

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.

Legislative Assembly Chamber,
Brisbane,

The Clerk of the Parliament.

30 October 2019

In the name and on behalf of the Queen, I assent to this Bill.

Paul de Jersey

Government House,

Brisbane,

30 October 2019



Queensland

No. 31 of 2019

A BILL for

**An Act to amend the Acts Interpretation Act 1954, the Electoral Act 1992, the
Parliament of Queensland Act 2001 and the Referendums Act 1997 for
particular purposes**



Queensland

Electoral and Other Legislation Amendment Bill 2019

Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of Electoral Act 1992	
3	Act amended	8
4	Amendment of s 2 (Definitions)	8
5	Amendment of s 7 (Functions and powers of commission)	10
6	Amendment of s 31 (Returning officers)	10
7	Amendment of s 32 (Assistant returning officers)	11
8	Insertion of new s 32A	12
	32A Obligation to notify membership of political party	12
9	Replacement of s 35 (Distribution, and redistribution, of State into electoral districts)	12
	35 Redistribution of State into electoral districts	12
10	Replacement of s 38 (Electoral redistribution after certain number of elections and minimum period)	13
	38 Electoral redistribution after 2 general elections or 7.5 years	13
11	Amendment of s 52 (When redistribution takes effect)	14
12	Amendment of s 59 (Preparation of electoral rolls)	14
13	Amendment of s 64 (Entitlement to enrolment)	15
14	Amendment of s 81 (Writs for elections)	16
15	Replacement of ss 82 and 83	16
	82 Writs by Governor	16
	83 Writs for vacancy in the membership of the Legislative Assembly	17
16	Amendment of s 84 (Form and content of writs)	18
17	Amendment of s 86 (Change of time limits in writ)	18
18	Amendment of s 89 (Deposit to accompany nomination)	18

Contents

19	Amendment of s 98 (Setting up and operating polling booths) . .	19
20	Amendment of s 99 (Kinds of polling booths)	20
21	Insertion of new ss 99A and 99B	21
	99A Pre-poll voting offices	21
	99B Suspension of poll	22
22	Replacement of s 100 (Adjournment of poll)	23
	100 Adjournment of poll	23
23	Insertion of new s 101A	24
	101A Supply of electoral rolls and ballot papers	24
24	Amendment of s 102 (Supply of ballot papers and electoral rolls)	25
25	Insertion of new s 102A	26
	102A Ballot papers may be reproduced if required	26
26	Amendment of s 104 (Scrutineers)	26
27	Amendment of s 106 (Who may vote)	26
28	Insertion of new pt 7, div 5, sdiv 1AA	26
	Subdivision 1AA Preliminary	
	106A Particular references relating to an electoral district .	27
29	Amendment of s 107 (Procedure for voting)	27
30	Amendment of s 110 (Pre-poll ordinary voting)	28
31	Omission of s 111 (Pre-poll voting offices)	28
32	Amendment of s 112 (Procedure for pre-poll ordinary voting) . .	28
33	Amendment of s 114 (Who may make a declaration vote)	28
34	Amendment of s 115 (Who must make a declaration vote)	29
35	Amendment of s 116 (Ways in which an elector may make a declaration vote)	30
36	Amendment of s 117 (Making a declaration vote at a polling booth)	30
37	Omission of s 118 (Making a declaration vote at a commission office)	31
38	Amendment of s 119 (Making a declaration vote using posted voting papers)	31
39	Amendment of s 120 (Electoral visitor voting)	33
40	Insertion of new pt 7, div 5, sdiv 5	33
	Subdivision 5 Replacement ballot papers	
	123A Replacement ballot paper issued at polling place . . .	34
	123B Replacement ballot paper issued to postal voter . . .	34
41	Amendment of s 124 (Votes to be counted in accordance with division)	

	35
42	Amendment of s 125 (Preliminary processing of declaration envelopes and ballot papers)	36
43	Amendment of s 126 (Preliminary and official counting of votes)	36
44	Replacement of s 127 (Preliminary counting of ordinary votes)	36
	127 Preliminary counting of ordinary votes	36
45	Amendment of s 128 (Official counting of votes)	40
46	Insertion of new s 130A	41
	130A Prescribed procedures for counting of absentee votes	41
47	Insertion of new s 133A	42
	133A Election and elector information	43
48	Amendment of s 136 (Storage of ballot papers and declaration envelopes)	44
49	Amendment of s 147 (Restrictions on certain orders)	46
50	Amendment of s 177 (Misuse of restricted information)	46
51	Amendment of s 188 (Canvassing etc. in or near polling places)	47
52	Insertion of new s 188A	47
	188A Particular badges and emblems not to be worn in polling booths	47
53	Amendment of s 191 (Offences relating to ballot papers)	47
54	Replacement of s 192 (Failure to post, fax or deliver documents for someone else)	47
	192 Failure to give, post or send documents for someone else	47
55	Amendment of s 194 (Breaking seals on parcels)	48
56	Amendment of s 195 (Duty of witness to signing of declaration voting papers)	48
57	Amendment of s 197 (Definitions)	48
58	Replacement of s 198 (Meaning of disclosure period)	49
	198 Meaning of disclosure period	49
59	Insertion of new ss 260A and 260B	50
	260A Who is the source of a gift or loan	50
	260B Donor must disclose source of gift or loan	51
60	Amendment of s 261 (Disclosure by candidates of gifts)	52
61	Amendment of s 262 (Loans to candidates)	52
62	Amendment of s 263 (Disclosure of gifts by third parties that incur expenditure for political purposes)	53
63	Amendment of s 264 (Disclosure by third parties of gifts to candidates)	

Contents

	53
64	Amendment of s 265 (Gifts to political parties)	54
64A	Amendment of s 266B (Requirement to disclose large gifts) ...	54
65	Amendment of s 272 (Particular loans not to be received)	54
66	Amendment of s 283 (Returns of electoral expenditure)	54
66A	Amendment of s 290 (Returns by registered political parties) ...	55
66B	Amendment of s 294 (Returns by associated entities)	55
67	Amendment of s 307 (Offences)	55
68	Insertion of new s 307D	55
	307D False or misleading information about gift	56
69	Amendment of s 309 (Records to be kept)	56
70	Insertion of new s 312A	56
	312A Notifying particulars for incomplete returns	56
71	Amendment of s 316 (Publishing of returns)	57
72	Amendment of s 317 (Inspection and supply of copies of claims and returns)	58
73	Insertion of new pt 13, div 10	58
	Division 10 Transitional provisions for Electoral and Other Legislation Amendment Act 2019	
	428 Definitions for division	58
	429 Appointment of returning officers and assistant returning officers ends	58
	430 Particular references for redistribution of State into electoral districts	59
	430A Election and elector information for election before commencement	59
	431 Disclosure period for next general election	59
	432 Notifying particulars for incomplete returns	59
	433 Publication of returns	60
	434 Requirement to keep records	60
	435 Offence against s 307	60
Part 3	Amendment of Referendums Act 1997	
74	Act amended	60
75	Insertion of new pt 4, div 1AA	61
	Division 1AA Preliminary	
	14A Particular references relating to an electoral district .	61
76	Amendment of s 15 (Setting up and operating polling booths) ..	61

77	Amendment of s 16 (Kinds of polling booths)	62
78	Insertion of new ss 16A and 16B	63
	16A Pre-poll voting offices	63
	16B Suspension of poll	64
79	Amendment of s 17 (Adjournment of poll at polling booth)	65
80	Insertion of new s 17A	66
	17A Supply of electoral rolls and ballot papers	66
81	Amendment of s 18 (Ballot papers and electoral rolls)	67
82	Insertion of new s 18A	68
	18A Ballot papers may be reproduced if required	68
83	Amendment of s 19 (Scrutineers)	68
84	Amendment of s 21 (Who may vote)	68
85	Amendment of s 22 (Procedure for voting)	69
86	Amendment of s 24A (Pre-poll ordinary voting)	70
87	Omission of s 24B (Pre-poll voting offices)	70
88	Amendment of s 24C (Procedure for pre-poll ordinary voting)	70
89	Amendment of s 25 (Who may make a declaration vote)	70
90	Amendment of s 26 (Who must make a declaration vote)	70
91	Amendment of s 27 (Ways in which an elector may make a declaration vote)	71
92	Amendment of s 28 (Making a declaration vote at a polling booth)	72
93	Omission of s 29 (Making a declaration vote at a commission office)	72
94	Amendment of s 30 (Making a declaration vote using posted referendum papers)	72
95	Amendment of s 31 (Electoral visitor voting)	74
96	Insertion of new pt 4, div 3, sdiv 4	75
	Subdivision 4 Replacement ballot papers	
	34A Replacement ballot paper issued at polling place	75
	34B Replacement ballot paper issued to postal voter	76
97	Amendment of s 36 (Preliminary processing of declaration envelopes and ballot papers)	77
98	Amendment of s 37 (Preliminary and official counting of votes)	77
99	Replacement of s 38 (Preliminary counting of ordinary votes)	77
	38 Preliminary counting of ordinary votes	77
100	Amendment of s 39 (Official counting of votes)	80
101	Insertion of new s 41A	82
	41A Prescribed procedures for counting of absentee votes	82

Contents

102	Amendment of s 46 (Storage of ballot papers and declaration envelopes)	83
103	Amendment of s 72 (Author of referendum matter must be named)	85
104	Amendment of s 73 (Headline to general referendum matter advertisements)	85
105	Amendment of s 76 (Leave to vote)	85
106	Amendment of s 77 (Canvassing etc. in or near polling places)	86
107	Amendment of s 78 (Interrupting voting etc.)	86
108	Amendment of s 82 (Offences relating to ballot papers)	86
109	Amendment of s 83 (Failure to give, post or send documents for someone else)	86
110	Amendment of s 85 (Breaking seals on parcels)	87
111	Amendment of s 86 (Duty of witness to signing of declaration voting papers)	87
112	Amendment of s 88 (Extension of time)	87
113	Amendment of s 89 (Cut-off day for electoral rolls for an election and a referendum)	87
114	Omission of s 90 (Pre-poll voting—making a declaration vote at a commission office)	87
115	Amendment of s 94 (Applications, declarations, ballot papers and references)	87
116	Insertion of new s 95A	88
	95A Suspension of poll at both referendum and election	88
117	Amendment of s 96 (Adjournment at both referendum and election)	88
118	Amendment of s 96AC (Application of division 1)	89
119	Amendment of s 96AE (Applications, declarations, ballot papers and references)	89
120	Omission of s 96AH (Ballot papers)	89
121	Amendment of sch 3 (Dictionary)	89
Part 4	Amendment of other Acts	
Division 1	Amendment of Acts Interpretation Act 1954	
122	Act amended	90
123	Amendment of sch 1 (Meaning of commonly used words and expressions)	90
Division 2	Amendment of Parliament of Queensland Act 2001	
124	Act amended	90
125	Amendment of s 5 (Relationship between this Act and some other Acts about Parliament)	91

2019

A Bill

for

An Act to amend the *Acts Interpretation Act 1954*, the *Electoral Act 1992*, the *Parliament of Queensland Act 2001* and the *Referendums Act 1997* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Electoral and Other Legislation Amendment Act 2019*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Electoral Act 1992

3 Act amended

This part amends the *Electoral Act 1992*.

