

# NORTHERN TERRITORY OF AUSTRALIA

## ELECTORAL ACT 2004

As in force at 20 December 2018

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 20 December 2018

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## ELECTORAL ACT 2004

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

### **Part 1 Preliminary matters**

#### **1 Short title**

This Act may be cited as the *Electoral Act 2004*.

#### **2 Commencement**

The provisions of this Act come into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

### **Part 2 Interpretation**

#### **3 Definitions**

In this Act:

***affected person*** has the meaning in section 225.

***amount***, for Part 10, has the meaning in section 176.

***appealable decision*** has the meaning in section 225.

***appeal details*** has the meaning in section 227.

***appointed member*** has the meaning in section 336(1).

***approved form*** means a form approved under section 318.

***associated entity***, for Part 10, has the meaning in section 176.

***authorised officer*** means an officer authorised by the Commission for the provision in which the expression occurs.

**authorised witness** means:

- (a) in Australia or an external Territory – an officer or person enrolled on a roll kept under the Commonwealth Act; or
- (b) in another place – a person who is at least 18 years old.

**available for public inspection** has the meaning in section 6.

**ballot paper** includes a declaration ballot paper.

**broadcast**, for Part 10, has the meaning in section 176.

**broadcaster**, for Part 10, has the meaning in section 176.

**candidate square** has the meaning in section 40(2)(c).

**certified list of voters**, for an election, means a list of electors prepared and certified under section 44 for the election.

**closed**, for a roll, means closed in accordance with section 8.

**commencement date**, for Part 18, has the meaning in section 348.

**Commission** means the Northern Territory Electoral Commission established by section 307.

**Commissioner** means the person holding office as the Electoral Commissioner under an appointment under section 314.

**Commission's office** means the Commission's office in Darwin.

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

**campaign material**, see section 268A.

**corporation**, for Part 10, has the meaning in section 176.

**Court of Disputed Returns** means the Court of Disputed Returns established by section 232.

**credit card**, for Part 10, has the meaning in section 176.

**declaration ballot paper** for:

- (a) Part 6, Division 3, Subdivision 1 – has the meaning in section 54(1); or
- (b) Part 6, Division 3, Subdivision 2 – has the meaning in section 56(1) or (2); or

- (c) Part 6, Division 4 – has the meaning in section 62(1)(b); or
- (d) Part 6, Division 5 – has the meaning in section 71(2) or 73(2); or
- (e) other provisions – means a declaration ballot paper mentioned in paragraph (a), (b), (c) or (d).

**declaration envelope** means the envelope in which a declaration ballot paper is placed under section 55(2)(c), 57(2)(c), 72(2)(b) or 74(2)(c).

**declaration vote** means a vote cast under Part 6, Division 3, 4 or 5.

**declaration voting papers** means:

- (a) a declaration ballot paper issued under section 54(1), 56(1), 56(2), 71(2) or 73(2); and
- (b) a declaration envelope; and
- (c) for a declaration ballot paper issued under section 56(1), 56(2) or 73(2) – a declaration under section 56(1)(c), 56(2)(c) or 73(1)(e).

**defined details**, for Part 10, Division 3, has the meaning in section 189.

**defined particulars**, for Part 10, Division 5, has the meaning in section 204.

**disclosure period**, for Part 10, has the meaning in section 182.

**disposition of property**, for Part 10, has the meaning in section 176.

**distribute**, for Part 13, Division 1, Subdivision 2, has the meaning in section 268.

**division** means an electoral division for the election for an MLA.

**election** has the meaning in section 4(1).

**election period**, for an election, means the period:

- (a) starting on the date the writ for the election is issued; and
- (b) ending on the date the writ is returned.

**elector** means a person whose name is on a roll.

**electoral advertisement** means an advertisement containing electoral matter (including an advertisement on an electronic billboard, digital road sign or any other similar device), whether or not consideration was given for its publication.

**electoral expenditure**, for Part 10, Division 4, has the meaning in section 199.

**electoral matter** has the meaning in section 7.

**electoral paper** means a document provided for or required under this Act.

**eligible political party** means a political party that:

- (a) is registered under the Commonwealth Act; or
- (b) is established on the basis of a written constitution (however described) that states the party's aims and has at least 200 members who are:
  - (i) electors; and
  - (ii) members under the party's constitution; and
  - (iii) not members of a registered party or another political party applying for registration.

**enrolled**, for a person, means the person's name is on a roll.

**enrolled division**, for an elector, means the division for which the person is enrolled.

**entity**, for Part 10, has the meaning in section 176.

**executive officer**, of a body corporate, means a person who is concerned with, or takes part in, the management of the body corporate, (whether or not the person is a director or the person's position is given the name of executive officer), and includes a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth or a State or Territory.

**external Territory**, of Australia, has the meaning in the *Acts Interpretation Act 1901* (Cth).

**extract** means an extract from a roll prepared under section 12.

**extraordinary general election**, see section 23(4).

**fails**, for an election, has the meaning in section 135.

**false or misleading** includes false or misleading because of the omission of a statement.

**financial controller**, for Part 10, has the meaning in section 176.

**formal**, for a ballot paper, means the ballot paper is not informal, spoiled or been discarded.

**former division**, for Part 18, has the meaning in section 350.

**general election** has the meaning in section 4(3).

**gift**, for Part 10, has the meaning in section 176.

**how-to-vote card**, see section 51A(1).

**informal**, for a ballot paper, has the meaning in section 94.

**information notice** has the meaning in section 226.

**infringement notice** has the meaning in section 300.

**infringement offence** means an offence against:

- (a) section 279(1); or
- (b) another provision of this Act prescribed by the Regulations.

**investigation notice**, for Part 10, Division 6, has the meaning in section 214.

**journal** means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

**loan**, for Part 10, has the meaning in section 176.

**MLA** means a member of the Legislative Assembly.

**mobile polling period**, for an election, means the period starting on the day that is 9 days after the date of the issue of the writ for the election and ending at 6 pm on polling day for the election.

**mobile polling place** means a mobile polling place declared under section 78(1), and includes a substituted place under section 81.

**new division**, for Part 18, has the meaning in section 350.

**newspaper**, for Part 13, Division 1, Subdivision 2, has the meaning in section 268.

***nomination*** means a nomination as a candidate for an election made under Part 5, Division 3.

***nomination day*** means the date fixed by the writ for an election or general election as the date for the nomination of candidates.

***nomination deposit*** has the meaning in section 32(1)(g).

***nominee*** means a person nominated under Part 5, Division 3 as a candidate for an election.

***officer*** means an officer appointed under section 330.

***ordinary vote*** means a vote other than a declaration vote.

***participant***, for Part 10, Division 4, has the meaning in section 199.

***party candidate*** means:

- (a) a candidate at an election nominated by the registered officer of a registered party; or
- (b) in relation to a registered party – a candidate nominated by the registered officer of the party.

***party's name***, for a registered party, means the name under which the party is registered.

***political party*** means an organisation (whether incorporated or unincorporated) an object or activity of which is the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it.

***polling hours*** means:

- (a) for a polling place other than a pre-election voting centre or mobile polling place – from 8 am until 6 pm on polling day; or
- (b) for a pre-poll voting centre – the hours decided under section 69(1)(b) for voting at pre-election voting centres; or
- (c) for a mobile polling place – the hours specified in a declaration under section 78 for the mobile polling place, and includes the hours as changed under section 81(1).

***polling day*** means the date fixed by a writ as polling day for an election or general election, and includes a day to which polling is adjourned under section 91.

**polling place** means:

- (a) a polling place appointed under section 42(1)(b), and includes:
  - (i) the area adjacent to a polling place designated by a notice erected by the officer in charge of the polling place during the period the notice is displayed; and
  - (ii) the area designated by a notice erected by an authorised officer at a mobile polling place during the period the notice is displayed; or
- (b) a pre-election voting centre.

**Postal Ballot Box** means the ballot box mentioned in section 111(3).

**postal ballot paper** means a declaration ballot paper issued under section 62.

**postal vote** means a declaration vote for which postal voting papers are issued under section 62.

**postal vote certificate** means the certificate issued under section 62(1)(a).

**postal voting papers** means a postal vote certificate and postal ballot paper.

**pre-election voting centre** means a place decided under section 42(1)(a) for declaration voting under Part 6, Division 5.

**prescribed amount**, for an infringement offence, means the amount prescribed by the Regulations for the offence.

**property**, for Part 10, has the meaning in section 176.

**public notice** has the meaning in section 5.

**publish** includes publish or broadcast by radio, television, Internet, telephone or other means.

**reasonably believes** means believes on grounds that are reasonable in the circumstances.

**redistribution** means a redistribution of the Territory into divisions under Part 8.

**Redistribution Committee** means the Redistribution Committee established by section 331.

**redistribution declaration notice** has the meaning in section 147(1).

**redistribution process**, for Part 8, Division 3, see section 140A.

**redistribution report**, see section 148(1).

**region** means a region declared under section 69.

**registered industrial organisation**, for Part 10, has the meaning in section 176.

**registered officer**, of a registered party, means the person shown in the register of registered parties as the party's registered officer.

**registered party** means a political party registered under Part 9.

**registered postal voter** means a person whose name is included in the register of postal voters.

**register of postal voters** means register of postal voters kept under section 58.

**register of registered parties** means the register of registered parties kept under section 167.

**register of reporting agents** means the register of reporting agents kept under section 186.

**Regulations** means the Regulations made under this Act.

**related bodies corporate**, for Part 10, has the meaning in section 176.

**repealed Act**, for Part 18, has the meaning in section 348.

**reporting agent**, for Part 10, has the meaning in section 176.

**return**, for Part 10, Division 6, has the meaning in section 214.

**roll** means a roll of electors under this Act.

**scrutineer** means a person appointed under section 46 to represent a candidate.

**scrutiny centre** means a place decided under section 42(1)(c) for the conduct of scrutiny for an election under Part 7.

**Self-Government Act** means the *Northern Territory (Self-Government) Act 1978* (Cth).



**sitting day**, for the Legislative Assembly, means a day on which the Assembly actually sits.

**suppressed**, for a person's address, means the person's address is not included in a roll extract under section 12(3).

**this Act** includes the Regulations made under this Act.

**voter's question**, for Part 6, has the meaning in section 51.

**writ** means a writ for an election or general election issued under section 27.

#### **4 Election and general election**

- (1) An election is an election for an MLA.
- (2) An election may be held alone, at the same time as another election or as part of a general election.
- (3) A general election is an election for all MLAs.

#### **5 Public notice**

- (1) If a provision of this Act requires public notice to be given by the Commission or Commissioner about a matter, notice about the matter must be published in a newspaper circulating:
  - (a) generally throughout the Territory; or
  - (b) if the matter relates only to a particular division, in the division.
- (2) This section does not prevent the Commission or Commissioner from giving notice about the matter in another way (including for example, by radio or television broadcast).
- (3) However, if under a provision of this Act, a stated period after publication of a notice is required or allowed for a matter, the period starts on the date the notice is first published under subsection (1).

#### **6 Available for public inspection**

- (1) If a provision of this Act requires an entity to make a document or copy of a document available for public inspection, the entity must make the document or copy available for inspection by members of the public during ordinary business hours at the Commission's office.
- (2) The entity may also make the document or copy available for public inspection at the other places in the Territory the entity considers appropriate.

- (3) The right of inspection does not give any right to copy the document or a part of it unless otherwise expressly provided.

## **7            Electoral matter**

- (1) Electoral matter is matter, in printed or electronic form, that is intended or likely to affect voting at an election.
- (2) Without limiting subsection (1), matter is taken to be intended or likely to affect voting at an election if it contains an express or implicit reference to or comment on:
- (a) the election; or
  - (ab) a candidate for the election; or
  - (b) the performance of the Government or opposition or a previous Government or opposition; or
  - (c) the performance of an MLA or former MLA; or
  - (d) the performance of a political party in the election; or
  - (e) an issue submitted to, or otherwise before, the electors in relation to the election.

## **8            Closed roll**

The roll for a division is closed during the period:

- (a) starting at 8 pm on the day that is 2 days after the date of the issue of a writ for an election for the division; and
- (b) ending at the close of polling for the election.

## **Part 3            Constitution of Legislative Assembly**

### **9            Number of MLAs**

The Legislative Assembly consists of 25 members.

## **Part 4            Electoral rolls and enrolment**

### **Division 1        Electoral rolls**

#### **10          Commission to keep rolls**

The Commission must keep a roll for each division.

## **11 Contents of roll**

- (1) Each roll must contain the following information for each elector for the division:
  - (a) surname;
  - (b) each given name;
  - (c) residential address and postal address if not the same as the residential address;
  - (d) sex;
  - (e) occupation;
  - (f) date of birth;
  - (g) information prescribed by the Regulations.
- (2) A roll may contain the following information for each elector for the division:
  - (a) salutation;
  - (b) any former surname or given name;
  - (c) any previous address;
  - (d) information prescribed by the Regulations.

## **12 Roll extracts to be available for public inspection**

- (1) The Commission must make available for public inspection by any person, without fee, the most recent extract from each roll.
- (2) The roll extract must contain the following information for each elector enrolled at the time the extract is prepared:
  - (a) surname;
  - (b) each given name;
  - (c) residential address.
- (3) However, if, under section 104 of the Commonwealth Act, the person's address is not included on a roll for a Subdivision under that Act, the person's address must not be included in the roll extract.

- (4) For subsection (1), the Commission must prepare an extract of each roll at least once each month.
- (5) A right of inspection under subsection (1) does not include the right to copy or record an extract, or part of an extract, by electronic or any other means.

### **13 Supply of roll extract to MLA and registered party**

- (1) At least once each month, the Commission must, on request:
  - (a) give an extract from the roll for a division to the MLA for the division; and
  - (b) give an extract from the roll for all divisions to the registered officer of each registered party.
- (2) In addition to the information mentioned in section 12(2), the extract must contain the following information for each elector enrolled at the time the extract is prepared:
  - (a) postal address;
  - (b) sex;
  - (c) occupation;
  - (d) date of birth;
  - (e) salutation;
  - (f) information prescribed by the Regulations.
- (3) If practicable, the Commission must give the person the roll extract in electronic form.

### **14 Use of roll extracts**

- (1) A person must not use protected information for:
  - (a) a commercial purpose; or
  - (b) any other purpose other than an approved purpose.

Maximum penalty: If the offender is a natural person –  
400 penalty units or imprisonment for  
2 years.

If the offender is a body corporate –  
2 000 penalty units.

- (2) A person must not directly or indirectly disclose or communicate protected information to someone else for a purpose other than an approved purpose.

Maximum penalty: If the offender is a natural person –  
400 penalty units or imprisonment for  
2 years.

If the offender is a body corporate –  
2 000 penalty units.

- (3) In this section:

**approved purpose** means any of the following:

- (a) for an MLA – the exercise of the MLA's functions;
- (b) for the registered officer of a registered party – the exercise by an MLA who is a member of the party of the MLA's functions;
- (c) for an MLA or the registered officer of a registered party:
  - (i) a purpose connected with an election; or
  - (ii) monitoring the accuracy of information in the roll;
- (d) for anyone – a purpose prescribed by the Regulations.

**protected information**, in relation to a person, means information (other than information available for public inspection under section 12) the person knows, or reasonably believes, was obtained from a roll extract given to the person or someone else under section 13.

## **15 Providing roll information to certain entities for medical research and health screening programs**

- (1) The Commission may, under this section, give a copy of a roll or information contained on a roll (**electoral information**) to an entity for conducting medical research or providing a health screening program if satisfied:
- (a) giving the information is in the public interest; and
  - (b) the public interest in giving the information outweighs the public interest in protecting the privacy of personal information in the particular circumstances.
- (2) The Commission may include in the electoral information the age ranges of electors in a way decided by the Commission.

- (3) However, the electoral information must not include the address of a person whose address is suppressed.
- (4) The electoral information may be given to the entity in printed or electronic form.
- (5) The Commission must obtain from the entity an undertaking that the entity will:
  - (a) only use the electoral information for a stated purpose; and
  - (b) not copy the information or give it to anyone else; and
  - (c) return the information to the Commission or destroy it after using it for the stated purpose.
- (6) A person must not use electoral information obtained under subsection (1) other than in accordance with the undertaking.

Maximum penalty for an offence against subsection (6):

If the offender is a natural person –  
400 penalty units or imprisonment for  
2 years.

If the offender is a body corporate –  
2 000 penalty units.

## **16 Providing roll information to Sheriff**

- (1) For the *Juries Act 1962*, the Commission must, on request by the Sheriff, give the Sheriff a copy of all rolls.
- (2) The rolls may be given to the Sheriff in printed or electronic form.

## **16A Roll information not for sale**

The Commission must not sell all or part of a roll or extract, or any information contained in a roll or extract.

## **17 Maintenance of rolls**

- (1) The Commission must, as far as practicable, keep the rolls up to date.
- (2) The Commission may alter a roll at any time as follows:
  - (a) to register any change of name;
  - (b) to bring up to date any particulars appearing on the roll;

- (c) to correct any mistake or omission;
  - (d) to remove the name of a deceased elector;
  - (e) for a person who is enrolled on the Commonwealth roll – to reflect an alteration under section 105 of the Commonwealth Act.
- (3) However, the Commission must not alter a roll for a division to give effect to a claim for enrolment or transfer of enrolment received by the Commission while the rolls are closed for an election for the division.

## **18 Power to require information**

- (1) The Commission may, by written notice, require a person to give the Commission or a stated officer stated information required for the preparation, maintenance or revision of a roll within a stated reasonable time.
- (2) The person must comply with the notice unless the person has a reasonable excuse.

Maximum penalty: If the offender is a natural person –  
20 penalty units.

If the offender is a body corporate –  
100 penalty units.

- (3) Subsection (2) does not apply if compliance with the requirement would involve the disclosure of information in contravention of another law.

## **19 Disclosure of roll information**

- (1) This section applies to a person who is or has been:
- (a) the Commissioner; or
  - (b) an officer; or
  - (c) a member of the staff of the Commission.
- (2) The person must not directly or indirectly do any of the following:
- (a) make a record of, or communicate to another person, information acquired by the person because of the person's involvement in the administration of this Act;

- (b) give another person, or permit another person to have access to a copy of a roll, a roll extract, information contained on a roll or another document given to the person for the administration of this Act.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (3) Subsection (2) does not apply:
  - (a) to the extent it is necessary for the person to do the thing:
    - (i) for this Act; or
    - (ii) for the proper conduct of an election under the *Local Government Act 2008*; or
  - (b) if the person is authorised or required by law to do the thing.

## **20 Arrangement with Commonwealth for keeping rolls**

- (1) The Administrator may arrange with the Governor-General of the Commonwealth for, or for carrying out a procedure relating to, the preparation, alteration or revision of the rolls jointly by the Territory and the Commonwealth.
- (2) The arrangement may be made for the use of the rolls as electoral rolls for Commonwealth or Territory elections or for another purpose.
- (3) The arrangement must be consistent with this Act.
- (4) The rolls prepared under the arrangement may contain the following information for the purposes of Commonwealth elections:
  - (a) the names and descriptions of persons who are not entitled to be enrolled as electors for Territory elections if the rolls clearly indicate the persons are not enrolled as electors for Territory elections;
  - (b) distinguishing marks against the names of persons enrolled as electors showing the persons are or are not also enrolled as Commonwealth electors;
  - (c) any other particulars.
- (5) For this Act, the names, descriptions, marks and particulars mentioned in subsection (4) are taken not to be part of the rolls.



## **Division 2            Enrolment**

### **21            Entitlement**

- (1) A person is entitled to be enrolled for a division if:
  - (a) the person is qualified, under section 14 of the Self-Government Act, to vote at an election for MLAs; and
  - (b) under the Commonwealth Act, the person's residential address is in the division or the person is treated as having a real place of living in the division.
- (2) However, an MLA may be enrolled for the division the MLA represents or proposes to stand for election at the next general election even if the MLA's residential address under the Commonwealth Act is in another division.
- (3) An MLA enrolled under subsection (2) may vote as an elector of the division for which the MLA is enrolled.
- (4) A person is not entitled to be enrolled for more than one division.

*Note for section 21*

*It is compulsory for a person to be enrolled for an electoral division. Under an arrangement made between the Administrator and the Governor-General under section 20, the Territory uses Commonwealth electoral rolls. A failure to enrol or notify a change of address is an offence under the Commonwealth Act.*

### **22            Claim for, or transfer of, enrolment**

A claim for enrolment on, or transfer of enrolment from, a roll for a division must be in accordance with the arrangement made under section 20 between the Administrator and the Governor-General.

## **Part 5            Timing and arrangements for elections**

### **Division 1            Timing of elections**

#### **23            Determining date for holding general election other than extraordinary general election**

- (1) For determining the date for a general election if the previous general election was not an extraordinary general election, the general election is to be held on the 4th Saturday in August in the 4th year after the year in which the previous general election was held.

- (2) For determining the date for a general election if the previous general election was an extraordinary general election, the general election is to be held on the 4th Saturday in August in the 3rd year after the year in which that extraordinary general election was held.
- (3) Subsections (1) and (2) are subject to a writ being issued for an extraordinary general election before a writ for a general election is issued for a date determined under either subsection.
- (4) In this section:

***determining the date of a general election*** means determining the date of a general election under section 17 of the Self-Government Act.

***extraordinary general election*** means a general election for which the writ is issued under section 24 or 25.

***previous general election***, in relation to determining the date for a general election, means the immediately preceding general election, including a general election before the commencement of this definition.

## **24            Extraordinary general election – motion of no confidence**

- (1) The Administrator may issue a writ for a general election at any time if:
  - (a) a motion of no confidence in the Government is passed by the Legislative Assembly (being a motion of which not less than 3 clear days notice has been given in the Legislative Assembly); and
  - (b) during the period of no confidence, the Legislative Assembly has not passed a motion of confidence in the Government.
- (2) After the motion of no confidence is passed, the Legislative Assembly may not be prorogued before the end of the period of no confidence and may not be adjourned for a period extending beyond that period unless a motion of confidence has been passed.
- (3) In this section:

***period of no confidence***, for a motion of no confidence in the Government, means the period starting on the day the motion is passed and ending 8 clear days after it is passed.

**25            Extraordinary general election – non-passing of appropriation Bill**

- (1) The Administrator may issue a writ for a general election at any time if the Legislative Assembly:
  - (a) rejects an appropriation Bill; or
  - (b) fails to pass an appropriation Bill before the time the Administrator considers the appropriation is required.
- (2) In this section:

**appropriation Bill** means a Bill for an annual Appropriation Act for all Agencies.

**26            Criteria for deciding whether to issue writs**

In deciding whether a writ for a general election should be issued under section 24 or 25, the Administrator must consider whether a viable alternative Government can be formed without a general election and, in so doing, must have regard to any motion passed by the Legislative Assembly expressing confidence in an alternative Government in which a named person would be Chief Minister.

**26A          Determining alternative date if Commonwealth election**

- (1) This section applies in relation to a date (the **nominal date**) that, under section 23 is, or would be, determined as the date for a general election.
- (2) If the nominal date is or becomes the date for an election mentioned in section 394 of the *Commonwealth Electoral Act 1918* (Cth), section 23 does not prevent:
  - (a) an amendment of a previous determination of the nominal date to another date (an **alternative date**) for the general election; or
  - (b) the determination of another date (also an **alternative date**) for the general election.
- (3) Subject to section 17(2) of the Self Government Act, the alternative date must be a Saturday that is within 2 months before or after the nominal date.

## **Division 2            Writs for elections**

### **27            Form of writ**

- (1) A writ for an election or general election must be issued by the Administrator in the form in Schedule 1.
- (2) The writ authorises the Commission to conduct the election in accordance with this Act.

### **28            Limitation of dates**

For the election:

- (a) nomination day must be 4 days after the date of the issue of the writ; and
- (b) polling day must be 19 days after the date of the issue of the writ.

### **29            Endorsement of writ**

On receiving the writ, the Commission must:

- (a) endorse on it the date of its receipt; and
- (b) give public notice of its issue and details of dates relating to the election.

## **Division 3            Nominations**

### **30            Eligibility**

A person is eligible for election as an MLA only if the person is nominated as a candidate for the election in accordance with this Division.

### **31            Nomination of candidate**

- (1) A person may be nominated as a candidate for election for a division only by:
  - (a) if the person is nominated as the party candidate of a registered party for the division – the registered officer of that party; or
  - (b) otherwise – 6 electors entitled to vote at the election in the division.

- (2) Only one person may be nominated as the party candidate for a registered party for the division for the election.
- (3) Subsection (2) does not prevent a change of the nomination if:
  - (a) the registered officer of the registered party gives notice of the change to the Commission in the approved form before 12 noon on nomination day; and
  - (b) the change results from any of the following:
    - (i) the withdrawal of consent by the nominated party candidate for the division as mentioned in section 35(1);
    - (ii) the withdrawal of the nomination of a person as the party candidate for the division as mentioned in section 35(2);
    - (iii) the rejection of the nomination of a person as the party candidate for the division as mentioned in section 36(1);
    - (iv) the death of the nominated party candidate for the division.

### **32            Nomination form**

- (1) The nomination must:
  - (a) be in the approved form; and
  - (b) state the name, residential address and occupation of the nominee; and
  - (c) if the nomination is made by 6 electors entitled to vote at the election – state whether the word "Independent" is to be printed on the ballot paper; and
  - (d) contain a statement that the nominee consents to be nominated under this Division and to act as an MLA if elected; and
  - (e) contain a declaration signed by the nominee that the nominee is qualified in accordance with Part III, Division 2 of the Self-Government Act to be a candidate for election as an MLA; and
  - (f) be accompanied by a photograph of the nominee complying with the requirements prescribed by the Regulations; and
  - (g) be accompanied by a deposit of \$200 (the ***nomination deposit***) in cash or an ADI cheque; and

- (h) be signed by the nominee and the nominator or each nominator.
- (2) For subsection (1)(b), the name stated in the nomination must be:
  - (a) the surname and the given name, or one or more of the given names, under which the nominee is enrolled; or
  - (b) if the candidate is not enrolled, the surname and the given name, or one or more of the given names, under which the nominee is entitled to be enrolled.
- (3) However, a given name may be stated by an initial standing for the name or a commonly accepted variation of the name, including an abbreviation, truncation or alternative form.
- (4) If the address of a nominee is suppressed, the nomination need not state the address but the nominee must give written notice to the Commission of an address for correspondence.

