

Electoral Reform and Accountability Amendment Bill 2011

Explanatory Notes

Objectives of the Bill

The Bill amends the *Electoral Act 1992* (“the Act”) to make reforms to political donations and election campaign expenditure and funding for State elections. In particular, the Bill imposes caps on amounts donors can make to political parties, candidates and third parties for election spending. It also places caps on certain expenditures by political parties, candidates and third parties in the period prior to an election.

The Bill also improves enrolment and voting procedures so that they will enhance electoral participation in Queensland.

Reasons for the Bill

The Bill aims to improve the integrity and public accountability of state elections. The reforms aim to limit any potential for undue influence being exercised by any one donor or lobby group in relation to an election campaign – or any perception of such influence. To balance the effects of capping electoral donations and expenditure, the Bill provides for increased public funding to political parties and candidates for elections and administrative funding for political parties and independent members.

The Bill also aims to improve enrolment and voting procedures for Queenslanders. The reforms are aimed at encouraging participation in the electoral processes of Queensland.

Achievement of the Objectives

The objectives are achieved by:

- Capping amounts donated by donors for use in state election campaigns;
- Capping the amount political parties, candidates and third parties can spend on state election campaigns;

- Ensuring the public continue to receive information on issues raised in election campaigns by increasing public funding to political parties and candidates;
- Requiring political parties, candidates and third parties to establish and maintain dedicated state campaign accounts;
- Requiring third parties to register with the Electoral Commission Queensland (“commission”) if they spend more than \$10000 campaigning during an election period (or \$2000 in a single electorate);
- Providing the commission with the powers to monitor the existing and new regulatory regime;
- Allowing 16 or 17 year olds to provisionally enrol to vote;
- Allowing persons who enrol or update their enrolment details after the writs for an election have been issued, and up to 5pm on the day before polling day, to make a provisional declaration vote;
- Allowing electors who wish to vote before polling day to cast an ordinary vote at an office declared by the commission to be a pre-poll voting office that accepts ordinary pre-poll votes for their electoral district; and
- Requiring postal votes to be made in an approved form.

Estimated Cost for Government Implementation

The proposed reforms to electoral campaign financing will increase public funding for elections provided to political parties and candidates. Additionally, the Bill provides for administrative funding to political parties and independent members. The proposed reforms will increase the functions and costs of the commission, particularly in relation to monitoring and enforcement. These matters will be considered in the 2011-2012 State budget.

Consistency with Fundamental Legislative Principles

The donation cap applies for the period from 1 January 2011. However, there is no retrospective obligation placed on parties in relation to the period prior to assent to the Bill.

By capping political donations and electoral expenditure the Bill potentially imposes barriers on freedom of speech. However, it is submitted that the capping is justified in ensuring that all people in the community, irrespective of their individual wealth, have equal access to the political process. As set out above, although certain donations and expenditure are capped, any adverse effect of these caps is proposed to be offset by additional injections of public funding.

Originally all of the regulatory provisions relating to campaign funding were contained in a schedule to emphasise that they mirrored equivalent provisions in the *Commonwealth Electoral Act 1918* (“the Commonwealth Act”). With this Bill, because the provisions in the schedule are being substantially amended and added to they are being moved to the body of the Act to ensure clarity and transparency. The standard investigative powers are being moved and updated as part of that process.

An authorised officer can only be appointed under the provisions to investigate matters on behalf of the commissioner if he or she has the requisite qualifications and once appointed must produce or display his or her identify card on exercising his or her powers. An authorised officer has power to enter places only: if it’s open to the public; the occupier consents or entry is permitted by a warrant issued by a Magistrate. Entry by warrant must be made at a reasonable time. On entry, authorised officers have the power to search a place, copy documents and require persons to provide reasonable help. A person may refuse to answer a question or produce a document if to do so would incriminate him or her. Authorised officers entering by way of warrant only, may seize “things” but must supply receipts for seized things, and allow the owner to have access to the thing unless it is finally forfeited. If an authorised officer damages anything in exercising his or her powers, then he or she must give notice of the damage and the owner may apply for compensation. The Act retains the common law right against self-incrimination. . In summary, adequate investigative powers with appropriate safeguards are essential for the commission to ensure the integrity of the regulatory regime.

