

TASMANIA

LOCAL GOVERNMENT ELECTORAL BILL 2026

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LOCAL GOVERNMENT ELECTORAL BILL 2026

*(Brought in by the Minister for Local Government, the
Honourable Kerry John Vincent)*

A BILL FOR

An Act to provide for the holding of elections to elect persons to a council, to regulate the conduct of those elections, to provide for the enrolment of electors for the purposes of those elections and to provide for related matters and to amend the *Tasmanian Civil and Administrative Tribunal Act 2020*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Local Government Electoral Act 2026*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

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address, in relation to authorisation particulars, has the same meaning as in section 190(1) of the *Electoral Act 2004*;

approved means approved by the Tasmanian Electoral Commission;

authorisation particulars, in relation to electoral matter, means –

- (a) the name and address of the person who is the author of, or who authorised the communication of, the electoral matter; and
- (b) a statement to the effect that the person named in paragraph (a) is the author of, or authorised the communication of, the electoral matter, as the case may be; and
- (c) if the communication of the electoral matter was made on behalf of any one or more of the following entities, a statement to the effect that the electoral matter was communicated on behalf of that entity:
 - (i) a candidate;
 - (ii) an intending candidate;
 - (iii) a registered party;
 - (iv) a group; and

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- (d) any other prescribed particulars;

ballot material means –

- (a) a ballot paper (including an electronic or digital equivalent where applicable); and
- (b) instructions for the completion of the ballot paper; and
- (c) instructions for the manner in which the ballot paper is to be returned or otherwise transmitted; and
- (d) if the Electoral Commissioner has determined under section 28(3)(a) that an election is to be conducted by the method of voting by post, return envelopes and any other approved envelopes required for the return of the ballot papers;

by-election means a by-election held in accordance with section 82;

candidate means a person whose notice of nomination for an election has been accepted under section 61;

casual vacancy means a vacancy in the office of a councillor that occurs before the expiry of the councillor's term of office;

certificate of election means a certificate of the result of an election published by the

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Electoral Commissioner in accordance with section 78(2);

closing day, for an election, means the day (and the time on that day) fixed under section 55 as the day and time at which polling for the election closes;

continuing candidate means a person who, at the time of lodging a notice of nomination, holds the office of councillor;

corporate body nominee means a natural person whose nomination by a corporate body has been accepted by the Electoral Commissioner in accordance with section 15;

council means a council established under section 18 of the *Local Government Act 1993*;

council committee means a council committee established under section 23 of the *Local Government Act 1993*;

councillor means a person elected to a council and includes the Lord Mayor, Deputy Lord Mayor, mayor and deputy mayor;

declaration of a poll means a declaration under section 77;

deputy mayor includes the Deputy Lord Mayor of a council;

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Director means the Director of Local Government appointed under section 334 of the *Local Government Act 1993*;

disclosure period means the period commencing on the day following the publication of the certificate of election for the most recent ordinary election for the relevant electoral area and ending at the close of nominations for the following election;

election means the process of electing a person to the office of mayor, deputy mayor or councillor under this Act and includes a by-election, unless the contrary intention appears;

election agent means a person who is authorised by a candidate to act as the candidate's agent in connection with that candidate's campaign for election;

elector, in relation to an election in an electoral area, means a person who is entitled under section 13 to vote in the election;

electoral advertising means electoral matter that is communicated to the public –

(a) using paid means of communication, including but not limited to, the following:

(i) notices, signs or posters;

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- (ii) pamphlets or handbills;
 - (iii) “how to vote” cards;
 - (iv) print media;
 - (v) broadcast media;
 - (vi) internet or social media;and
- (b) using any one or more of the following paid or unpaid means of communication:
 - (i) direct mail, including letterboxing;
 - (ii) unsolicited automated telephone calls, including robocalls;
 - (iii) direct electronic messages, including email, SMS or other messages via social media or messaging apps –but does not include –
- (c) using unpaid means of communication that involves the broadcasting in print or digital media of any news, editorial content or commentary, unless the news, content or commentary is commissioned, paid for, or authorised by a candidate,

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intending candidate, registered party or group for the dominant purpose of influencing the way that electors vote;

electoral area means the municipal area or electoral district in which an election is to be held under this Act;

Electoral Commissioner means the person holding that office under the *Electoral Act 2004*;

electoral district means an electoral district referred to in section 17 of the *Local Government Act 1993*;

electoral expenditure, in relation to an election, means expenditure incurred or authorised for the dominant purpose of creating, producing or communicating electoral matter for the election, but does not include expenditure incurred in the ordinary course of business by a person who –

- (a) is providing a communication service, or communication platform, in the ordinary course of the person's business and without controlling or directing the content of the electoral matter; or
- (b) is providing goods or services, in the ordinary course of the person's business, to another

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person for the purpose of creating
or communicating electoral
matter;

electoral material means –

- (a) ballot papers (whether physical,
digital or electronic); and
- (b) any voting declaration or
equivalent requirement under this
Act;

electoral matter, in relation to an election,
means any matter that is communicated,
or intended to be communicated, to the
public for the dominant purpose of
influencing the way that electors vote in
the election –

- (a) including, but not limited to,
matter that expressly or implicitly
expresses support for or
opposition to –
 - (i) a candidate or intending
candidate; or
 - (ii) a registered party; or
 - (iii) a group; and
- (b) not including matter that is
communicated, or intended to be
communicated, by or on behalf of
any one or more of the following
bodies, where the sole or primary

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purpose of the communication of that matter is to inform or promote public participation in the election or to educate, or encourage debate, in relation to that election:

- (i) the Electoral Commissioner;
- (ii) the Tasmanian Electoral Commission;
- (iii) a council;
- (iv) the Local Government Association of Tasmania, continued by section 326 of the *Local Government Act 1993*;
- (v) the Crown or an instrumentality of the Crown;

electoral officer means a person appointed to act as an electoral officer in accordance with section 51;

electoral officer in charge means an electoral officer appointed under section 51 to be in charge of –

- (a) an issuing and receiving place; or
- (b) a polling place; or
- (c) a pre-poll polling place; or

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(d) a mobile polling place;

eligible candidate, in relation to a recount to fill a casual vacancy, means a person who –

- (a) was a candidate at the election at which the councillor whose office has become vacant was elected; and
- (b) was not elected at that election; and
- (c) has not subsequently held the office of councillor for the relevant council since that election;

financial year means a period of 12 months starting on 1 July in one year and ending on 30 June in the next year;

general manager means *general manager* as defined in the *Local Government Act 1993*;

gift or donation means a gift or donation, whether monetary or in kind, made to or for the benefit of a candidate or intending candidate for the purpose of supporting the candidate's or intending candidate's campaign, and includes goods, services and discounts, or other benefits, that –

- (a) have a value of \$50 or more; and

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- (b) are given in circumstances where the donor knew, or ought reasonably to have known, that all or part of the gift or donation was given for the purpose of supporting the candidate's campaign;

gifts and donations register means a register kept and maintained by the Tasmanian Electoral Commission in accordance with section 116;

group means a group of candidates, each of whom has, under this Act, nominated to contest an election under a group name that is not the name of a registered party;

initial gifts and donations return means a return, in an approved form, disclosing the nature, source and value of any gift or donation received by a candidate during the disclosure period;

intending candidate means a person who has declared publicly an intention to be a candidate in an election;

issuing and receiving place means a place, or vehicle or other mobile facility, appointed by the Electoral Commissioner under section 30 in respect of an electoral area as a location where ballot material may be issued and ballot material may be received;

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list of electors means the list prepared and kept under section 19;

Local Government Electoral Roll means a roll kept under section 16;

mayor includes the Lord Mayor of a council;

mobile polling place means a place appointed as a mobile polling place by the Electoral Commissioner under section 37;

municipal area means an area as defined in section 16 of the *Local Government Act 1993* and includes a proposed municipal area as defined in that Act;

nomination period means the period beginning at 9 a.m. on the 8th Monday immediately before the closing day and ending at noon on the 6th Monday immediately before the closing day;

notice of election means a notice published by the Electoral Commissioner in accordance with section 57;

notice of nomination means a notice of nomination referred to in section 60;

office means the office of mayor, deputy mayor or councillor;

ordinary election means a periodic election of councillors for a council that is not a by-election;

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place means any premises or place where electoral processes or ballot material handling occurs, including but not limited to issuing and receiving places, polling places, pre-poll polling places, mobile polling places and any digital, electronic or remote voting platform or interface authorised under this Act;

polling period means a period of one or more days determined by the Electoral Commissioner for the purposes of an election;

polling place means a place appointed as a polling place by the Electoral Commissioner under section 37;

pre-poll polling place means a place appointed as a pre-poll polling place by the Electoral Commissioner under section 37;

public office means –

- (a) in the case of a municipal area, the place at which a council carries on its administrative activities; or
- (b) in the case of a proposed municipal area, the place at which a council or councils of that proposed municipal area carry out their administrative activities;

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registered party means a registered party within the meaning of the *Electoral Act 2004*;

regulations means the regulations made under this Act;

relevant period means the period commencing on the 30th day before the day on which the notice of election for an election is published and ending on the last day of the polling period for that election;

returning officer means a person appointed as a returning officer by the Electoral Commissioner in accordance with section 50;

review means a review carried out by the Tribunal under section 20;

roll closure day means the day and time on and at which –

(a) the Local Government Electoral Roll for an electoral area is closed as determined under section 18; and

(b) the State roll is closed;

scrutineer means a person appointed to be a scrutineer under section 70;

State roll means State roll within the meaning of the *Electoral Act 2004*;

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Tasmanian Electoral Commission means the Tasmanian Electoral Commission established by section 6 of the *Electoral Act 2004*;

Tribunal means the Tribunal established by the *Tasmanian Civil and Administrative Tribunal Act 2020*;

vote includes a vote cast by any means permitted under this Act, including in accordance with section 49.

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Part 2 – Election of Mayors, Deputy Mayors and Councillors

**PART 2 – ELECTION OF MAYORS, DEPUTY
MAYORS AND COUNCILLORS**

Division 1 – Application of Part

4. Application of Part

For the purposes of this Part, ordinary elections for the offices of mayor, deputy mayor and councillor must be –

- (a) conducted as if the ordinary elections are separate ordinary elections for each of those offices; and
- (b) held concurrently.

Division 2 – Election of mayor and deputy mayor

5. Election of mayor and deputy mayor by electors

- (1) The mayor and deputy mayor of a council are each to be elected by the electors of the municipal area.
- (2) A person is not entitled to hold the office of mayor unless the person is a councillor.
- (3) A person is not entitled to hold the office of deputy mayor unless the person is a councillor.
- (4) The office of mayor becomes vacant if the person holding that office ceases to be a councillor.

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- (5) The office of deputy mayor becomes vacant if the person holding that office ceases to be a councillor.

6. Eligibility for nomination as mayor or deputy mayor

- (1) A person is eligible to nominate as a candidate for the office of mayor or deputy mayor if the person is eligible to nominate as a candidate under Part 10.
- (2) A person is not entitled to nominate as a candidate for both the office of mayor and the office of deputy mayor in elections held as part of the same ordinary election.

7. Election of mayor or deputy mayor by councillors in certain cases

If, at an election for the office of mayor or deputy mayor, no person is nominated for the office of mayor or deputy mayor, the sitting councillors are to elect one of their number to that office in the prescribed manner at –

- (a) the first ordinary meeting of the council after the declaration of a poll; or
- (b) any later time prescribed.

8. Term of office of mayor and deputy mayor

- (1) The mayor and deputy mayor are each to be elected for a period of 4 years and hold office

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from the date of publication of the certificate of election in respect of an ordinary election for that office until the date of publication of the next certificate of election in respect of an ordinary election for that office.

- (2) If the office of mayor becomes vacant, the deputy mayor is to act in that office –
 - (a) until the certificate of election for a by-election is published; or
 - (b) if the vacancy is within 6 months before the publication of the notice of election for an ordinary election, until the end of the mayoral term.
- (3) If the office of mayor becomes vacant, a by-election is to be held to fill the vacancy in that office unless subsection (2)(b) applies.
- (4) Despite any other provision of this Act, if the office of deputy mayor becomes vacant, the councillors are to elect one of their number to the office of deputy mayor, in the prescribed manner, for the remainder of the term of that office.
- (5) If the deputy mayor is acting in the office of mayor or is temporarily absent, the councillors may appoint one of their number to act in the office of deputy mayor during that period.

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Division 3 – Election of councillors

9. Election of councillors

- (1) A councillor is to be elected –
 - (a) if a municipal area is not divided into electoral districts, by the electors in that municipal area; or
 - (b) if a municipal area is divided into electoral districts, by the electors of the electoral district in respect of which the councillor is to be elected.
- (2) The election of councillors is to be held in accordance with this Act.
- (3) The number of persons to be elected as councillors by each municipal area is specified in Column 5 of Schedule 3 to the *Local Government Act 1993*.

10. Term of office of councillors

- (1) A councillor is to be elected for a period of 4 years and holds office from the date of publication of the certificate of election in respect of an ordinary election for that office until the date of publication of the next certificate of election in respect of an ordinary election for that office.
- (2) The Governor, by order, on the recommendation of the Minister, may determine or alter the term

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of office of a councillor of a council who is elected –

- (a) at an election following the dismissal of all the councillors of that council under the *Local Government Act 1993*; or
- (b) at a poll the conduct of which is postponed in accordance with this Act.

11. Resignations

- (1) A councillor may resign from the office at any time.
- (2) A resignation is to be made in writing and forwarded to the general manager.
- (3) Except as provided in subsection (6), a resignation takes effect on the day on which it is received by the general manager or on a later day specified in the resignation.
- (4) On receipt of a resignation, the general manager is to advise the council and the Electoral Commissioner of the resignation.
- (5) A councillor who ceases to hold the office of mayor or deputy mayor does not cease to hold office as a councillor.
- (6) A councillor who holds the office of mayor or deputy mayor and resigns as councillor ceases to hold the office of mayor or deputy mayor.

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12. Prescribed procedures for certain elections

The regulations may provide for procedures that differ from those specified in this Act for the purposes of an election held as a result of an order made under section 214E of the *Local Government Act 1993*.

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Part 3 – Electors and Local Government Electoral Roll

**PART 3 – ELECTORS AND LOCAL GOVERNMENT
ELECTORAL ROLL**

13. Entitlement of electors to vote in election

- (1) A person is entitled to vote in an election for an electoral area if the person is –
 - (a) enrolled on the State roll for an address within the electoral area; or
 - (b) included on the Local Government Electoral Roll for the electoral area.
- (2) A person is entitled to one vote only in an election for an electoral area.

14. Entitlement to be enrolled on Local Government Electoral Roll

- (1) In this section –

occupier, in relation to land in an electoral area, means –

 - (a) a natural person, or a corporate body, that holds a current lease of the land in the person’s or body’s own name; or
 - (b) a natural person, or a corporate body, that holds a current licence in the person’s or body’s own name to occupy the land, including, but not limited to, a private purposes licence within

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the meaning of section 86AA of
the *Local Government Act 1993*.

- (2) A person, other than a person who is enrolled on the State roll for an address within the electoral area, may apply to the Electoral Commissioner to be enrolled on the Local Government Electoral Roll for an address within an electoral area if, at the time of making the application –
- (a) if the applicant is a natural person and an occupier, the natural person has resided in Tasmania for a continuous period of at least 12 months immediately before the date of making the application; and
 - (b) if the applicant is a corporate body and an occupier, the corporate body has maintained a registered office or principal place of business in Tasmania for a continuous period of at least 12 months immediately before the date of making the application; and
 - (c) the applicant is –
 - (i) an owner or occupier of land in the electoral area; or
 - (ii) a natural person whose ordinary place of residence is within the electoral area; and
 - (d) the applicant –

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Part 3 – Electors and Local Government Electoral Roll

- (i) if the applicant is a natural person, has attained the age of 18 years; and
 - (ii) is not serving a sentence of imprisonment for a term exceeding 3 years.
- (3) An application under subsection (2) must –
 - (a) be in an approved form; and
 - (b) include any information or documents that provide evidence that the applicant meets all of the requirements set out in subsection (2); and
 - (c) include any other approved information or approved documents; and
 - (d) if the applicant is a natural person, be signed by the applicant; and
 - (e) if the applicant is a corporate body, be signed on behalf of the corporate body by a director or the secretary of the corporate body; and
 - (f) be lodged with the Electoral Commissioner.
- (4) Without limiting the information or documents that may be included in an application for the purposes of subsection (3)(b), the application may include any one or more of the following documents in the name of the applicant:

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-
- (a) a *residential tenancy agreement* as defined in the *Residential Tenancy Act 1997*;
 - (b) a *private purposes licence* within the meaning of section 86AA of the *Local Government Act 1993*;
 - (c) an account for the supply of electricity;
 - (d) an account for water services;
 - (e) an account for gas services;
 - (f) an account for telecommunication services.
- (5) On receipt of an application under subsection (2), the Electoral Commissioner –
- (a) may request the applicant to provide, in writing, any additional information that the Electoral Commissioner considers necessary in relation to the application; or
 - (b) must approve the application, if the Electoral Commissioner is reasonably satisfied that the applicant meets all of the requirements set out in subsection (2), and notify the applicant in writing of that approval; or
 - (c) must refuse to approve the application, if the Electoral Commissioner is not reasonably satisfied that the applicant meets all of the requirements set out in

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subsection (2), and notify the applicant in writing of that refusal.