### **33            Nomination in one division only**

- (1) This section applies if a person has consented and signed a nomination form to be nominated as a candidate for a division at a general election.
- (2) The person must not consent or sign a nomination form to be nominated as a candidate for another division unless the person has, under section 35, withdrawn his or her consent to the previous nomination.

### **34            Time for lodging nomination**

The nomination form must be lodged with the Commission after the close of the roll for the election and before 12 noon on nomination day.

### **35            Withdrawal of consent to nomination etc.**

- (1) A nominee may withdraw consent to the nomination by giving written notice in the approved form to the Commission before 12 noon on nomination day.
- (2) The registered officer of a registered party may withdraw a nomination made by the officer by giving written notice in the approved form to the Commission before 12 noon on nomination day.
- (3) On receipt of a notice under subsection (1) or (2), the Commission must return the nomination deposit to the person who lodged it.

### **36            Rejection of nomination**

- (1) The Commission may reject a nomination only if:
  - (a) the nomination is not substantially in accordance with section 32; or
  - (b) the nominee is not enrolled, or entitled to be enrolled, at the close of the roll for the election; or
  - (c) the name of the nominee is not that under which the nominee is enrolled or entitled to be enrolled; or
  - (d) the name of the nominee is obscene, frivolous or has been assumed for a political purpose.
- (2) The Commission must give a nominee whose nomination is rejected written notice of:
  - (a) the rejection and the reasons for it; and
  - (b) the nominee's right to dispute the validity of the election.

### **37            Declaration of candidates**

- (1) As soon as practicable after 12 noon on nomination day, the Commission must:
  - (a) publicly produce all nomination forms for the persons properly nominated other than a form for a person who has withdrawn consent to the person's nomination under section 35(1) or whose nomination has been withdrawn under section 35(2); and
  - (b) declare each of the persons to be a candidate.
- (2) The declaration must:
  - (a) be made at the Commission's office or other place decided by the Commission and notified in the *Gazette*; and
  - (b) state each candidate's name and, if endorsed by a registered party, the name of the party.
- (3) The Commission must not disclose the names of persons nominated as candidates before making the declaration.
- (4) As soon as practicable after the declaration, the Commission must display a notice at the Commission's office stating the name and address, as stated in the nomination form, of each candidate.

- (5) The Commission may also display notices at the other places in the Territory the Commission considers appropriate.

**38            Need for poll**

- (1) If one candidate only is declared under section 37 for a division, the Commission must declare the candidate elected for the division.
- (2) Otherwise, a poll must be held under this Act.

**39            Nomination deposit to be returned or forfeited**

- (1) If a candidate is elected or polls more than 20% of the total number of first preference votes cast for the candidate returned as elected, the Commission must return the nomination deposit for the candidate to:
- (a) the person who lodged the deposit; or
  - (b) if that person, by written notice given to the Commission, authorised another person to receive the deposit – the other person.
- (2) If subsection (1) does not apply to a candidate for an election, the deposit is forfeited to the Territory.
- (3) If an election fails, the Commission must return the nomination deposit for a candidate to:
- (a) the person who lodged the deposit; or
  - (b) if that person, by written notice given to the Commission, authorised another person to receive the deposit – the other person.

**Division 4            Ballot papers**

**40            Requirements for ballot papers**

- (1) A ballot paper to be used in an election must be in the form prescribed by the Regulations.
- (2) A ballot paper must have:
- (a) the names of the candidates for the division for which the ballot paper is to be used and in the order determined under section 41; and
  - (b) a photograph of each candidate adjacent to the candidate's name on the ballot paper; and



- (c) a square (a ***candidate square***) printed adjacent to the candidate's photograph; and
- (d) under the name of the candidate:
  - (i) for a party candidate – the name of the registered party endorsing the candidate; or
  - (ii) for another candidate – the word "Independent" if the nomination form so indicated.
- (3) However, a declaration ballot paper need not comply with subsection (2)(b).
- (4) The Commission may authorise a person or body to print the ballot papers to be used in an election.

#### **41            Determination of order of candidates names**

- (1) As soon as practicable after the candidates have been declared for an election for a division, the Commission must determine the order of the names of candidates on ballot papers for the division.
- (2) The determination must be made by lot in public at the Commission's office or other place decided by the Commission.

### **Division 5            Miscellaneous provisions**

#### **42            Pre-polling voting centres, polling places and scrutiny centres**

- (1) The Commission may, in writing:
  - (a) appoint a stated place to be a pre-polling voting centre for an election; and
  - (b) appoint a stated place to be a polling place for an election for a division; and
  - (c) appoint a stated place to be a scrutiny centre for scrutiny at an election.
- (2) The Commission must give public notice stating particulars of each pre-polling voting centre and polling place for the election.

**43 Limit on appointment of licensed premises as polling place**

A part of licensed premises within the meaning of the *Liquor Act 1978* may be appointed as a polling place only if the Commission is satisfied that, during polling hours on polling day:

- (a) liquor will not be available for sale or consumption on the part of the premises; and
- (b) the part of the premises will be segregated from the part of the premises where liquor will be available for sale or consumption; and
- (c) access to the part of the premises will not involve passing through a part of the premises where liquor will be available for sale or consumption.

**44 Certified lists of voters**

- (1) For the conduct of an election for a division, the Commission must prepare and certify lists of electors on the roll for the division.
- (2) For the conduct of a general election, the Commission must prepare and certify:
  - (a) lists of electors on the roll for each division; and
  - (b) lists of electors on the rolls for all divisions.

**45 Administrative arrangements**

The Commission must make appropriate administrative arrangements for the conduct of an election and, in particular, must ensure each polling place is properly equipped with:

- (a) separate voting compartments constructed to screen voters from observation while marking ballot papers; and
- (b) ballot boxes capable of being securely sealed; and
- (c) certified lists of voters, ballot papers and other documents and stationery.

**46 Scrutineers – appointment**

- (1) A candidate for election may appoint a scrutineer to represent the candidate during the polling or scrutiny for the election or both.
- (2) The appointment must be made by giving notice in the approved form to the officer in charge of a polling place or scrutiny centre.

**47            Scrutineers – presence at polling place and scrutiny centre**

- (1) A scrutineer representing a candidate during the polling for an election is entitled to be present at a polling place, and to enter or leave a polling place, when voters are allowed to vote at the place.
- (2) However, only one scrutineer representing a particular candidate may enter or remain at a particular polling place at any time while voters are allowed to vote at the place.
- (3) A scrutineer representing a candidate during the scrutiny for an election is entitled to be present at a scrutiny centre, and to enter or leave a scrutiny centre, during the conduct of the scrutiny at the centre.
- (4) However, only one scrutineer representing a particular candidate may enter or remain at a particular scrutiny centre at any time while the scrutiny is conducted at the centre unless there is more than one counting table for the division at the scrutiny centre in which case the candidate is entitled to be represented by a scrutineer at each table.
- (5) A scrutineer who contravenes this section is no longer entitled to be at the polling place or scrutiny centre.

**Part 6            Voting**

**Division 1        Entitlement to vote and other preliminary matters**

**48            Entitlement to vote**

- (1) An elector for a division is entitled to vote at an election for the division.
- (2) The inclusion of the name of a person on a certified list of voters for an election is conclusive evidence of the person's right to vote at the election.
- (3) The omission of the name of a person from a certified list of voters because of official error does not disqualify the person from voting.
- (4) In a certified list of voters, an omission of a given name or an error in a name does not disqualify an elector from voting.
- (5) An elector whose surname has changed is not disqualified from voting under a former name entered for the person on a certified list of voters.

**49            Procedure for voting**

- (1) A person may cast a vote at an election in accordance with Divisions 2 to 6A.
- (2) Except as otherwise provided in this Act, a person may cast a vote on polling day at any polling place in the Territory, whether or not the polling place is in the division for which the person is enrolled.
- (3) Only an ordinary vote or a declaration vote (other than a postal vote or a vote cast before polling day) may be cast at a mobile polling place.

**50            Method of voting**

- (1) A person's vote on a ballot paper must be marked in accordance with subsection (2).
- (2) The person may:
  - (a) place the number "1" in the candidate square for a candidate to indicate the person's first preference for the candidate; and
  - (b) either:
    - (i) place consecutively increasing whole numbers (starting with a "2") in the candidate square for 1 or more (but not necessarily all) of the other candidates to indicate the order of the person's preferences for those candidates; or
    - (ii) leave the candidate square for all other candidates blank.

**51            Voter's question**

For this Part, the voter's question to be put to a person who claims to vote at an election is as follows:

***Is this the first time you have voted at this election?***

**51A          How-to-vote cards**

- (1) A ***how-to-vote card*** is a printed document that recommends the way in which an elector should mark the ballot paper.
- (2) Without limiting subsection (1), the card may include the following information:
  - (a) the candidate's name;

- (b) for a candidate endorsed by a registered party – the party's name;
  - (c) the candidate's order of preferences for some or all of the other candidates for the candidate's division for the election;
  - (d) the individual who authorises the publication of the card and his or her address.
- (3) A regulation may make provisions relating to how-to-vote cards.

## **Division 2            Ordinary voting at polling place**

### **52            Issue of ballot paper**

- (1) If a person attends before an authorised officer for a division at a polling place during polling hours and claims to vote at an election, the officer must issue a ballot paper to the person for the division if:
- (a) the person states the person's full name and, unless the person's address is suppressed, the person's address; and
  - (b) the officer is satisfied the officer's certified list of voters for the division:
    - (i) states the person's name; and
    - (ii) states an address for the person or indicates the person's address is suppressed; and
    - (iii) has not been marked to indicate a ballot paper has already been issued to the person; and
  - (c) the person answers the voter's question in the affirmative.
- (2) The officer must, immediately before issuing the ballot paper to the person:
- (a) record the issue on the certified list of voters; and
  - (b) initial the back of the ballot paper.

### **53            Voting in private**

- (1) On receipt of the ballot paper, the person must, without delay:
- (a) go to an unoccupied voting compartment at the polling place; and
  - (b) there, in private, mark his or her vote on the ballot paper; and

- (c) fold the ballot paper to conceal the vote; and
  - (d) show the ballot paper to an officer and, without unfolding it, place it in a ballot box at the polling place; and
  - (e) leave the polling place.
- (2) This section has effect subject to section 87.

### **Division 3 Declaration voting on polling day at polling places**

#### **Subdivision 1 Declaration voting by certain persons absent from division**

##### **54 Issue of declaration ballot paper**

- (1) If a person attends before an authorised officer for a division at a polling place during polling hours and claims to vote at an election for another division, the officer must issue a ballot paper (a ***declaration ballot paper***) to the person for the person's enrolled division if:
- (a) the person states the person's full name and, unless the person's address is suppressed, the person's address; and
  - (b) the officer is satisfied the officer's certified list of voters for all divisions has not been marked to indicate a declaration ballot paper has already been issued to the person; and
  - (c) the person answers the voter's question in the affirmative.
- (2) However, if the officer's certified list of voters has been marked to indicate a declaration ballot paper has already been issued to the person but the person claims not to have voted already at the election, Subdivision 2 applies to the issue of a declaration ballot paper to the person.
- (3) The officer must, immediately before issuing the ballot paper to the person:
- (a) record the issue on the certified list of voters; and
  - (b) initial the back of the ballot paper.

##### **55 Casting declaration vote**

- (1) Subject to section 87, this section prescribes the requirements for casting a declaration vote under this Subdivision.

- (2) After the issue of the declaration ballot paper to the person:
- (a) the person must go to an unoccupied voting compartment at the polling place and there, in private:
    - (i) mark his or her vote on the ballot paper; and
    - (ii) fold the ballot paper to conceal the vote; and
  - (b) the person must return the folded ballot paper to the officer; and
  - (c) the officer must, in the presence of the person, without unfolding the ballot paper, place it in an envelope bearing the name of the person's enrolled division and the name of the polling place, seal the envelope and place it in a ballot box at the polling place; and
  - (d) the person must then leave the polling place.
- (3) The person must act under subsection (2) without delay.

## **Subdivision 2 Declaration voting by other persons**

### **56 Issue of declaration ballot paper**

- (1) If a person attends before an authorised officer for a division at a polling place during polling hours and claims to vote at an election, the officer must issue a ballot paper (a **declaration ballot paper**) to the person for the division if:
- (a) the person states the person's full name and, unless the person's address is suppressed, the person's address; and
  - (b) the officer is satisfied the officer's certified list of voters for the division:
    - (i) does not state the person's name and address; or
    - (ii) has been marked to indicate a ballot paper has already been issued to the person but the person declares the person has not already voted at the election; and
  - (c) the person completes and signs a declaration in the approved form in the presence of the officer; and
  - (d) the officer signs the declaration as witness.
- (2) In addition, if a person mentioned in section 54(2) attends before an authorised officer for a division at a polling place during polling

hours and claims to vote at an election, the officer must issue a ballot paper (also a **declaration ballot paper**) to the person for the person's enrolled division if:

- (a) the person states the person's full name and, unless the person's address is suppressed, the person's address; and
  - (b) the officer is satisfied the officer's certified list of voters for the person's enrolled division used by the officer has been marked to indicate a ballot paper has already been issued to the person but the person declares the person has not already voted at the election; and
  - (c) the person completes and signs a declaration in the approved form in the presence of the officer; and
  - (d) the officer signs the declaration as witness.
- (3) The officer must:
- (a) immediately before issuing the ballot paper to the person, initial the back of the ballot paper; and
  - (b) immediately after issuing the ballot paper to the person, make a record of its issue.
- (4) The declaration by a person to whom subsection (1)(b)(i) applies must state the following:
- (a) the person has complied with Part VIII of the Commonwealth Act before the close of the roll;
  - (b) to the best of the person's knowledge no objection has been upheld in relation to the inclusion of the person's name on the roll;
  - (c) the person is not qualified for enrolment in a division other than the division for which the person claims to vote;
  - (d) the person has not already voted at the election.
- (5) The declaration by a person to whom subsection (1)(b)(ii) or (2) applies must state the person has not already voted at the election.

## **57 Casting declaration vote**

- (1) Subject to section 87, this section prescribes the requirements for casting a declaration vote under this Subdivision.



- (2) After the issue of a declaration ballot paper to the person:
- (a) the person must go to an unoccupied voting compartment at the polling place and there, in private:
    - (i) mark his or her vote on the ballot paper; and
    - (ii) fold the ballot paper to conceal the vote; and
  - (b) the person must return the folded ballot paper to the officer; and
  - (c) the officer must, in the presence of the person, without unfolding the ballot paper, place it in the envelope on which the declaration mentioned in section 56(1)(c) or (2)(c) appears, seal the envelope and place it in a ballot box at the polling place; and
  - (d) the person must then leave the polling place.
- (3) The person must act under subsection (2) without delay.

## **Division 4            Postal voting**

### **Subdivision 1    Registered postal voters**

#### **58            Register of postal voters**

- (1) For this Subdivision, the Commission must keep a register of postal voters for each division.
- (2) The register must contain the name of each person who is registered as a general postal voter under the Commonwealth Act.
- (3) The register may also contain the other particulars the Commission considers appropriate.

#### **59            Registered postal voters taken to have applied for postal voting papers**

If an election at which a registered postal voter is entitled to vote is to be held at any time during the period the person is registered, the Commission is taken to have received from the voter a properly completed application for postal voting papers for the election.

## **Subdivision 2 Applications for, and issue of, postal voting papers**

### **60 Who may apply for postal voting papers**

A person may apply for postal voting papers for an election if the person is entitled to vote at the election.

### **61 Application for postal voting papers**

Subject to section 62(3)(aa), an application for postal voting papers for an election may be made to the Commission in the approved form at any time, whether or not a writ has been issued under Part 5 for an election at the time of the application.

### **62 Issue of postal voting papers**

- (1) On receipt of the properly completed application, an authorised officer must issue and send to the applicant:
  - (a) a postal vote certificate printed on an envelope addressed to the Commission; and
  - (b) a ballot paper (a **declaration ballot paper**).
- (2) However, an authorised officer must not send postal voting papers to the applicant before the determination under section 41 for the election.
- (2A) The authorised officer must send postal voting papers:
  - (a) if a properly completed application was received before the determination – as soon as practicable after the determination; or
  - (b) Subject to subsections (3) and (4), if a properly completed application is received after the determination – as soon as practicable after receiving the application.
- (3) An authorised officer must not send postal voting papers to the applicant if:
  - (aa) the application is received before the beginning of the calendar year in which polling day occurs; or
  - (a) the application is received after 6 pm on the day that is 4 days before polling day and the address to which the ballot papers are to be sent is outside Australia; or

- (b) the application is received after 6 pm on the day that is 2 days before polling day and the address to which the ballot papers are to be sent is in Australia.
- (4) However, an authorised officer may send postal voting papers to the applicant whose application is received later than the time mentioned in subsection (3)(a) or (b) if the officer considers doing so is appropriate, having regard to:
- (a) the special circumstances of the applicant; and
  - (b) the need to allow sufficient time for the papers to be completed by the applicant by 6 pm on polling day; and
  - (c) any other matters the officer considers relevant.

### **63 Authorised officer to record applications**

An authorised officer must:

- (a) number in consecutive order all applications for postal voting papers received by the officer for each division; and
- (b) endorse each application with the date of issue of the postal voting papers; and
- (c) number each postal vote certificate issued by the officer with the number corresponding to the number on the application for the postal voting papers; and
- (d) initial the back of the declaration ballot paper issued by the officer; and
- (e) record the issue of the postal voting papers to the person on the officer's certified list of voters.

### **64 Applications to be available for public inspection**

- (1) As soon as practicable after the day that is 2 days before polling day, each authorised officer must send to the Commission all applications for postal voting papers received by the officer.
- (2) The Commission must keep the applications and make them available for public inspection for 14 days from and including the third day after polling day.

### **Subdivision 3 Casting postal vote**

#### **65 Procedure for postal voting**

An elector may cast a postal vote only in accordance with this Subdivision.

#### **66 When postal vote may be cast**

The elector may cast a postal vote at any time before 6 pm on polling day.

#### **67 Casting postal vote**

- (1) The elector must show the elector's unmarked postal voting papers to an authorised witness.
- (2) The elector must, in the presence of the witness, sign his or her name on the postal vote certificate.
- (3) The witness must:
  - (a) sign his or her name on the postal vote certificate; and
  - (b) insert the date and time.
- (4) The elector must, in the presence of the witness but so that the witness cannot see the vote:
  - (a) mark his or her vote on the declaration ballot paper; and
  - (b) fold the ballot paper and place it in the envelope bearing the postal vote certificate and seal the envelope.
- (5) However, if the elector is so physically incapacitated that the elector is unable to mark the ballot paper without assistance or is illiterate, the witness must:
  - (a) mark the elector's ballot paper in accordance with the elector's instructions; and
  - (b) fold the ballot paper and place it in the envelope bearing the postal vote certificate and seal the envelope.
- (6) Section 87 applies, with the necessary changes, in relation to the elector as if a reference in the section to an officer were a reference to the authorised witness.

- (7) As soon as practicable after subsection (4) or (5) is complied with, the elector must send the envelope to the Commission.

*Note for section 67*

*Under section 85A the Commissioner may approve the use of a specified electronic or other automated system for the issuing and returning of postal voting papers. Such an approval could provide an alternative means of satisfying specified requirements under this section such as placing a ballot paper in an envelope and sending it to the Commission. See section 85A(4).*

## **Division 5            Declaration voting before polling day**

### **Subdivision 1    Preliminary**

#### **68            Application of Division**

This Division provides for the casting of declaration votes before the polling day for an election.

#### **69            Arrangements for voting**

- (1) For this Division, the Commission must:
- (a) declare regions comprising one or more divisions; and
  - (b) decide the period during which, and the days and hours when, voting before polling day may take place at pre-election voting centres.
- (2) The Commission may assign a name to a region.
- (3) The period decided under subsection (1)(b) must not start until after the determination under section 41 for the election.

#### **70            Public notice of arrangements**

- (1) The Commission must give public notice of the arrangements for voting under this Division.
- (2) The notice must state the period during which, and the days and hours when, voting before polling day may take place at pre-election voting centres.

## **Subdivision 2 Declaration voting by electors**

### **71 Issue of declaration ballot paper**

- (1) This section applies if a person attends before an authorised officer at a pre-election voting centre during the hours of polling on a day decided under section 69(1)(b) and declares the person is an elector who is entitled to vote at the election.
- (2) The officer must issue a ballot paper (a ***declaration ballot paper***) to the person for the person's enrolled division if:
  - (a) the person states the person's full name and, unless the person's address is suppressed, the person's address; and
  - (b) the officer is satisfied the officer's certified list of voters:
    - (i) states the person's name; and
    - (ii) states an address for the person or indicates the person's address is suppressed; and
    - (iii) has not been marked to indicate a ballot paper has already been issued to the person; and
  - (c) the person answers the voter's question in the affirmative.
- (3) The officer must, immediately before issuing the ballot paper to the person:
  - (a) record the issue on the certified list of voters; and
  - (b) initial the back of the ballot paper.

### **72 Casting declaration vote**

- (1) Subject to section 87, this section prescribes the requirements for the casting of a declaration vote by an elector issued a declaration ballot paper under section 71.
- (2) After the issue of the declaration ballot paper to the person, the person must, without delay:
  - (a) go to an unoccupied voting compartment at the pre-election voting centre and there, in private:
    - (i) mark his or her vote on the ballot paper; and
    - (ii) fold the ballot paper to conceal the vote; and

- (b) place the ballot paper in a ballot box at the centre or, if the centre is not in the region in which the person's enrolled division is situated, place it in an envelope bearing the name of the division and the centre, seal the envelope and place it in a ballot box at the centre; and
- (c) leave the centre.

### **Subdivision 3 Declaration voting by unenrolled persons**

#### **73 Issue of declaration ballot paper**

- (1) This section applies if:
  - (a) a person attends before an authorised officer at a pre-election voting centre during the hours of polling on a day decided under section 69(1)(b); and
  - (b) the person states the person's full name and address; and
  - (c) the officer is satisfied the officer's certified list of voters does not state the person's name and address; and
  - (d) the person answers the voter's question in the affirmative; and
  - (e) the person completes and signs a declaration in the approved form in the presence of the officer; and
  - (f) the officer signs the declaration as witness.
- (2) The officer must issue a ballot paper (a ***declaration ballot paper***) to the person.
- (3) The officer must:
  - (a) immediately before issuing the ballot paper to the person, initial the back of the ballot paper; and
  - (b) immediately after issuing the ballot paper to the person, make a record of its issue.
- (4) The declaration by the person must state the following:
  - (a) the person has complied with Part VIII of the Commonwealth Act before the close of the roll;
  - (b) to the best of the person's knowledge no objection has been upheld in relation to the inclusion of the person's name on the roll;

- (c) the person is not qualified for enrolment in a division other than the division for which the person claims to vote;
- (d) the person has not already voted at the election.

#### **74 Casting declaration vote**

- (1) Subject to section 87, this section prescribes the requirements for the casting of a declaration vote by a person issued a declaration ballot paper under section 73.
- (2) After the issue of a declaration ballot paper to the person:
  - (a) the person must go to an unoccupied voting compartment at the polling place and there, in private:
    - (i) mark his or her vote on the ballot paper; and
    - (ii) fold the ballot paper to conceal the vote; and
  - (b) the person must return the folded ballot paper to the officer; and
  - (c) the officer must, in the presence of the person, without unfolding the ballot paper, place it in the envelope on which the declaration mentioned in section 73(1)(e) appears, seal the envelope and place it in a ballot box at the polling place; and
  - (d) the person must then leave the polling place.
- (3) The person must act under subsection (2) without delay.

#### **Subdivision 4 Dealing with ballot boxes**

##### **75 Ballot boxes at pre-election voting centres in Territory**

- (1) This section applies to declaration ballot papers issued under Subdivisions 2 and 3 at a pre-election voting centre in the Territory.
- (2) As soon as practicable after 6 pm on the day before polling day, an authorised officer must:
  - (a) seal the ballot boxes containing the declaration ballot papers; and
  - (b) send the sealed boxes to the Commission or, if directed by the Commission, the officer in charge of a scrutiny centre for scrutiny under Part 7.



**76            Ballot boxes at pre-election voting centres outside Territory**

- (1) This section applies to declaration ballot papers issued under Subdivisions 2 and 3 at a pre-election voting centre outside the Territory.
- (2) As soon as practicable after 6 pm on the day before polling day, an authorised officer must:
  - (a) open the ballot boxes; and
  - (b) remove the envelopes containing the declaration ballot papers; and
  - (c) without opening the envelopes, sort them into ballot papers issued under Subdivisions 2 and 3; and
  - (d) place them in separate parcels; and
  - (e) seal the parcels; and
  - (f) send them to the Commission.

**Division 6            Mobile polling**

**77            Application of Division**

This Division provides for the casting of ordinary votes and declaration votes under Division 2 or 3 in the Territory by electors during the mobile polling period for the election.

**78            Mobile polling places**

- (1) The Commissioner may, in writing, declare a specified polling place in a division to be a mobile polling place where votes may be taken by an authorised officer during the mobile polling period.
- (2) The declaration may specify:
  - (a) classes of electors who may vote at the mobile polling place; and
  - (b) dates and hours during which votes may be cast at the place during the mobile polling period.

