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Authorised Version No. 050

Electoral Act 2002

No. 23 of 2002

Authorised Version incorporating amendments as at 1 August 2018

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose and outline of Act

(1) The purpose of this Act is to reform the law relating to elections in Victoria.

(2) In outline this Act—

- establishes the Victorian Electoral Commission consisting of one member, the Electoral Commissioner;
- provides for the appointment of the Electoral Commissioner, the Deputy Electoral Commissioner, election managers and election officials and the employment of staff;
- sets out the Commission's responsibilities, functions and powers;
- sets out the enrolment process and provides for the collection and dissemination of enrolment information;
- provides for the registration of political parties;
- sets out election procedures and arrangements for holding elections;
- specifies who is entitled to vote and how voting may occur;
Electoral Act 2002
No. 23 of 2002
Part 1—Preliminary

• provides for the scrutiny and counting of votes;
• provides for the Court of Disputed Returns;
• sets out offences, requires compulsory voting and enables the issuing of infringement notices;
• repeals provisions of The Constitution Act Amendment Act 1958 and consequentially amends certain other Acts;
• provides for election expenditure.

(3) Subsection (2) is intended only as a guide to readers as to the general scheme of this Act.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.

(2) If this Act does not come into operation before 1 January 2003, it comes into operation on that day.

3 Definitions

In this Act—
address does not include a post-office box;

Antarctica means the Australian Antarctic Territory including—
(a) the Territory of Heard Island and McDonald Islands; and
(b) Macquarie Island;

Antarctic elector means an elector who is, in the course of the elector's employment, in Antarctica on election day;

Assembly means the Legislative Assembly;
**authorised officer** means a person appointed to be an authorised officer for the purpose of issuing infringement notices under section 167;

**authorised witness** means a person who—
(a) has attained 18 years of age; and
(b) is not a candidate at the election;

**ballot material** means ballot-papers, electoral rolls and electoral papers;

**by-election** means an election at which a member of the Assembly is to be elected to fill the place of a member of the Assembly whose seat has become vacant otherwise than by the expiration or dissolution of the Assembly;

**candidate** means a person who is nominated under section 69 to stand for election to Parliament;

**Commission** means the Victorian Electoral Commission established under section 6;

**Commonwealth subdivision** means a subdivision of an electoral division for the election of a member of the House of Representatives under the Commonwealth Electoral Act 1918;

**composite name** means a name formed from the names of more than one registered political party;

**corrupt conduct** has the meaning given in section 4 of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 3 def. of authorised witness substituted by No. 30/2018 s. 3(1).

S. 3 def. of by-election amended by No. 2/2003 s. 23(a).

S. 3 def. of composite name inserted by No. 30/2018 s. 3(2).

S. 3 def. of corrupt conduct inserted by No. 82/2012 s. 172, amended by No. 82/2012 s. 307(a).
Council means the Legislative Council;

Council election means an election at which all the members of the Council have to be elected;

declaration vote means a vote on a ballot-paper marked under section 106, 108, 109 or 110;

district means electoral district;

election means—
   (a) a general election; or
   (b) a by-election; or
   (c) a supplementary election; or
   (d) a re-election;

election day means the day named as the election day in the writ for an election;

elector means a person whose name appears on the register of electors;

electoral advertisement, handbill, pamphlet or notice means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting;

electoral claim means an application or declaration made under this Act;

Electoral Commissioner means the Electoral Commissioner appointed under section 12;

electoral paper includes any electoral claim and any prescribed form;
electoral roll means a list prepared under section 29 of the names and addresses of electors who are eligible to vote at a particular election;

eligible overseas elector means an elector who is enrolled under section 22(3);

eligible political party means a political party that is established on the basis of a written constitution (however described) that sets out the aims of the party and has at least 500 members who are—

(a) electors; and

(b) members in accordance with the rules of the political party; and

(c) not members of another registered political party or of a political party applying for registration;

exit poll means the canvassing of electors at large as to how they have voted at an election for the purpose of obtaining and publicly disseminating information about voting trends at the election;

general election means an election at which all the members of the Assembly and all the members of the Council have to be elected;

general postal voter means a person whose application to be a general postal voter is accepted under section 24;
**how-to-vote card** means any card, handbill, pamphlet or notice that—

(a) is or includes a representation or partial representation or purported representation or purported partial representation of a ballot-paper for use in an election; or

(b) lists the names of any or all of the candidates for an election with a number indicating an order of voting preference against the names of any or all of those candidates;

**IBAC** means the Independent Broad-based Anti-corruption Commission established under section 12 of the Independent Broad-based Anti-corruption Commission Act 2011;

**IBAC personnel** has the same meaning as it has in the Victorian Inspectorate Act 2011;

**infringement penalty** means the amount stated in an infringement notice issued under section 167 as payable in respect of the offence to which the notice relates;

**itinerant elector** means an itinerant elector who is enrolled under section 22(4);

**name**, in Parts 4 and 5, includes in respect of a political party—

(a) the full name of a political party; or

(b) the initials for, or acronym of, the full name of a political party; or
(c) the abbreviation of the full name of a political party;

Order in Council means an Order of the Governor in Council published in the Government Gazette;

organisation includes—

(a) a body corporate; or
(b) an association or other body of persons; or
(c) an association that consists of 2 or more organisations within the meaning of the preceding paragraphs; or
(d) a part of an organisation within the meaning of a preceding paragraph;

part, in relation to an organisation, includes—

(a) a branch or division of the organisation; or
(b) a part of a part of the organisation;

police officer has the same meaning as it has in the Victoria Police Act 2013;

political party means an organisation whose object or activity is to promote the election of a member of the party to Parliament;

prescribed offence means an offence specified in section 166(1);

President means the President of the Council and includes any person acting as the President of the Council;
**principal place of residence** includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place;

**printed electoral material** means an advertisement, handbill, pamphlet or notice that contains electoral matter;

**publish** means publish by any means including by publication on the Internet;

**region** means electoral region;

**register of electors** means the register of electors for Victoria established and maintained under section 21 that contains the names and addresses of all electors and the particulars required under the Act;

**Register of Political Parties** means the Register of Political Parties established under section 43;

**registered how-to-vote card** means a how-to-vote card registered under section 77 or 79;

**registered medical practitioner** means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);
registered political party means a political party that is registered under Part 4;

relevant period, in relation to an election, means the period that—

(a) starts on the day a writ is issued for the election; and

(b) ends at 6 p.m. on election day.

secretary, in relation to a political party, means the person who holds the office (however described) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party;

silent elector means an elector whose address is not on an electoral roll because of a request made under section 31;

Speaker means the Speaker of the Assembly and includes any person acting as the Speaker of the Assembly;

Tribunal means the Victorian Civil and Administrative Tribunal established under the Victorian Civil and Administrative Tribunal Act 1998;

voting centre means a place appointed by the Commission for voting at an election as—

(a) an early voting centre;

(b) a mobile voting centre;

(c) an election day voting centre.
3A Homeless persons

(1) For the purposes of this Act, a reference in section 22(4) to a person includes a homeless person.

(2) In this section, homeless person means—

   (a) a person living in—

      (i) crisis accommodation; or

      (ii) transitional accommodation; or

      (iii) any other accommodation provided under the Supported Accommodation Assistance Act 1994 of the Commonwealth; or

   (b) a person who has inadequate access to safe and secure housing within the meaning of section 4 of the Supported Accommodation Assistance Act 1994 of the Commonwealth.

4 Electoral matter

(1) In this Act, electoral matter means matter which is intended or likely to affect voting in an election.

(2) Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—

   (a) the election; or

   (b) the Government, the Opposition, a previous Government or a previous Opposition, of the State; or

   (c) the Government, the Opposition, a previous Government or a previous Opposition, of the Commonwealth or any other State or a Territory of the Commonwealth; or
(d) a member or a former member of the Parliament or the Parliament of the Commonwealth, any other State or a Territory of the Commonwealth; or

(e) a political party, a branch or division of a political party or a candidate in the election; or

(f) an issue submitted to, or otherwise before, the electors in connection with the election.

5 Extraterritorial operation of Act

This Act extends to election officials appointed for the purposes of this Act outside Victoria.
Part 2—Victorian Electoral Commission

6 Victorian Electoral Commission

(1) There is established by this Act the Victorian Electoral Commission.

(2) The Commission—

(a) is a body corporate with perpetual succession;

(b) represents the Crown in right of the State of Victoria;

(c) has a common seal;

(d) may sue and be sued in its corporate name;

(e) is, subject to this Act, capable of taking, purchasing, leasing, holding, selling and disposing of real and personal property for the purpose of performing its functions and exercising its powers under this Act;

(f) is capable of doing and suffering all acts and things that bodies corporate may by law do and suffer and which are necessary or expedient for the purpose of performing its functions and exercising its powers under this Act.

(3) The common seal of the Commission—

(a) must be kept as the Commission directs;

(b) must not be used except as authorised by the Commission.

7 Constitution of Commission

The Commission consists of one member being the person who is appointed as the Electoral Commissioner.
8 Responsibility and functions of the Commission

(1) The Commission is responsible for the administration of the enrolment process and the conduct of parliamentary elections and referendums in Victoria.

(2) The functions of the Commission are—

(a) to perform such functions as are conferred on the Commission by this or any other Act, other than functions which are expressly conferred on a specified person or body or the holder of a specified office;

(b) to report to each House of Parliament within 12 months of the conduct of each election on the administration of that election;

(c) to produce voters' rolls for elections under the Local Government Act 1989;

(ca) to assist the Melbourne City Council with the preparation of the voters' roll for that Council under the City of Melbourne Act 2001;

(cb) to conduct all elections and polls under the Local Government Act 1989 and the City of Melbourne Act 2001;

(d) to provide goods and services to persons or organisations on payment of any relevant fees, to the extent that the Commission is able to do so by using information or material in its possession or expertise acquired in the performance of its functions;

(e) to provide administrative and technical support to the Electoral Boundaries Commission established under section 3 of the Electoral Boundaries Commission Act 1982;
(f) to promote public awareness of electoral matters that are in the general public interest by means of the conduct of education and information programs;

(g) to conduct and promote research into electoral matters that are in the general public interest;

(h) to consider, and report to the Minister on, electoral matters that are in the general public interest referred to the Commission by the Minister;

(i) to administer this Act.

(3) The Commission must notify the Minister when the Commission has been engaged to conduct an election or poll for an organisation for which it has not previously conducted an election or poll.

(4) The Commission must report to each House of Parliament on all elections and polls referred to in subsection (3) within the first sitting week of each House of the Parliament immediately after 1 January and 1 July each year.

9 Powers of the Commission

(1) Subject to this Act, the Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its responsibilities and functions.

(2) Without limiting the generality of subsection (1), the Commission may, subject to this Act, make and issue directions for or with respect to the enrolment process, elections and election procedures.
(3) Without limiting the generality of subsection (1), the Commission may, subject to this Act, make, issue and publish determinations for or in connection with the performance of its responsibilities and functions and the exercise of its powers.

10 Commission not subject to direction or control

The Commission is not subject to the direction or control of the Minister in respect of the performance of its responsibilities and functions and the exercise of its powers.

11 Election manual and guidelines

(1) The Commission must publish an election manual for the purposes of this Act.

(2) The election manual must include directions issued by the Commission.

(3) The Commission may publish guidelines relating to the performance of its responsibilities and functions and the exercise of its powers.

12 The Electoral Commissioner

(1) The Governor in Council may appoint an officer to be called the Electoral Commissioner.

(2) The Electoral Commissioner—

(a) holds office for a period of 10 years; and

(b) may be re-appointed for one or more periods each of which does not exceed 10 years as is specified in the instrument by which the Electoral Commissioner is re-appointed.
(3) A person who—
   (a) is a member of a registered political party; or
   (b) has been a member of a political party at any 
time during the period of 5 years 
   immediately preceding the date of the 
   proposed appointment—

   cannot be appointed to be the Electoral 
   Commissioner.

(4) The office of the Electoral Commissioner 
becomes vacant—
   (a) upon acceptance by the Governor in Council 
of the Electoral Commissioner's resignation 
in writing; or
   (b) upon the Electoral Commissioner becoming 
   a bankrupt; or
   (c) upon the Electoral Commissioner 
nominating for election for the Parliament of 
   Victoria or of the Commonwealth or of any 
   other State or Territory of the 
   Commonwealth; or
   (d) upon the Governor in Council determining 
   that the Electoral Commissioner is physically 
or mentally incapable of carrying out the 
   duties of office; or
   (e) upon the passing of a resolution by both 
   Houses of Parliament requesting the 
   Electoral Commissioner's removal from 
   office; or
   (f) upon the Electoral Commissioner being 
   convicted of an indictable offence or being 
   sentenced to imprisonment for any offence.
(5) Nothing in the **Public Administration Act 2004** applies to or in relation to the office of the Electoral Commissioner or to any person holding that office.

(6) The Governor in Council may by Order in Council fix the terms and conditions of employment which are applicable to the Electoral Commissioner.

13 Deputy Electoral Commissioner

(1) The Governor in Council may appoint an officer to be called the Deputy Electoral Commissioner.

(2) The Deputy Electoral Commissioner—
   
   (a) holds office for a period of 10 years; and
   
   (b) may be re-appointed for one or more periods each of which does not exceed 10 years as is specified in the instrument by which the Deputy Electoral Commissioner is re-appointed.

(3) A person who—
   
   (a) is a member of a registered political party; or
   
   (b) has been a member of a political party at any time during the period of 5 years immediately preceding the date of the proposed appointment—

   cannot be appointed to be the Deputy Electoral Commissioner.

(4) The office of the Deputy Electoral Commissioner becomes vacant—

   (a) upon acceptance by the Governor in Council of the Deputy Electoral Commissioner's resignation in writing; or
(b) upon the Deputy Electoral Commissioner becoming a bankrupt; or

(c) upon the Deputy Electoral Commissioner nominating for election for the Parliament of Victoria or of the Commonwealth or of any other State or Territory of the Commonwealth; or

(d) upon the Governor in Council determining that the Deputy Electoral Commissioner is physically or mentally incapable of carrying out the duties of office; or

(e) upon the passing of a resolution by both Houses of Parliament requesting the Deputy Electoral Commissioner's removal from office; or

(f) upon the Deputy Electoral Commissioner being convicted of an indictable offence or being sentenced to imprisonment for any offence.

(5) Nothing in the **Public Administration Act 2004** applies to or in relation to the office of the Deputy Electoral Commissioner or to any person holding that office.

(6) The Governor in Council may by Order in Council fix the terms and conditions of employment which are applicable to the Deputy Electoral Commissioner.

(7) If the Deputy Electoral Commissioner is unable, whether on account of illness or otherwise, to perform the duties of the office of Deputy Electoral Commissioner, the Governor in Council may appoint an eligible person to act as Deputy Electoral Commissioner during that period of inability.
14 Suspension from office

(1) The Governor in Council may suspend the Electoral Commissioner or the Deputy Electoral Commissioner from office—

(a) on the ground of neglect of duty; or
(b) on the ground of misconduct; or
(c) on any other ground which in the opinion of the Governor in Council makes the Electoral Commissioner or the Deputy Electoral Commissioner unfit for office.

(2) If the Governor in Council suspends the Electoral Commissioner or the Deputy Electoral Commissioner from office, the Minister must within 2 hours of the suspension being made give notice in writing of the suspension to—

(a) the President; and
(b) the Speaker; and
(c) the Leader of each political party in each House of the Parliament.

(3) If Parliament is not sitting at the time when the Governor in Council suspends the Electoral Commissioner or the Deputy Electoral Commissioner from office, the Parliament must be summoned to meet as soon as practicable after a petition signed by—

(a) not less than 20 members of the Assembly; or
(b) not less than 30 members of Parliament all or any of whom are members of the Council—objecting to the suspension and requesting that Parliament be summoned is addressed and given to the Speaker or the President.
(4) An Electoral Commissioner or a Deputy Electoral Commissioner who is suspended must be restored to office unless—

(a) a statement setting out the grounds of suspension is placed before each House of Parliament during the first 7 sitting days of that House following the suspension; and

(b) each House of Parliament within 20 days of the statement being placed before it passes a resolution requesting the removal of the Electoral Commissioner or the Deputy Electoral Commissioner from office.

15 Other terms and conditions

(1) If the Electoral Commissioner or the Deputy Electoral Commissioner is at the time of appointment an officer within the meaning of the State Superannuation Act 1988, the Electoral Commissioner or the Deputy Electoral Commissioner continues subject to that Act to be an officer within the meaning of that Act.

(2) The Electoral Commissioner or the Deputy Electoral Commissioner must not without the consent of the Governor in Council directly or indirectly engage in any paid employment outside of the office of Electoral Commissioner or Deputy Electoral Commissioner.

(3) If the Electoral Commissioner or the Deputy Electoral Commissioner directly or indirectly engages in any paid or unpaid employment outside of the office of Electoral Commissioner or Deputy Electoral Commissioner, the Electoral Commissioner or the Deputy Electoral Commissioner must immediately advise the Minister.
(4) The Minister must ensure that a statement giving
details of employment advised under
subsection (3) is placed before each House of
Parliament during the first 7 sitting days of that
House after the Minister is so advised.

(5) Subject to this Act, the person who immediately
before the commencement of this section—

(a) holds the office of Electoral Commissioner,
continues to hold that office until the end of
the period when the term of appointment to
the office would have expired; and

(b) holds the office of Deputy Electoral
Commissioner, continues to hold that office
until the end of the period when the term of
appointment to the office would have
expired.

16 Functions, powers and duties

(1) The Electoral Commissioner—

(a) constitutes the Commission under section 7;
and

(b) has the functions, powers and duties
delegated to the Electoral Commissioner by
the Commission.

(2) The Deputy Electoral Commissioner—

(a) has the functions, powers and duties
delegated to the Deputy Electoral
Commissioner by the Commission or the
Electoral Commissioner; and

(b) if the Electoral Commissioner is absent or
unavailable to discharge the duties of his or
her office or the office of Electoral
Commissioner is temporarily vacant, has the
duty to act in the office of Electoral
Commissioner in which case the Deputy
Electoral Commissioner has all the
functions, powers and duties specified in subsection (1).

(3) The Electoral Commissioner and the Deputy Electoral Commissioner must before commencing the duties of office take an oath or make an affirmation to perform faithfully and impartially the duties of office.

(4) The oath or affirmation is to be administered by the Speaker.

17 Staff

(1) Any employees that are necessary for the purposes of this Act may be employed under Part 3 of the Public Administration Act 2004.

(2) A person employed for the purposes of this Act must not nominate for election for the Parliament of Victoria or of the Commonwealth or of any other State or Territory of the Commonwealth.

17A Application of the Equal Opportunity Act 2010

(1) In accordance with section 75 of the Equal Opportunity Act 2010, the Commission may discriminate against a person in relation to offering employment or appointment as a member of the audit committee of the Commission on the basis of that person's political belief or activity.

(2) The Commission, by notice published in the Government Gazette, must issue guidelines setting out the criteria to be applied in relation to refusing employment or appointment under subsection (1).

(3) In this section, employment has the same meaning as it has in the Equal Opportunity Act 2010.
18 Election managers and election officials

(1) The Commission may appoint, for the purposes of this Act, appropriate persons to be—

(a) election managers; or

(b) election officials.

(2) A person appointed under this section must not while holding the appointment nominate for election for the Parliament of Victoria or of the Commonwealth or of any other State or Territory of the Commonwealth.

(3) If a person appointed under this section does not comply with subsection (2), the appointment of that person is revoked by virtue of this subsection.

(4) The powers and duties of a class of persons appointed under this section are—

(a) the powers and duties specified by or under this Act in respect of that class of persons; and

(b) any other powers and duties not inconsistent with this Act as may be specified by the Commission in the instrument of appointment of persons of that class.

(5) The Commission must pay persons appointed under this section the remuneration and allowances determined by the Commission.

(6) A reference in a provision of this Act which—

(a) provides for the giving of a document to; or

(b) confers a power or function on—

the election manager is to be taken to be a reference to the election manager appointed for the election for the region or district to which the provision applies.
(7) A reference in a provision of this Act which—

(a) provides for the giving of a document to; or

(b) confers a power or function on—

an election official is to be taken to be a reference to an election official of a class appointed for the election for the region or district to which the provision applies.

(8) In the case of a general election, the election manager for a district is also responsible for exercising all the duties and powers in relation to the conduct of the election for a region in so far as any part of any region lies within that district (whether an election is to be conducted for both or not) until—

(a) the votes from each voting centre have been counted; and

(b) the votes relating to the election for any region have been forwarded to the election manager for that region.

(9) If any duty or power is performed or exercised by the election manager for a district, the election manager for the region is not required to perform that duty or to exercise that power.

19 Delegations

(1) Subject to subsection (2), the Commission may, by instrument under its common seal, delegate to—

(a) the Electoral Commissioner; or

(b) the Deputy Electoral Commissioner; or

(c) a member of staff employed under section 17; or
(d) an election manager or election official appointed under section 18—
any function or power of the Commission under this Act or any other Act or under the regulations.

(2) The Commission cannot delegate—

(a) its power of delegation; or
(b) the power to review an election manager's decision in respect of the registration of a how-to-vote card if an appeal has been made against the decision; or
(c) the power to allow or disallow a ballot-paper on a recount if the number of ballot-papers reserved under section 120(4) for the decision of the Commission may determine whether a particular candidate is declared elected.

(3) The Electoral Commissioner may by instrument delegate to—

(a) the Deputy Electoral Commissioner; or
(b) a member of staff employed under section 17; or
(c) an election manager or election official appointed under section 18—
any function or power of the Electoral Commissioner under this Act or any other Act or under the regulations other than this power of delegation.

19A Mandatory notification of corrupt conduct to IBAC

(1) Subject to any exemption notice issued under section 57B of the Independent Broad-based Anti-corruption Commission
Act 2011, the Electoral Commissioner must notify the IBAC of any matter that the Electoral Commissioner suspects on reasonable grounds involves corrupt conduct occurring or having occurred, of which the Electoral Commissioner becomes aware in the performance of functions or duties or the exercise of powers under this Act or any other Act.

(2) This section does not apply to corrupt conduct of the IBAC or IBAC personnel.

19B Consultation prior to notification

For the purposes of deciding whether to make a notification under section 19A to the IBAC, the Electoral Commissioner may consult the IBAC.

19C Communication of information to the IBAC

(1) At any time, the Electoral Commissioner may provide or disclose any information received or obtained in the course of the performance of functions or duties or the exercise of powers under this Act or any other Act to the IBAC if the Electoral Commissioner considers that—

(a) the information is relevant to the performance of the functions or duties or the exercise of powers of the IBAC; and

(b) it is appropriate for the information to be brought to the attention of the IBAC, having regard to the nature of the information.

(2) This section applies subject to any restriction on the provision or disclosure of information under this Act or any other Act (including any Commonwealth Act).
19D Electoral Commissioner not to prejudice investigations of the IBAC

(1) If the Electoral Commissioner is, or becomes, aware of an IBAC investigation, the Electoral Commissioner must take all reasonable steps to ensure that the performance of its functions or duties or the exercise of its powers does not prejudice the IBAC investigation.

(2) For the purposes of ensuring compliance with subsection (1), the Electoral Commissioner may consult the IBAC.
Part 3—Enrolment procedures and information

Division 1—Register of electors

20 Arrangement with Commonwealth

The Governor in Council may arrange with the Governor-General of the Commonwealth for—

(a) a joint enrolment process; and

(b) the exchange of information necessary for the preparation, maintenance and revision of the register of electors and the rolls—under this Act and the Commonwealth Electoral Act 1918.

21 Register of electors for Victoria

The Commission must establish, maintain and regularly update a register of electors for Victoria.

22 Entitlement to enrolment of electors for Assembly and Council

(1) A person who is qualified to enrol as an elector for the Assembly and Council under the Constitution Act 1975 and has lived at an address in Victoria that is the person's principal place of residence for at least one month immediately before the date of the person's claim for enrolment as an elector is entitled in respect of living at that address to enrol on the register of electors.

(2) A person who is serving a sentence of imprisonment or detention imposed by a court upon a conviction for an offence is deemed to be enrolled for the address at which the person lived as the person's principal place of residence at the time of the conviction.
(3) Despite subsection (1), if a person's name appears on a roll maintained under the Commonwealth Electoral Act 1918 for a Commonwealth subdivision in respect of an address in Victoria and that roll is annotated to indicate that the elector is an eligible overseas elector under section 94, 94A or 95 of the Commonwealth Electoral Act 1918, the person is entitled to be enrolled on the register of electors for that address.

(4) Despite subsection (1), if a person's name appears on a roll maintained under the Commonwealth Electoral Act 1918 in respect of an address in a Commonwealth subdivision in Victoria with which the person has established a connection under section 96 of that Act and that roll is annotated to indicate that the elector is an itinerant elector under section 96 of that Act, the person is entitled to be enrolled on the register of electors for that address.

(5) A person who has attained 17 years of age is entitled to enrol on the register of electors if—

(a) the person would be entitled to enrol under subsection (1) had the person attained 18 years of age; and

(b) the person has made a claim under section 23(2).

(6) An Antarctic elector is deemed to be enrolled for the address at which the Antarctic elector lived as his or her principal place of residence immediately before leaving Victoria for Antarctica.
23 Claims for enrolment and notice of change of address

(1) A person who is entitled to enrol on the register of electors (other than under section 22(3), 22(4) or 22(5)) and whose name is not on the register of electors must within 21 days of becoming so entitled—

(a) complete and sign a claim for enrolment in the prescribed form in accordance with the directions on the form; and

(b) forward the claim for enrolment to the Commission.

Penalty: 1 penalty unit.

(2) A person who is entitled to enrol on the register of electors under section 22(5) may—

(a) complete and sign a claim for provisional enrolment in the prescribed form in accordance with the directions on the form; and

(b) forward the claim for provisional enrolment to the Commission.

(3) A claim for enrolment under subsection (1) or (2) must include or be accompanied by one of the following forms of identification—

(a) if the person completing the claim is the holder of a driver licence or learner permit under the law of Victoria or another State or a Territory of the Commonwealth, the number of the driver licence or learner permit;

(b) if the person completing the claim is the holder of an Australian passport issued under the Australian Passports Act 2005 of the Commonwealth, the number of the Australian passport;
(c) an attestation as to the identity of the person completing the claim that is—
   (i) in the prescribed form; and
   (ii) signed by an elector;

(d) any other form of evidence of identity that is prescribed by the regulations for the purposes of this subsection.

(4) If a person who is enrolled on the register of electors changes the address of his or her principal place of residence, the person must notify the Commission in writing of the person's new address within 21 days after becoming entitled to be enrolled on the register of electors in respect of living at that new address.

Penalty: 1 penalty unit.

(5) If a person forwards to the Commission—
   (a) a claim for enrolment under subsection (1) or (2); or
   (b) a notice of change of address—

   proceedings must not be instituted against that person for any offence against subsection (1) or (4) allegedly committed before the forwarding of that claim or notice.

(6) The Commission must process a claim for enrolment under subsection (1) or (2) or a notice of change of address in accordance with the regulations.

(7) The Commission—
   (a) may accept or reject a claim for enrolment under subsection (1) or (2); and
   (b) must advise the person in writing of a decision to reject the claim.
(8) If the Commission sends a person a notice in writing under section 23A(2), proceedings must not be instituted against the person for any offence against subsection (1) which occurred before the Commission sent that notice.

23A Enrolment by the Commission

(1) This section applies if a person who would be entitled to enrol on the register of electors under section 22(5) has attained 18 years of age but has not made a claim for provisional enrolment under section 23(2).

(2) If a person to whom this section applies has not made a claim for enrolment within 21 days of becoming entitled to do so, the Commission may, on its own initiative after the expiry of that period, by notice in writing advise the person that—

(a) the Commission considers that, having regard to information obtained under an arrangement under section 20 or provided to the Commission under section 26(4), the person is entitled to be enrolled on the register of electors;

(b) the Commission proposes to enrol the person on the register of electors in respect of the person's principal place of residence as specified in the notice;

(c) the Commission will enrol the person on the register of electors unless, within the period specified in the notice (being not less than 14 days after the date of the notice), the person advises the Commission of the reason why the person is not entitled to be enrolled on the register of electors;
(d) if the person considers that any details of the proposed enrolment are incorrect, the person must within the period specified in the notice advise the Commission.

(3) If the Commission does not receive any advice under subsection (2)(c) or (2)(d) at the expiry of the period specified in the notice under subsection (2), the Commission must—

(a) register the person on the register of electors; and

(b) advise the person in writing that the person has been registered on the register of electors.

(4) If the Commission receives advice under subsection (2)(c) before the expiry of the period specified in the notice under subsection (2), the Commission must—

(a) consider whether the reason given as to why the person is not entitled to be enrolled is valid;

(b) if the Commission considers that the reason given as to why the person is not entitled to be enrolled is valid, advise the person in writing that the person will not be registered on the register of electors;

(c) if the Commission considers that the reason given as to why the person is not entitled to be enrolled is not valid—

(i) register the person on the register of electors; and

(ii) advise the person in writing that the person has been registered on the register of electors.
(5) If the Commission receives advice under subsection (2)(d) before the expiry of the period specified in the notice under subsection (2), the Commission, after making any corrections that the Commission considers appropriate, must—

(a) register the person on the register of electors; and

(b) advise the person in writing that the person has been registered on the register of electors.

24 General postal voters

(1) A person may apply to the Commission in the prescribed form to be a general postal voter if the person is—

(a) an elector whose principal place of residence is not within 20 kilometres, by the nearest practicable route, of an election day voting centre; or

(aa) an elector who is entitled to be treated as an eligible overseas elector under section 94, 94A or 95 of the Commonwealth Electoral Act 1918; or

(b) an elector who by reason of being seriously ill or infirm is unable to travel to an election day voting centre; or

(c) an elector who, because he or she will be at a place (other than a hospital) caring for a person who is seriously ill or infirm, is unable to travel from that place to an election day voting centre; or

(ca) an elector who has attained 70 years of age; or
(d) an elector who—
   (i) is serving a sentence of imprisonment; or
   (ii) is otherwise in lawful custody or detention; or

(e) a silent elector; or

(f) an elector who because of his or her religious beliefs or membership of a religious order—
   (i) is precluded from attending an election day voting centre; or
   (ii) for the greater part of the hours of voting on election day, is precluded from attending an election day voting centre.

(2) An application in the prescribed form to the Commission to be a general postal voter may be made by a person on behalf of an elector certified in writing by a registered medical practitioner to be so physically incapacitated that the elector cannot sign the elector's name.

(3) The certificate referred to in subsection (2) must be forwarded to the Commission with the application under subsection (2) to which it relates.

(4) An application to be a general postal voter received by the Commission during the period that—
   (a) starts at 8 p.m. on the day of the close of the roll; and
   (b) ends at 6 p.m. on election day—
must not be considered until after the expiration of that period.
(5) The Commission must process an application to be a general postal voter in accordance with the regulations.

(6) The Commission—

(a) may accept or reject an application under subsection (1) or (2); and

(b) must advise the person in writing of a decision to reject the application.

25 **Power to refuse to include inappropriate names on register**

(1) The Commission may refuse to include a person's name on the register of electors if—

(a) the Registrar of Births, Deaths and Marriages has determined that the name is a prohibited name within the meaning of the *Births, Deaths and Marriages Registration Act 1996*; or

(b) the Commission considers that—

(i) the name is fictitious, frivolous or obscene; or

(ii) the name is not the name by which the person is usually known; or

(iii) the name was not registered as the person's name under the *Births, Deaths and Marriages Registration Act 1996* or the *Registration of Births Deaths and Marriages Act 1959*; or

(iv) the name is not written in the alphabet used for the English language; or

(v) it is contrary to the public interest to include the name.
(2) If the Commission decides to refuse to include a person's name on the register of electors under subsection (1), the Commission must—

(a) notify the person in writing of that decision; and

(b) advise the person that the person is entitled at any time within one month after the receipt of the notice to appeal to the Tribunal for an order directing that the person's name be included on the register of electors.

26 Information to be supplied to Commission

(1) The Registrar of Births, Deaths and Marriages must within 3 days after the end of each month forward to the Commission a list setting out the name, date of birth, sex and the last-known place of residence at the date of the death, of each person of the age of 17 years or more whose death was registered by the Registrar of Births, Deaths and Marriages during the month.

(2) The Registrar of Births, Deaths and Marriages must within 3 days after the end of each month forward to the Commission a list of changes of names of persons under Part 4 of the Births, Deaths and Marriages Registration Act 1996 during the month showing—

(a) the previous recorded or registered name of each person; and

(b) the name under which that person is registered in the register of changes of name; and

(c) the address of that person.
(3) The Secretary to the Department of Justice must as soon as practicable after the beginning of each month forward to the Commission a list specifying the name, date of birth, sex and last known place of residence, of each person who during the preceding month has been convicted in Victoria and is serving a sentence of 5 years imprisonment or more for an offence against the law of Victoria, the Commonwealth or another State or a Territory of the Commonwealth.

(4) The Commission may by notice in writing require—

(a) a public service body Head within the meaning of the Public Administration Act 2004; or

(b) a Chief Executive Officer appointed by a Council under section 94 of the Local Government Act 1989; or

(c) a chief executive officer of a public statutory authority; or

(d) a police officer; or

(e) a distribution company or a retailer within the meaning of the Electricity Industry Act 2000; or

(f) an elector or a person qualified to be an elector—to provide the information requested in the notice, being information that in the opinion of the Commission is required in connection with the preparation, maintenance or review of the register of electors.
(5) A person who is requested by notice under subsection (4) to provide information must provide that information within 21 days after the date specified in the notice.

