) if the application is made under subsection (2) —
    - (i) the name, address, contact telephone number and email address of the person the subject of the application; and
    - (ii) if another person is to be the responsible person for the person the subject of the application — the name, address, contact telephone number and email address of that other person.

**175SU. Decision and registration**

- (1) As soon as practicable after receiving an application in accordance with section 175ST, the Electoral Commissioner must decide whether to register, or refuse to register, the person the subject of the application on the third-party campaigners register.

- (2) The Electoral Commissioner must register the person on the third-party campaigners register if the application is not incomplete or incorrect.
- (3) However, the Electoral Commissioner must refuse to register the person on the third-party campaigners register if —
  - (a) the Electoral Commissioner is satisfied —
    - (i) that the person is no longer, or is not, a third-party campaigner in relation to the election; or
    - (ii) that the electoral expenditure incurred in relation to the election by or with the authority of the person will not exceed \$500;
  - or
  - (b) the electoral expenditure incurred in relation to the election by or with the authority of the person will not exceed \$500.
- (4) If the Electoral Commissioner makes a decision under subsection (1), the Electoral Commissioner must, as soon as practicable after making the decision —
  - (a) enter the details of the person required under section 175SS(2)(a) on the register; and
  - (b) give the person who made the application for registration a written notice stating the decision; and
  - (c) if the decision is to refuse to register the person, state in the notice —
    - (i) the reasons for the decision; and
    - (ii) if a reason for the decision is because the application is incomplete or incorrect — the errors or omissions in the application and that an application

for registration can be resubmitted within 30 days after the day on which the person is given the notice.

- (5) If an application is resubmitted in accordance with a notice given under subsection (4), the resubmitted application is taken to have been made on the day on which the original application was made.

**175SV. Updating details on third-party campaigners register**

- (1) If the information about a registered third-party campaigner included in the third-party campaigners register under section 175SS(2)(a) changes, the responsible person for the registered third-party campaigner must notify the Electoral Commissioner of the change of details within the period of 30 days beginning on the day on which the change occurs.  
Penalty for this subsection: a fine of \$6 000.
- (2) The responsible person does not commit an offence under subsection (1) if the responsible person has a reasonable excuse.

**175SW. Cancelling registration**

- (1) If a person (the *registered person*) is a registered third-party campaigner in relation to an election, the responsible person for the registered person may, in writing, request the Electoral Commissioner to cancel the registered person's registration.
- (2) The Electoral Commissioner must cancel the registered person's registration if the Electoral Commissioner is satisfied —
  - (a) that the registered person is no longer a third-party campaigner in relation to the election; or

- (b) that the electoral expenditure incurred in relation to the election by or with the authority of the registered person will not exceed \$500.
- (3) If the Electoral Commissioner cancels the registered person's registration, the Electoral Commissioner must —
  - (a) give the registered third-party campaigner a written notice stating —
    - (i) that the registered third-party campaigner's registration is cancelled; and
    - (ii) the day on which the cancellation takes effect;
  - and
  - (b) record the cancellation and the day of cancellation in the third-party campaigners register.
- (4) The day of the cancellation of the registration stated in the notice under subsection (3)(a)(ii) cannot be earlier than the day on which the third-party campaigner receives the notice.
- (5) If the Electoral Commissioner refuses to cancel the registered person's registration, the Electoral Commissioner must give the registered person a written notice stating —
  - (a) that the Electoral Commissioner has refused to cancel the registered person's registration; and
  - (b) the reasons for the decision.

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**147. Section 175T replaced**

Delete section 175T and insert:

**175T. Terms used**

- (1) In this Division —  
*disclosure document* means —
  - (a) a notice under section 175LN(1) or (2); or
  - (b) a document under section 175LQ(1); or
  - (c) a return under Division 3 or 4; or
  - (d) a notice under section 175MA(1) or 175MB(2) or (4).
- (2) Except in section 175X, a reference in this Division to a disclosure document or to a return under this Part includes a reference to particulars required under section 175X(3).

**148. Section 175U amended**

- (1) Delete section 175U(1) to (4) and insert:
  - (1) If a person fails to lodge a disclosure document that the person is required to lodge under this Part within the time required by this Part, the person commits an offence.  
Penalty for this subsection:
    - (a) if a disclosure document is required to be lodged by the agent of a registered political party — a fine of \$36 000; or
    - (b) otherwise — a fine of \$24 000.



- (2) If a person lodges a disclosure document that the person is required to lodge under this Part and the document is incomplete, the person commits an offence.

Penalty for this subsection: a fine of \$3 000.

- (3) If the agent of a political party lodges a disclosure document that the agent is required to lodge under this Part, or a claim that the agent may lodge under Division 2A, and that disclosure document or claim contains particulars that are, to the agent's knowledge, false or misleading in a material particular, the agent commits an offence.

Penalty for this subsection: a fine of \$36 000.

- (4) If a person who is not the agent of a political party lodges a disclosure document that the person is required to lodge under this Part, or a claim that the person may lodge under Division 2A, and that disclosure document or claim contains particulars that are, to the person's knowledge, false or misleading in a material particular, the person commits an offence.

Penalty for this subsection: a fine of \$24 000.

- (2) In section 175U(5):

- (a) delete "shall" and insert:

must

- (b) delete "return under Division 3 or 4," and insert:

disclosure document under this Part,

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(c) delete “return” (2<sup>nd</sup> occurrence) and insert:

disclosure document

(3) In section 175U(5) delete the Penalty and insert:

Penalty for this subsection: a fine of \$10 000.

(4) In section 175U(6):

(a) delete “Where —” and insert:

If —

(b) in paragraph (a) delete “return under Division 3 or 4” and insert:

disclosure document

(c) in paragraphs (b) and (c) delete “return” and insert:

disclosure document

(d) in paragraph (d) delete “return” (1<sup>st</sup> occurrence) and insert:

disclosure document

(e) in paragraph (d) delete “return” (2<sup>nd</sup> occurrence) and insert:

document

(f) in paragraph (e) delete “\$150.” and insert:

\$500.

**149. Section 175W amended**

(1) In section 175W(4) delete “return” and insert:

disclosure document

(2) In section 175W(6) delete “shall” and insert:

must

(3) In section 175W(6) delete the Penalty and insert:

Penalty for this subsection: a fine of \$3 000.

(4) In section 175W(7) delete “shall” and insert:

must

(5) In section 175W(7) delete the Penalty and insert:

Penalty for this subsection: a fine of \$6 000.