4 Amendment of s 2 (Definitions)

(1) Section 2, definitions *chief executive appointee, disclosure period, expert appointee, nonjudicial appointee, ordinary postal voter, pre-poll voting office, publicly available part of an electoral roll* and *special postal voter*—

omit.

(2) Section 2—

insert—

certified copy, of an electoral roll, means a copy of the electoral roll certified as a true copy by—

(a) the electoral commissioner; or

- (b) if the copy of the electoral roll is prepared under an arrangement mentioned in section 62—the Electoral Commissioner under the Commonwealth Electoral Act.

disclosure period, for an election, for part 11—

- (a) for a candidate in the election—see section 198(1); or
- (b) for a third party to which section 263(1) or 264(1) applies for the election—see section 198(3).

nonjudicial appointee means the commissioner mentioned in section 6(2)(c).

ordinary general election see the *Constitution of Queensland 2001*, section 19A.

ordinary postal voter see section 119(2).

pre-poll voting office see section 99A(1)(a).

publicly available part, of an electoral roll, means the part of an electoral roll that does not contain—

- (a) the address of a silent elector; and
- (b) information of a kind prescribed by regulation to be restricted information.

silent elector means an elector—

- (a) to whom section 58(5) applies; or
- (b) whose address has been excluded from the electoral roll under an arrangement under section 62 because of the Commonwealth Electoral Act, section 104.

source, for part 11—

- (a) of a gift—see section 260A(1); or
- (b) of a loan—see section 260A(2).

special postal voter see section 114(2).

[s 5]

spoilt ballot paper see section 123A(1)(a)(i) and 123B(1)(b).

(3) Section 2, definition *appointed commissioner*, ‘a’—
omit, insert—

the

(4) Section 2, definition *electoral visitor voter*, ‘section 114(4)’—
omit, insert—

section 114(3)

5 Amendment of s 7 (Functions and powers of commission)

(1) Section 7(1)—

insert—

(fa) to administer, and promote compliance with—

(i) part 11; and

(ii) the *Local Government Electoral Act 2011*, part 6; and

(2) Section 7(1)(fa) to (j)—

renumber as section 7(1)(g) to (k).

6 Amendment of s 31 (Returning officers)

(1) Section 31(1), from ‘Governor’ to ‘commission,’—
omit, insert—

commission may

(2) Section 31(3), ‘Governor in Council’—

omit, insert—

commission

(3) Section 31—

insert—

- (5) A returning officer's membership of a political party, or failure to comply with section 32A, does not invalidate—
 - (a) anything done by the returning officer while the returning officer is a member of a political party; or
 - (b) if the returning officer does a thing for an election while the returning officer is a member of a political party—the election.

7 Amendment of s 32 (Assistant returning officers)

- (1) Section 32(1), from 'Governor' to 'commission,'—

omit, insert—

commission may

- (2) Section 32(3), 'Governor in Council'—

omit, insert—

commission

- (3) Section 32—

insert—

- (11) An assistant returning officer's membership of a political party, or failure to comply with section 32A, does not invalidate—
 - (a) anything done by the assistant returning officer while the assistant returning officer is a member of a political party; or
 - (b) if the assistant returning officer does a thing for an election while the assistant returning officer is a member of a political party—the election.

[s 8]

8 Insertion of new s 32A

After section 32—

insert—

32A Obligation to notify membership of political party

A returning officer or assistant returning officer must immediately notify the commission if the officer becomes a member of a political party, unless the officer has a reasonable excuse.

Maximum penalty—40 penalty units.

9 Replacement of s 35 (Distribution, and redistribution, of State into electoral districts)

Section 35—

omit, insert—

35 Redistribution of State into electoral districts

- (1) Division 2 sets out when the need for an electoral redistribution arises.
- (2) Division 3 sets out how the commission undertakes an electoral redistribution.
- (3) As soon as practicable after the need for an electoral redistribution arises, the commission must—
 - (a) redistribute the State into the 93 electoral districts; and
 - (b) publish a gazette notice that states—
 - (i) that the need has arisen; and
 - (ii) the membership of the commission.
- (4) However, the commission must defer undertaking, or any further action in undertaking, an electoral redistribution until after the writ for the next general election is returned if—

-
- (a) the need for the electoral redistribution arises—
- (i) if the last general election was an ordinary general election—more than 28 months after the writ for the election was returned; or
 - (ii) if the last general election was an extraordinary general election—less than 20 months before the normal polling day for the next ordinary general election; or
 - (iii) after a writ is issued for a general election but before the writ is returned; or
- (b) a writ for a general election is issued while the commission is undertaking an electoral redistribution.
- (5) In this section—
- extraordinary general election* see the *Constitution of Queensland 2001*, section 19A.
- normal polling day*, for a general election, see the *Constitution of Queensland 2001*, section 19B.

10 Replacement of s 38 (Electoral redistribution after certain number of elections and minimum period)

Section 38—

omit, insert—

38 Electoral redistribution after 2 general elections or 7.5 years

- (1) The need for an electoral redistribution arises on the later of the following days—
- (a) the day that is 1 year after the writ is returned for the second general election held

[s 11]

after the previous redistribution becomes final;

(b) the day that is 7.5 years after the previous redistribution becomes final.

(2) In this section—

previous redistribution means the last electoral redistribution under this Act that became final.

11 Amendment of s 52 (When redistribution takes effect)

(1) Section 52(1), ‘subsection (3) and’—

omit.

(2) Section 52(2), ‘Subject to subsection (3), the’—

omit, insert—

The

(3) Section 52(3) to (5)—

omit, insert—

(3) However, until the Legislative Assembly is next dissolved or expires by the passage of time, the redistribution does not affect a by-election for an electoral district to fill a vacancy in the membership of the Legislative Assembly.

12 Amendment of s 59 (Preparation of electoral rolls)

(1) Section 59(1)(c), ‘2 years’—

omit, insert—

3 years

(2) Section 59(3), ‘Subject to subsection (4), the’—

omit, insert—

The

(3) Section 59(3)(a), after ‘printed’—

insert—

or electronic

(4) Section 59(4)—

omit.

13 Amendment of s 64 (Entitlement to enrolment)

(1) Section 64(2)—

omit, insert—

(2) However, despite subsection (1)(b), a person serving a sentence of imprisonment to whom subsection (1)(a) applies is entitled to be enrolled for—

(a) the first of the following electoral districts that applies for the person—

(i) the electoral district for which the person was enrolled immediately before the person started to serve the sentence;

(ii) the electoral district for which the person was entitled to be enrolled immediately before the person started to serve the sentence;

(iii) an electoral district for which any of the person's next of kin is enrolled;

(iv) the electoral district in which the person was born; or

(b) if none of the electoral districts mentioned in paragraph (a) applies for the person—the electoral district to which the person has the closest connection.

(2A) Also, subsection (1)(b) does not deny a person the entitlement to be enrolled for an electoral district if the person did not live in the electoral district

[s 14]

for the last month merely because the person was detained in lawful custody for a reason other than to serve a sentence of imprisonment.

(2) Section 64(2A) to (4)—

renumber as section 64(3) to (5).

(3) Section 64—

insert—

(6) For subsection (2), a person is serving a sentence of imprisonment only if—

(a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State; and

(b) the detention is attributable to the sentence of imprisonment concerned.

(7) In this section—

next of kin see the Commonwealth Electoral Act, section 4(1).

14 Amendment of s 81 (Writs for elections)

Section 81(2)—

omit, insert—

(2) The commission must conduct the election in accordance with the writ, subject to this part and the *Constitution of Queensland 2001*, chapter 2, part 2A.

15 Replacement of ss 82 and 83

Sections 82 and 83—

omit, insert—

82 Writs by Governor

The Governor is to issue writs of the following

kind—

- (a) a writ for a general election under the *Constitution of Queensland 2001*, chapter 2, part 2A;
- (b) a writ for an election to which section 83(1) or 95(3) applies;
- (c) a writ for an election ordered by the Court of Disputed Returns under section 128(14) or 146.

83 Writs for vacancy in the membership of the Legislative Assembly

- (1) The Governor must issue a writ to fill a vacancy in the membership of the Legislative Assembly if the vacancy—
 - (a) arises after a general election and before the first meeting of the Legislative Assembly after the election; or
 - (b) is caused by death or resignation and arises when the Legislative Assembly is not sitting.
- (2) The Speaker of the Legislative Assembly must issue a writ for an election to fill a vacancy in the membership of the Legislative Assembly if—
 - (a) the vacancy is not one mentioned in subsection (1) or section 95(3); and
 - (b) the Legislative Assembly passes a resolution declaring that the vacancy exists and stating its cause.
- (3) However, if a vacancy mentioned in subsection (1)(b) or (2) arises within 3 months before the next normal dissolution day for the Legislative Assembly, the Speaker or Governor may, but need not, issue a writ for an election to fill the vacancy.

[s 16]

(4) In this section—

normal dissolution day see the *Constitution of Queensland 2001*, section 19C(1).

16 Amendment of s 84 (Form and content of writs)

Section 84(1)(d), from ‘must’—

omit, insert—

must be—

- (i) for a writ for a general election—the polling day for the election under the *Constitution of Queensland 2001*, section 19B or 19F; or
- (ii) for another writ—a Saturday not less than 26 days, nor more than 56 days, after the issue of the writ;

17 Amendment of s 86 (Change of time limits in writ)

Section 86—

insert—

- (5) Subsection (1)(a) does not apply to a polling day for an ordinary general election.

Note—

The *Constitution of Queensland 2001*, section 19B(3) provides for the Governor to postpone the polling day for an ordinary general election in particular circumstances.

18 Amendment of s 89 (Deposit to accompany nomination)

- (1) Section 89(1), ‘, in cash or bank cheque’—

omit, insert—

with the commission or returning officer

- (2) Section 89—

insert—

(1A) The deposit must be paid in cash or by bank cheque, credit card or electronic funds transfer.

(3) Section 89(2), ‘subsection (3)’—

omit, insert—

subsection (4)

(4) Section 89(5), ‘subsection (3) or (4)’—

omit, insert—

subsection (4) or (5)

(5) Section 89(1A) to (5)—

renumber as section 89(2) to (6).