27 Review of register of electors

(1) The Commission must regularly review the register of electors.

(2) The Commission must ensure that the details entered in the register of electors are accurate.

28 Register of electors not available for public inspection

The Commission must ensure that the register of electors is not available for public inspection.

Division 2—Electoral rolls

29 Electoral rolls

(1) An electoral roll—

(a) must be prepared by the Commission as soon as practicable after the close of the roll in relation to an election; and

(b) must be prepared by the Commission when so required under any other Act; and

(c) may be in a form determined by the Commission.

(2) Despite section 23(2), a person who will not attain 18 years of age on election day for an election is not entitled to be included on an electoral roll prepared by the Commission in relation to the election.
(3) The Commission must not include on an electoral roll prepared under subsection (1)(a)—

(a) the names of any electors whose claims for enrolment have been received by the Commission after the close of the roll; or

(aa) the names of any electors registered on the register of electors under section 23A by the Commission after the close of the roll; or

(b) any changes to particulars which have been received by the Commission after the close of the roll.

30 Correction of errors in electoral rolls

(1) If any accidental or unavoidable impediment, misfeasance or omission has happened in the preparation or printing of any electoral roll under this Part, the Governor in Council may by Order in Council—

(a) take the measures necessary for removing the impediment or rectifying the misfeasance or omission; or

(b) declare the electoral roll to be valid despite the impediment, misfeasance or omission.

(2) The Order in Council must state specifically the nature of the impediment, misfeasance or omission.

31 Request to be silent elector

(1) A person may lodge a request in the prescribed form that the address of the person's principal place of residence not be shown on any electoral roll if the person considers that having that address on an electoral roll places or would place the personal safety of the person or of members of the person's family at risk.
(2) A request must—
   (a) give particulars of the relevant risk; and
   (b) be verified by statutory declaration by the person making the request.

(3) If the Commission is satisfied that having the address of the person making the request shown on any electoral roll places or would place the personal safety of the person or members of the person's family at risk, the Commission must ensure that the address of the person is not entered on any electoral roll.

(4) The Commission must notify the person in writing of a decision to grant or refuse a request made by a person under subsection (1).

32 Inspection of list of electors and electoral rolls

(1) The Commission must prepare every 6 months a list of the names of electors (other than silent electors) in alphabetical order and their addresses.

(2) The Commission must ensure that copies of the latest list of electors are available for public inspection free of charge at the office of the Commission during office hours.

(3) The Commission must ensure that copies of the latest print of any electoral roll are available for public inspection free of charge at any place and during times determined by the Commission.

Division 3—Enrolment information

33 Provision of enrolment information to political parties, members and candidates

(1) The Commission must provide to each registered political party, free of charge, a list specifying electors and their particulars—
   (a) once during each Assembly; and
(b) as soon as practicable after a redivision under the Electoral Boundaries Commission Act 1982; and

(c) on receiving a request from the registered political party not more than 11 times each year.

(2) The Commission must provide to each member of the Assembly and each member of the Council, free of charge, a list specifying electors for the district or region for which the member was elected and the electors' particulars—

(a) once during each Assembly; and

(b) on receiving a request from the member not more than once each year.

(3) Following a redivision under the Electoral Boundaries Commission Act 1982, the Commission must provide each member of the Assembly, free of charge, a list specifying electors for the district for which the member was elected and a list specifying electors for the district whose name and boundary is published under section 15 of that Act after the redivision and that, in the opinion of the Commission, most resembles the district for which the member was elected and the particulars of the electors on both lists—

(a) as soon as practicable after the redivision; and

(b) on receiving a request from the member not more than once each year until the Assembly is dissolved.

(4) Following a redivision under the Electoral Boundaries Commission Act 1982, the Commission must provide each member of the Council, free of charge, a list specifying electors for the region for which the member was elected and a list specifying electors for the region whose
name and boundary is published under section 14 of that Act after the redivision and that, in the opinion of the Commission, most resembles the region for which the member was elected and the particulars of the electors on both lists—

(a) as soon as practicable after the redivision; and

(b) on receiving a request from the member not more than once each year until the Assembly is dissolved.

(5) On the request of a member of the Assembly or Council, the Commission must provide to the member at least 6 times each year free of charge—

(a) a list specifying electors whose addresses for which they are enrolled were in the district or region represented by the member immediately before a list was last provided under this subsection but are now no longer in that district or region and the particulars of those electors; and

(b) a list specifying electors whose addresses for which they are enrolled were not in the district or region represented by the member immediately before a list was last provided under this subsection but are now in that district or region and the particulars of those electors.

(6) On the request of any candidate for an election, the Commission must provide to the candidate, free of charge, a copy of the electoral roll for the election in a form determined by the Commission.

(7) The Commission must not provide particulars of silent electors under this section.
34 Provision of enrolment information to others

(1) After receiving a request from any person or organisation not referred to in section 33 for a list of electors and their particulars, the Commission must—

(a) identify the public interest in providing the requested information; and

(b) consult with the Information Commissioner appointed under the Freedom of Information Act 1982 in the Information Commissioner's capacity under the Privacy and Data Protection Act 2014, on the public interest in protecting the privacy of personal information; and

(c) taking into account the advice of the Information Commissioner, make a finding whether or not the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information in the particular circumstances.

(2) Subject to subsection (3), if the Commission has made a finding under subsection (1) that the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information, the Commission may—

(a) provide to the person or organisation a list specifying electors and their particulars; and

(b) charge a fee that covers the cost to the Commission of providing the list.

(3) The Commission must obtain from the person or organisation to be provided with information under this section an undertaking that the person or organisation will—
(a) only use the information for the purpose for which the Commission agreed to provide the information; and

(b) not copy the information or give it to any other person or organisation; and

(c) return the information to the Commission or destroy the information after using it for the purpose for which the Commission agreed to provide the information.

(4) If the Commission provides enrolment information under this section—

(a) to a person or organisation that conducts medical research; or

(b) to a person or organisation that provides a health screening program—

the Commission may include in the enrolment information the age ranges of electors in a form determined by the Commission.

(5) The Commission must not provide particulars of silent electors under this section.

(6) The Commission must make available for public inspection, free of charge, at the office of the Commission, any finding made under subsection (1).

35 Report to Parliament

As soon as practicable after 30 June each year, the Commission must cause a report to be laid before each House of Parliament on the provision of enrolment information under section 34 and on any finding made under that section during the previous 12 months ending on that date.
36 Use of enrolment information

(1) A registered political party, person or organisation must not use enrolment information that is provided by the Commission under section 33 or 34 except for the purpose that is a permitted purpose in relation to the party, person or organisation to which the information was provided.

Penalty: In the case of a natural person, 600 penalty units;
In the case of a body corporate or registered political party, 3000 penalty units.

Note
Section 179A applies to an offence against this subsection.

(2) The permitted purposes in relation to a registered political party or a candidate are—
(a) any purpose in connection with an election; and
(b) monitoring the accuracy of information contained on an electoral roll or on the register of electors.

(3) The permitted purposes in relation to a member of the Assembly or the Council are—
(a) any purpose in connection with an election; and
(b) monitoring the accuracy of information contained on an electoral roll or on the register of electors; and
(c) exercising the functions of a member in relation to the member's constituents.
(4) The permitted purpose in relation to a person or organisation (other than a registered political party, a candidate or a member of the Assembly or the Council) is the purpose for which the Commission agreed to provide the information.

37 Prohibition of disclosure or commercial use of enrolment information

(1) For the purposes of this section, enrolment information is protected information in relation to a person if the person knows, or has reasonable grounds for believing, that the information has been provided under section 33, 34 or 104A.

(2) A person must not disclose protected information unless the disclosure would be a use of the information for a permitted purpose under section 36.

Penalty: In the case of a natural person, 600 penalty units; in the case of a body corporate or registered political party, 3000 penalty units.

(3) A person must not use protected information for a commercial purpose.

Penalty: In the case of a natural person, 600 penalty units; in the case of a body corporate or registered political party, 3000 penalty units.

Note

Section 179A applies to an offence against subsection (2) or (3).
Division 4—Enrolment objections and Tribunal reviews

38 Objections to enrolment

(1) An elector may object to the enrolment of a person on the ground that—
   (a) the person is not entitled to be enrolled; or
   (b) the address for which a person is enrolled is not the person's principal place of residence.

(2) An elector's objection under subsection (1) must—
   (a) be in writing and in the prescribed form; and
   (b) be signed by the elector; and
   (c) set out the ground for the objection; and
   (d) be lodged with the Commission.

(3) If no objection to a person's enrolment has been received under subsection (1) and the Commission has reason to believe that the person is not entitled to be enrolled or that the address for which the person is enrolled is not the person's principal place of residence, the Commission must—
   (a) object to the enrolment of the person; and
   (b) set out the ground for that objection.

(4) An objection on the ground that the address for which a person is enrolled is not the person's principal place of residence is not a sufficient ground of objection unless the objection alleges that the person objected to does not live at the address and has not lived at the address for at least one month immediately before the date of the objection.
39 Notice of objection

(1) If an objection is made under section 38, the Commission must notify the person whose enrolment is objected to of the objection.

(2) Notice under subsection (1)—
   (a) must be in the prescribed form; and
   (b) may be given to the person objected to by being posted to the person.

40 Answer to objection

The person objected to under section 38 may orally or in writing in the manner specified in the notice of objection answer the objection.

41 Determination of objection

(1) The Commission must determine the objection—
   (a) as soon as practicable after—
      (i) receiving the answer of the person objected to; and
      (ii) making any further enquiries that appear necessary to the Commission in relation to matters contained in the answer; or
   (b) if no answer is received within a period of 20 days after the posting of the notice, then immediately after the expiration of that period.

(2) If it appears to the Commission that the person objected to is not entitled to be enrolled at the address in respect of which the objection has been made, the Commission must remove the person’s name from the register of electors.
42 Review by Tribunal

(1) Any person—

(a) who has forwarded a claim for enrolment or a claim for provisional enrolment and has not been enrolled; or

(b) who has forwarded a notice regarding his or her change of address of enrolment and whose address has not been changed on the register of electors; or

(c) whose name the Commission refused to include on the register of electors under section 25; or

(d) whose name has been removed from the register of electors by the Commission after an objection under section 38—

may apply to the Tribunal for review of the Commission's decision.

(2) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made; or

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
Part 4—Registration of political parties

43 Register of Political Parties

The Commission must establish and maintain a Register of Political Parties containing a list of the political parties that are registered under this Part.

44 Registered officer of a political party

(1) Subject to subsection (2), a reference in this Act to the registered officer of a registered political party is a reference to the person shown on the Register of Political Parties as the registered officer of that party.

(2) A reference in this Act to the registered officer of a registered political party includes a reference to a person for the time being nominated by the registered officer of a political party as a deputy registered officer of the political party for the purposes of this Act.

(3) A nomination under subsection (2)—

(a) must be in writing, signed by the registered officer and lodged with the Commission; and

(b) must specify the name and address of the person nominated and be signed by that person; and

(c) may be revoked at any time by the registered officer by written notice lodged with the Commission.
45 Application for registration

(1) An eligible political party may apply to the Commission to be registered if the political party had not made an application for registration within the previous 6 months that was refused by the Commission.

(1A) An application for the registration of a political party cannot be made during the period commencing 115 days before the day of the 2018 general election resulting from the expiration of the Assembly, or during the period commencing 120 days before the day of any other general election resulting from the expiration of the Assembly.

(2) An application for the registration of an eligible political party must—

(a) be in writing, signed by the secretary of the political party; and

(b) set out the name of the political party; and

(c) set out the name and address of the person who is to be the registered officer of the political party for the purposes of this Act; and

(d) be accompanied by a copy of the constitution (however described) of the political party; and

(e) be accompanied by a statutory declaration made by the secretary stating that at least 500 members of the political party are—

(i) electors; and

(ii) members in accordance with the rules of the political party; and
(iii) not members of another registered political party or of a political party applying for registration; and

(f) be accompanied by a list, in a form determined by the Commission, of the names and addresses of at least 500 members of the political party who meet the requirements set out in paragraph (e); and

(g) be accompanied by a fee of 50 fee units.

(3) An application for the registration of an eligible political party may include a request that the Commission enter a logo submitted in relation to the political party in the Register of Political Parties for the printing of ballot-papers in accordance with section 74.

(4) An application under subsection (3) must include—

(a) a copy of the logo as a black and white image in a format determined by the Commission; and

(b) a declaration that the use of the logo will not infringe the intellectual property rights of any person; and

(c) any other requirements as determined by the Commission.
**46 Political party or logo not to be registered during election**

During the period that starts on the day of the issue of the writ for an election and ends on the day on which the writ is returned—

(a) the Commission must not—

(i) consider an application made under section 45; or

(ii) register an eligible political party or a logo in relation to an eligible political party; and

(b) the Tribunal must not—

(i) review a decision made on an application under section 45; or

(ii) make an order in relation to an application under section 45.

**47 Political parties with certain names not to be registered**

The Commission must refuse an application for the registration of a political party if, in the opinion of the Commission, the name of the political party that the party wishes to use for the purposes of this Act—

(a) comprises more than 6 words; or

(b) is obscene; or

(c) is not a proper abbreviation of the name of the political party; or

(d) is the name of another registered political party; or

(e) so nearly resembles the name of another registered political party that it is likely to be confused with, or mistaken for, that name; or
(f) comprises the words "Independent Party" or comprises or contains the word "Independent" and—

(i) the name of a registered political party; or

(ii) matter that so nearly resembles the name of a registered political party that the matter is likely to be confused with, or mistaken for, that name.

47A Certain logos not to be entered in Register of Political Parties

The Commission must refuse an application under section 45(3) to enter a logo in relation to a political party in the Register of Political Parties if, in the opinion of the Commission, the logo that the political party wishes to use for the purposes of this Act—

(a) is obscene; or

(b) is the logo of another registered political party; or

(c) so nearly resembles the logo of another registered political party that it is likely to be confused with, or mistaken for, that logo; or

(d) comprises the words "Independent Party" or comprises or contains the word "Independent" and—

(i) the name, or an abbreviation or acronym of the name, of a registered political party; or

(ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a registered political party, that the matter is likely to be confused with, or mistaken for, that name, abbreviation or acronym.
48 Variation of application

(1) If, after initial consideration of an application for the registration of a political party, the Commission is of the opinion that—

(a) the Commission is required to refuse the application; and

(b) the political party might be prepared to vary the application in such a way that the Commission may accept the application—

the Commission must within 30 days of receiving the application give the political party written notice of that opinion, setting out the reasons for that opinion and the terms of subsections (2) and (3).

(2) If the Commission has given notice under subsection (1) in relation to an application, the Commission is not required to give further consideration to the application unless and until a request is lodged with the Commission under subsection (3).

(3) If notice is given under subsection (1) in relation to an application for the registration of a political party, the political party may lodge with the Commission within 30 days after receiving the notice a written request, signed by the secretary of the political party, to—

(a) vary the application in a manner specified in the request; or

(b) proceed with the application in the form in which it was lodged.

(4) If the Commission receives a request under subsection (3) to vary an application, the Commission must consider the application in its varied form.
(5) An application is deemed to have been withdrawn if the Commission does not receive a request under subsection (3) to vary or proceed with an application within 30 days after notice under subsection (1) is given.

49 Publication of notice of application

(1) The Commission must publicly advertise and publish in the Government Gazette a notice of the application for registration of a political party.

(1A) A notice under subsection (1) in relation to an application must be published—

(a) within 30 days of receiving the application, if the Commission has decided that it is required to consider accepting the application; or

(b) within 14 days of receiving a written request under section 48(3).

(2) A notice under subsection (1) in relation to an application must—

(a) set out the particulars specified in the application in accordance with section 45(2); and

(b) invite any person who believes that the application—

(i) does not relate to an eligible political party; or

(ii) is not in accordance with section 45; or

(iii) should be refused under section 47—

to submit written particulars of the grounds for that belief to the Commission within 30 days after the day of the publication of the notice in the Government Gazette.
(3) Particulars submitted by a person under subsection (2)(b) must—
   (a) be signed by the person; and
   (b) specify an address of that person.

(4) The Commission must not register a political party unless the Commission has—
   (a) complied with subsection (1); and
   (b) considered any particulars submitted in response to the invitation referred to in subsection (2)(b).

(5) Before considering any written particulars submitted under subsection (2)(b), the Commission must—
   (a) send a copy of the written particulars to the political party applying for registration; and
   (b) give the political party applying for registration a notice in writing specifying that the political party may, within 14 days after the date of the notice, reply to the matters raised in the written particulars; and
   (c) make details of any reply under paragraph (b) available for public inspection, free of charge, during ordinary office hours at the office of the Commission.

50 Registration

(1) If the Commission determines that a political party that has applied for registration may be registered, the Commission must—
   (a) register the political party by entering in the Register of Political Parties—
      (i) the name of the political party; and
(ia) if the application included a request under section 45(3), enter the logo in relation to that political party; and

(ii) the name and address of the person who has been nominated as the registered officer of the political party for the purposes of this Act; and

(b) give written notice to the political party that the Commission has registered the political party; and

(c) if a person submitted particulars in response to the invitation referred to in section 49(2)(b) in relation to the application, give written notice to that person that the Commission has registered the political party, setting out the reasons for rejecting the grounds particulars of which were submitted by the person; and

(d) publish notice of the registration of the political party in the Government Gazette.

(2) If the Commission determines that a political party that has applied for registration should not be registered, the Commission must give the political party written notice that its application has been refused, setting out the reasons for the refusal.

51 Changes to Register of Political Parties

(1) A registered political party may apply to the Commission for a change to the Register of Political Parties by—

(a) changing the name of the political party to a name specified in the application; or

(aa) if a logo is entered in the Register in relation to the political party, changing the logo to a logo submitted in the application; or

S. 50(1)(aa)
inserted by No. 30/2018 s. 14(1).
(ab) if a logo is not entered in the Register in relation to the political party, entering the logo submitted in the application in the Register in relation to the political party; or

(b) substituting for the name of the registered officer entered in the Register the name of a person specified in the application; or

(c) substituting for the address of the registered officer of the political party that is entered in the Register another address specified in the application.

(1A) An application under subsection (1) to amend the Register to change the name of a political party or to enter a logo cannot be made during the period commencing 115 days before the day of the 2018 general election resulting from the expiration of the Assembly, or during the period commencing 120 days before the day of any other general election resulting from the expiration of the Assembly.

(2) An application under subsection (1) for a change to the Register of Political Parties—

(a) must be in writing, signed by the secretary of the political party; and

(b) in the case of an application to substitute the name of a person as the name of the registered officer of a political party, may also be signed by the registered officer; and

(c) in the case of a change of name of the political party, must be accompanied by a fee of 50 fee units.
(2A) An application under subsection (1)(aa) or (ab) must include—

(a) a copy of the logo as a black and white image in a format determined by the Commission; and

(b) a declaration that the use of the logo will not infringe the intellectual property rights of any person; and

(c) any other requirements determined by the Commission.

(3) In the case of an application under subsection (1) to change the name of the political party, sections 46 to 49 apply in relation to the application as if a reference in those sections to an application for registration were a reference to an application for that change.

(3A) In the case of an application under subsection (1)(aa) or (ab), sections 46, 47A, 48 and 49 apply in relation to the application as if in those sections a reference to an application under section 45 were a reference to an application under section 51(1)(aa) or (ab).

(4) If an application under subsection (1) to substitute the name of a person for the name of the registered officer of a political party is not signed by the registered officer, the Commission must—

(a) give the registered officer written notice of the application for the change and invite the registered officer, if the registered officer considers that there are reasons why the change should not be made, to submit written particulars of those reasons to the Commission within 7 days after the date on which the notice was given; and
(b) consider any particulars submitted in response to the invitation referred to in paragraph (a).

(5) If the Commission determines that an application under subsection (1) may be granted, the Commission must—

(a) change the Register of Political Parties accordingly; and

(b) give written notice to the political party that the Commission has made the change; and

(c) in the case of a change to the name of the political party in respect of which a person submitted particulars in response to the invitation referred to in section 49(2)(b) by virtue of subsection (3) of this section, give written notice to that person that the Commission has made the change, setting out in the notice to the person the reasons for rejecting the reasons particulars of which were submitted by the person; and

(d) in the case of an application to substitute the name of a person for the name of the registered officer of the political party, being an application in respect of which the registered officer submitted particulars under subsection (4)(a), give written notice to that registered officer that the Commission has made the change setting out the reasons for rejecting the reasons particulars of which were so submitted; and

(e) publish notice of the change in the Government Gazette.

(6) If the Commission determines that a political party's application under subsection (1) should be refused, the Commission must give the political party written notice of that determination.
52 Commission to review registration of political parties

(1) The Commission—

(a) may review the registration of a political party from time to time; and

(b) must review the registration of a political party as soon as practicable after an election if the political party obtained an average of less than 4% of the first preference votes over all electorates contested by the political party.

(2) For the purposes of reviewing the registration of a political party under subsection (1), the Commission may require a political party to provide the Commission with up to date information and documents of the kind referred to in section 45(2) within 30 days.

53 Voluntary de-registration

(1) The Commission must de-register a political party if an application to do so is made to the Commission by the political party.

(2) An application under subsection (1) must be in writing, signed by the registered officer of the political party.

54 De-registration of party not endorsing candidates

If a registered political party has not endorsed at least one candidate for an election held within the last 5 years, the Commission must—

(a) de-register the political party; and

(b) give the person who was the registered officer of the political party immediately before its de-registration notice in writing of the de-registration; and
(c) publish a notice of the de-registration in the Government Gazette.

55 De-registration of political party on failure to provide information and documents

If a registered political party has failed to comply with a request under section 52(2), the Commission must—

(a) de-register the political party; and

(b) give the person who was the registered officer of the political party immediately before its de-registration notice in writing of the de-registration; and

(c) publish a notice of the de-registration in the Government Gazette.

56 De-registration of political party on other grounds

(1) This section applies to a registered political party if the Commission is satisfied on reasonable grounds that—

(a) the political party has ceased to exist (whether by amalgamation with another political party or otherwise); or

(b) the political party has ceased to have at least 500 members who meet the requirements set out in section 45(2)(e); or

(c) the registration of the political party was obtained by fraud or misrepresentation.

(2) If this section applies to a registered political party, the Commission must—

(a) notify the registered officer of the political party in writing that the Commission is considering de-registering the political party under this section setting out the reasons of the Commission for considering doing so
and the terms of subsections (3), (4), (5) and (6); and

(b) publish a notice in the Government Gazette that the Commission is considering de-registering the political party under this section, specifying the paragraph of subsection (1) by reason of which the Commission is considering doing so.

(3) If a notice is given under subsection (2) in relation to a political party, the registered officer of the political party or 10 members of the political party may, within one month after the date on which the notice was given, lodge with the Commission a statement in writing signed by the registered officer or by those members of the political party setting out reasons why the political party should not be de-registered under this section.

(4) A statement that is lodged under subsection (3) and is signed by 10 members of the political party must—

(a) set out the names and addresses of those members; and

(b) contain a statement that they are members of that political party.

(5) If a notice is given under subsection (2) in relation to a political party and a statement is not lodged under subsection (3) in response to that notice, the Commission must—

(a) de-register the political party; and

(b) publish a notice of the political party's de-registration in the Government Gazette.
(6) If, in response to a notice given under subsection (2) in relation to a political party, a statement is lodged under subsection (3), the Commission must—

(a) consider that statement; and

(b) determine whether the political party should be de-registered for the reasons set out in that notice.

(7) If, under subsection (6), the Commission determines that a political party should be de-registered, the Commission must—

(a) de-register the political party; and

(b) give the person who was the last registered officer of the political party written notice of the de-registration, setting out the reasons of the Commission for rejecting the reasons set out in the statement lodged under subsection (3); and

(c) publish a notice of the de-registration in the Government Gazette.

(8) If, under subsection (6), the Commission determines that a political party should not be de-registered under this section, the Commission must give the registered officer of the political party written notice of the determination.

57 De-registration

If a political party is de-registered under section 53, 54, 55 or 56, the Commission must cause the particulars in the Register of Political Parties that relate to that political party to be cancelled.
58 **De-registered political party is ineligible for registration**

A political party—

(a) that is de-registered under section 53, 54, 55 or 56; or

(b) that has a name that so nearly resembles the name of the de-registered political party that it is likely to be confused with, or mistaken for, that name—

is ineligible for registration until after the general election that first occurs following the de-registration.

58A **Registered political party must apply for re-registration**

(1) A registered political party must apply for re-registration—

(a) not later than 30 June 2006; and

(b) during each subsequent relevant period.

(2) If a registered political party fails to comply with subsection (1)(b), the political party cannot apply for re-registration within the period of 6 months after the end of the relevant period specified under that subsection.

(3) In this section, *relevant period* means the period of 2 months beginning 27 months before the next scheduled general election and ending 25 months before the next scheduled general election.
58B Application for re-registration

An application for the re-registration of a registered political party must—

(a) be in writing, signed by the secretary of the registered political party; and

(b) set out the name of the registered political party; and

(c) set out the name and address of the person who is to be the registered officer of the registered political party for the purposes of this Act; and

(d) be accompanied by a copy of the constitution (however described) of the registered political party; and

(e) be accompanied by a statutory declaration made by the secretary stating that at least 500 members of the registered political party are—

   (i) electors; and

   (ii) members in accordance with the rules of the registered political party; and

   (iii) not members of another registered political party or of a political party applying for registration; and

(f) be accompanied by a list, in a form determined by the Commission, of the names and addresses of at least 500 members of the registered political party who meet the requirements set out in paragraph (e); and

(g) be accompanied by a fee of 50 fee units.
58C  Political party not to be re-registered during election

During the period that starts on the day of the issue of the writ for an election and ends on the day on which the writ is returned—

(a) the Commission must not—

(i) consider an application made under section 58B; or

(ii) re-register a registered political party; and

(b) the Tribunal must not—

(i) review a decision made on an application under section 58B; or

(ii) make an order in relation to an application under section 58B.

58D  Re-registration

(1) If the Commission determines that a registered political party that has applied for re-registration may be re-registered, the Commission must—

(a) re-register the registered political party by entering in the Register of Political Parties the date on which the re-registration was approved;

(b) give written notice to the registered political party that the Commission has re-registered the political party; and

(c) publish notice of the re-registration of the registered political party in the Government Gazette.
(2) If the Commission determines that a registered political party that has applied for re-registration should not be re-registered, the Commission must give the political party written notice that its application has been refused, setting out the reasons for the refusal.

(3) If the Commission determines that a registered political party that has applied for re-registration should not be re-registered, the Commission must after the specified day cancel the particulars in the Register of Political Parties that relate to that political party.

(4) In subsection (3), specified day means—

(a) if no application for review of the decision of the Commission to not re-register the registered political party is made, the day which is the last day of the period applicable under section 60(3); or

(b) if an application for review of the decision of the Commission not to re-register the registered political party is made and the Tribunal affirms the decision of the Commission, the day on which the Commission makes the order affirming the decision.

(5) If an application for review of the decision of the Commission not to re-register the registered political party is made and the Tribunal sets aside the decision of the Commission, the Commission must—

(a) re-register the registered political party by entering in the Register of Political Parties the date on which the re-registration is to take effect;
(b) give written notice to the registered political party that the Commission has re-registered the political party; and

(c) publish notice of the re-registration of the registered political party in the Government Gazette.

59 Inspection of Register of Political Parties

The Register of Political Parties must be open for public inspection, free of charge, at the office of the Commission.

60 Review of certain decisions

(1) In this section—

*person* includes a political party;

*reviewable decision* means a decision of the Commission—

(a) to register a political party under this Part; or

(b) to refuse an application for the registration of a political party under this Part; or

(c) to grant an application under section 51(1); or

(d) to refuse an application under section 51(1); or

(e) to de-register a political party under section 56(7); or

(f) to refuse an application under section 58B.

(2) Any person whose interests are affected by a reviewable decision made by the Commission may apply to the Tribunal for review of the decision.
(3) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made; or

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
Part 5—Election procedures

Division 1—Writs

61 Writs for elections

(1) A writ for a general election must be issued by the Governor—

(a) in the case of the expiration of the Assembly, on the day on which the Assembly expires; or

(b) in the case of the dissolution of the Assembly, within 7 days after the dissolution.

(2) Unless subsection (2A) applies, a writ for a by-election for the election of a member of the Assembly must be issued by the Speaker within one month after the occurrence of the vacancy.

(2A) The Speaker may decide not to issue a writ for a by-election if the vacancy occurs on or after 30 June in the year in which a general election resulting from the expiration of the Assembly is to be held.

(3) Unless subsection (3A) applies, if there is no Speaker to issue a writ under subsection (2), the writ must be issued by the Governor within one month after the occurrence of the vacancy.

(3A) The Governor may decide not to issue a writ for a by-election if the vacancy occurs on or after 30 June in the year in which a general election resulting from the expiration of the Assembly is to be held.

(4) A writ issued under this section must be—

(a) in or to the effect of the form in Schedule 1; and
(b) directed to the Commission; and
(c) returnable to the person who issued the writ, on a day within 21 days after the election day appointed and named in the writ.

62 Vacancy occurring by reason of resignation to contest Commonwealth election

Despite anything to the contrary in this Act, if—

(a) a vacancy occurs in the Assembly or the Council by reason of a member resigning his or her seat for the purpose of seeking election for the Parliament of the Commonwealth; and

(b) the member tenders his or her resignation within the period of 21 days before the date of the issue of the writ for the Commonwealth election; and

(c) the member notifies the Speaker or the President in writing of his or her intention to seek such election and his or her intention in the event of failing to secure such election to become again a candidate for the vacancy in the Assembly or the Council—

then the issue of the writ for the election of a member to fill the vacancy occurring in the Assembly or the choosing of a person to fill the vacancy occurring in the Council under section 27A of the Constitution Act 1975 must be delayed until the result of the Commonwealth election has been officially declared.

63 Issue of writ and days appointed

(1) A writ is deemed to have been issued at 6 p.m. on the day on which the writ was issued.
(2) The person issuing the writ for an election must in relation to that election appoint—
   (a) the day for the close of the roll; and
   (b) the final nomination day; and
   (c) the election day.

(3) The day appointed for the close of the roll must be 7 days after the date of the writ.

(4) A roll closes at 8 p.m. on the day appointed for the close of the roll.

(5) Subject to subsection (6), the final nomination day must be—
   (a) in the case of the expiration of the Assembly, 10 days after the expiration; or
   (b) in the case of the dissolution of the Assembly, a day within the period that—
      (i) starts 10 days after the date of the writ; and
      (ii) ends 28 days after the date of the writ.

(6) If a candidate for an election dies before noon on the final nomination day for the election, the final nomination day (except for the purposes of subsection (7)) is to be the next day.

(7) The election day must be—
   (a) unless paragraph (c) applies, if the previous Assembly expired, the last Saturday in November nearest to the fourth anniversary of the election day on which the previous Assembly was elected or the Saturday referred to in section 38(2) of the Constitution Act 1975 as the case may be; or
(b) if the previous Assembly was dissolved, a Saturday within the period that starts 15 days after the final nomination day and ends 30 days after the final nomination day; or

(c) if section 38A(2) of the Constitution Act 1975 applies, the Saturday to which the election day is postponed in accordance with that section.

(8) Subject to subsection (9), if an election is a by-election, the final nomination day must be a day within the period that—

(a) starts 10 days after the date of the writ; and

(b) ends 28 days after the date of the writ.

(9) If a candidate for an election which is a by-election dies before noon on the final nomination day for the by-election, the final nomination day (except for the purposes of subsection (10)) is to be the next day.

(10) The election day for an election which is a by-election must be a Saturday within the period that starts 15 days after the final nomination day and ends 30 days after the final nomination day.

64 Duties of Commission on receipt of writ

If a writ for an election is received by the Commission under section 61, the Commission must—

(a) indorse on the writ the date of its receipt; and

(b) publicly advertise—

(i) receipt of the writ; and

(ii) the final nomination day and election day named in the writ; and
(iii) the office of the appropriate election manager.

Division 2—Voting centres

65 Appointment of voting centres

(1) The Commission must—

(a) appoint as many voting centres as the Commission considers necessary; and

(b) publicly advertise the location and time of operation of each voting centre, other than a mobile voting centre; and

(c) in the case of a mobile voting centre, notify each registered political party and the candidates for the district or region in which the mobile voting centre will be located of the mobile voting centre's location and time of operation.

(2) The Commission may—

(a) designate appropriate voting centres as—

(i) early voting centres; and

(ii) mobile voting centres; and

(b) specify the class of elector that is entitled to vote at particular early voting centres or mobile voting centres.

(3) The Commission must, in exercising its powers under this section, ensure that electors are provided with an accessible service that facilitates the opportunity to vote.

(4) If how-to-vote cards relating to an election are supplied to the election manager, an election official at a mobile voting centre in relation to that election must—
(a) advise electors that how-to-vote cards have been supplied; and
(b) show electors how-to-vote cards if so requested.

66 Use of licensed premises as voting centre

(1) Subject to this section, no part of any licensed premises within the meaning of the Liquor Control Reform Act 1998 may be used for the purpose of a voting centre.

(2) If the Commission considers that there are exceptional circumstances which so require, the Commission may, subject to any conditions, authorise the use of any premises which is, or of which any part is, a licensed premises within the meaning of the Liquor Control Reform Act 1998 for the purpose of a voting centre.

(3) If during any period, any part of a premises is used for the purpose of a voting centre under subsection (2), that part of the premises must not be—

(a) used for the sale of liquor; or
(b) accessible from any other part of the premises which is being used for the sale of liquor.

