



Australian Capital Territory

## **Electoral Act 1992    No 71**

**Republication No 11 (RI)**

**Effective: 11 October 2002**

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Last amendment made by Act 2002 No 39

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Electoral Act 1992* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 11 October 2002. It also includes any amendment, repeal or expiry affecting the republished law to 11 October 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

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The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Electoral Act 1992

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Australian Capital Territory

## Electoral Act 1992

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An Act to provide for elections of members of the Legislative Assembly and related matters

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## **Preamble**

- 1 On 15 February 1992 a referendum was held to enable the electors of the Territory to choose which of 2 voting systems is to be used at future elections for the Legislative Assembly.
- 2 The electors chose the proportional representation (Hare-Clark) system as outlined in the Referendum Options Description Sheet set out in the *Australian Capital Territory (Electoral) Act 1988* (Cwlth), schedule 3.
- 3 The electoral system chosen by the electors includes the system of rotation of the positions of candidates' names on ballot papers known as the Robson Rotation.
- 4 The Legislative Assembly wishes to enact legislation to implement the electoral system chosen by the electors as soon as it is convenient to do so.

The Legislative Assembly for the Australian Capital Territory therefore enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Electoral Act 1992*.

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*electoral matter*—see section 4 (Meaning of *electoral matter*).' means that the expression 'electoral matter' is defined in that section and the definition applies to the entire Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

### 4 Meaning of *electoral matter*

- (1) In this Act, *electoral matter* is matter, in printed or electronic form, that is intended or likely to affect voting at an election.
- (2) Without limiting subsection (1), matter is taken to be intended or likely to affect voting at an election if it contains an express or implicit reference to, or comment on—
  - (a) the election; or
  - (b) the performance of the Government or Opposition, or a previous Government or Opposition; or
  - (c) the performance of an MLA or former MLA; or

- (d) the performance of a political party, ballot group, candidate or group of candidates in the election; or
- (e) an issue submitted to, or otherwise before, the electors in relation to the election.

**4A Meaning of *available for public inspection***

If a provision of this Act requires the commissioner to make a document, a copy of a document or a register available for public inspection, the commissioner must make the document, a copy or register available for inspection by members of the public at the commissioner's office during ordinary business hours.

## **Part 2**                      **Australian Capital Territory Electoral Commission**

### **Division 2.1**                **Establishment, functions and powers of electoral commission**

#### **5**        **Establishment**

The Australian Capital Territory Electoral Commission is established.

#### **6**        **Constitution of commission**

The electoral commission consists of—

- (a) the chairperson; and
- (b) the commissioner; and
- (c) 1 other member.

#### **7**        **Functions of electoral commission**

- (1) The electoral commission has the following functions:
  - (a) to advise the Minister on matters relating to elections;
  - (b) to consider, and report to the Minister on, matters relating to elections referred to it by the Minister;
  - (c) to promote public awareness of matters relating to elections and the Assembly by conducting education and information programs and by any other means it chooses;
  - (d) to provide information and advice on matters relating to elections to the Assembly, the Executive, the head of any administrative unit of the public service, Territory authorities, political parties, MLAs and candidates at elections;

- (e) to conduct and promote research into matters relating to elections or other matters relating to its functions;
- (f) to publish material on matters relating to its functions;
- (g) to provide, on payment of the determined fee (if any), goods and services to persons or organisations, to the extent that it is able to do so by using information or material in its possession or expertise acquired in the exercise of its functions;
- (h) to conduct ballots for prescribed persons and organisations;
- (i) to exercise any other function given to it under this Act or another Territory law.

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

(2) The commission may exercise any of its functions under subsection (1) (a) to (f) in conjunction with the Australian Electoral Commission.

(3) In this section:

*election* includes a referendum and any other ballot.

## **8 Determination of fees**

(1) The electoral commission may, in writing, determine fees for this Act.

*Note* The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.



## **10 Annual reports**

The electoral commission shall be taken, for the *Annual Reports (Government Agencies) Act 1995*, to be a public authority that has been given a direction under that Act, section 8 (5) (a).

### **10A Special reports by electoral commission**

- (1) The electoral commission may give to the Minister a report on anything relating to elections, referendums or other ballots.
- (2) If the Minister receives a report that is expressed to be given to the Minister under subsection (1), the Minister must present a copy of the report to the Legislative Assembly within 6 sitting days after the day the Minister receives it.

## **Division 2.2 Members of electoral commission**

### **11 Meaning of *member* for div 2.2**

In this division:

*member* means a member of the electoral commission, other than the commissioner.

### **12 Appointment**

- (1) The Executive may appoint a person to be a member.

*Note* For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

- (2) A person shall not be appointed as the chairperson unless the person—
  - (a) is or has been a judge; or
  - (b) has been a justice of the High Court; or
  - (c) has been a chief executive; or

- (d) has held an office of Secretary within the meaning of the *Public Service Act 1999* (Cwlth); or
  - (e) has been a member of the electoral commission or of an authority of the Commonwealth, a State or another Territory equivalent to the electoral commission.
- (3) Before a person is appointed as a member, the Minister shall consult—
- (a) the leader of each political party represented in the Legislative Assembly; and
  - (b) all members of the Legislative Assembly who are not also members of such a party;
- about the proposed appointment.
- (4) An appointment under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### **13 Term of appointment of members**

A member must be appointed for a term of not longer than 5 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of *appoint*).

### **14 Conditions of appointment of members generally**

A member holds the position on the conditions not provided by this Act or another Territory law that are decided by the Minister.

### **15 Leave of absence**

The Minister may grant a member leave of absence on the terms and conditions about remuneration and otherwise that the Minister determines.

## **17 Suspension or ending of appointment of members**

- (1) The Executive may suspend a member from duty for misbehaviour or physical or mental incapacity.
- (2) On the first sitting day after the day when a member is suspended, the Minister shall present a statement of the reasons for the suspension to the Legislative Assembly.
- (3) If, within 7 sitting days after a statement is presented in accordance with subsection (2), the Legislative Assembly passes a resolution requiring the Executive to end the appointment of the member to whom the statement relates, the Executive shall end the appointment of that member.
- (4) If—
  - (a) the Minister does not present a statement in accordance with subsection (2); or
  - (b) the Legislative Assembly does not pass a resolution in accordance with subsection (3);the member who is suspended shall resume his or her duties.
- (5) A member who is suspended from duty is entitled to be paid remuneration and allowances as a member during the suspension.
- (6) The Executive shall end the appointment of a member if the member—
  - (a) is absent without leave granted under section 15 from 3 consecutive meetings of the electoral commission; or
  - (b) contravenes section 21 without reasonable excuse; or
  - (c) is convicted of an offence in Australia or elsewhere punishable by imprisonment for 12 months or longer.

*Note* A member's appointment also ends if the member resigns (see *Legislation Act 2001*, s 210).

## Division 2.3 Meetings

### 19 Procedure

- (1) The chairperson may call a meeting of the electoral commission.
- (2) The chairperson shall call the meetings of the electoral commission necessary for the efficient conduct of its functions.
- (3) At a meeting, 2 members constitute a quorum.
- (4) The chairperson shall preside at all meetings at which he or she is present.
- (5) If the chairperson is not present at a meeting, the commissioner shall preside.
- (6) Questions arising at a meeting shall be determined by a majority of the votes of the members present and voting.
- (7) The member presiding at a meeting has a deliberative vote, and in the event of an equality of votes, has a casting vote.
- (8) If—
  - (a) only 2 members are present at a meeting; and
  - (b) those members differ in opinion on a matter, other than a matter because of which the third member is absent because of section 21;the determination of the matter shall be postponed until the next meeting.
- (9) The electoral commission may regulate the conduct of proceedings at its meetings as it considers appropriate.
- (10) The electoral commission may inform itself on any matter in the way it considers appropriate.

## **20 Delegation by electoral commission**

- (1) The electoral commission may delegate the commission's functions under this Act or another Territory law to—
  - (a) the commissioner; or
  - (b) an officer or a member of the commission's staff.
- (2) However, the electoral commission must not delegate its functions under part 4 (Electorates) or part 15 (Review of decisions).

*Note* For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

## **21 Disclosure of interests**

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the electoral commission shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the electoral commission.
- (2) The disclosure shall be recorded in the minutes of the meeting and, unless the electoral commission determines otherwise, the member shall not—
  - (a) be present during any deliberation of the electoral commission in relation to the matter; or
  - (b) take part in any decision of the electoral commission in relation to the matter.
- (3) The member shall not—
  - (a) be present during any deliberation of the electoral commission for the purpose of considering whether to make a determination under subsection (2) in relation to that member; or
  - (b) take part in the making by the electoral commission of such a determination.

- (4) A member is not to be taken to have an interest in a matter only because the member is entitled to vote in a general election of members of the Legislative Assembly.

## **Part 3**                      **Electoral commissioner and staff of electoral commission**

### **Division 3.1**              **Electoral commissioner**

#### **22**    **Appointment**

- (1) The Executive may appoint a person to be the Electoral Commissioner.

*Note*    For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

- (2) Before a person is appointed as the commissioner, the Minister shall consult—

- (a) the leader of each political party represented in the Legislative Assembly; and  
(b) all members of the Legislative Assembly who are not also members of such a party;

about the proposed appointment.

- (3) An appointment under subsection (1) is a disallowable instrument.

*Note*    A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

#### **23**    **Functions of commissioner etc**

- (1) The commissioner is the chief executive officer of the electoral commission.

- (2) The commissioner has the functions given to the commissioner under this Act or another Territory law.

*Note*    A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

- (3) The commissioner may give written directions to officers and members of the staff of the electoral commission in relation to the exercise of their functions under this Act or another Territory law.

## **24 Delegation by commissioner**

- (1) The commissioner may delegate the commissioner's functions under this Act or another Territory law to an officer or a member of the staff of the electoral commission.

*Note* For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

- (2) However, the commissioner must not delegate the commissioner's functions under part 4 (Electorates).

## **25 Term of appointment of commissioner**

The commissioner must be appointed for a term of not longer than 5 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of *appoint*).

## **26 Conditions of appointment of commissioner generally**

- (1) The commissioner holds the position on the conditions not provided by this Act or another Territory law that are decided by the Minister.
- (2) The commissioner may hold any other position that is compatible with the exercise of his or her functions as commissioner.

## **27 Leave of absence**

The Minister may grant the commissioner leave of absence on the terms and conditions about remuneration and otherwise that the Minister determines.



## **29 Suspension or ending of appointment of commissioner**

- (1) The Executive may suspend the commissioner from duty for misbehaviour or physical or mental incapacity.
- (2) On the first sitting day after the day when the commissioner is suspended, the Minister shall present a statement of the reasons for the suspension to the Legislative Assembly.
- (3) If, within 7 sitting days after a statement is presented in accordance with subsection (2), the Legislative Assembly passes a resolution requiring the Executive to end the appointment of the commissioner, the Executive shall end the appointment of the commissioner.
- (4) If—
  - (a) the Minister does not present a statement in accordance with subsection (2); or
  - (b) the Legislative Assembly does not pass a resolution in accordance with subsection (3);the commissioner shall resume his or her duties.
- (5) The commissioner is entitled to be paid remuneration and allowances during any suspension.
- (6) The Executive shall end the appointment of the commissioner if he or she—
  - (a) is absent without leave granted under section 27 from 3 consecutive meetings of the commission; or
  - (b) contravenes section 21 without reasonable excuse; or
  - (c) is convicted of an offence in Australia or elsewhere punishable by imprisonment for 12 months or longer.

*Note* A person's appointment also ends if the person resigns (see *Legislation Act 2001*, s 210).

## **Division 3.2 Staff of electoral commission**

### **31 Staff**

- (1) The staff assisting the commissioner shall be employed under the *Public Sector Management Act 1994*.
- (2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the commissioner.

### **32 Temporary staff and consultants**

- (1) The commissioner may, on behalf of the Territory—
  - (a) employ temporary staff; or
  - (b) engage consultants;for this Act.
- (2) Temporary staff shall be employed on terms and conditions determined from time to time by the electoral commission after consultation with the Executive.
- (3) Consultants shall be engaged on terms and conditions determined from time to time by the electoral commission.
- (4) Nothing in this section in relation to the engagement of consultants is to be taken to give the commissioner or the commission a power to enter into a contract of employment.

### **33 Officers**

- (1) The commissioner may appoint an adult to be an officer for this Act.

*Note 1* For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The officers so appointed include, but are not limited to, the following officers:
  - (a) the officer in charge of a polling place;
  - (b) the officer in charge of a scrutiny centre;
  - (c) an officer for the purposes of a poll or the scrutiny at an election.
- (3) A candidate is not entitled to be appointed as an officer, and an officer vacates office if he or she becomes a candidate.
- (4) The commissioner has all the powers of an officer and, in the exercise of such a power, is subject to the same obligations as an officer and, for this Act, shall be taken to be an officer.
- (5) Subject to the directions of the OIC, an officer at a polling place or scrutiny centre may exercise any of the powers of the OIC and in so doing shall, for this Act, be taken to be the OIC.

## **Part 4                      Electorates**

### **34      Multimember electorates**

- (1) The ACT shall be divided into 3 separate electorates.
- (2) Seven members of the Legislative Assembly shall be elected from 1 electorate.
- (3) Five members of the Legislative Assembly shall be elected from each of the other 2 electorates.

### **35      Redistribution of electorates**

- (1) Subject to this part, the augmented commission shall redistribute electorates by determining—
  - (a) the name and boundaries of each electorate; and
  - (b) the number of members of the Legislative Assembly to be elected from each electorate.
- (2) A determination—
  - (a) must be in writing; and
  - (b) may be made only after any investigation under section 52 (Objections to augmented electoral commission's proposal) is finished.
- (3) A determination is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

### **36      Factors relevant to redistribution**

In making a redistribution of electorates, the augmented commission shall—

- (a) ensure that the number of electors in an electorate immediately after the redistribution is within the range permitted by the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 67D (2); and
- (b) endeavour to ensure, as far as practicable, that the number of electors in an electorate at the time of the next general election of members of the Legislative Assembly will not be greater than 105%, or less than 95%, of the expected quota for the electorate at that time ascertained in accordance with the formula set out in the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 67D (1); and
- (c) duly consider—
  - (i) the community of interests within each proposed electorate, including economic, social and regional interests; and
  - (ii) the means of communication and travel within each proposed electorate; and
  - (iii) the physical features and area of each proposed electorate; and
  - (iv) the boundaries of existing electorates; and
  - (v) the boundaries of divisions and sections fixed under the *Districts Act 2002*.

### **37 Timing of redistributions**

- (1) After each ordinary election, a redistribution process shall, subject to section 38—
  - (a) begin as soon as practicable after the beginning of the period of 2 years ending on the end of the 3rd Saturday in October in the year when the next ordinary election is due to be held; and
  - (b) be completed as soon as practicable.

- (2) For subsection (1), a redistribution process—
  - (a) begins when a redistribution committee is formed for the purposes of a redistribution; and
  - (b) ends when the redistribution of electorates is determined under section 35.

**37A    Timing of redistribution after 2001 ordinary election**

- (1) The redistribution process required under section 37 after the ordinary election held on 20 October 2001 must begin as soon as practicable after 30 April 2003.
- (2) Subsection (1) applies despite section 37 (1) (a) but subject to section 38.
- (3) This section expires 16 October 2004.

**38     Suspension of redistribution process—extraordinary elections**

- (1) In this section:
  - redistribution process*—see section 37.
- (2) If the election period for an extraordinary election begins during a redistribution process, no further action shall be taken under this Act in relation to the redistribution until after the election period.
- (3) If, in relation to a proposed redistribution, a notice under this part invited a response (however described) to be made within a particular period and that period had not ended when the election period for an extraordinary election begins—
  - (a) a further such notice shall be given as soon as practicable after the election period; and
  - (b) this Act applies in relation to any response made in accordance with the firstmentioned notice as if it had been made in accordance with the further notice.

### **39 Redistribution committees**

- (1) The electoral commission must, in writing, establish redistribution committees for this part.
- (2) The establishment of a redistribution committee is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) A redistribution committee shall consist of—
  - (a) the commissioner; and
  - (b) the planning authority; and
  - (c) the commissioner for surveys; and
  - (d) a person appointed by the electoral commission whose qualifications or experience would, in the opinion of the electoral commission, enable the person to assist the committee, particularly in relation to the factors set out in section 36.

*Note* For the making of appointments, see *Legislation Act 2001*, pt 19.3.

- (4) The member mentioned in subsection (3) (d) holds the position on the conditions that are decided by the electoral commission in consultation with the Minister and stated in the member's appointment.

### **40 Meetings of redistribution committee**

- (1) The commissioner may call a meeting of a redistribution committee.
- (2) The commissioner shall preside at all meetings at which he or she is present.
- (3) If the commissioner is absent from a meeting, the members present shall elect 1 of their number to preside.
- (4) At a meeting, 3 members constitute a quorum.

- (5) Questions shall be determined by a majority of the votes of the members present and voting.
- (6) The member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a casting vote.
- (7) A redistribution committee may regulate the conduct of proceedings at its meetings as it considers appropriate.
- (8) A redistribution committee may inform itself in the way it considers appropriate, including the opening of its meetings to members of the public.
- (9) The electoral commission shall, on request by a redistribution committee, give the committee the information and assistance it requires for this part.

#### **41      Suggestions and comments about redistribution**

- (1) A redistribution committee must prepare a written notice stating—
  - (a) that written suggestions about the redistribution of electorates may be given to it within 28 days after the day the notice is notified under the *Legislation Act 2001*; and
  - (b) that written comments about the suggestions may be given to it within 14 days after the last day suggestions may be given to it; and
  - (c) each place where suggestions may be inspected by members of the public.
- (2) The notice is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) The redistribution committee must also publish the notice in a newspaper.
- (4) The redistribution committee must ensure that copies of any suggestions given to it in accordance with the notice are available



for inspection by members of the public in accordance with the notice.

#### **42 Outline of proposal**

Before making a proposed redistribution of electorates, a redistribution committee may cause an outline of its proposal to be made available to members of the public.

#### **43 Proposed redistribution**

- (1) A redistribution committee must make a proposed redistribution of electorates after considering the suggestions and comments (if any) given to it in accordance with the notice under section 41 (Suggestions and comments about redistribution).
- (2) Section 36 applies in relation to the making of the proposed redistribution as if it were a redistribution by the augmented commission.
- (3) The committee shall state the reasons for its proposal in writing.
- (4) A member of the committee who disagrees with its proposal may state the reasons for the disagreement in writing.

#### **44 Notification and publication of proposal**

- (1) A redistribution committee must—
  - (a) exhibit a map or maps showing the name and boundaries of each proposed electorate at the electoral commission's office; and
  - (b) make a copy of the following available for public inspection:
    - (i) the suggestions and comments given to the committee in accordance with the notice under section 41 (Suggestions and comments about redistribution); and

- (ii) a description (whether by reference to a map or plan or otherwise) of the boundaries of each proposed electorate; and
  - (iii) a statement of the number of members of the Legislative Assembly that it proposes should be elected from each proposed electorate; and
  - (iv) its statement of reasons for the proposed redistribution; and
  - (v) if a member of the committee has provided a written statement or reasons for any disagreement with the proposal—that statement; and
- (c) prepare a written notice—
- (i) telling the public about the exhibition mentioned in paragraph (a) and the availability for public inspection at the electoral commission's office of the copies of the documents mentioned in paragraph (b); and
  - (ii) stating that written objections against the proposal may be given to the electoral commission within 28 days after the day the notice is notified under the *Legislation Act 2001*.
- (2) The notice is a notifiable instrument.
- Note*     A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) The redistribution committee must also publish the notice, and the map or maps of each proposed electorate, in a newspaper.

#### **45     Dissolution of redistribution committee**

A redistribution committee is dissolved immediately after the notice and maps mentioned in section 44 (1) (Notification and publication of proposal) have been notified and published under section 44 in relation to the committee's proposal.

**46 Objections**

- (1) An objection against a proposal by a redistribution committee must be—
  - (a) in writing; and
  - (b) given to the electoral commission within 28 days after the day the notice mentioned in section 44 (1) (Notification and publication of proposal) is notified under the *Legislation Act 2001* in relation to the committee's proposal.
- (2) The commissioner must make a copy of each objection made under this section available for public inspection.

**47 Augmented electoral commission**

- (1) For the purposes of each redistribution, an augmented electoral commission is established.
- (2) An augmented commission shall consist of—
  - (a) the members of the electoral commission; and
  - (b) the members (other than the commissioner) of the redistribution committee formed for the purposes of the redistribution.

**48 Meetings of augmented electoral commission**

- (1) The chairperson of the electoral commission may call a meeting of an augmented commission.
- (2) The chairperson of the electoral commission shall preside at all meetings of an augmented commission at which he or she is present.
- (3) If the chairperson of the electoral commission is absent from a meeting of an augmented commission—
  - (a) the commissioner shall preside; or

- (b) if the commissioner is absent from the meeting—the members present shall appoint 1 of their number to preside.
- (4) At a meeting, 4 members constitute a quorum.
- (5) Subject to subsection (6), questions shall be determined by a majority of the votes of the members present and voting.
- (6) An augmented commission shall not redistribute electorates under section 35 unless not less than 4 members of the augmented commission, of whom not less than 2 are members of the electoral commission, vote in favour of the redistribution.
- (7) Subject to subsection (8), the member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a casting vote.
- (8) The casting vote of the member presiding at a meeting shall not be used to vote in favour of the making of a redistribution under section 35.
- (9) An augmented commission may regulate the conduct of proceedings at its meetings as it considers appropriate.
- (10) Subject to section 49, an augmented commission may inform itself in any way it considers appropriate.
- (11) The electoral commission shall, on request by an augmented commission, give the augmented commission the information and assistance it requires for this part.

#### **49 Investigation of objections**

- (1) The augmented commission shall investigate each objection made in accordance with section 46.
- (2) For the purpose of investigating an objection, the augmented commission shall hold a public hearing, unless it is of the opinion that—

- (a) the matters raised in the objection (or substantially the same matters) were raised in suggestions or comments given to the redistribution committee in accordance with the notice under section 41 (1) (Suggestions and comments about redistribution); and
  - (b) the objection is frivolous or vexatious.
- (3) The augmented commission may hold 1 public hearing in relation to several objections.
- (4) At a public hearing, submissions to the augmented commission may only be made—
- (a) by or on behalf of a person who made—
    - (i) an objection in accordance with section 46; or
    - (ii) a suggestion or comment about the proposed redistribution given to the redistribution committee in accordance with the notice under section 41 (1); or
  - (b) by a person making a submission in relation to an objection.
- (5) The augmented commission shall consider all such submissions.
- (6) At a public hearing, the augmented commission is not bound by the rules of evidence and, subject to this section, may regulate the conduct of proceedings as it considers appropriate.
- (7) Without limiting subsection (6), the following matters are within the discretion of the augmented commission:
- (a) the manner in which, and the time within which, submissions may be made;
  - (b) the extent to which the augmented commission may be addressed, and the persons by whom it may be addressed.

**50 Redistribution—proposal by augmented electoral commission**

The augmented commission shall make a proposed redistribution of electorates after completing any investigation required by section 49.

**51 Publication of augmented electoral commission's proposal**

- (1) After making a proposed redistribution of electorates, the augmented commission shall cause a public announcement to be made concerning the proposal.
- (2) The public announcement shall include a statement—
  - (a) setting out the substance of the augmented commission's findings or conclusions about the redistribution committee's proposal and any objection to it; and
  - (b) setting out particulars of the augmented commission's proposal; and
  - (c) whether, in the augmented commission's opinion, its proposal is significantly different from the redistribution committee's proposal and, if so, a further statement to the effect that written objections against the proposal may be given to the electoral commission in accordance with the notice prepared under subsection (3).
- (3) If the augmented commission is of the opinion that its proposal is significantly different from the redistribution committee's proposal, the augmented commission must prepare a written notice stating that written objections against the proposal may be given to the electoral commission within 28 days after the day the notice is notified under the *Legislation Act 2001*.
- (4) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

**52 Objections to augmented electoral commission's proposal**

- (1) An objection against a redistribution proposed by the augmented commission must be—
  - (a) in writing; and
  - (b) given to the electoral commission within 28 days after the day the notice under section 51 (3) (Publication of augmented electoral commission's proposal) is notified under the *Legislation Act 2001*.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (2) If an objection is given to the electoral commission in accordance with subsection (1)—
  - (a) the augmented commission must investigate the objection; and
  - (b) section 49 (Investigation of objections) applies as if the investigation were an objection under that section.
- (3) The commissioner must make a copy of each objection made under this section available for public inspection.

**53 Report by augmented electoral commission and public announcement**

- (1) After redistributing electorates under section 35, the augmented commission shall cause—
  - (a) a report about the redistribution to be submitted to the Minister; and
  - (b) copies of the report to be made available for perusal by members of the public at the office of the electoral commission; and
  - (c) a public announcement to be made to the effect that the redistribution has been made and that copies of the report are

available for perusal by members of the public at the office of the electoral commission.

- (2) The report shall contain particulars of—
- (a) any suggestions or comments lodged with the redistribution committee; and
  - (b) the redistribution proposed by the redistribution committee and its reasons for the proposal; and
  - (c) if a member of the redistribution committee has provided a written statement of reasons for any disagreement with the committee's proposal—that statement; and
  - (d) any objections lodged with the electoral commission against the redistribution committee's proposal; and
  - (e) the result of the investigation of any objections against the redistribution committee's proposal (including particulars of the proceedings at any public hearings in the course of an investigation); and
  - (f) the redistribution proposed by the augmented commission and its reasons for the proposal; and
  - (g) any objections lodged with the electoral commission against the augmented commission's proposal; and
  - (h) the result of the investigation of any objections against the augmented commission's proposal (including particulars of the proceedings at any public hearings in the course of an investigation); and
  - (i) the redistribution made by the augmented commission and its reasons for the redistribution; and
  - (j) if a member of the augmented commission has provided a written statement of reasons for any disagreement with the augmented commission's proposal—that statement.



**54 Report to Legislative Assembly**

The Minister shall present a copy of the augmented commission's report to the Legislative Assembly on the first sitting day after the day when the Minister receives the report from the augmented commission.

**55 Decisions are final**

- (1) A decision of an augmented commission or a redistribution committee made, or purporting to be made, under this part—
  - (a) is final and conclusive; and
  - (b) shall not be challenged, appealed against, reviewed, quashed, set aside or called into question in any court or tribunal on any ground; and
  - (c) is not subject to any proceedings for a writ of mandamus, prohibition or certiorari or for an injunction, declaration or other order in any court on any ground.
- (2) In subsection (1):

*decision* includes a failure to make a decision.

**56 Validity not affected**

A failure to comply with the provisions of this part (except section 34, 35 or 36) is not to be taken to affect the validity of a decision of an augmented commission or a redistribution committee.

## Part 5 Electoral rolls

### 57 Electorate and Territory rolls

- (1) The commissioner shall keep a roll of the electors of the ACT consisting of separate rolls of the electors of each electorate.
- (2) A roll may be kept electronically.

### 58 Contents of roll

- (1) A roll shall contain the following particulars in relation to each elector:
  - (a) surname or family name;
  - (b) each given name;
  - (c) address;
  - (d) sex;
  - (e) date of birth.
- (2) A roll may contain the following particulars in relation to each elector:
  - (a) occupation;
  - (b) any former surname;
  - (c) any previous address;
  - (d) postal address, if not the same as the address of the principal place of residence;
  - (e) the further particulars (if any) prescribed under the regulations.

## 59 Meaning of *extract* from roll

In this Act:

*extract* from a roll means the part of the roll that contains, for each elector enrolled at the time the extract is prepared—

- (a) the elector's surname or family name; and
- (b) each given name of the elector; and
- (c) the elector's address, unless the elector is—
  - (i) an elector whose address is suppressed; or
  - (ii) an eligible overseas elector; or
  - (iii) an Antarctic elector; or
  - (iv) an elector who is enrolled because of the elector's enrolment on the Commonwealth roll as an itinerant elector.

*Note* A roll extract in electronic form is a disk, tape or other device from which the information in the extract may be reproduced by mechanical, electronic or other means (see dict, def of *electronic form*).

## 60 Inspection of printed roll extracts

- (1) The commissioner—
  - (a) shall, at the office of the commissioner; and
  - (b) may, at any other places the commissioner determines;make a printed extract from each roll available for public inspection during ordinary office hours.
- (2) A right of inspection under subsection (1) shall not be taken to give any right to copy, take an extract from, or scan electronically, an extract from a roll.
- (3) For subsection (1), the commissioner shall prepare an extract of each roll at least once each calendar year.

**61 Supply of printed roll extracts to MLAs etc**

- (1) At least once each calendar year, the commissioner shall, on request—
  - (a) give 2 printed extracts from the roll for an electorate to each MLA for the electorate; and
  - (b) give 2 printed extracts from the roll for each electorate to the registered officer of each registered party.
- (2) The commissioner shall, on request, supply a printed extract from a roll to a person who the commissioner is satisfied requires the extract for an approved purpose within the meaning of section 63.

*Note* A fee may determined under s 8 (Determination of fees) for a request under subsection (2).

**62 Supply of roll extracts in electronic form to MLAs etc**

- (1) The commissioner shall, on request, so far as practicable, give a roll extract in electronic form to—
  - (a) an MLA; or
  - (b) the registered officer of a registered party.
- (2) The commissioner shall, on request, supply a roll extract in electronic form, or on microfiche, to a person who the commissioner is satisfied requires the extract for an approved purpose within the meaning of section 63.

*Note* A fee may determined under s 8 (Determination of fees) for a request under subsection (2).

**63 Use of roll extracts**

- (1) In this section:

*approved purpose* means any of the following:

- (a) for an MLA—the exercise of his or her functions;

- (b) for the registered officer of a registered party—the exercise by an MLA who is a member of the party of his or her functions;
- (c) for an MLA or the registered officer of a registered party—
  - (i) a purpose connected with an election; or
  - (ii) monitoring the accuracy of information in the roll;
- (d) for anyone—a purpose prescribed under the regulations.

***protected information***, in relation to a person, means information that the person knows, or has reasonable grounds for believing, was obtained from a roll extract given to the person or someone else under section 61 (Supply of printed roll extracts to MLAs etc) or section 62 (Supply of roll extracts in electronic form to MLAs etc).

- (2) A person must not, without reasonable excuse, use protected information for—
  - (a) a commercial purpose; or
  - (b) any other purpose, other than an approved purpose.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person must not, without reasonable excuse, directly or indirectly divulge or communicate protected information to someone else for a purpose other than an approved purpose.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **65 Provision of roll information to prescribed authorities**

- (1) The commissioner may give a copy of a roll or information contained on a roll to a prescribed authority if the commissioner is satisfied that the authority requires the copy or information for a prescribed purpose.

- (2) A person shall not use information obtained under subsection (1) except in accordance with the regulations.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) For the *Juries Act 1967*, the commissioner shall, on request by the sheriff, give the sheriff a copy of the roll of electors of the ACT.
- (4) A copy of a roll, or information, may be given to a person under subsection (1) or (3) in printed or electronic form or on microfiche.
- (5) A copy of a roll, or information, provided under subsection (1) or (3) shall not include—
- (a) in relation to a person whose address is a suppressed address—any particulars other than the name of the person; or
  - (b) the address of an eligible overseas elector; or
  - (c) the address of an Antarctic elector.
- (6) The regulations may provide for how a prescribed authority may deal with information, or information obtained from a copy of a roll, provided under subsection (1).

## **66 Maintenance of rolls**

- (1) The commissioner shall, so far as practicable, keep the rolls up to date.
- (2) The commissioner may alter a roll at any time as follows:
- (a) to register any change of name;
  - (b) to bring up to date any particulars appearing on the roll;
  - (c) to correct any mistake or omission;
  - (d) to remove the name of a deceased elector;

- (e) in relation to a person who is enrolled on the Commonwealth roll—to reflect any alteration under the Commonwealth Electoral Act, section 105 in relation to that enrolment.

## **67 Power to require information**

- (1) The commissioner may, by written notice, require—
  - (a) the administrative head of a unit of the public service; or
  - (b) the chief executive officer (however described) of a Territory authority or of an entity prescribed under the regulations; or
  - (c) the occupier of any residence;

to give to the commissioner or a specified officer specified information required in connection with the preparation, maintenance or revision of a roll.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (2) A notice shall specify the time within which the information is to be so given.
- (3) A person who, without reasonable excuse, contravenes such a requirement commits an offence.

Maximum penalty: 5 penalty units.

- (4) Subsection (3) does not apply if compliance with the requirement would involve the disclosure of information in contravention of any other law.

## **68 Notice of registered deaths**

The registrar-general shall give to the commissioner, on request, particulars entered in the register of deaths during the period to which the request relates in relation to the death of each person aged 17 years or older.

**69 Disclosure of roll information**

- (1) A person to whom this section applies shall not, without reasonable excuse, give a copy of a roll, an extract from a roll, or information contained on a roll, to another person except for this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section applies to a person who is, or has been—
- (a) the commissioner; or
  - (b) an officer; or
  - (c) a member of the staff of the electoral commission.

**70 Joint roll arrangements with Commonwealth**

- (1) The Chief Minister may arrange with the Governor-General for—
- (a) the preparation, alteration or revision of the rolls; or
  - (b) the carrying out of any procedure relating to the preparation, alteration or revision of the rolls;

jointly by the Commonwealth and the Territory.

- (2) If such an arrangement is in force, a roll may contain—
- (a) the names and particulars of persons who are enrolled as electors of the Commonwealth but not as electors of the ACT, provided that it is clearly indicated that they are not enrolled as electors of the ACT; and
  - (b) distinguishing marks against the names of persons enrolled as electors of the ACT but not as electors of the Commonwealth, to show that they are not electors of the Commonwealth; and
  - (c) other particulars in addition to those required by or under this Act to be included in the roll;



and, for this Act, the names of electors of the Commonwealth who are not enrolled as electors of the ACT and those marks and particulars shall not be taken to be part of the roll.

## Part 6 Enrolment

### 71 Persons taken not to be enrolled on Commonwealth roll

For this part, the following persons enrolled on the Commonwealth roll shall be taken not to be so enrolled:

- (a) a person whose address recorded on that roll is not in the ACT;
- (b) a person who is an eligible overseas elector for the Commonwealth Electoral Act but not an eligible overseas elector for this Act.

### 71A Address of person serving sentence of imprisonment

For this part, the address of a person who is serving a sentence of imprisonment is—

- (a) if the person is enrolled on the Commonwealth roll—the address recorded on that roll in relation to the person; or
- (b) if paragraph (a) does not apply—
  - (i) the person's address immediately before the person began serving the sentence; or
  - (ii) if the person did not have an address immediately before beginning to serve the sentence—the address of the place where the person is serving the sentence.

### 72 Entitlement

- (1) A person is entitled to be enrolled for an electorate if—
  - (a) the person is entitled to be enrolled on the Commonwealth roll otherwise than under the Commonwealth Electoral Act, section 100; and
  - (b) the person's address is in the electorate.

- (2) A person is not entitled to be enrolled for more than 1 electorate.

### **73 Compulsory enrolment etc—residents**

- (1) A person who—
- (a) is entitled to be enrolled for an electorate; and
  - (b) is not enrolled on any roll;
- shall, subject to subsection (5), make a claim for enrolment within 21 days after the day the person became so entitled.
- (2) An elector who—
- (a) is enrolled for an electorate; and
  - (b) is entitled, following a change of address, to be enrolled for another electorate;
- shall, subject to subsections (4) and (5), make a claim for a transfer of enrolment within 52 days after the date of the change of address.
- (3) An elector who changes address within an electorate shall, subject to subsections (4) and (5), give the commissioner written notice setting out the particulars of the new address within 52 days after the date of the change of address.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (4) Subsections (2) and (3) do not apply to an eligible overseas elector, an Antarctic elector or a person who is not at least 18 years old.
- (5) If a person is enrolled on the Commonwealth roll otherwise than under the Commonwealth Electoral Act, section 100 and the address recorded on that roll in relation to the person is an address in an electorate—
- (a) the person shall be taken—

- (i) to have made a claim under subsection (1) or (2), or given notice under subsection (3), whichever is appropriate; and
    - (ii) to be enrolled for the electorate; and
  - (b) the particulars recorded on the Commonwealth roll in relation to the person shall, so far as practicable, be taken to be the particulars recorded on the roll for the electorate.
- (6) A person who, without reasonable excuse, contravenes subsection (1), (2) or (3) commits an offence.
- Maximum penalty: 0.5 penalty units.

#### **74 Eligible overseas electors**

- (1) An elector—
- (a) who is, for the Commonwealth Electoral Act, an eligible overseas elector; and
  - (b) whose address, recorded on the Commonwealth roll when the elector became a person referred to in paragraph (a), was an address in an electorate; and
  - (c) who has, for this Act, indicated an intention to reside, or resume residing, in the ACT after ceasing to be a person referred to in paragraph (a);
- is, subject to subsection (4), an eligible overseas elector for this Act in relation to the electorate in which that address is located.
- (2) The commissioner shall annotate the roll for an electorate so as to indicate the name of each person who is an eligible overseas elector in relation to the electorate.
- (3) The commissioner shall cancel an annotation in relation to a person if—

- (a) the person ceases to be an eligible overseas elector for the Commonwealth Electoral Act; or
  - (b) the person notifies the commissioner that he or she does not intend to reside, or to resume residing, in the ACT after ceasing to be an eligible overseas elector for the Commonwealth Electoral Act.
- (4) A person ceases to be an eligible overseas elector for this Act on the day the annotation in relation to the person is cancelled.

## **75 Age 17 enrolment**

- (1) The commissioner shall enrol a person on the roll for an electorate if the person—
- (a) is at least 17 years old; and
  - (b) would, had the person attained the age of 18 years, be entitled to be enrolled for the electorate; and
  - (c) makes a claim for enrolment.
- (2) If a person is enrolled on the Commonwealth roll under the Commonwealth Electoral Act, section 100 and the address recorded on that roll is an address in an electorate—
- (a) the person shall be taken—
    - (i) to have made a claim for enrolment under this section; and
    - (ii) to be enrolled under this section on the roll for the electorate; and
  - (b) the particulars recorded on the Commonwealth roll in relation to the person shall, so far as practicable, be taken to be the particulars recorded on the roll for the electorate.

## 76 Enrolment etc

(1) In this section:

*claim* means a claim for enrolment or transfer of enrolment.

(2) Except as otherwise provided by this Act, the name of a person shall not be added to a roll except under a claim.

(3) A claim shall be—

- (a) signed by the claimant and the signature witnessed by a person who is entitled to attest an enrolment claim under the *Commonwealth Electoral Act 1918* (Cwlth), section 98; and
- (b) given to the commissioner.

*Note 1* If a form is approved under s 340A (Approved forms) for a claim, the form must be used.

*Note 2* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

(4) The identity of the person making a claim for enrolment must be verified in the same way an enrolment claim under the *Commonwealth Electoral Act 1918* (Cwlth), section 98 must be verified.

(5) On a claim under subsection (2), the commissioner shall, subject to section 80—

- (a) enrol the claimant, if satisfied that he or she is entitled to be enrolled under the claim; or
- (b) reject the claim.

(6) After making a decision about a claim under subsection (2), the commissioner shall give the claimant—

- (a) if the claim is accepted—written notice of the decision specifying the electorate in which the claimant is enrolled; or
- (b) if the claim is rejected—a review statement about the decision.

**77 Suppression of elector's address**

- (1) If—
- (a) an elector is enrolled on the Commonwealth roll; and
  - (b) under the Commonwealth Electoral Act, section 104 the particulars of the elector's address have not been included on, or have been deleted from, the Commonwealth roll;
- the commissioner shall suppress the particulars of the elector's address from any extract from the roll on which the elector is enrolled under this Act.
- (2) If an elector is not enrolled on the Commonwealth roll, on the elector's request for the suppression of particulars of his or her address from an extract from any roll, the commissioner shall—
- (a) grant the request; or
  - (b) refuse the request.
- (3) A request shall—
- (a) set out the reasons for the request; and
  - (b) be verified by statutory declaration.
- Note* If a form is approved under s 340A (Approved forms) for a request, the form must be used.
- (4) The commissioner shall grant a request under subsection (2) if he or she is satisfied on reasonable grounds that the inclusion of the particulars of the elector's address on an extract from the roll would place at risk the personal safety of the elector or any member of the elector's family.
- (5) After making a decision about a request under subsection (2), the commissioner shall give the person who made the request—
- (a) if the request is granted—written notice of the decision; or

- (b) if the request is refused—a review statement about the decision.

### **78 Inclusion of particulars on roll following suppression**

- (1) This section applies if the address of an elector has been suppressed under section 77 (2).
- (2) The commissioner shall include the particulars of the elector's address on an extract from the roll if the commissioner is satisfied on reasonable grounds that the inclusion of the particulars would not place at risk the personal safety of the elector or any member of the elector's family.
- (3) After making a decision under subsection (2), the commissioner shall give the elector a review statement about the decision.

### **79 Suppression of elector's address pending review**

- (1) This section applies if the commissioner makes either of the following decisions:
  - (a) a decision under section 77 (2) (b) to refuse to suppress an elector's address from an extract from a roll;
  - (b) a decision under section 78 (2) to include particulars of an elector's address on an extract from a roll.
- (2) The commissioner shall suppress the particulars of the relevant elector's address from any extract from a roll from the defined date until—
  - (a) if no application for a review of the relevant decision has been made to the electoral commission within 28 days after the elector is given a review statement about the decision—the end of that period; or
  - (b) if, on a review, the electoral commission affirms the relevant decision, and no application for a review of the commission's



decision has been made to the AAT—the end of 28 days after the elector is given a notice under section 248; or

- (c) if, on a review, the AAT affirms the decision of the electoral commission, and no appeal to the Supreme Court is instituted—the end of 28 days after the elector is given notice of the decision of the AAT; or
  - (d) if an appeal to the Supreme Court is so instituted within that period—proceedings on the appeal are completed.
- (3) Subsection (2) has effect subject to—
- (a) an order of the electoral commission under section 247; and
  - (b) any order of the AAT; and
  - (c) any order of the Supreme Court.
- (4) In this section:

*defined date* means—

- (a) in relation to a decision under section 77 (2) (b) to refuse to suppress an elector's address from an extract from a roll—the date of the request for suppression; or
- (b) in relation to a decision under section 78 (2) to include particulars of an elector's address on an extract from a roll—the date of the decision.

## **80 Closed rolls**

- (1) For this Act, the roll for an electorate shall be taken to be closed during the period—
- (a) beginning at 8 pm on the 29th day before polling day for an election in the electorate; and
  - (b) ending at the close of polling at the election.

- (2) While a roll is closed, subject to subsections (3), (4) and (5) and section 66—
- (a) a person shall not be enrolled; and
  - (b) a person shall not be taken to be enrolled under section 73 (5) or 75 (2) if the person's enrolment on the Commonwealth roll is effected during the closure; and
  - (c) a name shall not be removed; and
  - (d) an annotation in relation to the roll shall not be made or cancelled under section 74; and
  - (e) a change of address shall not be recorded.
- (3) Subsection (2) (c) shall not be taken to prevent the removal, while a roll is closed, of the name of a person who the commissioner believes on reasonable grounds made a statement in a claim for enrolment or transfer of enrolment that was false or misleading in a material particular.
- (4) If the Australian Postal Corporation notifies the commissioner in writing that the delivery of a posted claim for enrolment or transfer of enrolment has been delayed by an industrial dispute and, apart from the dispute, would have been delivered to the commissioner before the close of the roll for an election—
- (a) subsection (2) (a) and (c) shall not be taken to prevent the enrolment of an elector or the removal of an elector's name from another roll as a consequence of such an enrolment; and
  - (b) if the claimant is enrolled in accordance with the claim—the enrolment shall be taken, in relation to any vote cast by the claimant in the election, to have been effected before the roll closed.
- (5) This section does not prevent the enrolment of an elector, during a period when a roll is closed, if the elector's claim for enrolment or

transfer of enrolment was received before the beginning of that period by—

- (a) an officer appointed under section 33 (Officers); or
  - (b) a member of the commission's staff; or
  - (c) a person authorised by the commissioner for this section; or
  - (d) an employee of the Australian Electoral Commission.
- (6) In this section:

*enrolment* includes the enrolment of a person who is taken to have been enrolled under this part.

