

Queensland



ELECTORAL ACT 1992

Act No. 28 of 1992

Queensland



ELECTORAL ACT 1992

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Queensland



Electoral Act 1992

Act No. 28 of 1992

An Act relating to parliamentary elections, and for other purposes

[Assented to 1 June 1992]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Electoral Act 1992*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Definitions

3. In this Act —

“**Antarctic elector**” has the meaning given by section 246(1) of the Commonwealth Electoral Act;

“**appointed commissioner**” means the chairperson or the non-judicial appointee;

“**Australian Parliament**” means the Parliament of the Commonwealth or a State or Territory;

“**average number of enrolled electors for electoral districts**” has the meaning given by section 4;

“**candidate**”, in relation to an election, means a person who has become a candidate under section 88(4);

“**chairperson**” means the chairperson of the Commission;

“**Commission**” means the Electoral Commission of Queensland;

“**commissioner**” means a commissioner of the Commission;

“**Commonwealth Electoral Act**” means the *Commonwealth Electoral Act 1918* of the Commonwealth;

“**Commonwealth electoral roll**” means an electoral roll under the

Commonwealth Electoral Act;

“continuing candidate”, in relation to a counting of votes, means a candidate who has not been excluded at a previous count of votes;

“cut-off day for electoral rolls”, in relation to an election, means the day so described in the writ for the election;

“cut-off day for the nomination of candidates”, in relation to an election, means the day so described in the writ for the election;

“day for the return of a writ” means the day so described in the writ;

“declaration envelope” means—

- (a) a declaration envelope under section 112; or
- (b) another envelope on which there is a declaration to be made by an elector for the purposes of this Act;

“election” means an election of a member or members of the Legislative Assembly;

“election matter” means anything able to, or intended to—

- (a) influence an elector in relation to voting at an election; or
- (b) affect the result of an election;

“election period” for an election means the period—

- (a) beginning on the day after the writ for the election is issued; and
- (b) ending at 6 p.m. on the polling day for the election;

“elector” means a person entitled to vote under this Act;

“electoral matter” means a matter relating to elections;

“electoral paper” means a ballot paper, declaration envelope or other document issued by the Commission for the purposes of this Act;

“electoral redistribution” means a redistribution of the State into electoral districts in accordance with Part 3;

“electoral visitor voter” has the meaning given by section 105(4);

“exhausted ballot paper”, in relation to a count of votes, means a ballot paper on which there is not recorded a vote for a continuing candidate;

“first preference vote” means the number 1 or a tick or cross written in a

square opposite the name of a candidate on a ballot paper;

“formal ballot paper” has the meaning given by section 114(4);

“general election” means an election for the members of the Legislative Assembly;

“illegal election practice” means any contravention of this Act;

“informal ballot paper” has the meaning given by section 114(5);

“institution” means —

- (a) a hospital; or
- (b) a convalescent home; or
- (c) a nursing home; or
- (d) a home for the aged; or
- (e) a hostel for the aged or infirm; or
- (f) a prison or other place of confinement; or
- (g) another place that is declared by a regulation to be an institution; or
- (h) any part of a place to which paragraphs (a) to (g) apply;

“issuing officer” means a member of the Commission’s staff who is responsible for issuing ballot papers or declaration envelopes to electors;

“member” of a political party means a person who is a member of the political party or a related political party;

“mobile polling booth” has the meaning given by section 94;

“non-judicial appointee” means the commissioner mentioned in section 7(2)(c);

“ordinary polling booth” has the meaning given by section 94;

“ordinary postal voter” has the meaning given by section 105(2);

“ordinary voting hours” means voting hours in relation to ordinary polling booths;

“Parliament” of a Territory means the Legislature of the Territory;

“parliamentary party” means a political party of which at least 1 member

is a member of an Australian Parliament;

“political party” means an organisation whose object or activity, or 1 of whose objects or activities, is the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part;

“polling booth” means an ordinary polling booth or a mobile polling booth;

“polling day”, in relation to an election, means the day so described in the writ for the election;

“polling place” means—

- (a) a polling booth; or
- (b) another place where voting takes place;

“postal voter” means an elector who is—

- (a) an ordinary postal voter; or
- (b) a special postal voter;

“publicly available part of an electoral roll” means that part of an electoral roll that does not contain—

- (a) if section 58(4) applies in relation to a person whose name is on the roll—the address of the person; and
- (b) in any case—information of a kind declared by regulation to be restricted information;

“Queensland parliamentary party” means a parliamentary party of which at least 1 member is a member of the Legislative Assembly;

“Register of Candidates” means the register kept under section 96;

“Register of Political Parties” means the register kept under section 69;

“registered officer” of a registered political party means the person shown in the Register of Political Parties as the party’s registered officer;

“registered political party” means a political party that is registered in the Register of Political Parties;

“registrable political party” means a political party that—

- (a) either—

- (i) is a parliamentary party; or
 - (ii) has at least 500 members who are electors; and
- (b) is established on the basis of a written constitution (however described) that sets out the aims of the party;

“related political party” has the meaning given by section 6;

“scrutineer” means a person appointed under section 99;

“secretary” of a political party means the person who holds the office (however described) whose duties involve responsibility for carrying out the administration, and dealing with the external correspondence, of the party;

“senior electoral officer” means the Electoral Commissioner or the Deputy Electoral Commissioner;

“special postal voter” has the meaning given by section 105(3);

“voting compartment” means a compartment in a polling place where electors may vote in private;

“voting hours” of a polling place means the hours during which electors may enter the polling place.

Average number of enrolled electors for electoral districts

4.(1) In this Act—

“average number of enrolled electors for electoral districts” means the number worked out by dividing the total number of enrolled electors for all electoral districts by 89.

(2) If the number includes a fraction, the number must be rounded to the nearest whole number (rounding one-half upwards)

When electoral redistribution etc. becomes final

5. For the purpose of this Act, any electoral redistribution undertaken under this Act becomes final when all appeals, and proceedings in relation to appeals, that have been instituted under section 57 have been determined and the time for all such appeals and proceedings to be instituted has passed.

Related political parties

6. For the purposes of this Act, 2 political parties are related political parties if—

- (a) 1 is a part of the other; or
- (b) both are parts of the same political party.

PART 2—ADMINISTRATION***Division 1—The Electoral Commission*****Establishment of Electoral Commission of Queensland etc.**

7.(1) A commission called the Electoral Commission of Queensland is established.

(2) When the Commission is performing its functions under Part 3, the Commission consists of the following commissioners—

- (a) the chairperson;
- (b) the Electoral Commissioner;
- (c) 1 other commissioner.

(3) When the Commission is performing its functions other than its functions under Part 3, the Commission consists solely of the Electoral Commissioner.

(4) The chairperson and the non-judicial appointee—

- (a) are to be appointed by the Governor in Council; and
- (b) hold office on a part-time basis.

(5) The person appointed as chairperson must—

- (a) be a Judge or former Judge of a court of the Commonwealth or a State or Territory; and
- (b) have been a Judge for at least 3 years.

(6) A person appointed as the non-judicial appointee must be—

- (a) the chief executive of a department; or
- (b) the holder of an office established by or under an Act that the Governor in Council considers to be equivalent to the chief executive of a department.

(7) Before a person is appointed as a commissioner, the Minister must consult the leader of each political party in the Legislative Assembly regarding the proposed appointment.

(8) The appointment of the chairperson or non-judicial appointee is not invalid merely because of a defect or irregularity in relation to the appointment.

Functions and powers of Commission

8.(1) The functions of the Commission are to—

- (a) perform functions that are permitted or required to be performed by or under this Act, other than functions that a specified person or body, or the holder of a specified office, is expressly permitted or required to perform; and
- (b) conduct a review of the appropriateness of the number of electoral districts whenever the Minister requests it, in writing, to conduct such a review, and report to the Minister the results of the review; and
- (c) consider, and report to the Minister on—
 - (i) electoral matters referred to it by the Minister; and
 - (ii) such other electoral matters as it considers appropriate; and
- (d) promote public awareness of electoral matters by conducting education and information programs and in other ways; and
- (e) provide information and advice on electoral matters to the Legislative Assembly, the Government, departments and government authorities; and
- (f) conduct and promote research into electoral matters and other matters that relate to its functions; and

- (g) publish material on matters that relate to its functions; and
- (h) perform any other functions that are conferred on it by or under another Act.

(2) The Commission (the “**Queensland Commission**”) may perform any of its functions under subsection (1)(d) to (g) in conjunction with the Australian Electoral Commission.

(3) The Governor may arrange with the Governor-General for the performance by the Australian Electoral Commission of any functions on behalf of the Queensland Commission.

(4) The Commission may do all things necessary or convenient to be done for or in connection with the performance of its functions.

Queensland Redistribution Commission

9. When performing its functions under Part 3, the Commission is to be known as the Queensland Redistribution Commission.

Tenure and terms of office

10.(1) An appointed commissioner holds office, subject to this Division, for such term (not longer than 7 years) as is specified in the commissioner’s instrument of appointment.

(2) If the non-judicial appointee was at the time of appointment the chief executive of a department, the person ceases to hold office if the person no longer holds office as chief executive of a department.

(3) If the non-judicial appointee was at the time of appointment the holder of an office mentioned in section 7(6)(b), the person ceases to hold office if the person no longer holds that office and does not hold office as chief executive of a department.

(4) An appointed commissioner holds office on such terms, relating to remuneration and other matters not provided for by this Act, as are determined by the Governor in Council.

(5) The *Public Service Management and Employment Act 1988* does not apply to the appointment of an appointed commissioner.

Leave of absence

11. The Commission may grant an appointed Commissioner leave of absence from a meeting of the Commission.

Resignation

12. An appointed commissioner may resign office by signed notice given to the Governor.

Disclosure of interests

13.(1) A commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission must, as soon as possible after the relevant facts have come to the commissioner's knowledge, disclose the nature of the interest at a meeting of the Commission.

(2) The disclosure must be recorded in the minutes of the meeting of the Commission and the commissioner must not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Commission in relation to the matter; or
- (b) take part in any decision of the Commission in relation to the matter.

Termination of appointment

14. The Governor in Council must terminate the appointment of an appointed commissioner if the appointed commissioner—

- (a) accepts nomination for election to an Australian Parliament; or
- (b) becomes a member of a political party; or
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
- (d) is absent, without the Commission's leave and without reasonable excuse, from 3 consecutive meetings of the

Commission; or

- (e) contravenes section 13 (Disclosure of interests) without reasonable excuse.

Acting appointments

15. The Governor in Council may appoint a person to act as an appointed commissioner—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when the appointed Commissioner is absent from duty or from Australia or is, for another reason, unable to perform the functions of the office.

Meetings of Commission

16.(1) The chairperson may, at any time, convene a meeting of the Commission.

(2) If the chairperson is absent or otherwise unavailable to perform the chairperson's duties and no-one is acting as chairperson, the Electoral Commissioner may convene a meeting of the Commission.

(3) The chairperson must convene such meetings of the Commission as, in the chairperson's opinion, are necessary for the efficient performance of its functions.

(4) At a meeting of the Commission, 2 commissioners constitute a quorum.

(5) The chairperson must preside at all meetings of the Commission at which the chairperson is present.

(6) If the chairperson is not present at a meeting of the Commission, the commissioners present must choose 1 of them to preside.

(7) Questions arising at a meeting of the Commission are to be determined by a majority of the votes of the commissioners present and voting.

(8) The person presiding at a meeting of the Commission has a deliberative vote and, if the votes on a question are equal, also has a casting vote.

(9) If, at a meeting of the Commission at which only 2 commissioners are present (other than a meeting from which a commissioner is absent because of section 13), the commissioners differ in opinion on any matter, the determination of the matter must be postponed to a meeting of the Commission at which all commissioners are present.

(10) The Commission may regulate the conduct of proceedings at its meetings as it considers appropriate.

(11) This section applies to the Commission only when it is performing its functions under Part 3.

Estimates

17.(1) The Commission must give the Minister a statement in relation to each financial year setting out—

- (a) estimates of the Commission's receipts and expenditure for the financial year; and
- (b) the purpose of the expenditure; and
- (c) the Commission's receipts and expenditure for the previous financial year; and
- (d) if the Commission has previously given the Minister a statement under this section in relation to the previous financial year—the estimates of receipts and expenditure set out in the statement.

(2) The Commission must comply with any request by the Minister relating to the time when the statement is to be given to the Minister.

Delegation by Commission

18.(1) The Commission may, by resolution, delegate to a commissioner, a senior electoral officer or a member of the Commission's staff its powers under Part 3 (other than under sections 44 to 46 or section 50).

(2) A certificate signed by the chairperson stating any matter with respect to a delegation of a power under subsection (1) is prima facie evidence of the matter.

(3) The Electoral Commissioner may delegate to the Deputy Electoral Commissioner or a member of the Commission's staff the Commission's

powers under this Act (other than under Part 3).

(4) A certificate signed by the Electoral Commissioner, stating any matter with respect to a delegation of power under subsection (3) is prima facie evidence of the matter.

(5) A document purporting to be a certificate under subsection (2) or (4) is taken to be such a certificate unless the contrary is established.

Reports by Commission

19.(1) As soon as practicable after, but not more than 4 months after, the end of each financial year, the Commission must give to the Minister a report of the Commission's operations during that year.

(2) The Commission must, as soon as practicable after the return of the writ for an election, give to the Minister a report on the operation of Part 6 in relation to the election.

(3) The Minister must cause a copy of each report given to the Minister (whether under this section or otherwise) to be laid before the Legislative Assembly within 3 sitting days after the Minister receives the report.

Application of Financial Administration and Audit Act 1977

20. For the purposes of the *Financial Administration and Audit Act 1977*, the Commission is taken to be a department.

Division 2—Electoral Commissioner and Deputy Electoral Commissioner

Electoral Commissioner

21. There is to be an Electoral Commissioner.

Deputy Electoral Commissioner

22.(1) There is to be a Deputy Electoral Commissioner.

(2) Subject to any directions by the Commission, the Deputy Electoral Commissioner is to perform such duties as the Electoral Commissioner directs.

(3) The Deputy Electoral Commissioner is to act as the Electoral Commissioner—

- (a) during vacancies in the office of the Electoral Commissioner; or
- (b) during periods when the Electoral Commissioner is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.

(4) While the Deputy Electoral Commissioner is acting as Electoral Commissioner—

- (a) the Deputy Electoral Commissioner has all the powers and functions of the Electoral Commissioner; and
- (b) this Act and other Acts apply to the Deputy Electoral Commissioner as if the Deputy Electoral Commissioner were the Electoral Commissioner.

(5) Anything done by or in relation to the Deputy Electoral Commissioner while the Deputy Electoral Commissioner is purporting to act as Electoral Commissioner is not invalid merely because the occasion for the Deputy Electoral Commissioner to act had not arisen or had ceased.

Terms and conditions of appointment etc.

23.(1) A senior electoral officer is to be appointed by the Governor in Council.

(2) Before a person is appointed as a senior electoral officer, the Minister must consult the leader of each political party in the Legislative Assembly regarding the proposed appointment.

(3) A person who is a member of a political party is not to be appointed as a senior electoral officer.

(4) A senior electoral officer holds office, subject to this Part, for such term (not longer than 7 years) as is specified in the senior electoral officer's instrument of appointment.

(5) The *Public Service Management and Employment Act 1988* does not

apply to the appointment of a senior electoral officer.

(6) If an officer of the public service is appointed as a senior electoral officer, the person retains and is entitled to all rights that have accrued to the person because of employment as an officer of the public service, or that would accrue in the future because of that employment, as if service as a senior electoral officer were a continuation of service as an officer of the public service.

(7) A senior electoral officer holds office on such terms, relating to remuneration and other matters not provided for by this Act, as are determined by the Governor in Council.

(8) The appointment of a person as a senior electoral officer is not invalid merely because of a defect or irregularity in relation to the appointment.