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- (6) In section 175W(9) delete “he” and insert:

the person named in the warrant

Note: The heading to amended section 175W is to read:

**Investigative powers for this Part**

**150. Section 175X replaced**

Delete section 175X and insert:

**175X. Lodging incomplete disclosure documents**

- (1) If a person who is required to lodge a disclosure document under this Part cannot complete the document because the person is unable to obtain particulars that are required for the preparation of the document, the person may —
- (a) prepare the document to the extent that it is possible to do so without those particulars; and
  - (b) lodge the document so prepared; and
  - (c) give to the Electoral Commissioner written notice —
    - (i) identifying the document; and
    - (ii) stating that the document is incomplete by reason that the person is unable to obtain certain particulars; and
    - (iii) identifying those particulars; and
    - (iv) setting out the reasons why the person is unable to obtain those particulars; and

- (v) if the person believes, on reasonable grounds, that another person whose name and address the person knows can give those particulars, stating that belief and the reasons for it and the name and address of that other person.
- (2) A person who lodges a disclosure document under this Part and gives a notice under subsection (1)(c) does not, for the purposes of section 175U(2), lodge a disclosure document that is incomplete by reason of the omission of the particulars identified under subsection (1)(c)(iii).
- (3) If the Electoral Commissioner has been informed under subsection (1)(c)(v) or (4)(e) that a person can supply particulars that have not been included in a disclosure document, the Electoral Commissioner may, by written notice served on the person, require the person to supply those particulars to the Electoral Commissioner, in writing, within the time specified in the notice.
- (4) If a person who is required to supply particulars under subsection (3) is unable to obtain some or all of the particulars, the person must give to the Electoral Commissioner a written notice —
  - (a) setting out the particulars (if any) that the person is able to give; and
  - (b) stating that the person is unable to obtain some or all of the particulars; and
  - (c) identifying the particulars the person is unable to obtain; and
  - (d) setting out the reasons why the person is unable to obtain those particulars; and

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- (e) if the person believes, on reasonable grounds, that another person whose name and address the person knows can give those particulars, stating that belief and the reasons for it and the name and address of that other person.
- (5) A person who gives a notice under subsection (4) does not, for the purposes of section 175U(2), lodge a disclosure document that is incomplete by reason of the omission of the particulars identified under subsection (4)(c).

**151. Section 175Z amended**

- (1) In section 175Z:

- (a) delete “return” and insert:

disclosure document (other than an annual return under Division 2B)

- (b) delete “Division 3 or 4” and insert:

this Part

- (2) At the end of section 175Z insert:

Note for this section:

See section 175LQ in relation to an annual return lodged under Division 2B.

Note: The heading to amended section 175Z is to read:

**Verifying information in disclosure documents**

**152. Section 175ZB amended**

In section 175ZB(1), (2), (2a), (4) and (9), delete “return” (each occurrence) and insert:

disclosure document

Note: The heading to amended section 175ZB is to read:

**Amending disclosure documents and claims**

**153. Section 175ZC amended**

- (1) In section 175ZC(1) delete “shall keep a copy of each claim under Division 2A and each return under Division 3 or 4” and insert:

must keep a copy of each claim lodged under Division 2A and each disclosure document lodged under this Part

- (2) Delete section 175ZC(2) and insert:

- (2) The Electoral Commissioner must, as soon as practicable after a claim is lodged under Division 2A or a disclosure document is lodged under this Part, publish the claim or disclosure document on the Commission website.
- (3) After a claim or disclosure document is published on the Commission website, a person is entitled —
- (a) to peruse a copy of the claim or disclosure document at the principal office of the Western Australian Electoral Commission; and

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- (b) if the person pays a fee determined by the Electoral Commissioner to cover the cost of copying, to obtain a copy of the claim or disclosure document from the principal office of the Western Australian Electoral Commission.
- (4) The Electoral Commissioner must ensure that the following information is not published under subsection (2) or available for perusal or to be copied under subsection (3) —
  - (a) information about a person’s bank accounts or other similar financial details;
  - (b) other personal information the Electoral Commissioner considers is not appropriate to publish because publication of the information places the personal safety of the person to whom the information relates, or the members of the family of that person, at risk.
- (5) If a person informs the Electoral Commissioner when lodging a claim under Division 2A or disclosure document under this Part that the person is a silent elector, or enrolled on a roll in the Commonwealth or another State or a Territory with equivalent status as a silent elector, the Electoral Commissioner must ensure that the person’s address is not published under subsection (2).

Note: The heading to amended section 175ZC is to read:

**Public availability of documents under this Part**

**154. Section 175ZF amended**

- (1) In section 175ZF(1):
  - (a) delete paragraph (a);



- (b) in paragraph (aa) delete “any entity” and insert:

an incorporated body, unincorporated body or trustee of a trust

- (c) delete paragraph (ab);

- (d) in paragraph (ac) delete “returns” and insert:

disclosure documents

- (e) in paragraph (b)(i) and (ii) delete “gifts” and insert:

political contributions

- (f) delete paragraph (ba).

- (2) Delete section 175ZF(2).

**155. Section 179 replaced**

Delete section 179 and insert:

**179. Purpose of this Part**

To secure the due execution of this Act and the purity of elections, this Part sets out criminal and other sanctions for the following —

- (a) breach or neglect of official duty;
- (b) illegal practices;
- (c) electoral offences.

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**156. Section 181 amended**

In section 181:

- (a) in paragraph (d) delete “any early” and insert:

a postal

- (b) in paragraph (e) delete “any early” (1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> occurrences) and insert:

a postal

- (c) in paragraph (e) delete “section 92(5), parts with the possession of, any early” and insert:

Part IV Division 3A Subdivision 6, parts with the possession of a postal

- (d) delete “shall be” and insert:

is

Note: The heading to amended section 181 is to read:

**Offence of bribery**

**157. Section 183 amended**

- (1) In section 183(3) delete “his” and insert:

their

- (2) In section 183(4) delete “the polling place or within 6 metres from the entrance thereto with the intention of influencing him or advising him as to his vote;” and insert:

a place to vote, or within 6 m from a designated entrance for the place to vote, with the intention of influencing the elector or advising the elector as to their vote;

- (3) In section 183(7) delete “his” and insert:

the candidate’s

- (4) In section 183 delete “shall be” and insert:

is

Note: The heading to amended section 183 is to read:

**Offence of undue influence**

**158. Section 186 amended**

In section 186 delete “shall, during a period of 2 years from the date of the conviction or finding, be” and insert:

during a period of 4 years from the date of the conviction or finding, is

**159. Section 187 amended**

(1) Delete section 187(1) and insert:

(1A) In this section —

*electoral material* means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result of an election.

(1) The following are *illegal practices* —

- (a) bribery;
- (b) undue influence;
- (c) publishing any of the following publications without publishing at the end of the publication the name and address of the person authorising it —
  - (i) an electoral advertisement (other than an advertisement in a newspaper announcing the holding of a meeting);
  - (ii) a handbill, or pamphlet, other than a how-to-vote card;
- (d) publishing a how-to-vote card without stating the name and address of the person, political party or group authorising it on each side of the card where the statement referred to in section 89B(1)(b) is printed;
- (e) issuing electoral material not referred to in paragraphs (c) and (d) without publishing the name and address of the person authorising the material at the end of it;
- (f) the illegal practices referred to in sections 187A and 187B.

