

Serial 179
Electoral and Other Legislation Amendment Bill 2011
Mr Henderson

A Bill for an Act to amend the *Electoral Act*, *Local Government Act* and *Local Government (Electoral) Regulations*

NORTHERN TERRITORY OF AUSTRALIA

ELECTORAL AND OTHER LEGISLATION AMENDMENT ACT 2011

Act No. [] of 2011

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2011

An Act to amend the *Electoral Act*, *Local Government Act* and *Local Government (Electoral) Regulations*

[Assented to [] 2011]
[Second reading [] 2011]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Electoral and Other Legislation Amendment Act 2011*.

2 Commencement

- (1) Parts 4, 6 and 7 commence on 1 May 2012.
- (2) The remaining provisions of this Act commence on the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Electoral Act

3 Act amended

This Part amends the *Electoral Act*.

4 Section 3 amended

- (1) Section 3, definitions *contravene*, *electoral advertisement*, *mobile polling place* and *publish*

omit

- (2) Section 3

insert (in alphabetical order)

campaign material, see section 268A.

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.

extraordinary general election, see section 23(4).

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

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

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

- (3) Section 3, definition *polling hours*, paragraph (a), at the end

insert

or

- (4) Section 3, definition *polling hours*, paragraph (c)

omit, insert

- (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).

5 Section 5 amended

Section 5(1) and (2)

omit, insert

- (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).

6 Section 7 amended

- (1) After section 7(2)(a)

insert

(ab) a candidate for the election; or

- (2) Section 7(2)(a), (b) and (c), at the end

insert

or

7 Section 12 amended

After section 12(4)

insert

- (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.

8 Section 16A inserted

After section 16

insert

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.

9 Section 31 replaced

Section 31

repeal, insert

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.

10 Section 39 amended

Section 39(1) and (3)

omit

to the person who lodged it.

insert

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.

11 Section 49 amended

(1) Section 49(1)

omit, insert

- (1) A person may cast a vote at an election in accordance with Divisions 2 to 6A.

(2) Section 49(2)

omit

A person

insert

Except as otherwise provided in this Act, a person

(3) After section 49(2)

insert

- (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.

12 Section 50 amended

- (1) Section 50(2)(b)

omit

preference

insert

preferences

- (2) After section 50(2)

insert

Note for section 50

See section 94(2) to (3B).

13 Section 51A inserted

After section 51, in Part 6, Division 1

insert

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.

14 Section 60 amended

(1) Section 60(2)

omit

(1)(a)

insert

(1)(b)

(2) Section 60(2)(a)

omit

place

insert

place (other than a mobile polling place at which the person may vote); or

(3) Section 60(2)(c)

omit, insert

(c) throughout polling hours will be unable to attend a polling place because of a physical or other disability, illness, advanced pregnancy or another condition of the person; or

(d) throughout polling hours will be unable to attend a polling place because of a reasonable fear for, or a reasonable apprehension about, his or her personal wellbeing or safety; or

(da) throughout polling hours will be unable to attend a polling place because the person will be at a place (other than a mobile polling place at which the person may vote) caring for another person who has a physical or other disability, illness, advanced pregnancy or another condition; or

(4) Section 60(2), (b), (e)(ii) and (f), at the end

insert

or

15 Section 62 amended

(1) Section 62(2A)(b)

omit, insert

(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.

(2) After section 62(3)

insert

(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.

16 Section 64 amended

Section 64(1)

omit

the day mentioned in section 62(3)(b)

insert

the day that is 2 days before polling day

17 Sections 78 to 80 replaced

Sections 78 to 80

repeal, insert

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.

18 Section 81 amended

- (1) Section 81, heading

omit

day

insert

dates

(2) Section 81(1)

omit, insert

- (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.

(3) Section 81(2)

omit

the Commission must give the public notice

insert

the Commissioner must give notice to the public

19 Section 84 amended

Section 84

omit

all words after "because"

insert

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.

