

Queensland



ELECTORAL AMENDMENT ACT 1994

Act No. 82 of 1994

Queensland



ELECTORAL AMENDMENT ACT 1994

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OTHER AMENDMENTS

Queensland



Electoral Amendment Act 1994

Act No. 82 of 1994

*An Act to amend the *Electoral Act 1992**

[Assented to 1 December 1994]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Electoral Amendment Act 1994*.

Act amended

2. This Act amends the *Electoral Act 1992*.

Amendment of s 3 (Definitions)

3. Section 3—

insert—

‘**“ordinary vote”** means a vote that is not a declaration vote.¹’.

Amendment of s 22 (Deputy Electoral Commissioner)

4. Section 22(1)—

omit, insert—

‘**22.(1)** There may be a Deputy Electoral Commissioner.’.

Amendment of s 64 (Entitlement to enrolment)

- 5.(1) Section 64(1), ‘Subject to subsection (2), a’—

omit, insert—

‘A’.

- (2) Section 64(2)—

renumber as section 64(3).

¹ Part 6, Division 5, Subdivision B is about the meaning and operation of declaring voting.

(3) Section 64—

insert—

‘(2) However, subsection (1)(b) does not deny a person the entitlement to be enrolled for an electoral district if the person did not live in the electoral district for the last month merely because the person was imprisoned.’.

(4) Section 64(3) (as renumbered), ‘If’—

omit, insert—

‘In addition, if’.

(5) Section 64—

insert—

‘(4) In this section—

“**prisoner**” has the meaning given by the *Corrective Services Act 1988*.’.

Amendment of s 73 (Refusal of registration)

6.(1) Section 73(1) and (4) (as in force immediately before commencement)—

renumber as section 73(2) and (5).

(2) Section 73—

insert—

‘73.(1) In this section—

“**application name**” means a name for a political party, or the abbreviation of the name for a political party, set out in the party’s application for registration.

“**party name**” means the name, or an abbreviation or acronym of the name, of a parliamentary party or registered political party.

“**party body name**” means the name, or an abbreviation or acronym of the name, of a prominent public body.’.

(3) Section 73(2) and (3)—

omit, insert—

‘(3) The Commission must refuse to register a political party if the

party's application name—

- (a) has more than 6 words; or
- (b) is obscene or offensive; or
- (c) is a party name; or
- (d) so nearly resembles a party name that it is likely to be confused with or mistaken for the party name; or
- (e) includes the word 'independent'; or
- (f) would otherwise be likely to cause confusion if registered.

'(4) The Commission may refuse to register a political party if the party's application name—

- (a) is a public body name; or
- (b) so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name.'

Insertion of new s 85A

7. After section 85—

insert—

'Grounds for deciding a person is not properly nominated

'85A.(1) In this section—

"nomination name" means the name used for a nomination under this Division.

"party name" means the name, or an abbreviation or acronym of the name, of a parliamentary party or registered political party.

"public body name" means the name, or an abbreviation or acronym of the name, of a prominent public body.

'(2) The Commission may decide that a person who has changed his or her name is not properly nominated because the nomination name—

- (a) is a party name; or
- (b) so nearly resembles a party name that it is likely to be confused with or mistaken for the party name; or

- (c) includes the word ‘independent’; or
- (d) is a public body name; or
- (e) so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name; or
- (f) is obscene or offensive.

‘(3) The Commission may also decide that a person who has changed his or her name is not properly nominated if the Commission considers the name could cause confusion.

Example—

If a person’s name is ‘Informal’, the Commission may consider that the name could cause confusion to electors.

‘(4) If the Commission decides a person is not properly nominated for an election, it must give the person—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) a notice stating the person’s right to dispute the election.².

Amendment of s 103 (Help to enable electors to vote at polling booths)

8. Section 103(4)(d)—

omit, insert—

- ‘(d) if the elector has made an ordinary vote—open the envelope inside the polling booth in the presence of any scrutineers and put the folded ballot paper in a ballot box.’.

Amendment of s 106 (Who must make a declaration vote)

9. Section 106—

insert—

- ‘(2) However, if an elector wishes to vote at a joint polling booth on

² For a person’s right to dispute the election, see section 129 (Who may dispute the election).

polling day outside the electoral district for which the elector is enrolled (the “**elector’s district**”), the elector may make an ordinary vote at the joint polling booth if it is also established by the Commission as a polling booth for the elector’s district.

‘(3) In this section—

“**joint polling booth**” means a polling booth established by the Commission as a polling booth for more than 1 electoral district.’.

Amendment of s 111 (Electoral visitor voting)

10. Section 111(5)—

omit, insert—

‘(5) The Commission may require the issuing officer to present ‘how to vote’ material to the elector and present the material in a particular way.

Example—

The Commission may require the issuing officer to give particular ‘how to vote’ material to the elector or to paste the material on a manila folder and show it to the elector.

‘(6) The issuing officer must comply with the requirement under subsection (5).

‘(7) The issuing officer must ensure, as far as practicable, section 102³ is complied with when the elector votes.

‘(8) The elector may ask a person to help the elector in any of the following ways—

- (a) acting as an interpreter;
- (b) explaining the ballot paper and the requirements of section 113⁴ about its marking;
- (c) marking, or helping the elector to mark, the ballot paper in the way the elector wishes;

³ Section 102 (Procedure for voting)

⁴ Section 113 (How electors must vote)

(d) folding the ballot paper and putting it in the ballot box.

‘(9) The elector may make an ordinary vote or declaration vote.’.

Amendment of s 118 (Preliminary counting of ordinary votes)

11.(1) Section 118(1), ‘subsection (2)’—

omit, insert—

‘subsections (2) and (4).’.

(2) Section 118—

insert—

‘(4) If the Commission considers it appropriate for gaining an indication of the candidate most likely to be elected for an electoral district, the Commission may require the Commission’s staff to—

- (a) count the preference votes in the way required by the Commission; and
- (b) prepare and sign a statement of the number of preference votes (other than first preference votes) for each candidate; and
- (c) advise the returning officer for the electoral district of the contents of the statement.’.

Amendment of s 125 (Notice of failure to vote etc.)

12.(1) Section 125(1), ‘must’—

omit, insert—

‘may’.

(2) Section 125(1)(a)—

insert—

- ‘(iii) the elector may, if the elector considers he or she has committed the offence, pay $\frac{1}{2}$ a penalty unit (the “**penalty**”) to the Commission by a specified day, not earlier than 21 days after the elector received the notice (the “**appropriate day**”), and, if the Commission receives the

payment by the appropriate day, no further steps will be taken against the elector about the offence; and’.

(3) Section 125(1)(b)(ii)—

renumber as section 125(1)(b)(iii).

(4) Section 125(1)(b)(i)—

omit, insert—

- ‘(i) if the elector intends paying the penalty by the appropriate day—to sign the appropriate form for payment of the penalty and include payment of the penalty; and
- (ii) if the elector does not intend paying the penalty by the appropriate day—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’.

(5) Section 125(1)(b)(iii) (as renumbered), ‘a specified day, not earlier than 21 days after the elector received the notice’—

omit, insert—

‘the appropriate day’.

(6) Section 125(2)—

omit.

(7) Section 125(3) to (5)—

renumber as subsections (2) to (4).

Insertion of new s 125A

13. After section 125—

insert—

‘Payments for failure to vote

‘125A.(1) If the Commission sends a person a notice under section 125(1)⁵ for an election and the person makes payment to the

⁵ Section 125 (Notice of failure to vote etc.)

Commission under the subsection, the Commissioner must—

- (a) accept the payment; and
- (b) give the person a receipt for the payment; and
- (c) not take any proceeding against the person for failing to vote at the election.

‘(2) In this section—

“**proceeding**” includes serving an infringement notice under Part 4A of the *Justices Act 1886*.’.

Amendment of s 126 (Storage of ballot papers and declaration envelopes)

14.(1) Section 126(1)—

omit, insert—

‘**126.(1)** The Commission must keep the following material for an election until the day of issue of the writ for the next general election—

- (a) ballot papers showing a mark by an elector for the election;
- (b) certified copies of electoral rolls;
- (c) declaration envelopes.’.

(2) Section 126(2), ‘The’—

omit, insert—

‘However, the’.

Insertion of new Pt 7

15. After section 126—

insert—

‘PART 7—ELECTORAL FUNDING AND FINANCIAL DISCLOSURE

‘Purposes of Part

‘126A.(1) The purposes of this Part are to provide for—

- (a) electoral funding for registered political parties and candidates other than candidates endorsed by registered political parties; and
- (b) financial disclosure by registered political parties for elections and, on an annual basis, by candidates for elections and by entities involved with the electoral process.

‘(2) However, many of the persons who will be affected by this Part receive election funding or are required to disclose financial matters under Part XX of the Commonwealth Electoral Act.

‘(3) To reduce the administrative burden on these persons, the law of the State about these matters is based on the Commonwealth Electoral Act.

‘Law about electoral funding and financial disclosure

‘126B.(1) The Schedule provides the law about electoral funding and financial disclosure.

‘(2) The Schedule is based on Part XX of the Commonwealth Electoral Act and, for that reason, uses the same numbering as the Commonwealth Electoral Act.

‘(3) Changes to the text of the Commonwealth Electoral Act in the Schedule have been made, or are noted, in italics.

‘(4) Despite subsection (2), the Schedule is not a mere adoption or application of the Commonwealth Electoral Act.

Example—

A reference in the Schedule to regulations is a reference to regulations made under this Act.