- (3) In making the declaration, the Commissioner must have regard to the following:
  - (a) whether or not:
    - (i) there is a distinct community of electors who may be served by the mobile polling place; or
    - (ii) there are special circumstances applying to electors who may be served by the mobile polling place (for example, because of their special needs or other requirements);
  - (b) the practicality for those electors to attend another polling place for the election;
  - (c) the practicality of establishing the mobile polling place for those electors, having regard to their number and resources required for doing so.
- (4) If the declaration specifies a class of electors, only a person in that class may vote at the mobile polling place.
- (5) The Commissioner must:
  - (a) give public notice of the declaration; and
  - (b) as far as practicable, notify the community or electors to be served by the mobile polling place in a way that is reasonable in the circumstances.

## **81            Change of mobile polling place, dates or hours for voting**

- (1) The Commissioner may substitute another polling place (a ***substituted place***) for the mobile polling place or change the dates or hours specified for the polling place if satisfied there are special circumstances requiring the substitution or change.
- (2) The Commissioner must give notice to the public of the substitution or change that is reasonable and practicable in the circumstances.

## **82            Obligations of authorised officer**

When visiting a mobile polling place, an authorised officer must:

- (a) take a ballot box, ballot papers, certified lists of voters and anything else necessary to enable a person to vote; and
- (b) be accompanied by at least one other officer.

**83            Application of Act for voting at mobile polling place**

While an authorised officer is with a person in a room or other place for taking the person's vote, as far as practicable this Act has effect as if the authorised officer were the officer in charge of the polling place.

**84            Failure to visit mobile polling place**

The result of an election is not invalidated merely because an authorised officer did not visit:

- (a) a mobile polling place; or
- (b) a mobile polling place on the dates or during the hours:
  - (i) specified in a declaration under section 78; or
  - (ii) as substituted or changed under section 81.

**85            Dealing with ballot boxes**

- (1) After an authorised officer has finished all visits to mobile polling places for which the officer is authorised, the officer must, in the presence of any scrutineers, close and seal the ballot boxes containing ballot papers.
- (2) The authorised officer must send the ballot boxes containing the ballot papers to the Commission or, if directed by the Commission, the officer in charge of a scrutiny centre for scrutiny under Part 7.

**Division 6A      Approved electronic and other automated systems for voting**

**85A          Commissioner's power to approve electronic or other automated system**

- (1) The Commissioner may, in writing, approve the use of a specified electronic or other automated system (the **approved system**) for specified purposes relating to one or more of the following for specified elections:
  - (a) issuing and returning of ballot papers (including, for example, the confirmation and recording of the issuing of ballot papers);
  - (ab) issuing and returning of postal voting papers;
  - (b) counting and processing of votes;
  - (c) voting by a specified group of electors;

- (d) assisting electors who have a physical or other disability, illness, advanced pregnancy or another condition.
- (2) The Commissioner must not give the approval unless the Commissioner is satisfied:
- (a) as far as practicable, the secrecy of the ballot will be maintained by the approved system; and
  - (b) the approval is warranted having regard to the practicality of the approved system and resources required to establish and maintain it; and
  - (c) the approval is consistent with the Commissioner's functions under this Act; and
  - (d) the approved system would be supported by secure facilities; and
  - (e) if subsection (1)(c) applies – there are exceptional circumstances relating to the specified group of electors.
- (3) The Commissioner must give public notice about the approved system.
- (4) If the approval specifies that a thing covered by subsection (1)(a) to (d) may be done in accordance with the approved system instead of a specified requirement under this Act, a thing done in accordance with the approval has effect as if that requirement had been met.

## **Division 7            Miscellaneous provisions**

### **86            Arrangements at polling places**

- (1) At each polling place (other than a mobile polling place), polling must be conducted as follows:
- (a) before any vote is taken the officer in charge must show each ballot box empty and then securely seal it closed;
  - (b) the poll must open at 8 am and not close until all electors present in the polling place at 6 pm and desiring to vote have voted;
  - (c) the polling place must be closed at 6 pm and no person is to be admitted after that time for voting.
- (2) However, the officer in charge of a pre-election voting centre need only comply with subsection (1)(a).

- (3) Subsections (4) and (5) apply to the conduct of polling at mobile polling places.
- (4) At the first mobile polling place visited by an authorised officer, the officer must:
  - (a) before any vote is taken, show the ballot box empty and then securely seal it closed; and
  - (b) at the close of polling at that place, seal the cleft of the ballot box.
- (5) At mobile polling places later visited by the officer:
  - (a) the officer must:
    - (i) before any vote is taken, open the cleft of the ballot box; and
    - (ii) at the close of polling at that place, seal the cleft of the ballot box; and
  - (b) if it is necessary to use another ballot box – subsection (4) and paragraph (a) apply to the ballot box.

**87            Assistance to certain voters**

- (1) A voter who is unable to vote may be assisted in voting if the voter would otherwise be unable to vote.
- (2) An assistant must be:
  - (a) if the voter is a postal voter – an authorised witness; or
  - (b) if paragraph (a) does not apply – a nominee of the voter or, if there is no nominee, an officer.
- (3) An assistant may enter a voting compartment to assist a voter to vote, but an officer must not do so except in the presence of:
  - (a) a scrutineer; or
  - (b) if no scrutineer is present – another officer.
- (4) Subject to subsection (3), an assistant may assist a voter in any of the following ways:
  - (a) by acting as an interpreter;
  - (b) for a declaration vote – by completing, or assisting the voter to complete, the declaration;

- (c) by explaining the ballot paper and the requirements of this Act relating to its marking;
- (d) by marking, or assisting the voter to mark, the ballot paper at the voter's direction;
- (e) by folding the ballot paper and placing it in a ballot box or declaration envelope, or giving it to an officer, as required by this Act.

**88            Assistance to voters unable to enter polling place**

- (1) This section applies if the officer in charge of a polling place is satisfied a voter cannot enter the polling place because of a physical or other disability, illness, advanced pregnancy or another condition.
- (2) The voter may vote outside the polling place, but close to the polling place, and may be assisted in voting.
- (3) Before allowing the voter to vote outside the polling place, the officer in charge must:
  - (a) tell any scrutineers at the polling place that the voter is to vote outside the polling place; and
  - (b) allow, from the scrutineers present, one scrutineer for each candidate to be present when the voter votes.
- (4) The voter must:
  - (a) mark his or her vote on the ballot paper in the presence of the officer in charge; and
  - (b) fold the ballot paper to conceal the names of the candidates; and
  - (c) give the ballot paper to the officer in charge.
- (5) The voter must be allowed to mark his or her vote on the ballot paper in private.
- (6) If the voter is casting an ordinary vote, the officer in charge must ensure the folded ballot paper is placed in the ballot box at the polling place in the presence of any scrutineers who were present when the voter voted.

- (7) If the voter is casting a declaration vote, the officer in charge must:
  - (a) in the presence of the voter, without unfolding the ballot paper, place the ballot paper in the declaration envelope and seal the envelope; and
  - (b) place the envelope in a ballot box at the polling place.
- (8) This section is subject to section 87.

**89            Spoilt or discarded ballot paper**

- (1) Subsection (2) applies if an authorised officer at a polling place:
  - (a) is satisfied a ballot paper given to the officer by a person has been spoilt by mistake or accident; or
  - (b) finds a ballot paper discarded at the polling place.
- (2) The officer must:
  - (a) cancel the ballot paper by writing "spoilt" or "discarded" on it; and
  - (b) place the ballot paper in an envelope, seal the envelope and endorse the envelope with a statement of its contents; and
  - (c) for a spoilt ballot paper – issue to the person an unused ballot paper.
- (3) As soon as practicable after the close of polling, the officer must place all envelopes mentioned in subsection (2)(b) with unused ballot papers.

**90            Dealing with ballot boxes and electoral papers**

- (1) At the close of polling, the officer in charge of a polling place must, in the presence of any scrutineers:
  - (a) close and seal the ballot boxes containing ballot papers for ordinary voting or declaration voting; and
  - (b) parcel and seal all unused ballot papers and the envelopes mentioned in section 89(3); and
  - (c) parcel and seal all other electoral papers used at the polling place.
- (2) The officer must send the things mentioned in subsection (1) to the Commission or, if directed by the Commission, to the officer in charge of a scrutiny centre for scrutiny under Part 7.

- (3) However, subsections (1)(a) and (2) do not apply to ballot boxes if the polling place is a scrutiny centre and scrutiny of the poll is proceeded with immediately after the close of polling at the polling place.

## **91            Adjournment of polling**

- (1) The officer in charge of a polling place may adjourn polling at the place on polling day if because of riot, violence, fire, storm, flood or another similar event it is not practicable to proceed with polling.
- (2) If, under subsection (1), the officer in charge of a polling place adjourns polling at the place, the officer must immediately notify the Commission.
- (3) The Commission must decide a day (that is as soon as practicable, but no later than 21 days, after the adjournment) as the day when polling is to resume if the Commission reasonably believes it is not reasonably practicable for an elector affected by the adjournment to cast a vote at another polling place.
- (4) If it is impracticable to resume the polling at the same polling place, the Commission must decide the polling place where polling may be resumed.
- (5) The Commission must, as soon as practicable, give the public notice that is reasonable in the circumstances of the adjournment and any decision under subsection (3) or (4).
- (6) On the resumption of polling, only an elector who was entitled to vote on the day when the poll for the election for the division was required to be held and who has not already voted is entitled to vote.

## **92            Employee wishing to vote**

- (1) On notice by an employee before a polling day, the employee's employer must allow the employee, without penalty or any disproportionate deduction of pay, to take any necessary leave (not exceeding 2 hours) for the purpose of voting.
- (2) However, subsection (1) does not apply if the employee's absence may cause danger or substantial loss.
- (3) An employee must not notify an employer under subsection (1) unless the employee genuinely intends to vote during the leave to be granted for the purpose of voting.

Maximum penalty:        5 penalty units.



## **Part 7            The Scrutiny**

### **Division 1        Preliminary**

#### **93                How scrutiny carried out**

- (1) The result of polling at an election must be determined by scrutiny in accordance with this Part.
- (2) Proceedings at the scrutiny must be open to the inspection of scrutineers and other persons approved by the officer in charge of a scrutiny centre.
- (3) The officer in charge of a scrutiny centre may from time to time adjourn the scrutiny at the centre.

### **Division 2        Formality of ballot papers and related matters**

#### **94                Informal ballot paper**

- (1) A ballot paper is informal unless it is:
  - (a) printed by a person or body authorised under section 40(4) or created for this Act by an officer and initialled by an officer; and
  - (b) marked in accordance with section 50.
- (1A) A ballot paper is also informal if an authorised officer is satisfied that the voter can be identified because of a mark or other writing on it.
- (2) For section 50(2), if a voter places a tick or a cross in the candidate square for 1 candidate only and deals with the candidate square for any other candidate as set out in section 50(2)(b), the tick or cross is to be treated as if it were the number "1".
- (3) If the voter has placed the same number in 2 or more candidate squares, the candidate squares in which that number and any higher numbers are marked are to be disregarded.
- (3A) If there is a break in a sequence of whole numbers that the voter has placed in 2 or more candidate squares, any preference after the break is to be disregarded.

- (4) A ballot paper is not informal merely because:
- (a) the name of the division appearing on the ballot paper is wrong or has been omitted from the ballot paper if the names of all candidates for the division are on the ballot paper; or
  - (b) the surname only of a candidate is written on the ballot paper if no other candidate has the same surname; or
  - (c) a mistake is made in the spelling of a candidate's name if an authorised officer is satisfied there is no doubt about the identity of the candidate; or
  - (d) the name of a registered party is omitted from the ballot paper or is wrong or a mistake is made in the spelling of the name.

**95            Certain declaration ballot papers not counted**

Despite another provision of this Part, a declaration ballot paper must not be counted and must be treated as a discarded ballot paper if it is received by the Commission other than in:

- (a) for a postal vote – the envelope bearing the postal vote certificate; or
- (b) for a declaration vote cast under section 57, 72 or 74 – the envelope in which the ballot paper is placed under that section.

**96            Certain postal ballot papers not counted**

- (1) Despite another provision of this Part, a postal ballot paper must not be counted unless:
- (a) the vote marked on the ballot paper is marked before 6 pm on polling day; and
  - (b) the ballot paper is either:
    - (i) delivered to an authorised officer before the close of polling on polling day; or
    - (ii) if not delivered to an authorised officer before the close of polling on polling day, received by the Commission before 12 noon on the second Friday following polling day.

- (2) In the absence of evidence to the contrary, the time and date appearing in the postal vote certificate on an envelope containing an elector's postal ballot paper is taken to be the time and date on which the elector's vote was marked on the ballot paper.

**97            Dealing with certain declaration votes for absent voters**

- (1) This section applies if the officer in charge of a scrutiny centre finds an unenclosed absent ballot paper in a ballot box at a polling place.
- (2) The officer must not reject the ballot paper from scrutiny merely because it is unenclosed.
- (3) The officer must:
- (a) place the ballot paper in an envelope bearing the name of the division and the name of the polling place; and
  - (b) send it to the Commission or the authorised officer directed by the Commission.
- (4) In this section:

***absent ballot paper*** means a declaration ballot paper issued under Part 6, Division 3, Subdivision 1.

***unenclosed***, for an absent ballot paper, means the ballot paper is not contained in an envelope bearing the name of the division stated on the ballot paper.

**Division 3            Ordinary votes**

**98            Initial dealing with ballot papers**

- (1) As soon as practicable after the close of the poll for an election, the officer in charge of a scrutiny centre must:
- (a) open the ballot boxes under the officer's control; and
  - (b) set aside all informal ballot papers, count them and place them in a parcel; and
  - (c) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (d) count the first preference votes given for each candidate on formal ballot papers; and

- (e) make and sign a statement stating the number of:
    - (i) votes cast as first preference votes for each candidate; and
    - (ii) informal votes; and
  - (f) place all formal ballot papers mentioned in paragraph (c) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (g) seal the parcels mentioned in paragraphs (b) and (f) and endorse on each parcel a statement of its contents; and
  - (h) send all the parcels and the statement to the Commission or the authorised officer directed by the Commission.
- (2) A candidate's scrutineer may sign any of the following:
- (a) the statement mentioned in subsection (1)(e);
  - (b) a sealed parcel mentioned in subsection (1)(g).

**99 Check count of ordinary votes**

- (1) This section applies to the parcels of ballot papers sent to the Commission or an authorised officer under section 98(1)(h).
- (2) An authorised officer must:
- (a) open the parcels and remove all the ballot papers; and
  - (b) set aside all informal ballot papers, count them and place them in a parcel; and
  - (c) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (d) count the first preference votes given for each candidate on formal ballot papers; and
  - (e) place all formal ballot papers mentioned in paragraph (c) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (b) and (e) and endorse on each parcel a statement of its contents; and
  - (g) make any necessary amendments to the statement mentioned in section 98(1)(e).

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- (3) A candidate's scrutineer may sign any of the following:
- (a) a sealed parcel mentioned in subsection (2)(f);
  - (b) the amended statement mentioned in subsection (2)(g).

## **Division 4 Declaration votes cast on polling day and by unenrolled voters at pre-election voting centres**

### **Subdivision 1 Preliminary**

#### **100 Application of Division**

This Division applies to declaration voting papers issued under:

- (a) Part 6, Division 3; or
- (b) Part 6, Division 5, Subdivision 3.

#### **101 Initial dealing with certain declaration voting papers**

- (1) This section applies to declaration voting papers issued under Part 6, Division 3.
- (2) As soon as practicable after the close of the poll for the election, the officer in charge of a scrutiny centre must:
  - (a) sort the declaration voting papers from the ballot boxes at the centre into each division; and
  - (b) place the declaration voting papers in a parcel, seal the parcel and endorse on it a statement of its contents; and
  - (c) send the parcel to the Commission or the authorised officer directed by the Commission.
- (3) A candidate's scrutineer may sign the sealed parcel.

### **Subdivision 2 Declaration votes cast by certain persons absent from division**

#### **102 Application of Subdivision**

This Subdivision applies to declaration voting papers:

- (a) issued under Part 6, Division 3, Subdivision 1; and
- (b) sent to the Commission or an authorised officer under section 97(3)(b) or 101(1)(c).

**103            Examination of declaration ballot papers**

- (1) For each division, an authorised officer must:
  - (a) open the parcels and remove the unopened envelopes containing declaration ballot papers; and
  - (b) take the ballot paper out of the envelope; and
  - (c) place the envelope in a parcel with all other envelopes from which ballot papers have been taken under paragraph (b).
- (2) The officer must seal the parcel mentioned in subsection (1)(c) and endorse on it a statement of its contents.
- (3) A candidate's scrutineer may sign the sealed parcel.

**Subdivision 3    Declaration votes cast by unenrolled voters**

**104            Application of Subdivision**

This Subdivision applies to declaration voting papers:

- (a) issued under:
  - (i) Part 6, Division 3, Subdivision 2 to persons to whom section 56(1)(b)(i) applies; or
  - (ii) Part 6, Division 5, Subdivision 3; and
- (b) sent to the Commission or an authorised officer under section 76(2)(f), 101(1)(c) or 116(e).

**105            Examination of declaration ballot papers**

- (1) For each division, an authorised officer must:
  - (a) open the parcels and remove the unopened envelopes containing declaration ballot papers; and
  - (b) examine each envelope.
- (2) Subsection (3) applies if the officer is satisfied:
  - (a) the declaration on the envelope is properly signed and witnessed; and
  - (b) the person who made the declaration is entitled to vote.

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- (2A) For subsection (2)(b), the officer may have regard to a roll or extract as in force at an earlier time and any other matters the officer considers appropriate.
- (3) The officer must:
- (a) if the person's name is on the officer's certified list of voters for the division – place a mark against the person's name on the list; and
  - (b) take the ballot paper out of the envelope; and
  - (c) place the envelope in a parcel with all other envelopes from which ballot papers have been taken under paragraph (b).
- (4) If the officer is not satisfied of the matters mentioned in subsection (2), the officer must:
- (a) exclude the ballot paper from further scrutiny without opening the envelope in which it is contained; and
  - (b) place the unopened envelopes in a parcel.
- (5) The officer must seal the parcels mentioned in subsections (3)(c) and (4)(b) and endorse on each parcel a statement of its contents.
- (6) A candidate's scrutineer may sign a sealed parcel.

#### **Subdivision 4 Declaration votes cast by voters marked on roll as already voted**

##### **106 Application of Subdivision**

This Subdivision applies to declaration voting papers:

- (a) issued under Part 6, Division 3, Subdivision 2 to persons to whom section 56(1)(b)(ii) or (2) applies; and
- (b) sent to the Commission or an authorised officer under section 101(1)(c).

##### **107 Examination of declaration ballot papers**

- (1) For each division, an authorised officer must:
- (a) open the parcels and remove the unopened envelopes containing declaration ballot papers; and
  - (b) examine each envelope.

- (2) Subsection (3) applies if the officer:
  - (a) is satisfied the declaration on the envelope is properly signed and witnessed; and
  - (b) accepts the declaration.
- (3) The officer must:
  - (a) take the ballot paper out of the envelope; and
  - (b) place the envelope in a parcel with all other envelopes from which ballot papers have been taken under paragraph (a).
- (4) If the officer is not satisfied of the matters mentioned in subsection (2), the officer must:
  - (a) exclude the ballot paper from further scrutiny without opening the envelope in which it is contained; and
  - (b) place the unopened envelopes in a parcel.
- (5) The officer must seal the parcels mentioned in subsections (3)(b) and (4)(b) and endorse on each parcel a statement of its contents.
- (6) A candidate's scrutineer may sign a sealed parcel.

## **Subdivision 5    Counting declaration votes**

### **108            Initial count of declaration votes**

- (1) This section applies to the declaration ballot papers mentioned in sections 103(1)(b), 105(3)(b) and 107(3)(a).
- (2) An authorised officer must:
  - (a) set aside all informal ballot papers, count them and place them in a parcel; and
  - (b) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (c) count the first preference votes given for each candidate on formal ballot papers; and
  - (d) place all formal ballot papers mentioned in paragraph (b) in separate parcels according to the candidate for whom the first preference vote was cast; and



- (e) seal the parcels mentioned in paragraphs (a) and (d) and endorse on each parcel a statement of its contents; and
  - (f) make and sign a statement stating the number of:
    - (i) votes cast as first preference votes for each candidate; and
    - (ii) informal votes.
- (3) A candidate's scrutineer may sign any of the following:
- (a) a sealed parcel mentioned in subsection (2)(e);
  - (b) the statement mentioned in subsection (2)(f).

### **109        Check count of declaration votes**

- (1) This section applies to the parcels of declaration ballot papers mentioned section 108(2)(e).
- (2) An authorised officer must:
- (a) open the parcels and remove all the ballot papers; and
  - (b) set aside all informal ballot papers, count them and place them in a parcel; and
  - (c) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (d) count the first preference votes given for each candidate on formal ballot papers; and
  - (e) place all formal ballot papers mentioned in paragraph (c) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (b) and (e) and endorse on each parcel a statement of its contents; and
  - (g) make any necessary amendments to the statement mentioned in section 108(2)(f).
- (3) A candidate's scrutineer may sign any of the following:
- (a) a sealed parcel mentioned in subsection (2)(f);
  - (b) the amended statement mentioned in subsection (2)(g).

## **Division 5            Postal votes**

### **Subdivision 1        Dealing with postal voting papers before the end of polling day**

#### **110            Receipt of postal voting papers**

On receipt of postal voting papers for a division, the Commission must:

- (a) note on the envelope bearing the elector's postal vote certificate and containing the declaration ballot paper for the division, the day and time of receipt; and
- (b) give the ballot papers to an authorised officer for the division.

#### **111            Checking postal voting papers**

- (1) An authorised officer for the division must compare the signature of the elector on the elector's postal vote certificate with the signature of the elector on the elector's application:
  - (a) under the Commonwealth Act for registration as a general postal voter; or
  - (b) under section 60 for postal voting papers.
- (2) Subsection (3) applies if the officer is satisfied:
  - (a) the elector's signature on the elector's postal vote certificate is that of the elector who signed the application; and
  - (b) the signature purports to be witnessed by an authorised witness; and
  - (c) the vote marked on the declaration ballot paper contained in the envelope purports to have been cast before 6 pm on polling day.
- (3) The officer must place the envelope unopened in a locked or sealed ballot box marked "Postal Ballot Box".
- (4) If the officer is not satisfied of the matters mentioned in subsection (2), the officer must mark the unopened envelope with the word "rejected" before placing it in the Postal Ballot Box.

## **Subdivision 2    Scrutiny of postal voting papers**

### **112            Initial dealing with postal voting papers after close of poll**

- (1) At the times the officer in charge of a scrutiny centre considers practicable after the close of the poll for an election, the officer must:
  - (a) open the Postal Ballot Box and remove the unopened envelopes containing declaration ballot papers received not later than 12 noon on the second Friday following polling day; and
  - (b) allow candidates' scrutineers to inspect each envelope bearing an elector's postal vote certificate marked "rejected" and then:
    - (i) exclude the declaration ballot papers contained in those envelopes from further scrutiny; and
    - (ii) place the envelopes, unopened, in a parcel; and
  - (c) take the declaration ballot paper from the envelope admitted to scrutiny without inspecting or unfolding it or allowing any other person to do so; and
  - (d) place the envelope in a parcel with all other envelopes from which ballot papers have been taken under paragraph (c); and
  - (e) seal the parcels mentioned in paragraphs (b)(ii) and (d) and endorse on each parcel a statement of its contents.
- (2) A candidate's scrutineer may sign a sealed parcel.

### **113            Initial count of postal votes**

- (1) This section applies to the declaration ballot papers mentioned in section 112(1)(c).
- (2) An authorised officer must:
  - (a) set aside all informal ballot papers, count them and place them in a parcel; and
  - (b) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (c) count the first preference votes given for each candidate on formal ballot papers; and

- (d) make and sign a statement stating the number of:
    - (i) votes cast as first preference votes for each candidate; and
    - (ii) informal votes; and
  - (e) place all formal ballot papers mentioned in paragraph (b) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (a) and (e) and endorse on each parcel a statement of its contents.
- (3) A candidate's scrutineer may sign any of the following:
- (a) the statement mentioned in subsection (2)(d);
  - (b) a sealed parcel mentioned in subsection (2)(f).

#### **114        Check count of postal votes**

- (1) This section applies to the parcels of declaration ballot papers mentioned section 113(2)(f).
- (2) An authorised officer must:
  - (a) open the parcels and remove all the ballot papers; and
  - (b) set aside all informal ballot papers, count them and place them in a parcel; and
  - (c) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (d) count the first preference votes given for each candidate on formal ballot papers; and
  - (e) place all formal ballot papers mentioned in paragraph (c) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (a) and (e) and endorse on each parcel a statement of its contents; and
  - (g) make any necessary amendments to the statement mentioned in section 113(2)(d).

- (3) A candidate's scrutineer may sign any of the following:
- (a) a sealed parcel mentioned in subsection (2)(f);
  - (b) the amended statement mentioned in subsection (2)(g).

## **Division 6            Declaration votes cast at pre-election voting centres before polling day**

### **Subdivision 1    Preliminary**

#### **115            Application of Division**

This Division applies to declaration voting papers issued under Part 6, Division 5.

#### **116            Initial dealing with ballot boxes**

- (1) As soon as practicable after the close of the poll for the election, an authorised officer must:
- (a) open the ballot boxes sent to the Commission or officer in charge of a scrutiny centre under section 75(2)(b) and remove the contents; and
  - (b) sort the contents into:
    - (i) declaration ballot papers completed by electors for each division in the region in which the pre-election voting centre is situated; and
    - (ii) envelopes containing declaration ballot papers by electors for each division in other regions; and
    - (iii) envelopes containing declaration ballot papers completed by unenrolled persons; and
  - (c) place the envelopes mentioned in paragraphs (b)(ii) and (iii) in separate parcels; and
  - (d) seal the parcels and endorse on them a statement of their contents; and
  - (e) if the scrutiny centre is not at the Commission's office – send the sealed parcels to the Commission.
- (2) A candidate's scrutineer may sign a sealed parcel.

## **Subdivision 2    Declaration votes cast for enrolled divisions at pre-election voting centres**

### **117            Application of Subdivision**

This Subdivision applies to the declaration ballot papers mentioned in section 116(1)(b)(i).