20 Part 6, Division 6A inserted

After section 85

insert

**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);
 - (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.

21 Section 88 amended

Section 88(1), after "physical"

insert

or other

22 Section 94 amended

Section 94(2) and (3)

omit, insert

- (2) For section 50(2)(a) and (b), a voter is taken to have indicated his or her order of preferences for all the candidates on a ballot paper in the circumstances mentioned in subsection (3), (3A) or (3B).
- (3) If there are only 2 candidates and the voter placed a single "1", "✓" or "✕" in one candidate square and either placed a "2" in the remaining candidate square or left it blank, then:
- (a) the candidate whose candidate square is placed with a "1", "✓" or "✕" is taken to be the voter's first preference; and
 - (b) the other candidate is taken to be the voter's last preference.
- (3A) If there are 3 or more candidates and the voter placed a single "1", "✓" or "✕" in one candidate square and placed consecutively increasing whole numbers (starting with a "2") in the remaining candidate squares until a number is placed in each of those candidate squares, then:
- (a) the candidate whose candidate square is placed with a single "1", "✓" or "✕" is taken to be the voter's first preference; and
 - (b) the number placed in each of the other candidate squares is taken to indicate the rest of the voter's order of preferences.
- (3B) If there are 3 or more candidates and the voter placed a single "1", "✓" or "✕" in one candidate square, left one candidate square blank and placed consecutively increasing whole numbers (starting with a "2") in the remaining candidate squares until a number is placed in each of those candidate squares, then:
- (a) the candidate whose candidate square is placed with a single "1", "✓" or "✕" is taken to be the voter's first preference; and

- (b) the candidate whose candidate square is left blank is taken to be the voter's last preference; and
- (c) each number placed in any other candidate square is taken to indicate the voter's order of preferences between the first and last preferences.

23 Section 105 amended

After section 105(2)

insert

- (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.

24 Section 138 amended

Section 138(4)

omit

25 Section 140 amended

Section 140(2)(g)(v)

omit

26 Section 156 amended

- (1) Section 156

omit

The Commission

insert

- (1) The Commission
- (2) After section 156(1)

insert

- (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.

27 Section 171A inserted

After section 171

insert

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.

28 Section 176 amended

Section 176, definition *broadcast*

omit

29 Section 199 amended

Section 199, definition *electoral advertisement*

omit

30 Section 268 amended

Section 268, definition *publish*

omit

31 Section 268A inserted

After section 268

insert

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.

32 Sections 270 and 271 replaced

Sections 270 and 271

repeal, insert

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.

33 Section 345 amended

Section 345(2) and (3)

omit, insert

- (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).

34 Act further amended

Schedule 1 has effect.

Part 3 Amendment of Local Government Act commencing on Administrator's assent

35 Act amended

This Part amends the *Local Government Act*.

36 Section 3 amended

- (1) Section 3, definition ***electoral campaign material***
omit

(2) Section 3

insert (in alphabetical order)

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

37 Section 37 amended

Section 37(1)(d)

omit

all words from "whose" to "guidelines"

38 Section 88 amended

After section 88(1)

insert

- (1A) The roll must contain the same information about each elector required of a roll prepared under the *Electoral Act*.

Note for subsection (1A)

See section 11 of the Electoral Act for the information required of a roll prepared under that Act.

39 Section 99 replaced

Section 99

repeal, insert

99 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.

Fault element: The person intentionally publishes or distributes the campaign material.

Maximum penalty: 100 penalty units.

- (2) 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.

Fault element: The person intentionally publishes or distributes the campaign material.

Maximum penalty: 100 penalty units.

- (3) For this section, *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.
- (4) Without limiting subsection (3), *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.
- (5) The Electoral Commissioner may, in writing, declare a thing mentioned in subsection (3) or (4) is not campaign material.

- (6) The Electoral Commissioner may do so only if the Electoral 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.
- (7) For subsection (4), *electoral matter* is matter, in printed or electronic form, that is intended or likely to affect voting at an election.
- (8) Without limiting subsection (7), matter is taken to be intended or likely to affect voting at an election if it contains an express or implicit reference to or comment on:
- (a) the election; or
 - (b) a candidate for the election; or
 - (c) the performance of a member, or former member, of a council; or
 - (d) an issue submitted to, or otherwise before, the electors in relation to the election.

40 Part 20.2 heading amended

Part 20.2, heading, after "provisions"

insert

for Local Government Act 2008

41 Part 20.3 inserted

After section 272

insert

Part 20.3 Transitional provisions for Electoral and Other Legislation Amendment Act 2011**273 Member of council who is also employee of council**

- (1) This section applies to a person who, immediately before the commencement of this section, was a member of a council and an employee of the council.
- (2) Section 37 as amended by the *Electoral and Other Legislation Amendment Act 2011* does not:
 - (a) disqualify the person from office as a member of the council for the remainder of the person's term of office as a member of that council; or
 - (b) prevent the person continuing to be an employee of the council for the remainder of that term.