‘Regulations for Part

‘126C. In the Schedule, a reference to a prescribed amount or prescribed time that is followed by an amount or time in brackets is to be read as providing that the amount or time may be prescribed under the regulations but, if the regulations do not prescribe the amount or time, the amount or time in brackets applies.

Example—

Section 305(1)(b) provides—

‘(b) the amount or value of each of which is equal to or *is more than the prescribed amount (\$1 500)*’.

The amount may be prescribed under the regulations. However, if no regulation is made for section 305(1)(b), the paragraph is to be read as ‘equal to or *is more than \$1 500*’.

‘References in the Schedule to Electoral Commission

‘126D. In the Schedule, a reference to the Electoral Commission is to be read as a reference to the Electoral Commission of Queensland.⁶’.

Amendment of s 129 (Who may dispute the election)

16. Section 129(c)—

omit, insert—

‘(c) the Commission; or

(d) a person who the Commission decided was not properly nominated.⁷’.

Replacement of s 164 (Failure to vote etc.)

17. Section 164—

⁶ This change has not been made textually to the Schedule because the reference appears frequently and the textual change may be disruptive to a user of the legislation.

⁷ See section 85A (Grounds for deciding a person is not property nominated)

omit, insert—

‘Failure to vote etc.

‘164.(1) An elector must not—

- (a) fail to vote at an election without a valid and sufficient excuse; or
- (b) contravene section 125(2);⁸ or
- (c) state anything to the Commission or the Commission’s staff under section 125 the person knows is false or misleading in a material particular; or
- (d) omit from a statement made under section 125 to the Commission or the Commission’s staff anything without which the statement is, to the person’s knowledge, misleading in a material particular.

Maximum penalty—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) A person may be prosecuted for an offence against subsection (1)(a) only if the person has been sent a notice about the election under section 125.

‘(4) In a proceeding for an offence against subsection (1)(a), a certificate purporting to be signed by a member of the Commission’s staff stating any of the following matters is evidence of the matter—

- (a) an election happened on a stated day;
- (b) an elector failed to vote at the election;
- (c) a notice was sent by the Commission to the elector under section 125 on a stated day;
- (d) a form mentioned in section 125(1) was not received by the Commission from the elector by the day stated under the subsection.

‘(5) If a form is not received by the Commission from the elector by the

⁸ Section 125 (Notice of failure to vote etc.)

day stated under section 125(1), it is evidence the elector failed to vote at the election without a valid and sufficient excuse.

‘(6) If a form is received by the Commission about the elector’s compliance with section 125, statements in the form purporting to be made by—

- (a) the elector are evidence as statements made by the elector; and
- (b) another elector under section 125(3), are evidence as statements made by the other elector.

‘(7) Subsection (1)(a) does not apply to an Antarctic voter.’.

Amendment of s 166 (Canvassing etc. in or near polling places)

18. Section 166(1)—

omit, insert—

‘**166.(1)** A person must not, during the election period for an election, do anything mentioned in subsection (2)—

- (a) inside a room with voting compartments; or
- (b) within 6 m of the entrance to a building with voting compartments.

Maximum penalty—9 penalty units.’.

Replacement of s 169 (Wearing party badges etc.)

19. Section 169—

omit, insert—

‘Displaying political statements in certain places

‘**169.(1)** A person must not display a political statement—

- (a) inside a room with voting compartments; or
- (b) within 6 m of the entrance to a building with voting compartments.

Maximum penalty—1 penalty unit.

‘(2) In this section—

“**political statement**” means a statement or design that a reasonable person would associate with a political organisation, cause or belief.’.

Insertion of new Pt 11

20. After section 182—

insert—

‘PART 11—TRANSITIONAL PROVISIONS

‘References to Commonwealth Electoral Act

‘**183.(1)** In Part 7 and the Schedule, a reference to the Commonwealth Electoral Act is a reference to the Commonwealth Electoral Act, as it would be if the *Commonwealth Electoral Bill (No. 2) 1994* had been enacted and the resulting Act had been commenced.

‘(2) This section expires 6 months after it commences.’.

Insertion of new Schedule

21. After section 185—

insert—

‘SCHEDULE**‘ELECTION FUNDING AND FINANCIAL
DISCLOSURE BASED ON PART XX OF THE
COMMONWEALTH ELECTORAL ACT’⁹***section 126B****‘Division 1—Preliminary*****‘Interpretation**

‘287.(1) In this *Schedule* (*words omitted*)—
(*definitions omitted*).

“associated entity” means an entity that—

- (a) is controlled by *1* or more registered political parties; or
- (b) operates wholly or mainly for the benefit of *1* or more registered political parties.

“authorised officer” means a person who is appointed under section 323¹⁰ as an authorised officer.

“disposition of property” means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; *and*
- (b) the creation of a trust in property; *and*

⁹ This Schedule is based on Part XX of the Commonwealth Electoral Act. Textual changes are indicated by italic script. Citations of Acts and the Division headings are also in italics. If a cited Act has changed, the citation is underlined.

¹⁰ Section 323 (Appointment)

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

(definitions omitted).

“eligible vote” means a vote *for* which, *under* section 294, a payment under Division 3 may be made.¹¹

“entity” means—

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

“financial controller”, *of* an associated entity, means—

- (a) if the entity is a *corporation*—the secretary of the *corporation*; *or*
- (b) if the entity is the trustee of a trust—the trustee; *or*
- (c) in other cases—the person responsible for *keeping* the financial records of the entity.

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

¹¹ Section 294 (General entitlement to funds)
Division 3 (Election funding)

- (a) a payment under Division 3;¹² or
- (b) an annual subscription paid to a political party (*words omitted*) by a person *for* the person's membership of the party (*words omitted*).

(*definitions omitted*).

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

(*definitions omitted*).

“occupier” of a place, in Divisions 9, 10 and 11, includes a person who reasonably appears to be the occupier, or in charge, of the place.¹³

“place”, in Divisions 9, 10 and 11, includes land, premises, aircraft, ships and vehicles.

“registered”, for an election, means registered, before the day of issue of the writ for the election, under Part 5.¹⁴

“registered industrial organisation” means an organisation registered under the *Industrial Relations Act 1990*, the *Industrial Relations Act 1988 (Cwlth)* or under a law of *another* State or a Territory about the registration of industrial organisations.

(*definition omitted*).

‘(2) (*omitted*).

‘(3) A reference in this *Schedule* to things done by or for a registered political party (*words omitted*) must, if the party (*words omitted*) is not a body corporate, be read as a reference to things done by or with the authority of members or officers of the party (*words omitted*) for the party (*words omitted*).

‘(4) A reference in this *Schedule* to a registered political party, other than

¹² Division 3 (Election funding)

¹³ Division 9 (Powers of authorised officers for places)
Division 10 (Authorised officer's power to seize)
Division 11 (Other enforcement matter)

¹⁴ Part 5 (Registration of political parties)

a reference to the endorsement of a candidate (*words omitted*) in an election, *must* be read as not including a reference to a part of the political party.

‘(4A) (*omitted*).

‘(5) For the purposes of this *Schedule*, the amount or value of a gift consisting of or including a disposition of property other than money *must*, if the regulations so provide, be *decided under principles stated or mentioned* in the regulations.

‘(6) For the purposes of this *Schedule*—

- (a) a body corporate and any other body corporate that is related to the first-mentioned body corporate *must be taken* to be the same person; and
- (b) the question whether a body corporate is related to another body corporate *must be decided* in the same manner as the question whether a corporation is related to another corporation is determined under the *Corporations Law*.

‘(7) For the purposes of this *Schedule*, an advertisement relates to an election if it contains electoral matter, whether or not consideration was given for the publication or broadcasting of the advertisement.

‘*Meaning of “disclosure period”*’

‘287AA.(1) A “*disclosure period*”, for an election, is the period that starts—

- (a) *for a candidate in the election who had been a candidate in a general election or by-election the polling day in which was within the prescribed time (4 years) before polling day in the election—at the end of the prescribed time (30 days) after polling day in the last general election or by-election in which the person was a candidate; or*
- (b) *for a candidate in the election who had not been a candidate in a general election or by-election the polling day in which was within the prescribed time (4 years) before polling day in the relevant election—on the day on which the person announced that he or she would be a candidate in the election or on the day on which the person nominated as a candidate, whichever was the*

earlier; or

(c) *for a person or organisation to which section 305(1)¹⁵ applies—at the end of the prescribed time (30 days) after the polling day in the last general election.*

‘(2) A **“disclosure period”** for an election ends at the prescribed time (30 days) after the polling day for the election.

‘(3) Despite subsection (1), a disclosure period for the first general election after the commencement of this Schedule, or a by-election that happens before the second general election after the commencement of this Schedule, for a candidate for the general election or by-election, or a person or organisation to which section 305(1) applies, is the period that starts on 1 January 1995.

‘(4) Subsection (3) and this subsection expire on 1 January 1999.

‘Campaign committee to be treated as part of (words omitted) party

‘**287A.(1)** Divisions 4, 5 and 5A¹⁶ apply as if a campaign committee of an endorsed candidate *were* the *registered* political party that endorsed the candidate (words omitted).

‘(2) In subsection (1)—

“campaign committee”, for a candidate (words omitted), means a body of persons appointed or engaged to form a committee to *help* the campaign of the candidate (words omitted) in an election.

“endorsed candidate” means a candidate who is endorsed by a registered political party.

(definitions omitted).