19 Amendment of s 98 (Setting up and operating polling booths)

(1) Section 98(5)—

omit, insert—

(5) The commission must advertise, in the ways the commission considers appropriate, including, for example, on the commission’s website, the following information about each polling booth for an election—

- (a) the electoral districts for which an ordinary vote may be made at the polling booth;
- (b) the location of the polling booth;
- (c) the voting hours of the polling booth.

(2) Section 98(7)—

omit, insert—

(7) The commission must advertise the establishment and abolition of ordinary polling booths in the ways the commission considers appropriate, including, for example, on the commission’s

[s 20]

website.

- (3) Section 98(8)(b), ‘and (8)’—

omit, insert—

and (9)

20 Amendment of s 99 (Kinds of polling booths)

- (1) Section 99(1)(c), ‘for electoral districts’—

omit.

- (2) Section 99(3)(b)—

omit, insert—

(b) a building, structure, vehicle or other place declared under subsection (8) to be a mobile polling booth.

- (3) Section 99(4)—

omit, insert—

(4) If the commission considers that patients or residents of an institution should be able to vote at the institution, the commission may declare the institution to be a mobile polling booth for the election.

- (4) Section 99(8)—

omit, insert—

(8) If the commission considers an area is too remote to have enough electors to establish an ordinary polling booth, the commission may—

(a) arrange for a building, structure, vehicle or other place to be available as a mobile polling booth for electors in the area to vote at the election; and

(b) declare the building, structure, vehicle or other place to be a mobile polling booth for the election.

(5) Section 99—

insert—

- (12) A declaration made under subsection (4) or (8) must state—
- (a) the electoral districts for which electors may make an ordinary vote at the mobile polling booth; and
 - (b) the days, during the period that starts 11 days before polling day and ends at 6p.m. on polling day, when electors may vote at the mobile polling booth; and
 - (c) the voting hours for the mobile polling booth on those days.
- (13) The commission must publish a declaration made under subsection (4) or (8), and otherwise advertise the information stated in the declaration about the mobile polling booths, in the ways the commission considers appropriate, including, for example, on the commission's website.

21 Insertion of new ss 99A and 99B

After section 99—

insert—

99A Pre-poll voting offices

- (1) The commission may declare for an election—
- (a) a stated place (a *pre-poll voting office*) to be a place where an elector may—
 - (i) make a pre-poll ordinary vote for an electoral district; or
 - (ii) make a declaration vote for the election; and
 - (b) the electoral districts for which a pre-poll ordinary vote may be made at the place; and

[s 21]

- (c) the times during which electors are allowed to make a vote at the place.
- (2) The commission must publish a declaration under subsection (1), and otherwise advertise the information stated in the declaration about the pre-poll voting offices, in the ways the commission considers appropriate, including, for example, on the commission's website.

99B Suspension of poll

- (1) A returning officer may suspend the poll at a polling booth on polling day for not more than 4 hours if the returning officer is satisfied the taking of the poll is, or is likely to be, temporarily interrupted or obstructed by—
 - (a) a serious threat of a riot or open violence happening; or
 - (b) a serious risk to the health or safety of persons at the polling booth; or
 - (c) another emergency.
- (2) The returning officer must ensure an elector who attends the polling booth while the poll is suspended is given information to assist the elector to make a vote, including—
 - (a) the time the poll is expected to resume at the polling booth; and
 - (b) the location of other polling booths.
- (3) The returning officer must adjourn the conduct of the poll at the polling booth to another day if—
 - (a) for any reason, taking of the poll at the polling booth can not resume on polling day; or
 - (b) the returning officer is satisfied that it is unreasonable for an elector who would have

otherwise cast a vote at the polling booth while it was suspended to have cast a vote at another polling booth.

22 Replacement of s 100 (Adjournment of poll)

Section 100—

omit, insert—

100 Adjournment of poll

- (1) A returning officer may adjourn the poll at a polling booth to another day if the returning officer is satisfied the taking of the poll at the polling booth is, or is likely to be, interrupted or obstructed by any of the things stated in subsection (2) to the extent that the taking of the poll can not start or continue at the polling booth.
- (2) For subsection (1), the things are as follows—
 - (a) a storm, flood, fire or similar happening;
 - (b) a riot or open violence;
 - (c) a serious threat of a riot or open violence happening;
 - (d) a serious risk to the health or safety of persons at the polling booth;
 - (e) another emergency.
- (3) If the poll is adjourned under subsection (1) or section 99B(3), the commission must fix a day (not later than 34 days after the polling day) for taking, or resuming, the adjourned poll.
- (4) The commission must publish notice of the day fixed for taking, or resuming, the adjourned poll on the commission's website and in other ways the commission considers appropriate.
- (5) If an adjourned poll is held, only electors who are enrolled in the electoral district for which the

[s 23]

polling booth is established and who have not already voted in the election are entitled to vote.

- (6) The adjourned poll is taken to have been held on the polling day.

23 Insertion of new s 101A

After section 101—

insert—

101A Supply of electoral rolls and ballot papers

- (1) The commission must ensure a sufficient number of the following are available at each polling place—
- (a) certified copies of the electoral roll for each electoral district as at the cut-off day for electoral rolls;
 - (b) ballot papers for each electoral district.
- (2) Without limiting (1)(a), a certified copy of the electoral roll for an electoral district is available at a polling place if—
- (a) a certified copy of the electoral roll can be accessed electronically from the polling place; and
 - (b) an issuing officer at the polling place can use the certified copy to make an electronic record of the persons to whom a ballot paper is issued.
- (3) Without limiting subsection (1)(b), a ballot paper for an electoral district is available at a polling place if a ballot paper can be reproduced at the place under section 102A.

24 Amendment of s 102 (Supply of ballot papers and electoral rolls)

- (1) Section 102, heading—

omit, insert—

102 Form of ballot papers

- (2) Section 102(1)—

omit.

- (3) Section 102(2)(b), before ‘be attached to’—

insert—

for a ballot paper other than a ballot paper reproduced under section 102A,

- (4) Section 102(2)(b)(iii)—

omit, insert—

(iii) states the name of the electoral district; and

- (5) Section 102(3)—

omit, insert—

- (3) The ballot papers to which subsection (1) applies must contain the following sentence—

You must number every square in the order of your preference.

- (6) Section 102(4), from ‘must’—

omit, insert—

must—

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

- (b) state the name of the electoral district for which the vote is made.

- (7) Section 102(2) to (4)—

renumber as section 102(1) to (3).

[s 25]

25 Insertion of new s 102A

After section 102—

insert—

102A Ballot papers may be reproduced if required

- (1) This section applies if a polling place does not have, or runs out of, ballot papers for an electoral district.
- (2) An issuing officer at the polling place may reproduce a ballot paper for the electoral district, including, for example, by photocopying, handwriting or printing the ballot paper.
- (3) Section 102(1) applies to a ballot paper reproduced under this section.
- (4) The issuing officer must keep a record of the number of ballot papers for an electoral district the officer reproduces under this section.

26 Amendment of s 104 (Scrutineers)

Section 104(2), from ‘each mobile’ to ‘issuing officer,’—

omit, insert—

mobile polling booth and pre-poll voting office

27 Amendment of s 106 (Who may vote)

Section 106(3), after ‘imprisonment’—

insert—

of 3 years or longer

28 Insertion of new pt 7, div 5, sdiv 1AA

Part 7, division 5—

insert—

Subdivision 1AA Preliminary

106A Particular references relating to an electoral district

For this division—

- (a) a reference to an electoral district in relation to an elector is a reference to the electoral district for which the elector is enrolled; and
- (b) a reference to a polling booth established for an electoral district, or otherwise in relation to an electoral district, is a reference to a polling booth at which an ordinary vote for the electoral district may be made; and
- (c) a reference to a returning officer in relation to an elector is a reference to the returning officer for the electoral district for which the elector is enrolled.

29 Amendment of s 107 (Procedure for voting)

(1) Section 107(1) and (2)—

omit, insert—

- (1) An elector is to vote by following the procedures set out in this section unless the elector—
 - (a) makes a pre-poll ordinary vote under section 112; or
 - (b) makes, or must make, a declaration vote under subdivision 3; or
 - (c) makes an electronically assisted vote under subdivision 3A.
- (2) The elector is, during ordinary voting hours, to enter a polling booth for the elector's electoral district.

(2) Section 107(3), (4)(a) and (5), after 'ballot paper'—

[s 30]

insert—

for the electoral district

30 Amendment of s 110 (Pre-poll ordinary voting)

Section 110(2), from ‘the electoral’ to ‘is enrolled’—

omit, insert—

the elector’s electoral district

31 Omission of s 111 (Pre-poll voting offices)

Section 111—

omit.

32 Amendment of s 112 (Procedure for pre-poll ordinary voting)

(1) Section 112(2), from ‘the electoral’—

omit, insert—

the elector’s electoral district.

(2) Section 112(3), (4)(a) and (5), after ‘ballot paper’—

insert—

for the electoral district

33 Amendment of s 114 (Who may make a declaration vote)

(1) Section 114(1)(a), ‘(an *ordinary postal voter*)’—

omit.

(2) Section 114(2), ‘The following electors are special postal voters’—

omit, insert—

Each of the following electors is a *special postal voter*

- (3) Section 114(2)(b)—

omit, insert—

(b) a silent elector.

- (4) Section 114(3), ‘The following electors are electoral visitor voters’—

omit, insert—

Each of the following electors is an ***electoral visitor voter***

34 Amendment of s 115 (Who must make a declaration vote)

- (1) Section 115(a), from ‘electoral district’—

omit, insert—

elector’s electoral district;

- (2) Section 115(b), from ‘is outside’—

omit, insert—

has not been established for the elector’s electoral district;

- (3) Section 115—

insert—

(ca) an elector who goes on a polling day to a polling booth but is not able to make an ordinary vote at the polling booth for a reason that is beyond the elector’s control;

Example of a reason beyond an elector’s control why the elector cannot make an ordinary vote—

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

- (4) Section 115—

insert—

[s 35]

(da) an elector who is serving a sentence of imprisonment, or is otherwise detained in lawful custody, on the polling day;

(5) Section 115(ca) to (f)—

renumber as section 115(d) to (h).

35 Amendment of s 116 (Ways in which an elector may make a declaration vote)

(1) Section 116(b), ‘in an electoral district’—

omit.

(2) Section 116(c)—

omit.

(3) Section 116(d), after ‘section 119’—

insert—

or 123B

(4) Section 116(d) and (e)—

renumber as section 116(c) and (d).

