



Australian Capital Territory

Aboriginal and Torres Strait Islander Elected Body Act 2008

A2008-12

Republication No 15

Effective: 6 August 2020

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Last amendment made by [A2020-36](#)

About this republication

The republished law

This is a republication of the *Aboriginal and Torres Strait Islander Elected Body Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 6 August 2020. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 6 August 2020.

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

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

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

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

Editorial changes

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 includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Aboriginal and Torres Strait Islander Elected Body Act 2008

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Australian Capital Territory

Aboriginal and Torres Strait Islander Elected Body Act 2008

An Act to establish an Aboriginal and Torres Strait Islander Elected Body, and
for other purposes

R15
06/08/20

Aboriginal and Torres Strait Islander Elected Body
Act 2008

page 1

Effective: 06/08/20

Part 1 Preliminary

1 Name of Act

This Act is the *Aboriginal and Torres Strait Islander Elected Body Act 2008*.

3 Objects

The objects of this Act are, in recognition of the rights of Aboriginal and Torres Strait Islander peoples to freely determine their political status and to freely pursue their economic, social and cultural development in line with the right to self-determination—

- (a) to ensure maximum opportunity for the voice of Aboriginal and Torres Strait Islander people living in the ACT to reach decision-makers in the government and its agencies; and
- (b) to ensure maximum participation of Aboriginal and Torres Strait Islander people living in the ACT in developing and implementing government policies affecting them; and
- (c) to ensure coordination by government agencies in developing policies affecting Aboriginal and Torres Strait Islander people living in the ACT without detracting from, or diminishing, the responsibilities of those agencies to provide services for the broader community; and
- (d) to further the economic, social and cultural development of Aboriginal and Torres Strait Islander people living in the ACT.

4 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*ATSIEB election*, for part 3 (ATSIEB elections)—see section 28.’ means that the term ‘ATSIEB election’ is defined in that section for part 3.

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](#), s 155 and s 156 (1)).

5 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 **Aboriginal and Torres Strait Islander Elected Body**

Division 2.1 **Establishment and functions of ATSIEB**

7 **Aboriginal and Torres Strait Islander Elected Body**

The Aboriginal and Torres Strait Islander Elected Body (*ATSIEB*) is established.

8 **Functions of ATSIEB**

ATSIEB has the following functions:

- (a) to receive, and pass on to the Minister and any other Minister responsible for the matter that is the subject of concern, the views of Aboriginal and Torres Strait Islander people living in the ACT on issues of concern to them;
- (b) when asked by the Minister, to give the Minister information or advice about the views of Aboriginal and Torres Strait Islander people living in the ACT on matters stated by the Minister;
- (c) to represent, including nationally, Aboriginal and Torres Strait Islander people living in the ACT and to act as an advocate on systemic or whole-of-government issues affecting their interests;
- (d) to foster community discussion about—
 - (i) issues of concern to Aboriginal and Torres Strait Islander people living in the ACT; and
 - (ii) the functions of ATSIEB; and
 - (iii) this Act;

- (e) to conduct regular consultation with Aboriginal and Torres Strait Islander people living in the ACT and report the outcomes of that consultation to the Minister and any other Minister responsible for the matter that is the subject of the consultation;
- (f) to make recommendations to government agencies about research proposals that further the objects of this Act;
- (g) to monitor and report on the effectiveness and accessibility of programs and services conducted by government agencies for Aboriginal and Torres Strait Islander people living in the ACT;
- (h) to monitor and report on the accessibility by Aboriginal and Torres Strait Islander people living in the ACT to programs and services conducted by government agencies for the general public;
- (i) to provide advice to government agencies on appropriate representation of Aboriginal and Torres Strait Islander people living in the ACT on consultative bodies established by government agencies;
- (j) when asked by a government agency or another person, to recommend any reasonable action it considers necessary to protect Aboriginal and Torres Strait Islander cultural material or information considered sacred or significant by Aboriginal and Torres Strait Islander people living in the ACT;
- (k) any other function given to ATSIEB by the Minister;
- (l) any other function given to ATSIEB 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](#), s 196 and dict, pt 1, def *entity*).

9 Consultation on cultural heritage

- (1) Before recommending action under section 8 (j) in relation to cultural material or information, ATSIEB—
 - (a) if the cultural material or information is specific to an Aboriginal object or an Aboriginal place that is in, or apparently originated in, the ACT—must consult at least 1 of the following:
 - (i) the United Ngunnawal Elders Council;
 - (ii) a representative Aboriginal organisation;
 - (iii) another person that ATSIEB is satisfied has a traditional connection to the ACT region; or
 - (b) in any other case—may consult any person ATSIEB considers appropriate.
- (2) In this section:
Aboriginal object—see the *Heritage Act 2004*, section 9.
Aboriginal place—see the *Heritage Act 2004*, section 9.

10 Discussions etc with non-government entities on systemic issues

- (1) ATSIEB may, in exercising its functions under section 8 (c), communicate, including nationally, with a non-government entity providing a service or administering a program used by Aboriginal and Torres Strait Islander people living in the ACT.
- (2) If the non-government entity is funded by a government agency, ATSIEB may also discuss matters relating to the service, program or funding with the executive officer of the agency.
Note Under s 26, ATSIEB may invite an executive officer to its meetings to discuss any issues relating to functions of ATSIEB or the agency.
- (3) However, this section does not make the non-government entity accountable to ATSIEB for its operations.

- (4) In this section:

non-government entity means an entity that is not a government agency.

10A Public hearings about government service provision

- (1) In exercising its functions under section 8 (g) and (h), ATSIEB must hold at least 2 public hearings during each ATSIEB term.
- (2) The purpose of a public hearing under subsection (1) is to obtain information about—
 - (a) the effectiveness and accessibility of programs and services conducted by government agencies for Aboriginal and Torres Strait Islander people living in the ACT; and
 - (b) the accessibility by Aboriginal and Torres Strait Islander people living in the ACT to programs and services conducted by government agencies for the general public.
- (3) The executive officer of a government agency must—
 - (a) attend a public hearing if requested by ATSIEB; and
 - (b) provide information and answer questions from ATSIEB in relation to the matters in subsection (2).
- (4) ATSIEB may conduct proceedings at a public hearing as it considers appropriate.
- (5) However, at least 4 ATSIEB members must be present at a public hearing.

10AA Broadcasting of public hearings

- (1) The Territory may enter into an agreement with a suitably qualified and experienced person (the *broadcaster*), for the person to provide a broadcasting service in relation to a public hearing of ATSIEB.
- (2) The broadcaster may broadcast, or record for broadcast, all or part of a public hearing of ATSIEB in accordance with the terms of the agreement.
- (3) The broadcaster is not civilly liable for conduct engaged in honestly and without recklessness—
 - (a) in the exercise of a function under subsection (2); or
 - (b) in the reasonable belief that the conduct was in the exercise of a function under subsection (2).
- (4) Any liability that would, apart from this section, attach to the broadcaster attaches instead to the Territory.
- (5) An agreement must be entered into for the Territory by the director-general.
- (6) In this section:

broadcast—see the *Legislative Assembly (Broadcasting) Act 2001*, dictionary.

conduct means an act or omission to do an act.

record, a public hearing of ATSIEB, means make a sound or visual recording of the hearing.

10B Reports from ATSIEB

- (1) ATSIEB must report to the Minister on a public hearing held under section 10A within 4 months after the day the public hearing ends.
- (2) The report—
 - (a) must be in writing; and
 - (b) may make recommendations about changes to programs and services for Aboriginal and Torres Strait Islander people living in the ACT.
- (3) The Minister must—
 - (a) present the report to the Legislative Assembly within 6 sitting days after the day the Minister receives the report; and
 - (b) present a response to the report not later than the first sitting week after the end of 4 months after the day the Minister receives the report.

11 Requirement to consult

- (1) In exercising its functions ATSIEB must consult Aboriginal and Torres Strait Islander people living in the ACT.
- (2) Every Aboriginal and Torres Strait Islander person living in the ACT is eligible to participate in community consultation conducted by ATSIEB.

12 ATSIEB to develop consultation plan

- (1) ATSIEB must, within 6 months of the commencement of each ATSIEB term, develop a plan for how it will consult Aboriginal and Torres Strait Islander people living in the ACT (a *community consultation plan*).
- (2) The community consultation plan must—
 - (a) cover the ATSIEB term; and

- (b) include a description of the grounds relevant to a determination by ATSIEB that a person has a traditional connection to the ACT region for section 9 (1) (a) (iii); and
- (c) maximise the participation of Aboriginal and Torres Strait Islander people living in the ACT by providing reasonable opportunities to participate in each consultation.

Examples—reasonable opportunities to maximise participation

- providing more than 1 form of consultative mechanism such as forums, face-to-face meetings, online surveys, inviting written submissions
 - giving advance notice of consultation events
 - holding face-to-face events at accessible locations
- (3) ATSIEB must take reasonable steps to tell Aboriginal and Torres Strait Islander people living in the ACT about the community consultation plan.

Examples—reasonable steps

- notice posted on an ATSIEB website
- notice sent on an email network
- advertisements in local and Indigenous newspapers

13 Conduct of consultation

In carrying out community consultation, ATSIEB must give effect to the following principles:

- (a) consultation should focus on the particular area of interest to be discussed;
- (b) consultation should be open and transparent;
- (c) consultation should lead to sustainable decisions by involving effective community engagement;

- (d) without limiting paragraph (c), ATSIEB should ensure that—
 - (i) relevant information is provided in a timely and accessible way to enable maximum community participation in debate about the area of interest; and
 - (ii) opportunities are provided for feedback about the area of interest.