¹⁵ Section 305 (Expenditure incurred for political purposes)

¹⁶ Division 4 (Disclosure of donations)
Division 5 (Disclosure of electoral expenditure)
Division 5A (Annual returns by registered political parties and associated entities)

‘Division 2—Agents**‘Agents of *registered* political parties**

‘288.(1) A *registered* political party *must* have an agent for the purposes of this *Schedule*.

‘(2) (*omitted*).

‘(3) (*omitted*).

‘Appointment of agents by candidates (*words omitted*)

‘289.(1) A candidate in an election (*words omitted*) may appoint a person to be the agent of the candidate, for the purposes of this *Schedule*, for the election.

‘(2) (*omitted*).

‘(2A) (*omitted*).

‘(3) During any period *for* which there is no appointment in force under subsection (1) of an agent of a candidate, the candidate *is* taken to be his or her own agent for the purposes of this *Schedule*.

‘(4) (*omitted*).

‘Requisites for appointment

‘290.(1) An appointment of an agent under section 288 or 289¹⁷ has no effect unless—

- (a) the person appointed is *an adult*; and
- (b) written notice of the appointment is given to the Electoral Commission—
 - (i) *if* the appointment is made by a *registered* political party (*words omitted*)—by the party (*words omitted*); and

¹⁷ Section 288 (Agents of *registered* political parties)
Section 289 (Appointment of agents by candidates (*words omitted*))

- (ii) in any other case—by the candidate (*words omitted*) making the appointment; *and*
- (c) the name and address of the person appointed are *stated* in the notice; and
- (d) the person appointed—
 - (i) has signed a form of consent to the appointment; and
 - (ii) has signed a declaration that he or she is eligible for appointment.

‘**(1A)** A consent or declaration under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.

‘**(2)** *If a person who is the agent of a registered political party or a candidate (words omitted) is convicted of an offence against this Schedule for a particular election, the person is not eligible to be appointed or to hold office as an agent for the purposes of this Schedule for the purposes of any subsequent election.*

‘**(3)** An appointment (other than an appointment by a *registered* political party (*words omitted*)) is not effective *for* anything required by this *Schedule* to be done—

- (a) *for* a claim or return under this *Schedule* for an election; or
- (b) during a specified period after polling day in an election;

if notice of the appointment was given to the Commission after the close of nominations for the election.

‘**Register of Party Agents**

‘**291.(1)** The Electoral Commission *must* keep a register called the Register of Party Agents.

‘**(2)** There *must* be entered in the Register the name and address of every person appointed to be an agent of a *registered* political party for the purposes of this *Schedule*.

‘Effect of registration etc.

‘**292.(1)** The appointment of an agent by a *registered* political party—

- (a) takes effect on the entry of the name and address of the agent in the Register of Party Agents; and
- (b) ceases to have effect if the name and address of the agent are removed from the Register.

‘**(2)** The name and address of a person *must* not be removed from the Register unless—

- (a) the person gives to the Electoral Commission written notice that he or she has resigned the appointment as agent; *or*
- (b) the *registered* political party (*words omitted*) that appointed the person gives to the Electoral Commission written notice that the person has ceased to be an agent of the party and also gives notice under *section 290(1)*¹⁸ of the appointment of *someone else* as agent of the party; or
- (c) the person is convicted of an offence against this *Schedule*.

‘**(3)** If a person who is an agent of a *registered* political party dies, the party (*words omitted*) by which the person was appointed *must*, within 28 days after the death of the person, give to the Electoral Commission—

- (a) written notice of the death; and
- (b) notice under *section 290(1)* of the appointment of a person as agent in place of the *deceased* person.

‘**(4)** *If* a person who is an agent of a *registered* political party is convicted of an offence against this *Schedule*, the party (*words omitted*) that appointed the person *must* give notice under *section 290(1)* of a fresh appointment within 28 days after the conviction or, if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is *decided*.

¹⁸ Section 290 (Requisites for appointment)

‘Evidence of appointment

‘**292A.** An entry in the Register of Party Agents is, for all purposes, (*word omitted*) evidence that the person described in the entry is the agent, for the purposes of this *Schedule*, of the *registered* political party named in the entry.

‘Responsibility for action when agent of party (*words omitted*) dead or appointment vacant

‘**292B.** *If—*

- (a) Division 4, 5 or 5A¹⁹ imposes an obligation on the agent of a *registered* political party (*words omitted*); and
- (b) there is no agent of the party (*words omitted*);

the obligation rests *on* each member of the executive committee of the party (*words omitted*), and this *Schedule* applies to each such member as if the obligation rested *on* that member alone.

‘Revocation of appointment of agent of candidate (*words omitted*)

‘**292C.(1)** A candidate (*words omitted*) may, by giving written notice to the Electoral Commission, revoke the appointment of a person as the agent of the candidate (*words omitted*).

‘**(2)** A notice under subsection (1) has no effect unless it is signed by the candidate (*words omitted*).

‘Notice of death or resignation of agent of candidate (*words omitted*)

‘**292D.** If the agent of a candidate (*words omitted*) dies or resigns, the candidate (*words omitted*) *must*, without delay, give to the Electoral Commission notice in writing of the death or resignation.

¹⁹ Division 4 (Disclosure of donations)
Division 5 (Disclosure of electoral expenditure)
Division 5A (Annual returns by registered political parties and associated entities)

‘Division 3—Election funding**‘Interpretation**

‘293.(1) A reference in this Division to electoral expenditure *for* an election *is to* be read as a reference to any expenditure incurred *for* the election campaign (whether or not incurred during the election period).

‘(2) *(omitted)*.

‘(3) For the purposes of this Division, electoral expenditure *for* an election incurred by or *for* a candidate (*words omitted*) who is endorsed by a registered political party *is taken* to be electoral expenditure *for* the election incurred by the *party*.

‘(4) *(omitted)*.

‘(5) *(omitted)*.

‘General entitlement to funds

‘294.(1) Subject to this Division, *there* is payable for each first preference vote given for a candidate in *an election the election funding reimbursement amount under section 294A*.

‘(2) *(omitted)*.

‘(4) A reference in this section to a first preference vote *must* be read as not including a reference to a vote that has been rejected as informal in the poll concerned.

‘Election funding reimbursement amount

‘294A.(1) *For section 294(1), the election funding reimbursement amount is—*

(a) *\$1.03531; or*

(b) *the amount worked out (to 5 decimal places) under subsection (2).*

‘(2) The election funding reimbursement amount is adjusted for each financial year on 1 July using the formula—

$$\frac{A \times B}{C}$$

‘(3) However, if, for a particular financial year, adjustment of the election funding reimbursement amount would reduce the amount, the amount is not to be adjusted for the year.

‘(4) If an amount would, if calculated to 6 decimal places, end with a number more than 4, the amount is taken to be the amount calculated to 5 decimal places and increased by 0.00001.

‘(5) In this section—

“A” is the election funding reimbursement amount immediately before 1 July in a year.

“B” is the CPI number published for the March quarter in the year.

“C” is the CPI number published for the March quarter in the previous year.

“CPI” means the all groups consumer price index for Brisbane published by the Australian Statistician.

‘Notice of intention to claim election funding

‘294B.(1) By 31 December in a year, the agent of a political party must notify the Electoral Commission if it intends to make a claim under section 295²⁰ for an election if an election is held in the next year.

‘(2) If a candidate is not endorsed by a registered political party on the day on which the person nominates as a candidate for an election, the candidate must, on the day, give notice of whether the candidate intends to make a claim under section 295 for the election.

‘(3) If a candidate for an election was endorsed by a registered political party on the day on which the person nominated as a candidate but, after the day, the endorsement is withdrawn, the candidate must, within 3 days of

²⁰ Section 295 (Claims for payment)

the withdrawal, give notice of whether the candidate intends to make a claim under section 295 for the election.

‘(4) A claim under section 295 may be made by a registered political party or candidate only if the political party or candidate notified the Electoral Commission under this section.

‘(5) A notice under this section must be given on an approved form.

‘Claims for payment

‘295.(1) A payment under this Division *must* not be made except *on* the making of a claim to the Electoral Commission for the payment.

‘(2) *If* a candidate for whom eligible votes were given in an election was endorsed in the election by a registered political party, a claim for a payment under this Division *for* the eligible votes given for the candidate may be made only by the agent of (*words omitted*) the registered political party (*words omitted*).

‘(3) *If* a candidate for whom eligible votes were given in an election was not endorsed by a registered political party, a claim for a payment under this Division *for* the eligible votes given for the candidate may be made only by the agent of the candidate.

‘(4) (*omitted*).

‘(5) (*omitted*).

‘(6) (*omitted*).

‘(7) *If* (*words omitted*) a registered political party was a participant in 2 or more elections that took place on the same day, any claim made by the agent of the *party* for a payment under this Division *must* be made *for* the eligible votes given for—

- (a) each candidate who was endorsed in *1 of the* elections by the party and who stood for election in the State (*words omitted*); and
- (b) (*omitted*).

‘(8) A claim for a payment under this Division—

- (a) *must* be made in an approved form; and

- (b) *must* be accompanied by *the* information (*word omitted*) the Electoral Commission requires *about*—
- (i) *for* a claim made by the agent of a (*words omitted*) registered political party—the (*word omitted*) electoral expenditure *for* the election or elections to which the claim relates incurred by or *for the party*; and
 - (ii) *for* a claim made by the agent of a candidate—the electoral expenditure *for* the election to which the claim relates incurred by or *for the candidate*; and
 - (iii) (*omitted*);
- (ba) (*omitted*);
- (c) *must* be lodged with the Electoral Commission before the expiration of the claims period.