*particulars*—a reference (express or implied) to *particulars* relating to a person includes a reference to particulars taken to be recorded on the roll under this part.

## **81 Objections to enrolment**

- (1) This section applies in relation to the enrolment of a person who is enrolled under this Act but is not enrolled under the Commonwealth Act.
- (2) An elector may object to the enrolment of a person on the ground that the person is not entitled to enrolment under section 72.
- (3) An objection shall—
  - (a) set out the grounds on which it is made; and
  - (b) subject to subsection (4), be accompanied by a deposit of \$2 or any higher amount prescribed by the regulations.

*Note* If a form is approved under s 340A (Approved forms) for an objection, the form must be used.

- (4) The deposit is not payable by an elector who objects to the enrolment of a person with a mental disability.

- (5) The commissioner shall reject an objection without notifying the person whose enrolment it concerns if—
- (a) the objection is made because the enrolled person is a person with a mental disability and is not accompanied by a supporting medical certificate; or
  - (b) the commissioner believes on reasonable grounds that the objection is frivolous or vexatious.
- (6) After the commissioner rejects an objection under subsection (4), he or she shall—
- (a) if subsection (5) (a) applies—give the objector written notice of the rejection; and
  - (b) if subsection (5) (b) applies—give the objector a review statement about the decision to reject the objection.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (7) If—
- (a) an objection is made to the enrolment of a person; or
  - (b) the commissioner believes on reasonable grounds that an enrolled person is not entitled to be enrolled (other than the ground that the person is a person with a mental disability);
- the commissioner shall, subject to subsection (5), give the person written notice of the objection or belief inviting the person to respond within 21 days after the date of the notice.
- (8) After considering any such response, the commissioner shall determine the person's entitlement to enrolment and—
- (a) confirm the enrolment; or
  - (b) remove the person's name from the roll.
- (9) After making a decision under subsection (8) about the enrolment of a person, the commissioner shall—

- (a) for a decision to confirm the enrolment—give the person, and any objector, written notice of the decision; or
  - (b) for a decision to remove the person's name from the roll—
    - (i) give the person a review statement about the decision; and
    - (ii) if an objection has been duly made to the enrolment—give the objector written notice of the decision.
- (10) If a person's name is removed from a roll as a result of an objection, the commissioner shall return the deposit lodged with the objection to the objector.
- (11) In this section:

*person with a mental disability* means a person who is incapable of understanding the nature and significance of enrolment and voting, and includes such a person even if a guardian or manager has not been appointed for the person under the *Guardianship and Management of Property Act 1991*.

## **82 Record of claims for enrolment**

- (1) If the commissioner is satisfied that a record of the particulars of a claim for enrolment or transfer of enrolment is kept on microfiche, microfilm or in any other appropriate permanent form, the claim may be destroyed.
- (2) A record of particulars of a claim that is kept in accordance with subsection (1) is evidence of the particulars of that claim.

## **83 Processing enrolment claims**

An officer who receives a claim for enrolment or transfer of enrolment shall do everything practicable to process the claim.

**84 Transmission of enrolment claims**

A person who accepts for transmission to the commissioner a claim for enrolment or transfer of enrolment shall transmit the claim to the commissioner as soon as is practicable.

Maximum penalty: 10 penalty units.

**85 Production of claims for enrolment before a court**

- (1) This section applies to a person who is, or has been—
  - (a) a member of the electoral commission; or
  - (b) the commissioner; or
  - (c) an officer; or
  - (d) a member of the staff of the electoral commission.
- (2) A person to whom this section applies shall not, except for this Act, be required—
  - (a) to produce in a court a claim for enrolment; or
  - (b) to divulge or communicate to a court any matter or thing in relation to a claim for enrolment that has come to the person's notice in the exercise of functions under this Act.
- (3) In this section:

*court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

**86 Claims for enrolment not subject to warrants**

A warrant issued under a Territory law authorising the seizure of a document related to an offence does not authorise the seizure of a claim for enrolment or transfer of enrolment.

## Part 7                      Registration of political parties and ballot groups

### 87    **Meaning of *related* political parties**

For this part, 2 political parties are taken to be *related* if—

- (a) one of them is a part of the other; or
- (b) both are parts of the same political party.

### 88    **Registers of political parties and ballot groups**

- (1) The commissioner must keep—
  - (a) a register of political parties; and
  - (b) a register of ballot groups.
- (2) A register must contain the following particulars for each registered party or ballot group:
  - (a) the name of the party or group;
  - (b) any abbreviation of the name of the party or group;
  - (c) the name and address of the registered officer of the party or group;
  - (d) for the register of ballot groups—the name of the sponsoring MLA.
- (3) The commissioner must make each register available for public inspection.

### 89    **Application for registration of political party**

An application for registration of a political party must—

- (a) be signed by the secretary of the party; and

- (b) state the party's name; and
- (c) state any abbreviation of the party's name that the party intends to use for this Act; and
- (d) state the name and address, and contain a specimen signature, of the person nominated to be the registered officer of the party; and
- (e) be accompanied by a copy of the party's constitution.

*Note* If a form is approved under s 340A (Approved forms) for an application, the form must be used.

### **89A Application for registration of ballot group**

- (1) An MLA who is not a member of a registered party may apply to the commissioner to register a ballot group.
- (2) The application must—
  - (a) be signed by the MLA; and
  - (b) state the ballot group's name; and
  - (c) state any abbreviation of the group's name that the group intends to use for this Act; and
  - (d) state the name and address, and contain a specimen signature, of the person nominated to be the registered officer of the group.

*Note* If a form is approved under s 340A (Approved forms) for an application, the form must be used.



**90 Further information about application for political party registration**

- (1) For this part, the commissioner may, by written notice given to an applicant for registration of a political party, require the applicant to give to the commissioner within a stated period stated information, or a stated document, relating to the application.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (2) Without limiting subsection (1), the commissioner may, under that subsection, require the applicant to give the commissioner a list of the members of the political party.
- (3) If the applicant fails to comply with a notice under subsection (1), the commissioner may refuse the application.
- (4) If the commissioner refuses the application under subsection (3), the commissioner must give the applicant a review statement about the commissioner's decision.
- (5) The commissioner may use information obtained under subsection (2) only to find out whether a political party has at least 100 members who are electors.

**91 Notification and publication of applications**

- (1) If the commissioner receives an application for the registration of a political party or ballot group, the commissioner must prepare written notice of the application.
- (2) The notice must—
  - (a) state the following particulars:
    - (i) the name of the political party or ballot group; and
    - (ii) any abbreviation of the name of the party or group that the party or group intends to use for this Act; and

- (iii) the name and address of the person nominated to be the registered officer of the party or group; and
    - (iv) for an application for registration of a ballot group—the name of the MLA who applied to register the group; and
  - (b) state that a copy of the application and, for an application for registration of a political party, the party's constitution are available for public inspection at the commissioner's office; and
  - (c) state that written objections to the application may be given to the commissioner within 14 days after the day the notice is notified under the *Legislation Act 2001*.
- (3) The notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (4) The commissioner must also publish the notice in a newspaper.
- (5) The commissioner must make a copy of the application and, for an application for registration of a political party, the party's constitution available for public inspection.

### **91A Objections to applications and responses**

- (1) An objection to an application for registration of a political party or ballot group must—
- (a) be in writing; and
  - (b) set out the grounds of the objection; and
  - (c) state the objector's name and address; and
  - (d) be signed by the objector; and
  - (e) be given to the commissioner in accordance with the notice under section 91 (Notification and publication of applications) for the application.

- (2) The commissioner must give to the person nominated to be the registered officer of the political party or ballot group—
  - (a) a copy of each objection given to the commissioner in accordance with subsection (1); and
  - (b) a written notice inviting the person to give any response to the objection to the commissioner, in writing, within 14 days after the day the notice is given to the person.
- (3) The commissioner must make a copy of the following available for public inspection:
  - (a) each objection given to the commissioner in accordance with subsection (1);
  - (b) each response given to the commissioner in accordance with the notice under subsection (2).
- (4) In deciding whether to register the political party or ballot group, the commissioner must consider each objection and response given to the commissioner in accordance with this section.

## **92 Registration of political parties and ballot groups**

- (1) If an application for registration of a political party or ballot group is made under this part, the commissioner must register the party or group unless the commissioner refuses the application under section 90 (3) (Further information about application for political party registration) or section 93 (Refusal of applications for registration).
- (2) If the commissioner registers a political party or ballot group, the commissioner must prepare written notice of the registration.
- (3) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (4) The commissioner must also give notice of the registration to—

- (a) for registration of a political party—the secretary of the party; or
  - (b) for registration of a ballot group—the sponsoring MLA.
- (5) In addition, if an objection was made under section 91A (Objections to applications and responses) to the application, the commissioner must give the objector a review statement about the decision to register the political party or ballot group.

### **93 Refusal of applications for registration**

- (1) The commissioner must refuse an application for the registration of a political party or ballot group if—
- (a) for an application for registration of a political party—the commissioner believes on reasonable grounds that the party does not have at least 100 members who are electors; or
  - (b) the person nominated in the application to be the registered officer of the party or group is not qualified to be an elector or is the registered officer of a registered party or registered ballot group; or
  - (c) the party or group is ineligible for registration because of section 99 (Use of party or ballot group name after cancellation).
- (2) The commissioner must also refuse an application if the commissioner believes on reasonable grounds that the name of the political party or ballot group, or any abbreviation of that name that the application states that the party or group intends to use for this Act—
- (a) consists of more than 6 words; or
  - (b) is obscene; or
  - (c) is the name, or an acronym of the name, of another political party or a registered ballot group; or

- (d) so nearly resembles the name, or an acronym of the name, of another political party or a registered ballot group that it is likely to be confused with or mistaken for that name or acronym; or
  - (e) consists of the word ‘independent’; or
  - (f) consists of the words ‘independent party’; or
  - (g) consists of or includes the word ‘independent’ and—
    - (i) the name, or an acronym of the name, of another political party or a registered ballot group; or
    - (ii) matter that so nearly resembles the name, or an acronym of the name, of another political party or a registered ballot group that the matter is likely to be confused with or mistaken for that name or acronym; or
  - (h) for a ballot group—includes the word ‘party’; or
  - (i) includes the name of an MLA and the applicant does not have the MLA’s written consent to use the name.
- (3) If the commissioner refuses an application for the registration of a political party or ballot group, the commissioner must—
- (a) give the secretary of the party, or the MLA who applied to register the group, a review statement about the decision to refuse the application; and
  - (b) if an objection was made under section 91A (Objections to applications and responses) to the application—give the objector written notice of the refusal.
- (4) In this section, *another political party*, in relation to a political party or ballot group, is—
- (a) a registered party; or
  - (b) a political party at least 1 member of which is a member of—

- (i) the Legislative Assembly; or
  - (ii) the Commonwealth Parliament; or
  - (iii) a State legislature; or
- (c) a political party registered or recognised for the law of the Commonwealth or a State that relates to the election of members of the Commonwealth Parliament or the State legislature.
- (5) However, *another political party*, in relation to a political party, does not include a political party that is related to it.
- (6) In this section:  
*name* includes an abbreviation of the name.

#### **94 Amendment of applications for registration**

- (1) If the commissioner is of the opinion that an application for the registration of a political party or ballot group must be refused under section 93 (Refusal of applications for registration), but that the application might be amended to prevent the refusal, the commissioner must give the applicant written notice to that effect.
- (2) The notice must—
- (a) set out the reasons for the commissioner's opinion; and
  - (b) describe the effect of subsections (3) to (5).
- (3) If the commissioner gives the notice to the applicant, the commissioner is not required to further consider the application unless a request is made under subsection (4).
- (4) Within 28 days after receiving the notice, the applicant may give the commissioner a written request, signed by the applicant, for the commissioner—
- (a) to amend the application in a stated way; or

- (b) to consider the application in the form in which it was made.
- (5) The commissioner must comply with the request.
- (6) If the applicant requests the commissioner to amend the application in a stated way, the application as amended in accordance with the request is taken to be a new application for the registration of a political party or ballot group.

## **95 Changes to particulars in register**

- (1) The secretary of a registered party may apply to the commissioner to change particulars included in the register of political parties in relation to the party.
- (2) The sponsoring MLA of a registered ballot group may apply to the commissioner to change particulars included in the register of ballot groups in relation to the group.
- (3) This part (other than section 94 (Amendment of applications for registration) and this section) applies, with all the necessary changes—
  - (a) in relation to an application under subsection (1) as if it were an application for registration of the political party and any objection to the application were an objection to the registration; and
  - (b) in relation to an application under subsection (2) as if it were an application for registration of the ballot group and any objection to the application were an objection to the registration.
- (4) Section 91 (Notification and publication of applications) and section 91A (Objections to applications and responses) do not apply to an application to change the address of the registered officer of a registered party or registered ballot group.

**95A Objection to continued use of name**

- (1) This section applies if—
  - (a) the commissioner is satisfied that the name of a registered party (the *first party*) is relevantly similar to the name of another registered party (the *second party*) that was registered under this part later than the first party; and
  - (b) when it was registered the second party was related to the first party; and
  - (c) the registered officer of the first party objects in writing to the continued use of the name by the second party; and
  - (d) the commissioner is satisfied that the parties are not related at the time of the objection.
- (2) The commissioner must—
  - (a) uphold the objection; and
  - (b) by written notice, tell the registered officer of the second party that the second party will be deregistered under section 98 (Cancellation of registration of political parties and ballot groups) if—
    - (i) it does not make an application under section 95 (Changes to particulars in register) for a change of name within 28 days after the registered officer receives the notice; or
    - (ii) it makes the application, but the application is refused.
- (3) The name of a registered party is *relevantly similar* to the name of another registered party if the commissioner is satisfied on reasonable grounds that the name so nearly resembles the name of the other party that it is likely to be confused with or mistaken for that name.



(4) In this section:

*name*, for a registered party, means—

- (a) the name of the party entered in the register of political parties;  
or
- (b) a registered abbreviation of the name of the party.

### **96 No action under pt 7 during pre-election period**

During a pre-election period, no action may be taken under this part in relation to the registration of a political party or ballot group.

### **96A Who can be a registered officer**

A person is entitled to be the registered officer of a registered party or registered ballot group only if the person is qualified to be an elector.

### **97 Deputy registered officer**

- (1) For part 9 (Arrangements for elections) and part 10 (Voting), a deputy registered officer of a registered party or registered ballot group may be appointed—
  - (a) by the registered officer of the party or group; or
  - (b) if the office of registered officer of the party or group is vacant, or the registered officer cannot for any reason exercise the officer's functions—by the secretary of the party or the sponsoring MLA of the group.
- (2) The appointment does not have effect until the commissioner is given written notice of the appointment.
- (3) The notice must—
  - (a) be signed by the person making the appointment and the person appointed deputy registered officer; and
  - (b) state the name and address of the deputy registered officer.

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- (4) A person is entitled to be a deputy registered officer of a registered party or registered ballot group only if the person is qualified to be an elector.
- (5) A reference in part 9 or 10 to the registered officer of a registered party or registered ballot group includes a reference to a deputy registered officer of the party or group.

**97A Information about political parties**

The commissioner may, by written notice given to the registered officer of a registered party, require the officer to give to the commissioner information stated in the notice that is reasonably necessary for the commissioner to find out whether the party is entitled to be registered.

**98 Cancellation of registration of political parties and ballot groups**

- (1) The commissioner must cancel the registration of a registered party if the secretary of the party asks the commissioner to cancel the registration.
- (2) The commissioner must cancel the registration of a registered ballot group if the sponsoring MLA asks the commissioner to cancel the registration.
- (3) A request under subsection (1) or (2) must—
  - (a) be in writing; and
  - (b) be signed by the applicant; and
  - (c) state the applicant's name and address.
- (4) The commissioner must cancel the registration of a registered party if it has not endorsed a candidate at the last 2 general elections.
- (5) However, subsection (4) applies to a registered party only if it was a registered party at the time of each of the general elections.

- (6) The commissioner must cancel the registration of a registered party or registered ballot group if the commissioner believes on reasonable grounds that—
- (a) for a registered party—
    - (i) the party has ceased to exist (whether by amalgamation with another political party or otherwise); or
    - (ii) the party does not have at least 100 members who are electors; or
    - (iii) the party does not have a constitution; or
  - (b) the registration of the party or group was obtained by fraud or misrepresentation.
- (7) The commissioner may cancel the registration of a registered party or registered ballot group under subsection (6) only if the commissioner has—
- (a) given the relevant person a written notice—
    - (i) stating that the commissioner proposes to cancel the registration of the party or group; and
    - (ii) setting out the reasons for the proposed cancellation; and
    - (iii) stating that written objections to the proposed cancellation may be given to the commissioner within the 14 days mentioned in paragraph (b); and
  - (b) prepared, and notified under the *Legislation Act 2001*, a written notice stating—
    - (i) that the commissioner proposes to cancel the registration of the party or group; and
    - (ii) that written objections to the proposed cancellation may be given to the commissioner within 14 days after the day the notice is notified under the *Legislation Act 2001*; and

- (c) considered each objection given to the commissioner in accordance with the notice under paragraph (a) or (b).
- (8) For subsection (7) (a), the *relevant person* is—
- (a) for the proposed cancellation of registration of a registered party—the secretary, or last secretary, of the party; or
  - (b) for the proposed cancellation of registration of a registered ballot group—the sponsoring MLA.
- (9) The notice under subsection (7) (b) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (10) The commissioner must cancel the registration of a registered ballot group if the sponsoring MLA ceases to be an MLA.
- (11) If the commissioner cancels the registration of a registered party or registered ballot group under this section, the commissioner must prepare written notice of the cancellation.
- (12) The notice under subsection (11) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (13) If the commissioner cancels the registration of a registered party under subsection (4), the commissioner must also give written notice of the cancellation to the registered officer of the party.
- (14) If the commissioner cancels the registration of a registered party or registered ballot group under subsection (6), the commissioner must give a review statement about the decision to cancel the registration to—
- (a) for the cancellation of the registration of a registered party—the registered officer, or last registered officer, of the party; or
  - (b) for the cancellation of the registration of a registered ballot group—the MLA who applied for registration of the ballot group.

- (15) If, after an objection has been made under this section to the proposed cancellation of the registration of a registered party or registered ballot group, the commissioner decides not to cancel the registration, the commissioner must give written notice of the decision to—
- (a) the registered officer of the party or group; and
  - (b) if the objection was not made by or on behalf of the party or sponsoring MLA—the objector.

### **99 Use of party or ballot group name after cancellation**

- (1) If the registration of a registered party (the *cancelled party*) is cancelled—
- (a) the cancelled party; or
  - (b) another political party, or a ballot group, that has a name that so nearly resembles the name of the cancelled party that it is likely to be confused with or mistaken for the cancelled party;
- is ineligible for registration until after the next general election after the cancellation.
- (2) If the registration of a ballot group (the *cancelled ballot group*) is cancelled—
- (a) the cancelled ballot group; or
  - (b) another ballot group, or a political party, that has a name that so nearly resembles the cancelled ballot group that it is likely to be confused with or mistaken for the cancelled ballot group;
- is ineligible for registration until after the next general election after the cancellation.
- (3) Subsection (2) does not apply to an application for registration of a ballot group or political party if—

- (a) the registration of the cancelled ballot group was cancelled because the MLA who applied for its registration has ceased to be an MLA (the *former MLA*); and
  - (b) the name of the group or party is the same name as, or resembles, the name of the cancelled ballot group; and
  - (c) the applicant has the written consent of the former MLA to use the name.
- (4) In this section:  
*name* includes an abbreviation of the name.

**99A General requirements about constitutions of registered parties**

- (1) If a registered party changes its constitution, the registered officer of the party must give the commissioner a copy of the changed constitution within 30 days after the change.
- Maximum penalty: 10 penalty units
- (2) The commissioner must make a copy of the constitution available for public inspection.

## Part 8                      Timing of elections

### 100    Ordinary elections

- (1) A general election under this Act must be held on the 3rd Saturday in October in the 3rd year after the year when the last ordinary election was held.
- (2) If, apart from this subsection, an election in accordance with subsection (1) would be held on the day an election of Senators, or a general election of members of the House of Representatives, would be held, the election shall be held on the 1st Saturday in December in the year when it would, apart from this subsection, be held.
- (3) If an extraordinary general election has been held in the 6 months before the day when an election in accordance with subsection (1) or (2) would, apart from this subsection, have been held—
  - (a) the election shall not be held; and
  - (b) this section applies in relation to subsequent ordinary elections as if the election had been held.

### 101    Extraordinary elections

- (1) For this Act, an *extraordinary election* is—
  - (a) a general election required by the Self-Government Act, section 16; or
  - (b) a general election required by the Self-Government Act, section 48; or
  - (c) an election of an MLA or MLAs required by section 126; or
  - (d) an election of an MLA or MLAs required by section 275.
- (2) If an extraordinary election under section 126 (Supplementary elections) is required, the Executive must, in writing, determine a

Saturday for holding the election that is not earlier than 36 days, or later than 90 days, after the day when the election failed.

- (3) If the Court of Disputed Returns declares an election void, the Executive must, in writing, determine a Saturday for holding the extraordinary election required under section 275 (Effect of declarations) that is not earlier than 36 days, or later than 90 days, after the day when the declaration is made.
- (4) The Executive must not determine under this section a day that is the polling day for an election of senators or a general election of the House of Representatives.
- (5) A determination under this section is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

## **102    Polling day**

- (1) A poll must be held for an election on the day when the election is required to be held under this part.
- (2) This section is subject to section 111 (Need for a poll).



## **Part 9 Arrangements for elections**

### **Division 9.1 Nominations**

#### **103 Eligibility—MLAs**

(1) Subject to subsections (2) and (4), a person who is—

- (a) an Australian citizen; and
- (b) at least 18 years old; and
- (c) an elector or entitled to be an elector;

is eligible to be an MLA.

(2) A person is not eligible to be an MLA if—

- (a) the person is a member of—
  - (i) the Parliament of the Commonwealth; or
  - (ii) the legislature of a State or another Territory; or

(b) the person—

- (i) holds an office or appointment (other than a prescribed office) under a law of the Territory, the Commonwealth, a State or another Territory; or
- (ii) is employed by the Territory, the Commonwealth, a State or another Territory, or by a Territory authority or a body (whether corporate or not) established by a law of the Commonwealth, a State or another Territory;

and is entitled to any remuneration or allowance (other than reimbursement of expenses reasonably incurred) in relation to the office, appointment or employment.

(3) In subsection (2) (b) (i):

*prescribed office* means an office of Speaker, Deputy Speaker, Chief Minister, Deputy Chief Minister, Minister or MLA.

(4) A person is not eligible to be an MLA for the disqualification period if—

(a) the person is convicted of an offence against—

(i) section 285 (Bribery) or section 288 (Violence and intimidation); or

(ii) the *Crimes Act 1914* (Cwlth), section 28 (Interfering with political liberty); or

(iii) the *Criminal Code* (Cwlth), part 2.4 relating to an offence mentioned in subparagraph (ii); or

(b) the person is found by the Court of Disputed Elections to have contravened (within the meaning of part 16) a section mentioned in paragraph (a) (i).

*Note 1* A reference to an offence against a Territory law includes a reference to an offence against the *Crimes Act 1900*, pt 9 (Aiding and abetting, accessories, attempts, incitement and conspiracy) that relates to the law (see *Legislation Act 2001*, s 189).

*Note 2* *Contravention* is defined for pt 16 (Disputed elections, eligibility and vacancies) in s 250.

(5) For subsection (4), the *disqualification period* is 2 years after the conviction or finding.

## 104 Qualifications for nomination

A person is not eligible to be nominated for election as an MLA unless, at the hour of nomination—

(a) the person is eligible to be an MLA; or

(b) for a person referred to in section 103 (2) (b)—the person would, apart from that paragraph, be eligible to be an MLA.

## **105 Candidates to be nominated**

- (1) A person is not eligible for election as an MLA unless the person is nominated in accordance with this section.
- (2) A person may be nominated to be a candidate for election only by—
  - (a) the registered officer of a registered party that endorses the person as a party candidate in the election for the electorate for which the candidate is being nominated; or
  - (b) the registered officer of a registered ballot group that endorses the person as a ballot group candidate in the election for the electorate for which the candidate is being nominated; or
  - (c) 20 electors entitled to vote at the election.
- (3) A nomination shall be made by giving to the commissioner, during the pre-election period but not later than 24 hours before the hour of nomination—
  - (a) a duly completed nomination form; and
  - (b) a deposit of the prescribed amount in legal tender or a banker's cheque.
- (4) A nomination form shall—
  - (a) be in the form approved under section 340A (Approved forms); and
  - (b) subject to subsection (7), set out the particulars of the name, address and occupation of the nominee; and
  - (c) contain a statement, signed by the nominee, to the effect that he or she consents to the nomination, and to be an MLA if elected; and
  - (d) contain a declaration, signed by the nominee, to the effect that he or she is eligible to be nominated; and

- (e) specify the form in which the nominee's name is to be printed on the ballot papers for the election; and
  - (f) if the nomination is made by the registered officer of a registered party or registered ballot group—state any registered abbreviation of the name of the party or group that is to be printed on the ballot paper for the election; and
  - (g) if the nomination is made by 20 electors entitled to vote at the election—specify whether the word 'Independent' is to be printed on the ballot paper adjacent to the candidate square for the nominee; and
  - (h) be signed by the nominator or each nominator.
- (5) A nomination form shall name a nominee only by specifying—
- (a) the surname or family name, and the given name under which the nominee is enrolled; or
  - (b) if the nominee is not an elector—the surname or family name, and the given name under which the nominee is entitled to be enrolled.
- (6) A given name shall be taken to be specified for subsection (5), if the nomination form specifies—
- (a) a commonly accepted variation of that name (including an abbreviation or truncation of that name or an alternative form of that name); or
  - (b) an initial standing for that name.
- (7) If the address of a nominee is a suppressed address, the nomination form need not specify the address but, in that case, the nominee shall notify the commissioner in writing of his or her address for correspondence.
- (8) A nomination is not invalid only because of a formal defect or error if this section has been substantially complied with.

- (9) If the time by which a nomination under subsection (3) is to be made falls on a public holiday, the nomination must be made no later than that time on the public holiday.
- (10) Subsection (9) has effect despite the *Legislation Act 2001*, section 151 (4) (Reckoning of time).
- (11) In subsection (3) (b):
- prescribed amount* means \$250 or any other amount prescribed by the regulations.

### **106 Multiple nominations invalid**

If, at the hour of nomination in relation to an election—

- (a) a person is nominated more than once to be a candidate for election in a particular electorate; or
- (b) a person is nominated to be a candidate for election in more than 1 electorate;

each such nomination is invalid.

### **107 Withdrawal etc of consent to nomination**

- (1) A person nominated to be a candidate may withdraw his or her consent to the nomination by giving the commissioner a written notice of withdrawal not later than 24 hours before the hour of nomination.
- (2) The registered officer may cancel a nomination made by the officer by giving the commissioner a written notice of cancellation not later than 24 hours before the hour of nomination.
- (3) On receipt of a notice referred to in subsection (1) or (2), the commissioner shall cancel the nomination and pay the amount of the deposit lodged to the nominee.

### 108 Place and hour of nomination

- (1) The *place of nomination* in relation to an election is—
  - (a) the office of the commissioner; or
  - (b) any other place approved, in writing, by the commissioner as a place of nomination.
- (2) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) The *hour of nomination* in relation to an election is 12 o'clock noon on the 23rd day before polling day for the election.
- (4) If the hour mentioned in subsection (3) falls on a public holiday, anything that under this Act is to be done by the hour of nomination must be done by that time on the public holiday.
- (5) Subsection (4) has effect despite the *Legislation Act 2001*, section 151 (4) (Reckoning of time).

### 109 Declaration of candidates

- (1) As soon as practicable after the hour of nomination, the commissioner shall, at the place of nomination, publicly produce all nomination forms and declare each person duly nominated to be a candidate.
- (2) A declaration in relation to a candidate shall specify—
  - (a) the name of the candidate; and
  - (b) the name of any registered party or registered ballot group by which the candidate is endorsed.
- (3) As soon as practicable after the declaration, the commissioner—
  - (a) shall, at the office of the commissioner; and
  - (b) may, at any other places the commissioner determines;

arrange for a notice containing particulars relating to each candidate to be displayed.

- (4) A notice shall not specify the address of a candidate if it is a suppressed address.

### **110 Rejection of nominations**

- (1) The commissioner must reject the nomination of a person if the nomination form for the person is not substantially in accordance with section 105 (Candidates to be nominated).
- (2) The commissioner must also reject the nomination of a person if satisfied on reasonable grounds that the name under which the person is nominated—
- (a) is obscene; or
  - (b) is frivolous; or
  - (c) has been assumed for a political purpose.

#### **Examples for par (c)**

- 1 A name that includes, completely or partly, the name, or an abbreviation of the name, of a political party.
- 2 A name that includes a political message.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (3) The commissioner must give a person whose nomination is rejected under subsection (1) or (2) written notice of the rejection.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (4) The notice must set out the reasons for the rejection.
- (5) The commissioner may reject the nomination of a person only under subsection (1) or (2).

### **111 Need for a poll**

- (1) If the number of candidates for an election is not greater than the number required to be elected, the commissioner shall, in accordance with section 189, declare the candidate or candidates elected.
- (2) If the number of candidates for election is greater than the number required to be elected, a poll shall be held in accordance with this Act.

### **112 Death of candidate before polling day**

If a candidate dies before polling day and the number of candidates remaining is not greater than the number required to be elected, the commissioner shall, in accordance with section 189, declare the remaining candidates elected.

### **113 Deposit—return or forfeiture**

- (1) A deposit paid in relation to the nomination of a candidate shall be returned to the candidate, after the result of an election is declared, if—
  - (a) the candidate is elected; or
  - (b) at the time when the candidate is excluded from a poll under a scrutiny in accordance with schedule 4, his or her total votes equal or exceed 20% of the quota for the election; or
  - (c) the candidate is neither elected nor excluded and his or her total votes, at any stage of the counting, equal or exceed 20% of the quota for the election.
- (2) If—
  - (a) a nominee dies before the candidates are declared for an election; or
  - (b) a candidate dies before polling day;



the commissioner shall pay the amount of the deposit lodged to the deceased's personal representative.

- (3) Subject to subsections (1) and (2), a deposit made in relation to the nomination of a candidate shall be forfeited to the Territory when the result of an election is declared.

## **Division 9.2            Ballot papers**

### **114    Ballot papers**

- (1) Subject to this division, the ballot papers to be used in an election shall be in accordance with the form in schedule 1.
- (2) The commissioner may determine the colour of the paper on which ballot papers for each electorate are to be printed.
- (3) A ballot paper must bear an official mark in the form approved under section 340A (Approved forms).
- (4) The ballot paper may be in electronic form.
- (5) The commissioner may approve changes to the electronic form of the ballot paper that are necessary to facilitate the display of the electronic form.

#### **Example**

The electronic form of a ballot paper may display columns of candidates using 2 rows.

*Note*     An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (6) An approval under subsection (3) is a notifiable instrument.

*Note*     A notifiable instrument must be notified under the *Legislation Act 2001*.

- (7) The regulations may—
  - (a) specify the headings or directions to be contained on ballot papers to be used for declaration voting; and

- (b) provide for—
  - (i) the form of a ballot paper to be altered as specified in the regulations; or
  - (ii) a form set out in the regulations to be used in place of the form of a ballot paper.

### **115 Grouping of candidates' names**

- (1) If the registered officer of a registered party or registered ballot group nominates 2 or more candidates for an election, their names shall be grouped in a separate column on the ballot papers for the relevant electorate.
- (2) If 2 or more non-party candidates request that their names be grouped on the ballot papers for an election, their names shall be grouped in a separate column on the ballot papers for the relevant electorate.
- (3) A request referred to in subsection (2) shall be—
  - (a) in writing signed by each of the candidates to be included in the group; and
  - (b) given to the commissioner before the hour of nomination.

### **116 Printing of ballot papers**

- (1) Subject to subsections (2) to (7), on each ballot paper for an election—
  - (a) the names of the candidates in a group of candidates shall be printed in a single column; and
  - (b) if there are 2 or more groups of candidates—separate columns of the names of the candidates in each group shall be printed from left to right in an order determined by the commissioner by lot; and

- (c) a distinguishing letter shall be printed above the column of names of the candidates in a particular group, the letter being—
  - (i) if there is only 1 group— ‘A’; or
  - (ii) if there are 2 or more groups—the appropriate letter in a consecutive, alphabetical order beginning with ‘A’ corresponding to the order in which the columns of names in each group are printed from left to right on the ballot paper; and
- (d) if there are grouped and ungrouped candidates—the names of all ungrouped candidates shall, subject to subsection (6), be printed in a single column to the right of the last column of names of grouped candidates; and
- (e) if there are no groups of candidates—the names of all candidates shall be printed in a single column; and
- (f) the names of candidates in the columns shall be printed in an order determined in accordance with schedule 2; and
- (g) the name of each candidate shall be printed once only; and
- (h) a square (a *candidate square*) shall be printed adjacent to the name of each candidate.

*Note*     **Group**, in relation to candidates in an election, is defined in the dictionary.

- (2) A ballot paper must not contain more than the relevant number of candidate’s names in a column.
- (3) If there are more than the relevant number of candidates in a group—
  - (a) their names shall, so far as practicable, be printed in 2 or more adjacent columns of equal length; and
  - (b) the names to be printed in each column shall be determined by the commissioner by lot.

- (4) If the names of the candidates in a particular group are printed in 2 or more adjacent columns, the distinguishing letter referred to in subsection (1) (c) shall be printed once only above those columns.
- (5) If there are no grouped candidates and there are more than the relevant number of ungrouped candidates—
  - (a) their names shall, so far as practicable, be printed in 2 or more adjacent columns of equal length; and
  - (b) the names to be printed in each column shall be determined by the commissioner by lot.
- (6) If a single column of the names of ungrouped candidates would be longer than the longest column of names of grouped candidates—
  - (a) the names of the ungrouped candidates shall be printed in 2 or more columns none of which is longer than the longest column of names of grouped candidates; and
  - (b) the names of the ungrouped candidates to be included in each column shall be determined by the commissioner by lot.
- (7) If similarity in the names of 2 or more candidates is likely to cause confusion, their names may be arranged on the ballot papers with such description or addition as will distinguish each from the other.
- (8) In this section:  
*relevant number* means—
  - (a) for a 5 member electorate—5; or
  - (b) for a 7 member electorate—7.

## **117 Names on ballot papers**

- (1) In this section:  
*ballot group name*, for a registered ballot group, means—
  - (a) the name under which the group is registered; or

- (b) if a registered abbreviation of the group is stated in the nomination form of each group candidate—that abbreviation.

*party name*, for a registered party, means—

- (a) the name under which the party is registered; or
- (b) if a registered abbreviation of the name of the party is stated in the nomination form of each party candidate—that abbreviation.
- (2) On the ballot papers for an election—
- (a) the party name of the registered party by which a group of party candidates is endorsed must be printed at the top of the column of their names; and
- (b) the party name of the registered party by which an ungrouped party candidate is endorsed must be printed next to the candidate square for the candidate; and
- (c) the ballot group name of the registered ballot group by which a group of ballot group candidates is endorsed must be printed at the top of the column of their names; and
- (d) the ballot group name of the registered ballot group by which an ungrouped ballot group candidate is endorsed must be printed next to the candidate square for the candidate; and
- (e) the word ‘independent’ must be printed next to the candidate square for a candidate (other than a party, ballot group or grouped candidate) if the nomination form so specified.

## **118 Draw for positions on ballot papers**

The commissioner shall make the determinations required by section 116 in public at the place of nomination, as soon as practicable after the candidates have been declared.

## **Division 9.3                      Electronic voting devices and vote counting programs**

### **118A Approval of computer program for electronic voting and vote counting**

- (1) The commissioner may approve a computer program to allow electronic voting and perform steps in the scrutiny of votes in an election.
- (2) The commissioner may only approve a program if—
  - (a) the proper use of the program would give the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without computer assistance; and
  - (b) the program will allow an elector to show consecutive preferences starting at '1'; and
  - (c) the program gives an elector an opportunity to correct any mistakes before processing the elector's vote; and
  - (d) the program will allow an elector to make an informal vote showing no preferences for any candidate; and
  - (e) the program will not allow a person to find out how a particular elector cast his or her vote; and
  - (f) the program is designed to pause while the commissioner makes a determination by lot required by schedule 4; and
  - (g) the program can produce indicative distributions of preferences at any time after the close of the poll and before the declaration of the poll.
- (3) An approval under subsection (1) is a notifiable instrument.

*Note*        A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) The commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.
- (5) Without limiting subsection (4), the commissioner may approve a process—
  - (a) for entering preferences shown on paper ballots into the approved computer program; and
  - (b) for counting preferences using the program to work out—
    - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
    - (ii) the number of informal ballot papers for each electorate.

### **118B Security of electronic voting devices and related material**

- (1) The commissioner must take steps to ensure that electronic devices and computer programs used or intended to be used for or in connection with electronic voting are kept secure from interference at all times.
- (2) The commissioner must keep backup copies of electronic data produced at a polling place or scrutiny centre until whichever of the following happens last:
  - (a) the beginning of the pre-election period for the next election;
  - (b) the documents are no longer required by the commissioner, another member of the electoral commission or a member of the staff of the commission for exercising a function under this Act.

## **Division 9.4                      Miscellaneous**

### **119 Polling places and scrutiny centres**

- (1) The commissioner may, in writing—

- (a) appoint a specified place to be a polling place on polling day for an election; and
  - (b) appoint a specified place to be a scrutiny centre during the election period for the purpose of the scrutiny at an election.
- (2) An appointment is a notifiable instrument.
- Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) During a pre-election period, the commissioner—
- (a) must publish in a newspaper; and
  - (b) may publish by any other means the commissioner determines; a notice setting out particulars of each polling place for the election.

## **120 Administrative arrangements**

- (1) The commissioner shall make appropriate administrative arrangements for the conduct of each election and, in particular, shall ensure that each polling place is properly equipped with—
- (a) separate voting compartments constructed so as to screen voters from observation while marking ballot papers; and
  - (b) ballot boxes capable of being securely fastened; and
  - (c) ballot papers and other documents and stationery.
- (2) The commissioner may make arrangements at a polling place for electors to vote using an electronic ballot paper (*electronic voting*).
- (3) For subsection (2), the commissioner may approve electronic devices for use by electors for electronic voting at a polling place.
- (4) An approval under subsection (3) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.



## **121 Certified lists of electors**

- (1) As soon as practicable after the roll for an electorate closes, the commissioner shall—
  - (a) prepare a certified list of the electors; and
  - (b) give a copy to the OIC for each polling place; and
  - (c) on request by a candidate for the electorate—give a copy to the candidate.
- (2) For this Act, the certified list of electors, in relation to an election in an electorate, is an extract from the roll for the electorate, certified by the commissioner, in relation to each person enrolled who will be at least 18 years of age on polling day.

### **121A Use of information from certified lists**

- (1) In this section:

*approved purpose* means—

- (a) a purpose connected with an election; or
- (b) monitoring the accuracy of information on the roll.

*protected information*, in relation to a person, means information that the person knows, or has reasonable grounds for believing, was obtained from a copy of a certified list of electors given to the person or someone else under section 121 (1) (Certified list of electors).

- (2) A person must not, without reasonable excuse, use protected information for—
  - (a) a commercial purpose; or

(b) any other purpose, other than an approved purpose.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A person must not, without reasonable excuse, directly or indirectly divulge or communicate protected information to someone else for a purpose other than an approved purpose.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **122 Scrutineers—appointment**

(1) A candidate for election may appoint a scrutineer to represent the candidate during the polling for the election, or during the scrutiny for an election, or both.

(2) An appointment shall be made by giving to the commissioner—

(a) written notice, signed by the candidate, specifying the name and address of the scrutineer; and

(b) an undertaking signed by the scrutineer.

*Note* If a form is approved under s 340A (Approved forms) for an undertaking, the form must be used.

## **123 Scrutineers—conduct**

(1) Subject to subsection (2), a scrutineer representing a candidate during the polling for an election is entitled to be present in a polling place, and to enter or leave a polling place, when voters are allowed to vote at that place.

(2) At any time while voters are allowed to vote at a particular polling place, the number of scrutineers representing a particular candidate who are present at that place shall not exceed the number of officers responsible for issuing ballot papers at that place.

- (3) Subject to subsection (4), a scrutineer representing a candidate during the scrutiny for an election is entitled to be present in a scrutiny centre, and to enter or leave a scrutiny centre, during the conduct of the scrutiny at the centre.
- (4) At any time during the conduct of the scrutiny at a particular scrutiny centre, the number of scrutineers representing a particular candidate who are present at the centre shall not exceed the number of officers at the centre.
- (5) A scrutineer at a polling place or scrutiny centre shall wear a badge, supplied by the commissioner, that identifies the person as a scrutineer.
- (6) A scrutineer shall not, without reasonable excuse, communicate with any person in a polling place except so far as is necessary in the exercise of the scrutineer's functions.  
Maximum penalty: 10 penalty units.
- (7) A scrutineer shall not, without reasonable excuse, interfere with or attempt to influence an elector at a polling place.  
Maximum penalty: 50 penalty units.
- (8) For section 320 (4) (b), a scrutineer who contravenes this section is no longer entitled to be on the premises.

## **124 Participation by candidates in conduct of election**

A candidate shall not take any part in the conduct of an election.

## **125 Determining matters by lot**

- (1) If the commissioner is required by this Act to determine a matter by lot, the matter shall be so determined in a way approved by the electoral commission in writing.

(2) An approval is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## **126 Supplementary elections**

If, in relation to an election—

- (a) there are no candidates; or
- (b) the number of candidates declared elected under section 111 or 112 is less than the number of vacancies;

a supplementary election shall be held, as necessary, in accordance with section 101.

## **Part 10**                      **Voting**

### **Division 10.1**              **General**

#### **127**    **Meaning of *authorised witness***

In this part:

*authorised witness* means—

- (a) in Australia or an external Territory—an officer, an elector or a person who is enrolled on any roll kept under the Commonwealth Electoral Act; or
  - (b) in any other place—a person who is at least 18 years old;
- but does not include a candidate at an election.

#### **128**    **Entitlement to vote**

- (1) Subject to subsection (2), an elector enrolled for an electorate is entitled to vote at an election for the electorate.
- (2) A person who is enrolled is not entitled to vote at an election unless he or she will be at least 18 years old on the day the poll for the election is required to be held.
- (3) The inclusion of the name of a person on a certified list of electors for an election is conclusive evidence of the person's right to vote at the election.
- (4) The omission of the name of a person from a roll because of official error does not disqualify the person from voting.
- (5) In a roll or a certified list of electors, an omission of a given name, or an error in a name, does not disqualify an elector from voting.

- (6) An elector whose surname has changed is not disqualified from voting under a former name entered for the person on a roll or certified list of electors.

### **129 Compulsory voting**

- (1) An elector who is entitled to vote at an election shall not, without a valid and sufficient reason, fail to vote at the election.

Maximum penalty: 0.5 penalty units.