Note for subsection (2)

Under section 38, a council member's term of office ends at the conclusion of the next general election for the council following the member's election or appointment.

274 Savings – failed election

- (1) This section applies if:
 - (a) an election held for an area before the commencement of this section fails; and
 - (b) as a result, another election (the *fresh election*) is to be held for the area.
- (2) If the fresh election is to be held after the commencement of Part 3 of the *Electoral and Other Legislation Amendment Act 2011*, it must be conducted as if Parts 3 and 5 of that Act had not commenced.

42 Act further amended

Schedule 2 has effect.

Part 4 Amendment of Local Government Act commencing on 1 May 2012

43 Act amended

This Part amends the *Local Government Act*.

44 Section 3 amended

(1) Section 3, definition *returning officer*

omit

(2) Section 3

insert (in alphabetical order)

by-election means a by-election mentioned in section 86.

general election means:

- (a) a general election mentioned in section 84; or
- (b) a periodic general election mentioned in section 85.

45 Section 86 amended

Section 86(3) and (4)

omit, insert

- (3) A by-election is to be held on a date fixed by the Electoral Commissioner.
- (4) The date must fall within 3 months after the Electoral Commissioner receives notice of a casual vacancy in the membership of the council for which the by-election is required.
- (5) The by-election (including nomination of candidates and other related processes) is to be conducted as decided by the Electoral Commissioner.

46 Section 88 amended

Section 88(3)

omit

47 Section 91 amended

(1) Section 91(1)

omit

A person

insert

The Electoral Commissioner or a person

(2) Section 91(2)(b)

omit

area; or

insert

area.

(3) Section 91(2)(c)

omit

48 Section 96 amended

(1) Section 96(1)

omit

(1) The

insert

The

(2) Section 96(2)

omit

49 Section 274 amended

After section 274(2)

insert

(3) If the fresh election is to be held after the commencement of Part 4 of the *Electoral and Other Legislation Amendment Act 2011*, it must be conducted as if Parts 3 to 6 of that Act had not commenced.

Part 5 Amendment of Local Government (Electoral) Regulations commencing on Administrator's assent

50 Regulations amended

This Part amends the *Local Government (Electoral) Regulations*.

51 Regulation 3 amended

- (1) Regulation 3, definitions *election campaign material*, *mobile polling period* and *mobile polling place*

omit

- (2) Regulation 3

insert (in alphabetical order)

mobile polling period, see regulation 32(1).

mobile polling place means a mobile polling place declared under regulation 32.

- (3) Regulation 3, definition *polling hours*, paragraph (c)

omit, insert

- (c) for a mobile polling place – the dates and hours of polling specified in a declaration in force under regulation 32 for the place, and includes the dates and hours as changed under regulation 33.

52 Regulation 7 amended

- (1) Regulation 7(2)(b)

omit

Act, and

insert

Act.

- (2) Regulation 7(2)(c)

omit

53 Regulation 8 amended

After regulation 8(2)

insert

- (3) The lodgement of a nomination or the giving of a notice of withdrawal must be done by:
- (a) hand delivery of the nomination or notice to an authorised officer at an office of the returning officer or another place approved by the returning officer; or
 - (b) an electronic means approved by the returning officer.

54 Regulation 10 amended

Regulation 10(2)

omit, insert

- (2) The returning officer must rely on the declaration of eligibility accompanying the nomination of a candidate in deciding the candidate's eligibility to stand for the election.
- (2A) Subregulation (2) does not apply if:
- (a) there is evidence contrary to that declaration; and
 - (b) the returning officer accepts that evidence.

55 Regulation 11 amended

Regulation 11(1)

omit, insert

- (1) The electoral roll closes:
- (a) for a general election – at 5 pm on the 32nd day before polling day; or
 - (b) otherwise – as decided by the returning officer.
- (1A) The Electoral Commissioner must give notice to the public of the decision under subregulation (1)(b) that is reasonable and practicable in the circumstances.

