



Australian Capital Territory

Electoral and Road Safety Legislation Amendment Act 2023

A2023-43

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Australian Capital Territory

Electoral and Road Safety Legislation Amendment Act 2023

A2023-43

An Act to amend legislation about electoral matters and road safety

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

J2022-448

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Electoral and Road Safety Legislation Amendment Act 2023*.

2 Commencement

- (1) This Act (other than the provisions mentioned in subsections (2) and (3)) commences 14 days after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The following provisions commence on 1 July 2024:

- section 58
- section 60
- schedule 1, amendment 1.6.

- (3) Parts 4 and 5 commence 6 months after this Act's notification day.

3 Legislation amended

This Act amends the following legislation:

- [Electoral Act 1992](#)
- [Public Unleased Land Act 2013](#)
- [Road Transport \(Offences\) Regulation 2005](#)
- [Road Transport \(Road Rules\) Regulation 2017](#).

Note This Act also amends other legislation (see schs 1 and 2).

Part 2 Electoral Act 1992

4 Offences against Act—application of Criminal Code etc Section 3A, note 1, new dot points

insert

- section 222O (Ban on gifts given by or on behalf of foreign entities—\$250 or more)
- section 222Q (Ban on acceptance of gifts given by or on behalf of foreign entities—\$250 or more)

5 Meaning of *address*—pt 7 Section 87, definition of *address*

after

registered officer

insert

or secretary

6 Register of political parties New section 88 (2) (d)

insert

(d) the name and address of the secretary of the party.

7 Application for registration of political party New section 89 (1) (da)

insert

(da) state the name and address of the secretary of the party; and

8 Section 89 (1) (f)

substitute

- (f) be accompanied by a list containing the following details about at least 100 members of the party who are electors:
 - (i) name;
 - (ii) address;
 - (iii) if either of the following is known by the applicant:
 - (A) date of birth;
 - (B) email address; and

**9 Notification and publication of applications
New section 91 (2) (a) (iv)**

insert

- (iv) the name and address of the secretary of the party; and

**10 Refusal of applications for registration
New section 93 (2) (da)**

insert

- (da) is a name, or an acronym of a name, that suggests that the party and another political party—
 - (i) are related when the parties are not related; or
 - (ii) have a connection or relationship when the parties do not have that connection or relationship; or

11 New section 93 (2) (g) (iii)

insert

- (iii) is a name, or an acronym of a name, that suggests that the party and another political party—
 - (A) are related when the parties are not related; or
 - (B) have a connection or relationship when the parties do not have that connection or relationship.

12 New section 93 (2A) and (2B)

insert

- (2A) However, subsection (2) (da) and (g) (iii) do not apply to the following:
 - (a) a function word;
 - Examples**
 - and, of, the
 - (b) a collective noun for people;
 - (c) the name of a country;
 - (d) the word ‘country’;
 - (e) the name of a geographical place;
 - (f) the word ‘democratic’;
 - (g) a word that is another grammatical form or a commonly accepted variant (including an abbreviation, contraction or alternative form) of a word or class of word mentioned in paragraphs (a) to (f).

- (2B) Despite subsection (2) (da) and (g) (iii), the commissioner must register the party (the *applicant party*) if—
- (a) the other political party gives written consent for the applicant party to use the name or acronym; and
 - (b) the applicant party gives the commissioner the written consent; and
 - (c) the commissioner does not refuse to register the applicant party for any other reason under this section or section 90 (2).

13 Objection to continued use of name Section 95A (1)

substitute

- (1) This section applies if—
- (a) the commissioner is satisfied that the name, or an acronym of the name, of a registered party (the *first party*)—
 - (i) so nearly resembles the name, or an acronym of the name, of another registered party (the *second party*) that it is likely to be confused with or mistaken for that name; or
 - (ii) suggests that the parties—
 - (A) are related; or
 - (B) have a connection or relationship; and
 - (b) the second party was registered later than the first party; and
 - (c) the second party was related to the first party when the second party was registered; and
 - (d) the registered officer of the first party objects in writing to the continued use of the name by the second party; and

- (e) the commissioner is satisfied that, at the time of the objection—
 - (i) if the name or acronym suggests the parties are related—the parties are not related; or
 - (ii) if the name or acronym suggests the parties have a connection or relationship—the parties do not have that connection or relationship.

14 Section 95A (3)

omit

**15 Information about political parties
Section 97A (2)**

substitute

- (2) Without limiting subsection (1), the commissioner may require the registered officer to give the commissioner a list, as at a stated date, containing the following details about at least 100 members of the party who are electors:
 - (a) name;
 - (b) address;
 - (c) if either of the following is known by the party:
 - (i) date of birth;
 - (ii) email address.

16 New section 105A

insert

105A Number of candidates nominated

The number of candidates nominated in an electorate by the registered officer of a registered party must not exceed the number of members to be elected for the electorate under section 34 (2).

**17 Place and hour of nomination
Section 108 (3)**

omit

23rd

substitute

24th

18 Section 110

substitute

110 Rejection of nominations

- (1) The commissioner must reject the nomination of a person if—
 - (a) the nomination is not substantially in accordance with section 105 (Candidates to be nominated); or
 - (b) the commissioner believes on reasonable grounds that the name under which the person is nominated—
 - (i) is obscene; or
 - (ii) is frivolous; or

(iii) has been assumed for a political purpose; or

Examples—subpar (iii)

- 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

(c) both of the following apply:

- (i) the nomination was made under section 105 (2) (a);
- (ii) the number of candidates nominated for an electorate by the registered officer of a registered party exceeds the number of candidates able to be nominated for the electorate under section 105A (Number of candidates nominated).

(2) If the commissioner rejects a nomination under subsection (1), the commissioner must give written notice of the rejection to—

- (a) the person whose nomination is rejected; and
- (b) for a nomination rejected under subsection (1) (c)—the registered officer of the registered party.

(3) A notice given under subsection (2) must set out the reasons for the rejection.

Note For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.

(4) The commissioner must not reject the nomination of a person other than under subsection (1).

19 Section 110A heading

substitute

110A Publication of information about candidates

20 Section 110A (1) and (2)

substitute

- (1) The following people may ask the commissioner to publish information about a candidate, or a person nominated to be a candidate under section 105 (a *nominee*):
 - (a) the candidate;
 - (b) the nominee;
 - (c) if the candidate or nominee was nominated by the registered officer of a registered party—the registered officer.
- (2) The commissioner must arrange for the information to be published on the Elections ACT website as soon as practicable after—
 - (a) for information about a candidate—the commissioner receives the information; or
 - (b) for information about a nominee—the nominee is declared to be a candidate under section 109.