As indicated above, the Bill provides for candidates and political parties to apply to the commission for election funding and also administrative funding. The commission may refuse the claim and the applicant may then apply for an internal review. These provisions restate those which have been in the Act for some time and which were modelled on those in the *Commonwealth Electoral Act 1918*. Although there is no external appeal from the commissioner’s decision, it is considered this is justified as the

grounds on which a claim may be refused are extremely limited and do not involve the exercise of a discretion. The applicants of course retain their rights to apply for a review under the *Judicial Review Act 1991*.

Overall it is submitted that the Bill as a whole, in regulating election funding and expenditure, will contribute to the ongoing integrity of the institution of Parliament.

Consultation

In December 2010 the Queensland Government released a “White Paper” entitled *Reforming Queensland’s Electoral System* which was published on the Department of Premier and Cabinet’s website. Submissions closed in February 2011. Nine submissions were received indicating general support for capping electoral donations and expenditure.

In addition, the Electoral Commission Queensland was consulted on the White Paper and operational administrative aspects of the amendments relating to enrolment and voting procedure.

Notes on Provisions

Short title

Clause 1 provides for the short title of the Act.

Commencement

Clause 2 provides that the Act will commence on a day to be fixed by proclamation.

Act amended

Clause 3 provides that this Act amends the *Electoral Act 1992* (“the Act”).

Amendment of s 3 (Definitions)

Clause 4 inserts definitions into section 3 of the Act.

Amendment of s 18 (Delegation by commission)

Clause 5 provides that the commission must not delegate its responsibility for internal review of decisions relating to election funding and administrative funding.

Amendment of s.66 (Provisional enrolment)

Clause 6 Subsection (1) amends section 66 to allow a 16 year old person or a 17 year old person to be provisionally enrolled as an elector for an electoral district.

Subsection (2) makes an amendment to section 66(1)(c) to improve the readability of the section and does not change the meaning of the section in any way.

Amendment of s.99 (Scrutineers)

Clause 7 amends section 99 to provide that scrutineers are entitled to be at pre-poll voting offices at times when electors are allowed vote at those offices.

Amendment of s.101 (Who may vote)

Clause 8 amends section 101 to allow persons to vote at an election who are not enrolled but are entitled to be enrolled on the electoral roll for the district and who have after the cut off day for the electoral rolls and up to 5pm on the day before the polling day, given notice to an electoral registrar for the electoral district under section 65.

Amendment of s.102 (Procedure for voting)

Clause 9 Subsection (1) amends section 102(1) to provide that the procedure for voting set out in section 102 does not apply to those persons who make a pre-poll ordinary vote pursuant to new section 104C. The procedure that applies to pre-poll ordinary voting is found within the new section 104C.

Subsections (2) and (3) amend section 102(4) to improve the readability of that section and do not change the meaning of the section in any way.

Insertion of new pt 6, div 5, sdiv 1A ‘Subdivision 1A Pre-poll ordinary voting’

Clause 10 inserts a new subdivision 1A into part 6, division 5 of the Act.

A new section 104A applies to electors, other than those electors who must make a declaration vote under subdivision 2, who wish to vote before the polling day for an election and wish to do so other than by making a declaration vote under subdivision 2.

Section 104A (2) provides that if there is a pre-poll voting office for the electoral district for which an elector is enrolled, the elector may make a vote under section 104C. This does not create an entitlement to a pre-poll ordinary vote. An elector may only make a pre-poll ordinary vote at a place that is declared by the commission under section 104B to be a pre-poll voting office for the electoral district for which the elector is enrolled.

A new section 104B provides for the manner in which the commission may declare a pre-poll voting office.

Section 104B(1) provides that the commission may declare by gazette notice that for an election, a specified place is to be a pre-poll voting office where an elector enrolled in a stated electoral district may make a pre-poll ordinary vote and further, the commission may specify the times during which electors may make a pre-poll ordinary vote at that office.

Section 104B(2) allows the commission to specify in a declaration under subsection (1) or by gazette notice under this subsection that a pre-poll voting office is also a pre-poll voting office for one or more other electoral districts.

Section 104B(3) allows the commission to publish any declaration made under subsection (1) or (2) in any other way that the commission considers appropriate.

A new section 104C sets out the procedure for pre-poll ordinary voting.

Section 104C(1) provides that an elector may make a pre-poll ordinary vote during the period beginning 3 days after the cut off day for nominations and ending at 6pm on the day before polling day by following the procedures set out in subsections (2) through to (10).