- (2) In section 187(2) delete “Subsection (1)(a) and (b)” and insert:

Subsections (1)(c) and (e)

**160. Section 188 amended**

- (1) Delete section 188(1) and insert:

- (1) A person who engages in bribery or undue influence in relation to a postal ballot paper or postal voting commits a crime.

Penalty for this subsection: imprisonment for 2 years.

- (1A) A person who engages in bribery or undue influence other than in relation to a postal ballot paper or postal voting commits an offence.

Penalty for this subsection: imprisonment for 12 months.

- (2) In section 188(2)(a) delete “an early ballot paper or early vote,” and insert:

a postal ballot paper or postal voting,

Note: The heading to amended section 188 is to read:

**Offences and penalties for illegal practices**

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**161. Section 190 amended**

- (1) At the beginning of section 190 insert:
- (1) A person who impersonates a person to secure a ballot paper to which the impersonator is not entitled commits a crime.  
Penalty for this subsection: imprisonment for 2 years.
  - (2) A person who impersonates any other person for the purpose of voting commits a crime.  
Penalty for this subsection: imprisonment for 2 years.
  - (3) A person who fraudulently destroys or defaces a nomination or ballot paper commits a crime.  
Penalty for this subsection: imprisonment for 2 years.
  - (4) A person who forges a nomination or ballot paper commits a crime.  
Penalty for this subsection: imprisonment for 2 years.
  - (5) A person who uses a nomination or ballot paper knowing that it is forged commits a crime.  
Penalty for this subsection: imprisonment for 2 years.
- (2) In section 190:
- (a) delete “The matters mentioned in the first column of the table at the foot of this section” and insert:
  - (6) The matters mentioned in the first column of the Table
    - (b) delete “table opposite” and insert:  
  
Table opposite

- (3) In section 190 in the Table:
- (a) delete the 1<sup>st</sup> and 2<sup>nd</sup> rows;
  - (b) in the 4<sup>th</sup> row delete “any polling place.” and insert:

a place to vote.

- (c) delete the 5<sup>th</sup> and 6<sup>th</sup> rows and insert:

A person misconducting                      Penalty not exceeding \$1 000.  
themselves, or failing to obey the  
lawful directions of a presiding  
officer, in a place to vote on a  
day on which voting occurs at  
the place to vote, or in a counting  
place.

- (d) in the 10<sup>th</sup> row before “roll.” insert:

register of electors or a

- (e) in the 12<sup>th</sup> row delete “his” and insert:

their

- (f) in the 13<sup>th</sup> row delete “qualification required by  
section 17(1)(a) or (c),” and insert:

entitlement under section 17(1)(a) or (c) or (2),

- (g) in the 14<sup>th</sup> row delete “qualification required by  
section 17(1)(a) or (c),” and insert:

entitlement under section 17(1)(a) or (c) or (2).

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- (h) in the 16<sup>th</sup> row delete “\$1 000.” and insert:

\$2 000.

- (i) in the 17<sup>th</sup> row delete “scrutineer in a polling place on polling day” and insert:

election campaign worker within a place to vote on a day on which voting occurs at the place to vote

- (j) in the 18<sup>th</sup> row delete “polling place except to one” and insert:

place to vote except to 1

**162. Section 191 amended**

- (1) In section 191(1):

- (a) delete “shall” and insert:

must

- (b) delete “or canvasser for the purposes of the preparation of new rolls.” and insert:

for the purposes of updating the register of electors or preparing, altering or amending a roll.

- (2) In section 191(1) delete the Penalty and insert:

Penalty for this subsection: a fine of \$1 000.



- (3) In section 191(2):
  - (a) delete “shall not affect” and insert:  
  
does not affect
  - (b) delete “he shall not be” and insert:  
  
the person is not

**163. Section 191A amended**

- (1) In section 191A(1) delete “shall” and insert:  
  
must
- (2) In section 191A(1) delete the Penalty and insert:  
  
Penalty for this subsection: a fine of \$2 000.
- (3) In section 191A(2):
  - (a) delete “shall” and insert:  
  
must
  - (b) delete “his” and insert:  
  
their

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- (4) In section 191A(2) delete the Penalty and insert:

Penalty for this subsection: a fine of \$2 000.

- (5) In section 191A(3) delete “he” and insert:

they

- (6) In section 191A(4) in the definition of *relevant period* delete “polling booth” and insert:

place to vote

Note: The heading to amended section 191A is to read:

**Misleading or deceptive publication**

**164. Sections 191B to 191D inserted**

After section 191A insert:

**191B. Prohibition on distributing or publishing unregistered how-to-vote cards**

- (1) A person commits a crime if the person distributes, or causes, permits or authorises the distribution of, a how-to-vote card within 100 m from a place to vote on a day on which voting occurs at the place unless it is a registered how-to-vote card.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2) A person commits a crime if the person publishes, or causes, permits or authorises the publication of, a

how-to-vote card unless it is a registered how-to-vote card.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (3) In a prosecution of a person for an offence against subsection (1) or (2), it is a defence if the person proves that they did not know, and could not reasonably be expected to have known, that the how-to-vote card was not a registered how-to-vote card when the offence is alleged to have been committed.

**191C. Registered how-to-vote cards with errors not to be published or distributed**

- (1) The accountable person for a how-to-vote card commits a crime if —
- (a) the accountable person receives an error notice with a requirement under section 89F(2)(b)(ii) stated in the error notice; and
  - (b) the accountable person fails to comply with the requirement.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2) The accountable person for a how-to-vote card commits an offence if —
- (a) the accountable person receives an error notice; and
  - (b) the accountable person fails to comply with a requirement under section 89F(2)(c)(i) or (ii) stated in the error notice.

Penalty for this subsection: a fine of \$2 000.

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**191D. Presiding officer may inspect and confiscate documents in relation to how-to-vote cards**

- (1) If a presiding officer for a place to vote reasonably suspects that a person who is within 100 m from a place to vote on a day on which voting occurs at the place has contravened section 191B or 191C, the presiding officer may require the person to do either or both of the following —
  - (a) produce a how-to-vote card the person has in their possession for inspection;
  - (b) give the presiding officer a how-to-vote card that is not a registered how-to-vote card.
- (2) A person to whom a requirement is made under subsection (1) commits a crime if they fail to comply with the requirement.

Penalty: imprisonment for 2 years and a fine of \$24 000.

**165. Section 192 replaced**

Delete section 192 and insert:

**192. Prohibited acts in or near particular places to vote**

- (1) In this section —

***voting day*** —

  - (a) means a day on which voting occurs at a place to vote; and
  - (b) includes a day to which polling at a place to vote is adjourned or postponed.