(4) Despite the issue of a limited licence under section 14 of the Liquor Control Reform Act 1998, if a voting centre is appointed in any premises which is part of an area in respect of which the supply of liquor is authorised by the limited licence, liquor may not be supplied under the limited licence in that area during the hours of voting on election day.
67 Use of prescribed premises as voting centre

(1) The Commission may use as an election day voting centre any room or hall in a prescribed premises.

(2) The Commission must give 7 days' notice to the managers, trustees or owners of the prescribed premises.

(3) The Commission must pay—
   (a) reasonable costs for lighting, air conditioning and cleaning of the prescribed premises; and
   (b) if, as a result of using the premises as a voting centre, the premises or any furniture in the premises is damaged, the full costs of repairing the damage.

(4) If there is a dispute between the Commission and the managers, trustees or owners of the prescribed premises about the amount payable under subsection (3), the matter is to be determined by the Magistrates' Court.

(5) In this section, prescribed premises means a school or building that is not used exclusively for religious services and that—
   (a) is supported wholly or in part by—
      (i) public funds; or
      (ii) a perpetual endowment; or
   (b) has been built with, or is supported wholly or in part by, a grant from the Consolidated Fund.
Division 3—Nominations and candidates

68 Commission to make particulars of candidates available

Each day after the issue of the writ for an election, the Commission must make available at locations and times determined by the Commission—

(a) the names and contact details of the candidates for the election; and

(b) the name of any person who has ceased to be a candidate for the election.

69 Nomination of candidates

(1) A person may only become a candidate for an election by nomination in accordance with this section.

(2) If a candidate is endorsed by a registered political party, there must be delivered to the Commission, after the issue of the writ and before noon of the day before the final nomination day, a nomination form in the prescribed form that—

(a) specifies the candidate's name and address as it appears on the register of electors; and

(aa) in the case of a candidate for a Council election, specifies the suburb or locality in which is located the address in respect of which the candidate is enrolled; and

(b) is signed by the candidate and by the registered officer of the registered political party; and

(c) includes a declaration signed by the candidate that the candidate is qualified under the Constitution Act 1975 to be elected a member of the Assembly or the Council; and
(d) includes a statement specifying the form in which—

(i) the candidate's given name or given names; and

(ii) the registered political party's name—are to be printed on the ballot-papers for the election.

(3) If a candidate is not endorsed by a registered political party, there must be delivered to the election manager, after the issue of the writ and before noon on the final nomination day, a nomination form in the prescribed form that—

(a) specifies the candidate's name and address as it appears on the register of electors; and

(aa) in the case of a candidate for a Council election, specifies the suburb or locality in which is located the address in respect of which the candidate is enrolled; and

(b) in the case of a candidate for an Assembly election, is signed by the candidate and by 6 persons entitled to vote at the election for which the candidate is nominated; and

(ba) in the case of a candidate for a Council election, is signed by the candidate and by 50 persons entitled to vote at the election for which the candidate is nominated; and

(c) includes a declaration signed by the candidate that the candidate is qualified under the Constitution Act 1975 to be elected a member of the Assembly or the Council; and
(d) includes a statement specifying the form in which the candidate's given name or given names is to be printed on the ballot-papers for the election.

(4) There must be delivered with a nomination form referred to in subsection (2) or (3) the sum of $350 paid in cash or by cheque drawn on account of an authorised deposit-taking institution within the meaning of the Commonwealth Banking Act 1959.

(5) A given name of a candidate specified under subsection (2)(d) or (3)(d) may differ from the candidate's given name as it appears on the register of electors only to the extent that the given name is specified by—

(a) an initial standing for that name; or

(b) a commonly accepted variation of the name (including an abbreviation or truncation of that name or an alternative form of that name); or

(c) a commonly used other name specific to the candidate by which the candidate is usually identified if the candidate produces evidence to the satisfaction of the Commission that the proposed name is a commonly used other name specific to the candidate by which the candidate is usually identified.

(6) A person must not nominate as a candidate for more than one election to be held on the same day.

(7) If a person nominates as a candidate for more than one election to be held on the same day—

(a) all nominations of the person as a candidate for the elections to be held on that day are void; and
(b) the deposits paid in respect of the nominations are to be forfeited and paid into the Consolidated Fund.

(8) The nomination form delivered by or on behalf of a candidate must not be made available to any person for inspection except in accordance with this Act.

69A Grouping of candidates for Council elections

(1) Two or more candidates for a Council election who are not endorsed by a registered political party may make a joint request to the Commission that—

(a) their names be grouped on the ballot-papers; or

(b) their names be grouped on the ballot-papers in a specified order.

(2) If 2 or more candidates for a Council election are endorsed by a registered political party, the registered officer of the registered political party may make a request to the Commission that—

(a) the candidates' names be grouped on the ballot-papers; or

(b) the candidates' names be grouped on the ballot-papers in a specified order.

(3) If 2 or more candidates for a Council election are endorsed by different registered political parties, the registered officers of each registered political party may make a joint request to the Commission that—

(a) the candidates' names be grouped on the ballot-papers; or

(b) the candidates' names be grouped on the ballot-papers in a specified order.
(4) A request under subsection (1), (2) or (3) must—
   (a) be in writing; and
   (b) in the case of a request under subsection (1),
       be signed by each candidate; and
   (c) in the case of a request under subsection (2),
       be signed by the registered officer of the
       registered political party; and
   (d) in the case of a request under subsection (3),
       be signed by the registered officers of each
       registered political party; and
   (e) be delivered to the Commission before noon
       of the day before the final nomination day.

(5) If the request is made under subsection (2), the
    request may include a further request that the
    name of the registered political party that
    endorsed all the candidates be printed beneath the
    square in relation to the group of candidates on the
    ballot-papers.

(6) If the request is made under subsection (3), the
    request may include a further request that a
    composite name formed from the registered
    political parties that endorsed the candidates be
    printed beneath the square in relation to the group
    of candidates on the ballot-papers.

(7) A candidate's name may not be included in more
    than one group.

(8) A request made under subsection (1), (2) or (3)
    may, at any time before noon on the day before
    final nomination day, be amended, withdrawn or
    replaced by a written notice to the Commission.
69B  Group voting tickets

(1) Candidates who made a joint request under section 69A(1) must lodge with the Commission a written statement that—

(a) they wish voters in the Council election to indicate their preferences in relation to all candidates in the Council election in a specified order, being an order that gives preferences to the candidates lodging the statement before any other candidate; or

(b) they wish voters in the Council election to indicate their preferences in relation to all candidates in the Council election in either of 2 specified orders, or any one of 3 specified orders, being an order that—

(i) give preferences to the candidates lodging the statement before any other candidate; and

(ii) give the preferences to the candidates lodging the statement in the same order.

(2) The registered officer of a registered political party who made a request under section 69A(2) must lodge with the Commission a written statement that—

(a) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in a specified order, being an order that gives preferences to the candidates on whose behalf the statement is lodged before any other candidate; or
(b) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in either of 2 specified orders, or any one of 3 specified orders, being an order that—

(i) give preferences to the candidates on whose behalf the statement is lodged before any other candidate; and

(ii) give the preferences to the candidates on whose behalf the statement is lodged in the same order.

(3) The registered officers of each registered political party who made a joint request under section 69A(3) must lodge with the Commission a written statement that—

(a) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in a specified order, being an order that gives preferences to the candidates on whose behalf the statement is lodged before any other candidate; or

(b) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in either of 2 specified orders, or any one of 3 specified orders, being an order that—

(i) give preferences to the candidates on whose behalf the statement is lodged before any other candidate; and

(ii) give the preferences to the candidates on whose behalf the statement is lodged in the same order.
(4) Without limiting the generality of subsection (1)(a), (1)(b), (2)(a), (2)(b), (3)(a) or (3)(b), a statement must specify an order of preferences by setting out the names of all candidates in the Council election in the groups, and in the order, in which they would be set out in a ballot-paper—

(a) with squares opposite to each name; and

(b) with a number in each square showing that order of preferences.

(5) If a statement in relation to a group of candidates in a Council election is lodged in accordance with this section, that group of candidates must be taken to have a group voting ticket or 2 or 3 group voting tickets, as the case requires, registered for the purposes of the Council election, being the order of preferences or the orders of preferences given in that statement.

(6) If a group voting ticket or 2 or 3 group voting tickets are registered for the purposes of a Council election—

(a) the Commission must allocate a letter of the alphabet to the group; and

(b) a square in relation to the group must be printed beneath the letter of the alphabet allocated to the group; and

(c) if a request was made under section 69A(5), the name of the registered political party must be printed beneath the square in relation to the group; and

(d) if a request was made under section 69A(6), the composite name of the registered political parties must be printed beneath the square in relation to the group.
(7) A statement under subsection (1), (2) or (3) must be lodged with the Commission after the election manager has determined the order of the candidates and the groups on the ballot-paper in accordance with section 74 and before noon on the second day after the final nomination day.

Penalty: 10 penalty units.

(7A) For the purposes of subsection (7)—

(a) a statement under subsection (1) must be lodged by—

(i) the candidate whose name first appears in the group on the ballot-paper; or

(ii) if a person has been authorised by all the members of the group by written instrument given to the Commission with the nomination or nominations of members of the group to sign the statement, the authorised person;

(b) a statement under subsection (2) must be lodged by the registered officer of the registered political party making the request;

(c) a statement under subsection (3) must be lodged by the registered officers of the registered political parties making the joint request.

(8) A statement lodged under subsection (1), (2) or (3) may, at any time before the period for lodging the statement expires, be amended or replaced by a written notice to the Commission.

(9) A statement under subsection (1) or a written notice relating to that statement under subsection (8) must be signed by—

(a) the candidate whose name first appears in the group on the ballot-paper; or
(b) a person authorised by all the members of the group by written instrument given to the Commission with the nomination or nominations of members of the group, to sign such a statement on behalf of the group.

(10) A statement under subsection (2) or a written notice relating to that statement under subsection (8) must be signed by the registered officer of the registered political party.

(11) A statement under subsection (3) or a written notice relating to that statement under subsection (8) must be signed by the registered officers of the registered political parties making the joint request.

(12) A statement lodged under subsection (1)(b), (2)(b) or (3)(b) must indicate the order in which the voting tickets of the group are to be displayed for the purposes of section 73A.

70 Rejection of nominations

The Commission or election manager may only reject a nomination if—

(a) the nomination form has not been properly completed in accordance with section 69; or

(b) the deposit is not lodged with the nomination form in accordance with section 69; or

(c) the candidate is not enrolled to vote as at the close of the roll for the election; or

(d) the surname of the candidate specified under section 69 is not that under which the candidate is enrolled.
71 Retirement of candidate

(1) A candidate for any election who is endorsed by a registered political party may withdraw the candidate's nomination by lodging with the Commission a notice of retirement at any time before noon on the day before the final nomination day.

(2) A candidate for any election who is not endorsed by a registered political party may withdraw the candidate's nomination by lodging with the election manager a notice of retirement at any time before noon on the final nomination day.

72 Failed election

(1) An election fails if—

(a) a candidate for an Assembly election dies after noon on the final nomination day and before 6 p.m. on election day; or

(b) the successful candidate for an Assembly election dies after 6 p.m. on election day and before being declared elected; or

(c) no candidate is nominated or declared elected.

(2) If an election has failed—

(a) the election manager must immediately advise the Commission that the election has failed; and

(b) the Commission must indorse the writ to that effect and return the writ; and

(c) the person who issued the writ for the election that has failed must issue a new writ in or to the effect of the form in Schedule 1 for a supplementary election.
(3) If there is no Speaker or President to issue a writ under subsection (2)(c), the writ must be issued by the Governor.

(4) Despite anything to the contrary in this Act—
   (a) a supplementary election must be held on the electoral roll that was prepared for the purpose of the election that has failed; and
   (b) the Governor in Council may by Order in Council make such modifications and adaptations of any of the sections of this Act as are necessary by reason of the fact that the supplementary election will be held on a day later than the election day appointed for the election that failed.

Division 4—Arrangements for holding elections

73 When election is required

(1) An election must be held if—
   (a) there is more than one candidate for an election in a district; or
   (b) there are more than 5 candidates for an election in a region.

(2) As soon as practicable after noon on the final nomination day, the election manager must at the election manager's office publicly display the names of the candidates for the election.

(3) The election manager must advise the Commission of the names of the candidates for the election.

73A Group voting tickets to be displayed

(1) If a group voting ticket is, or group voting tickets are, registered for the purposes of a Council election, the Commission must cause the ticket or tickets to be prominently displayed at the
election day voting centre in a manner determined by the Commission.

(2) If a group has 2 or 3 group voting tickets, the tickets relating to that group must be displayed in the order indicated in the statement lodged under section 69B(1)(b), 69B(2)(b) or 69B(3)(b).

74 Ballot-papers to be prepared

(1) As soon as practicable after noon on the final nomination day, the election manager must determine the order of names of candidates or groups of candidates on ballot-papers to be used in an election by drawing the names of the candidates or groups of candidates by lot in a manner determined by the Commission, either manually or by computer.

(2) If in the opinion of the Commission a similarity in the names of 2 or more candidates is likely to cause confusion, the names of those candidates may be arranged with a description as is determined by the Commission to distinguish the names.

(3) The Commission must cause ballot-papers to be printed to be used in an Assembly election—

(a) with the names of all the candidates at the election and of no other persons, in the form of Schedule 2; and

(b) in the order determined by the election manager.

(3A) The Commission must cause ballot-papers to be printed to be used in a Council election at which there are fewer than 20 groups of candidates with the names of all the candidates at the election and of no other persons, in the form of Schedule 1A and in the order determined by the election manager.
(3AA) The Commission must cause ballot-papers to be printed to be used in a Council election at which there are 20 or more groups of candidates with the names of all the candidates at the election and of no other persons, in the form of Schedule 1B and in the order determined by the election manager.

(3B) In printing the ballot-papers to be used in a Council election—

(a) the names of candidates in respect of whom a request under section 69A was made must be printed in groups in accordance with the request and before the names of candidates who have not made such a request; and

(b) the suburb or locality in which is located the address in respect of which each candidate is enrolled as specified in each candidate's nomination form in accordance with section 69(2)(aa) must be printed adjacent to the name of the relevant candidate; and

(c) if a request was made under section 69A(5), the name of the registered political party that endorsed the candidates must be printed beneath the square in relation to the group; and

(d) if a request was made under section 69A(6), the composite name formed from the registered political parties that endorsed the candidates must be printed beneath the square in relation to the group.

(4) If a person has been endorsed as a candidate in an election by a registered political party, the name of that party must be printed adjacent to the name of the candidate on the ballot-papers.

(5) If a person has been endorsed as a candidate in an election by a registered political party that has a logo entered in the Register of Political Parties,
the logo must be printed adjacent to the name of
the candidate and beneath the square in relation to
the group in accordance with Schedule 1A, 1B
or 2, whichever is applicable.

75 Notification of election

If an election is required to be held under section 73,
the Commission must publicly advertise—

(a) that an election will be held; and

(b) the names of the candidates for the election
and the order of the names of the candidates
on the ballot-papers to be used in the
election.

76 Provisions relating to scrutineers

(1) A candidate may appoint one scrutineer for each
election official issuing ballot-papers at a voting
centre for the district or region for which the
candidate is seeking election.

(2) Subject to subsection (3), a candidate may appoint
scrutineers to represent the candidate at the
scrutiny or counting of ballot-papers under
sections 111, 113, 114 and 114A.

(3) The number of scrutineers appointed under
subsection (2) must not be greater than the
number of electoral officials who are engaged in
the scrutiny and counting of ballot-papers.

(4) An appointment of a scrutineer for the purposes of
this Act must be—

(a) in a form approved by the Commission; and

(b) produced for inspection on request by the
election manager or election official.

(5) A scrutineer must not—

(a) interfere with or attempt to influence any
elector within a voting centre; or
(b) communicate with any person in a voting centre except so far as is necessary in the discharge of the functions of the scrutineer; or

(c) handle any ballot-papers.

Penalty: 60 penalty units or 6 months imprisonment.

(6) A scrutineer must not be prevented from entering or leaving a voting centre during its time of operation.

(7) A scrutineer must wear a badge at a voting centre that—

(a) is supplied by the Commission; and

(b) identifies the scrutineer as a scrutineer.

(8) A scrutineer may be removed from a voting centre by a police officer if the scrutineer—

(a) commits any breach of this section; or

(b) is guilty of misconduct; or

(c) fails to obey the lawful directions of the election manager or an election official.

### Division 5—How-to-vote cards

#### Submission of how-to-vote cards to the election manager

(1) A person may submit a how-to-vote card to the election manager for registration by the Commission at any time within the period that—
(a) starts on the first working day after the final nomination day; and
(b) ends at noon on the 6th working day before election day.

(2) A person submitting a how-to-vote card to the election manager for registration by the Commission must make a declaration in the prescribed form.

(3) The election manager may provide such assistance to an applicant as the election manager considers appropriate before the submission of the how-to-vote card to the Commission for registration.

(4) The election manager must immediately forward the how-to-vote card and the declaration to the Commission.

78 Submission of how-to-vote cards to the Commission

(1) The registered officer of a registered political party or a person appointed by the registered officer may submit a how-to-vote card to the Commission for registration at any time within the period that—

(a) starts on the first working day after the final nomination day; and
(b) ends at noon on the 6th working day before election day.

(2) A person submitting a how-to-vote card to the Commission for registration must make a declaration in the prescribed form.
(3) A how-to-vote card submitted under this section must be—

(a) a single how-to-vote card, that is, a how-to-vote card submitted with respect to one electoral district or one electoral region only; or

(b) a multiple how-to-vote card, that is, a how-to-vote card submitted with respect to no less than every electoral district or electoral region for which the registered political party submitting the how-to-vote card has endorsed a candidate; or

(c) a combined how-to-vote card, that is, a how-to-vote card submitted with respect to one or more electoral districts or electoral regions for which the registered political party submitting the how-to-vote card has endorsed a candidate.

(4) The Commission may provide such assistance to an applicant as the Commission considers appropriate before the submission of the how-to-vote card to the Commission for registration.

79 Registration process

(1) Before noon on the next day after receiving a how-to-vote card from the applicant or an election manager, the Commission must—

(a) register the how-to-vote card; or

(b) refuse to register the how-to-vote card—and inform the applicant of the Commission’s decision.

(2) In determining whether to register a how-to-vote card, the Commission must have regard to the following matters—
(a) that the how-to-vote card clearly identifies the person, political party, organisation or group on whose behalf the card is to be distributed;

(b) that the size of any logo, emblem or insignia belonging to the person, political party, organisation or group on whose behalf the card is to be distributed appearing on the how-to-vote card is not less than the relevant prescribed size;

(c) in the case of a how-to-vote card to be used for an Assembly election, that the how-to-vote card indicates the order of voting preference for all candidates listed on the card or contains a statement that a number must be placed against the name of each candidate;

(ca) in the case of a how-to-vote card to be used for a Council election, that the how-to-vote card—

(i) indicates a voting preference for one group in relation to which a square is printed on the ballot-paper under section 69B; or

(ii) indicates the order of voting preference for all candidates whose names are printed opposite squares on the ballot-paper; or

(iii) contains a statement to the effect that—

(A) the number 1 must be placed in the square in relation to the group for which the elector votes as first preference; or

(B) the number 1 must be placed opposite the name of the candidate for whom the elector votes as first
preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes;

(d) that the how-to-vote card contains on at least one printed side of the how-to-vote card—

(i) the name and address of the person who authorised the how-to-vote card; and

(ii) the name and place of business of the printer or publisher of the how-to-vote card;

(e) that the how-to-vote card contains the prescribed endorsement.

(3) The Commission must refuse to register a how-to-vote card if the Commission is satisfied that the card—

(a) is likely to mislead or deceive an elector in casting the vote of the elector; or

(b) is likely to induce an elector to mark the vote of the elector otherwise than in accordance with the directions on the ballot-paper; or

(c) contains offensive or obscene material.

80 Alterations to registered how-to-vote card to correct error

(1) This section applies if an alteration is required to a registered how-to-vote card to correct an error in the registered how-to-vote card.

(2) If this section applies, the person who applied for the registration of the how-to-vote card may not later than noon on the 5th working day before the election day submit an amended version of the
registered how-to-vote card to the Commission for registration.

(3) Before noon on the next day after receiving an application under subsection (2), the Commission must—

(a) register the amended version of the registered how-to-vote card; or

(b) refuse to register the amended version of the registered how-to-vote card—

and inform the applicant of the Commission's decision.

(4) In determining whether to register an amended version of a registered how-to-vote card, the Commission must have regard to the following matters—

(a) that the how-to-vote card clearly identifies the person, political party, organisation or group on whose behalf the card is to be distributed;

(b) that the size of any logo, emblem or insignia belonging to the person, political party, organisation or group on whose behalf the card is to be distributed appearing on the how-to-vote card is not less than the relevant prescribed size;

(c) in the case of a how-to-vote card to be used for an Assembly election, that the how-to-vote card indicates the order of voting preference for all candidates listed on the card or contains a statement that a number must be placed against the name of each candidate;
(ca) in the case of a how-to-vote card to be used for a Council election, that the how-to-vote card—

(i) indicates a voting preference for one group in relation to which a square is printed on the ballot-paper under section 69B; or

(ii) indicates the order of voting preference for all candidates whose names are printed opposite squares on the ballot-paper; or

(iii) contains a statement to the effect that—

(A) the number 1 must be placed in the square in relation to the group for which the elector votes as first preference; or

(B) the number 1 must be placed opposite the name of the candidate for whom the elector votes as first preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes;

(d) that the how-to-vote card contains on at least one printed side of the how-to-vote card—

(i) the name and address of the person who authorised the how-to-vote card; and

(ii) the name and place of business of the printer or publisher of the how-to-vote card;

(e) that the how-to-vote card contains the prescribed endorsement.
(5) The Commission must refuse to register an amended version of a registered how-to-vote card if the Commission is satisfied that the card—

(a) is likely to mislead or deceive an elector in casting the vote of the elector; or

(b) is likely to induce an elector to mark the vote of the elector otherwise than in accordance with the directions on the ballot-paper; or

(c) contains offensive or obscene material.

(6) An amended version of a registered how-to-vote card cannot be handed out, distributed or otherwise made available unless it has been registered under this section.

81 Supply of how-to-vote cards

If a how-to-vote card is registered under section 79 or 80, the applicant must immediately provide the Commission with 2 copies of the registered how-to-vote card.

82 Commission to make how-to-vote cards available

As soon as practicable after registering a how-to-vote card under section 79 or 80, the Commission must—

(a) make available a copy of that card for inspection at the office of the Commission; and

(b) publish a copy of that card on an Internet website maintained by the Commission.

82A Review of the Commission's decision

(1) Any person may apply to the Tribunal for review of the Commission's decision under section 79 or 80 no later than noon on the next working day after the Commission has advised the applicant of that decision.
(2) The Tribunal must, not later than 5 p.m. on the next working day after receiving an application under subsection (1)—

(a) determine the application; or

(b) give the applicant and the Commission directions as to the changes required to obtain registration by the Commission.

Division 6—Electoral matter

83 Printing and publication of electoral advertisements, handbills, pamphlets or notices

(1) A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice unless—

(a) the name and address of the person who authorised the electoral advertisement, handbill, pamphlet or notice appears; and

(b) in the case of an electoral advertisement, handbill, pamphlet or notice that is printed or published otherwise than in a newspaper, the name and place of business of the printer or publisher appears.

Penalty: In the case of a natural person, 10 penalty units;

In the case of a body corporate, 50 penalty units.

Note Section 179A applies to an offence against this subsection.

(2) For the purposes of subsection (1)(b), a person who makes copies for distribution of an electoral advertisement, handbill, pamphlet or notice that is...
published on the Internet is deemed to be the printer of those copies.

(3) Subsection (1) does not apply in relation to—

(a) a car sticker, an item of clothing, lapel button, lapel badge, fridge magnet, pen, pencil or balloon; or

(aa) a letter or card which—

(i) bears the name and address of the sender; and

(ii) does not contain a representation or purported representation of a ballot-paper for use in an election; or

(ab) a how-to-vote card registered under section 79 or 80; or

(b) an article included in a prescribed class of articles.

(4) Nothing in subsection (3)(a) or (3)(aa) is to be taken, by implication, to limit the generality of regulations that may be made by virtue of subsection (3)(b).

83A Printing and publication of how-to-vote cards

(1) A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed a how-to-vote card unless it complies with section 79(2)(d) or 80(4)(d).

Penalty: In the case of a natural person, 10 penalty units;

In the case of a body corporate, 50 penalty units.

Note

Section 179A applies to an offence against this subsection.
(2) For the purposes of subsection (1), a person who makes copies for distribution of a how-to-vote card that is published on the Internet is deemed to be the printer of those copies.

84 Misleading or deceptive matter

(1) A person must not during the relevant period—

(a) print, publish or distribute; or

(b) cause, permit or authorise to be printed, published or distributed—

any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the vote of the elector.

Penalty: In the case of a natural person,
60 penalty units or 6 months imprisonment;

In the case of a body corporate,
300 penalty units.

(2) A person must not during the relevant period—

(a) print, publish or distribute; or

(b) cause, permit or authorise to be printed, published or distributed—

an electoral advertisement, handbill, pamphlet or notice that contains a representation or purported representation of a ballot-paper for use in that election that is likely to induce an elector to mark the elector's vote otherwise than in accordance with the directions on the ballot-paper.

Penalty: In the case of a natural person,
60 penalty units or 6 months imprisonment;

In the case of a body corporate,
300 penalty units.
(3) In a prosecution of a person for an alleged offence against subsection (1) or (2), it is a defence if the person proves that the person—

(a) did not know; and

(b) could not reasonably be expected to have known—

that the matter or thing was likely to mislead an elector when casting the elector's vote.

Note
Section 179A applies to an offence against subsection (1) or (2).

85 Heading to electoral advertisements

The proprietor of a newspaper must cause the word "advertisement" to be printed as a headline in letters not smaller than 10 point to each article or paragraph in the proprietor's newspaper containing electoral matter, the insertion—

(a) of which is, or is to be, paid for; or

(b) for which any reward or compensation or promise of reward or compensation is, or is to be, made.

Penalty: In the case of a natural person, 5 penalty units;
In the case of a body corporate, 25 penalty units.

Note
Section 179A applies to an offence against this section.
86 Authors to be identified

(1) A person must not during the relevant period—

(a) print, publish or distribute; or

(b) cause, permit or authorise to be printed, published or distributed—

a newspaper, circular or pamphlet containing an article, report, letter or other matter containing electoral matter unless the author's name and address are set out at the end of the article, report, letter or other matter, or if only part of the article, report, letter or matter appears in any issue of a newspaper, circular or pamphlet at the end of that part.

Penalty: In the case of a natural person, 5 penalty units; In the case of a body corporate, 25 penalty units.

Note: Section 179A applies to an offence against this subsection.

(2) This section does not apply to the publication in a newspaper of—

(a) a leading article; or

(b) an article that consists solely of a report of a meeting and does not contain electoral matter, other than comment made by a speaker at the meeting.

(3) It is sufficient compliance with subsection (1) if a newspaper containing a letter containing electoral matter sets out the author's name and the suburb or locality in which the author's address is located.
Part 6—Voting

Division 1—Entitlement to vote

87 Voting at elections

(1) A person is entitled to vote in an election in accordance with this Act if the person—

(a) is qualified to enrol as an elector under the Constitution Act 1975; and

(b) subject to section 108(1), is enrolled as an elector under Part 3 of this Act.

(2) An elector—

(a) whose name has been placed on the register under section 22(5); and

(b) who has not attained 18 years of age on election day—

is not entitled to vote at the election.

(3) An elector must vote at every election for which the elector is entitled to vote.

(4) An elector may vote—

(a) on election day at an election day voting centre; or

(b) in accordance with any other manner provided under this Part, if the elector is entitled to use that manner of voting.
Division 2—Voting at an election day voting centre

88 Ballot-box to be exhibited before voting

Immediately before voting commences at an election day voting centre, an election official must—

(a) exhibit for the inspection of the candidates, scrutineers and election officials who may be present, the ballot-box open and empty; and

(b) after exhibiting the ballot-box in accordance with paragraph (a), close and securely fasten and seal the ballot-box ensuring that it is still empty.

89 Hours of voting

(1) Subject to subsection (2), voting at every election day voting centre must—

(a) commence at 8 a.m. on election day; and

(b) unless adjourned under section 97, close at 6 p.m. on the same day.

(2) A person must be permitted to vote if the person is—

(a) in an election day voting centre at 6 p.m.; and

(b) entitled to vote at the election.

90 Questions to be asked of voter

(1) Subject to subsection (2), an election official must ask a person claiming to vote in an election at an election day voting centre before the person is given a ballot-paper—

(a) What is your full name?

(b) Where do you live?

(c) Have you voted before in this election?
(2) The election official must not ask the question in subsection (1)(b) if the elector is a silent elector or an itinerant elector.

(4) The election official must reject a person's claim to vote if the person—

(a) refuses to answer fully the questions asked; or

(b) answers the question specified in subsection (1)(c) in the affirmative.

(5) The election official must not reject a claim to vote as a result of any mistake in the electoral roll if the voter is sufficiently identified in the opinion of the election official.

91 Election official may require voter to make declaration as to identity

(1) If an election official reasonably suspects that a person claiming to vote is impersonating an elector, the election official may request the person to—

(a) make a declaration in the prescribed form as to the person's name, address and date of birth; and

(b) sign the declaration.

(2) A person who does not comply with a request made under subsection (1) is prohibited from voting at the election and is guilty of an offence.

Penalty: 1 penalty unit.

(3) If a scrutineer objects to the entitlement of a person to vote, the election official must record the objection.
92 **Elector to receive ballot-paper**

If a person is entitled to vote, the election official must—

(a) give the person a ballot-paper that is initialled by the election official; and

(b) record a mark against the person's name on the electoral roll to show that the person has received a ballot-paper.

93 **How votes to be marked by elector in Assembly election**

(1) After receiving a ballot-paper in accordance with Schedule 2, an elector must mark the elector’s vote on the ballot-paper in accordance with this section.

(2) An elector must mark the elector's vote on the ballot-paper by placing—

(a) the number 1 opposite the name of the candidate for whom the elector votes as first preference; and

(b) contingent votes for all the remaining candidates by placing numbers 2, 3, 4 (and so on as the case requires) opposite their names so as to indicate by an unbroken numerical sequence the order of preference.

(3) If there are only 2 candidates, the requirements of subsection (1) are sufficiently complied with in the case of any ballot-paper marked with the number 1 opposite the name of only one candidate to indicate the elector's first preference.

(4) If there are more than 2 candidates, the requirements of subsection (1) are sufficiently complied with in the case of any ballot-paper marked with the numbers 1, 2, 3, 4 (and so on as
the case requires) opposite the names of all the candidates on the ballot-paper except one.

(5) For the purposes of subsection (4), the elector is to be taken to have indicated the order of preference for all the candidates and to have given the last contingent vote to the candidate opposite whose name no number is placed.

(6) Subject to sections 108 to 110, an elector must, after marking the elector's vote on the ballot-paper, deposit it in the ballot-box.

93A How votes to be marked by elector in Council election

(1) After receiving a ballot-paper in accordance with Schedule 1A, an elector must mark the elector's vote on the ballot-paper in accordance with this section.

(2) An elector must mark the elector's vote on the ballot-paper by placing—

(a) the number 1 in the square in relation to the group for which the elector votes as first preference; or

(b) the number 1 opposite the name of the candidate for whom the elector votes as first preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes.

(3) If an elector has marked a tick or cross in a square printed on a ballot-paper in relation to a group, the voter is taken to have placed the number 1 in the square.

(4) If a candidate dies after the final nomination day and before or on election day, and the number of candidates remaining is greater than 5, a
ballot-paper is not deemed to be informal by reason only of—

(a) the inclusion on the ballot-paper of the name of the deceased candidate; or

(b) the marking of any consequential number opposite that name.

(5) Subject to sections 108 to 110, an elector must, after marking the elector's vote on the ballot-paper, deposit it in the ballot-box.

94 Electors requiring assistance

(1) If an elector satisfies an election official that the elector requires assistance to vote, the election official must permit a person appointed by the elector to assist the elector to vote.

(2) If an elector fails to appoint a person under subsection (1), the election official must assist the elector to vote—

(a) in the presence of any scrutineer; or

(b) if there is no scrutineer present, then in the presence of—

(i) another election official; or

(ii) if the elector so desires, in the presence of a person appointed by the elector.

(3) If an elector satisfies an election official that the elector is physically incapable of entering the voting centre, the election official may allow the elector to vote outside the voting centre, in close proximity to the voting centre.

95 Provision for persons unable to write

(1) Subject to subsection (2), a person who is required under this Part to sign the person's name and who is unable to write may—
(a) make the person's distinguishing mark and have it witnessed by another person; or

(b) request another person to note on the declaration or application to vote by post that the person who is required to sign his or her name is unable to do so by reason of physical incapacity.

(2) Subsection (1) does not apply if—

(a) the person is required to sign as a witness or as an election official; or

(b) the person is required to sign in the person's own handwriting.

96 Spoilt ballot-papers

(1) If at any election an elector satisfies an election official that the elector has spoilt the elector's ballot-paper, the elector may, on giving the spoilt ballot-paper to the election official, receive a new ballot-paper.

(2) The election official must immediately cancel the spoilt ballot-paper by writing the word "Spoilt" on it and retain it.