Leave of absence

24.(1) The Minister may grant leave of absence to the Electoral Commissioner on such terms as the Minister determines.

(2) The Commission may grant leave of absence to the Deputy Electoral Commissioner on such terms as the Commission determines.

Resignation

25. A senior electoral officer may resign office by signed notice given to the Governor.

Termination of appointment

26.(1) The Governor in Council may terminate the appointment of a senior electoral officer for misbehaviour or physical or mental incapacity.

(2) The Governor in Council must terminate a senior electoral officer's appointment if the senior electoral officer—

- (a) accepts nomination for election to an Australian Parliament; or
- (b) becomes a member of a political party; or
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors

- or makes an assignment of remuneration for their benefit; or
- (d) is absent, without leave of absence and without reasonable excuse, for—
 - (i) 14 consecutive days; or
 - (ii) 28 days in any year; or
 - (e) contravenes section 13 (Disclosure of interests) without reasonable excuse; or
 - (f) engages in paid employment outside the duties of the office without the Minister's approval.

Acting Electoral Commissioner

27.(1) The Governor in Council may appoint a person to act as the Electoral Commissioner—

- (a) during a vacancy in the office of the Electoral Commissioner; or
- (b) during any period, or all periods, when the Electoral Commissioner is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.

(2) A person appointed to act as the Electoral Commissioner may only act as Electoral Commissioner if—

- (a) there is a vacancy in the office of Deputy Electoral Commissioner; or
- (b) the Deputy Electoral Commissioner is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.

Acting Deputy Electoral Commissioner

28. The Governor in Council may appoint a person to act as the Deputy Electoral Commissioner—

- (a) during a vacancy in the office of the Deputy Electoral Commissioner; or
- (b) during any period, or all periods, when the Deputy Electoral Commissioner is absent from duty or Australia, is acting as

Electoral Commissioner or is, for another reason, unable to perform the functions of the office.

Notice of appointment

29. Notice of the appointment of a person as, or to act as, a senior electoral officer must be published in the Gazette.

Division 3—Staff of the Commission

Staff

30.(1) The staff of the Commission consist of—

- (a) electoral registrars, returning officers and assistant returning officers appointed under this Division; and
- (b) other staff necessary for the performance of the Commission's functions.

(2) The staff of the Commission are to be appointed under the *Public Service Management and Employment Act 1988*.

(3) Subsection (2) does not apply to—

- (a) electoral registrars, returning officers and assistant returning officers; and
- (b) persons employed on a temporary basis in connection with the conduct of a particular election.

(4) The Commission may, on behalf of the State, employ persons on a temporary basis in connection with the conduct of a particular election.

(5) The Electoral Commissioner has all the functions and powers of the chief executive of a department, so far as they relate to the organisational unit comprising the Commission's staff, as if—

- (a) that unit were a department; and
- (b) the Commissioner were the chief executive of the department.

Electoral registrars

31.(1) The Governor in Council may, on the recommendation of the Commission, appoint 1 or more electoral registrars for an electoral district.

(2) A person may be appointed as electoral registrar for 2 or more electoral districts.

(3) The following persons may be appointed as electoral registrars—

(a) returning officers under the *City of Brisbane Act 1924* or the *Local Government Act 1936*;

(b) Divisional Returning Officers under the Commonwealth Electoral Act if the appointments are made under an arrangement between the Governor and the Governor-General.

(4) A person must not be appointed as an electoral registrar if the person is a member of a political party.

(5) Without limiting the powers of the Governor in Council to terminate the appointment of electoral registrars, the Governor in Council must terminate the appointment of an electoral registrar if the electoral registrar becomes a member of a political party.

(6) An electoral registrar must act in accordance with any directions given by the Commission.

Returning officers

32.(1) The Governor in Council may, on the recommendation of the Commission, appoint an elector as the returning officer for an electoral district.

(2) A person must not be appointed as a returning officer if the person is—

(a) a minor; or

(b) a member of a political party.

(3) Without limiting the powers of the Governor in Council to terminate the appointment of returning officers, the Governor in Council must terminate the appointment of a returning officer if the returning officer becomes a member of a political party.

(4) A returning officer must act in accordance with any directions given by the Commission.

Assistant returning officers

33.(1) The Governor in Council may, on the recommendation of the Commission, appoint an elector as assistant returning officer, or electors as assistant returning officers, for an electoral district.

(2) A person must not be appointed as an assistant returning officer if the person is—

- (a) a minor; or
- (b) a member of a political party.

(3) Without limiting the powers of the Governor in Council to terminate the appointment of assistant returning officers, the Governor in Council must terminate the appointment of an assistant returning officer if the assistant returning officer becomes a member of a political party.

(4) An assistant returning officer must assist the returning officer for the electoral district in performing the returning officer's functions under this Act.

(5) The Commission may appoint an assistant returning officer for an electoral district to act as the returning officer for the electoral district—

- (a) during a vacancy in the office of returning officer; or
- (b) during any period, or all periods, when the returning officer is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.

(6) While an assistant returning officer is assisting the returning officer or acting as returning officer—

- (a) the assistant returning officer has all the powers and functions of the returning officer; and
- (b) this Act applies to the assistant returning officer as if the assistant returning officer were the returning officer.

(7) The Commission may appoint a person to act as an assistant returning officer during any period, or all periods, when—

- (a) there is not an assistant returning officer for an electoral district; or
 - (b) the assistant returning officer is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.
- (8) While a person is acting as assistant returning officer—
- (a) the person has all the powers and functions of the assistant returning officer; and
 - (b) this Act applies to the person as if the person were the assistant returning officer.
- (9) Anything done by or in relation to a person while the person is purporting to act under this section is not invalid merely because the occasion for the person to act had not arisen or had ceased.
- (10) An assistant returning officer must act in accordance with any directions given by the Commission.

PART 3—ELECTORAL DISTRICTS AND ELECTORAL REDISTRIBUTIONS

Division 1—Distribution etc. of State into electoral districts

Number of electoral districts for the State

- 34.** There are 89 electoral districts for the State.

Distribution, and redistribution, of State into electoral districts

35.(1) Until the 1st electoral redistribution under this Act has become final, the State is distributed into electoral districts in accordance with the *Electoral Districts Act 1991*.

(2) Division 2 describes when the need for electoral redistributions arises.

(3) Subject to subsections (4) and (5), when the need for an electoral redistribution arises, the Commission must, as soon as practicable, redistribute the State into the 89 electoral districts in the way set out in Division 3.

(4) If the need for an electoral redistribution arises more than 16 months after the day on which the writ for the previous general election was returned, the Commissioner must defer undertaking the electoral redistribution until after the return of the writ for the next general election.

(5) If—

- (a) the need for an electoral redistribution arises in the period between the issue and return of a writ for a general election; or
- (b) a writ for a general election is issued while the Commission is undertaking an electoral redistribution;

the Commission must defer undertaking, or any further action in undertaking, the electoral redistribution until after the return of the writ.

(6) If the Commission is required by subsection (3) to undertake a redistribution, the Commission must, as soon as practicable after the requirement arises, publish a Gazette notice—

- (a) stating that the requirement has arisen; and
- (b) setting out the membership of the Commission at the time.

Division 2—When need for an electoral redistribution arises

Need for electoral redistribution arises in 3 circumstances

36. The need for an electoral redistribution arises if 1 of the following sections applies—

- (a) section 37 (Electoral redistribution because of changed number of electoral districts);
- (b) section 38 (Electoral redistribution after certain number of elections and minimum period);
- (c) section 39 (Electoral redistribution because of enrolment changes).

Electoral redistribution because of changed number of electoral districts

37. The need for an electoral redistribution arises if this Act is amended to change the number of electoral districts for the State.

Electoral redistribution after certain number of elections and minimum period

38. The need for an electoral redistribution arises—

- (a) 1 year after the day appointed for the return of writs for the 3rd general election held after—
 - (i) the electoral distribution under the *Electoral Districts Act 1991* became final; or
 - (ii) an electoral redistribution, or the latest electoral redistribution, under this Act becomes final; or
- (b) 7.5 years after—
 - (i) the electoral distribution under the *Electoral Districts Act 1991* became final; or
 - (ii) an electoral redistribution, or the latest electoral redistribution, under this Act becomes final;

whichever is the later.

Electoral redistribution because of enrolment changes

39.(1) The need for an electoral redistribution arises if the requirement set out in section 45 would not be satisfied in respect of one-third or more of electoral districts for 2 months in a row, assuming that it were applied by reference to the number of enrolled electors and the average number of enrolled electors for electoral districts as gazetted under section 63 for each of the months.

(2) For the purposes of subsection (1), it is not necessary that the requirement would not be satisfied in respect of the same one-third or more of electoral districts for the 2 months in a row.

Situation if need for more than 1 electoral redistribution arises

40. If, during the period beginning when the need for an electoral redistribution arises under section 37, 38 or 39 and ending when the electoral redistribution becomes final, the need for another electoral redistribution arises under any of those sections (including the same section)—

- (a) the need for the other electoral redistribution does not arise; and
- (b) for the purposes of any later application of section 39, any month occurring wholly or partly during the period is to be disregarded.

Division 3—How electoral redistributions are to be undertaken**Scope of Division**

41.(1) This Division sets out the way in which the Commission is to undertake an electoral redistribution.

(2) The steps involved are—

- (a) inviting suggestions (section 42); and
- (b) inviting comments on the suggestions (section 43); and
- (c) preparing a proposed electoral redistribution (sections 44 to 46); and
- (d) publishing the proposed electoral redistribution (section 47); and
- (e) inviting objections against the proposed electoral redistribution (section 48); and
- (f) inviting comments on the objections (section 49); and
- (g) considering objections and comments (section 50); and
- (h) making the electoral redistribution (section 51); and
- (i) advertising the electoral redistribution (section 53); and
- (j) tabling all relevant documents (section 54).

(3) The Division also contains provisions relating to—

- (a) when the redistribution takes effect (section 52); and

- (b) appeals against boundaries of electoral districts (section 57).

Inviting suggestions

42.(1) As soon as practicable after the need for an electoral redistribution arises, the Commission must invite suggestions from persons and bodies relating to the redistribution.

(2) The invitation must be made by notice published in accordance with section 56.

(3) The notice must state that suggestions are to be given to the Commission in writing within 30 days after the notice is published in the Gazette in accordance with section 56.

Inviting comments on suggestions

43.(1) As soon as practicable after the 30 days mentioned in section 42(3), the Commission must make available for public inspection, without fee, copies of all suggestions given to it within the 30 days.

(2) As soon as practicable after the 30 days, the Commission must also publish a notice in accordance with section 56 that—

- (a) advises of the availability for inspection of the copies of the suggestions; and
- (b) states that any person or body may comment in writing to the Commission on the suggestions within 21 days after the notice is published in the Gazette in accordance with section 56.

(3) As soon as practicable after the 21 days, the Commission must make available for public inspection, without fee, copies of all comments given to it within the 21 days.

(4) Suggestions and comments must be made available for public inspection at the Commission's office and any other places in the State that the Commission considers appropriate.

Preparing proposed electoral redistribution

44.(1) As soon as practicable after the 21 days mentioned in section 43(2)(b), the Commission must prepare a proposed redistribution of the

State into electoral districts.

(2) The proposed redistribution must include proposed names for the proposed electoral districts.

(3) In preparing the proposed electoral redistribution, the Commission must—

- (a) take into account all suggestions and comments properly made under sections 42 and 43; and
- (b) comply with the following sections—
 - (i) section 45 (Proposed electoral redistribution must be within numerical limits);
 - (ii) section 46 (Matters to be considered in preparing proposed electoral redistribution).

Proposed electoral redistribution must be within numerical limits

45.(1) In preparing the proposed redistribution, the Commission must ensure that the following requirement is satisfied, as at the end of the 21 days mentioned in section 43(2)(b), for each proposed electoral district—

- (a) if the electoral district has an area of less than 100 000 km²—that the number of enrolled electors does not differ from the average number of enrolled electors for electoral districts by more than 10%;
- (b) if the electoral district has an area of 100 000 km² or more—the sum of the number of enrolled electors and the additional large district number does not differ from the average number of enrolled electors for electoral districts by more than 10%.

(2) In subsection (1)(b)—

“**additional large district number**” means 2% of the number of km² in the area of the electoral district.

Matters to be considered in preparing proposed electoral redistribution

46.(1) In preparing the proposed redistribution, the Commission must consider the following matters—

- (a) the extent to which there is a community of economic, social, regional or other interests within each proposed electoral district;
- (b) the ways of communication and travel within each proposed electoral district;
- (c) the physical features of each proposed electoral district;
- (d) the boundaries of existing electoral districts;
- (e) demographic trends in the State, with a view to ensuring as far as practicable that, on the basis of the trends, the need for another electoral redistribution will not arise under section 39 (Electoral redistribution because of enrolment changes) before it does under section 38 (Electoral redistribution after certain number of elections and minimum period).

(2) The Commission may also consider the boundaries of local authority areas to the extent that it is satisfied that there is a community of economic, social, regional or other interests within each local authority area.

(3) The Commission may give such weight to each of the matters set out in subsections (1) and (2) as it considers appropriate.

(4) It is the intention of the Parliament—

- (a) that the way in which this section is to be applied in preparing the proposed redistribution should be for the Commission alone to decide; and
- (b) that decisions of the Commission relating to the application of this section should be final and conclusive.

(5) Without limiting subsection (4), a decision of the Commission about—

- (a) the existence of any matter mentioned in subsection (1) or (2); or
- (b) the weight (if any) to be given to each such matter;

cannot be called in question in an appeal under section 57.

Publishing proposed electoral redistribution

47.(1) As soon as practicable after the Commission has prepared the proposed electoral redistribution, it must comply with this section and

section 48.

(2) The Commission must—

- (a) make available for public inspection, without fee, at its office a single map showing, or a number of maps together showing, the names and boundaries of all proposed electoral districts; and
- (b) make available for public inspection, without fee, at its office and at any other places in the State that the Commission considers appropriate—
 - (i) a description of the boundaries of all proposed electoral districts; and
 - (ii) its reasons for redistributing the State in the way proposed (including the reasons of any commissioner who disagrees with the redistribution in that way).

(3) The Commission must display, in a place to which the public has ready access, and at any other place that the Commission considers appropriate, in each proposed electoral district a map showing the boundaries of the proposed electoral district.

Inviting objections against proposed electoral redistribution

48.(1) The Commission must publish a notice in accordance with section 56 that—

- (a) advises of the availability for inspection, and the display, of the things mentioned in section 47(2) and (3); and
- (b) states that any person or body may object in writing to the Commission against the proposed electoral redistribution within 30 days after publication of the notice in the Gazette in accordance with section 56; and
- (c) is accompanied by a single map showing, or a number of maps together showing, the names and boundaries of all proposed electoral districts.

(2) At any time before publishing a notice under subsection (1), the Commission may make public its proposed electoral redistribution.

Inviting comments on objections

49.(1) As soon as practicable after the 30 days mentioned in section 48(1)(b), the Commission must make available for public inspection, without fee, copies of all objections given to it within the 30 days.

(2) As soon as practicable after the 30 days, the Commission must also publish a notice in accordance with section 56 that—

- (a) advises of the availability for inspection of the copies of the objections; and
- (b) states that any person or body may comment in writing to the Commission on the objections within 10 days after the notice is published in the Gazette in accordance with section 56.

(3) As soon as practicable after the 10 days, the Commission must make available for public inspection, without fee, copies of all comments given to it within the 10 days.

(4) Objections and comments must be made available for public inspection at the Commission's office and any other places in the State that the Commission considers appropriate.

Considering objections and comments

50. If an objection or comment given to the Commission within the period allowed under section 48 or 49 raises a matter that has not already been raised, or substantially raised, in a suggestion or comment under section 42 or 43, the Commission must—

- (a) consider the objection or comment; and
- (b) make any changes to the proposed electoral redistribution that it considers would be necessary if sections 45 and 46 were being complied with.