### **118            Initial count of declaration votes**

- (1) An authorised officer for the division must:
  - (a) set aside all informal ballot papers, count them and place them in a parcel; and
  - (b) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (c) count the first preference votes given for each candidate on formal ballot papers; and
  - (d) make and sign a statement stating the number of:
    - (i) votes cast as first preference votes for each candidate; and
    - (ii) informal votes; and
  - (e) place all formal ballot papers mentioned in paragraph (b) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (a) and (e) and endorse on each parcel a statement of its contents; and
  - (g) send all the parcels and statements to the Commission or the authorised officer directed by the Commission.
- (2) A candidate's scrutineer may sign any of the following:
  - (a) the statement mentioned in subsection (1)(d);
  - (b) a sealed parcel mentioned in subsection (1)(f).

### **Subdivision 3    Declaration votes cast for divisions in other regions at pre-election voting centres**

#### **119            Application of Subdivision**

This Subdivision applies to:

- (a) the parcels of envelopes containing declaration ballot papers issued under Part 6, Division 5, Subdivision 2 and sent to the Commission or an authorised officer under section 76(2)(f); and
- (b) the parcels of envelopes mentioned in section 116(1)(b)(ii).

#### **120            Examination of declaration ballot papers**

- (1) For each division, an authorised officer must:
  - (a) open the parcels and remove the unopened envelopes containing declaration ballot papers; and
  - (b) take the ballot paper out of the envelope; and
  - (c) place the envelope in a parcel with all other envelopes from which ballot papers have been taken under paragraph (b).
- (2) The officer must seal the parcel mentioned in subsection (1)(c) and endorse on it a statement of its contents.
- (3) A candidate's scrutineer may sign the sealed parcel.

#### **121            Initial count of declaration votes**

- (1) This section applies to the declaration ballot papers mentioned in section 120(1)(b).
- (2) An authorised officer must:
  - (a) set aside all informal ballot papers, count them and place them in a parcel; and
  - (b) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (c) count the first preference votes given for each candidate on formal ballot papers; and

- (d) make and sign a statement stating the number of:
    - (i) votes cast as first preference votes for each candidate; and
    - (ii) informal votes; and
  - (e) place all formal ballot papers mentioned in paragraph (b) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (a) and (e) and endorse on each parcel a statement of its contents.
- (3) A candidate's scrutineer may sign any of the following:
- (a) the statement mentioned in subsection (2)(d);
  - (b) a sealed parcel mentioned in subsection (2)(f).

#### **Subdivision 4    Check count of all declaration votes cast at pre-election voting centres**

##### **122            Check count of declaration votes**

- (1) This section applies to the parcels of declaration ballot papers for which an initial count has been conducted under section 118 or 121.
- (2) An authorised officer must:
  - (a) open the parcels and remove all the ballot papers; and
  - (b) set aside all informal ballot papers, count them and place them in a parcel; and
  - (c) arrange all formal ballot papers under the names of each candidate for whom the first preference vote on the ballot papers was cast; and
  - (d) count the first preference votes given for each candidate on formal ballot papers; and
  - (e) place all formal ballot papers mentioned in paragraph (c) in separate parcels according to the candidate for whom the first preference vote was cast; and
  - (f) seal the parcels mentioned in paragraphs (b) and (e) and endorse on each parcel a statement of its contents; and



- (g) make any necessary amendments to the statement mentioned in section 118(1)(d) or 121(2)(d).
- (3) A candidate's scrutineer may sign any of the following:
  - (a) a sealed parcel mentioned in subsection (2)(f);
  - (b) the amended statement mentioned in subsection (2)(g).

## **Division 7            Determining and declaring result of election**

### **123            Interim distribution of preference votes**

- (1) This section applies if, after 6 pm on polling day, the Commission considers it is appropriate to gain an indication of the candidate most likely to be elected for a division.
- (2) The Commission may arrange for officers to conduct, in the way decided by the Commission, an interim distribution of preference votes in the division.
- (3) The interim distribution is of no effect for declaring the result of the election.

### **124            Part counting of votes**

- (1) It is not necessary for an authorised officer to receive all envelopes containing declaration ballot papers before proceeding to deal with the ballot papers under this Part.
- (2) However, sufficient unopened envelopes containing postal votes must be kept in the Postal Ballot Box to ensure the ballot papers when taken from the envelopes for counting are sufficient in number to ensure the secrecy of the ballot is maintained.

### **125            Objections by candidate's scrutineer**

- (1) A candidate's scrutineer may object to the admission or rejection of a ballot paper as a formal ballot paper.
- (2) The objection must be made to the officer conducting the scrutiny.
- (3) The officer must decide the objection by admitting or rejecting the ballot paper the subject of the objection as a formal ballot paper and must mark the ballot paper "admitted" or "rejected" according to the decision.
- (4) This section does not prevent the officer from rejecting a ballot paper as being informal even though no objection is made to it.

**126            Determination of first preference votes**

An authorised officer for a division must, from the statements or amended statements mentioned in sections 99, 109, 114 and 122 and the result of the scrutiny of votes counted by officers, determine the number of first preference votes cast for each candidate for the division.

**127            Declaration of election**

The candidate who receives more than 50% of the first preference votes determined under section 126 must be declared by the Commission to be returned as elected for the division.

**128            Further scrutiny to be conducted**

- (1) If a declaration cannot be made under section 127, an authorised officer for the division must:
  - (a) open all parcels containing formal ballot papers for the division; and
  - (b) subject to subsection (2), continue the scrutiny in accordance with this Part.
- (2) The officer must:
  - (a) conduct a second count and for that purpose exclude from consideration the candidate for whom the fewest number of first preference votes has been cast and count the votes cast in favour of that candidate to the candidate next in order of the voter's preference, if any; and
  - (b) if no candidate then has more than 50% of the formal votes then remaining in the count – follow the process of excluding from consideration the candidate who has the fewest number of votes and counting the votes cast in favour of that candidate to the unexcluded candidate next in the order of the voter's preference, if any until one candidate has received more than 50% of the formal votes then remaining in the count.
- (3) However, if there are 2 or more candidates with the fewest number of votes and one of them is to be excluded from the count, the officer must decide by lot the candidate to be excluded.

- (4) In addition, if there are 2 candidates remaining in the count having the same number of formal votes cast in their favour, the Commission must:
  - (a) under section 130, direct an authorised officer for the division to recount all ballot papers; and
  - (b) if, after the recount, the candidates have an equal number of formal votes cast in their favour – decide by lot the successful candidate.
- (5) After complying with subsections (1), (2), (3) and (4), the officer must:
  - (a) make and sign a statement stating the results of the scrutiny to that point; and
  - (b) give the statement to the Commission; and
  - (c) keep a copy of the statement.
- (6) The candidate decided under subsection (2) or (4) must be declared by the Commission to be returned as elected.
- (7) The officer must, on completing the scrutiny:
  - (a) place all formal votes in separate parcels; and
  - (b) seal the parcels and endorse on each parcel a statement of its contents; and
  - (c) allow any candidate's scrutineers present, if they desire, to sign each parcel.

**129        Early declaration of elected candidate**

- (1) The Commission may declare a candidate to be elected for a division if satisfied any uncounted ballot papers cannot, because of the number of them, affect the outcome of the scrutiny.
- (2) For subsection (1), uncounted ballot papers are:
  - (a) ballot papers that have not been received by an authorised officer for the division; or
  - (b) ballot papers for the division that have not been subject to scrutiny under this Part.

**130        Recount**

- (1) The Commission may, at any time before a candidate is declared to be elected, direct an authorised officer for a division to recount any ballot papers placed in a parcel under this Part.
- (2) The Commission may give the direction:
  - (a) on receipt of a written request by a candidate stating the reasons for it; or
  - (b) on the Commission's own initiative.
- (3) This Part applies to the recount and any decision made earlier in the scrutiny relating to the admission or rejection of a ballot paper as a formal ballot paper may be reversed.
- (4) The officer must, if required by a candidate's scrutineer, refer any question relating to the formal or informal nature of a ballot paper to the Commission.
- (5) The Commission must decide the question.

**131        Declaration of result of election**

- (1) As soon as practicable after the results of an election have been determined, the Commission must publicly declare the results of the election and the name of the candidate returned as elected.
- (2) However, if the successful candidate for election for a division dies after polling day but before the declaration, the Commission must not declare the candidate returned as elected for the division.
- (3) Subsection (2) applies despite sections 127 and 128(6).

**132        Preference distribution for information purposes**

After a candidate is declared as elected for a division, the Commission may require an authorised officer to examine the second and later preferences of candidates, and the distribution of the preferences, for information and research purposes.

## **Division 8            Miscellaneous provisions**

### **133            Return of writ**

The Commission must, after declaring a candidate returned as elected:

- (a) endorse on the writ for the election the name of the candidate; and
- (b) return the writ to the Administrator; and
- (c) keep a copy of the writ.

### **134            Extension of time**

- (1) If the Administrator is satisfied there is a difficulty relating to an election, the Administrator may, by *Gazette* notice, within 15 days before or after polling day:
  - (a) extend the time for holding the election; or
  - (b) extend the time for the return of the writ.
- (2) The Commission must give public notice of the extension of time in the division to which the extension relates.
- (3) This section applies despite anything to the contrary in section 23 or 26A but otherwise is subject to section 17(2) of the Self Government Act.

### **135            Failure of election**

An election fails if:

- (a) no candidate is declared under section 37; or
- (b) a candidate dies on or before polling day; or
- (c) no candidate is returned as elected.

### **136            Issue of writ for failed election**

- (1) If an election fails, the Administrator must, as soon as practicable, issue a new writ for an election.
- (2) The roll prepared for the failed election must be used for the election under the new writ.

## **Part 8            Redistributions**

### **Division 1        Preliminary**

#### **137            How notices are to be published**

A notice required under this Part to be published in accordance with this section must be published in:

- (a) the *Gazette*; and
- (b) a newspaper circulating generally in the Territory; and
- (c) any regional newspaper, circulating in a part of the Territory, that the Redistribution Committee considers appropriate.

#### **138            When redistribution to be conducted**

- (1) A redistribution must be conducted in accordance with this Part:
  - (a) after each general election; and
  - (b) after each extraordinary general election.
- (2) For subsection (1)(a), the redistribution process must:
  - (a) start as soon as practicable after 2 years and 6 months after the polling day for the general election; and
  - (b) be completed as soon as practicable.
- (2A) For subsection (1)(b), the redistribution must:
  - (a) start as soon as practicable after 1 year and 6 months after the polling day for the extraordinary general election; and
  - (b) be completed as soon as practicable.
- (3) In addition, the Administrator may at any time after the period mentioned in subsection (2)(a), by *Gazette* notice, direct a redistribution be conducted in accordance with this Part if the number of electors in a division exceeds, or falls short of, the quota mentioned in section 13(4) of the Self-Government Act by more than one-fifth of the quota.

## **Division 2           Object of redistribution and related matters**

### **139           Object of redistribution**

The object of a redistribution is to ensure that, at the time of the next general election, the number of electors in each proposed division is as near to equal as practicable.

### **139A       Principles of redistribution**

To satisfy the object of redistribution, the Redistribution Committee must have regard to the following principles:

- (a) the physical area of a division containing rural and remote areas should be as small as practicable;
- (b) the demographic characteristics of a division should be as uniform as practicable;
- (c) the geographic features of a division should be as uniform as practicable;
- (d) each identifiable community should be included in only one division if practicable;
- (e) subject to paragraphs (a) to (d), changes to existing divisions should minimise the number of electors being transferred from one division to another.

### **139B       Naming of division during redistribution**

- (1) The name of a division must not be changed by a redistribution unless the existing name is no longer appropriate.
- (2) If a new name is proposed for a division, the use of locality names should be avoided.

### **140       Matters to be considered in redistribution**

- (1) For achieving the object of a redistribution, the Redistribution Committee must ensure each proposed division contains a number of electors not exceeding, or falling short of, the quota mentioned in section 13(4) of the Self-Government Act by more than one-fifth of the quota.
- (2) In addition, the Redistribution Committee must give proper consideration to the following matters:
  - (a) community of interests in each proposed division, including economic, social and regional interests;

- (b) types of communication and travel in each proposed division, with special reference to disabilities arising out of remoteness or distance;
- (c) the trend of population changes in the Territory;
- (d) the density of population in each proposed division;
- (e) the area of each proposed division;
- (f) the physical features of each proposed division;
- (g) the existing boundaries of the following:
  - (i) divisions;
  - (ii) local government areas and wards under the *Local Government Act 2008* and suburbs and towns;
  - (iii) Divisions and Subdivisions under the Commonwealth Act;
  - (iv) areas of Aboriginal Land Councils established by or under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);
- (h) all suggestions and comments given under sections 141 and 142.

### **Division 3            Redistribution process**

#### **140A        Definitions**

In this Division:

***redistribution process*** means any action taken under sections 141 to 146.

#### **140B        Calculation of quota**

- (1) The Redistribution Committee is responsible for calculating the quota under section 13(4) of the *Self-Government Act 1978*.
- (2) The calculation must be done as soon as practicable:
  - (a) after the establishment of the Redistribution Committee; and
  - (b) after the expiry of the 30-day period mentioned in section 145(b).



- (3) The Redistribution Committee may calculate the quota at any other time during the redistribution process if the Committee is of the opinion that calculating the quota would:
- (a) improve the accuracy of the redistribution; and
  - (b) achieve the object in section 139.

#### **141        Inviting suggestions**

- (1) The Redistribution Committee must, by notice published in accordance with section 137, invite suggestions relating to the redistribution.
- (2) The notice must state suggestions are to be given to the Committee in writing within 30 days after the notice is published in the *Gazette*.

#### **142        Inviting comments on suggestions**

As soon as practicable after the 30 days mentioned in section 141(2), the Redistribution Committee must:

- (a) make available for public inspection, without fee, copies of all suggestions given to it within the 30 days; and
- (b) publish a notice in accordance with section 137:
  - (i) advising of the availability for inspection of the copies of the suggestions; and
  - (ii) inviting comment in writing on the suggestions to be given to it within 14 days after the notice is published in the *Gazette*.

#### **143        Preparing first proposed redistribution**

- (1) As soon as practicable after the 14 days mentioned in section 142(b)(ii), the Redistribution Committee must prepare a first proposed redistribution of the Territory into divisions.
- (2) The first proposed redistribution must include proposed names for the proposed divisions.

#### **144        Maps showing first proposed redistribution**

As soon as practicable after the Redistribution Committee has prepared the first proposed redistribution, it must make available for public inspection, without fee, a map or number of maps together showing the names and boundaries of all proposed divisions.

**145           Inviting objections against first proposed redistribution**

The Redistribution Committee must publish a notice in accordance with section 137:

- (a) advising of the availability for inspection of the map or maps mentioned in section 144; and
- (b) stating that any objection on the first proposed redistribution must be made in writing to the Redistribution Committee within 30 days after the notice is published in the *Gazette*.

**145A        Preparing second proposed redistribution**

- (1) The Redistribution Committee must give proper consideration to all objections made under section 145(b).
- (2) As soon as practicable after the 30 days mentioned in section 145(b), the Redistribution Committee must prepare the second proposed redistribution of the Territory into divisions.
- (3) The second proposed redistribution must include proposed names for the proposed divisions.

**145B        Inviting objections to second proposed redistribution**

- (1) If a second proposed redistribution would result in the sum of the following being greater than 15% of the total number of electors in a division at the time the quota is calculated under section 140B(2)(b), the Redistribution Committee must invite objections to the second proposed redistribution:
  - (a) the number of electors added to the division by the second proposed redistribution as compared to the first proposed redistribution; and
  - (b) the number of electors removed from the division by the second proposed redistribution as compared to the first proposed redistribution.
- (2) Despite subsection (1), the Redistribution Committee is not required to invite objections to the second proposed redistribution if the Redistribution Committee is of the opinion that:
  - (a) holding a second objection period would cause major inconvenience or have other serious consequences, such as causing a delay to a scheduled general election; or

- (b) the second proposed redistribution is the only feasible option because there has been a natural disaster or another event causing extraordinary demographic movement.

*Note for subsection (2)(a)*

*A delay to the finalisation of the redistribution process is not of itself a major inconvenience or serious consequence.*

- (3) If, in the opinion of the Redistribution Committee, a second proposed redistribution involves a significant change in a matter to which the Redistribution Committee must give consideration under section 140(2)(a), (c), (e), (f) or (g), the Redistribution Committee may invite objections to the second proposed redistribution.
- (4) If the Redistribution Committee invites objections to a second proposed redistribution under subsection (1) or (3), the Redistribution Committee must:
  - (a) make available, for public inspection, without fee, a map or number of maps together showing the names and boundaries of all proposed divisions; and
  - (b) publish a notice in accordance with section 137:
    - (i) advising of the availability for inspection of the map or maps mentioned in paragraph (a); and
    - (ii) stating that any objection on the second proposed redistribution must be made in writing to the Redistribution Committee within 14 days after the notice is published in the *Gazette*.

#### **146        Considering objections**

In deciding the redistribution, the Redistribution Committee must give proper consideration to any objections made under section 145B(4)(b)(ii).

#### **147        Deciding redistribution**

- (1) The Redistribution Committee must, by *Gazette* notice (a **redistribution declaration notice**), redistribute the Territory into divisions.
- (1A) A redistribution declaration notice must be published:
  - (a) if the Redistribution Committee invites objections under section 145B – as soon as practicable after the expiry of the 14 days mentioned in section 145B(4)(b)(ii); or

- (b) if the Redistribution Committee does not invite objections under section 145B – as soon as practicable after the expiry of the 30 days mentioned in section 145(b).
- (2) The notice must declare:
  - (a) the Territory is redistributed into divisions; and
  - (b) the names and boundaries of the divisions.
- (3) This section has effect subject to sections 139 and 140.

#### **148        Report about redistribution**

- (1) As soon as practicable after publication of the redistribution declaration notice, the Redistribution Committee must prepare a report about the redistribution (a ***redistribution report***).
- (2) The report must:
  - (a) include details of all suggestions, comments and objections given or made under this Part; and
  - (b) contain a map or number of maps together showing the names and boundaries of all divisions;
  - (c) state the reasons for redistributing the Territory into the divisions set out in the redistribution declaration notice; and
  - (d) state the reasons that the Redistribution Committee did or did not invite objections on the second proposed redistribution under section 145B.
- (3) The Redistribution Committee must provide the redistribution report to the Commissioner as soon as practicable after the publication of the redistribution declaration notice.
- (4) The Commissioner must, as soon as practicable after the receipt of the redistribution report:
  - (a) make the report available for public inspection without fee; and
  - (b) give the Speaker a copy of the report.
- (5) The Speaker must table a copy of the report in the Legislative Assembly within 3 sitting days after the Speaker receives the report.
- (6) For this section, ***available for public inspection*** includes by electronic publication.

**150 When redistribution takes effect**

- (1) The redistribution in accordance with the redistribution declaration notice takes effect for the next general election after publication of the notice.
- (2) However, subsection (1) does not prevent the preparation of the roll for a division in the notice before the next general election.

**150A Extraordinary general election during redistribution process**

If a writ for an extraordinary general election is issued under section 24 or 25 while the redistribution process is underway, the redistribution process ceases and the Redistribution Committee is dissolved as soon as the writ is issued.

**Division 4 Miscellaneous provisions**

**151 Decisions are final**

- (1) Despite any other Act, a decision of the Redistribution Committee made, or purporting to be made, under this Part:
  - (a) is final and conclusive; and
  - (b) cannot be challenged, appealed against, reviewed, quashed, set aside or called into question in any court or tribunal on any ground; and
  - (c) is not subject to any proceeding for an injunction, declaration or order for prohibition or mandamus.
- (2) In this section:

*decision* includes a failure to make a decision.

**Part 9 Registration of political parties**

**Division 1 Application process for registration and related matters**

**152 Application**

- (1) An eligible political party may apply for registration under this Part.
- (2) The application must:
  - (a) be made to the Commission in the approved form; and

- (b) be signed by the secretary of the party; and
  - (c) state the party's name; and
  - (d) state the name and address, and contain a specimen signature, of the person nominated to be the registered officer of the party; and
  - (e) be accompanied by:
    - (i) a statutory declaration by the secretary stating the person nominated to be the registered officer of the party is qualified to be an elector; and
    - (ii) a copy of the party's constitution; and
    - (iii) the application fee of \$500.
- (3) If the application is made by a political party that is registered under the Commonwealth Act, the application must also be accompanied by a statutory declaration by the secretary stating details of the party's registration under that Act.
- (4) If the application is made by another political party, the application must also be accompanied by:
- (a) a statutory declaration by the secretary stating at least 200 members of the political party are:
    - (i) electors; and
    - (ii) members under the party's constitution; and
    - (iii) not members of another registered party or of a political party applying for registration; and
  - (b) a list, in a form decided by the Commission, of the names and postal addresses of at least 200 members of the political party who meet the requirements in paragraph (a).
- (5) The Commission may use information obtained under subsection (4)(b) only to verify the party has at least 200 members who are electors.

### **153 Further information about application**

- (1) For this Part, the Commission may, by written notice, require the applicant to give the Commission, within a reasonable stated period, stated information or a stated document relating to the application.

- (2) If the applicant does not comply with the notice, the Commission may refuse the application.

#### **154 Notification and publication of application**

- (1) The Commission must give public notice of the application.
- (2) However, if the application is made by a political party to which section 152(4) applies, the Commission must not give public notice of the application until the Commission has obtained statements from at least 200 members who are electors stating they are members of the political party.
- (3) The notice must state the following:
- (a) the political party's name;
  - (b) the name and address of the person nominated to be the registered officer of the party;
  - (c) a copy of the application and the party's constitution are available for public inspection;
  - (d) written objections to the application may be given to the Commission within 14 days after publication of the notice.
- (4) The Commission must make a copy of the application and the party's constitution available for public inspection from the date of the notice until the end of the 14 days mentioned in subsection (3)(d).

#### **155 Objections to application and responses**

- (1) An objection to the application must:
- (a) be in writing; and
  - (b) state the grounds of the objection; and
  - (c) state the objector's name and address; and
  - (d) be signed by the objector; and
  - (e) be given to the Commission within the 14 days mentioned in section 154(3)(d).
- (2) The Commission must give the person nominated to be the registered officer of the political party:
- (a) a copy of each objection; and

- (b) a written notice inviting the person to give any response to the objection to the Commission, in writing, within 14 days after the day the person receives the notice.
- (3) As soon as practicable after the 14 days mentioned in subsection (2)(b), the Commission must make a copy of the following available for public inspection until the application is decided:
  - (a) each objection;
  - (b) each response given to the Commission in accordance with the notice under subsection (2).
- (4) In deciding whether to register the political party, the Commission must consider each objection and response given to the Commission under this section.

#### **156 Decision on application**

- (1) The Commission must grant or refuse the application.
- (2) However, the Commission must not decide the application before a general election (other than an extraordinary general election) if the application was received by the Commission during 6 months before the date that general election is due to be held.

#### **157 Grant of application**

- (1) If the Commission grants the application, the Commission must:
  - (a) register the party; and
  - (b) publish notice of the registration in the *Gazette* and in a newspaper circulating generally in the Territory; and
  - (c) give notice of the registration to the applicant.
- (2) In addition, if an objection was made under section 155 to the application, the Commission must give the objector an information notice for the decision to register the political party.

#### **158 Refusal of application**

- (1) The Commission must refuse the application if:
  - (a) the person nominated in the application to be the registered officer of the party is not qualified to be an elector or is the registered officer of a registered party; or



- (b) for a party to which section 152(4) applies – the Commission reasonably believes the party does not have at least 200 members who meet the requirements in section 152(4)(a).
- (2) In addition, the Commission must refuse the application if the Commission reasonably believes the political party's name:
- (a) consists of more than 6 words; or
  - (b) is obscene; or
  - (c) is the name or an acronym of the name of a registered party or parliamentary party; or
  - (d) so nearly resembles the name or an acronym of the name of registered party or parliamentary party it is likely to be confused with or mistaken for that name or acronym; or
  - (e) consists of the word "independent" or "independent party"; or
  - (f) would otherwise be likely to cause confusion if registered; or
  - (g) includes an MLA's name and the applicant does not have the MLA's written consent to use the name.
- (3) If the Commission refuses the application, the Commission must:
- (a) give the applicant an information notice for the decision to refuse the application; and
  - (b) if an objection was made under section 155 to the application – give the objector written notice of the refusal.
- (4) In this section:

***parliamentary party*** means a political party of which at least one member is a member of an Australian parliament.

## **159 Amendment of application**

- (1) If the Commission is of the opinion the application must be refused under section 158 but that the application might be amended to prevent the refusal, the Commission must give the applicant written notice to that effect.
- (2) The notice must:
- (a) state the reasons for the opinion; and
  - (b) describe the effect of subsections (3) to (6) (inclusive).

- (3) The Commission is not required to further consider the application unless a request is made under subsection (4).
- (4) Within 28 days after receiving the notice, the applicant may give the Commission a written request, signed by the applicant, for the Commission:
  - (a) to amend the application in a stated way; or
  - (b) to consider the application in the form in which it was made.
- (5) The Commission must comply with the request.
- (6) If the applicant requests the Commission to amend the application in a stated way, the application as amended in accordance with the request is taken to be a new application for the registration of a political party.

## **Division 2 Cancellation of registration**

### **160 Cancellation on application**

- (1) The Commission must cancel the registration of a registered party if the registered officer of the party asks the Commission to cancel the registration.
- (2) The request must be in the approved form.