36 Amendment of s 117 (Making a declaration vote at a polling booth)

(1) Section 117(1), from ‘in an electoral’ to ‘ballot paper’—

omit, insert—

and request a ballot paper for an electoral district

(2) Section 117(2), from ‘is enrolled’ to ‘is located’—

omit, insert—

may make an ordinary vote for the elector’s electoral district at the polling booth

37 Omission of s 118 (Making a declaration vote at a commission office)

Section 118—

omit.

38 Amendment of s 119 (Making a declaration vote using posted voting papers)

(1) Section 119(1) to (3)—

omit, insert—

- (1) A special postal voter or ordinary postal voter may make a declaration vote under this section using a ballot paper and declaration envelope sent to the elector.
- (2) An elector is an *ordinary postal voter* if—
 - (a) the elector makes a request (a *postal vote request*) to the commission or returning officer to make a declaration vote using a ballot paper and declaration envelope sent to the elector; and
 - (b) the elector's postal vote request is received by the commission or returning officer not later than 7p.m. on the day that is 12 days before the polling day for the election.

Note—

The polling day for an election is always a Saturday—see the *Constitution of Queensland 2001*, sections 19B and 19F and section 84(1)(d) of this Act. The day that is 12 days before the polling day for an election is 2 Mondays before the polling day.

- (3) A postal vote request—
 - (a) may be made by the elector orally or in writing; and
 - (b) if the request is written—

[s 38]

- (i) must be in the approved form; and
 - (ii) may be given to the commission or returning officer by the elector or someone else; and
 - (c) must state the address to which the ballot paper is to be sent.
- (2) Section 119—
insert—
 - (4A) Also, the commission must post, deliver or otherwise send a ballot paper and declaration envelope to an ordinary postal voter as soon as practicable after receiving the elector’s postal vote request.
 - (4B) If the commission or returning officer receives a postal vote request for an elector after the time mentioned in subsection (2)(b), the commission or returning officer must give the elector a written notice that states the elector is not entitled to make a declaration vote under this section.
- (3) Section 119(6), ‘subsection (8)’—
omit, insert—
 - subsection (10)
- (4) Section 119(6)(d)(i), ‘an office of the commission’—
omit, insert—
 - a pre-poll voting office
- (5) Section 119(7), ‘subsection (6)(b) to (d)’—
omit, insert—
 - subsection (8)(b) to (d)
- (6) Section 119(8), ‘subsection (6)(d)(i)’—
omit, insert—
 - subsection (8)(d)(i)

(7) Section 119(8)—

insert—

Note for subsection (10)—

Section 125 sets out the process for examining declaration envelopes and preparing the ballot papers in them for counting.

(8) Section 119(4A) to (8)—

renumber as section 119(5) to (10).

39 Amendment of s 120 (Electoral visitor voting)

Section 120(1) and (2)—

omit, insert—

- (1) An electoral visitor voter may give a request to vote as an electoral visitor voter to the commission or returning officer.
- (2) The request—
 - (a) must—
 - (i) be in writing; and
 - (ii) be in the approved form; and
 - (iii) state the address the electoral visitor is to visit; and
 - (b) may be given to the commission or returning officer by the elector or someone else.

40 Insertion of new pt 7, div 5, sdiv 5

Part 7, division 5—

insert—

Subdivision 5 Replacement ballot papers

[s 40]

123A Replacement ballot paper issued at polling place

- (1) This section applies if, while voting at a polling place, an elector—
 - (a) satisfies an issuing officer that—
 - (i) a ballot paper given to the elector (the *spoilt ballot paper*) is marked, damaged or destroyed to the extent that it can not be used to make a vote; and
 - (ii) the spoilt ballot paper has not been put in a ballot box in the polling place; and
 - (iii) the elector has not voted in the election; and
 - (b) gives the spoilt ballot paper, or the remains of the ballot paper, to the issuing officer.
- (2) The issuing officer must give the elector another ballot paper.
- (3) The issuing officer must also—
 - (a) place the spoilt ballot paper in an envelope and seal the envelope; and
 - (b) keep the envelope for separate identification under section 127.

123B Replacement ballot paper issued to postal voter

- (1) This section applies if a ballot paper for an election and declaration envelope is sent to an elector under section 119 and either—
 - (a) the elector does not receive the ballot paper and declaration envelope; or
 - (b) the ballot paper (the *spoilt ballot paper*) is marked, damaged or destroyed to the extent

that it can not be used to make a declaration vote.

- (2) The elector may ask the commission or returning officer for a replacement ballot paper.
- (3) If the replacement ballot paper is to be sent to the elector, the request must state the address to which the ballot paper is to be sent.
- (4) An issuing officer must—
 - (a) if the elector makes the request in person—give another ballot paper and declaration envelope to the elector; or
 - (b) post, deliver or otherwise send another ballot paper and declaration envelope to the elector as soon as practicable after receiving the request.
- (5) When the elector makes a declaration vote under subdivision 3, the elector must make the declaration on the declaration envelope that states—
 - (a) the ballot paper sent to the elector has not been received or has been marked, damaged or destroyed; and
 - (b) the elector has not otherwise voted in the election.
- (6) The commission and returning officers must keep a record of all ballot papers and declaration envelopes given or sent under this section.

41 Amendment of s 124 (Votes to be counted in accordance with division)

- (1) Section 124, heading, after ‘counted’—

insert—

and ballot boxes opened

[s 42]

(2) Section 124—

insert—

(2) A ballot box used for an election must only be opened in accordance with this division.

42 Amendment of s 125 (Preliminary processing of declaration envelopes and ballot papers)

(1) Section 125(2)(c), ‘section 119(6)(d)’—

omit, insert—

section 119(8)(d)

(2) Section 125—

insert—

(7) Declaration envelopes may be examined under this section before or after polling day for the election.

43 Amendment of s 126 (Preliminary and official counting of votes)

Section 126—

insert—

(c) in accordance with the procedures made under section 130A.

44 Replacement of s 127 (Preliminary counting of ordinary votes)

Section 127—

omit, insert—

127 Preliminary counting of ordinary votes

(1) As soon as practicable after the end of ordinary voting hours on polling day, the member of the commission’s staff in charge of a polling booth

must ensure that the commission's staff at the polling place follow the procedures—

- (a) set out in subsections (2), (3) and (6); and
 - (b) made under section 130A.
- (2) The staff must—
- (a) open all ballot boxes at the polling booth, including ballot boxes in which ballot papers from declaration envelopes have been placed under section 125(3); and
 - (b) identify and keep in separate parcels for each different electoral district—
 - (i) all formal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and
 - (ii) all declaration envelopes; and
 - (iii) all informal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and
 - (c) for each electoral district for which ordinary votes are to be counted at the polling booth—
 - (i) arrange, and place in separate parcels under the names of the candidates for the electoral district, all formal ballot papers (including formal ballot papers printed for electronically assisted votes) on which a first preference vote is indicated for the same candidate; and
 - (ii) count the first preference votes on formal ballot papers for each candidate; and

[s 44]

- (iii) count, and keep in a separate parcel, the informal ballot papers; and
- (iv) prepare and sign a statement, in the approved form, setting out—
 - (A) the number of first preference votes for each candidate; and
 - (B) the number of informal ballot papers; and
- (v) advise the returning officer for the electoral district of the contents of the statement; and
- (d) for each electoral district to which paragraph (c) does not apply, identify and keep in a separate parcel—
 - (i) all formal ballot papers, including ballot papers printed for electronically assisted votes; and
 - (ii) all informal ballot papers, including ballot papers printed for electronically assisted votes; and
- (e) for each separate parcel of ballot papers or declaration envelopes—
 - (i) seal the parcel; and
 - (ii) write on the parcel a description of its contents, including the number of ballot papers or declaration envelopes in the parcel; and
 - (iii) sign the description; and
 - (iv) if a scrutineer wishes to countersign the description—allow the scrutineer to do so; and
- (f) send the parcels, and the statements mentioned in subsection (2)(c)(iv), to the

returning officer for the appropriate electoral district.

- (3) Also, the staff must—
 - (a) identify all envelopes containing spoilt ballot papers for each different electoral district; and
 - (b) keep the envelopes in a separate parcel; and
 - (c) deal with the parcel in the way stated in subsection (2)(e) and (f) as if the reference in that subsection to ballot papers were a reference to envelopes containing spoilt ballot papers.
- (4) This section also applies, in the way stated in subsection (5), to the following votes received by the commission—
 - (a) votes received under section 125 for an electoral district;
 - (b) pre-poll ordinary votes for an electoral district made at a pre-poll voting office;
 - (c) ballot papers printed for electronically assisted votes at a place other than a polling booth.
- (5) This section applies to the votes mentioned in subsection (4) in the same way it would apply if an office of the commission, or a pre-poll voting office, were a polling booth for an electoral district—
 - (a) to the extent it is reasonably practicable to count the votes on polling day; and
 - (b) subject to any changes prescribed by regulation and any other necessary changes.
- (6) If the commission considers it appropriate for gaining an indication of the candidate most likely to be elected for an electoral district, the

[s 45]

commission may require the commission's staff to—

- (a) count the preference votes in the way required by the commission; and
- (b) prepare and sign a statement of the number of preference votes (other than first preference votes) for each candidate; and
- (c) advise the returning officer for the electoral district of the contents of the statement.

45 Amendment of s 128 (Official counting of votes)

- (1) Section 128(1), after 'this section'—

insert—

and made under section 130A

- (2) Section 128(2)(b) and (c)—

omit, insert—

- (b) identify and keep in separate parcels for each different electoral district—
 - (i) all formal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and
 - (ii) all declaration envelopes; and
 - (iii) all informal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and
- (c) for each parcel for an electoral district other than the returning officer's electoral district—
 - (i) seal the parcel; and

-
- (ii) write on the parcel a description of its contents, including the number of ballot papers or declaration envelopes in the parcel; and
 - (iii) sign the description; and
 - (iv) if a scrutineer wishes to countersign the description—allow the scrutineer to do so; and
- (3) Section 128(3)(a)—
omit, insert—
- (a) open—
 - (i) the parcels mentioned in subsection (2)(b) for the returning officer’s electoral district; and
 - (ii) all sealed parcels of ballot papers and declaration envelopes sent to the returning officer under section 127; and
 - (ab) follow the procedures set out in section 125 for all declaration envelopes; and
- (4) Section 128(3)(ab) to (c)—
renumber as section 128(3)(b) to (d).
- (5) Section 128(4)(c), ‘subsection (3)(c)’—
omit, insert—
subsection (3)(d)

46 Insertion of new s 130A

After section 130—

insert—

130A Prescribed procedures for counting of absentee votes

- (1) The commission must make procedures about

[s 47]

how, subject to this division, absentee votes at an election are to be counted.