97 Provisions relating to adjournments

(1) If from any cause voting does not open or the holding of an election is interrupted or obstructed at any election day voting centre, the Commission must adjourn the holding of the election at the election day voting centre—

(a) for a period of not more than 7 days; and

(b) if necessary and subject to subsection (2), further adjourn the holding of the election until the interruption or obstruction has ceased.
(2) The holding of an election must not be adjourned to a day later than the day before the day named as the return day in the writ for the election.

(3) The Commission must publicly advertise any adjournment.

(4) The provisions of this Act with respect to absent voting do not apply in the case of an adjournment.

97A Temporary suspension of voting at an election day voting centre

(1) Without limiting the generality of section 97, the election manager of an election day voting centre may temporarily suspend voting for a period not exceeding 4 hours at the election day voting centre if the election manager considers that it is necessary to do so because of—

(a) a riot or open violence; or

(b) a serious threat of a riot or open violence occurring; or

(c) a storm, tempest, flood or other similar event; or

(d) a health hazard; or

(e) a fire or the activation of a fire alarm or fire safety equipment; or

(f) any other reason which the election manager considers—

(i) may affect the safety of electors; or

(ii) may interrupt or obstruct the proper conduct of voting.

(2) The election manager must ensure that any person who attends the election day voting centre during the period that voting is temporarily suspended is provided with information to assist the person to vote including—
(a) the time at which the election day voting centre is expected to re-open;

(b) the location of other election day voting centres.

(3) If for any reason the election day voting centre cannot be re-opened for voting on election day, the Commission must adjourn the holding of the election at the election day voting centre in accordance with section 97.

### Division 3—Early voting and postal voting

99 Application to vote early

(1) If an election is not a by-election, an elector may apply to an election manager or an election official at an early voting centre during the operating times advertised under section 65 to vote within the period that—

(a) starts at 9 a.m. on the Monday after the final nomination day; and

(b) ends at 6 p.m. on the day immediately before election day.

(1A) If an election is a by-election, an elector may apply to an election manager or an election official at an early voting centre during the operating times advertised under section 65 to vote within the period that—

(a) starts at 9 a.m. on the Monday immediately after the final nomination day; and
(b) ends at 6 p.m. on the day immediately before election day.

(2) In relation to voting at an early voting centre, sections 90 to 96 apply, so far as relevant.

(3) There must be kept at an early voting centre—

(a) a ballot-box for the deposit of ballot-papers marked by an elector who is enrolled in the district where the early voting centre is located; and

(b) a ballot-box for the deposit of ballot-papers marked by an elector who is enrolled in a district outside the district where the early voting centre is located; and

(c) a ballot-box for the deposit of ballot-papers marked by an elector under this section that are declaration votes.

100 Interstate and overseas voting centres

(1) This section applies to electors voting at an overseas or interstate early voting centre appointed by the Commission.

(2) An elector voting in accordance with this section may use such means of electronic voting as is provided at the early voting centre.

(3) The procedures applying in respect of electronic voting are as prescribed.

101 Application to vote by post

(1) After the issue of a writ for an election, an elector may apply to the Commission in writing or by electronic means to vote by post.

(2) A written application to vote by post—

(a) must be in the prescribed form; and

(b) must be signed by the applicant in the presence of an authorised witness; and
(c) must not be physically attached to, or form part of, other written material issued by a person or organisation other than the Commission; and

(d) may be sent through the post or transmitted by electronic means.

(2A) An application by electronic means to the Commission to vote by post—

(a) must be in the prescribed form; and

(b) must contain information to enable the Commission to verify the identity of the elector in accordance with the verification process determined by the Commission for the purposes of this subsection.

(3) An application to vote by post is deemed to be in accordance with subsection (2) or (2A) if it contains errors or omissions that, in the opinion of the Commission, are immaterial.

(4) The Commission must not consider an application if it is received by the Commission after 6 p.m. on the Wednesday immediately preceding election day.

(5) For the purposes of the Commonwealth Copyright Act 1968, if a person other than the owner of the copyright in the application form to vote by post reproduces the application form, the person is not taken to have infringed the copyright in the application form.

102 Duty of authorised witness in witnessing signature

(1) An authorised witness must not witness the signature of an elector on a written application to vote by post unless—

(a) the authorised witness is satisfied as to the identity of the applicant; and
(b) the authorised witness has seen the applicant sign the application; and
(c) the authorised witness is satisfied that the statements contained in the application are true.

Penalty: 5 penalty units.

(2) An authorised witness witnessing a written application to vote by post must—

(a) sign the authorised witness's name in the authorised witness's own handwriting on the application; and

(b) add the date.

104 Issue of declaration and ballot-paper to postal voters

(1) If the Commission receives an application to vote by post in accordance with section 101(2) and is satisfied that the application is properly signed by the applicant and is properly witnessed, the Commission must—

(a) deliver or post to the applicant—

(i) a declaration in the prescribed form; and

(ii) a ballot-paper; and

(b) record the name of the elector to whom the declaration and ballot-paper has been issued and the date of issuing.
(1A) If the Commission receives an application to vote by post in accordance with section 101(2A) and is satisfied that the application contains information to enable the Commission to verify the identity of the elector in accordance with the verification process determined by the Commission for the purposes of that subsection, the Commission must—

(a) deliver or post to the applicant—
   (i) a declaration in the prescribed form; and
   (ii) a ballot-paper; and

(b) record the name of the elector to whom the declaration and ballot-paper has been issued and the date of issuing.

(2) If the Commission receives an application to vote by post—

(a) that in the opinion of the Commission is not in accordance with section 101(2) or (2A); or

(b) after 6 p.m. on the Wednesday immediately preceding election day—

the Commission must take reasonable steps to inform the applicant that the application is defective or was received after the specified time.

### 104A Information to be provided to registered political parties and candidates

(1) Subject to subsection (3), the Commission must provide on request, the name and address of any person whose application to vote by post (whether in writing or electronic form) has been accepted under section 104(1) or (1A) to—
(a) each registered political party; and

(b) each candidate who is not endorsed by a registered political party who is standing for the region or district in which the address of the person is located—

as soon as practicable after the declaration and ballot-paper has been issued under section 104(1A).

(2) The Commission may provide the information under subsection (1) electronically or in an electronic form.

(3) The Commission must not provide particulars of silent electors or itinerant electors under this section.

(4) A person must not use information provided under subsection (1) for any purpose unless the use is for a purpose in connection with the election.

Penalty: In the case of a natural person, 600 penalty units;
In the case of a body corporate or registered political party, 3000 penalty units.

(5) A person must not disclose information provided under subsection (1) unless the disclosure is for any purpose in connection with the election.

Penalty: In the case of a natural person, 600 penalty units;
In the case of a body corporate or registered political party, 3000 penalty units.

Note

Section 179A applies to an offence against subsection (4) or (5).
105 Issue of declaration and ballot-paper to general postal voters

As soon as practicable after the final nomination day, the Commission must deliver or post to each general postal voter—

(a) a declaration in the prescribed form; and

(b) a ballot-paper.

106 Directions for postal voting

(1) This section applies to voting by post—

(a) by electors whose application to vote by post under section 101 has been accepted; and

(b) by electors who are general postal voters.

(2) The following directions are to be substantially observed—

(a) the elector must show the ballot-paper (unmarked) and the declaration to an authorised witness;

(b) the elector must then, in the presence of the authorised witness, sign the elector's name on the declaration;

(c) the authorised witness must—

(i) then sign the authorised witness's name on the declaration; and

(ii) add the date;

(d) the elector must then, in the presence of the authorised witness but so that the authorised witness cannot see the vote, mark the elector's vote on the ballot-paper in the manner prescribed by section 93(2);
(e) the elector must then—

(i) post the declaration and ballot-paper to the Commission before 6 p.m. on election day; or

(ii) deliver the declaration and ballot-paper to the Commission or an election official at a voting centre before 6 p.m. on election day;

(f) if the elector requires assistance to vote, a person appointed by the elector, or the authorised witness if so requested by the elector, must assist the elector to vote.

(3) For the purposes of subsection (2)(e), a ballot-paper is to be taken to have been posted before 6 p.m. on election day if—

(a) the ballot-paper is received by the Commission or an election official at a voting centre on or before 6 p.m. on the Friday immediately after election day; and

(b) the declaration is witnessed on or before election day.

(4) An envelope received in accordance with this section must be dealt with in accordance with the regulations.

Division 4—Specific provisions

107 Provision of silent elector's address

A silent elector is not required to provide the address for which the elector is enrolled on any application or declaration under this Part.
108 Provisional voting

(1) This section applies to a person who—

(a) claims to be entitled to vote at an election and the name of that person is not on, or cannot be found on, the electoral roll;

(b) completes the prescribed enrolment application and declaration form;

(c) signs the prescribed enrolment application and declaration form in the presence of an election official;

(d) provides to the satisfaction of the election official—

(i) a form of identification prescribed for the purposes of this section; or

(ii) the name of a service provider from the list of service providers prescribed for the purposes of this section to enable identification of the person.

(2) A person to whom this section applies may, subject to this Act and the regulations, cast a provisional vote under this section if the person signs a declaration in the prescribed form.

(3) An election official must give a person to whom this section applies a written statement in the prescribed form specifying—

(a) the person's rights under this section; and

(b) the steps that will be taken if the person votes under this section.

(4) If the person makes the declaration in the prescribed form, the election official must initial a ballot-paper and give it to the person.
(5) If a person votes under this section, the person must after voting return the folded ballot-paper to the election official.

(6) The election official must in the presence of the voter and any scrutineer—
   (a) enclose the folded ballot-paper in an envelope bearing the declaration of the voter; and
   (b) immediately securely fasten the envelope and deposit it in the ballot-box.

109 Provisions as to voting by absent voters

(1) This section applies with respect to voting at an election by absent voters.

(1A) In relation to voting at an election by an absent voter, sections 90 to 96 apply, as far as relevant, if it is possible to record a mark against the absent voter's name on the electoral roll.

(1B) If it is not possible to record a mark against the absent voter's name on the electoral roll, subsections (2) to (8) apply.

(2) An election official must request a person claiming to vote as an absent voter at an election day voting centre before the person is given a ballot-paper to make a declaration that contains the following questions—
   (a) What is your full name?
   (b) Where do you live?
   (c) What is your date of birth?
   (d) Have you voted before in this election?
(3) A silent elector or itinerant elector is not required to answer the question in subsection (2)(b).

(4) The election official must reject a person's claim to vote if the person—
   (a) refuses to answer fully the questions asked; or
   (b) if asked, answers the question specified in subsection (2)(e) in the affirmative.

(5) If the election official is satisfied from the answers to the questions that the person is entitled to vote, the person may vote as an absent voter if the person signs the declaration in the prescribed form.

(6) If the person signs the declaration in the prescribed form, the election official must initial the ballot-paper and give it to the person.

(7) If a person votes under this section, the person must after voting return the folded ballot-paper to the election official.

(8) The election official must in the presence of the voter and any scrutineers—
   (a) enclose the folded ballot-paper in an envelope bearing the declaration of the voter and addressed to the election manager for the region or district for which the voter claims to be entitled to vote; and
   (b) immediately securely fasten the envelope and deposit it in the ballot-box.

(9) If the claim of any person to vote under this section is refused—
   (a) the election official must note in writing the claim and the reasons for refusal; and
(b) the election official must sign the note in the presence of any scrutineer; and
(c) any of the scrutineers may also sign the note.

110 Elector claiming to vote whose name on roll has been marked

(1) An elector at a voting centre—
(a) who is recorded as having received a ballot-paper; and
(b) who claims to be entitled to vote under section 87 and not to have received a ballot-paper—
must be permitted to vote if the elector makes a declaration in the prescribed form before the election official at the voting centre.

(2) The ballot-paper of an elector voting under this section must—
(a) be dealt with in accordance with the regulations; and
(b) not be scrutinised or counted unless the election manager is satisfied that the elector is entitled to vote in the election.

(3) For the purposes of Part 7, dealing under this section with a ballot-paper used in an election is to be taken to be part of the scrutiny in relation to the election.
Part 6A—Electronic voting and electronic assisted voting

Division 1—Electronic voting

110A Application of Part 6 to electronic voting

Part 6 applies to and in respect of electronic voting subject to the provisions of this Part.

110B No entitlement to electronic voting

This Part does not create an entitlement to vote by electronic voting.

110C Availability of electronic voting

Electronic voting is available at a voting centre which is designated by the Commission as an electronic voting centre.

110D Who can access electronic voting?

(1) Electronic voting can be accessed by—

(a) an eligible class of electors; and

(b) any other class of electors prescribed by the regulations for the purposes of this section.

(2) In this Division, eligible class of electors means electors who otherwise cannot vote without assistance because of—

(a) blindness or low vision; or

(b) a motor impairment; or
(c) insufficient literacy skills (whether in the English language or in their primary spoken language).

Division 2—Electronic assisted voting

110E Application of Part 6 to electronic assisted voting

Part 6 applies to and in respect of electronic assisted voting subject to the provisions of this Part.

110F Availability of electronic assisted voting

(1) The Commission must determine that electronic assisted voting is available at an election.

(2) The Commission must designate a voting centre as an electronic assisted voting centre.

110G Who can access electronic assisted voting?

Electronic assisted voting can be accessed by a prescribed eligible class or classes of electors prescribed by the regulations for the purposes of this section.

110H Commission to approve procedures for electronic assisted voting

(1) The Commission may approve procedures to facilitate voting by a prescribed eligible class or classes of electors at an election by means of electronic assisted voting.

(2) The Commission may engage an independent person or auditor to conduct audits of the computer program, systems and information technology used under the approved procedures.
Division 3—General

110HA Definition

In this Part, electronic assisted voting includes voting by the use of electronic equipment, telephone or other technology.

110HB Approval of computer program or system for electronic voting and electronic assisted voting

(1) The Commission may approve a computer program or system to enable electronic voting and electronic assisted voting if the Commission is satisfied that the criteria specified in subsection (2) apply.

(2) The criteria are—

   (a) the proper use of the computer program or system will give the same result in the recording of votes in an election as would be obtained if no computer program or system was used in the recording of votes;

   (b) the computer program or system will enable a visual display or auditory description (including the names and order of the candidates and other details about the candidates as they appear on the ballot-paper) of the ballot-paper and voting instructions to be provided to an elector so that the elector may vote using a touch screen or a keypad;

   (c) the computer program or system will enable an elector to select consecutive preferences beginning with the figure "1" or, in the case of an election for the Legislative Council, to select only one party or group in accordance with section 93A(2)(a);
(d) the computer program or system allows an elector to correct a mistake before the vote is processed by the computer program;

(e) the computer program or system allows an elector to give an informal vote by selecting no preferences for any candidate or by voting for less than the number of vacancies to be filled at the election;

(f) the computer program or system allows an elector to abandon for any reason the electronic ballot-paper without completing the vote;

(g) the computer program or system can produce a paper record of each vote cast using an electronic ballot-paper to enable the counting of votes in the election;

(h) the computer program or system will prevent any person from ascertaining the vote of a particular elector.

(3) The Commission may approve a process for capturing preferences into the approved computer program or system for electronic voting or for electronic assisted voting.

110HC Security arrangements

The Commission must ensure that arrangements are in place to ensure that—

(a) systems, computer programs and electronic devices used or intended to be used for or in connection with electronic voting and electronic assisted voting are kept secure from interference; and

(b) the integrity of voting is maintained while electronic voting and electronic assisted voting is being used.
110HD Ballot-papers

(1) For the purposes of this Part, a ballot-paper prepared under section 74 may be in an electronic form.

(2) The Commission may approve changes to the electronic form of the ballot-paper which are necessary to facilitate the visual display or auditory description of the electronic form.

(3) The Commission may approve changes to the form of the ballot-paper printed from the ballot-paper in an electronic form.

110HE Voting

(1) For the purposes of section 92, if section 110D applies to a person entitled to vote, the person may be given access to an electronic ballot-paper.

(2) For the purposes of section 92, if section 110G applies to a person entitled to vote, the person may authorise an election official to access and complete a ballot-paper on their behalf.

(3) If an elector given access to an electronic ballot-paper has complied with the voting instructions provided and the vote is processed by the computer program, the elector is to be taken for the purposes of sections 93 and 93A to have marked the elector's vote on the ballot-paper in accordance with those sections.

(4) For the purposes of section 93(6), an elector using electronic voting or electronic assisted voting is to be taken to have deposited their vote in the ballot-box—

(a) in the case of electronic voting, when they submit their electronic ballot-paper using the approved computer program; or
(b) in the case of electronic assisted voting, when the election official has confirmed completion of the ballot-paper.

(5) For the purposes of section 98, a person to whom section 110D applies is entitled to apply to vote at an early voting centre.

(6) The validity of a vote cast in accordance with this section cannot be disputed on the ground that the elector could have voted without assistance.

110I Offence in relation to electronic voting and electronic assisted voting

(1) A person must not, without reasonable excuse, destroy or interfere with any computer program, data file or electronic device which is used, or intended to be used, for or in connection with electronic voting and electronic assisted voting.

(2) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

Note

Section 179A applies to an offence against this section.
Part 7—Election results

110J Early processing of votes under sections 99 and 106

(1) This section applies to the processing of—

(a) ballot-papers deposited in ballot-boxes kept at an early voting centre under section 99(3); and

(b) ballot-papers received by post under section 106.

(2) The processing of ballot-papers must be conducted—

(a) during the authorised period; and

(b) within a restricted area; and

(c) in accordance with the regulations; and

(d) in accordance with any instructions in relation to secrecy determined by the Commission.

(3) An election manager or election official cannot conduct any processing of ballot-papers unless the election manager or election official has given written notice to each registered political party and each candidate whose name is printed on the ballot-papers specifying—

(a) the authorised period; and

(b) the location of the restricted area.

(4) A person must not enter the restricted area with any device that could be used to convey or transmit any information to a person or device located outside the restricted area.

Penalty: 600 penalty units.
(5) A person must not disclose or otherwise use information obtained during the processing of ballot-papers for any purpose other than the conducting of the processing.

Penalty: In the case of a natural person, 600 penalty units;
In the case of a body corporate or registered political party, 3000 penalty units.

Note
Section 179A applies to an offence against this subsection.

(6) In this section—

*authorised period* means—

(a) in the case of ballot-papers deposited in ballot-boxes kept at an early voting centre under section 99(3), the period of 2 hours immediately before the close of voting specified in the written notice given under subsection (3); and

(b) in the case of ballot-papers received by post under section 106, the period of 10 hours immediately before the close of voting specified in the written notice given under subsection (3);

*restricted area* means an area specified in the written notice under subsection (3)—

(a) that precludes any person outside that area from seeing or hearing any aspect of the processing; and

(b) that is under the control of an election manager or election official who can permit a person to enter or leave that area.
111 Preliminary scrutiny of declaration votes

(1) This section applies to the preliminary scrutiny of declaration votes.

(2) The preliminary scrutiny must be conducted in accordance with the regulations.

(3) The decision of the election manager as to the allowance or disallowance of a declaration vote is subject to review only by the Court of Disputed Returns.

(5) A declaration vote under section 106 must be disallowed if it was not made in accordance with that section.

112 Rejection of ballot-papers

(1) A ballot-paper must be rejected as informal—

(a) if it has not been initialled by an election official; or

(b) if it is not so initialled, does not bear the prescribed official mark; or

(c) if it is not marked in accordance with section 93, in the case of an Assembly election; or

(d) if it is not marked in accordance with section 93A, in the case of a Council election.

(1A) A ballot-paper that has been reproduced by hand by an election official at a voting centre must not be rejected only because the ballot-paper does not have printed on it—
(a) the logo of a political party entered in the Register of Political Parties in relation to a political party and any candidate endorsed by that political party on the ballot-paper for an election; or

(b) if a composite name is to be printed on the ballot-paper for a Council election, the logo of each political party to which the composite name relates.

(2) Except as otherwise expressly provided, a ballot-paper must not be rejected for any reason other than the reasons specified in this section.

(3) Subject to this section, a ballot-paper must be given effect to according to the elector's intention so far as the elector's intention is clear.

112A Certain Council ballot-papers with non-consecutive numbers to be formal

A ballot-paper in a Council election that—

(a) has, in not less than 5 of the squares printed opposite the names of the candidates, numbers in the sequence of consecutive numbers starting with the number 1; and

(b) would be informal by virtue of section 112(1)(d)—

is taken to be formal in relation to the preferences marked on the ballot-paper by numbers up to a break in the sequence.

112B Council ballot-papers deemed to be marked according to group voting tickets

(1) For the purposes of section 114A, if—

(a) a ballot-paper in a Council election has been marked in accordance with section 93A(2)(a) by a mark having been placed in a square printed in relation to a group; and
(b) the candidates in that group have only 1 group voting ticket registered for the purposes of that election—

that ballot-paper is taken to have been marked in accordance with that ticket.

(2) For the purposes of section 114A, if—

(a) a ballot-paper has, or ballot-papers have, been marked in accordance with section 93A(2)(a) by a mark having been placed in a square in relation to a group; and

(b) the candidates in that group have 2 group voting tickets registered for the purposes of that election—

then—

(c) if the number of ballot-papers is an even number, half of the ballot-papers are to be taken to have been marked in accordance with one of the tickets and the other half in accordance with the other ticket; or

(d) if the number of ballot-papers is not an even number—

(i) one of the ballot-papers is taken to have been marked in accordance with whichever of the 2 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and

(ii) half the remainder (if any) of the ballot-papers are to be taken to have been marked in accordance with one of the tickets and the other half in accordance with the other ticket.
(3) For the purposes of section 114A, if—

(a) a ballot-paper has, or ballot-papers have, been marked in accordance with section 93A(2)(a) by a mark having been placed in a square in relation to a group; and

(b) the candidates in that group have 3 group voting tickets registered for the purposes of that election—

then—

(c) if the number of ballot-papers is a number divisible by 3 without any remainder, one-third of the ballot-papers is to be taken to have been marked in accordance with one of the tickets, one-third of the ballot-papers is to be taken to have been marked in accordance with another one of the tickets and the other one-third in accordance with the other ticket; or

(d) if there is only one ballot-paper or the number of ballot-papers is a number divisible by 3 with a remainder of 1—

(i) the ballot-paper or one of the ballot-papers is to be taken to have been marked in accordance with whichever of the 3 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and

(ii) one-third of the remainder of the ballot-papers (if any) is to be taken to have been marked in accordance with one of the tickets, one-third of that remainder is to be taken to have been marked in accordance with another one of the tickets and the other one-third of that remainder is to be taken to have
been marked in accordance with the other ticket; or

(e) if there are 2 ballot-papers or the number of ballot-papers is a number divisible by 3 with a remainder of 2—

   (i) one of the ballot-papers is to be taken to have been marked in accordance with whichever of the 3 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and

   (ii) one of the ballot-papers is to be taken to have been marked in accordance with whichever of the other 2 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and

   (iii) one-third of the remainder of the ballot-papers (if any) is to be taken to have been marked in accordance with one of the tickets, one-third of that remainder is to be taken to have been marked in accordance with another one of the tickets and the other one-third of that remainder is to be taken to have been marked in accordance with the other ticket.

(4) For the purposes of section 114A, if a ballot-paper in a Council election—

   (a) has been marked in accordance with section 93A(2)(a) and section 93A(2)(b); and
(b) would not be informal by virtue of section 112(1)(d) if it had been marked only in accordance with section 93A(2)(a) or section 93A(2)(b)—

the ballot-paper is taken to have been marked only in accordance with section 93A(2)(b).

(5) For the purposes of section 114A, if—

(a) an elector has attempted to vote in accordance with section 93A(2)(a) and with section 93A(2)(b); and

(b) the elector has validly marked the ballot-paper only in accordance with section 93A(2)(a); and

(c) the ballot-paper would not be informal by virtue of section 112(1)(d) if it had been marked only in accordance with section 93A(2)(a)—

the ballot-paper is taken to have been marked only in accordance with section 93A(2)(a).

(6) For the purposes of section 114A, if—

(a) an elector has attempted to vote in accordance with section 93A(2)(a) and with section 93A(2)(b); and

(b) the elector has validly marked the ballot-paper only in accordance with section 93A(2)(b); and

(c) the ballot-paper would not be informal by virtue of section 112(1)(d) if it had been marked only in accordance with section 93A(2)(b)—

the ballot-paper is taken to have been marked only in accordance with section 93A(2)(b).
113 **Procedure to ascertain number of votes when 2 candidates only for Assembly election**

1. This section specifies the procedure to ascertain the number of votes for each candidate at an Assembly election where there are only 2 candidates.

2. Immediately after 6 p.m. on election day, the election manager and an election official at a voting centre must, subject to the inspection of any scrutineer—
   a. open each ballot-box containing ballot-papers used for an Assembly election; and
   b. count all first preference votes (other than declaration votes) given for each candidate; and
   c. certify a list of the number of first preference votes given for each candidate verified by the signature of at least one other election official and the signature of any scrutineer who consents to sign; and
   d. in accordance with the directions of the Commission—
      i. make out an account of the ballot-papers; and
      ii. make and seal up in parcels all the ballot material—kept or used at the voting centre during the election.

3. An election official must transmit the sealed parcels to the election manager.
(4) The election manager must as soon as practicable—
   (a) ascertain from the lists made out under this section the number of first preference votes given for each candidate; and
   (b) add to the first preference votes ascertained under paragraph (a) the first preference votes for each candidate from the allowed declaration votes so as to ascertain the number of first preference votes given for each candidate.

(5) The candidate who has received the greatest number of first preference votes is to be declared elected by the election manager under section 121.

114 Procedure to ascertain the number of votes where more than 2 candidates for Assembly election

(1) This section specifies the procedure to ascertain the number of votes for each candidate at an Assembly election where there are more than 2 candidates.

(2) In this section, absolute majority of votes means a number of votes greater than one-half of the total number of ballot-papers (excluding ballot-papers which are required to be rejected under section 112).

(3) Subsections (2) to (4) of section 113 are to be followed.

(4) The candidate who has received the greatest number of first preference votes if that number constitutes an absolute majority of votes is to be declared elected by the election manager under section 121.
(5) If no candidate has an absolute majority of votes, the election manager must—

(a) open all the sealed parcels containing used ballot-papers; and

(b) arrange the ballot-papers together with the ballot-papers specified in section 113(4)(b) by placing in a separate parcel all those on which a first preference is indicated for the same candidate; and

(c) omit the ballot-papers which require to be rejected; and

(d) declare the candidate who has obtained the fewest first preference votes to be a defeated candidate; and

(e) distribute the ballot-papers counted to the defeated candidate amongst the non-defeated candidates next in order of the voters' preference.

(6) After the distribution, the number of votes given to each non-defeated candidate must again be ascertained.

(7) If no candidate then has an absolute majority of votes, the process of declaring the candidate who has the fewest votes to be defeated and distributing the ballot-papers amongst the non-defeated candidates next in order of the voters' preference is to be repeated and the votes recounted after every redistribution until one candidate has obtained an absolute majority of votes.

(8) The candidate who obtains an absolute majority of votes is to be declared elected by the election manager under section 121.
Part 7—Election results

(9) If on any count 2 or more candidates have an equal number of votes and one of them has to be declared defeated, the candidate whose name is drawn by the election manager by lot in a manner determined by the Commission, either manually or by computer, is to be declared defeated.

(10) If on the final count 2 candidates have received an equal number of votes, section 117 applies.

(11) If the Commission so directs in writing, the procedure referred to in subsection (5) is to include a scrutiny of preferences (other than first preferences) on such of the ballot-papers as is required by the direction, conducted in the manner specified in the direction.

114A Procedure for ascertaining number of votes for Council candidates

(1) The result of a Council election is to be determined as set out in this section.

(2) In this section—

continuing candidate means a candidate not already elected or excluded from the count;

quota means the number determined by dividing the number of first preference votes by 1 more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1;

surplus votes means the number, if any, of votes in excess of the quota of each elected candidate.

(3) A reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer.
(4) Subsections (2) to (4) of section 113 are to be followed as if a reference to the ballot-box containing ballot-papers used for an Assembly election were a reference to a ballot-box containing ballot-papers used for a Council election.

(5) A quota is to be determined.

(6) Any candidate who has received a number of first preference votes equal to or greater than the quota is to be declared elected by the election manager.

(7) Unless all the vacancies have been filled, the surplus votes of each elected candidate are to be transferred to the continuing candidates as follows—

(a) the number of surplus votes of the elected candidate is to be divided by the number of first preference votes received by the elected candidate and the resulting fraction is the transfer value;

(b) the total number of ballot-papers of the elected candidate that express the first preference vote for the elected candidate and the next available preference for a particular continuing candidate is to be multiplied by the transfer value;

(c) the number obtained under paragraph (b) (disregarding any fraction) is to be added to the number of first preference votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate.

(8) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any transfer under subsection (7) is to be declared elected by the election manager.
(9) Unless all the vacancies have been filled, the surplus votes, if any, of any candidate elected under subsection (8) or elected subsequently under this subsection are to be transferred to the continuing candidates in accordance with subsection (7) and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of the transfer is to be declared elected by the election manager.

(10) If a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer of the surplus votes of a particular elected candidate under subsection (7) or (9), no votes of any other candidate are to be transferred to the continuing candidate.

(11) For the purposes of the application of subsection (7) in relation to a transfer of the surplus votes of an elected candidate under subsection (9) or (14), each ballot-paper of the elected candidate obtained by the elected candidate on a transfer is to be dealt with as if—

(a) any vote it expressed for the elected candidate were a first preference vote; and

(b) the name of any other candidate previously elected or excluded had not been on the ballot-paper; and

(c) the numbers indicating subsequent preferences had been altered accordingly.

(12) If, after the counting of first preference votes or the transfer of any surplus votes of elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes is to be excluded and all that candidate's votes are
to be transferred to the continuing candidates as follows—

(a) the total number of ballot-papers of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred at a transfer value of 1 for each ballot-paper and added to the number of votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate;

(b) the total number, if any, of other votes obtained by the excluded candidate on transfers are to be transferred from the excluded candidate beginning with the highest transfer value and ending with the ballot papers received at the lowest transfer value, as follows—

(i) the total number of ballot-papers received by the excluded candidate at a particular transfer value and expressing the next available preference for a particular continuing candidate is to be multiplied by that transfer value; and

(ii) the number so obtained (disregarding any fraction) is to be added to the number of votes of the continuing candidate; and

(iii) all those ballot-papers are to be transferred to the continuing candidate.

(13) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of a transfer of votes of an excluded candidate under subsection (12) or (16) is to be declared elected by the election manager.
(14) Subject to subsection (15), unless all the vacancies have been filled, the surplus votes, if any, of a candidate elected under subsection (13) are to be transferred in accordance with subsection (7).

(15) If a candidate elected under subsection (13) is elected before all the votes of the excluded candidate have been transferred, the surplus votes, if any, of the elected candidate are not to be transferred until the remaining votes of the excluded candidate have been transferred in accordance with subsection (12) to continuing candidates.

(16) Subject to subsection (18), if after the transfer of all the votes of an excluded candidate no continuing candidate has received a number of votes greater than the quota—

(a) the continuing candidate who has the fewest votes must be excluded; and

(b) that candidate's votes must be transferred in accordance with subsection (12).

(17) If a candidate is elected as a result of a transfer of ballot-papers under subsections (12) and (16), no other ballot-papers of an excluded candidate are to be transferred to the candidate so elected.

(18) In respect of the last vacancy for which 2 continuing candidates remain, the continuing candidate who has the larger number of votes is to be elected notwithstanding that that number is below the quota.

(19) Despite any other provision of this section, if the number of continuing candidates is equal to the number of remaining unfilled vacancies, those candidates are to be declared elected by the election manager.
(20) Subject to subsections (21), (22) and (23), if after any count or transfer, 2 or more candidates have surplus votes the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative size of the surpluses, the largest surplus being transferred first.

(21) Subject to subsection (23), if after any count or transfer, 2 or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first.

(22) For the purposes of subsection (21), if there has been no count or transfer the election manager must determine the order in which the surpluses are to be dealt with.

(23) If after any count or transfer, a candidate obtains surplus votes, those surplus votes are not to be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer.

(24) If on any count or transfer 2 or more candidates have the fewest number of votes and the candidate who has the fewest number of votes is required to be excluded, the result is to be determined—

(a) by declaring whichever of those candidates had the fewest votes at the last count at which those candidates had a different number of votes to be excluded; or

(b) if a result is still not obtained or there has been no count or transfer, by lot by the election manager.
(25) If on the final count or transfer 2 candidates have an equal number of votes, the result is to be determined by lot by the election manager.

(26) If a candidate is elected by reason that—

(a) the number of first preference votes received by the candidate; or

(b) the aggregate of first preference votes received by the candidate and all other votes obtained by the candidate on transfers—

is equal to the quota, all the ballot-papers expressing those votes are to be set aside as finally dealt with.

(27) In any case in which section 93A(4) applies, a vote marked on the ballot-paper opposite the name of a deceased candidate must be counted to the candidate next in order of the voter's preference, and the numbers indicating subsequent preferences shall be taken to be altered accordingly.

(28) For the purposes of this section each of the following constitutes a separate transfer—

(a) a transfer under subsection (7), (9) or (14) of all the surplus votes of an elected candidate;

(b) a transfer in accordance with subsection (12)(a) of all first preference votes of an excluded candidate;

(c) a transfer to a candidate in accordance with subsection (12)(b) of all of the votes of an excluded candidate or candidates, as the case may be, at a particular transfer value.

115 Use of electronic counting equipment

(1) The election manager may use electronic counting equipment approved by the Commission to assist in the counting of votes at an election.
(2) The Commission may issue directions modifying the procedure specified in sections 113 and 114 to facilitate the use of electronic counting equipment.