- (2) A person must not do any of the following acts at a place to vote, or within 6 m from a designated entrance for the place to vote, during a voting day —
- (a) canvas for votes;
  - (b) solicit the vote of an elector;
  - (c) induce an elector not to vote for any particular candidate;
  - (d) induce an elector not to vote in the election.

Penalty for this subsection: a fine of \$1 000.

- (3) Despite subsection (2) —
- (a) a person may leave a document in relation to an election at the general office of a mobile voting place that is a location or place, or part of a location or place, referred to in section 90(1)(d) so that it is available on request for an elector who is a resident of the relevant institution; and
  - (b) an election campaign worker accompanying a mobile ballot box at a mobile voting place under section 99(3)(d) may distribute a registered how-to-vote card to persons casting their votes at the mobile voting place.

**166. Section 193 replaced**

Delete section 193 and insert:

**193. Person not to conduct petitions, polls or surveys at polling places and mobile voting places or in voting areas**

On any day on which voting occurs at a place to vote, a person must not collect, canvass for, solicit or invite signatures or comments for the purpose of any petition,

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opinion poll or survey, or display or distribute any information for such a purpose —

- (a) at the place to vote; or
- (b) in the voting area for the place to vote.

Penalty: a fine of \$1 000.

**167. Section 195 amended**

(1) In section 195(1):

(a) after “purposes of” insert:

updating the register of electors,

(b) delete “elector on a roll,” and insert:

elector,

(2) Delete section 195(2) and insert:

(2) A person who is required to answer a question under subsection (1) must answer the question truthfully and completely to the best of their knowledge, information and belief.

Penalty for this subsection: a fine of \$1 000.

(3) A person who is required to furnish a return or fill in and sign a claim under subsection (1) must comply, to the best of their ability, with the requirement.

Penalty for this subsection: a fine of \$1 000.

Note: The heading to amended section 195 is to read:

**Electoral Commissioner may require information for particular purposes**

**168. Sections 197 and 198 replaced**

Delete sections 197 and 198 and insert:

**197. Removing misbehaving persons from places to vote**

On each day on which voting occurs at a place to vote, or on a day to which polling at a place to vote is adjourned, a person may be removed, by a police officer authorised by the presiding officer, from the place to vote if the person —

- (a) misconducts themselves; or
- (b) fails to obey the lawful directions of the presiding officer.

**198. Re-entering places to vote after being removed**

A person who has been removed from a place to vote under section 197 must not re-enter or attempt to re-enter the place without the permission of the presiding officer for the place.

Penalty: a fine of \$2 000.

**169. Section 199A amended**

- (1) In section 199A(1) delete the Penalty and insert:

Penalty for this subsection: a fine of \$1 000.

- (2) In section 199A(2) in the definition of *political gift* in paragraph (a) delete “Part VI; or” and insert:

Part 6; or

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**170. Section 204 deleted**

Delete section 204.

**171. Sections 206A and 206B inserted**

At the beginning of Part VIII insert:

**206A. Persons who lack capacity to vote**

- (1) This section applies if —
  - (a) the Electoral Commissioner considers that a person may have a mental impairment so that the person does not have the capacity to vote in an election; and
  - (b) a declaration is not in force in relation to the person under the *Guardianship and Administration Act 1990* section 111.

Note for this subsection:

See section 51AA in relation to persons under declarations made under the *Guardianship and Administration Act 1990* section 111.

- (2) The Electoral Commissioner may give the person a written notice stating —
  - (a) that the Electoral Commissioner considers the person may have a mental impairment so that the person does not have the capacity to vote in an election; and
  - (b) that the Electoral Commissioner may remove the name of the person from the register of electors or a roll under this section because the person lacks capacity to vote; and
  - (c) that within the period of 14 days beginning on the day the person is given the notice, the person may make submissions about whether



the person objects to the removal of the person's name from the register of electors or the roll.

- (3) If the Electoral Commissioner is satisfied, after having regard to any submissions received under subsection (2)(c), that the person has a mental impairment so that the person does not have the capacity to vote in an election, the Electoral Commissioner may decide to give the person a notice (a *lack of capacity notice*).
- (4) The lack of capacity notice has effect for the period stated in the notice or, if no period is stated, continues until it is revoked under section 206B(3).
- (5) The lack of capacity notice must state —
  - (a) that the Electoral Commissioner is satisfied that the person lacks capacity to vote; and
  - (b) the Electoral Commissioner's reasons for being satisfied about that lack of capacity; and
  - (c) the effect of the notice under sections 18(1)(a) and 51A; and
  - (d) that the notice may be revoked under section 206B if the person does not lack, or no longer lacks, capacity to vote; and
  - (e) the notice has effect for the period stated in the notice or, if no period is stated, until the notice is revoked.
- (6) If, after having regard to any submissions received under subsection (2)(c), the Electoral Commissioner decides not to give the person a lack of capacity notice, the Electoral Commissioner must give the person a written notice advising the person of that decision.

**206B. Revoking lack of capacity notice**

- (1) A person who is the subject of a lack of capacity notice may apply to the Electoral Commissioner to revoke the notice because the person does not lack, or no longer lacks, the capacity to vote because of a mental impairment.
- (2) The application must be —
  - (a) in writing; and
  - (b) set out the grounds on which the person states that they do not lack, or no longer lack, capacity to vote.
- (3) The Electoral Commissioner may, on an application under subsection (1) or on their own motion, revoke a lack of capacity notice if the Electoral Commissioner is satisfied the person does not lack, or no longer lacks, capacity to vote.
- (4) If the Electoral Commissioner revokes a lack of capacity notice under subsection (3), the Electoral Commissioner must give the person who is the subject of the lack of capacity notice a written notice stating that the lack of capacity notice is revoked.
- (5) If, on an application under subsection (1), the Electoral Commissioner decides not to revoke the lack of capacity notice, the Electoral Commissioner must give the person a written notice advising the person of that decision and the reasons for it.

**172. Section 207 amended**

- (1) In section 207(1) delete “qualified” and insert:

entitled

- (2) In section 207(3) delete “himself” and insert:

themselves

**173. Section 208 amended**

In section 208:

- (a) delete “the same may be posted to him as a letter addressed to him —” and insert:

the notice or notification may be sent to the person as a letter addressed to the person —

- (b) delete paragraph (a) and insert:

- (a) if the person is an elector — at the elector’s electoral address; or

Note: The heading to amended section 208 is to read:

**Service of notices**

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**174. Section 211A amended**

In section 211A(1) in the definition of *certain document*:

(a) after “transmitted to” insert:

or from

(b) in paragraph (a) delete “IV or VI; or” and insert:

IV or 6; or

**175. Section 211 amended**

(1) In section 211(1) delete the passage that begins with “his name may,” and ends with “this Act, be” and insert:

the person’s name may, on satisfying an attesting witness that the person is unable to write, make the person’s distinguishing mark, which must be witnessed by the attesting witness and the person’s distinguishing mark when so witnessed, is, for the purposes of this Act,

(2) In section 211(2):

(a) in paragraphs (a) and (b) delete “his” and insert:

the person’s

(b) delete “cannot sign his name or make his” and insert:

cannot sign their name or make their

- (3) In section 211(4) delete “section 92(5)(a).” and insert:

section 100I.