- (2) Subsection (1) does not apply to—
- (a) an eligible overseas elector; or
  - (b) an Antarctic elector; or
  - (c) an elector who is serving a sentence of imprisonment outside the ACT; or
  - (d) an elector who is enrolled because of his or her enrolment on the Commonwealth roll as an itinerant elector.
- (3) Without limiting subsection (1), an elector shall be taken to have a valid and sufficient reason for failing to vote at an election if the elector believes it to be part of his or her religious duty to abstain from voting.

### **130 Multiple votes prohibited**

An elector shall not vote—

- (a) more than once at the same election for an electorate; or

- (b) at 2 or more elections for electorates the polls for which are required to be held on the same day.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **131 Procedures for voting**

- (1) At an election, an elector may—
- (a) cast a vote in accordance with division 10.2, 10.3 or 10.4; or
  - (b) if the elector is a patient in a hospital or special hospital, or detained in a remand centre—cast an ordinary vote or a declaration vote in accordance with division 10.5.
- (2) An elector who is entitled to vote at an election may cast a vote on polling day at any polling place in the ACT, whether or not the polling place is in the electorate for which the elector is enrolled.
- (3) If there is electronic voting at a polling place, an elector may vote using a paper ballot paper or electronic voting.

### **132 Manner of recording vote**

- (1) An elector shall record his or her vote on a ballot paper by marking the ballot paper in accordance with subsection (2).
- (2) The elector—
- (a) shall place consecutive whole numbers starting at ‘1’ in the number of candidate squares equal to the number of candidates to be elected so as to indicate preferences; and
  - (b) may place further consecutive whole numbers in additional candidate squares so as to indicate additional preferences.

## Division 10.2 Ordinary voting at a polling place

### 133 Claims to vote

- (1) If a person attends before an officer at a polling place on polling day and claims to vote at an election, the officer shall issue a ballot paper to the claimant for the relevant electorate if satisfied that the certified list of electors for the electorate—
  - (a) specifies the claimant's name; and
  - (b) specifies an address for the claimant or indicates that the claimant's address is suppressed; and
  - (c) has not been marked so as to indicate that a ballot paper has already been issued to the claimant.
- (2) Despite subsection (1), an officer shall not issue a ballot paper to a person who indicates that he or she has already voted at the election.
- (3) Immediately after issuing a ballot paper to a claimant, the officer shall record the issue on the certified list of electors.

### 134 Voting in private

Subject to section 156, a person shall, on receipt of a ballot paper under section 133, without delay—

- (a) go to an unoccupied voting compartment at the polling place; and
- (b) there, in private, mark his or her vote on the ballot paper in accordance with section 132; and
- (c) if the person has voted using a paper ballot paper—fold the ballot paper so as to conceal the vote and put it in a ballot box at the polling place; and
- (d) leave the polling place.



## Division 10.3 Declaration voting at a polling place

### 135 Declaration voting at polling places

- (1) If a person attends before an officer at a polling place on polling day and claims to vote at an election, the officer shall issue declaration voting papers to the person for the relevant electorate if satisfied that—
    - (a) the certified list of electors for the electorate does not specify the person's name; or
    - (b) the certified list of electors for the electorate has been marked so as to indicate that a ballot paper has already been issued to the person but the person claims not to have voted already at the election.
  - (2) Despite subsection (1), an officer shall not issue declaration voting papers to a person who indicates that he or she has already voted at the election.
  - (3) The officer shall—
    - (a) give the claimant a written statement indicating the consequences of casting a declaration vote under this section; and
    - (b) record the name of the claimant.
- Note* If a form is approved under s 340A (Approved forms) for a statement, the form must be used.
- (4) Subject to section 156, the following requirements apply to the casting of a declaration vote under this section:
    - (a) the person shall complete and sign the declaration in the presence of the officer;
    - (b) the officer shall complete and sign the certificate as witness;

- (c) the person shall go to an unoccupied voting compartment at the polling place and there, in private—
  - (i) mark his or her vote on the ballot paper in accordance with section 132; and
  - (ii) fold the ballot paper so as to conceal the vote;
- (d) the person shall return the folded ballot paper to the officer;
- (e) the officer shall, in the presence of the person, without unfolding the ballot paper, place it in the envelope on which the declaration referred to in paragraph (a) appears, fasten the envelope and place it in a ballot box at the polling place;
- (f) the person shall then leave the polling place.

## **Division 10.4 Voting otherwise than at a polling place**

### **136 Meaning of *eligible elector* for div 10.4**

In this division:

*eligible elector* means an elector who is entitled to vote at an election and—

- (a) who expects to be unable to attend at a polling place on polling day; or
- (b) whose address is a suppressed address.

### **136A Postal voting before polling day**

- (1) In this section:

*post* means dispatch by means of Australia Post or a postal service specified under subsection (9).

*postal voting papers* means declaration voting papers for postal voting.

- 
- (2) An application for postal voting papers shall be—
- (a) signed and dated by the applicant in the presence of an authorised witness; and
  - (b) signed and dated by the witness; and
  - (c) received by an authorised officer before 8 pm on the day before polling day.

*Note* If a form is approved under s 340A (Approved forms) for an application, the form must be used.

- (3) Subject to subsections (4) and (5), an authorised officer shall, on application by an eligible elector, post to the elector postal voting papers for the electorate for which the person claims to vote.
- (4) Postal voting papers shall not be posted or otherwise made available to an elector earlier than the 19th day before polling day.
- (5) An officer shall not post postal voting papers to an applicant—
- (a) if the application is received by the officer after the last mail clearance at the nearest post office on the last Thursday before polling day; or
  - (b) if the officer has reason to believe that the applicant is located in a place where the normal transmission of mail has been significantly disrupted or curtailed or is otherwise unreliable.
- (6) If an authorised officer has received an application for postal voting papers for an eligible elector and the officer has reason to believe—
- (a) that the applicant is a person to whom subsection (5) (a) or (b) applies; and
  - (b) that dispatch of the papers to the elector by means of a courier or other agent (other than Australia Post or a postal service specified under subsection (9)) is likely to enable the papers to reach the elector in sufficient time for the elector's ballot paper to be completed and lodged in accordance with subsection (8);

the officer shall dispatch the papers accordingly.

- (7) If voting papers are dispatched to the elector in accordance with this section, neither the officer nor the commissioner is responsible for ensuring that the papers reach the elector.
- (8) Subject to section 156, the following requirements apply in relation to the casting of a postal vote under this section:
- (a) the elector shall show the unsigned declaration and certificate, and the unmarked ballot paper to an authorised witness;
  - (b) the elector shall complete and sign the declaration in the presence of the witness;
  - (c) the witness shall complete and sign the certificate as witness;
  - (d) the elector shall, in the presence of the witness but so that the witness cannot see the vote, mark his or her vote on the ballot paper, fold the ballot paper, place it in the envelope addressed to the commissioner and fasten the envelope;
  - (e) the elector shall—
    - (i) before polling day—post the envelope and contents to the commissioner; or
    - (ii) on or before polling day—lodge the envelope and contents with the commissioner or another officer.

*Note* For restrictions on sending completed ballot and voting papers by fax, see s 329.

- (9) The commissioner, by writing, may specify a postal service instead of or in addition to Australia Post for subsection (1), definition of *post*.

### **136B Ordinary or declaration voting in ACT before polling day**

- (1) In this section:

*relevant period* means the period—

- 
- (a) beginning no later than the 19th day before polling day or, if that 19th day is a public holiday in the ACT, the next business day; and
    - (b) ending no later than 8pm on the day before polling day.
  - (2) The commissioner may, in writing, determine the days and times during the relevant period for voting under this section.
  - (3) This section applies if a person attends before an authorised officer, on a day and at a time determined under subsection (2), and makes a declaration to the effect that the person is an eligible elector.
  - (4) A determination under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
  - (5) If this section applies, the officer shall issue a ballot paper to the elector for the relevant electorate if satisfied that the certified list of electors for the electorate—
    - (a) specifies the claimant's name; and
    - (b) specifies an address for the claimant or indicates that the claimant's address is suppressed; and
    - (c) has not been marked so as to indicate that a ballot paper has already been issued to the claimant.
  - (6) Despite subsection (5), an officer shall not issue a ballot paper to a person who indicates that he or she has already voted at the election.
  - (7) Immediately after issuing a ballot paper to a claimant, the officer shall record the issue on the certified list of electors.
  - (8) Section 134 applies to the casting of an ordinary vote under this section as if—
    - (a) it were a vote under section 133; and

- (b) the reference in section 134 to an *unoccupied voting compartment* were a reference to an unoccupied part of the place where the elector attends before the officer concerned.
- (9) Sections 120 to 123 apply in relation to polling under this section as if the place where that polling is conducted were a polling place.
- (10) Before any vote is taken under this section the OIC shall exhibit each ballot box empty and shall then securely fasten its cover.
- (11) At the conclusion of each day's polling under this section and in the presence of any scrutineers the ballot boxes shall be closed and sealed.
- (12) At the beginning of the second and each subsequent day's polling under this section and in the presence of any scrutineers the seals on the ballot boxes shall be examined and opened.
- (13) At the close of polling under this section, the OIC shall, in the presence of any scrutineers—
- (a) close and seal the ballot boxes containing ballot papers for ordinary voting or declaration voting; and
  - (b) parcel and enclose in sealed wrapping all unused ballot papers; and
  - (c) parcel and enclose in sealed wrapping all other electoral papers used at the polling place.
- (14) The OIC shall give the articles referred to in subsection (13) to the commissioner.
- (15) the commissioner shall keep the articles referred to in subsection (13) in safe custody for the purposes of scrutiny under part 12.
- (16) Ballot papers cast as ordinary votes under this section may only be removed from ballot boxes and counted after the close of polling on polling day.
- (17) If this section applies and the authorised officer is satisfied that—

- (a) the certified list of electors for the electorate does not specify the person's name; or
- (b) the certified list of electors for the electorate has been marked so as to indicate that a ballot paper has already been issued to the person but the person claims not to have voted already at the election;

the authorised officer shall issue declaration voting papers to the elector.

- (18) Despite subsection (17), an officer shall not issue declaration voting papers to a person who indicates that he or she has already voted at the election.
- (19) If an authorised officer issues declaration voting papers to the elector the officer shall—
  - (a) give the claimant a written statement indicating the consequences of casting a declaration vote under this section; and
  - (b) record the name of the claimant.

*Note* If a form is approved under s 340A (Approved forms) for a statement, the form must be used.

- (20) Section 135 (4) applies to the casting of a declaration vote under this section as if—
  - (a) it were a declaration vote under section 135; and
  - (b) the reference in section 135 (4) to an ***unoccupied voting compartment*** were a reference to an unoccupied part of the place where the elector attends before the officer concerned.

### **136C Declaration voting outside ACT on or before polling day**

(1) In this section:

*relevant period* means the period—

- (a) beginning no later than the 19th day before polling day or, if that 19th day is a public holiday in the ACT, the next business day; and
  - (b) ending no later than 6pm in the ACT on polling day.
- (2) The commissioner may, in writing, determine the days and times during the relevant period for voting under this section.
- (3) This section applies if a person attends before an authorised officer outside the ACT, on a day and at a time determined under subsection (2), and makes a declaration to the effect that the person is an eligible elector.
- (4) A determination under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (5) If this section applies, the authorised officer shall issue declaration voting papers to the elector.
- (6) Despite subsection (5), an officer shall not issue declaration voting papers to a person who indicates that he or she has already voted at the election.
- (7) If an authorised officer issues declaration voting papers to the elector the officer shall—
  - (a) give the claimant a written statement indicating the consequences of casting a declaration vote under this section; and
  - (b) record the name of the claimant.

*Note* If a form is approved under s 340A (Approved forms) for a statement, the form must be used.



- (8) Section 135 (4) applies to the casting of a declaration vote under this section as if—
- (a) it were a declaration vote under section 135; and
  - (b) the reference in section 135 (4) to an *unoccupied voting compartment* were a reference to an unoccupied part of the place where the elector attends before the officer concerned.

### **137 Record of issue of declaration voting papers**

- (1) An officer who issues voting papers under section 136A, 136B (17) or 136C shall—
- (a) make a record of the time and date of issue; and
  - (b) if the officer is not the commissioner—give the record to the commissioner.
- (2) If an application is made for a postal vote, the record shall be endorsed on the application.

### **138 Inspection of records**

- (1) Subject to subsection (2), the commissioner shall make each record referred to in section 137, or a copy, available for public inspection at the office of the commissioner within ordinary office hours during the period of 40 days beginning on the 3rd day after polling day.
- (2) A document referred to in subsection (1) that is made available for public inspection shall not specify a suppressed address.

### **139 Receipt of declaration voting papers**

- (1) An officer who receives completed voting papers in relation to a vote cast under section 136A shall—
- (a) endorse the time and date of receipt on the envelope; and

- (b) if the officer is not the commissioner—give the papers to the commissioner or an authorised officer.

*Note* For restrictions on sending completed ballot and voting papers by fax, see s 329.

- (2) The commissioner shall keep the papers in safe custody for the purposes of scrutiny under part 12.

#### **140 Registered declaration voters**

- (1) The commissioner shall keep a register, called the register of declaration voters.
- (2) The register may be kept electronically.
- (3) If an elector is registered as a general postal voter under the Commonwealth Electoral Act—
  - (a) the elector shall be taken to be a registered declaration voter for this Act; and
  - (b) the particulars so registered under the Commonwealth Electoral Act in relation to the elector shall, so far as practicable, be taken to be entered on the register kept under this Act.
- (4) The register shall contain the following particulars in relation to each elector to whom subsection (3) applies:
  - (a) surname or family name;
  - (b) each given name;
  - (c) address, other than—
    - (i) that of an eligible overseas elector; or
    - (ii) a suppressed address.

**141 Issue of voting papers to registered declaration voters**

As soon as practicable after the beginning of the pre-election period for an election, the commissioner shall post to each elector enrolled for the electorate in which the election is to be held who is a registered declaration voter declaration voting papers for the election.

**142 Correcting formal errors**

If an officer is satisfied that—

- (a) an application for declaration voting papers for postal voting;  
or
- (b) the declaration or certificate in completed declaration voting papers;

contains a formal error, the officer may amend the application, declaration or certificate to correct the error.

**143 Application forms for postal declaration votes**

An application form for declaration voting papers for postal voting may be physically attached to, or form part of, other written material issued by any person or organisation.

**144 Transmission of applications for postal declaration votes**

A person who accepts for transmission to the commissioner a completed application for declaration voting papers for postal voting shall transmit the application to the commissioner as soon as practicable.

Maximum penalty: 10 penalty units.

**145 Interference with declaration voting**

Except for section 156, or at the request of the elector, a person shall not, without reasonable excuse—

- (a) communicate with an elector while he or she is casting a declaration vote; or
- (b) interfere with an elector's casting of a declaration vote; or
- (c) do anything to find out how an elector voted by declaration vote; or

(d) enable any other person to find out how an elector voted by declaration vote.

Maximum penalty: 30 penalty units.

**146 Soliciting completed declaration votes**

A person shall not, without reasonable excuse, do anything for the purpose of inducing an elector to give to the person completed declaration voting papers.

Maximum penalty: 30 penalty units.

**147 Transmission of completed declaration votes**

A person who accepts for transmission to the commissioner completed declaration voting papers shall transmit them to the commissioner as soon as practicable.

Maximum penalty: 10 penalty units.

**148 Opening envelopes containing declaration votes**

Unless authorised by or under this Act, a person shall not, without reasonable excuse, open an envelope that appears to contain a completed declaration vote.

Maximum penalty: 5 penalty units.

**Division 10.5 Mobile polling**

**149 Definitions for div 10.5**

In this division:

*remand centre* includes a police station or other place where a person is held in lawful custody in relation to an offence.

*special hospital* means a hospital declared under section 149A.

*visiting officer* means an officer who makes a visit referred to in section 150 (1), (2) or (3).

#### **149A Declaration of special hospitals**

- (1) The commissioner may, in writing, declare a hospital that is not a polling place to be a special hospital for this division.
- (2) A declaration is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

#### **150 Mobile polling—institutions**

- (1) The OIC of a polling place that is a hospital shall arrange for an officer to visit patients at the hospital (other than outpatients) between 8 am and 6 pm on polling day for the purpose of taking their votes.
- (2) The commissioner shall arrange for an officer to visit patients at a special hospital (other than outpatients) between 8 am and 6 pm—
  - (a) on a day that is not more than 5 days before polling day; or
  - (b) on polling day;for the purpose of taking their votes.
- (3) The commissioner shall arrange for an officer to visit persons detained in a remand centre for the purpose of taking their votes.
- (4) A visit referred to in subsection (3) shall be made at a time, and in accordance with any conditions, arranged by the commissioner and the person in charge of the centre.

#### **151 Functions of visiting officers**

- (1) When visiting under section 150, the visiting officer—
  - (a) shall take a ballot box, ballot papers, the certified list of electors and anything else necessary to enable a person to vote; and

- (b) shall be accompanied by at least 1 other officer and any scrutineer who wishes to attend.
- (2) The number of scrutineers for a particular candidate who are present at a hospital, special hospital or remand centre with the visiting officer must not be more than the number of officers at the hospital, special hospital or remand centre.
- (3) While a visiting officer is with a person in a room or other place for the purpose of taking the person's vote, this Act has effect, so far as practicable, as if—
- (a) the room or place were a polling place; and
  - (b) the visiting officer were the OIC of the polling place.
- (4) A visit under section 150 to a patient in a hospital or special hospital shall not be made if the visiting officer is informed by a doctor, or a member of the staff at the hospital, that the visit is forbidden on medical grounds.
- (5) A visit under section 150 to a person detained in a remand centre shall not be made if the visiting officer is informed by the person in charge of the centre that the visit is forbidden on security grounds.

## **152 Failure to visit institution**

A failure to make a visit under section 150 or to take votes in accordance with section 151, does not invalidate the result of an election.

## **153 Custody of ballot boxes and electoral papers**

- (1) After a visiting officer has completed all his or her visits under section 150, the officer shall, in the presence of any scrutineers—
- (a) close and seal the ballot boxes containing ballot papers for ordinary voting or declaration voting; and

- (b) parcel and enclose in sealed wrapping all unused ballot papers;  
and
  - (c) parcel and enclose in sealed wrapping all other electoral papers  
used for the purposes of the visits.
- (2) The visiting officer shall give the articles referred to in subsection  
(1) to the commissioner.
- (3) The commissioner shall keep the articles referred to in subsection  
(1) in safe custody for the purposes of scrutiny under part 12.

## **Division 10.6            Miscellaneous**

### **154    Arrangements at polling places**

At each polling place the polling shall be conducted as follows:

- (a) before any vote is taken the OIC shall exhibit each ballot box  
empty, and shall then securely fasten its cover;
- (b) the poll shall open at 8 am and shall not close until all electors  
present in the polling place at 6 pm and desiring to vote, have  
voted;
- (c) the polling place shall be closed at 6 pm and no person shall be  
admitted after that hour for the purpose of voting.

### **155    Particulars on ballot papers before issue**

An officer shall not issue a ballot paper for the purposes of an  
election unless the particulars required by division 9.2 are printed or  
endorsed on the ballot paper.

### **156    Assistance to voters**

- (1) An elector who is unable to vote may be assisted in voting if the  
elector would otherwise be unable to vote.
- (2) An assistant shall be—



- (a) if the elector is a postal voter—a nominee of the elector or, if there is no such nominee, an authorised witness; or
  - (b) in any other case—a nominee of the elector or, if there is no such nominee, an officer.
- (3) An assistant may enter a voting compartment for the purpose of assisting an elector to vote, but an officer shall not do so except in the presence of—
- (a) a scrutineer; or
  - (b) if no scrutineer is present—another officer.
- (4) Subject to subsection (3), an assistant may assist an elector in any of the following ways:
- (a) by acting as an interpreter;
  - (b) for a declaration vote—by completing, or assisting the elector to complete, the declaration;
  - (c) by explaining the ballot paper and the requirements of this Act relating to its marking;
  - (d) by marking, or assisting the elector to mark, the ballot paper at the elector's direction;
  - (e) by folding the ballot paper and depositing it in a ballot box or declaration envelope, or with an officer, as required by this Act.

### **156A Assistance to voters unable to enter polling place**

- (1) This section applies if the OIC of a polling place is satisfied that a voter cannot enter the polling place because of a physical disability, illness, advanced pregnancy or another condition.
- (2) The voter may vote outside the polling place, but close to the polling place, and may be assisted in voting.

- (3) Before allowing the voter to vote outside the polling place, the OIC must—
  - (a) tell any scrutineers at the polling place that the voter is to vote outside the polling place; and
  - (b) allow, from the scrutineers present, 1 scrutineer for each candidate to be present when the voter votes.
- (4) The voter must—
  - (a) mark the voter's vote on the ballot paper in the OIC's presence; and
  - (b) fold the ballot paper to conceal the names of the candidates; and
  - (c) give the ballot paper to the OIC.
- (5) If the voter is casting an ordinary vote, the OIC must ensure that the folded ballot paper is immediately returned to the polling place and put in the ballot box in the presence of the scrutineers (if any) who were present when the voter voted.
- (6) If the voter is casting a declaration vote, the OIC must—
  - (a) in the presence of the voter, without unfolding the ballot paper, place the ballot paper in the envelope on which the voter has completed and signed the declaration and seal the envelope; and
  - (b) place the envelope in a ballot box at the polling place.
- (7) This section is subject to section 156 (Assistance to voters).

### **157 Spoilt ballot papers**

- (1) An officer shall issue another unused ballot paper to an elector who—
  - (a) satisfies the officer that a ballot paper previously issued to the elector has been inadvertently spoiled; and

- (b) gives the spoiled ballot paper to the officer.
- (2) An officer who receives a spoiled ballot paper shall—
  - (a) write 'spoiled' on the back of it; and
  - (b) place it in an envelope, seal the envelope and endorse it so as to indicate the type of spoiled ballot paper enclosed; and
  - (c) sign the endorsement.
- (3) At the close of polling, the OIC shall enclose the envelope in a sealed parcel and give it to the commissioner.
- (4) This section does not apply in relation to an elector who votes electronically.

#### **158 Custody of ballot boxes and electoral papers**

- (1) At the close of polling, the OIC of a polling place shall, in the presence of any scrutineers—
  - (a) close and seal the ballot boxes containing ballot papers for ordinary voting or declaration voting; and
  - (b) parcel and enclose in sealed wrapping all unused ballot papers; and
  - (c) parcel and enclose in sealed wrapping all other electoral papers used at the polling place.
- (2) The commissioner shall keep the articles referred to in subsection (1) in safe custody for the purposes of scrutiny under part 12.
- (3) Subsection (1) (a) does not apply to ballot boxes containing ballot papers for ordinary voting if the polling place is also a scrutiny centre and the procedures set out in section 182 are to be carried out in relation to those ballot boxes and ballot papers at that centre.

### **159 Extension of time for conducting elections**

- (1) Despite any other provision of this Act, before or after the day when an election is required to be held, the Executive may, by written notice, make provision for—
  - (a) extending the time for holding the election; or
  - (b) meeting any difficulty that might otherwise interfere with the due conduct of the election; orand any provision so made shall be valid and sufficient for that purpose.
- (2) A notice under subsection (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) On notification under the *Legislation Act 2001* of a notice under subsection (1), the commissioner must publish a copy of the notice in a newspaper.

### **160 Suspension and adjournment of polling**

- (1) The commissioner may suspend the polling at a polling place on polling day if for any reason it is not practicable to proceed with it.
- (2) If—
  - (a) the polling is suspended; and
  - (b) the commissioner believes on reasonable grounds that it is not reasonably practicable for an elector affected by the suspension to cast a vote at another polling place;the commissioner must, in writing, determine a day (that is as soon as practicable, but no later than 21 days, after the suspension) as the day when polling is to resume.
- (3) If it is impracticable to resume the polling at the same polling place, the determination must state the polling place where polling may be resumed.

- (4) A determination under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (5) On the resumption of polling, only an elector who was entitled to vote on the day when the poll for the election was required to be held and who has not already voted is entitled to vote.

## **Division 10.7 Failure to vote**

### **161 Default notice**

- (1) For this division, a default notice, in relation to an elector, is a notice containing a statement to the effect that—
- (a) it is an offence to fail to vote at an election without a valid and sufficient reason; and
  - (b) the elector appears to have failed to vote at an election; and
  - (c) if the elector does not wish to have the matter dealt with by a court, the elector may, within the time specified in the notice—
    - (i) if the elector voted at the election—give the commissioner particulars in writing of the voting; or
    - (ii) if the elector failed to vote at the election—give the commissioner particulars in writing of any valid and sufficient reason for the failure, or pay the amount of the prescribed penalty.

*Note* If a form is approved under s 340A (Approved forms) for a default notice, the form must be used.

- (2) For subsection (1) (c) (ii), the prescribed penalty is \$20 or any higher penalty prescribed by the regulations.

### **162 First notice**

- (1) As soon as practicable after polling day for an election, the commissioner shall send a default notice to each elector who was

required to vote at the election and appears to the commissioner to have failed to do so.

- (2) Subsection (1) does not apply to an elector who the commissioner is satisfied—
- (a) is dead; or
  - (b) had a valid and sufficient reason for failing to vote at the election.

### **163 Second notice**

If an elector to whom a default notice has been sent under section 162 fails to respond to the notice within the time specified, the commissioner shall send a second default notice to the elector, endorsed to the effect that the elector has failed to respond to the first notice.

### **164 Final notice**

- (1) The commissioner shall send a final default notice to an elector if—
- (a) a default notice under section 162 or 163 has been sent to the elector; and
  - (b) the time for responding to the notice has ended; and
  - (c) the elector has not paid the prescribed penalty; and
  - (d) the commissioner is not satisfied that the elector—
    - (i) voted at the election; or
    - (ii) had a valid and sufficient reason for failing to vote at the election.
- (2) A final default notice shall contain a statement to the effect that—
- (a) the commissioner is not so satisfied; and

- (b) if the elector does not wish to have the matter dealt with by a court—the elector may, within the time specified in the notice, pay the amount of the prescribed penalty.

### **165 Discharge of liability**

If an elector who failed to vote at an election pays the amount of the prescribed penalty in accordance with a default notice—

- (a) any liability of the elector under section 129 in relation to the failure is discharged; and
- (b) proceedings for an offence against that section shall not be instituted against the elector in relation to the failure.

### **166 Response on behalf of elector**

If a person responds to a default notice on behalf of an elector who is unable to do so, the response shall be taken to be that of the elector.

## Part 11                      Polling in Antarctica

### 167    Definitions for pt 11

In this part:

*Antarctica* means—

- (a) the Australian Antarctic Territory; or
- (b) the Territory of Heard Island and McDonald Islands; or
- (c) Macquarie Island.

*assistant returning officer*, in relation to a station, means the assistant returning officer appointed under section 168 in relation to the station.

*research personnel* means personnel who are to be, or have been, engaged in work at a station.

*returning officer*, in relation to a station, means the returning officer appointed under section 168 in relation to the station.

*station* means—

- (a) a research station in Antarctica that is operated by the Commonwealth and is declared by the commissioner, in writing, to be a permanent research station; or
- (b) in relation to a particular election, a ship that is declared by the commissioner, in writing, to be a station for this part in relation to the election.

*transmit* means transmit by fax, telex or in another way approved under section 167B.



**167A Declaration of ship as a station**

The commissioner may declare a ship as a station only if the commissioner is satisfied that, on polling day for an election, the ship is likely to be at sea transporting research personnel to or from Antarctica.

**167B Approval of ways of transmission**

- (1) The commissioner may, in writing, approve a way of transmission for this part.
- (2) The approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

**168 Returning officers and assistants for Antarctic stations**

- (1) The commissioner must appoint a returning officer, and an assistant returning officer, for each station.

*Note 1* For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The commissioner or the person in charge of a station may appoint an acting returning officer, or acting assistant returning officer, for a station.
- (3) However, the person in charge of a station must not be appointed to be the returning officer, or assistant returning officer, for the station.

**170 Application of Act to polling in Antarctica**

Subject to this part, this Act applies, so far as practicable, to the taking of a poll in Antarctica as if—

- (a) a reference in the Act to a polling place were a reference to the relevant station; and

- (b) a reference in the Act to the OIC of a polling place were a reference to the returning officer; and
- (c) a reference in the Act to an officer were a reference to the assistant returning officer.

### **171 Antarctic electors**

- (1) Subject to subsection (2), an elector—
  - (a) who is, for the Commonwealth Electoral Act, an Antarctic elector; and
  - (b) whose address, recorded on the Commonwealth roll when the elector became a person referred to in paragraph (a), was an address in an electorate;

is an Antarctic elector for this Act in relation to the electorate where that address is located.

- (2) A person does not become an Antarctic elector for the purposes of an election under this Act if the person became an Antarctic elector for the Commonwealth Electoral Act after the hour of nomination for the election.

### **172 Arrangements for the polling in Antarctica**

- (1) As soon as practicable after the close of nominations for an election in relation to an electorate for which an Antarctic elector is enrolled—
  - (a) the commissioner shall transmit to the returning officer at whose station the elector is based—
    - (i) an extract from the certified list of electors for the electorate containing the particulars relating to the elector; and
    - (ii) directions for the preparation by the officer of ballot papers for the election; and

- (b) the returning officer shall prepare ballot papers in accordance with the directions.
- (2) The directions shall ensure, so far as practicable, that the ballot papers are the same as ballot papers prepared under division 9.2 for the election.

### **173 Conduct of the polling**

- (1) The polling at a station shall be conducted as follows:
  - (a) before any vote is taken, the returning officer shall exhibit a ballot box empty, and shall then securely fasten its cover;
  - (b) subject to subsection (2), the poll shall be conducted during the hours on the days the returning officer directs;
  - (c) the returning officer or the assistant returning officer shall, at all times when the poll is open, be present in that part of the station where the polling is taking place.
- (2) The polling at a station shall not continue beyond the time that is 6 pm in the ACT on polling day for the election.

### **174 Claims to vote**

The returning officer or assistant returning officer for a station shall—

- (a) hand a ballot paper to each Antarctic elector who attends before the officer during the hours of polling and claims to vote at the election; and
- (b) record the issue of the ballot paper to the elector.

### **175 Proceedings at close of poll**

At the close of the poll, the returning officer shall, in the presence of the assistant returning officer—

- (a) open the ballot box; and

- (b) transmit to the authorised officer—
  - (i) particulars of each elector who has voted at the station in the election; and
  - (ii) unless subparagraph (iii) applies, particulars of the marking of each ballot paper; and
  - (iii) if the returning officer is unable to read or understand clearly the particulars referred to in subparagraph (ii)—a statement to explain that inability; and
- (c) prepare a written statement of the information transmitted.

*Note* A ballot paper completed by an Antarctic elector may be faxed to the commissioner, see s 329.

## **176 Result of polling in Antarctica**

- (1) On receipt of the transmission under section 175, the authorised officer shall—
  - (a) in relation to each ballot paper marked by an Antarctic elector—transcribe the particulars of the elector's marks onto a ballot paper for the relevant electorate; and
  - (b) seal in an envelope the ballot paper onto which the particulars are transcribed; and
  - (c) sign the envelope and endorse it to the effect that it contains a ballot paper recording a vote by an Antarctic elector that is to be admitted to the scrutiny for the election; and
  - (d) send the envelope to the commissioner.
- (2) An authorised officer shall not mark a ballot paper under this section in a way that is likely to enable it to be identified as representing the vote of an Antarctic elector.

**177 Preservation of documents**

- (1) As soon as practicable after the close of the poll for an election, the returning officer for each station shall forward to the commissioner—
  - (a) a copy of the record of the issue of each ballot paper; and
  - (b) a copy of the statement referred to in section 175 (c); and
  - (c) the ballot papers used for voting at the station.
- (2) The commissioner shall keep the documents referred to in subsection (1) in safe custody for the purposes of scrutiny under part 12.

## Part 12 The scrutiny

### 178 Scrutiny

- (1) The result of the polling at an election shall be ascertained by scrutiny in accordance with this part.
- (2) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers.
- (3) The commissioner shall arrange for the following articles, documents and data to be dealt with at scrutiny centres for this part:
  - (a) applications for postal votes in the election;
  - (b) records of issued declaration voting papers;
  - (c) completed declaration voting papers received by the commissioner, the OIC of a polling place or another officer;
  - (d) ballot boxes containing ballot papers for ordinary voting or declaration voting;
  - (e) electronic ballot papers;
  - (f) envelopes containing ballot papers recording votes by Antarctic electors.
- (4) The OIC for a scrutiny centre may adjourn the scrutiny at the centre from time to time.

**179 Preliminary scrutiny of declaration voting papers etc**

- (1) The commissioner shall arrange for the conduct of the preliminary scrutines necessary in relation to a poll until the following documents have been dealt with in accordance with this section:
  - (a) all completed declaration voting papers (including those used for postal voting) received by the commissioner or another officer on or before polling day;
  - (b) all completed declaration voting papers used for postal voting received by the commissioner before the end of the 6th day after the close of the poll;
  - (c) any envelope referred to in section 176 (1) (d) containing a ballot paper recording the vote of an Antarctic elector.
- (2) A preliminary scrutiny shall not be conducted earlier than the 5th day before polling day.
- (3) The commissioner shall display a notice in a prominent place at the office of the commissioner specifying the date and time when, and the place where, a preliminary scrutiny is to begin.
- (4) The notice shall be so displayed no later than 4 pm on the day before the beginning of the preliminary scrutiny.
- (5) A preliminary scrutiny shall be conducted in accordance with schedule 3.
- (6) Schedule 3 applies, so far as practicable, in relation to a vote cast by an Antarctic elector as if—
  - (a) the vote were a declaration vote other than a postal vote; and
  - (b) a declaration signed by the elector specifying the electorate in relation to which the elector is an Antarctic elector appeared on the envelope referred to in section 176 (1) (d); and
  - (c) a reference in that schedule to a set of declaration voting papers were a reference to that envelope.

- (7) At a preliminary scrutiny, declaration voting papers shall not be rejected for further scrutiny because of a formal error.
- (8) A preliminary scrutiny shall be taken to be part of the scrutiny in relation to an election.

### **180 Formality of ballot papers**

- (1) Except as provided by this section, a ballot paper is formal and effect shall be given to the elector's intention as far as that intention is clear.
- (2) A ballot paper is informal if—
  - (a) in the opinion of the OIC of a scrutiny centre—
    - (i) it is not authentic; or
    - (ii) it has writing on it by which the elector can be identified; or
  - (b) no first preference is marked in a candidate square; or
  - (c) a first preference is marked in 2 or more candidate squares; or
  - (d) for a completed declaration vote ballot paper that has not been dealt with at a preliminary scrutiny under section 179—it is not enclosed in the appropriate envelope on which appears a declaration made by an elector.
- (3) In determining whether a ballot paper is formal—
  - (a) a preference marked outside a candidate square shall be taken to be marked in the square if the voter's intention to indicate that preference for that candidate is clear; and
  - (b) subject to subsection (2) (a), any other writing outside a candidate square shall be disregarded.
- (4) A ballot paper on which the particulars are endorsed by an officer under section 155 is not informal—



- (a) if no other candidate has the same surname—only because the surname of a candidate has been written on the ballot paper; or
  - (b) only because of a spelling mistake in the particulars endorsed on the ballot paper.
- (5) If it is necessary for this part, the commissioner may determine the formality of a ballot paper and, for that purpose, may reverse any decision made by another officer.

### **181 Death of candidate**

If a candidate dies before the end of polling day, and the number of candidates remaining is greater than the number of candidates to be elected, a ballot paper is not informal only because of—

- (a) the inclusion on the ballot paper of the name of the deceased candidate; or
- (b) the marking of any consecutive number in a candidate square adjacent to that name; or
- (c) the omission to place any number in a candidate square adjacent to that name, or any resultant failure to indicate in consecutive order the elector's preferences.

### **182 First count—ordinary ballot papers**

- (1) This section applies only to paper ballot papers.
- (2) As soon as practicable after the close of the poll for an election, the OIC for a scrutiny centre shall arrange for the procedures set out in this section to be carried out.
- (3) First, the OIC shall—
  - (a) exhibit for inspection by any scrutineer each ballot box containing ballot papers recording ordinary votes; and
  - (b) record the condition of the ballot box before opening it.

- (4) Second, the OIC shall arrange for an officer to—
- (a) open each ballot box; and
  - (b) sort the ballot papers from each ballot box into separate parcels for each electorate; and
  - (c) in relation to the ballot papers for each electorate—
    - (i) count all informal ballot papers, reject them from further scrutiny under this section, and place them in a separate parcel; and
    - (ii) sort the unrejected ballot papers into separate parcels according to the first preferences marked on them and count the ballot papers in each parcel.
- (5) Third, the OIC shall, in relation to the ballot papers for each electorate—
- (a) make out and sign a statement (countersigned by an officer and each scrutineer who wishes to do so) setting out—
    - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
    - (ii) the number of informal ballot papers; and
  - (b) transmit particulars of the numbers so recorded to the commissioner, by telephone or other expeditious way; and
  - (c) seal up the parcels, endorse on each a description of the contents and permit each scrutineer who wishes to do so to countersign the endorsement; and
  - (d) send the parcels to the commissioner without delay, together with the statement referred to in paragraph (a).
- (6) Despite subsection (4) (b), the total number of ballot papers for a particular electorate that are to be dealt with at a particular scrutiny under this section shall not be fewer than 20.

- (7) If subsection (6) applies, the OIC shall—
- (a) count the number of those ballot papers; and
  - (b) seal them in a separate parcel; and
  - (c) endorse the parcel with a description of the contents (including the number of ballot papers); and
  - (d) send the parcel to another scrutiny centre, as directed by the commissioner, for this part.
- (8) The OIC may arrange for preferences marked on paper ballot papers to be entered into the approved computer program.

### **183 First count—declaration ballot papers**

As soon as practicable after declaration vote ballot papers have been admitted to a scrutiny under this section because of schedule 3 but not before the close of the poll for the election, the OIC for the relevant scrutiny centre shall arrange for the ballot papers to be dealt with in accordance with section 182 as if they were ordinary vote ballot papers.

### **183A First count—electronic ballot papers**

As soon as practicable after the close of the poll for an election, the OIC for a scrutiny centre must arrange for preferences from electronic voting to be entered into the approved computer program and for the electronic counting of the votes using the program.

### **184 Second count—first preferences**

- (1) If preferences marked on paper ballot papers have not been entered on the approved computer program under section 182 (8), the commissioner shall—
- (a) arrange for an officer at a scrutiny centre to open the parcels referred to in section 182 (5) (d) (including those to which that paragraph applies under section 183) and, so far as practicable,

conduct a second scrutiny of the ballot papers in accordance with section 182 (4) and (5); and

- (b) from the result of the second scrutiny, ascertain—
  - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
  - (ii) the number of informal ballot papers for each electorate.
- (2) The commissioner must, using the approved computer program, ascertain from the result of the first scrutiny of electronic ballot papers and any paper ballot papers from which preferences have been entered on the computer program under section 182 (8)—
  - (a) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
  - (b) the number of informal ballot papers for each electorate.
- (3) For subsection (1), the officer conducting the second scrutiny may reverse a decision made at the scrutiny under section 182.

### **185 Ascertaining result of poll**

- (1) The commissioner shall arrange for—
  - (a) the further scrutiny of the ballot papers referred to in section 184 (1) (b) (i) and (2) (a); and
  - (b) the ascertainment of the successful candidates;in accordance with schedule 4.
- (2) If it is necessary to do so for schedule 4, the commissioner shall—
  - (a) determine the numbers of ballot papers or votes; or
  - (b) calculate a quota or transfer value; or
  - (c) identify a candidate.

**186 Objections by scrutineers**

- (1) If a scrutineer objects to a ballot paper as being informal, the officer conducting the scrutiny shall mark the ballot paper 'admitted' or 'rejected' according to the officer's decision to admit or reject the ballot paper.
- (2) Subsection (1) shall not be taken to prevent the officer from rejecting a ballot paper as being informal if there is no objection by a scrutineer.

**187 Recount of ballot papers**

- (1) The commissioner—
  - (a) may, if the commissioner considers appropriate; and
  - (b) shall, if directed by the electoral commission;  
direct an officer to recount some or all of the ballot papers for an election at any time before the declaration of the result of the election.
- (2) A request by a candidate for the exercise of a power under subsection (1) shall be in writing setting out the reasons for the request.
- (3) The electoral commission shall not accede to a request by a candidate to direct the commissioner to exercise a power under subsection (1) unless the commissioner has already refused to exercise that power.
- (4) The officer conducting a recount—
  - (a) shall not deal with the ballot papers in a way that is inconsistent with this part; and
  - (b) may reverse a decision made earlier in the scrutiny.

- (5) Before a recount is conducted, the commissioner shall notify each candidate, in writing, of the date, time and place fixed for the recount.

### **187A Recount of electronic scrutiny of ballot papers**

- (1) This section sets out the alternative ways in which a recount of the electronic scrutiny of ballot papers may be conducted.
- (2) The recount may be conducted by recounting data from electronic ballot papers kept on a backup copy of electronic data produced at a polling place or scrutiny centre.
- (3) If an approved computer program is used to find out the result of a scrutiny, the recount may be conducted—
- (a) by rerunning the program; or
  - (b) by reloading the data into a different copy of the program and running the program.
- (4) If practicable, the recount may be conducted—
- (a) by re-examining the accuracy of any preference data entered into the computer program from paper ballot papers; or
  - (b) by conducting—
    - (i) a partial or full manual scrutiny of paper ballot papers from which preference data has been entered into the computer program; or
    - (ii) a combination of manual scrutiny of those paper ballot papers and a computerised scrutiny of electronic ballot papers.

### **188 Reservation of disputed ballot papers**

- (1) The officer conducting a recount—
- (a) may, if the officer considers appropriate; and

- (b) shall, at the request of any scrutineer;  
reserve any ballot paper for the decision of the commissioner.
- (2) The commissioner shall decide whether any ballot paper so reserved is to be admitted or rejected.

### **189 Declaration of result of election**

- (1) As soon as practicable after the result of the poll in an election has been ascertained, the commissioner shall—
  - (a) declare elected each successful candidate ascertained in accordance with schedule 4;
  - (b) declare the result of the election; and
  - (c) notify the clerk of the Assembly of the names of the candidates elected.
- (2) The declaration shall be made in public at the place of nomination during ordinary office hours.
- (3) If a day is polling day for 2 or more elections, the results of all the elections shall be declared, so far as practicable, on the same day.
- (4) If a poll is not required for an election, a declaration under section 111 (1) or 112 shall not be made before the day that would have been polling day for the election.

## Part 13 Casual vacancies

### 190 Definitions for pt 13

In this part:

*former MLA*, in relation to a casual vacancy, means the person who was elected to the seat in which the vacancy has occurred at the last election before the vacancy occurred.

*Speaker* includes—

- (a) if there is a vacancy in the office of Speaker—the Deputy Speaker; and
- (b) if there is a vacancy in the offices of Speaker and Deputy Speaker—the clerk of the Legislative Assembly.

### 191 Notice of casual vacancy

(1) If—

- (a) the Speaker notifies the commissioner in writing that the seat of an MLA has become vacant otherwise than because of—
  - (i) the dissolution of the Assembly; or
  - (ii) the expiry of the term for which MLAs were elected at an election; or
  - (iii) the failure or partial failure of an election; and
- (b) the commissioner is satisfied that it is practicable to fill the vacancy in accordance with section 194;

the commissioner shall publish a notice in a newspaper.