Making electoral redistribution

51.(1) The Commission must, within 60 days after the end of the 30 days mentioned to in section 48(1)(b), publish a Gazette notice stating that the State is redistributed into the electoral districts whose names and boundaries are set out in the notice.

(2) The names and boundaries set out in the notice are to be the same as those for the proposed electoral redistribution, incorporating any changes made under section 50.

(3) The Commission may, at any time before publishing the notice, make public anything that it intends to publish in the notice.

When redistribution takes effect

52.(1) At the end of 21 days after the publication of the notice, but subject to section 57(6), the State is redistributed into the electoral districts, and those districts have the names, set out in the notice.

(2) The State remains so redistributed until the next electoral redistribution becomes final.

Advertising electoral redistribution

53.(1) As soon as practicable after publishing the notice under section 51(1), the Commission must comply with this section.

(2) The Commission must—

- (a) make available for public inspection, without fee, at its office a single map showing, or a number of maps together showing, the names and boundaries of all electoral districts; and
- (b) make available for public inspection, without fee, at its office and at any other places in the State that the Commission considers appropriate—
 - (i) a description of the boundaries of all electoral districts in the State; and
 - (ii) its reasons for redistributing the State in that way (including the reasons of any commissioner who disagrees with the redistribution in that way).

(3) The Commission must display, in a place to which the public has ready access, and at any other place that the Commission considers appropriate, in each electoral district a map showing the boundaries of the electoral district.

(4) The Commission must publish a notice advising of the availability

for inspection, and the display, of the things mentioned in subsections (2) and (3) in—

- (a) a newspaper circulating generally in the State; and
- (b) any regional newspapers, circulating in any parts of the State, that the Commission considers appropriate.

Tabling all relevant documents

54.(1) As soon as practicable after publishing the notice under section 51(1), the Commission must give the Minister a copy of—

- (a) all suggestions properly made to it under section 42; and
- (b) all comments properly made to it under section 43; and
- (c) the things made available for public inspection under section 47(2); and
- (d) all objections properly made to it under section 48; and
- (e) all comments properly made to it under section 49; and
- (f) the notice published under section 51(1); and
- (g) the Commission's reasons for distributing the State in the way set out in the notice, together with the reasons of any commissioner who disagrees with the redistribution in that way.

(2) The Minister must cause a copy of the things given to the Minister under subsection (1) to be laid before the Legislative Assembly within 5 sitting days after the Minister receives them.

Commission may hold public hearings

55. Without limiting its powers under section 8(4), the Commission may conduct such public hearings as it considers appropriate for the purposes of this Division.

How notices are to be published

56. If, under this Division, the Commission is required to publish a notice in accordance with this section, the Commission must publish the notice in—

- (a) the Gazette; and
- (b) a newspaper circulating generally in the State; and
- (c) any regional newspaper, circulating in a part of the State, that the Commission considers appropriate.

Appeals against boundaries of electoral districts

57.(1) An elector may appeal to the Court of Appeal against the boundaries set out in the notice under section 51(1) on the ground that the Commission has not complied with this Part in making the proposed electoral redistribution.

(2) The appeal must be made—

- (a) within 21 days after the publication of the notice; and
- (b) in accordance with the rules of court of the Court of Appeal.

(3) The Commission is the respondent to the appeal.

(4) If more than 1 appeal is made against the boundaries, every appeal must be dealt with in the same proceeding.

(5) Any person having an interest in the appeal may apply to the Court to be joined as a party to the appeal.

(6) If an appeal is made, the notice under section 51(1) does not take effect until the appeal has been disposed of by the Court.

(7) On the hearing of the appeal under this section, the Court may—

- (a) by order—
 - (i) quash the notice, in whole or part, and, subject to such directions as it considers appropriate, order the Commission to make a fresh or amended notice under section 51(1); or
 - (ii) dismiss the appeal; and
- (b) make any ancillary order as to costs or any other matter that it considers appropriate.

(8) The Court may make an order quashing the notice, in whole or part, only if the Court is satisfied that—

- (a) the Commission has not complied with this Part in making the

proposed redistribution; and

- (b) the non-compliance has had, or may have had, a significant effect on the boundaries of the electoral districts into which the State is to be redistributed under the notice under section 51(1); and
- (c) the interests of justice require the making of the order.

(9) The validity of the electoral redistribution may only be called in question in an appeal under this section.

(10) An appeal against the boundaries must—

- (a) be set down for hearing by the Court as soon as practicable after the end of 21 days from the publication of the notice under section 51(1); and
- (b) must be heard and determined by the Court as a matter of urgency.

(11) Except as provided in this section, a decision made, or appearing to have been made, by the Commission or a commissioner under or for the purposes of this Part—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set-aside or otherwise called in question in any court or tribunal on any ground; and
- (c) is not subject to mandamus, prohibition, certiorari, injunction or any declaratory or other order of any court on any ground.

(12) In this section—

“**decision**” includes a failure to make a decision.

PART 4—ELECTORAL ROLLS

Division 1—Commission to keep electoral rolls

Commission to keep electoral rolls

58.(1) The Commission must keep an electoral roll for each electoral district.

(2) Each electoral roll must, in accordance with this Part, contain information in relation to the persons entitled to be enrolled for the electoral district.

(3) Each electoral roll must also set out, in relation to each person—

- (a) the person's surname and given names; and
- (b) the person's address; and
- (c) the person's sex, occupation and date of birth; and
- (d) an identifying number; and
- (e) any other prescribed information.

(4) If the Commission is satisfied that the inclusion on a roll of a person's address would place at risk the personal safety of the person or another person, the person's address must not be set out in the publicly available part of the roll.

(5) For the purposes of subsection (3)(b), a person's address may, in the case of a roll prepared otherwise than in a printed form, be stated as a post office box number, mail service number or in another appropriate way in addition to the person's residential address.

Preparation of electoral rolls

59.(1) The Commission must prepare all electoral rolls as soon as practicable after—

- (a) an electoral redistribution becomes final; or
- (b) the cut-off day for electoral rolls in relation to an election; or

(c) 2 years pass after the day on which the writ for the last general election was returned.

(2) The Commission may also prepare all or any of the electoral rolls at any other time that it considers appropriate.

(3) Subject to subsection (4), the electoral rolls may be prepared—

(a) in a printed form; or

(b) on microfiche, computer disk or computer tape; or

(c) in another form determined by the Commission.

(4) If subsection (1)(c) applies, the rolls—

(a) must be prepared in a printed form; but

(b) may be prepared in another form determined by the Commission.

Inspection and purchase of publicly available parts of electoral rolls

60.(1) The Commission must make available for inspection by any person, without fee, a copy of the most recent printed version of the publicly available part of all electoral rolls—

(a) at the office of the Commission; and

(b) at the office (if any) of each returning officer.

(2) The Commission may also make available for inspection by any person, without fee, a copy of the most recent version, in a non-printed form, of the publicly available part of any electoral roll at any place that the Commission considers appropriate.

(3) The Commission must make available copies of the most recent printed version of the publicly available part of each electoral roll for purchase by any person, at a price fixed or determined under a regulation.

(4) The Commission may also make available copies of the most recent version, in a non-printed form, of the publicly available part of each electoral roll for purchase by any person, at a price fixed or determined under a regulation.

Availability of entire electoral rolls

61.(1) The Commission must, during each Legislative Assembly, give each member of the Legislative Assembly a reasonable number of free copies of the most recent printed version of the entire electoral roll for the electoral district that the member represents.

(2) As soon as practicable after the cut-off day for the nomination of candidates for an election, the Commission must give a free certified copy of the entire electoral roll for an electoral district, as at the cut-off day, to each person who is a candidate for election for the district and requests such a copy.

(3) The Commission may allow any department or State public authority to have access, without fee, to a copy of the most recent computer disk or computer tape version of the entire electoral roll for any electoral district.

(4) The Commission must, once during each Legislative Assembly, give each member of the Legislative Assembly a free copy of the most recent computer disk or computer tape version of the entire electoral roll for the electoral district that the member represents.

(5) The Commission must make available to a member of the Legislative Assembly, without fee, copies of the changes to the most recent computer disk or computer tape version of the entire electoral roll for the electoral district that the member represents.

(6) The Commission must make available a copy of the most recent computer disk or computer tape version of the entire electoral roll for any electoral district wholly or partly within a local authority's area for purchase by the local authority, at a price fixed or determined under a regulation.

(7) The Commission must make available copies of the changes to the most recent computer disk or computer tape version of the entire electoral roll for any electoral district wholly or partly within a local authority's area for purchase by the local authority, at a price fixed or determined under a regulation.

(8) The Commission must make available a copy of the most recent computer disk or computer tape version of the entire electoral roll for any electoral district or all electoral districts for purchase by any registered political party, at a price that reasonably reflects the cost of producing the copy.

(9) The Commission must make available copies of the changes to the most recent computer disk or computer tape version of the entire electoral roll for any electoral district or all electoral districts for purchase by any registered political party, at a price that reasonably reflects the cost of producing the copies.

(10) Except as provided in this section, the Commission must not provide a copy of any part of an electoral roll, other than the publicly available part, to a person other than—

- (a) a senior electoral officer; or
- (b) a member of the Commission's staff; or
- (c) a person performing functions under an arrangement mentioned in section 62 or 185.

Joint roll arrangement with Commonwealth

62.(1) The Governor may arrange with the Governor-General for—

- (a) the preparation, alteration or revision of the electoral rolls; or
- (b) the carrying out of any procedure relating to the preparation, alteration or revision of the electoral rolls;

in any way consistent with this Act, jointly by the State and the Commonwealth, whether for the purpose of the rolls being used as electoral rolls for Legislative Assembly elections as well as for Commonwealth elections or for any other purpose.

(2) If an arrangement is made, the electoral rolls may contain—

- (a) names and other information in relation to persons who are not entitled to be enrolled as electors for Legislative Assembly elections, provided that it is indicated as prescribed that the persons are not enrolled as electors for the Legislative Assembly; and
- (b) distinguishing marks against the names of the persons to show that they are not also enrolled as electors for Commonwealth elections; and
- (c) other information in addition to that required under this Division.

(3) For the purposes of this Act, the marks and other information do not form part of the electoral rolls.

Gazettal of enrolment figures

63. The Commission must, in relation to each month, arrange for the gazettal of—

- (a) the number of enrolled electors for each electoral district; and
- (b) the average number of enrolled electors for electoral districts; and
- (c) the extent to which the number of enrolled electors for each electoral district differs from the average number of enrolled electors for electoral districts.

Division 2—Enrolment

Entitlement to enrolment

64.(1) Subject to subsection (2), a person is entitled to be enrolled for an electoral district if the person—

- (a) either—
 - (i) is entitled to be enrolled under the Commonwealth Electoral Act for the purposes of that Act in its application in relation to an election within the meaning of that Act; or
 - (ii) is not so entitled, but was entitled to be enrolled under the *Elections Act 1983* on 31 December 1991; and
- (b) lives in the electoral district and has lived in it for the last month.

(2) If a member of the Legislative Assembly gives notice to the Commission, in the form and way approved by the Commission, that the member wishes to be enrolled for the electoral district that the member represents, the member is entitled to be enrolled for that electoral district instead of the one applicable under subsection (1).

Enrolment and transfer of enrolment

65.(1) Subject to any arrangement under section 62, the Commission must maintain each electoral roll in accordance with this section.

(2) A person who—

- (a) is entitled to be enrolled for an electoral district; but
- (b) is not enrolled on the electoral roll for the district;

must give notice to an electoral registrar for the district in the form and way approved by the Commission.

(3) If a person who is enrolled on an electoral roll for an electoral district changes address within the electoral district, the person must, within 21 days, give notice to an electoral registrar for the district in the form and way approved by the Commission.

(4) Subject to subsection (5), if a notice under this section is received by an electoral registrar, the Commission must, if satisfied that the person concerned is entitled to be enrolled for an electoral district, make appropriate amendments of the electoral rolls.

(5) The Commission must not amend the electoral rolls during the period from the end of the cut-off day for electoral rolls until the end of polling day for an election except to correct—

- (a) a mistake; or
- (b) the wrongful removal of a person from an electoral roll.

(6) If the Commission does not (except because of subsection (5)) amend an electoral roll to give effect to a notice by a person under subsection (2) or (3), the Commission must notify the person in writing of—

- (a) its decision not to amend the roll; and
- (b) the reasons for its decision; and
- (c) the person's rights under this Act to have the decision reviewed.

Provisional enrolment

66.(1) The Commission must enrol a person as an elector for an electoral district if the person—

- (a) is 17; and
- (b) would, if the person were 18, be entitled to be enrolled for the electoral district; and
- (c) the person makes a request to be enrolled in the form and way approved by the Commission.

(2) The enrolment does not have effect for the purposes of this Act until the person turns 18.

Objections

67.(1) An elector may object against the enrolment of a person who is enrolled because of section 64(1)(a)(ii).

(2) The objection must—

- (a) set out the grounds on which it is made; and
- (b) be made in a form and way approved by the Commission; and
- (c) be accompanied by a deposit of—
 - (i) \$2; or
 - (ii) if a greater amount is prescribed for the purposes of this section—that amount.

(3) If—

- (a) an objection is made against the enrolment of a person; or
- (b) the Commission decides that any person enrolled on an electoral roll, because of section 64(1)(a)(ii), should not have been enrolled;

the Commission must, subject to subsection (4), give the person concerned a reasonable opportunity to answer the objection or respond to the decision.

(4) If the Commission considers that the objection is frivolous or vexatious, it must take no further action on the objection.

(5) After considering any answer to the objection or response to the decision, the Commission must take such action (if any) as it considers necessary to amend the electoral rolls.

(6) The Commission must—

- (a) give written notice of the action taken by it and its reasons for taking the action to—
 - (i) the person objected against or to whom the decision relates; and
 - (ii) in the case of an objection—the objector; and
- (b) if the name of the person objected against or to whom the decision relates was removed from an electoral roll—include in the notice advice of the person’s right to have the decision to take the action reviewed.

(7) If, because of an objection, the name of the person objected against is removed from an electoral roll, the Commission must repay the deposit that accompanied the objection.

(8) For the purpose of ensuring that only persons who are properly entitled to be enrolled under the Commonwealth Electoral Act are enrolled on an electoral roll because of section 64(1)(a)(i), the Electoral Commissioner, or member of the Commission’s staff authorised for the purpose by the Electoral Commissioner, may take any action that the person is permitted to take under the Commonwealth Electoral Act, including making an objection under that Act to the enrolment.

PART 5—REGISTRATION OF POLITICAL PARTIES

Scope of Part

68. This Part sets out the way in which certain political parties may become registered for various purposes under this Act.

Register of Political Parties

69.(1) The Commission must, in accordance with this Part, keep a register containing the names of, and other information and documents related to, political parties registered under this Part.

(2) The Commission must keep the register in the form and way that the Commission considers appropriate.

(3) The register is called the Register of Political Parties.

Applications for registration

70.(1) An application for registration of a political party is to be made in accordance with this section.

(2) The application must only be made for the registration of a registrable political party.

(3) The application must be made by the secretary of the party.

(4) The application must be made to the Commission in a form approved by the Commission for the purposes of this section, and must—

- (a) set out the name of the political party; and
- (b) if the political party wishes to use an abbreviation of its name on ballot papers for elections—set out the abbreviation; and
- (c) set out the name and address of the person who is to be the political party's registered officer for the purposes of this Act; and
- (d) if the application is for a Queensland parliamentary party—set out the name of 1 member of the party who is a member of the Legislative Assembly; and
- (e) if the application is for a party that is not a Queensland parliamentary party—set out the names and addresses of 500 members of the party who are electors; and
- (f) be accompanied by a copy of the party's constitution; and
- (g) set out any other prescribed information and be accompanied by a copy of any other prescribed document.