**21 Ballot papers
Section 114 (5)**

after

display of the electronic form

insert

or its use by electors

**22 Printing of ballot papers
Section 116 (1)**

omit

subsections (2) to (7)

substitute

subsection (7)

23 Section 116 (2) to (4)

omit

24 Division 9.3 heading

substitute

Division 9.3 Electronic voting and vote counting**25 New sections 118AA and 118AB**

insert

118AA Arrangements for electronic voting

The commissioner may make arrangements for electronic voting at an election.

118AB Approval of electronic devices for electronic voting

- (1) The commissioner may approve electronic devices for use in electronic voting by electors at an election.
- (2) An approval is a notifiable instrument.

26 Security of electronic voting devices and computer programs
Section 118B (2)

omit

at a polling place or scrutiny centre

substitute

by an approved electronic device or approved computer program

27 Section 120

substitute

120 Administrative arrangements

- (1) The commissioner must make appropriate administrative arrangements for the conduct of each election.
- (2) Without limiting subsection (1), the commissioner must ensure that each polling place is properly equipped with—
 - (a) separate voting compartments constructed to screen voters from observation while marking ballot papers; and
 - (b) ballot boxes that can be securely fastened; and
 - (c) ballot papers and other documents and stationery; and
 - (d) if electronic voting is used at the polling place—any equipment necessary for electronic voting.

**28 Procedures for voting
Section 131 (3)**

omit

or electronic voting

substitute

or an electronic ballot paper

**29 Claims to vote
Section 133 (2)**

substitute

- (2) The officer must—
- (a) issue a ballot paper to the person for the electorate; and
 - (b) record the issue on the certified list of electors.

**30 Applications for postal voting papers
Section 136A (1), definition of *eligible elector*, paragraph
(a) (ii)**

substitute

- (ii) at an early polling place; or

31 Section 136A (9)

omit

19th day

substitute

3rd Monday

32 Sections 136B and 136C*substitute***136B Declaration of early polling places**

- (1) The commissioner may declare a stated place in the ACT as a place where voters may cast an ordinary or declaration vote before polling day (an *early polling place*).
- (2) If the commissioner makes a declaration under subsection (1), the declaration must also state the days and times the early polling place will be operational during the period—
 - (a) beginning on the 2nd Monday before polling day or, if that Monday is a public holiday, the next business day; and
 - (b) ending at 8 pm on the day before polling day.
- (3) A declaration is a notifiable instrument.

136C Ordinary voting in ACT before polling day

- (1) This section applies if—
 - (a) a person attends an early polling place when the place is operational; and
 - (b) the person claims to be entitled to vote at the election; and
 - (c) an authorised officer is satisfied that the preliminary certified list of electors for an electorate—
 - (i) includes the person's name; and
 - (ii) states an address for the person or indicates that the person's address is suppressed; and
 - (iii) has not been marked to indicate that a ballot paper has already been issued to the person.

- (2) The authorised officer must—
 - (a) issue a ballot paper to the person for the electorate; and
 - (b) record the issue on the preliminary certified list of electors.
- (3) However, an authorised officer must not issue a ballot paper to a person who indicates they have already voted at the election.
- (4) 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 person attends before the authorised officer.

136D Declaration voting in ACT before polling day

- (1) This section applies if—
 - (a) a person attends an early polling place when the place is operational; and
 - (b) the person claims to be entitled to vote at the election; and
 - (c) an authorised officer is satisfied that—
 - (i) the preliminary certified list of electors for the electorate does not specify the person's name; or
 - (ii) the preliminary certified list of electors for the electorate has been marked to indicate that a ballot paper has already been issued to the person but the person claims not to have already voted at the election.

- (2) The authorised officer must—
 - (a) issue declaration voting papers to the person; and
 - (b) give the person a written statement indicating the consequences of casting a declaration vote under this section; and
 - (c) record the person's name.
- (3) However, an authorised officer must not issue declaration voting papers to a person who indicates they have already voted at the election.
- (4) 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 person attends before the authorised officer.

136E Arrangements at early polling places

- (1) This section applies to an early polling place.
- (2) Sections 120 to 123 apply as if the early polling place were a polling place.
- (3) The OIC must, at the beginning of each day of polling, exhibit each ballot box empty and then securely fasten its cover before any vote is taken.
- (4) The OIC must, in the presence of any scrutineers—
 - (a) at the end of each day of polling, other than the final day of polling, close and seal the ballot boxes containing ballot papers for ordinary or declaration voting; and

- (b) at the end of the final day of polling—
 - (i) close and seal any ballot boxes containing ballot papers for ordinary or declaration voting; and
 - (ii) parcel and enclose in sealed wrapping all unused ballot papers; and
 - (iii) parcel and enclose in sealed wrapping all other electoral papers used at the polling place.
- (5) The OIC must give the items mentioned in subsection (4) to the commissioner after the item has been sealed.
- (6) The commissioner must keep any items received under subsection (5) in safe custody for the purposes of scrutiny under part 12.
- (7) Ballot papers cast as ordinary votes may only be removed from ballot boxes and counted after the close of polling on polling day.

136F Declaration of days and times for declaration voting outside ACT on or before polling day

- (1) The commissioner may declare the days and times during the relevant period when voters may cast a declaration vote in a State.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (2) A declaration is a notifiable instrument.
- (3) In this section:

relevant period means the period—

- (a) beginning on the 2nd Monday before polling day or, if that Monday is a public holiday, the next business day; and
- (b) ending at 6 pm on polling day.

136G Declaration voting outside ACT on or before polling day

- (1) This section applies if—
 - (a) a person attends a place in a State where voters may cast a declaration vote before polling day (an *interstate declaration polling place*) when the place is operational; and
 - (b) the person claims to be entitled to vote at the election.
- (2) The authorised officer must—
 - (a) issue declaration voting papers to the person; and
 - (b) give the person a written statement indicating the consequences of casting a declaration vote under this section; and
 - (c) record the person's name.
- (3) However, an authorised officer must not issue declaration voting papers to a person who indicates they have already voted at the election.
- (4) 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 person attends before the authorised officer.

136H Electronic voting outside Australia on or before polling day

- (1) This section applies if there is an approved computer program for use in electronic voting by eligible electors in an election.
- (2) An eligible elector may apply to the commissioner to vote electronically at the election.