(2) A notice published by the commissioner under subsection (1) shall—



- (a) contain a statement to the effect that—
    - (i) there is a casual vacancy in the Assembly; and
    - (ii) a person may apply to be a candidate in accordance with section 192; and
  - (b) specify when, in accordance with section 192, applications close.
- (3) The commissioner shall, so far as practicable, give a copy of the notice to any person who, in the opinion of the commissioner, may be entitled to make an application under section 192 in relation to the vacancy.
- (4) If the commissioner is not satisfied that it is practicable to fill the vacancy in accordance with section 194, he or she shall inform the Speaker accordingly.

### **192 Candidates for casual vacancy**

- (1) A person may apply to be a candidate for a seat in relation to which a casual vacancy has occurred if—
- (a) the person was a candidate in the last election for the electorate in which the vacancy has occurred; and
  - (b) the person was not elected; and
  - (c) he or she is an eligible person.
- (2) An application under subsection (1) shall—
- (a) contain—
    - (i) a statement by the applicant that he or she consents to be an MLA if elected; and
    - (ii) a declaration by the applicant, made in the presence of an elector, that he or she is an eligible person; and

(iii) the signature of the applicant and of the elector who witnessed the applicant's declaration; and

(b) reach the commissioner before noon on the 10th day after the day on which notice of the vacancy was published in a newspaper in accordance with section 191 (1).

*Note* If a form is approved under s 340A (Approved forms) for an application, the form must be used.

(3) An applicant may withdraw his or her application by giving the commissioner written notice of withdrawal before applications close.

(4) The commissioner shall reject a purported application that is not substantially in accordance with subsection (2) and give the person in relation to whom it was made written notice setting out the reasons for the rejection.

(5) In this section:

*eligible person* means a person who—

(a) is eligible to be an MLA; or

(b) would, apart from section 103 (2) (b), be eligible to be an MLA.

### **193 Publication of candidates' details**

(1) If 1 or more persons have applied to be a candidate in accordance with section 192, the commissioner shall, as soon as practicable after the close of applications—

(a) publicly produce all the applications and declare each person who has duly applied to be a candidate; and

(b) arrange for a notice containing particulars relating to each candidate (other than any suppressed address) to be displayed at the office of the commissioner.

- (2) If there are no candidates in relation to a casual vacancy, the commissioner shall declare that there are no candidates and inform the Speaker accordingly.

#### **194 Determination of candidate to fill vacancy**

- (1) If there is only 1 candidate in relation to a casual vacancy, the commissioner shall declare the candidate elected.
- (2) If there is more than 1 candidate in relation to a casual vacancy, the commissioner shall, as soon as practicable after making a declaration under section 193 (1) (a)—
- (a) fix a time and place for a recount of the ballot papers counted for the former MLA at the last election at which he or she was elected; and
  - (b) give each candidate written notice of the time and place so fixed; and
  - (c) conduct the recount in accordance with schedule 4, part 4.3.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (3) The commissioner shall declare elected the successful candidate ascertained in accordance with schedule 4, part 4.3.
- (4) This Act applies, so far as practicable, to a recount under subsection (2) as if it were a scrutiny under part 12.

#### **195 Assembly nominees**

- (1) If—
- (a) the commissioner informs the Speaker that a casual vacancy has not been filled for a reason specified in section 191 (4) or 193 (2); and
  - (b) the Speaker notifies the commissioner that the Assembly has chosen a person to hold the vacant office as an MLA for the rest of the term of the former MLA;

the commissioner shall declare elected the person chosen.

- (2) If the name of the former MLA appeared on the ballot paper for the last election as a party candidate, the person chosen to hold the vacant office shall be a member of the party who is nominated by the party.
- (3) If a person chosen in accordance with subsection (2) ceases to be a member of the party before the Assembly next meets after the declaration under subsection (1), the person shall be taken not to have been chosen.
- (4) If—
  - (a) the name of the former MLA appeared on the ballot paper for the last election as a candidate other than a party candidate; or
  - (b) if subsection (2) would otherwise apply—there is no member of the relevant party available to be chosen;

the person chosen shall be a person who has not been a member of a registered party at any time during 12 months immediately before the time when the choice is made.

- (5) If a person chosen in accordance with subsection (4) becomes a member of a registered party before the Assembly next meets after the declaration under subsection (1), the person shall be taken not to have been chosen.
- (6) For subsection (3), a person shall not be taken to have ceased to be a member of a registered party merely because the party has ceased to exist or has been removed from the register of political parties.

### **196 Term of office of MLA declared elected under pt 13**

The term of office of an MLA declared elected under—

- (a) section 194 (1) or (3); or
- (b) section 195 (1);

begins at the end of the day when the election of the MLA is declared and, unless sooner ended by resignation or disqualification, or by dissolution of the Assembly, ends on the polling day for the next election.

**197 Dissolution or pre-election period**

The commissioner shall not take any action, or any further action, under this part in relation to a casual vacancy after the Assembly is dissolved or a pre-election period begins in relation to the electorate in which the casual vacancy has occurred.

## Part 14 Election funding and financial disclosure

### Division 14.1 Preliminary

#### 198 Definitions for pt 14

In this part:

*amount* includes value.

*associated entity* means an entity that—

- (a) is controlled by 1 or more parties, ballot groups or MLAs; or
- (b) operates, completely or to a significant extent, for the benefit of 1 or more registered parties, ballot groups or MLAs.

*ballot group* means a registered ballot group.

*disclosure period*—see section 201.

*disposition of property* means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and
- (d) the release, discharge, surrender, forfeiture or abandonment (at law or in equity) of any debt, contract or thing in action or of any interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and

- (f) a transaction entered into by a person with intent to diminish (directly or indirectly) the value of the person's own property and to increase the value of the property of any other person.

***eligible vote***, in relation to an election, means a first preference recorded on a formal ballot paper in the election.

***entity*** means—

- (a) an incorporated or unincorporated body; or  
(b) a trustee of a trust.

***financial controller***, in relation to an associated entity, means—

- (a) if the entity is a company—the secretary of the company; or  
(b) if the entity is the trustee of a trust—the trustee; or  
(c) in any other case—the person responsible for maintaining the financial records of the entity.

***gift*** means a disposition of property made by a person to another person, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include—

- (a) a disposition of property under a will; or  
(b) a payment under division 14.3; or  
(c) an annual subscription paid to a party by a person in relation to the person's membership of the party; or  
(d) for division 14.4 (Disclosure of donations) and in relation to a candidate—a gift made to or received by the candidate for the benefit of a party, ballot group or non-party group of which the candidate is a member.

***non-party group*** means a group of non-party candidates whose names are grouped on a ballot paper under section 115 (2).

***party*** means a registered party.

***property*** includes money.

***register*** means—

- (a) in relation to a reporting agent appointed by a party, ballot group or MLA—the register of party, ballot group and MLA reporting agents kept under section 205 (1); or
- (b) in relation to a reporting agent appointed by a candidate—the register of candidate reporting agents kept under section 205 (2).

***registered industrial organisation*** means an organisation registered under the *Workplace Relations Act 1996* (Cwlth) or under a law of a State or another Territory providing for the registration of industrial organisations.

***reporting agent***, for a party, ballot group, MLA or candidate, means—

- (a) a person appointed by the party, group, MLA or candidate under section 203 (Appointed agents) and whose registration under section 205 (Registers of reporting agents) has not been cancelled; or
- (b) the person taken to be the reporting agent for the party, group, MLA or candidate under section 204 (Non-appointed agents).

### **198A Reference to things done by party or ballot group etc**

- (1) In this part, a reference to something done by or with the authority of a party is, if the party is not a corporation, a reference to things being done by or with the authority of members of the party on behalf of the party.



- (2) In this part, a reference to things done by or with the authority of a ballot group is a reference to things done by or with the authority of—
- (a) the sponsoring MLA; or
  - (b) a candidate nominated for election for the group acting on behalf of the group.

### **198B Candidate remains candidate after election**

For this part, a candidate is taken to remain a candidate for 30 days after the election in which the person was a candidate.

### **199 Related bodies corporate**

- (1) For this part, bodies corporate that are related shall be taken to be the same person.
- (2) In subsection (1):
- related*, in relation to 2 bodies corporate, means that one body corporate is—
- (a) a holding company; or
  - (b) a subsidiary; or
  - (c) a subsidiary of a holding company;
- of the other body corporate.

### **200 Activities of campaign committees**

- (1) For division 14.4 (Disclosure of donations), division 14.5 (Disclosure of electoral expenditure) and division 14.6 (Annual returns), gifts received, expenditure incurred, and amounts received, paid or owed, by or on behalf of the campaign committee of a party candidate or ballot group candidate are taken to be incurred, paid or owed by the party or group.

(2) In subsection (1):

*campaign committee* means a body of persons appointed, or engaged, to form a committee to assist the campaign of a candidate.

## 201 Disclosure periods

(1) For this part, the *disclosure period* in relation to an election is the period beginning on the disclosure day and ending at the end of the 30th day after polling day.

(2) In subsection (1):

*disclosure day*, in relation to an election, means—

- (a) for a candidate who was a candidate in an election the polling day for which was within 4 years before polling day for the firstmentioned election—the 31st day after polling day for the last election before the firstmentioned election; or
- (b) for a candidate to whom paragraph (a) does not apply—
  - (i) if the candidate won party or ballot group preselection, or endorsement, for the election—the day when preselection, or endorsement, was won; or
  - (ii) in any other case—the earlier of the following days:
    - (A) the day when the person publicly announced that he or she would be a candidate in the election; or
    - (B) the day when the person was nominated in accordance with section 105; or
- (c) for a person to whom, or body to which, section 220 or 221 applies—the 31st day after polling day for the last previous election; or
- (d) for a non-party group that contested the previous general election—the 31st day after polling day for that election; or

- (e) for a non-party group to which paragraph (d) does not apply—the earlier of the following days:
  - (i) the day when the group publicly announced that it would contest the election;
  - (ii) the day when the candidates comprising the group requested that their names be grouped on the ballot paper in accordance with section 115.

## **202 Gifts—determination of amounts**

For this part, the regulations may prescribe principles for determining the amount of a gift that consists of, or includes, a disposition of property other than money.

## **Division 14.2 Reporting agents**

### **203 Appointed agents**

- (1) A party, non-party group, MLA or candidate may appoint a reporting agent.
- (2) The sponsoring MLA for a ballot group may appoint a reporting agent for the group.
- (3) The appointment of a reporting agent under subsection (1) or (2) has no effect unless—
  - (a) the person appointed is an adult; and
  - (b) written notice of the appointment is given to the commissioner—
    - (i) if the appointment is made by a party—by the secretary of the party; or
    - (ii) if the appointment is made by a non-party group—by a member of the group; or

- (iii) in any other case—by the MLA or candidate making the appointment; and
- (c) the name, address and date of birth of the person appointed are set out in the notice; and
- (d) the person appointed has consented in writing to the appointment.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (4) If a party or ballot group ceases to be registered under part 7 (Registration of political parties and ballot groups) and, immediately before it ceased to be registered, a person was its reporting agent under subsection (1) or (2), the person is taken to continue to be its reporting agent as if it had continued to be registered.
- (5) A person taken to be a reporting agent in accordance with subsection (4) or section 204 (2) is taken to continue in the position until the person resigns from the position with the commissioner's consent.

## **204 Non-appointed agents**

- (1) If there is no appointment in force under section 203 (Appointed agents) in relation to a party or ballot group, the registered officer of the party or ballot group is taken to be its reporting agent.
- (2) If a party or ballot group ceases to be registered under part 7 (Registration of political parties and ballot groups) and no-one is taken under section 203 (4) to be its reporting agent, the person who was its registered officer immediately before it ceased to be registered is taken to be its reporting agent as if it had continued to be registered.
- (3) If there is no appointment in force under section 203 in relation to a non-party group, each member of the group shall be taken to be a reporting agent for the group.

- (4) If there is no appointment under section 203 in force in relation to an MLA, the MLA shall be taken to be his or her own reporting agent.
- (5) If there is no appointment under section 203 in force in relation to a candidate, the candidate shall be taken to be his or her own reporting agent.

## **205 Registers of reporting agents**

- (1) The commissioner must keep a register called the register of party, ballot group and MLA agents.
- (2) The commissioner shall keep a register called the register of non-party group and candidate reporting agents.
- (3) The commissioner shall register the name and address of each reporting agent appointed in accordance with section 203 in the appropriate register.
- (4) The commissioner shall cancel the registration of a reporting agent if—
  - (a) the person gives the commissioner written notice that he or she has resigned the appointment; or
  - (b) the MLA, candidate or secretary of the party that appointed the person gives the commissioner written notice that the person has ceased to be the reporting agent; or
  - (c) for a ballot group—the sponsoring MLA gives the commissioner written notice that the person has ceased to be the reporting agent; or
  - (d) it comes to the commissioner's notice that the person can no longer exercise the functions of a reporting agent.
- (5) If a registered reporting agent dies, the MLA, candidate, secretary of the party, or sponsoring MLA of the ballot group, that appointed the

agent must give the commissioner written notice within 28 days after the day of the death.

## Division 14.3 Election funding

### 206 Who eligible votes are cast for

For this division—

- (a) an eligible vote cast for a party candidate or ballot group candidate is taken to be cast for the party or ballot group and not for the candidate; and
- (b) an eligible vote cast for a member of a non-party group is taken to be cast for the group and not for the member.

### 207 Entitlement to funds

- (1) In this section:

*index number*, in relation to a quarter, means the all groups consumer price index number, being the weighted average of the 8 capital cities, published by the Australian statistician in relation to that quarter.

*relevant period* means the period of 6 months beginning on 1 January 1994 and each subsequent period of 6 months.

- (2) The prescribed amount is payable for each eligible vote cast for a party, ballot group, non-party group or candidate in an election.
- (3) The prescribed amount is—
- (a) if polling day occurred during the relevant period beginning 1 January 1994—100 cents;
  - (b) if polling day occurred during a subsequent relevant period beginning on 1 January—an amount calculated as follows:

$$\frac{INS}{INM} \times P$$

where:

*INS* means the index number for the last previous September quarter.

*INM* means the index number for the last previous March quarter.

*P* means the prescribed amount in relation to the last previous relevant period; or

- (c) in relation to a subsequent relevant period beginning on 1 July—an amount calculated as follows:

$$\frac{INM}{INS} \times P$$

where:

*INM* means the index number for the last previous March quarter.

*INS* means the index number for the last previous September quarter.

*P* means the prescribed amount in relation to the last previous relevant period.

- (4) An amount prescribed, or fraction used to calculate the amount, under subsection (3) (b) or (c)—
- (a) if the amount or fraction, if calculated to 4 decimal points, would end with a number greater than 4—shall be calculated to 3 decimal places and increased by 0.001; or
- (b) in any other case—shall be calculated to 3 decimal places.
- (5) Subject to subsection (6), if the Australian statistician publishes an index number in relation to a quarter in substitution for an index number previously published in relation to that quarter, the publication of the later index number shall be disregarded for this section.

- (6) If the Australian statistician changes the reference base for the consumer price index, then, in applying this section after the change, regard shall be had only to index numbers published in terms of the new reference base.

## **208 Threshold**

- (1) A payment under this division may only be made for the votes cast for a candidate in an election if the number of eligible votes cast in the candidate's favour is at least 4% of the number of eligible votes cast in the election by the electors of the electorate for which the candidate was nominated.
- (2) A payment under this division may only be made for the votes cast for a party or ballot group in an election by the electors of an electorate if the number of eligible votes cast in the party's or ballot group's favour is at least 4% of the number of eligible votes cast by those electors in that election.
- (3) A payment under this division may only be made for the votes cast for a non-party group in an election by the electors of an electorate if the number of eligible votes cast in the group's favour is at least 4% of the number of eligible votes cast by those electors in that election.

## **212 Making of payments**

- (1) If an amount is payable under this division for votes cast in an election for 1 or more candidates endorsed by a party or ballot group, the commissioner must make the payment to the registered officer of the party or ballot group.
- (2) If an amount is payable under this division in relation to votes cast for 1 or more candidates who are members of a non-party group, the commissioner shall—
- (a) if the members of the group have, by written notice given to the commissioner, appointed a person to receive payments



under this division on behalf of the group—pay the amount to the person so appointed; or

- (b) in any other case—pay the amount to the members of the group proportionately according to the number of eligible votes cast for each member.
- (3) If an amount is payable under this division for votes cast in an election for a candidate who was not endorsed by a party or ballot group for the election and was not a member of a non-party group, the commissioner must make the payment to the candidate.
- (4) If a payment is made under this section and the recipient is not entitled to receive the whole or a part of the amount paid, the amount or the part of the amount may be recovered by the Territory as a debt due.

#### **214 Death of candidate**

- (1) If a candidate for whom eligible votes were cast in an election dies, a payment under this division in relation to the eligible votes cast for the candidate may be made despite the death of the candidate.
- (2) If a candidate referred to in subsection (1) was not—
  - (a) endorsed by a party or ballot group for the election; or
  - (b) a member of a non-party group in relation to which an appointment under section 212 (2) (a) was in effect at the time of his or her death;

the payment may be made to the legal personal representative of the deceased candidate.

#### **215 Application voluntary**

Nothing in this division shall be taken to require a person to accept payment of an amount payable under section 207.

## Division 14.4 Disclosure of donations

### 216 Meaning of *defined details* for div 14.4

In this division:

*defined details*, in relation to a gift, means—

- (a) for a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—
  - (i) the name of the association; and
  - (ii) the names and addresses of the members of the executive committee (however described) of the association;
- (b) for a gift from a trust fund or the funds of a foundation—
  - (i) the names and addresses of the trustees of the fund or foundation; and
  - (ii) the name, title or description of the trust fund or foundation; or
- (c) in any other case—the name and address of the person or organisation that made the gift.

### 217 Disclosure of gifts

- (1) The reporting agent of a candidate shall, within 15 weeks after the polling day in the election, give the commissioner a return.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

- (2) A return shall specify the following matters in relation to the disclosure period for the election:
  - (a) the total amount of any gifts received by the candidate;
  - (b) the number of persons who made gifts to the candidate;

- (c) the date each gift was received;
  - (d) the amount of each gift received;
  - (e) the defined details of each gift received.
- (3) However, the reporting agent is not required to specify the information mentioned in subsection (2) (c) to (e) for a gift by a person if the amount of the gift and sum of all other gifts made to the candidate by the person is less than \$200.
- (4) A reference in this section to a gift is a reference to a gift other than a gift made in a private capacity to a candidate for his or her personal use that the candidate has not used, and will not use, solely or substantially for a purpose related to an election.

## **218 Disclosure of gifts—non-party groups**

- (1) A reporting agent of a non-party group shall, within 15 weeks after the polling day in the election, give the commissioner a return.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

- (2) A return shall specify the following matters in relation to the disclosure period for the election:
- (a) the total amount of any gifts received by the group;
  - (b) the number of persons who made gifts to the group;
  - (c) the date each gift was received;
  - (d) the amount of each gift received;
  - (e) the defined details of each gift received.
- (3) However, the reporting agent is not required to specify the information mentioned in subsection (2) (c) to (e) for a gift by a person if the amount of the gift and sum of all other gifts made to the non-party group by the person is less than \$200.

### **218A Certain loans not to be received**

- (1) A party, ballot group, non-party group, MLA, candidate or associated entity (the *receiver*) must not receive a loan of \$1 500 or more from a person or entity (the *giver*) that is not a financial institution, unless the receiver complies with this section.
- (2) The receiver of the loan must immediately make a record of the following:
  - (a) the terms of the loan;
  - (b) if the giver is a registered industrial organisation—
    - (i) the name of the organisation; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the organisation;
  - (c) if the giver is an unincorporated body—
    - (i) the name of the body; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the body;
  - (d) if the loan was paid out of a trust fund or the funds of a foundation—
    - (i) the names and addresses of the trustees of the fund or foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation;
  - (e) in any other case—the name and address of the giver.
- (3) For subsection (1), until the end of 30 days after the polling day in an election people who constituted a group in an election are taken to continue to constitute the group.

- (4) If the receiver receives a loan to which subsection (1) applies but does not comply with subsection (2), the relevant person must pay to the Territory an amount equal to the amount of the loan.
- (5) The amount payable under subsection (4) is a debt payable to the Territory by the relevant person and may be recovered by proceedings in a court of competent jurisdiction.
- (6) If the receiver is a non-party group and each member of the group is taken to be a reporting agent for the group under section 204 (Non-appointed agents), the members of the group are jointly and severally liable to pay any amount payable to the Territory under subsection (4) and subsection (5) applies accordingly.
- (7) For this section, if credit is given on a credit card for card transactions, each transaction is taken to be a separate loan.
- (8) In this section:

*credit card* includes a debit card.

*financial institution* means—

- (a) a bank; or
- (b) a credit union; or
- (c) a building society; or
- (d) an entity prescribed under the regulations.

*loan* means any of the following:

- (a) an advance of money;
- (b) a provision of credit or any other form of financial accommodation;
- (c) a payment of an amount for, on account of, on behalf of or at the request of the receiver, if there is an express or implied obligation to repay the amount;

- (d) a transaction (whatever its terms or form) that is, in substance, a loan of money.

**relevant person** means—

- (a) for a loan for the benefit of a party—
- (i) if the party is a corporation—the party; or
  - (ii) in any other case—the reporting agent of the party; or
- (b) for a loan to or for the benefit of a ballot group—the reporting agent of the group; or
- (c) for a loan to or for the benefit of a non-party group—the reporting agent of the group; or
- (d) for a gift to or for the benefit of an MLA—the MLA; or
- (e) for a gift to or for the benefit of a candidate—the candidate; or
- (f) for a gift to or for the benefit of an associated entity—
- (i) if the entity is a corporation—the entity; or
  - (ii) in any other case—the financial controller of the entity.

## 219 Nil returns

If no details are required to be included in a return under section 217 or 218, the return shall be given to the commissioner and shall include a statement to the effect that no gifts of a kind required to be disclosed were received.

## 220 Disclosure of gifts by persons incurring political expenditure

- (1) This section applies if a person (other than a party, ballot group, candidate or associated entity) (the **first person**)—
- (a) incurs expenditure for a political purpose during the disclosure period for an election; and

- (b) receives from someone else 1 or more gifts—
- (i) all or a part of each of which was used by the first person to enable the person to incur expenditure during the disclosure period for a political purpose or to reimburse the person for incurring expenditure during the disclosure period for a political purpose; and
  - (ii) the total amount of which is \$1 000 or more.
- (2) Within 15 weeks after polling day in the election, the first person must give the commissioner a return for the gift or gifts.
- Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.
- Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.
- (3) A return shall, in relation to each gift referred to in subsection (1), specify—
- (a) the amount of the gift; and
  - (b) the date it was received; and
  - (c) the defined details.
- (4) Subsection (1) does not apply to a person if the amount of expenditure incurred by the person for political purposes during the disclosure period is less than \$1 000.
- (5) For this section, a person shall be taken to have incurred expenditure for a political purpose if, during the disclosure period in relation to an election, the person incurs expenditure in relation to that or any other election.
- (6) In this section, a reference to incurring of expenditure for a political purpose is a reference to incurring of expenditure in relation to—
- (a) publishing electoral matter (including publishing by radio or television); or
  - (b) otherwise publishing a view on an issue in an election; or

- (c) making a gift to a party or ballot group; or
  - (d) making a gift to a candidate; or
  - (e) making a gift to a person on the understanding that the person or another person will apply, either directly or indirectly, the whole or a part of the gift in a way referred to in paragraph (a), (b), (c) or (d).
- (7) For subsection (3), 2 or more gifts made by the same person to or for the benefit of a person to whom subsection (1) applies shall be taken to be a single gift.

## **221 Donations to non-party groups and candidates**

- (1) If, during the disclosure period for an election, a person (other than a party, a candidate or an associated entity)—
- (a) makes gifts totalling \$1 500 or more to the same non-party group; or
  - (b) makes gifts totalling \$200 or more to the same candidate in the election; or
  - (c) makes gifts totalling \$1 500 or more to the same specified body;

the person shall, within 15 weeks after the polling day in the election, give the commissioner a return.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

- (2) A return shall specify in relation to each gift referred to in subsection (1) made by the person during the disclosure period—
- (a) the amount of the gift; and
  - (b) the date it was made; and
  - (c) the defined details.



- (3) A reference in this section to a *gift* is a reference to a gift other than a gift made in a private capacity to a candidate or a specified body that is an individual, for his or her personal use, being a gift that the receiver has not used, and will not use, solely or substantially for a purpose related to an election.
- (4) The commissioner may, in writing, specify a person or body (whether incorporated or not) for this section if the commissioner believes on reasonable grounds, that it is a function of the person or body to incur electoral expenditure or to give gifts (directly or indirectly) to non-party groups or candidates.
- (5) The specification of a person or body is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (6) In this section:

*specified body* means a person or body specified in accordance with subsection (4).

## **221A Annual returns of donations**

- (1) If, in a financial year, a person makes a gift of \$1 500 or more, or gifts totalling \$1 500 or more, to the same party, ballot group, MLA or associated entity, the person must, within the relevant period after the end of the financial year, give the commissioner a return covering all the gifts that the person made to the party, ballot group, MLA or associated entity during the financial year.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

- (2) If, in a financial year—
- (a) a person receives a gift of \$1 000 or more, or gifts totalling \$1 000 or more; and

- (b) the person uses all or part of the gift or gifts to make a gift of \$1 500 or more, or gifts totalling \$1 500 or more, to a party, ballot group, MLA or associated entity;

the person must, within the relevant period after the end of the financial year, give the commissioner a return covering all the gifts mentioned in paragraph (a).

- (3) For each gift mentioned in subsection (1) or (2) (a), the return must state—
- (a) the amount of the gift; and
  - (b) the date when it was made; and
  - (c) for a gift mentioned in subsection (1)—the name of the party, ballot group, MLA or associated entity to which the gift was made; and
  - (d) for a gift mentioned in subsection (2) (a)—the defined details.
- (4) Subsection (2) does not apply to a gift mentioned in subsection (2) (a) that has been included in a previous return under this section.
- (5) If a person makes a gift to any person or body with the intention of benefiting a party, ballot group, MLA or associated entity, the person is taken, for this section, to have made the gift to the party, ballot group, MLA or associated entity.
- (6) In this section:
- gift* does not include—
- (a) a gift made to an MLA in a private capacity for the MLA's personal use if the MLA does not use the gift solely or substantially for a purpose related to an election; or
  - (b) a gift made by a party, ballot group, member of a non-party group, MLA, candidate or associated entity.

*relevant period* means—

- (a) for a financial year ending in a year when a general election is held—24 weeks; and
- (b) in any other case—20 weeks.

### **221B Advice about obligations to make returns**

- (1) If, in a financial year, a party, ballot group or MLA (the *receiver*) receives a gift of \$1 500 or more, or gifts totalling \$1 500 or more, from the same person (the *giver*), the receiver must, before 1 August after the end of the financial year, by written notice to the giver, tell the giver about the requirements of section 221A (Annual returns of donations).

Maximum penalty: 50 penalty units.

- (2) In this section:

*gift*—see section 221A (6).

### **222 Anonymous gifts**

- (1) A party, ballot group, non-party group, MLA, candidate or associated entity (the *receiver*) must not accept a gift of the prescribed amount or more made by someone else (the *giver*) to or for the benefit of the receiver unless—

- (a) the receiver knows the defined details of the gift; or
- (b) both the following subparagraphs apply:
  - (i) the giver tells the receiver the defined details of the gift before the gift is made;
  - (ii) when the gift is made, the receiver has no grounds for believing that the defined details given by the giver are not true.

- (2) Subsection (1) applies—

- (a) for a party, ballot group, MLA or associated entity—to gifts received at any time; or
  - (b) for a non-party group or candidate—to gifts received during the disclosure period.
- (3) For this section, 2 or more gifts made by the same person to or for the benefit of a party, ballot group, non-party group, MLA, candidate or associated entity are taken to be a single gift.
- (4) If the receiver contravenes subsection (1), the relevant person must pay to the Territory an amount equal to the amount of the gift.
- (5) The amount payable under subsection (4) is a debt payable to the Territory by the relevant person and may be recovered by proceedings in a court of competent jurisdiction.
- (6) If the receiver is a non-party group and each member of the group is taken to be a reporting agent for the group under section 204 (Non-appointed agents), the members of the group are jointly and severally liable to pay any amount payable to the Territory under subsection (4), and subsection (5) applies accordingly.
- (7) In this section:

**gift** includes a gift made on behalf of the members of an unincorporated association.

**prescribed amount** means—

- (a) for a gift made to or for the benefit of a party, ballot group, MLA or associated entity—\$1 000; or
- (b) for a gift made to or for the benefit of a non-party group or candidate—\$200.

**relevant person** means

- (a) for a gift to or for the benefit of a party—
  - (i) if the party is a corporation—the party; or

- (ii) in any other case—the reporting agent of the party; or
- (b) for a gift to or for the benefit of a ballot group—the reporting agent of the group; or
- (c) for a gift to or for the benefit of a non-party group—the reporting agent of the group; or
- (d) for a gift to or for the benefit of an MLA—the MLA; or
- (e) for a gift to or for the benefit of a candidate—the candidate; or
- (f) for a gift to or for the benefit of an associated entity—
  - (i) if the entity is a corporation—the entity; or
  - (ii) in any other case—the financial controller of the entity.

## **Division 14.5          Disclosure of electoral expenditure**

### **223    Definitions for div 14.5**

In this division:

*broadcaster* means—

- (a) the Australian Broadcasting Corporation continued in existence under the *Australian Broadcasting Corporation Act 1983* (Cwlth), section 5; or
- (b) the Special Broadcasting Service Corporation continued in existence under the *Special Broadcasting Service Act 1991* (Cwlth), section 5; or
- (c) the holder of a licence under the *Broadcasting Services Act 1992* (Cwlth); or
- (d) the provider of a broadcasting service under a class licence under that Act.

*electoral advertisement* means an advertisement containing electoral matter, whether or not consideration was given for its publication or broadcast.

*electoral expenditure*, in relation to an election, means expenditure incurred (whether or not incurred during the pre-election period) on—

- (a) broadcasting an electoral advertisement during the pre-election period; or
- (b) publishing an electoral advertisement in a newspaper or periodical during the pre-election period; or
- (c) displaying an electoral advertisement at a theatre or other place of entertainment during the pre-election period; or
- (d) producing an electoral advertisement referred to in paragraph (a), (b) or (c); or
- (e) producing any printed electoral matter to which section 292 applies (other than material referred to in paragraph (a), (b) or (c)) that is published during the pre-election period; or
- (f) producing and distributing electoral matter that is addressed to particular persons or organisations and is distributed during the pre-election period; or
- (g) consultant's or advertising agent's fees in respect of—
  - (i) services provided during the pre-election period, being services relating to the election; or
  - (ii) material relating to the election that is used during the pre-election period; or
- (h) carrying out an opinion poll or other research about the election during the pre-election period.

*participant* in an election means—

- (a) a party, ballot group, non-party group or candidate; or

- (b) a person (other than a party or candidate) by whom, or with the authority of whom, electoral expenditure in relation to an election is incurred.

*relates*—an advertisement *relates* to an election if it contains electoral matter, whether or not consideration is given for publication or broadcasting of the advertisement.

## **224 Returns of electoral expenditure**

- (1) The reporting agent of each person who was a candidate in an election shall, before the end of 15 weeks after polling day for the election, give the commissioner a return specifying details of the electoral expenditure in relation to the election incurred by or with the authority of the candidate.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

- (2) A reporting agent of a non-party group in an election shall, before the end of 15 weeks after polling day for the election, give the commissioner a return specifying details of the electoral expenditure in relation to the election incurred by or with the authority of the group.
- (3) If electoral expenditure in relation to an election is incurred by or with the authority of a party or ballot group, the reporting agent of the party or ballot group shall, before the end of 15 weeks after polling day for the election, give the commissioner a return setting out details of the expenditure.
- (4) If electoral expenditure in relation to an election was incurred by or with the authority of a person and the expenditure was not incurred with the written authority of a party, ballot group, non-party group, candidate or associated entity in the election the person shall, before the end of 15 weeks after polling day for the election, give the

commissioner a return specifying details of the electoral expenditure.

- (5) A person is not required to give the commissioner a return under subsection (4) in relation to an election if the amount of the electoral expenditure incurred in relation to the election by or with the authority of the person does not exceed \$200.

## **225 Nil returns**

- (1) If no electoral expenditure in relation to an election is incurred by or with the authority of a candidate in the election, a return under section 224 in relation to the candidate shall be given to the commissioner and shall include a statement to the effect that no expenditure of a kind required to be disclosed has been incurred by or with the authority of the candidate.
- (2) If no electoral expenditure in relation to an election is incurred by or with the authority of a non-party group in the election, a return under section 224 in relation to the group shall be given to the commissioner and shall include a statement to the effect that no expenditure of a kind required to be disclosed has been incurred by or with the authority of the group.
- (3) If no electoral expenditure in relation to an election is incurred by or with the authority of a party or ballot group that endorsed a candidate in the election, a return under section 224 in relation to the party or ballot group shall be given to the commissioner and shall include a statement to the effect that no expenditure of a kind required to be disclosed has been incurred by or with the authority of the party or ballot group.

## **226 Returns by broadcasters and publishers**

- (1) If an election has taken place—
- (a) each broadcaster who broadcast an electoral advertisement during the pre-election period with the authority of a participant in the election; and



- (b) each publisher who published an electoral advertisement in a newspaper or periodical during the pre-election period with the authority of a participant in the election;

shall give the commissioner a return before the end of 8 weeks after polling day in the election.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

- (2) A return shall specify the following particulars in relation to the advertisement:
- (a) the broadcasting service as part of which the advertisement was broadcast or the newspaper or periodical in which the advertisement was published;
  - (b) the person at whose request the advertisement was broadcast or published;
  - (c) the participant in the election with whose authority the advertisement was broadcast or published;
  - (d) the date or dates when, and, for an advertisement that was broadcast, the times between which, the advertisement was broadcast or published;
  - (e) for a published advertisement—the page on which the advertisement was published and the space occupied by it;
  - (f) whether or not, on each occasion when the advertisement was broadcast or published, a charge was made by the broadcaster or publisher for the broadcasting or publication of the advertisement;
  - (g) if a charge referred to in paragraph (f) was made—the amount of the charge.
- (3) If a broadcaster or publisher specifies in a return the amount of a charge in accordance with subsection (2) (g), the broadcaster or

publisher shall state in the return whether or not the charge is at less than normal commercial rates having regard to—

- (a) for a broadcast advertisement—the length of the advertisement and the day or days when, and the times between which, it was broadcast; or
  - (b) for a published advertisement—the space occupied by the advertisement and the nature of the newspaper or periodical.
- (4) A publisher is not required to give the commissioner a return under subsection (1) in relation to an election if the amount of the charges made by the publisher in relation to the publication of any advertisements to which that subsection applies, in relation to that election and any other election that took place on the same day as the firstmentioned election, does not exceed \$1 000.
- (5) A return under subsection (1) may refer to more than 1 advertisement.

## **227 Multiple elections on same day**

- (1) If—
- (a) the voting at 2 or more elections took place on the same day; and
  - (b) a person would, apart from this subsection, be required to give the commissioner 2 or more returns under this division relating to those elections;

the person may give the commissioner a single return, in a form approved under section 340A (Approved forms), setting out the particulars that the person would have been required to set out in those separate returns.

- (2) It is sufficient compliance with this division if the return sets out details of the expenditure without showing the extent to which it relates to any election.

## Division 14.6 Annual returns

### 228 Meaning of *defined particulars* for div 14.6

In this division:

*defined particulars*, in relation to a sum, means—

- (a) if the sum was received from, paid to or owed to, an unincorporated association, other than a registered industrial organisation—
  - (i) the name of the association; and
  - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
- (b) if the sum was paid out of or into, or incurred as a debt to, a trust fund or the funds of a foundation—
  - (i) the names and addresses of the trustees of the fund or foundation; and
  - (ii) the name, title or description of the trust fund or foundation; and
- (c) the name and address of the person or organisation that paid, received or is owed the sum; and
- (d) such other particulars as are prescribed.

### 230 Annual returns by parties, ballot groups and MLAs

- (1) The reporting agent of a party, ballot group or MLA must, within 16 weeks after the end of each financial year, give the commissioner a return.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

(2) However, the return may be the audited annual accounts of the party, ballot group or MLA in a form approved, in writing, by the commissioner.

(3) The approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

(4) The return must state—

(a) the amount received by, or on behalf of, the party, ballot group or MLA during the financial year, together with the particulars required by section 232 (1) (Amounts received); and

(b) the amount paid by, or on behalf of, the party, ballot group or MLA during the financial year; and

(c) the outstanding amount, at the end of the financial year, of debts incurred by, or on behalf of, the party, ballot group or MLA, together with the particulars required by section 234 (1) (Outstanding amounts).

(5) For subsection (4) (a), an amount is received by, or on behalf of, an MLA only if the amount is a gift received by the MLA in his or her capacity as an MLA.

**Examples of amounts not required to be stated in a return**

1 Income derived in a private capacity eg interest on bank accounts and dividends on shares.

2 Salary, allowances and other benefits (including superannuation benefits) as an MLA.

3 A gift given to the MLA in a private capacity for his or her personal use eg a birthday gift from a family member.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

(6) For subsection (4) (b) or (c), an amount paid, or an outstanding amount of debts incurred, by or on behalf of an MLA includes an amount paid, or an outstanding amount of debts incurred, by or on

behalf of the MLA for a purpose that relates solely or substantially to his or her position as MLA on any of the following:

- (a) broadcasting an advertisement;
  - (b) publishing an advertisement in a newspaper or periodical;
  - (c) displaying an advertisement at a theatre or another place of entertainment;
  - (d) producing an advertisement mentioned in paragraphs (a) to (c);
  - (e) producing any printed electoral matter to which section 292 (Dissemination of electoral matter—authorisers and authors) applies;
  - (f) producing and distributing electoral matter that is addressed to particular people or organisations;
  - (g) consultant's or advertising agent's fees for services provided;
  - (h) carrying out an opinion poll or other research.
- (7) A return under this section must not include a list of the members of a party.
- (8) If the registration of a party or ballot group is cancelled during a financial year, this section applies to the party or ballot group in relation to the year as if a reference to the reporting agent of the party or ballot group were a reference to the person who was the reporting agent of the party or ballot group immediately before the cancellation.
- (9) If a person ceases to be an MLA during a financial year, this section applies to the person in relation to the year as if the person were the reporting agent.

### **231 Periods of less than financial year**

- (1) This section applies if, during a financial year—
- (a) a political party becomes, or ceases to be, a registered party; or

- (b) a ballot group is registered or a registered ballot group ceases to be registered; or
  - (c) a person becomes, or ceases to be, an MLA.
- (2) A return under section 230 (Annual returns by parties, ballot groups and MLAs) for the political party, ballot group or person for the financial year need only include particulars for the part of the year when the party or ballot group was registered or the person was an MLA.

### **231A Returns by parties under Commonwealth Electoral Act**

- (1) If—
- (a) an organisation has corresponding registration as a political party under this Act, part 7 and under the Commonwealth Act, part 11 whether by the same or a different name; and
  - (b) the agent of the organisation gives to the Australian Electoral Commission, within the period of 16 weeks after the end of the financial year, a return under the Commonwealth Act, section 314AB in relation to that financial year; and
  - (c) the agent or organisation gives to the ACT commissioner, within that period, a copy of that return;

the organisation is not required to give to the ACT commissioner a return under section 230 in relation to that financial year.

- (2) For subsection (1), an organisation has corresponding registration as a political party under this Act, part 7 and under the Commonwealth Act, part 11 if the same person is specified as the registered officer of the party in the register of political parties kept under this Act, section 88 and in the register of political parties kept under the Commonwealth Act, section 125.

(3) In this section:

*agent*, in relation to an organisation, means the person appointed under the Commonwealth Act, section 288 to be the agent of the organisation in relation to the ACT.

*Commonwealth Act* means the *Commonwealth Electoral Act 1918* (Cwlth).

*party* includes an ACT branch of a political party registered under the Commonwealth Act, part 11.

### **231B Annual returns by associated entities**

(1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must give the commissioner a return within 16 weeks after the end of the financial year.

*Note 1* If a form is approved under s 340A (Approved forms) for a return, the form must be used.

*Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

(2) The return must state—

- (a) the amount received by, or on behalf of, the entity during the financial year, together with the particulars required by section 232 (1) (Amounts received); and
- (b) the amount paid by, or on behalf of, the entity during the financial year; and
- (c) if the entity is an associated entity at the end of the financial year—the outstanding amount, at the end of the year, of debts incurred by, or on behalf of, the entity, together with the particulars required by section 234 (2) (Outstanding amounts).

(3) An amount received when the entity was not an associated entity is not to be counted for subsection (2) (a) and (b).

(4) If an amount required to be stated under subsection (2) (b) was—

- (a) paid to or for the benefit of 1 or more parties, ballot groups or MLAs; and
  - (b) paid out of funds generated from capital of the entity;
- the return must set out the required details of each person who contributed to that capital on or after 29 November 1996.
- (5) For subsection (4), the required details of a person are—
    - (a) the person's name and address; and
    - (b) the total of the person's contributions to the capital of the associated entity mentioned in that subsection up to the end of the financial year.
  - (6) Subsection (5) does not apply to contributions that have been included in a previous return under this section.

**231C Returns by associated entities under Commonwealth Electoral Act**

- (1) This section applies in relation to an associated entity that—
  - (a) is controlled by 1 or more parties; or
  - (b) operates wholly or mainly for the benefit of 1 or more parties.
- (2) If an entity was, during a financial year, an associated entity in relation to which this section applies and the financial controller of the entity—
  - (a) gives to the Australian Electoral Commission, within the period of 16 weeks after the end of the financial year, a return under the *Commonwealth Electoral Act 1918* (Cwlth), section 314AEA in relation to that financial year; and
  - (b) gives to the commissioner, within that period, a copy of that return;



the financial controller is not required to give to the commissioner a return under section 231B in relation to the entity for that financial year.

### **232 Amounts received**

- (1) If the sum of all amounts received by, or on behalf of, a party, ballot group, MLA or associated entity (the *receiver*) from a person or organisation during a financial year is \$1 500 or more, the return by the receiver under section 230 (Annual returns by parties, ballot groups and MLAs) or section 231B (Annual returns by associated entities) must state the amount of the sum and set out the defined particulars for it.
- (2) In working out the sum, an amount of less than \$1 500 need not be counted.
- (3) If the sum was received as a loan, the return must state the information required by section 218A (2) (Certain loans not to be received).

### **234 Outstanding amounts**

- (1) If, at the end of a financial year, the sum of all debts within the meaning of section 230 (4) (c) that are owed by a party, ballot group or MLA to a particular person or organisation is \$1 500 or more, the return by the party, ballot group or MLA under section 230 shall specify the sum and include the defined particulars.
- (2) If an entity is an associated entity at the end of a financial year and, at the end of that year, the sum of all debts within the meaning of section 231B (2) (c) that are owed by the entity to a particular person or organisation is \$1 500 or more, the return by the entity under section 231B in relation to the financial year shall set out the sum and include the defined particulars.

## **234A Regulations**

- (1) The regulations may require greater detail to be provided in returns under section 230 or 231B than is required by this division.
- (2) Without limiting subsection (1), the regulations may require that the total amounts referred to in section 230 (4) or 231B (2) be broken down in the way specified in the regulations.
- (3) The regulations may reduce the amount of information to be provided in returns under section 231B.

## **Division 14.7 Compliance**

### **235 Definitions for div 14.7**

In this division:

*investigation notice* means a notice under section 237 (3) (Investigation notices generally) or section 237A (2) (Investigation notices about associated entities).

*return* includes a notice under section 240 (1) (c) or (4) (Inability to complete returns).