- (6) If the Electoral Commissioner approves an application under subsection (5)(b) and the applicant is a natural person, the natural person is entitled to be enrolled on the Local Government Electoral Roll for the relevant address within the electoral area.
- (7) If the Electoral Commissioner approves an application under subsection (5)(b) and the applicant is a corporate body, the corporate body is entitled to have a natural person, nominated by it under section 15, enrolled on the Local Government Electoral Roll for the relevant address within the electoral area.

15. Nomination of natural persons to vote on behalf of corporate bodies

- (1) Subject to this section, if a corporate body is entitled to be enrolled on the Local Government Electoral Roll under section 14(7), the corporate body may nominate one natural person to vote on its behalf at an election held for the electoral area.
- (2) The natural person nominated under subsection (1), at the time of the nomination –
 - (a) must be a director or the secretary of the corporate body; and
 - (b) is not otherwise entitled to vote in the election for the electoral area; and

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- (c) must have attained the age of 18 years; and
 - (d) must not already be the corporate body nominee for another corporate body in the same electoral area to which the nomination relates; and
 - (e) must not be serving a sentence of imprisonment for a term exceeding 3 years.
- (3) A nomination under subsection (1) is to –
- (a) be in an approved form; and
 - (b) include any approved information or approved documents; and
 - (c) be signed by the natural person nominated; and
 - (d) be lodged with the Electoral Commissioner.
- (4) In respect of a nomination lodged under subsection (3), the Electoral Commissioner –
- (a) may request, in writing, any additional information that the Electoral Commissioner considers necessary in relation to the nomination; or
 - (b) must accept the nomination of the natural person as the nominee for the corporate body, unless paragraph (c) or (d) applies; or

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- (c) must reject the nomination of the natural person as the nominee for a corporate body which is an occupier, within the meaning of section 14(1), if satisfied that the corporate body does not have a registered office or principal place of business at an address in the electoral area; or
- (d) must reject the nomination of the natural person as the nominee for the corporate body if satisfied that the nominated natural person –
 - (i) is otherwise entitled to vote in the election for the electoral area; or
 - (ii) has not attained the age of 18 years; or
 - (iii) is already the corporate body nominee for another corporate body in the electoral area; or
 - (iv) is not a director or the secretary of the corporate body; or
 - (v) is serving a sentence of imprisonment for a term exceeding 3 years.
- (5) A nomination accepted by the Electoral Commissioner under subsection (4)(b) remains valid until –
 - (a) a new nomination is made by the corporate body; or

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- (b) the corporate body revokes the nomination; or
 - (c) the Electoral Commissioner is satisfied, or becomes aware, that –
 - (i) the corporate body no longer has a registered office or principal place of business or owns land in the electoral area; or
 - (ii) the corporate body nominee no longer meets the eligibility requirements specified in subsection (2).
 - (6) A corporate body may nominate only one natural person as a corporate body nominee to vote on its behalf at an election held for an electoral area, regardless of whether the corporate body has more than one registered office or principal place of business on land in that electoral area.

16. Local Government Electoral Roll

- (1) The Electoral Commissioner is to keep, in a manner determined by the Electoral Commissioner, a Local Government Electoral Roll for each electoral area, consisting of –
 - (a) the natural persons who are enrolled on the Local Government Electoral Roll in accordance with section 14(6) and the relevant address for each such person within the electoral area; and

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- (b) the corporate body nominees who are enrolled on the Local Government Electoral Roll in accordance with section 14(7) and the relevant address of the relevant corporate body within the electoral area; and
 - (c) information from a body that the Electoral Commissioner considers necessary and relevant for the purposes of ensuring that the Local Government Electoral Roll remains accurate and up to date; and
 - (d) any other matter or information that the Electoral Commissioner considers necessary for the administration of this Act.
- (2) The Electoral Commissioner may access information from a body that the Electoral Commissioner considers necessary and relevant for the purposes of ensuring that the Local Government Electoral Roll remains accurate and up to date.
- (3) The Electoral Commissioner must make any alterations or additions to the Local Government Electoral Roll, as soon as practicable after the Commissioner is aware of the need for the alteration or addition, to ensure that the Local Government Electoral Roll remains accurate and up to date.
- (4) The Electoral Commissioner may remove or withhold from the Local Government Electoral

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Roll an address or location of land if satisfied that the removal or withholding is necessary to protect the safety of a person, natural person or corporate body nominee.

17. Inspection of, and objection to details recorded on, Local Government Electoral Roll

- (1) Subject to subsection (2), a person may inspect the Local Government Electoral Roll free of charge.
- (2) A person must give the Tasmanian Electoral Commission at least 2 working days' notice of the person's intention to inspect the Local Government Electoral Roll.
- (3) A natural person or corporate body nominee who is included on the Local Government Electoral Roll for an electoral area in accordance with section 16 may object, by notice in writing to the Electoral Commissioner, to –
 - (a) an error in the details recorded on the Local Government Electoral Roll in relation to that natural person or corporate body nominee; or
 - (b) the omission of the natural person's or corporate body nominee's name from the Local Government Electoral Roll.
- (4) On receipt of an objection under subsection (3), the Electoral Commissioner –

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- (a) must review the Local Government Electoral Roll; and
- (b) may decide to make any corrections to the Local Government Electoral Roll that the Electoral Commissioner determines are necessary, including corrections to a part of an entry without altering unrelated details, to ensure the accuracy of the Local Government Electoral Roll.

18. Closure of Local Government Electoral Roll and State roll

The Electoral Commissioner is to close the Local Government Electoral Roll and the State roll at 6:00 p.m. on the 7th Thursday before the closing day for an election.

19. List of electors

- (1) The Electoral Commissioner is to –
 - (a) prepare and keep a list of electors from –
 - (i) the Local Government Electoral Roll as at the roll closure day; and
 - (ii) the State roll as at the roll closure day; and
 - (b) certify that the list is correct.
- (2) The list of electors under subsection (1) forms one list but may consist of 2 or more parts.

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- (3) The Electoral Commissioner must take reasonable steps to ensure that a person is not included more than once in the list of electors for an electoral area.
 - (4) The Electoral Commissioner is to provide the relevant returning officer with a copy of the certified list of electors.
 - (5) From the roll closure day until the end of the relevant period –
 - (a) no additional names or details may be included on the list of electors except to correct errors; and
 - (b) no other alterations or cancellations may be made to the list of electors except to correct errors.
 - (6) The returning officer must provide each candidate with one copy, in an approved form and free of charge, of the list of electors for the candidate's electoral area as soon as practicable after the roll closure day.
 - (7) Any person may, free of charge and by giving at least 2 working days' notice to the Electoral Commissioner, inspect the list of electors.
 - (8) A person, body or organisation must not, without reasonable excuse, use information obtained from a list of electors provided under this section, other than –

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- (a) for purposes connected with an election for which the list of electors was prepared; or
- (b) as authorised by the Electoral Commissioner for purposes connected to council management.

Penalty: Fine not exceeding 100 penalty units.

20. Reviews

- (1) A corporate body or person may apply to the Tribunal for a review of the Electoral Commissioner's –
 - (a) refusal of an application under section 14(5)(c); or
 - (b) rejection of a nomination under section 15(4)(c) or (d); or
 - (c) decision to make or not to make a correction under section 17(4).
- (2) A determination of the Tribunal does not affect the conduct or outcome of an election held before the determination is made.
- (3) If the Tribunal sets aside or varies a decision made by the Electoral Commissioner under section 17(4) after the roll closure day, the Local Government Electoral Roll is not to be amended until it is reopened under this Act.
- (4) If a determination of the Tribunal would entitle an applicant for a review to vote at an election in

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the relevant electoral area, the applicant may vote at the forthcoming election in that electoral area and the Electoral Commissioner must make any necessary arrangements to enable that applicant to vote.

- (5) Any determination by the Tribunal under this section that affects an elector's entitlement to vote at an election must be made before the certification of election results for that electoral area, unless the Tribunal directs otherwise in exceptional circumstances.

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21. Compulsory voting in elections for certain persons

- (1) Subject to subsection (2), a person who is enrolled on the State roll as at the roll closure day, for an address within an electoral area, must vote in the election held for that electoral area in accordance with this Act.

Penalty: Fine not exceeding 0.2 penalty units.

- (2) Subsection (1) does not apply if the person satisfies the Electoral Commissioner that the person had a valid and sufficient reason for failing to vote in the election.
- (3) Without limiting subsection (2), a person is taken to have had a valid and sufficient reason for the purposes of that subsection if the person abstained from voting in the election because voting was contrary to the person's religious beliefs.
- (4) Proceedings for an offence under subsection (1) may only be instituted by the Electoral Commissioner, the Director of Public Prosecutions or a person authorised in writing by either the Electoral Commissioner or the Director.

22. Notice of failure to vote

- (1) As soon as practicable after each election held in an electoral area, the Electoral Commissioner must compile a list of persons who –

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- (a) were required under section 21 to vote in the election; and
 - (b) appear, on the basis of available electoral records, not to have voted in that election.
 - (2) As soon as practicable after compiling the list under subsection (1), the Electoral Commissioner must serve a notice of failure to vote on each person on the list.
 - (3) Despite subsection (2), the Electoral Commissioner is not required to serve a notice of failure to vote, on a person on the list compiled under subsection (1), if the Electoral Commissioner is satisfied that the person had a valid and sufficient reason for failing to vote in the election held in the electoral area.
 - (4) A notice under subsection (2) must –
 - (a) be in an approved form; and
 - (b) specify a date (the *response date*) that is at least 21 days after the day on which the notice is served; and
 - (c) include a statement about compulsory voting in accordance with subsection (5).
 - (5) The statement about compulsory voting required by subsection (4)(c) must inform the person that –
 - (a) the person appears to have failed to vote in the election; and

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- (b) it is an offence for the person to fail to vote in an election without a valid and sufficient reason; and
- (c) on or before the response date the person may respond in writing to the Electoral Commissioner –
 - (i) explaining why the person believes they voted in the election; or
 - (ii) stating the reason why the person failed to vote in the election; and
- (d) as an alternative to providing a response, the person may pay the failure to vote penalty in accordance with section 26.

23. Second notice of failure to vote if no response from person

- (1) If a person has not provided a written response or payment by the response date specified in the failure to vote notice issued under section 22(2), and the Electoral Commissioner is not satisfied that the person has a valid and sufficient reason for failing to vote, the Electoral Commissioner must, as soon as is practicable, serve a second notice of failure to vote on the person in accordance with section 25.
- (2) A second notice of failure to vote under subsection (1) must –
 - (a) be in an approved form; and

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- (b) specify a date (the *second response date*) that is at least 14 days after the day on which the notice is sent to the person by post; and
 - (c) include a statement about compulsory voting in accordance with section 22(5); and
 - (d) include a statement that –
 - (i) no response or payment has been received by the Electoral Commissioner; and
 - (ii) failure to respond or pay by the second response date may result in an infringement notice being issued under section 27.

24. Consideration and determination of notices

- (1) If the Electoral Commissioner receives, on or before the response date specified in a failure to vote notice under section 22 or the second response date specified in a second notice of failure to vote under section 23, written reasons from a person explaining the failure to vote, the Electoral Commissioner must determine whether those reasons are valid and sufficient.
- (2) If the Electoral Commissioner determines that the person has a valid and sufficient reason for failing to vote at an election, no further action under this Part is to be taken in respect of that election for that person.

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- (3) If the Electoral Commissioner determines that the person does not have a valid and sufficient reason for failing to vote at an election, the Electoral Commissioner must, as soon as is practicable, serve a determination notice on the person in accordance with section 25.
- (4) A determination notice under subsection (3) must –
 - (a) be in an approved form; and
 - (b) specify a date (the ***determination response date***) that is at least 14 days after the day on which the notice is sent by post to the person; and
 - (c) include a statement that –
 - (i) the Electoral Commissioner has not accepted the reasons provided by the person for failing to vote in the election; and
 - (ii) it is an offence to fail to vote in an election without a valid and sufficient reason; and
 - (iii) the person may, on or before the determination response date, pay to the Electoral Commissioner the penalty in accordance with section 26, to avoid the issue of an infringement notice under section 27.

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25. Service of notices under this Part

- (1) A notice under this Part is taken to be served effectively on a person if it is –
 - (a) delivered personally to the person; or
 - (b) addressed to the person and left at, or posted to, the person's last known postal or residential address as recorded on the State roll or otherwise notified in writing to the Electoral Commissioner; or
 - (c) transmitted by electronic transmission to an email address nominated by the person, whether in correspondence or otherwise, for the purpose of receiving notices under this Part.
- (2) A person is deemed to have consented to the service of a notice under this Part by electronic transmission if –
 - (a) the person has provided the Tasmanian Electoral Commission with a document containing an email address for the purpose of receiving communications; and
 - (b) the person has not indicated in writing that the email address is not to be used for the service of notices under this Part, provided the person has been notified of this method of service in advance.
- (3) A notice served by electronic transmission under subsection (1)(c) is taken to have been received

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at the time at which the message becomes capable of being retrieved by the addressee, unless –

- (a) the sender receives a notification that the transmission failed; or
- (b) the Tasmanian Electoral Commission is aware, or ought reasonably to be aware, that the email address is not current or operative.

26. Payment of failure to vote penalty

- (1) A person may, on or before the applicable response date or determination response date under this Part, pay to the Electoral Commissioner a penalty of 0.2 penalty units in respect of the person's failure to vote in an election.
- (2) If the penalty referred to in subsection (1) is paid –
 - (a) the person's liability under section 21(1) is discharged; and
 - (b) no proceedings for an offence against section 21(1) may be instituted against the person in respect of the failure to vote; and
 - (c) an infringement notice under section 27 may not be issued to the person in respect of that failure to vote.

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27. Infringement notices

- (1) The Electoral Commissioner may issue an infringement notice to a person if –
 - (a) a second notice of failure to vote has been served under section 23; and
 - (b) by the second response date specified in the second notice of failure to vote, the person has not –
 - (i) submitted written reasons to the Electoral Commissioner as to why the person believes they voted in the election; or
 - (ii) submitted written reasons to the Electoral Commissioner explaining why the person failed to vote in the election; or
 - (iii) paid the penalty in accordance with section 26.
- (2) The Electoral Commissioner may also issue an infringement notice to a person if –
 - (a) a determination notice has been served under section 24(3); and
 - (b) the person has not paid the penalty under section 26 by the determination response date specified in the determination notice.
- (3) An infringement notice must –

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- (a) be issued in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and
- (b) specify the grounds on which it is issued, including whether –
 - (i) the person failed to respond to a second notice of failure to vote under section 23; or
 - (ii) the person failed to pay the penalty under section 26.
- (4) A notice issued under section 22 or 23 is not an infringement notice for the purposes of the *Monetary Penalties Enforcement Act 2005*.
- (5) The penalty payable for an infringement notice is 0.4 penalty units.
- (6) If the person pays the amount specified in the infringement notice within the time allowed, their liability under section 21(1) is discharged and no further proceedings may be taken in respect of the failure to vote in that election.