116 Indicator two candidate preferred distribution of preferences

If the election manager has counted all votes on ballot-papers, the election manager may, if directed to do so by the Commission, proceed in a manner specified in the direction, with a scrutiny of second and later preferences shown on the ballot-papers.

117 Determination of tied election

(1) This section applies if on the final count 2 or more candidates have an equal number of votes.

(2) The election manager must declare that the election is tied.

(3) Within the period of 14 days after the declaration that the election is tied, the Commission or a candidate who has the same number of votes as another candidate at the election may petition the Court of Disputed Returns.

(4) The Court of Disputed Returns may declare that—
   (a) one candidate is elected; or
   (b) the election is void and a re-election must be held.

(5) If a petition is not made in accordance with subsection (3), the election is by force of this section declared void and a re-election must be held.

(6) A re-election must be held on the electoral roll that was prepared for the purposes of the election that has been declared void.
118 Adjournment of count of votes

(1) The count of the votes may from time to time be adjourned as the election manager considers necessary until the count has been completed.

(2) Each adjournment must be announced by the election manager to the scrutineers and the election officials assisting.

119 Preference distribution for information purposes

After a candidate is declared elected in accordance with section 121, the Commission may, for the purpose of obtaining information, require the election manager who conducted the scrutiny to examine the second and later preferences of candidates and the distribution of those preferences.

120 Recount of ballot-papers before declaration of election

(1) Before a candidate has been declared elected, the election manager in the presence of any scrutineer appointed by each candidate may open any sealed parcel containing allowed ballot-papers and recount those ballot-papers.

(2) A recount under subsection (1)—

(a) may be conducted at the election manager's discretion; or

(b) may be conducted at the request of a candidate specifying reasons; or

(c) must be conducted if directed by the Commission.

(3) The election manager conducting a recount—

(a) has the same powers as the election manager has in an ascertainment of the number of votes for each candidate at the election; and
(b) may reverse any decision made in the ascertainment in relation to the allowance and admission or disallowance and rejection of any ballot-paper.

(4) The election manager conducting a recount—

(a) may reserve any ballot-paper for the decision of the Commission; or

(b) at the request of any scrutineer, must reserve any ballot-paper for the decision of the Commission.

(5) The Commission must—

(a) decide whether any ballot-paper reserved under subsection (4) is to be allowed and admitted or disallowed and rejected; and

(b) endorse the decision on the ballot-paper.

121 Declaration of result

(1) If the number of persons who have become candidates at an election does not exceed the number of members to be elected, the election manager must, immediately after noon on the final nomination day, publicly declare the candidate to be elected and announce the name of the candidate elected.

(2) As soon as practicable after election day, the election manager must publicly declare the result of the election and announce the name of the candidate elected.

(3) As soon as possible after declaring the result of the election, the election manager must advise the Commission of the result of the election and the name of the candidate elected.

(4) The Commission must publicly advertise the result of the election.
(5) The Commission must—

(a) indorse on the writ for the election the name of each candidate declared elected; and

(b) return the writ within the time specified in the writ to the person who issued the writ.

122 Ballot material to be secured and stored

All ballot material used in respect of an election must be dealt with, kept and stored in accordance with the regulations.

123 Election information

(1) The number of first preference votes given for each candidate and the details of distribution of preference votes must be available from the office of the Commission.

(2) After an election, the Commission must ensure that—

(a) each registered political party that so requests; and

(b) each member of Parliament who is not a member of a registered political party and who makes a request in respect of the member's electorate—

is provided with electoral information containing the names and the addresses of electors who voted (other than silent electors and itinerant electors), whether they voted personally or by post and, if they voted at a voting centre for the electoral district for which the electors were enrolled, the location of that voting centre.

(3) Electoral information provided under subsection (2) must only be used in connection with an election.
(4) A person who uses, or permits the use of, electoral information for any purpose other than in connection with an election is guilty of an offence.

Penalty: In the case of a natural person,
600 penalty units;
In the case of a body corporate or a registered political party, 3000 penalty units.

Note
Section 179A applies to an offence against this subsection.
Part 8—Court of Disputed Returns

Division 1—Constitution and powers

124 The Court of Disputed Returns

(1) The Supreme Court is the Court of Disputed Returns for the purposes of this Act.

(2) The Supreme Court sitting as a Court of Disputed Returns may be constituted by a single Judge.

(3) The Court of Disputed Returns must sit as an open court.

125 Powers of Court

The powers of the Court of Disputed Returns in proceedings in relation to a petition include—

(a) the power to adjourn;

(b) the power to compel the attendance of witnesses and the production of documents;

(c) the power to grant to any party to a petition leave to, in the presence of a person employed by the Commission, inspect the ballot material (other than ballot-papers) used at or in connection with any election and to make copies of the ballot material;

(d) the power to examine witnesses on oath;

(e) the power to declare that any candidate who was declared elected was not elected;

(f) the power to declare that any candidate who was not declared elected was elected;

(g) the power to declare any election void;

(h) the power to dismiss or uphold the petition in whole or in part;

(i) the power to award costs;
(j) the power to punish any contempt of its authority by fine or imprisonment.

126 Court must act fairly

The Court of Disputed Returns must act fairly and according to the substantial merits of the petition in the proceedings.

127 General procedure

(1) The Court of Disputed Returns—

(a) is bound by the rules of natural justice; and

(b) is not bound by the rules of evidence or any practices or procedures applicable to courts of record, except to the extent that it adopts those rules, practices or procedures; and

(c) must conduct each proceeding with as little formality and technicality as the requirements of the Act permit.

(2) Part 3.10 of the Evidence Act 2008 applies to proceedings in the Court of Disputed Returns.

128 Legal representation

(1) A party to a petition must not be represented by an Australian legal practitioner unless—

(a) all the parties consent to the party being represented by an Australian legal practitioner; or

(b) the Court of Disputed Returns grants leave for the party to be represented by an Australian legal practitioner.

* * * * *
129  Decisions to be final

A decision of, or order made by, the Court of Disputed Returns—

(a) is final; and

(b) cannot be appealed against or otherwise called in question.

130  Costs

The Court of Disputed Returns may—

(a) award costs against an unsuccessful party to the petition; and

(b) recommend that costs be paid by the State.

131  Other costs

(1) All other costs awarded by the Court of Disputed Returns, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Court were a judgment of the Supreme Court.

(2) The order may be entered as a judgment of the Supreme Court and enforced accordingly.

132  Consequences of Court's declarations

(1) If the Court of Disputed Returns declares that a person declared elected was not elected, the person ceases to be a member of Parliament from the date determined by the Court of Disputed Returns.

(2) If the Court of Disputed Returns declares that a person not declared elected was elected, the person is declared to be elected from the date determined by the Court of Disputed Returns.

(3) If the Court of Disputed Returns declares that an election is void, a re-election must be held.
(4) A re-election must be held on the electoral roll that was prepared for the purposes of the election that has been declared void.

**Division 2—Disputing validity of election**

**133 Method of disputing elections**

The validity of an election can only be disputed by means of a petition to the Court of Disputed Returns.

**134 Who may dispute an election**

An election may be disputed under section 133 by—

(a) a candidate for the election in dispute; or

(b) a person who was entitled to vote at the election in dispute; or

(c) the Commission.

**135 Requirements of petition**

(1) Subject to subsection (2), a petition must—

(a) set out the facts relied on to dispute the election; and

(b) set out the order sought from the Court of Disputed Returns; and

(c) be signed by the petitioner before 2 witnesses whose occupations and addresses are stated; and

(d) be filed with the Prothonotary of the Supreme Court within 40 days after the return of the writ; and

(e) be accompanied by the sum of 10 fee units as security for costs.
(2) Subsections (1)(c) and (1)(e) do not apply in relation to a petition made by the Commission.

136 Right of Commission to be represented

(1) The Commission may, by leave of the Court of Disputed Returns—

(a) enter an appearance in a proceeding in which the validity of an election is disputed; and

(b) be represented and heard at the proceeding.

(2) If leave is granted under subsection (1), the Commission is to be taken to be a party respondent to the petition.

137 Evidence that person not permitted to vote

The Court of Disputed Returns must not admit the evidence of a person that the person was not permitted to vote in an election during the hours of voting on election day unless the person satisfies the Court of Disputed Returns that the person did everything required by this Act or the regulations.

138 Inquiries by Court of Disputed Returns

In proceedings in relation to a petition, the Court of Disputed Returns—

(a) must inquire whether the petition complies with section 135; and

(b) may inquire whether persons who voted were entitled to do so and whether their votes were improperly admitted or rejected; and

(c) must not inquire into the correctness of any electoral roll or the register of electors.
139 Election not to be void unless result affected
The Court of Disputed Returns must not declare an election to be void on account of any act, matter or thing which in the opinion of the Court of Disputed Returns did not affect the result of the election.

140 Voiding election for certain offences
Despite section 139, if the Court of Disputed Returns finds that a person declared elected has committed at any election an offence against section 151 or 152, the Court of Disputed Returns must declare the election void.

141 Copies of petition and order of Court to be sent to Clerk of Parliaments
Immediately after—
(a) the filing of a petition; or
(b) the making of an order of the Court of Disputed Returns—
the Prothonotary of the Supreme Court must forward a copy of the petition or order of the Court of Disputed Returns to the Clerk of the Parliaments.

142 Deposits applicable for costs
(1) If costs are awarded against the person who filed the petition, the deposit accompanying the petition in accordance with section 135(1)(e) must be applied towards payment of the costs.

(2) A deposit that is not applied towards payment of the costs in accordance with subsection (1) must be returned to the person who filed the petition.
Division 3—Referral of qualification or vacancy

143 Reference of question as to qualification or vacancy

(1) The Assembly may by resolution refer to the Court of Disputed Returns any question in relation to—

(a) the qualification of a person to be, or continue to be, a member of the Assembly; or

(b) a vacancy in the Assembly.

(2) The Council may by resolution refer to the Court of Disputed Returns any question in relation to—

(a) the qualification of a person to be, or continue to be, a member of the Council; or

(b) a vacancy in the Council.

(3) The Court of Disputed Returns has jurisdiction to hear and determine a question referred under this section.

144 Speaker or President to state case

If the Assembly or the Council refers a question to the Court of Disputed Returns, the Speaker or the President must give the Court of Disputed Returns—

(a) a statement of the question that the Court of Disputed Returns is to hear and determine; and

(b) any proceedings, papers, reports or documents relating to the question in the possession of the Assembly or the Council.
145 Parties to the reference

(1) The Court of Disputed Returns may—

(a) allow any interested person to be heard on the hearing of the reference; or

(b) direct that notice of the reference is to be served on a specified person.

(2) A person specified in subsection (1) is a party to the reference.

146 Powers of Court of Disputed Returns

(1) The powers of the Court of Disputed Returns on the hearing of a reference include—

(a) any of the powers conferred by section 125 so far as they are applicable;

(b) the power to declare that a person was not qualified to be a member of Parliament;

(c) the power to declare that a person was not capable of being elected, or of sitting, as a member of Parliament;

(d) the power to declare that there is a vacancy in Parliament.

(2) Subsection (3) applies if the Court of Disputed Returns is satisfied that an act, matter or thing, whether occurring before or after the commencement of this Act, has or may have caused a person to be disqualified from election to either House of the Parliament or the seat of a member of either House of the Parliament to become vacant.
(3) Despite subsection (1), the Court of Disputed Returns may declare an act, matter or thing referred to in subsection (2) never to have occurred or arisen if the Court is satisfied that the act, matter or thing—

(a) has ceased to have effect; and

(b) was in all the circumstances of a trifling nature; and

(c) occurred or arose without the actual knowledge or consent of a person referred to in subsection (2) or was accidental or due to inadvertence.

(4) The declaration of an act, matter or thing never to have occurred or arisen does not affect the determination of a petition to the Court of Disputed Returns under section 133 relating to the validity of an election.

147 Order to be sent to Clerk of the Parliaments

After the hearing and determination of a reference, the Prothonotary of the Supreme Court must immediately forward to the Clerk of the Parliaments a copy of the order or declaration of the Court of Disputed Returns.
Part 9—Enforcement and offences

Division 1—Offences

148 False information

(1) Subject to this Act, a person must not provide orally or in writing any false or misleading information under this Act (other than Part 12).

(1A) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

(2) Subject to this Act, a person must not make a statement knowing that it is false or misleading in a material particular in any declaration, application or claim under this Act (other than Part 12).

(3) A person who contravenes subsection (2) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

149 Forging or uttering electoral papers

(1) A person must not—

(a) forge any electoral paper; or

(b) utter any forged electoral paper knowing it to be forged; or

(c) forge the signature of any person on any electoral paper.
(2) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

150 Voting offences

(1) A person must not in respect of an election—
   (a) vote in the name of another person (including a dead or fictitious person); or
   (b) vote more than once; or
   (c) apply for a ballot-paper in the name of another person.

(2) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

151 Bribery

(1) A person must not—
   (a) ask for, receive or obtain; or
   (b) offer to ask for, receive or obtain; or
   (c) agree to ask for, receive or obtain—

any property or benefit of any kind, whether for the person or any other person, on an understanding that the person's election conduct will be in any manner influenced or affected.

Note

Section 179A applies to an offence against this subsection.
(1A) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

(2) A person must not, in order to influence or affect any person's election conduct, give or confer, or promise or offer to give or confer, any property or benefit of any kind to the person or any other person.

Note
Section 179A applies to an offence against this subsection.

(2A) A person who contravenes subsection (2) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

(3) In this section, person's election conduct means—

(a) the way in which the person votes at an election; or

(b) the person's nomination as a candidate for an election; or

(c) the person's support of, or opposition to, a candidate or a political party at an election; or

(d) the doing of any act or thing by the person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector.
(4) This section does not apply in relation to a declaration of public policy or a promise of public action.

152 Interference with political liberty

(1) A person must not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty that is relevant to an election under this Act.

(1A) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

(2) A person must not, by violence or intimidation, influence the vote of a person at an election.

(3) A person who contravenes subsection (2) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

(4) A person must not, subject any person who within 100 metres of the entrance of a building used as a voting centre is handing out how-to-vote cards or supporting a candidate at an election, to violence or intimidation.

(5) A person who contravenes subsection (4) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).
153 Tampering

(1) Except as authorised by or under this Act, a person must not—

(a) open any sealed envelope containing a ballot-paper; or

(b) break the seal or open any sealed parcel of ballot material; or

(c) deal with any ballot material.

(2) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: Level 6 imprisonment (5 years maximum) or level 6 fine (600 penalty units).

153A Application provision

Sections 148, 149, 150, 151, 152 and 153 as amended by the Electoral and Parliamentary Committees Legislation (Amendment) Act 2006 apply to an offence against any of those sections committed on or after the commencement of the Electoral and Parliamentary Committees Legislation (Amendment) Act 2006.

154 Secrecy of vote

Except as authorised by or under this Act, a person who is present when an elector votes must not—

(a) ascertain or disclose by word, act or other means, the vote of the elector; or

(b) directly or indirectly require, induce or attempt to induce the elector to show how the elector intends to vote; or
(c) communicate with or assist the elector while voting or look at the elector's vote or ballot-paper.

Penalty: 120 penalty units or 1 year imprisonment.

155 **Prohibition of publicly disseminating exit poll results during the hours of voting**

A person must not during the hours of voting—

(a) publicly disseminate; or

(b) cause, permit or authorise the public dissemination of—

the results of an exit poll carried out at an election day voting centre.

Penalty: 60 penalty units or 6 months imprisonment.

Note

Section 179A applies to an offence against this section.

156 **Distribution of printed electoral material**

(1) A person must not during the hours of voting on election day within 400 metres of the entrance of, or within the building used as, a voting centre—

(a) hand out, distribute or otherwise make available; or

(b) authorise the handing out, distribution or otherwise making available—

  to any person of any printed electoral material other than a registered how-to-vote card.

Penalty: 60 penalty units or 6 months imprisonment.
(2) A person must not—

(a) print, publish or distribute; or

(b) cause, permit or authorise to be printed, published or distributed—

a how-to-vote card which is not a registered how-to-vote card and which contains a representation or purported representation of an endorsement in the prescribed manner.

Penalty: 60 penalty units or 6 months imprisonment.

(3) In a prosecution of a person for an alleged offence against subsection (1) or (2), it is a defence if the person proves that the person did not know, and could not reasonably be expected to have known, that the card was not a registered how-to-vote card.

(4) Subsection (1) does not apply to—

(a) the handing out, distribution, sale or otherwise making available of a newspaper by or on behalf of a newsagent, newspaper seller or distributor if the handing out, distribution, sale or making available is in the course of the newsagent's, newspaper seller's or distributor's employment or business; or

(b) the handing out, distribution or otherwise making available of any printed electoral material in any room or building used as a campaign room or an office by a candidate in the election to which the material relates or by the political party which has endorsed that candidate in that election; or
(c) printed electoral material in the form of any poster or notice which is affixed or attached to any vehicle, building, hoarding or structure (whether moveable or fixed).

157 Power to request handing over of how-to-vote cards

(1) An election manager or election official may on election day request a person reasonably suspected by the election manager or election official of contravening section 156—

(a) to produce for inspection any how-to-vote cards in the person's possession; and

(b) to hand over all how-to-vote cards other than registered how-to-vote cards.

(2) A person who fails to comply with a request under subsection (1) is guilty of an offence.

Penalty: 10 penalty units.

158 Conduct near voting centres

(1) This section applies during the hours of voting in respect of a voting centre—

(a) within 6 metres of the entrance of, or within the building used as, a voting centre; or

(b) if the Commission considers that it is practically necessary to do so for a voting centre specified by the Commission by a notice displayed at the entrance to the voting centre, within a distance determined by the Commission that is less than 6 metres of the entrance of, or within the building used as, the specified voting centre.

Example

The Commission may determine that it is practically necessary to determine a shorter distance because of the need to deal with inclement weather.
(2) While this section applies, a person must not—

(a) canvass for votes; or

(b) solicit the vote of any elector; or

(c) induce any elector not to vote for any particular candidate; or

(d) induce any elector not to vote at the election; or

(e) exhibit any notice or sign (other than an official notice) relating to the election; or

(f) conduct an exit poll; or

(g) if the person is a person employed under section 17 or appointed under section 18 or a scrutineer in the performance of duties or the exercise of powers under this Act, wear or display any badge, emblem or political slogan of any candidate or political party.

Penalty: 5 penalty units.

Note

Section 179A applies to an offence against paragraph (a), (b), (c), (d), (e) or (f).

(3) If—

(a) a building used as a voting centre is situated in grounds within an enclosure; and

(b) there is displayed an official notice stating that those grounds are, for the purposes of this section, part of the voting centre—

those grounds are part of the voting centre.

(4) Subsection (2)(c) does not apply to—

(a) a car sticker, an item of clothing (when worn), lapel button, lapel badge, fridge magnet, pen or pencil; or
(b) any other thing or item or class of thing or item prescribed by the regulations.

(5) An election manager or election official may remove, or cause to be removed, any notice or sign that the election manager or election official reasonably considers is being exhibited in contravention of subsection (2).

158A Exhibit of notice or sign within 100 metres of entrance to voting centre

(1) Subject to section 158, this section applies during the hours of voting in respect of a voting centre—

(a) within 100 metres of any designated entrance to the voting centre; or

(b) if any entrance to the grounds of the voting centre is designated under subsection (3), within 100 metres of any designated entrance to the grounds in which the voting centre is situated—

but excluding any premises used as a private residence that is located within 100 metres of any designated entrance to the voting centre or any designated entrance to the grounds in which the voting centre is situated.

(2) While this section applies, a person must not exhibit any notice or sign (other than an official notice) in relation to the election except as provided in subsection (3).

Penalty: 5 penalty units.

Note

Section 179A applies to an offence against this subsection.
(3) A candidate or registered political party may display 2 signs not exceeding—
   (a) 600 millimetres by 900 millimetres; or
   (b) if another size is prescribed by the regulations, the prescribed size—
   at each designated entrance to the grounds in which the voting centre is situated.

(4) Subsection (2) does not apply to—
   (a) a car sticker, an item of clothing (when worn), lapel button, lapel badge, fridge magnet, pen or pencil; or
   (b) any other thing or item or class of thing or item prescribed by the regulations.

(5) For the purposes of this section, designated entrance means—
   (a) an entrance or entrances to a voting centre; or
   (b) an entrance or entrances to the grounds in which the voting centre is located—
   designated by the Commission for the purposes of this section.

(6) An election manager or election official may remove, or cause to be removed, any notice or sign that the election manager or election official reasonably considers is being exhibited in contravention of subsection (2).

159 Prohibition of use of public address systems during hours of voting

A person must not during the hours of voting in respect of a voting centre, within 400 metres of the entrance of, or within the building used as, a voting centre—
(a) use or permit to be used a loud speaker, public address system or amplifier (whether fixed or mobile), broadcasting van, sound system, radio apparatus or any other apparatus or device for the broadcasting or dissemination of any matter intended or likely to affect the result of the election; or

(b) make any public demonstration having reference to the election.

Penalty: 1 penalty unit.

160 **Offence to impersonate**

A person must not impersonate a person employed under section 17 or appointed under section 18 in the performance of duties or the exercise of powers under this Act.

Penalty: 10 penalty units.

161 **Offence by certain persons**

(1) A person employed under section 17 or appointed under section 18 must not contravene a provision of this Act which applies to the person and for which no other penalty is specified.

(2) A person employed under section 17 or appointed under section 18 must comply with a direction given to the person by the Commission.

(3) A person who wilfully contravenes subsection (1) or (2) is guilty of an offence.

Penalty: 60 penalty units or 6 months imprisonment.

(4) A person who negligently contravenes subsection (1) or (2) is guilty of an offence.

Penalty: 10 penalty units.
Division 2—Enforcement of compulsory voting

162 Commission to prepare list of non-voters

The Commission must after every election prepare a list of the names of the electors who were entitled to vote at the election and did not vote.

163 Notice to electors who have not voted

(1) Subject to subsection (3), within 6 months after an election, the Commission must send by post to each elector whose name appears on the list prepared under section 162 at the elector's latest known address, a notice in the prescribed form—

(a) notifying the elector that the elector has failed to vote at the election; and

(b) requiring the elector to state the true reason for failing to vote.

(2) The notice must specify—

(a) the full name of the elector as appearing on the list; and

(b) the elector's latest known address; and

(c) the address in respect of which the elector was enrolled; and

(d) a date (not being less than 21 days after the date of the posting of the notice) before or on which the form forwarded with the notice completed and signed by the elector is to be received by the Commission.

(3) Subsection (1) does not apply if the Commission is satisfied that an elector—

(a) is dead; or

(b) was absent from Victoria on election day; or

(c) was ineligible to vote at the election; or
(d) was issued with a ballot-paper for the purpose of voting; or
(e) was an itinerant elector, eligible overseas elector or Antarctic elector; or
(f) was notified under section 104(2); or
(g) had a valid and sufficient excuse for not voting.

164 Replies by or on behalf of electors

(1) An elector to whom a notice has been sent under section 163 must—
   (a) complete the form forwarded with the notice by stating in it the true reason why the elector failed to vote; and
   (b) sign the form; and
   (c) post or deliver the form so as to reach the Commission not later than the date specified in the notice.

(2) If an elector is unable to comply with subsection (1) by reason of—
   (a) the absence of the elector from the elector's residence; or
   (b) the elector's physical incapacity—any other elector who has personal knowledge of the facts may, subject to the regulations, comply with subsection (1) on behalf of the elector.

(3) Compliance with subsection (2) is deemed to be sufficient compliance by the elector with subsection (1).

(4) If the Commission receives a form which complies with this section, the Commission must record on the list prepared under section 162 opposite the name of the elector to whom the form refers—
(a) a note to that effect; and
(b) whether or not in the opinion of the Commission the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote at the election.

(5) If the Commission does not receive a form which complies with this section from an elector sent a notice, the Commission must record a note to that effect on the list opposite the name of the elector.

165 List to be evidence

The list prepared under section 162 indicating—
(a) the names of electors who did not vote at the election; and
(b) the names of electors from whom or on whose behalf the Commission received within the time allowed forms properly completed and signed; and
(c) the names of electors from whom or on whose behalf the Commission did not within that time receive forms properly completed and signed; and
(d) the opinions of the Commission—
or a copy of the list, or any extract certified by the Commission, is evidence of the contents and of the facts stated in the list or extract.

166 Offences

(1) An elector who—
(a) fails to vote at any election without a valid and sufficient excuse for the failure; or
(b) fails to comply with section 164; or
(c) states in a form under section 164 a false reason for not having voted; or
(d) in the case of an elector completing or purporting to complete a form on behalf of any other elector, states in the form a false reason why the other elector did not vote—is guilty of an offence.

Penalty: 1 penalty unit.

(2) Despite anything to the contrary in this Act, proceedings for the enforcement of the penalty under subsection (1) may be commenced under this Division within 12 months after the date of the election by an authorised officer.

167 Power to serve infringement notice

(1) An authorised officer may serve an infringement notice on a person who the authorised officer has reason to believe has committed a prescribed offence.

(2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the Infringements Act 2006.

170 Penalties to be paid for offences under infringement notices

The penalty fixed for an offence for which an infringement notice has been issued is 50% of the penalty under section 166(1).
Division 3—General enforcement provisions

174 Powers of election manager and election official

(1) Any election manager or election official has the power and authority—

(a) to maintain order and keep the peace at any election or voting at a voting centre; and

(b) to cause to be removed any person who—

(i) obstructs the approaches to a voting centre; or

(ii) wilfully or unnecessarily obstructs or delays the proceedings at a voting centre; or

(iii) behaves in a disorderly manner; or

(iv) remains in a voting centre for a longer time than is reasonably necessary for the purpose of voting; or

(v) causes a disturbance at any election.

(2) Police officers must aid and assist an election manager or election official in the exercise of the powers conferred by this section.

175 Institution of proceedings for offences

(1) The Commission may institute legal proceedings against any person committing an offence against this Act.

(2) Nothing in subsection (1) affects the right of any person other than the Commission to institute proceedings in respect of any offence against this Act.
176 Injunctions

(1) Subsection (2) applies if a person has engaged, is engaging or is proposing to engage, in any conduct that constituted, constitutes or would constitute a contravention of, or an offence against, this Act or any other law of Victoria in its application to elections.

(2) If this subsection applies, the Supreme Court may, on the application of—

(a) in a case where the conduct relates to an election, a candidate in the election; or

(b) in any case, the Commission—

grant an injunction restraining the person from engaging in the conduct.

(3) If in the opinion of the Supreme Court it is desirable to do so, the Supreme Court may on an application under subsection (2)—

(a) before considering the application, grant an interim injunction restraining the person from engaging in conduct of the kind referred to in that subsection pending the determination of the application; or

(b) grant an injunction requiring the person to do any act or thing.

(4) Subsection (5) applies if—

(a) a person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and

(b) the refusal or failure was, is, or would be, a failure to comply with, or an offence against, this Act or any other law of Victoria in its application to elections.
(5) If this subsection applies, the Supreme Court may, on the application of—

(a) in a case where the refusal or failure relates to an election, a candidate in the election; or

(b) in any case, the Commission—

grant an injunction requiring the person to do that act or thing.

(6) The Supreme Court may discharge or vary an injunction granted under this section.

(7) If the application is for the grant of an injunction restraining a person from engaging in conduct of a particular kind, the power of the Supreme Court to grant the injunction may be exercised—

(a) if the Supreme Court is satisfied that the person has engaged in conduct of that kind, whether or not it appears to the Supreme Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or

(b) if it appears to the Supreme Court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—

(i) whether or not the person has previously engaged in conduct of that kind; and

(ii) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

(8) If the application is for the grant of an injunction requiring a person to do a particular act or thing, the power of the Supreme Court to grant the injunction may be exercised—
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(a) if the Supreme Court is satisfied that the person has refused or failed to do that act or thing, whether or not it appears to the Supreme Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or

(b) if it appears to the Supreme Court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—

(i) whether or not the person has previously refused or failed to do that act or thing; and

(ii) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that act or thing.

(9) If the application is made by the Commission, the Supreme Court must not require the Commission or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages.

(10) The powers conferred on the Supreme Court under this section are in addition to, and not in derogation of, any other powers of the Supreme Court, whether conferred by this Act or otherwise.

177 Time for certain proceedings to be commenced

Despite anything to the contrary in any Act, proceedings for an offence against this Act (other than Part 12) or the regulations which is not an indictable offence must be commenced within the period of 1 year after the commission of the alleged offence.
Part 9A—Referendums

177A Purpose of this Part

The purpose of this Part is to provide for the conduct of referendums for the purpose of section 18 of the Constitution Act 1975.

177B Application of provisions relating to elections

(1) Subject to this Part, the provisions of this Act and the regulations made under this Act apply so far as they are applicable to and in respect of a referendum as if it were an election.

(2) Without limiting subsection (1), for the purposes of the conduct of a referendum—

(a) a reference to a writ is to be construed as a reference to a writ for a referendum;

(b) a reference to the election day is to be construed as a reference to the day fixed by the writ for a referendum for the taking of votes on the referendum;

(c) a reference to an election is to be construed as a reference to a referendum;

(d) a reference to electoral matter or electoral papers is to be construed as a reference to corresponding electoral matter or electoral papers in relation to a referendum;

(e) a reference to a ballot-paper, ballot material, ballot-box or other thing is to be construed as a reference to a ballot-paper, ballot material, ballot-box or corresponding thing in relation to a referendum;
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(f) a reference to a how-to-vote card is to be construed as a reference to a corresponding how-to-vote card in relation to a referendum and as if—

(i) paragraph (b) of the definition of how-to-vote card in section 3 were omitted; and

(ii) in section 77(1)(a), if the day appointed for the taking of votes on a referendum is not on an election day for an election, the reference to "final nomination day" were a reference to a day fixed and publicly advertised by the Commission for the purposes of this paragraph;

(g) a reference to disputing the validity of an election is to be construed as a reference to disputing the validity of a referendum.

(3) For the purposes of a referendum—

(a) the Commission may appoint appropriate persons as election managers or election officials and make the necessary arrangements for the taking of the votes of electors in each electoral district;

(b) a ballot-paper must not be rejected as informal except in accordance with this Part;

(c) the vote of an elector must be marked on the ballot-paper in the manner directed by this Part.

(4) For the purposes of a referendum, if the day appointed for the taking of votes on a referendum is the same as the election day for an election, an application by an elector to vote early under section 99 cannot be made before the day after the final nomination day for the election.
(5) For the purposes of a referendum, if the day appointed for the taking of votes on a referendum is not on an election day for an election, an application by an elector to vote early under section 99 may be made on the days and during the hours fixed and publicly advertised by the Commission for the purposes of this subsection.

(6) Part 12 does not apply in respect of a referendum.

177C Distribution of arguments for and against Bill to electors

(1) This section applies if—

(a) a Bill to which section 18(1B) of the Constitution Act 1975 applies is to be submitted to the electors; and

(b) not later than 28 days before the day appointed for the taking of votes on the referendum there is forwarded to the Commission—

(i) an argument in favour of the Bill, consisting of not more than 2000 words, authorised by a majority of those members of the Parliament who voted for the Bill and desire to forward such an argument; or

(ii) an argument against the Bill, consisting of not more than 2000 words, authorised by a majority of those members of the Parliament who voted against the Bill and desire to forward such an argument.

(2) Unless the Premier informs the Commission that the referendum is not to be held, the Commission must, not later than 14 days before the day appointed for the taking of votes on the referendum, cause to be printed and to be posted to each elector as nearly as practicable, a pamphlet
containing the arguments together with a statement setting out the text of the Bill and the text of the particular provisions of any Act proposed to be textually altered by the Bill and the textual alterations proposed to be made therein.

(3) If there are to be referendums upon more than one Bill on the same day—

(a) the arguments in relation to all the Bills must be printed in one pamphlet; and

(b) the argument in favour of any Bill may exceed 2000 words if the arguments in favour of all the Bills do not average more than 2000 words each and the argument against any Bill may exceed 2000 words if the arguments against all Bills do not average more than 2000 words each; and

(c) there may be one statement setting out all the textual alterations proposed to be made, with marginal notes identifying the proposed Bill by which each alteration or addition is proposed to be made.

(4) The State must not expend money in respect of the presentation of the argument in favour of, or argument against, a Bill, except in relation to—

(a) the preparation, printing and posting, in accordance with this section, of the pamphlets referred to in this section; or

(b) the preparation, by or on behalf of the Commission, of translations into other languages of material contained in those pamphlets; or

(c) the preparation, by or on behalf of the Commission, of presentations of material contained in those pamphlets in forms suitable for the visually impaired; or
(d) the distribution or publication, by or on behalf of the Commission, of those pamphlets, translations or presentations (including publication on the Internet); or

(e) the provision by the Commission of other information relating to, or relating to the effect of, the Bill; or

(f) the salaries and allowances of members of the Parliament, of members of staff of members of the Parliament or of persons who are employed under the **Public Administration Act 2004**.

### 177D Issue of writ

(1) If a Bill is to be submitted to a referendum, the Governor must issue a writ for the referendum.

(2) A writ issued under this section must be—

(a) in or to the effect of the form in Schedule 3; and

(b) directed to the Commission; and

(c) returnable to the Governor on a day within 21 days after the day for the taking of votes on the referendum appointed and named in the writ.

(3) The day appointed for the taking of votes on the referendum must be—

(a) a Saturday; and

(b) not sooner than the 33rd day after the day on which the writ is issued.

### 177E Copy of Bill or statement

The Governor must cause to be attached to the writ—

(a) a copy of the Bill as passed by the Assembly and the Council; or
(b) a statement setting out the text of the Bill as passed by the Assembly and the Council and the text of the particular provisions of any Act proposed to be textually altered by the Bill and the textual alterations proposed to be made therein.