### **161 When Commission must cancel registration**

- (1) The Commission must cancel the registration of a registered party if it has not endorsed a candidate at the last 2 general elections.
- (2) However, subsection (1) applies to a registered party only if it was a registered party at the time of each of the general elections.
- (3) Subject to section 162, the Commission must cancel the registration of a registered party if the Commission reasonably believes:
  - (a) the party has ceased to exist (whether by amalgamation with another political party or otherwise); or
  - (b) the registered officer of the party has not complied with a notice given under section 174; or
  - (c) the party does not have a constitution; or
  - (d) the registration of the party was obtained by fraud; or

- (e) for a party registered on an application to which section 152(4) applies – the party has ceased to have at least 200 members who meet the requirements in section 152(4)(a).
- (4) The Commission must cancel the registration of a party registered on an application to which section 152(3) applies if the party ceases to be registered under the Commonwealth Act.

## **162 Notice of proposal to cancel registration**

The Commission may cancel the registration of a registered party under section 161(3) only if the Commission has:

- (a) given public notice stating the following:
  - (i) the Commission proposes to cancel the registration of the party; and
  - (ii) written objections to the proposed cancellation may be made to the Commission within 14 days after publication of the notice;
- (b) given the registered officer or last registered officer of the party a written notice stating the following:
  - (i) the Commission proposes to cancel the registration of the party;
  - (ii) the reasons for the proposed cancellation;
  - (iii) written objections to the proposed cancellation may be made to the Commission within the time mentioned in paragraph (a)(ii); and
- (c) considered the objections made in accordance with the notices under paragraphs (a) and (b).

## **163 Notice of decision not to cancel registration**

If, after considering objections made under section 162 to the proposed cancellation of the registration of a registered party, the Commission decides not to cancel the registration, the Commission must give written notice of the decision to:

- (a) the registered officer of the party; and
- (b) for an objection that was not made by or for the party – the objector.

#### **164 Cancellation of registration**

The Commission must remove particulars of a registered party from the register of registered parties if:

- (a) the Commission receives a request to cancel the party's registration under section 160; or
- (b) the Commission decides to cancel the party's registration under section 161.

#### **165 Notice of cancellation**

If the Commission cancels the registration of a registered party, the Commission must:

- (a) give public notice of the cancellation; and
- (b) if the registration is cancelled under section 161(3) – give an information notice for the decision to the registered officer or last registered officer of the party.

#### **166 Use of name after cancellation**

- (1) This section applies if the registration of a registered party (the **cancelled party**) is cancelled under section 161.
- (2) Each of the following is ineligible for registration until after the next general election after the cancellation:
  - (a) the cancelled party;
  - (b) a political party that has a name that so nearly resembles the name of the cancelled party that it is likely to be confused with or mistaken for the cancelled party.

### **Division 3 Register of political parties**

#### **167 Commission to keep register**

- (1) The Commission must keep a register of registered parties.
- (2) The register must contain the following particulars for each registered party:
  - (a) the name of the party;
  - (b) the name and address of the registered officer of the party.

**168 Register to be available for public inspection**

The Commission must make the register of registered parties available for public inspection.

**169 Changes to particulars in register**

- (1) The secretary of a registered party may apply to the Commission to change particulars of the party in the register of registered parties.
- (2) Division 1 (other than section 159) applies, with all necessary changes, to the application as if it were an application for registration of the party and any objection to the application were an objection to the registration.
- (3) However, if the application is to change only the name or address of the registered officer of the party:
  - (a) the application need not be accompanied by a copy of the party's constitution; and
  - (b) an application fee is not payable; and
  - (c) sections 154 and 155 do not apply.

**Division 4 Miscellaneous provisions**

**170 Who can be registered officer**

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

**171 Constitution to be available for public inspection**

The Commission must make a copy of a registered party's constitution available for public inspection.

**171A Annual return for registered political party**

- (1) The registered officer of a registered party must prepare a return in the approved form for each financial year stating that, as at the end of that financial year:
  - (a) if the party was registered on an application to which section 152(3) applies – whether or not the party continues to be registered under the Commonwealth Act; or

- (b) if the party was registered on an application to which section 152(4) applies – whether or not the party continues to have at least 200 members who meet the requirements in section 152(4)(a).
- (2) The registered officer must give the return and a copy of the party's current constitution to the Commission within 16 weeks after the end of the financial year.

Maximum penalty: 20 penalty units.

*Note for section 171A*

*The reporting agent of a registered party must also give a return about the party's financial matters under section 205 for each financial year.*

## **172 Notification of change to constitution**

If a registered party changes its constitution, the registered officer of the party must give the Commission a copy of the changed constitution within 30 days after the change.

Maximum penalty: 20 penalty units.

## **173 Review of registration of political parties**

The Commission may at any time review the registration of a political party.

## **174 Information about political parties**

- (1) The Commission may, by written notice, require the registered officer of a registered party to give the Commission, within a reasonable stated period, stated information relating to its eligibility to be registered.
- (2) The registered officer must comply with the request.

Maximum penalty: 20 penalty units.

## **175 No action under Part during election period**

During an election period for an election, no action may be taken under this Part in relation to the registration of a political party.

## **Part 10            Financial disclosure**

### **Division 1        Interpretation**

#### **176            Definitions**

In this Part:

**amount** includes value.

**associated entity** means an entity that:

- (a) is controlled by one or more registered parties; or
- (b) operates wholly or to a significant extent for the benefit of one or more registered parties.

**broadcaster** means:

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

**corporation** has the same meaning as in section 57A of the Corporations Act 2001.

**credit card** includes a debit card.

**disclosure period** has the meaning in section 182.

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

- (a) the allotment of shares in a corporation; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and

- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- (f) any transaction entered into by any person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

**entity** means:

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

**financial controller**, of an associated entity, means:

- (a) if the entity is a corporation – the secretary of the corporation;  
or
- (b) if the entity is the trustee of a trust – the trustee; or
- (c) otherwise – the person responsible for keeping the financial records of the entity.

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

- (a) a disposition of property by will; or
- (b) an annual subscription paid to a registered party by a person for the person's membership of the party.

**loan** means any of the following:

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



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

**property** includes money.

**registered industrial organisation** means an organisation registered under the *Workplace Relations Act 1996* (Cth) or the law of another State or Territory about the registration of industrial organisations or unions.

**related bodies corporate** has the same meaning as in section 50 of the Corporations Act 2001.

**reporting agent**, for a registered party or candidate, means:

- (a) a person appointed by the party or candidate under section 184 and whose registration has not been removed under section 187; or
- (b) the person taken to be the reporting agent for the party or candidate under section 185.

**177      References to registered party**

In this Part, a reference to a registered party, other than a reference to the endorsement of a candidate in an election, does not include a reference to a part of the political party.

**178      References to things done by registered party**

In this Part, a reference to things done by or for a registered party is, if the party is not a corporation, a reference to things done by or with the authority of members or officers of the party for the party.

**179      Gifts – determination of amounts**

For this Part, the Regulations may prescribe principles determining the amount of a gift consisting of or including a disposition of property other than money.

**180      Related bodies corporate**

For this Part, related bodies corporate are taken to be the same person.

**181      Advertisements containing electoral matter**

For this Part, an advertisement relates to an election if it contains electoral matter, whether or not consideration was given for publishing or broadcasting the advertisement.

## 182 Disclosure period

- (1) The disclosure period for an election (the **relevant election**) is the period that starts:
  - (a) for a candidate who was a candidate in an election the polling day for which was within 4 years before polling day for the relevant election – at the end of 30 days after polling day for the last election before the relevant election in which the person was a candidate; or
  - (b) for a candidate to whom paragraph (a) does not apply:
    - (i) if the candidate won party endorsement for the relevant election – on the day on which endorsement was won; or
    - (ii) if subparagraph (i) does not apply – on the day on which the person announced the person would be a candidate in the relevant election or the day on which the person nominated as a candidate, whichever was the earlier; or
  - (c) for a person or entity to which section 192 or 193 applies – at the end of 30 days after the polling day for the last general election.
- (2) The disclosure period for an election ends 30 days after the polling day for the election.
- (3) Subsection (4) applies if, under subsection (1), the disclosure period for an election held after the commencement of this section for a candidate for the election, or a person to which section 192 applies, would start before the commencement.
- (4) Despite subsection (1), the disclosure period for the election starts on 1 July 2004.

## 183 Campaign committee to be treated as part of party

- (1) Divisions 3, 4 and 5 apply as if a campaign committee of an endorsed candidate were the registered party endorsing the candidate.
- (2) In subsection (1):

**campaign committee**, for a candidate, means a body of persons appointed or engaged to form a committee to help the campaign of the candidate in an election.

**endorsed candidate** means a candidate who is endorsed by a registered party.

## **Division 2 Reporting agents of registered parties and candidates**

### **184 Appointment of reporting agent**

- (1) A registered party must appoint a reporting agent for this Part.
- (2) A candidate in an election may appoint a person to be the candidate's reporting agent for this Part.
- (3) The appointment of a reporting agent under subsection (1) or (2) has no effect unless:
  - (a) the person appointed has attained the age of 18 years; and
  - (b) written notice of the appointment is given to the Commission; and
  - (c) the name and address of the person appointed are stated in the notice; and
  - (d) the person appointed has consented in writing to the appointment.
- (4) The notice must be given by:
  - (a) if the appointment is made by a registered party – the party's secretary; or
  - (b) if the appointment is made by a candidate – the candidate.

### **185 Non-appointed agents**

- (1) If there is no appointment in force under section 184(1) for a registered party, the registered officer of the party is taken to be its reporting agent.
- (2) If a registered party ceases to be registered under Part 9 and, immediately before it ceased to be registered, a person was its reporting agent, the person is taken to continue to be its reporting agent as if it had continued to be registered.
- (3) If a registered party ceases to be registered under Part 9 and no-one is taken under subsection (2) to be its reporting agent, the person who was its registered officer immediately before it ceased to be registered is taken to be its reporting agent as if it had continued to be registered.

- (4) A person taken to be a reporting agent under subsection (2) or (3) is taken to continue in the position until the person resigns from the position with the Commission's consent.
- (5) If there is no appointment in force under section 184(2) for a candidate, the candidate is taken to be the candidate's own agent.

**186 Register of reporting agents**

- (1) The Commission must keep a register of reporting agents.
- (2) The Commission must enter in the register the name and address of each reporting agent appointed under section 184.

**187 Effect of registration etc.**

- (1) The appointment of a reporting agent:
  - (a) takes effect on the entry of the name and address of the agent in the register of reporting agents; and
  - (b) ceases to have effect if the name and address of the agent are removed from the register.
- (2) The name and address of a person appointed as a reporting agent must not be removed from the register unless:
  - (a) the person gives the Commission written notice that the person has resigned the appointment; or
  - (b) the candidate or secretary of the registered party that appointed the person gives the Commission:
    - (i) written notice that the person has ceased to be the reporting agent; and
    - (ii) notice under section 184 of the appointment of another person as reporting agent of the party; or
  - (c) the person is convicted of an offence against this Part; or
  - (d) if the person was appointed by a registered party – the party's registration is cancelled.
- (3) If the reporting agent of a registered party is convicted of an offence against this Part, the secretary of the party must give notice under section 184 of the appointment of another person as reporting agent of the party:
  - (a) within 28 days after the conviction; or

- (b) if an appeal against the conviction is started within the 28 days mentioned in paragraph (a) and the conviction is affirmed – within 28 days after the appeal is decided.
- (4) If the reporting agent of a registered party dies, the secretary of the party must, within 28 days after the death, give the Commission:
  - (a) written notice of the death; and
  - (b) notice under section 184 of the appointment of another person as reporting agent of the party.

**188 Notice of death or resignation of candidate's reporting agent**

If the reporting agent of a candidate dies or resigns, the candidate must, without delay, give the Commission written notice of the death or resignation.

**Division 3 Disclosure of donations**

**189 Definition**

In this Division:

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

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

**190 Loans to registered party or candidate**

- (1) A registered party or candidate (the **receiver**) must not receive a loan of \$1 500 or more from a person or entity (the **lender**) that is not an ADI, unless the receiver complies with this section.
- (2) The receiver of the loan must immediately make a record of the following:
  - (a) the terms of the loan;
  - (b) if the lender is a registered industrial organisation:
    - (i) the name of the organisation; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the organisation;
  - (c) if the lender is an unincorporated body (other than a registered industrial organisation):
    - (i) the name of the body; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the body;
  - (d) if the loan was paid out of a trust fund or the funds of a foundation:
    - (i) the names and addresses of the trustees of the fund or foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation;
  - (e) if paragraphs (b), (c) and (d) do not apply to the loan – the name and address of the lender.
- (3) For subsection (1), a person who is a candidate in an election is taken to remain a candidate for 30 days after the polling day for the election.
- (4) If the receiver receives a loan to which subsection (1) applies but does not comply with subsection (2), the relevant person must pay to the Territory an amount equal to the amount of the loan.
- (5) The amount payable under subsection (3) may be recovered by the Territory as a debt.

(6) For this section, if credit is given on a credit card for card transactions, each transaction is taken to be a separate loan.

(7) In this section:

**relevant person** means:

(a) for a loan to or for the benefit of a registered party:

(i) if the party is a corporation – the party; or

(ii) if subparagraph (i) does not apply – the reporting agent of the party; or

(b) for a loan to or for the benefit of a candidate – the candidate.

### **191 Disclosure of gifts – reporting agent of candidate**

(1) The reporting agent of a candidate in an election must, within 15 weeks after the polling day for the election, give the Commission a return in the approved form.

(2) The return must state the following for the disclosure period for the election:

(a) the total amount of all gifts received by the candidate;

(b) the number of persons who made gifts to the candidate;

(c) the date each gift was received;

(d) the amount of each gift;

(e) the defined details of each gift.

(3) However, the reporting agent is not required to state in the return the information mentioned in subsection (2)(c), (d) and (e) for a gift by a person if the amount of the gift and sum of all other gifts made to the candidate by the person is less than \$200.

(4) In this section:

**gift** does not include a gift:

(a) made in a private capacity to a candidate for the candidate's personal use; and

(b) that the candidate has not used, and will not use, solely or substantially for a purpose related to an election.

**192 Disclosure of gifts – persons incurring political expenditure**

- (1) This section applies if a person, other than a registered party, candidate or associated entity, (the *first person*):
  - (a) incurs expenditure for a political purpose during the disclosure period for an election; and
  - (b) receives from someone else one or more gifts:
    - (i) all or a part of each of which was used by the first person to enable the person to incur expenditure during the disclosure period for a political purpose or to reimburse the person for incurring expenditure during the disclosure period for a political purpose; and
    - (ii) the total amount of which is \$1 000 or more.
- (2) Within 15 weeks after polling day for the election, the first person must give the Commission a return in the approved form.
- (3) The return must, for each gift mentioned in subsection (1), state:
  - (a) the amount of the gift; and
  - (b) the date it was received; and
  - (c) the defined details.
- (4) Subsection (1) does not apply to a person if the amount of expenditure incurred by the person for political purposes during the disclosure period is less than \$1 000.
- (5) For this section, a person is taken to have incurred expenditure for a political purpose if, during the disclosure period for an election, the person incurs expenditure in relation to that or another election.
- (6) In this section, a reference to incurring expenditure for a political purpose is a reference to incurring expenditure in relation to:
  - (a) publishing or broadcasting electoral matter; or
  - (b) otherwise publishing a view on an issue in an election; or
  - (c) making a gift to a registered party; or
  - (d) making a gift to a candidate; or



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

### **193 Donations to candidates**

- (1) This section applies if, during the disclosure period for an election, a person (other than a registered party, candidate or associated entity):
  - (a) makes gifts totalling \$200 or more to the same candidate in the election; or
  - (b) makes gifts totalling \$1 000 or more to an entity declared by the Commission, by *Gazette* notice, to be an entity to which this paragraph applies.
- (2) Subsection (1) applies to a person even if at the time the person made the gift the person was outside the Territory.
- (3) Within 15 weeks after the polling day for the election, the person must give the Commission a return in the approved form.
- (4) The return must state for each gift mentioned in subsection (1) made by the person during the disclosure period:
  - (a) the amount of the gift; and
  - (b) the date it was made; and
  - (c) the defined details.

### **194 Donations to registered parties**

- (1) Subsection (2) applies if, in a financial year, a person makes a gift of \$1 500 or more, or gifts totalling \$1 500 or more, to the same registered party.
- (2) Within 20 weeks after the end of the financial year, the person must give the Commission a return in the approved form covering all the gifts the person made to the party during the financial year.

- (3) Subsection (4) applies if, in a financial year:
- (a) a person receives a gift of \$1 000 or more, or gifts totalling \$1 000 or more; and
  - (b) the person uses all or part of the gift or gifts to make a gift of \$1 500 or more, or gifts totalling \$1 500 or more, to a registered party.
- (4) Within 20 weeks after the end of the financial year, the person must give the Commission a return in the approved form covering all the gifts mentioned in subsection (3)(a).
- (5) For each gift mentioned in subsection (1) or (3)(a), the return must state:
- (a) the amount of the gift; and
  - (b) the date when it was made; and
  - (c) either of the following:
    - (i) for a gift mentioned in subsection (1) – the name of the registered party to which the gift was made;
    - (ii) for a gift mentioned in subsection (3)(a) – the defined details.
- (6) This section applies to a person even if at the time the person made the gift the person was outside the Territory.
- (7) If a person makes a gift to any person or entity with the intention of benefiting a registered party, the person is taken for this section to have made the gift to the party.
- (8) In this section:
- gift** does not include a gift made by a registered party, candidate or associated entity.

## **195 Returns by persons under Commonwealth Act**

- (1) This section applies if:
- (a) an organisation has corresponding registration as a political party under this Act and Part XI of the Commonwealth Act, whether by the same or a different name; and

- (b) a person gives the Australian Electoral Commission, within the period of 20 weeks after the end of the financial year, a return under section 305B of the Commonwealth Act for the financial year; and
  - (c) the person gives the Commission, within that period, a copy of the return.
- (2) The person is not required to give the Commission a return under section 194 for the financial year.
  - (3) For subsection (1), an organisation has corresponding registration as a political party under this Act and Part XI of the Commonwealth Act if the same person is stated as the registered officer of the party in the register of registered parties kept under section 167 and in the register of political parties kept under section 125 of the Commonwealth Act.
  - (4) In this section:

**party** includes a Territory branch of a political party registered under Part XI of the Commonwealth Act.

#### **196 Advice about obligations to make returns**

- (1) This section applies if, in a financial year, a registered party receives a gift of \$1 500 or more, or gifts totalling \$1 500 or more, from the same person.
- (2) Before 1 August after the end of the financial year, the party must, by written notice, tell the person about the requirements of section 194.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
1 000 penalty units.

- (3) In this section:

**gift** has the meaning in section 194(8).

## 197 **Anonymous gifts**

- (1) A registered party or candidate (the **receiver**) must not accept a gift of the prescribed amount or more made by someone else (the **donor**) to or for the benefit of the receiver unless:
  - (a) the receiver knows the defined details of the gift; or
  - (b) both the following subparagraphs apply:
    - (i) the donor tells the receiver the defined details of the gift before the gift is made;
    - (ii) when the gift is made, the receiver has no grounds for believing the defined details given by the donor are not true.
- (2) Subsection (1) applies:
  - (a) for a registered party – to gifts received at any time; or
  - (b) for a candidate – to gifts received during the disclosure period.
- (3) For subsection (1), a person who is a candidate in an election must be taken to remain a candidate for 30 days after the polling day for the election.
- (4) For this section, 2 or more gifts made by the same person to or for the benefit of a registered party or candidate are taken to be a single gift.
- (5) If the receiver contravenes subsection (1), the relevant person must pay the Territory an amount equal to the amount of the gift.
- (6) The amount payable under subsection (5) may be recovered by the Territory as a debt.
- (7) In this section:

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

**prescribed amount** means:

- (a) for a gift made to or for the benefit of a registered party – \$1 000; or
- (b) for a gift made to or for the benefit of a candidate – \$200.

**relevant person** means:

- (a) for a gift to or for the benefit of a registered party:
  - (i) if the party is a corporation – the party; or
  - (ii) otherwise – the reporting agent of the party; or
- (b) for a gift to or for the benefit of a candidate – the candidate.

#### **198 Nil returns**

If no details are required to be included in a return under this Division, the return must:

- (a) be given to the Commission; and
- (b) include a statement to the effect that no gifts of a kind required to be disclosed were received.

### **Division 4 Disclosure of electoral expenditure**

#### **199 Definitions**

In this Division:

**electoral expenditure**, for an election, means expenditure incurred (whether or not incurred during the election period) on:

- (a) publishing an electoral advertisement during the election period in a journal; or
- (b) broadcasting an electoral advertisement during the election period; or
- (c) displaying an electoral advertisement during the election period at a theatre or other place of entertainment; or
- (d) producing an electoral advertisement that is published, broadcast or displayed as mentioned in paragraph (a), (b) or (c); or
- (e) producing any printed electoral matter to which Part 13, Division 1, Subdivision 2 applies (other than material mentioned in paragraph (a), (b) or (c)) that is published during the election period; or
- (f) producing and distributing electoral matter that is addressed to particular persons or organisations and is distributed during the election period; or

- (g) carrying out an opinion poll or other research, about the election during the election period.

***participant***, in an election, means:

- (a) a registered party or candidate; or
- (b) another person by whom, or with the authority of whom, electoral expenditure for an election is incurred.

## **200 Returns of electoral expenditure**

- (1) The reporting agent of each person who was a candidate in an election must, before the end of 15 weeks after polling day for the election, give the Commission a return in the approved form stating details of all electoral expenditure for the election incurred by or with the authority of the candidate.
- (2) If electoral expenditure for an election was incurred by or with the authority of a person and the expenditure was not incurred with the written authority of a registered party, an associated entity or a candidate in the election, the person must, before the end of 15 weeks after polling day for the election, give the Commission a return in the approved form stating details of the expenditure.
- (3) A person is not required to give a return under subsection (2) for an election if the total amount of the electoral expenditure incurred for the election by or with the authority of the person does not exceed \$200.

## **201 Nil returns**

If no electoral expenditure for an election was incurred by or with the authority of a candidate in the election, a return under section 200 for the candidate must:

- (a) be given to the Commission; and
- (b) include a statement to the effect that no expenditure of the kind required to be disclosed has been incurred by or with the authority of the candidate.

## **202 Returns by publishers and broadcasters**

- (1) If an election has taken place, the following persons must give the Commission a return in the approved form before the end of 8 weeks after polling day for the election:
  - (a) a publisher who published an electoral advertisement in a journal during the election period with the authority of a participant in the election;
  - (b) a broadcaster who, during the election period, broadcast an electoral advertisement with the authority of a participant in the election.
- (2) Subsection (1) applies to a publisher or broadcaster even if the publisher or broadcaster was outside the Territory when the advertisement was published or broadcast.
- (3) The return must state the following particulars:
  - (a) the journal in which the advertisement was published or broadcasting service as part of which the advertisement was broadcast;
  - (b) the person at whose request the advertisement was published or broadcast;
  - (c) the participant in the election with whose authority the advertisement was published or broadcast;
  - (d) the date or dates when the advertisement was published or broadcast and the following details:
    - (i) for a published advertisement – the page on which the advertisement was published and the space occupied by it;
    - (ii) for a broadcast advertisement – the times between which the advertisement was broadcast;
  - (e) whether or not, on each occasion when the advertisement was published or broadcast, a charge was made by the publisher or broadcaster for publishing or broadcasting the advertisement;
  - (f) if a charge mentioned in paragraph (e) was made – the amount of the charge.

- (4) If a publisher or broadcaster states in the return the amount of a charge for an advertisement, the publisher or broadcaster must state in the return whether or not the charge is at less than normal commercial rates having regard to:
- (a) for a published advertisement – the space occupied by the advertisement and the nature of the journal; or
  - (b) for a broadcast advertisement – the length of the advertisement and the date or dates when, and the times between which, it was broadcast.
- (5) A publisher is not required to give a return under subsection (1) for an election (the **first election**) if the total amount of the charge made by the publisher for the publication of advertisements to which the subsection applies in relation to the first election and any other election that took place on the same day as the first election does not exceed \$1 000.
- (6) A broadcaster who is required to make a return under this section for an advertisement must keep the record made for the relevant provision until the end of the period of one month starting on the date on which the return is given to the Commission.
- (7) Subsection (6) is in addition to the requirements of the relevant provision for the retention of the record.
- (8) In subsections (6) and (7):
- relevant provision** means:
- (a) for the Australian Broadcasting Corporation – section 79B of the *Australian Broadcasting Corporation Act 1983* (Cth); or
  - (b) for the Special Broadcasting Service – section 70B of the *Special Broadcasting Service Act 1991* (Cth); or
  - (c) for another broadcaster – Schedule 2, clause 5 to the *Broadcasting Services Act 1992* (Cth).

### **203 Two or more elections on same day**

- (1) This section applies if:
- (a) the voting at 2 or more elections took place on the same day; and
  - (b) a person would, apart from this subsection, be required to give 2 or more returns under this Division relating to the elections.



- (2) The person may give the Commission a single return in the approved form stating the particulars the person would have been required to state in separate returns.
- (3) It is sufficient compliance with this Division if the return states details of the expenditure without showing the extent to which it relates to any particular election.

## **Division 5 Annual returns by registered parties and associated entities**

### **204 Definition**

In this Division:

***defined particulars***, for a sum, means the following:

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

### **205 Annual returns by registered parties**

- (1) The reporting agent of a registered party must, within 16 weeks after the end of each financial year, give the Commission a return in the approved form.
- (2) However, the return may be the audited annual accounts of the party in a form approved in writing by the Commission.

- (3) The return must state:
- (a) the amount received by or on behalf of the party during the financial year, together with the particulars required by section 210(1); and
  - (b) the amount paid by or on behalf of the party during the financial year; and
  - (c) the outstanding amount, at the end of the financial year, of debts incurred by or on behalf of the party, together with the particulars required by section 211(1).
- (4) If a political party ceases to be a registered party during a financial year, this section applies to the party in relation to the year as if a reference to the reporting agent of the party were a reference to the person who was the reporting agent of the party immediately before it ceased to be registered.

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

- (1) This section applies if, during a financial year, a political party becomes or ceases to be a registered party.
- (2) A return under section 205 for the political party for the financial year need only include particulars for the part of the year when the party was registered.