13A Reporting on consultation

- (1) ATSIEB must prepare a written report about its community consultation activities and publish the report on an ATSIEB website.
- (2) The report must state—
 - (a) the topic of the consultation; and
 - (b) ATSIEB's view about the topic; and
 - (c) any issues raised by the community during consultation; and
 - (d) any recommendations of ATSIEB in relation to the topic.
- (3) ATSIEB must give a copy of the report to the Minister, and any other Minister responsible for the matter that is the topic of the consultation, within 2 months after the day the consultation ends.
- (4) At least 1 of the Ministers mentioned in subsection (3) must give ATSIEB a response to the report not later than 2 months after the day the report is received under subsection (3).
- (5) ATSIEB must publish the response on the ATSIEB website.

Division 2.2 ATSIEB members

14 ATSIEB members

- (1) ATSIEB consists of 7 elected members.

Note Members of ATSIEB are elected under pt 3.

- (2) Each member holds office—

- (a) for the period—

(i) beginning at the end of the day when the member's election is declared under the [Electoral Act](#), section 189 (Declaration of result of election), as applied by section 31 (Application of Electoral Act); and

(ii) ending at the end of the day when the result of the next ATSIEB election is declared under the [Electoral Act](#), section 189, as applied by section 31; and

- (b) on a part-time basis.

Note 1 See sch 1, mod 1.70 for the declaration of the result of ATSIEB elections.

Note 2 See sch 1, mod 1.77, s 196 for the term of a member elected to fill a casual vacancy.

15 ATSIEB chair

- (1) ATSIEB must, by majority vote, elect a member to be chair of ATSIEB (the *ATSIEB chair*).

- (2) The ATSIEB chair must be elected—

(a) at the first meeting of ATSIEB; and

(b) whenever the position of ATSIEB chair becomes vacant.

- (3) The ATSIEB chair is elected for 3 years, but may be re-elected.

- (4) The position of ATSIEB chair becomes vacant if a resolution of no-confidence in the ATSIEB chair is passed in accordance with section 16A.
- (5) The ATSIEB chair may resign as chair by written notice given to ATSIEB.
- (6) ATSIEB must tell the Minister, in writing, if the ATSIEB chair becomes vacant under subsection (4) or (5).

16 ATSIEB deputy chair

- (1) ATSIEB must, by majority vote, elect a member (other than the ATSIEB chair) to be deputy chair of ATSIEB (the *ATSIEB deputy chair*).
- (2) The ATSIEB deputy chair must be elected—
 - (a) at the first meeting of ATSIEB; and
 - (b) whenever the position of deputy chair becomes vacant.
- (3) The ATSIEB deputy chair may exercise a function of the ATSIEB chair at any time when the chair cannot for any reason exercise the function.
- (4) The ATSIEB deputy chair is elected for 3 years, but may be re-elected.
- (5) The position of ATSIEB deputy chair becomes vacant if a resolution of no-confidence in the ATSIEB deputy chair is passed in accordance with section 16A.
- (6) The ATSIEB deputy chair may resign as deputy chair by written notice given to the ATSIEB chair or, if there is no chair, ATSIEB.
- (7) The ATSIEB chair or, if there is no chair, ATSIEB, must tell the Minister, in writing, if the ATSIEB deputy chair becomes vacant under subsection (5) or (6).

16A Resolution of no-confidence in ATSIEB chair or ATSIEB deputy chair

- (1) A resolution of no-confidence in the ATSIEB chair or the ATSIEB deputy chair has no effect unless it is passed by ATSIEB in accordance with this section.
- (2) A resolution of no-confidence must affirm a motion that is expressed to be—
 - (a) in relation to a resolution of no-confidence in the ATSIEB chair—a motion of no-confidence in the ATSIEB chair; or
 - (b) in relation to a resolution of no-confidence in the ATSIEB deputy chair—a motion of no-confidence in the ATSIEB deputy chair.
- (3) All members must be given notice of the motion at least 1 week before it is moved at a meeting of ATSIEB.
- (4) The motion must be passed by at least 4 ATSIEB members.

17 Resignation of ATSIEB member

- (1) A member of ATSIEB may resign as a member by written notice given to the ATSIEB chair or, if there is no chair, ATSIEB.
Note See sch 1, pt 1.5 for the filling of a casual vacancy on ATSIEB.
- (2) A member must resign if the member no longer lives in the ACT.

18 Member taken to have resigned in certain circumstances

- (1) This section applies if ATSIEB is satisfied that an ATSIEB member—
 - (a) no longer lives in the ACT; and
 - (b) has not lived in the ACT during the immediately preceding period of 6 months.

- (2) ATSIEB may, in writing, declare that it is satisfied as stated in subsection (1).
- (3) If ATSIEB makes a declaration under subsection (2), the member is taken to have resigned on the date of the declaration.
- (4) This section does not apply to an ATSIEB member who is absent from the ACT on leave approved under section 20.

19 Removal of ATSIEB member

The Minister may remove a member from ATSIEB for any of the following reasons:

- (a) if the member contravenes a territory law in relation to the exercise of the member's functions;
- (b) if the member contravenes the prescribed code of conduct;
- (c) if the member becomes bankrupt or personally insolvent;
Note **Bankrupt or personally insolvent**—see the [Legislation Act](#), dictionary, pt 1.
- (d) if the member is convicted, or found guilty, in Australia of an offence punishable by imprisonment for at least 1 year;
- (e) if the member is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year;
- (f) if the member fails to take all reasonable steps to avoid being placed in a position where a conflict of interest arises during the exercise of the member's functions;
- (g) if the member contravenes section 27 (Disclosure of interests by ATSIEB members);
- (h) if the member is absent from 3 consecutive meetings of ATSIEB, otherwise than on approved leave;

- (i) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

20 Leave of ATSIEB members

- (1) ATSIEB may, conditionally or unconditionally, allow the ATSIEB chair to take leave.
- (2) The ATSIEB chair may, conditionally or unconditionally, allow an ATSIEB member (other than the ATSIEB chair) to take leave for not longer than 1 year.

Note The ATSIEB deputy chair is a member and so can be given leave under s (2) (see s 16 (1)).

Division 2.3 ATSIEB meetings

21 Time and place of ATSIEB meetings

- (1) Meetings of ATSIEB are to be held when and where ATSIEB decides.
- (2) However, ATSIEB must meet at least 6 times in a financial year.
- (3) The ATSIEB chair—
 - (a) may, at any time, call a meeting of ATSIEB; and
 - (b) must call a meeting if asked in writing by—
 - (i) the Minister; or
 - (ii) at least 4 members.
- (4) A meeting called under subsection (3) (b) must be called not later than 14 days after the day the ATSIEB chair receives the request for the meeting.
- (5) The ATSIEB chair must give the other members reasonable notice of the time and place of a meeting called by the ATSIEB chair.

22 Presiding member at ATSIEB meetings

- (1) The ATSIEB chair presides at all meetings at which the ATSIEB chair is present.
- (2) If the ATSIEB chair is absent, the ATSIEB deputy chair presides.
- (3) If the ATSIEB chair and deputy chair are absent, the member chosen by the members present presides.

23 Quorum at ATSIEB meetings

Business may be carried on at a meeting of ATSIEB only if at least 4 members are present.

24 Voting at ATSIEB meetings

At a meeting of ATSIEB, a question is decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has a deciding vote.

25 Conduct of ATSIEB meetings

- (1) ATSIEB may conduct its proceedings (including its meetings) as it considers appropriate.
- (2) A meeting may be held using a method of communication, or a combination of methods of communication, that allows a member taking part to hear or otherwise know what each other member taking part says without the members being in each other's presence.

Examples

a phone link, a satellite link, an internet or intranet link

- (3) A member who takes part in a meeting conducted under subsection (2) is taken, for all purposes, to be present at the meeting.

- (4) A resolution is a valid resolution of ATSIEB, even if it is not passed at a meeting of ATSIEB, if all members agree to the proposed resolution in writing or by electronic communication.

Example—electronic communication

telephone or email

- (5) ATSIEB must keep minutes of its meetings.

26 Executive officer at ATSIEB meeting

- (1) ATSIEB may invite an executive officer of a government agency to attend a meeting of ATSIEB to discuss any issues relating to the functions of ATSIEB or the government agency.
- (2) If ATSIEB invites the executive officer of a government agency to attend a meeting to answer questions or provide information about the functions of the government agency, the executive officer must take reasonable steps to attend the meeting, and answer the questions and provide the information, as requested.

27 Disclosure of interests by ATSIEB members

- (1) If an ATSIEB member has a material interest in an issue being considered, or about to be considered, by ATSIEB, the member must disclose the nature of the interest at a meeting of ATSIEB as soon as practicable after the relevant facts come to the member's knowledge.

Note **Material interest** is defined in s (4). The definition of **indirect interest** in s (4) applies to the definition of **material interest**.

- (2) The disclosure must be recorded in ATSIEB's minutes and, unless ATSIEB otherwise decides, the member must not—
- (a) be present when ATSIEB considers the issue; or
- (b) take part in a decision of ATSIEB on the issue.

(3) Any other member who also has a material interest in the issue must not be present when ATSIEB is considering its decision under subsection (2).