Section 104C (2) provides that an elector is to go to a pre-poll voting office for the electoral district in which the elector is enrolled.

Section 104C(3) provides that an elector attending the pre-poll voting office is to request a ballot paper from an issuing officer.

Section 104C(4) requires an elector who has a ballot paper and a declaration envelope for the election but does not intend to make a declaration vote under subdivision 2 to give those papers to the issuing officer.

Section 104C(5) provides that an issuing officer must only provide a ballot paper to a person requesting one if the issuing officer is satisfied that the person is entitled to vote at the election for the electoral district.

Section 104C (6) provides that an issuing officer may ask questions of a person requesting a ballot paper for the purpose of deciding whether the person is entitled to vote at the election for the nominated electoral district.

Section 104C (7) provides that, if after the issuing officer has asked questions under subsection (6) he or she and suspects that the person claiming to be a particular elector is not the elector, the issuing officer must comply with the provisions of section 112.

Section 104C (8) requires the issuing officer to keep a record of all persons to whom the issuing officer issues ballot papers under this section.

Section 104C (9) requires the issuing officer to comply with any scrutineer request to keep a record of any objection by a scrutineer to the entitlement of a person to vote.

Section 104C(10) sets out the actions that the elector must do once the elector has been given the ballot paper by the issuing officer.

A new section 104D provides that a person who satisfies the issuing officer that they require help to vote may be assisted to vote in a pre-poll office by another person chosen by the elector.

Section 104D(2) sets out ways in which the person chosen by the elector in subsection (1) may help the elector.

Section 104D(3) provides for circumstance where an elector is unable to enter a pre-poll voting office because of illness, disability or advanced pregnancy but is able to come to a place close to the pre-poll voting office.

Section 104D(4) sets out what an issuing officer must do in circumstances described in section 104D(3).

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

Clause 11 amends section 106 to provide that electors to whom the new sub-subsection 101(1)(d) applies must make a declaration vote.

Amendment of s 110 (Making a declaration vote using posted voting papers)

Clause 12 amends section 110(1) by providing that persons who wish to make an ordinary postal vote must do so in an approved form.

Amendment of s 112 (Making a declaration vote in cases of uncertain identity)

Clause 13 makes a consequential amendment to section 112(1) to accommodate circumstances where an issuing officer in a pre-poll voting office pursuant to new section 104C(7) suspects that a person claiming to be a particular elector is not the elector.

Amendment of s 118 (Preliminary counting of ordinary votes)

Clause 14 amends section 118 by creating a new section 118(3A) which provides that the procedure set out in section 118 for the preliminary counting of ordinary votes applies to pre-poll ordinary votes in the same way it would apply if those votes were made at a polling booth to the extent that it is reasonably practicable to count pre-poll ordinary votes on polling day and subject to any prescribed changes and any other necessary changes.

Amendment to renumber

Clause 15 inserts a new Part 9A - Election funding and financial disclosure -into the Act. The effect is that those provisions which were previously in the Schedule to the Act are amended and moved into the body of the Act. Amendments are made to the provisions previously in the Schedule in furtherance of the objectives of the Bill.

Insertion of new pt 9A (Election funding and financial disclosure)

PART 9A Election funding and financial disclosure

Division 1 Preliminary

Section 177A restates definitions previously in the Schedule and inserts new ones relating to the provisions regulating funding and expenditure now contained in Part 9A.

Section 177AA defines “disclosure period” for the purposes of reporting.

Section 177AB defines “electoral expenditure”.

Section 177AC defines “fund-raising contribution” which has relevance for the definition of “gift.”

Section 177AD defines “gift” which has relevance for the definition of “political donation.”

Section 177AE attaches responsibility to members or officers of a political party in certain circumstances. It further provides that a reference to a registered political party in this part does not include reference to part of a party.

Section 177AF provides that an electoral committee for a party for an electorate is to be considered as the candidate endorsed by the party for the electorate.

Section 182 provides that a registered political party must have an agent.

Section 177AG provides that an associated entity and a political party are to be treated as one and the same for those provisions relating to state campaign accounts, election funding, political donations and electoral expenditure.

Section 177AH provides that related corporations are to be treated as the one person for the purposes of the Part.

Division 2 Agents

Section 177B provides that a registered political party must have an agent.

Section 177BA provides that a candidate may appoint an agent, and that if there is no appointment, the candidate is taken to be his or her own agent for the purposes of the part. “Candidate” for the purposes of the part is defined in section 3 of the Bill.