- (2) The procedures must provide for—
 - (a) the circumstances in which absentee votes are counted at a polling booth under section 127; and
 - (b) ensuring absentee votes are counted at polling places in a way that does not compromise the secrecy of voting; and
 - (c) the secure delivery of sealed ballot boxes, and sealed parcels of ballot papers and declaration envelopes, containing absentee votes to the returning officer for the appropriate electoral district or the commission; and
 - (d) the arrangements for scrutineers to be present when absentee votes are counted and their roles and responsibilities.
- (3) The procedures—
 - (a) do not take effect until approved by a regulation; and
 - (b) must be tabled in the Legislative Assembly with the regulation approving the procedures; and
 - (c) must be published on the commission's website.
- (4) In this section—

absentee vote means an ordinary vote made by an elector at a polling booth that is not located in the elector's electoral district.

47 Insertion of new s 133A

After section 133—

insert—

133A Election and elector information

- (1) After the writ for an election is returned, the commission must publish on the commission's website—
 - (a) the number of first preference votes given for each candidate in the election; and
 - (b) information about the distribution of preference votes, other than first preference votes, given for the candidates for election in each electoral district.
- (2) Also, after the writ for an election is returned, a registered political party or independent member (each a *requester*) may ask the commission for elector information for the election.
- (3) The commission must comply with a request under subsection (2) by giving the requester the elector information about each elector who—
 - (a) was enrolled, for the election, on the electoral roll for—
 - (i) for a request made by a registered political party—each electoral district; or
 - (ii) for a request made by an independent member—the electoral district for which the member was elected; and
 - (b) voted in the election.
- (4) The *elector information* about an elector who voted in an election is—
 - (a) the elector's name and address; and
 - (b) whether the elector voted in person, by post or in another way; and

[s 48]

- (c) if the elector voted in person at a polling place in the electoral district for which the elector was enrolled for the election—the location of the polling place.
- (5) However, the commission must not give elector information about a silent elector to a registered political party or independent member.
- (6) A person must not use, disclose to another person or allow another person to access elector information given to a registered political party or independent member under this section, unless the use, disclosure or giving of access is for a purpose related to an election.

Maximum penalty for subsection (6)—200 penalty units.

- (7) In this section—
independent member means an elected member who is not a member of a registered political party.

48 Amendment of s 136 (Storage of ballot papers and declaration envelopes)

- (1) Section 136(1), from ‘until’ to ‘general election’—
omit, insert—
for the period that applies under subsection (2)
- (2) Section 136(1)(a)—
omit, insert—
 - (a) formal and informal ballot papers for the election;
- (3) Section 136—
insert—
 - (1A) For subsection (1), the period starts on the polling day for the election and ends on the latest of the

following days—

- (a) the day that is 1 year after the polling day for the election;
- (b) if the material relates to an application to dispute an election or an appeal—the day on which—
 - (i) the application is withdrawn; or
 - (ii) if the application is decided and an appeal from the decision has not been started—the time for starting an appeal from the decision ends; or
 - (iii) if the application is dismissed and an appeal from the decision or order to dismiss the application has not been started—the time for starting an appeal from the decision or order ends; or
 - (iv) the appeal is decided, dismissed or withdrawn;
- (c) if the commission has authorised a person, including, for example, a person who conducts research at a university, to use the materials for analysis or research—the day on which—
 - (i) the person finishes the analysis or research; or
 - (ii) the person no longer requires the materials for the analysis or research; or
 - (iii) the commission withdraws the authorisation.

(4) Section 136—

insert—

(4) In this section—

[s 49]

appeal means an appeal started under part 8, division 4.

application to dispute an election means an application to dispute an election under part 8, division 2.

- (5) Section 136(1A) and (2)—
renumber as section 136(2) and (3).

49 Amendment of s 147 (Restrictions on certain orders)

- (1) Section 147(4)(a), ‘section 102(2)(d)’—
omit, insert—
section 102(1)(d)
- (2) Section 147(4)(b) and (c), ‘section 102(2)(g)’—
omit, insert—
section 102(1)(g)

50 Amendment of s 177 (Misuse of restricted information)

- (1) Section 177(1)—
omit, insert—
- (1) A person must not use, disclose to another person or allow another person to access information in a copy of an electoral roll made available to a person or organisation under section 61, unless the use, disclosure or giving of access is for a purpose stated in subsection (2).
- Maximum penalty—20 penalty units or 6 months imprisonment.
- (2) Section 177(2)—
insert—
- (f) if the copy of the electoral roll is made available to the person or organisation under

section 61(2)—the purpose prescribed under a regulation for which the copy is made available.

51 Amendment of s 188 (Canvassing etc. in or near polling places)

Section 188(1)(b), from ‘or’ to ‘commission,’—
omit.

52 Insertion of new s 188A

After section 188—
insert—

188A Particular badges and emblems not to be worn in polling booths

A person must not wear or display a badge or emblem of a political party or candidate in an election during voting hours in a polling booth.

Maximum penalty—1 penalty unit.

53 Amendment of s 191 (Offences relating to ballot papers)

Section 191(1)(a), ‘119(6)(c) or (d)’—
omit, insert—

119(8)(c) or (d)

54 Replacement of s 192 (Failure to post, fax or deliver documents for someone else)

Section 192—
omit, insert—

192 Failure to give, post or send documents for someone else

(1) If a person is given a request under section 119 or

[s 55]

120 to give, post or send to the commission or a returning officer, the person must promptly give, post or send the request to the commission or returning officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units or 6 months imprisonment.

- (2) If a person is given a declaration envelope under section 119(8)(d)(ii) to post or send to the commission or a returning officer, the person must promptly post or send the declaration envelope to the commission or returning officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units or 6 months imprisonment.

55 Amendment of s 194 (Breaking seals on parcels)

Section 194, ‘section 127(2)(h)’—

omit, insert—

section 127(2)(e)

56 Amendment of s 195 (Duty of witness to signing of declaration voting papers)

Section 195, ‘section 119(6)(a)’—

omit, insert—

119(8)(a)

57 Amendment of s 197 (Definitions)

- (1) Section 197, definition *disclosure period*—

omit.

- (2) Section 197—

insert—

disclosure period, for an election—

- (a) for a candidate in the election—see section 198(1); or
- (b) for a third party to which section 263(1) or 264(1) applies for the election—see section 198(3).

source—

- (a) of a gift—see section 260A(1); or
- (b) of a loan—see section 260A(2).

58 Replacement of s 198 (Meaning of *disclosure period*)

Section 198—

omit, insert—

198 Meaning of *disclosure period*

- (1) The *disclosure period* for an election, for a candidate in the election, is the period that—
 - (a) starts—
 - (i) if the candidate was a candidate in a by-election held after the last general election—30 days after the polling day for the last by-election in which the candidate was a candidate; or
 - (ii) if subparagraph (i) does not apply and the candidate was a candidate in the last general election—30 days after the polling day for the last general election; or
 - (iii) otherwise—the day that applies for the candidate under subsection (2); and
 - (b) ends 30 days after the polling day for the election.
- (2) For subsection (1)(a)(iii), the day that applies for

[s 59]

the candidate for the election is the earliest of the following days—

- (a) the day the person announces or otherwise publicly indicates the person's intention to be a candidate in the election;
 - (b) the day the person nominates as a candidate in the election;
 - (c) the day the person otherwise indicates the person's intention to be a candidate in the election, including, for example, by accepting a gift made for a purpose related to the election.
- (3) The *disclosure period* for an election, for a third party to whom section 263 or 264 applies for the election, is the period that—
- (a) starts 30 days after the polling day for the last general election; and
 - (b) ends 30 days after the polling day for the election.

59 Insertion of new ss 260A and 260B

After section 260—

insert—

260A Who is the *source* of a gift or loan

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

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

260B Donor must disclose source of gift or loan

- (1) This section applies to an entity if—
- (a) the entity—
 - (i) makes a gift or loan to a registered political party or candidate in an election (each a *recipient*); or

[s 60]

- (ii) makes a gift to a third party to whom section 263 applies (also a *recipient*); and
 - (b) the value of the gift or amount of the loan equals or exceeds the gift threshold amount; and
 - (c) the entity is not the source of the gift or loan.
- (2) When the entity makes the gift or loan to the recipient, the entity must give the recipient a notice that states—
- (a) that the entity is not the source of the gift or loan; and
 - (b) the relevant particulars of the entity that is the source of the gift or loan.

Maximum penalty—20 penalty units.

60 Amendment of s 261 (Disclosure by candidates of gifts)

- (1) Section 261(2)(b)—

insert—

- (iv) if the entity is not the source of the gift—the relevant particulars of the entity that is the source of the gift; and

- (2) Section 261(2)(c), after ‘day,’—

insert—

or the time,

61 Amendment of s 262 (Loans to candidates)

- (1) Section 262(2)(b)—

insert—

- (iv) if the entity is not the source of the loan—the relevant particulars of the entity that is the source of the loan; and

- (2) Section 262(2)(c), after ‘day,’—

insert—

or the time,

62 Amendment of s 263 (Disclosure of gifts by third parties that incur expenditure for political purposes)

- (1) Section 263(4)—

omit.

- (2) Section 263(5)(b)—

omit, insert—

- (b) the relevant details of a gift are—

- (i) the amount or value of the gift; and
- (ii) the date on which the gift was made; and
- (iii) the relevant particulars of the entity that made the gift; and
- (iv) if the third party is not the source of the gift—the relevant particulars of the entity that is the source of the gift.

63 Amendment of s 264 (Disclosure by third parties of gifts to candidates)

Section 264(8)(b)—

insert—

- (iv) if the entity is not the source of the gift—the relevant particulars of the entity that is the source of the gift.

[s 64]

64 Amendment of s 265 (Gifts to political parties)

Section 265(2), (4) and (10)—

insert—

- (d) if the entity is not the source of the gift—the relevant particulars of the entity that is the source of the gift.

64A Amendment of s 266B (Requirement to disclose large gifts)

Section 266B(2)(c), after ‘day,’—

insert—

or the time,

65 Amendment of s 272 (Particular loans not to be received)

Section 272(3)—

insert—

- (d) if the entity is not the source of the loan—the relevant particulars of the entity that is the source of the loan.

66 Amendment of s 283 (Returns of electoral expenditure)

Section 283—

insert—

- (2) The details about electoral expenditure stated in the return must include—
 - (a) the name and business address of the person who supplied the goods or service to which the expenditure relates; and
 - (b) a description of the goods or service; and
 - (c) the amount of the expenditure.

66A Amendment of s 290 (Returns by registered political parties)

Section 290(2)(d), after ‘day,’—

insert—

or the time,

66B Amendment of s 294 (Returns by associated entities)

Section 294(2)(c), after ‘day,’—

insert—

or the time,

67 Amendment of s 307 (Offences)

(1) Section 307—

insert—

(2A) A person who fails to give notice of particulars that the person is required to give under section 312A commits an offence.