**PART 5 – DETERMINATION OF METHOD OF
CONDUCTING ELECTION AND AVAILABILITY**

28. Determination of method of conducting election

- (1) Before the publication of the notice of election, the Electoral Commissioner must determine the method by which an election is to be conducted, having regard to the options set out in subsection (3).
- (2) A determination under subsection (1) applies to all elections held for an electoral area that are conducted concurrently.
- (3) For the purposes of subsection (1), the Electoral Commissioner must determine that an election is to be conducted by either of the following methods:
 - (a) voting by post, including provision for the hand delivery of completed postal ballots to issuing and receiving places;
 - (b) voting by attendance at any polling place, pre-poll polling place or mobile polling place.
- (4) The Electoral Commissioner may only determine that an election is to be conducted by the method of attendance voting referred to in subsection (3)(b) if satisfied that the available postal services are inadequate to ensure the reliable conduct of the election by the method of postal voting referred to in subsection (3)(a).

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Part 5 – Determination of Method of Conducting Election and Availability

- (5) The Electoral Commissioner must, at least 6 months before the day on which the notice of election is published –
 - (a) notify the Minister, in writing, of the method by which the election is to be conducted; and
 - (b) publish a statement on the Electoral Commissioner’s website setting out the method of voting to be used for the election.
- (6) The Electoral Commissioner must determine the method of conducting an election sufficiently in advance to ensure that –
 - (a) the Local Government Electoral Roll and the State roll are closed and certified in accordance with sections 18 and 19; and
 - (b) all notices and procedures required under Part 4 may be completed in time to allow the enforcement of compulsory voting provisions.
- (7) For the purposes of this section, the adequacy of postal services includes, but is not limited to, the reliability of mail delivery and the geographic coverage of the electoral area.

**PART 6 – ELECTION CONDUCTED BY METHOD OF
POSTAL VOTING**

Division 1 – Application of Part

29. Application of Part

This Part applies if the Electoral Commissioner has determined under section 28(3)(a) that an election is to be conducted by the method of voting by post.

Division 2 – Appointment of issuing and receiving places

30. Appointment of issuing and receiving places

- (1) The Electoral Commissioner may appoint a place or a mobile facility within, or in close proximity to, an electoral area as a location where ballot material may be issued, and ballot material may be received, for an election for the electoral area.
- (2) The Electoral Commissioner may appoint a hospital, convalescent home, nursing home or other similar place at which a mobile facility may be operated for the purposes of issuing and receiving ballot material for an election in an electoral area.
- (3) The Electoral Commissioner is to determine the hours during which each issuing and receiving place is to operate.
- (4) The Electoral Commissioner is to publish a notice setting out –

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- (a) the location and type of each issuing and receiving place; and
- (b) the hours during which each issuing and receiving place is to operate –

by any means that the Electoral Commissioner considers appropriate, including on a website maintained by or on behalf of the Electoral Commissioner.

- (5) An election is not invalid solely because an issuing and receiving place is not operating during the hours determined under subsection (3).
- (6) Once a notice of election is published under this Act, each issuing and receiving place appointed under this section remains an issuing and receiving place for the purposes of that election unless the notice is revoked by the Electoral Commissioner in accordance with this Act.
- (7) The Electoral Commissioner may appoint, in respect of an electoral area for an election, an issuing and receiving place located outside the boundaries of the electoral area.

Division 3 – Ballot material and voting procedures

31. Ballot material

- (1) Subject to this section, during a polling period, the Electoral Commissioner must send or deliver to each elector, at the address shown on the list

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of electors, in respect of each election being conducted in an electoral area, the following:

- (a) the ballot material for each election being conducted in the electoral area;
 - (b) a voting declaration to be completed by the elector that is printed on the return envelope, and any other approved envelope, included in the ballot material;
 - (c) a written statement from the Electoral Commissioner specifying that the elector must complete the voting procedure and return the ballot papers so that they are received before the closing day;
 - (d) any other document or information that the Electoral Commissioner considers appropriate for the proper conduct of the election.
- (2) Any envelope used for the issue or return of ballot papers must –
- (a) be approved; and
 - (b) provide space on the return envelope for the voting declaration; and
 - (c) be designed to protect the secrecy of the vote.
- (3) A voting declaration is to be in an approved form and must state that the elector –
- (a) is the person named on the return envelope; and

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- (b) has completed the enclosed ballot papers.
- (4) The Electoral Commissioner may include with the ballot material printed copies of each candidate's personal statement.
- (5) This section does not limit the Electoral Commissioner's obligations under section 62 to publish candidates' personal statements.

32. Voting procedures

An elector must vote in accordance with the instructions provided in the ballot material by –

- (a) marking each ballot paper as instructed; and
- (b) placing each completed ballot paper in the appropriate envelope or envelopes provided; and
- (c) completing the voting declaration; and
- (d) returning the ballot papers, envelopes and voting declaration referred to in paragraphs (a), (b) and (c) by –
 - (i) delivering them to the returning officer so that they are received before the close of the polling period; or
 - (ii) delivering them to an electoral officer in charge of an issuing and receiving place so that they

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are received before the close of
the polling period; or

- (iii) posting them and allowing sufficient business days for postal delivery so that they are received by the Tasmanian Electoral Commission before the closing day.

33. Supplementary issue of ballot material

- (1) Subject to this section, the Electoral Commissioner, the returning officer or an electoral officer in charge of an issuing and receiving place may issue supplementary ballot material to a person, in respect of one or more elections being conducted for an electoral area, if satisfied that the person –
 - (a) is an elector in the electoral area and has not received the original ballot material; or
 - (b) is an elector in the electoral area and has spoiled any part of the original ballot material; or
 - (c) is entitled to vote in the electoral area in accordance with section 13.
- (2) Supplementary ballot material may be issued to an elector –

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- (a) by means of the elector collecting the supplementary ballot material from an issuing and receiving place; or
 - (b) if the elector cannot attend an issuing and receiving place, by the Electoral Commissioner, returning officer or electoral officer in charge of an issuing and receiving place posting the supplementary ballot material to –
 - (i) the address shown on the list of electors for the elector; or
 - (ii) an alternative address nominated by the elector.
- (3) Supplementary ballot material may not be issued by post if the Electoral Commissioner, returning officer or electoral officer in charge of an issuing and receiving place considers that the material is unlikely to be received by the elector before the closing day.
- (4) A record, in an approved form, is to be kept of –
 - (a) the name and address of each person to whom supplementary ballot material is issued; and
 - (b) the reason for the issue of the supplementary ballot material to the person.

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34. When ballot papers issued as supplementary ballot material may be accepted

A ballot paper issued to a person under section 33 in respect of an electoral area may be accepted as a formal vote despite any of the following:

- (a) the person's name having been omitted in error from the list of electors for the electoral area;
- (b) the person's name having been omitted in error from a Local Government Electoral Roll;
- (c) the person's name having been on the State roll for an address in the electoral area at any time since the closure of the roll for the previous ordinary election for the area and the person having continuously resided in the electoral area since that time.

35. Certain postal vote ballot papers not to be accepted

A ballot paper for an election being conducted for an electoral area is not to be accepted as a formal vote if –

- (a) the voting declaration required under section 31(3) has not been completed by the elector in accordance with that section; or

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- (b) it is not contained in an envelope approved under section 31(2); or
- (c) it is received from a person who is not entitled to vote in the election.

**PART 7 – ELECTION CONDUCTED BY METHOD OF
ATTENDANCE VOTING**

Division 1 – Application of Part

36. Application of Part

This Part applies if the Electoral Commissioner has determined under section 28(3)(b) that an election is to be conducted by the method of voting by attendance.

***Division 2 – Polling places, pre-poll polling places and
mobile polling places***

37. Appointment of polling places, pre-poll polling places and mobile polling places

- (1) The Electoral Commissioner may appoint a polling place, pre-poll polling place or mobile polling place as a place at which electors may attend in person to cast their votes in an election for an electoral area.
- (2) The Electoral Commissioner may appoint polling places, pre-poll polling places or mobile polling places within, or where appropriate outside, the boundaries of an electoral area for an election.
- (3) The Electoral Commissioner may appoint a hospital, convalescent home, nursing home or other similar place as a location at which a mobile polling place may be operated for the purposes of conducting attendance voting for an election in an electoral area.

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Part 7 – Election Conducted by Method of Attendance Voting

- (4) The Electoral Commissioner is to determine the hours during which each polling place, pre-poll polling place or mobile polling place is to operate.
- (5) The Electoral Commissioner is to publish a notice, setting out –
 - (a) the location of each polling place, pre-poll polling place or mobile polling place; and
 - (b) the hours during which each polling place, pre-poll polling place or mobile polling place is to operate –

by any means that the Electoral Commissioner considers appropriate, including on a website maintained by or on behalf of the Electoral Commissioner.

- (6) An election is not invalid solely because a polling place, pre-poll polling place or mobile polling place is not operating during the hours determined under subsection (4), and that non-operation does not relieve an elector from the obligation to vote under Part 4 except where a valid and sufficient reason exists.
- (7) Unless it is necessary to do so due to circumstances beyond the control of the Electoral Commissioner, the Electoral Commissioner may terminate the appointment of a place as a polling place, pre-poll polling place or mobile polling place only if –

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- (a) the termination is made before the publication of candidates for the election in the electoral area; and
- (b) notice of the termination is published by any means that the Electoral Commissioner considers appropriate, including on a website maintained by or on behalf of the Electoral Commissioner, as soon as practicable after the termination is made.

38. Arrangements for operation of polling places, pre-poll polling places and mobile polling places

The Electoral Commissioner is to make any arrangements that the Electoral Commissioner considers necessary for the operation of a polling place, pre-poll polling place or mobile polling place.

Division 3 – Ballot papers and conduct of voting at polling places

39. Requesting ballot papers

- (1) An elector who attends a polling place, pre-poll polling place or mobile polling place for the purpose of voting in an election may request ballot papers for the elections being conducted for the electoral area from an electoral officer.
- (2) An elector may request ballot papers from an electoral officer by stating the elector's name and address to the electoral officer.

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- (3) An electoral officer may ask an elector requesting ballot papers any questions that the electoral officer considers necessary for the purpose of determining whether the elector is entitled to vote at the election.
- (4) If an elector requests ballot papers at a pre-poll polling place, the elector must complete any declaration required under this Act in relation to voting before the closing day.

40. Issue of ballot papers

- (1) An electoral officer must issue, to an elector requesting ballot papers, a ballot paper for each election being conducted for the electoral area if the electoral officer is satisfied that –
 - (a) the elector is entitled to vote at the election; and
 - (b) the elector has not previously been issued with a ballot paper for that election.
- (2) Before issuing any ballot papers to an elector under subsection (1), the electoral officer must –
 - (a) mark the elector's name on the list of electors in an approved manner to indicate that the elector has been issued with a ballot paper; and
 - (b) initial the ballot paper for authentication purposes.
- (3) A ballot paper is not invalid because subsection (2)(b) has not been complied with, if

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the Tasmanian Electoral Commission is satisfied that the ballot paper was issued by an electoral officer.

41. Spoilt ballot papers

- (1) If an elector satisfies an electoral officer that a ballot paper issued to the elector has been spoilt by mistake, the electoral officer may, in an approved manner, issue another ballot paper to the elector.
- (2) The electoral officer must immediately cancel the spoilt ballot paper and preserve it.

42. Voting in private

- (1) An elector who is issued with one or more ballot papers must, without delay –
 - (a) go to an unoccupied voting compartment or other place provided for voting; and
 - (b) mark each ballot paper in accordance with the directions on the ballot paper; and
 - (c) fold each ballot paper so as to conceal the elector's vote; and
 - (d) place each ballot paper in the relevant ballot box.
- (2) An elector must not show the elector's vote on the ballot paper to another person.

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- (3) This section is subject to any procedures approved under section 48, including circumstances where the elector requires assistance, in which case subsection (1)(a) is modified to allow an assistant to accompany the elector.

***Division 4 – Availability of postal voting at elections
conducted by attendance voting***

43. Applications for postal voting at elections conducted by attendance voting

- (1) An elector who is entitled to vote at an election for an electoral area may apply to the returning officer for approval to vote by postal vote in the election if the elector –
- (a) is unable, or expects on reasonable grounds to be unable, to attend a polling place during the polling period; or
 - (b) is an elector whose address is not included on the list of electors.
- (2) An application under subsection (1) must –
- (a) be in an approved form; and
 - (b) include details sufficient to identify the elector; and
 - (c) specify the address for which the elector claims to be enrolled; and
 - (d) specify the address to which postal vote materials are to be sent; and

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- (e) include a declaration by the elector stating that they are unable to vote at a polling place or mobile polling place during the polling period; and
 - (f) be signed by the elector; and
 - (g) be lodged with the returning officer, or the person approved by the Electoral Commissioner, before 4 p.m. on the eighth day before the closing day.
 - (3) The Tasmanian Electoral Commission may approve arrangements to obtain details of electors registered as general postal voters under the *Commonwealth Electoral Act 1918* of the Commonwealth.
 - (4) An elector whose details are obtained under subsection (3) is deemed to have made a valid application under this section.
 - (5) Subject to subsection (6), the returning officer must make applications lodged in accordance with this section, and details of electors obtained for the purposes of subsection (3), available for public inspection at the office of the Tasmanian Electoral Commission –
 - (a) from the third day after the closing day; and
 - (b) until the expiry of the applicable period for the preservation of electoral material under this Act.

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- (6) If the address of an elector is removed or withheld from the Local Government Electoral Roll in accordance with section 16(4), the returning officer must redact all identifying address details from the publicly available version of an application made, or deemed to be made, under this section.

44. Issue of postal voting materials for elections conducted by attendance voting

- (1) If an elector has made, or is deemed to have made, a valid application under section 43, the elector is to be issued with the following postal voting materials corresponding to the electoral area for which that elector is enrolled:
 - (a) a ballot paper for each election being conducted for the electoral area, each initialled by an electoral officer;
 - (b) approved instructions for the completion and return of each ballot paper;
 - (c) a postal voting declaration envelope in an approved form and any other approved return envelope;
 - (d) any other approved electoral material.
- (2) The postal voting materials referred to in subsection (1) must be issued to the elector by –
 - (a) post or other approved delivery method to the address specified in the application

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made by the elector under section 43(1);
or

(b) delivery in person to the elector; or

(c) delivery to a person approved by the
returning officer to deliver the materials
to the elector.

(3) The returning officer must keep a record, in an
approved manner for an approved time, of all
postal voting materials issued by the returning
officer under this section.

**45. Re-issue of postal voting materials for elections
conducted by attendance voting**

(1) An elector may make a request to the returning
officer, in an approved form, before 4 p.m. on
the eighth day before the closing day, for the re-
issue of the postal voting materials issued under
section 44 if the elector –

(a) has not received the postal voting
materials; or

(b) the postal voting materials have been
damaged or destroyed.

(2) On receipt of a request under subsection (1), the
returning officer must re-issue the postal voting
materials in accordance with section 44.

(3) The returning officer must keep a record, in an
approved manner for an approved time, of all
postal voting materials re-issued by the returning
officer under this section.

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46. Postal voting procedures for elections conducted by attendance voting

- (1) Before the closing day, an elector who is issued with postal voting materials under section 44, or re-issued postal voting materials under section 45, must vote by postal vote by –
 - (a) marking each ballot paper in accordance with the approved instructions; and
 - (b) placing each marked ballot paper in the declaration envelope provided and sealing the envelope; and
 - (c) completing and dating the declaration on the envelope stating that the elector has voted on each enclosed ballot paper; and
 - (d) returning the envelope to the returning officer by post, by another approved delivery method or by delivery in person to the returning officer so that it is received before the closing day.
- (2) The Electoral Commissioner may approve procedures to assist electors who are unable to vote without assistance.
- (3) A postal vote cast by an elector in accordance with this Division for an election conducted by attendance voting is taken to satisfy the requirements for compulsory voting under this Act.

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47. Irregularities in postal voting procedures

- (1) An election for an office is not invalid only because of a failure to comply with a provision of this Division relating to the issue or return of postal voting materials.
- (2) Subsection (1) does not apply if the failure affected the result of the election for the office.

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**PART 8 – ELECTORS UNABLE TO VOTE WITHOUT
ASSISTANCE AND ALTERNATIVE VOTING**

**48. Assistance given to certain electors at polling places,
pre-poll polling places and mobile polling places**

- (1) The Electoral Commissioner may approve procedures that are reasonable and appropriate to assist an elector at a polling place, pre-poll polling place or mobile polling place who is unable to vote without assistance.
- (2) If an elector is to be assisted in voting at a polling place, pre-poll polling place or mobile polling place, an electoral officer or an electoral officer in charge must advise any scrutineers present of the approved procedure by which the elector will be voting.
- (3) This section does not limit the operation of Part 8.