- (3) On application, the commissioner must give the eligible elector a relevant electronic ballot paper if—
- (a) the application includes a declaration to the effect that the elector is an eligible elector; and
 - (b) the commissioner receives the application in the period—
 - (i) beginning on the 3rd Monday before polling day or, if that Monday is a public holiday, the next business day; and
 - (ii) ending at 4 pm on polling day.
- (4) The eligible elector's electronic vote must be received by the commissioner not later than 6 pm on polling day.

- (5) In this section:

eligible elector means an elector—

- (a) who is entitled to vote at the election; and
- (b) either—
 - (i) who is an Antarctic elector; or
 - (ii) to whom both of the following apply:
 - (A) the elector will be outside Australia for all or part of the period beginning on the 3rd Monday before polling day and ending at 6 pm on polling day;
 - (B) the elector will not be in Australia when they vote.

relevant electronic ballot paper, for an eligible elector, means—

- (a) if the commissioner is satisfied that the elector's name is on the certified list of electors for an electorate—an electronic ballot paper for that electorate; or
- (b) in any other case—an electronic ballot paper for the electorate in which the elector claims to be enrolled.

136I Telephone voting by electors with a visual impairment on or before polling day

- (1) This section applies if there is an approved computer program for use by eligible electors in an election.
- (2) An eligible elector may apply to the commissioner to vote by telephone at the election.
- (3) On application, the commissioner must give the eligible elector an electronic ballot paper for an electorate to enable the elector to vote by telephone if—
 - (a) the commissioner receives the application in the period—
 - (i) beginning on the 2nd Monday before polling day or, if that Monday is a public holiday, the next business day; and
 - (ii) ending at 4 pm on polling day; and
 - (b) the commissioner is satisfied that the name of the elector is on the preliminary certified list of electors for the electorate.
- (4) The eligible elector's electronic vote must be received by the commissioner not later than 6 pm on polling day.
- (5) In this section:

eligible elector means an elector who—

 - (a) is entitled to vote at an election; and
 - (b) has a visual impairment that makes it difficult for the elector to vote in private without being assisted to vote.

33 **Definitions for div 10.5**
Section 149, definition of *visiting officer*

after

or (3)

insert

or section 150A

34 **New section 149B**

insert

149B **Declaration of homelessness polling places**

- (1) The commissioner may declare a place in the ACT as a place where voters may cast an ordinary or declaration vote on or before polling day (a *homelessness polling place*).
- (2) However, the commissioner may make a declaration under subsection (1) only if the commissioner is satisfied that the place is a location people experiencing homelessness are likely to attend or gather.
- (3) If the commissioner makes a declaration under subsection (1), the declaration must also state the days and times the homelessness polling place will be operational during the period—
 - (a) beginning on the 5th day before polling day; and
 - (b) ending at 6 pm on polling day.
- (4) A declaration is a notifiable instrument.

35 New section 150A

insert

150A Mobile polling—homelessness polling places

The commissioner must arrange for an officer to visit a homelessness polling place on the days and during the times stated in the declaration for the place.

**36 Functions of visiting officers
Section 151 (1)**

after

section 150

insert

or section 150A

37 Section 151 (2)

omit

or correctional centre

substitute

, correctional centre or homelessness polling place

38 Section 152

substitute

152 Failure to visit institution or homelessness polling place

A failure to do any of the following does not invalidate the result of an election:

- (a) make a visit to an institution under section 150;

- (b) make a visit to a homelessness polling place under section 150A;
- (c) take votes at an institution or homelessness polling place in accordance with section 151.

39 Custody of ballot boxes and electoral papers
Section 153 (1)

omit

his or her visits under section 150

substitute

their visits under section 150 or section 150A

40 Assistance to voters
Section 156 (2) (a)

after

postal voter

insert

or a voter casting an electronic vote under section 136H or section 136I

41 Section 156 (4) (e)

before

by folding

insert

for a paper ballot paper—

**42 Suspension and adjournment of polling
New section 160 (1A)**

insert

- (1A) A decision to suspend polling under subsection (1) does not invalidate the result of an election.

43 New section 160A

in division 10.6, insert

160A Suspension and resumption of electronic voting for eligible electors

- (1) This section applies if there is an approved computer program for use by eligible electors in an election.
- (2) The commissioner may suspend the use of the approved computer program at any time if it is not practicable to proceed with it for any reason.
- (3) A decision to suspend use of the approved computer program does not invalidate the result of the election.
- (4) If the commissioner suspends the use of the approved computer program, the commissioner may resume using the approved computer program at any time before 6 pm on polling day if it is practicable to do so.
- (5) On resumption of electronic voting, only an eligible elector who has not already voted is entitled to vote.
- (6) In this section:

eligible elector means an eligible elector within the meaning of section 136H (5) and section 136I (5).

**44 Scrutiny
Section 178 (3) (a)**

after

postal votes

insert

or electronic votes under section 136H or section 136I

**45 Preliminary scrutiny of declaration voting papers etc
Section 179 (1) (a)**

after

postal voting

insert

or electronic voting under section 136H

46 Section 179 (5)

after

preliminary scrutiny

insert

, other than for electronic voting under section 136H,

47 Section 179 (6)

after

cast

insert

under part 11 (Polling in Antarctica)

**48 Formality of ballot papers
New section 180 (2A)**

insert

(2A) Subsection (2) (d) does not apply to an electronic vote cast under section 136H.

**49 First count—electronic ballot papers
Section 183A**

omit

preferences from electronic voting

insert

preferences marked on an electronic ballot paper

**50 Recount of electronic scrutiny of ballot papers
Section 187C (2)**

omit

at a polling place or scrutiny centre

substitute

by an approved electronic device or approved computer program

**51 Definitions for pt 14
Section 198, new definition of *free facilities use***

insert

free facilities use means a gift of the use of facilities for a routine meeting of the receiver of the gift and—

- (a) includes the use of a room and anything reasonably necessary for the conduct of the meeting in the room; but

- (b) does not include any food, drink or other gift associated with the use of the facilities.

Examples—things reasonably necessary for conduct of meeting in room
tables, chairs, photocopier, microphone, computer

**52 Appointed agents
Section 203 (1)**

omit

a reporting agent

substitute

up to 2 reporting agents

53 Section 203 (3)

substitute

- (3) The appointment of a reporting agent ends—
- (a) for a person taken to be a reporting agent under subsection (4) or section 204 (2)—if the person resigns from the position with the commissioner’s consent; or
 - (b) in any other case—
 - (i) if the party, MLA or candidate gives the commissioner written notice stating that the appointment has ended; or
 - (ii) if the reporting agent gives the commissioner written notice stating that they have resigned.