56 Regulation 18 amended

(1) Regulation 18(2)(b)

omit, insert

(b) place consecutively increasing whole numbers in the candidate squares for the other candidates in the order of the person's preferences until a number is placed in all candidate squares.

(2) After regulation 18(2)(b)

insert

Note for regulation 18

See regulation 45(3) to (3B).

57 Regulation 20 amended

(1) Regulation 20(1)

omit

local

(2) Regulation 20(3)

omit

58 Regulation 23 amended

(1) Regulation 23(1)(b) and (c)

omit, insert

(b) for a person mentioned in regulation 22(a) or (b) – the person declares to the officer that the person is in the situation mentioned in that regulation; and

(c) for a person mentioned in regulation 22(c) or (d) – the person:

(i) completes and signs, in the presence of the officer, a declaration in the approved form about the person being in the situation mentioned in that regulation; and

(ii) the officer signs the declaration as a witness.

(2) Regulation 23(2)(b)

omit, insert

- (b) immediately after issuing a ballot paper to the person:
 - (i) for a person mentioned in regulation 22(a) or (b) – mark the electoral roll to indicate the issue of the paper to the person; or
 - (ii) for a person mentioned in regulation 22(c) or (d) – make a record of the issue of the paper to the person.

59 Regulation 24 amended

(1) After regulation 24(1)

insert

(1A) For a person mentioned in regulation 22(a) who is voting at a polling place within the region for which the person is enrolled, after a ballot paper is issued to the person, the person must:

- (a) 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
 - (iii) place the ballot paper in a ballot box at the polling place; and
- (b) leave the polling place.

(1B) For a person mentioned in regulation 22(a) who is voting at a polling place outside the region for which the person is enrolled, or a person mentioned in regulation 22(b), after a ballot paper is issued 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
 - (iii) give the ballot paper to an officer at the polling place; and

- (b) the officer must, in the presence of the person:
 - (i) without unfolding the ballot paper, place it in the envelope on which the declaration appears and seal the envelope; and
 - (ii) mark on the envelope the name of the area or ward for which the person is enrolled and the polling place at which the ballot paper is issued; and
 - (iii) place the envelope in a ballot box at the polling place; and
- (c) the person must then leave the polling place.

(2) Regulation 24(2)

omit

After

insert

For a person mentioned in regulation 22(c) or (d), after

60 Regulation 25 amended

(1) Regulation 25(2)(a)(i), after "polling place"

insert

(other than a mobile polling place at which the person may vote)

(2) Regulation 25(2)(a)(iii) and (iv)

omit, insert

- (iii) will be unable to attend a polling place because of a physical or other disability, illness, advanced pregnancy or another condition of the person; or
- (iv) will be unable to attend a polling place because of a reasonable fear for, or a reasonable apprehension about, his or her personal wellbeing or safety; or
- (iva) will be unable to attend a polling place because the person will be at a place (other than a mobile polling place at which the person may vote) caring for another person who has a physical or other disability, illness, advanced pregnancy or another condition; or

61 Regulation 27 amended

- (1) Regulation 27(1)(b)
omit, insert
- (b) a postal vote certificate printed on an envelope addressed to the returning officer.
- (2) Regulation 27(2)
omit
- The postal
insert
- Subject to subregulations (3) and (4)
- (3) Regulation 27(3)
omit
- However, an
insert
- An
- (4) After regulation 27(3)
insert
- (4) However, an authorised officer may send postal voting papers to the applicant whose application is received later than the time mentioned in subregulation (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.

62 Regulation 30 amended

- (1) Regulation 30(7)
omit

(2) Regulation 30(8)

omit

outer

63 Regulations 32 and 33 replaced

Regulations 32 and 33

repeal, insert

32 Mobile polling place

- (1) The returning officer may, in writing, declare a specified place to be a mobile polling place for an election where votes may be taken by an authorised officer during a specified period (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 returning officer must have regard to the following:
 - (a) whether or not there is a distinct community of electors who may be served by the mobile polling place;
 - (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 returning officer must:
 - (a) give notice to the public of the declaration that is reasonable and practicable in the circumstances; 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.

33 Change of mobile polling place, dates or hours for voting

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

64 Regulation 35 amended

- (1) Regulation 35(1)

omit

- (1) Voting

insert

Voting

- (2) Regulation 35(2)

omit

65 Regulation 37 amended

Regulation 37(2)

omit, insert

- (2) The times of polling at an early voting centre are to be as determined by the returning officer.
- (3) The times of polling at a mobile polling place are to be as specified in the declaration in force under regulation 32 for the place.