49. Application of alternative voting

- (1) Subject to this Act, Divisions 9A and 10 of Part 5 of the *Electoral Act 2004* apply in relation to an election under this Act as if –
 - (a) a reference in those Divisions to an election were a reference to an election under this Act; and
 - (b) a reference in those Divisions to an elector were a reference to an elector under this Act; and

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- (c) a reference in those Divisions to the *Electoral Act 2004* were a reference to this Act; and
 - (d) any other modifications are made that are necessary for the proper operation of those Divisions in relation to an election under this Act.
- (2) Unless the contrary intention appears, a vote cast in accordance with subsection (1) is taken, for the purposes of this Act, to have been validly cast under this Act and this Act applies, with any necessary modifications, in relation to that vote as if it had been cast otherwise than in accordance with those Divisions.
- (3) The regulations may prescribe further modifications of, or exclude the operation of, any provision of Divisions 9A and 10 of Part 5 of the *Electoral Act 2004* for the purposes of the application of those Divisions under this section, but only to the extent necessary to give effect to this section.

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Part 9 – Returning Officers, Electoral Officers and Electoral Officers in Charge

**PART 9 – RETURNING OFFICERS, ELECTORAL
OFFICERS AND ELECTORAL OFFICERS IN CHARGE**

50. Appointment of returning officers

- (1) The Electoral Commissioner is to appoint a person as the returning officer for an election for an electoral area.
- (2) The person appointed as the returning officer under subsection (1) is responsible for conducting each election being held for that electoral area in accordance with this Act and any directions issued by the Electoral Commissioner.
- (3) The Electoral Commissioner may issue directions, not inconsistent with this Act, to the returning officer in relation to –
 - (a) the conduct of elections for the electoral area; and
 - (b) the functions and powers of the returning officer for the election.
- (4) The returning officer is to comply with any directions issued by the Electoral Commissioner under subsection (3).
- (5) If the returning officer is absent or unable to act, or if the office becomes vacant, the Electoral Commissioner is to appoint a substitute person to act as the returning officer as soon as is practicable.

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51. Appointment of electoral officers and electoral officers in charge

- (1) The returning officer, in consultation with the Electoral Commissioner, may, by instrument in writing, appoint persons to act as electoral officers to assist in the conduct of an election for an electoral area.
- (2) The returning officer, in consultation with the Electoral Commissioner, may appoint an electoral officer as the electoral officer in charge of one of the following places for an election in an electoral area:
 - (a) an issuing and receiving place;
 - (b) a polling place;
 - (c) a pre-poll polling place;
 - (d) a mobile polling place.
- (3) If an electoral officer in charge is absent or unable to act, or if the position becomes vacant, the returning officer may appoint another person to act as the electoral officer in charge of the issuing and receiving place, polling place, pre-poll polling place or mobile polling place.
- (4) An electoral officer appointed under this section is, for the purposes of this Act, a worker within the meaning and for the purposes of the *Workers Rehabilitation and Compensation Act 1988* and the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*.

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Part 9 – Returning Officers, Electoral Officers and Electoral Officers in Charge

52. Powers of electoral officers in charge

- (1) An electoral officer in charge is responsible for maintaining order and ensuring the peace at the issuing and receiving place, polling place, pre-poll polling place or mobile polling place.
- (2) The electoral officer in charge may require a person who the officer reasonably suspects has committed an offence under this Act to leave the issuing and receiving place, polling place, pre-poll polling place or mobile polling place.
- (3) A police officer must, if requested by an electoral officer in charge, assist in removing a person under subsection (2).

53. Returning officer, electoral officer and electoral officer in charge not prevented from voting

A returning officer, electoral officer or electoral officer in charge is not prevented from voting in an election by virtue of holding office.

54. Expenses of elections incurred by returning officers and Electoral Commission

- (1) All expenses reasonably and properly incurred in connection with the conduct of elections for an electoral area by a returning officer or the Electoral Commissioner, and incurred in accordance with this Act and any approved procedures of the Electoral Commissioner, are to be paid by the council of the electoral area

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within 30 days of receiving an invoice or request for payment.

- (2) Before making payment under subsection (1) –
- (a) the council may request in writing that the Electoral Commissioner provide an itemised account of the expenses; and
 - (b) the Electoral Commissioner must provide the itemised account within 14 days of receiving such a request.

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Part 10 – Notices of Election and Candidate Nominations

**PART 10 – NOTICES OF ELECTION AND
CANDIDATE NOMINATIONS**

***Division 1 – Closing day, polling period and notices of
election***

55. Closing day and polling period

- (1) The closing day for an election is to be determined in accordance with this section.
- (2) Subject to subsection (3), section 28(3) and section 214E of the *Local Government Act 1993*, the closing day for an election in respect of all councils is the day determined in accordance with this Act and the time at which polling for the election closes, being –
 - (a) 2:00 p.m. for an election conducted by postal voting in accordance with section 28(3)(a); and
 - (b) 6:00 p.m. for an election conducted by attendance voting in accordance with section 28(3)(b).
- (3) If a day fixed for polling at a Commonwealth parliamentary or Tasmanian parliamentary election falls within the polling period for an election in an electoral area, the Electoral Commissioner may fix another day and time as the closing day for the election in the electoral area and must publish notice of that closing day.
- (4) The Governor, by order, may –

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- (a) fix another day and time as the closing day for an election in respect of one or more specified councils; or
 - (b) determine that an election in respect of all or specified councils is to be postponed.
 - (5) If a notice of election has been issued and an election is being conducted, the Governor, by order, may –
 - (a) fix another day and time as the closing day for that election; or
 - (b) declare the election to be abandoned and give reasons for the abandonment.
 - (6) The Electoral Commissioner must determine –
 - (a) the day on which a polling period is to commence; and
 - (b) the hours of operation for that polling period.
 - (7) If an elector is present at a polling place at the time at which polling is due to close at that polling place and the elector wishes to vote, the elector is to be given a reasonable opportunity to do so and the ballot paper completed by the elector is to be counted.

56. Adjournment of polling period or poll

- (1) The Tasmanian Electoral Commission may adjourn the polling period, or suspend the

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conduct of a poll in progress, for a period not exceeding 30 days if satisfied that the adjournment, or suspension, is necessary to ensure the proper conduct of the election, and may determine a new day or days for the continuation of the polling period or poll.

- (2) If the Tasmanian Electoral Commission adjourns a polling period or suspends the conduct of a poll under subsection (1), the Commission may fix another day and time as the closing day for the election.
- (3) The Tasmanian Electoral Commission, by public notice, is to specify –
 - (a) the period of the adjournment or suspension; and
 - (b) the reasons for the adjournment or suspension; and
 - (c) if a new closing day is fixed under subsection (2), that closing day.
- (4) This section applies to any poll conducted under this Act, including –
 - (a) an ordinary election; and
 - (b) a by-election under Part 14.

57. Notice of election

- (1) The Electoral Commissioner is to, on the Saturday 8 weeks before the closing day, cause a notice of election to be published prominently in

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a daily newspaper circulating in the relevant electoral area.

- (2) A notice of election under subsection (1) must include the following information in relation to an election:
 - (a) the date and time on and at which the Local Government Electoral Roll and the State roll for the relevant electoral area will close;
 - (b) the number and nature of the vacancies to be filled for each office;
 - (c) any additional information that the Electoral Commissioner considers appropriate to promote public understanding of the election process.
- (3) If the closing day for an election is changed under section 55 or 56, the Electoral Commissioner must ensure that a notice of election reflecting the new closing day is published as soon as is practicable.
- (4) Where two or more elections are to be held simultaneously within an electoral area, or across multiple electoral areas, the Electoral Commissioner may publish a single combined notice of election, provided that the notice satisfies the requirements of this section in respect of each election included in the notice.
- (5) The returning officer must ensure that a copy of the notice of election is displayed at the public office of the relevant council, in a location where

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it is clearly visible and accessible to the public during ordinary business hours.

Division 2 – Candidate nominations and eligibility

58. Elections for offices to be treated separately

For the purposes of this Act, each office to be filled at an election is to be treated as a separate election, whether or not the elections for those offices are held concurrently.

59. Eligibility for nomination as mayor, deputy mayor or councillor

- (1) A person is eligible to nominate as a candidate for the office of mayor, deputy mayor or councillor in respect of an electoral area if –
 - (a) the person is enrolled on the Local Government Electoral Roll for an address in the electoral area or is enrolled on the State roll for an address in the electoral area; and
 - (b) the person’s primary place of residence is in Tasmania; and
 - (c) the person is an Australian citizen; and
 - (d) the person is not a mayor, deputy mayor or councillor of another council whose term of office is to end after the certificate of election is issued in respect of that other council’s elections; and

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- (e) the person has not been barred by a court or the Tribunal under this Act, the *Local Government Act 1993* or any other Act from nominating as a candidate at any election; and
 - (f) the person is not an employee of the council in that electoral area; and
 - (g) the person has not been removed from the office of councillor because of inadequacy or incompetency; and
 - (h) the person is not an undischarged bankrupt; and
 - (i) the person is not serving a term of imprisonment or subject to a sentence of imprisonment not yet commenced.
- (2) A person is not eligible to nominate as a candidate for the office of mayor, deputy mayor or councillor if the person has been sentenced for a crime and the sentence is suspended or has not yet begun to be served.
- (3) If an electoral area is divided into electoral districts, a candidate for the office of mayor or deputy mayor –
- (a) is not required to be enrolled on a Local Government Electoral Roll or the State roll in respect of the particular electoral district for which the candidate is nominated; and

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- (b) is required to be enrolled on a Local Government Electoral Roll or the State roll in respect of the particular electoral area for which the candidate is nominated.
- (4) A person must not nominate as a candidate for the office of councillor in –
 - (a) more than one electoral district within the same electoral area; or
 - (b) more than one electoral area.

60. Notices of nomination

- (1) A person who is eligible under section 59 may nominate as a candidate for an office to be filled at an election in an electoral area by lodging a notice of nomination with the returning officer.
- (2) A notice of nomination under subsection (1) must be lodged with the returning officer before the end of the nomination period –
 - (a) by the person so nominating; or
 - (b) if the person so nominating is endorsed by a registered party, by a registered officer of the party.
- (3) A notice of nomination under subsection (1) must –
 - (a) be in an approved form; and

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- (b) include a declaration by the person so nominating of that person's intention to stand for election for the specified office or offices for the electoral area; and
 - (c) include personal details of the person so nominating, including full name, residential address and principal place of residence in Tasmania; and
 - (d) if the person so nominating for the office of mayor, deputy mayor or councillor is endorsed by a registered party for the election, include a statement specifying the name of the registered party under which that person is formally endorsed; and
 - (e) if the person so nominating for the office of mayor, deputy mayor or councillor is nominating as part of a group –
 - (i) include a statement specifying the name of that group; and
 - (ii) include an attestation, signed by at least one other member of the group or at least one other person who is nominating under the same group name, confirming that the person so nominating is a member of the group; and
 - (f) include a statement that the person so nominating is lawfully eligible to nominate for the specified office; and

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- (g) include an attestation confirming that the person so nominating has completed, if applicable, the pre-nomination training approved in writing by the Director of Local Government; and
 - (h) include the signature of at least 10 electors, or a number equal to at least 1% of the number of electors enrolled on the Local Government Electoral Roll and the State roll for the electoral area on the roll closure day (whichever is lesser, rounded up to the nearest whole number); and
 - (i) include the person so nominating's signature and if that person is endorsed by a registered party, include the signature of the registered party's registered officer.
- (4) A notice of nomination under subsection (1) may include a personal statement by the person so nominating that complies with the approved requirements and is in an approved form.
- (5) The regulations may prescribe different nomination requirements for different offices.

61. Determination and rejection of nominations

- (1) Upon receipt of a notice of nomination, the returning officer must determine whether the notice complies with the requirements of section 60 and this section and may –

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- (a) request the person, or the registered officer of a registered party, who lodged the notice of nomination, to provide the returning officer, in writing, with any additional information that the officer may require for the purposes of enabling that officer to determine whether the notice complies with the requirements of section 60 and this section; or
 - (b) accept the nomination of the person as a candidate for the specified office in the electoral area; or
 - (c) reject the nomination of the person as a candidate for the specified office in the electoral area.
- (2) The returning officer must reject the nomination if, in the opinion of the returning officer –
- (a) the person so nominated is not enrolled on either the Local Government Electoral Roll in respect of the electoral area or the State roll; or
 - (b) the person so nominated is not an Australian citizen; or
 - (c) the name of the group, as specified in the statement included by the person under section 60(3)(e), is –
 - (i) obscene or offensive; or
 - (ii) frivolous; or

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- (iii) intended or likely to mislead or confuse electors, including by resembling the name of a registered party; or
 - (d) the notice of nomination does not contain the requisite number of signatures in accordance with section 60(3)(h); or
 - (e) the notice of nomination is materially incomplete or not in the approved form.
- (3) The returning officer must advise the person nominating, in writing, whether the nomination has been accepted or rejected.
- (4) If the returning officer rejects a nomination under this section, the returning officer must notify the person nominating, and where applicable the registered officer of the relevant registered party, in writing, of the rejection and the reasons for it.

62. Publication of candidate information package by Electoral Commission

As soon as practicable after the close of the nomination period for an election in an electoral area, the Electoral Commission must publish, on a website maintained by or on behalf of the Commission, and make available in printed form for distribution, including by mail drop where appropriate, a candidate information package containing the following information:

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- (a) the list of candidates for the office of mayor, deputy mayor or councillor for the election;
- (b) whether each candidate is –
 - (i) endorsed by a registered party; or
 - (ii) standing under a group name that is not associated with a registered party; or
 - (iii) standing as an independent candidate;
- (c) each personal statement provided by a candidate under section 60(4).

63. Withdrawal of nomination or death of candidate

- (1) A candidate may withdraw the candidate's nomination by lodging or posting a notice in an approved form, which must be received by the returning officer before the end of the nomination period.
- (2) If a candidate dies before the end of the nomination period –
 - (a) the candidate's nomination is deemed withdrawn; and
 - (b) the returning officer, with the approval of the Electoral Commissioner, may extend the nomination period for the election by no more than 24 hours.

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- (3) If a candidate for the office of mayor or deputy mayor dies between the end of the nomination period and the end of the polling period, the Electoral Commissioner is to –
 - (a) declare that election to be abandoned; and
 - (b) fix another day and time as the closing day for a new election in respect of that office.
- (4) If, on the death of a candidate for the office of councillor between the end of the nomination period and the end of the polling period, the number of candidates remaining exceeds the number required to be elected –
 - (a) the returning officer is to give public notice of the death of the candidate in an approved manner; and
 - (b) a poll is to be conducted under Part 6 or 7; and
 - (c) the votes cast for the deceased candidate on the ballot papers are to be counted as votes cast for the candidate shown as the elector's next preference on the ballot papers.
- (5) If, on the death of a candidate for the office of councillor between the end of the nomination period and the end of the polling period, the number of candidates remaining does not exceed the number required to be elected –

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- (a) those candidates are to be declared to be elected; and
 - (b) the returning officer is to proceed in the manner specified in section 64(1).
- (6) If a candidate dies after the end of the polling period and before the declaration of a poll, the returning officer is to conduct or continue to conduct a count of the votes as if the candidate had not died, but only for the purposes of determining the outcome of the election.
- (7) If a candidate referred to in subsection (6) received sufficient votes to be elected, the office to which the candidate would have been elected to is to be treated as if it were a casual vacancy.
- (8) If a candidate referred to in subsection (6) did not receive sufficient votes to be elected, the successful candidates are to be declared elected.

64. Election without poll

- (1) If, at the end of the nomination period, the number of candidates whose nominations have been accepted and not withdrawn does not exceed the number of vacancies to be filled for an office, those candidates are to be declared elected.
- (2) If candidates are duly elected under subsection (1), the returning officer must –

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- (a) as soon as is practicable, declare the result of the election in an approved manner; and
 - (b) issue a certificate of election to each candidate, which must not be issued before the closing day; and
 - (c) notify the Electoral Commissioner of the names of the candidates declared elected.
- (3) If the number of accepted nominations for an office is less than the number of vacancies to be filled for an office –
 - (a) the Electoral Commissioner may call for new nominations for the unfilled vacancies; and
 - (b) the Electoral Commissioner is to determine and publish the period within which such nominations may be made, which must end no later than 12 noon on the 5th Monday before the closing day.