Note: The heading to amended section 211 is to read:

**Person unable to write may make mark**

**176. Part 9 heading amended**

In the heading to Part 9 delete “**for *Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021***”.

**177. Part 9 Division 1 heading inserted**

At the beginning of Part 9 insert:

**Division 1 — Transitional provisions for *Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021***

**178. Section 215 amended**

In section 215 delete “Part —” and insert:

Division —

**179. Part 9 Division 2 inserted**

After section 217 insert:

**Division 2 — Transitional provisions for *Electoral Amendment (Finance and Other Matters) Act 2023***

**Subdivision 1 — Transitional provisions commencing on day after Royal Assent of *Electoral Amendment (Finance and Other Matters) Act 2023***

**218. Terms used**

In this Subdivision —

***amended Part 6 Division 2A*** means Part 6 Division 2A as amended by the *Electoral Amendment (Finance and Other Matters) Act 2023* section 123;

***amount change day*** means the day on which the *Electoral Amendment (Finance and Other Matters) Act 2023* section 123 comes into operation;

***commencement day*** means the day on which the *Electoral Amendment (Finance and Other Matters) Act 2023* section 179 comes into operation;

***higher reimbursement amount*** means the higher reimbursement amount as defined in section 175LB(1) to be inserted by the *Electoral Amendment (Finance and Other Matters) Act 2023* section 123;

***independent candidate*** means a candidate in an election who has not been endorsed by a body or organisation that is, includes or is part of a political party;

***lodgment period*** means the period of 28 days beginning on commencement day;

***post-change election*** means an election held after the amount change day;

*pre-commencement registered party* means a registered political party the registration for which was in force immediately before commencement day.

**219. Pre-commencement registered parties opting in to receive higher reimbursement amount**

- (1) The secretary of a pre-commencement registered party may, within the lodgment period, lodge a request in writing to the Electoral Commissioner to receive the higher reimbursement amount under amended Part 6 Division 2A.
- (2) If, during the period beginning on commencement day and ending on the amount change day, a political party becomes a registered political party under this Act, the secretary of the party may, within 28 days after the day on which the party is given written notice of the party's registration under section 62H(5)(a), lodge a request in writing to the Electoral Commissioner to receive the higher reimbursement amount under amended Part 6 Division 2A.
- (3) The secretary of a registered political party may, in writing, withdraw a request made under subsection (1) or (2) in relation to the party before the amount change day.
- (4) Subsection (5) applies if —
  - (a) a request made under subsection (1) or (2) in relation to a registered political party is withdrawn under subsection (3); and
  - (b) the party endorses at least 1 candidate in an election held on or after the amount change day.

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- (5) The request withdrawn under subsection (3) is taken, for the purposes of section 175LC(3), to be a party opt-in request withdrawn under section 175LC(2).
- (6) A request lodged under subsection (1) or (2) that is not withdrawn under subsection (3) before the amount change day is taken to be, on and from that day, a party opt-in request lodged under section 175LC(1).

**220. Elected non-party members opting in to receive higher reimbursement amount for next election after amount change day**

- (1) In this section —
  - elected non-party member* means a member of the Council or the Assembly who is not a member of a registered political party;
  - pre-commencement elected non-party member* means a person who, immediately before commencement day, is an elected non-party member.
- (2) Despite section 175LCA, a non-party opt-in request cannot be lodged under section 175LCA(1) or (3) in relation to —
  - (a) a person who is a pre-commencement elected non-party member for the next post-change election at which the person is a candidate; or
  - (b) a member (a *relevant member*) of the Council or the Assembly who becomes an elected non-party member other than by being elected during the period beginning on commencement day and ending on the amount change day.
- (3) A person who is a pre-commencement elected non-party member may, within the lodgment period, lodge a request in writing to the Electoral Commissioner to receive the higher reimbursement



amount under amended Part 6 Division 2A for the next post-change election at which the person is a non-party candidate.

- (4) A person who is a relevant member may, within 28 days after the day on which they become an elected non-party member, lodge a request in writing to the Electoral Commissioner to receive the higher reimbursement amount under amended Part 6 Division 2A for the next post-change election at which the person is a non-party candidate.
- (5) An elected non-party member who lodges a request under subsection (3) or (4) may, in writing, withdraw the request before the amount change day.
- (6) The request withdrawn under subsection (5) is taken, for the purposes of section 175LCA(3), to be a non-party opt-in request withdrawn under section 175LCA(2) for the post-change election for which it was lodged.
- (7) A request lodged under subsection (3) or (4) that is not withdrawn under subsection (5) before the amount change day is taken to be, on and from that day, a non-party opt-in request lodged under section 175LCA(1) for the post-change election for which it was lodged.

**221. Independent candidates may opt in to receive higher reimbursement amount for next post-change election**

- (1) This section applies if, in the period beginning on commencement day and ending on amount change day —
  - (a) a person has nominated as an independent candidate in an election (the *relevant election*); and

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- (b) the polling day for the relevant election is fixed in the writ as being after the amount change day.
- (2) Despite section 175LCA, if the person is elected at the relevant election, a non-party opt-in request cannot be lodged under section 175LCA(1) or (3) in relation to the person for the next post-change election at which the person is an independent candidate.
- (3) The person's agent may, before the hour of nomination for the relevant election, lodge a request in relation to the person in writing to the Electoral Commissioner to receive the higher reimbursement amount under amended Part 6 Division 2A for the next post-change election at which the person is an independent candidate.
- (4) The person's agent may, in writing, withdraw a request made under subsection (3) in relation to the person before the amount change day.
- (5) The request withdrawn under subsection (4) is taken, for the purposes of section 175LCA(3), to be a non-party opt-in request withdrawn under section 175LCA(2) for the post-change election for which it was lodged.
- (6) A request lodged under subsection (3) that is not withdrawn under subsection (4) before the amount change day is taken to be, on and from the amount change day, a non-party opt-in request lodged under section 175LCA(1) for the post-change election for which it was lodged.

**222. Independent candidates may opt in to receive higher reimbursement amount for that election held after amount change day**

- (1) This section applies if —
  - (a) a person has nominated before the amount change day as an independent candidate in an election; and
  - (b) the polling day for the election occurs on or after the amount change day.
- (2) The person's agent may, before the hour of nomination for the election, lodge a request in writing to the Electoral Commissioner to receive the higher reimbursement amount under amended Part 6 Division 2A in respect of the election.
- (3) The person's agent may, in writing, withdraw a request made under subsection (2) in relation to the person before the amount change day.
- (4) A request lodged under subsection (2) that is not withdrawn under subsection (3) before the amount change day is taken to be, on and from that day, a non-party opt-in request lodged under section 175LCA(1).