66 Regulation 45 amended

(1) Regulation 45(2) and (3)

omit, insert

- (2) For subregulation (1)(b), a voter is taken to have indicated his or her order of preferences for all the candidates on a ballot paper in the circumstances mentioned in subregulation (3), (3A) or (3B).
- (3) If there are only 2 candidates and the voter placed a single "1", "✓" or "X" in one candidate square and either placed a "2" in the remaining candidate square or left it blank, then:
- (a) the candidate whose candidate square is placed with a "1", "✓" or "X" is taken to be the voter's first preference; and
 - (b) the other candidate is taken to be the voter's last preference.
- (3A) If there are 3 or more candidates and the voter placed a single "1", "✓" or "X" in one candidate square and placed consecutively increasing whole numbers (starting with a "2") in the remaining candidate squares until a number is placed in each of those candidate squares, then:
- (a) the candidate whose candidate square is placed with a single "1", "✓" or "X" is taken to be the voter's first preference; and
 - (b) the number placed in each of the other candidate squares is taken to indicate the rest of the voter's order of preferences.
- (3B) If there are 3 or more candidates and the voter placed a single "1", "✓" or "X" in one candidate square, left one candidate square blank and placed consecutively increasing whole numbers (starting with a "2") in the remaining candidate squares until a number is placed in each of those candidate squares, then:
- (a) the candidate whose candidate square is placed with a single "1", "✓" or "X" is taken to be the voter's first preference; and
 - (b) the candidate whose candidate square is left blank is taken to be the voter's last preference; and
 - (c) each number placed in any other candidate square is taken to indicate the voter's order of preferences between the first and last preferences.

(2) Regulation 45(4), note, heading

omit, insert

Note for subregulation (4)

67 Regulation 50 amended

Regulation 50(a) to (c)

omit, insert

- (a) note on the elector's postal vote certificate the date and time of receipt; and
- (b) place the postal voting papers in a secure receptacle.

68 Regulation 53 amended

Regulation 53(2)

omit, insert

- (2) If there are 2 or more candidates with the lowest number of votes and one or more of them are to be excluded from the count, the returning officer must decide, by lot, each candidate who is to be excluded.

69 Regulation 54 amended

Regulation 54(4)

omit, insert

- (4) If there are 2 or more candidates with the lowest number of votes and one or more of them are to be excluded from the count, the returning officer must decide, by lot, each candidate who is to be excluded.
- (5) If there are 2 candidates remaining in the count with the same number of votes, the returning officer must:
 - (a) carry out a recount of all ballot papers; and
 - (b) if the votes remain equal after the recount – decide, by lot, who is to be the successful candidate.

70 Regulation 62 amended

Regulation 62(2)

omit

election

71 Regulation 64A inserted

After regulation 64

insert

64A Electoral Commissioner's power to approve electronic and other automated systems

- (1) The Electoral 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 or polls of electors:
 - (a) issuing and returning of ballot papers (including, for example, the confirmation and recording of the issuing of ballot papers);
 - (b) counting and processing of votes;
 - (c) voting by a specified group of electors (for example, electors in remote locations or interstate or overseas electors);
 - (d) assisting electors who have a physical or other disability, illness, advanced pregnancy or another condition.
- (2) The Electoral Commissioner must not give the approval unless he or she 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 system and resources required to establish and maintain it; and
 - (c) the approved system would be supported by secure facilities; and
 - (d) if subregulation (1)(c) applies – there are exceptional circumstances relating to the specified group of electors.

- (3) The Electoral Commissioner must, as soon as practicable after giving the approval, give notice to the public of the approved system that is reasonable and practicable in the circumstances.
- (4) If the approval specifies that a thing covered by subregulation (1)(a) to (d) may be done in accordance with the approved system instead of a specified requirement under the Act or these Regulations, a thing done in accordance with the approval has effect as if that requirement had been met.

72 Regulations 68 and 69 replaced

Regulations 68 and 69

repeal, insert

68 Storage and destruction of electoral papers

- (1) This regulation applies to electoral papers in the possession of the returning officer that were used for an election.
- (2) The returning officer must securely store the electoral papers until satisfied they are no longer required for exercising a power or performing a function under these Regulations.
- (3) The returning officer may destroy the electoral papers when they are no longer required as mentioned in subregulation (2).

