

# **Electoral and Other Legislation Amendment Regulation 2020**

Explanatory notes for SL 2020 No. 10

Made under the

*Electoral Act 1992*

*Referendums Act 1997*

*State Penalties Enforcement Act 1999*

## **General Outline**

### **Short Title**

Electoral and Other Legislation Amendment Regulation 2020

### **Authorising law**

Section 392 of the *Electoral Act 1992*

Section 100 of the *Referendums Act 1997*

Section 165 of the *State Penalties Enforcement Act 1999*

### **Policy objectives and the reasons for them**

The Electoral and Other Legislation Amendment Regulation 2020 (Amendment Regulation) amends the *Electoral Regulation 2013*, the *Referendums Regulation 2016* and the *State Penalties Enforcement Regulation 2014* as a consequence of the *Electoral and Other Legislation Amendment Act 2019* (the Amendment Act). The Amendment Act received assent on 30 October 2019, and various provisions commenced by proclamation on 31 January 2020.

The Electoral Act requires disclosure returns (by candidates, registered political parties, associated entities, third parties and donors) to be given to the Electoral Commission of Queensland (ECQ) in relation to gifts and loans over a stated amount. The *Electoral Regulation 2013* (Electoral Regulation) currently requires returns to be made within seven days of a gift or loan being received or made. Sections 60(2), 61(2), 64A, 66A and 66B of the Amendment Act, which commenced on 31 January 2020, amended the Electoral Act so that a regulation could be made to specify a day or time by which disclosure returns must be made. The Amendment Regulation amends the Electoral Regulation to require disclosure of gifts, loans and special reporting events by political parties and candidates, and gifts and special reporting events by associated entities, within 24 hours of receipt in the seven days prior to an election.

The Amendment Regulation:

- omits the prescribed times for the disclosure period from the Electoral Regulation which are no longer required due to amendments to section 198 of the Electoral Act which removed the need for such times to be prescribed;
- excludes persons detained in custody from the class of electors able to make an electronically assisted vote for State elections and referendums given that section 115 of the Electoral Act has been amended to require detained electors to make a declaration vote.

The Electoral Act and the Referendums Act require certain procedures approved by the ECQ to be approved by Regulation and tabled in the Legislative Assembly.

The Amendment Regulation approves:

- updated 'Procedure for electronic lodgement of returns' approved by the ECQ on 1 November 2019;
- updated 'Electronically assisted voting for state elections procedure' approved by the ECQ on 23 December 2019; and
- new 'Procedures for counting of absentee votes for State elections and referendums' approved by the ECQ on 21 January 2020.

The new 'Procedures for counting of absentee votes for State elections and referendums' approved by the ECQ on 21 January 2020 are to be approved under new section 130A of the Electoral Act, inserted by the Amendment Act, which commenced on 31 January 2020.

The Amendment Act amends the maximum penalties for various offences in the Referendums Act, including some prescribed as penalty infringement notice (PIN) offences in the *State Penalties Enforcement Regulation 2014*. The Amendment Regulation makes consequential amendments to the *State Penalties Enforcement Regulation 2014*, to update the PIN amounts for prescribed PIN offences to correlate with the new penalties under the Referendums Act.

## **Achievement of policy objectives**

The policy objective is achieved by the making of the Amendment Regulation.

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

The Amendment Regulation is consistent with the policy objectives of the authorising law.

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

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The Amendment Regulation will:

- ensure the regulations are amended to be consistent with their authorising law;
- update existing procedures of the ECQ to reflect current systems and practises; and
- improve transparency and integrity for State elections.

Costs to the ECQ in implementing the Amendment Regulation will be absorbed by the ECQ.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

The ECQ has been consulted during the preparation of the Amendment Regulation. The ECQ has provided the new and updated procedures for approval and tabling and has raised no objections to the remaining proposals.

A self-assessment by the Department of Justice and Attorney-General determined that no Regulatory Impact Analysis is required for the amendments to make or update procedures as the regulatory proposals are excluded under: category (g) of the Queensland Government Guide to Better Regulation (the guidelines) – regulatory proposals that are of a machinery nature. In addition, the amendments omitting the prescribed times for the disclosure period and the eligibility for electronically assisted voting are excluded under category (a) – regulatory proposals that make consequential amendments.

The Queensland Productivity Commission has assessed the proposals to introduce a 24 hour disclosure period in the last seven days before a State election, and the new absentee voting procedures, and considers the proposal will not add to the burden of regulation and is unlikely to result in significant adverse impacts. No further regulatory impact analysis is required under the guideline.