‘(9) The claims period, *for* a particular claim is—

- (a) the period of 20 weeks after the polling day in the election or elections to which the claim relates; or
- (b) a longer period (*word omitted*) the Electoral Commission, before the end of the period specified in paragraph (a), fixes.

‘(10) The Electoral Commission *must* not fix a longer period for the purpose of *subsection* (9)(b) unless it is satisfied that the circumstances of the case justify the fixing of a longer period.

‘Determination of claims

‘296. The Electoral Commission *must*, subject to this Division, *decide* claims for payments under this Division.

‘Payment not to be made in certain circumstances

‘297.(1) A payment under this Division *must* not be made *for* votes given in an election for a candidate unless the total number of eligible votes polled in the candidate’s favour is *more than* 4% of the total number of eligible votes polled in favour of all of the candidates in the election.

‘(2) (*omitted*).

‘Amount of payment not to exceed electoral expenditure

‘298. The amount of a payment under this Division made *for* a claim under section 295²¹ *must* not exceed—

- (a) *if* the claim is made by the agent of a (*words omitted*) registered political party and relates to 1 election—the electoral expenditure *for* the election incurred by or *for* the party; or
- (b) *if* the claim is made by the agent of a (*words omitted*) registered political party and relates to 2 or more elections—the electoral expenditure *for the* elections incurred by or *for* the party; or
- (c) *if* the claim is made by the agent of a candidate—the electoral expenditure *for* the election to which the claim relates incurred by or *for* the candidate; or
- (d) (*omitted*).

‘Making of payments

‘299.(1) *If* the Electoral Commission is satisfied, *for* a claim under section 295(2), that an amount is payable under this Division *for* votes given in an election or elections for a candidate or candidates endorsed by a registered political party, the Electoral Commission *must* make the payment to the agent of (*words omitted*) the party (*words omitted*).

‘(2) *If* the Electoral Commission is satisfied, *for* a claim under section 295(3), that an amount is payable under this Division *for* votes given in an election for a candidate, the Electoral Commission *must* make the payment to the agent of the candidate.

‘(3) (*omitted*).

‘(4) (*omitted*).

‘(4A) (*omitted*).

‘(5) (*omitted*).

‘(6) *If* a payment is made under this Division and the recipient is not entitled to receive the whole or a part of the amount paid, whether because of a false statement in a claim or otherwise, *the* amount or *the* part of *the*

²¹ Section 295 (Claims for payment)

amount may be recovered by the *State* as a debt due to the *State* by action against the person (*words omitted*).

‘Revocation of *decision* regarding payment

‘**299A.(1)** *If* the Electoral Commission is satisfied that the amount of a payment *decided* under section 296²² *is more than*, or is less than, the amount payable to the claimant, the Commission may revoke the *decision* and make a fresh *decision*.

‘(2) *If—*

- (a) the amount payable under the revoked *decision* was paid to *I* person; and
- (b) the amount payable under the fresh *decision* is less than the amount paid under the revoked *decision*;

the difference between the amounts fixed by the *decisions* is a debt due to the *State* by the person (*words omitted*).

‘(3) (*omitted*).

‘Death of candidate

‘**300.** *If* a candidate for whom eligible votes were given in an election dies, a payment under this Division *for* the eligible votes given for the candidate may be made *even though* the candidate *died* and, if the candidate was not endorsed in the election by a registered political party and was his or her own agent for the purposes of this *Schedule*, a claim for the payment may be made by, and the payment may be made to, the legal personal representative of the candidate.

‘Death of member of group

‘**301.** (*omitted*).

²² Section 296 (Determination of claims)

‘Appropriation

‘302. *(omitted)*.

‘Division 4—Disclosure of donations**‘Interpretation**

‘303. *(omitted)*.

‘Disclosure of gifts

‘304.

‘(2) The agent of each person (*words omitted*) who was a candidate in an election or by-election *must*, within *the prescribed time (15 weeks)* after the polling day in the election, *give* to the Electoral Commission a return, in an approved form, *stating* the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the person during the disclosure period for the election.

‘(3) *(omitted)*.

‘(3A) *(omitted)*.

‘(4) For the purposes of this section, a reference to the relevant details, *of* a gift, *must* be read as a reference to the amount or value of the gift, the date on which the gift was made and—

- (a) *for* a gift made *for* the members of an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; *and*
- (b) *for* a gift purportedly made out of a trust fund or out of the funds of a foundation—
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

- (ii) the title or other description of the trust fund or the name of the foundation (*words omitted*); and
- (c) in any other case—the name and address of the person who made the gift.

‘(5) *Despite subsection (2) (words omitted), the agent of a candidate (words omitted) is not required, in a return under subsection (2) (words omitted), to state the relevant details of a gift if—*

- (b) *for a gift made to a candidate (words omitted)—*
 - (i) the gift was made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election or a by-election; or
 - (ii) the amount or value of the gift is less than *the prescribed amount (\$200)*; or
- (c) (*omitted*).

‘(6) *Subsection (5)(b)(ii) (words omitted) does not apply to a return under subsection (2) (words omitted) for a gift made by a person if—*

- (b) *for a gift made to a candidate (words omitted)—the sum of the amount or value of the gift and of all other gifts (other than gifts of the kind mentioned in subsection (5)(b)(i)) made by the person to the candidate during the period to which the return relates is equal to or is more than the prescribed amount (\$200); or*
- (c) (*omitted*).

‘(8) *Despite subsection (2), the agent of a person is not required, in a return under subsection (2), to state the total amount or value of, or the number of persons who made, gifts of the kind mentioned in subsection (5)(b)(i).*

‘Expenditure incurred for political purposes

‘305.(1) *If a person (other than a registered political party, (words omitted) an associated entity or a candidate (words omitted)), during the disclosure period for an election, incurs expenditure for a political purpose, the person must, before the expiration of 15 weeks after the polling day in*

the election, *give* to the Electoral Commission a return, in an approved form, *stating* the relevant details of all gifts received by the person during *the* disclosure period, being gifts—

- (a) the whole or a part of each of which was used by the person to enable the person to incur expenditure for a political purpose or to reimburse the person for incurring expenditure for a political purpose; and
- (b) the amount or value of each of which is equal to or *more than the prescribed amount* (\$1 000).

‘(2) Subsection (1) does not apply to a person *for* the disclosure period *for* an election if the total amount of expenditure incurred by the person for political purposes during the disclosure period is less than *the prescribed amount* (\$1 000).

‘(2A) For the purposes of this section, a person is taken to have incurred expenditure for a political purpose if, during the disclosure period *for* an election, the person incurs the expenditure *for the* election or any other election.

‘(3) In this section—

- (a) a reference to the incurring of expenditure for a political purpose *must* be read as a reference to the incurring of expenditure *for* or by the way of—
 - (i) publication by any means (including radio or television) of electoral matter; *or*
 - (ii) by any other *ways* publicly expressing views on an issue in an election; *or*
 - (iii) the making of a gift to a political party (*words omitted*); *or*
 - (iv) the making of a gift to a candidate in an election (*words omitted*); *or*
 - (v) the making of a gift to a person on the understanding that *the* person or *someone else* will apply, either directly or indirectly, the whole or a part of the gift as mentioned in subparagraph (i), (ii), (iii) or (iv); and

- (b) the reference to the relevant details, *of* a gift, is a reference to the amount or value of the gift, the date on which the gift was made and—
- (i) *for* a gift made *for* the members of an unincorporated association, other than a registered industrial organisation—
- (A) the name of the association; and
- (B) the names and addresses of the members of the executive committee (however described) of the association; *and*
- (ii) *for* a gift purportedly made out of a trust fund or out of the funds of a foundation—
- (A) the names and addresses of the trustees of the fund or of the funds of the foundation; and
- (B) the title or other description of the trust fund or the name of the foundation (*words omitted*); and
- (iii) in any other case—the name and address of the person who made the gift.

‘(4) For the purposes of subsection (1), 2 or more gifts made, during the disclosure period *for* an election, by the same person to another person are taken to be 1 gift.

‘(5) (*omitted*).

‘Donations to candidates and political parties

‘305A. (*omitted*).

‘Donations to political parties

‘305B. (*omitted*).

‘Certain gifts not to be received

‘306.(1) It is unlawful for a political party or (*words omitted*) a person acting *for* a political party (*words omitted*) to receive a gift made to or for the benefit of the party (*words omitted*) by another person, being a gift the

amount or value of which is equal to or *more than the prescribed amount* (\$1 000), unless—

- (a) the name and address of the person making the gift are known to the person receiving the gift or, at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address (*word omitted*) given are not the true name and address of the person making the gift.

‘(2) It is unlawful for a candidate (*words omitted*) or a person acting for a candidate (*words omitted*) to receive a gift made to or for the benefit of the candidate (*words omitted*) being a gift the amount or value of which is equal to or exceeds—

- (a) *for* a gift made to a candidate—the *prescribed amount* (\$200);
and
- (b) (*omitted*);

unless the name and address of the person making the gift are known to the person receiving the gift or, at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address (*word omitted*) given are not the true name and address of the person making the gift.

‘(2A) The references in subsections (1) and (2) to a gift made by a person includes a reference to a gift made *for* the members of an unincorporated association.

‘(2B) A reference in subsection (1) or (2) to the name and address of a person making a gift is—

- (a) *for* a gift made *for* the members of an unincorporated association, other than a registered industrial organisation—a reference to—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; and

- (b) *for* a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—
- (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation (*words omitted*).