Part 8 Transitional matters for Electoral and Other Legislation Amendment Act 2011

69 Application to election called before commencement

The amendments to regulation 7 and repeal of regulation 68 made by the *Electoral and Other Legislation Amendment Act 2011* do not apply in relation to an election if an invitation for nominations of candidates for the election is made under regulation 6 before the commencement of this regulation.

Part 6 Amendment of Local Government (Electoral) Regulations commencing on 1 May 2012

73 Regulations amended

This Part amends the *Local Government (Electoral) Regulations*.

74 Regulation 3 amended

- (1) Regulation 3, definition *nomination day*

omit

- (2) Regulation 3

insert (in alphabetical order)

Electoral Commissioner means the person holding or occupying the office of Electoral Commissioner established by section 314 of the *Electoral Act*.

nomination day, see regulation 8(4).

75 Regulation 5 repealed

Regulation 5

repeal

76 Regulation 6 amended

- (1) Regulation 6, heading

omit

Returning officer

insert

Electoral Commissioner

- (2) Regulation 6(1)

omit, insert

- (1) The Electoral Commissioner must, at least 43 days before polling day for a general election, invite nominations of candidates for the election.

- (3) Regulation 6(2)(b)

omit

returning officer

insert

Electoral Commissioner

- (4) After regulation 6(2)

insert

Note for regulation 6

Section 86 of the Act provides for by-elections to be conducted as decided by the Electoral Commissioner.

77 Regulation 8 amended

After regulation 8(3)

insert

- (4) For these Regulations, ***nomination day*** is:
- (a) for a general election – the 23rd day before polling day; or
 - (b) otherwise – a day as decided by the Electoral Commissioner.
- (5) The Electoral Commissioner must give notice to the public of a decision under subregulation (4)(b) that is reasonable and practicable in the circumstances.

78 Regulation 11 amended

Regulation 11(1) to (2)

omit, insert

- (1) The electoral roll closes:
- (a) for a general election – at 5 pm on the 32nd day before polling day; or
 - (b) otherwise – as decided by the Electoral Commissioner.
- (2) The Electoral Commissioner must give notice to the public of the decision under subregulation (1)(b) that is reasonable and practicable in the circumstances.

79 Regulation 28 amended

- (1) Regulation 28(1)

omit

- (1) The returning officer

insert

The Electoral Commissioner

(2) Regulation 28(1)(b)

omit, insert

(b) follow other procedures approved as an alternative by the Electoral Commissioner under regulation 64.

(3) Regulation 28(2)

omit

80 Regulation 63 amended

Regulation 63(4)

omit

Commission

insert

Commissioner

81 Regulations 64 and 64A replaced

Regulations 64 and 64A

repeal, insert

64 Electoral Commissioner's power to approve electronic and other automated system

- (1) The Electoral Commissioner may, in writing, approve the use of a specified electronic or other automated system (***approved system***) for specified purposes relating to any of the following:
- (a) issuing and returning of ballot papers (including, for example, the confirmation and recording of the issuing of ballot papers);
 - (b) counting and processing of votes;
 - (c) voting by a specified group of electors (for example, electors in remote locations or interstate or overseas electors);
 - (d) assisting electors who have a physical or other disability, illness, advanced pregnancy or another condition.

- (2) The Electoral Commissioner must not give the approval unless he or she 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 system and resources required to establish and maintain it; and
 - (c) the approval is consistent with the Electoral Commissioner's functions under these Regulations; and
 - (d) the approved system would be supported by secure facilities; and
 - (e) if subregulation (1)(c) applies – there are exceptional circumstances relating to the specified group of electors.
- (3) The Electoral Commissioner must, as soon as practicable after giving the approval, give notice to the public of the approved system that is reasonable and practicable in the circumstances.
- (4) If the approval specifies that a thing covered by subregulation (1)(a) to (d) may be done in accordance with the approved system instead of a specified requirement under the Act or these Regulations, a thing done in accordance with the approval has effect as if that requirement had been met.

Part 7 Other amendments commencing on 1 May 2012

82 Other laws amended

Schedule 3 amends the laws mentioned in it.