65. Election with poll

- (1) If, at the end of the nomination period, the number of candidates whose nominations have been accepted and not withdrawn exceeds the number of vacancies to be filled for an office, a poll is to be conducted for the office in accordance with the method of voting determined under Part 5 and the procedures set out in Part 6 or 7, as modified or supplemented in accordance with Part 8.

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- (2) If a poll is required under subsection (1), the returning officer must, as soon as is practicable, notify the Electoral Commissioner.
- (3) The Electoral Commissioner must cause a notice to be published in a daily newspaper circulating in the relevant electoral area and displayed at all public offices of the relevant council in the electoral area, stating –
- (a) the names, and localities of the residences, of the candidates for each office; and
 - (b) the offices to be filled at the election; and
 - (c) the polling period; and
 - (d) the locations and opening hours of issuing and receiving places, polling places, pre-poll polling places and mobile polling places; and
 - (e) the method by which the election is to be conducted, as determined in accordance with Part 5, including whether it is to be by postal voting, or attendance voting, during the polling period; and
 - (f) any other matter that the Electoral Commissioner considers appropriate.
- (4) If more than one election is to be conducted concurrently for one or more electoral areas, the Electoral Commissioner may publish a single notice that satisfies the requirements of subsection (3) for all the relevant elections.

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Part 10 – Notices of Election and Candidate Nominations

66. Display of notice of nominations

- (1) As soon as practicable after 12 noon on the day following the close of the nomination period, the returning officer must –
 - (a) display at the public office of the relevant council a notice specifying the name, and address if not removed or excluded from the Local Government Electoral Roll under section 16 or excluded from the State roll, of each person whose nomination for the election has been accepted and the office for which each person is a candidate; and
 - (b) promptly advise the Electoral Commissioner of those details.
- (2) The returning officer must not publicly disclose any information about a nomination before the close of the nomination period.

PART 11 – BALLOT PAPERS

67. Ballot papers

(1) In this section –

batch means a number of ballot papers for a particular election, determined by the Electoral Commissioner and subject to any requirements prescribed by the regulations.

- (2) The Electoral Commissioner is to approve the form and content of ballot papers for each mayoral election, deputy mayoral election and councillor election, including any information required or permitted by this Act or the regulations to be printed on the ballot papers.
- (3) Subject to subsection (6)(b), the names of candidates for the office of mayor, deputy mayor or councillor are to be printed on ballot papers in accordance with this Act and the regulations.
- (4) The Electoral Commissioner may approve variations to the layout or appearance of ballot papers approved under subsection (2) to ensure clarity or accessibility for electors, provided that the approved variation does not alter the information required or permitted by this Act or the regulations to be printed on the ballot papers, including the order of the names of candidates.
- (5) After the close of the nomination period and after the determination of all accepted nominations under section 61, the Electoral

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Commissioner must prepare and print batches of ballot papers for the election.

- (6) The Electoral Commissioner is to approve –
- (a) the number of ballot papers comprising each batch; and
 - (b) the order in which the names of candidates for the office of mayor, deputy mayor or councillor are printed on each batch of ballot papers, which may differ between batches, including by rotation or randomisation, to ensure fairness in candidate presentation and reduce positional bias.

68. Instructions on ballot papers

The instructions printed on the ballot papers for an election for mayor, deputy mayor or councillor –

- (a) are to include a statement that the elector is to mark the ballot paper, as set out in section 69, by numbering the boxes, starting from the number 1 and continuing in order, up to the same number of boxes as there are candidates, in accordance with the elector's preferences; and
- (b) are to include one of the following statements, depending on the number of councillors to be elected:

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- (i) if fewer than 5 councillors are to be elected – a statement that the elector must comply with the requirements set out in section 69, including by numbering at least the same number of boxes as the number of councillors to be elected;
- (ii) if 5 or more councillors are to be elected – a statement that the elector must comply with the requirements set out in section 69, including by numbering at least 5 boxes.

69. Marking of ballot papers

- (1) In an election for mayor, deputy mayor or a single councillor, an elector –
 - (a) must mark the ballot paper by placing the number 1 in the box next to the name of the candidate who is the elector’s first preference; and
 - (b) may mark the ballot paper further by placing consecutive numbers, in order of preference, in the boxes next to the names of the remaining candidates.
- (2) In an election –
 - (a) if more than one councillor but fewer than 5 councillors are to be elected –

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- (i) the elector must mark the ballot paper by placing consecutive numbers, starting from number 1, in the boxes next to the names of the candidates, up to the number of councillors to be elected for the electoral area; and
 - (ii) the elector may place further consecutive numbers in the boxes next to the names of the remaining candidates; or
- (b) if 5 or more councillors are to be elected –
 - (i) the elector must mark the ballot paper by placing the numbers 1 to 5, in order of preference, in the boxes next to the names of the candidates; and
 - (ii) the elector may place further consecutive numbers in the boxes next to the names of the remaining candidates.

**PART 12 – SCRUTINEERS AND PRESENCE AT
POLLING PLACES**

70. Appointment of scrutineers

- (1) A candidate at an election for an electoral area may appoint one or more persons who are not candidates at that election to be scrutineers on the candidate's behalf.
- (2) The appointment of a scrutineer is to be –
 - (a) made in an approved form; and
 - (b) signed by both the candidate and the person appointed as scrutineer.

71. Presence of scrutineers

- (1) A scrutineer is entitled to be present at each of the following places:
 - (a) any issuing and receiving place open to electors during the polling period;
 - (b) any place where ballot material is issued, received, sorted, checked or counted, if no ballot material for an election for which the scrutineer is a candidate is present at that place;
 - (c) any polling place.
- (2) The returning officer is to determine the number of scrutineers who may be present on behalf of a candidate at each place referred to in

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subsection (1), having regard to the efficient conduct of the election and the need to ensure order at the place.

- (3) Before a scrutineer acts in that capacity at a place referred to in subsection (1), the scrutineer is to produce to an electoral officer the scrutineer's approved form of appointment under section 70(2)(a).
- (4) Upon the production of evidence under subsection (3), the electoral officer is to issue the scrutineer with an identity badge, which the scrutineer is to wear or display visibly while scrutineering at any place referred to in subsection (1).

72. Scrutineering

- (1) A scrutineer may bring to the attention of an electoral officer any matter that the scrutineer reasonably believes may be contrary to the election procedures or may affect the integrity of the election.
- (2) A scrutineer must not –
 - (a) fail to comply with any reasonable direction given to the scrutineer by an electoral officer; or
 - (b) interfere with, or attempt to influence, an elector or other person present; or

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- (c) communicate with any person in a manner that interferes with the proper conduct of the election; or
- (d) touch or interfere with any ballot material except with the express authority of an electoral officer; or
- (e) otherwise engage in conduct that disrupts or interferes with the proper conduct of the election.

Penalty: Fine not exceeding 10 penalty units.

73. Persons entitled to be present at certain places

Except as otherwise authorised under this Act, the only persons entitled to be present at a place referred to in section 71(1) are –

- (a) electors, for the purpose of voting or returning ballot material in an election for an electoral area; and
- (b) electoral officers appointed for that place; and
- (c) scrutineers appointed under section 70 and acting in accordance with sections 71 and 72; and
- (d) any other person authorised by the Electoral Commissioner, the returning officer or an electoral officer for that place.

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Part 13 – Determination and Declaration of Election Results

**PART 13 – DETERMINATION AND DECLARATION
OF ELECTION RESULTS**

74. Application of Part

- (1) This Part applies separately in respect of each election for office.
- (2) For the purposes of this Part, a reference to an election is, unless the contrary intention appears, a reference to an election for a particular office.

75. Counting votes

- (1) At the end of the polling period, the electoral officer in charge is to –
 - (a) seal any ballot box at the issuing and receiving place or polling place; and
 - (b) deliver any ballot box as directed by the returning officer.
- (2) The returning officer is to conduct, or cause to be conducted under the returning officer's supervision, the counting of votes in accordance with –
 - (a) Part 2 of Schedule 1, if a mayoral or deputy mayoral ballot paper approved under section 67(2) is used; or
 - (b) Part 3 of Schedule 1, if a councillor ballot paper approved under section 67(2) is used.

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- (3) In order to ensure the secrecy of the votes, the Electoral Commission may approve the combining or mixing of ballot papers received at an issuing and receiving place or a polling place with the ballot papers received at another issuing and receiving place or polling place.

76. Informal ballot papers

- (1) A ballot paper is informal if any one or more of the following applies:
 - (a) the ballot paper is not correctly authenticated by at least one of the following methods:
 - (i) the initials of the electoral officer who issued the ballot paper;
 - (ii) the signature of that electoral officer;
 - (iii) an approved security mark;
 - (b) no vote has been recorded on the ballot paper;
 - (c) subject to subsection (4), the vote is marked on the ballot paper otherwise than in accordance with section 69;
 - (d) there is a mark or writing on the ballot paper that, in the opinion of the returning officer, could reasonably identify the elector who marked the ballot paper.

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- (2) Despite subsection (1), a ballot paper is not to be treated as informal or rejected at the counting of votes if, in the opinion of the returning officer, the elector's intention is clearly indicated.
- (3) Without limiting subsection (2), a ballot paper is not informal by reason only that the elector has not complied strictly with section 69, if the elector's intention can be ascertained in accordance with this Act and Schedule 1.
- (4) If –
 - (a) an elector has marked one or more numbers on the ballot paper to indicate preferences that are higher than the maximum number that the elector is required to mark under section 69; and
 - (b) one or more of those higher numbers is either omitted or duplicated; and
 - (c) the ballot paper would otherwise be formal –those omitted or duplicated numbers, and any higher numbers following the first such omission or duplication, are to be disregarded, and the ballot paper is to be treated as formal.
- (5) A candidate or a scrutineer appointed by a candidate may request the returning officer to reconsider a decision to treat a ballot paper as informal.
- (6) On receipt of a request under subsection (5), the returning officer must reconsider the decision

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and may confirm or reverse the decision to treat a ballot paper as informal.

- (7) A candidate may apply to the Electoral Commissioner for a review of a decision of the returning officer under subsection (6).
- (8) The Electoral Commissioner may confirm or vary the decision of the returning officer under subsection (6).

77. Declaration of poll

- (1) As soon as practicable after the counting of all votes for an election for an office is completed, the returning officer is to –
 - (a) declare the candidate elected for that office; and
 - (b) issue a certificate of election in respect of that office.
- (2) If elections for councillors, mayors and deputy mayors are held as part of the same ordinary election, the returning officer must declare the results of the election of councillors first, followed by the results of the election of mayor or deputy mayor, in that order.

78. Certificate of election

- (1) The returning officer is to forward the certificate of election to the Electoral Commissioner.

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- (2) The Electoral Commissioner is to cause a copy of the certificate of election to be published in a daily newspaper circulating generally in the relevant electoral area.
- (3) Any elector or candidate may dispute the result of an election for an office by lodging an application with the Supreme Court within 90 days after the date on which the certificate of election is published under subsection (2).
- (4) A dispute is to be heard and determined in the prescribed manner.

79. Recount of votes

- (1) A candidate in an election for an office may, at any time before the declaration of a poll, request a recount of the votes cast in the election.
- (2) The returning officer, having regard to whether there are reasonable grounds for questioning the accuracy of the count, may –
 - (a) agree to recount the votes cast in that election; or
 - (b) refuse to recount the votes cast in that election.
- (3) If the returning officer refuses to recount the votes, the candidate may apply to the Tasmanian Electoral Commission for a review of that decision.

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- (4) The Tasmanian Electoral Commission may direct the returning officer to conduct a recount of the votes.
- (5) Any recount of votes conducted under this section must be carried out in accordance with the procedures in Schedule 1 applicable to the election for that office.
- (6) A recount of votes under this section is final for the purposes of this Act, subject to section 78(3).

80. Keeping of physical, digital and electronic electoral material

- (1) The returning officer is to parcel, seal and store –
 - (a) all physical electoral material in an approved manner; and
 - (b) any digital or electronic electoral material in an approved manner.
- (2) The returning officer is to give to the Electoral Commissioner, in the approved manner, the following:
 - (a) all used ballot papers;
 - (b) all digital or electronic electoral material representing or recording votes cast under this Act;
 - (c) any sealed electoral material or other material, digital, electronic or otherwise, that the Electoral Commissioner may require.

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- (3) The Electoral Commissioner is to keep –
- (a) all used ballot papers, referred to in subsection (2)(a) in respect of an election for an office, until the certificate of election is issued for the next election; and
 - (b) the electoral material referred to in subsection (2)(b) in respect of mayors, deputy mayors and councillors until the certificate of election is issued for the next ordinary election for those councillors; and
 - (c) all other electoral materials, electronic, digital or otherwise, for as long as is necessary to allow any dispute relating to the election to be determined.
- (4) Ballot papers and any digital or electronic electoral material may only be examined for the purpose of –
- (a) filling a vacancy; or
 - (b) resolving a dispute under section 78; or
 - (c) another purpose approved by the Electoral Commissioner.

**PART 14 – CASUAL VACANCIES, RECOUNTS AND
BY-ELECTIONS**

81. Casual vacancies and recounts

- (1) This section applies only to a casual vacancy in the office of a councillor.
- (2) A casual vacancy in the office of a councillor is to be filled by a recount conducted in accordance with the procedure set out in Schedule 2, using the ballot materials (including physical, digital or electronic ballot papers and records) used or generated in the election at which the councillor whose office has become vacant was elected.
- (3) For the purpose of a recount to fill a casual vacancy, only the physical, digital or electronic completed ballot papers counted, within the meaning of Schedule 2, are to be used, and those ballot papers are to be redistributed only among consenting candidates, within the meaning of Schedule 2, who –
 - (a) remain eligible to hold office as councillor at the time of the recount; and
 - (b) have given written consent, in the approved form, to be included in the recount.
- (4) Without limiting subsection (3), a reference to a completed ballot paper includes ballot papers or voting records determined to be formal under this Act, including under Part 8.

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- (5) The Electoral Commissioner is not to conduct a recount to fill a casual vacancy during the 6-month period immediately preceding the day on which the notice of election for the next ordinary election is required to be published under this Act.
- (6) Despite subsection (5), the Electoral Commissioner is to conduct a recount to fill a casual vacancy if the number of councillors holding office is, as a result of the vacancy, insufficient to constitute a quorum.
- (7) The Electoral Commissioner is to notify eligible candidates that a recount to fill a casual vacancy is to be conducted by –
 - (a) giving written notice to each eligible candidate personally, by post or by electronic communication; and
 - (b) publishing an advertisement in a daily newspaper circulating generally in the relevant electoral area.
- (8) An eligible candidate who wishes to be included in a recount to fill a casual vacancy must –
 - (a) consent in writing in the approved form; and
 - (b) lodge the form with the Electoral Commissioner by 12 noon on the 8th day, inclusive, after the date on which a notice is given, or published, under subsection (7).

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- (9) The term of office of a councillor elected by means of a recount to fill a casual vacancy ends on the date of issue of the certificate of election for the next ordinary election.
 - (10) The Electoral Commissioner must not disclose to any person the results of a recount in respect of a hypothetical casual vacancy that may be obtained by performing an electronic calculation based on any electronic records of ballot papers, completed by electors or former electors, that are held in an electronic form by the Electoral Commissioner.
 - (11) For the avoidance of doubt, ballot materials cast or recorded in accordance with Part 8 are taken to be ballot papers for the purposes of Schedule 2.

82. By-elections

- (1) A by-election is to be held to fill a casual vacancy in the office of mayor.
- (2) A by-election for a vacancy in the office of councillor is to be held if the Electoral Commissioner determines that –
 - (a) it is not possible to carry out a recount of votes; or
 - (b) following an election, one or more offices of councillor remain unfilled.