Publication of notice of application

71.(1) As soon as practicable after an application is made to the Commission, the Commission must publish a notice in relation to the application in—

- (a) the Gazette; and

(b) a newspaper circulating generally in the State.

(2) The notice must—

(a) set out the information included in the application under section 70(4)(a) to (c); and

(b) invite any persons who believe that the application—

(i) is not in accordance with section 70; or

(ii) should be refused under section 73;

to submit to the Commission, within 1 month after the day of publication of the Gazette notice, a statement under subsection (3).

(3) The statement must—

(a) set out in detail the grounds for the belief; and

(b) set out the address of the person; and

(c) be signed by the person.

(4) The Commission must make the statement available at its office for public inspection, without fee.

(5) The Commission must give the person who is to be the party's registered officer—

(a) a copy of the statement; and

(b) a notice inviting the person to give the Commission a reply to the statement within such reasonable period as is specified in the notice.

(6) If the person gives the Commission a reply within the period, the Commission must, as soon as practicable, make the reply available at its office for public inspection, without fee.

Registration

72.(1) If the Commission, after considering all statements and replies to the statements under section 71, is satisfied that the application complies with the requirements of section 70, the Commission must, subject to subsection (3) and section 73, register the political party.

(2) Registration is effected by entering or otherwise including in the Register of Political Parties—

- (a) the information set out in the application (other than under section 70(4)(e)); and
- (b) any document accompanying the application as required by section 70(4)(f) and (g).

(3) The Commission must not take any action in relation to the application during the election period in relation to an election.

(4) The Commission must not register a political party other than in accordance with this section.

(5) On registration of the political party, the person whose name was set out in the application under section 70(4)(c) becomes the party's registered officer for the purposes of this Act.

(6) As soon as possible after it registers the political party, the Commission must—

- (a) give written notice to the registered officer that it has done so; and
- (b) if any person made a statement to the Commission under section 71 in relation to the application—give written notice to the person stating that it has registered the party and setting out why the reasons in the person's statement were rejected; and
- (c) notify the party's registration by Gazette notice.

Refusal of registration

73.(1) The Commission may refuse to register a political party if the Commission believes on reasonable grounds that information set out in, or documents required to accompany, the application are incorrect.

(2) The Commission must refuse to register a political party if, in the Commission's opinion, the name of the party or the abbreviation of the name (if any) set out in the application—

- (a) has more than 6 words; or
- (b) is obscene or offensive; or
- (c) is such that, if the party were registered in that name, the electoral

system would be likely to be brought into disrepute; or

- (d) is the name, or abbreviation or acronym of the name, of another political party (other than a related political party) that is a parliamentary party or a registered political party; or
- (e) so nearly resembles the name, or abbreviation or acronym of the name, of another political party (other than a related political party) that is a parliamentary party or a registered political party that it is likely to be confused with or mistaken for the name, abbreviation or acronym; or
- (f) comprises the words ‘Independent Party’; or
- (g) comprises or contains the word ‘Independent’ and—
 - (i) the name, or an abbreviation or acronym of the name, of a parliamentary party or a registered political party; or
 - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a parliamentary party or a registered political party that the matter is likely to be confused with or mistaken for the name, abbreviation or acronym.

(3) The Commission may refuse to register a political party if, in the Commission’s opinion, the name of the party or the abbreviation of the name (if any) set out in the application—

- (a) is the name, or an abbreviation or acronym of the name, of a prominent public body; or
- (b) so nearly resembles the name, or an abbreviation or acronym of the name, of a prominent public body that it is likely to be confused with or mistaken for the name, abbreviation or acronym.

(4) If the Commission decides to refuse an application, it must give the person who was to be the registered officer of the political party written notice of—

- (a) the refusal; and
- (b) the reasons for the refusal; and
- (c) the rights of the person to have the refusal decision reviewed.

Amendment of Register

74.(1) An application may be made under this section to the Commission for the amendment of the information, or the replacement of documents, in the Register of Political Parties in relation to a registered political party.

(2) The application must be made in the form and way approved by the Commission.

(3) The application must be made by—

- (a) the party's registered officer; or
- (b) if the application is to change the party's registered officer—the party's secretary.

(4) This Part applies to an application under this section, subject to any necessary changes, as if it were an application for registration of a political party.

Cancellation of registration

75.(1) The Commission may cancel the registration of a party at the written request of the party's registered officer.

(2) The Commission may cancel the registration of a political party if the Commission is satisfied on reasonable grounds that—

- (a) the party no longer exists; or
- (b) the party is not a Queensland parliamentary party and does not have at least 500 members who are electors; or
- (c) the candidates at the next 2 general elections held after the registration of the party did not include at least 1 candidate endorsed by the party; or
- (d) the registration was obtained by fraud or misrepresentation.

(3) If the Commission proposes to cancel the registration of a party, other than because of subsection (2)(d), the Commission must—

- (a) give written notice of its proposed action to the party's registered officer; and
- (b) give notice of its proposed action in—

- (i) the Gazette; and
- (ii) a newspaper circulating generally in the State; and
- (c) include in the notice under paragraph (b) a statement that persons may, within 14 days after the Gazette notice is given, object to the Commission in writing against the proposed cancellation.

(4) The Commission must consider any objection made under subsection (3) before taking any further action in relation to the cancellation.

(5) If the Commission decides to cancel the registration of a party, the Commission must—

- (a) give notice of the cancellation and the reasons for it to the person who was the party's registered officer immediately before the cancellation; and
- (b) give notice of the cancellation in the Gazette; and
- (c) cancel the information in, and remove the documents from, the Register of Political Parties relating to the political party; and
- (d) retain the documents in the Commission's records.

Public access to Register

76.(1) The Commission must ensure that the Register of Political Parties is made available for public inspection, without fee, at its office.

(2) As soon as practicable after the issue of a writ for an election, the Commission must publish in the Gazette—

- (a) a list of the names of all political parties included in the Register; and
- (b) a list of the names of the registered officers of the political parties.

PART 6—ELECTIONS

Division 1—Calling of elections

Writs for elections

77.(1) The Commission must conduct an election of a member or members of the Legislative Assembly if the Governor or the Speaker of the Legislative Assembly issues a writ to the Commission in accordance with this Division.

(2) The Commission must conduct the election in accordance with the writ and the provisions of this Part.

Writs by Governor

78.(1) The Governor is to issue writs of the following kinds—

- (a) a writ for a general election;
- (b) a writ for an election to fill a vacancy arising after a general election and before the first meeting of the Legislative Assembly after the election;
- (c) a writ for an election to which section 79(3) or 90(3) applies;
- (d) a writ for an election ordered by the Court of Disputed Returns under section 119(13) or 136.

(2) The Governor must issue a writ under subsection (1)(a) not later than 4 days after the day on which the Legislative Assembly is dissolved or expires by the passage of time.

Writs by Speaker

79.(1) Subject to this section, the Speaker of the Legislative Assembly must issue a writ for an election to fill a vacancy in the membership of the Legislative Assembly if—

- (a) the vacancy is not one mentioned in section 78(1)(b); and
- (b) the Legislative Assembly passes a resolution declaring that the

vacancy exists and stating its cause.

(2) Subsection (1) does not apply if—

- (a) the vacancy is caused by death or resignation; and
- (b) when the vacancy arises, the Legislative Assembly is not sitting.

(3) If subsection (1) does not apply to the vacancy because of subsection (2), the Governor must issue the writ.

Form and content of writs

80.(1) A writ must set out the following—

- (a) the day of issue of the writ;
- (b) the cut-off day for electoral rolls for the election, which must be not less than 5 days, nor more than 7 days, after the issue of the writ;
- (c) the cut-off day for the nomination of candidates for the election, which must be not less than 8 days, nor more than 18 days, after the issue of the writ;
- (d) the polling day, which must be a Saturday not less than 26 days, nor more than 56 days, after the issue of the writ;
- (e) the day for the return of the writ, which must be not more than 84 days after the issue of the writ.

(2) For the purpose of determining under subsection (1) a cut-off day, the polling day or the day for the return of the writ (the “**relevant day**”)—

- (a) the day of issue of the writ; and
- (b) the relevant day itself;

are both to be included in any specified number of days.

(3) Section 38 of the *Acts Interpretation Act 1954* does not apply for the purpose of determining, or in relation to a day determined, under subsection (1).

Commission to publish writ and prepare for election

81. On receiving a writ, the Commission must—

- (a) arrange for a copy of the writ to be published in the Gazette; and
- (b) advertise the days specified in the writ in such other ways as the Commission considers appropriate; and
- (c) make appropriate arrangements, in accordance with this Part, for the conduct of the election or elections concerned.

Extension of time limits in writ

82.(1) Despite anything in this Act, the Governor or Speaker, as the case requires, may by Gazette notice either before, on or after a day specified in the writ under section 80(1)(a) to (e)—

- (a) subject to subsection (2), specify that a later day is to be substituted for the day either generally or in relation to a specified electoral district; or
- (b) provide for anything to be done to overcome any difficulty that might otherwise affect the election concerned.

(2) The Governor or Speaker must not substitute a day for polling day that is more than 21 days after the day specified in the writ.

(3) When the notice is gazetted, it has effect accordingly.

Division 2—Nomination of candidates for election**Who may be nominated**

83.(1) A person may be nominated as a candidate for election, and may be elected, as a member of the Legislative Assembly for an electoral district if the person is—

- (a) enrolled on an electoral roll for the electoral district or another electoral district; and
- (b) an Australian citizen; and
- (c) an adult; and

(d) not a disqualified person under subsection (2).

(2) A person is a disqualified person if—

- (a) the person is an undischarged bankrupt under the *Bankruptcy Act 1966* of the Commonwealth; or
- (b) the person has executed a deed of arrangement under Part X of the *Bankruptcy Act 1966* of the Commonwealth and the terms of the deed have not been fully complied with; or
- (c) the person's creditors have accepted a composition under Part X of the *Bankruptcy Act 1966* of the Commonwealth and a final payment has not been made under that composition; or
- (d) the person is in prison or subject to a periodic detention order; or
- (e) the person is not entitled to be elected as a member of the Legislative Assembly under section 176 or under another law; or
- (f) the person is a member of the Commonwealth Parliament.

How and when nomination takes place

84.(1) The following persons are the only persons who nominate a candidate—

- (a) the registered officer of a registered political party that has endorsed the candidate for the election;
- (b) 6 or more persons who are enrolled on the electoral roll for the electoral district concerned and none of whom has previously nominated a candidate for the election.

(2) To have effect for the purposes of this Act, the nomination must comply with the requirements set out in this section and section 85.

(3) The nomination—

- (a) must be in a form approved by the Commission for the purposes of this section; and
- (b) must contain the following—
 - (i) the candidate's name, address and occupation;
 - (ii) a signed statement by the candidate consenting to the nomination;

- (iii) if subsection (1)(a) applies—a signed statement by the party’s registered officer that the registered political party has endorsed the candidate.
- (4) The nomination must be given to—
 - (a) if subsection (1)(a) applies—the Commission; or
 - (b) if subsection (1)(b) applies—the Commission or the returning officer for the electoral district.
- (5) The nomination must be given—
 - (a) after the day of issue of the writ for the election; and
 - (b) before noon on the cut-off day for nomination of candidates for the election.

Deposit to accompany nomination

85.(1) At the same time as a nomination is given to the Commission or the returning officer, the candidate (or another person on the candidate’s behalf) must deposit, in cash or bank cheque—

- (a) \$250; or
 - (b) if a greater amount is prescribed for the purposes of this section—that amount.
- (2) Subject to subsection (3), the deposit must be held until the writ for the election has been returned.
- (3) If the candidate dies before the writ is returned, the deposit must be returned to the candidate’s personal representatives.
- (4) The deposit must be returned to the candidate if—
- (a) the candidate withdraws consent to the nomination under section 87; or
 - (b) the candidate is elected; or
 - (c) more than 4% of the total number of formal first preference votes polled in the election for the electoral district are in favour of the candidate.
- (5) The deposit becomes the property of the State when the outcome of the election is determined unless subsection (3) or (4) applies.

Effect of multiple nominations

86. If, at noon on the cut-off day for the nomination of candidates for the election, a person nominated as a candidate for election for the electoral district is also nominated for election for another electoral district, each of the nominations is of no effect.

Withdrawal of consent to nomination

87.(1) A person nominated as a candidate for election may withdraw consent to the nomination by notice signed by the person and given to the Commission or the returning officer, as the case requires, before noon on the cut-off day for nomination.

(2) If this happens, the nomination is of no effect.

Announcement of nominations

88.(1) As soon as practicable after noon on the cut-off day for nominations, the Commission must advise the returning officer for each electoral district of the names of all persons properly nominated to the Commission for election for the district.

(2) As soon as practicable after advice is received from the Commission, each returning officer must arrange for a notice stating the names of the persons properly nominated for election to the electoral district to be—

- (a)** displayed in a conspicuous place at the returning officer's office; and
- (b)** published in such ways as the returning officer considers appropriate.

(3) On the display of the names at the returning officer's office, the persons become candidates for the election for the electoral district.

(4) A person is properly nominated for election for the purposes of this section if—

- (a)** the provisions of this Division relating to nomination have been complied with or, if there is a formal defect or error in the nomination, the provisions have been substantially complied with; and

- (b) neither section 86 nor 87 applies to the person's nomination.

Election of sole candidate

89. If there is only 1 candidate for election for an electoral district, the candidate is elected.

Failure of election

90.(1) This section applies if—

- (a) a candidate dies before the polling day for the election; or
- (b) there are no candidates for the election.

(2) The writ, and everything done in connection with the election for the electoral district because of the writ, are of no effect.

(3) The Governor must issue a writ for a fresh election for the electoral district.

(4) The deposits of any other candidates for the election for the electoral district are to be returned.

Election to be held

91. Subject to sections 89 and 90, an election must be held in accordance with the writ and the provisions of this Part.

Division 3—Arrangements for elections

Commission to make arrangements for elections

92.(1) The Commission has the continuing function of making appropriate administrative arrangements for the conduct of elections.

(2) The function includes doing the things required by the remainder of this Division.

(3) The Commission must arrange for the appointment and employment of appropriate members of staff for the conduct of elections.

Setting up and operating polling booths

93.(1) The Commission must ensure that appropriate polling booths are established for elections.

(2) In deciding the number, kind and location of polling booths, the Commission must take into account, in addition to any other matters that it considers relevant, the desirability of the booths being the same as polling booths for the purposes of the Commonwealth Electoral Act and of their being accessible to voters with disabilities.

(3) The Commission must ensure that each polling booth is provided with an adequate number of voting compartments and ballot papers.

(4) In the case only of a mobile polling booth mentioned in section 94(6), the Commission must, if requested by a candidate, ensure that 'how to vote' matter supplied by the candidate is distributed at the polling booth.

(5) The Commission must, in relation to each election, advertise the location and hours of opening of all polling booths in such ways as the Commission considers appropriate.

(6) The Commission must not—

- (a) establish a polling booth on polling day; or
- (b) abolish a previously established ordinary polling booth during the period beginning when the writ for an election is issued and ending on polling day, unless it is necessary to do so for circumstances beyond the Commission's control.

(7) The Commission must advertise the establishment and abolition of ordinary polling booths in—

- (a) the Gazette; and
- (b) such other ways as the Commission considers appropriate.

(8) The Commission must ensure that—

- (a) electors are allowed to enter ordinary polling booths between 8 a.m. and 6 p.m. on polling day and to stay until they have voted; and
- (b) appropriate electors are allowed to enter mobile polling booths, at times determined in writing by the Commission, during the period referred to in section 94(4) and (6) and to stay until they

have voted.

Kinds of polling booths

94.(1) There are 2 kinds of polling booths—

- (a) ordinary polling booths; and
- (b) mobile polling booths.