‘(2C) For the purpose of subsection (2), a person who is a candidate in an election *must* be taken to remain a candidate for *the time prescribed (30 days after the polling day in the election)*.

‘(2D) (*omitted*).

‘(3) For the purposes of this section, 2 or more gifts made by the same person to or for the benefit of a political party, *or a candidate, must be taken to be 1 gift*.

‘(5) *If* a person receives a gift that, *because* of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by *the* person to the *State* and may be recovered by the *State* as a debt due to the *State* by action (*words omitted*) against—

- (a) *for* a gift to or for (*words omitted*) a political party—
 - (i) if the party (*words omitted*) is a body corporate—the party (*words omitted*); or
 - (ii) in any other case—the agent of the party (*words omitted*); or
- (b) in any other case—the candidate (*words omitted*) or the agent of the candidate (*words omitted*).

‘Nil returns

‘307.(1) *If* no details are required to be included in a return under this Division *for* a candidate, the return *must* nevertheless be lodged and *must* include a statement to the effect that no gifts of a kind required to be disclosed were received.

‘(2) (*omitted*).

*‘Division 5—Disclosure of electoral expenditure***‘Interpretation**

‘308.(1) In this Division—

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

- (a) the broadcasting *or telecasting*, during the election period, of an advertisement relating to the election; or
- (b) the publishing in a journal, during the election period, of an advertisement relating to the election; or
- (c) the display, during the election period, at a theatre or other place of entertainment, of an advertisement relating to the election; or
- (d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or
- (e) the production of any material (*other than material mentioned in paragraph (a), (b) or (c)*) that is required under *section 161*²³ to include the name and address of the author of the material or of the person authorising the material and that is used during the election period; or
- (f) consultant’s or advertising agent’s fees *for*—
 - (i) services provided during the election period, being services relating to the election; or
 - (ii) material relating to the election that is used during the election period; or
- (g) the carrying out, during the election period, of an opinion poll, or other research, relating to the election.

‘(2) (*omitted*).

²³ Section 161 (Author of election matter must be named)

‘(3) A reference in this Division to a participant in an election *must* be read as a reference to—

- (a) a *registered* political party (*words omitted*) or a candidate; or
- (b) a person (*other than* a registered political party (*words omitted*) or a candidate) by whom or with the authority of whom electoral expenditure *for* an election was incurred.

‘Returns of electoral expenditure

‘309.

‘(1A) (*omitted*).

‘(2) The agent of each person who was a candidate in an election (*words omitted*) *must, before the expiration of the prescribed time (15 weeks after the polling day in the election), give* to the Electoral Commission a return, in an approved form, *stating* details of all electoral expenditure *for* the election incurred by or with the authority of the candidate.

‘(3) (*omitted*).

‘(4) *If* electoral expenditure *for* an election was incurred by or with the authority of a person and *the* expenditure was not incurred with the written authority of a registered political party (*words omitted*), an associated entity or a candidate in the election (*words omitted*), the person *must, before the expiration of the prescribed time (15 weeks after the polling day in the election), give* to the Electoral Commission a return, in an approved form, *stating* details of *the* electoral expenditure.

‘(5) A person is not required to *give* a return under subsection (4) *for* an election if the total amount of the electoral expenditure incurred *for* the election by or with the authority of the person *is not more than the prescribed amount (\$200)*.

‘Returns by broadcasters

‘310. (*omitted*).

‘Returns by publishers

‘311. (*omitted*).

‘Annual returns of income and expenditure of Commonwealth Departments

‘311A. (*omitted*).

‘Nil returns

‘313.(1) *If no electoral expenditure for an election was incurred by or with the authority of a particular candidate (words omitted), a return under this Division for the candidate (words omitted) must nevertheless be lodged and must include a statement to the effect that no expenditure of the kind was incurred by or with the authority of the candidate (words omitted).*

‘Two or more elections on the same day

‘314.(1) *If—*

- (a) the polling at 2 or more elections took place on the same day; and
- (b) a person would, but for this subsection, be required to *give* 2 or more returns under this Division relating to *the* elections;

the person may, *instead of giving the returns, give 1 return, in an approved form, stating the particulars that the person would have been required to state in the returns.*

‘(2) *If—*

- (a) a return is *given* by a person *under* subsection (1); and
- (b) particular electoral expenditure details of which are required to be *stated* in the return relates to more than 1 election;

it is sufficient compliance with this Division if the return *states* details of the expenditure without showing the extent to which it relates to any particular election.

‘Division 5A—Annual returns by registered political parties and associated entities

‘Interpretation

‘314AA. In this Division—

“amount” includes the value of a gift or bequest.

‘Annual returns by registered political parties

‘314AB.(1) Subject to this Division, the agent of each registered political party (*words omitted*) must, *within the prescribed time (16 weeks after the end of each financial year)* give to the Electoral Commission a return, in an approved form, *stating—*

- (a) the total amount received by, or *for*, the party during the financial year, together with the details required by section 314AC;²⁴ and
- (b) the total amount paid by, or *for*, the party during the financial year, together with the details required by section 314AD;²⁵ and
- (c) the total outstanding amount, as at the end of the financial year, of all debts incurred by, or *for*, the party, together with the details required by section 314AE.²⁶

‘(2) *Despite subsection (1), the agent of a political party may, for the financial year that started on 1 July 1994, give a return for the part of the year after the commencement of this section.*

‘(3) *Subsection (2) and this subsection expire on 1 January 1996.*

²⁴ Section 314AC (Amounts received)

²⁵ Section 314AD (Amounts paid)

²⁶ Section 314AE (Outstanding amounts)

‘Amounts received

‘314AC.(1) If the sum of all amounts received by, or *for*, the party from a person or organisation during a financial year is *the prescribed amount* (\$1 500) or more, the return must include the particulars of *the* sum.

‘(2) In calculating the sum, an amount of less than *the prescribed amount* (\$500) need not be counted.

‘(3) The particulars of the sum required to be *given* under subsection (1) are the amount of the sum and—

- (a) if the sum was received from an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
- (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation—
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
- (c) in any other case—the name and address of the person or organisation.

‘Amounts paid

‘314AD.(1) If the sum of all amounts paid by, or *for*, the party to a person or an organisation during a financial year is *the prescribed amount* (\$1 500) or more, the return must include the particulars of *the* sum.

‘(2) In calculating the sum—

- (a) an amount of less than *the prescribed amount* (\$500); or
- (b) an amount paid under a contract of employment or an award specifying terms and conditions of employment;

need not be counted.

‘(3) The particulars of a sum required to be *given* under subsection (1) are the amount of the sum and—

- (a) if the sum was paid to an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
- (b) if the sum was purportedly paid into a trust fund or into the funds of a foundation—
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
- (c) in any other case—the name and address of the person or organisation.

‘Outstanding amounts

‘314AE.(1) If the sum of all outstanding debts incurred by, or *for*, the party to a person or an organisation during a financial year is *the prescribed amount* (\$1 500) or more, the return must include the particulars of *the* sum.

‘(2) The particulars of a sum required to be *given* under subsection (1) are the amount of the sum and—

- (a) if the sum was owed to an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
- (b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation—
 - (i) the names and addresses of the trustees of the fund or of the foundation; and

- (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
- (c) in any other case—the name and address of the person or organisation.

‘Annual returns by associated entities

‘314AEA.(1) If an entity is an associated entity at any time during a financial year, the entity’s financial controller must *give* a return to the Electoral Commission, in the approved form, within *the prescribed time* (*16 weeks after the end of the financial year*), setting out—

- (a) the total amount received by, or *for*, the entity during the financial year, together with the details required by section 314AC;²⁷ and
- (b) the total amount paid by, or *for*, the entity during the financial year, together with the details required by section 314AD;²⁸ and
- (c) if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by or *for* the entity, together with the details required by section 314AE.²⁹

‘(2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of *subsection* (1)(a) and (b).

‘(3) If any amount required to be set out under *subsection* (1)(b)—

- (a) was paid to or for (*words omitted*) 1 or more registered political parties; and
- (b) was paid out of funds generated from capital of the associated entity;

²⁷ Section 314AC (Amounts received)

²⁸ Section 314AD (Amounts paid)

²⁹ Section 314AE (Outstanding amounts)

the return must also set out the following details about each person who contributed to *the capital at any time*—

- (c) the name and address of the person;
- (d) the total amount of the person's contributions to *the capital*, up to the end of the financial year.

‘(4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.

‘(5) Sections 314AC, 314AD and 314AE apply for the purposes of *subsection (1)(a), (b) and (c) (words omitted)* to a return for an associated entity in the same way as they apply for the purposes of *section 314AB(1)(a), (b) and (c)*³⁰ to a return for a registered political party.

‘Returns not to include lists of party membership

‘314AF. Returns *given under* this Division are not to include lists of party membership.

‘Regulations

‘314AG.(1) The regulations may require greater detail to be provided in returns than is required by this Division.

‘(2) Without limiting subsection (1), the regulations may require that the total amounts *mentioned* in section 314AB³¹ be broken down in the way specified in the regulations.

‘(3) The regulations may reduce the amount of information to be provided in returns under section 314AEA.³²

³⁰ Section 314AB (Annual returns by registered political parties)

³¹ Section 314AB (Annual returns by registered political parties)

³² Section 314AEA (Annual returns by associated entities)

‘Division 6—Miscellaneous

‘Interpretation

‘314A. Except in section 318,³³ a reference in this Division to a return under Division 4, 5 or 5A³⁴ or to a return under this *Schedule* includes a reference to particulars under *section 318(2)*.