#### **207 Returns by registered parties under Commonwealth Act**

- (1) This section applies if:
  - (a) an organisation has corresponding registration as a political party under this Act and Part XI of the Commonwealth Act, whether by the same or a different name; and
  - (b) the reporting agent of the organisation gives the Australian Electoral Commission, within the period of 16 weeks after the end of the financial year, a return under section 314AB of the Commonwealth Act for the financial year; and
  - (c) the agent or organisation gives the Commission, within that period, a copy of the return.
- (2) The organisation is not required to give the Commission a return under section 205 for the financial year.
- (3) For subsection (1), an organisation has corresponding registration as a political party under this Act and Part XI of the Commonwealth Act if the same person is stated as the registered officer of the party

in the register of registered parties kept under section 167 and in the register of political parties kept under section 125 of the Commonwealth Act.

(4) In this section:

**party** includes a Territory branch of a political party registered under Part XI of the Commonwealth Act.

**reporting agent**, for an organisation, means the person appointed under section 288 of the Commonwealth Act to be the agent of the organisation for the Territory.

## 208 Annual returns by associated entities

- (1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must, within 16 weeks after the end of the year, give the Commission a return in the approved form.
- (2) The return must state:
  - (a) the amount received by or on behalf of the entity during the financial year together with the particulars required by section 210(1); and
  - (b) the amount paid by or on behalf of the entity during the financial year; and
  - (c) if the entity is an associated entity at the end of the financial year – the outstanding amount, at the end of the year, of debts incurred by or on behalf of the entity together with the particulars required by section 211(2).
- (3) An amount received when the entity was not an associated entity must not be counted for subsection (2)(a) or (b).
- (4) Subsection (5) applies if an amount required to be stated under subsection (2)(b) was:
  - (a) paid to or for the benefit of one or more registered parties; and
  - (b) paid out of funds generated from the entity's capital.
- (5) The return must state the following details of each person who contributed to the entity's capital:
  - (a) the person's name and address;
  - (b) the total of the person's contributions to the capital up to the end of the financial year.

- (6) Subsection (5) does not apply to contributions included in a previous return under this section.

## **209 Returns by associated entities under Commonwealth Act**

- (1) This section applies if an entity was, during a financial year, an associated entity and the financial controller of the entity:
- (a) gives the Australian Electoral Commission, within the period of 16 weeks after the end of the year, a return under section 314AEA of the Commonwealth Act for the year; and
  - (b) gives the Commission, within that period, a copy of the return.
- (2) The financial controller is not required to give the Commission a return under section 208 in relation to the entity for the financial year.

## **210 Amounts received**

- (1) If the sum of all amounts received by or on behalf of a registered party or associated entity (the **receiver**) from an entity during a financial year is \$1 500 or more, the return by the receiver under section 205 or 208 must state the amount of the sum and the defined particulars for it.
- (2) In working out the sum, an amount of less than \$1 500 need not be counted.
- (3) If the sum was received as a loan, the return must state the information required to be recorded under section 190(2).

## **211 Outstanding amounts**

- (1) If, at the end of a financial year, the sum of all debts within the meaning of section 205(3)(c) that are owed by a registered party to a particular person or organisation is \$1 500 or more, the return by the party under section 205 for the year must state the sum and include the defined particulars.
- (2) If an entity is an associated entity at the end of a financial year and at the end of the year the sum of all debts within the meaning of section 208(2)(c) that are owed by the entity to a particular person or organisation is \$1 500 or more, the return by the entity under section 208 for the financial year must state the sum and include the defined particulars.

**212 Returns not to include lists of party membership**

A return given under this Division must not include a list of members of a political party.

**213 Regulations**

- (1) The Regulations may require greater detail to be provided in a return under section 205 or 208 than is required by this Division.
- (2) Without limiting subsection (1), the Regulations may require the amounts mentioned in section 205(3) or 208(2) be broken down in the stated way.
- (3) The Regulations may reduce the amount of information to be provided in a return under section 208.

**Division 6 Compliance**

**214 Definitions**

In this Division:

*investigation notice* has the meaning in section 216(2) or 217(2).

*return* includes a notice under section 221(1)(c) or (4).

**215 Offences**

- (1) A person must not, without reasonable excuse, fail to give the Commission a return under this Part within the time required.

Maximum penalty:        If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

   If the offender is a body corporate –  
1 000 penalty units.

- (2) A person must not, without reasonable excuse:
  - (a) give the Commission an incomplete return under Division 3, 4 or 5; or

(b) fail to keep records in accordance with section 220.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
1 000 penalty units.

(3) A person must not give a return under Division 3, 4 or 5 containing particulars that are, to the person's knowledge, false or misleading in a material particular.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
1 000 penalty units.

(4) A person (the **provider**) must not provide another person who is required to give a return under Division 3, 4 or 5 information relevant to the return that is, to the provider's knowledge, false or misleading in a material particular.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
1 000 penalty units.

(5) It is enough for a complaint against a person for an offence against subsection (3) or (4) to state the particulars or information was, without specifying which, "false or misleading" to the knowledge of the person or provider.

(6) Despite section 297 and section 52 of the *Local Court (Criminal Procedure) Act 1928*, a prosecution for an offence against a provision of this section may be started at any time within 3 years after commission of the offence.

## **216 Investigation notices generally**

(1) The Commission may conduct an investigation into compliance with this Part.

- (2) For the investigation, the Commission may give a notice (an **investigation notice**) in relation to a reporting agent or prescribed person to:
  - (a) the agent or prescribed person; or
  - (b) for the reporting agent of a registered party – any officer, employee or representative of the party; or
  - (c) for a prescribed person that is a corporation – any of its officers or employees; or
  - (d) anyone else the Commission reasonably believes can produce a document or anything else, or give evidence, about anyone's compliance with this Part.
- (3) The investigation notice must require the person to whom it is given to:
  - (a) produce to the Commission, within the time and in the way stated in the notice, a document or something else stated in the notice; or
  - (b) appear, at a time and place stated in the notice, before an officer to do the following:
    - (i) give evidence orally or in writing;
    - (ii) to produce a document or something else stated in the notice.
- (4) The time stated in the investigation notice must be not earlier than 28 days after the person receives the notice.
- (5) If the investigation notice requires an officer, employee or representative of a registered party other than its reporting agent to appear before an officer, the reporting agent of the party is entitled to:
  - (a) attend the investigation; or
  - (b) nominate someone else to attend on the reporting agent's behalf.
- (6) If the investigation notice requires someone other than the financial controller of an associated entity to appear before an officer in relation to an investigation into the entity, the financial controller is entitled to:
  - (a) attend the investigation; or

- (b) nominate someone else to attend on the financial controller's behalf.
- (7) Subsection (8) applies if:
- (a) the investigation notice relates to an investigation into:
    - (i) a return given to the Commission under section 191 by the reporting agent of a candidate; or
    - (ii) a failure of a reporting agent of a candidate to give the Commission a return under this Part within the time required; and
  - (b) the notice requires someone other than the reporting agent to appear before an officer.
- (8) The reporting agent is entitled to:
- (a) attend the investigation; or
  - (b) nominate someone else to attend on the reporting agent's behalf.
- (9) The Commission may conduct the investigation even though the person to whom the investigation notice was given contravenes the notice.
- (10) The Commission may require the person to whom the investigation notice has been given to give evidence on oath.
- (11) In this section:
- prescribed person*** means a person who, in the Commission's opinion, is or may be required to give the Commission a return under this Part in relation to an election.

## **217 Investigation notices about associated entities**

- (1) This section applies if:
- (a) the Commission reasonably believes a person can produce a document or anything else, or give evidence, about whether an entity is, or was at a particular time, an associated entity; and
  - (b) the person is or has been the financial controller or an officer or employee of the entity.



- (2) The Commission may give the person a notice (an ***investigation notice***) requiring the person to:
  - (a) produce to the Commission, within the time and in the way stated in the notice, a document or something else stated in the notice; or
  - (b) appear, at a time and place stated in the notice, before an officer to do the following:
    - (i) give evidence orally or in writing;
    - (ii) to produce a document or something else stated in the notice.
- (3) The time stated in the investigation notice must not be earlier than 28 days after the day the person receives the notice.
- (4) If the investigation notice requires someone other than the financial controller of the associated entity to appear before an officer, the financial controller is entitled to:
  - (a) attend the investigation; or
  - (b) nominate someone else to attend on the financial controller's behalf.
- (5) The Commission may conduct the investigation even though the person to whom the investigation notice was given contravenes the notice to attend.
- (6) On giving the investigation notice to the person, the Commission must also give the person an information notice for the decision to give the person the notice.
- (7) The person is taken not to have failed to comply with the investigation notice if the person appeals against the decision under section 229 and the appeal has not been decided.
- (8) The Commission may require the person to whom the investigation notice has been given to give evidence on oath.
- (9) This section is in addition to, and does not limit, section 216.

## 218 Investigation notice offences

- (1) A person must not, without reasonable excuse, contravene an investigation notice.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
1 000 penalty units.

- (2) A person must not, in response to an investigation notice, give evidence the person knows is false or misleading in a material particular.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
1 000 penalty units.

## 219 Investigation – search warrants

- (1) An authorised officer may apply to a Local Court Judge, by information on oath, for a search warrant for a place if:

(a) the officer has reasonable grounds for suspecting there may be, at that time or within the next 24 hours, in or on the place, an article that may afford evidence relating to a contravention of section 215 (a **relevant article**); and

(b) the officer has reasonable grounds for believing that, if an investigation notice under section 216 were issued for the production of the relevant article, it might be concealed, lost, mutilated, destroyed or disposed of.

- (2) The Judge must not issue a search warrant unless:

(a) the officer or another person has given the Judge, either orally or by affidavit, any further information the Judge requires about the grounds on which the issue of the warrant is being sought; and

(b) the Judge is satisfied there are reasonable grounds for issuing the warrant.

- (3) If the Judge issues a warrant, the Judge must endorse on the application the grounds relied on to justify the issue of the warrant.

- (4) The warrant authorises the officer or another person named in the warrant, with the assistance the officer or person considers necessary, and if necessary by force:
- (a) to enter the place; and
  - (b) to search the place for relevant articles; and
  - (c) to seize any relevant article found in or on the place.
- (5) The warrant must state:
- (a) the purpose for which it is issued, including a reference to the alleged offence in relation to which it is issued; and
  - (b) the hours during which the entry is authorised or state that the entry is authorised at any time of the day or night; and
  - (c) a description of the kind of articles to which it relates; and
  - (d) the date, within 30 days after the warrant's issue, the warrant ceases to have effect.
- (6) The person executing the warrant must, if asked by the occupier of the place or another person on the place, produce the warrant for the person's inspection.
- (7) If an article is seized by a person under the warrant:
- (a) the person may keep the article for as long as is necessary and reasonable for the investigation to which it is relevant; and
  - (b) when keeping the article ceases to be necessary and reasonable for that purpose, the person must give it to the person who appears to be entitled to possession of it.
- (8) If a document is kept under subsection (7)(a), the Commission must, at the times and places the Commission considers appropriate, permit the person otherwise entitled to possession of it to inspect and, at the person's expense, make copies of or take extracts from it.
- (9) In this section:
- place** includes:
- (a) vacant land; and
  - (b) premises; and
  - (c) a vehicle.

**premises** includes:

- (a) a building or structure; and
- (b) a part of a building or structure; and
- (c) land on which a building or structure is situated.

**vehicle** means anything used for carrying anything or any person by land, water or air.

## **220 Records**

- (1) If a person makes or obtains an article that is or includes a record relating to a matter particulars of which are, or could be, required to be stated in a return under this Part relating to an election, the person must keep the record for at least 4 years starting on polling day for the election.
- (2) If a registered party or associated entity makes or obtains an article that is or includes a record relating to a matter particulars of which are, or could be, required to be stated in a return under Division 5, the party or entity must keep the record for at least 4 years starting on the day after the last day when the return must be given to the Commission.
- (3) If a person, registered party or associated entity (the **transferor**) would, in the normal course of business or administration, transfer to someone else a record mentioned in subsection (1) or (2):
  - (a) the transferor is taken not to have contravened the subsection by transferring the record; and
  - (b) the person to whom the record is transferred must keep the record for the period for which the transferor would have been required to keep the record if the record had not been transferred.

## **Division 7 Miscellaneous provisions**

### **221 Inability to complete returns**

- (1) If a person who is required to give the Commission a return under Division 3, 4 or 5 considers it is impossible to complete the return because the person is unable to obtain particulars required to prepare the return, the person may:
  - (a) prepare the return to the extent it is possible to do so without the particulars; and

- (b) give the Commission the return so prepared; and
- (c) give the Commission written notice stating the following:
  - (i) the return is incomplete because the person is unable to obtain certain particulars;
  - (ii) the particulars the person is unable to obtain;
  - (iii) the reasons why the person is unable to obtain the particulars;
  - (iv) if the person reasonably believes another person whose name and address the person knows can give the particulars, that belief, the reasons for it and the name and address of the other person.
- (2) A person who complies with subsection (1) must not, because of the omission of particulars mentioned in subsection (1)(c)(ii), be taken to have given an incomplete return for section 215(2)(a).
- (3) If the Commission has been informed under subsection (1)(c) or (4)(e) that a person can give particulars that have not been included in a return, the Commission may, by written notice, require the person to give the Commission written notice of the particulars within the reasonable period stated in the notice.
- (4) If a person who is required to give the Commission particulars under subsection (3) considers the person is unable to obtain some or all of the particulars, the person must give the Commission a written notice stating:
  - (a) the particulars the person is able to give; and
  - (b) the person is unable to obtain certain particulars; and
  - (c) the particulars the person is unable to obtain; and
  - (d) the reasons why the person considers the person is unable to obtain the particulars; and
  - (e) if the person reasonably believes another person whose name and address the person knows can give the particulars, that belief, the reasons for it and the name and address of the other person.
- (5) If:
  - (a) a notice is given to a person under subsection (3); and

- (b) the person complies with the notice or gives the Commission a notice under subsection (4);

the person must not be taken to have given an incomplete return merely because of the omission of the required particulars.

## **222 Non-compliance with Part**

- (1) The failure of a person to comply with a provision of this Part in relation to an election does not invalidate the election.
- (2) Without limiting subsection (1), if a candidate endorsed by a registered party is elected at an election, a failure by the reporting agent of the party to comply with a provision of this Part for the election does not invalidate the candidate's election.
- (3) In addition, without limiting subsection (1), if the reporting agent of a candidate who is elected at an election does not comply with a provision of this Part for the election, the failure does not invalidate the candidate's election.

## **223 Amendment of returns**

- (1) If the Commission is satisfied a return under this Part contains a formal error or is subject to a formal defect, the Commission may amend the return to the extent necessary to correct the error or remove the defect.
- (2) A person authorised by subsection (3) may, by written notice signed by the person and given to the Commission, request the permission of the Commission to make a stated amendment of a return to correct an error or omission.
- (3) The request may be made by:
  - (a) the person who gave the return; or
  - (b) if the return was given for a registered party or candidate – the reporting agent of the party or candidate; or
  - (c) if the return was given in relation to an associated entity – the financial controller of the entity.
- (4) If the Commission is satisfied the request is justified, the Commission must permit the person to amend the return.
- (5) If the Commission decides to refuse the request, the Commission must give the person an information notice for the decision.

- (6) The amendment of a return under this section does not affect the liability of a person for an offence against section 215(2) or (4) arising out of the giving of the return.

**224 Copies of returns to be available for public inspection**

- (1) The Commission must make available for public inspection, in accordance with subsections (2) and (3), a copy of each return given to the Commission under Divisions 3, 4 and 5.
- (2) A copy of a return under Division 3 or 4 (other than a return under section 194) must be made available for public inspection from the start of the twenty-fifth week after polling day for the election to which the return relates.
- (3) A copy of a return under section 194 or Division 5 must be made available for public inspection from the start of March in the next year.
- (4) A person may, on payment of a fee decided by the Commission to cover the cost of copying, obtain a copy of a return if a copy of the return is available for public inspection under this section.

**Part 11 Appeals**

**Division 1 Preliminary**

**225 Appealable decisions and affected persons**

Each of the Commission's decisions in Schedule 2 is an appealable decision and a person or political party stated opposite the decision is an affected person for the decision.

**226 Information notices**

- (1) An information notice for an appealable decision is a written notice stating the following:
- (a) the decision;
  - (b) the reasons for the decision;
  - (c) the appeal details.
- (2) The validity of an appealable decision is not affected by a failure:
- (a) to give an information notice to an affected person for the decision; or

- (b) to comply with this section.

## **227 Appeal details**

The appeal details for an information notice are as follows:

- (a) an affected person may appeal against the appealable decision to which the notice relates;
- (b) the period allowed for applying for starting an appeal;
- (c) how to start an appeal.

## **Division 2 Appeals to Supreme Court**

### **228 Appeals against appealable decisions**

An affected person for an appealable decision may appeal against the decision to the Supreme Court.

### **229 How to start appeal**

- (1) The appeal is started by filing notice of appeal with the Registrar of the Supreme Court.
- (2) The notice must be filed within 28 days after:
  - (a) if the person receives an information notice for the appealable decision – the day the person receives the notice; or
  - (b) if paragraph (a) does not apply – the day the person becomes aware of the decision.

### **230 Operation and implementation of appealable decision**

- (1) The appeal does not affect the operation or implementation of the appealable decision.
- (2) However, the Supreme Court may make an order staying or otherwise affecting the operation or implementation of so much of the decision as the Court considers appropriate to effectively hear and decide the appeal.
- (3) The order:
  - (a) is subject to any conditions stated in it; and
  - (b) has effect:
    - (i) for the period stated in it; or



- (ii) if no period is stated in it – until the Court has decided the appeal.

**231 Decision on appeal**

- (1) In deciding the appeal, the Supreme Court may:
  - (a) confirm or vary the appealable decision; or
  - (b) set the decision aside and substitute its own decision; or
  - (c) set the decision aside and remit the matter to the Commission with the directions it considers appropriate.
- (2) For subsection (1), the Court may make the orders and give the directions it considers appropriate.
- (3) If the Court varies the appealable decision or substitutes its own decision for the appealable decision, the varied or substituted decision is, for this Act (other than this Part), taken to be the Commission's decision.

**Part 12 Court of disputed returns, disputed elections and references by Legislative Assembly**

**Division 1 Court of Disputed Returns**

**232 Establishment**

The Court of Disputed Returns is established.

**233 Constitution**

The Court of Disputed Returns is constituted by a Supreme Court Judge.

**234 Jurisdiction**

The Court of Disputed Returns has the following jurisdiction:

- (a) jurisdiction to decide applications made under Division 2 and questions referred to it under Division 3;
- (b) any other jurisdiction conferred on it by another Act.

**235 Record of proceedings**

The Court of Disputed Returns must keep a record of its proceedings.

**Division 2 Disputed elections**

**236 Validity of election may be disputed after election**

- (1) A person may dispute the validity of an election only by making application in accordance with this Division after the result of the election is declared.
- (2) Without limiting subsection (1), the validity of the election may be disputed if any of the following matters apply to the election:
  - (a) the acceptance or rejection of a nomination of a candidate by the Commission;
  - (b) the eligibility of a person to be nominated as a candidate;
  - (c) any matter connected with the printing or endorsement of ballot papers;
  - (d) any matter connected with the issue or scrutiny of ballot papers by an officer;
  - (e) any matter connected with the admission or rejection of declaration votes by an officer at the preliminary scrutiny.

**237 Who may dispute election**

The following persons are entitled to dispute the validity of an election:

- (a) a candidate in the election;
- (b) an elector entitled to vote at the election;
- (c) the Commission;
- (d) a person whose nomination as a candidate was rejected by the Commission.

**238 Making application**

- (1) The application must be made to an Associate Judge not later than 21 days after the day fixed for the return of the writ for the election.

- (2) The application must:
- (a) be addressed to the Court of Disputed Returns; and
  - (b) state the facts relied on to invalidate the election; and
  - (c) state the facts with sufficient particularity to identify the specific matter or matters on which the applicant relies as justifying the grant of relief; and
  - (d) ask for the relief to which the applicant claims to be entitled; and
  - (e) be signed by the applicant; and
  - (f) be signed by 2 witnesses whose occupations and addresses are stated.

**239 Lodgment of security for costs**

The applicant must, when making the application, lodge \$500 with the Associate Judge as security for costs.

**240 Notice of application**

- (1) The Associate Judge must, as soon as practicable after the application is made, give a copy of it to the Clerk of the Legislative Assembly.
- (2) Within 2 days after making the application, the applicant must give written notice of the application and a copy of it to:
  - (a) the Commission; and
  - (b) if the application claims a candidate who has not been returned as elected for a division was entitled to be so returned – the candidate, if any, returned as elected for the division.

**241 Parties to proceeding**

The applicant and the persons given notice of the application are parties to a proceeding under this Division.

**242 Reply to application**

- (1) A person given notice of the application may contest the application by filing a reply with the Associate Judge and giving a copy of the reply to the applicant.

- (2) The person must comply with subsection (1) not later than 7 days after the person receives the notice or the further time the Court of Disputed Returns allows.
- (3) The reply must:
  - (a) state the facts on which the person proposes to reply; and
  - (b) ask for the relief to which the person claims to be entitled; and
  - (c) be signed by the person; and
  - (d) if the reply is by a person other than the Commission – be signed by 2 witnesses whose occupations and addresses are stated.

#### **243 Inquiries by Court**

- (1) For deciding the application, the Court of Disputed Returns may inquire into any of the following:
  - (a) the identity of voters;
  - (b) whether votes were improperly admitted or rejected;
  - (c) whether the result of polling was correctly ascertained.
- (2) However, the Court must not inquire into the correctness of a roll and must take the roll to be conclusive evidence that the persons enrolled were, at the close of the roll, entitled to be enrolled.
- (3) In addition, the qualification of a person enrolled cannot be questioned.

#### **244 Certain evidence not admissible**

The Court of Disputed Returns must not:

- (a) in deciding whether the actions of an officer affected the results of the election, admit evidence of the way in which a person, who was wrongly prevented from voting at the election by an officer, would have voted; or
- (b) admit evidence from a person mentioned in paragraph (a) unless the person satisfies the Court the person was wrongly prevented from voting.

**245 Court may have regard to certain rejected ballot papers**

In making its decision on the application, the Court of Disputed Returns may have regard to ballot papers rejected during the conduct of the scrutiny of votes if it is satisfied the ballot papers should not have been rejected.

**246 Decision on application**

- (1) In making its decision on the application, the Court of Disputed Returns may dismiss or uphold the application in whole or part.
- (2) For subsection (1), the Court may make a declaration as follows:
  - (a) declare a candidate who was returned as elected was not properly elected;
  - (b) declare a candidate properly elected who was not returned as elected;
  - (c) declare the election void.
- (3) The Court must make a declaration under subsection (2)(a) if it finds the candidate returned as elected has, in relation to the election at which the candidate was elected, committed or attempted to commit an offence against Part IV, Division 3 of the Criminal Code.
- (4) In addition, without limiting subsection (2)(a) or (c), the Court may make a declaration under the provision on the ground that illegal practices were committed in relation to the election.
- (5) However, the Court must not make a declaration under subsection (2)(a) or (c) on one of the following grounds unless it is satisfied of the matters mentioned in subsection (7):
  - (a) an action that occurred without the knowledge of the candidate declared elected at the election;
  - (b) the commission of an offence against this Act by the candidate declared elected at the election unless the Court is required to make the declaration under subsection (3).
- (6) In addition, the Court must not make a declaration under subsection (2)(c):
  - (a) merely because of a delay in the declaration of nominations, the polling or the return of the writ; or

- (b) on the ground that a person whose name appears on the roll for a division and who voted as an elector for the division was not qualified to be enrolled or to continue to be enrolled as an elector for the division.
- (7) For subsection (5), the matters are:
- (a) the result of the election was likely to have been affected by the action or commission of the offence; and
  - (b) it is just that the Court make the declaration.
- (8) Subsection (3) does not prevent a prosecution for an offence mentioned in the subsection or another law in force in the Territory.

#### **247 Costs**

- (1) The Court of Disputed Returns may, by order, award the costs it considers appropriate in the proceeding.
- (2) The order must be entered as if it were a judgment of the Supreme Court.
- (3) The costs may be recovered and the order enforced accordingly.

#### **248 Application of security for costs**

- (1) The security lodged for the application may be applied only under this section.
- (2) If no order for costs is made or costs are awarded to the person who lodged the security for the application (the **payer**), the Associate Judge must refund the security to the payer.
- (3) If costs are awarded to a person other than the payer, the Associate Judge must apply the security toward the costs of the person to whom they are awarded and refund any balance to the payer.

#### **249 Reporting of offences**

If the Court of Disputed Returns finds a person has committed an offence against this Act or Part IV, Division 3 of the Criminal Code, the Associate Judge must report the finding to the Attorney-General, the Director of Public Prosecutions and the Minister.

**250 Copy of decision and declaration to be given to Clerk of Legislative Assembly**

The Associate Judge must give the Clerk of the Legislative Assembly a copy of the decision of the Court of Disputed Returns on the application and any declaration made for it by the Court.

**251 Issue of writ if necessary**

If on the hearing the Court of Disputed Returns declares an election void, the Administrator must issue the writ necessary to hold a fresh election.

**Division 3 References by Legislative Assembly**

**252 Question relating to qualification or vacancy**

- (1) The Legislative Assembly may, by resolution, refer to the Court of Disputed Returns, a question relating to:
  - (a) the qualification of a person to be an MLA; or
  - (b) a vacancy in the Legislative Assembly.
- (2) Immediately after the resolution is passed, the Speaker of the Legislative Assembly must give the Court:
  - (a) a copy of the reference certified by the Speaker; and
  - (b) the documents or other material in the possession of the Legislative Assembly relating to the reference.

**253 Parties to proceeding**

- (1) The Court of Disputed Returns may:
  - (a) grant leave to a person interested to appear before it on the decision of the reference; and
  - (b) order service of a copy of the reference on the persons the Court considers appropriate.
- (2) The persons mentioned in subsection (1)(a) or (b) are parties to the proceeding for the reference.