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- (3) Subject to subsection (4), the Electoral Commissioner may fix a day as the closing day for a by-election.
- (4) The Electoral Commissioner must not fix a closing day for a by-election if doing so would cause the polling period for the by-election to fall within the polling period for a Commonwealth election or a Tasmanian parliamentary election.
- (5) A by-election is not to be held during the 6-month period immediately preceding the day on which the notice of election for the next ordinary election is required to be published.
- (6) Despite subsection (5), a by-election may be held if the number of councillors holding office is, as the result of a vacancy, insufficient to constitute a quorum.
- (7) Except as provided in this section, a by-election is to be conducted in accordance with this Act, and Part 8 applies to the conduct of the by-election to the extent that it applies to the conduct of voting, counting, scrutiny, ballot handling and determination of formal and informal votes, subject to any necessary procedural modifications determined by the Electoral Commissioner that are consistent with this Act.
- (8) The Electoral Commissioner, in consultation with the relevant general manager in relation to a by-election, may determine, in a manner consistent with this Act –

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- (a) the day on which notice of the by-election is to be given; and
 - (b) the nomination period; and
 - (c) the day and time of the closure of the Local Government Electoral Roll.
 - (9) A person who holds the office of deputy mayor may nominate as a candidate at a by-election for the office of mayor without resigning from the office of deputy mayor and, if elected as mayor, the person ceases to hold the office of deputy mayor.
 - (10) If a person vacates office as both a councillor and as mayor, any by-election required to fill those vacancies is to be held concurrently, to the extent that it is practicable.
 - (11) The term of office of a councillor or mayor elected at a by-election to fill a casual vacancy is the remainder of the term of office of the councillor or mayor who caused the vacancy.

83. Non-application of Part

This Part does not apply to vacancies arising from the dismissal of all of the councillors of a council under the *Local Government Act 1993*.

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Part 15 – Offences Relating to Elections

PART 15 – OFFENCES RELATING TO ELECTIONS

84. Offences relating to polling

(1) A person must not –

- (a) vote at an election or by-election if the person is not entitled to vote at the election or by-election; or
- (b) obtain or attempt to obtain more ballot papers at an election or by-election than the number to which the person is entitled.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not –

- (a) obstruct an elector while the elector is marking a ballot paper; or
- (b) use any word or action to directly or indirectly assist in discovering the name of a person for whom an elector has voted or intends to vote.

Penalty: Fine not exceeding 10 penalty units.

(3) A person must not –

- (a) personate, or attempt to personate, another elector; or
- (b) vote, offer to vote or attempt to vote more than once in the person's own name at the same election; or

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- (c) attempt to vote using a ballot paper that has been issued or delivered to another person; or
- (d) attempt to induce an elector to vote, or not to vote, for a particular candidate with the intention of committing fraud or undue influence; or
- (e) steal, misdirect, conceal, destroy, tamper with or otherwise interfere with any of the documents sent or delivered for the purposes of this Act.

Penalty: Fine not exceeding 50 penalty units.

85. Offences at issuing and receiving places, polling places and certain other places

- (1) In this section –

place means a place referred to in section 71(1).

- (2) An electoral officer, electoral officer in charge or a police officer acting under the direction of an electoral officer in charge may require a person who is –
- (a) not an elector voting or about to vote at a place; or
 - (b) not entitled under section 73 to be present at a place –

to leave the place.

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- (3) A person referred to in subsection (2) who is required to leave a place, by an electoral officer, electoral officer in charge or a police officer acting under the direction of an electoral officer in charge under that subsection, must immediately leave the place.

Penalty: Fine not exceeding 10 penalty units.

- (4) A person must not, at a place –
- (a) act in a disorderly manner; or
 - (b) refuse or fail to comply with a lawful direction given by the electoral officer in charge of the place or a police officer; or
 - (c) display or leave any printed, written, electronic or other material that contains directions, instructions, or suggestions, as to how an elector should or might vote at the election.

Penalty: Fine not exceeding 10 penalty units.

- (5) Except in accordance with a procedure approved under section 48, a person must not enter or occupy a screened private voting area at a place while another person is occupying that screened private voting area.

Penalty: Fine not exceeding 10 penalty units.

- (6) A person must not, without lawful authority –
- (a) occupy a screened private voting area at a place for longer than is necessary for marking the person's ballot paper; or

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- (b) obstruct, delay or interfere with the efficient conduct of polling or ballot processing at any place; or
 - (c) remove any ballot material from any place.

Penalty: Fine not exceeding 10 penalty units.

86. Offences in violation of secrecy of ballot

A person must not –

- (a) at an election, attempt to find out, or directly or indirectly aid in finding out, the person for whom a vote is given; or
- (b) disclose any knowledge of the person for whom an elector has voted at an election, if that knowledge was obtained in the course of performing duties at the election.

Penalty: Fine not exceeding 10 penalty units.

87. Bribery, treating and undue influence

(1) In this section –

election conduct, in relation to a person, means any one or more of the following:

- (a) whether or not the person votes at an election;
- (b) the way in which the person votes at an election;

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- (c) whether or not the person nominates as a candidate at an election;
- (d) whether or not the person withdraws the person's nomination as a candidate at an election;
- (e) whether the person expresses support for, or opposition to, a candidate or group of candidates at an election;

relevant period means the period commencing on the day on which the notice of election is published and ending on the closing day.

- (2) A person must not, during the relevant period, directly or indirectly promise, offer, give, solicit or receive any property or benefit of any kind with the intention of influencing a person's election conduct at an election.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (3) Without limiting subsection (2), a person commits an offence against this section if, during the relevant period, the person supplies or offers to supply to another person food, drink or entertainment with the intention of influencing that person's election conduct at an election.

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- (4) For the purposes of this section, the following do not constitute an offence under this section:
- (a) a declaration of public policy or a promise of public action;
 - (b) the voluntary provision of transport for electors to or from polling places for the purpose of voting, where no payment or other benefit is given or arranged for by the elector in consideration for the transport;
 - (c) the offer, promise or provision of any property, benefit, food, drink or entertainment where the value of that property, benefit, food, drink or entertainment does not exceed 3 fee units as in force at the time of the election.
- (5) A candidate or intending candidate must not, during the relevant period, directly or indirectly offer, promise or give a donation, prize or gift to or for the benefit of –
- (a) any specific club, association or body; or
 - (b) clubs, associations or bodies generally –
- if the donation, gift or prize is made with the intention of influencing a person's election conduct at an election or by-election.
- Penalty: Fine not exceeding 50 penalty units.
- (6) In proceedings for an offence against subsection (5), it is a defence if the accused

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person proves on the balance of probabilities that a donation, gift or prize similar in nature and value has, over a period preceding the relevant period, been regularly given by the accused to the relevant club, association or body.

- (7) An offence against subsection (2) is an indictable offence under the *Criminal Code* and may be prosecuted on indictment.
- (8) Despite subsection (7), if both the defendant and the prosecutor consent, the Magistrates Court may deal with an offence against subsection (2) summarily, if the Court is satisfied that it is proper to do so.
- (9) If, under subsection (8), the Magistrates Court deals with an offence against subsection (2) summarily and finds the person guilty, the Court may impose a fine not exceeding 20 penalty units or imprisonment for a term not exceeding 12 months, or both.

88. Electoral intimidation

- (1) In this section –

election conduct has the same meaning as in section 87.

- (2) A person must not, by violence or intimidation, influence or attempt to influence a person's election conduct at an election.

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Penalty: Fine not exceeding 1 000 penalty units
or imprisonment for a term not
exceeding 5 years, or both.

- (3) A person who contravenes subsection (2) is guilty of the crime of *electoral intimidation*, punishable on indictment under the *Criminal Code*.
- (4) Despite section 389 of the *Criminal Code*, a person convicted of the crime of electoral intimidation is liable to the penalty specified in subsection (2).

89. False or misleading statements

- (1) A person must not, in giving any information, making a notification under this Act, filing a return or making an application under this Act –
 - (a) make a statement knowing it to be false or misleading; or
 - (b) omit any matter from a statement knowing that, without that matter, the statement is misleading.

Penalty: Fine not exceeding 500 penalty units
or imprisonment for a term not
exceeding 5 years, or both.

- (2) An offence against subsection (1) is an offence punishable on indictment under the *Criminal Code*.
- (3) Despite subsection (2), proceedings for an offence against subsection (1) may be heard and

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determined summarily by the Magistrates Court, if the Court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

- (4) If proceedings for an offence against subsection (1) are heard and determined summarily, the Magistrates Court may impose a fine not exceeding 300 penalty units or imprisonment for a term not exceeding 12 months, or both.

90. Continuing offences

(1) If –

- (a) by or under a section, or a subsection of a section, of this Act an act or thing is required, or directed, to be done within a particular period or before a particular time; and
- (b) failure to do that act or thing within the period, or before the time, referred to in paragraph (a) constitutes an offence; and
- (c) that act or thing is not done within the period, or before the time, referred to in paragraph (a) –

the following provisions of this subsection have effect:

- (d) the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done;

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- (e) if a person is convicted of an offence that is constituted by failure to do that act or thing within that period or before that time, as the case may be, that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues;
- (f) the fine applicable to each such separate and further offence is an amount not exceeding 0.5 penalty units.

(2) Where –

- (a) by or under a section, or a subsection of a section, of this Act an act or thing is required, or directed, to be done but no period within which or time by which that act or thing is to be done is specified; and
- (b) failure to do that act or thing constitutes an offence; and
- (c) a person is convicted of an offence in respect of a failure to do that act or thing –

that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues, and the fine applicable to each such separate and further offence is an amount not exceeding 0.5 penalty units.

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- (3) Charges against the same person for any number of offences under subsection (1)(e) or subsection (2) may be joined in the same complaint if those offences relate to a failure to do the same act or thing.
- (4) If a person is convicted of more than one offence under subsection (1)(e) or more than one offence under subsection (2), the court may impose one penalty in respect of all the offences of which the person is so convicted under that subsection, but that penalty is not to exceed the sum of the maximum penalties that could be imposed if the penalty were imposed in respect of each offence separately.

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PART 16 – INVESTIGATORY POWERS

91. Interpretation of Part

In this Part –

authorised officer means a person authorised in writing by the Electoral Commissioner to exercise powers under this Part.

92. Application of Part

- (1) The powers under this Part are in addition to, and do not limit, any other powers under this Act or any other law.
- (2) This Part applies to investigations relating to an election conducted under this Act.

93. Power to enter and inspect places

- (1) An authorised officer may enter and inspect any place, at any reasonable time, if the authorised officer reasonably suspects that electoral material, ballot material or any records or documents relevant to an election under this Act are kept or may be found at the place.
- (2) The authorised officer, entering and inspecting a place under subsection (1), may examine, make copies of and take possession of any electoral material, ballot material, records, documents or equipment relating to the conduct of the election at the place.

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94. Power to require production of documents or information

- (1) An authorised officer may require a person to –
 - (a) produce any electoral material, documents or records in the person’s possession or control that are relevant to an election; and
 - (b) provide information that is reasonably required for an investigation under this Act.
- (2) The authorised officer may examine and copy any electoral material, documents or records produced by a person under subsection (1).

95. Power to seize and detain

- (1) An authorised officer may seize and detain any ballot material, electoral material, documents or electronic records, including ballot material, electoral material, documents, electronic records and voting records generated or maintained under Part 8, or equipment, if the officer reasonably believes that the material, documents, records or equipment are relevant to an investigation under this Act.
- (2) An authorised officer must provide a receipt, for any ballot material, electoral material documents, electronic records or equipment seized and detained under subsection (1), specifying the following:

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- (a) the name of the authorising officer;
 - (b) the date on which the material, documents, records or equipment were seized;
 - (c) a description of the material, documents, records or equipment seized.
- (3) An authorised officer may access, inspect and copy any system, software, or electronic process, used for the casting, recording, storage or counting of votes under Part 8.

96. Power to require attendance and questioning

- (1) An authorised officer may require a person to attend and answer questions relevant to an investigation under this Act.
- (2) A person referred to in subsection (1), after receiving written notice specifying the purpose, time and place of attendance, and the legal basis for the requirement, must attend and answer questions if required to do so under that subsection.

Penalty: Fine not exceeding 200 penalty units.

- (3) A person required to attend and answer questions under subsection (1) may be accompanied by a legal representative.

97. Obstruction offences

A person must not –

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- (a) obstruct, hinder or delay an authorised officer in the exercise of the officer's powers under this Part; or
- (b) refuse, or fail, to comply with a lawful requirement or direction under this Part.

Penalty: Fine not exceeding 200 penalty units.

98. Warrants

- (1) If an authorised officer is unable to enter a place under section 93, the Electoral Commissioner may apply to a magistrate for a warrant authorising the entry and search of the place.
- (2) On receipt of an application under subsection (1), a magistrate may issue a warrant if satisfied that there are reasonable grounds to suspect that a contravention of this Act has occurred or is occurring.

**PART 17 – ELECTORAL FINANCE AND CAMPAIGN
REGULATION**

Division 1 – Application of Part to multiple elections

99. Application of Part to ordinary elections

- (1) For the purposes of this Part, an ordinary election is taken to be a single election despite separate elections for the offices of mayor, deputy mayor and councillor being conducted concurrently.
- (2) A person who is a candidate for more than one office at the same ordinary election is taken, for the purposes of this Part, to be a single candidate.
- (3) Unless this Part expressly provides otherwise, a reference in this Part to electoral expenditure, electoral advertising, electoral matter, gift or donation or a disclosure obligation is a reference to those matters in relation to the ordinary election as a whole.
- (4) This section does not affect the conduct of separate elections for the offices of mayor, deputy mayor and councillor under this Act.

***Division 2 – Electoral advertising and publication of
electoral matter***

100. Communication of electoral advertising

- (1) A person must not, within the relevant period, communicate a how-to-vote card that contains

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the name, photograph or likeness of a candidate or intending candidate unless the person has the written consent of the candidate or intending candidate.

Penalty: Fine not exceeding 100 penalty units.

- (2) A person must not, during the relevant period, print, publish, keep on display, broadcast or distribute electoral advertising that refers to the offering, promising or giving by a candidate or intending candidate of a donation, prize or gift to any specific club, association or body, or to clubs, associations or bodies generally.

Penalty: Fine not exceeding 100 penalty units.

- (3) A person must not use or keep on display the arms of a council, or the logo of a council, in electoral advertising.

Penalty: Fine not exceeding 50 penalty units.

- (4) Subsection (3) does not apply to –

- (a) any matter printed, published or distributed by or on behalf of the Electoral Commissioner in the exercise or performance of the Commissioner's powers or functions; or
- (b) any electoral advertising by means of a broadcast on television.

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101. Attribution of electoral advertising

- (1) For the purposes of this Division, electoral advertising that promotes or opposes a person who is a candidate for more than one office is taken to relate to each election for which the person is a candidate.
- (2) For the avoidance of doubt, this section applies subject to sections 105 and 107, but does not limit or restrict the operation of those sections.

102. Publication of electoral matter

- (1) This section applies to electoral matter communicated during the relevant period in relation to an election for an office under this Act.
- (2) This section does not apply to the communication of electoral matter if the matter is –
 - (a) a private communication between individuals not intended for public distribution; or
 - (b) an unpaid communication by a natural person expressing personal political views, including on social media; or
 - (c) communicated orally in a live and unrecorded public meeting; or
 - (d) published by or on behalf of any of the following entities:

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- (i) the Electoral Commissioner;
 - (ii) the Tasmanian Electoral Commission; or
 - (e) a letter to the editor published in a newspaper or periodical where –
 - (i) the author's name and locality are published; or
 - (ii) the publisher keeps a record of the author's full name and address for 6 months; or
 - (f) genuine editorial news reporting or commentary published in the ordinary course of a news media business, not commissioned or paid for by or on behalf of a candidate or registered party; or
 - (g) communication of information relating to voting procedures approved under Part 8 by the Electoral Commissioner.
- (3) A person must not, during the relevant period, print, publish or distribute, or permit the printing, publishing or distribution of, any electoral matter unless –
- (a) the communication of the electoral matter is permitted in accordance with section 103; and
 - (b) the electoral matter includes authorisation particulars in a prominent

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and legible manner at the end of the electoral matter; and

(c) the electoral matter –

- (i) does not contain incorrect or misleading information about whether a person is a candidate at the relevant election, or is a member of, or endorsed by, a registered party; or
- (ii) does not use the name, or a derivative of the name, of a registered party in a way that is intended, or likely, to mislead; or
- (iii) is not calculated, or reasonably likely, to result in an elector completing an informal ballot paper; or
- (iv) does not contain a statement, whether express or implied, to the effect that voting is not compulsory; or
- (v) does not contain a statement that is intended, or likely, to mislead an elector into believing that the matter is an official communication from the Tasmanian Electoral Commission, the Electoral Commissioner or another recognised electoral authority.

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Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months, or both.