**223. Publishing information about who has opted in to receive higher reimbursement amount**

- (1) Within 5 days after the day on which the Electoral Commissioner receives a request made under section 219(1) or (2) or 220(3) or (4), the Electoral Commissioner must publish on the Commission website the name of the registered political party in relation to which the request has been lodged.
- (2) On the next business day after the day on which the hour of nomination occurs for an election, the Electoral

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Commissioner must publish on the Commission website the names of all independent candidates in relation to whom a request under section 221(3) or 222(2) has been lodged.

- (3) If the Electoral Commissioner receives a written withdrawal of a request under section 219(3) or 220(5), or a written withdrawal of a non-party opt-in request under section 221(4) or 222(3), the Electoral Commissioner must publish on the Commission website that the request has been withdrawn.

**180. Part 9 Division 2 Subdivision 2 inserted**

After Part 9 Division 2 Subdivision 1 (as inserted by section 179 of this Act) insert:

**Subdivision 2 — Transitional provisions commencing on 1 July 2024**

**224. Terms used**

In this Subdivision —

*commencement day* means the day on which the *Electoral Amendment (Finance and Other Matters) Act 2023* section 180 comes into operation;

*unamended Act* means this Act as in force immediately before commencement day.

**225. Former provisions apply if election occurring at commencement**

- (1) This section applies if a writ is issued for an election before commencement day and the polling day fixed in the writ for the election is after commencement day.

- (2) Despite the amendments made to this Act by the *Electoral Amendment (Finance and Other Matters) Act 2023*, the unamended Act continues to apply to the election.

**226. Persons on rolls before commencement taken to be enrolled on register of electors on commencement day**

A person whose name appears on a roll as an elector immediately before commencement day is taken, on commencement day, to be enrolled.

**227. Claims for enrolment before commencement**

- (1) This section applies if a claim for enrolment is received before commencement day but has not been finally dealt with before commencement day.
- (2) Despite the amendments made to this Act by the *Electoral Amendment (Finance and Other Matters) Act 2023*, the claim may be dealt with under the unamended Act.
- (3) If a claim dealt with under this section is found to be in order, the enrolment officer must enrol the claimant under section 44A as amended by the *Electoral Amendment (Finance and Other Matters) Act 2023*.

**228. Enrolment before commencement day taken to be entry of name on register of electors**

- (1) If, immediately before commencement day, a person is enrolled on a roll, the person is, on commencement day, taken to be enrolled in accordance with section 40A.
- (2) If, immediately before commencement day, a person is an elector, the person is taken to be enrolled as an

elector for the district in respect of which the person is enrolled immediately before commencement day.

**229. Pre-commencement arrangements made under former s. 31, 31A and 31B continue**

Despite the amendments made to sections 31, 31A and 31B by the *Electoral Amendment (Finance and Other Matters) Act 2023* sections 22, 23 and 25, sections 31, 31A and 31B as in force immediately before commencement day apply to —

- (a) arrangements entered into under those sections before commencement day that are in force; and
- (b) an order made under section 31(3) before commencement day that has not been revoked.

**230. Silent electors**

- (1) This section applies if a person's residence is not shown on a roll immediately before commencement day because of a request that has been granted under section 51B as in force before commencement day.
- (2) The person is taken to be an elector whose application to be a silent elector is granted on commencement day under section 51B(3) as inserted by the *Electoral Amendment (Finance and Other Matters) Act 2023* section 43.

**231. Registration of general early voters continues as general postal voters**

- (1) This section applies if a person is registered as a general early voter under section 93 as in force immediately before commencement day.
- (2) The person is taken to have had an application to be a general postal voter granted under section 61.

**232. Approved procedures for technology assisted voting**

If the Electoral Commissioner has approved procedures for technology assisted voting under former section 99D and the procedures are in force immediately before commencement day, those approved procedures are taken, on and from commencement day, to be approved procedures approved under section 101A.

**233. State campaign accounts**

- (1) In this section —  
*electoral expenditure*, in relation to an election, has the meaning given in section 175AA(1);  
*section 175LN notice* means a written notice that complies with the requirements of section 175LN(1).
- (2) In this section the following terms have the meanings given in section 175LL —  
*authorised deposit-taking institution*  
*participation day*  
*State campaign account*
- (3) For the purposes of sections 175LM, 175LN and 175U(1) and this section, the first participation day of a person who is, on commencement day, an elected member is the day on which the elected member was nominated for election at the most recent election for which they were a candidate.
- (4) Despite section 175LM, a responsible person for a political entity in relation to which a participation day

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has occurred before commencement day does not commit an offence under section 175LM(1) if —

- (a) by the end of the period of 5 business days after commencement day —
  - (i) a State campaign account for the political entity is established at an authorised deposit-taking institution; and
  - (ii) a State campaign account for the political entity is kept during the period in which the political entity engages in incurring electoral expenditure in relation to an election; and
  - (iii) the responsible person gives the Electoral Commissioner a section 175LN notice in relation to the State campaign account;

or

- (b) the responsible person for the political entity complies with section 175LM(2) by the end of the period of 5 business days after commencement day; or
  - (c) the responsible person has a reasonable excuse.
- (5) Despite sections 175LN and 175U, a responsible person for a political entity in relation to which a participation day has occurred before commencement day does not commit an offence under section 175U(1) in relation to the section 175LN notice if —
- (a) by the end of the period of 5 business days after commencement day, the responsible person gives the Electoral Commissioner a section 175LN notice in relation to the political entity's State campaign account; or



- (b) the responsible person has a reasonable excuse.
- (6) Part 6 Division 5 applies to a section 175LN notice given under subsection (4) or (5) as if it were a disclosure document within the meaning of section 175T(1).

#### **234. Transitional regulations**

- (1) In this section —
  - specified* means specified or described in the regulations;
  - transitional matter* —
    - (a) means a matter or issue of a transitional nature that arises as a result of any of the amendments to this Act made by the *Electoral Amendment (Finance and Other Matters) Act 2023*; and
    - (b) includes a saving or application matter.
- (2) If there is not sufficient provision in this Act for dealing with a transitional matter, regulations may prescribe all matters that are required, or are necessary or convenient, to be prescribed for dealing with the matter.
- (3) If regulations made under subsection (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in accordance with the *Interpretation Act 1984* section 41(1)(a) but not earlier than commencement day, the regulations have effect according to their terms.

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- (4) If regulations made under subsection (2) contain a provision of a kind described in subsection (3), the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day on which those regulations are published; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day on which those regulations are published.