### **236 Offences**

- (1) A person shall not, without reasonable excuse, fail to give the commissioner a return under this part within the time required.

Maximum penalty:

- (a) for a return required to be given by the reporting agent of a party or ballot group—50 penalty units; and
  - (b) for any other return—20 penalty units.
- (2) A person shall not, without reasonable excuse—
    - (a) give the commissioner an incomplete return under division 14.4, 14.5 or 14.6; or

(b) fail to retain records in accordance with section 239.

Maximum penalty: 20 penalty units.

(3) For subsection (1) or subsection (2) (b), it is a reasonable excuse for a reporting agent of a non-party group to fail to give a return or keep records if another reporting agent of the group has given the return within the time required or kept records in accordance with section 239, as the case requires.

(4) A person shall not give a return under division 14.4, 14.5 or 14.6, containing particulars that are, to the knowledge of the person, false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(5) A person shall not give to another person who is required to give a return under division 14.4, 14.5 or 14.6 information relevant to the return that is, to the knowledge of the firstmentioned person, false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(6) A prosecution in relation to an offence against this section may be begun at any time within 3 years after the offence was committed.

### **237 Investigation notices generally**

(1) In this section:

*prescribed person* means a person who, in the commissioner's opinion, is or may be required to give the commissioner a return under this part in relation to an election.

(2) The commissioner may conduct an investigation into compliance with this part.

- (3) For an investigation, the commissioner may give a notice (an *investigation notice*) in relation to a reporting agent or prescribed person to—
- (a) the agent or prescribed person; or
  - (b) for the reporting agent of a party or ballot group—any officer, employee or representative of the party or ballot group; or
  - (c) for a prescribed person that is a corporation—any of its officers or employees; or
  - (d) anyone else the commissioner has reasonable grounds for believing can produce a document or anything else, or give evidence, about anyone’s compliance with this part.

*Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

- (4) The investigation notice must require the person to whom it is given—
- (a) to produce to the commissioner, within the time and in the way stated in the notice, a document, or something else, stated in the notice; or
  - (b) to appear, at a time and place stated in the notice, before the commissioner to give evidence, orally or in writing, and to produce a document, or something else, stated in the notice.
- (5) The time stated in the notice must be not earlier than 28 days after the notice is given to the person.
- (6) If the investigation notice requires an officer, employee or representative of a party or ballot group other than its reporting agent to appear before the commissioner, the reporting agent of the party is entitled—
- (a) to attend the investigation; or
  - (b) to nominate someone else to attend on the reporting agent’s behalf.

- (7) If the investigation notice requires someone other than the financial controller of an associated entity to appear before the commissioner in relation to an investigation into the entity, the financial controller is entitled—
- (a) to attend the investigation; or
  - (b) to nominate someone else to attend on the financial controller's behalf.
- (8) If—
- (a) an investigation notice relates to an investigation into—
    - (i) a return given to the commissioner under this part by the reporting agent of a ballot group or MLA; or
    - (ii) a failure of a reporting agent of a ballot group or MLA to give the commissioner a return under this part within the time required; and
  - (b) the notice requires someone other than the reporting agent of the ballot group or MLA to appear before the commissioner;
- the reporting agent is entitled—
- (c) to attend the investigation; or
  - (d) to nominate someone else to attend on the reporting agent's behalf.
- (9) The commissioner may conduct the investigation even though the person to whom the notice was given contravenes the notice.
- (10) The commissioner may require a person to whom an investigation notice has been given to give evidence on oath, and for that purpose may administer an oath.

*Note* For the taking of an oath or the making of an affirmation, see the *Oaths and Affirmations Act 1984*.

### **237A Investigation notices about associated entities**

- (1) This section applies if—
  - (a) the commissioner believes on reasonable grounds that a person can produce a document or anything else, or give evidence, about whether an entity is, or was at a particular time, an associated entity; and
  - (b) the person is, or has been, the financial controller or an officer or employee of the entity.
- (2) The commissioner may give to the person a notice (an *investigation notice*) requiring the person—
  - (a) to produce to the commissioner, within the time and in the way stated in the notice, a document, or something else, stated in the notice; or
  - (b) to appear, at a time and place stated in the notice, before the commissioner to give evidence, orally or in writing, and to produce a document, or something else, stated in the notice.
- (3) The time stated in the notice must not be earlier than 28 days after the day the notice is given to the person.
- (4) If the investigation notice requires someone other than the financial controller of the associated entity to appear before the commissioner, the financial controller is entitled—
  - (a) to attend the investigation; or
  - (b) to nominate someone else to attend on the financial controller's behalf.
- (5) The commissioner may conduct the investigation even though the person to whom the notice was given contravenes the notice to attend.

- (6) If the commissioner gives an investigation notice to a person, the commissioner must also give the person a review statement about the decision to give the person the notice.
- (7) The person is taken not to have failed to comply with the notice if the person makes application under section 247 (Review by electoral commission) for review of the decision and the application has not been decided.
- (8) The commissioner may require a person to whom an investigation notice has been given to give evidence on oath, and for that purpose may administer an oath.

*Note* For the taking of an oath or the making of an affirmation, see the *Oaths and Affirmations Act 1984*.

- (9) This section is in addition to, and does not limit, section 237 (Investigation notices generally).

### **237B Investigation notice offences**

- (1) A person must not, without reasonable excuse, contravene an investigation notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person must not, in response to an investigation notice, give evidence that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **238 Investigation—search warrants**

- (1) The commissioner may make an application to a magistrate for the issue of a warrant if—
  - (a) the commissioner has reasonable grounds for suspecting that there may be, at that time or within the next 24 hours, in or on

any premises, an article that may afford evidence relating to a contravention of section 236 (a *relevant article*); and

- (b) the commissioner has reasonable grounds for believing that, if an investigation notice under section 237 were issued for the production of the relevant article, it might be concealed, lost, mutilated, destroyed or disposed of.
- (2) A magistrate may, on application in accordance with subsection (1), issue a warrant authorising the commissioner or any other person named in the warrant, with the assistance the commissioner or person considers necessary, and if necessary by force—
- (a) to enter the premises; and
  - (b) to search the premises for relevant articles; and
  - (c) to seize any relevant article found in or on the premises.
- (3) A magistrate shall not issue a warrant unless—
- (a) an affidavit has been lodged with the magistrate setting out the grounds on which the issue of the warrant is being sought; and
  - (b) the commissioner or another person has given the magistrate, either orally or by affidavit, any further information the magistrate requires about the grounds on which the issue of the warrant is being sought; and
  - (c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (4) If a magistrate issues a warrant, he or she shall endorse on the affidavit lodged in accordance with subsection (3) the grounds relied on to justify the issue of the warrant.
- (5) A warrant shall—
- (a) state the purpose for which it is issued, including a reference to the alleged offence in relation to which it is issued; and



- (b) specify the hours during which the entry is authorised or state that the entry is authorised at any time of the day or night; and
  - (c) include a description of the kind of articles to which it relates; and
  - (d) specify the date, not later than 1 month after the date of issue of the warrant, when the warrant ceases to have effect.
- (6) If an article is seized by a person under a warrant—
- (a) the person may keep the article for as long as is necessary and reasonable for the purposes of the investigation to which it is relevant; and
  - (b) when retention of the article ceases to be necessary and reasonable for those purposes, he or she shall cause it to be delivered to the person who appears to be entitled to possession of the article.
- (7) If a document is retained under subsection (6) (a)—
- (a) the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the commissioner to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original; and
  - (b) until the certified copy is supplied, the commissioner shall, at the times and places the commissioner considers appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

## **239 Records**

- (1) If a person makes or obtains an article that is or includes a record relating to a matter particulars of which are, or could be, required to be set out in a return under this part relating to an election, he or she

shall keep the record for not less than 3 years beginning on polling day for that election.

- (2) If a party, ballot group, MLA or associated entity makes or obtains an article that is or includes a record relating to a matter particulars of which are, or could be, required to be set out in a return under division 14.6 (Annual returns), the party, ballot group, MLA or associated entity must keep the record for not less than 3 years beginning on the day after the last day when the return must be given to the commissioner.
- (3) If a person, party, ballot group, MLA or associated entity (the *transferor*) would, in the normal course of business or administration, transfer to someone else a record mentioned in subsection (1) or (2)—
  - (a) the transferor is taken not to have contravened the subsection by transferring the record; and
  - (b) the person to whom the record is transferred must keep the record for the period for which the transferor would have been required to keep the record if the record had not been transferred.

## **Division 14.8            Miscellaneous**

### **240    Inability to complete returns**

- (1) If a person who is required to give the commissioner a return under division 14.4, 14.5 or 14.6 considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—
  - (a) prepare the return to the extent that it is possible to do so without those particulars; and
  - (b) give the commissioner the return so prepared; and
  - (c) give the commissioner written notice—

- (i) identifying the return; and
  - (ii) stating that the return is incomplete because he or she is unable to obtain certain particulars; and
  - (iii) identifying those particulars; and
  - (iv) setting out the reasons why he or she is unable to obtain those particulars; and
  - (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief, the reasons for it and the name and address of the other person.
- (2) A person who complies with subsection (1) shall not, because of the omission of the particulars referred to in subsection (1) (c) (iii), be taken, for section 236 (2) (a), to have given a return that is incomplete.
- (3) If the commissioner has been informed under subsection (1) (c) or (4) (e) that a person can supply particulars that have not been included in a return, the commissioner may, by written notice served on that person, require the person to give the commissioner written notice of the particulars within the period specified in the notice.
- (4) If a person who is required to give the commissioner particulars under subsection (3) considers that he or she is unable to obtain some or all of the particulars, the person shall give to the commissioner a written notice—
- (a) specifying the particulars (if any) that the person is able to give; and
  - (b) stating that the person is unable to obtain certain particulars;
  - (c) identifying those particulars; and
  - (d) specifying the reasons why the person considers he or she is unable to obtain those particulars; and

(e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—specifying the name and address of that other person and the reasons why he or she believes that the other person is able to give those particulars.

(5) If—

- (a) a notice is given to a person under subsection (3); and
- (b) the person complies with that notice or gives the commissioner a notice under subsection (4);

he or she shall not, only because of the omission of the required particulars, be taken to have given an incomplete return.

#### **241 Noncompliance with pt 14**

- (1) The failure of a person to comply with a provision of this part in relation to an election does not invalidate that election.
- (2) Without limiting subsection (1)—
  - (a) if—
    - (i) a party or ballot group endorsed a candidate in an election; and
    - (ii) the candidate was elected at the election;a failure by the reporting agent of the party or ballot group to comply with this part in relation to that election does not invalidate the candidate's election;
  - (b) if a member of a non-party group was elected at the election—a failure by a reporting agent of the group to comply with this part in relation to the election does not invalidate the election of the member; and

- (c) a failure by the reporting agent of a candidate who is elected at an election to comply with his or her part in relation to the election does not invalidate the candidate's election.

## **242 Amendment of returns**

- (1) If the commissioner is satisfied that a return under this part contains a formal error or is subject to a formal defect, the commissioner may amend the return to the extent necessary to correct the error or remove the defect.
- (2) A person authorised by subsection (3) may, by written notice signed by the person and given to the commissioner, request the permission of the commissioner to make a specified amendment of a return for the purpose of correcting an error or omission.
- (3) A request may be made by—
  - (a) the person who gave the return; or
  - (b) if the return was given for a party, ballot group, MLA or candidate—the reporting agent of the party, ballot group, MLA or candidate; or
  - (c) if the return was given in relation to an associated entity—the financial controller of the entity.
- (4) On a request under subsection (2), the commissioner shall permit the person making the request to amend the return accordingly if the commissioner is satisfied that the request is justified.
- (5) If the commissioner decides to refuse a request under subsection (2), the commissioner shall give the person making the request a review statement about the decision.
- (6) The amendment of a return under this section does not affect the liability of a person to be convicted of an offence against section 236 (2) or (4) arising out of the giving of the return.

### **243 Copies of returns to be available for public inspection**

- (1) The commissioner must make available for public inspection, in accordance with subsections (2) and (3), a copy of each return given to the commissioner under division 14.4 (Disclosure of donations), 14.5 (Disclosure of electoral expenditure) and division 14.6 (Annual returns).
- (2) A copy of a return under division 14.4 or 14.5 (other than a return under section 221A (Annual returns of donations)) must be made available for public inspection from the beginning of the 25th week after polling day in the election to which the return relates.
- (3) A copy of a return under section 221A or division 14.6 must be made available for public inspection from the beginning of February in the next year.
- (4) A person may, on request, obtain a copy of a return if a copy of the return is available for public inspection under this section.

*Note* A fee may be determined under s 8 (Determination of fees) for this subsection.

## Part 15                      Review of decisions

### 244    Definitions for pt 15

In this part:

*person* includes a political party.

*reviewable decision* means a decision referred to in section 245.

### 245    Reviewable decisions

For this part, the following decisions of the commissioner are reviewable:

- (a) a decision to enrol a person under section 76 (5) (a);
- (b) a decision to reject a claim for enrolment under section 76 (5) (b);
- (c) a decision to refuse a request for the suppression of the particulars of an elector's address from an extract from any roll under section 77 (2) (b);
- (d) a decision to include the particulars of an elector's address that had been suppressed on an extract from a roll under section 78 (2);
- (e) a decision to reject an objection to the enrolment of a person under section 81 (5);
- (f) a decision to remove a person's name from a roll under section 81 (8) (b);
- (g) a decision under section 90 (3) (Further information about application for political party registration) to refuse an application for registration of a political party;

- (h) a decision to register a political party or ballot group under section 92 (1);
- (i) a decision to refuse an application for the registration of a political party or ballot group under section 93 (1) or (2);
- (j) a decision under section 93 (1) or (2) to refuse to change the registered particulars of a political party as applied by section 95 (3) (Changes to particulars in register);
- (k) a decision under section 98 (6) (Cancellation of registration of political parties and ballot groups) to cancel the registration of a political party or ballot group;
- (l) a decision to give a notice under section 237A (Investigation notices about associated entities);
- (m) a decision to refuse a request to make a specified amendment of a return under section 242 (4).

## **246 Review statements**

- (1) For this Act, a review statement about a reviewable decision shall be in writing containing—
  - (a) a statement of the decision; and
  - (b) a statement of the reasons for the decision; and
  - (c) a statement to the effect that the person to whom the notice is given may, within 28 days after the review statement is given, apply to the electoral commission for a review of the decision.
- (2) The validity of a reviewable decision is not to be taken to be affected by a failure—
  - (a) to give a review statement to a person affected by the decision; or
  - (b) to comply with this section.



**247 Review by electoral commission**

- (1) The electoral commission must review a reviewable decision if a person affected by the decision applies to the commission in accordance with subsections (2) and (3).
- (2) The application must—
  - (a) be in writing; and
  - (b) state the applicant's name and address; and
  - (c) set out the applicant's reasons for making the application.
- (3) The application must be given to the electoral commission at the commission's office—
  - (a) within 28 days after—
    - (i) for a decision to register a political party or ballot group—the day of notification under the *Legislation Act 2001* of the notice under section 92 (3) (Registration of political parties and ballot groups) of the decision; or
    - (ii) in any case—the day the relevant review statement was given to the applicant; or
  - (b) within a further period allowed by the commission before or after the end of that period.
- (4) Before making a decision on the review of a reviewable decision, the electoral commission may, on the application of a person affected by the decision, make a written order staying or otherwise affecting the operation or implementation of the decision or a part of the decision.
- (5) The electoral commission may make an order under subsection (4) whether or not an application for the review of the relevant decision has been made to the commission.
- (6) In considering an application for an order under subsection (4), the electoral commission shall have regard to—

- (a) the interests of all persons affected by the relevant decision; and
  - (b) the necessity of securing, as far as practicable, the effectiveness of the review process and of the commissioner's decision on the review.
- (7) On the review of a reviewable decision, the electoral commission shall—
- (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and substitute its own decision.
- (8) Except for a reviewable decision made by a delegate of the commissioner, the commissioner shall not—
- (a) be present during any deliberation of the electoral commission in relation to a review under this section; or
  - (b) take part in any decision of the electoral commission in relation to a review under this section.

#### **248 Notice of decision of the electoral commission**

- (1) The electoral commission shall give written notice of its decision on a review under section 247 to—
- (a) each person to whom a review statement about the relevant decision was given under this Act; and
  - (b) the applicant for the review.
- (2) A notice under subsection (1) shall—
- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the AAT for a review of the decision of the electoral commission; and

- (b) except if that Act, section 26 (11) applies—include a statement to the effect that a person whose interests are affected by the decision of the electoral commission may request a statement under that Act, section 26.
- (3) The validity of a decision of the electoral commission under section 247 (6) is not to be taken to be affected by a failure to comply with this section.

#### **249 Review by administrative appeals tribunal**

Application may be made to the AAT for a review of a decision of the electoral commission under section 247 (7).

## Part 16 Disputed elections, eligibility and vacancies

### Division 16.1 Preliminary

#### 250 Definitions for pt 16

In this part:

*application* means an application disputing the validity of an election made in accordance with section 258.

*bribery* means a contravention of section 285.

*contravention*, of a section of this Act or the *Crimes Act 1914* (Cwlth), includes—

- (a) attempting or conspiring to contravene that section; or
- (b) aiding, abetting, counselling or procuring the contravention of that section.

*Court of Disputed Elections*—see section 252 (2).

*election* includes—

- (a) a recount of votes under section 194; and
- (b) the choice of a person to fill a casual vacancy under section 195.

*file* means to file in the registrar's office.

*proceeding* means a proceeding before the Court of Disputed Elections.

*registrar* means the registrar of the Supreme Court.

*Speaker*—see section 251.

*undue influence* means a contravention of section 288 (Violence and intimidation) or the *Crimes Act 1914* (Cwlth), section 28 (Interfering with political liberty).

### **251 Meaning of *Speaker* for pt 16**

(1) In this part:

*Speaker* includes—

- (a) if the Speaker is unavailable—the Deputy Speaker; or
  - (b) if both the Speaker and Deputy Speaker are unavailable—another MLA who is not the subject of a proceeding and is appointed by the Assembly to act as the Speaker for this part; or
  - (c) if both the Speaker and Deputy Speaker are unavailable and no MLA is appointed for paragraph (b)—the clerk of the Assembly.
- (2) For subsection (1), the Speaker or Deputy Speaker is unavailable if—
- (a) the office-holder is absent from duty; or
  - (b) there is a vacancy in the office; or
  - (c) the office-holder is the subject of a proceeding.

## **Division 16.2 Jurisdiction and powers of Supreme Court**

### **252 Court of Disputed Elections**

- (1) The Supreme Court has jurisdiction to hear and determine—
- (a) applications disputing the validity of elections; and
  - (b) questions referred to the court by resolution of the Legislative Assembly relating to—

- (i) the eligibility of persons who have been declared elected to be members of the Assembly; or
  - (ii) vacancies in the membership of the Assembly.
- (2) When exercising jurisdiction under subsection (1), the Supreme Court shall be known as the Court of Disputed Elections.

### **253 Powers of the court**

Subject to this part, the Supreme Court has the same powers (so far as they are applicable) when exercising jurisdiction under this part as it has when exercising its original jurisdiction.

### **255 Decisions are final**

A decision of the Court of Disputed Elections is final and conclusive, is not subject to appeal and shall not be called into question.

## **Division 16.3 Disputed elections**

### **256 Validity may be disputed after election**

- (1) The validity of an election shall not be disputed except by application to the Court of Disputed Elections after the result of the election is declared.
- (2) Without limiting subsection (1), if any of the following matters in relation to an election is called into question, the validity of the election is to be taken to be in dispute:
- (a) the acceptance or rejection of a nomination of a candidate by the commissioner;
  - (b) the eligibility of a person to be nominated as a candidate, to be elected or to be an MLA;
  - (c) any matter connected with the printing or endorsement of ballot papers;

- (d) any matter connected with the issue, or scrutiny, of ballot papers by an officer;
- (e) any matter connected with electronic voting;
- (f) any matter connected with the admission or rejection of declaration votes by an officer at the preliminary scrutiny.

### **257 Persons entitled to dispute elections**

The following persons are entitled to dispute the validity of an election:

- (a) a candidate in the election;
- (b) an elector entitled to vote at the election;
- (c) the commissioner.

### **258 Form of application**

- (1) An application disputing the validity of an election shall—
  - (a) specify the declarations sought; and
  - (b) set out the facts relied on to invalidate the election with sufficient particularity to identify the matters on which the applicant relies as justifying those declarations; and
  - (c) set out the applicant's full name and address and the capacity in which he or she is making the application; and
  - (d) be signed by the applicant.
- (2) The signature of an applicant other than the commissioner shall be witnessed by another person whose signature, full name, address and occupation shall be set out in the application.

### **259 Time for filing application**

An application shall be filed within 40 days after the result of the election is declared.

**260 Deposit as security for costs**

- (1) At the time of filing an application, the applicant shall deposit with the registrar as security for costs the amount prescribed by the *Supreme Court Rules*.
- (2) The amount deposited shall be set off against any costs ordered to be paid by the applicant.

**261 Registrar to serve copies of application on certain persons**

The registrar shall, after an application is filed under section 259, serve a sealed copy of the application on—

- (a) the Speaker; and
- (b) the person whose election is being disputed; and
- (c) if the commissioner is not the applicant—the commissioner.

**262 Parties to application under div 16.3**

- (1) The following people are entitled to appear in a proceeding under this division:
  - (a) the applicant;
  - (b) the commissioner;
  - (c) if a person whose election is being disputed files a notice of appearance within 7 days after the day when the person is served with a copy of the application under section 261—the person;
  - (d) anyone else with the leave of the Court of Disputed Elections.
- (2) A person other than the applicant who appears under subsection (1) is to be taken to be a respondent to the application.
- (3) This section does not apply to an application under section 263.



## **263 Withdrawal and abatement of application**

(1) In this section:

*election application* means an application disputing the validity of an election made in accordance with section 258.

*leave application* means an application for leave to withdraw an election application.

- (2) An applicant may withdraw an election application only with the leave of the Supreme Court.
- (3) An applicant is not entitled to make a leave application unless notice of the applicant's intention to do so has been—
- (a) published in a newspaper; and
  - (b) given to the commissioner and to each of the respondents to the relevant election application.
- (4) A leave application shall not be made without the consent of all the applicants to the relevant election application.
- (5) The following persons are entitled to appear as respondents to a leave application:
- (a) the commissioner;
  - (b) a respondent to the relevant election application;
  - (c) any other person with the leave of the Supreme Court.
- (6) Unless the Supreme Court orders otherwise, if an election application is withdrawn, the applicant is liable to pay the costs of the respondent in relation to that application and the leave application.
- (7) In determining a leave application, the Supreme Court shall inquire into the reasons for it and determine whether it was—
- (a) the result of an agreement, arrangement or understanding; or

- (b) in consideration of—
  - (i) the seat in the Assembly that is in issue being vacated at any time in the future; or
  - (ii) the withdrawal of any other election application; or
  - (iii) any other matter.
- (8) The Supreme Court shall publish its reasons for a determination as if it were a judgment and give a copy of them to the commissioner.
- (9) If, before the hearing of an election application, a respondent other than the commissioner—
  - (a) dies or gives the prescribed notice that he or she does not intend to oppose the application; or
  - (b) resigns from, or otherwise ceases to hold, the seat in the Assembly that is in issue;then—
  - (c) the person ceases to be a respondent; and
  - (d) the person, or his or her personal representative, shall—
    - (i) publish notice of that fact in a newspaper; and
    - (ii) give a copy of the notice to the registrar; and
  - (e) if a person who might have been an applicant in relation to the election files a notice of appearance within the prescribed period—that person is entitled to appear as a respondent to the application.
- (10) A person who has ceased to be a respondent to an election application is not entitled to appear as a party in proceedings in relation to that application.
- (11) The registrar shall notify the commissioner of the receipt of a notice mentioned in subsection (9) (d) (ii).

- (12) An election application shall be abated by the death of a sole applicant or the last survivor of several applicants.
- (13) The abatement of an election application does not affect the liability of the applicant or any other person for costs awarded against the applicant or other person.

#### **264 Hearing of applications**

- (1) The registrar shall, as soon as practicable after the time for filing applications in relation to an election under section 259 has passed, prepare a list of the applications pending in the order of filing and shall make a copy of the list available for inspection at the registrar's office in accordance with the *Supreme Court Rules*.
- (2) Subject to subsection (3), an application shall, as far as practicable, be heard in the order in which it appears in the list.
- (3) All applications in relation to an election for an electorate shall be heard together.

#### **265 Declarations and orders**

The Court of Disputed Elections shall hear and determine an application and may—

- (a) declare the election void; or
- (b) declare that a person who has been declared elected was not duly elected; or
- (c) declare that a person who has not been declared elected was duly elected; or
- (d) dismiss the application in whole or in part;

and may make any orders in relation to the application that the court considers appropriate.

## 266 Illegal practices

- (1) Without limiting the grounds on which the Court of Disputed Elections may make a declaration under section 265 (a) or (b), the court may make such a declaration on the ground of any illegal practice in connection with the election.
- (2) The Court of Disputed Elections shall not make a declaration under section 265 (a) or (b)—
  - (a) on the ground of any illegal practice (other than bribery or undue influence); or
  - (b) on the ground of bribery or undue influence by a person who was not a candidate for the election without the knowledge or consent of a candidate in the election;unless satisfied that—
  - (c) the result of the election was, or was likely to have been, affected by the illegal practice; and
  - (d) it is just to make the declaration.
- (3) If the Court of Disputed Elections finds any illegal practice in connection with an election (whether the court makes a declaration under section 265 (a) or (b) on that ground or not), the registrar shall report the finding to—
  - (a) the Speaker; and
  - (b) the Minister; and
  - (c) the commissioner; and
  - (d) the director of public prosecutions.
- (4) Any finding by the Court of Disputed Elections in relation to any illegal practice in connection with an election is not to be taken to be a bar to, or to prejudice in any way, any prosecution in relation to the act alleged before the court to have constituted the illegal practice.

(5) In this section:

*illegal practice* means a contravention of this Act, and includes undue influence.

*Note* *Contravention* and *undue influence* are defined in s 250.

### **267 Bribery or undue influence by person elected**

If the Court of Disputed Elections finds that a person who was declared elected committed, or attempted to commit, bribery or undue influence in connection with any election, the court shall declare the election of that person void.

### **268 Immaterial delays and errors**

- (1) The Court of Disputed Elections shall not make a declaration under section 265 (a), (b) or (c) on the ground that there was a delay in—
  - (a) declaring the nominations for the election; or
  - (b) providing certified lists of electors to candidates for the election; or
  - (c) polling for the election; or
  - (d) declaring the result of the election.
- (2) The Court of Disputed Elections shall not make a declaration under section 265 (a), (b) or (c) on the ground of any absence of, or any error or omission by, an officer unless the absence, error or omission affected, or was likely to have affected, the result of the election.
- (3) In determining whether an absence, error or omission that prevented an elector from voting affected the result of an election or not, the Court of Disputed Elections shall not have regard to any evidence of the way in which the elector intended to vote.

## **269 Inquiries by court**

- (1) In determining an application, the Court of Disputed Elections may make the inquiries it considers appropriate, including but not limited to—
  - (a) an inquiry about the identity of persons who voted; and
  - (b) an inquiry into the accuracy of approved computer programs used in electronic voting and the electronic scrutiny of votes; and
  - (c) an inquiry about whether ballot papers were improperly admitted or rejected, or not.
- (2) The Court of Disputed Elections shall not inquire into the correctness of any roll.
- (3) If the Court of Disputed Elections makes an inquiry in relation to ballot papers marked under part 11, a statement of particulars of the marking of ballot papers prepared by an officer under section 175 (c) is conclusive evidence of the particulars contained in the statement unless the court orders otherwise.

## **270 Rejected ballot papers**

In determining an application, the Court of Disputed Elections may have regard to any declaration vote ballot papers rejected at the preliminary scrutiny if the court is of the opinion that the ballot papers should not have been rejected.

## **271 Evidence that persons were not permitted to vote**

In determining an application, the Court of Disputed Elections shall not have regard to any evidence that a person was not permitted to cast a vote in an election unless the court is satisfied that the person—

- (a) claimed to vote in accordance with this Act; and

- (b) complied with the requirements of this Act in relation to voting to the extent that he or she was permitted to do so.

### **272 Inspection of electoral papers**

A party to an application may—

- (a) with the leave of the Court of Disputed Elections; and
- (b) in the presence of the commissioner or a member of staff of the electoral commission;

inspect, and make copies of or take extracts from, the electoral papers (except ballot papers) in the possession of the commissioner that were used in connection with the election being disputed.

### **273 Commissioner not prevented from accessing documents**

Unless the Court of Disputed Elections otherwise orders, the filing of an application is not to be taken to prevent the commissioner, another member of the electoral commission or a member of the staff of the commission from having access to any document to which that person would otherwise be entitled to have access for the purpose of exercising a function under this Act.

### **274 Registrar to serve copies of declarations on certain persons**

The registrar shall, after an application is determined, serve a sealed copy of the declarations and orders (if any) made by the Court of Disputed Elections on—

- (a) the Speaker; and
- (b) each party to the application.

### **275 Effect of declarations**

- (1) If the Court of Disputed Elections declares an election void, another election shall be held in accordance with section 101.

- (2) If the Court of Disputed Elections declares that a person who has been declared elected was not duly elected, that person is to be taken not to have been duly elected.
- (3) If the Court of Disputed Elections declares that a person who has not been declared elected was duly elected, that person is to be taken to have been duly elected.
- (4) A declaration by the Court of Disputed Elections referred to in subsection (1), (2) or (3) takes effect on the end of the day when the declaration by the court is made.

## **Division 16.4 Eligibility and vacancies**

### **276 Speaker to state case**

If the Assembly passes a resolution referring to the Court of Disputed Elections a question relating to—

- (a) the eligibility of a person who has been declared elected to be an MLA; or
- (b) a vacancy in the membership of the Assembly;

the Speaker shall give to the registrar a statement setting out the question referred, together with any documents in the possession of the Assembly that relate to that question.

### **277 Parties to a referral**

The following persons are entitled to appear in a proceeding under this division:

- (a) any person who, in the opinion of the Court of Disputed Elections, has a sufficient interest in the determination of the question referred;
- (b) any person on whom notice of that question is ordered to be served by the court.



### **278 Declarations and orders**

The Court of Disputed Elections shall hear and determine a question referred to it and may—

- (a) declare that a person who has been declared elected is not eligible to be an MLA; or
- (b) declare a vacancy in the membership of the Assembly; or
- (c) refuse to make a declaration;

and may make the orders in relation to the referral that the court considers appropriate.

### **279 Registrar to serve copy of declarations on Speaker**

The registrar shall, after a question referred to the Court of Disputed Elections is determined, serve a sealed copy of the declarations and orders (if any) made by the court on—

- (a) the Speaker; and
- (b) each party to the referral.

### **280 Effect of declarations**

- (1) If the Court of Disputed Elections —
  - (a) declares that a person who has been declared elected is not eligible to be an MLA; or
  - (b) declares a vacancy in the membership of the Assembly;on the end of the day when the declaration is made a vacancy in the membership of the Assembly arises.
- (2) A vacancy under subsection (1) shall be filled in accordance with part 13.

## **Division 16.5 Proceedings**

### **281 Procedure**

In a proceeding, the Court of Disputed Elections —

- (a) shall be guided by the substantial merits and good conscience of the case; and
- (b) is not bound by technicalities, legal forms or the rules of evidence, but may inform itself in the way it considers appropriate.

### **282 Legal representation limited**

In a proceeding, a party is entitled to be represented by only 1 lawyer appearing as counsel.

### **283 Admissibility of evidence**

- (1) A person who appears as a witness in a proceeding is not excused from answering a question or producing a document or other thing that the person is required by the Court of Disputed Elections to answer or produce on the ground that the answering of the question or the producing of the document or thing may tend to incriminate the person or on the ground of privilege.
- (2) A statement or disclosure made, or a document or other thing produced, by a person in the course of a proceeding, or any information, document or other thing obtained as a direct or indirect consequence of the making of the statement or disclosure, or of the production of the firstmentioned document or thing, is not admissible in evidence in any civil or criminal proceeding except—
  - (a) a proceeding before the Court of Disputed Elections; or
  - (b) a proceeding for an offence relating to the giving of false evidence.

**284 Costs may be ordered against Territory**

Even if the Territory is not a party to a proceeding, the Court of Disputed Elections may order the Territory to pay all or any of the costs of the proceeding.

## Part 17 Electoral offences

### Division 17.1 Bribery and improper influence

#### 285 Bribery

- (1) A person shall not offer, solicit or accept an electoral bribe.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

*bribe* does not include a declaration of public policy or a promise of public action.

*electoral bribe* means a bribe for the purpose of—

- (a) influencing the vote of an elector; or
- (b) influencing the candidature of a person in an election; or
- (c) otherwise influencing the course or result of an election; or
- (d) inducing a person not to apply, or to withdraw an application, under section 192 to be a candidate for a seat in relation to which a casual vacancy has occurred, if that person is an eligible person within the meaning of that section; or
- (e) inducing a person not to apply, or to withdraw an application, to the Court of Disputed Elections under division 16.3 to dispute the validity of an election, if that person is entitled to dispute the validity of the election under section 257.

### **286 Influencing of votes by officers**

In the exercise of a function under this Act, an officer shall not, without reasonable excuse, do anything for the purpose of influencing the vote of another person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **287 Influencing votes of hospital and nursing home patients**

The proprietor of a hospital or nursing home, or an employee or agent of such a proprietor, shall not, without reasonable excuse, do anything for the purpose of influencing the vote of a patient or resident of the hospital or nursing home.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **Division 17.2 Protection of rights**

### **288 Violence and intimidation**

A person shall not, by violence or intimidation, hinder or interfere with—

- (a) the free exercise of a right under this Act; or
- (b) the free performance of a duty under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **289 Discrimination on grounds of political donations**

- (1) A person shall not discriminate against another person on the ground of the making by the other person of a donation to—
  - (a) a political party or registered ballot group; or

(b) a candidate in an election.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) In this section:

*discriminate against*, in relation to a person, means—

- (a) deny the person access to membership of any trade union, club or other body, whether incorporated or not; or
- (b) not allow the person to work or to continue to work; or
- (c) subject the person to any form of intimidation or coercion; or
- (d) subject the person to any other detriment.

## **290 Employees' right to leave of absence for voting**

(1) On notification from an employee before a polling day, the employer shall allow the employee, without penalty or any disproportionate deduction of pay, to take any necessary leave (not exceeding 2 hours) for the purpose of voting.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply if the absence of the employee from employment could—
- (a) endanger any person, animal or thing; or
  - (b) cause substantial loss to any person.

- (3) An employee shall not notify an employer under subsection (1) if he or she does not have a genuine intention of voting during the period of the leave to be granted for the purpose of voting.

Maximum penalty: 5 penalty units.

## **Division 17.3            Campaigning offences**

### **291    Definitions for div 17.3**

In this division:

**address**, in relation to a person, means—

- (a) if the person is acting on behalf of a political party or registered ballot group—an address of the party or ballot group, other than a post office box; or
- (b) in any case—
  - (i) the address of the person's principal place of residence; or
  - (ii) an address of the person's place of business.

**disseminate** electoral matter (whether in printed or electronic form) means print, publish, distribute, produce or broadcast the electoral matter.

**publish** electoral matter, includes publish electronically.

**reportage or commentary**, in relation to a newspaper or periodical, means everything in the newspaper or periodical except—

- (a) advertisements; and
- (b) letters to the editor.

**292 Dissemination of electoral matter—authorisers and authors**

- (1) A person must not disseminate electoral matter unless there is, in the approved position—
- (a) the name and address of the person who authorised the matter or its author; and
  - (b) if the matter was published for or on behalf of a registered party, registered ballot group or candidate for election—the name of the party, group or candidate.

Maximum penalty: 10 penalty units.

- (2) In this section:

*approved position* means—

- (a) at the end of the matter; and
- (b) for an item in a newspaper or periodical containing electoral matter taking up all or part of each of 2 opposing pages—at the foot of the item on the first page; and
- (c) for an item in electronic form—at the foot of each page.

**293 Dissemination of electoral matter—letters to the editor**

- (1) Section 292 does not apply to the dissemination of a letter to the editor of a newspaper or periodical if—
- (a) the name of the author and the locality of the author's residence appears at the end; and
  - (b) the editor of the newspaper or periodical keeps a written record of the address of the author, as stated in the original of the letter sent to the editor or as otherwise ascertained by the editor.
- (2) For subsection (1) (a), it is sufficient to identify the locality of an author's residence by reference to—



- (a) the suburb or town of, or nearest to, that residence; and
- (b) for a locality outside the ACT—the State, other Territory or other country of that residence.

**294 Dissemination of electoral matter—newspaper and periodical reportage and commentary**

Section 292 does not apply to electoral matter contained in reportage or commentary in an issue of a newspaper or periodical if the issue contains a statement to the effect that a person whose name and address appears in the statement has authorised the publication of all electoral matter contained in reportage or commentary in that issue.

**295 Exemptions for dissemination of electoral matter on certain items**

- (1) Section 292 (Dissemination of electoral matter—authorisers and authors) does not apply to electoral matter on any of the following items unless the item includes a representation of a ballot paper:
  - (a) a letter from an MLA that includes the name of the MLA and an indication that he or she is an MLA;
  - (b) a press release published by or on behalf of an MLA that includes the name of the MLA and an indication that he or she is an MLA;
  - (c) a report under the *Annual Reports (Government Agencies) Act 1995*;
  - (d) a publication of a government agency that includes—
    - (i) the name of the agency; and
    - (ii) the City of Canberra Arms; and
    - (iii) the words ‘Australian Capital Territory’, ‘Australian Capital Territory Legislative Assembly’, ‘ACT

Legislative Assembly', 'Australian Capital Territory Government' or 'ACT Government';

- (e) a T-shirt, lapel button, lapel badge, pen, pencil or balloon;
- (f) a business or visiting card that promotes the candidacy of a person in an election;
- (g) a letter or card on which the name and address of the sender appears;
- (h) an item prescribed under the regulations.

(2) In this section:

**government agency** means—

- (a) an administrative unit; or
- (b) a Territory instrumentality; or
- (c) a statutory office-holder and the staff assisting the statutory office-holder.

**publication**, of a government agency, does not include a publication that is published for the first time within 6 months immediately before a general election if the publication includes a picture of an MLA.

## 296 Advertorials

- (1) This section applies to an advertisement in a newspaper or periodical that—
  - (a) appears to be reportage or commentary; and
  - (b) includes electoral matter.

- (2) If this section applies to an advertisement, the proprietor of the newspaper or periodical shall cause the word ‘advertisement’ to be printed as a headline to the advertisement, in letters not smaller than 10 point, on each page on which the advertisement appears.

Maximum penalty: 10 penalty units.

### **297 Misleading or deceptive electoral matter**

- (1) A person shall not disseminate, or authorise to be disseminated, electoral matter that is likely to mislead or deceive an elector about the casting of a vote.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant did not know, and could not reasonably be expected to have known, that the electoral matter was likely to mislead or deceive an elector about the casting of a vote.

### **298 Inducement to illegal voting—representations of ballot papers**

A person shall not disseminate, or authorise to be disseminated, electoral matter including a representation of a ballot paper, or part of a ballot paper, likely to induce an elector to mark his or her vote otherwise than in accordance with the directions on the ballot paper.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **299 Graffiti**

- (1) A person shall not, without reasonable excuse, mark any electoral matter directly on any defined place or object without the consent of—

- (a) for a place—the lessee or lawful occupier of the place; or

(b) for an object—the owner or lawful possessor of the object.

Maximum penalty: 10 penalty units.

- (2) The Territory or a Territory authority shall not give consent for subsection (1).
- (3) In a prosecution for an offence against subsection (1) in relation to a defined place or object leased, occupied, owned or possessed by the Territory or a Territory authority, it is to be conclusively presumed that the Territory or the Territory authority, as the case requires, did not consent to any marking of electoral matter on the place or object.
- (4) In this section:

*defined place or object* means a building, footpath, hoarding, roadway, vehicle, vessel or any public or private place (whether on land or water or in the air).

*lessee*—see the *Land (Planning and Environment) Act 1991*, section 159.

*mark* means write, draw or depict.

### **300 Defamation of candidates**

- (1) A person shall not make or publish, or authorise to be made or published, a false and defamatory statement about the personal character or conduct of a candidate.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant believed on reasonable grounds that the relevant statement was true.
- (3) A person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may, at the suit of the candidate, be restrained by

injunction from repeating the statement or any similar false and defamatory statement.

### **301 Publication of statements about candidates**

- (1) A person shall not publish, or authorise to be published, on behalf of a body (whether incorporated or unincorporated) a statement—
- (a) expressly or impliedly claiming that a candidate in an election is associated with, or supports the policy or activities of, that body; or
  - (b) expressly or impliedly advocating that a candidate should be given the first preference vote in an election;

without the written authority of the candidate.

Maximum penalty: 30 penalty units.

- (2) In proceedings for an offence against subsection (1), it shall be presumed, unless the contrary is proved, that a statement purported to be made on behalf of a body was made on behalf of the body.
- (3) This section does not apply to a statement—
- (a) published on behalf of a political party or registered ballot group; and
  - (b) that relates to a candidate nominated by the party or group who has publicly declared his or her candidature to be on behalf of, or in the interests of, the party or group.

### **302 Disruption of election meetings**

- (1) A person shall not, without reasonable excuse, disrupt an election meeting.

Maximum penalty: 5 penalty units.

- (2) The chairperson of an election meeting may request a police officer to remove from the meeting any person who, in the opinion of the chairperson, is disrupting the meeting.

- (3) On a request from the chairperson under subsection (2), a police officer may take reasonable action to remove from the meeting the person disrupting the meeting.

- (4) A person who is the subject of a request referred to in subsection (2) shall not, without reasonable excuse, return to the meeting without the authority of the chairperson after leaving it or being removed from it.

Maximum penalty: 10 penalty units.

- (5) In this section:

*election meeting* means a lawful public meeting held during a pre-election period in association with the relevant election.

### **303 Canvassing within 100m of polling places**

- (1) A person shall not, during polling hours within the defined polling area in relation to a polling place—

- (a) do anything for the purpose of influencing the vote of an elector as the elector is approaching, or while the elector is at, the polling place; or
- (b) do anything for the purpose of inducing an elector not to vote as the elector is approaching, or while the elector is at, the polling place; or

- (c) exhibit a notice containing electoral matter that is able to be clearly seen by electors approaching, or at, the polling place, other than a notice authorised by the commissioner for display there.

Maximum penalty: 5 penalty units.

- (2) If the building where a polling place is located is situated on grounds within an enclosure, the commissioner may, by written notice, specify the boundary of that enclosure for subsection (7), definition of *defined polling area*, paragraph (b).

- (3) A notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) An officer may, if directed by the commissioner, remove or obliterate a notice that the commissioner or the officer believes on reasonable grounds to be exhibited in contravention of this section.
- (5) Subsection (4) does not authorise an officer to enter land that is subject to a lease within the meaning of the *Land (Planning and Environment) Act 1991*, part 5.
- (6) A person shall not obstruct an officer in the exercise or attempted exercise of the officer's functions under subsection (4).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (7) In this section:

*defined polling area*, in relation to a polling place, means the area—

- (a) within the building where the polling place is located, and within 100m of the building; or
- (b) if the commissioner issues a notice under subsection (2) in relation to the polling place—within the boundary of the enclosure specified in the notice, and within 100m outside that boundary.

*polling hours*, in relation to a polling place, means—

- (a) for a polling place appointed under section 119—between the hours of 8 am and 6 pm on polling day; or
- (b) for a polling place where a vote may be made before an officer—any time when the place is open for the acceptance of votes; or
- (c) for a polling place where polling is authorised under division 10.5—the period when a mobile polling visit is being made to the building where that place is located.