Part 8 Expiry of Act

83 Expiry

This Act expires the day after it commences.

Schedule 1 Electoral Act further amended

section 34

Part 1 Amendments relating to use of conjunctions

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
sections 3, definitions <i>declaration voting papers</i> , paragraph (a) and <i>eligible political party</i> , paragraph (b)(i), 15(5)(a), 32(1)(a) to (f), 40(2)(a) and (b), 42(1)(a), 43(a), 45(a), 52(1)(a) and (b)(i), 53(1)(a) to (c), 54(1)(a), 55(2)(a)(ii) and (b), 56(1)(a) and (b)(ii) and (2)(a) and (b), 57(2)(a)(ii) and (b), 63(a) to (c), 71(2)(a) and (b)(i), 72(2)(a)(ii), 73(1)(a) to (d), 74(2)(a)(ii) and (b), 76(2)(a) to (d), 88(4)(a), 89(2)(a), 90(1)(a), 98(1)(a) to (f), 99(2)(a) to (e), 101(2)(a), 103(1)(a), 105(3)(a), 108(2)(a) to (d), 109(2)(a) to (e), 111(2)(a), 112(1)(a) to (c), 113(2)(a) to (d), 114(2)(a) to (e), 116(1)(a), (b)(i) and (iii) and (c), 118(1)(a) to (f), 120(1)(a), 121(2)(a) to (d), 122(2)(a) to (e), 128(5)(a) and (7)(a), 133(a), 137(a), 151(1)(a), 152(2)(a) to (c) and (e)(i) and (4)(a)(i), 155(1)(a)		and

to (c), 157(1)(a),
162(a)(ii), 169(3)(a),
176, definition
**disposition of
property**, paragraphs
(a) to (d), 184(3)(a) and
(b), 192(3)(a),
193(4)(a), 194(5)(a),
195(1)(a), 205(3)(a),
207(1)(a), 208(2)(a),
219(4)(a), (5)(a) and (b)
and (9), definitions
place, paragraph (a)
and **premises**,
paragraph (a),
221(1)(a) and (4)(a) to
(c), 238(2)(a) to (d),
242(3)(a) and (b),
257(2)(a), 262(a),
290(a), 330(2)(a) and
356(2)(a), at the end

or

sections 3, definition
**declaration ballot
paper**, paragraph (a) to
(c), 19(1)(a), 36(1)(a)
and (b), 94(1)(a)(ii) and
(4)(a) and (b), 135(a),
158(2)(a) to (e),
161(3)(a) to (c), 176,
definitions
broadcaster,
paragraph (a) and
financial controller,
paragraph (a),
182(1)(a), 187(2)(a)
and (b)(ii), 189,
definition **defined
details**, paragraph
(a)(ii), 192(6)(a) to (c),
199, definition **electoral
expenditure**,
paragraphs (a) to (e),
202(8), definition
relevant provision,
paragraph (a),
223(3)(a), 231(1)(a),
267(1)(a) and (b),

273(4), definition
address, paragraph
(a), 295(3)(a),
299(2)(a), 305(a),
326(a) and 346(1)(a), at
the end

Part 2 Other amendments

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part 1, heading, at the end		matters
sections 3, definitions <i>Commonwealth Act, external Territory and Self-Government Act</i> , 140(2)(g)(iv), 176, definitions <i>broadcaster</i> , paragraphs (a) to (c) and <i>registered industrial organisation</i> and 202(8), definition <i>relevant provision</i> , paragraphs (a) to (c)	of the Commonwealth	(Cth)
sections 134(1), 138(3), 314(2), 325(1) and 336(1)	notice in the <i>Gazette</i>	<i>Gazette</i> notice
sections 176, 189, 199, 204, 214 and 268	, unless the contrary intention appears	
section 193(1)(b)	notice published in the <i>Gazette</i>	<i>Gazette</i> notice
section 221(5)(b)	subsection (4),	subsection (4);
section 272(2)	whole penalty provision	
section 295(7)	member of the Police Force	police officer
section 328(1)	employees within the meaning of the <i>Public Sector Employment and Management Act</i>	public sector employees

