

# Local Government Electoral Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 101

made under the

*Local Government Electoral Act 2011*

## General Outline

### Short title

*Local Government Electoral Amendment Regulation (No. 1) 2016*

### Authorising law

Sections 68 and 208 of the *Local Government Electoral Act 2011*.

### Policy objectives and the reasons for them

The *Local Government Electoral Amendment Regulation (No. 1) 2016* (the regulation) amends the *Local Government Electoral Regulation 2012* (LGER) section 3 to provide that if the local government election is a by-election, a distance voter also means an elector who can not, for another reason (for example, other than the reason that the elector's address on the voters roll is more than 20km from a polling booth, refer to the LGER section 3(2)), vote at a polling booth during the voting period for the by-election.

The *Local Government Electoral Act 2011* (LGEA) section 68(5B) provides for an elector to cast an electronically assisted vote if the elector—

- can not vote without assistance because the elector has an impairment or an insufficient level of literacy; or
- can not vote at a polling booth because of an impairment; or
- is a member of a class of electors prescribed under a regulation.

The LGER section 3 currently prescribes special postal voters (defined in the LGEA section 68(5A)) and distance voters (defined in the LGER section 3) as members of a class of electors who may cast an electronically assisted vote.

The Electoral Commission of Queensland (ECQ) proposed that in consideration of the ECQ's strategic goal of making voting more accessible and convenient to all electors, and based on the success of electronically assisted voting at the 2016 quadrennial local government elections and State referendum and the January 2015 State general

election, a further class of distance voter be prescribed who may cast an electronically assisted vote in a by-election.

## **Achievement of policy objectives**

The LGEA section 67(1)(d) provides for the casting of an electronically assisted vote in an election and section 68(5B) provides for the use of electronically assisted voting by electors if a procedure about how the elector may cast an electronically assisted vote has been made under section 75A.

Without amendment, the LGER definition of distance voter does not enable an elector to cast an electronically assisted vote unless the elector's address on the voters roll is more than 20km from a polling booth.

To achieve the policy objective of making voting more accessible and convenient, the regulation provides that a distance voter also means an elector who can not, for another reason, vote at a polling booth during the voting period for the by-election.

The regulation will, for example, enable an elector who will be absent from the elector's local government area or division of the local government area for the whole of the voting period for a by-election, to cast an electronically assisted vote.

A further example is the regulation will enable an elector who, during the voting period for the by-election has not yet voted and will be outside Queensland for the remainder of the voting period, to cast an electronically assisted vote.

The LGEA section 75A provides that the ECQ may make procedures about how an elector may cast an electronically assisted vote for an election. The procedures do not take effect until approved by a regulation. The procedures must be tabled in the Legislative Assembly with the regulation approving the procedures and published on the ECQ's website.

Under the LGEA section 75A, the procedures must provide for the following:

- the registration of electors who may cast an electronically assisted vote for an election under section 68(5B);
- the authentication of each electronically assisted vote;
- the recording of each elector who uses electronically assisted voting;
- ensuring the secrecy of each electronically assisted vote;
- the secure transmission of each electronically assisted vote to the electoral commissioner, and secure storage of each electronically assisted vote by the commissioner, until printing;
- the printing, for scrutiny and counting, of a ballot paper for each electronically assisted vote;
- the secure delivery of each printed ballot paper to the returning officer.

Under the LGEA section 75A, the '*Electronically assisted voting procedures*' for local government elections (the procedures) were made by the ECQ on 15 June 2016. The procedures include the following:

- registration will be available from the commencement of the pre-poll period specified in the notice for the election, and closes at noon on polling day;

- registration will be effected by a telephone operator using the ECQ's on-line application system. The system is linked to the Queensland electoral roll;
- electors will register by telephoning the ECQ's electronically assisted voting service number and providing their name, date of birth and residential address for checking against the electoral roll;
- electronically assisted voting is available for electors who:
  - can not vote without assistance because the elector has an impairment or an insufficient level of literacy; or
  - can not vote at a polling booth because of an impairment; or
  - are special postal voters; or
  - are distance voters;
- voters wishing to register for electronically assisted voting will be required to make a declaration that they are eligible to be registered;
- electors are required to indicate whether they wish to receive their registration and personal identification number (PIN) by return phone call, email or SMS.

Should the ECQ decide that electronically assisted voting is not suitable at a particular election, or by a class of electors, the LGEA section 75D enables the ECQ to decide that electronically assisted voting is not to be used. The decision must be in writing and published on the ECQ's website.

In summary, the regulation achieves the policy objectives by:

- amending section 3 of the LGER to:
  - expand the definition of distance voter to include for a by-election an elector who can not for another reason vote at a polling booth during the voting period for the by-election
  - include a definition of voting period for a by-election to mean the period starting on the first day that a pre-poll vote may be made for the by-election and ending on the close of the poll for the by-election;
- amending section 4 of the LGER to approve, as required under the LGEA section 75A, the '*Electronically assisted voting procedures*' for local government elections made by the ECQ on 15 June 2016, which replace the previous procedures made by the ECQ on 8 September 2015.

## **Consistency with policy objectives of authorising law**

The regulation is consistent with the main objectives of the *Local Government Electoral Act 2011* to ensure the transparent conduct of local government elections in Queensland and to give the ECQ a mandate to oversee and conduct all local government elections.

## **Inconsistency with policy objectives of other legislation**

The regulation is consistent with the policy objectives of other legislation. The ECQ advise that similar changes are being proposed to the State's electoral laws in relation to electronically assisted voting for distance voters at State by-elections.

## **Benefits and costs of implementation**

Under the LGEA section 24, the day fixed for a by-election to fill a vacancy in the office of a councillor must be within 12 weeks after the vacancy occurs. The regulation

provides more flexibility for an elector who may not be in a position to cast another type of vote for a by-election within the voting period.

The costs of implementation to Government will be met from within existing resources.

## **Consistency with fundamental legislative principles**

The regulation has been drafted with regard to the fundamental legislative principles as defined in the *Legislative Standards Act 1992* and is consistent with the principles.

## **Consultation**

The ECQ, the Local Government Association of Queensland, Brisbane City Council and Torres Strait Island Regional Council were consulted.

The Queensland Productivity Commission was consulted and confirmed that the proposed amendments are excluded from further assessment under the Regulatory Impact Statement System Guidelines.