‘Offences

‘315.(1) *If a person fails to give a return that the person is required to give under Division 4, 5 or 5A within the time required by this Schedule, the person is guilty of an offence punishable, on conviction, by a fine not exceeding—*

- (a) *for a return required to be given by the agent of a registered political party (words omitted)—100 penalty units; or*
- (b) *in any other case—20 penalty units.*

‘(2) *If a person—*

- (a) *gives a return that is incomplete, being a return that the person is required to give under Division 4, 5 or 5A; or*
- (b) *fails to keep records in accordance with section 317;³⁵*

the person is guilty of an offence punishable, on conviction, by a fine not exceeding 20 penalty units.

‘(3) *If the agent of a political party (words omitted) lodges a claim under Division 3,³⁶ or gives a return that the agent is required to give under*

³³ Section 318 (Inability to complete returns)

³⁴ Division 4 (Disclosure of donations)
Division 5 (Disclosure of electoral expenditure)
Division 5A (Annual returns by registered political parties and associated entities)

³⁵ Section 317 (Records to be kept)

³⁶ Division 3 (Election funding)

Division 4, 5 or 5A, that contains particulars that are, to the knowledge of the agent, false or misleading in a material particular, the agent is guilty of an offence punishable, *on conviction*, by a fine not exceeding 200 penalty units.

‘(3A) *If the agent of a candidate lodges a claim under Division 3, or gives a return that the agent is required to give under Division 4, 5 or 5A, that contains particulars that are, to the knowledge of the agent, false or misleading in a material particular, the agent is guilty of an offence punishable, on conviction, by a fine not exceeding 100 penalty units.*

‘(4) *If a person (other than an agent) lodges a claim under Division 3, or gives a return that the person is required to give under Division 4 or 5, that contains particulars that are, to the knowledge of the person, false or misleading in a material particular, the person is guilty of an offence punishable, on conviction, by a fine not exceeding 50 penalty units.*

‘(4A) *If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty under the subsection, order the person to give the relevant return within a time stated by the court in its order.*

‘(5) *If a person is convicted of an offence against subsection (3), (3A) or (4), the court may, as well as imposing a penalty under the subsection, order the person to refund to the State the amount of any payment wrongfully obtained by the person under Division 3.*

‘(6) *If a court has made an order under subsection (5), a certificate signed by the appropriate officer of the court stating the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of the court.*

‘(6A) *A person must not give to another person, for the purpose of the making by the other person of a claim under Division 3, information that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.*

Maximum penalty—20 penalty units.

‘(7) *A person must not give to another person who is required to give a return under Division 4, 5 or 5A information that relates to the return and*

that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.

Maximum penalty—20 penalty units.

‘(8) *(omitted)*.

‘(9) *(omitted)*.

‘(10) *(omitted)*.

‘(11) A prosecution *for* an offence against a provision of this section (*words omitted*) may be started at any time within 3 years after the offence was committed.

‘Attempts to commit offences

‘315AA.(1) *A person who attempts to commit an offence against this Schedule commits an offence.*

Maximum penalty—1/2 the maximum penalty for committing the offence.

‘(2) *Section 4 of the Criminal Code applies to subsection (1).*³⁷

‘Recovery of payments

‘315A.(1) An action in a court to recover an amount due to the *State* under *section 299(6)* or *306(5)*³⁸ may be brought in the name of the *Commission*.

‘(2) Any process in the action required to be served on the *State* may be served on the *Commission*.

‘(3) *(omitted)*.

³⁷ Section 4 of the Criminal Code (Attempts to commit offences)

³⁸ Section 299 (Making of payments)
Section 306 (Certain gifts not to be received)

‘Investigation etc.

‘316. (*omitted*).³⁹

‘Records to be kept

‘317. *If (words omitted)* a person makes or obtains a document or other thing that is or includes a record about a matter particulars of which are, or could be, required to be *stated* in a claim or return under this *Schedule* about an election, *other than* a record that, in the normal course of business or administration, would be transferred to another person, the first-mentioned person must *keep the* record for a period of at least 3 years commencing on the polling day in *the* election.

‘Inability to complete returns

‘318.(1) *If* a person who is required to *give* a return under Division 4, 5 or 5A⁴⁰ considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

- (a) prepare the return to the extent that it is possible to do so without *the* particulars; *and*
- (b) *give* the return so prepared; and
- (c) give to the Electoral Commission notice in writing—
 - (i) identifying the return; *and*
 - (ii) stating that the return is incomplete *because* he or she is unable to obtain certain particulars; *and*
 - (iii) identifying *the* particulars; *and*

³⁹ The matters covered by section 316 of the Commonwealth Electoral Act are included in Divisions 7 to 11 of this Schedule.

⁴⁰ Division 4 (Disclosure of donations)
Division 5 (Disclosure of electoral expenditure)
Division 5A (Annual returns by registered political parties and associated entities)

- (iv) *stating* the reasons why he or she is unable to obtain *the* particulars; and
- (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—*stating* that belief and the reasons for it and the name and address of that other person;

and a person who complies with this subsection *must* not, *merely because* the omission of *the* particulars, be taken, for the purposes of section 315(2),⁴¹ to have *given* a return that is incomplete.

‘(2) *If* the Electoral Commission has been informed under subsection (1)(c) or (3)(c) that a person can supply particulars that have not been included in a return, the Electoral Commission may, by notice in writing served on that person, require the person to *give* to the Electoral Commission, within the period *stated* in the notice and in writing, those particulars and, subject to subsection (3), the person *must* comply with *the* requirement.

‘(3) If a person who is required to *give* particulars under subsection (2) considers that he or she is unable to obtain some or all of the particulars, the person *must* give to the Electoral Commission a written notice—

- (a) *stating* the particulars (if any) that the person is able to give; *and*
- (b) stating that the person is unable to obtain some or all of the particulars; *and*
- (c) identifying the particulars the person is unable to obtain; *and*
- (d) *stating* the reasons why the person considers he or she is unable to obtain *the* particulars; and
- (e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give *the* particulars—*stating* the name and address of *the* other person and the reasons why he or she believes that *the* other person is able to give *the* particulars.

⁴¹ Section 315 (Offences)

‘(3A) A person who complies with subsection (3) *must* not, because of the omission of particulars required under subsection (2), be taken, for the purpose of *section* 315(2), to have *given* a return that is incomplete.

‘**Application of *sections* 305(1) and 309(4) in certain cases**

‘318A. (*omitted*).

‘**Non-compliance with *Schedule* does not affect election**

‘319.(1) A failure of a person to comply with a provision of this *Schedule* for an election does not invalidate *the* election.

‘(2) Without limiting the generality of subsection (1), *if*—

- (a) a *registered* political party endorsed a candidate in an election; and
- (b) the candidate was elected at the election;

any failure by the agent of the political party (*words omitted*) to comply with a provision of this *Schedule* for the election does not invalidate the election of the candidate.

‘(3) Without limiting the generality of subsection (1), if the agent of a candidate who is elected at an election fails to comply with a provision of this *Schedule* for the election, that failure does not invalidate the election of the candidate.

‘(4) (*omitted*).

‘**Amendment of claims and returns**

‘319A.(1) *If* the Electoral Commissioner is satisfied that a claim or return under this *Schedule* contains a formal error or is subject to a formal defect, the Commissioner may amend the claim or return to the extent necessary to correct the error or remove the defect.

‘(2) A person who has lodged a claim or *given* a return under this *Schedule* may *ask* the permission of the Electoral Commission to make a specified amendment of the claim or return for the purpose of correcting an error or omission.

‘(2A) If the claim was lodged, or the return was *given*, by a person as the agent of a registered political party, the request under subsection (2) may be made either by—

- (a) the person who lodged the claim or return; or
- (b) the person who is currently registered as the agent of the political party.

‘(3) A request under subsection (2) *must*—

- (a) be by written notice (*words omitted*) signed by the person making the request; and
- (b) be *given to* the Electoral Commission.

‘(4) *If*—

- (a) a request has been made under subsection (2); and
- (b) the Electoral Commission is satisfied that there is an error in, or omission from, the claim or return to which the request relates;

the Commission *must* permit the person making the request to amend the claim or return in accordance with the request.

‘(5) *If* the Electoral Commission decides to refuse a request under subsection (2), the Commission *must* give to the person making the request written notice of the reasons for the decision.

‘(6) An officer authorised for the purpose by the Electoral Commission may exercise the power of the Commission under subsection (4).

‘(7) *If* an officer acting under subsection (6) decides to refuse a request under subsection (2)—

- (a) subsection (5) applies as if the officer were the Electoral Commission; and
- (b) the person who made the request may, by *written* notice (*words omitted*) lodged with the Commission within 28 days after notice of the refusal was given, *ask* the Commission to review the decision.

‘(8) *If* a request is made under subsection (7), the Electoral Commission *must* review the decision to which the request relates and make a fresh decision.

‘(9) The amendment of a claim or return under this section does not affect the liability of a person to be convicted of an offence against *section 315(2), (3) or (4)* arising out of the lodging of the claim or the *giving* of the return.⁴²

‘Inspection and supply of copies of claims and returns

‘320.(1) The Electoral Commission *must* keep, *at its office*, a copy of—

- (a) each *notice and* claim under Division 3; and
- (b) each return under Division 4 or 5; and
- (c) each return under Division 5A.⁴³

‘(2) Any person *may* peruse, at the (*word omitted*) office of the Electoral Commission (*words omitted*), a copy of a *notice*, claim or return *mentioned* in subsection (1).