**54 Registers of reporting agents
Section 205 (4) (a) and (b)**

substitute

- (a) the commissioner receives written notice under section 203 (3);
or

55 Section 205 (4), note

omit

56 New section 205C

in division 14.2B, insert

205C Meaning of *electoral expenditure*—div 14.2B

- (1) For this division, *electoral expenditure*, in relation to an election, does not include exempt expenditure.
- (2) In this section:

exempt expenditure means any expenditure for translated electoral matter up to a total of not more than 12.5% of the expenditure cap.

expenditure, for translated electoral matter, means expenditure incurred on a translation service for the production of translated electoral matter.

translated electoral matter means any electoral matter if at least 50% of the matter is broadcast, published or displayed in a language other than English.

**57 Entitlement to funds
Section 207 (1), new note**

insert

Note Payment under this division is subject to a threshold requirement (see s 208).

58 Sections 216 and 216A

substitute

216 Definitions—div 14.4

In this division:

anonymous gift means a gift for which the receiver does not know some or all of the defined details.

defined details, for a gift, means—

- (a) for a gift given 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; or
- (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 gave the gift.

216A Records of gifts

- (1) This section applies if a political entity receives a gift in the relevant period.
- (2) The financial representative of the entity must record the following information for the gift:
 - (a) the day the gift is received;

- (b) the amount of the gift;
- (c) for a gift other than an anonymous gift—the defined details for the gift;
- (d) for an anonymous gift—that the gift is an anonymous gift.

(3) In this section:

gift does not include free facilities use.

political entity means—

- (a) a non-party MLA; or
- (b) a party grouping; or
- (c) a non-party candidate grouping; or
- (d) a non-party prospective candidate grouping; or
- (e) an associated entity.

Note A gift received by or on behalf of a party candidate is taken to be received by the party (see s 200).

relevant period means—

- (a) for a party grouping, non-party MLA or associated entity—a financial year; and
- (b) for a non-party candidate grouping or non-party prospective candidate grouping—the period—
 - (i) if the candidate was a candidate at an election the polling day for which was within 5 years before polling day for the election at which the candidate is a candidate—starting on the 31st day after the polling day for the last election at which the candidate was a candidate; and

- (ii) in any other case—starting on the earlier of—
 - (A) the day when the candidate publicly announced that they would be a candidate in the election; and
 - (B) the day when the candidate was nominated as a candidate for the election in accordance with section 105; and
- (iii) ending on the 30th day after polling day for the election.

216B Regular disclosure of gifts

- (1) This section applies if, in the relevant period, a political entity receives a gift from a person that, together with any other gift given to the political entity by the person, is \$1000 or more for the period.
- (2) The financial representative of the entity must give the commissioner a return containing the information mentioned in section 216A (2) not later than 7 days after the day the total amount received from the person reaches \$1000.
- (3) In this section:

gift—see section 216A (3).

political entity—see section 216A (3).

relevant period—see section 216A (3).

59 Disclosure of gifts by non-party candidates Section 217 (2) and (3)

after

non-party candidate

insert

grouping

60 Section 220 (3) (d)

omit

made anonymously

insert

an anonymous gift

**61 Application—div 14.4A
New section 222A (1) (c) and (d)**

insert

- (c) a gift that is paid into a federal account as soon as practicable after the gift is received;
- (d) a gift received by a prospective candidate for an election if the prospective candidate is not later declared a candidate for the election under section 109;

62 New section 222A (3)

insert

- (3) In this section:

federal account—see the *Commonwealth Electoral Act 1918* (Cwlth), section 287.

**63 Definitions—div 14.4A
Section 222B, definition of *political entity***

substitute

political entity means—

- (a) a non-party MLA; or
- (b) a party grouping; or

- (c) a non-party candidate grouping; or
- (d) a non-party prospective candidate grouping; or
- (e) an associated entity.

**64 Ban on gifts from property developers etc—\$250 or more
Section 222G (4) (a)**

after

another person

insert

(the *second person*)

65 New section 222G (4) (aa) and (ab)

insert

- (aa) the second person gives the gift, or part of the gift, to the political entity; and
- (ab) the gift, together with any other gift given to the political entity by the second person at the request of the first person and on behalf of the property developer or close associate of the property developer in the financial year, is \$250 or more; and

**66 Declaration that corporation not a property developer
Section 222K (1) and (2)**

omit

electoral commission

substitute

commissioner

67 Section 222K (3)

omit

The electoral commission must make its

substitute

The commissioner must make a

68 Section 222K (5) (b)

omit

electoral commission

substitute

commissioner

69 Section 222K (6)

omit

electoral commission repeals a declaration it

substitute

commissioner repeals a declaration, the commissioner

70 New division 14.4B

insert

Division 14.4B Gifts from foreign entities**222L Application—div 14.4B**

- (1) This division does not apply to the following:
 - (a) a gift that—
 - (i) is not money; and

- (ii) is given to an MLA by or on behalf of a foreign government or a foreign government official; and
 - (iii) together with any other gift given to the MLA by or on behalf of the foreign government or foreign government official, is less than \$250;
- (b) a gift that is returned to the giver within 30 days after the gift is received;
 - (c) a gift that is paid into a federal account as soon as practicable after the gift is received;
 - (d) a gift received by a prospective candidate for an election if the prospective candidate is not later declared a candidate for the election under section 109;
 - (e) free facilities use.
- (2) In this section:
- federal account*—see the [Commonwealth Electoral Act 1918](#) (Cwlth), section 287.

222M Definitions—div 14.4B

In this division:

foreign entity means any entity that is not 1 or more of the following:

- (a) an individual enrolled on the Commonwealth roll;
- (b) an individual enrolled under this Act;
- (c) an individual who is an Australian citizen;
- (d) an individual whose principal place of residence is in Australia;
- (e) a company incorporated under the [Corporations Act](#);
- (f) a company incorporated under a territory law;
- (g) an entity which has its head office located in Australia;

- (h) an entity for which the principal place of activity is, or is in, Australia;
- (i) a body politic, or part of a body politic, of the Commonwealth, the Territory or a State.

Note **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

gift includes a loan, other than a loan given by a financial institution on a commercial basis.

Note The definition of **gift** in s 198AA also applies to this division.

political entity means—

- (a) a non-party MLA; or
- (b) a party grouping; or
- (c) a non-party candidate grouping; or
- (d) a non-party prospective candidate grouping; or
- (e) an associated entity.