Section 177BB provides that a registered third party, who is not an individual, must appoint an agent, and an individual may appoint an agent. If no agent is appointed, then the third party is taken to be their own agent.

Section 177BC sets out the requirements for agents to be appointed. The person must be an adult, and written notice must be given to the commission, along with personal details of the agent and their signed consent to appointment.

Section 177BD provides that commission must maintain a register of agents with their details.

Section 177BE provides that the appointment of an agent has effect on entry in the register and ceases on removal. It further sets out the conditions on which the agent may be removed, the effect of an agent dying and the consequences of an agent being convicted of an offence.

Section 177BF is an evidentiary provision relating to appointment of agents.

Section 177BG provides for who will be responsible for certain obligations if a political party does not have an agent. Responsibility is placed on each member of the executive committee of the party.

Section 177BH provides for who will be responsible for certain obligations if a third party does not have an agent. Responsibility is placed on each member of the executive committee of the third party.

Section 177BI provides for the revocation of appointment of an agent.

Section 177BJ provides for what should happen if an agent of a candidate or registered third party resigns or dies. The commission needs to be notified in writing.

Division 3 State campaign accounts

Section 177C requires that an agent for a registered political party, elected member, candidate or registered third party must keep a state campaign account.

Section 177CA provides that political donations must be paid into state campaign accounts unless the donation is made in contravention of division 6.

Section 177CB provides for the amounts that may be paid into a state campaign account. Subsection (1) applies to political parties and candidates.

Section 177CC provides that if an agent pays borrowed funds into a state campaign account, the agent must ensure the amount is repaid from the same account.

Division 4 Election Funding

Subdivision 1 Preliminary

Section 177D provides that if a registered political party and a candidate both claim the same expenditure, then the expenditure is taken to have been incurred by the party.

Subdivision 2 Entitlement to election funding

Section 177DA provides that a registered political party is entitled to election funding, and sets out the formula for determining the amount of funding.

Section 177DB provides that a candidate is entitled to election funding and sets out the formula for determining the amount of funding.

Section 177DC provides that a registered political party or a candidate is entitled to claim certain election funding in advance if they were entitled to funding at the previous election. The section further sets out the formula

for determining the amount of the advance, when the advance may be paid, and that if the advance is more than the party or candidate is ultimately entitled, then the excess must be repaid.

Subdivision 3 Claims for election funding

Section 177DD provides that an agent of a registered political party or candidate must make a claim to the commission for election funding in order to receive the funding.

Section 177DE provides that a candidate may direct in writing that his or her election funding be paid to the political party which has endorsed him or her.

Section 177DF provides that a claim for election funding must set out the amount of electoral expenditure incurred and that a claim for advance funding must set out the amount of funding paid to the claimant at the last election.

Section 177DG provides for the form of the claim.

Section 177DH provides for how and when a claim for election funding must be lodged with the commission.

Section 177DI provides that the commission may accept or refuse the claim for election funding and sets out the processes for doing so.

Section 177DJ provides that the commission must pay election funding relating to an accepted claim.

Section 177DK provides that if the commission refuses a claim for election funding, it must give notice of such refusal containing reasons for refusal.

Section 177DL provides that if a claim is refused, the claimant may apply to the commission for review of that decision, and how and when that application for review must be made.

Section 177DM provides that on receiving the application for review of the decision, the commission must give notice of the result of its reconsideration to the relevant agent, and pay any consequential amounts within a given time frame.

Subdivision 4 Payments of election funding

Section 177DN provides that if the commission is satisfied that an amount of election funding is payable, then it must be paid into the candidate's or registered political party's state campaign account. It further provides that if an amount is wrongly paid then it may be recovered by the State.

Subdivision 5 Miscellaneous

Section 177DO provides for what happens to a candidate's election funding if he or she dies.

Section 177DP provides that the commission may in certain circumstances vary its decision about a claim for election funding and what happens if such decision is varied. Any consequential overpayment is recoverable by the State as a debt.

Division 5 Administrative expenditure funding

Subdivision 1 Preliminary

Section 177E defines "administrative expenditure".

Subdivision 2 Administrative funding for registered political parties

Section 177EA sets out the eligibility criteria for a political party for its administrative funding.

Section 177EB sets out the formula for determining the amount of administrative funding to which a registered political party is entitled and also provides for when it is to be paid. The section provides for annual indexation of the amount by reference to increases in the consumer price index.