177F Duties of Commission on receipt of writ

If a writ for a referendum is received by the Commission under section 177D, the Commission must—

(a) endorse on the writ the date of its receipt; and

(b) publicly advertise—

(i) receipt of the writ; and

(ii) the day for the taking of votes on the referendum; and

(iii) the Short Title of the Bill which is to be submitted to the referendum; and

(c) if the Premier has requested the Commission to do so, publicly advertise a copy of the Bill or of the statement attached to the writ.

177G Electors who are entitled to vote

A person is entitled to vote at a referendum if, were the referendum an election, the person would be entitled under section 87 to vote at the election.

177H Voting to be by ballot

(1) The voting at a referendum must be by ballot.

(2) Each elector must mark the elector's vote on the ballot-paper—

(a) if the elector approves of the Bill, by writing the word "YES" in the space provided; or
(b) if the elector does not approve of the Bill, by writing the word "NO" in the space provided.

177I  **Form of ballot-papers**

The form of the ballot-papers to be used at a referendum must be in the form of Schedule 4.

177J  **Rejection of ballot-paper**

Despite anything to the contrary in this Act, a ballot-paper used at a referendum must be rejected as informal if—

(a) it has no vote marked on it; or
(b) the elector's vote is not clear; or
(c) it has more than one vote marked on it.

177K  **Declaration of the result**

(1) After the completion of the count of votes, the Commission must publicly declare as regards each electoral district and for the whole State—

(a) the number of votes given in favour of the Bill;
(b) the number of votes given not in favour of the Bill;
(c) the number of ballot-papers rejected as informal.

(2) The Commission must publicly advertise the result of the referendum.

(3) The Commission must—

(a) endorse on the writ a statement containing the matters specified in subsection (1); and
(b) return the writ to the Governor.
Part 10—General

178 Evidentiary provisions

(1) A statement in writing purporting to be under the common seal of the Commission to the effect that a specified person has been generally or specifically appointed by the Commission for the purposes of this Act or in respect of specific provisions of this Act is evidence of the matters stated in the statement in the absence of evidence to the contrary.

(2) A statement in writing purporting to be signed by the election manager in respect of an election to the effect that—

(a) the election specified in the statement was held; and

(b) a person specified in the statement was a candidate at that election—

is evidence of the matters stated in the statement in the absence of evidence to the contrary.

179 Offences by corporations

(4) If in any proceedings under this Act it is necessary to establish the intention of a corporation, it is sufficient to show that a servant or agent of the corporation had that intention.

(5) In respect of any proceedings for an alleged offence by a corporation against this Act any statement made by an officer of the corporation is admissible as evidence against the corporation.
179A Criminal liability of officers of bodies corporate—accessorial liability

(1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer—

(a) authorised or permitted the commission of the offence by the body corporate; or

(b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.

(2) For the purposes of subsection (1), the following provisions are specified—

(a) section 36(1);

(b) section 37(2) and (3);

(c) section 83(1);

(ca) section 83A;

(d) section 84(1) and (2);

(e) section 85;

(f) section 86(1);

(fa) section 104A(4) and (5);

(g) section 110I;

(ga) section 110J(5);
(h) section 123(4);
(i) section 151(1) and (2);
(j) section 155;
(k) section 158(2)(a), (b), (c), (d), (e) and (f);
(l) section 158A(2).

(3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.

(4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

(5) In this section—

**body corporate** has the same meaning as corporation has in section 57A of the Corporations Act;

**officer** in relation to a body corporate means—

(a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or

(b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.

S. 179A(2)(k) amended by No. 30/2018 s. 39(3).

S. 179A(2)(l) inserted by No. 30/2018 s. 39(4).
(6) This section does not affect the operation of Subdivision (1) of Division 1 of Part II of the Crimes Act 1958.

180 Refunds of deposits

(1) The Commission must refund the deposit paid under section 69 to a candidate who—

(a) retired before the election was held; or
(b) died before 6 p.m. on election day; or
(c) was a candidate in a failed election; or
(d) was declared elected; or
(e) was not declared elected but received at least 4% of the total number of first preference votes in the election; or
(f) was not declared elected but was a member of a group of candidates at a Council election and the combined first preference votes received by all the candidates in the group was at least 4% of the total number of first preference votes in the election.

(2) The deposit paid by a candidate to whom subsection (1)(b) applies must be refunded to the candidate's personal representative.

(3) Subject to subsection (2), the deposit paid under section 69 must be refunded to—

(a) the person who paid the deposit; or
(b) the person authorised in writing by the person who paid the deposit.
181 Appropriation of money

(1) Subject to subsection (1A), all fees and deposits payable under this Act and all penalties for offences against this Act when recovered must be paid into the Consolidated Fund.

(1A) A deposit paid under section 69 must only be paid into the Consolidated Fund if the deposit has not been refunded in accordance with section 180.

(2) Except as otherwise provided by section 215, the money required for the administration of this Act, including for refunds of deposits, is to be paid out of the Consolidated Fund, which is by virtue of this section appropriated to the necessary extent.

182 Specified day

Section 44(3) of the Interpretation of Legislation Act 1984 does not apply if the time limited for the doing of any act or thing by or under this Act expires or falls on a day that is a holiday within the meaning of that section.

183 Supreme Court—limitation of jurisdiction

It is the intention of section 129 to alter or vary section 85 of the Constitution Act 1975.

184 Regulations

(1) The Governor in Council may on the recommendation of the Commission make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) The regulations—

(a) may be of general or limited application; and

(b) may differ according to differences in time, place or circumstance; and
(c) may impose penalties not exceeding 10 penalty units for a contravention of or an offence under the regulations; and

(d) may apply, adopt or incorporate (with or without modification) the provisions of any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person or body whether as formulated, issued, prescribed or published at the time the regulations are made, or at any time before then; and

(e) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Commission; and

(f) may confer powers or impose duties in connection with the regulations on the Commission.

(3) The regulations may include savings, transitional or consequential provisions to facilitate the transition from The Constitution Act Amendment Act 1958 to this Act.

(4) The regulations are subject to disallowance by a House of the Parliament.
Part 11—Transitional and consequential

185 Repeal

(1) Sections 2(3), 3, 4 and 47, Parts III and V (other than Division 19) and Schedules 5, 6 and 9 of The Constitution Act Amendment Act 1958 are repealed.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons, things and circumstances appointed or created by or under The Constitution Act Amendment Act 1958 or existing or continuing under that Act immediately before the commencement of this Act shall under and subject to this Act continue to have the same status, operation and effect as they respectively would have had if this Act had not come into operation; and

(b) in particular and without affecting the generality of paragraph (a), this Act shall not disturb the continuity, status, operation or effect of any proclamation, Order, roll, writ, enrolment, entitlement, claim, election, determination, declaration, notice, exemption, approval, appointment, nomination, authorisation, application, grant, revocation, suspension, condition, certificate, registration, contract, agreement, consent, authority, proceeding, action, appeal, liability, right or other matter or thing made, done, effected, obtained, issued, granted, given, prescribed, fixed, accrued, incurred, acquired, existing or continuing before the commencement of this Act.
186 Transitional provisions

(1) If, immediately before the commencement of this Act, proceedings in respect of which the Electoral Commissioner was a party were pending or existing in any court or tribunal, then, on and after that commencement, the Commission is substituted for the Electoral Commissioner as a party to the proceedings and has the same rights and obligations in the proceedings as the Electoral Commissioner had.

(2) On and after the commencement of this Act, any reference in any Act (other than this Act), regulation, subordinate instrument or other document whatsoever to—

   (a) the Electoral Commissioner is to be construed as a reference to the Commission, unless the contrary intention appears; or

   (b) The Constitution Act Amendment Act 1958 is to be construed as a reference to this Act, unless the contrary intention appears.

187 Transitional provision—Statute Law Amendment (Directors' Liability) Act 2013

(1) For the avoidance of doubt, section 179A applies with respect to an offence against a provision specified in subsection (2) of that section that is alleged to have been committed by a body corporate on or after the commencement of section 19 of the Statute Law Amendment (Directors' Liability) Act 2013.

(2) This section does not limit section 14 of the Interpretation of Legislation Act 1984.
Part 12—Election expenditure and political donations

Division 1—Preliminary

206 Definitions

(1) In this Part—

-associated entity means—

(a) an entity that is controlled by one or more registered political parties; or

(b) an entity that operates wholly, or to a significant extent, for the benefit of one or more registered political parties; or

(c) an entity that is a financial member of a registered political party; or

(d) an entity on whose behalf another person is a financial member of a registered political party; or

(e) an entity that has voting rights in a registered political party; or

(f) an entity on whose behalf another person has voting rights in a registered political party—

but does not include a nominated entity of a registered political party;

-Australian resident has the same meaning as it has in section 7 of the Social Security Act 1991 of the Commonwealth;
candidate means—

(a) a person who has been selected by a political party to be a candidate in an election; or

(b) a person, other than a member of a political party, who has publicly announced an intention to be a candidate in an election;

candidate

compliance officer means a person who is appointed by the Commission under section 222A;

candidate

disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment, gift or other alienation of property including—

(a) the allotment of shares in a company;

(b) the creation of a trust in property;

(c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;

(ca) the making of a loan or a non-financial loan or the forbearance of any loan or non-financial loan;

(d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;

(e) the exercise by a person of a general power of appointment of property in favour of any other person;

disposition of property
(f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

*donor* means a person who makes a political donation;

*elected member* means a person who is a member of the Council or the Assembly;

*election campaigning period* means the period—

(a) commencing on 1 October in the year of a general election as a result of the expiration of the Assembly and ending at 6 p.m. on the day of the general election; or

(b) commencing on the day on which the writ is issued for any other election and ending at 6 p.m. on the day of the election;

*election period* in relation to an election, means the period that starts on the day on which the writ was issued for the election and ends at 6 p.m. on election day;

*electoral expenditure*, in relation to an election, means expenditure incurred within the period of 12 months immediately before election day on—

(a) the broadcasting of an advertisement relating to the election; or
(b) the publishing in a journal of an advertisement relating to the election; or

(c) the display at a theatre or other place of entertainment, of an advertisement relating to the election; or

(d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or

(e) the production of any material in relation to the election (not being material referred to in paragraph (a), (b) or (c)) that is required under section 83 to include the name and address of the author of the material or of the person authorising the material; or

(f) the production and distribution of electoral matter that is addressed to particular persons or organisations; or

(g) fees or salaries paid to consultants or advertising agents for—
   (i) services provided, being services relating to the election; or
   (ii) material relating to the election; or

(h) the carrying out of an opinion poll, or other research, relating to the election;

entitlement means the amount determined in accordance with section 211;

entity means—

(a) an incorporated or unincorporated body; or

(b) the trustee of a trust;
financial institution means—

(a) a bank; or

(b) a credit union; or

(c) a building society; or

(d) a body prescribed by the regulations to be a financial institution;

gift means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including the following—

(a) the provision of a service;

(b) the payment of an amount in respect of a guarantee;

(c) the making of a payment or contribution at a fundraising function;

(d) the disposition of property from a registered political party, a branch of a registered political party or an associated entity—

but does not include the following—

(e) a payment under this Part;

(f) a gift to an individual that was made in a private capacity to the individual for their personal use, and that the individual has not used, and does not intend to use, solely or substantially for an election;

(g) an annual subscription paid to a registered political party by a person in respect of the person's membership of the registered political party;
(h) an annual affiliation fee paid to a registered political party by an associated entity;

(i) an annual levy paid to a registered political party by—

   (i) an elected member or a member of staff of the elected member (including an electoral officer); or

   (ii) an employee or elected official of the registered political party;

(j) a gift made by a registered political party to the nominated entity of the registered political party or received by a registered political party from the nominated entity of the registered political party;

(ja) a gift made for Commonwealth electoral purposes that is not paid into the State campaign account;

(k) the provision of volunteer labour;

(l) the provision of labour shared between—

   (i) a registered political party and any other branch of the registered political party; or

   (ii) an associated entity and any other branch of the associated entity; or

   (iii) a third party campaigner and any other branch of the third party campaigner;
(m) if the provision of labour to which paragraph (l) applies includes the provision of an asset or piece of equipment to be used by the person in providing the labour, the asset or piece of equipment;

Example

If a person from the first branch of a registered political party, associated entity or third party campaigner is shared with another branch of the registered political party, associated entity or third party campaigner and brings with them a mobile phone supplied by the first branch of the registered political party, associated entity or third party campaigner to use while providing their labour, the provision of the mobile phone is not a gift.

If a person from the first branch of a registered political party, associated entity or third party campaigner is shared with another branch of the registered political party, associated entity or third party campaigner and provides their labour from an office supplied by the first branch of the registered political party, associated entity or third party campaigner, the provision of the office is not a gift.

_group_ means 2 or more candidates whose names are grouped on a ballot-paper in accordance with section 69A;

_journal_ means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge;

_loan_ means—

(a) an advance of money; or

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

(d) any other transaction, whatever its terms or form, that in substance is a loan of money—

but does not include a loan made on a commercial basis by a financial institution;

**nominated entity**, of a registered political party, means an entity the name and address of which is entered on the Register of Nominated Entities as the nominated entity of the registered political party;

**non-financial loan** means the loan of an asset or piece of equipment;

**political donation** means a gift to any of the following—

(a) a registered political party;

(b) a candidate at an election;

(c) a group;

(d) an elected member;

(e) an associated entity, if the whole or part of the gift was used, or intended to be used, by the associated entity to—

   (i) enable the associated entity to make, directly or indirectly, a political donation or incur political expenditure; or
(ii) reimburse the associated entity for making, directly or indirectly, a political donation or incurring a political expenditure—

in which case, the whole or the part of the gift used, or intended to be used, for the purposes specified in subparagraphs (i) and (ii) is a political donation;

(f) a third party campaigner, if the whole or part of the gift was used, or intended to be used, by the third party campaigner to—

(i) enable the third party campaigner to make, directly or indirectly, a political donation or incur political expenditure; or

(ii) reimburse the third party campaigner for making, directly or indirectly, a political donation or incurring a political expenditure—

in which case, the whole or the part of the gift used, or intended to be used, for the purposes specified in subparagraphs (i) and (ii) is a political donation;

(g) the nominated entity of a registered political party;

*political expenditure* means any expenditure for the dominant purpose of directing how a person should vote at an election, by promoting or opposing—

(a) the election of any candidate at the election; or

(b) a registered political party; or
(c) an elected member—
but does not include expenditure incurred by
an associated entity or third party
campaigner on any material that is published,
aired or otherwise disseminated outside of
the election campaigning period unless the
material refers to—
(d) a candidate or a registered political
party; and
(e) how a person should vote at an
election;

*property* includes money;

*Register of Nominated Entities* means the
Register of Nominated Entities established
and maintained under section 222E;

*registered*, in relation to an election, means
registered under Part 4, before the day
of the issue of the writ for the election;

*relevant business number* means—
(a) an Australian Business Number; or
(b) any other number allocated or
recognised by the Australian Securities
and Investments Commission for the
purpose of identifying a business;

*relevant licence* means a licence granted under—
(a) section 13 of the *Casino Control
Act 1991*; or
(b) section 3.4.29 or 4.3.8 of the *Gambling
Regulation Act 2003*;
statement means the statement given to the Commission under section 208.

third party campaigner means any person or entity other than—

(a) a registered political party; or
(b) a candidate at an election; or
(c) a group; or
(d) an elected member; or
(e) an associated entity; or
(f) a nominated entity of a registered political party—

that receives political donations or incurs political expenditure which exceeds a total of $4000 in a financial year;

(1A) For the purposes of this Part, the value of a gift, other than of money, is to be determined in accordance with the principles prescribed by the regulations.

(2) A reference in this Part to things done by or with the authority of a registered political party must, if the registered political party is not a body corporate, be read as a reference to things done by or with the authority of members or officers of the registered political party on behalf of the registered political party.

(3) For the purposes of this Part—

(a) a body corporate and any other body corporate that is related to the first-mentioned body corporate are deemed to be the same person; and
(b) the question whether a body corporate is related to another body corporate is to be determined in the same manner as the question whether a corporation is related to another corporation is determined under the Corporations Act.

(4) For the purposes of this Part, an advertisement relates to an election if it contains electoral matter, whether or not consideration was given for the publication or broadcasting of the advertisement.

(5) This section, as amended by section 10 of the Electoral (Amendment) Act 2003, applies in relation to any political donation made after the commencement of section 10 of that Act.

207 Campaign committee to be treated as registered political party

(1) This Part applies as if a campaign committee of an endorsed candidate was the registered political party that endorsed the candidate.

(2) In subsection (1)—

campaign committee, in relation to a candidate, means a body of persons appointed or engaged to form a committee to assist the campaign of the candidate in an election;

endorsed candidate means a candidate who is endorsed by a registered political party.
Division 1C—Administrative Expenditure Funding

207G Definitions

In this Division—

claimable expenditure means expenditure for administrative expenses as determined by the Commission, subject to the following—

(a) the following expenditure is included—

(i) expenditure for the administration or management of the activities of the eligible party or elected member;

(ii) expenditure for conferences, seminars, meetings or similar functions at which the policies of the eligible party or elected member are discussed or formulated;

(iii) expenditure in respect of the audit of the financial accounts of, or claims for payment or disclosures under the Act of, the eligible party or elected member;

(iv) expenditure on the remuneration of staff engaged in the matters referred to in subparagraphs (i) to (iii) for the eligible party or elected member to the extent that that expenditure relates to the time that the staff are engaged in those matters;
(v) expenditure on equipment or vehicles used by staff whilst engaged in the matters referred to in subparagraphs (i) to (iii) for the eligible party or elected member to the extent that that expenditure relates to use of the equipment or vehicles by the staff whilst engaged in those matters;

(vi) expenditure on office accommodation for the staff and equipment referred to in subparagraphs (iv) and (v);

(vii) expenditure on interest payments on loans;

(b) the following expenditure is not included—

(i) political expenditure;

(ii) electoral expenditure;

(iii) expenditure for which an elected member has claimed a parliamentary allowance as a member;

(iv) expenditure that is incurred substantially in respect of operations or activities relating to the election of members of the eligible party to a Parliament other than the Parliament of Victoria;

*election quarter*, of a year in which a scheduled general election period occurs, means the quarter of that year beginning on 1 October;

*independent elected member* means an elected member who is not a member of a registered party;
scheduled general election period means
the period commencing on 1 July in a year
that a general election under section 61(1)(a)
is to be held and ending on the day that the
general election is held (both days inclusive).

207GA Entitlement to administrative expenditure funding

(1) Subject to this section and section 207GB, the
following are eligible to receive an annual
amount of administrative expenditure funding
as follows—

(a) for an independent elected member, an
amount of $200 000;

(b) for a registered political party, an amount
of—

(i) $200 000 for the first elected member;
and

(ii) $70 000 for the second elected member;
and

(iii) $35 000 for each of the third to the
fourty-fifth elected members.

(2) The Commission must make payments of
administrative expenditure funding under
this section quarterly in advance.

(3) In an election quarter, the Commission must make
payments of administrative expenditure funding—

(a) in advance on a pro-rata basis for the
period—

(i) beginning on 1 October of that year;
and

(ii) ending in the day of the general
election; and
(b) in arrears on a pro-rata basis for the period—

(i) beginning on the day after the day of the general election; and

(ii) ending on 31 December in that year.

(4) The entitlement to receive a quarterly payment of administrative expenditure funding is to be calculated on a pro-rata basis for—

(a) each day in the quarter that an elected member is an independent elected member; or

(b) each day in the quarter that an elected member is a member of a registered political party.

(5) In a scheduled general election period—

(a) an independent elected member only has an entitlement under subsection (1) if the independent elected member subsequently nominates as a candidate under section 69 and stands for election to the Parliament of Victoria at the general election; and

(b) a registered political party only has an entitlement under subsection (1) in respect of each elected member of the registered political party who subsequently nominates as a candidate under section 69 and stands for election to the Parliament of Victoria at the general election as an endorsed candidate of that registered political party.

(6) Despite subsection (3), the first payment of administrative expenditure funding is to be—

(a) payable from 1 August 2018; and

(b) paid on a pro-rata basis for the period commencing on 1 August 2018 and ending on 30 September 2018.
207GB  Request to Commission to receive administrative expenditure funding

(1) For the purpose of having an entitlement to receive payments of administrative expenditure funding in respect of a scheduled general election period, the registered officer of a registered political party or the registered agent of an independent elected member must provide a request in writing to the Commission that the registered political party or independent elected member receive payments of administrative expenditure funding for the period.

(2) A request under subsection (1) must—

(a) be in the form determined by the Commission; and

(b) in the case of a request by the registered agent of an independent elected member, state that the independent elected member intends to stand for election to the Parliament of Victoria at the general election in that year; and

(c) in the case of a request by the registered officer of a registered political party, state—

(i) that all of the elected members intend to stand for election to the Parliament of Victoria at the general election in that year as endorsed candidates of the registered political party; or

(ii) if all of the elected members do not intend to stand for election to the Parliament of Victoria at the general election in that year as endorsed candidates of the registered political party, the number of elected members that do intend to stand for election to the Parliament of Victoria at the general
(d) include an acknowledgement from the registered officer or registered agent that administrative expenditure funding that is not used to incur claimable expenditure must be repaid to the Commission; and

(e) include an acknowledgement from the registered officer or registered agent that administrative expenditure funding will not be—

(i) paid into the State campaign account; or

(ii) used to incur any of the following expenditure—

(A) political expenditure;

(B) electoral expenditure;

(C) expenditure for which an elected member has claimed a parliamentary allowance as a member;

(D) expenditure that is incurred substantially in respect of operations or activities relating to the election of members of the eligible party to a Parliament other than the Parliament of Victoria.

(3) For the purpose of having an entitlement to receive payments of administrative expenditure funding in respect of any period other than a scheduled general election period, the registered officer of a registered political party or the registered agent of an independent elected
member must provide a request in writing to the Commission that the registered political party or independent elected member receive payments of administrative expenditure funding for the period.

(4) A request under subsection (3) must—

(a) be in the form determined by the Commission; and

(b) include an acknowledgement from the registered officer or registered agent that administrative expenditure funding that is not used to incur claimable expenditure must be repaid to the Commission; and

(c) include an acknowledgement from the registered officer or registered agent that administrative expenditure funding will not be—

(i) paid into the State campaign account; or

(ii) used to incur any of the following expenditure—

(A) political expenditure;

(B) electoral expenditure;

(C) expenditure for which an elected member has claimed a parliamentary allowance as a member;

(D) expenditure that is incurred substantially in respect of operations or activities relating to the election of members of the eligible party to a Parliament other than the Parliament of Victoria.
(5) A request under subsection (3) continues in effect until—

(a) a new request is provided under subsection (3); or

(b) the commencement of the next scheduled general election period.

(6) If an elected member ceases to be a member of a registered political party and becomes an independent elected member during the term of the Parliament, the registered agent of the independent elected member must provide a request to the Commission under subsection (1) or (3) for the purpose of having an entitlement to receive payments of administrative expenditure funding.

(7) If the number of elected members of a registered political party increases during the term of the Parliament, the registered officer of the registered political party must provide a new request to the Commission under subsection (1) or (3) for the purpose of having an entitlement to receive payments of administrative expenditure funding in respect of the increase in the number of elected members.

(8) If the entitlement of a registered political party decreases during the term of the Parliament because the number of elected members of the registered political party has decreased, the registered officer of the registered political party—

(a) is not required to provide a new request to the Commission under subsection (1) or (3); and
(b) is required to notify the Commission, within 28 days of the decrease in the number of elected members occurring, of the number of elected members of the registered political party so as to enable the Commission to calculate the payment of administrative expenditure funding in accordance with section 207GA(4).

(9) If the entitlement of an independent elected member decreases during the term of the Parliament because the elected member has ceased to be an independent elected member, the registered agent of the independent elected member—

(a) is not required to provide a new request to the Commission under subsection (1) or (3); and

(b) is required to notify the Commission, within 28 days of the elected member ceasing to be an independent elected member, that the elected member has ceased to be an independent elected member so as to enable the Commission to calculate the payment of administrative expenditure funding in accordance with section 207GA(4).

(10) For the purposes of a request made under this section before 25 November 2018—

(a) if the request is made under subsection (1), subsection (2) applies as if subsection (2)(e)(i) were omitted; and

(b) if the request is made under subsection (3), subsection (4) applies as if subsection (4)(c)(i) were omitted.
(11) For the avoidance of doubt, if a request under this section is not provided to the Commission before a payment of administrative expenditure funding is due to be made by the Commission, the entitlement to the payment of administrative expenditure funding is not affected but the Commission cannot make the payment until the request is provided to the Commission.

207GC Annual return

(1) The registered officer of a registered political party or the registered agent of an independent elected member must, within 16 weeks after the end of each calendar year, provide an annual return to the Commission that—

(a) is in the form determined by the Commission; and

(b) specifies that the registered political party or independent elected member has in relation to the calendar year spent or incurred claimable expenditure—

(i) not less than the amount of the entitlement to administrative expenditure funding under section 207GA; or

(ii) less than the amount of the entitlement to administrative expenditure funding under section 207GA, being the amount specified in the annual return.

(2) An annual return under subsection (1) must be accompanied by a declaration made by the registered officer of the registered political party or the registered agent of the independent elected member providing the annual return stating that the registered officer or registered agent has no
reason to believe that any matter stated in the annual return is not correct.

(3) If the Commission has not been provided with an annual return within the period specified in subsection (1)—

(a) the registered political party or independent elected member is to be taken to have incurred no claimable expenditure in relation to the calendar year; and

(b) the registered political party or independent elected member must repay to the Commission in accordance with section 207GF the total amount of payments of administrative expenditure funding received in relation to that calendar year.

207GD  Audit of annual return

(1) An annual return under section 207GC(1) by the registered officer of a registered political party must be provided to the Commission with the certificate of a registered company auditor within the meaning of the Corporations Act.

(2) An annual return under section 207GC(1) by the registered agent of an independent elected member must be provided to the Commission with the certificate of an independent auditor advising that the statement has been audited in accordance with Australian Accounting Standards as specified in section 334(1) of the Corporations Act.

(3) A certificate under subsection (1) or (2) must state that the auditor—

(a) was given full and free access at all reasonable times to all accounts, records, documents and papers relating directly or indirectly to any matter required to be specified in the annual return; and
(b) examined the material referred to in paragraph (a) for the purpose of giving the certificate; and

(c) received all information and explanations that the auditor requested in respect of any matter required to be specified in the annual return; and

(d) has no reason to believe that any matter stated in the annual return is not correct.

(4) An annual return is to be taken not to have been provided to the Commission unless the certificate required by this section is attached to the annual return.

207GE Powers of Commission

(1) If the Commission is satisfied on reasonable grounds that information provided in the annual return or the certificate is materially incorrect, the Commission may by notice in writing request the auditor to provide further information as specified in the notice within 14 days of the date of the notice.

(2) If the auditor fails to provide the requested information, the Commission may by notice in writing request the registered officer of the registered political party or the registered agent of the independent elected member to provide further information as specified in the notice within 14 days of the date of the notice.

(3) If the registered officer of the registered political party or the registered agent of the independent elected member fails to provide the requested information, the Commission may—

(a) withhold any payment under section 207GA until the requested information is provided; or
(b) if a payment has already been made under section 207GA, recover the payment under section 207GF.

207GF  Recovery of administrative expenditure funding

(1) If a registered political party or an independent elected member has received a payment of administrative expenditure funding in respect of any quarter that exceeds the entitlement at the end of that quarter as a result of being calculated on a pro-rata basis under section 207GA or for any other reason, an amount equal to the excess must be—

(a) deducted by the Commission from any amount of administrative expenditure funding payable to the registered political party or the independent elected member in respect of any subsequent quarter; or

(b) if the Commission makes a request in writing to the registered officer of the registered political party or the registered agent of the independent elected member, repaid to the Commission within the period specified in the request.

(2) If the total amount of the payments of administrative expenditure funding received in respect of a calendar year by a registered political party or an independent elected member is greater than the amount of claimable expenditure specified in the annual return in respect of that calendar year, an amount equal to the excess must be—

(a) deducted by the Commission from any amount of administrative expenditure funding payable to the registered political party or the independent elected member in respect of any subsequent quarter; or
(b) if the Commission makes a request in writing to the registered officer of the registered political party or the registered agent of the independent elected member, repaid to the Commission within the period specified in the request; or

(c) if the registered political party or independent elected member is not entitled to receive payments of administrative expenditure funding in the subsequent quarter, repaid to the Commission within 60 days of the date of the notice requesting the payment.

(3) If a registered political party has received any payments of administrative expenditure funding in respect of a scheduled general election period and some or all of the elected members of the registered political party did not stand for election to the Parliament of Victoria at the general election as an endorsed candidate of that registered political party, the total amount of payments of administrative expenditure funding in the scheduled general election period in respect of the elected members who did not stand must be repaid to the Commission by the registered political party within 60 days of the end of the calendar year in which the payments of administrative expenditure funding were made.

(4) If an independent elected member has received any payments of administrative expenditure funding in respect of a scheduled general election period and the independent elected member did not stand for election to the Parliament of Victoria at the general election, the total amount of payments of administrative expenditure funding in the scheduled general election period in respect of the independent elected member must be repaid to the Commission by the former independent
elected member within 60 days of the end of the calendar year in which the payments of administrative expenditure funding were made.

(5) If the registered political party, independent elected member or former independent elected member does not repay any amount required to be repaid to the Commission under this section, the Commission may recover the amount as a debt due to the State in a court of competent jurisdiction.

207GG  Prohibition on the payment or use of administrative expenditure funding

(1) The registered officer of a registered political party or the registered agent of an independent elected member must ensure that any payment of administrative expenditure funding received on or after 25 November 2018 is not paid into the State campaign account.

(2) The registered officer of a registered political party or the registered agent of an independent elected member must ensure that any payment of administrative expenditure funding received by the registered political party or the independent elected member is not used to incur any of the following expenditure—

(a) political expenditure;

(b) electoral expenditure;

(c) expenditure for which an elected member has claimed a parliamentary allowance as a member;

(d) expenditure that is incurred substantially in respect of operations or activities relating to the election of members of the eligible party to a Parliament other than the Parliament of Victoria.
(3) If the Commission becomes aware that a payment of administrative expenditure funding has been paid or used in contravention of subsection (1) or (2), the Commission must notify the registered officer of the registered political party or the registered agent of the independent elected member that the registered political party or the independent elected member must pay a penalty equal to 200 per cent of the amount paid or used in contravention of subsection (1) or (2) to the Commission within 60 days of the date of the notice.

(4) If the registered political party or the independent elected member does not pay the amount specified under subsection (3), the Commission may—

(a) deduct the amount from any amount of administrative expenditure funding payable to the registered political party or the independent elected member in respect of any subsequent quarter; or

(b) if the registered political party or independent elected member is not entitled to receive payments of administrative expenditure funding in the subsequent quarter, recover the amount as a debt due to the State in a court of competent jurisdiction.

**Division 2—Election expenditure**

208 Statement of expenditure

(1) For the purposes of having an entitlement under section 211, the registered officer of a registered political party must, before the expiration of 20 weeks after election day, give the Commission a statement in an approved form specifying that the registered political party has spent or incurred in relation to the election—
(a) not less than the entitlement; or
(b) less than the entitlement, being the amount specified in the statement.

(2) For the purposes of having an entitlement under section 211, a candidate in the election who was not endorsed by a registered political party must, before the expiration of 20 weeks after election day, give the Commission a statement in an approved form specifying that the candidate has spent or incurred in relation to the election—

(a) not less than the entitlement; or
(b) less than the entitlement, being the amount specified in the statement.

209 Audit of statement

(1) A statement under section 208(1) must be given to the Commission with the certificate of a registered company auditor within the meaning of the Corporations Act.

(2) A statement under section 208(2) must be given to the Commission with the certificate of an independent auditor advising that the statement has been audited in accordance with Australian Accounting Standards as specified in section 334(1) of the Corporations Act.

(3) A certificate under subsection (1) or (2) must state that the auditor—

(a) was given full and free access at all reasonable times to all accounts, records, documents and papers relating directly or indirectly to any matter required to be specified in the statement; and

(b) examined the material referred to in paragraph (a) for the purpose of giving the certificate; and
(c) received all information and explanations that the auditor requested in respect of any matter required to be specified in the statement; and

(d) has no reason to believe that any matter stated in the statement is not correct.

(4) A statement is to be taken not to have been given to the Commission unless the certificate required by this section is attached to the statement.

210 Powers of Commission

(1) If the Commission is satisfied on reasonable grounds that information provided in the statement or the certificate is materially incorrect, the Commission may by notice in writing request the auditor to provide further information as specified in the notice within 14 days of the date of the notice.

(2) If the auditor fails to provide the requested information, the Commission may by notice in writing request the registered officer of the registered political party or the candidate to provide further information as specified in the notice within 14 days of the date of the notice.

(3) If the registered officer of the registered political party or the candidate fails to provide the requested information, the Commission may—

(a) withhold any payment under section 212 until the requested information is provided; or

(b) if a payment has already been made under section 212, take proceedings to recover the payment under section 212(5).
211 Entitlement

(1) This section sets out the entitlement.

(2) The sum of $1.20 is payable for each first preference vote given for a candidate in an election.

(3) A payment under this section must not be made in respect of votes given in an election for a candidate unless the total number of first preference votes given for the candidate is at least 4% of the total number of first preference votes given in the election.

(4) In this section first preference vote does not include a vote that has been rejected as informal.

212 Making of payments

(1) An amount is only payable if the statement required to be given to the Commission has been given to the Commission.