(4) In this section:

associate, of a person, means—

- (a) the person's business partner; or
- (b) a close friend of the person; or
- (c) a family member of the person.

executive officer, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation.

indirect interest—without limiting the kinds of indirect interests a person may have, a person has an *indirect interest* in an issue if any of the following has an interest in the issue:

- (a) an associate of the person;
- (b) a corporation, if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;
- (c) a subsidiary of a corporation mentioned in paragraph (b);
- (d) a corporation, if the person, or an associate of the person, is an executive officer of the corporation;
- (e) the trustee of a trust, if the person, or an associate of the person, is a beneficiary of the trust;
- (f) a member of a firm or partnership, if the person, or an associate of the person, is a member of the firm or partnership;

- (g) someone else carrying on a business, if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

material interest—an ATSIEB member has a ***material interest*** in an issue if the member has—

- (a) a direct or indirect financial interest in the issue; or
- (b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the member's functions in relation to ATSIEB's consideration of the issue.

Part 3 ATSIEB elections

28 Definitions—pt 3

In this part:

ATSIEB election—

- (a) means an election under this part for members of ATSIEB; and
- (b) includes a recount under the [Electoral Act](#), part 13 (Casual vacancies), as applied by section 31.

Note Sch 1, pt 1.5 modifies the [Electoral Act](#), pt 13 in its application to this Act.

election start day, for an ATSIEB election, means the first day when a person may be nominated as a candidate for the election.

elector, for an ATSIEB election, means a person entitled to vote in the election under the [Electoral Act](#), section 128 (1) (Entitlement to vote), as applied by section 31.

Note Sch 1, pt 1.3, modification 1.34 modifies the [Electoral Act](#), s 128 (1) in its application to this Act.

polling close day, for an ATSIEB election, means the last day when an elector may vote in the election.

polling period, for an ATSIEB election, means the period beginning on the polling start day and ending on the polling close day.

polling start day, for an ATSIEB election, means the first day when an elector may vote in the election.

29 Timetable for ATSIEB elections

- (1) An ATSIEB election must be held in accordance with the timetable set out in table 29.
- (2) If an event mentioned in this section falls on a day (other than a Saturday) that is a public holiday, the event happens instead on the next business day after the public holiday.

Table 29 ATSIEB election timetable

column 1 item	column 2 election event	column 3 date
1	election start day	the Monday, 47 days before the polling start day
2	nominations close	12 noon on the Monday, 33 days before the polling start day
3	nominations for candidates declared	as soon as practicable after 12 noon on the day after nominations close
4	order of ballot paper decided	as soon as practicable after the nominations for candidates are declared
5	electoral rolls close	5 pm on the Monday, 12 days before the polling start day
6	polling start day	either— (a) the Saturday immediately before the first Sunday in July, 3 years after the last ATSIEB election was held; or (b) if a day is determined under s 29A—that day
7	polling close day	the first Saturday after the polling start day
8	scrutiny starts	not earlier than 7 business days after the polling close day
9	election declared	as soon as practicable after scrutiny ends

29A Determination of polling day

- (1) The Minister may determine the polling start day for an ATSIEB election to be held 3 years after the last election was held.
- (2) The day determined must be a Saturday.
- (3) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

30 Telling people about ATSIEB elections etc

- (1) Before the election start day for an ATSIEB election, the electoral commission must take reasonable steps to tell electors and people entitled to be electors about the following:
 - (a) the ATSIEB election;
 - (b) who is eligible to nominate as a candidate for the election;
 - (c) who is eligible to vote at the election;
 - (d) the days worked out under section 29 for the election;
 - (e) the location of polling places;
 - (f) anything else about the election that the commission considers relevant.
- (2) The electoral commission may tell electors and people entitled to be electors about the matters mentioned in subsection (1) in any way it considers appropriate.

Examples

a newspaper, the electoral commission website, a media release

30A Caretaker period

(1) In the caretaker period for an ATSIEB election, ATSIEB must not take any action or make a decision that binds or limits the freedom of action of the incoming ATSIEB.

(2) In this section:

caretaker period, for an ATSIEB election, means the period—

- (a) starting on the election start day; and
- (b) ending at the end of the day when the result of the election is declared under section 14 (2) (a) (ii).

incoming ATSIEB means the ATSIEB that will hold office after the end of the caretaker period.

31 Application of Electoral Act

A provision of the [Electoral Act](#) mentioned in column 2 of an item in table 31 applies in relation to an ATSIEB election with the modifications (if any) in the part in schedule 1 mentioned in column 3 of the item (and any other necessary changes and any changes prescribed by regulation).

Table 31 column 1 item	Application of Electoral Act provisions column 2 provision of Electoral Act to be applied	column 3 part in sch 1 with modifications
1	section 4A (Meaning of <i>available for public inspection</i>)	
2	section 32 (Temporary staff and consultants)	
3	section 33 (Officers)	part 1.1
4	section 34 (Multimember electorates)	part 1.1

column 1 item	column 2 provision of Electoral Act to be applied	column 3 part in sch 1 with modifications
5	section 71A (Address of person serving sentence of imprisonment)	
6	part 9 (Arrangements for elections)	part 1.2
7	part 10 (Voting)	part 1.3
8	part 12 (The scrutiny)	part 1.4
9	part 13 (Casual vacancies)	part 1.5
10	part 16 (Disputed elections, eligibility and vacancies)	part 1.6
11	part 17 (Electoral offences)	part 1.7
12	part 18 (Enforcement proceedings)	part 1.8
13	part 19 (Miscellaneous)	part 1.9
14	schedule 3 (Preliminary scrutiny of declaration voting papers)	part 1.10
15	schedule 4 (Ascertaining result of poll)	
16	dictionary	part 1.11

32 Interpretation of applied provisions of Electoral Act

In the application of the [Electoral Act](#) in relation to an ATSIEB election—

- (a) a reference to a provision of that Act is taken to be a reference to the provision in its application in relation to the ATSIEB election; and
- (b) a reference to—
 - (i) a term used in that Act is taken to be a reference to the term in the application of that Act in relation to the ATSIEB election; and
 - (ii) in particular, a term mentioned in column 2 of an item in table 32 is taken to be a reference to the term mentioned in column 3 of the item.

Table 32 column 1 item	Interpretation of terms in applied provisions of Electoral Act column 2 term in Electoral Act	column 3 term in this Act
1	(a)an election; (b)a general election; (c)an ordinary election	an ATSIEB election
2	an elector	an elector in an ATSIEB election
3	an electorate	the ACT
4	a relevant electorate	the ACT
5	a candidate	a candidate in an ATSIEB election
6	a seat	an ATSIEB position
7	a polling day	a polling period
8	a reference to something happening on polling day	a reference to something happening during a polling period

column 1 item	column 2 term in Electoral Act	column 3 term in this Act
9	an MLA	an ATSIEB member
10	the Legislative Assembly	ATSIEB
11	the Speaker	(a) the ATSIEB chair; or (b) if there is no ATSIEB chair—the ATSIEB deputy chair; or (c) if there is no ATSIEB deputy chair—the Minister
12	the Court of Disputed Elections	the Court of Disputed ATSIEB Elections
13	a form approved under the Electoral Act , section 340A	a form approved under this Act, section 34

33 Application of Electoral Regulation 1993

The [Electoral Regulation 1993](#), section 5A (Declaration ballot papers) applies to a ballot paper to be used for declaration voting in an ATSIEB election.

34 Approved forms

- (1) The commissioner may approve forms for this part.
- (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 the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

Part 4 Miscellaneous

35 Protection of ATSIEB members from liability

- (1) An ATSIEB member is not civilly liable for conduct engaged in honestly and without recklessness—
 - (a) in the exercise of a function under this Act or another territory law; or
 - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act or another territory law.
- (2) Any liability that would, apart from this section, attach to an ATSIEB member attaches instead to the Territory.
- (3) In this section:
conduct means an act or an omission to do an act.

36 Regulation-making power

- (1) The Executive may make regulations for this Act.
Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).
- (2) A regulation may make provision in relation to—
 - (a) a code of conduct for ATSIEB members; and
 - (b) the roles and responsibilities of the ATSIEB chair and ATSIEB deputy chair; and
 - (c) any other governance matter in relation to ATSIEB.
- (3) The Executive must consult with ATSIEB before making a regulation under subsection (2).
- (4) A regulation may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against a regulation.

Schedule 1 Modifications of Electoral Act as applied to ATSIEB elections

(see s 31)

Part 1.1 Modifications of s 33, s 34 and s 80

[1.1] Officers New section 33 (2A) to (2C)

insert

- (2A) Before the polling start day for an ATSIEB election, the commissioner must appoint at least 1 Aboriginal and Torres Strait Islander liaison officer for each polling place for the election.
- (2B) Before appointing an Aboriginal and Torres Strait Islander liaison officer, the commissioner must consult ATSIEB.
- (2C) A person is eligible to be appointed as an Aboriginal and Torres Strait Islander liaison officer if the person—
 - (a) is—
 - (i) an Aboriginal or Torres Strait Islander person; and
 - (ii) at least 18 years old; and
 - (iii) enrolled, or entitled to be enrolled, for an electorate in the ACT; and
 - (b) is not a candidate in the election.

[1.2] Section 33 (3)

after

an officer

insert

under this section

[1.3] Section 34

substitute

34 Electorate for ATSIEB elections

- (1) The ACT is 1 electorate for the purposes of an ATSIEB election.
- (2) Seven members of ATSIEB must be elected from the ACT.