**254 Decision on reference**

In making its decision on the reference, the Court of Disputed Returns may make a declaration as follows:

- (a) a person was or was not qualified to be an MLA;
- (b) a vacancy does or does not exist in the number of MLAs.

**255 Copy of decision and declaration to be given to Speaker**

The Associate Judge must give the Speaker of the Legislative Assembly a copy of the decision of the Court of Disputed Returns on the reference and any declaration made for it by the Court.

**Division 4 Hearings of applications and references**

**256 Application of Division**

This Division applies to the hearing of a proceeding for an application under Division 2 or a reference under Division 3.

**257 Hearing procedures**

- (1) The Court of Disputed Returns may adjourn the hearing for the period it considers appropriate.
- (2) In conducting the hearing, the Court:
  - (a) is not bound by the rules of evidence; and
  - (b) may inform itself on a matter in a way it considers appropriate; and
  - (c) may decide the procedures to be followed for the hearing.
- (3) However, the Court must comply with this Division and any rules regulating the practice and procedure of the Court.

**258 General powers of Court**

- (1) In conducting the hearing, the Court of Disputed Returns may:
  - (a) compel the attendance of witnesses or the production of documents; or
  - (b) examine witnesses on oath; or
  - (c) receive evidence on affidavit or by statutory declaration.



- (2) In addition, in conducting the hearing of an application the Court may:
- (a) grant to a party to the proceeding leave to:
    - (i) inspect, in the presence of an officer nominated by the Court, the rolls and other documents (except ballot papers) used for the election to which the application relates; and
    - (ii) take, in the presence of the officer, extracts from the rolls and documents; or
  - (b) permit, at any stage of a proceeding and on the terms it considers appropriate, the amendments to the application or other pleadings it considers appropriate.

**259 Hearing open to public**

The hearing must be open to the public.

**260 Representation at hearing**

- (1) A party to the proceeding may not be represented at the hearing by an agent or legal practitioner other than with the consent of the other parties or by leave of the Court of Disputed Returns.
- (2) Consent or leave may be given to allow only one agent or legal practitioner to appear for a party at the same time.

**261 Contempt**

The Court of Disputed Returns may punish a contempt of its authority as if it were the Supreme Court and as if the contempt were a contempt of the Supreme Court.

**262 Decision final**

Despite any other Act, the decision of the Court of Disputed Returns on the hearing:

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside or called into question in any court or tribunal on any ground; and
- (c) is not subject to any proceedings for an injunction, declaration or order for prohibition or mandamus.

## **Division 5 Miscellaneous provisions**

### **263 Rules of Court**

The Judges of the Supreme Court (other than acting or additional Judges under that Act) or a majority of the Judges may make rules, not inconsistent with this Act, for any of the following:

- (a) regulating the practice and procedure of the Court of Disputed Returns;
- (b) conferring on the Court additional powers necessary or convenient for carrying out its functions;
- (c) any other provision necessary or convenient for carrying into effect this Part relating to the Court.

## **Part 13 Electoral Offences and legal proceedings**

### **Division 1 Electoral offences**

#### **Subdivision 1 Protection of election rights and duties**

##### **264 Interfering with election right or duty**

A person must not interfere with the free exercise or performance, by another person, of a right or duty under this Act relating to an election.

Maximum penalty: If the offender is a natural person –  
400 penalty units or imprisonment for  
2 years.

If the offender is a body corporate –  
2 000 penalty units.

##### **265 Making false statements about entitlement to vote**

- (1) A person must not inform another person that the other person is not an elector if the other person is an elector.

Maximum penalty: 200 penalty units or imprisonment for  
12 months.

- (2) A person must not inform another person that the other person is not an elector for a particular division if the other person is an elector for the division.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

## **266 Improperly influencing voters**

- (1) A person must not, by violence or intimidation, influence the vote of another person at an election.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for 12 months.

If the offender is a body corporate –  
1 000 penalty units.

- (2) An officer must not, in exercising a power or performing a function under this Act, do anything to influence the vote of another person at an election.

Maximum penalty: If the offender is a natural person –  
200 penalty units or imprisonment for 12 months.

If the offender is a body corporate –  
1 000 penalty units.

## **267 Secrecy of vote**

- (1) A person who is present when a voter votes must not:

- (a) ascertain or disclose by word, act or in another way the voter's vote; or
- (b) directly or indirectly require, induce or attempt to induce the voter to show how the voter intends to vote; or
- (c) communicate with or assist the voter while voting or look at the voter's ballot paper; or
- (d) interfere with the voter's casting of a vote.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (2) Subsection (1) does not apply to the extent a person acts under section 67 or 87 or at the voter's request.

## Subdivision 2 Campaigning offences

### 268 Definitions

In this Subdivision:

***distribute*** means print, publish, produce or disseminate.

***newspaper*** means a newspaper published or distributed in the Territory.

### 268A Meaning of *campaign material*

- (1) ***Campaign material*** is an advertisement, document or any other thing that is intended to promote the electoral prospect of a particular candidate or group of candidates for an election.
- (2) Without limiting subsection (1), ***campaign material*** includes any of the following:
  - (a) an electoral advertisement;
  - (b) a printed document containing an electoral matter (for example, a handbill, pamphlet or how-to-vote card);
  - (c) a message containing an electoral matter that is sent by telephone or otherwise broadcast by electronic means;
  - (d) material containing an electoral matter that is published.
- (3) The Commissioner may, in writing, declare a thing mentioned in subsection (1) or (2) is not campaign material.
- (4) The Commissioner may do so only if the Commissioner is satisfied the declaration is warranted having regard to all of the following:
  - (a) any information contained in the thing and the way in which the information is presented;
  - (b) the person for whom the thing is created;
  - (c) the way in which the thing is intended to be used or distributed;
  - (d) any other matters as the Commissioner considers appropriate.

### 269 Application of Division

This Division applies to the publication or distribution of advertisements, newspapers, electoral articles and other documents during the election period for an election.

**270            Offences relating to campaign material**

- (1) A person must not publish or distribute any campaign material unless:
- (a) the material clearly states the name and address of the person authorising the publication or distribution; and
  - (b) if the material is a printed document – the material includes the name and address of the printer who printed the document; and
  - (c) if the material is intended to be viewed from 2 sides – the information mentioned in paragraphs (a) and (b) is included on both sides.

Maximum penalty:        100 penalty units.

- (2) Subsection (1) does not apply to the announcement by advertisement in a newspaper of the holding of a meeting.

- (3) A person must not publish or distribute any campaign material that:

- (a) is likely to:
  - (i) mislead an elector; or
  - (ii) deceive an elector; or
  - (iii) improperly interfere with an elector casting a vote; or
- (b) contains an untrue or incorrect statement.

Maximum penalty:        100 penalty units.

**271            Offence relating to push-polling**

- (1) A person must, before conducting any push-polling, state clearly the name and address of the person authorising the push-polling:

- (a) for push-polling conducted by a telephone call – to the receiver of the call; or
- (b) for push-polling conducted in a meeting with another person – to the other person.

- (2) The person authorising the push-polling commits an offence if subsection (1) is contravened because of an act or omission of the person.

Maximum penalty:        100 penalty units.

(3) In this section:

***push-polling*** means any activity conducted as part of a telephone call made, or a meeting held, during the election period for an election, that:

- (a) is, or appears to be, a survey (for example, a telephone opinion call or telemarketing call); and
- (b) is intended to influence an elector in deciding his or her vote.

## **272 Heading of advertisements**

- (1) This section applies to the publication in a newspaper of an advertisement if any payment, reward, compensation or promise is or is to be made for the publication.
- (2) The proprietor of the newspaper must ensure the word "advertisement" is printed as a headline, in letters not smaller than 10 point, to the advertisement.
- (3) In this section:

***advertisement*** means:

- (a) an article or paragraph containing electoral matter; or
- (b) a report of a speech of a candidate in an election.

## **273 Electoral articles to be signed or state particulars of author**

- (1) A person must not distribute a circular, pamphlet or handbill containing an electoral article unless:
  - (a) the article is signed by the author; or
  - (b) the true name and address of the author is stated at the end of the article.

Maximum penalty: If the offender is a natural person –  
100 penalty units.

If the offender is a body corporate –  
500 penalty units.

- (2) The proprietor of a newspaper must ensure an electoral article published in the newspaper contains the true name and address of the author at the end of the article.

Maximum penalty: If the offender is a natural person –  
100 penalty units.

If the offender is a body corporate –  
500 penalty units.

- (3) Subsections (1) and (2) do 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 any comment, other than comment made by a speaker at the meeting.

Maximum penalty: If the offender is a natural person –  
100 penalty units.

If the offender is a body corporate –  
500 penalty units.

- (4) In this section:

**address**, of the author of an electoral article, means:

- (a) if the author is the registered officer of registered party – the party's address; or  
(b) if the author is the proprietor of a newspaper or an employee of the proprietor of a newspaper – the proprietor's business address; or  
(c) otherwise – the street name (if any) and locality of the author's residence.

**electoral article** means an article, report, letter or other matter, or part of an article, report, letter or other matter, commenting on a candidate or political party or the issues being submitted to, or otherwise before, the electors at an election.

## **274 Exemptions for distribution of electoral articles**

- (1) Section 273(1) does not apply to electoral matter on any of the following items unless the item includes a representation of a ballot paper:
- (a) a letter from an MLA that includes the name of the MLA and an indication that the person is an MLA;
  - (b) a press release published by or for an MLA that includes the name of the MLA and an indication that the person is an MLA;
  - (c) an annual report required under an Act or another publication of an Agency;
  - (d) a business or visiting card that promotes the candidacy of a person in an election.
- (2) In this section:

**publication**, of an Agency, does not include a publication that is published for the first time within 6 months immediately before a general election if the publication includes a picture of an MLA.

## **275 Canvassing for votes etc. near polling place**

- (1) This section applies during polling hours on polling day.
- (2) A person must not do any of the following things within 100 metres of the entrance of a polling place:
- (a) canvass for votes;
  - (b) solicit the vote of a person;
  - (c) induce a person not to vote for a particular candidate;
  - (d) induce a person not to vote at the election;
  - (e) exhibit a notice or sign relating to the election.

Maximum penalty: 20 penalty units.

- (3) A person must not use a loud speaker, public address system, amplifier or other thing to broadcast matter that is:
- (a) audible within 100 metres of the entrance of a polling place;  
and



- (b) intended or likely to do a thing mentioned in subsection (2)(a) to (d) (inclusive).

Maximum penalty: 20 penalty units.

**276 Badges, emblems etc. in polling places**

A person must not wear or display in a polling place a badge, emblem, poster or other thing associated with a political party or candidate.

Maximum penalty: 5 penalty units.

**277 Exhibition of electoral matter in polling places**

- (1) A person must not exhibit in a polling place a card or paper containing electoral matter.

Maximum penalty: 5 penalty units.

- (2) An offence against subsection (1) is a regulatory offence.

**278 Publication of statements regarding candidates**

- (1) A person must not publish or authorise to be published, on behalf of an entity, a statement:

(a) expressly or impliedly claiming a candidate in an election is associated with, or supports the policy or activities of, the entity; or

(b) expressly or impliedly advocating a candidate should be given the first preference vote in an election.

Maximum penalty: If the offender is a natural person –  
100 penalty units or imprisonment for  
12 months.

If the offender is a body corporate –  
500 penalty units.

- (2) Subsection (1) does not apply if the candidate gives written authority to the publication of the statement.

- (3) In a proceeding for an offence against subsection (1), it must be presumed, unless the contrary is proved, that a statement purported to be made on behalf of an entity was made on behalf of the entity.

- (4) This section does not apply to a statement that:
- (a) is published on behalf of a registered party; and
  - (b) relates to a candidate nominated by the party who has publicly declared his or her candidature to be on behalf of, or in the interests of, the party.

### **Subdivision 3 Offences relating to compulsory voting and entitlement to vote**

#### **279 Compulsory vote**

- (1) An elector who is entitled to vote at an election must vote at the election unless the elector has a valid and sufficient reason for not voting.

Maximum penalty: 1 penalty unit.

- (2) Without limiting subsection (1), an elector is taken to have a valid and sufficient reason for not voting at an election if the elector is precluded from voting because of the elector's religious beliefs.

#### **280 Person may vote only once**

- (1) A person must not vote more than once at an election.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (2) An offence against subsection (1) is a regulatory offence.

### **Subdivision 4 Voting fraud offences**

#### **281 Offences relating to supplying and obtaining ballot papers**

- (1) A person must not supply a ballot paper unless authorised to do so for this Act.

Maximum penalty: 100 penalty units.

- (2) A person must not pretend to be someone else to obtain a ballot paper to which the person is not entitled.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

## **282 Offences relating to marking ballot papers**

- (1) A person, other than a person acting under section 67 or 87, must not mark a ballot paper other than a ballot paper issued to the person.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) An offence against subsection (1) is a regulatory offence.

- (3) A person acting under section 67 or 87 must not mark a ballot paper other than in accordance with the voter's instructions.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (4) A person acting under section 67 or 87 must not cause an officer to mark a ballot paper other than in accordance with the instructions of the voter.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

## **283 Other offences relating to ballot papers and ballot boxes**

- (1) A person must not fraudulently place a ballot paper or other paper in a ballot box.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (2) A person must not fraudulently take a ballot paper out of a polling place or scrutiny centre.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) A person must not destroy, take or interfere with a ballot paper or ballot box unless authorised to do so for this Act.

Maximum penalty: 800 penalty units or imprisonment for 4 years.

- (4) A person, other than an officer acting under this Act, must not open a ballot box.

Maximum penalty: 800 penalty units or imprisonment for 4 years.

## **284        Forgery**

A person must not forge an electoral paper.

Maximum penalty:        If the offender is a natural person –  
400 penalty units or imprisonment for  
2 years.

                                  If the offender is a body corporate –  
2 000 penalty units.

## **Subdivision 5    Other offences relating to electoral papers**

### **285        Offences relating to postal ballot papers**

- (1) A person must not unlawfully induce or persuade a person to apply for a postal ballot paper.

Maximum penalty:        If the offender is a natural person –  
100 penalty units or imprisonment for  
6 months.

                                  If the offender is a body corporate –  
500 penalty units.

- (2) A person, other than an authorised officer for the division for which a postal ballot paper has been issued, must not open a declaration envelope in which a postal ballot paper has been placed under section 67(4) or (5).

Maximum penalty:        400 penalty units or imprisonment for  
2 years.

- (3) An offence against subsection (2) is a regulatory offence.

- (4) A person must not receive or take possession of a postal ballot paper other than in accordance with this Act.

Maximum penalty:        If the offender is a natural person –  
400 penalty units or imprisonment for  
2 years.

                                  If the offender is a body corporate –  
2 000 penalty units.

- (5) An offence against subsection (4) is a regulatory offence.



- (2) For subsection (1), if a person is unable to sign his or her name in writing, the person must be taken to have signed an electoral paper if the person makes a mark on the paper by way of signature.

## **290 Duty of witnesses**

A person (the **witness**) must not sign an electoral paper as witness unless:

- (a) the witness is satisfied of the identity of the person signing the document; and
- (b) the witness has seen the person sign the document; and
- (c) either of the following apply:
  - (i) the witness knows the statements contained in the document are true;
  - (ii) the witness is satisfied, on the basis of inquiries of the person, the statements contained in the document are true.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

## **291 Sending completed electoral papers**

- (1) A person who accepts an electoral paper for sending to the Commission must immediately post or deliver it to the Commission.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (2) An offence against subsection (1) is a regulatory offence.

## **Subdivision 6 Official functions**

### **292 Improper influence of officials**

A person must not do anything improper for the purpose of influencing any of the following in the exercise or performance of the person's powers or functions under this Act:

- (a) the Commission;
- (b) a member of the Redistribution Committee;

(c) the Commissioner or an officer.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

### **293 Identification of voters and votes**

(1) An officer must not make a mark on a ballot paper that would be likely to enable the identification, directly or indirectly, of the person who votes on the ballot paper.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) An officer or scrutineer must not, directly or indirectly, disclose any information acquired in the exercise of functions under this Act that would be likely to enable it to be known how an identified voter has voted.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(3) In subsection (2):

**officer** includes a person who has been, but is no longer, an officer.

**scrutineer** includes a person who has been, but is no longer, a scrutineer.

### **294 Responses to official questions**

(1) A person must not, in answer to an official question, make a statement that is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant did not know, and could not reasonably be expected to have known, that the relevant statement was false or misleading in a material particular.

(3) It is enough for a complaint against a person for an offence against subsection (1) to state the statement was, without specifying which, "false or misleading" to the person's knowledge.

**295 Control of behaviour at polling places and scrutiny centres**

- (1) A person must not enter or remain in a polling place or scrutiny centre except with the permission, express or implied, of the officer in charge of the place or centre.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) An offence against subsection (1) is a regulatory offence.

- (3) Subsection (1) does not apply to:

- (a) an officer; or
- (b) a scrutineer unless the scrutineer is, under section 47(5), no longer entitled to be at the polling place or scrutiny centre; or
- (c) for a polling place – a person voting or about to vote.

- (4) A person must not disrupt an activity being carried out under this Act at a polling place or scrutiny centre.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (5) If an authorised officer at a polling place or scrutiny centre reasonably believes a person's conduct is likely to disrupt an activity being carried out under this Act at the place or centre, the officer may direct the person to leave and stay away from the place or centre.

- (6) The person must not, without reasonable excuse, disobey the direction.

Maximum penalty: 100 penalty units.

- (7) A person who does not comply with the direction may be removed from the place by a police officer.

- (8) A scrutineer must not, without reasonable excuse, communicate with any person in a polling place other than in the exercise of the scrutineer's functions.

Maximum penalty: 20 penalty units.

- (9) A scrutineer must not, without reasonable excuse, interfere with or attempt to influence a voter at a polling place.

Maximum penalty: 200 penalty units or imprisonment for 12 months.



## **Division 2      Legal proceedings**

### **296      Evidentiary provisions**

- (1) This section applies to a legal proceeding under this Act.
- (2) A signature purporting to be the signature of the Commissioner is evidence of the signature it purports to be.
- (3) A certificate purporting to be signed by the Commissioner stating any of the following matters is evidence of the matter:
  - (a) on a day a person was or was not enrolled for a division;
  - (b) a document is a copy of a notice given under this Act;
  - (c) on a day a person was given a notice under this Act;
  - (d) a person was or was not declared to be a candidate for an election;
  - (e) a nomination of a person to be a candidate in an election was rejected;
  - (f) an election was properly held;
  - (g) a person was or was not given a ballot paper for an election;
  - (h) a person voted or failed to vote in an election;
  - (i) on a day or during a period a person was or was not registered as the reporting agent of a registered party or candidate;
  - (j) on a day or during a period no reporting agent was registered for a registered party or candidate;
  - (k) on a day a person was or was not an authorised officer or officer;
  - (l) on a day a person was or was not the delegate of the Commission or Commissioner;
  - (m) a matter prescribed by the Regulations.
- (4) In subsection (3), a reference to a person or thing is a reference to a person or thing stated in the certificate.

## **297 Time limit for starting prosecutions**

Despite section 52 of the *Local Court (Criminal Procedure) Act 1928*, a prosecution for an offence against this Act may be started at any time within 12 months after commission of the offence.

## **298 Conduct of representatives**

- (1) If, in a proceeding for an offence against this Act, it is necessary to establish a person's state of mind in relation to particular conduct, it is sufficient to show:
  - (a) the conduct was engaged in by a representative of the person, within the scope of the representative's actual or apparent authority; and
  - (b) the representative had that state of mind.
- (2) For a proceeding for an offence against this Act, conduct engaged in on behalf of a person by a representative within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person.
- (3) However, a natural person is not liable to be punished by imprisonment for an offence against this Act if the person would not have been found guilty of the offence if subsection (1) or (2) had not been enacted.
- (4) In this section:

***engaging in conduct*** includes failing or refusing to engage in conduct.

***representative*** means:

- (a) of a body corporate – an executive officer, employee or agent of the body corporate; or
- (b) of a natural person – an employee or agent of the person.

***state of mind of a person*** includes:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

### **Division 3      Infringement notices for infringement offences**

#### **300      When infringement notice may be served**

- (1) If the Commission believes a person has committed an infringement offence, the Commission may serve a notice (an ***infringement notice***) on the person.
- (2) If the infringement offence is an offence against section 279(1), the notice must be served within 3 months after the declaration of the election to which the offence relates.
- (3) However, the Commission must not serve an infringement notice for an offence against section 279(1) on an elector whose name is on the register kept under section 344.

#### **301      Particulars to be included in infringement notice**

- (1) An infringement notice must state the following:
  - (a) the name and address of the alleged offender;
  - (b) the date, time and place of the offence;
  - (c) the nature of the offence and the prescribed amount payable for the offence;
  - (d) the alleged offender may pay the prescribed amount to the Commission and the Commission's address;
  - (e) the date of the notice and a statement that the prescribed amount may be paid within 28 days after that date;
  - (f) a statement to the effect that, if the alleged offender wishes to pay the prescribed amount, the offender should complete the relevant part of the notice and return the notice with the prescribed amount to the person stated in the notice;
  - (g) a statement to the effect that, if the alleged offender wishes to be dealt with by a court for the offence, the offender should not pay the prescribed amount but should complete the relevant part of the notice and return the notice to the person stated in the notice;
  - (h) a statement that, if the alleged offender does nothing in response to the notice, a summons may be issued requiring the alleged offender to appear before the Local Court to be dealt with for the offence.

- (2) An infringement notice may include other particulars decided by the Commission.

**302 Expiation of offence**

If the prescribed amount for the infringement offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence unless the notice is withdrawn under section 304.

**303 Payment by cheque**

If the alleged offender tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on presentation.

**304 Withdrawal of infringement notice**

- (1) The Commission may withdraw the infringement notice by written notice served on the alleged offender.
- (2) The notice must be served within 28 days after service of the infringement notice but before payment of the prescribed amount.

**305 How service effected**

Service of an infringement notice or a notice of withdrawal of an infringement notice must be effected by:

- (a) delivering it to the alleged offender personally; or
- (b) posting it to the alleged offender at the alleged offender's last known address; or
- (c) leaving it for the alleged offender at the alleged offender's last known place of residence or business with a person who appears to be at least 16 years old and resident or employed there.

**306 Application of Division**

- (1) Subject to section 302, this Division does not prejudice or affect the start or continuing of proceedings for an infringement offence and does not limit the penalty that may be imposed by a court for the offence.
- (2) In addition, this Division does not prevent more than one infringement notice for the same offence being served on an alleged offender and, for section 302, it is sufficient for the alleged offender to pay the prescribed amount in accordance with any of

the notices.

- (3) Also, this Division does not require an infringement notice to be served and does not affect the liability of a person to be prosecuted in a court for an infringement offence for which an infringement notice has not been served.

## **Part 14 Electoral Commission**

### **Division 1 Establishment, functions and powers**

#### **307 Establishment**

The Northern Territory Electoral Commission is established.

#### **308 Composition**

The Commission consists solely of the Commissioner.

#### **309 Functions**

- (1) The Commission's functions are as follows:
- (a) to maintain rolls and conduct elections under this Act;
  - (b) to advise the Minister on matters relating to elections;
  - (c) to consider, and report to the Minister on, matters relating to elections referred to it by the Minister;
  - (d) to promote public awareness of matters relating to elections and the Legislative Assembly by conducting education and information programs and in any other way it chooses;
  - (e) to provide information and advice on matters relating to elections to the Legislative Assembly, an Executive body, the head of an Agency, Territory authorities, political parties, MLAs and candidates at elections;
  - (f) to conduct and promote research into matters relating to elections or other matters relating to its functions;
  - (g) to publish material on matters relating to its functions;
  - (h) to provide, on payment of the fee decided by it, goods and services to persons or organisations, to the extent that it is able to do so by using information or material in its possession or expertise acquired in the exercise of its functions;

- (i) to conduct ballots for persons and organisations;
  - (j) to perform any other function given to it under this or another Act.
- (2) The Commission may exercise a function under subsection (1)(a) to (f) (inclusive) in conjunction with the Australian Electoral Commission.

(3) In this section:

***election*** includes a referendum and any other ballot.

***Executive body*** means:

- (a) the Executive Council or a committee of the Executive Council; or
- (b) Cabinet or a committee of Cabinet.

### **310 Powers**

The Commission may do all things necessary or convenient to be done for or in relation to the performance of its functions.

### **311 Delegation**

- (1) The Commission may, in writing, delegate to a person any of its powers or functions under this Act.
- (2) However, the Commission may delegate a power or function only to a person the Commission is satisfied has the appropriate qualifications or experience to exercise the power or perform the function.

## **Division 2 Miscellaneous provisions**

### **312 Status**

- (1) For the *Public Sector Employment and Management Act 1993*, the Commission is an Agency.
- (2) The Commission is not subject to the direction or control of the Minister in the exercise or performance of its powers or functions.

### **313 Reports by commission**

- (1) As soon as practicable after, but not more than 4 months after, the end of each financial year, the Commission must give the Speaker a report of the Commission's operations during the year.

- (2) In addition, the Commission may give the Speaker a report on any matter relating to its functions.
- (3) The Speaker must table a copy of a report given to the Speaker under subsection (1) or (2) in the Legislative Assembly within 3 sitting days after the Speaker receives the report.

## **Part 15 Electoral Commissioner and staff of Commission**

### **Division 1 Electoral Commissioner**

#### **Subdivision 1 Establishment of office, functions and powers**

##### **314 Appointment**

- (1) There is to be an Electoral Commissioner.
- (2) The Administrator must, by *Gazette* notice, appoint a person to be the Electoral Commissioner.
- (3) Before a person is appointed to be the Commissioner, the Minister must consult the following persons about the proposed appointment:
  - (a) the leader of each political party represented in the Legislative Assembly;
  - (b) all MLAs who are not also members of a political party represented in the Legislative Assembly.