(2) The amount payable is—

   (a) if the statement specifies that not less than the entitlement has been spent or incurred in relation to the election, the whole of the entitlement; or

   (b) if the statement specifies that an amount that is less than the entitlement has been spent or incurred in relation to the election, an amount equal to the amount specified in the statement.

(3) If an amount is payable in respect of votes given in an election for a candidate endorsed by a registered political party, the Commission must make the payment to the registered officer of the registered political party within 30 days after the Commission has been given the statement.
(4) If an amount is payable in respect of votes given in an election for a candidate who is not endorsed by a registered political party, the Commission must make the payment to the candidate within 30 days after the Commission has been given the statement.

(5) If a payment is made and the recipient is not entitled to receive the whole or a part of the amount paid, that amount or that part of that amount may be recovered by the Commission as a debt due to the State by action against the person in a court of competent jurisdiction.

213 Death of a candidate

(1) A payment may be made despite the death of a candidate.

(2) If a candidate to whom subsection (1) applies was not endorsed in the election by a registered political party, the payment may be made to the legal personal representative of the candidate.

214 Indexation

(1) In this section—

index number, in relation to a reference period, means the all groups consumer price index for all capital cities in original terms published by the Australian Bureau of Statistics in respect of that reference period;

relevant amount means the amount specified in section 211(2);

relevant period means the period of 6 months commencing on 1 July 2003 and each subsequent period of 6 months.
(2) Subject to subsection (3), if at any time, whether before or after the commencement of this Act, the Australian Bureau of Statistics has published or publishes an index number in respect of a reference period in substitution for an index number previously published in respect of that reference period, the publication of the later index number is to be disregarded for the purposes of this section.

* * * * *

(4) If the factor ascertained under subsection (5) in relation to a relevant period is greater than 1, this Part has effect in relation to any election the election day of which occurs during that relevant period as if for each relevant amount there were substituted an amount, calculated to 3 decimal places, ascertained by multiplying by that factor—

(a) in a case to which paragraph (b) does not apply, the relevant amount; or

(b) if, by virtue of another application or other applications of this section, this Part has had effect as if another amount was substituted, or other amounts were substituted, for the relevant amount, the substituted amount or the last substituted amount, as the case may be.

(5) The factor to be ascertained for the purposes of subsection (4) in relation to a relevant period is the number, calculated to 3 decimal places, ascertained—

(a) if the relevant period commences on 1 July, by dividing the index number for the most recent reference period in which fell the preceding March quarter by the index
number for the reference period in the preceding calendar year in which fell the September quarter of that year; or

(b) if the relevant period commences on 1 January, by dividing the index number for the reference period in the preceding calendar year in which fell the September quarter of that year by the index number for the reference period in which fell the March quarter of that year.

(6) If an amount or factor, if calculated to 4 decimal places, would end with a number greater than 4, the amount or factor is to be taken to be the amount or factor calculated to 3 decimal places and increased by 0·001.

215 Appropriation

Amounts payable under this Part are payable out of the Consolidated Fund, which is by virtue of this section appropriated to the necessary extent.

Division 3—Capping of political donations

216 Certain political donations prohibited

(1) It is unlawful for the holder of a relevant licence to make political donations to a registered political party during a financial year the total amount or value of which exceeds $50 000.

(2) For the purposes of calculating the total amount or value of the political donations made under subsection (1) by the holder of a relevant licence that is a company, any political donations made during the financial year to the same registered political party by a related company in relation to the company that is the holder of the relevant licence are to be included.
(3) For the purposes of this section, a company is a related company if it is a related body corporate within the meaning of section 50 of the Corporations Act.

(4) This section, as amended by section 11 of the Electoral (Amendment) Act 2003, applies in relation to any political donation whether made before, on or after the commencement of section 11 of that Act.

217 Penalty

(1) If the holder of a relevant licence contravenes section 216, the amount by which the total amount or value of the political donations to a registered political party exceeds $50 000 is forfeited to the State.

(2) An amount forfeited under subsection (1) may be recovered against—

(a) if the registered political party is a body corporate, the registered political party; or

(b) in any other case, the registered officer of the registered political party.

Division 3A—Prohibited political donations

217A Political donation from certain sources banned

It is unlawful for a donor to make a political donation, or for a registered political party, a candidate at an election, a group, an elected member, a nominated entity, an associated entity or a third party campaigner to accept a political donation from a donor, unless the donor—
(a) in the case of a donor who is a natural person, is an Australian citizen or an Australian resident; or
(b) in the case of a donor who is not a natural person, has a relevant business number.

217B Anonymous political donation not to be accepted

It is unlawful for a donor to make a political donation equal to or above the value of $1000, or for a registered political party, a candidate at an election, a group, an elected member, a nominated entity, an associated entity or a third party campaigner to accept a political donation equal to or above the value of $1000 from a donor, unless when the donation is made—

(a) the donor gives to the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner their name and address; and
(b) the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner has no reason to believe that the name or address is false.

217C Forfeiture of political donations accepted in contravention of this Division

(1) A political donation that is accepted in contravention of this Division is forfeited to the State.

(2) An amount forfeited under subsection (1) may be recovered from the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner that accepted the political donation.
Division 4—Miscellaneous

218 Offences

(1) If the registered officer of a registered political party gives a statement that contains particulars that are, to the knowledge of the registered officer, false or misleading in a material particular, the registered officer is guilty of an offence.

Penalty: 120 penalty units.

(2) If a candidate gives a statement that contains particulars that are, to the knowledge of the candidate, false or misleading in a material particular, the candidate is guilty of an offence.

Penalty: 60 penalty units.

(3) If a person is convicted of an offence against subsection (1) or (2), the court may, in addition to imposing a penalty under that subsection, order the person to forfeit to the State an amount equal to the amount of any payment obtained by the person under this Part.

(4) If a court has made an order under subsection (3), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is enforceable in all respects as a final judgment of that court.

(5) A person who gives to another person who is required to give a statement any information that relates to the statement and that is, to the knowledge of the first-mentioned person, false or misleading in a material particular is guilty of an offence.

Penalty: 10 penalty units.
(5A) A person who knowingly makes or accepts a political donation that is unlawful under Division 3A is guilty of an offence.

Penalty: 300 penalty units or 2 years imprisonment or both.

(6) Despite anything to the contrary in this Act or any other Act, a prosecution in respect of an alleged offence against a provision of this section may be started at any time within 3 years after the alleged offence was committed.

219 Recovery of payments

(1) An action in a court to recover an amount due or forfeited to the State under this Part may be brought in the name of the State by the Commission.

(2) Any process in the action required to be served on the State may be served on the Commission.

220 Records to be kept

(1) Subject to subsection (2), a person who makes or obtains a document or other thing that is or includes a record relating to a matter particulars of which are, or could be, required to be specified in a statement relating to an election must retain that record for a period of at least 3 years commencing on the election day in that election.

(2) Subsection (1) does not apply to a record that, in the normal course of business or administration, would be transferred to another person.

221 Amendment of statements

(1) If the Commission is satisfied that a statement contains a formal error or is subject to a formal defect, the Commission may amend the statement to the extent necessary to correct the error or remove the defect.
(2) A person who has given a statement may request the permission of the Commission to make a specified amendment of the statement for the purpose of correcting an error or omission.

(3) If the statement was given by a person as the registered officer of a registered political party, the request under subsection (2) may be made either by—

(a) the person who gave the statement; or

(b) the person who is currently the registered officer of the registered political party.

(4) A request under subsection (2) must—

(a) be by notice in writing signed by the person making the request; and

(b) be lodged with the Commission.

(5) If—

(a) a request has been made under subsection (2); and

(b) the Commission is satisfied that there is an error in, or omission from the statement to which the request relates—

the Commission must permit the person making the request to amend the statement in accordance with the request.

(6) If the Commission decides to refuse a request under subsection (2), the Commission must give to the person making the request written notice of the reasons for the decision.

(7) The amendment of a statement under this section does not affect the liability of a person to be convicted of an offence arising out of the giving of the statement.
222 Provision of annual returns

(1) The registered officer of a registered political party must give to the Commission a copy of the annual return provided on behalf of the registered political party under section 314AC of the Commonwealth Electoral Act 1918 as soon as the annual return has been provided under that section.

(2) The registered officer of the registered political party must certify that the copy is a true copy of the annual return provided on behalf of the registered political party under section 314AC of the Commonwealth Electoral Act 1918.

Division 4A—Powers of the Commission

Subdivision 1—General

222A Compliance officers

The Commission may by instrument in writing appoint any employees of the Commission to be compliance officers for the purposes of this Part.

222B Power to issue notice

(1) A compliance officer may by notice require a registered political party, candidate, group, elected member, nominated entity, associated entity, third party campaigner or donor to—

(a) produce the documents or other things specified in the notice within the period and in the manner specified in the notice; or

(b) appear before the compliance officer at a time and place specified in the notice to—

   (i) give evidence either orally or in writing; and
(ii) produce the documents or other things specified in the notice.

(2) If a compliance officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence in relation to a contravention or possible contravention of this Part, the compliance officer may by notice require the person to—

(a) produce the documents or other things specified in the notice within the period and in the manner specified in the notice; or

(b) appear before the compliance officer at a time and place specified in the notice to—

(i) give evidence either orally or in writing; and

(ii) produce the documents or other things specified in the notice.

(3) A notice under this section—

(a) must be in writing; and

(b) may be served personally or by post.

222C Review of decision to issue notice

(1) A person who is served with a notice under section 222B may request the Commission to review the decision of the compliance officer to issue the notice.

(2) A request under subsection (1) must—

(a) be in writing; and

(b) be given to the Commission within 14 days of the day on which the notice was received.

(3) The Commission must—

(a) review the decision of the compliance officer to issue the notice; and
(b) affirm, vary or set aside the decision; and

(c) notify the person in writing of its decision on the review.

(4) If a person requests a review of a decision, the person is not to be taken to have refused or failed to comply with the notice to which the review relates any time before the Commission has notified the person of its decision on the review.

222D Offences in relation to notice issued under section 222B

(1) A person who refuses to comply with a notice issued under section 222B to the extent that the person is capable of complying is guilty of an offence.

Penalty: 200 penalty units.

(2) A person who in purported compliance with a notice issued under section 222B gives evidence that contains particulars that are, to the knowledge of the person, false or misleading in a material particular is guilty of an offence.

Penalty: 200 penalty units.

Subdivision 2—Register of Nominated Entities

222E Register of Nominated Entities

(1) The Commission must establish and maintain a register, to be known as the Register of Nominated Entities, in accordance with this Division.

(2) The Commission must publish the Register of Nominated Entities on its Internet site.
Nomination and eligibility for appointment as nominated entity

(1) A registered political party may appoint an entity as the nominated entity of the registered political party.

(2) Subject to subsection (3), an entity is eligible to be appointed as the nominated entity of a registered political party if the entity is an incorporated body—

(a) that is controlled, within the meaning of section 50AA of the Corporations Act, by the registered political party; and

(b) that—

(i) operates for the sole benefit of the members of the registered political party; or

(ii) is established and maintained, or is the trustee of a trust established and maintained, for the sole benefit of the members of the registered political party; and

(c) that does not have voting rights in the registered political party.

(3) Despite subsection (2), if the first appointment of an entity as the nominated entity of a registered political party is made before 1 July 2020, an entity is eligible to be appointed as the nominated entity of the registered political party if the entity is an incorporated body—

(a) that—

(i) operates for the principal benefit of the members of the registered political party; or
(ii) is established and maintained, or is the trustee of a trust established and maintained, for the principal benefit of the members of the registered political party; and

(b) that does not have voting rights in the registered political party.

(4) Despite subsection (1), an entity is not eligible to be appointed as the nominated entity of a registered political party if—

(a) the entity is currently the nominated entity of another registered political party; or

(b) the entity, or an officer of the entity within the meaning of section 9 of the Corporations Act, has been convicted of an offence under Part 12 of this Act; or

(c) the appointment of another entity as the nominated entity of the registered political party is in effect.

222G Appointment as nominated entity

(1) A registered political party may provide written notice of the appointment of an entity as its nominated entity to the Commission, in the form and manner determined by the Commission, specifying—

(a) the name and address of the registered political party; and

(b) the name and address of the entity; and

(c) such other information as is determined by the Commission.
(2) An entity appointed as the nominated entity of a registered political party must provide to the Commission—

(a) written notice, in the form and manner determined by the Commission, that the entity consents to the appointment; and

(b) a declaration, duly executed by the entity, stating that the entity is eligible to be appointed as the nominated entity of the registered political party.

222H When does an appointment as a nominated entity take effect?

(1) If a registered political party has provided written notice of the appointment of an entity as its nominated entity under section 222G(1), the Commission must enter the name and address of the nominated entity as the nominated entity of the registered political party on the Register of Nominated Entities if—

(a) the entity has provided written notice to the Commission under subsection 222G(2) that it consents to the appointment and is eligible to be appointed; and

(b) the Commission is satisfied that the entity is eligible to be appointed as the nominated entity of the registered political party.

(2) The appointment of the entity as the nominated entity of the registered political party takes effect when the Commission enters the name and address of the entity, and the registered political party of which the entity is the nominated entity, on the Register of Nominated Entities.
(3) The Commission may request that an entity provide the Commission with any evidence it requires to satisfy itself that the entity is eligible to be appointed as the nominated entity for a registered political party.

222I When does an appointment as a nominated entity cease?

(1) The appointment of an entity as the nominated entity of a registered political party ceases if the Commission removes the name and address of the entity, as the nominated entity of the registered political party, from the Register of Nominated Entities.

(2) The Commission may only remove the name and address of an entity from the Register of Nominated Entities if—

(a) the entity provides the Commission with a written notice stating that the entity has resigned as the nominated entity, or provides the Commission with a notice under subsection (3) that the entity has ceased to be eligible to be the nominated entity; or

(b) the registered political party that appointed the entity provides the Commission with a written notice stating that the registered political party has revoked the appointment of the nominated entity; or

(c) the entity, or an officer of the entity within the meaning of section 9 of the Corporations Act, is convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918.
(3) The nominated entity of a registered political party must provide written notice to the Commission within 7 days of the nominated entity ceasing to be eligible to be the nominated entity of the registered political party.

Division 5—Repeals

223 Repeals

Division 19 of Part V and the Sixteenth, Seventeenth and Eighteenth Schedules of The Constitution Act Amendment Act 1958 are repealed.
Part 13—Transitional provision

224 Transitional provision—Local Government Amendment (Improved Governance) Act 2015—Electoral Reform

Despite the commencement of section 93 of the Local Government Amendment (Improved Governance) Act 2015, this Act continues to apply to any election under the Local Government Act 1989 or the City of Melbourne Act 2001 before the next general election on 22 October 2016 as if the amendments made by section 93 of the Local Government Amendment (Improved Governance) Act 2015 had not been made.
Schedules

Schedule 1

FORM OF WRIT

STATE OF VICTORIA

To the Victorian Electoral Commission

I request that you cause—

[here insert an election or elections as the case requires] to be made according to the law of [here insert one Member of the Legislative Assembly for the Electoral District of (here insert name of District) or Members of the Legislative Assembly or Members of the Legislative Council to serve in the Legislative Assembly or the Legislative Council as the case requires.]

I appoint the following dates for the purposes of the [election or elections, as the case requires].

1. For the close of the roll the day of 20 .
2. For the final nomination day the day of 20 .
3. For holding the election at the different election day voting centres in the event of the election or elections being contested, the day of 20 .
4. For the return of the writ on or before the day of 20 .

[here insert the Governor's title or Speaker's title, as the case requires] at [here insert place] the day of 20 .

Signature

Sch. 1 substituted by No. 2/2003 s. 41.
### Schedule 1A

**FORM OF BALLOT-PAPER FOR THE COUNCIL**

(FEWER THAN 20 GROUPS)

Section 74(3A)

For your vote to count, you must vote in either one of the two ways described below:

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1. Here insert name of a candidate.
2. Here insert name of registered political party or composite name of registered political parties if so requested.
3. Here insert name of a registered political party if to be printed and the suburb or locality of the candidate's address in respect of which the candidate is enrolled.
4. Here insert name of region.
5. Here insert any logo registered in relation to the registered political party or any logos in relation to the registered political parties forming a composite name.

Fold the ballot-paper and put it in the ballot-box or declaration envelope, as appropriate.
## Schedule 1B

### FORM OF BALLOT-PAPER FOR THE COUNCIL (20 OR MORE GROUPS)

Section 74(3AA)

For your vote to count, you must vote in either one of the two ways described below.

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1. Here insert name of a candidate.
2. Here insert name of registered political party or composite name of registered political parties if so requested.
3. Here insert name of a registered political party if to be printed and the suburb or locality of the candidate's address in respect of which the candidate is enrolled.
4. Here insert name of region.
5. Here insert any logo registered in relation to the registered political party or any logos in relation to the registered political parties forming a composite name.

Fold the ballot-paper and put it in the ballot-box or declaration envelope, as appropriate.
Schedule 2

FORM OF BALLOT-PAPER FOR THE ASSEMBLY

Section 74(3)

Ballot-Paper

District of

Number the boxes from 1 to [2, 3, 4, 5 . . . . as the case may be] in the order of your choice.

Number every box to make your vote count.

[Insert names of candidates and registered political parties, and any logo registered in relation to a registered political party, as required by section 74]

Fold the ballot-paper and put it in the ballot-box or declaration envelope, as appropriate.
Schedule 3

FORM OF WRIT FOR A REFERENDUM

STATE OF VICTORIA

To the Victorian Electoral Commission

I request that you cause a Bill entitled [here set out the Short Title of the Bill and add "a copy of which is attached" or "a statement of which is attached"] to be submitted, according to law to the electors of Victoria.

I appoint the following dates for the purposes of the referendum.

1. For the close of the roll the day of 20 .
2. For the taking of votes of the electors the day of 20 .
3. For the return of the writ on or before the day of 20 .


Signature

Sch. 3 inserted by No. 2/2003 s. 22.
Schedule 4

FORM OF BALLOT-PAPER FOR A REFERENDUM

ELECTORAL DISTRICT OF

REFERENDUM ON PROPOSED BILL

Directions to Voter

If you approve of the proposed Bill, write "YES" in the space provided opposite the question set out below.

If you disapprove of the proposed Bill, write "NO" in the space provided opposite the question set out below.

[HERE INSERT THE SHORT TITLE OF THE BILL]

DO YOU APPROVE OF THIS BILL?

Fold the ballot-paper and put it in the ballot-box or declaration envelope, as appropriate.
Endnotes

1 General information


Minister's second reading speech—
Legislative Assembly: 21 March 2002
Legislative Council: 28 May 2002

The long title for the Bill for this Act was "to re-enact with amendments the law relating to Victorian elections, to amend The Constitution Act Amendment Act 1958 and consequentially amend certain other Acts and for other purposes."

Constitution Act 1975:
Section 85(5) statement:
Legislative Assembly: 21 March 2002
Legislative Council: 28 May 2002
Absolute majorities:
Legislative Assembly: 15 May 2002
Legislative Council: 30 May 2002

The Electoral Act 2002 was assented to on 12 June 2002 and came into operation on 1 September 2002: Government Gazette 29 August 2002 page 2333.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes
Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B
Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.
Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).
2 Table of Amendments

This publication incorporates amendments made to the Electrical Act 2002 by Acts and subordinate instruments.

- **Assent Date:** 8.4.03
- **Commencement Date:** Ss 20–22 on 8.4.03; Special Gazette (No. 57) 8.4.03 p. 1; ss 23–43 on 31.10.06; s. 2(3)
- **Current State:** This information relates only to the provision/s amending the Electrical Act 2002

**Electoral (Amendment) Act 2003, No. 91/2003**
- **Assent Date:** 25.11.03
- **Commencement Date:** 26.11.03: s. 2
- **Current State:** All of Act in operation

**Gambling Regulation Act 2003, No. 114/2003**
- **Assent Date:** 16.12.03
- **Commencement Date:** S. 12.1.3(Sch. 6 item 4) on 1.7.04: Government Gazette 1.7.04 p. 1843
- **Current State:** This information relates only to the provision/s amending the Electrical Act 2002

**Monetary Units Act 2004, No. 10/2004**
- **Assent Date:** 11.5.04
- **Commencement Date:** S. 15(Sch. 1 item 6) on 1.7.04; s. 2(2)
- **Current State:** This information relates only to the provision/s amending the Electrical Act 2002

- **Assent Date:** 23.11.04
- **Commencement Date:** S. 3 on 24.11.04: s. 2
- **Current State:** This information relates only to the provision/s amending the Electrical Act 2002

- **Assent Date:** 21.12.04
- **Commencement Date:** S. 117(1)(Sch. 3 item 62) on 5.4.05: Government Gazette 31.3.05 p. 602
- **Current State:** This information relates only to the provision/s amending the Electrical Act 2002

**Legal Profession (Consequential Amendments) Act 2005, No. 18/2005**
- **Assent Date:** 24.5.05
- **Commencement Date:** S. 18(Sch. 1 item 35) on 12.12.05: Government Gazette 1.12.05 p. 2781
- **Current State:** This information relates only to the provision/s amending the Electrical Act 2002
Electoral Legislation (Further Amendment) Act 2005, No. 38/2005
Assent Date: 27.7.05
Commencement Date: Ss 3–13 on 28.7.05: s. 2
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Health Professions Registration Act 2005, No. 97/2005
Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 17) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006
Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 12) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Assent Date: 25.7.06
Commencement Date: Ss 3–10 on 26.7.06: s. 2
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 1 item 18) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010
Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 20) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Electoral Amendment (Electoral Participation) Act 2010, No. 41/2010
Assent Date: 3.8.10
Commencement Date: 20.8.10: Government Gazette 19.8.10 p. 1799
Current State: All of Act in operation

Assent Date: 21.6.11
Commencement Date: S. 35 on 1.8.11: s. 2(2)
Current State: This information relates only to the provision/s amending the Electoral Act 2002
Electoral Act 2002
No. 23 of 2002
Endnotes

Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012
Assent Date: 18.12.12
Commencement Date: Ss 172, 173 on 10.2.13: Special Gazette (No. 32)
6.2.13 p. 2; s. 307 on 11.2.13: s. 2(5)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Statute Law Amendment (Directors' Liability) Act 2013, No. 13/2013
Assent Date: 13.3.13
Commencement Date: Ss 18-21 on 14.3.13: s. 2
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Justice Legislation Amendment Act 2013, No. 31/2013
Assent Date: 4.6.13
Commencement Date: S. 5 on 5.6.13: s. 2(2)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Assent Date: 25.3.14
Commencement Date: S. 160(Sch. 2 item 35) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014
Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 50) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Treasury Legislation and Other Acts Amendment Act 2014, No. 44/2014
Assent Date: 27.6.14
Commencement Date: S. 33(Sch. item 9) on 30.6.14: s. 2(5)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Privacy and Data Protection Act 2014, No. 60/2014
Assent Date: 2.9.14
Commencement Date: S. 140(Sch. 3 item 15) on 17.9.14: Special Gazette (No. 317) 16.9.14 p. 1
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Justice Legislation Amendment Act 2015, No. 20/2015
Assent Date: 16.6.15
Commencement Date: S. 56(Sch. 1 item 4) on 17.6.15: s. 2(3)
Current State: This information relates only to the provision/s amending the Electoral Act 2002
### Local Government Amendment (Improved Governance) Act 2015, No. 53/2015

| Assent Date | 27.10.15 |
| Commencement Date | Ss 93, 94 on 1.3.16: Special Gazette (No. 25) 23.2.16 |
| Current State | This information relates only to the provision/s amending the **Electoral Act 2002** |

### Integrity and Accountability Legislation Amendment (A Stronger System) Act 2016, No. 30/2016

| Assent Date | 31.5.16 |
| Commencement Date | S. 79 on 1.12.16: Special Gazette (No. 194) 21.6.16 |
| Current State | This information relates only to the provision/s amending the **Electoral Act 2002** |

### Freedom of Information Amendment (Office of the Victorian Information Commissioner) Act 2017, No. 20/2017

| Assent Date | 16.5.17 |
| Commencement Date | S. 134(Sch. 1 item 8) on 1.9.17: s. 2(3) |
| Current State | This information relates only to the provision/s amending the **Electoral Act 2002** |

### Electoral Legislation Amendment Act 2018, No. 30/2018

| Assent Date | 31.7.18 |
| Commencement Date | Ss 3–45 on 1.8.18; s. 2(1); s. 47(2) on 1.8.18; s. 2(2) |
| Current State | This information relates only to the provision/s amending the **Electoral Act 2002** |
3 Amendments Not in Operation

This publication does not include amendments made to the Electoral Act 2002 by the following Act/s.

Oaths and Affirmations Act 2018, No. 6/2018

Assent Date: 27.2.18
Commencement Date: S. 68(Sch. 2 item 45) not yet proclaimed
Current State: This information relates only to the provision/s amending the Electoral Act 2002

Electoral Legislation Amendment Act 2018, No. 30/2018

Assent Date: 31.7.18
Commencement Date: Ss 46, 47(1), 48–66 on 25.11.18: s. 2(3)
Current State: This information relates only to the provision/s amending the Electoral Act 2002

At the date of this publication, the following provisions amending the Electoral Act 2002 were Not in Operation:

Amending Act/s:

Oaths and Affirmations Act 2018, No. 6/2018

Schedule 2—Further consequential amendments

45 Electoral Act 2002

45.1 In section 125(d), after "oath" insert "or affirmation".

Electoral Legislation Amendment Act 2018, No. 30/2018

46 Amendment of section 206—Definitions

Insert the following definitions in section 206(1) of the Electoral Act 2002—

"administrative expenditure funding" means funding paid to a registered political party or an independent elected member for administrative expenses, including expenses incurred in complying with this Part;
Register of Agents means the Register of Agents established under section 207A;

registered agent means—

(a) a person nominated as the agent of a candidate at an election, a group, an elected member, an associated entity or a third party campaigner whose name and address is registered on the Register of Agents; or

(b) if a person has not been nominated, the person who is to be taken to be the registered agent of a candidate at an election, a group, an elected member, a nominated entity, an associated entity or a third party campaigner in accordance with section 207B or 207C;

registered officer has the meaning given to registered officer of a registered political party by section 44;

small contribution means a political donation that is equal to or less than the value of $50;

State campaign account means the separate account or accounts required to be kept under section 207F;".

47 New Divisions 1A and 1B inserted in Part 12

(1) After section 207 of the Electoral Act 2002 insert—

"Division 1A—Register of Agents

207A Register of Agents

The Commission must establish and maintain a Register of Agents in accordance with this Division which contains the prescribed details.
207B Appointment of agent by a candidate at an election, group or elected member

(1) Subject to subsection (4), a candidate at an election may appoint a person to be their agent in relation to the election.

(2) Subject to subsection (4), the members of a group may jointly appoint a person to be their agent in relation to the election.

(3) Subject to subsection (4), an elected member may appoint a person to be their agent in relation to the election.

(4) If—
   (a) a registered political party has endorsed a candidate; or
   (b) all the members of a group are members of the same registered political party; or
   (c) an elected member is a member of a registered political party—
      the registered officer of the registered political party is to be taken to be the agent of the candidate, group or elected member.

(5) Subject to subsection (4), during any period in which there is no appointment in force under subsection (1) of an agent of a candidate, a candidate at an election is to be taken to be their own agent in relation to the election.

(6) Subject to subsection (4), during any period in which there is no appointment in force under subsection (2) of an agent of a group, the candidate whose name appears first in the group on the ballot-paper is to be taken to be the agent of the group in relation to the election.
(7) Subject to subsection (4), during any period in which there is no appointment in force under subsection (3) of an agent of an elected member, the elected member is to be taken to be their own agent in relation to the election.

207C Agent of associated entity, third party campaigner or nominated entity

(1) An associated entity may appoint a person to be an agent of the associated entity.

(2) During any period in which there is no appointment in force under subsection (1) of an agent of an associated entity, the financial controller of the associated entity is to be taken to be the agent of the associated entity.

(3) A third party campaigner may appoint a person to be an agent of the third party campaigner.

(4) During any period in which there is no appointment in force under subsection (3) of an agent of a third party campaigner—

(a) if the third party campaigner is a natural person, the third party campaigner; or

(b) in any other case, the financial controller of the third party campaigner—

is to be taken to be the agent of the third party campaigner.

(5) The registered officer of a registered political party is taken to be the agent of the nominated entity of the registered political party, if the registered political party has a nominated entity.
(6) In this section, financial controller means, if the associated entity or third party campaigner,—

(a) is a corporation, the secretary of the corporation; or

(b) is a trustee of a trust and the trustee is a natural person, the trustee; or

(c) is neither a corporation nor a trustee of a trust who is a natural person, the person responsible for keeping the financial records of the associated entity or third party campaigner.

207D Requirements in relation to appointment of agent

(1) An appointment of a person as an agent under this Division has no effect unless—

(a) the person has attained the age of 18 years; and

(b) the person or entity making the appointment has provided written notice of the appointment to the Commission in the form and in the manner determined by the Commission specifying—

(i) the name and address of the person or entity making the appointment; and

(ii) the name and address of the person appointed as an agent; and

(iii) any other information determined by the Commission; and
(c) the person appointed as an agent has provided to the Commission in the form and in the manner determined by the Commission—

(i) their consent to the appointment; and

(ii) a declaration signed by the person stating that they are eligible to be appointed as an agent.

(2) A person is not eligible to be appointed as an agent if the person has been convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918.

207E When is appointment of agent in effect?

(1) The appointment of an agent as a registered agent takes effect when the Commission enters the name and address of the person appointed as an agent on the Register of Agents.

(2) A person ceases to be a registered agent if the Commission removes the name and address of the person from the Register of Agents.

(3) The Commission may only remove the name and address of a person from the Register of Agents if—

(a) the person provides the Commission with a written notice stating that they have resigned as an agent; or

(b) the person or entity who appointed the person as their agent provides the Commission with a written notice stating that they have revoked the appointment of the person as their agent; or
(c) the person is convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918; or

(d) the Commission is notified of the death of the person appointed as an agent in accordance with subsection (4).

(4) If a person who is a registered agent dies, the person or entity who appointed the person as their agent must provide to the Commission—

(a) written notice of the death of the person appointed as their agent; and

(b) written notice of the appointment of another person as their agent in accordance with section 207D.

(5) If a person who is a registered agent is convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918, the person or entity who appointed the person as their agent must provide to the Commission written notice of the appointment of another person as their agent in accordance with section 207D—

(a) within 28 days after the conviction; or

(b) if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is determined.

Division 1B—State campaign account

207F State campaign account

(1) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or
third party campaigner must keep a State campaign account consisting of a separate account or accounts with an ADI for the purpose of State elections.

(2) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner must ensure that each political donation (including each small contribution) received under Division 3 by the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is paid into the State campaign account.

(3) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner must ensure that any amount kept in any account for Commonwealth electoral purposes by the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is not paid into the State campaign account.

(4) The registered officer of a registered political party must ensure that any amount received as—

(a) an annual subscription paid to the registered political party by a person in respect of the person's membership of the registered political party; or
(b) an annual affiliation fee paid to the registered political party by an associated entity; or

(c) an annual levy paid to the registered political party by an elected member or a member of staff of the elected member (including an electoral officer), or by an employee or elected official of the registered political party—
is not paid into the State campaign account.

(5) If a registered agent of an associated entity or a third party campaigner pays into the State campaign account an amount received as—

(a) an annual subscription paid to the associated entity or third party campaigner by a person in respect of the person's membership of the associated entity or third party campaigner; or

(b) an annual levy paid to the associated entity or third party campaigner by an elected official or employee of the associated entity or third party campaigner—

the amount is to be taken to be a political donation within the meaning of section 206(1) and sections 216, 217D, 217J and 217K apply accordingly.

(6) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner must ensure that no amount of money for political expenditure is paid for by the registered political party,
candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner unless the amount is paid from the State campaign account.

(7) The regulations may prescribe—
(a) what other amounts of any kind may be paid into a State campaign account; and
(b) what other amounts of any kind must not be paid into a State campaign account.

(8) After debts have been paid, any amount remaining in a State campaign account—
(a) of a candidate at an election when the candidate is not successful, or when an elected member ceases to be a member, is to be paid—
(i) if the candidate or elected member was a member of a registered political party, to the registered political party for payment into its State campaign account; or
(ii) if the candidate or elected member was not a member of a registered political party, to a charity nominated by the candidate or elected member or their registered agent; or
(b) of a group when one or more of the group is not successful or ceases to be an elected member, is to be paid—
(i) to the remaining member of the group, or if more than one remaining member, to each of the remaining members in equal shares, for payment into the
relevant State campaign account; or

(ii) if there are no remaining members of the group and the members had been endorsed by a registered political party, to the registered political party for payment into its State campaign account; or

(iii) if there are no remaining members of the group and the members had not been endorsed by a registered political party, to a charity nominated by the registered agent of the group."

48 Amendment of section 206—Definitions

(1) **Insert** the following definitions in section 206(1) of the *Electoral Act 2002*—

"annual return" means an annual return required to be provided to the Commission under Division 1C or 3C;

disclosure return means a disclosure return required to be provided to the Commission under section 216;

general cap means $4000;".

(2) In section 206(1) of the *Electoral Act 2002*—

(a) for the definition of *election period* substitute—

"election period" means—

(a) the period commencing on the day after election day of the 2018 general election and ending on election day of the subsequent general election; and
(b) each subsequent period
commencing on the day after
election day of the previous
general election and ending on
the next general election day;"

(b) the definition of relevant licence is
repealed.