[1.4] New section 80

insert

80 Closed rolls

- (1) This section applies in relation to an ATSIEB election.
- (2) For this Act, the roll for an ATSIEB election is closed during the period—
 - (a) starting at 5 pm on the Monday 12 days before the polling start day for the ATSIEB election; and
 - (b) ending at the close of polling at the election.
- (3) While a roll is closed, subject to subsections (4), (5) and (6) and section 66—
 - (a) a person must not be enrolled; and

- (b) a person must not be taken to be enrolled under section 73 (5) or section 75 (2) if the person's enrolment on the Commonwealth roll is effected during the closure; and
 - (c) a name must not be removed; and
 - (d) an annotation in relation to the roll must not be made or cancelled under section 74; and
 - (e) a change of address must not be recorded.
- (4) Subsection (3) (c) must 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.
- (5) 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 (3) (a) and (c) must 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 must be taken, in relation to any vote cast by the claimant in the election, to have been effected before the roll closed.

- (6) 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.

- (7) 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.

Part 1.2 Modifications of pt 9 (Arrangements for elections)

[1.5] Eligibility—MLAs Section 103 (1) to (4)

substitute

- (1) A person is eligible to be an ATSIEB member if the person—
- (a) is—
 - (i) an Aboriginal or Torres Strait Islander person; and
 - (ii) at least 18 years old; and
 - (iii) enrolled, or entitled to be enrolled, for an electorate in the ACT; and
 - (b) is not under a sentence of imprisonment for 1 year or longer for a conviction for an indictable offence.

Note For the meaning of *indictable offence*, see the [Legislation Act](#), s 190 (Indictable and summary offences).

[1.6] Qualifications for nomination Section 104 (b)

omit

[1.7] Candidates to be nominated Section 105 (2), (2A) and (3)

substitute

- (2) A person (the *nominee*) may be nominated as a candidate for an ATSIEB election only by 4 electors (the *nominators*) entitled to vote at the ATSIEB election on the day the nominators sign the nomination form.

- (2A) A person is eligible to be a nominee if, at the hour of nomination, the person—
- (a) is—
- (i) an Aboriginal or Torres Strait Islander person; and
 - (ii) at least 18 years old; and
 - (iii) enrolled, or entitled to be enrolled, for an electorate in the ACT; and
- (b) is not under a sentence of imprisonment for 1 year or longer for a conviction for an indictable offence.

Note For the meaning of *indictable offence*, see the [Legislation Act](#), s 190 (Indictable and summary offences).

- (3) A nomination is made by giving the commissioner a completed nomination form before the hour of nomination.

Note Nomination forms are available at the office of the commissioner and in electronic form on the commissioner's website.

[1.8] Section 105 (4) (d)

substitute

- (d) contain a declaration, signed by the nominee, to the effect that the nominee, at the hour of nomination—
- (i) is—
- (A) an Aboriginal or Torres Strait Islander person; and
 - (B) at least 18 years old; and
 - (C) enrolled, or entitled to be enrolled, for an electorate in the ACT; and
- (ii) is not under a sentence of imprisonment for 1 year or longer for a conviction for an indictable offence; and

- (da) contain a declaration by each nominator, signed by the nominator, to the effect that, on the day the nominator signs the nomination form, the nominator—
- (i) is—
 - (A) an Aboriginal or Torres Strait Islander person; and
 - (B) at least 18 years old; and
 - (C) enrolled, or entitled to be enrolled, for an electorate in the ACT; and
 - (ii) is not under a sentence of imprisonment for 1 year or longer for a conviction for an indictable offence; and

[1.9] Section 105 (4) (f) and (g)

omit

[1.10] Section 105 (9) to (11)

omit

**[1.11] Multiple nominations invalid
Section 106**

omit

**[1.12] Withdrawal etc of consent to nomination
Section 107 (1)**

omit

not later than 24 hours

[1.13] Section 107 (2) and (3)

substitute

- (2) If the commissioner receives a notice under subsection (1), the commissioner must cancel the nomination.

**[1.14] Place and hour of nomination
Section 108 (3)**

substitute

- (3) The *hour of nomination* for an ATSIEB election is 12 noon on the nomination close day for the election.

[1.15] Section 108 (4) and (5)

omit

**[1.16] Declaration of candidates
Section 109 (1)**

after

As soon as practicable

insert

after 24 hours

[1.17] New section 109 (1A)

insert

- (1A) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

[1.18] Section 109 (2) (b)

omit

[1.19] Section 109 (4)

omit

if it is a suppressed address

[1.20] Section 110

substitute

110 Invalid nominations

If the commissioner decides that a nomination is invalid, the commissioner must—

- (a) declare the nomination invalid; and
- (b) as soon as practicable after declaring the nomination invalid and before the hour of nomination—take reasonable steps to tell the nominee that the nomination is invalid; and
- (c) if the nomination can be corrected, tell the nominee—
 - (i) how the nomination can be corrected; and
 - (ii) that the corrected nomination may be given to the commissioner before the hour of nomination.

110AA Retention of nomination papers

The commissioner must keep all nominations (including invalid nominations) in a secure place until the election start date for the next ATSIEB election.

[1.20A] Candidate information to be published
Section 110A (8)

omit

[1.21] Section 111

substitute

111 If more positions than candidates

- (1) This section applies if, at the hour of nomination—
 - (a) at least 1 candidate has been nominated; and
 - (b) the number of candidates to be elected is more than the number of candidates nominated.
- (2) The commissioner must, in writing—
 - (a) declare the nominated candidate or candidates elected; and
 - (b) tell the ATSIEB chair (or, if there is no ATSIEB chair, the Minister) about the election of each person elected; and
 - (c) tell the ATSIEB chair (or, if there is no ATSIEB chair, the Minister) the number of candidates required to be elected who were not elected.
- (3) A declaration under subsection (2) (a) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).
- (4) The remaining vacancies are taken to be casual vacancies and must be filled in accordance with part 13 (Casual vacancies).

111A If same number of positions as candidates

- (1) This section applies if, at the hour of nomination, the number of candidates nominated is the same as the number of candidates to be elected.
- (2) The commissioner must, in writing—
 - (a) declare the nominated candidates elected; and

(b) tell the ATSIEB chair (or, if there is no ATSIEB chair, the Minister) about the election of each person elected.

(3) A declaration under subsection (2) (a) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

111B If no candidates

(1) If no candidate is nominated for an ATSIEB election, the election is taken to have failed and the commissioner must, in writing, tell the ATSIEB chair (if any) and the Minister about the failure of the election.

(2) If the commissioner tells the Minister about the failure of the election, the Minister may, after taking into consideration any recommendations from ATSIEB, appoint the ATSIEB members.

111C If more candidates than positions

If more candidates are nominated for an ATSIEB election than are required to be elected, the commissioner must conduct a poll under this part to decide the election.

[1.22] Deposit—return or forfeiture Section 113

omit

[1.23] Section 114

substitute

114 Ballot papers

(1) The commissioner must arrange for the preparation of ballot papers to be used at an ATSIEB election.

- (2) The ballot papers—
- (a) may be in electronic form; and
 - (b) must include the official mark approved under the [Electoral Act](#), section 340A (Approved forms) for section 114 (3) of that Act; and
 - (c) must include the year of the election; and
 - (d) must include the following words:
 - ‘Ballot paper’
 - ‘Aboriginal and Torres Strait Islander Elected Body ACT’
 - ‘Election of 7 representatives’
 - ‘Number seven boxes from 1 to 7 in the order of your choice’
 - if there are more than 8 candidates—‘You may then show as many further preferences as you wish by writing numbers from 8 onwards in the other boxes’.

Note If a form is approved under s 34 for this provision, the form must be used.

- (3) An approval under subsection (2) (b) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (4) A regulation may—
- (a) state 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 stated in the regulation; or
 - (ii) a form set out in the regulation to be used in place of the form of a ballot paper.

[1.24] Grouping of candidates' names
Section 115

omit

[1.25] Section 116

substitute

116 Printing of ballot papers

- (1) The names of the candidates for an ATSIEB election must be printed on each ballot paper in a single column.
- (2) If the commissioner believes on reasonable grounds that similarity in the names of 2 or more candidates is likely to cause confusion, the commissioner may arrange their names on the ballot papers with a description or addition that distinguishes the names.

[1.26] Names on ballot papers
Section 117

omit

[1.27] Section 118

substitute

118 Draw for positions on ballot papers

The commissioner must determine by lot the order in which the names of candidates for an ATSIEB election are to appear on the ballot paper, as soon as practicable after the nominations for the candidates are declared.

Note The commissioner determines the positions by lot if the commissioner determines the positions in accordance with an approval in force under the [Electoral Act](#), s 125.

[1.28] Polling places and scrutiny centres
Section 119 (1) (a)

substitute

- (a) appoint a stated place to be a polling place on stated days at the stated times for an ATSIEB election; and

[1.29] New section 119 (2A)

insert

- (2A) The stated times mentioned in subsection (1) (a) must indicate—
- (a) the time when the polling place must open for polling (the *polling open time for the place*); and
- (b) the time when the polling place must close for polling (the *polling close time for the place*).