103. Permitted electoral matter

- (1) For the purposes of this Division, electoral matter is permitted by a person if –
 - (a) the person has consented to the communication of the electoral matter before it is communicated; or
 - (b) the person is responsible for communicating the electoral matter.
- (2) Electoral matter is taken to be permitted by or on behalf of a candidate or intending candidate if the communication of the electoral matter is consented to by –
 - (a) the candidate or intending candidate; or
 - (b) in the case of a candidate, the election agent of the candidate; or
 - (c) another person acting with the express or implied authority of the candidate, intending candidate or election agent.
- (3) This Division does not apply to the following items:
 - (a) an item of clothing, lapel button or lapel badge;
 - (b) a pen, pencil or balloon;

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- (c) a business card or visiting card that promotes the candidacy of a person;
- (d) a letter or card on which the name and address of the sender appears;
- (e) any other prescribed item.

Division 3 – Electoral expenditure

104. Interpretation

- (1) In this Division –

annual increment, in relation to the maximum electoral expenditure limit, means the cumulative increase, calculated from 1 July 2027, in accordance with the following:

- (a) in the case of Hobart City Council, Clarence City Council, Glenorchy City Council, Kingborough Council or Launceston City Council – \$500 for each financial year commencing on or after 1 July 2027;
- (b) in the case of any other council not referred to in paragraph (a) – \$300 for each financial year commencing on or after 1 July 2027;

final campaign return means a final campaign return prepared and lodged by

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a candidate or election agent in accordance with section 109;

maximum electoral expenditure limit, in relation to a candidate for a particular office and a financial year, means –

- (a) for a candidate for election to the Hobart City Council, Clarence City Council, Glenorchy City Council, Kingborough Council or Launceston City Council – \$16 000 plus the applicable annual increment for that financial year; and
- (b) for a candidate for election to any other council not referred to in paragraph (a) – \$10 000 plus the applicable annual increment for that financial year;

publisher’s advertising return means a publisher’s advertising return prepared and lodged by a person in accordance with section 110;

relevant election, in relation to a candidate, means the election for the office for which the candidate is nominated.

- (2) For the avoidance of doubt, ***cumulative increase*** in the definition of *annual increment* in subsection (1) means the aggregate amount obtained by multiplying the specified amount (\$500 or \$300) by the number of financial years

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commencing on or after 1 July 2027 and up to and including the financial year in question.

- (3) For the purposes of this Division, the maximum electoral expenditure limit applicable to a candidate for a relevant election is the limit calculated for the financial year in which that election is held, regardless of the date within that financial year on which the election occurs.
- (4) For the purposes of this Division, where an election is a by-election, the maximum electoral expenditure limit applicable to a candidate for that election is the limit calculated for the financial year in which the poll for that by-election closes.

105. Application of maximum electoral expenditure limit to candidates for multiple offices

- (1) Despite section 99, if a person is a candidate for more than one office at the same ordinary election, the maximum electoral expenditure limit applies to the person as if the person were a single candidate.
- (2) The total electoral expenditure incurred or authorised by, or on behalf of, the person in relation to all elections for which the person is a candidate must not exceed the highest of the maximum electoral expenditure limits that would, apart from this section, apply to the person in relation to those elections.
- (3) To the extent of any inconsistency, this section prevails over sections 99, 101 and 107.

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106. Incurring of electoral expenditure

- (1) A person must not incur electoral expenditure for the dominant purpose of promoting or procuring the election of a candidate in relation to a relevant election unless the expenditure is incurred –
- (a) by the candidate; or
 - (b) by the candidate’s election agent; or
 - (c) with the prior express authorisation of the candidate or the candidate’s election agent.

Penalty: Fine not exceeding 100 penalty units.

- (2) A person must not incur electoral expenditure, or authorise the incurring of electoral expenditure, for or on behalf of a registered party for the purpose of promoting or procuring the election of a candidate.

Penalty: Fine not exceeding 100 penalty units.

- (3) For the avoidance of doubt, this section does not prevent a person from making a gift or donation to a candidate’s election campaign, provided that the gift or donation is not electoral expenditure and the gift or donation is disclosed in accordance with Division 4.

107. Attribution of electoral expenditure

- (1) This section applies if electoral expenditure is incurred by a person other than –

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- (a) a candidate; or
 - (b) a candidate's election agent.
 - (2) If the electoral matter to which the electoral expenditure relates is permitted by or on behalf of a candidate in accordance with section 103, the electoral expenditure is taken, for the purposes of this Act, to have been incurred by the candidate.
 - (3) Electoral expenditure taken under subsection (2) to have been incurred by a candidate –
 - (a) must be included in the candidate's electoral expenditure for the purposes of this Division; and
 - (b) is subject to the maximum electoral expenditure limit applicable to the candidate.
 - (4) For the avoidance of doubt –
 - (a) subsection (2) applies regardless of whether the incurring of the electoral expenditure contravenes section 106(1) or (2); and
 - (b) this section operates subject to section 105.

108. Exceeding electoral expenditure limit

A candidate or an election agent must not incur, or authorise, electoral expenditure that exceeds

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the maximum electoral expenditure limit applicable to the candidate under this Division.

Penalty: Fine not exceeding 50 penalty units.

109. Final campaign return

- (1) A candidate, or an election agent, must lodge a final campaign return with the Electoral Commissioner setting out the electoral expenditure incurred by the candidate or election agent within 45 days after the day on which the certificate of election for the relevant election is published.

Penalty: Fine not exceeding 50 penalty units.

- (2) The final campaign return must –
- (a) be in an approved form; and
 - (b) contain the following information:
 - (i) the name and address of the candidate;
 - (ii) the name and address of the election agent, if applicable; and
 - (c) relate to the period beginning on the day on which nominations under this Act close, for the election to which the return relates, and ending on the day on which the certificate of election for the relevant election is published; and

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- (d) be accompanied by any invoice, account or receipt in respect of any electoral expenditure incurred by the candidate, or election agent, that is set out in the final campaign return; and
 - (e) be signed by the candidate, or election agent, and include a declaration that the information contained in the final campaign return is complete and accurate to the best of the candidate's or election agent's knowledge.
 - (3) The Electoral Commissioner may, on the written application in an approved form by a candidate or election agent, extend the period for lodgement of the final campaign return under subsection (1) by not more than 30 days, if satisfied that –
 - (a) the final campaign return cannot reasonably be lodged by the candidate or election agent within the original 45-day period; and
 - (b) the delay is not due to the neglect or default of the candidate or election agent.
 - (4) If a candidate or election agent is convicted of an offence against subsection (1), the Supreme Court must declare the candidate's election for that office void unless satisfied that the failure of the candidate, or election agent, to lodge the final campaign return did not materially affect the result of the election.

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110. Publisher’s advertising return

- (1) Within 45 days after the day on which a certificate of election for the relevant election is published, any person who communicates electoral advertising, including by printing, publishing or broadcasting, must sign and declare before a justice or a commissioner for declarations, and lodge with the Electoral Commissioner, a publisher’s advertising return, in an approved form, setting out electoral advertising printed, published or broadcast by the person for the election, including particulars sufficient to identify the election and, if applicable, the candidate to which the electoral advertising relates.

Penalty: Fine not exceeding 50 penalty units.

- (2) A publisher’s advertising return under subsection (1) is to be accompanied by any invoice, account or receipt in respect of any electoral expenditure incurred by the person that is set out in the return.

111. Final campaign return and publisher’s advertising return available for inspection

- (1) The Electoral Commissioner is to give to the general manager a copy of any final campaign return, or publisher’s advertising return, lodged with the Electoral Commissioner under this Division.
- (2) The Electoral Commissioner and the general manager are to –

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- (a) keep, for a period of 12 months, final campaign returns and publisher's advertising returns, or copies of the returns, lodged with the Electoral Commissioner or given to the general manager; and
 - (b) during that period of 12 months, make those returns, or copies of those returns, available for inspection, free of charge, by a member of the public.
 - (3) At the end of the 12-month period referred to in subsection (2)(a), the Electoral Commissioner and the general manager may destroy the final campaign returns, and publisher's advertising returns, or copies of the returns, unless proceedings concerning the relevant election have been instituted and remain ongoing, in which case the returns must be retained until the final determination of such proceedings.

112. Electoral Commissioner's powers to require information and documents

- (1) For the purpose of verifying any final campaign returns or publisher's advertising returns lodged under this Division, the Electoral Commissioner may require any person, who the Electoral Commissioner reasonably believes possesses relevant information or documents, to provide further information or explanation that the Electoral Commissioner considers necessary.
- (2) In addition to the powers of the Electoral Commissioner under subsection (1), the

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Electoral Commissioner may require any person whom the Electoral Commissioner reasonably believes to be in possession of information or records relating to electoral expenditure to –

- (a) provide that information; or
 - (b) produce those records for inspection at a specified time and place; or
 - (c) answer any question relating to the electoral expenditure; or
 - (d) make a statement providing an explanation of the information or records.
- (3) The Electoral Commissioner may make and retain copies of any records produced under subsection (2).
- (4) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1) or (2).

Penalty: Fine not exceeding 200 penalty units.

- (5) Any information, answer or statement given by a person in response to a requirement under this section may not be used in evidence against the person except in proceedings under subsection (7) in relation to that information, answer or statement.
- (6) Before requiring a person to comply with subsection (1) or (2), the Electoral Commissioner must provide the person with a

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written notice specifying the nature of the information or documents required, the time and place for compliance and the penalty for any failure to comply.

- (7) A person must not provide information, produce records, answer questions or make statements which the person knows to be false or misleading.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 months.

- (8) In any proceedings for an offence under this Division, a copy of a record or part of a record made under subsection (3) is admissible in evidence and, in the absence of evidence to the contrary, is presumed to be the same as the original record.
- (9) In this section, *records* includes books, accounts, minutes, registers, deeds, writings, documents, electronic communications, digital data and any other sources of information compiled, recorded or stored in any form by any means.
- (10) The Electoral Commissioner must ensure that any information or record obtained under this section is treated confidentially and is not disclosed except as permitted under this Act or any other Act.

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Division 4 – Gifts and donations

113. Disclosure of gifts and donations accepted during relevant period by candidates or intending candidates

- (1) Subject to this section, during the relevant period, a candidate or intending candidate must, within 7 days after receiving and accepting a gift or donation, disclose the gift or donation to the Tasmanian Electoral Commission.

Penalty: Fine not exceeding 100 penalty units.

- (2) The disclosure of a gift or donation under subsection (1) must be made in an approved form and must include the following information:
- (a) the full name of the donor;
 - (b) the locality of residence of the donor, if the donor is a natural person;
 - (c) the donor's business name and business address, if the donor is not a natural person;
 - (d) the date on which the candidate accepted the gift or donation;
 - (e) the nature and estimated value of the gift or donation;
 - (f) a declaration signed by the candidate or intending candidate stating that the information is true and correct to the best

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of the candidate's or intending
candidate's knowledge;

(g) the office, if any, to which the gift or
donation relates.

- (3) A candidate, or intending candidate, must not knowingly or recklessly make a false or misleading disclosure under this section.

Penalty: Fine not exceeding 100 penalty units.

- (4) A gift or donation with a value of less than \$50 is not required to be disclosed under this section, unless the gift or donation is one of a series of gifts or donations from the same donor that, when aggregated within the relevant period, exceeds \$50.

114. Disclosure of gifts and donations accepted during disclosure period by continuing candidates

- (1) A continuing candidate must, within 7 days after the acceptance of the continuing candidate's notice of nomination, submit to the Tasmanian Electoral Commission an extract from the gifts and donations register kept under section 56B of the *Local Government Act 1993* containing all entries relevant to the continuing candidate during the disclosure period.

Penalty: Fine not exceeding 100 penalty units.

- (2) A continuing candidate must not knowingly or recklessly make a false or misleading submission under this section.

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Penalty: Fine not exceeding 100 penalty units.

115. Unlawful gifts and donations

- (1) A person, other than a candidate or intending candidate, must not accept a gift or donation if the person knows, or ought reasonably to know, that all or part of the gift or donation is intended to be subsequently given to a candidate or intending candidate for campaign purposes.

Penalty: Fine not exceeding 50 penalty units.

- (2) A candidate or intending candidate must not accept a gift or donation if –
- (a) the gift or donation is in the form of cash and either has a value of more than \$50 or forms part of a series of cash gifts or donations from the same donor which, when aggregated within the relevant period, exceed \$50; or
 - (b) the gift or donation has a value of more than \$50 and is not accompanied by the donor information required for disclosure under section 113; or
 - (c) the gift or donation is made by a person known, or reasonably believed, to be a foreign donor within the meaning of the *Electoral Disclosure and Funding Act 2023*.

Penalty: Fine not exceeding 50 penalty units.

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- (3) A person who receives a gift or donation under subsection (1), or a candidate or intending candidate who receives a gift or donation under subsection (2), must, within 6 weeks after accepting the gift or donation, take one of the following actions:
- (a) return the gift or donation to the donor;
 - (b) pay, or transfer, to the State Account an amount equal to the value of the gift or donation.

Penalty: Fine not exceeding 50 penalty units.

- (4) The person or candidate must notify the Tasmanian Electoral Commission in writing within 7 days after completing the action under subsection (3).

116. Gifts and donations register

- (1) The Tasmanian Electoral Commission must keep and maintain a gifts and donations register containing all information disclosed, or submitted, to the Commission under sections 113 and 114 that complies with the requirements of those sections.
- (2) The Tasmanian Electoral Commission must retain all information that is kept in the gifts and donations register for at least 5 years from the date on which the information was disclosed, or submitted, to the Commission under section 113 or 114.

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117. Publication of information contained in gifts and donations register

- (1) The Tasmanian Electoral Commission must publish on its website, within 7 days after receiving a disclosure or submission under section 113 or 114, the information contained in the disclosure or submission.
- (2) The Tasmanian Electoral Commission must ensure that the information published under this section remains publicly accessible until the certificate of election for the election to which the information relates is published.
- (3) Nothing in this section limits the Tasmanian Electoral Commission's ability to update, amend or correct information, and publish any amended, corrected or updated information as soon as practicable after the amendment, correction or update is made, including to reflect the outcome of an investigation.
- (4) The Tasmanian Electoral Commission may redact personal information from any document published under this section if it is considered necessary to protect the safety or privacy of a person, having regard to the public interest of transparency and electoral integrity.

PART 18 – MISCELLANEOUS

118. Formal defects not to invalidate elections

An election for an office under this Act is not invalid by reason only –

- (a) of any defect in the title, or want of title, of the person by or before whom the election, or any polling in it, has been held or conducted; or
- (b) of any formal error or defect in any notice, advertisement, notification, list, declaration, application, statement or envelope, or in any publication of any of them; or
- (c) that any such publication was out of time; or
- (d) of any delay in holding the election; or
- (e) of the failure to provide any electoral material; or
- (f) of any defect, impediment or omission of a merely formal nature.

119. Ministerial order in respect of elections

The Minister, by order and on the recommendation of the Electoral Commissioner, may –

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- (a) provide for such matters as the Minister considers desirable to enable a particular election or elections, at a particular time, to be held; or
- (b) validate a defect or informality in an election for an office under this Act, or an irregularity in the holding of such an election, that appears to the Minister not to have materially affected the result of that election.

120. Invalidity of election not to affect proceedings

The invalidity of an election for an office under this Act, or a court's declaration that a candidate's election for an office is void, does not affect –

- (a) any action or other proceedings by or against the council; or
- (b) any decision made by the council or a council committee.

121. Instituting proceedings

- (1) The returning officer is to report all alleged offences under this Act to the Electoral Commissioner.
- (2) The Electoral Commissioner is to determine whether or not proceedings should be instituted in respect of any offence under this Act.

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122. Declaration of office

- (1) Any person elected as councillor must make a declaration of office in a prescribed manner and prescribed form.
- (2) A person elected as a councillor who has not made a declaration of office under subsection (1) must not –
 - (a) act in the office of councillor, mayor or deputy mayor; or
 - (b) take part in the proceedings of any meeting of the council or a council committee.
- (3) A council is to acknowledge the making of a declaration of office under subsection (1) at its meeting and the general manager is to record that fact in the minutes of that meeting.

123. Vacancy of office on failure to make declaration

The office of a councillor becomes vacant if the councillor fails to make a declaration of office under section 122 within 60 days of the publication of the certificate of election for the election for the office to which the councillor was elected.

124. Right to information

The provisions of the *Right to Information Act 2009* do not apply to any electoral material.