### **304 Badges and emblems in polling places**

Subject to section 123 (5), an officer or scrutineer shall not wear or display in a polling place a badge or emblem associated with a political party, registered ballot group or candidate.

Maximum penalty: 10 penalty units.

### **305 How-to-vote material in polling places**

- (1) A person shall not, except for the purposes of assisting another person to vote under section 156, exhibit or leave in a polling place any printed electoral matter.

Maximum penalty: 5 penalty units.

- (2) This section does not apply in relation to a notice authorised by the commissioner for display in the polling place.

### **306 Evidence of authorisation of electoral matter**

In proceedings for an offence against this division—

- (a) electoral matter including a statement to the effect that it was authorised by a specified person is admissible as evidence of that fact; and



- (b) an issue of a newspaper or periodical including a statement to the effect that a specified person authorised the publication of all electoral matter contained in reportage or commentary in that issue is admissible as evidence of that fact; and
- (c) electoral matter including a statement to the effect that it was disseminated by a specified person is admissible as evidence of that fact; and
- (d) electoral matter that includes a name purporting to be the author's name is admissible as evidence of that fact.

## **Division 17.4              Electronic voting offences**

### **306A Interfering with electronic voting devices etc**

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for or in connection with electronic voting.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **306B Interfering with electronic counting devices etc**

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for counting votes electronically.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **Division 17.5              Voting fraud**

### **307 Voting fraud**

- (1) A person shall not supply a ballot paper unless authorised to do so for this Act.

Maximum penalty: 50 penalty units.

- (2) A person shall not obtain a ballot paper by fraudulent means.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person other than an elector shall not mark a ballot paper, unless expressly authorised by this Act.

Maximum penalty: 50 penalty units.

- (4) A person shall not fraudulently put a ballot paper, or any other paper, in a ballot box.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) A person shall not fraudulently take a ballot paper out of—
- (a) a place where a vote may be made before an officer under section 136B or 136C; or
  - (b) a polling place; or

(c) a scrutiny centre.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(6) A person shall not, without reasonable excuse, interfere with a ballot box, or a ballot paper, unless authorised to do so for this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## Division 17.6 Electoral papers

### 309 Electoral papers—forgery

(1) A person shall not forge an electoral paper.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) A person shall not, without reasonable excuse, possess an instrument designed or adapted particularly for forging an electoral paper.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A person shall not, without reasonable excuse, possess a forged electoral paper, knowing it to be forged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(4) A person shall not, without reasonable excuse, publish an electoral paper, knowing it to be forged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(5) In this section:

*forgery*, in relation to an electoral paper, includes—

- (a) the forgery of a signature on the electoral paper; and
- (b) the marking of an electoral paper with a false signature.

*publication*, in relation to an electoral paper which is a ballot paper, includes the placing of the ballot paper in a ballot box.

### **310 Electoral papers—forfeiture**

- (1) On conviction of a person for an offence against section 309, any document or instrument in relation to which the offence was committed is forfeited to the Territory.
- (2) A forfeited document or instrument may be destroyed or dealt with as prescribed.

### **311 Electoral papers—unauthorised possession**

- (1) A person shall not, without reasonable excuse, except for this Act—
  - (a) possess an electoral paper; or
  - (b) possess an instrument designed or adapted particularly for producing an electoral paper, or an official mark on an electoral paper.

Maximum penalty: 30 penalty units.

### **312 Electoral papers—false or misleading statements**

- (1) A person shall not, in an electoral paper, make a statement that is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant did not know, and could not reasonably be expected to have known, that the relevant statement was false or misleading in a material particular.

**313 Electoral papers—defacement etc**

Unless authorised by or under this Act, a person shall not fraudulently deface, remove, mutilate or destroy an electoral paper.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**314 Electoral papers—signatures**

- (1) Subject to subsection (2), if a person is required by this Act to sign an electoral paper, he or she shall sign it with his or her personal signature.

Maximum penalty: 10 penalty units.

- (2) If a person is unable to sign his or her name in writing, the person is to be taken to have signed an electoral paper if—
- (a) the person makes a mark on the paper by way of signature; or
  - (b) another person signs the document in the presence of and at the direction of the person.

**315 Electoral papers—witnesses**

- (1) A person shall not witness the signature of an electoral paper unless—
- (a) the paper is signed by the signatory; and
  - (b) he or she has seen the signatory sign the paper; and
  - (c) he or she is satisfied as to—
    - (i) the identity of the signatory; and
    - (ii) the truth of any statements made in the paper by the signatory; and

(d) he or she is able to sign his or her own name.

Maximum penalty: 10 penalty units.

(2) For subsection (1) (c), a witness may satisfy himself or herself on the basis of—

(a) personal knowledge of the signatory; or

(b) inquiries made of the signatory; or

(c) any other reasonable means.

(3) In this section:

*signatory*, in relation to a person witnessing the signature of an electoral paper, means the person whose signature is purported to be witnessed.

## **Division 17.7            Official functions**

### **316    Improper influence—members of electoral commission etc**

A person shall not do anything improper for the purpose of influencing a member of—

(a) the electoral commission; or

(b) an augmented commission; or

(c) a redistribution committee.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **317    Unauthorised actions by officers**

An officer shall not, without reasonable excuse, contravene—

(a) a provision of this Act for which no other penalty is provided;  
or

(b) a direction given to him or her under this Act.

Maximum penalty: 10 penalty units.

### **318 Identification of voters and votes**

- (1) Except as authorised under this Act, an officer shall not make any mark on a ballot paper that would be likely to enable the identification, directly or indirectly, of the person who votes on the ballot paper.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Except as authorised under this Act, an officer or a scrutineer shall not, directly or indirectly, disclose any information acquired in the exercise of his or her functions under this Act that would be likely to enable it to be known how an identified voter has voted.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) In subsection (2):

*officer* includes a person who has been, but is no longer, an officer.

*scrutineer* includes a person who has been, but is no longer, a scrutineer.

### **319 Responses to official questions**

- (1) A person shall not, in answer to an official question, make a statement that is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant did not know, and could not reasonably be expected to have known, that the relevant statement was false or misleading in a material particular.



- (3) In this section:

*official question* means a question asked by an officer in the exercise of his or her functions under this Act.

### **320 Control of behaviour at voting centres**

- (1) A person shall not, without reasonable excuse, disrupt an activity being carried out under this Act at a voting centre.

Maximum penalty: 10 penalty units.

- (2) A person at a voting centre shall not, without reasonable excuse, disobey a direction given by the OIC by or under this Act.

Maximum penalty: 10 penalty units.

- (3) A person shall not, without reasonable excuse, enter or remain at a voting centre without the permission, express or implied, of the OIC.

Maximum penalty: 10 penalty units.

- (4) Subsection (3) does not apply—

- (a) to an officer; or
- (b) to a scrutineer who is entitled to be on the premises under section 123; or
- (c) if the voting centre is a polling place—to a voter who enters the place for the purpose of voting and remains no longer than is necessary and reasonable for that purpose.

- (5) A person who contravenes this section may be removed from the premises by a police officer or by an authorised officer.

- (6) In this section:

*OIC*, in relation to a voting centre, means the officer in charge of the centre.

*voting centre* means—

- (a) a place where a vote may be made before an officer under section 136B or 136C; or
- (b) a polling place; or
- (c) a scrutiny centre.

## **Part 18**                      **Enforcement proceedings**

### **Division 18.1**              **Injunctions**

#### **321**    **Restraining conduct**

- (1) This section applies if a person (the *relevant person*) has engaged, is engaging, or proposes to engage, in conduct that was, is, or would be, a contravention of this Act or another Territory law in its application to elections.
- (2) The commissioner or, if the conduct relates to an election, a candidate in the election may apply to the Supreme Court for an injunction.
- (3) On application under subsection (2), the Supreme Court may grant an injunction—
  - (a) restraining the relevant person from engaging in the conduct; and
  - (b) if, in the court's opinion, it is desirable to do so, requiring the relevant person to do anything.
- (4) The Supreme Court may grant an injunction restraining a person from engaging in conduct of a particular kind—
  - (a) if satisfied that the person has engaged in conduct of that kind, whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
  - (b) if it appears to the court that, if an injunction is not granted, it is likely the person will engage in conduct of that kind, whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to someone else if the person engages in conduct of that kind.

### **322 Requiring things to be done**

- (1) This section applies if a person (the *relevant person*) has failed, is failing, or proposes to fail to do something in contravention of this Act or another Territory law in its application to elections.
- (2) The commissioner or, if the conduct relates to an election, a candidate in the election may apply to the Supreme Court for an injunction requiring the relevant person to do the thing.
- (3) On application under subsection (2), the Supreme Court may grant an injunction requiring the relevant person to do the thing.
- (4) The Supreme Court may grant an injunction requiring a person to do something—
  - (a) if satisfied that the person has failed to do the thing, whether or not it appears to the court that the person intends to fail again, or to continue to fail, to do the thing; or
  - (b) if it appears to the court that, if an injunction is not granted, it is likely the person will fail to do the thing, whether or not the person has previously failed to do the thing and whether or not there is an imminent danger of substantial damage to someone else if the person fails to do the thing.

### **323 Commissioner not required to give undertakings as to damages**

If the commissioner makes an application for an injunction to which this division applies, the Supreme Court must not require that, as a condition of granting the injunction, the commissioner give any undertakings about damages on his or her own behalf or on behalf of any other person.

### **324 Powers of the court**

Subject to this division, the Supreme Court has the same powers (so far as they are applicable) in relation to injunctions under this

division as it has in relation to injunctions under its original jurisdiction.

## **Division 18.2      Prosecutions**

### **325    Investigation of complaints**

The commissioner shall—

- (a) investigate; or
- (b) refer to the appropriate authority for investigation;

any complaint alleging a contravention of this Act, unless the commissioner believes on reasonable grounds that the complaint is frivolous or vexatious.

### **326    Commissioner may prosecute enrolment and voting offences**

The commissioner may institute and conduct any prosecution in relation to an offence against section 73 (6) or 129 (1).

### **327    Service of certain process by mail**

In addition to any other method by which a document may be served, process relating to a proceeding for an offence against section 129 (1) may be served on a person by sending it by prepaid post to the address of the person recorded on the roll.

*Note*      For other ways of serving documents, see *Legislation Act 2001*, pt 19.5.

## Part 19 Miscellaneous

### 328 Extension of time for acts by officers

If—

- (a) an officer is required by this Act to do an act at a specified time or within a specified period; and
- (b) an officer other than the commissioner refuses or fails to do the act at that time or within that period;

the commissioner may grant an extension of time (not exceeding 48 hours) within which the act may be done.

### 329 Restrictions on sending completed ballot and voting papers by fax

- (1) This section applies to—
  - (a) a completed ballot paper (other than a ballot paper completed by an Antarctic elector); and
  - (b) a completed declaration voting paper.
- (2) Despite the *Legislation Act 2001*, part 19.5 (Service of a document), a document (including a copy of the document) to which this section applies cannot be served on a person by faxing it to the person.

*Note* For other ways of serving the documents and other documents under this Act, see *Legislation Act 2001*, pt 19.5.

### 330 Forms—provision and assistance

- (1) The commissioner shall ensure that any forms provided for, or required by or under, this Act are kept at the office of the commissioner and are provided, on request, to members of the public.

- (2) It is the duty of the staff of the electoral commission to assist, on request, members of the public in completing any of those forms.

### **332 Correcting delays, errors and omissions**

- (1) The commissioner may remedy, remove or supply any delay, error or omission in the preparation, printing, issue or transmission of any roll, certified list of electors or ballot papers by written notice specifying the matter to be dealt with and the course of action to be followed, and that course (if followed) is to be taken to be valid and sufficient for the purpose of remedying, removing or supplying the defect, error or omission.
- (2) A notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

### **333 Voting statistics to be published**

- (1) The electoral commission shall, as soon as practicable after an election is held, publish statistics in relation to voting at the election.
- (2) A person may obtain copies of the statistics in paper or electronic form.

*Note* A fee may be determined under s 8 (Determination of fees) for this subsection.

### **334 Collecting further statistical information**

When—

- (a) the time for filing an application disputing the validity of an election has ended; and
- (b) the Court of Disputed Elections has determined any such applications in relation to the election;

the commissioner may use ballot papers, certified lists of electors, declaration voting papers and other electoral papers used in the election to collect statistical information.

**335 Storage and destruction of electoral papers**

- (1) This section applies to electoral papers in the commissioner's possession that were used for an election.
- (2) The commissioner must securely store the electoral papers until whichever of the following happens last:
  - (a) the beginning of the pre-election period for the next general election;
  - (b) the electoral papers are no longer required by the commissioner, another member of the electoral commission or a member of the staff of the commission for exercising a function under this Act.
- (3) The commissioner may destroy the electoral papers only when the last of the matters mentioned in subsection (2) happens.

**336 Administrative arrangements with Commonwealth and States**

The Minister may arrange with the appropriate Minister of the Commonwealth or a State—

- (a) for officers or employees of the public service of the Commonwealth or State, or of an authority of the Commonwealth or State, to exercise the powers of an officer under this Act; or
- (b) to make a member of the electoral commission, the commissioner or a member of the staff of the commission available for the exercise of powers on behalf of the corresponding electoral authority of the Commonwealth or State.



**337 Evidentiary certificates**

- (1) In a proceeding under this Act, a certificate signed by the commissioner stating any of the following matters is evidence of the matters so stated:
- (a) that on a specified day a person was, or was not, enrolled for an electorate;
  - (b) that, in relation to an election, a person was or was not—
    - (i) an eligible overseas elector; or
    - (ii) an Antarctic elector; or
    - (iii) an elector serving a sentence of imprisonment outside the ACT;
  - (c) that a person was, or was not, declared as a candidate for an election;
  - (d) that a nomination of a person to be a candidate in an election was rejected;
  - (e) that an election was duly held;
  - (f) that a person was, or was not, given a ballot paper for an election;
  - (g) that a person voted, or failed to vote, in an election;
  - (h) that on a stated day, or during a stated period, a stated person was, or was not, registered as the reporting agent of a stated registered party, registered ballot group, MLA or candidate;
  - (i) that on a stated day, or during a stated period, no reporting agent was registered for a stated registered party, registered ballot group, MLA or candidate;
  - (j) that on a specified day a person was, or was not, an officer;
  - (k) that on a specified day a person was, or was not, the delegate of the electoral commission or the commissioner.

- (2) In subsection (1), a reference to a person or thing is a reference to a person or thing specified in the certificate.

### **338 Acts and omissions of representatives**

- (1) In this section:

*representative* means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

- (2) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—

- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

- (3) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

- (4) An individual who is convicted of an offence cannot be punished by imprisonment for the offence if the individual would not have been convicted of the offence without subsection (2) or (3).

**340 Chief executive to provide assistance etc**

The chief executive of the administrative unit responsible for the *Public Sector Management Act 1994*, division 3.4 shall comply with any request by the electoral commission, the commissioner or an augmented commission for information or assistance reasonably required for this Act.

**340A Approved forms**

- (1) The commissioner may, in writing, approve forms for this Act.
- (2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

**341 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

**Schedule 1  
Form  
of ballot  
paper**

## Schedule 1 Form of ballot paper

(see s 114)

**Legislative Assembly for the Australian Capital Territory**

**Ballot paper**

**Election of [1] Member(s)**

**Electorate of [1]**

**Number [1] boxes from 1 to [1] in the order of your choice**

Then you may show as many further preferences as you wish by writing numbers from [3] onwards in other boxes.

<b>A</b> [4]	<b>B</b> [4]	<b>C</b> [4]	[5]
<input type="text"/> [6]	<input type="text"/> [6]	<input type="text"/> [6]	<input type="text"/> [6] [7]
<input type="text"/> [6]	<input type="text"/> [6]	<input type="text"/> [6]	<input type="text"/> [6] [7]
<input type="text"/> [6]	<input type="text"/> [6]	<input type="text"/> [6]	<input type="text"/> [6] [7]

**Remember, number at least [1] boxes from 1 to [1] in the order of your choice.**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Insert number of vacancies</li> <li>2. Insert name of electorate</li> <li>3. Insert the number that is 1 more than the number of vacancies</li> <li>4. Insert name, or abbreviation of name, of registered party or registered ballot group, as required</li> </ol> | <ol style="list-style-type: none"> <li>5. Insert 'UNGROUPED' if there are ungrouped candidates</li> <li>6. Insert name of candidate</li> <li>7. Insert name, or abbreviation of name, of registered party or registered ballot group, or 'INDEPENDENT', as required</li> </ol> |
|---|--|

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## Schedule 2      Ballot papers—printing of names and collation

(see s 116)

**1**      In this schedule:

*column*, in relation to a ballot paper, means a column of candidates' names printed on the ballot paper in accordance with section 116.

**2 (1)** The ballot papers for an election shall be printed so that, for each column—

- (a) separate batches are printed equal in number to the number of names in the column; and
- (b) in the first batch, the names in the column are printed in an order determined by the commissioner by lot; and
- (c) in each batch after the first, the names in the column are printed in the order specified in the table at the end of this schedule; and
- (d) so far as practicable, the number of ballot papers in each batch for the column is equal to the number of ballot papers in each other batch for the column.

(2) In the table at the end of this schedule—

- (a) the number '1' appearing in a column shall be taken to represent the name determined in accordance with clause 1 (b) to be in the first position in the corresponding column on the ballot paper; and
- (b) the number '2' appearing in a column shall be taken to represent the name determined in accordance with clause 1 (b) to be in the second position in the corresponding column on the ballot paper;

and so on.

- 3** The commissioner shall ensure that ballot papers distributed to a polling place for the purposes of an election are so collated that the ballot paper immediately following another ballot paper in the issue is in a form different from that of the other ballot paper.
- 4** The OIC of a polling place shall ensure, so far as practicable, that the form of a ballot paper issued by an officer to a person claiming to vote at that place is different from that of the previous ballot paper so issued by the officer.

**TABLE**

*For 5-member electorates*

1st batch	2nd batch	3rd batch	4th batch	5th batch	6th batch	7th batch	8th batch	9th batch	10th batch	11th batch	12th batch
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	3	3	3	4	4	4	5	5	5
3	4	5	2	5	4	5	2	3	4	3	2
4	5	3	5	4	2	2	3	5	3	2	4
5	3	4	4	2	5	3	5	2	2	4	3
13th batch	14th batch	15th batch	16th batch	17th batch	18th batch	19th batch	20th batch	21st batch	22nd batch	23rd batch	24th batch
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	4	4	4	5	5	5	1	1	1
4	5	1	3	1	5	1	3	4	5	4	3
5	1	4	1	5	3	3	4	1	4	3	5
1	4	5	5	3	1	4	1	3	3	5	4
25th batch	26th batch	27th batch	28th batch	29th batch	30th batch	31st batch	32nd batch	33rd batch	34th batch	35th batch	36th batch
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	5	5	5	1	1	1	2	2	2
5	1	2	4	2	1	2	4	5	1	5	4
1	2	5	2	1	4	4	5	2	5	4	1
2	5	1	1	4	2	5	2	4	4	1	5

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37th batch	38th batch	39th batch	40th batch	41st batch	42nd batch	43rd batch	44th batch	45th batch	46th batch	47th batch	48th batch
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	1	1	1	2	2	2	3	3	3
1	2	3	5	3	2	3	5	1	2	1	5
2	3	1	3	2	5	5	1	3	1	5	2
3	1	2	2	5	3	1	3	5	5	2	1

  

49th batch	50th batch	51st batch	52nd batch	53rd batch	54th batch	55th batch	56th batch	57th batch	58th batch	59th batch	60th batch
5	5	5	5	5	5	5	5	5	5	5	5
1	1	1	2	2	2	3	3	3	4	4	4
2	3	4	1	4	3	4	1	2	3	2	1
3	4	2	4	3	1	1	2	4	2	1	3
4	2	3	3	1	4	2	4	1	1	3	2

**Schedule 2** Ballot papers—printing of names and collation

*For 7-member electorates*

1st batch	2nd batch	3rd batch	4th batch	5th batch	6th batch	7th batch	8th batch	9th batch	10th batch
1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	4	4	5	5	6	6	7	7
4	6	5	7	6	3	7	4	3	5
5	7	6	3	7	4	3	5	4	6
6	4	7	5	3	6	4	7	5	3
7	5	3	6	4	7	5	3	6	4
11th batch	12th batch	13th batch	14th batch	15th batch	16th batch	17th batch	18th batch	19th batch	20th batch
1	1	1	1	1	1	1	1	1	1
3	3	3	3	3	3	3	3	3	3
4	4	5	5	6	6	7	7	2	2
2	7	4	7	4	2	5	4	5	7
6	5	2	6	2	5	4	6	6	6
7	2	7	4	5	7	6	2	4	5
5	6	6	2	7	4	2	5	7	4
21st batch	22nd batch	23rd batch	24th batch	25th batch	26th batch	27th batch	28th batch	29th batch	30th batch
1	1	1	1	1	1	1	1	1	1
4	4	4	4	4	4	4	4	4	4
5	5	6	6	7	7	3	3	2	2
2	3	5	3	5	2	6	5	6	3
7	6	2	7	2	6	5	7	7	7
3	2	3	5	6	3	7	2	5	6
6	7	7	2	3	5	2	6	3	5



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31st batch	32nd batch	33rd batch	34th batch	35th batch	36th batch	37th batch	38th batch	39th batch	40th batch
1	1	1	1	1	1	1	1	1	1
5	5	5	5	5	5	5	5	5	5
6	6	7	7	3	3	4	4	2	2
2	4	6	4	6	2	7	6	7	4
3	7	2	3	2	7	6	3	3	3
4	2	4	6	7	4	3	2	6	7
7	3	3	2	4	6	2	7	4	6
41st batch	42nd batch	43rd batch	44th batch	45th batch	46th batch	47th batch	48th batch	49th batch	50th batch
1	1	1	1	1	1	1	1	1	1
6	6	6	6	6	6	6	6	6	6
7	7	3	3	4	4	5	5	2	2
2	5	7	5	7	2	3	7	3	5
4	3	2	4	2	3	7	4	4	4
5	2	5	7	3	5	4	2	7	3
3	4	4	2	5	7	2	3	5	7
51st batch	52nd batch	53rd batch	54th batch	55th batch	56th batch	57th batch	58th batch	59th batch	60th batch
1	1	1	1	1	1	1	1	1	1
7	7	7	7	7	7	7	7	7	7
3	3	4	4	5	5	6	6	2	2
2	6	3	6	3	2	4	3	4	6
5	4	2	5	2	4	3	5	5	5
6	2	6	3	4	6	5	2	3	4
4	5	5	2	6	3	2	4	6	3
61st batch	62nd batch	63rd batch	64th batch	65th batch	66th batch	67th batch	68th batch	69th batch	70th batch
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	5	5	6	6	7	7	1	1
5	7	6	1	7	4	1	5	4	6
6	1	7	4	1	5	4	6	5	7
7	5	1	6	4	7	5	1	6	4
1	6	4	7	5	1	6	4	7	5

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**Schedule 2** Ballot papers—printing of names and collation

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71st batch	72nd batch	73rd batch	74th batch	75th batch	76th batch	77th batch	78th batch	79th batch	80th batch
2	2	2	2	2	2	2	2	2	2
4	4	4	4	4	4	4	4	4	4
5	5	6	6	7	7	1	1	3	3
3	1	5	1	5	3	6	5	6	1
7	6	3	7	3	6	5	7	7	7
1	3	1	5	6	1	7	3	5	6
6	7	7	3	1	5	3	6	1	5

81st batch	82nd batch	83rd batch	84th batch	85th batch	86th batch	87th batch	88th batch	89th batch	90th batch
2	2	2	2	2	2	2	2	2	2
5	5	5	5	5	5	5	5	5	5
6	6	7	7	1	1	4	4	3	3
3	4	6	4	6	3	7	6	7	4
1	7	3	1	3	7	6	1	1	1
4	3	4	6	7	4	1	3	6	7
7	1	1	3	4	6	3	7	4	6

91st batch	92nd batch	93rd batch	94th batch	95th batch	96th batch	97th batch	98th batch	99th batch	100th batch
2	2	2	2	2	2	2	2	2	2
6	6	6	6	6	6	6	6	6	6
7	7	1	1	4	4	5	5	3	3
3	5	7	5	7	3	1	7	1	5
4	1	3	4	3	1	7	4	4	4
5	3	5	7	1	5	4	3	7	1
1	4	4	3	5	7	3	1	5	7

101st batch	102nd batch	103rd batch	104th batch	105th batch	106th batch	107th batch	108th batch	109th batch	110th batch
2	2	2	2	2	2	2	2	2	2
7	7	7	7	7	7	7	7	7	7
1	1	4	4	5	5	6	6	3	3
3	6	1	6	1	3	4	1	4	6
5	4	3	5	3	4	1	5	5	5
6	3	6	1	4	6	5	3	1	4
4	5	5	3	6	1	3	4	6	1

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111th batch	112th batch	113th batch	114th batch	115th batch	116th batch	117th batch	118th batch	119th batch	120th batch
2	2	2	2	2	2	2	2	2	2
1	1	1	1	1	1	1	1	1	1
4	4	5	5	6	6	7	7	3	3
3	7	4	7	4	3	5	4	5	7
6	5	3	6	3	5	4	6	6	6
7	3	7	4	5	7	6	3	4	5
5	6	6	3	7	4	3	5	7	4

121st batch	122nd batch	123rd batch	124th batch	125th batch	126th batch	127th batch	128th batch	129th batch	130th batch
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	6	6	7	7	1	1	2	2
6	1	7	2	1	5	2	6	5	7
7	2	1	5	2	6	5	7	6	1
1	6	2	7	5	1	6	2	7	5
2	7	5	1	6	2	7	5	1	6

131st batch	132nd batch	133rd batch	134th batch	135th batch	136th batch	137th batch	138th batch	139th batch	140th batch
3	3	3	3	3	3	3	3	3	3
5	5	5	5	5	5	5	5	5	5
6	6	7	7	1	1	2	2	4	4
4	2	6	2	6	4	7	6	7	2
1	7	4	1	4	7	6	1	1	1
2	4	2	6	7	2	1	4	6	7
7	1	1	4	2	6	4	7	2	6

141st batch	142nd batch	143rd batch	144th batch	145th batch	146th batch	147th batch	148th batch	149th batch	150th batch
3	3	3	3	3	3	3	3	3	3
6	6	6	6	6	6	6	6	6	6
7	7	1	1	2	2	5	5	4	4
4	5	7	5	7	4	1	7	1	5
2	1	4	2	4	1	7	2	2	2
5	4	5	7	1	5	2	4	7	1
1	2	2	4	5	7	4	1	5	7

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**Schedule 2****Ballot papers—printing of names and collation**

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151st batch	152nd batch	153rd batch	154th batch	155th batch	156th batch	157th batch	158th batch	159th batch	160th batch
3	3	3	3	3	3	3	3	3	3
7	7	7	7	7	7	7	7	7	7
1	1	2	2	5	5	6	6	4	4
4	6	1	6	1	4	2	1	2	6
5	2	4	5	4	2	1	5	5	5
6	4	6	1	2	6	5	4	1	2
2	5	5	4	6	1	4	2	6	1

161st batch	162nd batch	163rd batch	164th batch	165th batch	166th batch	167th batch	168th batch	169th batch	170th batch
3	3	3	3	3	3	3	3	3	3
1	1	1	1	1	1	1	1	1	1
2	2	5	5	6	6	7	7	4	4
4	7	2	7	2	4	5	2	5	7
6	5	4	6	4	5	2	6	6	6
7	4	7	2	5	7	6	4	2	5
5	6	6	4	7	2	4	5	7	2

171st batch	172nd batch	173rd batch	174th batch	175th batch	176th batch	177th batch	178th batch	179th batch	180th batch
3	3	3	3	3	3	3	3	3	3
2	2	2	2	2	2	2	2	2	2
5	5	6	6	7	7	1	1	4	4
4	1	5	1	5	4	6	5	6	1
7	6	4	7	4	6	5	7	7	7
1	4	1	5	6	1	7	4	5	6
6	7	7	4	1	5	4	6	1	5

181st batch	182nd batch	183rd batch	184th batch	185th batch	186th batch	187th batch	188th batch	189th batch	190th batch
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	7	7	1	1	2	2	3	3
7	2	1	3	2	6	3	7	6	1
1	3	2	6	3	7	6	1	7	2
2	7	3	1	6	2	7	3	1	6
3	1	6	2	7	3	1	6	2	7

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191st batch	192nd batch	193rd batch	194th batch	195th batch	196th batch	197th batch	198th batch	199th batch	200th batch
4	4	4	4	4	4	4	4	4	4
6	6	6	6	6	6	6	6	6	6
7	7	1	1	2	2	3	3	5	5
5	3	7	3	7	5	1	7	1	3
2	1	5	2	5	1	7	2	2	2
3	5	3	7	1	3	2	5	7	1
1	2	2	5	3	7	5	1	3	7

201st batch	202nd batch	203rd batch	204th batch	205th batch	206th batch	207th batch	208th batch	209th batch	210th batch
4	4	4	4	4	4	4	4	4	4
7	7	7	7	7	7	7	7	7	7
1	1	2	2	3	3	6	6	5	5
5	6	1	6	1	5	2	1	2	6
3	2	5	3	5	2	1	3	3	3
6	5	6	1	2	6	3	5	1	2
2	3	3	5	6	1	5	2	6	1

211th batch	212th batch	213th batch	214th batch	215th batch	216th batch	217th batch	218th batch	219th batch	220th batch
4	4	4	4	4	4	4	4	4	4
1	1	1	1	1	1	1	1	1	1
2	2	3	3	6	6	7	7	5	5
5	7	2	7	2	5	3	2	3	7
6	3	5	6	5	3	2	6	6	6
7	5	7	2	3	7	6	5	2	3
3	6	6	5	7	2	5	3	7	2

221st batch	222nd batch	223rd batch	224th batch	225th batch	226th batch	227th batch	228th batch	229th batch	230th batch
4	4	4	4	4	4	4	4	4	4
2	2	2	2	2	2	2	2	2	2
3	3	6	6	7	7	1	1	5	5
5	1	3	1	3	5	6	3	6	1
7	6	5	7	5	6	3	7	7	7
1	5	1	3	6	1	7	5	3	6
6	7	7	5	1	3	5	6	1	3

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**Schedule 2** Ballot papers—printing of names and collation

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231st batch	232nd batch	233rd batch	234th batch	235th batch	236th batch	237th batch	238th batch	239th batch	240th batch
4	4	4	4	4	4	4	4	4	4
3	3	3	3	3	3	3	3	3	3
6	6	7	7	1	1	2	2	5	5
5	2	6	2	6	5	7	6	7	2
1	7	5	1	5	7	6	1	1	1
2	5	2	6	7	2	1	5	6	7
7	1	1	5	2	6	5	7	2	6

241st batch	242nd batch	243rd batch	244th batch	245th batch	246th batch	247th batch	248th batch	249th batch	250th batch
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	1	1	2	2	3	3	4	4
1	3	2	4	3	7	4	1	7	2
2	4	3	7	4	1	7	2	1	3
3	1	4	2	7	3	1	4	2	7
4	2	7	3	1	4	2	7	3	1

251st batch	252nd batch	253rd batch	254th batch	255th batch	256th batch	257th batch	258th batch	259th batch	260th batch
5	5	5	5	5	5	5	5	5	5
7	7	7	7	7	7	7	7	7	7
1	1	2	2	3	3	4	4	6	6
6	4	1	4	1	6	2	1	2	4
3	2	6	3	6	2	1	3	3	3
4	6	4	1	2	4	3	6	1	2
2	3	3	6	4	1	6	2	4	1

261st batch	262nd batch	263rd batch	264th batch	265th batch	266th batch	267th batch	268th batch	269th batch	270th batch
5	5	5	5	5	5	5	5	5	5
1	1	1	1	1	1	1	1	1	1
2	2	3	3	4	4	7	7	6	6
6	7	2	7	2	6	3	2	3	7
4	3	6	4	6	3	2	4	4	4
7	6	7	2	3	7	4	6	2	3
3	4	4	6	7	2	6	3	7	2

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271st batch	272nd batch	273rd batch	274th batch	275th batch	276th batch	277th batch	278th batch	279th batch	280th batch
5	5	5	5	5	5	5	5	5	5
2	2	2	2	2	2	2	2	2	2
3	3	4	4	7	7	1	1	6	6
6	1	3	1	3	6	4	3	4	1
7	4	6	7	6	4	3	7	7	7
1	6	1	3	4	1	7	6	3	4
4	7	7	6	1	3	6	4	1	3

281st batch	282nd batch	283rd batch	284th batch	285th batch	286th batch	287th batch	288th batch	289th batch	290th batch
5	5	5	5	5	5	5	5	5	5
3	3	3	3	3	3	3	3	3	3
4	4	7	7	1	1	2	2	6	6
6	2	4	2	4	6	7	4	7	2
1	7	6	1	6	7	4	1	1	1
2	6	2	4	7	2	1	6	4	7
7	1	1	6	2	4	6	7	2	4

291st batch	292nd batch	293rd batch	294th batch	295th batch	296th batch	297th batch	298th batch	299th batch	300th batch
5	5	5	5	5	5	5	5	5	5
4	4	4	4	4	4	4	4	4	4
7	7	1	1	2	2	3	3	6	6
6	3	7	3	7	6	1	7	1	3
2	1	6	2	6	1	7	2	2	2
3	6	3	7	1	3	2	6	7	1
1	2	2	6	3	7	6	1	3	7

301st batch	302nd batch	303rd batch	304th batch	305th batch	306th batch	307th batch	308th batch	309th batch	310th batch
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
1	1	2	2	3	3	4	4	5	5
2	4	3	5	4	1	5	2	1	3
3	5	4	1	5	2	1	3	2	4
4	2	5	3	1	4	2	5	3	1
5	3	1	4	2	5	3	1	4	2

**Schedule 2****Ballot papers—printing of names and collation**

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311th batch	312th batch	313th batch	314th batch	315th batch	316th batch	317th batch	318th batch	319th batch	320th batch
6	6	6	6	6	6	6	6	6	6
1	1	1	1	1	1	1	1	1	1
2	2	3	3	4	4	5	5	7	7
7	5	2	5	2	7	3	2	3	5
4	3	7	4	7	3	2	4	4	4
5	7	5	2	3	5	4	7	2	3
3	4	4	7	5	2	7	3	5	2

321st batch	322nd batch	323rd batch	324th batch	325th batch	326th batch	327th batch	328th batch	329th batch	330th batch
6	6	6	6	6	6	6	6	6	6
2	2	2	2	2	2	2	2	2	2
3	3	4	4	5	5	1	1	7	7
7	1	3	1	3	7	4	3	4	1
5	4	7	5	7	4	3	5	5	5
1	7	1	3	4	1	5	7	3	4
4	5	5	7	1	3	7	4	1	3

331st batch	332nd batch	333rd batch	334th batch	335th batch	336th batch	337th batch	338th batch	339th batch	340th batch
6	6	6	6	6	6	6	6	6	6
3	3	3	3	3	3	3	3	3	3
4	4	5	5	1	1	2	2	7	7
7	2	4	2	4	7	5	4	5	2
1	5	7	1	7	5	4	1	1	1
2	7	2	4	5	2	1	7	4	5
5	1	1	7	2	4	7	5	2	4

341st batch	342nd batch	343rd batch	344th batch	345th batch	346th batch	347th batch	348th batch	349th batch	350th batch
6	6	6	6	6	6	6	6	6	6
4	4	4	4	4	4	4	4	4	4
5	5	1	1	2	2	3	3	7	7
7	3	5	3	5	7	1	5	1	3
2	1	7	2	7	1	5	2	2	2
3	7	3	5	1	3	2	7	5	1
1	2	2	7	3	5	7	1	3	5



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351st batch	352nd batch	353rd batch	354th batch	355th batch	356th batch	357th batch	358th batch	359th batch	360th batch
6	6	6	6	6	6	6	6	6	6
5	5	5	5	5	5	5	5	5	5
1	1	2	2	3	3	4	4	7	7
7	4	1	4	1	7	2	1	2	4
3	2	7	3	7	2	1	3	3	3
4	7	4	1	2	4	3	7	1	2
2	3	3	7	4	1	7	2	4	1

361st batch	362nd batch	363rd batch	364th batch	365th batch	366th batch	367th batch	368th batch	369th batch	370th batch
7	7	7	7	7	7	7	7	7	7
1	1	1	1	1	1	1	1	1	1
2	2	3	3	4	4	5	5	6	6
3	5	4	6	5	2	6	3	2	4
4	6	5	2	6	3	2	4	3	5
5	3	6	4	2	5	3	6	4	2
6	4	2	5	3	6	4	2	5	3

371st batch	372nd batch	373rd batch	374th batch	375th batch	376th batch	377th batch	378th batch	379th batch	380th batch
7	7	7	7	7	7	7	7	7	7
2	2	2	2	2	2	2	2	2	2
3	3	4	4	5	5	6	6	1	1
1	6	3	6	3	1	4	3	4	6
5	4	1	5	1	4	3	5	5	5
6	1	6	3	4	6	5	1	3	4
4	5	5	1	6	3	1	4	6	3

381st batch	382nd batch	383rd batch	384th batch	385th batch	386th batch	387th batch	388th batch	389th batch	390th batch
7	7	7	7	7	7	7	7	7	7
3	3	3	3	3	3	3	3	3	3
4	4	5	5	6	6	2	2	1	1
1	2	4	2	4	1	5	4	5	2
6	5	1	6	1	5	4	6	6	6
2	1	2	4	5	2	6	1	4	5
5	6	6	1	2	4	1	5	2	4

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**Schedule 2** Ballot papers—printing of names and collation

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391st batch	392nd batch	393rd batch	394th batch	395th batch	396th batch	397th batch	398th batch	399th batch	400th batch
7	7	7	7	7	7	7	7	7	7
4	4	4	4	4	4	4	4	4	4
5	5	6	6	2	2	3	3	1	1
1	3	5	3	5	1	6	5	6	3
2	6	1	2	1	6	5	2	2	2
3	1	3	5	6	3	2	1	5	6
6	2	2	1	3	5	1	6	3	5

401st batch	402nd batch	403rd batch	404th batch	405th batch	406th batch	407th batch	408th batch	409th batch	410th batch
7	7	7	7	7	7	7	7	7	7
5	5	5	5	5	5	5	5	5	5
6	6	2	2	3	3	4	4	1	1
1	4	6	4	6	1	2	6	2	4
3	2	1	3	1	2	6	3	3	3
4	1	4	6	2	4	3	1	6	2
2	3	3	1	4	6	1	2	4	6

411th batch	412th batch	413th batch	414th batch	415th batch	416th batch	417th batch	418th batch	419th batch	420th batch
7	7	7	7	7	7	7	7	7	7
6	6	6	6	6	6	6	6	6	6
2	2	3	3	4	4	5	5	1	1
1	5	2	5	2	1	3	2	3	5
4	3	1	4	1	3	2	4	4	4
5	1	5	2	3	5	4	1	2	3
3	4	4	1	5	2	1	3	5	2

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## Schedule 3 Preliminary scrutiny of declaration voting papers

(see s 179)

1 In this schedule:

*envelope* means an envelope on which appears a declaration, in the form approved under section 340A (Approved forms) for the declaration, made by an elector for the purpose of casting a declaration vote.

2 The OIC of a scrutiny centre shall arrange for a preliminary scrutiny at the centre to be conducted in accordance with this schedule.

4 An officer shall produce—

- (a) each set of declaration voting papers at the centre; and
- (b) each written application for a postal vote to which any of those papers relate;

that has not been dealt with at an earlier preliminary scrutiny.

5 An officer shall sort the declaration voting papers to which the preliminary scrutiny relates into the following groups:

- (a) 1 group containing papers to which clause 6 applies;
- (b) 1 group containing the remainder.

6 (1) In this clause:

*relevant provision* means—

- (a) for a vote under section 135—section 135 (4); or
- (b) for a vote under section 136A—section 136A (8); or

- (c) for a vote under section 136B—section 135 (4) as applied by section 136B (18); or
  - (d) for a vote under section 136C—section 135 (4) as applied by section 136C (8).
- (2) This clause applies to a set of declaration voting papers if the officer is satisfied that—
- (a) the signature on the declaration is that of the elector; and
  - (b) the certificate by the witness is in accordance with the relevant provision; and
  - (c) for a postal vote if the papers were posted to the commissioner—the papers were so posted before the close of the poll; and
  - (d) for the vote of an Antarctic elector—the envelope referred to in section 176 (1) (c) is endorsed and signed by an authorised officer in accordance with that paragraph.
- (3) For subclause (2) (b), if an officer referred to in section 135 (4) omits to sign the certificate, the certificate shall nevertheless be taken to be in accordance with the relevant provision, if—
- (a) the issue of the relevant declaration voting papers was recorded under division 10.3 or 10.4; and
  - (b) the OIC is satisfied the papers were properly issued to the elector.
- 7 An officer shall sort the declaration voting papers to which clause 6 applies into the following groups:
- (a) 1 group containing envelopes on which appear declarations by electors enrolled for the electorate indicated in the declaration;
  - (b) 1 group containing the remainder.

- 
- 8 An officer shall sort the remaining declaration voting papers referred to in clause 7 (b) into the following groups:
- (a) 1 group containing papers to which clause 9 applies;
  - (b) 1 group containing the remainder.
- 9 This clause applies to a set of declaration voting papers if the OIC is satisfied that—
- (a) the elector who signed the declaration was, when the roll closed for the election, entitled to be enrolled; and
  - (b) the omission of the elector's name from the roll resulted from an official error.
- 10 (1) An officer shall withdraw the ballot papers from the envelopes in the groups of declaration voting papers to which clause 7 (a) or 9 applies and, without unfolding or inspecting the ballot papers or allowing any other person to do so, admit them to scrutiny under section 183.
- (2) If 2 or more sets of papers to which clause 7 (a) or 9 applies are in the name of a particular elector—
- (a) the OIC shall determine which set shall be dealt with in accordance with subclause (1); and
  - (b) the remaining set shall be set aside.
- (3) The OIC shall ensure that ballot papers referred to in subclause (1) are kept in a separate sealed ballot box until they are dealt with under section 183.
- 11 The OIC shall, in accordance with clauses 4 to 10, conduct a further scrutiny of the groups of remaining declaration voting papers to which clause 5 (b) or 8 (b) apply and, if there are any papers to which either paragraph applies after the further scrutiny, the OIC shall—
- (a) reject them from further scrutiny; and

- (b) seal them, together with any papers to which clause 10 (2) (b) applies, in a parcel endorsed with a description of the contents, the name of the electorate and the date.

## **Schedule 4      Ascertaining result of poll**

(see s 185)

### **Part 4.1              Preliminary**

#### **1      Interpretation for sch 4**

(1) In this schedule:

*ballot paper* means a ballot paper that is formal under part 12.

*continuing candidate* means a candidate, other than a successful candidate, an excluded candidate or a candidate who died before polling day.

*count* means an allotment of votes under clause 3 (1), 6 (3), 9 (2) (c) or 14 (2).

*count votes*, in relation to a candidate, is the number of votes calculated as follows (any fraction being disregarded):

$$BP \times TV$$

where:

*BP* means the number of ballot papers to be dealt with at a count that record the next available preference for the candidate.

*TV* means the transfer value of those ballot papers.

*excluded candidate* means a candidate excluded under clause 8.

*next available preference* means the next highest preference recorded for a continuing candidate on a ballot paper.