[1.30] New section 120A

insert

120A Certified extracts and certified lists of electors for ATSIEB election

- (1) As soon as practicable after the roll for an electorate closes, the commissioner must—
- (a) prepare—
- (i) a certified extract of electors; and
- (ii) a certified list of electors; and
- (b) give a copy of the certified list to the OIC for each polling place.

(2) In this Act:

certified extract of electors, for an election in an electorate, means an extract from the roll for the electorate, certified by the commissioner, for each elector enrolled who will be at least 18 years of age on polling day.

certified list of electors, for an election in an electorate, means a list, certified by the commissioner, that contains—

- (a) a certified extract of electors; and
- (b) each elector's year of birth and gender.

[1.31] Scrutineers—appointment
Section 122 (1)

substitute

- (1) A candidate for an ATSIEB election may appoint a scrutineer to represent the candidate during—
 - (a) the taking of votes for the election at polling places; and
 - (b) the scrutiny for the election.

[1.32] New section 125A

insert

125A Review panel

- (1) Before the polling start day for an ATSIEB election, the commissioner must establish a review panel to review any decision made by an Aboriginal and Torres Strait Islander liaison officer in relation to a claim by an elector that the elector—
 - (a) is an Aboriginal or Torres Strait Islander person; or
 - (b) lives in the ACT.

- (2) A review panel is made up of 3 members appointed by the commissioner, under the [Electoral Act](#), section 33 (1), as review panel officers for this Act.
- (3) A person is eligible to be appointed as a review panel officer if the person—
 - (a) is—
 - (i) an Aboriginal or Torres Strait Islander person; and
 - (ii) at least 18 years old; and
 - (iii) enrolled, or entitled to be enrolled, for an electorate in the ACT; and
 - (b) is not a candidate in the election.
- (4) Before appointing review panel officers, the commissioner must consult ATSIEB.

[1.33] Supplementary elections
Section 126

omit

Part 1.3 Modifications of pt 10 (Voting)

[1.34] Entitlement to vote Section 128 (1)

substitute

- (1) A person is entitled to vote in an ATSIEB election if the person is—
- (a) an Aboriginal or Torres Strait Islander person; and
 - (b) at least 18 years old on polling start day; and
 - (c) enrolled, or entitled to be enrolled, for an electorate in the ACT.

Note The [Electoral Act](#), s 72 (Entitlement) states when a person is entitled to be enrolled for an electorate.

[1.35] Section 128 (3)

omit

[1.36] Section 129

substitute

129 Voting not compulsory

Voting at an ATSIEB election is not compulsory.

[1.37] Section 130

substitute

130 Multiple votes prohibited

An elector must not vote more than once at the same election.

Maximum penalty: 30 penalty units.

[1.38] Procedures for voting
Section 131 (1) (b)

omit

[1.39] Section 131 (2)

substitute

- (2) An elector may cast a vote during the polling period for an ATSIEB election at any polling place for the election.

[1.40] Section 133

substitute

133 Claims to vote

- (1) This section applies if a person attends before an officer at a polling place during the polling period for an ATSIEB election and claims to vote at the election.
- (2) The officer (the *issuing officer*) must give the person a ballot paper if satisfied that—
- (a) the certified list of electors—
 - (i) states 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 in a way that indicates that a ballot paper has already been issued to the person; and
 - (b) no challenge has been made under section 133A in relation to the person.

- (3) Despite subsection (1), an officer must not issue a ballot paper to a person who indicates that they have already voted at the election.
- (4) Immediately after issuing a ballot paper to a claimant, the officer must record the issue on the certified list of electors.

[1.41] New sections 133A and 133B

insert

133A Challenge whether claimant to vote is Aboriginal or Torres Strait Islander person

- (1) This section applies if a liaison officer suspects on reasonable grounds that a person claiming to vote under section 133 (the *claimant*) is not an Aboriginal or Torres Strait Islander person.
- (2) The liaison officer may ask the claimant any question the officer believes on reasonable grounds is necessary to decide whether the claimant is an Aboriginal or Torres Strait Islander person.
- (3) The liaison officer must consider any answer the claimant gives the officer.
- (4) If the liaison officer decides, on the balance of probabilities, that the claimant is not an Aboriginal or Torres Strait Islander person, the officer must—
 - (a) challenge the claimant’s right to vote at the election; and
 - (b) tell the claimant about the claimant’s right to cast a declaration vote under section 133B; and
 - (c) tell the issuing officer under section 133 about the challenge; and
 - (d) record the details of the challenge in a register (the *liaison officer’s objections register*) and sign the record.

- (5) After being challenged under subsection (4), the claimant may—
- (a) leave the polling place; or
 - (b) elect to cast a declaration vote under section 133B.
- (6) If the claimant elects to cast a declaration vote under section 133B, the liaison officer must give the claimant a written notice about the challenge, including a statement to the effect that—
- (a) notice of the liaison officer's decision will be given to the review panel under section 134A (Review of challenge under s 133A); and
 - (b) the claimant's ballot paper will only be admitted to scrutiny if the review panel decides that the claimant is an Aboriginal or Torres Strait Islander person.

Note If a form is approved under s 34 for this provision, the form must be used.

133B Declaration voting—challenged claims to vote

- (1) This section applies if a claimant elects, under section 133A (5) (b), to cast a declaration vote.
- (2) The issuing officer under section 133 must—
- (a) give the claimant declaration voting papers; and
 - (b) indicate on the envelope on which the declaration appears that the claimant is casting a declaration vote because the liaison officer has challenged the claimant's claim to be an Aboriginal or Torres Strait Islander person.
- (3) Subject to section 156, the claimant and the issuing officer must follow the procedure stated in section 135 (4) (Declaration voting at polling places) for the casting of a declaration vote under this section.

[1.42] New section 134A and 134B

in division 10.2, insert

134A Review of challenge under s 133A

- (1) This section applies if—
 - (a) a liaison officer challenges, under section 133A (4) (a), a claimant's right to vote; and
 - (b) the claimant elects, under section 133A (5) (b), to cast a declaration vote.
- (2) The commissioner must give the review panel written notice of the liaison officer's decision not later than 3 business days after the day the claimant has cast a declaration vote.
- (3) The review panel must review the liaison officer's decision and decide, on the balance of probabilities, whether the claimant is an Aboriginal or Torres Strait Islander person.
- (4) The review panel must complete its review not later than 6 business days after the polling close day.
- (5) If any member of the review panel decides that the claimant is an Aboriginal or Torres Strait Islander person, the claimant's ballot paper must be admitted to scrutiny under part 12.
- (6) The review panel must give the commissioner and the claimant written notice of—
 - (a) its decision; or
 - (b) if there is no unanimous decision—the decision of each panel member.

134B Challenged claimant to leave polling place

A claimant who is given a ballot paper and ballot paper envelope under section 133B (Declaration voting—challenged claims to vote) must leave a polling place immediately after the claimant places the claimant’s sealed ballot paper envelope and contents in a ballot box at the polling place.

[1.42A] Declaration voting at polling places Section 135 (1) (a) and (b)

substitute

- (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.

[1.43] New section 135A

in division 10.3, insert

135A Evidence of living in ACT

- (1) This section applies to a person who casts a declaration vote under section 135 (Declaration voting at polling places).
- (2) The person must give evidence that the person lives in the ACT—
 - (a) to the officer at the polling place who issues the person with declaration voting papers (the *issuing officer*); or

- (b) to the commissioner not later than 3 business days after the polling close day for the election.

Examples—evidence that person lives in the ACT

one of the following documents, if it states the person's name and an ACT address for the person:

- a driver licence
 - vehicle registration
 - a contract of purchase or current lease for place of residence
 - a utility account statement (electricity, gas, telephone or water) paid within 3 months before the relevant ATSIEB election
- (3) If the person gives the issuing officer evidence that the person lives in the ACT, the issuing officer must—
- (a) record the details of the evidence; and
 - (b) include a written statement of the record with the person's declaration voting papers.
- (4) If the person gives the commissioner evidence that the person lives in the ACT within the time required under subsection (2) (b), the person is, for schedule 3, taken to be enrolled to vote.
- (5) If the person does not provide evidence that the person lives in the ACT within the time required under subsection (2), the person's ballot paper must not be admitted to scrutiny under part 12.

[1.44] Applications for postal voting papers
Section 136A (2) (c)

substitute

- (c) received by an authorised officer before 5 pm on the Thursday before polling close day.

[1.45] Section 136A (6)

substitute

- (6) Despite subsections (3) and (5), the authorised officer may post or give postal voting papers to the applicant as soon as practicable after the draw for positions on the ballot paper is completed.

**[1.46] Ordinary or declaration voting in ACT before polling day
Section 136B**

omit

**[1.47] Declaration voting outside ACT on or before polling day
Section 136C**

omit

**[1.48] Record of issue of declaration voting papers
Section 137 (1)**

omit

, 136B (17) or 136C

**[1.49] Inspection of records
Section 138 (1)**

omit

polling day

substitute

polling close day

[1.50] Receipt of declaration voting papers
Section 139 (2)

substitute

- (2) If the commissioner receives completed postal voting papers under subsection (1), the commissioner must give the voting papers to the review panel for their decision, under section 144B, about whether the person who cast the postal vote is an Aboriginal or Torres Strait Islander person.