(2) An ordinary polling booth is a building or other structure, or a part of a building or other structure, that the Commission arranges to be available on polling day in relation to an election for the purpose of enabling electors in general to vote.

(3) A mobile polling booth is—

- (a) an institution declared under subsection (4) to be a mobile polling booth; or
- (b) the whole or part of a building, structure, vehicle or place made available as a mobile polling booth under subsection (6).

(4) If the Commission considers that patients, residents or inmates of an institution should be able to vote at the institution at times (determined by the Commission) during the period beginning 11 days before polling day and ending at 6 p.m. on polling day, the Commission may, by Gazette notice, declare the institution to be a mobile polling booth for the purposes of the election.

(5) If the Commission declares the institution to be a mobile polling booth, the person in charge of the institution must allow access by members of the Commission's staff, and by patients, residents or inmates of the institution, for the purpose of enabling voting to take place at the election.

(6) If the Commission considers that an area is too remote to have enough electors to justify an ordinary polling booth, the Commission may arrange for the whole or part of a building, structure, vehicle or place to be available as a mobile polling booth, at times (determined by the Commission) during the period beginning 11 days before polling day and ending at 6 p.m. on polling day, for electors in the area to vote at the election.

Adjournment of poll

95.(1) A returning officer may adjourn the poll at a polling booth if the taking of the poll is, or is likely to be, interrupted or obstructed by—

- (a) storm, tempest, flood, fire or a similar happening; or
- (b) riot or open violence.

(2) If the poll is adjourned, the Commission may fix a day (not later than 34 days after the polling day) for the taking of the adjourned poll.

(3) The Commission must give notice of the day fixed for the taking of the adjourned poll in—

- (a) the Gazette; and
- (b) such other ways as the Commission considers appropriate.

Register of Candidates

96.(1) As soon as practicable after the Commission advises the returning officer of an electoral district of the names of the candidates for an election for the electoral district, the Commission must enter, in a register called the Register of Candidates, the information, and a summary of the content of any statement, set out in the nomination in relation to each of the candidates under section 84(3).

(2) The Register of Candidates is to be kept in such form and way as the Commission considers appropriate.

(3) If elections for other electoral districts have the same polling day, a single register must be used for all of the elections.

(4) The Register of Candidates must be open for public inspection, without fee, at the Commission's office.

(5) If any name or address entered in the Register of Candidates in relation to a candidate ceases to be correct, the candidate may apply to the Commission to have the entry corrected.

(6) The Commission must correct the entry.

Supply of ballot papers and electoral rolls

97.(1) The Commission must ensure that a sufficient number of ballot papers, and certified copies of the electoral rolls for each electoral district (as at the cut-off day for electoral rolls), are available at polling places.

(2) Ballot papers for an election for an electoral district must—

- (a) be of such material and opacity that, when folded, the way the elector voted is effectively concealed; and
- (b) be attached to a butt that—
 - (i) is not part of the ballot paper; and
 - (ii) is perforated in such a way that the ballot paper may be easily detached from it; and
 - (iii) has the name of the electoral district and is numbered so that each butt for the electoral district has a unique number; and
- (c) show the name of the State, that the election is for a member of the Legislative Assembly, the name of the electoral district and the day of the election; and
- (d) contain the names of all candidates for election, set out in the order determined under section 98; and
- (e) if the Commission considers that a similarity in the names of 2 or more candidates is likely to cause confusion—contain a description or addition that the Commission considers will sufficiently distinguish the names; and
- (f) contain a square opposite the name of each candidate; and
- (g) if a candidate endorsed by a registered political party was nominated under section 84(1)(a)—contain, printed adjacent to the candidate's name—
 - (i) if the application for registration of the political party did not contain an abbreviation under section 70(4)(b)—the name of the political party as set out in the application; or
 - (ii) if the application for registration of the political party contained an abbreviation under section 70(4)(b)—the abbreviation.

(3) The ballot papers must contain the following sentences—

Place the number one (“1”) in the square opposite the candidate of your choice.

You may if you wish indicate your preference for additional candidates by numbering the other squares in your preferred order.

Order of candidates’ names on ballot papers

98.(1) The order of the names of candidates on ballot papers for an electoral district is to be determined under this section.

(2) To determine the order, a member of the Commission’s staff must, in the presence of 2 witnesses—

- (a) write the name of each candidate on a separate piece of paper; and
- (b) ensure that each piece of paper is the same kind, shape, size and colour; and
- (c) place each separate piece of paper in a separate envelope and, if it is necessary to fold the piece of paper to make it fit in the envelope, fold each piece of paper in the same way in order to make each the same size and thickness; and
- (d) ensure that each envelope is opaque and of the same kind, shape, size and colour; and
- (e) after each piece of paper has been placed in an envelope, seal the envelope; and
- (f) place all the envelopes in a container and shuffle them; and
- (g) draw the envelopes out, 1 at a time; and
- (h) as each envelope is drawn out, open it and note the name of the candidate on the piece of paper in the envelope.

(3) The order in which the names are noted is the order in which the names are to appear on the ballot paper.

(4) The member of the Commission’s staff must allow any candidate, or representative of a candidate, to be present.

Scrutineers

99.(1) Each candidate for an election for an electoral district may, by notice sent to the returning officer for the electoral district, appoint adult persons as scrutineers.

(2) Scrutineers are entitled to be present in each ordinary polling booth, each mobile polling booth, and each office staffed by an issuing officer, at times when electors are allowed to vote at the place.

(3) Scrutineers are also entitled to be present—

- (a)** beforehand at polling places for the purpose of inspecting ballot boxes; and
- (b)** afterwards at polling places and elsewhere to observe the examination of declaration envelopes and the counting of votes.

(4) At a polling place during times when electors are allowed to vote and beforehand, each candidate is entitled to have 1 scrutineer present for each issuing officer at the place.

(5) At the examination of declaration envelopes and the counting of votes, each candidate is entitled to have 1 scrutineer present for each member of the Commission's staff at the place.

(6) A scrutineer may—

- (a)** object to the entitlement of a person to vote at the election; or
- (b)** record details of electors who vote at the election, and take the record out of the polling place; or
- (c)** do anything else permitted by this Act.

(7) Issuing officers at a polling place must, before voting starts, allow scrutineers for candidates to inspect the ballot boxes that are to be used for voting at the place.

(8) Each scrutineer must carry adequate identification to show that the person is a scrutineer.

Correction of errors

100.(1) If there is a delay, error or omission in or in relation to the preparation, issue or return of any writ, it may be corrected by Gazette

notice by the Governor or the Speaker, as the case requires, setting out what is to be done.

(2) If there is a delay, error or omission in or in relation to the preparation, issue, sending or return of any electoral roll, ballot paper or other document (apart from a writ), it may be corrected by a Gazette notice by the Commission setting out what is to be done.

Division 4—Who may vote

Who may vote

101.(1) The following persons are the only persons who are entitled to vote at an election for an electoral district—

- (a) persons enrolled on the electoral roll for the district;
- (b) persons who are not enrolled, but are entitled to be enrolled on the electoral roll for the district because of section 64(1)(a)(ii);
- (c) persons whose names are not on the electoral roll for the district because of official error.

(2) A person is not entitled to vote—

- (a) more than once at the same election for an electoral district; or
- (b) at 2 or more elections for electoral districts held on the same day.

Division 5—How voting takes place

Subdivision A—Ordinary voting

Procedure for voting

102.(1) An elector (other than one who makes or must make a declaration vote under Subdivision B) is to vote by following the procedures set out in this section.

(2) The elector is, during ordinary voting hours, to enter a polling booth in the electoral district for which the elector is enrolled.

(3) In the polling booth, the elector is to request a ballot paper from an issuing officer.

(4) If—

(a) the elector has a ballot paper and declaration envelope for the election; and

(b) does not intend to make a declaration vote under Subdivision B;

the elector must give the papers to the issuing officer.

(5) The issuing officer must issue a ballot paper to a person requesting one only if the issuing officer is satisfied that the person is entitled to vote at the election for the electoral district.

(6) The issuing officer may ask of a person requesting a ballot paper questions for the purpose of deciding whether the person is entitled to vote at the election for the electoral district.

(7) If, after the issuing officer has asked questions under subsection (6), the issuing officer suspects that a person claiming to be a particular elector is not the elector, the issuing officer must comply with section 112.

(8) The issuing officer must keep a record of all persons to whom the officer issues ballot papers under this section.

(9) The issuing officer must, if a scrutineer requests it, keep a record of any objection by the scrutineer to the entitlement of a person to vote.

(10) On being given the ballot paper, the elector must, without delay —

(a) go alone to an unoccupied voting compartment in the polling booth; and

(b) there, in private, mark a vote on the ballot paper in accordance with section 113; and

(c) fold the ballot paper to conceal the vote and put it in a ballot box in the polling booth; and

(d) leave the polling booth.

Help to enable electors to vote at polling booths

103.(1) Subject to subsection (2), if an elector satisfies an issuing officer that the elector is unable to vote without help, the elector may be

accompanied in the polling booth by another person chosen by the elector.

(2) The other person may help the elector in any of the following ways—

- (a) acting as an interpreter;
- (b) explaining the ballot paper and the requirements of section 113 relating to its marking;
- (c) marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
- (d) folding the ballot paper and putting it in the ballot box.

(3) If an elector (including an elector who makes or must make a declaration vote) is unable to enter a polling booth because of illness, disability or advanced pregnancy, but is able to come to a place (the “**voting place**”) close to the polling booth, then, subject to subsection (4) —

- (a) the issuing officer may perform the issuing officer’s functions; and
- (b) the voter may vote;

at the voting place as if it were the polling booth.

(4) The issuing officer must—

- (a) before taking any action under subsection (3), inform any scrutineers present of the proposed action; and
- (b) allow only 1 scrutineer for each candidate to be present at the voting place; and
- (c) ensure that, after the ballot paper is marked, it is—
 - (i) folded to conceal the vote; and
 - (ii) put into an envelope and sealed; and
- (d) open the envelope inside the polling booth in the presence of any scrutineers and place the folded ballot paper in a ballot box.

Help to enable electors to vote at hospitals

104.(1) If a polling booth is a hospital or part of a hospital, an issuing officer may visit patients in the hospital or the part of the hospital for the purpose of enabling them to vote.

(2) When visiting a patient, the issuing officer must—

- (a) take to the patient—
 - (i) a ballot paper or a ballot paper and declaration envelope;
 - (ii) a ballot box; and
 - (iii) anything else necessary to enable the patient to vote; and
- (b) if a scrutineer wishes—be accompanied by the scrutineer.

(3) The issuing officer must ensure that, so far as reasonably practicable, section 102 is complied with when the patient votes.

Subdivision B—Declaration voting

Who may make a declaration vote

105.(1) The following electors may make a declaration vote—

- (a) an elector who is an ordinary postal voter under subsection (2);
- (b) an elector who is a special postal voter under subsection (3);
- (c) an elector who is an electoral visitor voter under subsection (4).

(2) The following electors are ordinary postal voters for the purposes of this Act—

- (a) an elector who will not, throughout ordinary voting hours on polling day, be within 8 km, by the nearest practicable route, from a polling booth;
- (b) an elector who will, throughout ordinary voting hours on polling day, be working or travelling under conditions that prevent voting at a polling booth;
- (c) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
- (d) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth.
- (e) an elector who will, because of membership of a religious order or because of religious beliefs, be prevented from voting at a

polling booth for all, or the majority, of ordinary voting hours on polling day;

- (f) an elector who will be serving a sentence of imprisonment, or otherwise under detention, on polling day.

(3) The following electors are special postal voters for the purposes of this Act—

- (a) an elector whose real place of living is not within 15 km, by the nearest practicable route, of a polling booth;
- (b) an elector whose address has been excluded from the electoral roll under an arrangement under section 62 because of section 104 of the Commonwealth Electoral Act.

(4) The following electors are electoral visitor voters for the purposes of this Act—

- (a) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
- (b) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth.

(5) The Commissioner must, not later than 2 years after the return of the writ for an election, review the continuing eligibility to make a declaration vote of electors who are special postal voters.

Who must make a declaration vote

106. The following electors must make a declaration vote—

- (a) an elector who wishes to vote by going to a polling booth on polling day outside the electoral district for which the elector is enrolled;
- (b) an elector whose name is not on the electoral roll for an electoral district because of an official error;
- (c) an elector to whom section 101(1)(b) applies;
- (d) an elector who appears from a record made in error to have already voted in the election for any electoral district;

- (e) an elector who is given a ballot paper and declaration envelope under section 112.

Ways in which an elector may make a declaration vote

107. Subject to section 112, an elector who may or must make a declaration vote is to do so by—

- (a) if the elector is unable to enter a polling booth because of illness, disability or advanced pregnancy—going to a place close to a polling booth and voting under section 103(3); or
- (b) going during voting hours to a polling booth in an electoral district and following the procedures set out in section 108; or
- (c) going to an office staffed by an issuing officer at a time before polling day for the election and following the procedures set out in section 109; or
- (d) if the person is a postal voter—using the ballot paper and declaration envelope that have been posted to the elector under section 110 and following the procedures set out in that section; or
- (e) if the person is an elector visitor voter—voting before an electoral visitor following the procedures set out in section 111.

Making a declaration vote at a polling booth

108.(1) An elector who may or must make a declaration vote may enter a polling booth during voting hours in an electoral district and request a ballot paper and declaration envelope from an issuing officer.

(2) The issuing officer must comply with the request unless the issuing officer is satisfied that the elector is enrolled for the electoral district in which the polling booth is located.

(3) The issuing officer must keep a record of all persons to whom the officer gives a ballot paper and declaration envelope under this section.

(4) The issuing officer must, if a scrutineer requests it, record on the declaration envelope any objection by the scrutineer to the right of the person to vote.

(5) On being given the ballot paper and declaration envelope, the elector must, without delay—

- (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and
- (b) go alone to an unoccupied voting compartment in the polling booth; and
- (c) there, in private, mark a vote on the ballot paper in accordance with section 113; and
- (d) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling booth; and
- (e) leave the polling booth.

(6) Sections 103 and 104 apply to the making of a vote under this section in the same way, subject to any necessary changes, as they apply to the making of a vote under section 102.

Making a declaration vote at a Commission office

109.(1) An elector who wishes to make a declaration vote during the period beginning 3 days after the cut-off day for nominations and ending at 6 p.m. on the day before polling day may go to an office staffed by an issuing officer and request a ballot paper and declaration envelope from the officer.

(2) The officer must comply with the request.

(3) Subject to subsection (5), on being given the ballot paper and declaration envelope, the elector must without delay—

- (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and
- (b) mark a vote on the ballot paper in accordance with section 113; and
- (c) place the ballot paper in the envelope and seal the envelope; and
- (d) give the envelope to the officer; and

(e) leave the office.

(4) The issuing officer must send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office.

(5) If the elector satisfies the issuing officer that the elector is unable to vote without help, a person chosen by the elector may help the elector in any of the following ways—

- (a) acting as an interpreter;
- (b) explaining the ballot paper and the requirements of section 113 relating to its marking;
- (c) marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
- (d) placing the ballot paper in the declaration envelope and sealing the ballot envelope;
- (e) giving the envelope to the officer.

Making a declaration vote using posted voting papers

110.(1) An elector who is an ordinary postal voter may, by writing signed by the elector and posted or sent by facsimile to the Commission or returning officer for the electoral district for which the elector is enrolled, request a ballot paper and declaration envelope.

(2) If the request is received not later than 6 p.m. on the Thursday before polling day, the Commission or returning officer must post a ballot paper and declaration envelope to the elector.

(3) The Commission must, as soon as practicable after the issue of the writ for an election, post a ballot paper and declaration envelope to each special postal voter.

(4) Returning officers and the Commission must keep a record of all ballot papers and declaration envelopes posted under this section.