222N Ban on gifts given by or on behalf of foreign entities—less than \$250

- (1) This section applies if—
 - (a) a political entity is given a gift by or on behalf of a foreign entity; and
 - (b) the gift, together with any other gift given by the person in the financial year, is less than \$250.
- (2) The giver of the gift must pay to the Territory an amount equal to the amount of the gift.
- (3) The amount payable under subsection (2) is a debt payable to the Territory by the person and may be recovered by a proceeding in a court of competent jurisdiction.

**2220 Ban on gifts given by or on behalf of foreign entities—
\$250 or more**

- (1) A foreign entity commits an offence if—
- (a) the foreign entity gives a gift to a political entity; and
 - (b) the gift, together with any other gift given to the political entity by the foreign entity in the financial year, is \$250 or more.

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

- (2) A person commits an offence if—
- (a) the person gives a gift to a political entity; and
 - (b) the gift, or part of the gift, is given to the political entity on behalf of a foreign entity; and
 - (c) the gift, together with any other gift given to the political entity by the person on behalf of the foreign entity in the financial year, is \$250 or more.

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

- (3) A person commits an offence if—
- (a) the person asks another person (the *second person*) to give a gift to a political entity on behalf of a foreign entity; and
 - (b) the second person gives the gift, or part of the gift, to the political entity; and
 - (c) the gift, together with any other gift given to the political entity by the second person at the request of the first person and on behalf of the foreign entity in the financial year, is \$250 or more.

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

- (4) In this section:

asks includes cause, induce or solicit.

222P Ban on acceptance of gifts given by or on behalf of foreign entities—less than \$250

- (1) This section applies if—
- (a) a political entity accepts a gift given to it by or on behalf of a foreign entity; and
 - (b) the gift, together with any other gift given to the political entity by the person in the financial year, is less than \$250; and
 - (c) the political entity has not taken reasonable steps to ensure that the gift is not being given to it by or on behalf of a foreign entity.

Examples—reasonable steps

- 1 giving potential donors written notice that donations from foreign entities are prohibited
 - 2 asking the person who gives the gift about whether the person is a foreign entity, or if the person is giving the gift on behalf of a foreign entity
- (2) The financial representative of the political entity must pay to the Territory an amount equal to the amount of the gift.
- (3) The amount payable under subsection (2) is a debt payable to the Territory by the financial representative for the political entity and may be recovered by a proceeding in a court of competent jurisdiction.

222Q Ban on acceptance of gifts given by or on behalf of foreign entities—\$250 or more

- (1) A political entity commits an offence if—
- (a) the political entity accepts a gift given to it by or on behalf of a foreign entity; and

- (b) the gift, together with any other gift given to the political entity by the person in the financial year, is \$250 or more.

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

- (2) Subsection (1) does not apply if the political entity takes reasonable steps to ensure that the gift is not being given to it by or on behalf of a foreign entity.

Examples—reasonable steps

- 1 obtaining a written declaration from the person who gives the gift about whether the person is a foreign entity
- 2 asking the person who gives the gift whether the person is a foreign entity
- 3 for a fundraising event intended to collect gifts from a large number of potential donors, providing clear written notice to potential donors that foreign entities are prohibited from giving gifts to a political entity

Note 1 The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

Note 2 For recording and disclosure requirements in relation to the receipt of gifts by political entities, see s 216A and s 216B.

- (3) In deciding whether a political entity has taken reasonable steps under subsection (2), a court must take into account the amount of the gift accepted by the political entity.
- (4) Subsection (3) does not limit the matters the court may take into account.
- (5) If a political entity contravenes subsection (1), the financial representative of the political entity must pay to the Territory an amount equal to the amount of the gift.
- (6) The amount payable under subsection (5) is a debt payable to the Territory by the financial representative for the political entity and may be recovered by a proceeding in a court of competent jurisdiction.

71 New section 232 (3) (ba)

insert

- (ba) for an associated entity that operates a hotel, motel, resort, residential park or other short stay accommodation—an amount received that—
- (i) is for the provision of accommodation; and
 - (ii) is not more than reasonable consideration for the accommodation;

72 Section 232 (5), new definitions

insert

occupancy agreement—see the [Residential Tenancies Act 1997](#), section 71C.

residential park—

- (a) means land that includes sites for accommodating manufactured homes or mobile homes; and
- (b) includes a caravan park or camping ground.

residential tenancy agreement—see the [Residential Tenancies Act 1997](#), section 6A.

short stay accommodation—

- (a) means premises, or a part of premises, that a person is allowed to use on a short-term basis under a commercial arrangement; but
- (b) does not include premises, or part of premises, occupied under a residential tenancy agreement, occupancy agreement, or other agreement that permits a person to use the premises as their principal place of residence.

73 New section 243AA

before section 243A, insert

243AA Exception for making copies of returns available for inspection

- (1) This section applies if—
 - (a) an associated entity gives the commissioner an annual return under section 231B (Annual returns by associated entities); and
 - (b) the annual return includes information mentioned in section 232 (3).
- (2) Despite section 243, the commissioner is not required to make the information mentioned in section 232 (3) available for public inspection.

**74 Validity may be disputed after election
Section 256 (2) (d)**

before

an officer

insert

the commissioner or

75 Section 292

substitute

292 Dissemination of unauthorised electoral matter

- (1) A person commits an offence if—
 - (a) the person disseminates electoral matter; and

- (b) the matter does not include a statement that—
 - (i) includes the required information; and
 - (ii) complies with the language requirements; and
 - (iii) complies with the form and access requirements.

Maximum penalty: 10 penalty units.

- (2) For this section, the *required information* for a statement is—
 - (a) the first and last name of the individual who authorised or authored the matter; and
 - (b) a statement to the effect that the individual authorises, or is the author of, the matter; and
 - (c) if the matter is disseminated for a registered party, a candidate for election or a person who has publicly indicated their intended candidature for election—a statement to the effect that the matter is disseminated for the party, candidate or person; and
 - (d) if the matter is disseminated for an entity not mentioned in paragraph (c)—a statement to the effect that the matter is disseminated for the entity and the full name of the entity.
- (3) For this section, the *language requirements* for a statement are as follows:
 - (a) if the matter is communicated in English only—the required information is communicated in English;
 - (b) if the matter is communicated only in a language other than English—the required information is communicated in English and the other language used in the matter;
 - (c) if the matter is communicated in 2 or more languages—the required information is communicated in English and at least 1 other language used in the matter.