[1.51] Registered declaration voters
Section 140

omit

[1.52] Issue of voting papers to registered declaration voters
Section 141

omit

[1.53] Requirements for casting postal votes
Section 144A (1)

omit

or section 141 (Issue of voting papers to registered declaration voters)

[1.54] New sections 144B and 144C

insert

144B Review panel—eligibility of person who postal votes

- (1) This section applies if the commissioner gives the review panel completed postal voting papers under section 139 (2).
- (2) The review panel must decide, after making any investigation the panel considers appropriate, whether the person who cast the postal vote (the *claimant*) is an Aboriginal or Torres Strait Islander person.

- (3) The review panel must complete its review not later than 6 business days after the day it receives the claimant's postal voting papers.
- (4) If any member of the review panel decides that the claimant is an Aboriginal or Torres Strait Islander person, the claimant's ballot paper must be admitted to scrutiny under part 12.
- (5) The review panel must give the commissioner written notice of—
 - (a) its decision; or
 - (b) if there is no unanimous decision—the decision of each panel member.
- (6) The commissioner must tell the claimant whether, having regard to the review panel's decision, the claimant's vote will be admitted to scrutiny.

144C Review panel—residence of person who postal votes

- (1) This section applies if the commissioner gives the review panel completed postal voting papers under schedule 3, clause 12.
- (2) The review panel must decide, after making any investigation the panel considers appropriate, whether the person who cast the postal vote (the *claimant*) lives in the ACT.
- (3) The review panel must complete its review not later than 6 business days after the day it receives the claimant's postal voting papers.
- (4) If any member of the review panel decides that the claimant lives in the ACT, the claimant's ballot paper must be admitted to scrutiny under part 12.
- (5) The review panel must give the commissioner written notice of—
 - (a) its decision; or
 - (b) if there is no unanimous decision—the decision of each panel member.

- (6) The commissioner must tell the claimant whether, having regard to the review panel's decision, the claimant's vote will be admitted to scrutiny.

[1.55] Mobile polling
Division 10.5

omit

[1.56] Section 154

substitute

154 Arrangements at polling places—opening and closing

- (1) Each polling place for an ATSIEB election must—
- (a) open at the polling open time for the polling place; and
 - (b) close at the polling close time for the polling place.
- (2) No-one must be admitted to the polling place after the polling close time for the purpose of voting.
- (3) The poll at the polling place must—
- (a) open at the polling open time; and
 - (b) not close until all electors present in the polling place at the polling close time and wanting to vote have voted.
- (4) In this section:

polling close time, for a polling place, means the polling close time stated in the appointment under section 119 (1) (a) for the polling place.

polling open time, for a polling place, means the polling open time stated in the appointment under section 119 (1) (a) for the polling place.

154A Arrangements at polling places—ballot boxes

- (1) The polling at each polling place for an ATSIEB election must be conducted in accordance with this section.
- (2) Before any vote is taken in the election, the OIC must, in the presence of any scrutineers—
 - (a) exhibit the ballot box for the election empty; and
 - (b) after exhibiting the ballot box, securely fasten its cover.
- (3) At the end of each day's polling, the OIC must, in the presence of any scrutineers, close the ballot box and seal it.
- (4) At the start of the 2nd and each subsequent day's polling, the OIC must, in the presence of any scrutineers, examine the seal on the ballot box and open it.
- (5) The same ballot box must be used at each polling place for the election unless it is full.
- (6) When a ballot box is full, the OIC must, in the presence of any scrutineers—
 - (a) close and seal the ballot box; and
 - (b) exhibit another ballot box for the election empty and then securely fasten its cover.
- (7) At the end of the polling close day for the election, the OIC must, in the presence of any scrutineers—
 - (a) close and seal the ballot box containing sealed ballot paper envelopes and their contents 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; and
 - (d) give all the ballot boxes used in the election, and the articles
mentioned in paragraph (b) and (c), to the commissioner.
- (8) The commissioner must keep the articles mentioned in subsection (7)
in safe custody for the purposes of scrutiny under part 12.
- (9) Ballot paper envelopes containing ballot papers cast as ordinary votes
in an ATSIEB election may only be removed from ballot boxes and
counted after the close of polling on polling close day.

[1.57] Extension of time for conducting elections
Section 159 (1)

omit

the day

substitute

the period

[1.58] Suspension and adjournment of polling
Section 160 (1)

omit

on polling day

substitute

during the polling period

[1.59] Section 160 (5)

omit

on the day

substitute

during the period

**[1.60] Failure to vote
Division 10.7**

omit

Part 1.4 Modification of pt 12 (The scrutiny)

**[1.61] Scrutiny
Section 178 (3) (f)**

omit

**[1.62] Preliminary scrutiny of declaration voting papers etc
Section 179 (1) (c)**

omit

[1.63] Section 179 (6)

omit

**[1.64] First count—ordinary ballot papers
Section 182 (2)**

substitute

- (2) The OIC for a scrutiny centre must arrange for the procedures set out in this section to be carried out not earlier than—
- (a) 7 business days after the polling close day for the election; or
 - (b) if a review panel is considering a postal vote under section 144B or section 144C—the day after the review panel gives the commissioner written notice of its decision under section 144B (5) or section 144C (5).

[1.65] Section 182 (5) (b), (c) and (d)

omit

[1.66] Section 182 (6) and (7)

omit

[1.67] Section 183A

substitute

183A First count—electronic ballot papers

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, not earlier than—

- (a) 7 business days after the polling close day for the election; or
- (b) if a review panel is considering a postal vote under section 144B or section 144C—the day after the review panel gives the commissioner written notice of its decision under section 144B (5) or section 144C (5).

**[1.68] Second count—first preferences
Section 184**

omit

**[1.69] Ascertaining result of poll
Section 185 (1) (a)**

omit

[1.70] Section 189

substitute

189 Declaration of result of ATSIEB election

- (1) As soon as practicable after the result of an ATSIEB election has been decided, the commissioner must, in writing, declare each successful candidate elected.
- (2) A declaration under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

189A Report of result of ATSIEB election

- (1) As soon as practicable after the result of an ATSIEB election has been decided, the commissioner must give the ATSIEB chair (or, if there is no chair, the Minister) a written report setting out:
 - (a) the election results; and
 - (b) the number of votes received by each candidate.
- (2) The commissioner must make the report available to the public during ordinary office hours.

Examples

- at the office of the commissioner
- on the commissioner's website

Part 1.5 Modifications of pt 13 (Casual vacancies)

[1.71] Section 190, new definitions

insert

casual vacancy means a vacancy in a position on ATSIEB if the vacancy has happened otherwise than because—

- (a) the term for which the ATSIEB member was elected has ended; or
- (b) there has been a partial failure of an election.

Note See s 111B for what happens if there are no candidates for an ATSIEB election.

partial failure, of an ATSIEB election, means that fewer candidates were nominated for the election than were required to be elected.

[1.72] Section 190, definition of *Speaker*

omit

[1.73] Notice of casual vacancy Section 191 (1)

substitute

- (1) This section applies if—
 - (a) the ATSIEB chair tells the commissioner in writing that there is a casual vacancy for a position for an ATSIEB member; and
 - (b) the vacancy occurs after the latest ATSIEB election has been declared and before 1 January in the year in which the next ATSIEB election is to be held.

- (1A) If the commissioner is satisfied that it is practicable to fill the vacancy under section 194, the commissioner must give public notice of the vacancy.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

[1.75] Publication of candidates' details
Section 193 (1) (b)

omit

any suppressed address

substitute

the candidate's address

[1.76] Determination of candidate to fill vacancy
Section 194 (3)

substitute

- (3) The commissioner must—
- (a) declare the successful candidate elected; and
 - (b) tell the ATSIEB chair (or, if there is no chair, the Minister) in writing about the election of the successful candidate.

[1.77] Sections 195 and 196

substitute

195 ATSIEB nominees

- (1) This section applies if—
- (a) there is a casual vacancy for a position on ATSIEB; and

- (b) the commissioner tells the ATSIEB chair (or, if there is no chair, the Minister)—
 - (i) under section 191 (4), that it is not practicable to fill the vacancy; or
 - (ii) under section 193 (2), that there are no candidates for the vacancy.
- (2) The Minister must, after taking into consideration any recommendations from ATSIEB, appoint a person who is eligible to be elected to the vacant position to fill the vacancy.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

196 Term of ATSIEB member declared elected under pt 13

- (1) This section applies to a person—
 - (a) declared elected under section 194 (3) (a); or
 - (b) appointed under section 195 (2).
- (2) The term of the person's appointment begins at the end of the day the election of the person is declared or the person is appointed and, unless sooner ended, ends on the day the former ATSIEB member's appointment would have ended.

Part 1.6 **Modifications of pt 16 (Disputed elections, eligibility and vacancies)**

[1.78] Definitions for pt 16 **Section 250, definition of *Speaker***

omit

[1.79] Section 251

substitute

251 Meaning of *ATSIEB chair*—pt 16

- (1) In this part:
- ATSIEB chair* includes—
- (a) if the *ATSIEB chair* is unavailable—the *ATSIEB deputy chair*;
or
 - (b) if both the *ATSIEB chair* and the *ATSIEB deputy chair* are unavailable—another *ATSIEB member* who is not the subject of a proceeding and is appointed by *ATSIEB* to act as the *ATSIEB chair* for this part; or
 - (c) if both the *ATSIEB chair* and the *ATSIEB deputy chair* are unavailable and no *ATSIEB member* is appointed for paragraph (b)—the Minister.
- (2) For this section, the *ATSIEB chair* or the *ATSIEB deputy chair* 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.