(5) Subject to subsection (7), on receiving the ballot paper and declaration envelope, the elector must—

- (a) sign the appropriate declaration on the declaration envelope before another elector or a person approved by the Commission for the purposes of this paragraph and have the other elector or person

- sign the envelope as witness; and
- (b) mark a vote on the ballot paper in accordance with section 113; and
- (c) place the ballot paper in the envelope and seal the envelope; and
- (d) either—
 - (i) give the envelope to a member of the Commission's staff at an office of the Commission before polling day or at a polling booth on polling day; or
 - (ii) post the envelope, or give it to another person to post, to the Commission or the returning officer.

(6) If the elector is unable to vote without help, another person may help by doing any of the things mentioned in subsection (5)(b) to (d) on behalf of the elector.

(7) A member of the Commission's staff who is given an envelope under subsection (5)(d)(i) must—

- (a) if it is given before polling day—send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office; or
- (b) if it is given on polling day—put the envelope in a ballot box at the office.

Electoral visitor voting

111.(1) An elector who is an electoral visitor voter may, by writing signed by the elector and posted or sent by facsimile to the Commission or the returning officer for the electoral district for which the elector is enrolled, request to vote as an electoral visitor voter.

(2) If the request is received not later than 6 p.m. on the Thursday before polling day, the Commission or the returning officer must ensure that an issuing officer visits the elector for the purpose of enabling the person to vote.

(3) The issuing officer must visit the elector at a reasonable hour—

- (a) before polling day; or

(b) before 6 p.m. on polling day.

(4) When visiting the elector, the issuing officer must—

(a) take to the elector—

(i) a ballot paper;

(ii) a ballot box; and

(iii) anything else necessary to enable the elector to vote; and

(b) if a scrutineer wishes—be accompanied by the scrutineer.

(5) The issuing officer must ensure that, as far as practicable, section 102 is complied with when the elector votes.

Making a declaration vote in cases of uncertain identity

112.(1) If an issuing officer suspects, as mentioned in section 102(7), that a person claiming to be a particular elector is not the elector, this section applies.

(2) The issuing officer must give the person a declaration envelope.

(3) The declaration envelope must have on it the following questions—

(a) Are you the same person whose name appears as [*here the issuing officer must write the name of the particular elector and the number appearing on the electoral roll in relation to the name*]?

(b) Have you already voted, either here or elsewhere, at the present election for this electoral district or any other electoral district?

(4) The person must write answers to the questions on the envelope, sign the envelope and have the signature witnessed by the issuing officer.

(5) If the person does not answer the questions or answers in either or both of the following ways—

(a) in the negative to the question in subsection (3)(a); or

(b) in the affirmative to the question in subsection (3)(b);

the issuing officer must retain the envelope and tell the person that he or she is not entitled to vote.

(6) The person must then leave the polling place.

(7) If subsection (5) does not apply, the issuing officer must give the person a ballot paper.

(8) The person must, without delay—

- (a) go alone to an unoccupied voting compartment at the polling place; and
- (b) there, in private, mark a vote on the ballot paper in accordance with section 113; and
- (c) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling place; and
- (d) leave the polling place.

(9) Sections 103 and 104 apply to the making of a vote under this section in the same way, subject to any necessary changes, as they apply to the making of a vote under section 102.

Subdivision C—Marking of ballot papers

How electors must vote

113.(1) An elector must vote in accordance with subsection (2) or (3).

(2) An elector may vote by writing on a ballot paper the number 1, a tick, or a cross, in the square opposite the name of only 1 candidate to indicate the elector's preference for the candidate.

(3) Instead of voting in accordance with subsection (2), an elector may vote by—

- (a) writing on a ballot paper the number 1, a tick, or a cross, in the square opposite the name of a candidate to indicate the elector's first preference for the candidate; and
- (b) writing—
 - (i) the number 2 in another square; or
 - (ii) the numbers 2, 3 and so on in other squares;

to indicate the order of the elector's preferences for 1 or more (but not necessarily all) of the other candidates.

Formal and informal ballot papers

114.(1) Subject to this section, for a ballot paper to have effect to indicate a vote for the purposes of this Act—

- (a) the ballot paper must contain writing that is in accordance with section 113 or other writing or marks that indicate the voter's intended preference or intended order of preferences; and
- (b) the ballot paper must not contain any writing or mark (other than as authorised by this Act) by which the elector can be identified; and
- (c) the ballot paper must have been put into a ballot box as required by this Act; and
- (d) if the ballot paper was put into a declaration envelope as required by this Act—the envelope must have been signed, and the signature must have been witnessed, as required by this Act.

(2) For the purposes of subsection (1)(a) and other provisions of this Act—

- (a) if a ballot paper contains 2 or more squares in which the same number is written or marked—the numbers and any higher numbers written or marked in other squares are to be disregarded; and
- (b) if there is a break in the order of the preferences indicated in writing or marks in the squares on a ballot paper—any preference after the break is to be disregarded.

(3) Subsection (1)(d) does not apply to the witnessing of a signature if—

- (a) the person required to witness the signature was a member of the Commission's staff; and
- (b) the person certifies in writing to the returning officer that the envelope was signed by the elector concerned.

(4) If a ballot paper has effect to indicate a vote, it is a formal ballot paper.

(5) If a ballot paper does not have effect to indicate a vote, it is an informal ballot paper.

Division 6—Counting of votes**Votes to be counted in accordance with Division**

115. Votes at an election are to be counted in accordance with this Division.

Preliminary processing of declaration envelopes and ballot papers

116.(1) The Commission or the returning officer for each electoral district must ensure that members of the Commission's staff examine all declaration envelopes received by the Commission or returning officer to determine whether the ballot papers in them are to be accepted for counting.

(2) A ballot paper must be accepted for counting only if the person examining the declaration envelope is satisfied that—

- (a) the elector concerned was entitled to vote at the election; and
- (b) the declaration was signed and witnessed before the end of voting hours on polling day; and
- (c) if the declaration on the envelope was witnessed by a person other than a member of the Commission's staff—the signature on the envelope corresponds with that in the request and the requirements of section 110(5)(d) were complied with; and
- (d) if the ballot paper is in a declaration envelope received by post—the envelope was received within 10 days after polling day for the election.

(3) If the ballot paper is accepted, the person must take it out of the envelope and, without unfolding it or allowing another person to unfold it, put it in—

- (a) if the envelope was received by the returning officer and not sent to the Commission to be dealt with under this section—a sealed ballot box; and
- (b) if the envelope was received by the Commission—a sealed ballot box in which ballot papers for the appropriate electoral district, and no other ballot papers, are placed.

(4) If a declaration envelope received by a returning officer is for a

different electoral district, it must be sent to the Commission or the appropriate returning officer without being examined under this section.

(5) Members of the Commission's staff must also seal up in separate parcels, and keep, all unopened envelopes and all opened envelopes.

(6) The Commission or returning officer must advise all candidates at the election of the times when, and places where, declaration envelopes will be examined under this section.

Preliminary and official counting of votes

117. The Commission must arrange for votes to be counted—

- (a) on polling day—in accordance with section 118; and
- (b) after polling day—in accordance with section 119.

Preliminary counting of ordinary votes

118.(1) As soon as practicable after the end of ordinary voting hours on polling day, the member of the Commission's staff in charge of a polling booth must ensure that the Commission's staff at the polling place follow the procedures set out in subsection (2).

(2) The staff must—

- (a) open all ballot boxes from the polling booth; and
- (b) identify and keep in a separate parcel all declaration envelopes; and
- (c) identify and keep in a separate parcel all informal ballot papers that are not in declaration envelopes; and
- (d) arrange all formal ballot papers that are not in declaration envelopes under the names of the candidates for the election by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
- (e) count the first preference votes for each candidate on all of the formal ballot papers; and
- (f) prepare and sign a statement, in the form approved by the Commission for the purposes of this paragraph, setting out—

- (i) the number of first preference votes for each candidate; and
- (ii) the number of informal ballot papers; and
- (g) advise the returning officer for the electoral district concerned of the contents of the statement; and
- (h) seal up each parcel of ballot papers or declaration envelopes separately, write on each a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and
- (i) send the parcels and the statements referred to in paragraph (f) to the returning officer for the appropriate electoral district.

(3) This section applies to votes received by the Commission under section 116 for an electoral district in the same way, subject to any prescribed changes and any other necessary changes, as it would apply if the Commission's office were a polling booth for the electoral district.

Official counting of votes

119.(1) As soon as practicable after polling day, the returning officer for each electoral district must ensure that the Commission's staff follow the procedures set out in this section.

(2) Firstly, the staff must—

- (a) open all ballot boxes in relation to the electoral district that have not previously been opened; and
- (b) identify all declaration envelopes and keep those in relation to different electoral districts in separate parcels; and
- (c) seal up each parcel of envelopes for an electoral district other than the returning officer's electoral district, write on each a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and
- (d) send the parcels to the returning officer for the appropriate electoral district.

(3) Secondly, the staff must—

- (a) open all sealed parcels of ballot papers sent to the returning officer under section 118; and

- (b) arrange all formal ballot papers under the names of the candidates for the election by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
- (c) count the first preference votes for each candidate on all of the formal ballot papers.

(4) Thirdly, the staff must—

- (a) open all ballot boxes on hand in which ballot papers from declaration envelopes have been placed under section 116(3); and
- (b) arrange all formal ballot papers under the names of the candidates for the election by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
- (c) count the first preference votes for each candidate on all of the formal ballot papers and add the number to that obtained under paragraph (2)(c); and
- (d) reapply paragraphs (a) to (c) as more envelopes are placed in ballot boxes under 116(3), until there are no more envelopes required to be placed in ballot boxes under that section.

(5) If, because of final counting under subsection (4), a majority of the first preference votes is for 1 candidate, that candidate is elected.

(6) If not, then a second count must take place.

(7) On the second count—

- (a) the candidate who has the fewest first preference votes must be excluded; and
- (b) each ballot paper recording a first preference vote for that candidate that is not exhausted must be transferred to the candidate next in the order of the voter's preference; and
- (c) that ballot paper must be counted as a vote for that candidate.

(8) If, on the second count, a candidate has a majority of the votes remaining in the count, the candidate is elected.

(9) If not, the process of—

- (a) excluding the candidate who has the fewest votes; and
- (b) transferring each ballot paper of that candidate that is not

exhausted to the continuing candidate next in the order of the voter's preference; and

- (c) counting it to that candidate as a vote;

must be repeated until 1 candidate has a majority of the votes remaining in the count.

(10) The candidate who, under subsection (8), has a majority of the votes remaining in the count is elected.

(11) Despite subsections (7) and (9), the process of transferring to a continuing candidate each of the ballot papers that is not exhausted and counting it to the candidate as a vote must not be repeated if there is only 1 continuing candidate, but that candidate is elected.

(12) If, on any count at which the candidate with the fewest number of votes must be excluded, 2 or more candidates have an equal number of votes and that number is fewer than the number of votes of any other candidate—

- (a) the candidate who had the fewest number of votes at the last count at which the candidates did not have an equal number of votes must be excluded; or
- (b) if the candidates had an equal number of votes at all earlier counts—the candidate whose name is on a slip chosen under subsection (13) must be excluded.

(13) For the purposes of subsection (12)(b), the returning officer must—

- (a) write the names of the candidates who have an equal number of votes on similar slips of paper; and
- (b) fold the slips to prevent the names being seen; and
- (c) place the slips in an opaque container; and
- (d) mix the slips; and
- (e) raise the container so that its contents are not visible and choose a slip at random.

(14) If, on any count at which the candidate with the fewest number of votes must be excluded, 2 or more candidates have an equal number of votes and the candidates are the only continuing candidates—

- (a) the returning officer must refer the matter to the Commission,

which must refer it to the Court of Disputed Returns; and

- (b) the Court must determine the validity of any disputed ballot papers and recount all of the ballot papers by applying subsection (3)(b) and (c) and subsections (5) to (12); and
- (c) if the determination and recount results in a candidate being elected—the Court must declare the candidate elected; and
- (d) if not—the Court must order that a fresh election be held.

(15) Subsection (14) does not affect the jurisdiction of the Court under Part 7 in relation to the disputing of an election.

Objections by scrutineers

120.(1) If, while a member of the Commission's staff is complying with section 118 or 119, a scrutineer objects to the member's treatment of a ballot paper as informal, the member must mark on the back of it 'formal' or 'informal' according to whether the member's decision is to treat it as formal or informal.

(2) If, while a member of the Commission's staff is complying with section 118 or 119, a scrutineer objects to the counting of a vote for a particular candidate, the member must mark on the back of the relevant ballot paper the name of the candidate for whom it is counted.

Recounting of votes

121.(1) At any time before—

- (a) a returning officer notifies the election of a candidate under section 122; or
- (b) the Commission refers a matter to the Court of Disputed Returns under 119(13);

the Commission may direct the returning officer, or another member of the Commission's staff, to recount some or all of the ballot papers for the election.

(2) A returning officer may recount some or all of the ballot papers for an election at any time before the returning officer notifies the election of a candidate.

(3) A person carrying out a recount of ballot papers must, so far as practicable, ensure that the requirements of section 119 are complied with.

(4) This section does not limit by implication section 32(4) or 33(10).

Division 7—Notifying the results of elections etc.

Notifying the results of an election

122.(1) As soon as practicable after a candidate is elected under section 89 or 119 (including that section as applied under section 121), the returning officer for the electoral district must notify the Commission of the name of the candidate elected for the electoral district.

(2) A returning officer must not delay complying with subsection (1) because ballot papers have not been received if it is clear that the ballot papers could not possibly affect the election of a candidate.

Return of writ for election

123.(1) As soon as practicable after the Commission has received—

- (a) in the case of a general election—the copies of the notifications under section 122(1) from the returning officers for all electoral districts; and
- (b) in any other case—the copy of the notification under section 122(1) from the returning officer for the electoral district in relation to which the election was held;

and before the day for the return of the writ, the Commission must comply with subsection (2).

(2) The Commission must—

- (a) write on the writ the name of each candidate elected; and
- (b) return the writ to whichever of the Governor or the Speaker of the Legislative Assembly issued the writ; and
- (c) publish in the Gazette the name of each candidate elected.

Counting for information purposes

124. After a candidate is elected for an electoral district under section 119 (including that section as applied under section 121), the Commission may direct the returning officer for the electoral district to examine ballot papers for the purpose of obtaining further information about the preferences of voters.

Notice of failure to vote etc.

125.(1) Subject to subsection (2), the Commission must, as soon as practicable after an election, send a notice to each elector who appears to have failed to vote at the election—

(a) stating that—

- (i) the elector appears to have failed to vote at the election; and
- (ii) it is an offence to fail, without a valid and sufficient reason, to vote at an election; and

(b) requiring the elector—

- (i) to state, in a form included in or with the notice, whether the elector voted and, if not, the reason for failing to vote; and
- (ii) to sign the form and post or give it to the Commission so that it is received by a specified day, not earlier than 21 days after the elector received the notice.

(2) Subsection (1) does not apply if the Commission is satisfied—

- (a) that the elector is dead; or
- (b) that the elector had a valid and sufficient reason for failing to vote.

(3) The elector must comply with the requirements of the notice.

(4) If—

- (a) the elector is absent or unable, because of physical incapacity, to comply with the requirements of the notice; and
- (b) another elector who has personal knowledge of the facts complies with the requirements and in doing so also has his or her signature on the form witnessed;

the first elector is taken to have complied with the requirements.

(5) As soon as practicable after an election, the Commission must send a notice to each person who made a declaration vote under section 106(b), but whose ballot paper was not accepted for counting under section 116(1), advising the person why the ballot paper was not accepted for counting.

Storage of ballot papers and declaration envelopes

126.(1) Subject to subsection (2), the Commission must keep all ballot papers, certified copies of electoral rolls and declaration envelopes relating to an election until the day of issue of the writ for the next general election.

(2) The Commission must comply with any order by a court, or any request by the Commissioner of the Queensland Police Service, to hand over, allow access to or provide copies of any ballot papers or declaration envelopes.