- (4) For this section, the *form and access requirements* for a statement are as follows:
- (a) for electoral matter disseminated in print form—the required information is—
 - (i) communicated in text; and
 - (ii) printed in a way that the information—
 - (A) cannot be removed or erased under normal conditions or use; and
 - (B) will not fade, run or rub off;
 - (b) for electoral matter that is an audiovisual recording or communication (other than matter mentioned in paragraph (d), (e) or (f))—the required information is communicated in both speech and text;
 - (c) for electoral matter that is an audio recording or communication (other than matter mentioned in paragraph (d), (e) or (f))—the required information is communicated in speech;
 - (d) for electoral matter disseminated using a webpage (other than matter mentioned in paragraph (e))—the required information is communicated in text in the footer of the webpage;
 - (e) for electoral matter disseminated on social media using an account that is in the name of an individual—the required information is communicated in text by a link in the matter or in a reasonably prominent place on the account;
 - (f) for electoral matter not mentioned in paragraphs (a) to (e)—the required information is communicated in a reasonably prominent place;
 - (g) for any required information to be communicated in text—the text is—
 - (i) reasonably prominent; and

- (ii) legible at a distance at which the matter is intended to be viewed; and
- (iii) displayed in a colour that contrasts with the background on which it appears; and
- (iv) is not placed over complex images or multicoloured backgrounds.

76 Section 293A

substitute

293A Exception for electoral matter disseminated on social media by individuals acting in private capacity

Section 292 does not apply to the dissemination of electoral matter by an individual if—

- (a) the electoral matter—
 - (i) is disseminated on or through social media; and
 - (ii) is disseminated in a private capacity; and
 - (iii) forms part of the expression of the individual's personal political views; and
- (b) the individual—
 - (i) is not paid to express the views expressed in the electoral matter; and
 - (ii) for electoral matter that is disseminated using an account that is not in the individual's name—the account was not created for the dominant purpose of disseminating electoral matter.

**77 Responses to official questions
Section 319 (3)**

substitute

(3) In this section:

official question means a question—

- (a) asked by the commissioner or an officer in the exercise of the commissioner or officer's functions under this Act; or
- (b) in a form approved under section 340A or otherwise authorised by the commissioner.

**78 Interpretation for sch 4
Schedule 4, clause 1, definition of *surplus***

omit

1 or greater

substitute

greater than zero

79 Dictionary, definition of *approved computer program*

substitute

approved computer program means a computer program approved under section 118A (1) (a).

80 Dictionary, new definition of *approved electronic device*

insert

approved electronic device means an electronic device approved under section 118AB.

81 Dictionary, definition of *declaration voting papers*, paragraph (c)

after

postal voting

insert

or electronic votes under section 136H

82 Dictionary, definition of *declaration voting papers*, paragraph (d)

before

an envelope

insert

for declaration voting papers other than an electronic vote under section 136H—

83 Dictionary, definition of *OIC*, new paragraph (c)

insert

(c) in relation to an early polling place—the officer in charge of the place.

Part 3 Public Unleased Land Act 2013

84 Offence—fail to comply with code of practice New section 28 (1A)

insert

- (1A) A person commits an offence if—
- (a) the person places, or causes to be placed, an electoral advertising sign on public unleased land; and
 - (b) the person fails to comply with the movable signs code of practice for the sign; and
 - (c) the failure relates to either—
 - (i) the number of signs that may be placed on public unleased land; or
 - (ii) the sign being placed on public unleased land that is adjacent to a designated public road.

Maximum penalty: 20 penalty units.

85 New section 28 (3)

insert

- (3) In this section:

designated public road means a public road, or part of a public road, prescribed by the movable signs code or practice.

electoral advertising sign means a movable sign that contains electoral matter.

electoral matter—

- (a) means any matter that is intended, or is likely, to affect voting in an ACT, Commonwealth or State election or referendum; and

(b) includes any matter that contains an express or implied reference to—

- (i) an ACT, Commonwealth or State election or referendum;
or
- (ii) any matter on which electors are required to vote in an ACT, Commonwealth or State election or referendum.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

86 **Removal of non-compliant electoral advertising signs by Territory**
Section 105A (5), definition of *electoral advertising sign*

substitute

electoral advertising sign—see section 28 (3).

87 **Section 105A (5), definition of *electoral matter* and note**

omit

Part 4 Road Transport (Offences) Regulation 2005

88 Schedule 1, part 1.12A, new item 324A

insert

| | | | | | |
|------|-----------|---|----|-----|---|
| 324A | 213SA (1) | sign displaying advertising/electoral matter attached to vehicle parked in designated place | 20 | 700 | - |
|------|-----------|---|----|-----|---|

Part 5 Road Transport (Road Rules) Regulation 2017

89 Application—pt 12—bicycles Section 166

after

This part

insert

(other than division 12.12A (Signs attached to vehicles parked in designated place))

90 New division 12.12A

insert

Division 12.12A Signs attached to vehicles parked in designated place

213SA Vehicle parked in designated place must not have sign attached

- (1) A driver must not park a vehicle in a designated place if a sign displaying advertising or electoral matter is attached to the vehicle.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply to a vehicle being used by or for the Territory.

- (3) The Minister may, for subsection (1), declare—

- (a) a road or public unleased land to be a designated place if satisfied that making the declaration is in the interests of road safety; and

(b) matter that is or is not advertising.

(4) A declaration is—

(a) for subsection (3) (a)—a notifiable instrument; and

(b) for subsection (3) (b)—a disallowable instrument.

(5) In this section:

advertising—

(a) means any matter declared to be advertising under subsection (3) (b); but

(b) does not include—

(i) any matter declared not to be advertising under subsection (3) (b); or

(ii) a bumper sticker displayed in or on the vehicle; or

(iii) advertising indicating that the vehicle is for sale.

designated place means a place declared under subsection (3) (a).

electoral matter—

(a) means any matter that is intended, or is likely, to affect voting in an ACT, Commonwealth or State election or referendum; and

(b) includes any matter that contains an express or implied reference to—

(i) an ACT, Commonwealth or State election or referendum;
or

(ii) any matter on which electors are required to vote in an ACT, Commonwealth or State election or referendum; but

Note ***State*** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

(c) does not include electoral matter on a bumper sticker displayed in or on a vehicle.

public unleased land—see the *Public Unleased Land Act 2013*, section 8.

sign means a board, device, plate or screen.

Schedule 1 Electoral Act 1992— Consequential amendments

(see s 3)

[1.1] **New section 131 (1)**

substitute

- (1) At an election, an elector may cast an ordinary or declaration vote in accordance with division 10.2, 10.3, 10.4 or 10.5.