Subdivision 3 Administrative funding for independent members

Section 177EC sets out the eligibility criteria for an independent member for his or her administrative funding.

Section 177ED sets out the formula for determining the amount of administrative funding to which an independent member is entitled. The section provides for annual indexation of the amount by reference to increases in the consumer price index.

Section 177EE provides how an independent must make a claim for administrative funding.

Section 177EF provides that the commission must accept or refuse the claim.

Section 177EG provides that if the commission accepts the claim it must pay the claim.

Section 177EH provides for reasons for refusal of a claim to be given.

Section 177EI provides that an independent member may apply for a review of a decision to refuse administrative funding.

Section 177EJ provides for how the commission considers an application for review by an independent member of a decision relating to administrative funding.

Division 6 Political donations

Section 177F defines “political donation” and provides that a donor has to make a certain statement in relation to such a donation. It further provides that a political donation cannot be anonymous.

Section 177FA defines “unpaid debt” for the purposes of the division.

Section 177FB sets out the formula for determining the cap on political donations from donors to a registered political party (per donor, per financial year), a candidate and a third party respectively. The formula includes annual indexation by reference to increases in the consumer price index.

Section 177FC prohibits a person from making political donations to registered political parties that exceed the caps set out in the section. It also extends the definition of “political donation” for the purposes of the section.

Section 177FD prohibits a registered political party from accepting political donations that exceed the cap. It also extends the definition of “political donation” for the purposes of the section.

Section 177FE prohibits a person from making political donations to candidates that exceed the cap. It also extends the definition of “political donation” for the purposes of the section.

Section 177FF prohibits a candidate from accepting political donations that exceed the cap. It also extends the definition of “political donation” for the purposes of the section.

Section 177FG prohibits a person from making political donations to third parties that exceed the cap. It also extends the definition of “political donation for the purposes of the section.”

Section 177FH prohibits a third party from accepting political donations that exceed the cap. It also extends the definition of “political donation” for the purposes of the section.

Section 177FI provides that an agent of a registered political party, candidate or third party must provide a donor of a political donation with a receipt which advises them that it is an offence for the donor to make political donations exceeding the applicable caps.

Division 7 Disclosure of donations

Section 177G provides for how the division applies to gifts that are returned within 6 weeks.

Section 177GA provides that each agent of a candidate must give to the commission a return setting out information about political donations and other gifts. The section further sets out the contents of the return, and that specified information is not required for certain gifts, other than political donations, valued at less than \$1000.

Section 177GB provides that each agent of a candidate must provide to the commission a return setting out information about loans received by the candidate.

Section 177GC provides that if third parties incur expenditure for a political purpose, then the third party must submit a return to the commission, including specified information in relation to gifts received by the entity.

Section 177GD provides that if a third party makes any gift of \$1000 or more to a candidate, then the donor must give the commission a return setting out certain specified information.

Section 177GE provides that if a person makes political donations or other gifts totalling \$1000 or more to the same registered political party, the person must give the commission a return setting out specified information.

Section 177GF provides for special reporting of large gifts. This section will continue to have application to gifts which are not political donations.

Division 8 Rules about certain gifts and loans

Subdivision 1 Gifts of foreign property

Section 177H defines terms to be used in this subdivision.

Section 177HA provides that the subdivision does not apply to gifts that are returned within six weeks.

Section 177HB sets out rules for deciding whether a gift or transfer is of Australian or foreign property.

Section 177HC provides for when it is unlawful for a registered political party or a candidate to receive gifts of foreign property.

Subdivision 2 Anonymous gifts

Section 177HD prohibits a political party from receiving certain anonymous gifts.

Subdivision 3 Other gifts and loans

Section 177HE provides prohibits political parties and candidates from receiving certain loans from persons other than a financial institution, unless the loan conforms to the requirements set out in the section.

Division 9 Electoral expenditure

Section 177I defines the term “associated parties” for the purposes of the division.

Section 177IA sets out the formula for calculating the new cap on electoral expenditure for an election by registered political parties, candidates and third parties. The cap is indexed annually by reference to increases in the consumer price index.

Section 177IB prohibits a registered political party, candidate or registered third party from spending amounts on electoral expenditure other than from the state campaign account.

Section 177IC prohibits a registered political party from incurring electoral expenditure that exceeds the cap set out in section 177IA in a general election.