Maximum penalty—20 penalty units.

(2) Section 307(5), penalty, ‘50 penalty units’—

omit, insert—

100 penalty units

(3) Section 307(14), ‘3 years’—

omit, insert—

4 years

68 Insertion of new s 307D

After section 307C—

insert—

[s 69]

307D False or misleading information about gift

- (1) A person must not publish information about a gift made to, or received by, a candidate in an election, registered political party or third party that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) A person does not commit an offence against subsection (1) if the information published is a true copy, or fair summary, of information in a return published by the commission under section 316.

69 Amendment of s 309 (Records to be kept)

Section 309(2), from ‘3 years’—

omit, insert—

5 years after the day—

- (a) the claim or return was made; or
- (b) if the return was required to be made but has not been made—by which the return was required to be made.

70 Insertion of new s 312A

After section 312—

insert—

312A Notifying particulars for incomplete returns

- (1) This section applies to a person who, within 5 years after the polling day for an election—
 - (a) gives the commission a notice under section 312(1) or (3) that states the person is unable to obtain certain particulars required to complete a return for the election; and

- (b) obtains the particulars.
- (2) As soon as practicable after obtaining the particulars, the person must give the commission a written notice identifying—
 - (a) the return to which the particulars relate; and
 - (b) the particulars.

71 Amendment of s 316 (Publishing of returns)

- (1) Section 316(1)—

omit, insert—

- (1) The commission must publish a return given to the commission under this part on its website.

- (2) Section 316—

insert—

- (3) However, if publishing a return mentioned in subsection (1) would disclose the following information, the commission must publish a copy of the return from which the information has been deleted—
 - (a) the address of an individual identified in the return if the person giving the return informs the commission that the individual is—
 - (i) a silent elector; or
 - (ii) enrolled on the electoral roll of the Commonwealth or another State with status equivalent or similar to a silent elector;
 - (b) the street address of each other individual identified in the return.
- (4) For subsection (3)(b), the requirement to delete the street address of an individual does not include a requirement to delete the suburb, town,

[s 72]

city or other locality, or State of the individual.

72 Amendment of s 317 (Inspection and supply of copies of claims and returns)

Section 317(4), from ‘copy of’—

omit, insert—

copy of a claim under division 4 until after the end of 24 weeks after the polling day for the election to which the claim relates.

73 Insertion of new pt 13, div 10

Part 13—

insert—

Division 10 Transitional provisions for Electoral and Other Legislation Amendment Act 2019

428 Definitions for division

In this division—

amended, for a provision of this Act, means as in force after the commencement.

previous, for a provision of this Act, means as in force from time to time before the commencement.

429 Appointment of returning officers and assistant returning officers ends

The appointment of a person as a returning officer or assistant returning officer ends on the commencement.

430 Particular references for redistribution of State into electoral districts

- (1) A reference in section 35 or 38 to a general election or the return of a writ for an election includes a general election held or writ returned before the commencement.
- (2) A reference in section 38 to an electoral redistribution includes an electoral redistribution that happened before the commencement.

430A Election and elector information for election before commencement

Elector information can be requested and given under section 133A in relation to the general election held in 2017 and any subsequent election.

431 Disclosure period for next general election

The disclosure period for an election under previous section 198 applies as if the *Electoral and Other Legislation Amendment Act 2019* had not been enacted for—

- (a) the first general election held after the commencement; and
- (b) each other election held after the commencement and before that general election.

432 Notifying particulars for incomplete returns

Section 312A does not apply to a person in relation to a notice the person gave the commission under section 312 before the commencement.

[s 74]

433 Publication of returns

- (1) This section applies to a return to which section 316 applies if, before the commencement—
 - (a) section 316 did not apply to the return; and
 - (b) the commission published the return on its website.
- (2) To remove any doubt, it is declared that the return was, and continues to be, published for the purposes of this Act.

434 Requirement to keep records

- (1) This section applies if, immediately before the commencement—
 - (a) a person was required to keep a record under previous section 309; and
 - (b) the period for which the person is required to keep the record had not ended.
- (2) Amended section 309 applies in relation to the requirement to keep the record.

435 Offence against s 307

Previous section 307(14) continues to apply to an offence committed before the commencement.

Part 3 Amendment of Referendums Act 1997

74 Act amended

This part amends the *Referendums Act 1997*.

75 Insertion of new pt 4, div 1AA

Part 4—

insert—

Division 1AA Preliminary

14A Particular references relating to an electoral district

For this part—

- (a) a reference to an electoral district in relation to an elector is a reference to the electoral district for which the elector is enrolled; and
- (b) a reference to a polling booth established for an electoral district, or otherwise in relation to an electoral district, is a reference to a polling booth at which an ordinary vote for the electoral district may be made; and
- (c) a reference to a returning officer in relation to an elector is a reference to the returning officer for the electoral district for which the elector is enrolled.

76 Amendment of s 15 (Setting up and operating polling booths)

(1) Section 15(4)—

omit, insert—

- (4) The commission must advertise, in the ways the commission considers appropriate, including, for example, on the commission's website, the following information about each polling booth for a referendum—
 - (a) the electoral districts for which an ordinary vote may be made at the polling booth;
 - (b) the location of the polling booth;

[s 77]

- (c) the voting hours of the polling booth.
- (2) Section 15(6)—
omit, insert—
- (6) The commission must advertise the establishment and abolition of ordinary polling booths in the ways the commission considers appropriate, including, for example, on the commission's website.

77 Amendment of s 16 (Kinds of polling booths)

- (1) Section 16(1)(c), 'for electoral districts'—
omit.
- (2) Section 16(3)(b)—
omit, insert—
- (b) a building, structure, vehicle or other place declared under subsection (6) to be a mobile polling booth.
- (3) Section 16(4)—
omit, insert—
- (4) If the commission considers that patients or residents of an institution should be able to vote at the institution, the commission may declare the institution to be a mobile polling booth for the referendum.
- (4) Section 16(6)—
omit, insert—
- (6) If the commission considers an area is too remote to have enough electors to establish an ordinary polling booth, the commission may—
 - (a) arrange for a building, structure, vehicle or other place to be available as a mobile

polling booth for electors in the area to vote at the referendum; and

- (b) declare the building, structure, vehicle or other place to be a mobile polling booth for the referendum.

(5) Section 16—

insert—

- (10) A declaration made under subsection (4) or (6) must state—

- (a) the electoral districts for which electors may make an ordinary vote at the mobile polling booth; and
- (b) the days, during the period that starts 11 days before polling day and ends at 6p.m. on polling day, on which electors may vote at the mobile polling booth; and
- (c) the voting hours for the mobile polling booth on those days.

- (11) The commission must publish a declaration made under subsection (4) or (6), and otherwise advertise the information about the mobile polling booths stated in the declaration, in the ways the commission considers appropriate, including, for example, on the commission's website.

78 Insertion of new ss 16A and 16B

After section 16—

insert—

16A Pre-poll voting offices

- (1) The commission may declare for a referendum—
 - (a) a stated place (a *pre-poll voting office*) to be a place where an elector may—

[s 78]

- (i) make a pre-poll ordinary vote for the referendum; or
 - (ii) make a declaration vote for the referendum; and
 - (b) the electoral districts for which a pre-poll ordinary vote may be made at the place; and
 - (c) the times during which electors are allowed to make a vote at the place.
- (2) The commission must publish a declaration under subsection (1), and otherwise advertise the information about the pre-poll voting offices stated in the declaration, in the ways the commission considers appropriate, including, for example, on the commission's website.

16B Suspension of poll

- (1) A returning officer may suspend the poll at a polling booth on polling day for not more than 4 hours if the returning officer is satisfied the taking of the poll is, or is likely to be, temporarily interrupted or obstructed by—
 - (a) a serious threat of a riot or open violence happening; or
 - (b) a serious risk to the health or safety of persons at the polling booth; or
 - (c) another emergency.
- (2) The returning officer must ensure an elector who attends the polling booth while the poll is suspended is given information to assist the elector to vote at the referendum, including—
 - (a) the time the poll is expected to resume at the polling booth; and
 - (b) the location of other polling booths.
- (3) The returning officer must adjourn the conduct of

the poll at the polling booth if—

- (a) for any reason, taking of the poll at the polling booth can not resume on polling day; or
- (b) the returning officer is satisfied that it is unreasonable for an elector who would have otherwise cast a vote at the polling booth while it was suspended to have cast a vote at another polling booth.

79 Amendment of s 17 (Adjournment of poll at polling booth)

(1) Section 17(1), (2) and (3)—

omit, insert—

- (1) A returning officer may adjourn the poll at a polling booth to another day if the returning officer is satisfied the taking of the poll at the polling booth is, or is likely to be, interrupted or obstructed by a thing stated in subsection (2) to the extent that the taking of the poll can not start or continue at the polling booth.
- (2) For subsection (1), the things are as follows—
 - (a) a storm, flood, fire or similar happening;
 - (b) a riot or open violence;
 - (c) a serious threat of a riot or open violence happening;
 - (d) a serious risk to the health or safety of persons at the polling booth;
 - (e) another emergency.
- (3) If the poll is adjourned under subsection (1) or section 16B(3), the commission must fix a day (not later than 34 days after the polling day) for taking, or resuming, the adjourned poll.
- (3A) The commission must give notice of the day fixed

[s 80]

for taking, or resuming, the adjourned poll on the commission's website and in other ways the commission considers appropriate.

- (2) Section 17(3A) to (6)—
renumber as section 17(4) to (7).

80 Insertion of new s 17A

After section 17—

insert—

17A Supply of electoral rolls and ballot papers

- (1) The commission must ensure that a sufficient number of the following are available for the referendum at each polling place—
 - (a) certified copies of the electoral roll for each electoral district as at the cut-off day for electoral rolls;
 - (b) ballot papers.
- (2) Without limiting subsection (1)(a), a certified copy of the electoral roll for an electoral district is available at a polling place if—
 - (a) a certified copy of the electoral roll can be accessed electronically from the polling place; and
 - (b) an issuing officer at the polling place can use the certified copy to make an electronic record of the persons to whom a ballot paper is issued.
- (3) Without limiting subsection (1)(b), a ballot paper is available at a polling place if a ballot paper can be reproduced at the place under section 18A.

81 Amendment of s 18 (Ballot papers and electoral rolls)

- (1) Section 18, heading—

omit, insert—

18 Form of ballot papers

- (2) Section 18(1)—

omit.