[1.80] Validity may be disputed after election
New section 256 (2) (aa) and (ab)

before section 256 (2) (a), insert

- (aa) a decision by a liaison officer or review panel in relation to an elector's claim to be an Aboriginal or Torres Strait Islander person;
- (ab) a decision by a review panel in relation to an elector's claim to live in the ACT;

[1.80A] Immaterial delays and errors
Section 268 (1) (b)

omit

preliminary

[1.81] Inquiries by court
Section 269 (3)

omit

Part 1.7 Modifications of pt 17 (Electoral offences)

[1.82] Sections 286 and 287

substitute

286 Interference with voting

- (1) A person must not—
- (a) interfere with the casting of a vote by an elector; or
 - (b) do anything to find out how an elector voted; or
 - (c) allow anyone else to find out how an elector voted.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply to a person assisting an elector under section 156.

[1.83] Section 288

substitute

288 Violence and intimidation

A person must not, by violence or intimidation, hinder or interfere with the free exercise of a right or function under this Act.

Maximum penalty: 30 penalty units.

Note 1 **Function** is defined in the [Legislation Act](#), dict, pt 1 to include authority, duty and power.

Note 2 **Exercise** a function includes perform the function (see [Legislation Act](#), dict, pt 1).

**[1.84] Dissemination of unauthorised electoral matter
Section 292 (1) (b) (iii)**

substitute

- (iii) if the matter is disseminated for a candidate for election or a person who has publicly indicated that the person intends to be a candidate for election—a statement to the effect that the matter is disseminated for the candidate or person; and

**[1.85] Publication of statements about candidates
Section 301 (3)**

omit

**[1.86] Canvassing within 100m of polling places
Section 303 (7), definition of *polling hours***

substitute

polling hours, for a polling place, means the period stated in the appointment under section 119 during which the place is open for polling.

[1.87] Section 307

substitute

307 Voting fraud

- (1) A person must not supply a ballot paper unless authorised by this Act.
Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person dishonestly obtains a ballot paper.

Maximum penalty: 20 penalty units.

- (3) A person must not mark a ballot paper unless—

(a) the person is an elector or an assistant assisting the elector under section 156; and

(b) the ballot paper marked is the elector's ballot paper.

Maximum penalty: 30 penalty units.

- (4) A person commits an offence if—

(a) the person casts a ballot; and

(b) the person is not entitled to vote.

Maximum penalty: 30 penalty units.

[1.88] New section 317A

insert

317A Influencing of votes by officers

- (1) An officer must not do anything to influence someone else's vote.

Maximum penalty: 30 penalty units.

- (2) In this section:

officer includes a liaison officer.

[1.89] New sections 318A and 318B

insert

318A Giving completed ballot papers to commissioner

A person who accepts completed ballot papers to be given to the commissioner must give them to the commissioner as soon as practicable.

Maximum penalty: 10 penalty units.

318B Opening envelopes containing ballot papers

Unless authorised under this Act, a person must not open a ballot box, or an envelope, that appears to contain completed ballot papers.

Maximum penalty: 5 penalty units.

Part 1.8 **Modifications of pt 18** **(Enforcement proceedings)**

[1.90] Commissioner may prosecute enrolment and voting offences
Section 326

omit

[1.91] Service of certain process by mail
Section 327

omit

Part 1.9 Modifications of pt 19 (Miscellaneous)

**[1.92] Administrative arrangements with Commonwealth and States
Section 336**

omit

**[1.93] Evidentiary certificates
Section 337 (1) (b) (ii)**

omit

[1.94] Section 337 (1) (h) and (i)

omit

registered party,

**[1.95] Approved forms
Section 340A**

omit

**[1.96] Regulation-making power
Section 341**

omit

Part 1.10

Modifications of sch 3 (Preliminary scrutiny of declaration voting papers)

[1.97] Clause 6 (1), definition of *relevant provision*, new paragraph (aa)

before clause 6 (1) (a), insert

- (aa) for a vote under section 133B (Declaration voting—challenged claims to vote)—section 133B (3); or

[1.98] Clause 6 (1), definition of *relevant provision*, paragraphs (b) and (c)

omit

[1.99] Clause 6 (2)

- (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 posted before the close of the poll; and
 - (d) for a declaration vote under section 133B (3) or a postal vote under section 136A (Applications for postal voting papers)—the review panel or a member of the review panel has decided that the elector is an Aboriginal or Torres Strait Islander person.

[1.99A] Clause 9 (a)

substitute

- (a) the elector who signed the declaration was, when the roll closed for the election, entitled to be enrolled; and

[1.100] Clause 11

omit everything before paragraph (a), substitute

- 11 The OIC must, in accordance with clauses 4 to 10, conduct a further scrutiny of the group of remaining declaration voting papers to which clause 5 (b) applies and, if there are any papers to which clause 5 (b) applies after the further scrutiny, the OIC must—

[1.101] New clause 12

insert

- 12 The OIC must, in accordance with clauses 4 to 10, conduct a further scrutiny of the group of remaining declaration voting papers to which clause 8 (b) applies and, if there are any papers to which clause 8 (b) applies after the further scrutiny, the OIC must give the papers to the review panel for consideration under section 144C.

Part 1.11 **Modifications of dictionary**

[1.102] Definition of *ballot paper*, paragraph (b)

substitute

- (b) if a regulation is in force under section 114 (4) (Ballot papers)—
means a ballot paper in the form prescribed by regulation.

[1.103] New definition of *casual vacancy*

insert

casual vacancy, for part 13 (Casual vacancies)—see section 190.

[1.103A] Definitions of *certified extract of electors* and *certified list of electors*

substitute

certified extract of electors, for an election in an electorate—see section 120A.

certified list of electors, for an election in an electorate—see section 120A.

[1.103B] New definition of *closed*

insert

closed, in relation to a roll, means closed in accordance with section 80.

[1.104] Definition of *declaration vote*, new paragraph (aa)

before paragraph (a), insert

- (aa) section 133B (Declaration voting—challenged claims to vote);

[1.105] New definition of *liaison officer*

insert

liaison officer means an Aboriginal and Torres Strait Islander liaison officer appointed under section 33 (2A).

[1.105A] Definition of *official error*

omit

6pm on the first day of the pre-election period for

substitute

the roll closed for the purpose of

[1.105B] New definition of *partial failure*

insert

partial failure, for part 13 (Casual vacancies)—see section 190.

[1.106] Definition of *polling place*

substitute

polling place means a place appointed to be a polling place under section 119.

[1.106A] Definition of *pre-election period*

substitute

pre-election period, for an ATSIEB election, means the period—

- (a) starting at 9 am on the first day when a person may be nominated as a candidate for the election; and
- (b) ending at the end of the last day when an elector may vote in the election.

[1.106B] Definitions of *preliminary certified extract of electors* and *preliminary certified list of electors*

omit

[1.107] New definition of *review panel*

insert

review panel means the panel established under section 125A.

[1.108] Definition of *supplementary certified list of electors*

omit

Dictionary

(see s 4)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- appoint
- bankrupt or personally insolvent
- body
- business day
- director-general (see s 163)
- electoral commission
- electoral commissioner
- Executive
- financial year
- indictable offence (see s 190)
- Minister (see s 162)
- modification
- must (see s 146)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- public holiday
- public sector body
- sign.

Aboriginal or Torres Strait Islander person means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and

- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

ATSIEB—see section 7.

ATSIEB chair—see section 15.

ATSIEB deputy chair—see section 16.

ATSIEB election, for part 3 (ATSIEB elections)—see section 28.

ATSIEB member means a person elected under part 3 (ATSIEB elections) to be a member of ATSIEB.

ATSIEB term means the period between ATSIEB elections.

commissioner means the electoral commissioner.

election start day, for part 3 (ATSIEB elections)—see section 28.

elector, for part 3 (ATSIEB elections)—see section 28.

Electoral Act means the [Electoral Act 1992](#).

executive officer, of a government agency, means—

- (a) the director-general; or
- (b) for a public sector body—the person responsible for the management of the public sector body; or
- (c) for a territory instrumentality—the head (however described) of the instrumentality.

government agency means—

- (a) the public service; or
- (b) a public sector body; or
- (c) a territory instrumentality.

hour of nomination, for an ATSIEB election—see the Electoral Act, section 108 (3), as applied by section 31.

Note Sch 1, pt 1.2, mod 1.14 modifies the Electoral Act, s 108 (3) in its application to this Act.

nomination close day, for an ATSIEB election, means the Monday 33 days before the polling start day.

nominee, for an ATSIEB election, means a person nominated as a candidate for the election.

polling close day, for part 3 (ATSIEB elections)—see section 28.

polling period, for part 3 (ATSIEB elections)—see section 28.

polling start day, for part 3 (ATSIEB elections)—see section 28.

representative Aboriginal organisation—see the [Heritage Act 2004](#), section 14.