‘(2A) (*omitted*).

‘(3) A person *may*, on payment of a fee *decided* by the Electoral Commission to cover the cost of copying, (*word omitted*) obtain a copy of a *notice*, claim or return *mentioned* in subsection (1).

‘(4) A person is not entitled under this section to peruse, or obtain a copy of—

- (a) a claim under Division 3; or
- (b) a return under Division 4 or 5 (*words omitted*);

until after the end of 24 weeks after the polling day in the election to which the claim or return relates.

⁴² Section 315 (Offences)

⁴³ Division 3 (Election funding)
Division 4 (Disclosure of donations)
Division 5 (Disclosure of electoral expenditure)
Division 5A (Annual returns by registered political parties and associated entities)

‘(5) A person is not entitled under this section to peruse, or obtain a copy of—

- (a) *(omitted)*; or
- (b) a return under Division 5A;

until February in the calendar year after the return is *given*.

‘Indexation

‘321. *(omitted)*.

‘Division 7—Authorised officers

‘Authorised officer under this Schedule

‘322.(1) *This Schedule includes provision for the appointment of authorised officers, and gives authorised officers certain powers.*

‘(2) *The purpose of these provisions is to ensure that the Electoral Commission has available to it suitably qualified persons who can help the Electoral Commission properly deal with issues about compliance with the Schedule.*

‘Appointment

‘323.(1) *The Electoral Commission may appoint any of the following persons as authorised officers—*

- (a) *officers of the Electoral Commission;*
- (b) *officers or employees of a department;*
- (c) *other persons prescribed under the regulations.*

‘(2) *The Electoral Commission may appoint a person as an authorised officer only if—*

- (a) *in the Commission’s opinion, the person has the necessary expertise or experience to be an authorised officer; or*

- (b) *the person has satisfactorily finished training approved by the Electoral Commission.*

‘Limitation of authorised officer’s powers

‘324.(1) The powers of an authorised officer may be limited—

- (a) *under a regulation; or*
(b) *under a condition of appointment; or*
(c) *by written notice of the Electoral Commission given to the authorised officer.*

‘(2) Notice under subsection (1)(c) may be given orally, but must be confirmed in writing as soon as practicable.

‘Authorised officer’s conditions of appointment

‘325.(1) An authorised officer holds office on the conditions stated in the instrument of appointment.

‘(2) An authorised officer—

- (a) *if the appointment provides for a term of appointment—ceases holding office at the end of the term; and*
(b) *may resign by signed notice of resignation given to the Electoral Commission; and*
(c) *if the conditions of appointment provide—ceases holding office as an authorised officer on ceasing to hold another office stated in the appointment conditions (the “**main office**”).*

‘(3) However, an authorised officer may not resign from the office of authorised officer (the “**secondary office**”) under subsection (2)(b) if a term of the authorised officer’s employment to the main office requires the authorised officer to hold the secondary office.

‘Authorised officer’s identity card

‘326.(1) The Electoral Commission must give each authorised officer an identity card.

‘(2) The identity card must—

- (a) contain a recent photograph of the authorised officer; and*
- (b) be signed by the authorised officer; and*
- (c) include an expiry date; and*
- (d) identify the person as an authorised officer under this Schedule.*

‘(3) A person who ceases to be an authorised officer must return the person’s identity card to the Electoral Commission within 21 days after the person ceases to be an authorised officer, unless the person has a reasonable excuse for not returning it.

Maximum penalty—20 penalty units.

‘(4) This section does not prevent the giving of a single identity card to a person under this section and for other provisions, Acts or purposes.

‘Production or display of authorised officer’s identity card

‘327.(1) An authorised officer may exercise a power under this Schedule in relation to someone else (the “other person”) only if the authorised officer—

- (a) first produces his or her identity card for the other person’s inspection; or*
- (b) has the identity card displayed so it is clearly visible to the other person.*

‘(2) However, if for any reason, it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the other person’s inspection at the first reasonable opportunity.

‘Division 8—Power of authorised officers to ask questions or require documents

‘Power to require information from certain persons

‘328.(1) This section applies if an authorised officer suspects on reasonable grounds—

- (a) *an offence against this Schedule has been committed; and*
- (b) *a person may be able to give information about the offence.*

‘(2) The authorised officer may require the person to give information about the offence.

‘(3) When making the requirement, the authorised officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.

‘(4) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

‘(5) It is a reasonable excuse for the person to fail to give information if giving it might tend to incriminate the person.

‘(6) The person does not commit an offence against this section if the information sought by the authorised officer is not in fact relevant to the offence.

‘Power to require production of certain documents

‘329.(1) An authorised officer may require a person who holds, claims to hold or should hold, a document to which this Schedule relates to produce the document.

‘(2) When making the requirement, the authorised officer must warn the person it is an offence to fail to produce the document, unless the person has a reasonable excuse.

‘(3) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

‘(4) It is a reasonable excuse for the person to fail to produce the document if producing it might tend to incriminate the person.

‘(5) The authorised officer may keep the document to take an extract from it or make a copy of it.

‘(6) The authorised officer must return the document to the person as soon as practicable after taking the extract or making the copy.

‘(7) The person does not commit an offence against this section if the document sought by the authorised officer is not in fact relevant to the offence.

Division 9—Powers of authorised officers for places

Entry to places

330.(1) *An authorised officer may enter a place under this Schedule if—*

- (a) its occupier agrees to the entry; or*
- (b) the entry is permitted by a warrant.*

(2) *An authorised officer, without the occupier’s agreement or a warrant, may—*

- (a) enter a place when the place is open to the public; or*
- (b) enter land to ask for the occupier’s agreement to the authorised officer entering the land or a building or structure on the land.*

(3) *Unless an entry under this Schedule is made under the authority of a warrant, the entry must be made at a reasonable time.*

Warrants for entry

331.(1) *An authorised officer may apply to a Magistrate for a warrant for a place.*

(2) *The application must be sworn and must state the grounds on which the warrant is sought.*

(3) *The Magistrate may refuse to consider the application until the authorised officer gives the Magistrate all the information the Magistrate requires about the application in the way the Magistrate requires.*

Example—

The Magistrate may require additional information supporting the application be given by statutory declaration.

(4) *The Magistrate may issue a warrant only if the Magistrate is satisfied there are reasonable grounds for suspecting—*

- (a) *there is a particular thing or activity (the “evidence”) that may provide evidence of the commission of an offence against this Schedule; and*
- (b) *the evidence is at the place, or may be at the place within the next 7 days.*

‘(5) The warrant must state—

- (a) *the authorised officer may, with necessary and reasonable help and force, enter the place and exercise the authorised officer’s powers under this Schedule; and*
- (b) *the evidence for which the warrant is issued; and*
- (c) *the hours of the day or night when entry may be made; and*
- (d) *the day (within 14 days after the warrant’s issue) when the warrant ends.*

‘(6) The Magistrate must record the reasons for issuing the warrant.

‘Warrants—applications made other than in person

‘332.(1) An authorised officer may apply for a warrant by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of urgent circumstances or other special circumstances, including, for example, the authorised officer’s remote location.

‘(2) Before applying for the warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.

‘(3) The authorised officer may apply for the warrant before the application is sworn.

‘(4) After issuing a warrant, the Magistrate must immediately fax a copy to the authorised officer if it is reasonably practicable to fax the copy.

‘(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised officer—

- (a) *the Magistrate must—*
 - (i) *record on the warrant the reasons for issuing the warrant; and*

- (ii) *tell the authorised officer the date and time the warrant was signed; and*
- (iii) *tell the authorised officer the warrant's terms; and*
- (b) *the authorised officer must write on a form of warrant (the "warrant form")—*
 - (i) *the Magistrate's name; and*
 - (ii) *the date and time the Magistrate signed the warrant; and*
 - (iii) *the warrant's terms.*

'(6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers mentioned in the warrant issued by the Magistrate.

'(7) The authorised officer must, at the first reasonable opportunity, send to the Magistrate—

- (a) *the sworn application; and*
- (b) *if a warrant form was completed by the authorised officer—the completed warrant form.*

'(8) On receiving the documents, the Magistrate must attach them to the warrant.

'(9) Unless the contrary is proved, a court must presume a power exercised by an authorised officer was not authorised by a warrant issued under this section if—

- (a) *a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and*
- (b) *the warrant is not produced in evidence.*

'Authorised officer's general powers for places

'333.(1) An authorised officer who enters a place under this Schedule may—

- (a) *search any part of the place; or*
- (b) *examine, inspect, test, photograph or film anything at the place; or*

- (c) *copy a document at the place; or*
- (d) *take into the place any persons, equipment and materials the authorised officer reasonably requires for exercising a power in relation to the place; or*
- (e) *require a person at the place or the occupier of the place, to give the authorised officer reasonable help for the exercise of the powers mentioned in paragraphs (a) to (d).*

‘(2) A person who is required by an authorised officer under subsection (1)(e) to give the authorised officer reasonable help for the exercise of a power must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

‘(3) If the help is required to be given by—

- (a) *answering a question; or*
- (b) *producing a document;*

it is a reasonable excuse for the person to fail to answer the question, or produce the document, if complying with the requirement might tend to incriminate the person.

‘(4) This section applies to an authorised officer who enters a place to get the occupier’s agreement to enter only if the agreement is given or the entry is otherwise authorised.

‘Division 10—Authorised officer’s power to seize

‘Power to seize

‘334.(1) An authorised officer who enters a place under the authority of a warrant under this Schedule may seize the evidence for which the warrant was issued.