- (3) Section 18(2), after ‘Ballot papers’—

insert—

for voting at the referendum for an electoral district

- (4) Section 18(2)(c), before ‘be attached to’—

insert—

for a ballot paper other than a ballot paper reproduced under section 18A,

- (5) Section 18(2)(c)(iii)—

omit, insert—

(iii) states the name of the electoral district; and

- (6) Section 18(2)—

insert—

(e) show the name of the State, the name of the electoral district and the day of the referendum.

- (7) Section 18(4), from ‘must’—

omit, insert—

must—

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

[s 82]

(b) state the name of the State, the name of the electoral district for which the vote is cast and the day of the referendum.

(8) Section 18(2) to (4)—
renumber as section 18(1) to (3).

82 Insertion of new s 18A

After section 18—

insert—

18A Ballot papers may be reproduced if required

- (1) This section applies if a polling place does not have, or runs out of, ballot papers for an electoral district.
- (2) An issuing officer at the polling place may reproduce a ballot paper, including, for example, by photocopying, handwriting or printing the ballot paper.
- (3) Section 18(1) applies to a ballot paper reproduced under this section.
- (4) The issuing officer must keep a record of the number of ballot papers for an electoral district the officer reproduces under this section.

83 Amendment of s 19 (Scrutineers)

Section 19(2), from ‘each mobile’ to ‘issuing officer,’—

omit, insert—

mobile polling booth and pre-poll voting office

84 Amendment of s 21 (Who may vote)

Section 21(3), after ‘imprisonment’—

insert—

of 3 years or longer

85 Amendment of s 22 (Procedure for voting)

(1) Section 22(1)—

omit, insert—

(1) An elector is to vote by following the procedures stated in this section unless the elector—

(a) makes a pre-poll ordinary vote under section 24C; or

(b) makes, or must make, a declaration vote under subdivision 2; or

(c) makes an electronically assisted vote under subdivision 2A.

(2) Section 22(2)(a), from ‘established’—

omit, insert—

for the elector’s electoral district during ordinary voting hours; or

(3) Section 22(3), after ‘ballot paper’—

insert—

for the electoral district

(4) Section 22(4) and (5), after ‘ballot paper’, first mention—

insert—

for the electoral district

(5) Section 22(5) and (6), ‘enrolled in’—

omit, insert—

entitled to vote at the referendum for

[s 86]

86 Amendment of s 24A (Pre-poll ordinary voting)

Section 24A(2), ‘electoral district for which the elector is enrolled’—

omit, insert—

elector’s electoral district

87 Omission of s 24B (Pre-poll voting offices)

Section 24B—

omit.

88 Amendment of s 24C (Procedure for pre-poll ordinary voting)

(1) Section 24C(2), from ‘electoral district’—

omit, insert—

elector’s electoral district.

(2) Section 24C(3), (4)(a) and (5), after ‘ballot paper’—

insert—

for the electoral district

89 Amendment of s 25 (Who may make a declaration vote)

Section 25(1)(a), ‘(an *ordinary postal voter*)’—

omit.

90 Amendment of s 26 (Who must make a declaration vote)

(1) Section 26(a), from ‘electoral district’—

omit, insert—

elector’s electoral district;

(2) Section 26(b), from ‘is outside’—

omit, insert—

has not been established for the elector's electoral district;

(3) Section 26—

insert—

(ca) an elector who goes on a polling day to a polling booth but is not able to make an ordinary vote at the polling booth for a reason that is beyond the elector's control;

Example of a reason beyond an elector's control why the elector cannot make an ordinary vote—

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

(4) Section 26—

insert—

(da) an elector who is serving a sentence of imprisonment, or is otherwise detained in lawful custody, on the polling day;

(5) Section 26(ca) to (f)—

renumber as section 26(d) to (h).

91 Amendment of s 27 (Ways in which an elector may make a declaration vote)

(1) Section 27(1)(b), 'in an electoral district'—

omit.

(2) Section 27(1)(c)—

omit.

(3) Section 27(1)(d), after 'section 30'—

insert—

or 34B

[s 92]

- (4) Section 27(1)(d) and (e)—
renumber as section 27(1)(c) and (d).

92 Amendment of s 28 (Making a declaration vote at a polling booth)

- (1) Section 28(1), from ‘in an electoral’ to ‘ballot paper’—
omit, insert—
and request a ballot paper for an electoral district
- (2) Section 28(2), from ‘is enrolled’—
omit, insert—
may make an ordinary vote for the elector’s electoral district at the polling booth.

93 Omission of s 29 (Making a declaration vote at a commission office)

Section 29—
omit.

94 Amendment of s 30 (Making a declaration vote using posted referendum papers)

- (1) Section 30(1) to (3)—
omit, insert—
- (1) A special postal voter or ordinary postal voter may make a declaration vote under this section using a ballot paper and declaration envelope sent to the elector.
- (2) An elector is an *ordinary postal voter* if—
- (a) the elector makes a request (a *postal vote request*) to the commission or the returning officer to make a declaration vote using a

ballot paper and declaration envelope sent to the elector; and

- (b) the elector's postal vote request is received by the commission or returning officer not later than 7p.m. on the day that is 12 days before the polling day for the election.

Note—

The polling day for a referendum is always a Saturday—see section 6(2)(c). The day that is 12 days before the polling day for a referendum is 2 Mondays before the polling day.

- (3) A postal vote request—
 - (a) may be made by the elector orally or in writing; and
 - (b) if the request is written—
 - (i) must be in the approved form; and
 - (ii) may be given to the commission or returning officer by the elector or someone else; and
 - (c) must state the address to which the ballot paper is to be sent.

- (2) Section 30—

insert—

- (4A) Also, the commission must post, deliver or otherwise send a ballot paper and declaration envelope to an ordinary postal voter as soon as practicable after receiving the elector's postal vote request.
- (4B) If the commission or a returning officer receives a postal vote request for an elector after the time mentioned in subsection (2)(b), the commission or returning officer must give the elector a written notice that states the elector is not entitled to make a declaration vote under this section.

[s 95]

(3) Section 30(6)(d)(i), ‘an office of the commission’—

omit, insert—

a pre-poll voting office

(4) Section 30(7), ‘subsection (6)(b)’—

omit, insert—

subsection (8)(b)

(5) Section 30(8), ‘subsection (6)(d)(i)’—

omit, insert—

subsection (8)(d)(i)

(6) Section 30(8)—

insert—

Note for subsection (10)—

Section 36 sets out the process for examining declaration envelopes and preparing the ballot papers in them for counting.

(7) Section 30(4A) to (8)—

renumber as section 30(5) to (10).

95 Amendment of s 31 (Electoral visitor voting)

Section 31(1) and (2)—

omit, insert—

(1) An electoral visitor voter may give a request to vote as an electoral visitor voter to the commission or returning officer.

(2) The request—

(a) *must—*

(i) be in writing; and

(ii) be in the approved form; and

(iii) state the address the electoral visitor is to visit; and

- (b) may be given to the commission or returning officer by the elector or someone else.

96 Insertion of new pt 4, div 3, sdiv 4

Part 4, division 3—

insert—

Subdivision 4 Replacement ballot papers

34A Replacement ballot paper issued at polling place

- (1) This section applies if, while voting at a polling place, an elector—
 - (a) satisfies an issuing officer that—
 - (i) a ballot paper given to the elector (the *spoilt ballot paper*) is marked, damaged or destroyed to the extent that it can not be used to make a vote; and
 - (ii) the spoilt ballot paper has not been put in a ballot box in the polling place; and
 - (iii) the elector has not voted in the election; and
 - (b) gives the spoilt ballot paper, or the remains of the ballot paper, to the issuing officer.
- (2) The issuing officer must give the elector another ballot paper.
- (3) The issuing officer must also—
 - (a) place the spoilt ballot paper in an envelope and seal the envelope; and
 - (b) keep the envelope for separate identification under section 38.

[s 96]

34B Replacement ballot paper issued to postal voter

- (1) This section applies if a ballot paper for a referendum and declaration envelope is sent to an elector under section 30 and either—
 - (a) the elector does not receive the ballot paper and declaration envelope; or
 - (b) the ballot paper (the *spoilt ballot paper*) is marked, damaged or destroyed to the extent that it can not be used to make a declaration vote.
- (2) The elector may ask the commission or returning officer for a replacement ballot paper.
- (3) If the replacement ballot paper is to be sent to the elector, the request must state the address to which the ballot paper is to be sent.
- (4) An issuing officer must—
 - (a) if the elector makes the request in person—give another ballot paper and declaration envelope to the elector; or
 - (b) post, deliver or otherwise send another ballot paper and declaration envelope to the elector as soon as practicable after receiving the request.
- (5) When the elector makes a declaration vote under subdivision 2, the elector must make the declaration on the declaration envelope that states—
 - (a) the ballot paper sent to the elector has not been received or has been marked, damaged or destroyed; and
 - (b) the elector has not otherwise voted in the election.
- (6) The commission and returning officers must keep

a record of all ballot papers and declaration envelopes given or sent under this section.

97 Amendment of s 36 (Preliminary processing of declaration envelopes and ballot papers)

(1) Section 36(2)(c), ‘section 30(6)(d)’—

omit, insert—

section 30(8)(d)

(2) Section 36—

insert—

(7A) Declaration envelopes may be examined under this section before or after polling day for the referendum.

(3) Section 36(7A) and (8)—

renumber as section 36(8) and (9).

98 Amendment of s 37 (Preliminary and official counting of votes)

Section 37—

insert—

(c) in accordance with the procedures made under section 41A.

99 Replacement of s 38 (Preliminary counting of ordinary votes)

Section 38—

omit, insert—

38 Preliminary counting of ordinary votes

(1) As soon as practicable after the end of ordinary voting hours on the polling day for the referendum, the member of the commission’s

[s 99]

staff in charge of a polling booth must ensure that the commission's staff at the polling place follow the procedures—

- (a) stated in subsection (2); and
 - (b) made under section 41A.
- (2) The staff must—
- (a) open all ballot boxes at the polling booth, including ballot boxes in which ballot papers from declaration envelopes have been placed under section 36(3); and
 - (b) identify and keep in separate parcels for each different electoral district—
 - (i) all formal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and
 - (ii) all declaration envelopes; and
 - (iii) all informal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and
 - (c) for each electoral district for which ordinary votes are to be counted at the polling booth—
 - (i) arrange, count and keep in separate parcels—
 - (A) all yes votes; and
 - (B) all no votes; and
 - (C) all informal ballot papers; and
 - (ii) prepare and sign a statement, in the approved form, setting out—
 - (A) the number of yes votes; and

- (B) the number of no votes; and
 - (C) the number of informal ballot papers; and
 - (iii) advise the returning officer for the electoral district of the contents of the statement; and
 - (d) for each electoral district to which paragraph (c) does not apply, identify and keep in a separate parcel—
 - (i) all formal ballot papers, including ballot papers printed for electronically assisted votes; and
 - (ii) all informal ballot papers, including ballot papers printed for electronically assisted votes; and
 - (e) for each separate parcel of ballot papers or declaration envelopes—
 - (i) seal the parcel; and
 - (ii) write on the parcel a description of its contents, including the number of ballot papers or declaration envelopes in the parcel; and
 - (iii) sign the description; and
 - (iv) if a scrutineer wishes to countersign the description—allow the scrutineer to do so; and
 - (f) send the parcels, and the statement mentioned in subsection (2)(c)(ii), to the returning officer for the appropriate electoral district.
- (3) However, if the poll was for more than 1 referendum, the staff must make up the ballot papers into separate sealed parcels in the way the commission directs.