##### **315 Chief Executive Officer**

For the *Public Sector Employment and Management Act 1993*, the Commissioner is the Chief Executive Officer of the Commission.

##### **316 Functions**

The Commissioner has the functions given to the Commissioner under this or another Act.

##### **317 Powers**

The Commissioner may do all things necessary or convenient to be done for or in relation to the performance of the Commissioner's functions.

**318 Approved forms**

- (1) The Commissioner may approve forms for use under this Act.
- (2) An approved form may be a statutory declaration.

**319 Delegation**

- (1) The Commissioner may, in writing, delegate to a person any of the Commissioner's powers or functions under this Act.
- (2) However, the Commissioner may delegate a power or function only to a person the Commissioner is satisfied has the appropriate qualifications or experience to exercise the power or perform the function.

**Subdivision 2 Appointment provisions**

**320 Term of appointment**

The Commissioner holds office for the period (not exceeding 5 years) stated in the appointment and is eligible for reappointment.

**321 Conditions of appointment**

The Commissioner holds office on the conditions (including conditions about remuneration, expenses and allowances) determined by the Administrator and stated in the appointment.

**322 Leave of absence**

The Minister may grant the Commissioner leave of absence on the conditions the Minister decides.

**323 Termination of appointment**

- (1) The Administrator may suspend the Commissioner from duty for misbehaviour or physical or mental incapacity.
- (2) Within 3 sitting days after the day when the Commissioner is suspended, the Minister must present a statement of the reasons for the suspension to the Legislative Assembly.
- (3) If, within 7 sitting days after the statement is presented, a resolution of the Legislative Assembly is passed by a two-thirds majority of all MLAs requiring the Administrator to terminate the Commissioner's appointment, the Administrator must terminate the Commissioner's appointment.



- (4) The Commissioner must resume duties if:
  - (a) the Minister does not present the statement under subsection (2); or
  - (b) the Legislative Assembly does not pass a resolution in accordance with subsection (3).
- (5) The Commissioner is entitled to be paid remuneration and allowances during the period of suspension.
- (6) The Administrator must terminate the appointment of the Commissioner if the Commissioner becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit.

### **324 Resignation**

The Commissioner may resign from office by written notice given to the Minister.

### **325 Acting Commissioner**

- (1) The Minister may, by *Gazette* notice, appoint a person to act as the Commissioner:
  - (a) during a vacancy in the office, whether or not an appointment has previously been made to the office; or
  - (b) during any period or all periods when the Commissioner is unable to perform the duties of the office.
- (2) A person appointed to act as the Commissioner during a vacancy in the office must not act continuously for more than 6 months.
- (3) The conditions (including conditions about remuneration, expenses and allowances) of an appointment to act as Commissioner must be decided by the Minister.

### **326 Validity of Commissioner's acts and decisions**

Anything done by or in relation to a person purporting to act under an appointment as Commissioner under section 314 or an appointment to act as Commissioner under section 325 is not invalid merely because:

- (a) the appointment was ineffective; or
- (b) the appointment had ceased to have effect; or

- (c) if the appointment is to act as Commissioner – the occasion to act had not arisen or had ceased.

**327 MLA ineligible for appointment**

An MLA is not entitled to be appointed as the Commissioner or to act as the Commissioner.

**Division 2 Staff of Commission**

**328 Staff and consultants**

- (1) All members of the Commission's staff are to be public sector employees.
- (2) A person who assists the Commission under an arrangement mentioned in section 329(1) is, while assisting the Commission, taken to be a member of the Commission's staff.
- (3) The Commission may engage the consultants the Commission considers necessary for the performing the Commission's functions.

**329 Sharing staff and physical resources**

- (1) The Commission may make arrangements for a person who is:
  - (a) a member of the staff of another statutory office to assist the Commission; or
  - (b) a member of the Commission's staff to assist the holder of another statutory office.
- (2) The Commission may make arrangements for the use by:
  - (a) the Commission's office of the physical resources of another statutory office; or
  - (b) another statutory office of the physical resources of the Commission's office.

**330 Officers**

- (1) The Commission may appoint a person to be an officer for this Act.
- (2) Without limiting subsection (1), the officers include:
  - (a) the officer in charge of a polling place; and
  - (b) the officer in charge of a scrutiny centre; and
  - (c) an officer for a poll or the scrutiny for an election.

- (3) However, a person who is under 18 years must not be appointed an officer.
- (4) In addition, a candidate or a spouse or de facto partner of a candidate must not be appointed an officer.

## **Part 16            Redistribution Committee**

### **Division 1        Redistribution Committee**

#### **331            Establishment**

For each redistribution, a Redistribution Committee is established.

#### **332            Composition**

The Redistribution Committee consists of the following members:

- (a) the Commissioner;
- (b) the Surveyor-General;
- (c) the Auditor-General;
- (d) the appointed member.

#### **333            Chairperson**

The appointed member is the Chairperson of the Redistribution Committee.

#### **336            Appointment of appointed member**

- (1) The Administrator must, by *Gazette* notice, appoint a person as a member of the Redistribution Committee (the ***appointed member***).
- (2) A person is eligible for appointment as the appointed member of the Committee only if:
  - (a) the person has served as, or is qualified for appointment as, a Supreme Court Judge or Local Court Judge; and
  - (b) the person:
    - (i) is not a member of a political party; and
    - (ii) the person does not have a recent political affiliation.

- (2A) For subsection (2)(b)(ii), a person has a recent political affiliation if, at any time during the previous 5 years, the person:
- (a) was a member of the Legislative Assembly or a local government council; or
  - (b) was an office holder or elected representative of a political party in the Territory or elsewhere in Australia; or
  - (c) was a member of staff of a minister; or
  - (d) made a reportable donation to a political party or an associated entity of a political party, in the Territory or elsewhere in Australia.
- (2B) For subsection (2A)(d), a person made a reportable donation if it was made by the person or by a body corporate of which the person was an office holder or majority shareholder at the time the donation was made.
- (3) Before a person mentioned in subsection (2)(b) is appointed, the Minister must consult the following persons about the proposed appointment:
- (a) the leader of each political party represented in the Legislative Assembly;
  - (b) all MLAs who are not also members of a political party represented in the Legislative Assembly.

(3A) In this section:

**reportable donation** means a gift or loan that is required to be disclosed or reported under Part 10 or under a similar law in force in the Commonwealth or in a State or another Territory.

### **337 Term of appointed member's appointment**

The appointed member holds office from the date of the member's appointment until the date the Redistribution Committee is dissolved.

### **338 Conditions of appointment**

The appointed member holds office on the conditions (including conditions about remuneration, expenses and allowances) determined by the Administrator and stated in the appointment.

**340 Dissolution**

The Redistribution Committee is dissolved on its giving the Commissioner a report on the redistribution for which it is established.

**Division 3 Functions, powers and procedures of Redistribution Committee****341 Functions**

- (1) The Redistribution Committee has functions given to it under Part 8 for conducting redistributions.
- (2) The Commission must give the Redistribution Committee the information and assistance the Committee requires for performing its functions.

**342 Powers**

The Redistribution Committee may do all things necessary or convenient to be done for or in relation to the performance of its functions.

**343 Procedures**

- (1) Subject to subsection (2), the Redistribution Committee may:
  - (a) regulate the conduct of proceedings at its meetings as it considers appropriate; and
  - (b) inform itself in any way it considers appropriate.
- (2) At a meeting of the Redistribution Committee, the Chairperson has a casting vote as well as a deliberative vote in the event of an equality of votes.

**Part 17 Miscellaneous provisions****344 Register of electors precluded from voting because of religious beliefs**

The Commission must keep a register of electors who give the Commission a statutory declaration stating the elector is precluded from voting because of the elector's religious beliefs.

**345 Storage and destruction of electoral papers**

- (1) This section applies to electoral papers in the Commission's possession that were used for an election.
- (2) The Commissioner must securely store the electoral papers until satisfied they are no longer required for exercising a power or performing a function under this Act.
- (3) The Commissioner may destroy the electoral papers when they are no longer required as mentioned in subsection (2).

**346 Protection from liability**

- (1) This section applies to a person who is or has been:
  - (a) the Commissioner; or
  - (b) an officer; or
  - (c) a member of the Commission's staff.
- (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

**347 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Regulations may provide for any of the following:
  - (a) fees payable, and the refund (wholly or partly) of fees paid, under this Act;
  - (b) the designation of an offence against a regulation as a regulatory offence;
  - (c) penalties for offences against the Regulations not exceeding 100 penalty units for a natural person and 500 penalty units for a body corporate.

- (3) The Regulations may:
- (a) make different provision in relation to:
    - (i) different persons or matters; or
    - (ii) different classes of persons or matters; or
  - (b) apply differently by reference to stated exceptions or factors.

## **Part 18                    Repeal and transitional provisions**

### **348            Definitions**

In this Part:

**commencement date** means the date on which this Part comes into operation.

**former division** has the meaning in section 350.

**new division** has the meaning in section 350.

**repealed Act** means the *Northern Territory Electoral Act 1995* as in force immediately before the commencement date.

### **349            Repeal**

The *Northern Territory Electoral Act 1995* (No. 37 of 1995) is repealed.

### **350            Divisions**

A division under the repealed Act as in force immediately before the commencement date (the **former division**) is a division for this Act with the same boundaries and name (the **new division**).

### **351            MLAs**

A person who, immediately before the commencement date, was a member of the Legislative Assembly for the former division is taken to be the MLA for the new division.

### **352            Rolls**

A roll of electors kept under the repealed Act for the former division and in force immediately before the commencement date is taken to be the roll kept under this Act for the new division.

**353 Arrangement with Commonwealth**

The arrangement made under section 27 of the repealed Act and in force immediately before the commencement date is taken to be an arrangement made under section 20 of this Act.

**354 Register of electors not voting because of religious beliefs**

- (1) A religious beliefs register kept under the repealed Act for the former division and in force immediately before the commencement date is taken to be the register required to be kept under section 344 for the new division.
- (2) In this section:

*religious beliefs register* means a register of the names and addresses of persons who have given the person's religious beliefs as an explanation for not having voted at an election.

**355 Pending election**

- (1) If, immediately before the commencement date, a writ for an election issued under the repealed Act had not been returned under that Act, the repealed Act, other than Part 12, applies to the election as if it had not been repealed.
- (2) For subsection (1), the repealed Act applies as if a reference to an officer under that Act were a reference to the Commissioner or other officer under this Act.
- (3) On the declaration of the results of the election:
  - (a) the candidate returned as elected for the former division is taken to be the MLA for the new division; and
  - (b) Part 12 of this Act applies to the election.

**356 Pending legal proceedings**

- (1) If, immediately before the commencement date, a proceeding under Part 12 of the repealed Act had not been decided, the proceeding may be heard and decided under that Act as if it had not been repealed.
- (2) For subsection (1):
  - (a) the Election Tribunal established under the repealed Act is continued; and



- (b) the Judge constituting the Tribunal immediately before the commencement date continues to constitute the Tribunal; and
  - (c) a decision or declaration of the Tribunal is taken to be a decision or declaration of the Court of Disputed Returns under Part 12, Division 2 or 3 of this Act.
- (3) If, immediately before the commencement date, the Chief Electoral Officer was a party to a legal proceeding pending or existing in any court or tribunal, the Commission is substituted for the Chief Electoral Officer as a party to the proceeding and has the same rights and obligations the Chief Electoral Officer had in the proceeding.

### **357 Chief Electoral Officer**

- (1) The person holding office as the Chief Electoral Officer (the **former office**) under the repealed Act immediately before the commencement date holds office as the Commissioner on the conditions on which the person held the former office until the earlier of the following:
- (a) the person's term of appointment to the former office ends;
  - (b) a person is appointed Commissioner under section 314 of this Act.
- (2) In an Act or document, a reference to the Chief Electoral Officer may, if the context permits, be taken to be a reference to the Commission or Commissioner as the case requires.

### **358 Election Tribunal Trust Account**

The Master must close the trust account kept for section 108(5) of the repealed Act and pay the balance of the account to the Central Holding Authority.

### **359 References to repealed Act**

In an Act or document, a reference to the repealed Act or a provision of that Act may, if the context permits, be taken to be a reference to this Act or the corresponding provision of this Act.

## **Part 19                    Transitional matters for Electoral Legislation Amendment Act 2016**

### **360            Transitional matter**

The amendments made to this Act by the *Electoral Legislation Amendment Act 2016* do not apply to an election or general election (including an extraordinary general election) for which a writ was issued under Part 5 before the commencement of that Act.

## **Part 20                    Transitional matters for Electoral Amendment Act 2018**

### **361            Appointed member and Chairperson of Redistribution Committee**

- (1) The person holding office as the appointed member and Chairperson of the Augmented Redistribution Committee immediately before the commencement date holds office as the appointed member and Chairperson of the Redistribution Committee on and after the commencement date on the conditions on which the person held the former office.
- (2) In this section:

***commencement date*** means the date on which section 26 of the *Electoral Amendment Act 2018* comes into operation.

**Schedule 1 Form of writ**

section 27(1)

NORTHERN TERRITORY OF AUSTRALIA

**ELECTORAL ACT 2004**

WRIT

To:

The Electoral Commission

I request that you conduct an election in accordance with this Act for one member of the Legislative Assembly of the Northern Territory of Australia for the division of *[insert name of division]*.\*

I request that you conduct a general election in accordance with this Act for all members of the Legislative Assembly of the Northern Territory of Australia.\*

I fix the following dates for the election:

*[insert date]* to be nomination day;

*[insert date]* to be polling day;

*[insert date]* to be the last day on which this writ may be returned.

Given under my hand and the Public Seal of the Northern Territory of Australia on *[insert date]*.

Administrator

\* Delete whichever is inapplicable.

## **Schedule 2 Appealable decisions and affected persons**

section 225

A decision under section 158(1) or (2) to refuse an application for registration of a political party	The party
A decision under section 157(1) to register a political party	A person who objected to registration of the party
A decision under section 158(1) or (2), as applied by section 169(2), to refuse to change the registered particulars of a political party	The party
A decision under section 161(3) to cancel the registration of a political party	The party
A decision to give a notice under section 217	The person given the notice
A decision to refuse a request under section 223(2) to make a stated amendment of a return	The person making the request

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**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

**2****LIST OF LEGISLATION*****Electoral Act 2004 (Act No. 11, 2004)***

Assent date            1 March 2004  
 Commenced            15 March 2004 (*Gaz S6*, 15 March 2004)

***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date            8 March 2007  
 Commenced            8 March 2007

***Statute Law Revision Act 2008 (Act No. 6, 2008)***

Assent date            11 March 2008  
 Commenced            11 March 2008

***Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)***

Assent date            14 November 2008  
 Commenced            1 July 2008 (s 2)

***Electoral Amendment Act 2009 (Act No. 3, 2009)***

Assent date            12 March 2009  
 Commenced            12 March 2009

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)***

Assent date            18 November 2010  
 Commenced            1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz G7*, 16 February 2011, p 4)

***Penalties Amendment (Chief Minister's and Other Portfolios) Act 2011 (Act No. 27, 2011)***

Assent date            31 August 2011  
 Commenced            21 September 2011 (*Gaz G38*, 21 September 2011, p 5)

**Electoral and Other Legislation Amendment Act 2011 (Act No. 40, 2011)**

Assent date 21 December 2011  
Commenced pts 4, 6 and 7: 1 May 2012; rem: 21 December 2011 (s 2)

**Constitutional Convention (Election) Act 2011 (Act No. 41, 2011)**

Assent date 21 December 2011  
Commenced 21 December 2011

**Correctional Services (Related and Consequential Amendments) Act 2014 (Act No. 27, 2014)**

Assent date 4 September 2014  
Commenced 9 September 2014 (*Gaz* S80, 9 September 2014, p 2)

**Statute Law Amendment (Directors' Liability) Act 2015 (Act No. 26, 2015)**

Assent date 18 September 2015  
Commenced 14 October 2015 (*Gaz* G41, 14 October 2015, p 3)

**Electoral Legislation Amendment Act 2016 (Act No. 1, 2016)**

Assent date 2 March 2016  
Commenced 2 March 2016

**Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)**

Assent date 6 April 2016  
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016))

**Supreme Court Amendment (Associate Judges) Act 2017 (Act No. 18, 2017)**

Assent date 5 September 2017  
Commenced 22 November 2017 (*Gaz* S84, 21 November 2017, p 1)

**Electoral Amendment Act 2018 (Act No. 31, 2018)**

Assent date 19 December 2018  
Commenced 20 December 2018 (s 2)

**3 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 16, 19, 43, 140, 140B, 215, 297, 312 and 315, and sch 1.

**4 LIST OF AMENDMENTS**

pt 1 hdg	amd No. 40, 2011, s 34
s 3	amd No. 3, 2009, s 3; No. 40, 2011, ss 4 and 34; No. 18, 2017, s 36; No. 31, 2018, s 4
s 5	amd No. 40, 2011, s 5
s 7	amd No. 40, 2011, s 6
s 12	amd No. 40, 2011, s 7
s 14	amd No. 27, 2011, s 3
s 15	amd No. 27, 2011, s 3; No. 40, 2011, s 34
s 16A	ins No. 40, 2011, s 8
s 18	amd No. 27, 2011, s 3
s 19	amd No. 27, 2011, s 3; No. 40, 2011, s 34
s 21	amd No. 1, 2016, s 3

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pt 5 hdg	amd No. 1, 2016, s 4
s 23	sub No. 3, 2009, s 4
s 24	amd No. 3, 2009, s 5
s 25	amd No. 3, 2009, s 6
s 26	amd No. 3, 2009, s 7
s 26A	ins No. 3, 2009, s 8
s 28	amd No. 3, 2009, s 9
s 31	sub No. 40, 2011, s 9
s 32	amd No. 40, 2011, s 34
s 36	amd No. 40, 2011, s 34
s 39	amd No. 40, 2011, s 10
s 40	amd No. 40, 2011, s 34; No. 1, 2016, s 5
s 41	amd No. 1, 2016, s 6
ss 42 – 43	amd No. 40, 2011, s 34
s 45	amd No. 40, 2011, s 34
s 49	amd No. 40, 2011, s 11
s 50	amd No. 40, 2011, s 12; No. 1, 2016, s 7
s 51A	ins No. 40, 2011, s 13
ss 52 – 57	amd No. 40, 2011, s 34
s 60	amd No. 40, 2011, s 14; No. 27, 2014, s 57
	sub No. 1, 2016, s 8
s 61	sub No. 1, 2016, s 8
s 62	amd No. 3, 2009, s 10; No. 40, 2011, s 15; No. 1, 2016, s 9
s 63	amd No. 40, 2011, s 34
s 64	amd No. 40, 2011, s 16
s 67	amd No. 1, 2016, s 10
s 68	amd No. 3, 2009, s 11
s 69	amd No. 3, 2009, s 12
s 70	amd No. 3, 2009, s 13
s 71	amd No. 40, 2011, s 34; No. 1, 2016, s 11
ss 72 – 74	amd No. 40, 2011, s 34
s 76	amd No. 40, 2011, s 34
s 78	sub No. 40, 2011, s 17
ss 79 – 80	rep No. 40, 2011, s 17
s 81	amd No. 40, 2011, s 18
s 84	amd No. 40, 2011, s 19
pt 6	
div 6A hdg	ins No. 40, 2011, s 20
s 85A	ins No. 40, 2011, s 20
	amd No. 1, 2016, s 12
s 88	amd No. 40, 2011, ss 21 and 34
ss 89 – 90	amd No. 40, 2011, s 34
s 92	amd No. 27, 2011, s 3
s 94	amd No. 40, 2011, s 22 and 34; No. 1, 2016, s 13
s 96	amd No. 1, 2016, s 14
s 99	amd No. 40, 2011, s 34
s 101	amd No. 40, 2011, s 34
s 103	amd No. 40, 2011, s 34
s 105	amd No. 40, 2011, s 23 and 34
ss 108 – 109	amd No. 40, 2011, s 34
s 111	amd No. 40, 2011, s 34
s 112	amd No. 40, 2011, s 34; No. 1, 2016, s 15
ss 113 – 114	amd No. 40, 2011, s 34
s 116	amd No. 40, 2011, s 34
s 118	amd No. 40, 2011, s 34
ss 120 – 122	amd No. 40, 2011, s 34
s 128	amd No. 40, 2011, s 34; No. 1, 2016, s 16
s 133	amd No. 40, 2011, s 34

## ENDNOTES

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s 134	amd No. 3, 2009, s 14; No. 40, 2011, s 34
s 135	amd No. 40, 2011, s 34
s 137	amd No. 40, 2011, s 34
s 138	amd No. 40, 2011, s 24 and 34; No. 31, 2018, s 5
pt8	
div 2 hdg	amd No. 31, 2018, s 6
s 139	sub No. 31, 2018, s 7
ss 139A – 139B	ins No. 31, 2018, s 7
s 140	amd No. 28, 2008, s 3; No. 40, 2011, s 25 and 34; No. 31, 2018, s 8
ss 140A – 140B	ins No. 31, 2018, s 9
s 143	amd No. 31, 2018, s 10
s 144	amd No. 31, 2018, s 11
s 145	amd No. 31, 2018, s 12
ss 145A – 145B	ins No. 31, 2018, s 13
s 146	amd No. 31, 2018, s 14
s 147	amd No. 31, 2018, s 15
s 148	amd No. 31, 2018, s 16
s 149	rep No. 31, 2018, s 17
s 150A	ins No. 31, 2018, s 18
s 151	amd No. 40, 2011, s 34; No. 31, 2018, s 19
s 152	amd No. 40, 2011, s 34
s 155	amd No. 40, 2011, s 34
s 156	amd No. 40, 2011, s 26
ss 157 – 158	amd No. 40, 2011, s 34
ss 161 – 162	amd No. 40, 2011, s 34
s 169	amd No. 40, 2011, s 34
s 171A	ins No. 40, 2011, s 27
s 172	amd No. 27, 2011, s 3
s 174	amd No. 27, 2011, s 3
s 176	amd No. 6, 2008, s 3; No. 40, 2011, s 28 and 34
s 182	amd No. 40, 2011, s 34
s 184	amd No. 40, 2011, s 34
s 187	amd No. 40, 2011, s 34
s 189	amd No. 40, 2011, s 34
ss 192 – 195	amd No. 40, 2011, s 34
s 196	amd No. 27, 2011, s 3
s 197	amd No. 6, 2008, s 3
s 199	amd No. 40, 2011, s 29 and 34
s 200	amd No. 4, 2007, s 7
s 202	amd No. 40, 2011, s 34
ss 204 – 205	amd No. 40, 2011, s 34
ss 207 – 208	amd No. 40, 2011, s 34
s 214	amd No. 40, 2011, s 34
s 215	amd No. 27, 2011, s 3; No. 8, 2016, s 45
ss 216 – 217	amd No. 40, 2010, s 118
s 218	amd No. 27, 2011, s 3
s 219	amd No. 40, 2011, s 34; No. 8, 2016, s 45
s 221	amd No. 40, 2011, s 34
s 223	amd No. 40, 2011, s 34
s 231	amd No. 40, 2011, s 34
s 233	amd No. 8, 2016, s 45
s 234	amd No. 41, 2011, s 197
s 238	amd No. 40, 2011, s 34; No. 18, 2017, s 36
ss 239 – 240	amd No. 18, 2017, s 36
s 242	amd No. 40, 2011, s 34; No. 18, 2017, s 36



## ENDNOTES

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s 248 – 250	amd No. 18, 2017, s 36
s 255	amd No. 18, 2017, s 36
s 257	amd No. 40, 2011, s 34
s 258	amd No. 40, 2010, s 118
s 262	amd No. 40, 2011, s 34
ss 264 – 266	amd No. 27, 2011, s 3
s 267	amd No. 27, 2011, s 3; No. 40, 2011, s 34
s 268	amd No. 40, 2011, ss 30 and 34
s 268A	ins No. 40, 2011, s 31
ss 270 – 271	amd No. 27, 2011, s 3 sub No. 40, 2011, s 32
ss 272 – 273	amd No. 27, 2011, s 3; No. 40, 2011, s 34
s 275	amd No. 27, 2011, s 3; No. 1, 2016, s 17
ss 276 – 295	amd No. 27, 2011, s 3
s 290	amd No. 40, 2011, s 34
s 292	amd No. 31, 2018, s 20
s 295	amd No. 40, 2011, s 34
s 297	amd No. 8, 2016, s 45
s 299	amd No. 40, 2011, s 34 rep No. 26, 2015, s 18
s 301	amd No. 8, 2016, s 45
s 305	amd No. 40, 2011, s 34
s 314	amd No. 40, 2011, s 34
ss 325 – 326	amd No. 40, 2011, s 34
s 328	amd No. 40, 2011, s 34
s 330	amd No. 40, 2011, s 34
pt 16 hdg	amd No. 31, 2018, s 21
s 331	amd No. 31, 2018, s 22
s 332	amd No. 31, 2018, s 23
s 333	amd No. 31, 2018, s 24
pt 16	
div 2 hdg	om No. 31, 2018, s 25
ss 334 – 338	rep No. 31, 2018, s 26
s 336	amd No. 40, 2011, s 34; No. 8, 2016, s 45; No. 31, 2018, s 27
s 337	amd No. 31, 2018, s 28
s 339	rep No. 31, 2018, s 29
s 340	amd No. 31, 2018, s 30
pt 16	
div 3 hdg	amd No. 31, 2018, s 31
s 341	amd No. 31, 2018, s 32
s 342	amd No. 31, 2018, s 33
s 343	amd No. 31, 2018, s 34
s 345	amd No. 40, 2011, s 33
s 346	amd No. 40, 2011, s 34
s 356	amd No. 40, 2011, s 34
s 358	amd No. 4, 2007, s 7
pt 19 hdg	ins No. 1, 2016, s 18
s 360	exp No. 11, 2004, s 360 ins No. 1, 2016, s 18
pt 20 hdg	ins No. 31, 2018, s 35
s 361	ins No. 31, 2018, s 35