‘(2) An authorised officer who enters a place with the occupier’s agreement under this Schedule may seize the particular thing for which the entry was made, if the officer believes, on reasonable grounds, the thing is evidence of an offence against this Schedule.

‘(3) The authorised officer may also seize another thing if the officer believes, on reasonable grounds—

- (a) the thing is evidence of an offence against this Schedule; and*
- (b) the seizure is necessary to prevent the thing being—*
 - (i) concealed, lost or destroyed; or*
 - (ii) used to commit, continue or repeat the offence.*

‘(4) Having seized a thing, an authorised officer may—

- (a) move the thing from the place where it was seized (the “**place of seizure**”) to another place; or*
- (b) leave the thing at the place of seizure but restrict access to the thing.*

Example of subsection (4)(b)—

An authorised officer may seal—

- (a) a thing and mark it to show it has been seized; or*
- (b) the entrance to a room where the seized thing is situated and mark it to show it contains a thing that has been seized.*

‘(5) If an authorised officer restricts access to a seized thing, a person must not tamper with it without the approval of the authorised officer or the Electoral Commission.

Maximum penalty—40 penalty units.

‘Powers in support of seizure

‘335.(1) To enable a thing to be seized, an authorised officer may, by written notice given to the person in control of the thing, require the person—

- (a) to take it to a stated reasonable place by a stated reasonable time; and*
- (b) if necessary, to remain in control of it at the place for a reasonable time.*

‘(2) If, for any reason, it is not practicable to make the requirement by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.

‘(3) A person must comply with a requirement under this section, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

‘Receipt for seized things

‘336.(1) As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized.

‘(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.

‘(3) Subsection (1) does not apply if—

- (a) the thing is unattended when seized; and*
- (b) the thing’s owner is unknown; and*
- (c) the owner cannot be found after reasonable inquiries (given the thing’s value) have been made.*

‘Access to seized things

‘337. Until a seized thing is forfeited, returned, or otherwise finally dealt with, an authorised officer must allow its owner—

- (a) to inspect it; or*
- (b) if it is a document—to make copies of it.*

‘Return of seized things

‘338.(1) This section does not apply to a thing forfeited to the State.

‘(2) The authorised officer must return a seized thing to its owner at the end of—

- (a) 6 months; or*
- (b) if a prosecution for an offence involving it is started within 6 months—the prosecution and any appeal from the prosecution.*

‘(3) Despite subsection (2), the authorised officer must return the seized thing to its owner immediately the authorised officer stops being satisfied its retention as evidence is necessary.

‘Forfeiture of unclaimed seized things

‘339. A seized thing is forfeited to, and becomes the property of, the State if the Electoral Commission—

- (a) cannot find its owner after reasonable inquiries (given the thing’s value) have been made; or*
- (b) is unable, after making reasonable efforts, to return it to its owner.*

‘Division 11—Other enforcement matters

‘False or misleading information

‘340.(1) A person must not—

- (a) state anything to an authorised officer the person knows is false or misleading in a material particular; or*
- (b) omit from a statement made to an authorised officer anything without which the statement is, to the person’s knowledge, misleading in a material particular.*

Maximum penalty—20 penalty units.

‘(2) It is enough for a complaint for an offence against subsection (1)(a) or (b) to state that the statement made was false or misleading to the person’s knowledge.

‘False, misleading or incomplete documents

‘341.(1) A person must not give an authorised officer a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—20 penalty units.

‘(2) However, the person does not commit an offence against subsection (1) if, when giving the document, the person—

- (a) informs the authorised officer, to the best of the person’s ability, how it is false, misleading or incomplete; and*
- (b) gives the correct information to the authorised officer if the person has, or can reasonably obtain, the correct information.*

‘(3) It is enough for a complaint for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person’s knowledge.

‘Authorised officer to give notice of damage

‘342.(1) This section applies if—

- (a) an authorised officer damages anything in the exercise of a power under this Schedule; or*
- (b) a person who is authorised by an authorised officer to take action under this Schedule damages anything in taking the action.*

‘(2) The authorised officer must promptly give written notice of the particulars of the damage to the person who appears to the authorised officer to be the thing’s owner.

‘(3) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the authorised officer’s control, the authorised officer may state this in the notice.

‘(4) If, for any reason, it is not practicable to comply with subsection (2), the authorised officer must—

- (a) leave the notice at the place where the damage happened; and*
- (b) ensure the notice is left in a reasonably secured way in a conspicuous position.*

‘(5) This section does not apply to damage the authorised officer believes, on reasonable grounds, is trivial.

‘Compensation

‘343.(1) *A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this Schedule, including, for example, in complying with a requirement made of the person under this Schedule.*

‘(2) *Compensation may be claimed and ordered in a proceeding for—*

- (a) compensation brought in a court of competent jurisdiction; or*
- (b) an offence against this Schedule brought against the person making the claim for compensation.*

‘(3) *A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.*

‘(4) *The regulations may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.*

‘Agreement to entry

‘344.(1) *This section applies if an authorised officer seeks the agreement of an occupier of a place to an authorised officer entering the place under this Schedule.*

‘(2) *In seeking the agreement, the authorised officer must inform the occupier—*

- (a) of the purpose of the entry; and*
- (b) that information obtained by the authorised officer may be used in evidence in court; and*
- (c) that the occupier is not required to agree to the entry.*

‘(3) *If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the occupier’s agreement.*

‘(4) *The acknowledgment must state—*

- (a) the occupier was informed—*
 - (i) of the purpose of the entry; and*

- (ii) *that information obtained by the authorised officer may be used in evidence in court; and*
- (iii) *that the occupier was not required to agree to the entry; and*
- (b) *the occupier agreed to the authorised officer entering the place and exercising powers under this Schedule; and*
- (c) *the time and date the agreement was given.*

‘(5) If the occupier signs an acknowledgment of agreement, the authorised officer must immediately give a copy to the occupier.

‘Evidence of agreement

‘345.(1) This section applies to a proceeding if—

- (a) *a question arises whether an occupier of a place agreed to the entry of the place by an authorised officer under this Schedule; and*
- (b) *an acknowledgment of the occupier’s agreement is not produced in evidence.*

‘(2) In a proceeding to which this section applies, the court may presume the occupier did not agree to the entry, unless the contrary is proved.

‘Obstruction of authorised officer

‘346.(1) In this section—

“authorised officer” includes a person who is authorised by an authorised officer to take action under this Schedule.

‘(2) A person must not obstruct an authorised officer in the exercise of a power under this Schedule, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(3) In this section—

“obstruct” includes hinder, resist and attempt to obstruct.

‘Impersonation of authorised officer

‘347. A person must not pretend to be an authorised officer.

Maximum penalty—80 penalty units.

‘Division 12—Evidence***‘Evidentiary provisions***

‘348.(1) This section applies to a proceeding under this Act.

‘(2) The appointment or power of an authorised officer must be presumed unless a party, by reasonable notice, requires proof of—

- (a) the appointment; or*
- (b) the power to do anything under this Schedule.*

‘(3) A signature purporting to be the signature of the Electoral Commissioner or an authorised officer is evidence of the signature it purports to be.

‘(4) A certificate purporting to be signed by a person mentioned in subsection (3) and stating any of the following matters is evidence of the matter—

- (a) a stated document is—*
 - (i) an order, direction, requirement or decision, or a copy of an order, direction, requirement or decision, given or made under this Schedule; or*
 - (ii) a notice, or a copy of a notice, given under this Schedule; or*
 - (iii) a record, or a copy of a record, kept under this Schedule; or*
 - (iv) a document, or a copy of a document, kept under this Schedule;*
- (b) on a stated day, a stated person was given a stated notice, order, requirement or direction under this Schedule;*
- (c) anything else prescribed under the regulations.’*

SCHEDULE

OTHER AMENDMENTS

section 2

1. Section 3, definition “Commonwealth Electoral Act”—

omit, insert—

‘**“Commonwealth Electoral Act”** means the *Commonwealth Electoral Act 1918* (Cwlth).’⁴⁴

2. Section 27—

omit, insert—

‘Acting Electoral Commissioner

‘**27.** The Governor in Council may appoint a person, who is eligible for appointment as Electoral Commissioner, to act as Electoral Commissioner during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the Electoral Commissioner is absent from duty, or cannot, for another reason, perform the duties of office.’

3. Section 28—

omit, insert—

‘Acting Deputy Electoral Commissioner

‘**28.** The Governor in Council may appoint a person, who is eligible for appointment as Deputy Electoral Commissioner, to act as Deputy Electoral

⁴⁴ Section 183 (References to Commonwealth Electoral Act) changes the meaning of this defined term in Part 7 and the Schedule.

SCHEDULE (continued)

Commissioner during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the Deputy Electoral Commissioner is absent from duty, or cannot, for another reason, perform the duties of the office.’.

4. Section 70(4)(a)—

omit, insert—

- ‘(a) state a name for the political party; and’.

5. Section 119(4)(c), ‘(2)(c)’—

omit, insert—

- ‘(3)(c)’.

6. Section 119(4)(d), ‘116(3)’—

omit, insert—

- ‘section 116(3)’.

7. Section 119(10), ‘(8)’—

omit, insert—

- ‘(9)’.

8. Section 119(15), ‘Part 7’—

omit, insert—

- ‘Part 8’.

SCHEDULE (continued)

9. Parts 7 to 9—

renumber as Parts 8 to 10.

10. Part 10—

renumber as Part 12.