Section 177ID prohibits a registered political party from incurring electoral expenditure during a by-election that exceeds the cap set out in section 177IA.

Section 177IE prohibits a candidate from incurring electoral expenditure relating to the electoral district in which he or she is nominated, that exceeds the cap set out in section 177IA.

Section 177IF prohibits a registered third party from incurring electoral expenditure that exceeds the cap set out in section 177IA.

Section 177IG provides for a cap on electoral expenditure by third parties.

Section 177IH provides for a maximum penalty for contravening the electoral expenditure cap.

Division 10 Disclosure of electoral expenditure

Section 177J sets out a definition of “participant” for the division.

Section 177JA provides that an agent of a political party, a candidate and a third party must provide to the commission a return of all electoral expenditure authorised by them, which was incurred during a capped expenditure period.

Section 177JB provides that a broadcaster must give to the commission a return setting out details of all advertisements broadcast during a capped expenditure period that related to the election with the authority of a participant.

Section 177JC provides that a publisher of a journal must give to the commission a return setting out details of all advertisements published during an election period with the authority of a participant, that related to the election.

Section 177JD provides that candidates may lodge nil returns.

Section 177JE provides that if two elections are held on one day, that one return may be provided.

Division 11 Returns by registered political parties and associated entities

Section 177K defines the term “amount” for the purposes of the division.

Section 177KA provides how the division applies to gifts that are returned within 6 weeks.

Section 177KB provides that every six months, a registered political party must give to the commission a return setting out amounts received by the party, amounts paid by the party, outstanding amounts, and the total amount of political donations received.

Section 177KC provides that certain particulars are to be included in the return relating to amounts received.

Section 177KD provides that certain particulars are to be included in the return relating to amounts paid.

Section 177KE provides that certain particulars are to be included in the return relating to outstanding amounts.

Section 177KF provides that every six months, an associated entity of a registered political party must give to the commission a return setting out amounts received by the entity, amounts paid by the entity and outstanding amounts.

Section 177KG provides that returns given under the division are not to include lists of party membership.

Section 177KH provides that the regulations may provide for greater or less details to be included in returns.

Division 12 Registration of third parties

Section 177L provides that a third party may apply to the commission for registration, and sets out how and when the application is to be made.

Section 177LA provides how and when the commission is to grant or refuse an application by a third party for registration.

Section 177LB sets out what the commission must do if it decides to register an applicant as a third party.

Section 177LC sets out what the commission must do if it refuses to register an entity as a third party.

Section 177LD provides that an applicant may apply to have a refusal of its application for registration reconsidered.

Section 177LE provides that a registered third party whose details have changed must notify the commission of that change of details.

Section 177LF gives the commission power to confirm registration details of a third party and to cancel registration if required.

Section 177LG provides that the commission must cancel registration of a third party if asked to do so by its agent.

Section 177LH provides that the commission may vary the details of a third party's registration in limited circumstances.

Division 13 Miscellaneous

Section 177M explains the definition of the word “return” for the purposes of this division.

Section 177MA sets out a range of offences for non-compliance with this part.

Section 177MB provides that an action to recover an amount due to the State may be brought in the name of the commission and process served on the commission.

Section 177MC provides that certain records must be kept by persons on whom the Act imposes obligations in relations to returns and claims.

Section 177MD mandates that certain returns required under the part are to be accompanied by an auditor’s certificate stating the specified information. The commission may waive compliance with this requirement in certain limited circumstances.

Section 177ME provides that an auditor is to notify the commissioner of any suspected contravention of this part.

Section 177MF provides that in certain circumstances partial compliance with the requirements to submit returns to the commission may be allowed.

Section 177MG provides that the commission may grant an extension not longer than 8 weeks, for a person or entity to submit a return.

Section 177MH provides that non-compliance with this part does not invalidate an election.

Section 177MI provides that the commissioner may amend a claim or return in limited circumstances, and also sets out how and when a person who has lodged a return may apply to have it amended.

Section 177MJ provides that the commission must publish certain returns on its website.

Section 177MK provides that the commission must keep copies of claims and returns at its office. Such claims and returns may be viewed by the public on payment of a fee.

Section 177ML provides that if a person is convicted of an offence involving the unlawful acceptance of a political donation, then the amount of the donation may be recovered by the state. If the person committed the

offence knowingly, then twice the amount of the donation may be recovered.