[1.2] **Section 133 (4)**

omit

[1.3] **Section 137 (1)**

omit

section 136B (17) or section 136C

substitute

section 136D (2) (a) or section 136G (2) (a)

[1.4] **Section 149, new definition of *homelessness polling place***

insert

homelessness polling place—see section 149B (1).

[1.5] **Section 232 (5)**

omit

[1.6] Section 243A (1)

omit

section 216A (Records and regular disclosure of gifts)

substitute

section 216B (Regular disclosure of gifts)

[1.7] Section 291, definition of *polling place*, paragraph (a)

substitute

(a) an early polling place; and

(aa) an interstate declaration polling place; and

[1.8] Section 307 (5) (a)

substitute

(a) an early polling place; or

(aa) an interstate declaration polling place; or

[1.9] Section 320 (6), definition of *voting centre*, paragraph (a)

substitute

(a) an early polling place; or

(aa) an interstate declaration polling place; or

[1.10] Schedule 3, clause 6 (1), definition of *relevant provision*, paragraphs (b) and (c)

substitute

(b) for a vote under section 136D—section 135 (4) as applied by section 136D (4); or

- (c) for a vote under section 136G—section 135 (4) as applied by section 136G (4); or

[1.11] Dictionary, definition of *anonymously*

omit

[1.12] Dictionary, definition of *declaration vote*

substitute

declaration vote means a vote cast in accordance with any of the following provisions:

- (a) section 135 (Declaration voting at polling places);
- (b) section 136D (Declaration voting in ACT before polling day);
- (c) section 136G (Declaration voting outside ACT on or before polling day);
- (d) section 144A (Requirements for casting postal votes);
- (e) section 150A (Mobile polling—homelessness polling places).

[1.13] Dictionary, new definition of *early polling place*

insert

early polling place—see section 136B (1).

[1.14] Dictionary, definitions of *electoral expenditure* and *electronic voting*

substitute

electoral expenditure, in relation to an election—

- (a) for part 14 (Election funding, expenditure and financial disclosure) generally—see section 198; and

- (b) for division 14.2B (Limitations on electoral expenditure)—see section 205C (1).

electronic voting means voting at an election using an electronic ballot paper, and includes telephone voting.

[1.15] Dictionary, new definitions of *foreign entity* and *free facilities use*

insert

foreign entity, for division 14.4B (Gifts from foreign entities)—see section 222M.

free facilities use, for part 14 (Election funding, expenditure and financial disclosure)—see section 198.

[1.16] Dictionary, definition of *gift*

substitute

gift—

- (a) for part 14 (Election funding, expenditure and financial disclosure) generally—see section 198AA; and
- (b) for division 14.4A (Gifts from property developers)—see section 222B; and
- (c) for division 14.4B (Gifts from foreign entities)—see section 222M.

[1.17] Dictionary, new definitions of *homelessness polling place* and *interstate declaration polling place*

insert

homelessness polling place, for division 10.5 (Mobile polling)—see section 149B (1).

interstate declaration polling place—see section 136G (1) (a).

[1.18] Dictionary, definition of *political entity*

substitute

political entity—

- (a) for division 14.4A (Gifts from property developers)—see section 222B; and
- (b) for division 14.4B (Gifts from foreign entities)—see section 222M.

Schedule 2 Technical amendments

(see s 3)

Part 2.1 Electoral Act 1992

[2.1] Sections 7 (1) (i) and 11

omit

another Territory law

substitute

another territory law

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.2] Section 12B (a) (iii)

omit

or another Territory

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.3] Section 12B (b) (ii)

omit

Commonwealth, a State or another Territory

substitute

Commonwealth or a State

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.4] Section 12B, new note

insert

Note **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.5] Section 12C (1) (h) (ii)

omit

Commonwealth, a State or another Territory

substitute

Commonwealth or a State

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.6] Section 12C (2), definition of *judge*, paragraph (b)

omit

or another Territory

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.7] Section 12C, new note

insert

Note **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.8] Section 19 (4)

omit

he or she

substitute

the chairperson

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.9] Section 33 (3)

omit

he or she becomes

substitute

they become

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.10] Sections 33B (1) and 33C (1)

omit

another Territory law

substitute

another territory law

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.11] Section 40 (2)

omit

he or she

substitute

the commissioner

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.12] Section 48 (2)

omit

he or she

substitute

the chairperson

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.13] Section 57 heading

substitute

57 Rolls of ACT electors and electorates

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.14] Section 63 (1), definition of *approved purpose*, paragraphs (a) and (b)

substitute

- (a) for an MLA—the exercise of the MLA’s functions;
- (b) for the registered officer of a registered party—for the purpose of an MLA who is a member of the party exercising that MLA’s functions;

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.15] Section 67 (1) (c)

omit

Territory authority

substitute

territory authority

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.16] Section 74 (3) (b)

omit

he or she does not

substitute

they do not

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.17] Section 76 (5) (a)

omit

he or she

substitute

the claimant

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.18] Section 77 (2)

omit

his or her

substitute

the elector's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.19] Sections 77 (4) and 81 (6)

omit

he or she

substitute

the commissioner

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.20] Section 86

omit

Territory law

substitute

territory law

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.21] Section 103 (2) (a) (ii)

omit

or another Territory

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.22] Section 103 (2) (b) (i)

omit

Commonwealth, a State or another Territory

substitute

Commonwealth or a State

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.23] Section 103 (2) (b) (ii)

substitute

- (ii) is employed by the Territory, the Commonwealth or a State or by a territory authority or a body (whether incorporated or unincorporated) established by a law of the Commonwealth or a State;

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.24] Section 103 (2), new note

insert

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.25] Section 105 (4) (c) and (d)

omit

he or she

substitute

the nominee

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.26] Section 105 (7)

omit

his or her

substitute

the nominee's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.27] Section 107 (1)

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.28] Section 118A (2) (d) and (3) (b) (i)

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.29] Section 128 (2)

omit

he or she

substitute

they

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.30] Sections 129 and 132 (1)

omit

his or her

substitute

the elector's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.31] Section 133 (1) (b)

before

claims

insert

the person

Explanatory note

This amendment corrects a typographical error by inserting missing words.

[2.32] Section 133 (3)

omit

he or she has

substitute

they have

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.33] Section 134 (b)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.34] Section 135 (2)

omit

he or she has

substitute

they have

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.35] Section 135 (4) (c) (i)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.36] Section 145 (a)

omit

he or she

substitute

the elector

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.37] Section 160 (5)

omit

subsection (2)

substitute

subsection (3)

Explanatory note

This amendment corrects a cross-reference.