Schedule 2 Local Government Act further amended

section 42

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 3, definition <i>returning officer</i> , paragraph (b)	Minster	Minister
section 3, definition <i>urban farm land</i>	– see section 143	(see section 143)
section 39(2)	Fault element: This is an offence of strict liability.	
after section 39(2)		(2A) An offence against subsection (2) is an offence of strict liability.
section 90(3)	, without reasonable excuse, Fault element: This is an offence of strict liability.	
after section 90(3)		(4) An offence against subsection (3) is an offence of strict liability. (5) It is a defence to a charge of an offence against subsection (3) to prove that the defendant had a reasonable excuse for the non-compliance.

section 107(1)	all words from "Fault element:" to "strict liability."	
after section 107(1)		(1A) An offence against subsection (1) is an offence of strict liability.
section 115(2)	, without reasonable excuse, Fault element: This is an offence of strict liability.	
after section 115(2)		(3) An offence against subsection (2) is an offence of strict liability. (4) It is a defence to a charge of an offence against subsection (2) to prove that the defendant had a reasonable excuse for the non-compliance.
section 137(2)	, without reasonable excuse, Fault element: This is an offence of strict liability.	
after section 137(2)		(3) An offence against subsection (2) is an offence of strict liability. (4) It is a defence to a charge of an offence against subsection (2) to prove that the defendant had a reasonable

		excuse for the non-compliance.
section 139(1)	Fault element: This is an offence of strict liability.	
after section 139(1)		(1A) An offence against subsection (1) is an offence of strict liability.
section 153(1), (2) and (3)	Fault element: This is an offence of strict liability.	
after section 153(3)		(4) An offence against subsection (1), (2) or (3) is an offence of strict liability.
section 198(1)	, without reasonable excuse, Fault element: This is an offence of strict liability.	
after section 198(1)		(1A) An offence against subsection (1) is an offence of strict liability. (1B) It is a defence to a charge of an offence against subsection (1) to prove that the defendant had a reasonable excuse for the non-compliance.
section 203(3)	Fault element: This is an offence of strict liability.	

after section 203(3)		(4) An offence against subsection (3) is an offence of strict liability.
		(5) It is a defence to a charge of an offence against subsection (3) to prove that the defendant had a reasonable excuse for the non-compliance.
section 209(3)	Fault element: This is an offence of strict liability.	
after section 209(3)		(3A) An offence against subsection (3) is an offence of strict liability.
section 210(4)	Fault element: This is an offence of strict liability.	
after section 210(4)		(4A) An offence against subsection (4) is an offence of strict liability.
section 223(2)	Fault element: This is an offence of strict liability.	
after section 223(2)		(2A) An offence against subsection (2) is an offence of strict liability.

Schedule 3 Other amendments

section 82

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Local Government Act</i>		
section 40	returning officer	Electoral Commissioner
section 92(1)(a)	returning officer for the area	Electoral Commissioner
<i>Local Government (Electoral) Regulations</i>		
regulations 3, definitions <i>early voting centre, early voting period, polling place, polling hours</i> , paragraph (b) and <i>scrutiny centre</i> , 4(1)(a) and (b), 8(1) to (3), 9(1) and (2), 10(1) to (4) and (5), definition <i>appropriate time</i> , paragraph (b), 13, 14(1) to (4), 15(2)(a), 26(1), 27(1)(b), 29, 30(8), 32(1), (3) and (5), 33(1) and (2), 36(2), 37(2), 41(2), 42(2) to (5), 44(2) and (3), 45(1)(a)(i) and (c) and (4), 46(1), 49(1) to (5), 51(2) to (6), 52(1) and (2), 53(1) to (3), 54(1) to (5), 55(1) to (3), 56(1), 57(2), 58(1), 61(2), 65(2), 66(1) and (2) and 68(1) to (3)	returning officer (<i>all references</i>)	Electoral Commissioner

regulation 12(3)	<i>Note</i> <i>returning officer</i>	<i>Note for subregulation (3)</i> <i>Electoral Commissioner</i>
regulation 28, heading	Returning officer	Electoral Commissioner
regulation 45(4), note	<i>Note</i> <i>returning officer</i>	<i>Note for subregulation (4)</i> <i>Electoral Commissioner</i>
regulation 49(5)	the officer	the Electoral Commissioner
regulation 55(2)(b)	returning officer's	Electoral Commissioner's
regulation 65(1)	returning officer's remuneration	costs and expenses incurred by the Electoral Commissioner