Section 177MM provides that the commission may enter into a compliance agreement with a person who has obligations under this part. A court may make a declaration as to contravention of such an agreement.

Division 14 General provisions about authorised officers

Subdivision 1 Appointment

Section 177N states that the division provides for the appointment of authorised officers and sets out their powers.

Section 177NA provides that the commission may appoint certain qualified persons as authorised officers.

Section 177NB provides for the conditions of appointment and limitation of authorised officer's powers.

Section 177NC provides for when an authorised officer's appointment ends.

Section 177ND provides for how and when an authorised officer may resign.

Subdivision 2 Identity cards

Section 177NE provides that the authorised officer must have an identity card containing certain information and that the card must not be misused, and must be returned on the officer ceasing to be appointed.

Section 177NF provides that in exercising a power under this part the authorised officer must first produce his or her identity card or have the card displayed.

Section 177NG provides that an authorised officer must return their identity card when their appointment ends.

Subdivision 3 Miscellaneous provisions

Section 177NH is an interpretative provision relating to references to exercise of powers.

Section 177NI is an interpretative provision relating to references to documents.

Division 15 Entry of places by authorised officers

Subdivision 1 Power to enter

Section 177O provides authorised officers with a power to enter places in certain circumstances.

Subdivision 2 Entry by consent

Section 177OA provides for the application of the subdivision

Section 177OB provides that in order for an authorised officer to request consent to enter a place; he may enter land around the premises, or other limited parts of the premises.

Section 177OC provides that an authorised officer must give a person certain information before he asks a person for consent to enter a place.

Section 177OD provides that if consent to enter a place is given, an authorised officer may ask the occupier to sign an acknowledgement and the section also sets out the terms of the acknowledgement.

Subdivision 3 Entry under warrant

Section 177OE provides that an authorised officer may apply to a Magistrate for a warrant to enter a place. The application may be made in limited circumstances, and the section sets out how it must be made.

Section 177OF provides for when a Magistrate may issue a warrant and sets out the contents of the warrant.

Section 177OG provides that an authorised officer may make an electronic application for a warrant in certain circumstances

Section 177OH sets out additional procedures to be followed when an electronic warrant is issued.

Section 177OI provides that certain defects in a warrant or the issuing of a warrant do not necessarily invalidate the warrant.

Section 177OJ sets out the procedure to be followed by authorised officers before entering a place, and then upon entry.

Division 16 General powers of authorised officers after entering places

Section 177P provides for the application of the division.

Section 177PA sets out the authorised officer's general powers after entering a place under this part.

Section 177PB provides that an authorised officer may require an occupier of a place to provide reasonable help, providing that a warning is given.

Section 177PC provides that a person who contravenes a help requirement commits an offence.

Division 17 Seizure by authorised officers and forfeiture

Subdivision 1 Power to seize

Section 177Q provides that an authorised officer who legitimately enters a place without consent or without a warrant may seize a thing if he or she believes it is evidence of an offence.

Section 177QA provides for when and how an authorised officer may seize a thing in a place that may be entered only with consent or with a warrant.

Section 177QB provides that an authorised officer may seize a thing even if there is security over the thing, but that the seizure does not affect any person's claim to the security.

Subdivision 2 Powers to support seizure

Section 177QC provides for what an authorised officer may do with a seized thing.

Section 177QD provides that it is an offence to contravene the seizure requirement.

Section 177QE provides that it is an offence for someone to tamper with a seized thing.

Subdivision 3 Safeguards for seized things

Section 177QF provides that a receipt and information notice must be given in relation to a seized thing.

Section 177QG provides that an owner can have access to a seized thing.

Section 177QH provides that seized things must be returned within a state period.

Subdivision 4 Forfeiture

Section 177QI provides for the forfeiture of unclaimed seized things.

Section 177QJ provides that a notice must be given about a forfeiture decision.

Subdivision 5 Dealing with property forfeited or transferred to State

Section 177QK provides for when forfeited things can become the property of the State.

Section 177QL provides for what the commissioner may do with a thing that becomes the property of the state.

Division 18 Other information-obtaining powers of authorised officers

Section 177R gives an authorised officer the power to require the name and address of a person in certain circumstances.

Section 177RA provides that a person who fails to comply with a requirement to give their name and address is guilty of an offence but only if they are found guilty of the substantive offence.

Section 177RB provides that an authorised officer may require a person to produce documents.