PART 7—COURT OF DISPUTED RETURNS

Division 1—Court of Disputed Returns

Supreme Court to be Court of Disputed Returns

127.(1) The Supreme Court is the Court of Disputed Returns for the purposes of this Act.

(2) A single Judge may constitute, and exercise all the jurisdiction and powers of, the Court of Disputed Returns.

Division 2—Disputing elections

Election may be disputed under this Division

128.(1) The election of a person may be disputed under this Part by a petition to the Court of Disputed Returns in accordance with this Division.

(2) The election may not be disputed in any other way.

Who may dispute the election

129. An election may be disputed by—

- (a) a candidate at the election for the electoral district concerned; or
- (b) an elector for the electoral district concerned; or
- (c) the Commission.

Requirements for a petition to be effective

130.(1) For a petition to have effect for the purposes of this Division, the requirements of this section must be complied with.

(2) The petition must—

- (a) set out the facts relied on to dispute the election; and
- (b) set out the order sought from the Court of Disputed Returns; and
- (c) be signed by—
 - (i) in the case of a petition by the Commission—the Electoral Commissioner; and
 - (ii) in any other case—the petitioner before a witness; and
- (d) if paragraph (c)(ii) applies—contain the signature, occupation and address of the witness.

(3) The person disputing the election must—

- (a) file the petition with the Court within 7 days after the day on which the writ for the election is returned as mentioned in section 123(2)(b); and
- (b) when filing the petition, deposit with the Court—
 - (i) \$400; or
 - (ii) if a greater amount is prescribed—that amount.

(4) Subsections (1) and (2) do not, by implication, prevent the amendment of the petition.

Copies of petition to be given to elected candidate and Commission

131. The staff of the Supreme Court must give a copy of the petition to—

- (a) the candidate who was elected; and
- (b) the Commission, unless the Commission filed the petition.

Application to Court for order relating to documents etc.

132.(1) The petitioner may apply to the Court of Disputed Returns for an order requiring the Commission to give the Court specified documents and other things held by the Commission in relation to the election.

(2) The Court may make such order in relation to the application as it considers appropriate.

Parties to petition

133.(1) The parties to a petition are the person who filed it and any respondent under this section.

(2) The Commission is a respondent to any petition by another person under this Division.

(3) The person who was elected is a party to the petition if the person, within 7 days after receiving a copy of the petition under section 131, files a notice with the Court stating that the person wishes to be a respondent.

How petition is to be dealt with by Court

134.(1) The Court of Disputed Returns may conduct hearings and other proceedings in relation to the petition.

(2) The Court must not have regard to legal forms and technicalities, and is not required to apply the rules of evidence.

(3) The Court must deal with the petition as quickly as is reasonable in the circumstances.

(4) In giving effect to subsection (3), the Court must use its best efforts to ensure that—

- (a) the proceeding begins within 28 days after the petition is lodged; and
- (b) the Court's final orders are given within 14 days after the end of the proceeding.

(5) Despite subsections (3) and (4), the Court must give all parties to the proceeding at least 10 days notice before it begins the proceeding.

(6) The rules of court of the Supreme Court may include provision, not inconsistent with this Division, with respect to the practices and procedures of the Court of Disputed Returns.

(7) Without limiting subsection (6), the rules of court may make provision regarding the withdrawal of petitions, the consequences of the death of petitioners and the substitution of petitioners in such circumstances.

Application for dismissal of petition

135.(1) The Commission may apply to the Court of Disputed Returns for an order dismissing the petition on the ground that there has been excessive delay by the petitioner in relation to the petition.

(2) The Court may make such order on the application as it considers appropriate.

Powers of the Court

136.(1) Subject to sections 137 and 138, the Court of Disputed Returns may make any order or exercise any power in relation to the petition that the Court considers just and equitable.

(2) The orders may include any of the following—

- (a) an order to the effect that the person elected is taken not to have been elected;
- (b) an order to the effect that a new election must be held;
- (c) an order to the effect that a candidate other than the one elected is taken instead to have been elected;
- (d) an order to dismiss or uphold the petition in whole or part.

Restrictions on certain orders

137.(1) The Court must not make an order mentioned in section 136(2) because of—

- (a) a delay in—
 - (i) the announcement of nominations under section 88; or
 - (ii) complying with the requirements of Division 5, 6 or 7 of Part 6; or
- (b) an absence or error of, or omission by, any member of the Commission's staff that appears unlikely to have had the effect that the person elected would not have been elected.

(2) In determining whether the requirements of subsection (1)(b) are met, the Court must not, if it finds that an elector was prevented from voting at the election by absence, error or omission, take into account any evidence of the way in which the elector had intended to vote.

(3) The Court must not make an order mentioned in section 136(2) because—

- (a) the names of the candidates were not set out on a ballot paper in the order required by section 97(2)(d); or
- (b) a name or other word that was required by section 97(2)(g) to be printed on a ballot paper adjacent to a candidate's name was not so printed or was misspelt, inaccurate or incorrect; or
- (c) a name or other word that was not authorised by section 97(2)(g) was printed on a ballot paper adjacent to a candidate's name.

Restriction on certain evidence and enquiries

138.(1) In a proceeding in relation to the petition, the Court of Disputed Returns must not take into account evidence by any person that the person was not permitted to vote during voting hours in relation to a polling place, unless the Court is satisfied that, so far as the person was permitted to do so, the person did everything required by this Act to enable the person to vote.

(2) In a proceeding in relation to the petition, the Court—

- (a) may enquire whether persons voting were enrolled on the

electoral roll for the electoral district concerned and whether votes were correctly treated as formal or informal during the counting of votes; but

- (b) must not enquire whether the electoral roll, or any copy used at the election, was in accordance with this Act.

Copy of final Court orders to be sent to Clerk of Parliament

139. The Court of Disputed Returns must arrange for a copy of the Court's final orders to be sent to the Clerk of the Parliament as soon as possible after they are made.

Costs

140.(1) The Court of Disputed Returns may order an unsuccessful party to the petition to pay the reasonable costs of the other parties to the petition.

(2) If costs are awarded against the person who filed the petition, the deposit filing with the petition must be applied towards payment of the costs.

(3) If not, the deposit must be returned to the person.

Decisions and orders to be final etc.

141. A decision of, or order made by, the Court of Disputed Returns in relation to the petition—

- (a) is final and conclusive; and
- (b) cannot be appealed against or otherwise called in question on any ground.

Right of Commission to have access to documents

142. Unless the Court of Disputed Returns otherwise orders, the filing of a petition does not deprive the Commission of any right to have access to a document for the purpose of performing its functions.

Division 3—Disputing qualifications and vacancies of members**Reference of question as to qualification or vacancy**

143.(1) The Legislative Assembly may, by resolution, refer to the Court of Dispute Returns any question regarding—

- (a) the qualification of a person to be, or to continue to be, a member of the Legislative Assembly; or
- (b) a vacancy in the Legislative Assembly.

(2) The Court of Disputed Returns has jurisdiction to hear and determine the reference.

Speaker to state case

144. If the Legislative Assembly refers a question to the Court of Disputed Returns, the Speaker must give the Court—

- (a) a statement of the question that the Court is to hear and determine; and
- (b) any proceedings, papers, reports or documents relating to the reference in the Legislative Assembly's possession.

Parties to the reference

145.(1) The Court of Disputed Returns may—

- (a) allow any interested person to be heard when the reference is heard; or
- (b) direct that notice of its hearing of the reference must be served on a specified person.

(2) Any person allowed to be heard, or on whom notice is served, becomes a party to the reference.

Powers of Court

146. In hearing the reference, the Court of Disputed Returns—

- (a) must sit as an open court; and

- (b) has power to make such orders as it considers just and equitable, including the power—
 - (i) to declare that any person was not qualified to be a member of the Legislative Assembly; and
 - (ii) to declare that there is a vacancy in the Legislative Assembly.

Order to be sent to Assembly

147. After the hearing and determination of the reference, the Court must arrange for a copy of its order to be given to the Clerk of the Parliament.

Application of provisions

148. Sections 134(6), 140 and 141 apply, subject to any necessary changes, to proceedings on a reference under this Division.

PART 8—ENFORCEMENT

Division 1—Offences in general

Attempts taken to be offences

149. A person who attempts to commit an offence against a provision of this Part is taken to have committed the offence.

Failure to enrol etc.

150.(1) Subject to this section, a person who contravenes section 65(2) or (3) commits an offence punishable on conviction by a penalty of a fine of not more than 1 penalty unit.

(2) Subject to this section, if a person who is entitled to be enrolled for an electoral district is not enrolled for the electoral district—

- (a) at the end of 21 days after becoming entitled; or
- (b) at any later time while the person continues to be entitled to be enrolled for the district;

the person commits an offence punishable on conviction by a penalty of a fine of not more than 1 penalty unit.

(3) If the person admits evidence that the non-enrolment was not because of the person's failure to give notice as required by section 65(2), the person does not commit an offence against subsection (2) unless the prosecution proves the contrary.

(4) If a person gives notice as required by section 65(2), a proceeding must not be instituted against the person for an offence against subsection (1) for a contravention of section 65(2), or for an offence against subsection (2), committed before the notice was given.

False names etc. on electoral rolls

151. A person must not wilfully insert on any electoral roll a false or fictitious name or address.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Misuse of restricted information

152.(1) If a copy of an electoral roll is made available to a person or body under section 61, a person must use any information obtained from part of the copy that is not a publicly available part only for purposes set out in subsection (2).

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

(2) The purposes are—

- (a) any purpose related to an election under—
 - (i) this Act; or
 - (ii) the *Local Government Act 1936*; or
 - (iii) the *City of Brisbane Act 1924*; or
 - (iv) the *Community Services (Aborigines) Act 1984*; or

- (v) the *Community Services (Torres Strait) Act 1984*; or
- (b) checking the accuracy of information on the electoral roll; or
- (c) the performance by a member of—
 - (i) the Legislative Assembly; or
 - (ii) a local authority;of the member's functions in relation to electors enrolled on the electoral roll; or
- (d) the performance by an official or employee of a political party of the person's duties in relation to electors enrolled on the electoral roll.

False or misleading statements

153(1). A person must not—

- (a) make a statement under or for the purposes of this Act that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made under or for the purposes of this Act anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

False, misleading or incomplete documents

154. A person must not give a document under or for the purposes of this Act containing information that the person knows is false, misleading or incomplete in a material particular without—

- (a) indicating that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
- (b) giving the correct information if the person has, or can reasonably obtain, the correct information.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Bribery

155.(1) A person must not—

- (a) ask for or receive; or
- (b) offer, or agree, to ask for or receive;

property or a benefit of any kind (whether for the person or someone else) on the understanding that the person's election conduct (as defined in subsection (3)) will be influenced or affected.

Maximum penalty—85 penalty units, imprisonment for 2 years or both.

(2) A person must not, in order to influence or affect another person's election conduct (as defined in subsection (3)), give, or promise or offer to give, property or a benefit of any kind to the other person or a third person.

Maximum penalty—85 penalty units, imprisonment for 2 years or both.

(3) In this section—

“election conduct” of a person means—

- (a) the way in which the person votes at an election; or
- (b) the person's nominating as a candidate for an election; or
- (c) the person's support of, or opposition to, a candidate or a political party at an election.

Providing money for illegal payments

156. A person must not knowingly provide money for—

- (a) any payment that is contrary to law relating to elections; or
- (b) replacing any money that has been spent in making such payment.

Maximum penalty—85 penalty units, imprisonment for 2 years or both.

Improperly influencing Commission

157. A person must not improperly influence a commissioner in the performance of the commissioner's duties under this Act.

Maximum penalty—35 penalty units, imprisonment for 1 year or both.

Interfering with election right or duty

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

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Forging or uttering electoral papers etc.

159.(1) A person must not—

- (a) forge an electoral paper; or
- (b) utter a forged electoral paper knowing it to be forged.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

(2) A person must not make the signature of another person on an electoral paper.

Maximum penalty—20 penalty units.

Wilful neglect etc. by Commission staff

160. A senior electoral officer or member of the Commission's staff must not wilfully neglect or fail to perform any duty under this Act.

Maximum penalty—20 penalty units.

Division 2—Offences relating to electoral advertising etc.**Author of election matter must be named**

161.(1) Subject to subsection (3), a person must not, during the election period for an election—

- (a) print, publish, distribute or broadcast; or
- (b) permit or authorise another person to print, publish, distribute or broadcast;

any advertisement, handbill, pamphlet or notice containing election matter unless there appears, or is stated, at its end the particulars required by subsection (2).

Maximum penalty—

- (a) in the case of an individual—20 penalty units; or
- (b) in the case of a corporation—85 penalty units.

(2) The particulars are—

- (a) in any case—the name and address (other than a post office box) of the person who authorised the advertisement, handbill, pamphlet or notice; and
- (b) in the case of an advertisement or notice that is printed otherwise than in a newspaper—the name and place of business of the printer.

(3) Subsection (1) does not apply to an advertisement—

- (a) that is printed, published or distributed on a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon; or
- (b) that is of a kind prescribed for the purposes of this subsection.

Headline to electoral advertisements

162. The proprietor of a newspaper is guilty of an offence if—

- (a) an article, or a paragraph, containing electoral matter is printed in the newspaper; and
- (b) either—
 - (i) the insertion of the article or paragraph is or is to be paid for; or
 - (ii) any reward or compensation, or promise of reward or compensation, is or is to be made for the insertion of the article or paragraph; and

- (c) the proprietor does not cause the word ‘advertisement’ to be printed as a headline to the article or paragraph in letters not smaller than 10 point or long primer.

Maximum penalty—

- (a) in the case of an individual—9 penalty units; or
- (b) in the case of a corporation—40 penalty units.

Misleading voters

163.(1) A person must not, during the election period for an election, print, publish, distribute or broadcast anything that is intended or likely to mislead an elector in relation to the way of voting at the election.

(2) A person must not for the purpose of affecting the election of a candidate, knowingly publish a false statement of fact regarding the personal character or conduct of the candidate.

(3) A person must not, during the election period for an election, print, publish, distribute or broadcast by television any representation or purported representation of a ballot paper for use in the election if it is likely to induce an elector to vote other than in accordance with this Act.

Maximum penalty—

- (a) in the case of an individual—40 penalty units; or
- (b) in the case of a corporation—200 penalty units.

Division 3—Offences relating to voting etc.

Failure to vote etc.

164.(1) An elector who—

- (a) fails to vote at an election without a valid and sufficient excuse; or
- (b) contravenes section 125(3); or
- (c) in purported compliance with section 125(3), makes a statement, in a form, that is to the elector’s knowledge false or misleading in a material particular;

commits an offence punishable on conviction by a penalty of a fine of not more than 1 penalty unit.

(2) Without limiting subsection (1)(a), if an elector believes it to be part of the elector's religious duty not to vote at an election, that is a valid and sufficient excuse for failing to vote at the election.

(3) In a proceeding for an offence against subsection (1)(a), a certificate, signed by a member of the Commission's staff, stating that an elector failed to vote at an election is prima facie evidence that the elector failed to vote at the election.

(4) Subsection (1)(a) does not apply to an Antarctic voter.

Leave to vote

165.(1) If—

- (a) an employee who is an elector asks his or her employer, before polling day in relation to an election, for leave of absence to vote at the election; and
- (b) the absence is necessary to enable the employee to vote at the election;

then, unless the absence is reasonably likely to cause danger or substantial loss to the employer in relation to the employment concerned, the employer—

- (c) must allow the employee leave of absence for a reasonable period of not more than 2 hours to enable the employee to vote at the election; and
- (d) must not impose any penalty or disproportionate deduction of pay for the leave of absence.

(2) An employee must not ask for leave of absence under subsection (1) to vote at an election unless the employee genuinely intends to vote at the election.