[2.38] Section 191 (2) (d)

omit

he or she

substitute

the former MLA

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.39] Section 192 (1)

substitute

- (1) A person may apply to be a candidate for a seat to which a casual vacancy has occurred if the person—
- (a) was a candidate at the last election for the electorate in which the vacancy has occurred; and
 - (b) was not elected; and
 - (c) is an eligible person.

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.40] Section 192 (2) (a) (i) and (ii)

omit

he or she

substitute

the applicant

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.41] Section 192 (3)

omit

his or her

substitute

their

[2.42] Section 198, definition of *registered industrial organisation*

substitute

registered industrial organisation means an organisation registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth) or under a law of a State providing for the registration of industrial organisations.

Note **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment updates language and inserts a note in line with current legislative drafting practice.

[2.43] Section 201 (2), definition of *disclosure day*, paragraph (b) (ii) (A)

omit

he or she

substitute

they

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.44] Section 204 (3) and (4)

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.45] Section 205K (1)

substitute

- (1) This section does not apply to payments made to a party under this Act, or a corresponding Act of the Commonwealth or a State.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment updates language and inserts a note in line with current legislative drafting practice.

[2.46] Section 217 (4)

omit

Explanatory note

This amendment omits a redundant definition.

[2.47] Section 230 (5)

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.48] Section 230 (6) and (7)

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.49] Section 238 (4)

omit

he or she

substitute

the magistrate

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.50] Sections 238 (6) (b) and 239 (1)

omit

he or she

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.51] Section 240

substitute

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 believes it is impossible to complete the return because the person is unable to obtain particulars (the *missing particulars*) 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 the missing particulars; and
 - (b) give the commissioner the prepared return; and
 - (c) give the commissioner written notice—
 - (i) identifying the return; and
 - (ii) stating that the return is incomplete because the person is unable to obtain the missing particulars; and
 - (iii) identifying the missing particulars; and
 - (iv) setting out the reasons why the person is unable to obtain the missing particulars; and

- (v) if the person believes on reasonable grounds that another person whose name and address is known to the person can give the missing particulars—stating that belief, the reasons for the belief and the name and address of the other person.
- (2) If a person complies with subsection (1), the person must not, for section 236 (2) (c), be taken to have given a return that is incomplete because of the person’s omission of any missing particulars identified in a written notice given to the commissioner in accordance with subsection (1) (c).
- (3) If a person tells the commissioner under subsection (1) (c) or (4) (e) that another person can give the missing particulars, the commissioner may, by written notice, require that the other person give the commissioner written notice of the missing particulars within the period stated in the notice.
- (4) If a person who is required under subsection (3) to give the commissioner the missing particulars considers that they are unable to obtain some or all of the particulars, the person must give the commissioner written notice—
 - (a) stating the missing particulars (if any) that the person is able to give; and
 - (b) stating that the person is unable to obtain certain missing particulars; and
 - (c) identifying the missing particulars the person is unable to obtain; and
 - (d) setting out the reasons why the person is unable to obtain those missing particulars; and
 - (e) if the person believes on reasonable grounds that another person whose name and address is known to the person can give those missing particulars—stating that belief, the reasons for the belief and the name and address of the other person.

- (5) A person must not, for section 236 (2) (c), be taken to have given a return that is incomplete because of the person's omission of the missing particulars if the person—
- (a) is given written notice under subsection (3); and
 - (b) complies with the written notice or gives the commissioner written notice in accordance with subsection (4).

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.52] Section 241 (2) (b)

omit

his or her

substitute

this

Explanatory note

This amendment corrects a typographical error.

[2.53] Section 258 (1) (c)

omit

his or her

substitute

the applicant

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.54] Section 263 (9) (a)

omit

he or she

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.55] Section 263 (9) (d)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.56] Section 271 (b)

omit

he or she

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.57] Section 290 (3)

omit

he or she

substitute

the employee

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.58] Section 293 (3) (b)

substitute

(b) if the residence is outside the ACT—the State or other country of the residence.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment updates language and inserts a note in line with current legislative drafting practice.

[2.59] Section 294 (1) (a) and (b)

omit

he or she is

substitute

they are

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.60] Section 298

omit

his or her

substitute

the elector's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.61] Section 299 (2) and (3)

omit

Territory authority

substitute

territory authority

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.62] Section 301 (3) (b)

substitute

(b) that relates to a candidate who—

(i) was nominated by the party; and

(ii) has publicly declared their candidature to be on behalf of,
or in the interests of, the party.

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.63] Section 314 (1)

omit

he or she shall sign it with his or her

substitute

the person must sign it with their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.64] Section 314 (2)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.65] Section 315 (1) (b) and (c)

omit

he or she

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.66] Section 315 (1) (d)

substitute

(d) the person is able to sign their own name.

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.67] Section 315 (2)

omit

himself or herself

substitute

themselves

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.68] Section 317 (b)

omit

him or her

substitute

the officer

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.69] Section 318 (2)

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.70] Sections 321 (1) and 322 (1)

omit

another Territory law

substitute

another territory law

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.71] Section 323

omit

his or her

substitute

the commissioner's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.72] Schedule 4, clauses 5, 6 and 9

omit

him or her

substitute

the candidate

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.73] Schedule 4, clause 13 (4), definition of *NCP*

omit

he or she

substitute

the former MLA

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.74] Schedule 4, clause 14 (2)

omit

him or her

substitute

the candidate

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.75] Dictionary, notes 1 and 2, except dot points

substitute

Note The [Legislation Act](#) contains definitions relevant to this Act. For example:

Explanatory note

This amendment updates notes in line with current legislative drafting practice.

Part 2.2 Electoral Regulation 1993

[2.76] Section 5A heading

substitute

5A Declaration ballot papers—Act, s 114 (7)

Explanatory note

This amendment inserts a cross-reference in line with current legislative drafting practice.

[2.77] Dictionary, notes 1 to 3

substitute

Note 1 The [Legislation Act](#) contains definitions relevant to this regulation. For example:

- chief health officer
- commissioner for revenue
- director-general (see s 163)
- entity
- integrity commission
- integrity commissioner
- public trustee and guardian.

Note 2 Terms used in this regulation have the same meaning that they have in the [Electoral Act 1992](#).

Explanatory note

This amendment updates notes in line with current legislative drafting practice.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 29 June 2023.

2 Notification

Notified under the [Legislation Act](#) on 15 November 2023.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Electoral and Road Safety Legislation Amendment Bill 2023, which was passed by the Legislative Assembly on 31 October 2023.

Acting Clerk of the Legislative Assembly

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