(3) In section 206(1) of the Electoral Act 2002,
in the definition of electoral expenditure,
for "period of 12 months immediately before
election day" substitute "election period".

(4) Section 206(5) of the Electoral Act 2002 is
repealed.

49 Amendment of heading to Division 2 of Part 12

For the heading to Division 2 of Part 12 of the
Electoral Act 2002 substitute "Division 2—
Public Funding".

50 Amendment of section 208—Statement of
expenditure

(1) In section 208(1) and (2) of the Electoral
Act 2002, after "incurred" insert "political
expenditure and electoral expenditure".

(2) After section 208(2) of the Electoral Act 2002
insert—

"(3) To avoid doubt, political expenditure and
electoral expenditure is incurred in relation
to an election if—

(a) in the case of a general election, it is
incurred during the election period for
the election; or

(b) in the case of a by-election, it is
incurred in relation to the by-election.".
51 Amendment of section 209—Audit of statement

(1) In section 209(1) of the Electoral Act 2002, after "208(1)" insert "or an annual return given under section 217I".

(2) In section 209(2) of the Electoral Act 2002, after "208(2)" insert "or an annual return given under section 217J, 217K or 217L".

(3) In section 209(4) of the Electoral Act 2002, after "A statement" insert "or an annual return given under section 217I, 217J, 217K or 217L".

(4) In section 209(4) of the Electoral Act 2002, after "the statement" insert "or the annual return, as the case requires".

52 Amendment of section 211—Entitlement

(1) In section 211(2) of the Electoral Act 2002, for "an election" substitute "the election held on 24 November 2018".

(2) After section 211(2) of the Electoral Act 2002 insert—

"(2A) The sum of—

(a) $6 is payable for each first preference vote given for a candidate for election to the Assembly in an election held after 24 November 2018; and

(b) $3 is payable for each first preference vote given for a candidate for election to the Council in an election held after 24 November 2018.".

(3) In section 211(3) of the Electoral Act 2002, after "the election" insert "or the candidate is elected at the election".
53 Amendment of section 212—Making of payments

(1) In section 212(2) of the Electoral Act 2002, for "The" substitute "Subject to subsection (2A), the".

(2) After section 212(2) of the Electoral Act 2002 insert—

"(2A) The amount payable is reduced by double the amount of the part of the amount of any political donation that is received in contravention of this Part by—

(a) in an election for a candidate endorsed by a registered political party, the candidate or the registered political party during the election period; or

(b) in an election for a candidate who is not endorsed by a registered political party, the candidate during the election period.".

(3) After section 212(4) of the Electoral Act 2002 insert—

"(4A) The registered officer of a registered political party or a candidate who receives a payment from the Commission under this section must pay the amount of the payment into the State campaign account.".

54 New sections 212A and 212B inserted—Instalment payments of public funding entitlement

After section 212 of the Electoral Act 2002 insert—

"212A Instalment payments of public funding entitlement

(1) This section applies to an eligible registered political party or an eligible independent candidate.
(2) Subject to subsection (5), an eligible registered political party or an eligible independent candidate is to be paid, in relation to a general election, an amount equal to the payment received under section 212(3) or (4) in relation to the immediately preceding general election, in 4 instalments as follows—

(a) 40 per cent within 30 days after the Commission is given the statement under section 208 in relation to the immediately preceding general election;

(b) 20 per cent on 30 April in each of the 2 calendar years preceding the calendar year in which the general election to which the payment relates is held;

(c) 20 per cent on 30 April in the calendar year in which the general election to which the payment relates is held.

(3) If the amount payable to the eligible registered political party or the eligible independent candidate under section 212(3) or (4) in relation to the general election is greater than the amount paid to the eligible registered political party or the eligible independent candidate under subsection (2), the Commission must make a payment equal to the balance in accordance with section 212(3) or (4).

(4) If the amount payable to the eligible registered political party or the eligible independent candidate under section 212(3) or (4) in relation to the general election is less than the amount paid to the eligible registered political
party or the eligible independent candidate under subsection (2)—

(a) the amount of the overpayment must be deducted by the Commission from the first instalment of payment otherwise to be made to the eligible registered political party or the eligible independent candidate for the next general election and any balance still outstanding must be repaid to the Commission; or

(b) the amount of the overpayment must be repaid to the Commission if the registered political party or independent candidate—

(i) is not eligible to receive payment under this section in relation to the next general election; or

(ii) has not elected to receive payment under this section in relation to the next general election.

(5) If a general election is to be held under section 61(1)(b) due to the dissolution of the Assembly, and at the time the general election is to be held all the instalments under subsection (2) have not become payable—

(a) no further instalments are to be made; and

(b) subsections (3) and (4) apply in respect of the amount already paid in relation to the general election.

(6) An amount paid by way of an instalment under paragraph (2)(b) or (c) to an eligible registered political party or an eligible independent candidate must not be used by
the eligible registered political party or eligible independent candidate as security or collateral (however described) for a loan.

(7) In this section—

**eligible independent candidate** means an independent candidate who—

(a) has received a payment under section 212(4) in respect of votes given at the immediately preceding general election to the independent candidate; and

(b) makes an election in writing to the Commission, at the time that the independent candidate gives the Commission the statement under section 208 in relation to the immediately preceding general election, that they wish to receive payments under this section;

**eligible registered political party** means a registered political party which—

(a) has received a payment under section 212(3) in respect of votes given at the immediately preceding general election for a candidate endorsed by the registered political party; and

(b) makes an election in writing to the Commission, at the time that the registered political party gives the Commission the statement under section 208 in relation to the immediately preceding general election, that they wish to receive payments under this section;
independent candidate means a candidate at an election who is not endorsed by a registered political party;

loan means—
(a) an advance of money; or
(b) the provision of credit or any other form of financial accommodation; or
(c) the payment of an amount for, on account of, on behalf of or at the request of, the receiver, where there is an express or implied obligation to repay that amount; or
(d) any other transaction, whatever its terms or form, that in substance is a loan of money—

and includes a loan made on a commercial basis by a financial institution.

212B Special rule for instalment payments of public funding entitlement in relation to 2022 general election

(1) This section applies to an eligible registered political party or an eligible independent candidate (within the meaning of section 212A) in relation to the general election to be held in 2022 (the 2022 election).

(2) Despite section 212A(2), for the purposes of the payment for the 2022 election, the amount that the eligible registered political party or eligible independent candidate is entitled to receive is to be calculated on the assumption that section 211(2A) as inserted by section 52(2) of the Electoral Act 2002 No. 23 of 2002

Endnotes

Authorised by the Chief Parliamentary Counsel

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Legislation Amendment Act 2018 had applied in respect of the previous general election.

(3) The amount is payable in relation to the 2022 election in 4 instalments as follows—
   (a) 40 per cent within 30 days after the Commission is given the statement under section 208 in relation to the previous general election;
   (b) 20 per cent on 30 April in each of the 2 calendar years preceding the calendar year in which the 2022 general election is held;
   (c) 20 per cent on 30 April in the calendar year in which the 2022 election is held.

(4) Section 212A(3) to (7) apply in relation to a payment referred to in subsection (2) of this section in the same way as they apply to a payment referred to in section 212A(2)."

55 Repeal of section 214—Indexation

Section 214 of the Electoral Act 2002 is repealed.

56 New Division 2A inserted in Part 12

After Division 2 of Part 12 of the Electoral Act 2002 insert—

"Division 2A—Policy development funding

215A Policy development funding

(1) The Commission must make payments of policy development funding to eligible registered political parties to reimburse costs relating to policy development in accordance with this section.
(2) An eligible registered political party is entitled to an annual payment of policy development funding equal to the greater of—

(a) the sum of $1.00 for each first preference vote given for a candidate who was endorsed by the registered political party at the previous general election; or

(b) $25 000.

(3) A registered political party is an eligible registered political party if—

(a) the registered political party has been a registered political party for the whole of the calendar year; and

(b) the registered officer of the registered political party did not receive a payment under section 212(3) in respect of any election during the calendar year or the previous general election; and

(c) the registered political party was not entitled to receive a payment of administrative expenditure funding under section 207G during the calendar year; and

(d) the Commission is satisfied that the registered political party operates as a genuine political party; and

(e) the registered officer of the registered political party has complied with subsection (4).
(4) For the purpose of having an entitlement under subsection (2), the registered officer of the registered political party must, within 20 weeks of the end of the calendar year, provide to the Commission a statement, in the form approved by the Commission, specifying that the registered political party has spent or incurred policy development expenditure in relation to the calendar year—

(a) not less than the amount of the entitlement under subsection (2); or

(b) less than the amount of the entitlement under subsection (2), being the amount specified in the statement.

(5) For the purposes of subsection (4), *policy development expenditure* means expenditure as determined from time to time by the Commission but does not include political expenditure or electoral expenditure.

(6) The registered officer of the registered political party must ensure that any payment received from the Commission under this section is not—

(a) paid into the State campaign account; or

(b) used for electoral expenditure.

**215B Audit of statement**

(1) A statement under section 215A(4) must be provided to the Commission with the certificate of a registered company auditor within the meaning of the Corporations Act.
(2) A certificate under subsection (1) must state that the auditor—

(a) was given full and free access at all reasonable times to all accounts, records, documents and papers relating directly or indirectly to any matter required to be specified in the statement; and

(b) examined the material referred to in paragraph (a) for the purpose of giving the certificate; and

(c) received all information and explanations that the auditor requested in respect of any matter required to be specified in the statement; and

(d) has no reason to believe that any matter stated in the statement is not correct.

(3) A statement is to be taken not to have been provided to the Commission unless the certificate required by this section is attached to the statement.

215C Powers of Commission

(1) If the Commission is satisfied on reasonable grounds that information provided in the statement or the certificate is materially incorrect, the Commission may by notice in writing request the auditor to provide further information as specified in the notice within 14 days of the date of the notice.

(2) If the auditor fails to provide the requested information, the Commission may by notice in writing request the registered officer of the registered political party to provide further information as specified in the notice within 14 days of the date of the notice.
(3) If the registered officer of the registered political party fails to provide the requested information, the Commission may—

   (a) withhold any payment under section 215A until the requested information is provided; or

   (b) if a payment has already been made under section 215A, take proceedings to recover the payment under section 215D(4).

215D Making of payments

(1) An amount is only payable if the statement required to be provided to the Commission has been provided to the Commission.

(2) The amount payable is—

   (a) if the statement specifies that not less than the entitlement has been spent or incurred, the whole of the entitlement; or

   (b) if the statement specifies that an amount that is less than the entitlement has been spent or incurred, an amount equal to the amount specified in the statement.

(3) If an amount is payable under section 215A, the Commission must make the payment to the registered officer of the registered political party within 30 days after the Commission has been provided the statement.

(4) If a payment is made and the recipient is not entitled to receive the whole or a part of the amount paid, that amount or that part of that amount may be recovered by the Commission as a debt due to the State.
by action against the person in a court of competent jurisdiction.".

57 Division 3 of Part 12 substituted

For Division 3 of Part 12 of the Electoral Act 2002 substitute—

"Division 3—Disclosure of political donations

216 Disclosure of political donations

(1) A donor must provide to the Commission a disclosure return for each political donation made by the donor during a financial year that is equal to or exceeds $1000 (the disclosure threshold) within 21 days of the making of the political donation.

(2) A donor must provide to the Commission a disclosure return for each political donation made by the donor during a financial year that is less than the disclosure threshold, if—

(a) the political donations are made to the same registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner; and

(b) the sum of the political donations made by the donor to that registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner is equal to or exceeds the disclosure threshold.

(3) A disclosure return required by subsection (2) for a political donation made by a donor during a financial year to a registered political party, candidate, group, elected
member, nominated entity, associated entity or third party campaigner must be provided as follows—

(a) within 21 days of the making of the first political donation during the financial year that has the result that the sum of the political donations made by the donor during that financial year to that registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner is equal to or exceeds the disclosure threshold;

(b) within 21 days of the making of each subsequent donation by the donor to that registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner during the financial year.

(4) If—

(a) a registered political party or a candidate at an election, a group, an elected member, a nominated entity an associated entity or a third party campaigner receives a political donation during a financial year; and

(b) the political donation is equal to or exceeds the disclosure threshold—
the registered officer of the registered political party, or the registered agent of the candidate, group, elected member, nominated entity, associated entity or third party campaigner, as the case requires, must provide to the Commission a disclosure
return for the political donation within 21 days of receiving the political donation.

(5) A disclosure return must be in the form approved by the Commission, and must include the following details—

(a) the name of the donor;

(b) if the donor is an individual person, the residential address of the donor;

(c) if the donor is not an individual person, the address of the registered office or other official office of the donor;

(d) the registered political party or the candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner that received the political donation;

(e) in the case of a disclosure return required by subsection (1) or (2), the date on which the political donation or donations to which the disclosure return relates were made;

(f) in the case of a disclosure return required by subsection (4), the date on which the political donation to which the disclosure return relates was received;

(g) the amount of the political donation or donations, as the case requires.

(6) A separate disclosure return must be provided in respect of each political donation for which a disclosure return is required, other than for a disclosure return referred to in subsection (3)(a), which must cover each donation during the financial year that results in the sum of the political donations during
that financial year equalling or exceeding the disclosure threshold.

(7) If a registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner receives a political donation for which a donor must provide a disclosure return, the registered officer of the registered political party or the registered agent of the candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner receiving the political donation must notify the donor of this obligation.

(8) For the purposes of this section, a small contribution made by a donor or received by a registered political party, a candidate at an election, a group, an elected member, a nominated entity, an associated entity or a third party campaigner is to be disregarded in determining whether the disclosure threshold has been equalled or exceeded in a financial year, unless the small contribution is made in contravention of section 218B.

(9) For the purposes of this section, any amount that is a political donation made or received for Commonwealth electoral purposes and is not paid into a State campaign account of a person or entity—

(a) is not to be included for the purposes of calculating the sum of political donations made by the donor for the purposes of subsection (2)(b); and

(b) does not require the provision of a disclosure return under subsection (2) or (4).
217 Commission to publish disclosure return

(1) Subject to subsection (2) and section 221A, the Commission must publish a disclosure return of a political donation under section 216 on its Internet site within 7 days of receiving the disclosure return.

(2) The Commission may decline to publish a disclosure return of a political donation on its Internet site if the Commission considers that the disclosure return contains any particulars that are false or misleading in a material particular."

58 Divisions 3B to 3D inserted in Part 12

After Division 3A of Part 12 of the Electoral Act 2002 insert—

"Division 3B—General cap on donations

217D General cap

(1) A political donation made to, or for the benefit of, any of the following—

(a) a registered political party;
(b) a candidate at an election;
(c) a group;
(d) an elected member;
(e) an associated entity;
(f) a third party campaigner;
(g) a nominated entity of a registered political party—

must not exceed the general cap for the election period.
(2) Except as provided in this section, it is unlawful for a registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner to accept a political donation if—

(a) the political donation; or

(b) the political donation when aggregated in accordance with section 217E—

would exceed the general cap.

(3) It is not unlawful for a registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner to accept a political donation if—

(a) the political donation exceeds the general cap because of the aggregation of political donations in accordance with section 217E; and

(b) the registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner did not know and could not reasonably have known of the other political donation included in the aggregation; and

(c) an amount equal to the amount by which the political donation exceeds the general cap was returned by the recipient of the political donation to the donor or otherwise forfeited to the State.

(4) It is not unlawful for a person or entity to accept a political donation that would otherwise be unlawful by virtue of subsection (2) if the political donation,
or that part of the political donation, that exceeds the general cap is made for Commonwealth electoral purposes and is not paid into the State campaign account of the person or entity.

(5) A contribution by a candidate at an election or an elected member to their own election campaign is not included in the general cap in respect of that candidate or member.

(6) A political donation to —

(a) a candidate who has been selected by a political party to be a candidate in an election; or

(b) an elected member who is an endorsed candidate of a registered political party; or

(c) a group that is endorsed by a registered political party; or

(d) a nominated entity of a registered political party —

must also be included as a donation to the registered political party for the purposes of the general cap.

(7) A political donation to a candidate at an election or an elected member who is a member of a group must also be included as a donation to the group for the purposes of the general cap.

(8) For the avoidance of doubt, a gift that is accepted by an associated entity or a third party campaigner for a purpose that does not involve political expenditure is not included in the general cap.
(9) Subject to subsection (10), for the purposes of this section, a small contribution made to, or for the benefit of, the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is to be disregarded in determining whether the general cap specified in subsection (1) has been exceeded in the election period.

(10) Subsection (9) does not apply if a small contribution is made to, or for the benefit of the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner in contravention of section 218B.

217E Aggregation

(1) These provisions apply for the purposes of determining the general cap under section 217D.

(2) A political donation made by a donor of an amount equal to or less than the general cap is to be treated as a political donation that exceeds the general cap if that political donation and other separate political donations made by that donor to the same registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner within the election period if aggregated exceed the general cap.

(3) For the purposes of this section, a political donation made by a donor to a person in the person's capacity as a candidate at an election or an elected member is aggregated for the purposes of determining the general cap.
(4) Subject to subsection (5), for the purposes of this section, a small contribution made by a donor is to be disregarded.  

(5) Subsection (4) does not apply if a small contribution to the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is made in contravention of section 218B.  

217F Limit on political donations to third-party campaigners  
It is unlawful for a donor to make political donations to more than 6 third-party campaigners during the election period.  

217G Forfeiture of political donations accepted in contravention of this Division  
(1) A political donation that is accepted in contravention of this Division is forfeited to the State.  

(2) An amount forfeited under subsection (1) may be recovered from the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner that accepted the political donation.  

Division 3C—Annual returns and other information  

217H Two or more amounts  
For the purposes of this Division, 2 or more amounts received or paid during the relevant financial year by, or on behalf of, the same registered political party, candidate at an election, group, elected member, nominated
entity, associated entity or third party campaigner are to be taken to be one amount.

2171 Annual return by registered political party

(1) The registered officer of a registered political party must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—

(a) is in the form determined by the Commission; and

(b) sets out the following—

(i) the total amount received by, or on behalf of, the registered political party;

(ii) if the sum of all amounts received from a person or entity during a financial year is more than the disclosure threshold under section 216(1), the annual return must include the following particulars of that sum—

(A) the full name and address of the person or entity from whom the amount was received;

(B) the sum of the amount received;

(C) whether the amount is a political donation or a receipt for another purpose;

(iii) the total amount paid by, or on behalf of, the registered political party during the financial year;
(iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the registered political party;

(v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under section 216(1), the annual return must include the following particulars of that sum—

(A) the full name and address of the person or entity to whom the amount of the debt is owed;

(B) the sum of the amount that is owed;

(C) whether the amount of the debt is to a financial institution or non-financial institution;

(vi) any other details prescribed by the regulations.

(2) For the purposes of calculating the sum of all amounts received from a person or entity during a financial year under subsection (1)(b)(ii) or the sum of all outstanding debts to a person or entity during a financial year under subsection (1)(b)(v), any amount that is a political donation made or received for Commonwealth electoral purposes and is not paid into a State campaign account of a person or entity is to be disregarded.
217J Annual return by associated entities

(1) The registered agent of an associated entity must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—

(a) is in the form determined by the Commission; and

(b) in relation to the State campaign account of the associated entity, sets out the following—

(i) the total amount received by, or on behalf of, the associated entity;

(ii) if the sum of all amounts received from a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—

(A) the full name and address of the person or entity from whom the amount was received;

(B) the sum of the amount received;

(C) whether the amount is a political donation or a receipt for another purpose;

(iii) the total amount paid by, or on behalf of, the associated entity during the financial year;

(iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the associated entity;
(v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—

(A) the full name and address of the person or entity to whom the amount of the debt is owed;
(B) the sum of the amount that is owed;
(C) whether the amount of the debt is to a financial institution or non-financial institution;

(vi) any other details prescribed by the regulations.

(2) For the purposes of calculating the sum of all amounts received from a person or entity during a financial year under subsection (1)(b)(ii) or the sum of all outstanding debts to a person or entity during a financial year under subsection (1)(b)(v), any amount that is a political donation made or received for Commonwealth electoral purposes and is not paid into a State campaign account of a person or entity is to be disregarded.

217K Annual return by third party campaigners

(1) The registered agent of a third party campaigner must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—
(a) is in the form determined by the Commission; and

(b) in relation to the State campaign account of the third party campaigner, sets out the following—

   (i) the total amount received by, or on behalf of, the third party campaigner;

   (ii) if the sum of all amounts received from a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—

   (A) the full name and address of the person or entity from whom the amount was received;

   (B) the sum of the amount received;

   (C) whether the amount is a political donation or a receipt for another purpose;

   (iii) the total amount paid by, or on behalf of, the third party campaigner during the financial year;

   (iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the third party campaigner;

   (v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under
section 216(1), the following particulars of that sum—

(A) the full name and address of the person or entity to whom the amount of the debt is owed;

(B) the sum of the amount that is owed;

(C) whether the amount of the debt is to a financial institution or non-financial institution;

(vi) any other details prescribed by the regulations.

(2) For the purposes of calculating the sum of all amounts received from a person or entity during a financial year under subsection (1)(b)(ii) or the sum of all outstanding debts to a person or entity during a financial year under subsection (1)(b)(v), any amount that is a political donation made or received for Commonwealth electoral purposes and is not paid into a State campaign account of a person or entity is to be disregarded.

217L Annual return by nominated entities

(1) The registered agent of a nominated entity must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—

(a) is in the form determined by the Commission; and

(b) in relation to the State campaign account of the nominated entity, sets out the following—
(i) the total amount received by, or on behalf of, the nominated entity;

(ii) if the sum of all amounts received from a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—

(A) the full name and address of the person or entity from whom the amount was received;

(B) the sum of the amount received;

(C) whether the amount is a political donation or a receipt for another purpose;

(iii) the total amount paid by, or on behalf of, the nominated entity during the financial year;

(iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the nominated entity;

(v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—

(A) the full name and address of the person or entity to whom the amount of the debt is owed;
(B) the sum of the amount that is owed;

(C) whether the amount of the debt is to a financial institution or non-financial institution;

(vi) any other details prescribed by the regulations.

(2) For the purposes of calculating the sum of all amounts received from a person or entity during a financial year under subsection (1)(b)(ii) or the sum of all outstanding debts to a person or entity during a financial year under subsection (1)(b)(v), any amount that is a political donation made or received for Commonwealth electoral purposes and is not paid into a State campaign account of a person or entity is to be disregarded.

217M Annual return by registered agent of a candidate, group or elected member

(1) The registered agent of a candidate, group or elected member must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—

(a) is in the form determined by the Commission; and

(b) sets out the following particulars of political donations received by the candidate, group or elected member during the financial year from a person or entity that when aggregated, are equal to or greater than the disclosure threshold under section 216(1)—
(i) the full name and address of the person or entity from whom the political donations were received;

(ii) the sum of the political donations received from that person or entity.

(2) The registered agent of a candidate, group or elected member is not required to provide an annual return under subsection (1) in respect of a financial year if the return would not include any particulars referred to in subsection (1)(b).

(3) For the purposes of calculating the sum of all amounts received from a person or entity during a financial year under subsection (1)(b)(ii), any amount that is a political donation made or received for Commonwealth electoral purposes and is not paid into a State campaign account of a person or entity is to be disregarded.

217N Annual returns not to include lists of membership

An annual return under this Division must not include lists of membership of registered political parties, associated entities or third party campaigners.

217NA Annual returns in respect of financial year commencing on 1 July 2018

The period in respect of which an annual return is to be provided in respect of the financial year commencing on 1 July 2018 is the period commencing 25 November 2018 and ending on 30 June 2019 and this Division is to be construed accordingly.
217O Information to be provided by associated entities and nominated entities

(1) The registered agent of an associated entity or a nominated entity must provide a copy of the following to the Commission as soon as practicable after they have been prepared—

(a) a loan, grant or donation statement under section 237 of the Fair Work (Registered Organisations) Act 2009 of the Commonwealth;

(b) a general purpose financial statement under section 253 of the Fair Work (Registered Organisations) Act 2009 of the Commonwealth;

(c) financial statements under section 102 of the Associations Incorporation Reform Act 2012;

(d) a financial report under section 319 or 320 of the Corporations Act;

(e) any financial report prescribed by the regulations.

(2) A person who fails to comply with subsection (1) is guilty of an offence.

Penalty: 200 penalty units.

217P Commission to publish annual returns

Subject to section 221A, the Commission must publish an annual return provided under this Division on its Internet site within 6 months of the end of the relevant financial year.
Division 3D—Indexation

217Q Indexation of certain amounts—consumer price index

(1) An amount in dollars specified in column 2 of an item in the Table to this subsection must be varied, in respect of the financial year beginning on 1 July 2019 and each subsequent financial year, in accordance with the formula—

\[ A \times \frac{B}{C} \]

where—

A is the amount specified in column 2 of that item or, if that amount has been varied in accordance with this section, that amount as last so varied;

B is the all groups consumer price index for Melbourne in original terms for the most recent reference period in the preceding calendar year most recently published by the Australian Bureau of Statistics as at 15 June immediately preceding the date on which the variation is made;

C is the all groups consumer price index for Melbourne in original terms for the corresponding reference period one year earlier than the reference period referred to in B published by the Australian Bureau of Statistics as at 15 June immediately preceding the date on which the variation is made.
### TABLE

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
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<tbody>
<tr>
<td>1</td>
<td>Section 206(1), definition of general cap</td>
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<tr>
<td>2</td>
<td>Section 206(1), definition of small contribution</td>
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</tr>
<tr>
<td>3</td>
<td>Section 206(1), definition of third-party campaigner</td>
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</tr>
<tr>
<td>4</td>
<td>Section 207GA(1)(a)</td>
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<td>5</td>
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<td>$1000</td>
</tr>
<tr>
<td>12</td>
<td>Section 217B</td>
<td>$1000</td>
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</table>

(2) Where it is necessary for the purposes of this section to calculate an amount, the amount is deemed to have been calculated in accordance with this section if the calculation is made—

(a) if the amount is less than $10, to the nearest whole cent; or

(b) if the amount is less than $1000, to the nearest whole $1; or

(c) if the amount is $1000 or more, to the nearest whole $10.
59 Amendment of section 218—Offences

(1) For the penalty at the foot of section 218(1) of the Electoral Act 2002 substitute—

"Penalty: 300 penalty units or 2 years imprisonment or both.".

(2) For the penalty at the foot of section 218(2) of the Electoral Act 2002 substitute—

"Penalty: 300 penalty units or 2 years imprisonment or both.".

(3) For the penalty at the foot of section 218(5) of the Electoral Act 2002 substitute—

"Penalty: 300 penalty units or 2 years imprisonment or both.".

(4) In section 218(5A) of the Electoral Act 2002, after "3A" insert "or 3B".

60 New sections 218A and 218B inserted

After section 218 of the Electoral Act 2002 insert—

"218A Offences in relation to disclosure returns and annual returns

(1) A person who fails to provide a disclosure return or an annual return as required under this Part is guilty of an offence.

Penalty: 200 penalty units.

(2) A person who provides a disclosure return or an annual return as required under this Part that contains particulars that are, to the knowledge of the person, false or misleading in a material particular is guilty of an offence.

Penalty: 300 penalty units or 2 years imprisonment or both."
(3) A person who gives to another person who is required to provide a disclosure return or an annual return as required by this Part any information that relates to the disclosure return or annual return and that is, to the knowledge of the first-mentioned person, false or misleading in a material particular is guilty of an offence.

Penalty: 300 penalty units or 2 years imprisonment or both.

(4) Subject to subsection (5), a person who makes or obtains a document or other thing that is or includes a record relating to a matter particulars of which are, or could be, required to be specified in a disclosure return or an annual return must retain that record for a period of at least 4 years after the disclosure return or annual return is provided to the Commission.

Penalty: 200 penalty units.

(5) Subsection (4) does not apply to a record that, in the normal course of business administration, would be transferred to another person.

(6) Despite anything to the contrary in this Act or any other Act, a prosecution in respect of an alleged offence against a provision of this section may be started at any time within 3 years after the alleged offence was committed.

**218B Offence to enter into or carry out scheme**

(1) A person must not enter into, or carry out, a scheme, whether alone or with any other person, with the intention of circumventing a prohibition or requirement under this Part.

Penalty: 10 years imprisonment.
(2) Without limiting subsection (1), a person commits an offence under that subsection if the person enters into, or carries out, a scheme under which—

(a) an entity that is not a nominated entity of a registered political party receives one or more gifts at a particular time; and

(b) after receiving the gift or gifts, the entity becomes the nominated entity of a registered political party; and

(c) the receiving of the gift or gifts by the entity would have constituted an offence against this Part if the entity had been the nominated entity of the registered political party at the time the gift or gifts were received; and

(d) the person entered into the scheme with the intention of circumventing a prohibition or requirement under this Part.

61 Amendment of section 220—Records to be kept

In section 220(1) of the Electoral Act 2002, for "3" substitute "4".

62 Amendment of section 221 to apply to donation returns and annual returns

(1) In the heading to section 221 of the Electoral Act 2002, after "statements" insert ", donation returns or annual returns".

(2) In section 221 of the Electoral Act 2002, after "statement" (wherever occurring) insert ", donation return or annual return".
(3) After section 221(6) of the **Electoral Act 2002** insert—

"(6A) If the Commission is satisfied that a political donation has been returned to a donor after a return has been provided to the Commission in relation to the political donation, the Commission may permit the person who lodged the return to amend the return.".

63 New section 221A inserted—Confidential information

After section 221 of the **Electoral Act 2002** insert—

"221A Confidential information

(1) For the purposes of this Part—

(a) the street address (which does not include the suburb and State) of a donor is confidential information; and

(b) the address (including the street, suburb and State) of a silent elector is confidential information.

(2) The regulations may prescribe other information of a type or kind provided to the Commission under this Part to be confidential information.

(3) The Commission must not, directly or indirectly, disclose any information which is prescribed to be confidential information unless the Commission is required to provide the confidential information by law or is otherwise permitted to provide the confidential information in accordance with this Act.".
64 Repeal of section 222—Provision of annual returns

Section 222 of the Electoral Act 2002 is repealed.

65 New section 222DA inserted—Electronic lodgement of disclosure returns and annual returns

After section 222D of the Electoral Act 2002 insert—

"222DA Electronic lodgement of disclosure returns and annual returns

(1) The Commission may determine procedures in relation to the lodging of disclosure returns and annual returns.

(2) Procedures under subsection (1) must be published by the Commission on its Internet site.

(3) A disclosure return or an annual return lodged in accordance with procedures determined under subsection (1) is to be taken to have been provided to the Commission in accordance with this Act."

66 New sections 222DB and 222DC inserted

After section 222DA of the Electoral Act 2002 insert—

"222DB Review to be conducted

(1) The Minister must cause an independent review of the operation of the amendments of this Act made by the Electoral Legislation Amendment Act 2018 (the 2018 amendments) to be conducted by an expert panel appointed under section 222DC.

(2) The review must be completed within 12 months after 25 November 2022."
(3) The review must examine and make recommendations in relation to the following—

(a) whether this Act should be further amended to provide for a cap on political expenditure and if so—

   (i) whether the cap should apply generally or to specific persons or entities;

   (ii) the value of the cap;

   (iii) the consequences of a failure to comply with the cap;

(b) the impact of the 2018 amendments upon third party campaigners, small community groups and not-for-profit entities;

(c) the operation of the disclosure scheme given effect to by the 2018 amendments including, but not limited to, the operation of disclosure returns;

(d) the effectiveness of the 2018 amendments so far as they relate to electronic assisted voting.

(4) The review may examine and make recommendations in relation to contemporary trends and issues in respect of the electoral funding including, but not limited to, the funding of political parties or candidates (however described).

(5) The Minister must cause a copy of a report of the review to be laid before each House of Parliament on or before 10 sitting days after the day on which the review is completed.
(6) If the review recommends that this Act be amended, the Minister must use the Minister's best endeavours to ensure that the Act is amended in accordance with the recommendations before the general election to be held in November 2026.

222DC Review to be conducted by expert panel

(1) The review of the 2018 amendments must be conducted by an expert panel comprised of 3 members appointed by the Minister.

(2) Before appointing the expert panel, the Minister must propose 3 members to the Electoral Matters Committee established under section 5 of the Parliamentary Committees Act 2003, each of whom must have experience in one or more of the following areas—

(a) community advocacy and engagement;

(b) legal and regulatory compliance;

(c) contemporary issues relating to electoral funding.

(3) A proposed member must not be any of the following—

(a) a current employee of a public service body, a public entity or a special body (within the meaning of the Public Administration Act 2004);

(b) a current employee or executive of a registered political party;

(c) the current Electoral Commissioner or an employee or other member of staff of the Commission;

(d) a current or former Member of the Parliament of Victoria.
(4) The Electoral Matters Committee may, within 30 days of receiving advice of 3 proposed members of the expert panel from the Minister, veto one or more of the proposed members.

(5) If the Electoral Matters Committee vetoes one or more of the proposed members, the Electoral Matters Committee must propose 2 alternative member for each vetoed proposed member, each of whom—

(a) must have experience in an area specified in paragraph (2)(a), (b) or (c); and

(b) must not be a person specified in subsection (3).

(6) If the Electoral Matters Committee proposes 2 alternative members for a vetoed proposed member, the Minister must appoint one of the alternative members instead of appointing the proposed vetoed member, unless the alternative member does not satisfy the requirements of subsection (5)(a) and (b), in which case the Minister must ask the Electoral Matters Committee to propose another member.

(7) In conducting the review, the expert panel may inform itself as it sees fit, having regard to appropriate privacy considerations relating to electronic assisted voting."
4 Explanatory details

No entries at date of publication.