[s 100]

- (4) Also, the staff must—
 - (a) identify all envelopes containing spoilt ballot papers for each different electoral district; and
 - (b) keep the envelopes in a separate parcel; and
 - (c) deal with the parcel in the way stated in subsection (2)(e) and (f) as if the reference in that subsection to ballot papers were a reference to envelopes containing spoilt ballot papers.
- (5) This section also applies, in the way stated in subsection (6), to the following votes received by the commission—
 - (a) votes received under section 36 for an electoral district;
 - (b) pre-poll votes for an electoral district made at a pre-poll voting office;
 - (c) ballot papers printed for electronically assisted votes at a place other than a polling booth.
- (6) This section applies to the votes mentioned in subsection (5) in the same way it would apply if an office of the commission, or a pre-poll voting office, were a polling booth for an electoral district—
 - (a) to the extent it is reasonably practicable to count the votes on polling day; and
 - (b) subject to any changes prescribed by regulation and any other necessary changes.

100 Amendment of s 39 (Official counting of votes)

(1) Section 39(1), after ‘this section’—

insert—

and made under section 41A

(2) Section 39(2)(b) and (c)—

omit, insert—

(b) identify and keep in separate parcels for each different electoral district—

(i) all formal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and

(ii) all declaration envelopes; and

(iii) all informal ballot papers (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and

(c) for each parcel for an electoral district other than the returning officer's electoral district—

(i) seal the parcel; and

(ii) write on the parcel a description of its contents, including the number of ballot papers or declaration envelopes in the parcel; and

(iii) sign the description; and

(iv) if a scrutineer wishes to countersign the description—allow the scrutineer to do so; and

(3) Section 39(3)(a)—

omit, insert—

(a) open—

(i) the parcels mentioned in subsection (2)(b) for the returning officer's electoral district; and

[s 101]

- (ii) all sealed parcels of ballot papers and declaration envelopes sent to the returning officer under section 38; and
 - (ab) follow the procedures set out in section 36 for all declaration envelopes; and
- (4) Section 39(3)(ab) to (c)—
renumber as section 39(3)(b) to (d).

101 Insertion of new s 41A

After section 41—

insert—

41A Prescribed procedures for counting of absentee votes

- (1) The commission must make procedures about how, subject to this division, absentee votes at a referendum are to be counted.
- (2) The procedures must provide for—
 - (a) the circumstances in which absentee votes are counted at a polling booth under section 38; and
 - (b) ensuring absentee votes are counted at polling places in a way that does not compromise the secrecy of voting; and
 - (c) the secure delivery of sealed ballot boxes, and sealed parcels of ballot papers and declaration envelopes, containing absentee votes to the returning officer for the appropriate electoral district or the commission; and
 - (d) the arrangements for scrutineers to be present when absentee votes are counted and their roles and responsibilities.
- (3) The procedures—

- (a) do not take effect until approved by a regulation; and
 - (b) must be tabled in the Legislative Assembly with the regulation approving the procedures; and
 - (c) must be published on the commission's website.
- (4) In this section—

absentee vote means an ordinary vote made by an elector at a polling booth that is not located in the elector's electoral district.

102 Amendment of s 46 (Storage of ballot papers and declaration envelopes)

- (1) Section 46(1), from 'a period' to 'Governor'—

omit, insert—

the period that applies under subsection (2)

- (2) Section 46(1)(a)—

omit, insert—

- (a) formal and informal ballot papers for the referendum;

- (3) Section 46—

insert—

- (1A) For subsection (1), the period starts on the polling day for the referendum and ends on the latest of the following days—

- (a) the day that is 1 year after the polling day;
- (b) if the material relates to an application to dispute a referendum or an appeal—the day on which—
 - (i) the application is withdrawn; or

[s 102]

- (ii) if the application is decided and an appeal from the decision has not been started—the time for starting an appeal from the decision ends; or
 - (iii) if the application is dismissed and an appeal from the decision or order to dismiss the application has not been started—the time for starting an appeal from the decision or order ends; or
 - (iv) the appeal is decided, dismissed or withdrawn;
- (c) if the commission has authorised a person, including, for example, a person who conducts research at a university, to use the materials for analysis or research—the day on which—
- (i) the person finishes the analysis or research; or
 - (ii) the person no longer requires the materials for the analysis or research; or
 - (iii) the commission withdraws the authorisation.
- (4) Section 46—
insert—
- (4) In this section—
- appeal*** means an appeal started under part 5, division 2.
- application to dispute a referendum*** means an application to dispute a referendum under part 5, division 1.
- (5) Section 46(1A) and (2)—
renumber as section 46(2) and (3).

103 Amendment of s 72 (Author of referendum matter must be named)

(1) Section 72(1), penalty—

omit, insert—

Maximum penalty—

(a) for an individual—20 penalty units; or

(b) for a corporation—85 penalty units.

(2) Section 72(4), definition *referendum matter*—

omit.

(3) Section 72(4)—

insert—

publish includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.

104 Amendment of s 73 (Headline to general referendum matter advertisements)

Section 73(1), penalty—

omit, insert—

Maximum penalty—

(a) for an individual—10 penalty units; or

(b) for a corporation—40 penalty units.

105 Amendment of s 76 (Leave to vote)

Section 76(3), penalty—

omit, insert—

Maximum penalty—

(a) for an individual—10 penalty units; or

(b) for a corporation—40 penalty units.

[s 106]

106 Amendment of s 77 (Canvassing etc. in or near polling places)

(1) Section 77(1)(b), from ‘or’ to ‘commission,’—

omit.

(2) Section 77(1), penalty, ‘9 penalty units’—

omit, insert—

10 penalty units

107 Amendment of s 78 (Interrupting voting etc.)

Section 78, penalty, ‘9 penalty units’—

omit, insert—

10 penalty units

108 Amendment of s 82 (Offences relating to ballot papers)

Section 82(1)(a), ‘30(6)(c)’—

omit, insert—

30(8)(c)

109 Amendment of s 83 (Failure to give, post or send documents for someone else)

(1) Section 83(1) and (2), ‘returning officer.’—

omit, insert—

returning officer, unless the person has a reasonable excuse.

(2) Section 83(2), ‘section 30(6)(d)(ii)’—

omit, insert—

section 30(8)(d)(ii)

110 Amendment of s 85 (Breaking seals on parcels)

Section 85, ‘section 38(2)(h)’—

omit, insert—

section 38(2)(e)

111 Amendment of s 86 (Duty of witness to signing of declaration voting papers)

Section 86, ‘section 30(6)(a)’—

omit, insert—

section 30(8)(a)

112 Amendment of s 88 (Extension of time)

Section 88(1), after ‘under the’—

insert—

Constitution of Queensland 2001, section 19B or

113 Amendment of s 89 (Cut-off day for electoral rolls for an election and a referendum)

Section 89(2), ‘stated in the writ for the election’—

omit, insert—

for the election under the *Electoral Act 1992*

114 Omission of s 90 (Pre-poll voting—making a declaration vote at a commission office)

Section 90—

omit.

115 Amendment of s 94 (Applications, declarations, ballot papers and references)

(1) Section 94(a), ‘section 119(1)’—

[s 116]

omit, insert—

section 119(2)

- (2) Section 94(a), ‘section 30(1)’—

omit, insert—

section 30(2)

- (3) Section 94(b) and (c), ‘119,’—

omit.

- (4) Section 94(b) and (c), ‘29,’—

omit.

116 Insertion of new s 95A

After section 95—

insert—

95A Suspension of poll at both referendum and election

- (1) This section applies if—
- (a) the polling day for a referendum is also the polling day for an election; and
 - (b) the returning officer suspends the poll at a polling booth under the *Electoral Act 1992*, section 99B.
- (2) The poll at the polling booth for the referendum is also suspended while the poll at the polling booth for the election is suspended.

117 Amendment of s 96 (Adjournment at both referendum and election)

Section 96(1)(b) and (c), after ‘section’—

insert—

99B or

118 Amendment of s 96AC (Application of division 1)

(1) Section 96AC(1)—

insert—

(fa) the reference in section 95A or 96(1) to the *Electoral Act 1992*, section 99B were a reference to the LGEA, section 52A; and

(2) Section 96AC(1)(fa) to (i)—

renumber as section 96AC(1)(g) to (j).

119 Amendment of s 96AE (Applications, declarations, ballot papers and references)

Section 96AE(a), ‘section 30(1)’—

omit, insert—

section 30(2)

120 Omission of s 96AH (Ballot papers)

Section 96AH—

omit.

121 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *ordinary postal voter* and *pre-poll voting office*—

omit.

(2) Schedule 3—

insert—

certified copy, of an electoral roll, means a certified copy of the electoral roll under the *Electoral Act 1992*.

ordinary postal voter see section 30(2).

pre-poll voting office see section 16A(1)(a).

[s 122]

referendum matter means anything able to, or intended to—

- (a) influence an elector in relation to voting at a referendum; or
- (b) affect the result of a referendum.

spoilt ballot paper see section 34A(1)(a)(i) and 34B(1)(b).

Part 4 Amendment of other Acts

Division 1 Amendment of Acts Interpretation Act 1954

122 Act amended

This division amends the *Acts Interpretation Act 1954*.

123 Amendment of sch 1 (Meaning of commonly used words and expressions)

- (1) Schedule 1, definition *Constitution of Queensland*, paragraph (c)—
omit.
- (2) Schedule 1, definition *Constitution of Queensland*, paragraph (d)—
renumber as paragraph (c).

Division 2 Amendment of Parliament of Queensland Act 2001

124 Act amended

This division amends the *Parliament of Queensland Act 2001*.

125 Amendment of s 5 (Relationship between this Act and some other Acts about Parliament)

(1) Section 5(2)—

omit, insert—

(2) The *Constitution of Queensland 2001*—

- (a) contains basic statements about the Assembly's membership and procedures and its powers, rights and immunities; and
- (b) provides for the duration of the Assembly.

(2) Section 5(4)—

omit.

(3) Section 5(5) and (6)—

renumber as section 5(4) and (5).

© State of Queensland 2019