Maximum penalty—

- (a) in the case of an individual—9 penalty units; or
- (b) in the case of a corporation—42 penalty units.

Canvassing etc. in or near polling places

166.(1) A person must not, during the election period for an election, do any of the things set out in subsection (2)—

- (a) inside a polling place; or
- (b) within 6 m of an entrance to a building if—
 - (i) the building is, or is part of, a polling place; and
 - (ii) either a ballot box is in the building for use in voting at the election or a person is voting at the election in the building.

Maximum penalty—9 penalty units.

(2) For the purposes of subsection (1), the things are—

- (a) canvassing for votes; or
- (b) inducing an elector not to—
 - (i) vote in a particular way; or
 - (ii) vote at all at the election; or
- (c) loitering; or
- (d) obstructing the free passage of voters.

Interrupting voting etc.

167. A person must not—

- (a) enter or remain in a polling booth otherwise than as authorised by this Act; or
- (b) wilfully interrupt, obstruct or disturb any proceeding at an election; or
- (c) enter a voting compartment otherwise than as authorised by this Act; or
- (d) prevent a scrutineer from entering or leaving a polling place—
 - (i) during voting hours in relation to the polling place; or
 - (ii) while votes are being counted at the polling place; or
- (e) obstruct or wilfully mislead a senior electoral officer or member

of the Commission's staff in the performance of a duty.

Maximum penalty—9 penalty units.

Influencing voting

168. A person must not, by violence or intimidation, influence the vote of a person at an election.

Maximum penalty—85 penalty units, imprisonment for 2 years or both.

Wearing party badges etc.

169. A person must not wear or display any emblem or badge of a political party in a polling place.

Maximum penalty—1 penalty unit.

Voting if not entitled etc.

170. A person must not, at an election—

- (a) vote in the name of another person (including a dead or fictitious person); or
- (b) vote more than once; or
- (c) cast a vote that the person knows he or she is not entitled to cast; or
- (d) if the person knows another person is not entitled to vote at the election—procure the other person to vote.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Offences relating to ballot papers

171(1). A person must not—

- (a) wilfully fail to comply with section 102(10)(c), 108(5)(d), 109(3)(c) or (d) or 110(5)(c) or (d); or
- (b) take a ballot paper out of a polling place otherwise than as authorised by this Act; or

- (c) place in a ballot box a ballot paper that has not been—
 - (i) given to an elector under this Act; or
 - (ii) marked by the elector.

(2) A person must not, without lawful excuse, obtain possession of, or have in the person's possession—

- (a) a ballot paper that has been marked by another person; or
- (b) a declaration envelope that has been signed by another person.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Failure to post etc. documents on behalf of another person

172.(1) If an elector gives a written request under section 110 for a ballot paper and declaration envelope to another person to post or send by facsimile to the Commission or a returning officer, the other person commits an offence if the person fails promptly to post the request or send the request by facsimile to the Commission or returning officer.

(2) If an elector gives a declaration envelope under section 110(5)(d)(ii) to another person to post to the Commission or a returning officer, the other person commits an offence if the person fails promptly to post the envelope to the Commission or returning officer.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Secrecy of voting

173. A person must not—

- (a) unfold a ballot paper that has been marked and folded by an elector under this Act unless ordered by a court or authorised under this Act to do so; or
- (b) if the person is a member of the Commission's staff performing duties at a polling place in relation to an election—
 - (i) ascertain or discover how an elector has voted at the election unless the person is authorised to do so under this Act; or
 - (ii) disclose any information as to how an elector has voted at the election unless the person is authorised to do so under

this Act or ordered by a court to do so.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Breaking seals on parcels

174. A person must not wilfully open or break the seal of a parcel sealed under section 118(2)(h) unless the person is authorised to do so under this Act or ordered by a court to do so.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Duty of witness to signing of declaration voting papers

175. An elector or other person (the “**witness**”) must not sign a declaration envelope as witness under section 110(5)(a) unless—

- (a) the witness is satisfied of the identity of the elector who signs the declaration before the witness; and
- (b) the witness has seen the elector sign the declaration; and
- (c) either—
 - (i) the witness knows that the declaration made by the elector on the envelope is true; or
 - (ii) the witness is satisfied, on the basis of inquiries of the elector or otherwise, that the declaration is true.

Maximum penalty—20 penalty units, imprisonment for 6 months or both.

Division 4—Further penalty of parliamentary disqualification for certain offences

Further penalty of disqualification for certain offences

176. If a person is convicted of an offence against section 154, 168 or 170(a) or (b)—

- (a) if the person is a member of the Legislative Assembly—the person’s seat is vacated in accordance with section 7(2) of the *Legislative Assembly Act 1867*; and

- (b) in any case—the person is not entitled to be elected, or to sit, as a member of the Legislative Assembly for 3 years after the conviction.

Division 5—Injunctions

Injunctions

177.(1) If—

- (a) either—
 - (i) a person (the “**offending party**”) has engaged, is engaging or is proposing to engage in conduct; or
 - (ii) a person (also the “**offending party**”) has failed, is failing or is proposing to fail to do anything; and
- (b) the conduct or failure constituted, constitutes or would constitute a contravention of, or an offence against, this Act;

an application may be made to the Supreme Court for an injunction.

(2) The application may be made by—

- (a) if the conduct or failure relates to an election—a candidate in the election; or
- (b) in any case—the Commission.

(3) The Court may grant an interim injunction pending determination of the application.

(4) If the Commission makes the application for the injunction, the Court must not require it or another person to give any undertakings as to damages as a condition of granting interim injunction under subsection (3).

(5) On considering the application for the injunction, the Court may—

- (a) in a case to which subsection (1)(a)(i) applies—grant an injunction restraining the offending party from engaging in the conduct concerned and, if in the Court’s opinion it is desirable to do so, requiring the offending party to do anything; or
- (b) in a case to which subsection (1)(a)(ii) applies—grant an injunction requiring the offending party to do the thing concerned.

(6) The Court may grant the injunction—

- (a) if the Court is satisfied that the offending party has engaged in the conduct, or failed to do the thing, mentioned in subsection (1)—whether or not it appears to the Court that the offending party intends—
 - (i) to engage again or continue to engage in the conduct; or
 - (ii) to fail or continue to fail or do the thing; or
- (b) if it appears to the Court that, if the injunction is not granted, it is likely that the offending party will engage in the conduct, or fail to do the thing, mentioned in subsection (1)—whether or not—
 - (i) the offending party has previously engaged in the conduct or failed to do the thing; and
 - (ii) there is an imminent danger of substantial damage to any person if the offending party engages in the conduct or fails to do the thing.

(7) The Court may refuse to grant an injunction if it appears to the Court that the application was not made to the Court at the earliest possible opportunity.

(8) The Court may discharge or vary the injunction or any interim injunction granted under subsection (3).

(9) The powers conferred on the Court by this section are in addition to, and do not limit, any other powers of the Court.

PART 9—MISCELLANEOUS

How things are to be given to Commission

178. A claim, return, form, notice, application, nomination or other document or thing that is required or permitted by this Act to be given to the Commission is to be given to the Commission by leaving it at, or sending it by post or facsimile or in a similar way, to the Commission's office.

How things are to be signed

179. For the purposes of this Act, a person signs a thing—

- (a) by signing the person's name in writing on the thing; or
- (b) if the person is unable to sign as mentioned in paragraph (a)—by making the person's mark on the thing as a signature before another person who signs the thing as witness.

Review of certain decisions

180.(1) The decisions set out in the following table are reviewable under this section if an application for review is made under this section by the person set out in the table.

Reviewable decision	Person who may apply for review
1. A decision under section 58(4) regarding the inclusion of a person's address in the publicly available part of an electoral roll	The person
2. A decision under section 65 not to amend an electoral roll to give effect to a notice by a person	The person who gave the notice
3. A decision to take action, or not to take action, under section 67(5) to amend the electoral rolls	The person who objected under section 67 to the enrolment of another person or the other person
	4. A decision under section 72 to register, or under section 73 to refuse to register, a

political party	Any person affected by the decision
5. A decision under the Act that a person is a special postal voter	The person

(2) An application for review of a reviewable decision must—

- (a) be in writing; and
- (b) be made to—
 - (i) in the case of a reviewable decision mentioned in item 4 in the table—the Supreme Court; and
 - (ii) in any other case—a Magistrates Court; and
- (c) be made within 1 month after the decision comes to the notice of the applicant or such further period as the Court allows; and
- (d) set out the grounds on which review is sought.

(3) The Court must review the decision and make an order—

- (a) confirming the decision; or
- (b) varying the decision; or
- (c) setting aside the decision and making a decision in substitution.

(4) If an application for review of a decision has been made to a Magistrates Court, a party to the application or the Attorney-General may, before or at any stage during the hearing of the application, apply to a District Court or the Supreme Court for removal of the matter to the Court.

(5) The Court may, by order, grant the application.

(6) If an application for review of a decision is required to be made to a Magistrates Court, a person who may make the application may apply to a District Court or the Supreme Court for leave to make the application to the Court instead of a Magistrates Court.

(7) The Court may, by order, grant the leave.

(8) The Supreme Court or a District Court is to be constituted by a single Judge for the purposes of this section.

(9) The Magistrates Court is to be constituted by a Stipendiary Magistrate for the purposes of this section.

Advertising of office addresses etc.

181. The Commission must advertise the locations and opening hours of its office and offices of returning officers and other members of the Commission's staff.

Regulations

182.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may be made—

- (a) prescribing offences against the regulation; and
- (b) fixing a maximum penalty of a fine of 20 penalty units for an offence against the regulation

PART 10—CONSEQUENTIAL REPEALS AND AMENDMENTS OF OTHER ACTS

Division 1—Repeal of Acts

Repeal of Acts

183. The following Acts are repealed—

- *Elections Act 1983*;
- *Elections Act Amendment Act 1985*;
- *Elections Act Amendment Act 1989*;
- *Electoral Districts Act 1991*.

Continuation of appointment of certain officials appointed under Elections Act 1983

184.(1) A person who, immediately before the commencement of Division 2 of Part 2, was the Electoral Commissioner under the *Elections Act 1983* is taken to have been appointed under this Act as the Electoral Commissioner.

(2) The appointment is taken to have happened at the commencement of Division 2 of Part 2 of this Act, and to have been for the remainder of the term specified in the person's instrument of appointment under the *Elections Act 1983*.

(3) A person who, immediately before the commencement of Division 3 of Part 2, was an electoral registrar, or the returning officer for an electoral district, under the *Elections Act 1983* is taken to have been appointed under this Act as an electoral registrar, or the returning officer for the electoral district, as the case may be.

Continuation of joint roll arrangement with Commonwealth

185. Despite the repeal of the *Elections Act 1983* by this Act, if an arrangement made under section 29A of that Act was in force immediately before the repeal—

- (a) the arrangement continues to have effect for the purpose of this Act until a new arrangement is made under section 62 of this Act; and
- (b) section 29A of that Act also continues to have effect in relation to the arrangement as if references in that section that relate to that Act were instead references that relate to this Act.

Division 2—Amendment of City of Brisbane Act 1924

Amended Act

186. The *City of Brisbane Act 1924* is amended as set out in this Division.

Amendment of s.3 (Interpretation)

187.(1) Section 3(1) (definitions “**Elections Act**”, “**Elector**” and “**Electoral district**”)—

omit.

(2) Section 3(1)—

insert—

“**elector**” means a person who is entitled to vote at an election;

“**Electoral Act**” means the *Electoral Act 1992*;

“**electoral district**” means an electoral district under the Electoral Act;’.

Replacement of s.7 (Qualification of alderman)

188. Section 7—

omit, insert—

‘Qualifications for election

7. A person may be elected to the Council if the person—

- (a) lives in the City; and
- (b) is enrolled on an electoral roll under the Electoral Act; and

- (c) is shown on the electoral roll as living in the City; and
- (d) is not under a disability mentioned in section 8.’.

Amendment of s.14D (Basis of distribution in Zones)

189. Section 14D(3)—

omit ‘, pursuant to the Elections Act,’ and ‘as constituted under the *Electoral Districts Act 1971*’.

Amendment of s.14J (Fresh quotas)

190.(1) Section 14J(1)(a)—

omit ‘Elections Act’, *insert* ‘Electoral Act’.

(2) Section 14J(1)(a)—

omit ‘*Electoral Districts Act 1971*’, *insert* ‘Electoral Act’.

(3) Section 14J(1)(b) (after ‘that paragraph’)—

insert ‘and reading a reference to the Principal Electoral Officer as a reference to the Electoral Commissioner’.

(4) Section 14J(1)(b)—

omit ‘Principal Electoral Officer’, *insert* ‘Electoral Commission’.

Amendment of s.14K (Existing Council)

191. Section 14K(6)—

omit ‘Elections Act’ (wherever occurring), *insert* ‘Electoral Act’.

Amendment of s.14L (Names of electoral wards)

192. Section 14L—

omit ‘*Electoral Districts Act 1971*’, *insert* ‘Electoral Act’.

Amendment of s.14Q (Electoral rolls)

193.(1) Section 14Q(1), (4) and (5)—

omit ‘Principal Electoral Officer’, *insert* ‘Electoral Commission’.

(2) Section 14Q(1) and (6)—

omit ‘Elections Act’, *insert* ‘Electoral Act’.

(3) Section 14Q(2) and (3)—

omit.

Amendment of s.17 (Provisions concerning elections)

194.(1) Section 17(3) and (6)—

omit ‘Elections Act’ (wherever occurring),

insert ‘Electoral Act’.

(2) Section 17(3)(b)(ii)—

omit ‘Principal Electoral Officer’ (wherever occurring),

insert ‘Electoral Commission’.

Amendment of s.18 (Filling vacancies)

195. Section 18(4)—

omit ‘Elections Act’, *insert* ‘Electoral Act’.

Division 3—Amendment of Criminal Code**Amended Act**

196. The Criminal Code is amended as set out in this Division.

Insertion of new s.98A

197. After section 98—

insert—

‘Chapter does not apply to Legislative Assembly elections

‘98A. This Chapter does not apply to any act or omission of a person, after the commencement of this section, in relation to an election of a member or members of the Legislative Assembly.’.

Division 4—Amendment of Legislative Assembly Act 1867

Amended Act

198. The *Legislative Assembly Act 1867* is amended as set out in this Division.

Insertion of new heading and ss.IA and IB

199. After section 1—

insert—

‘COMPOSITION OF THE ASSEMBLY

‘Number of members of Assembly

‘1A. The Assembly is to consist of 89 members.

‘One member for each electoral district

‘1B. Each member is to represent 1 of the 89 electoral districts provided for in the *Electoral Act 1992*.’.

Amendment of s.7 (Vacating seats of members of Assembly in certain cases)

200. At the end of section 7—

insert—

‘(2) If a member of the Assembly is convicted of an offence against section 154, 168 or 170(a) or (b) of the *Electoral Act 1992*, the member’s seat becomes vacant.

‘(3) Despite subsection (1), a member’s seat does not become vacant under that subsection if the member is convicted of another offence against the *Electoral Act 1992*.’.

Omission of heading and ss.9, 10 and 11

201. Heading ‘WRITS OF ELECTION’ and sections 9, 10 and 11—
omit.

Division 5—Amendment of Local Government Act 1936

Amended Act

202. The *Local Government Act 1936* is amended as set out in this Division.

Amendment of s.3 (Interpretation and definitions)

203. Section 3(1) (definition “**Elections Act**”)—
omit, insert—

‘“**Elections Act**” means the *Electoral Act 1992*;’.

Amendment of s.7 (Qualifications for office of chairperson or member)

204. Section 7(7)(i)—
omit ‘section 21(5) of the *Elections Act 1983*’,
insert ‘section 64(2) of the *Elections Act*’.

Amendment of Schedule 3 (Rules for the conduct of elections)

205. Schedule 3, rule 4—
omit ‘mentioned in section 23 of the *Elections Act 1983*’.