**181. Schedule 1 clause 8 amended**

In Schedule 1 clause 8:

- (a) in paragraph (a) delete “the” (1<sup>st</sup> occurrence);
- (b) in paragraph (a) delete the passage that begins with “candidate, the” and continues to the end of the paragraph and insert:

candidate —

- (i) the total number of those ballot papers must be added to the number of votes of the continuing candidate; and
- (ii) all those ballot papers must be transferred to the continuing candidate, each ballot paper at a transfer value of 1;

(c) delete paragraph (b)(i) and insert:

- (i) the total number of those ballot papers that were transferred to the excluded candidate at a particular transfer value must be multiplied by that transfer value; and

**182. Various provisions amended**

Amend the provisions listed in the Table as set out in the Table.

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 5C(1)	from his office	from the office
s. 5C(2)(a)	of his office	of the office
s. 5C(2)(b)	has shown himself incompetent properly to	is incompetent to properly
s. 5C(2)	suspend him from his	suspend the Electoral Commissioner from the
s. 5C(3)	his office (each occurrence)	the office
s. 5C(3)	he shall	the Electoral Commissioner must
s. 5C(3)(a)	his suspension	the suspension

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<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 5C(3)(b)	his removal	the Electoral Commissioner's removal
s. 5E(3)	he is entitled to retain all his existing and accruing rights as if his service in such an office, were a continuation of his	the Electoral Commissioner is entitled to retain all their existing and accruing rights as if their service in the office of Electoral Commissioner were a continuation of their
s. 5E(4)	his service in such an office shall be regarded as service in the Public Service for the purposes of determining his	the Electoral Commissioner's service in the office of Electoral Commissioner must be regarded as service in the Public Service for the purposes of determining their
s. 5E(5)	his appointment (each occurrence)	appointment

Provision	Delete	Insert
s. 5E(5)	Part 3 of the <i>Public Sector Management Act 1994</i> , he shall, if his term of office expires by effluxion of time and he is not reappointed, be entitled to be appointed to an office under Part 3 of the <i>Public Sector Management Act 1994</i> , not lower in status than the office which he occupied	the <i>Public Sector Management Act 1994</i> Part 3, the Electoral Commissioner must, if their term of office expires by effluxion of time and they are not reappointed, be entitled to be appointed to an office under Part 3 of that Act, not lower in status than the office which they occupied
s. 5E(6)	his appointment to that office, he occupied	appointment to that office, they occupied
s. 5H(1)	shall perform any function delegated to him	must perform any function delegated to the Deputy Electoral Commissioner
s. 5H(2)	while he is	while the Deputy Electoral Commissioner is

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<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 5H(2)(d)	he may perform all the functions of the Electoral Commissioner and anything done by him	the Deputy Electoral Commissioner may perform all the functions of the Electoral Commissioner and anything done by the Deputy Electoral Commissioner
s. 15(1)	he may consider	the Electoral Commissioner considers
s. 16(2)	he shall be deemed to have vacated the office held by him under this Act, and some other person shall be appointed in his stead.	the officer is taken to have vacated the office held by the officer under this Act, and another person must be appointed in their place.
s. 49(1)	as he	as the Electoral Commissioner
s. 49(2)	he deems	the Electoral Commissioner deems
s. 49(2)	his attendance	their attendance
s. 49(3)	as he	as the Electoral Commissioner

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 84(1)	if he	if the person
s. 84(1)	his favour (each occurrence)	the person's favour
s. 84(1)(a)	which he	which the person
s. 87A(1)	his decision shall be	the returning officer's decision is
s. 87A(2)	his agent,	their agent,
s. 138(1)	his decision	their decision
s. 146J(1)	if he thinks fit, on the written request of any candidate setting forth the reasons for the request, or of his	if the returning officer thinks fit, on the written request of any candidate setting forth the reasons for the request, or of their
s. 156B(1) and (2)	by him,	by the President,
s. 156C(1)(b)	by him, inform the Governor that he	by the Electoral Commissioner, inform the Governor that the Electoral Commissioner
s. 156C(2)	represented himself	represented themselves
s. 156C(2)	by him,	by the leader,

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<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 156C(3)	nominate himself	nominate themselves
s. 156C(4)(a)	his written	their written
s. 156C(4)(b)	his consent	their consent
s. 156C(5)	his signature	their signature
s. 164(1)	influence, his election, if he is a successful candidate, shall be declared void.	influence and the candidate is elected, the Court must declare the candidate's election void.
s. 164(3)(a)	his knowledge	their knowledge
s. 175SF(1)(a)	the polling at 2 or more elections took place on the same	2 or more elections have the same polling
s. 180(1)	his vote,	their vote,
s. 180	one year.	1 year.
s. 187A(1)(b) and (2)(a)	render himself	render themselves
s. 189	having announced himself	having announced themselves
s. 189	he announced himself	they announced themselves
s. 194	let him	let the other person



<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 196(1)	his employer before the polling day that he desires leave of absence to enable him to vote at any election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave	the elector's employer before polling day that the elector would like a leave of absence to enable them to vote in any election, the employer must, if the absence desired is necessary to enable the employee to vote in the election, allow them a leave
s. 196(1)	vote at the election.	vote in the election.
s. 196(2)	he intends to vote at	they intend to vote in
s. 196(3)	he is	the person is
s. 199	his agent authorised in writing, he shall be	the candidate's agent authorised in writing, the person is
s. 200	himself, or by any other person on his behalf, and with his	the person, or by another person on the first person's behalf, and with their
s. 209(1)	his address.	their address.

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<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
Sch. 1 cl. 3 Sch. 1 cl. 5(b)	one (each occurrence)	1
Sch. 1 cl. 4(a) Sch. 1 cl. 5(a)	by him	by the candidate
Sch. 1 cl. 4(b)	for him	for the candidate
Sch. 1 cl. 18	him, or the aggregate of first preference votes received by him and all other votes obtained by him	the candidate, or the aggregate of first preference votes received by the candidate and all other votes obtained by the candidate
Sch. 1 cl. 19	to him	to the candidate

**Part 3 — *Adoption Act 1994* amended**

**183. Act amended**

This Part amends the *Adoption Act 1994*.

**184. Schedule 1 clause 2 amended**

Delete Schedule 1 clause 2(1)(b).

**Part 4 — *Local Government Act 1995* amended**

**185. Act amended**

This Part amends the *Local Government Act 1995*.

**186. Section 4.29 amended**

- (1) At the end of section 4.29(1) insert:

Note for this subsection:

A person is enrolled under the *Electoral Act 1907* if they are enrolled under section 40A of that Act.

- (2) In section 4.29(2) delete “relevant electoral roll” and insert:

register of electors

**187. Section 4.30 amended**

- (1) At the end of section 4.30(1) insert:

Note for this subsection:

A person is enrolled under the *Electoral Act 1907* if they are enrolled under section 40A of that Act.