Section 177RC provides that it is an offence to contravene a document production requirement unless the person has a reasonable excuse.

Section 177RD provides that it is an offence to contravene a document certification requirement.

Section 177RE provides authorised officers with the power to require information in certain circumstances.

Section 177RF provides that it is an offence for a person to contravene an information requirement unless the person has a reasonable excuse.

Division 19 Miscellaneous provisions relating to authorised officers

Subdivision 1 Damage

Section 177S provides that in exercising a power an authorised officer must minimise inconvenience and damage.

Section 177SA provides that an authorised officer must give certain notice of any damage done to property in exercising a power under this part.

Subdivision 2 Compensation

Section 177SB provides that a person may claim compensation if he or she incurs loss or expense because of actions of an authorised officer under this part.

Subdivision 3 Other offences relating to authorised officers

Section 177SC provides that a person must not give an authorised officer false or misleading information.

Section 177SD provides that a person must not obstruct an authorised officer.

Section 177SE provides that a person must not impersonate an authorised officer.

Subdivision 4 Other provisions

Section 177SF provides for evidential immunity for certain persons complying with particular requirements.

Section 177SG provides for protection from civil liability in certain circumstances for the commissioner, an authorised officer or a person acting under the authority of an authorised officer.

Section 177SH provides for the confidentiality of information received by an authorised officer, with certain exceptions.

Division 20 Appeals, evidence and legal proceedings

Subdivision 1 Reviews and appeals

Section 177T provides that a person who has been given an information notice under the part has a right to appeal.

Section 177TA provides that the right to review under s.177T is an internal review in the first instance.

Section 177TB provides how someone makes an application for internal review and how that application is dealt with by the commission.

Section 177TC provides for when and how an applicant for review may apply for the decision being reviewed to be stayed.

Section 177TD provides that the commissioner must undertake the internal review in certain time periods, sets out his or her powers on review, and the process for informing the applicant of the decision.

Section 177TE provides that a person who has applied for an internal review and is still dissatisfied, may appeal to the court.

Section 177TF provides how an appeal under section 177TE is started, the time limit for lodging an appeal, and that the notice of appeal must state fully the grounds of the appeal.

Section 177TG provides that the court may grant a stay of the internal review decision.

Section 177TH provides for the powers of the court on appeal.

Section 177TI provides for the effect of the decision of the court on appeal.

Division 12 Evidence and legal proceedings

Section 177TJ sets out evidentiary provisions relating to the appointment of the commissioner and authorised officers and the exercise of powers under this part.

Section 177TK provides that an offence against the part is a summary offence and sets out the limitation periods.

Section 177TL is an evidentiary provision relating to a complainant's knowledge

Insertion of new s[179A]

Clause 16 – inserts a new section 179A, relating to approval of forms.

Insertion of new part 11, div 5

Clause 17 – inserts a new part 11, division 5 into the Bill which includes transitional provisions for the Bill. As stated in new section 191, the main purpose of the division is to provide for provisions now to be contained in Part 9A that are substantially the same as repealed provisions of the schedule, to be dealt with as replacements of those repealed provisions.

The clause inserts transitional provisions relating to particular matters. The new section 199 provides that an amount of money held by the registered political party, a candidate or a third party before the commencement of the Act may be deposited in the State campaign account held by the registered political party, the candidate or the third party. An amount of money held by an associated entity may be deposited in the State campaign account kept by the registered political party by which the associated entity is controlled or for which the associated entity operates beneficially.

If an amount received as a gift by the party, candidate or third party after 1 January 2011 is deposited in the relevant State campaign account of the party, candidate or third party, the amount is taken to be a political donation and subject to the applicable donation cap, despite section 177F. Section 177F defines “political donation” and requires that to be a “political donation”, a gift must be accompanied by a written statement that the gift is intended for use for campaign purposes during the capped expenditure period for an election.. The section states that an amount of money must

not be deposited in a State campaign account if the deposit of the money would contravene the donation cap under Part 9A, division 6.

Section 200 provides that a person who was an agent of a registered political party or a candidate under the previous schedule to the Act immediately before the commencement of the Act continues to be an agent of the party or candidate under Part 9A.

Omission of schedule (Election Funding and financial disclosure based on part XX of the Commonwealth Electoral Act)

Clause 18 – Omits the schedule, which has been replaced by the above provisions in the body of the Act.