**quota** means the quota of an electorate for an election and is calculated as follows (any fraction being disregarded):

$$\frac{BP}{N+1} + 1$$

where:

**BP** means the number of ballot papers for the election.

**N** means the number of positions to be filled at the election.

**successful candidate** means a candidate who is successful under clause 3, 4, 6, 9 or 14.

**surplus**, in relation to a successful candidate, means the candidate's total votes less the quota, if the resulting number of votes is 1 or greater.

**total votes**, in relation to a candidate, means the sum of all votes allotted to the candidate.

**transfer value**, in relation to a ballot paper, is—

- (a) in relation to the allotment of votes from the surplus of a successful candidate—for ballot papers that specify a next available preference, subject to subclause (2), the value calculated as follows:

$$\frac{S}{CP}$$

where:

**S** means the surplus.

**CP** means the number of ballot papers counted for the candidate at the count at which he or she became successful and that specify a next available preference; or

- (b) in relation to the allotment of votes under clause 9 (2) (c)—



- (i) for ballot papers in relation to which votes were allotted to the excluded candidate under clause 3—1; or
  - (ii) for ballot papers in relation to which count votes were allotted to the excluded candidate under clause 6 (3) or 9 (2) (c)—the transfer value of the ballot papers when counted for the purpose of that allotment.
- (2) If, but for this subclause, the transfer value of a ballot paper calculated in accordance with subsection (1), definition of *transfer value*, paragraph (a) would be greater than the transfer value of the ballot paper when counted for the successful candidate, the transfer value of that ballot paper is the lastmentioned transfer value.

## **2 Disregarding preferences**

- (1) This clause applies if effect is to be given to preferences indicated in candidate squares on a ballot paper under section 180.
- (2) If the same number is marked in 2 or more candidate squares on a ballot paper, those numbers and any greater number shall be disregarded in determining the elector's preferences.
- (3) If a number is missing from the series of consecutive whole numbers marked in the candidate squares on a ballot paper, the missing number and any greater number shall be disregarded in determining the elector's preferences.

## Part 4.2                      General

### 3      **First preferences**

- (1) For each ballot paper recording a first preference for a continuing candidate, 1 vote shall be allotted to the candidate.
- (2) For subclause (1), a ballot paper on which a first preference for a candidate who died before polling day is recorded shall be taken to record a first preference for the candidate for whom the next available preference is recorded.
- (3) After the allotment of votes under subclause (1), each continuing candidate's total votes shall be calculated and, if the votes equal or exceed the quota, the candidate is successful.

### 4      **Scrutiny to cease**

- (1) If, after a calculation under clause 3 (3), 6 (4) or 9 (2) (d), the number of successful candidates is equal to the number of positions to be filled, the scrutiny shall cease.
- (2) If, after a calculation under clause 3 (3) or 6 (4) or after all the ballot papers counted for an excluded candidate have been dealt with under clause 9—
  - (a) the number of continuing candidates is equal to the number of positions remaining to be filled; and
  - (b) no successful candidate has a surplus not already dealt with under clause 6;

each of those continuing candidates is successful and the scrutiny shall cease.

### 5      **Scrutiny to continue**

If the scrutiny has not ceased in accordance with clause 4 and—

- (a) 1 or more successful candidates have a surplus not already dealt with under clause 6—subject to clause 4, each surplus shall be dealt with in accordance with clause 6; or
- (b) there are no successful candidates with such a surplus—1 continuing candidate shall be excluded in accordance with clause 8 and the ballot papers counted for him or her shall be dealt with in accordance with clause 9.

## **6 Surplus votes**

- (1) Subject to clause 7, this clause applies in relation to the surplus of a successful candidate.
- (2) Each ballot paper counted for the purpose of allotting votes to the successful candidate at the count at which the candidate became successful shall be dealt with as follows:
  - (a) if it does not specify a next available preference—it shall be set aside as finally dealt with for this part;
  - (b) if it specifies a next available preference—it shall be grouped according to the candidate for whom that preference is recorded.
- (3) The count votes for each continuing candidate shall be determined and allotted to him or her.
- (4) After the allotment under subclause (3), the continuing candidates' total votes shall be calculated and, if the total votes of a candidate equal or exceed the quota, the candidate is successful.

## **7 More than 1 surplus**

- (1) In this clause—
  - (a) a reference to a successful candidate is a reference to a successful candidate with a surplus not already dealt with under clause 6; and

- (b) a reference to the earliest count is a reference to the earliest count at which a successful candidate obtained a quota.
- (2) If there are 2 or more successful candidates, the surplus of the relevant candidate shall be dealt with in accordance with clause 6.
- (3) For subclause (2)—
  - (a) if only 1 successful candidate obtained a quota at the earliest count—that candidate is the relevant candidate;
  - (b) if 2 or more successful candidates obtained a quota at the earliest count—the candidate who, of those candidates, has the largest surplus is the relevant candidate; or
  - (c) if 2 or more successful candidates (*contemporary candidates*) who obtained a quota at the earliest count have the same surplus, being a surplus larger than that of any other candidate who obtained a quota at that count and—
    - (i) 1 of the contemporary candidates had more total votes than any other contemporary candidate at the last count at which all the contemporary candidates had unequal total votes—that candidate; or
    - (ii) there is no count at which all the contemporary candidates had unequal total votes—the contemporary candidate who is determined by the commissioner by lot to be the relevant candidate;is the relevant candidate.
- (4) If—
  - (a) a person becomes the relevant candidate under subclause (3) (c) (ii); and
  - (b) the ballot papers are recounted in accordance with section 187; and

- (c) the same candidates would, apart from this subclause, become the contemporary candidates once again under that subparagraph;

the person shall be taken to be the relevant candidate for subclause (2) in the recounting of those ballot papers.

## **8 Exclusion of candidates**

- (1) If clause 5 or 15 requires a candidate to be excluded, the candidate with the least total votes shall be excluded.
- (2) If 2 or more candidates each have the same total votes, being fewer total votes than any other candidate and—

- (a) 1 of those candidates had fewer total votes than any other of those candidates at the last count at which all those candidates had unequal votes—that candidate; or

- (b) there is no count at which all those candidates had unequal total votes—the candidate who, of those candidates, is determined by the commissioner by lot to be the candidate to be excluded;

shall be excluded.

- (3) If—

- (a) a person is excluded under subclause (2) (b); and

- (b) the ballot papers are recounted in accordance with section 187; and

- (c) that paragraph would, apart from this subclause, be applicable once again to the same candidates;

the person shall be taken to be excluded in the recounting of those ballot papers.

## **9      Votes of excluded candidates**

- (1) If a candidate is excluded in accordance with clause 8, the ballot papers counted for the candidate shall be sorted into groups according to their transfer values when counted for him or her.
- (2) Subject to subclause (3), each group under subclause (1) shall be dealt with as follows:
  - (a) if a ballot paper in the group does not specify a next available preference—it shall be set aside as finally dealt with for this part;
  - (b) if a ballot paper in the group specifies a next available preference—it shall be grouped according to the candidate for whom that preference is recorded;
  - (c) each continuing candidate's count votes shall be determined and allotted to him or her;
  - (d) continuing candidates' total votes shall be calculated and, if the votes of any of those candidates equal or exceed the quota, the candidate is successful.
- (3) The groups referred to in subclause (1) shall be dealt with under subclause (2) starting with the group with the highest transfer value and, subject to subclause 4 (1) or 15 (2), continuing in descending order until all the groups have been dealt with.

## **10     Setting aside ballot papers**

If, after a calculation under clause 3 (3), 6 (4) or 9 (2) (d), the total votes of a candidate who became successful on that calculation equal the quota, the ballot papers counted for that candidate shall be set aside for this part.

## **Part 4.3**                      **Casual vacancies**

### **11**    **Application**

- (1) This part applies in relation to the vacancy in the seat of a former MLA that is to be filled by recount under section 194.
- (2) For this part—
  - (a) *continuing candidate* means a candidate within the meaning of part 13, but does not include a candidate who died before the recount for the purposes of this part began; and
  - (b) the quota is calculated under clause 12; and
  - (c) the transfer value is determined under clause 13.

### **12**    **Quota**

- (1) For this part, the quota, in relation to a count, is calculated as follows:

$$\frac{TVA}{2} + 1$$

- (2) In this clause:

*TVA* means the sum of the total votes allotted to the continuing candidates at the count, any fraction being disregarded.

### **13**    **Transfer value**

- (1) For this part, the transfer value of ballot papers counted for the former MLA—
  - (a) for a ballot paper dealt with at the count at which the former MLA became successful—is the value ascertained in accordance with subclause (2) or (3), as the case requires;

- (b) for a ballot paper dealt with at the count under clause 3—is 1;  
and
  - (c) for a ballot paper dealt with at any other count—is the transfer value of the ballot paper when counted for the purpose of allotting count votes to the former MLA.
- (2) If, at the count at which the former MLA became successful,  $NCP \times TV$  was greater than or equal to  $Q - N$ —
- (a) for a ballot paper that did not specify a next available preference—the value is calculated as follows:

$$\frac{Q - N}{NCP}; \text{ and}$$

- (b) for a ballot paper that specified a next available preference—the value is zero.
- (3) If, at the count at which the former MLA became successful,  $NCP \times TV$  was less than  $Q - N$ —
- (a) for a ballot paper that did not specify a next available preference—the value is the transfer value of the ballot paper when counted for the purpose of allotting count votes to the former MLA; and
  - (b) for a ballot paper that specified a next available preference—the value is calculated as follows:

$$\frac{Q - N - (NCP \times TV)}{CP}$$

- (4) In subclauses (2) and (3):

**NCP** means the number of ballot papers counted for the former MLA at the count at which he or she became successful that did not specify a next available preference.

**TV** means the transfer value of a ballot paper when counted at that count for the purpose of allotting count votes to the former MLA.



*Q* means the quota for the election at which the former MLA was last elected.

*N* means the former MLA's total votes after the last calculation before that count.

*CP* means the number of ballot papers counted for the former MLA at that count that specified a next available preference.

#### **14 Recount—first count**

- (1) If a ballot paper counted for the former MLA—
  - (a) does not specify a next available preference—it shall be set aside as finally dealt with for this part; or
  - (b) specifies a next available preference—it shall be grouped according to the candidate for whom that preference is recorded.
- (2) The count votes for each continuing candidate shall be determined and allotted to him or her, and each continuing candidate's total votes shall be calculated.
- (3) If, after the calculation under subclause (2), the total votes of a continuing candidate equal or exceed the quota, the candidate is successful and the scrutiny shall cease.

#### **15 Recount—continuation**

- (1) If the scrutiny has not ceased in accordance with clause 14 (3) or subclause (2) of this clause—
  - (a) 1 continuing candidate shall be excluded in accordance with clause 8; and
  - (b) the ballot papers counted for that candidate shall be dealt with in accordance with clause 9.
- (2) If, after a calculation under clause 9 (2) (d), a candidate is successful, the scrutiny shall cease.

**16 Successful candidate is dead**

- (1) If the candidate who is successful on a recount is dead, the recount shall be conducted again.
- (2) For subclause (1), a ballot paper on which a preference for that candidate is recorded shall be taken to record a preference for the candidate for whom the next available preference is recorded.

**17 Multiple vacancies**

- (1) If there are 2 or more vacancies in the seats of former MLAs that are required to be filled by recount under section 194, the recounts shall be conducted in the order in which the vacancies occurred.
- (2) If 2 or more of those vacancies occurred at the same time, the commissioner shall determine by lot the order in which the recounts are to be conducted.
- (3) If—
  - (a) a person is a candidate in relation to more than 1 casual vacancy; and
  - (b) the person becomes a candidate in relation to those casual vacancies before the commissioner declares elected the successful candidate in relation to any of those casual vacancies; and
  - (c) the person is successful in relation to 1 of those casual vacancies;

for the purpose of conducting the recount in relation to the casual vacancies other than the one in relation to which the person was successful, the person shall be taken not to be a continuing candidate.

## **Part 4.4**                      **Deceased successful candidates**

### **18**      **Application of pt 4.3**

(1) If a successful candidate dies on or after polling day but before the declaration of the result of the election, the ballot papers counted for the deceased candidate shall be dealt with in accordance with part 4.3 as if they had been counted for a former MLA.

(2) In this part:

*continuing candidate* means a candidate other than a successful candidate, a candidate who died before the recount for this part commenced or a candidate who is excluded for clause 15.

### **19**      **Multiple deaths**

(1) If 2 or more successful candidates die on or after polling day but before the declaration of the result of the election, the ballot papers counted for each deceased candidate shall be dealt in the order in which the candidates died.

(2) If 2 or more of those successful candidates died at the same time, the commissioner shall determine by lot the order in which the ballot papers for the deceased candidates are to be dealt with.

## Dictionary

(see s 3)

*Note 1* The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- adult
- doctor
- exercise
- fail
- function
- Self-government Act
- Speaker.

**AAT** means the administrative appeals tribunal.

**abbreviation**, of the name of a political party or ballot group, includes an alternative name of the party or group.

**address**—

- (a) except in division 17.3 (Campaigning offences)—means, in relation to a person, the address of the person's principal place of residence (including a place of residence from which a person who is an elector is temporarily absent and to which the person intends to return to live in); and
- (b) in division 17.3—see section 291 (Definitions for div 17.3).

**amount**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**Antarctica**, for part 11 (Polling in Antarctica)—see section 167 (Definitions for pt 11).

**Antarctic elector** means an elector who is an Antarctic elector under section 171.

**application**, for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

**approved computer program** means the computer program approved under section 118A.

**Assembly** means the Legislative Assembly.

**assistant returning officer**, for part 11 (Polling in Antarctica)—see section 167 (Definitions for pt 11).

**associated entity**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**augmented commission** in relation to a redistribution, means the augmented electoral commission established by section 47 for the purposes of the redistribution.

**authorised officer** means an officer authorised by the commissioner for the purpose of the provision in which the expression occurs.

**authorised witness**, for part 10 (Voting)—see section 127 (Meaning of *authorised witness*).

**available for public inspection**—see section 4A (Meaning of *available for public inspection*).

**ballot group**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**ballot group candidate** means a candidate at an election nominated by the registered officer of a registered ballot group.

**ballot paper**—

- (a) includes an electronic ballot paper; and
- (b) if regulations are in force under section 114 (7) (Ballot papers)—means a ballot paper in the form prescribed under the regulations.

*Note* A ballot paper is required to be in the form set out in sch 1 (see s 114 (1)).

**bribery**, for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

**broadcast** includes televise.

**broadcaster**, for division 14.5 (Disclosure of electoral expenditure)—see section 223 (Definitions for div 14.5).

**candidate** means—

- (a) except in part 13 (Casual vacancies)—a person declared to be a candidate under section 109 (Declaration of candidates); and
- (b) in part 13—a person declared to be a candidate under section 193 (Publication of candidates' details).

**candidate square**—see section 116 (1) (h) (Printing of ballot papers).

**certified list of electors** means a certified list of electors prepared under section 121.

**closed**, in relation to a roll, means closed in accordance with section 80.

**commissioner** means the Electoral Commissioner appointed under section 22.

**Commonwealth Electoral Act** means the *Commonwealth Electoral Act 1918* (Cwlth).

**Commonwealth roll** means the roll of electors for the ACT required by the Commonwealth Electoral Act, section 81.

**contravention**, for part 16 (Disputed elections, eligibility and vacancies)—see section 250.

**Court of Disputed Elections**—see section 252 (2).

**declaration vote** means a vote cast in accordance with any of the following provisions:

- (a) section 135 (Declaration voting at polling places);

- (b) section 136A (Postal voting before polling day);
- (c) section 136B (15) (Ordinary or declaration voting in ACT before polling day);
- (d) section 136C (Declaration voting outside ACT on or before polling day).

***declaration voting papers***, in relation to an election, means—

- (a) a declaration, in the form approved under section 340A (Approved forms) for this paragraph, to be completed by an elector; and
- (b) a ballot paper suitable for declaration voting at the election; and
- (c) a certificate, in the form approved under section 340A (Approved forms) for this paragraph, to be completed by a witness to the declaration; and
- (d) an envelope, in the form approved under section 340A (Approved forms) for this paragraph, addressed to the commissioner, on which appears a declaration referred to in paragraph (a).

***defined details***, for division 14.4 (Disclosure of donations)—see section 216 (Meaning of *defined details* for div 14.4).

***defined particulars***, for division 14.6 (Annual returns)—see section 228 (Meaning of *defined particulars* for div 14.6).

***disclosure period***, for part 14 (Election funding and financial disclosure)—see section 201 (Disclosure periods).

***disposition of property***, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

***disseminate***, for division 17.3 (Campaigning offences)—see section 291 (Definitions for div 17.3).

***election*** means—

- (a) an election of an MLA or MLAs; and
- (b) in relation to an electorate—such an election for the electorate; and
- (c) for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

***election period***, in relation to an election, means the period—

- (a) beginning on the first day of the pre-election period; and
- (b) ending when the result of the election is declared under section 189.

***elector*** means a person who is enrolled, or is to be taken under this Act to be enrolled, for an electorate.

***electoral advertisement***, for division 14.5 (Disclosure of electoral expenditure)—see section 223 (Definitions for div 14.5).

***electoral commission*** means the Australian Capital Territory Electoral Commission established by section 5.

***electoral expenditure***, for division 14.5 (Disclosure of electoral expenditure)—see section 223 (Definitions for div 14.5).

***electoral matter***—see section 4 (Meaning of *electoral matter*).

***electoral paper*** means a document, form or notice provided for or required under this Act.

***electorate*** means an electorate, the name and boundaries of which are specified in a determination in force under section 35.

***electronic form***, of a roll or an extract from a roll, means a disk, tape or other device from which the information in the extract or roll may be reproduced by mechanical, electronic or other means.

***electronic voting***—see section 120 (2).



**eligible elector**, for division 10.4 (Voting otherwise than at a polling place)—see section 136 (Meaning of *eligible elector* for div 10.4).

**eligible overseas elector** means a person who is an eligible overseas elector under section 74.

**eligible vote**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**entity**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**extract**, from a roll—see section 59.

**extraordinary election**—see section 101.

**file**, for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

**financial controller**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**former MLA**, for part 13 (Casual vacancies)—see section 190 (Definitions for pt 13).

**general election** means a general election of MLAs.

**gift**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**group**, in relation to candidates in an election, means candidates whose names are grouped on the ballot papers in accordance with section 115 (1) or (2), whichever is applicable.

**hospital** includes a convalescent home and an institution similar to a hospital or convalescent home.

**hour of nomination**—see section 108.

**investigation notice**, for division 14.7 (Compliance)—see section 235 (Definitions for div 14.7).

**judge** means—

- (a) a judge of the Supreme Court; or
- (b) a judge of the Supreme Court of a State or another Territory; or
- (c) a judge of the Federal Court or Family Court.

**member**, for division 2.2 (Members of electoral commission)—see section 11 (Meaning of *member* for div 2.2).

**MLA** means a member of the Assembly.

**newspaper** means a newspaper circulating in the ACT.

**non-party group**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**officer** means—

- (a) a person appointed under section 33 (Officers) to be an officer; or
- (b) a person exercising a power under this Act under an arrangement under section 70 (Joint roll arrangements with the Commonwealth) or section 336 (Administrative arrangements with Commonwealth and States); or
- (c) in relation to a particular matter—a person mentioned in paragraph (a) or (b) exercising a power in relation to the matter.

**official error**, in relation to a person voting or seeking to vote at an election, means the removal of the person's name under this Act from the roll for an electorate in which the person is otherwise entitled to vote unless the name was so removed before the roll closed for the purpose of the previous election.

**OIC** means—

- (a) in relation to a scrutiny centre—the officer in charge of the centre; and

- (b) in relation to a polling place—the officer in charge of the place.

**ordinary election** means a general election required by section 100.

**ordinary vote** means a vote other than a declaration vote.

**participant**, for division 14.5 (Disclosure of electoral expenditure)—see section 223 (Definitions for div 14.5).

**party**, for part 14 (Electoral funding and financial disclosure)—see section 198 (Definitions for pt 14).

**party candidate** means—

- (a) a candidate at an election nominated by the registered officer of a registered party; and
- (b) in relation to a registered party—a candidate nominated by the registered officer of the party.

**person**, for part 15 (Review of decisions)—see section 244 (Definitions for pt 15).

**place of nomination**—see section 108.

**political party** means an organisation, incorporated or unincorporated, an object or activity of which is the promotion of the election to the Assembly of a candidate or candidates endorsed by it.

**polling day**—

- (a) means the day when, apart from section 111 (Need for an election), a poll for an election would be required; and
- (b) except in part 8 (Timing of elections) and part 9 (Arrangements for elections), includes—
- (i) if the time for holding an election is extended under section 159 for more than 1 day—each of those days; and

- (ii) if polling is suspended under section 160—a day when polling is resumed.

***polling place*** means a place appointed as a polling place under section 119 (Polling places and scrutiny centres), and, for division 17.3 (Campaigning offences), includes—

- (a) a place where a vote may be made before an officer under section 136B (Ordinary or declaration voting in ACT before polling day) or section 136C (Declaration voting outside ACT on or before polling day); and
- (b) a place where mobile polling is taking place under division 10.5 (Mobile polling).

***postal vote*** means a declaration vote in respect of which the declaration voting papers are given to the elector concerned by virtue of—

- (a) an application under section 136A (2); or
- (b) section 141.

***pre-election period*** means the period of 37 days ending on the end of polling day for an election.

***proceeding***, for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

***property***, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

***publish***, for division 17.3 (Campaigning offences)—see section 291 (Definitions for div 17.3).

***redistribution*** includes distribution.

***register***, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

***registered***, for an abbreviation of the name of a registered party or registered ballot group, means an abbreviation included in the

particulars for the party or group in the register of political parties or register of ballot groups.

**registered ballot group** means a ballot group registered under part 7 (Registration of political parties and ballot groups).

**registered industrial organisation**, for part 14 (Election funding and financial disclosure)—see section 198 (Definitions for pt 14).

**registered officer** means—

- (a) for a registered party—the person whose name is entered in the register of political parties as the registered officer of the party; and
- (b) for a registered ballot group—the person whose name is entered in the register of ballot groups as the registered officer of the group.

**registered party** means a political party registered under part 7 (Registration of political parties and ballot groups).

**register of ballot groups** means the register of ballot groups kept under section 88 (Register).

**register of political parties** means the register of political parties kept under section 88 (Register).

**registrar**, for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

**related** political parties, for part 7 (Registration of political parties and ballot groups)—see section 87 (Meaning of *related* political parties).

**relates**, for division 14.5 (Disclosure of electoral expenditure)—see section 223 (Definitions for div 14.5).

**remand centre**, for division 10.5 (Mobile polling)—see section 149 (Definitions for div 10.5).

**reportage or commentary**, for division 17.3 (Campaigning offences)—see section 291 (Definitions for div 17.3).

**research personnel**, for part 11 (Polling in Antarctica)—see section 167 (Definitions for pt 11).

**return**, for division 14.7 (Compliance)—see section 235 (Definitions for div 14.7).

**returning officer**, for part 11 (Polling in Antarctica)—see section 167 (Definitions for pt 11).

**reviewable decision**, for part 15 (Review of decisions)—see section 244 (Definitions for pt 15).

**review statement**, in relation to a decision by the commissioner, means a statement referred to in section 246 about that decision.

**roll** means a roll of electors kept under this Act.

**scrutineer** means a person appointed under section 122 to be a scrutineer.

**scrutiny centre** means a place appointed as a scrutiny centre under section 119.

**secretary**, in relation to a political party, means the secretary or chief administrative officer (however described) of the party.

**Speaker**—

- (a) for part 13 (Casual vacancies)—see section 190; and
- (b) for part 16 (Disputed elections, eligibility and vacancies)—see section 251.

*Note* **Speaker** is defined in the *Legislation Act 2001*, dict. pt 1.

**special hospital**, for division 10.5 (Mobile polling)—see section 149 (Definitions for div 10.5).

**sponsoring MLA**, in relation to a registered ballot group, means the MLA who applied to register the group.

**staff**, in relation to the electoral commission, means—

- (a) the staff assisting the commissioner referred to in section 31;  
and
- (b) persons employed or engaged under section 32.

**station**, for part 11 (Polling in Antarctica)—see section 167 (Definitions for pt 11).

**suppressed address** means an address particulars of which are required to be suppressed from a roll extract under section 77.

**transmit**, for part 11 (Polling in Antarctica)—see section 167 (Definitions for pt 11).

**undue influence**, for part 16 (Disputed elections, eligibility and vacancies)—see section 250 (Definitions for pt 16).

**visiting officer**, for division 10.5 (Mobile polling)—see section 149 (Definitions for div 10.5).

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired



### 3 Legislation history

**Electoral Act 1992 No 71**

notified 8 December 1992 (Gaz 1992 No S218)  
s 1, s 2 commenced 8 December 1992 (s 2 (1))  
remainder commenced 21 December 1992 (Gaz 1992 No S243 p 19)

as amended by

**Acts Revision (Position of Crown) Act 1993 No 44 sch 2**

notified 27 August 1993 (Gaz 1993 No S165)  
commenced 27 August 1993 (s 2)

**Electoral (Amendment) Act 1994 No 14**

notified 17 May 1994 (Gaz 1994 No S85)  
s 1, s 2, s 22 (in pt), s 23 (in pt) commenced 17 May 1994 (s 2 (1), (2))  
ss 3-21 commenced 6 June 1994 (Gaz 1994 No S105)  
s 22 (new pt 13) commenced 3 March 1995 (s 2 (5))  
s 22 (new pt 16 (ss 244-278)) commenced 25 August 1994 (s 2 (6) and  
Gaz 1994 No S172)  
s 24 commenced 1 September 1994 (Gaz 1994 No S172)  
remainder commenced 25 August 1994 (Gaz 1994 No S172)

**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 32**

notified 30 June 1994 (Gaz 1994 No S121)  
s 1, s 2 commenced 30 June 1994 (s 2 (1))  
sch 1 pt 32 commenced 1 July 1994 (Gaz 1994 No S142 p 2)

**Electoral (Amendment) Act 1994 (No 2) No 78**

notified 17 November 1994 (Gaz 1994 No S252)  
commenced 17 November 1994 (s 2)

**Annual Reports (Government Agencies) (Consequential Provisions) Act 1995 No 25 sch**

notified 5 September 1995 (Gaz 1995 No S212)  
commenced 5 September 1995 (s 2)

**Electoral (Amendment) Act 1995 No 33**

notified 31 October 1995 (Gaz 1995 No S266)  
commenced 31 October 1995 (s 2)

## Endnotes

3 Legislation history

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**Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)  
commenced 18 December 1995 (s 2)

**Remuneration Tribunal (Consequential and Transitional Provisions) Act 1995 No 56 sch**

notified 20 December 1995 (Gaz 1995 No S313)  
sch commenced 21 December 1995 (s 2 and see  
Gaz 1995 No S315 p 2)

**Electoral (Amendment) Act 1996 No 56**

notified 29 November 1996 (Gaz 1996 No S320)  
commenced 29 November 1996 (s 2)

**Land (Planning and Environment) (Amendment) Act 1996 (No 3) No 85**

notified 24 December 1996 (Gaz 1996 No S345)  
s 1, s 2 commenced 24 December 1996 (s 2 (1))  
remainder commenced 24 June 1997 (s 2 (3))

**Electoral (Amendment) Act 1997 No 38**

notified 1 September 1997 (Gaz 1997 No S257)  
ss 1-3 commenced 1 September 1997 (s 2 (1))  
remainder commenced 1 May 1998 (s 2 (2))

**Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by 2002 (No 2) No 49 pt 3.19)**

notified 19 September 1997 (Gaz 1997 No S264)  
s 1, s 2 commenced 19 September 1997 (s 2 (1))  
sch 1 commenced 24 September 1997 (s 2)

**Electoral Amendment Act 1997 (No 2) No 91**

notified 1 December 1997 (Gaz 1997 No S380)  
commenced 1 December 1997 (s 2)

**Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (Gaz 1998 No 49 p 1078)

**Electoral (Amendment) Act 1998 No 61**

notified 11 December 1998 (Gaz 1998 No S209)  
commenced 11 December 1998 (s 2)

**Electoral Amendment Act 2000 No 50**

notified 28 September 2000 (Gaz 2000 No 39)  
commenced 28 September 2000 (s 2)

**Electoral Amendment Act 2000 (No 2) No 76**

notified 21 December 2000 (Gaz 2000 No S69)  
s 1, s 2 commenced 21 December 2000 (IA s 10B)  
remainder commenced 11 April 2001 (Gaz 2001 No 14)

**Surveyors (Consequential Amendments) Act 2001 No 3 sch 1**

notified 8 March 2001 (Gaz 2001 No 10)  
s 1, s 2 commenced 8 March 2001 (IA s 10B)  
sch 1 commenced 26 July 2001 (s 2 and Gaz 2001 No 30)

**Electoral Amendment Act 2001 No 36**

notified 29 June 2001 (Gaz 2001 No S36)  
commenced 29 June 2001 (s 2)

**Electoral (Entrenched Provisions) Amendment Act 2001 No 37**

notified 29 June 2001 (Gaz 2001 No S36)  
commenced 29 June 2001 (s 2)

**Electoral Amendment Act 2001 (No 2) No 38**

notified 29 June 2001 (Gaz 2001 No S36)  
s 1, s 2 commenced 29 June 2001 (IA s 10B)  
remainder commenced 29 June 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44  
sch 1 pt 120**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
amnds 1.1294, 1.1312-1.1321, 1.1338, 1.1339, 1.1342, 1.1343, 1.1350,  
1.1356, 1.1357, 1.1364, 1.1365, 1.1370-1.1372, 1.1378-1.1384,

## Endnotes

### 4 Amendment history

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1.1398-1.1400 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)  
pt 120 remainder commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Legislation Amendment Act 2002 No 11 pt 2.17**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.17 commenced 28 May 2002 (s 2 (1))

#### **Statute Law Amendment Act 2002 No 30 pt 3.21**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
pt 3.21 commenced 17 September 2002 (s 2 (1))

#### **Electoral Amendment Act 2002 No 32**

notified LR 8 October 2002  
s 1, s 2 commenced 8 October 2002 (LA s 75 (1))  
remainder commenced 9 October 2002 (s 2)

#### **Districts Act 2002 No 39 pt 1.3**

notified LR 10 October 2002  
s 1, s 2 commenced 10 October 2002 (LA s 75 (1))  
pt 1.3 commenced 11 October 2002 (s 2)

#### **Statute Law Amendment Act 2002 (No 2) No 49 pt 3.19**

notified LR 20 December 2002  
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))  
pt 3.19 commenced 24 September 1997 (s 2 (4))

*Note* This Act only amends the Remuneration Tribunal  
(Consequential Amendments) Act 1997 No 41.

## 4 Amendment history

### **Preamble**

preamble am 1994 No 14

### **Title**

title sub 1994 No 14

### **Name of Act**

s 1 sub 2001 No 36 amdt 1.1

**Commencement**

s 2 am 1994 No 14  
om 2001 No 44 amdt 1.1285

**Dictionary**

s 3 am 1994 No 14; 1994 No 38 sch 1 pt 32; 1997 No 91; 2000 No 76 s 4; 2001 No 36 amdt 1.2  
defs reloc to dict 2001 No 36 amdt 1.3  
sub 2001 No 36 amdt 1.4

**Meaning of *electoral matter***

s 4 om 1993 No 44 sch 2  
ins 1994 No 14  
sub 2001 No 36 s 5

**Meaning of *available for public inspection***

s 4A ins 2001 No 36 s 5

**Establishment, functions and powers of electoral commission**

div 2.1 hdg sub 2001 No 36 amdt 1.5

**Constitution of commission**

s 6 am 1994 No 14  
sub 2002 No 30 amdt 3.243

**Functions of electoral commission**

s 7 sub 1994 No 14  
am 1997 No 91  
am LA (see 2001 No 36 amdt 1.99); 2002 No 30 amdts 3.244-3.246

**Determination of fees**

s 8 (prev s 7A) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 44 amdt 1.1286

**Powers**

s 9 (prev s 8) renum 1994 No 14  
om 2002 No 30 amdt 3.247

**Annual reports**

s 10 (prev s 9) am 1994 No 14  
renum 1994 No 14  
om 1995 No 25  
ins 1997 No 91

**Special reports by electoral commission**

s 10A ins 1997 No 91  
sub 2002 No 30 amdt 3.248

**Members of electoral commission**

div 2.2 hdg sub 2001 No 36 amdt 1.6

## Endnotes

### 4 Amendment history

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#### **Meaning of *member* for div 2.2**

s 11 hdg sub 2001 No 36 amdt 1.7  
s 11 (prev s 10) renum 1994 No 14  
om 1995 No 25 sch  
ins 1997 No 91  
def ***member*** sub 2002 No 30 amdt 3.249

#### **Appointment**

s 12 (prev s 11) am 1994 No 14  
renum 1994 No 14  
am 1994 No 38 sch 1 pt 32; 2001 No 44 amdt 1.1287; 2002  
No 30 amdts 3.250-3.252

#### **Term of appointment of members**

s 13 (prev s 12) am 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.253

#### **Conditions of appointment of members generally**

s 14 (prev s 13) renum 1994 No 14  
om 1997 No 41  
ins 2002 No 30 amdt 3.253

#### **Leave of absence**

s 15 (prev s 14) renum 1994 No 14

#### **Resignation**

s 16 (prev s 15) renum 1994 No 14  
om 2002 No 30 amdt 3.254

#### **Suspension or ending of appointment of members**

s 17 hdg sub 2002 No 30 amdt 3.255  
s 17 (prev s 16) renum 1994 No 14  
am 2002 No 30 amdt 3.256, amdt 3.257

#### **Acting members**

s 18 (prev s 17) renum 1994 No 14  
om 2002 No 30 amdt 3.258

#### **Meetings**

div 2.3 hdg (prev pt 2 div 3 hdg) renum LA (see 2000 No 76 s 24)

#### **Procedure**

s 19 (prev s 18) renum 1994 No 14

#### **Delegation by electoral commission**

s 20 (prev s 18A) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.259

#### **Disclosure of interests**

s 21 (prev s 19) renum 1994 No 14

**Electoral commissioner and staff of electoral commission**

pt 3 hdg sub 1994 No 14

**Electoral commissioner**

div 3.1 hdg (prev pt 3 div 1 hdg) ins 1994 No 14  
renum LA (see 2000 No 76 s 24)

**Appointment**

s 22 (prev s 20) am 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1288, amdt 1.1289; 2002 No 30 amdt  
3.260

**Functions of commissioner etc**

s 23 (prev s 21) sub 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.261

**Delegation by commissioner**

s 24 (prev s 21A) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 30 amdt 3.262

**Term of appointment of commissioner**

s 25 (prev s 22) am 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.263

**Conditions of appointment of commissioner generally**

s 26 (prev s 23) am 1994 No 14  
renum 1994 No 14  
om 1995 No 56  
ins 2002 No 30 amdt 3.263

**Leave of absence**

s 27 (prev s 24) am 1994 No 14  
renum 1994 No 14

**Resignation**

s 28 (prev s 25) am 1994 No 14  
renum 1994 No 14  
om 2002 No 30 amdt 3.264

**Suspension or ending of appointment of commissioner**

s 29 hdg sub 2002 No 30 amdt 3.265  
s 29 (prev s 26) am 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.266, amdt 3.267

## Endnotes

4 Amendment history

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### **Acting commissioner**

s 30 (prev s 27) am 1994 No 14  
renum 1994 No 14  
om 2002 No 30 amdt 3.268

### **Staff of the electoral commission**

div 3.2 hdg (prev pt 3 div 2 hdg) ins 1994 No 14  
renum LA (see 2000 No 76 s 24)

### **Staff**

s 31 (prev s 27A) ins 1994 No 14  
renum 1994 No 14  
sub 1994 No 38 sch 1 pt 32

### **Temporary staff and consultants**

s 32 (prev s 27B) ins 1994 No 14  
renum 1994 No 14  
am 1994 No 38 sch 1 pt 32

### **Officers**

s 33 (prev s 27C) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.8; 2002 No 30 amdt 3.269

### **Multimember electorates**

s 34 (prev s 28) renum 1994 No 14

### **Redistribution of electorates**

s 35 (prev s 29) renum 1994 No 14  
am 2001 No 44 amdt 1.1290

### **Factors relevant to redistribution**

s 36 (prev s 30) renum 1994 No 14  
am 2002 No 39 amdt 1.3

### **Timing of redistributions**

s 37 (prev s 31) am 1994 No 14  
renum 1994 No 14  
am 1998 No 61; 2002 No 30 amdts 3.270-3.272

### **Timing of redistribution after 2001 ordinary election**

s 37A ins 2002 No 32 s 4  
exp 16 October 2004 (s 37A (3))

### **Suspension of redistribution process—extraordinary elections**

s 38 (prev s 31A) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.273



**Redistribution committees**

s 39 (prev s 32) am 1994 No 14  
renum 1994 No 14  
am 1996 No 85; 2000 No 3 sch 1; 2001 No 44 amdt 1.1291;  
2002 No 30 amdt 3.274

**Meetings of redistribution committee**

s 40 (prev s 33) am 1994 No 14  
renum 1994 No 14

**Suggestions and comments about redistribution**

s 41 (prev s 34) renum 1994 No 14  
am 2001 No 36 amdt 1.9  
sub 2001 No 44 amdt 1.1292

**Outline of proposal**

s 42 (prev s 35) renum 1994 No 14

**Proposed redistribution**

s 43 (prev s 36) renum 1994 No 14  
am 2001 No 44 amdt 1.1293

**Notification and publication of proposal**

s 44 (prev s 37) renum 1994 No 14  
am 2001 No 36 amdt 1.10  
sub 2001 No 44 amdt 1.1294

**Dissolution of redistribution committee**

s 45 (prev s 38) renum 1994 No 14  
sub 2001 No 44 amdt 1.1295

**Objections**

s 46 (prev s 39) renum 1994 No 14  
am 2001 No 36 s 6 and amdt 1.11; 2001 No 44 amdt 1.1296

**Augmented electoral commission**

s 47 (prev s 40) am 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.275

**Meetings of augmented electoral commission**

s 48 orig s 48 om 1994 No 14  
(prev s 41) am 1994 No 14  
renum 1994 No 14

**Investigation of objections**

s 49 (prev s 42) renum 1994 No 14  
am 1997 No 91; 2001 No 44 amdt 1.1297, amdt 1.1298

**Redistribution—proposal by augmented electoral commission**

s 50 (prev s 43) renum 1994 No 14

## Endnotes

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### **Publication of augmented electoral commission's proposal**

s 51 (prev s 44) renum 1994 No 14  
am 2001 No 44 amdt 1.1299, amdt 1.1300

### **Objections to augmented electoral commission's proposal**

s 52 (prev s 45) am 1994 No 14  
renum 1994 No 14  
am 2001 No 36 s 7; 2001 No 44 amdt 1.1301; 2002 No 30 amdt  
3.352

### **Report by augmented electoral commission and public announcement**

s 53 (prev s 46) am 1994 No 14  
renum 1994 No 14

### **Report to Legislative Assembly**

s 54 (prev s 47) am 1994 No 14  
renum 1994 No 14

### **Decisions are final**

s 55 (prev s 49) am 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.276

### **Validity not affected**

s 56 (prev s 50) am 1994 No 14  
renum 1994 No 14

### **Electoral rolls**

pt 5 hdg sub 1994 No 14

### **Electorate and Territory rolls**

s 57 (prev s 51) sub 1994 No 14  
renum 1994 No 14

### **Contents of roll**

s 58 (prev s 52) sub 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.277

### **Meaning of *extract* from roll**

s 59 (prev s 53) sub 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.278

### **Inspection of printed roll extracts**

s 60 (prev s 54) ins 1994 No 14  
renum 1994 No 14

### **Supply of printed roll extract to MLAs etc**

s 61 (prev s 55) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1302, amdt 1.1303

**Supply of roll extracts in electronic form to MLAs etc**

s 62 (prev s 56) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2001 No 44 amdt 1.1304, amdt 1.1305

**Use of roll extracts**

s 63 (prev s 57) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54  
sub 2001 No 36 s 8

**Prohibited use of roll extracts**

s 64 (prev s 58) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54  
om 2001 No 36 s 8

**Provision of roll information to prescribed authorities**

s 65 (prev s 59) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 1998 No 54; 2002 No 30 amdt 3.279

**Maintenance of rolls**

s 66 (prev s 60) ins 1994 No 14  
renum 1994 No 14

**Power to require information**

s 67 (prev s 61) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54; 2001 No 36 amdt 1.12; 2002 No 30 amdt 3.352

**Notice of registered deaths**

s 68 (prev s 62) ins 1994 No 14  
renum 1994 No 14

**Disclosure of roll information**

s 69 (prev s 63) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Joint roll arrangements with Commonwealth**

s 70 (prev s 64) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91

**Enrolment**

pt 6 hdg ins 1994 No 14

## Endnotes

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#### **Persons taken not to be enrolled on Commonwealth roll**

s 71 hdg sub 2001 No 36 amdt 1.13  
s 71 (prev s 65) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdts 1.14-1.16

#### **Address of person serving sentence of imprisonment**

s 71A hdg ins 2001 No 36 amdt 1.15  
s 71A (prev s 71 (2)) renum 2001 No 36 amdt 1.15

#### **Entitlement**

s 72 (prev s 66) ins 1994 No 14  
renum 1994 No 14

#### **Compulsory enrolment etc—residents**

s 73 (prev s 67) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54; 2002 No 30 amdt 3.352

#### **Eligible overseas electors**

s 74 (prev s 68) ins 1994 No 14  
renum 1994 No 14

#### **Age 17 enrolment**

s 75 (prev s 69) ins 1994 No 14  
renum 1994 No 14

#### **Enrolment etc**

s 76 (prev s 70) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 s 9, s 10; 2001 No 44 amdt 1.1306,  
amdt 1.1307  
am LA (see 2001 No 36 amdt 1.99); 2002 No 30 amdt 3.352

#### **Suppression of elector's address**

s 77 (prev s 71) ins 1994 No 14  
renum 1994 No 14  
am LA (see 2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1308,  
amdt 1.1309

#### **Inclusion of particulars on roll following suppression**

s 78 (prev s 72) ins 1994 No 14  
renum 1994 No 14

#### **Suppression of elector's address pending review**

s 79 (prev s 73) ins 1994 No 14  
renum 1994 No 14

**Closed rolls**

s 80 (prev s 74) ins 1994 No 14  
renum 1994 No 14  
am 1994 No 78; 1997 No 91; 2001 No 36 s 11; LA (see 2001  
No 36 amdt 1.99); 2002 No 30 amdt 3.280

**Objections to enrolment**

s 81 (prev s 75) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; LA (see 2001 No 36 amdt 1.99); 2001 No 44  
amdt 1.1310, amdt 1.1311; 2002 No 30 amdt 3.281-3.284,  
amdt 3.352

**Record of claims for enrolment**

s 82 (prev s 76) ins 1994 No 14  
renum 1994 No 14

**Processing enrolment claims**

s 83 (prev s 77) ins 1994 No 14  
renum 1994 No 14

**Transmission of enrolment claims**

s 84 (prev s 78) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Production of claims for enrolment before a court**

s 85 (prev s 79) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.285

**Claims for enrolment not subject to warrants**

s 86 (prev s 80) ins 1994 No 14  
renum 1994 No 14

**Registration of political parties and ballot groups**

pt 7 hdg ins 1994 No 14  
sub 2001 No 36 s 12

**Meaning of *related* political parties**

s 87 (prev s 81) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12

**Registers of political parties and ballot groups**

s 88 (prev s 82) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12

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### **Application for registration of political party**

s 89 (prev s 83) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12  
am 2001 No 44 amdt 1.1312, amdt 1.1313