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Aboriginal and Torres Strait Islander Elected Body Act 2008 A2008-12

notified LR 14 May 2008

s 1, s 2 commenced 14 May 2008 (LA s 75 (1))

remainder commenced 15 May 2008 (s 2)

as amended by

Statute Law Amendment Act 2010 A2010-18 sch 1 pt 1.1

notified LR 13 May 2010

s 1, s 2 commenced 13 May 2010 (LA s 75 (1))

sch 1 pt 1.1 commenced 3 June 2010 (s 2)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.1

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.1 commenced 1 July 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 2) A2011-28 sch 3 pt 3.1

notified LR 31 August 2011

s 1, s 2 commenced 31 August 2011 (LA s 75 (1))

sch 3 pt 3.1 commenced 21 September 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.1

notified LR 28 November 2011

s 1, s 2 commenced 28 November 2011 (LA s 75 (1))

sch 3 pt 3.1 commenced 12 December 2011 (s 2)

Electoral Legislation Amendment Act 2012 A2012-1 sch 1

notified LR 28 February 2012

s 1, s 2 commenced 28 February 2012 (LA s 75 (1))

sch 1 commenced 29 February 2012 (s 2)

Aboriginal and Torres Strait Islander Elected Body Amendment Act 2013 A2013-6

notified LR 5 March 2013

s 1, s 2 commenced 5 March 2013 (LA s 75 (1))

remainder commenced 6 March 2013 (s 2)

Aboriginal and Torres Strait Islander Elected Body Amendment Act 2014 A2014-15

notified LR 9 May 2014
s 1, s 2 commenced 9 May 2014 (LA s 75 (1))
remainder commenced 10 May 2014 (s 2)

Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.1

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.1 commenced 14 October 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 4 pt 4.1

notified LR 13 April 2016
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))
sch 4 pt 4.1 commenced 27 April 2016 (s 2)

Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.1

notified LR 25 August 2016
s 1, s 2 commenced 25 August 2016 (LA s 75 (1))
sch 1 pt 1.1 commenced 1 September 2016 (s 2)

Statute Law Amendment Act 2017 A2017-4 sch 3 pt 3.1

notified LR 23 February 2017
s 1, s 2 commenced 23 February 2017 (LA s 75 (1))
sch 3 pt 3.1 commenced 9 March 2017 (s 2)

Aboriginal and Torres Strait Islander Elected Body Amendment Act 2017 A2017-18

notified LR 15 June 2017
s 1, s 2 commenced 15 June 2017 (LA s 75 (1))
remainder commenced 15 July 2017 (s 2, [CN2017-4](#) and see LA s 77 (3))

Aboriginal and Torres Strait Islander Elected Body Amendment Act 2020 A2020-36

notified LR 5 August 2020
s 1, s 2 commenced 5 August 2020 (LA s 75 (1))
remainder commenced 6 August 2020 (s 2)

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Objects

s 3 am [A2011-52](#) amdt 3.3; [A2017-18](#) s 4, s 5

Functions of ATSIEB

s 8 am [A2011-52](#) amdt 3.3, [A2017-18](#) ss 6-11; pars renum R14 LA; [A2020-36](#) s 4, s 5; pars renum R15 LA

Consultation on cultural heritage

s 9 sub [A2017-18](#) s 12

Discussions etc with non-government entities on systemic issues

s 10 hdg sub [A2017-18](#) s 13

s 10 am [A2011-22](#) amdts 1.1-1.3; [A2011-52](#) amdt 3.3; [A2016-52](#) amdt 1.1; [A2017-18](#) s 14, s 15; [A2020-36](#) s 6

Public hearings about government service provision

s 10A ins [A2017-18](#) s 16

Broadcasting of public hearings

s 10AA ins [A2020-36](#) s 7

Reports from ATSIEB

s 10B ins [A2017-18](#) s 16
am [A2020-36](#) s 8, s 9

Requirement to consult

s 11 am [A2011-52](#) amdt 3.1, amdt 3.3
sub [A2017-18](#) s 17

ATSIEB to develop consultation plan

s 12 am [A2011-52](#) amdt 3.3
sub [A2017-18](#) s 17

Conduct of consultation

s 13 sub [A2017-18](#) s 17

Reporting on consultation

s 13A ins [A2017-18](#) s 17
am [A2020-36](#) s 10

ATSIEB members

s 14 am [A2013-6](#) s 4

ATSIEB chair

s 15 am [A2017-18](#) s 18, s 19; ss renum R14 LA

ATSIEB deputy chairs 16 am [A2017-18](#) s 20, s 21; ss renum R14 LA**Resolution of no-confidence in ATSIEB chair or ATSIEB deputy chair**s 16A ins [A2017-18](#) s 22**Removal of ATSIEB member**s 19 am [A2010-18](#) amdt 1.1; [A2017-18](#) s 23**Quorum at ATSIEB meetings**s 23 am [A2017-18](#) s 24**Executive officer at ATSIEB meeting**s 26 hdg sub [A2011-22](#) amdt 1.4s 26 am [A2011-22](#) amdts 1.5-1.7; [A2017-18](#) s 25**Definitions—pt 3**

s 28

def *hour of nomination* om [A2014-15](#) s 4def *nomination close day* sub [A2013-6](#) s 5
om [A2014-15](#) s 4def *nominee* om [A2014-15](#) s 4def *pre-election period* om [A2014-15](#) s 4**Timetable for ATSIEB elections**s 29 am [A2013-6](#) s 6table sub [A2014-15](#) s 5**Determination of polling day**s 29A ins [A2014-15](#) s 6**Caretaker period**s 30A ins [A2020-36](#) s 11**Application of Electoral Act**s 31 am [A2020-36](#) s 12; table items renum R15 LA**Regulation-making power**s 36 am [A2017-18](#) s 26; ss renum R14 LA**Transitional**

pt 5 hdg exp 15 November 2008 (s 44)

Transitional—general

div 5.1 hdg exp 15 November 2008 (s 44)

Transitional—community forums

s 37 exp 15 November 2008 (s 44 (LA s 88 declaration applies))

Transitional—time and place of ATSIEB meetings

s 38 exp 15 November 2008 (s 44 (LA s 88 declaration applies))

Transitional—first ATSIEB election

div 5.2 hdg exp 15 November 2008 (s 44)

Endnotes

4 Amendment history

Conduct of first ATSIEB election

s 39 exp 15 November 2008 (s 44)

Transitional—timetable for first ATSIEB election

s 40 exp 15 November 2008 (s 44 (LA s 88 declaration applies))

Transitional—modification of Electoral Act, s 33, s 111 and s 125A

s 41 exp 15 November 2008 (s 44 (LA s 88 declaration applies))

Transitional—modification of Electoral Act, s 80

s 42 exp 15 November 2008 (s 44 (LA s 88 declaration applies))

Transitional regulations

s 43 exp 15 November 2008 (s 44 (LA s 88 declaration applies))

Expiry—pt 5

div 5.3 hdg exp 15 November 2008 (s 44)

Expiry—pt 5

s 44 exp 15 November 2008 (s 44)

Modifications of Electoral Act as applied to ATSIEB elections

sch 1 am [A2011-52](#) amdt 3.4; [A2012-1](#) amdt 1.1, amdt 1.2; [A2013-6](#) s 7; [A2014-15](#) s 7, s 8; [A2015-33](#) amdt 1.1; [A2016-18](#) amdt 4.1; [A2017-4](#) amdt 3.1; [A2020-36](#) ss 13-26

Dictionary

dict am [A2010-18](#) amdt 1.2; [A2011-22](#) amdt 1.8; [A2011-28](#) amdt 3.1; [A2016-52](#) amdt 1.2; [A2017-18](#) s 27
def **Aboriginal or Torres Strait Islander person** ins [A2011-52](#) amdt 3.2
def **Aboriginal person or Torres Strait Islander** om [A2011-52](#) amdt 3.2
def **ATSIEB term** ins [A2017-18](#) s 28
def **community forum** om [A2017-18](#) s 29
def **executive officer** ins [A2017-18](#) s 30
def **government agency** sub [A2016-52](#) amdt 1.3
def **hour of nomination** sub [A2014-15](#) s 9
def **nomination close day** sub [A2014-15](#) s 10
def **nominee** sub [A2014-15](#) s 11
def **pre-election period** om [A2014-15](#) s 12
def **representative Aboriginal organisation** ins [A2017-18](#) s 30
def **UNEC** om [A2017-18](#) s 31

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. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 15 May 2008	15 May 2008– 15 Nov 2008	not amended	new Act
R2 16 Nov 2008	16 Nov 2008– 2 June 2010	not amended	commenced expiry
R3 3 June 2010	3 June 2010– 30 June 2011	A2010-18	amendments by A2010-18
R4 1 July 2011	1 July 2011– 20 Sept 2011	A2011-22	amendments by A2011-22
R5 21 Sept 2011	21 Sept 2011– 11 Dec 2011	A2011-28	amendments by A2011-28
R6 12 Dec 2011	12 Dec 2011– 28 Feb 2012	A2011-52	amendments by A2011-52
R7 29 Feb 2012	29 Feb 2012– 5 Mar 2013	A2012-1	amendments by A2012-1
R8 6 Mar 2013	6 Mar 2013– 9 May 2014	A2013-6	amendments by A2013-6
R9 10 May 2014	10 May 2014– 13 Oct 2015	A2014-15	amendments by A2014-15
R10 14 Oct 2015	14 Oct 2015– 26 Apr 2016	A2015-33	amendments by A2015-33
R11 27 Apr 2016	27 Apr 2016– 31 Aug 2016	A2016-18	amendments by A2016-18
R12 1 Sept 2016	1 Sept 2016– 8 Mar 2017	A2016-52	amendments by A2016-52

Endnotes

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R13 9 Mar 2017	9 Mar 2017– 14 July 2017	A2017-4	amendments by A2017-4
R14 15 July 2017	15 July 2017– 5 Aug 2020	A2017-18	amendments by A2017-18

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