- (2) In section 4.30(2) delete “an electoral roll under the *Electoral Act 1907* or” and insert:

the register of electors under the *Electoral Act 1907* or an electoral roll under

**188. Schedule 4.1 clause 11 amended**

In Schedule 4.1 clause 11(4):

- (a) in paragraph (b) delete “candidate;” and insert:

candidate and to which a particular transfer value applied when the ballot papers were transferred to the excluded candidate;

- (b) in paragraph (c) delete “that applied to the ballot papers when the ballot papers were transferred to the excluded candidate;” and insert:

referred to in paragraph (b);

**Part 5 — Referendums Act 1983 amended**

**189. Act amended**

This Part amends the *Referendums Act 1983*.

**190. Section 2 amended**

- (1) In section 2(1) delete the definition of *official paper*.
- (2) In section 2(1) insert in alphabetical order:

*official paper* has the meaning given in the *Electoral Act 1907* section 94A(2);

*place to vote* means a polling place or mobile voting place declared by written notice under the *Electoral Act 1907* section 90 as applied by section 18(a);

**191. Sections 11 and 12 deleted**

Delete sections 11 and 12.

**192. Section 13 replaced**

Delete section 13 and insert:

**13. Rolls to be used for referendums**

- (1) The Electoral Commissioner must cause a roll to be prepared for the referendum.
- (2) A separate roll must be prepared under subsection (1) for each district.

- (3) Subject to subsection (2), the *Electoral Act 1907* Part IV Division 1A applies to the preparation of a roll under subsection (1), with all necessary modifications, including the following —
- (a) a reference to an election is taken to be a reference to the referendum;
  - (b) a reference to the close of the roll for an election is taken to be a reference to the last day on which a person may be enrolled under the *Electoral Act 1907* to vote at the referendum;
  - (c) a reference to a person who may vote in an election is taken to be a reference to a person who may vote at the referendum;
  - (d) a reference to polling day is taken to be a reference to the day on which the referendum is held.

**193. Section 17 amended**

After section 17(3) insert:

- (4) The returning officer for each district must provide ballot papers to be used at the referendum to each place in the district at which the votes of electors at a referendum are being taken.

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**194. Section 18 replaced**

Delete section 18 and insert:

**18. Particular provisions of *Electoral Act 1907* apply to referendums**

The following provisions of the *Electoral Act 1907* apply to and in relation to a referendum as if the referendum were an election —

- (a) Part IV Division 3 Subdivisions 1 and 2;
- (b) sections 92, 92A, 92B, 92C, 92D, 92E, 92I, 92J, 93, 93A and 93B;
- (c) Part IV Division 3A, other than sections 98B(b), 98C, 98D and 98E;
- (d) section 156;
- (e) another provision of the *Electoral Act 1907* necessary to give to effect to a referendum that is prescribed by the regulations;
- (f) any other provision of the *Electoral Act 1907* necessary to give effect to a provision mentioned in paragraphs (a) to (e).

**195. Section 19 amended**

(1) In section 19:

- (a) in paragraph (a) delete “an application for an early ballot paper or for permission to vote as an absent voter under section 99A of the *Electoral Act 1907* or as a provisional



voter under section 119(4a), 122(2) or 122A of that Act”  
and insert:

an application for permission to vote as an absent voter  
or provisional voter under the *Electoral Act 1907*  
Part IV Division 3A Subdivision 3 or to vote by postal  
voting under Part IV Division 3A Subdivision 6 of that  
Act

(b) after paragraph (a) insert:

(aa) if a person is a postal voter for the election  
under the *Electoral Act 1907* section 100D, the  
Electoral Commissioner must send the postal  
voter the ballot paper for the referendum when  
the Electoral Commissioner sends the  
documents required for the election under  
section 100D of that Act; and

(c) after paragraph (c) insert:

(ca) if an issuing officer within the meaning of the  
*Electoral Act 1907* visits an elector to take a  
vote for the election and the elector makes an  
application under section 102B(4) of that Act,  
the issuing officer must give the elector the  
ballot paper for the referendum when the  
Electoral Commissioner gives the documents  
required under section 102C(1) of that Act; and

(d) delete paragraph (d) and insert:

(d) the answers to the questions asked under the  
*Electoral Act 1907* section 96C may be  
accepted as sufficient to enable the person to

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vote at the referendum if the claim to vote at the election is not rejected; and

- (da) if the officer considers it necessary, the officer may, in addition to the questions asked under the *Electoral Act 1907* section 96C, ask the person the following question —

*Have you already voted here or elsewhere at this referendum? (or these referendums? as the case requires).*

- (db) if the person does not answer the question or admits they have already voted at the referendum or referendums, must refuse to allow the person to vote; and
- (dc) if the person's claim to vote at the referendum is not rejected, the officer must give the elector the ballot paper for the referendum when the officer gives the ballot paper for the election under the *Electoral Act 1907* section 98A(1)(a); and

- (e) in paragraph (g) delete “section 112 of the *Electoral Act 1907* shall” and insert:

the *Electoral Act 1907* section 76AA must

- (2) At the end of section 19 insert:

Note for this section:

For the purposes of paragraph (a), a person can apply under the *Electoral Act 1907* section 61 to be a general postal voter who votes by postal voting in every election and referendum.

**196. Section 20 amended**

- (1) In section 20(1) delete “place, or section of a place if divided, at which the votes of electors are being taken while those votes” and insert:

place to vote while the votes of electors

- (2) After section 20(2) insert:

- (3) Before a scrutineer appointed under subsection (1) acts as a scrutineer, the scrutineer must make a declaration in the presence of the returning officer for the district in which the place to vote is located, or presiding officer for the place to vote, in the approved form.

**197. Section 22 amended**

Delete section 22(2)(aa).

**198. Section 30 amended**

- (1) In section 30(1) delete “the ballot papers used for voting at general polling places, within the meaning of section 100(3) of the *Electoral Act 1907*, the early vote ballot papers and the ballot papers for absent voting under section 99A, and provisional voting under section 119(4a), 122(2), or 122A, of the *Electoral Act 1907*” and insert:

the postal ballot papers and the ballot papers for absent voting and provisional voting under the *Electoral Act 1907* Part IV Division 3A Subdivision 3

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(2) In section 30(4):

(a) in paragraph (a) delete “some remote place” and insert:

a mobile voting place as defined in the *Electoral Act 1907* section 4(1) that is a place to vote

(b) in paragraph (a) delete “him; and” and insert:

the Electoral Commissioner; and

(c) delete paragraph (b) and insert:

(b) on postal ballot papers and the ballot papers for absent voting and provisional voting under the *Electoral Act 1907* Part IV Division 3A Subdivision 3 (as applied to the referendum by section 18), which have not been received by the Electoral Commissioner,

(d) delete “he” and insert:

the Electoral Commissioner

**199. Section 40 amended**

In section 40(1):

(a) delete “Sections” and insert:

The *Electoral Act 1907* sections

- (b) delete “204, 205 and 206 of the *Electoral Act 1907* shall” and insert:

205 and 206

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