### **Application for registration of ballot group**

s 89A ins 2001 No 36 s 12  
am 2001 No 44 amdt 1.1314, amdt 1.1315

### **Further information about application for political party registration**

s 90 (prev s 84) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12  
am 2002 No 30 amdt 3.352

### **Notification and publication of applications**

s 91 (prev s 85) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12  
am 2001 No 44 amdt 1.1316

### **Objections to applications and responses**

s 91A ins 2001 No 36 s 12

### **Registration of political parties and ballot groups**

s 92 (prev s 86) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12  
am 2001 No 44 amdt 1.1317

### **Refusal of applications for registration**

s 93 (prev s 87) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91  
sub 2001 No 36 s 12

### **Amendment of applications for registration**

s 94 (prev s 88) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12

### **Changes to particulars in register**

s 95 (prev s 89) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91  
sub 2001 No 36 s 12

### **Objection to continued use of name**

s 95A ins 2001 No 36 s 12

**No action under pt 7 during pre-election period**

s 96 (prev s 90) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12

**Who can be a registered officer**

s 96A ins 1997 No 91  
sub 2001 No 36 s 12

**Deputy registered officer**

s 97 (prev s 91) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91  
sub 2001 No 36 s 12

**Information about political parties**

s 97A ins 2001 No 36 s 12

**Cancellation of registration of political parties and ballot groups**

s 98 (prev s 92) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91  
sub 2001 No 36 s 12  
am 2001 No 44 amdts 1.1318-1.1321

**Use of party or ballot group name after cancellation**

s 99 (prev s 93) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 12

**General requirements about constitutions of registered parties**

s 99A ins 2001 No 36 s 12

**Timing of elections**

pt 8 hdg ins 1994 No 14

**Ordinary elections**

s 100 (prev s 94) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 38; 2002 No 30 amdt 3.286

**Extraordinary elections**

s 101 (prev s 95) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1322

**Polling day**

s 102 (prev s 96) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.287

## Endnotes

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### **Arrangements for elections**

pt 9 hdg ins 1994 No 14

### **Nominations**

div 9.1 hdg (prev pt 9 div 1 hdg) renum LA (see 2000 No 76 s 24)

### **Eligibility—MLAs**

s 103 (prev s 97) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.288

### **Qualifications for nomination**

s 104 (prev s 98) ins 1994 No 14  
renum 1994 No 14

### **Candidates to be nominated**

s 105 (prev s 99) ins 1994 No 14  
renum 1994 No 14  
am 1994 No 78; 2001 No 36 s 13, s 14, amdt 1.17; LA (see  
2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1323; ss renum  
(see 2002 No 11 amdt 2.34); 2002 No 11 amdt 2.35

### **Multiple nominations invalid**

s 106 (prev s 100) ins 1994 No 14  
renum 1994 No 14

### **Withdrawal etc of consent to nomination**

s 107 (prev s 101) ins 1994 No 14  
renum 1994 No 14

### **Place and hour of nomination**

s 108 (prev s 102) ins 1994 No 14  
renum 1994 No 14  
am 1994 No 78; LA (see 2001 No 36 amdt 1.99); 2001 No 38 s  
4; 2001 No 44 amdt 1.1324; 2002 No 11 amdt 2.36

### **Declaration of candidates**

s 109 (prev s 103) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.18

### **Rejection of nominations**

s 110 (prev s 104) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 15  
am 2002 No 30 amdt 3.352

### **Need for a poll**

s 111 (prev s 105) ins 1994 No 14  
renum 1994 No 14



**Death of candidate before polling day**

s 112 (prev s 106) ins 1994 No 14  
renum 1994 No 14

**Deposit—return or forfeiture**

s 113 (prev s 107) ins 1994 No 14  
renum 1994 No 14

**Ballot papers**

div 9.2 hdg (prev pt 9 div 2 hdg) renum LA (see 2000 No 76 s 24)

**Ballot papers**

s 114 (prev s 108) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 5; LA (see 2001 No 36 amdt 1.99); 2001 No  
44 amdt 1.1325, amdt 1.1326; 2002 No 30 amdt 3.289

**Grouping of candidates' names**

s 115 (prev s 109) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.19; 2002 No 30 amdt 3.290

**Printing of ballot papers**

s 116 (prev s 110) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 38 ss 5-8; 2002 No 30 amdt 3.291, amdt 3.292

**Names on ballot papers**

s 117 (prev s 111) ins 1994 No 14  
renum 1994 No 14  
am 1994 No 78  
sub 2001 No 36 s 16

**Draw for positions on ballot papers**

s 118 (prev s 112) ins 1994 No 14  
renum 1994 No 14

**Electronic voting devices and vote counting programs**

div 9.3 hdg (prev div 9.2A) ins 2000 No 76 s 6  
renum LA (see 2000 No 76 s 24)

**Approval of computer program for electronic voting and vote counting**

s 118A ins 2000 No 76 s 6  
am 2001 No 44 amdt 1.1327  
am LA (see 2001 No 36 amdt 1.99)

**Security of electronic voting devices and related material**

s 118B ins 2000 No 76 s 6

**Miscellaneous**

div 9.4 hdg (prev pt 9 div 3 hdg) renum LA (see 2000 No 76 s 24)

## Endnotes

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#### **Polling places and scrutiny centres**

s 119 (prev s 113) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.20; LA (see 2001 No 36 amdt 1.99);  
2001 No 44 amdt 1.1328, amdt 1.1329

#### **Administrative arrangements**

s 120 (prev s 114) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 7; 2001 No 44 amdt 1.1330

#### **Certified lists of electors**

s 121 (prev s 115) ins 1994 No 14  
renum 1994 No 14

#### **Use of information from certified lists**

s 121A ins 2001 No 36 s 17

#### **Scrutineers—appointment**

s 122 (prev s 116) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1331, amdt 1.1332

#### **Scrutineers—conduct**

s 123 (prev s 117) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54; 2002 No 30 amdt 3.293

#### **Participation by candidates in conduct of election**

s 124 (prev s 118) ins 1994 No 14  
renum 1994 No 14

#### **Determining matters by lot**

s 125 (prev s 119) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1333

#### **Supplementary elections**

s 126 (prev s 120) ins 1994 No 14  
renum 1994 No 14

#### **Voting**

pt 10 hdg ins 1994 No 14

#### **General**

div 10.1 hdg (prev pt 10 div 1 hdg) renum LA (see 2000 No 76 s 24)

#### **Meaning of *authorised witness***

s 127 hdg sub 2001 No 36 amdt 1.21  
s 127 (prev s 121) ins 1994 No 14  
renum 1994 No 14

**Entitlement to vote**

s 128 (prev s 122) ins 1994 No 14  
renum 1994 No 14; 2001 No 36 amdt 1.99  
am 1997 No 91; LA (see 2001 No 36 amdt 1.99)

**Compulsory voting**

s 129 (prev s 123) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Multiple votes prohibited**

s 130 (prev s 124) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Procedures for voting**

s 131 (prev s 125) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2000 No 76 s 8; LA (see 2001 No 36 amdt  
1.99)

**Manner of recording vote**

s 132 (prev s 126) ins 1994 No 14  
renum 1994 No 14

**Ordinary voting at a polling place**

div 10.2 hdg (prev pt 10 div 2 hdg) am 1997 No 91  
renum LA (see 2000 No 76 s 24)

**Claims to vote**

s 133 (prev s 127) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; LA (see 2001 No 36 amdt 1.99)

**Voting in private**

s 134 (prev s 128) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 9

**Declaration voting at a polling place**

div 10.3 hdg (prev pt 10 div 3 hdg) am 1997 No 91  
renum LA (see 2000 No 76 s 24)

**Declaration voting at polling places**

s 135 (prev s 129) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2001 No 44 amdt 1.1334, amdt 1.1335

**Voting otherwise than at a polling place**

div 10.4 hdg (prev pt 10 div 3A hdg) ins 1997 No 91  
renum LA (see 2000 No 76 s 24)

## Endnotes

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#### **Meaning of *eligible elector* for div 3A**

s 136 hdg sub 2001 No 36 amdt 1.22  
s 136 (prev s 130) ins 1994 No 14  
renum 1994 No 14  
sub 1997 No 91

#### **Postal voting before polling day**

s 136A ins 1997 No 91  
am LA (see 2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1336,  
amdt 1.1337; 2002 No 30 amdt 3.294

#### **Ordinary or declaration voting in ACT before polling day**

s 136B hdg sub 2001 No 36 amdt 1.23  
s 136B ins 1997 No 91  
am 2001 No 36 s 18; LA (see 2001 No 36 amdt 1.99); 2001 No  
44 amdts 1.1338-1.1341; 2002 No 30 amdt 3.295, amdt  
3.296

#### **Declaration voting outside ACT on or before polling day**

s 136C hdg sub 2001 No 36 amdt 1.24  
s 136C ins 1997 No 91  
am 2001 No 36 s 19; LA (see 2001 No 36 amdt 1.99); 2001 No  
44 amdts 1.1342-1.1345; 2002 No 30 amdt 3.296

#### **Record of issue of declaration voting papers**

s 137 (prev s 131) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2001 No 36 amdt 1.25

#### **Inspection of records**

s 138 (prev s 132) ins 1994 No 14  
renum 1994 No 14

#### **Receipt of declaration voting papers**

s 139 (prev s 133) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2002 No 30 amdt 3.297

#### **Registered declaration voters**

s 140 (prev s 134) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.298

#### **Issue of voting papers to registered declaration voters**

s 141 (prev s 135) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2002 No 30 amdt 3.299

#### **Correcting formal errors**

s 142 (prev s 136) ins 1994 No 14  
renum 1994 No 14

**Application forms for postal declaration votes**

s 143 (prev s 137) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 1998 No 54  
sub 2001 No 36 s 20

**Transmission of applications for postal declaration votes**

s 144 (prev s 138) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Interference with declaration voting**

s 145 (prev s 139) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Soliciting completed declaration votes**

s 146 (prev s 140) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Transmission of completed declaration votes**

s 147 (prev s 141) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Opening envelopes containing declaration votes**

s 148 (prev s 142) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Mobile polling**

div 10.5 hdg (prev pt 10 div 4 hdg) renum LA (see 2000 No 76 S24)

**Definitions for div 4**

s 149 hdg sub 2001 No 36 amdt 1.26  
s 149 (prev s 143) ins 1994 No 14  
renum 1994 No 14  
def **registered medical practitioner** om 2001 No 36 amdt 1.27  
def **special hospital** sub 2001 No 44 amdt 1.1347

**Declaration of special hospitals**

s 149A ins 2001 No 44 amdt 1.1348

**Mobile polling—institutions**

s 150 (prev s 144) ins 1994 No 14  
renum 1994 No 14

## Endnotes

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### **Functions of visiting officers**

s 151 (prev s 145) ins 1994 No 14  
renum 1994 No 14; 2001 No 36 amdt 1.99  
am 1995 No 33; 2001 No 36 s 21, amdt 1.28; LA (see 2001 No  
36 amdt 1.99)

### **Failure to visit institution**

s 152 (prev s 146) ins 1994 No 14  
renum 1994 No 14

### **Custody of ballot boxes and electoral papers**

s 153 (prev s 147) ins 1994 No 14  
renum 1994 No 14

### **Miscellaneous**

div 10.6 hdg (prev pt 10 div 5 hdg) renum LA (see 2000 No 76 s 24)

### **Arrangements at polling places**

s 154 (prev s 148) ins 1994 No 14  
renum 1994 No 14

### **Particulars on ballot papers before issue**

s 155 (prev s 149) ins 1994 No 14  
renum 1994 No 14

### **Assistance to voters**

s 156 (prev s 150) ins 1994 No 14  
renum 1994 No 14

### **Assistance to voters unable to enter polling place**

s 156A ins 2001 No 36 s 22

### **Spoilt ballot papers**

s 157 (prev s 151) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 10

### **Custody of ballot boxes and electoral papers**

s 158 (prev s 152) ins 1994 No 14  
renum 1994 No 14

### **Extension of time for conducting elections**

s 159 (prev s 153) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.29; LA (see 2001 No 36 amdt 1.99)2001  
No 44 amdt 1.1349, amdt 1.1350; 2002 No 30 amdt 3.300

### **Suspension and adjournment of polling**

s 160 (prev s 154) ins 1994 No 14  
renum 1994 No 14  
am LA (see 2001 No 36 amdt 1.99); 2001 No 44 amdts 1.1351-  
1.1353; 2002 No 30 amdt 3.300

**Failure to vote**

div 10.7 hdg (prev pt 10 div 6 hdg) renum LA (see 2000 No 76 s 24)

**Default notice**

s 161 (prev s 155) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1354, amdt 1.1355

**First notice**

s 162 (prev s 156) ins 1994 No 14  
renum 1994 No 14

**Second notice**

s 163 (prev s 157) ins 1994 No 14  
renum 1994 No 14

**Final notice**

s 164 (prev s 158) ins 1994 No 14  
renum 1994 No 14

**Discharge of liability**

s 165 (prev s 159) ins 1994 No 14  
renum 1994 No 14

**Response on behalf of elector**

s 166 (prev s 160) ins 1994 No 14  
renum 1994 No 14

**Polling in Antarctica**

pt 11 hdg ins 1994 No 14

**Definitions for pt 11**

s 167 hdg sub 2001 No 36 amdt 1.30  
s 167 (prev s 161) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.31, amdt 1.32  
def *transmit* sub 2001 No 44 amdt 1.1356

**Declaration of ship as a station**

s 167A ins 2001 No 36 amdt 1.32

**Approval of ways of transmission**

s 167B ins 2001 No 44 amdt 1.1357

**Returning officers and assistants for Antarctic stations**

s 168 (prev s 162) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.301

## Endnotes

### 4 Amendment history

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#### **Acting returning officer or assistant**

s 169 (prev s 163) ins 1994 No 14  
renum 1994 No 14  
om 2002 No 30 amdt 3.301

#### **Application of Act to polling in Antarctica**

s 170 (prev s 164) ins 1994 No 14  
renum 1994 No 14

#### **Antarctic electors**

s 171 (prev s 165) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91

#### **Arrangements for the polling in Antarctica**

s 172 (prev s 166) ins 1994 No 14  
renum 1994 No 14

#### **Conduct of the polling**

s 173 (prev s 167) ins 1994 No 14  
renum 1994 No 14

#### **Claims to vote**

s 174 (prev s 168) ins 1994 No 14  
renum 1994 No 14

#### **Proceedings at close of poll**

s 175 (prev s 169) ins 1994 No 14  
renum 1994 No 14  
am 1995 No 46; 2002 No 30 amdt 3.302

#### **Result of polling in Antarctica**

s 176 (prev s 170) ins 1994 No 14  
renum 1994 No 14

#### **Preservation of documents**

s 177 (prev s 171) ins 1994 No 14  
renum 1994 No 14

#### **The scrutiny**

pt 12 hdg ins 1994 No 14

#### **Scrutiny**

s 178 (prev s 172) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2000 No 76 s 11

#### **Preliminary scrutiny of declaration voting papers etc**

s 179 (prev s 173) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.303, amdt 3.304



**Formality of ballot papers**

s 180 (prev s 174) ins 1994 No 14  
renum 1994 No 14

**Death of candidate**

s 181 (prev s 175) ins 1994 No 14  
renum 1994 No 14

**First count—ordinary ballot papers**

s 182 (prev s 176) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 12

**First count—declaration ballot papers**

s 183 (prev s 177) ins 1994 No 14  
renum 1994 No 14

**First count—electronic ballot papers**

s 183A ins 2000 No 76 s 13

**Second count—first preferences**

s 184 (prev s 178) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 14

**Ascertaining result of poll**

s 185 (prev s 179) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 15

**Objections by scrutineers**

s 186 (prev s 180) ins 1994 No 14  
renum 1994 No 14

**Recount of ballot papers**

s 187 (prev s 181) ins 1994 No 14  
renum 1994 No 14

**Recount of electronic scrutiny of ballot papers**

s 187A ins 2000 No 76 s 16

**Reservation of disputed ballot papers**

s 188 (prev s 182) ins 1994 No 14  
renum 1994 No 14

**Declaration of result of election**

s 189 (prev s 183) ins 1994 No 14  
renum 1994 No 14

**Casual vacancies**

pt 13 hdg ins 1994 No 14

## Endnotes

### 4 Amendment history

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#### **Definitions for pt 13**

s 190 hdg sub 2001 No 36 amdt 1.33  
s 190 (prev s 184) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.36, amdt 1.37  
def **candidate** om 2001 No 36 amdt 1.34  
def **newspaper** om 2001 No 36 amdt 1.34  
def **speaker** ins 2001 No 36 amdt 1.35

#### **Notice of casual vacancy**

s 191 (prev s 185) ins 1994 No 14  
renum 1994 No 14

#### **Candidates for casual vacancy**

s 192 (prev s 186) ins 1994 No 14  
renum 1994 No 14  
am LA (see 2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1358,  
amdt 1.1359

#### **Publication of candidates' details**

s 193 (prev s 187) ins 1994 No 14  
renum 1994 No 14

#### **Determination of candidate to fill vacancy**

s 194 (prev s 188) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.352

#### **Assembly nominees**

s 195 (prev s 189) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 s 23

#### **Term of office of MLA declared elected under pt 13**

s 196 (prev s 190) ins 1994 No 14  
renum 1994 No 14

#### **Dissolution or pre-election period**

s 197 (prev s 191) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.305

#### **Election funding and financial disclosure**

pt 14 hdg ins 1994 No 14

#### **Preliminary**

div 14.1 hdg (prev pt 14 div 1 hdg) renum 2001 No 36 amdt 1.99

**Definitions for pt 14**

s 198 hdg sub 2001 No 36 amdt 1.38  
s 198 (prev s 192) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.42, amdt 1.43  
def **associated entity** ins 1996 No 56 s 4  
sub 2001 No 36 s 24  
def **ballot group** ins 2001 No 36 s 25  
def **entity** ins 1996 No 56 s 4  
def **financial controller** ins 1996 No 56 s 4  
def **gift** am 2001 No 36 amdt 1.39  
def **independent MLA** om 2001 No 36 amdt 1.40  
def **register** am 2001 No 36 amdt 1.41  
def **reporting agent** sub 2001 No 36 s 26

**Reference to things done by party or ballot group etc**

s 198A ins 2001 No 36 amdt 1.43

**Candidate remains candidate after election**

s 198B ins 2001 No 36 amdt 1.43

**Related bodies corporate**

s 199 (prev s 193) ins 1994 No 14  
renum 1994 No 14

**Activities of campaign committees**

s 200 (prev s 194) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.44

**Disclosure periods**

s 201 (prev s 195) ins 1994 No 14  
renum 1994 No 14  
def **disclosure day** am 1997 No 91 s 24; 2001 No 36 amdt  
1.45; 2002 No 30 amdt 3.306

**Gifts—determination of amounts**

s 202 (prev s 196) ins 1994 No 14  
renum 1994 No 14

**Reporting agents**

div 14.2 hdg (prev pt 14 div 2 hdg) renum LA (see 2000 No 76 s 24)

**Appointed agents**

s 203 (prev s 197) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2001 No 36 amdt 1.46-1.48; LA (see 2001 No  
36 amdt 1.99); 2002 No 30 amdt 3.307, amdt 3.308, amdt  
3.352

## Endnotes

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#### **Non-appointed agents**

s 204 (prev s 198) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 2001 No 36 amdt 1.49, amdt 1.50; LA (see  
2001 No 36 amdt 1.99)

#### **Registers of reporting agents**

s 205 (prev s 199) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.51-1.53; LA (see 2001 No 36 amdt  
1.99); 2002 No 30 amdt 3.309

#### **Election funding**

div 14.3 hdg (prev pt 14 div 3 hdg) renum LA (see 2000 No 76 s 24)

#### **Who eligible votes are cast for**

s 206 (prev s 200) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56  
sub 2001 No 36 amdt 1.54

#### **Entitlement to funds**

s 207 (prev s 201) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.55

#### **Threshold**

s 208 (prev s 202) ins 1994 No 14  
renum 1994 No 14  
sub 1996 No 56; 2001 No 36 s 27

#### **Claims for payment**

s 209 (prev s 203) ins 1994 No 14  
renum 1994 No 14  
om 1996 No 56

#### **Claims by party reporting agents**

s 210 (prev s 204) ins 1994 No 14  
renum 1994 No 14  
om 1996 No 56

#### **Determination of claims**

s 211 (prev s 205) ins 1994 No 14  
renum 1994 No 14  
om 1996 No 56

#### **Making of payments**

s 212 (prev s 206) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.56, amdt 1.57; LA (see  
2001 No 36 amdt 1.99)

**Revocation of determinations**

s 213 (prev s 207) ins 1994 No 14  
renum 1994 No 14  
om 1996 No 56

**Death of candidate**

s 214 (prev s 208) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.58

**Application voluntary**

s 215 (prev s 209) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56

**Disclosure of donations**

div 14.4 hdg (prev pt 14 div 4 hdg) renum LA (see 2000 No 76 s 24)

**Meaning of *defined details* for div 4**

s 216 hdg sub 2001 No 36 amdt 1.59  
s 216 (prev s 210) ins 1994 No 14  
renum 1994 No 14  
def *gift* om 2001 No 36 amdt 1.60

**Disclosure of gifts**

s 217 (prev s 211) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 s 28; 2001 No 44 amdt 1.1360, amdt 1.1361;  
2002 No 30 amdt 3.353

**Disclosure of gifts—non-party groups**

s 218 (prev s 212) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 s 29; 2001 No 44 amdt 1.1362, amdt 1.1363;  
2002 No 30 amdt 3.353

**Certain loans not to be received**

s 218A ins 2001 No 36 s 30

**Nil returns**

s 219 (prev s 213) ins 1994 No 14  
renum 1994 No 14

**Disclosure of gifts by persons incurring political expenditure**

s 220 (prev s 214) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 s 31 and amdt 1.61; LA (see 2001  
No 36 amdt 1.99); 2001 No 44 amdt 1.1364, amdt 1.1365;  
2002 No 30 amdt 3.353

## Endnotes

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### Donations to non-party groups and candidates

s 221 (prev s 215) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; LA (see 2001 No 36 amdt 1.99); 2001 No 44  
amds 1.1366-1.1369; 2002 No 30 amdt 3.353

### Annual returns of donations

s 221A ins 1996 No 56  
sub 2001 No 36 s 32  
am 2001 No 44 amds 1.1370-1.1372; 2002 No 30 amdt 3.353

### Advice about obligations to make returns

s 221B ins 1996 No 56  
sub 2001 No 36 s 32

### Anonymous gifts

s 222 (prev s 216) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 32

### Disclosure of electoral expenditure

div 14.5 hdg (prev pt 14 div 5 hdg) renum LA (see 2000 No 76 s 24)

### Definitions for div 14.5

s 223 hdg sub 2001 No 36 amdt 1.62  
s 223 (prev s 217) ins 1994 No 14  
renum 1994 No 14; 2001 No 36 amdt 1.99  
am 2001 No 36 amdt 1.64, amdt 1.65  
def **electoral expenditure** am 1996 No 56 s 16; LA (see 2001  
No 36 amdt 1.99)  
def **participant** ins 2001 No 36 amdt 1.63  
def **relates** ins 2001 No 36 amdt 1.63

### Returns of electoral expenditure

s 224 (prev s 218) ins 1994 No 14  
renum 1994 No 14; 2001 No 36 amdt 1.99  
am 1996 No 56; 2001 No 36 amdt 1.66, amdt 1.67; LA (see  
2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1373, amdt  
1.1374; 2002 No 30 amdt 3.353

### Nil returns

s 225 (prev s 219) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.68

### Returns by broadcasters and publishers

s 226 (prev s 220) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1375, amdt 1.1376; 2002 No 30 amdt  
3.353

**Multiple elections on same day**

s 227 (prev s 221) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdt 1.1377

**Annual returns**

div 14.6 hdg (prev pt 14 div 6 hdg) renum LA (see 2000 No 76 s 24)

**Meaning of *defined particulars* for div 14.6**

s 228 hdg sub 2001 No 36 amdt 1.69  
s 228 (prev s 222) ins 1994 No 14  
renum 1994 No 14

**Fund-raising events**

s 229 (prev s 223) ins 1994 No 14  
renum 1994 No 14  
om 1996 No 56

**Annual returns by parties, ballot groups and MLAs**

s 230 (prev s 224) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2000 No 50 s 4  
sub 2001 No 36 s 33  
am LA (see 2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1378  
(as sub 2001 No 36 amdt 2.2), amdt 1.1379; 2002 No 30  
amdt 3.353

**Periods of less than financial year**

s 231 (prev s 225) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 s 33

**Returns by parties under Commonwealth Electoral Act**

s 231A ins 1996 No 56

**Annual returns by associated entities**

s 231B ins 1996 No 56  
sub 2001 No 36 s 34  
am 2001 No 44 amdt 1.1380, 1.1381; 2002 No 30 amdt 3.353

**Returns by associated entities under Commonwealth Electoral Act**

s 231C ins 1996 No 56

**Amounts received**

s 232 (prev s 226) ins 1994 No 14  
renum 1994 No 14  
sub 1996 No 56; 2001 No 36 s 35

## Endnotes

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#### **Amounts paid**

s 233 (prev s 227) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56  
om 2001 No 36 s 35

#### **Outstanding amounts**

s 234 (prev s 228) ins 1994 No 14  
renum 1994 No 14  
am 1994 No 78; 1996 No 56; 2001 No 36 amdt 1.70

#### **Regulations**

s 234A ins 1996 No 56

#### **Compliance**

div 14.7 hdg (prev pt 14 div 7 hdg) renum LA (see 2000 No 76 s 24)

#### **Definitions for div 14.7**

s 235 (prev s 229) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 amdt 1.71

#### **Offences**

s 236 (prev s 230) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 1998 No 54; 2001 No 36 amdt 1.72; LA (see  
2001 No 36 amdt 1.99); 2002 No 30 amdt 3.310

#### **Investigation notices generally**

s 237 (prev s 231) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 1998 No 54  
sub 2001 No 36 s 36  
am 2002 No 30 amdt 3.311, amdt 3.352

#### **Investigation notices about associated entities**

s 237A ins 2001 No 36 s 36  
am 2002 No 30 amdt 3.311

#### **Investigation notice offences**

s 237B ins 2001 No 36 s 36

#### **Investigation—search warrants**

s 238 (prev s 232) ins 1994 No 14  
renum 1994 No 14

#### **Records**

s 239 (prev s 233) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.73



**Miscellaneous**

div 14.8 hdg (prev pt 14 div 8 hdg) renum LA (see 2000 No 76 s 24)

**Inability to complete returns**

s 240 (prev s 234) ins 1994 No 14  
renum 1994 No 14

**Noncompliance with pt 14**

s 241 (prev s 235) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.74

**Amendment of returns**

s 242 (prev s 236) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.75

**Copies of returns to be available for public inspection**

s 243 (prev s 237) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56  
sub 2001 No 36 s 37  
am 2001 No 44 amdt 1.1382, amdt 1.1383

**Review of decisions**

pt 15 hdg ins 1994 No 14

**Definitions for pt 15**

s 244 hdg sub 2001 No 36 amdt 1.76  
s 244 (prev s 238) ins 1994 No 14  
renum 1994 No 14

**Reviewable decisions**

s 245 (prev s 239) ins 1994 No 14  
renum 1994 No 14  
am 1996 No 56; 2001 No 36 amdt 1.77-1.79; LA (see 2001 No 36 amdt 1.99)

**Review statements**

s 246 (prev s 240) ins 1994 No 14  
renum 1994 No 14

**Review by electoral commission**

s 247 (prev s 241) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 s 38; LA (see 2001 No 36 amdt 1.99); 2001 No 44 amdt 1.1384

**Notice of decision of the electoral commission**

s 248 (prev s 242) ins 1994 No 14  
renum 1994 No 14

## Endnotes

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### **Review by administrative appeals tribunal**

s 249 (prev s 243) ins 1994 No 14  
renum 1994 No 14

### **Disputed elections, eligibility and vacancies**

pt 16 hdg ins 1994 No 14

### **Preliminary**

div 16.1 hdg (prev pt 16 div 1 hdg) renum LA (see 2000 No 76 s 24)

### **Definitions for pt 16**

s 250 hdg sub 2001 No 36 amdt 1.80  
s 250 (prev s 244) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdts 1.81-1.83  
def **contravention** ins 2002 No 30 amdt 3.312  
def **court** om 2002 No 30 amdt 3.313  
def **Court of Disputed Elections** ins 2002 No 30 amdt 3.313  
def **illegal practice** om 2002 No 30 amdt 3.314  
def **proceeding** sub 2002 No 30 amdt 3.315  
def **Speaker** ins 2002 No 30 amdt 3.316  
def **undue influence** sub 2002 No 30 amdt 3.317

### **References in pt 16 to *contravention* of sections**

s 250A (prev s 250 (2)) renum 2001 No 36 amdt 1.82  
om 2002 No 30 amdt 3.318

### **Meaning of *Speaker* for pt 16**

s 251 hdg sub 2001 No 36 amdt 1.84  
s 251 (prev s 245) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.319

### **Jurisdiction and powers of Supreme Court**

div 16.2 hdg (prev pt 16 div 2 hdg) renum LA (see 2000 No 76 s 24)

### **Court of Disputed Elections**

s 252 (prev s 246) ins 1994 No 14  
renum 1994 No 14

### **Powers of the court**

s 253 (prev s 247) ins 1994 No 14  
renum 1994 No 14

### **Rules of court**

s 254 (prev s 248) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 44 amdt 1.1385  
om 2002 No 30 amdt 3.320

**Decisions are final**

s 255 (prev s 249) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.321

**Disputes elections**

div 16.3 hdg (prev pt 16 div 3 hdg) renum LA (see 2000 No 76 s 24)

**Validity may be disputed after election**

s 256 (prev s 250) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 17

**Persons entitled to dispute elections**

s 257 (prev s 251) ins 1994 No 14  
renum 1994 No 14

**Form of application**

s 258 (prev s 252) ins 1994 No 14  
renum 1994 No 14

**Time for filing application**

s 259 (prev s 253) ins 1994 No 14  
renum 1994 No 14

**Deposit as security for costs**

s 260 (prev s 254) ins 1994 No 14  
renum 1994 No 14

**Registrar to serve copies of application on certain persons**

s 261 (prev s 255) ins 1994 No 14  
renum 1994 No 14

**Parties to application under div 16.3**

s 262 (prev s 256) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.322

**Withdrawal and abatement of application**

s 263 (prev s 257) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 36 amdt 1.85, amdt 1.86; 2002 No 30 amdt 3.323

**Hearing of applications**

s 264 (prev s 258) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.324

**Declarations and orders**

s 265 (prev s 259) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.325

## Endnotes

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### **Illegal practices**

s 266 (prev s 260) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.326, amdt 3.351

### **Bribery or undue influence by person elected**

s 267 (prev s 261) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Immaterial delays and errors**

s 268 (prev s 262) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Inquiries by court**

s 269 (prev s 263) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 18; 2002 No 30 amdt 3.351

### **Rejected ballot papers**

s 270 (prev s 264) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Evidence that persons were not permitted to vote**

s 271 (prev s 265) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Inspection of electoral papers**

s 272 (prev s 266) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Commissioner not prevented from accessing documents**

s 273 (prev s 267) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Registrar to serve copies of declarations on certain persons**

s 274 (prev s 268) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

### **Effect of declarations**

s 275 (prev s 269) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Eligibility and vacancies**

div 16.4 hdg (prev pt 16 div 4 hdg) renum LA (see 2000 No 76 s 24)

**Speaker to state case**

s 276 (prev s 270) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Parties to a referral**

s 277 (prev s 271) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Declarations and orders**

s 278 (prev s 272) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Registrar to serve copy of declarations on Speaker**

s 279 (prev s 273) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Effect of declarations**

s 280 (prev s 274) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Proceedings**

div 16.5 hdg (prev pt 16 div 5 hdg) renum LA (see 2000 No 76 s 24)

**Procedure**

s 281 (prev s 275) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Legal representation limited**

s 282 (prev s 276) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 96; 2002 No 30 amdt 3.327

**Admissibility of evidence**

s 283 (prev s 277) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.351

**Costs may be ordered against Territory**

s 284 (prev s 278) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.328

## Endnotes

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### **Electoral offences**

pt 17 hdg ins 1994 No 14

### **Bribery and improper influence**

div 17.1 hdg (prev pt 17 div 1 hdg) renum LA (see 2000 No 76 s 24)

### **Bribery**

s 285 (prev s 279) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Influencing of votes by officers**

s 286 (prev s 280) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54; 2002 No 30 amdt 3.329

### **Influencing votes of hospital and nursing home patients**

s 287 (prev s 281) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Protection of rights**

div 17.2 hdg (prev pt 17 div 2 hdg) renum LA (see 2000 No 76 s 24)

### **Violence and intimidation**

s 288 (prev s 282) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Discrimination on grounds of political donations**

s 289 (prev s 283) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54; 2001 No 36 amdt 1.87

### **Employees' right to leave of absence for voting**

s 290 (prev s 284) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Campaigning offences**

div 17.3 hdg (prev pt 17 div 3 hdg) renum LA (see 2000 No 76 s 24)

**Definitions for div 17.3**

s 291 hdg sub 2001 No 36 amdt 1.88  
s 291 (prev s 285) ins 1994 No 14  
renum 1994 No 14  
def **address** am 2001 No 36 amdt 1.89  
def **disseminate** sub 2001 No 36 s 39  
def **polling place** ins 1995 No 33 s 5  
am 1997 No 91 sch  
om 2001 No 36 amdt 1.90  
def **publish** ins 2001 No 36 s 40

**Dissemination of electoral matter—authorisers and authors**

s 292 (prev s 286) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54  
sub 2001 No 36 s 41  
ss (3), (4) exp 1 January 2002 (s 292 (4))

**Dissemination of electoral matter—letters to the editor**

s 293 (prev s 287) ins 1994 No 14  
renum 1994 No 14

**Dissemination of electoral matter—newspaper and periodical reportage and commentary**

s 294 (prev s 288) ins 1994 No 14  
renum 1994 No 14

**Exemptions for dissemination of electoral matter on certain items**

s 295 (prev s 289) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91  
sub 2001 No 36 s 42  
am 2002 No 30 amdt 3.330

**Advertorials**

s 296 (prev s 290) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Misleading or deceptive electoral matter**

s 297 (prev s 291) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Inducement to illegal voting—representations of ballot papers**

s 298 (prev s 292) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

## Endnotes

### 4 Amendment history

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#### **Graffiti**

s 299 (prev s 293) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54  
def *lessee* sub 2002 No 30 amdt 3.331

#### **Defamation of candidates**

s 300 (prev s 294) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

#### **Publication of statements about candidates**

s 301 (prev s 295) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54; 2001 No 36 amdt 1.91

#### **Disruption of election meetings**

s 302 (prev s 296) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

#### **Canvassing within 100m of polling places**

s 303 (prev s 297) ins 1994 No 14  
renum 1994 No 14  
sub 1995 No 33  
am 1997 No 91; LA (see 2001 No 36 amdt 1.99); 2001 No 44  
amdt 1.1386, amdt 1.1387

#### **Badges and emblems in polling places**

s 304 (prev s 298) ins 1994 No 14  
renum 1994 No 14  
am 1995 No 33; 1998 No 54; 2001 No 36 amdt 1.92

#### **How-to-vote material in polling places**

s 305 (prev s 299) ins 1994 No 14  
renum 1994 No 14  
am 1995 No 33; 1998 No 54

#### **Evidence of authorisation of electoral matter**

s 306 (prev s 300) ins 1994 No 14  
renum 1994 No 14

#### **Electronic voting offences**

div 17.4 hdg (prev div 17.3A hdg) ins 2000 No 76 s 19  
renum LA (see 2000 No 76 s 24)

#### **Interfering with electronic voting devices etc**

s 306A ins 2000 No 76 s 19

#### **Interfering with electronic counting devices etc**

s 306B ins 2000 No 76 s 19



**Voting fraud**

div 17.5 hdg (prev pt 17 div 4 hdg) renum LA (see 2000 No 76 s 24)

**Voting fraud**

s 307 (prev s 301) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 1998 No 54

**Interpretation—electoral papers**

s 308 (prev s 302) ins 1994 No 14  
renum 1994 No 14  
om 2001 No 36 amdt 1.93

**Electoral papers**

div 17.6 hdg (prev pt 17 div 5 hdg) renum LA (see 2000 No 76 s 24)

**Electoral papers—forgery**

s 309 (prev s 303) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Electoral papers—forfeiture**

s 310 (prev s 304) ins 1994 No 14  
renum 1994 No 14

**Electoral papers—unauthorised possession**

s 311 (prev s 305) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Electoral papers—false or misleading statements**

s 312 (prev s 306) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Electoral papers—defacement etc**

s 313 (prev s 307) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Electoral papers—signatures**

s 314 (prev s 308) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Electoral papers—witnesses**

s 315 (prev s 309) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

**Official functions**

div 17.7 hdg (prev pt 17 div 6 hdg) renum LA (see 2000 No 76 s 24)

## Endnotes

4 Amendment history

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### **Improper influence—members of electoral commission etc**

s 316 (prev s 310) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Unauthorised actions by officers**

s 317 (prev s 311) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Identification of voters and votes**

s 318 (prev s 312) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Responses to official questions**

s 319 (prev s 313) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54

### **Control of behaviour at voting centres**

s 320 (prev s 314) ins 1994 No 14  
renum 1994 No 14  
am 1997 No 91; 1998 No 54

### **Enforcement proceedings**

pt 18 hdg ins 1994 No 14

### **Injunctions**

div 18.1 hdg (prev pt 18 div 1 hdg) renum LA (see 2000 No 76 s 24)

### **Restraining conduct**

s 321 (prev s 315) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.332

### **Requiring things to be done**

s 322 (prev s 316) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.332

### **Commissioner not required to give undertakings as to damages**

s 323 (prev s 317) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.333

### **Powers of the court**

s 324 (prev s 318) ins 1994 No 14  
renum 1994 No 14

### **Prosecutions**

div 18.2 hdg (prev pt 18 div 2 hdg) renum LA (see 2000 No 76 s 24)

**Investigation of complaints**

s 325 (prev s 319) ins 1994 No 14  
renum 1994 No 14

**Commissioner may prosecute enrolment and voting offences**

s 326 (prev s 320) ins 1994 No 14  
renum 1994 No 14

**Service of certain process by mail**

s 327 (prev s 321) ins 1994 No 14  
renum 1994 No 14  
am 2002 No 30 amdt 3.334

**Miscellaneous**

pt 19 hdg ins 1994 No 14

**Extension of time for acts by officers**

s 328 (prev s 322) ins 1994 No 14  
renum 1994 No 14

**Restrictions on sending completed ballot and voting papers by fax**

s 329 (prev s 323) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.335

**Forms—provision and assistance**

s 330 (prev s 324) ins 1994 No 14  
renum 1994 No 14

**Compliance with approved forms**

s 331 (prev s 325) ins 1994 No 14  
renum 1994 No 14  
om 2001 No 44 amdt 1.1388

**Correcting delays, errors and omissions**

s 332 (prev s 326) ins 1994 No 14  
renum 1994 No 14  
am 2001 No 44 amdts 1.1389-1.1391

**Voting statistics to be published**

s 333 (prev s 327) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 20; 2001 No 44 amdt 1.1392, amdt 1.1393

**Collecting further statistical information**

s 334 (prev s 328) ins 1994 No 14  
renum 1994 No 14

**Storage and destruction of electoral papers**

s 335 (prev s 329) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.336

## Endnotes

4 Amendment history

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### **Administrative arrangements with Commonwealth and States**

s 336 (prev s 330) ins 1994 No 14  
renum 1994 No 14  
sub 2001 No 36 amdt 1.94

### **Evidentiary certificates**

s 337 (prev s 331) ins 1994 No 14  
renum 1994 No 1499  
am 2001 No 36 amdt 1.95; LA (see 2001 No 36 amdt 1.99)

### **Acts and omissions of representatives**

s 338 (prev s 332) ins 1994 No 14  
renum 1994 No 14  
sub 2002 No 30 amdt 3.337

### **Corporations—penalties**

s 339 (prev s 333) ins 1994 No 14  
renum 1994 No 14  
om 2000 No 76 s 21

### **Chief executive to provide assistance etc**

hdg to s 340 sub 2000 No 76 s 22  
s 340 (prev s 334) ins 1994 No 14  
renum 1994 No 14  
am 2000 No 76 s 22

### **Approved forms**

s 340A ins 2001 No 44 amdt 1.1394  
am 2002 No 30 amdt 3.338

### **Regulation-making power**

s 341 (prev s 335) ins 1994 No 14  
renum 1994 No 14  
am 1998 No 54  
sub 2000 No 76 s 23  
am 2001 No 44 amdt 1.1395, amdt 1.1396

### **Transitional provisions**

pt 20 hdg ins 2001 No 36 s 43  
exp 2 March 2002 (s 345 (2))

### **Political parties**

s 342 ins 2001 No 36 s 43  
exp 29 August 2001 (s 345 (1))

### **Registered parties to provide up-to-date copies of their constitutions**

s 343 ins 2001 No 36 s 43  
exp 29 August 2001 (s 345 (1))

**Application of certain amendments made by Electoral Amendment Act 2001**

s 344 ins 2001 No 36 s 43  
exp 2 March 2002 (s 345 (2))

**Expiry of pt 20**

s 345 ins 2001 No 36 s 43  
exp 2 March 2002 (s 345 (2))

**Form of ballot paper**

sch 1 ins 1994 No 14  
am 2001 No 36 amdt 1.97

**Ballot papers—printing of names and collation**

sch 2 ins 1994 No 14  
am 2001 No 37 s 4

**Preliminary scrutiny of declaration voting papers**

sch 3 ins 1994 No 14  
am 1997 No 91; 2001 No 36 s 44, s 45; 2001 No 44  
amdt 1.1397

**Ascertaining result of poll**

sch 4 ins 1994 No 14  
am 1994 No 78; 1997 No 91

**Dictionary**

dict ins 2001 No 36 amdt 1.98  
defs reloc from s 3 2001 No 36 amdt 1.3  
am 2002 No 30 amdt 3.339  
def **approved** om 2001 No 44 amdt 1.1398  
def **ballot paper** sub 2002 No 30 amdt 3.340  
def **candidate square** sub 2002 No 30 amdt 3.341  
def **contravention** sub 2002 No 30 amdt 3.342  
def **court** om 2002 No 30 amdt 3.343  
def **Court of Disputed Elections** sub 2002 No 30 amdt 3.344  
def **declaration voting papers** am 2001 No 44 amdt 1.1399  
def **determined fee** om 2001 No 44 amdt 1.1400  
def **electronic form** ins 2002 No 30 amdt 3.345  
def **extract** sub 2002 No 30 amdt 3.346  
def **group** sub 2002 No 30 amdt 3.347  
def **illegal practice** om 2002 No 30 amdt 3.348  
def **polling day** sub 2002 No 30 amdt 3.349  
def **Speaker** sub 2002 No 30 amdt 3.350  
def **this Act** om 2001 No 44 amdt 1.1400

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1994 No 78	17 November 1994
2	Act 1995 No 56	31 January 1996
3	Act 1997 No 96	1 December 1997
4	Act 1998 No 61	31 March 1999
5	Act 2001 No 44	12 September 2001
6	Act 2001 No 38	9 January 2002
7	Act 2001 No 44	2 March 2002
8*	Act 2002 No 11	30 May 2002
9	Act 2002 No 30	17 September 2002
10	Act 2002 No 32	9 October 2002
11	Act 2002 No 39	11 October 2002

### 6 Renumbered provisions

This Act was renumbered by the *Electoral (Amendment) Act 1994* No 14. Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R8.

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