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125. Role of Electoral Commissioner

- (1) The Electoral Commissioner may, for the purposes of performing functions under this Act, require a person whom the Electoral Commissioner reasonably believes to be in possession of relevant information or advice to provide that information or advice.
- (2) The Electoral Commissioner is to –
 - (a) prepare and publish information and statistics in respect of elections; and
 - (b) promote public awareness and understanding of elections; and
 - (c) encourage enrolment and voting for elections.

126. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 3 have effect.

127. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

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- (3) The regulations may authorise any matter to be from time to time approved, determined, applied or regulated by the Tasmanian Electoral Commission or the Electoral Commissioner.
 - (4) The regulations may provide for the manner in which electoral expenditure, electoral advertising, electoral matter and gifts or donations are to be apportioned between elections where they relate to more than one election.
 - (5) The regulations may –
 - (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

128. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Local Government; and

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- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

129. Consequential amendments

The legislation specified in Schedule 4 is amended as specified in that Schedule.

SCHEDULE 1 – COUNTING OF VOTES

Section 75

PART 1 – GENERAL

1. Interpretation

(1) In this Schedule –

absolute majority of votes, in relation to a candidate, is a number of votes which is greater than one-half of the total number of ballot papers, other than exhausted and informal ballot papers, on which electors have recorded their votes for the candidate;

informal ballot paper means a ballot paper which is informal as specified in section 76;

quota means the number of votes sufficient to elect a candidate;

second preference recorded for a candidate means the preference on a ballot paper recorded by the number “2” in the square opposite the name of the candidate on the ballot paper;

surplus means the number of votes which a candidate obtained at any stage of the counting of votes in excess of the quota;

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transfer value means that portion of a vote which is unused by –

- (a) an elected candidate who has obtained a surplus; or
- (b) a candidate excluded on account of being lowest on the poll –

and which is transferred to the candidate next in the order of the elector's preference.

- (2) For the purposes of the definition of *transfer value*, the transfer value is either 1 or a fraction of 1.

PART 2 – MAYORAL OR COUNCILLOR ELECTIONS

2. First preferences

- (1) The number of first preferences recorded for each candidate is to be counted and all informal ballot papers are to be rejected.
- (2) The candidate who obtains an absolute majority of votes is to be elected.

3. Second and subsequent preferences

- (1) If no candidate has an absolute majority of votes, the candidate who has the fewest votes is to be excluded and each ballot paper counted to that candidate, unless exhausted, is to be counted to

the unexcluded candidate next in the order of the elector's preference.

- (2) The process specified in subclause (1) is to be repeated until one candidate has an absolute majority of votes.

4. Ballot papers counted and exhausted

- (1) Every ballot paper that is not rejected as informal is to be counted in every count until it becomes exhausted, when it is to be rejected in all further counts.
- (2) If a candidate is excluded, any ballot paper counted to the candidate is exhausted if there is not indicated on it a consecutive preference for one or more unexcluded candidates.

5. Returning officer to decide exclusion and election

- (1) If, on any count, 2 or more candidates have an equal number of votes and one of them has to be excluded, the returning officer is to decide which candidate is to be excluded by the drawing or casting of lots in the prescribed manner.
- (2) If, in the final count, 2 candidates have an equal number of votes, the returning officer is to decide which of them is to be elected by the drawing or casting of lots in the prescribed manner.

PART 3 – COUNCILLOR ELECTIONS

6. Quota

- (1) The quota is calculated in accordance with the following formula:

$$Q = \frac{FP}{C + 1} + 1$$

where –

Q is the quota;

FP is the total number of first preferences;

C is the total number of candidates to be elected.

- (2) Any remainder in calculating the quota is to be disregarded.
- (3) Subject to clause 13(6), a candidate is not to be elected until the candidate obtains a number of votes equal to or greater than the quota.

7. First preferences

- (1) The number of first preferences recorded for each candidate is to be counted and all informal ballot papers are to be rejected.
- (2) A candidate who, after the first preferences have been counted, has a number of preferences equal to or greater than the quota is to be elected.

8. First preferences equal to quota

If the number of first preferences obtained by a candidate is equal to the quota, all the ballot papers on which a first preference is recorded for that candidate are to be set aside as finally dealt with.

9. First preferences in excess of quota

If the number of first preferences obtained by a candidate exceeds the quota, the proportion of those preferences in excess of the quota is to be transferred, to the other candidates not yet elected next, in the order of the electors' respective preferences in the following manner:

- (a) all the ballot papers on which a first preference is recorded for the elected candidate are to be re-examined and the number of second preferences, or in the case provided for in clause 10, third or next consecutive preferences, recorded for each unelected candidate are to be counted;
- (b) the surplus of the elected candidate is to be divided by the total number of votes obtained by the candidate on the counting of the first preferences and the resulting fraction is the transfer value;
- (c) the number of second or other preferences recorded for each unelected candidate is to be multiplied by the transfer value;

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- (d) the resulting number of votes, truncated to 2 decimal places, is to be transferred to each unelected candidate and added to the number of votes obtained by the candidate on the counting of the first preferences.

10. Surplus

- (1) If, on the counting of the first preferences or on a transfer, more than one candidate has a surplus, the largest surplus is to be dealt with first.
- (2) If at that stage more than one candidate has a surplus, then the largest surplus is to be dealt with next, and so on.
- (3) If one candidate has obtained a surplus at a count or transfer previous to that at which another candidate obtains a surplus, the surplus of the former is to be dealt with first.
- (4) If 2 or more surpluses are equal, the surplus of the candidate who was the highest at the count or transfer at which they last had an unequal number of votes is to be dealt with first.
- (5) If 2 or more candidates had an equal number of votes at all preceding counts or transfers, the returning officer is to decide which candidate's surplus is to be dealt with first.

11. Quota by transfer

- (1) If the number of votes obtained by a candidate is increased to a number which is equal to, or

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exceeds, the quota by a transfer, the candidate is to be elected.

- (2) Notwithstanding the fact that the candidate has reached the quota, the transfer is to be completed and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidates, but no votes of any other candidate are to be transferred to the candidate.
- (3) If the number of votes obtained by a candidate is increased by a transfer to a number which is equal to the quota, all of the ballot papers on which the votes are recorded are to be set aside as finally dealt with.
- (4) If the number of votes obtained by a candidate is increased by a transfer to a number which exceeds the quota, the surplus is to be transferred to the candidates next in the order of the voters' respective preferences, in the following manner:
 - (a) the ballot papers on which are recorded the votes obtained by the elected candidate in the last transfer are to be re-examined and the number of third preferences, or in the case provided for in clause 10, next consecutive preferences, is or are to be recorded for each unelected candidate counted;
 - (b) the surplus of the elected candidate is to be divided by the total number of ballot papers mentioned in paragraph (a) and the resulting fraction is the transfer value;

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- (c) the number of third or other preferences recorded for each unelected candidate is to be multiplied by the transfer value;
- (d) the resulting number, truncated to 2 decimal places, is to be credited to each unelected candidate and added to the number of votes previously obtained by the candidate.

12. Transfer of votes

- (1) If, after the first preferences have been counted and any surplus has been transferred, no candidate has, or less than the number of candidates required to be elected have, obtained the quota –
 - (a) the candidate who at that time has the least number of first preference votes transferred is to be excluded; and
 - (b) all the votes obtained by that candidate are to be transferred to the candidates next in the order of the electors' respective preferences in the same manner as provided by clause 4.
- (2) The votes received by the excluded candidate are to be sorted into groups according to their transfer values when received by that candidate.
- (3) The groups are to be transferred at the transfer value at which they were received in the following order:

- (a) firstly, the group with the highest transfer value;
 - (b) secondly, the remaining groups in descending order of transfer value.
- (4) Each transfer under subclause (3) is a separate transfer.

13. Votes increased by transfer

- (1) If the number of votes obtained by a candidate by a transfer is increased to a number which is equal to, or exceeds, the quota, the candidate is to be elected.
- (2) Notwithstanding that the candidate has reached the quota, the transfer is to be completed and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate, but no other votes are to be transferred.
- (3) If the number of votes obtained by a candidate is increased by a transfer to a number of votes which is equal to, but does not exceed, the quota, all the ballot papers on which those votes are recorded are to be set aside as finally dealt with.
- (4) If the number of votes obtained by a candidate is increased by a transfer to a number which exceeds the quota, the surplus is to be transferred to the candidates next in the order of the electors' respective preferences in the same manner as provided by clause 11(4), but that surplus is not to be dealt with until all the votes of the excluded candidate have been transferred.

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- (5) If there is a surplus, it is to be dealt with before any other candidate is excluded.
- (6) The process of excluding the candidate who has polled the next lowest number of votes and transferring the vote to other candidates is to be repeated until all the candidates, except the number required to be elected, have been excluded and the unexcluded candidates who have not already been elected are then elected.

14. Order of preference

In determining which candidate is next in the order of an elector's preference –

- (a) any candidate who has been elected or excluded is not to be considered; and
- (b) the order of the elector's preference is to be determined as if the names of those candidates had not been on the ballot paper.

15. Exclusion of candidates

- (1) If it is necessary to exclude a candidate, and 2 or more candidates have an equal number of votes, having at that time the least number of first preference votes transferred to them, whichever of those candidates was the lowest on the poll at the last count or transfer at which they had an unequal number of votes is excluded first.
- (2) If the candidates had an equal number of votes at all preceding counts or transfers, the returning

officer is to decide which candidate is to be excluded first by the drawing or casting of lots in the prescribed manner.

16. Exhausted ballot paper

If, on a transfer, it is found that on a ballot paper there is no candidate opposite whose name a number is placed, other than a candidate who has already been elected or excluded, the ballot paper is to be set aside as exhausted.

17. Order of election

- (1) The order of election of councillors is the order in which the candidates receive a quota.
- (2) If more than one candidate receives a quota at the same count or transfer, the candidate with the highest number of votes is elected first, the candidate with the next highest number of votes is elected second, and so on.
- (3) If under clause 13(6) one candidate is elected without a quota, that candidate is elected last.
- (4) If under clause 13(6) more than one candidate is elected without a quota and it is necessary to determine the order of election of those candidates for any reason, the votes received by the remaining unelected candidates are to be distributed until only one candidate has received less than a quota.

**SCHEDULE 2 – RECOUNT TO FILL CASUAL
VACANCY**

Section 81

PART 1 – GENERAL

1. Interpretation

In this Schedule –

completed ballot papers counted means –

- (a) if, after the first preferences were counted at the relevant election, the number of first preferences recorded for the vacating councillor was equal to or exceeded the quota, all the ballot papers on which those first preferences were recorded; and
- (b) in any other case, all the ballot papers counted for that councillor at the time of that councillor's election, including ballot papers relating to votes that were transferred to the councillor;

consenting candidate means a candidate not elected at the relevant election who consents to be included in a recount for a vacancy;

consent period means the period within which a consent form is to be lodged under section 81(8);

quota means the number of votes sufficient to elect a candidate;

relevant election means the election last held to fill the office of the vacating councillor;

vacating councillor means a councillor who is vacating the office of councillor.

PART 2 – ORIGINAL ELECTION WAS FOR MORE THAN ONE COUNCILLOR

2. One consenting candidate

If there is only one consenting candidate, the Electoral Commissioner is to –

- (a) declare the candidate elected; and
- (b) notify the Minister in writing of the election of the candidate.

3. More than one consenting candidate

If there are 2 or more consenting candidates, the Electoral Commissioner, within 7 days after the end of the consent period, is to ascertain in accordance with this Schedule which consenting candidate is to be elected.

4. Transfer of votes

- (1) If –

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- (a) a vacating councillor was, by virtue of clause 13 of Schedule 1, elected at the relevant election after the candidate who was lowest on the poll at that election had been excluded from the counting; and
- (b) the votes obtained by the excluded candidate were not required to be transferred to the candidates next in the order of the electors' preferences –

so many of those votes as would have been transferred to that vacating councillor, if the votes of the excluded candidate had been transferred to the candidates next in the order of the electors' respective preferences, are taken to have been so transferred to, and to be obtained by, that vacating councillor and the completed ballot papers representing those votes are to be counted for that councillor.

- (2) The ballot papers counted for the vacating councillor are to be examined, and all the votes obtained by the councillor are to be transferred to and counted for the consenting candidates first or next in the order of the electors' respective preferences.
- (3) The votes received by the vacating councillor as first preferences are to be transferred at the transfer value as determined under subclause (6).
- (4) The other votes received by the vacating councillor that are not first preferences are to be

transferred at the transfer value as determined under subclause (7).

- (5) All the votes received by the vacating councillor are to be –
 - (a) sorted into groups according to their transfer values; and
 - (b) transferred in the following order:
 - (i) firstly, the group with the highest transfer value;
 - (ii) secondly, the remaining groups in descending order of transfer value.
- (6) If the votes obtained as first preferences by the vacating councillor –
 - (a) were sufficient to elect the councillor, the transfer value of those votes is the fraction determined by dividing the number of votes sufficient to elect the councillor by the total number of votes obtained by the councillor; or
 - (b) were insufficient to elect the councillor, the transfer value of those votes is one.
- (7) If the number of votes obtained by the vacating councillor at an individual count, other than the votes obtained as first preferences –
 - (a) were not sufficient to elect the councillor, the transfer value of the votes obtained

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on that count is that at which they were obtained by the councillor; or

- (b) were sufficient to elect the councillor, the transfer value of the votes received at that count is that which would have been sufficient to elect the councillor immediately before that count.

- (8) Each transfer under subclause (5) is a separate transfer.

5. Counting of votes

- (1) After the number of votes for each consenting candidate has been ascertained, the method of counting votes set out in Part 2 of Schedule 1 applies with the necessary modifications.
- (2) The Electoral Commissioner is to declare the consenting candidate who obtains an absolute majority of the votes, within the meaning of Schedule 1, to be elected.
- (3) As soon as practicable after declaring a consenting candidate to be elected, the Electoral Commissioner is to notify the Minister in writing of the election of the candidate.

6. Exclusion of candidate

- (1) If it is necessary to exclude a consenting candidate, and 2 or more consenting candidates have an equal number of votes and are lowest on the poll, whichever of those candidates was lowest on the poll at the last count or transfer at

which they had an unequal number of votes is excluded first.

- (2) If the candidates had an equal number of votes at all preceding counts or transfers, the returning officer is to decide which consenting candidate is to be excluded first.

7. Previous election under Schedule

If a vacating councillor was elected under the provisions of this Schedule, the Electoral Commissioner is to –

- (a) examine the ballot papers that at the relevant election were counted for the councillor in whose place the vacating councillor was elected (including votes transferred to the last-mentioned councillor); and
- (b) ascertain which consenting candidate is to be elected in accordance with this Schedule.

8. Order of preferences

To determine which consenting candidate is first or next in the order of the electors' preferences –

- (a) the name of, and the first preferences recorded at the relevant election for, an excluded candidate who is a consenting candidate are not to be omitted from any completed ballot papers transferred to the

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vacating councillor, but are to be counted for that consenting candidate; and

- (b) any candidates who were elected at the relevant election or who are not consenting candidates are to be disregarded and the order of the electors' preferences are to be determined as if the names of those candidates had not been included on the ballot papers.

9. Ballot papers exhausted

A complete ballot paper is exhausted if there is no candidate next to whose name a number has been placed other than a candidate –

- (a) who has already been elected; or
- (b) who is not a consenting candidate.

**SCHEDULE 3 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 126

1. Interpretation

In this Schedule –

previous Act means the *Local Government Act 1993* as in force immediately before the commencement of this Act.

2. Continuation in office

- (1) A person who, immediately before the commencement of this Act, holds office as a councillor, deputy mayor or mayor under the previous Act continues to hold that office on and after that commencement.
- (2) For the purposes of this Act, a person who continues to hold office under subclause (1) is taken to have been elected to that office at the election under the previous Act at which the person was elected to that office.
- (3) For the purposes of this Act, the date of election of a person taken to have been elected under subclause (2) is the date on which the certificate of election for that office was issued under the previous Act.
- (4) Nothing in this clause affects the validity of an election held under the previous Act or any act done under that Act in relation to that election.

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3. Retention of electoral roll kept under previous Act

- (1) The general manager of a council must retain a copy of the electoral roll kept under section 258 of the previous Act immediately before the commencement of this Act.
- (2) The general manager must retain the electoral roll referred to in subclause (1) for 12 months after the commencement of this Act.
- (3) The general manager must provide a copy of the electoral roll retained under subclause (1) to the Electoral Commissioner if requested to do so by the Electoral Commissioner for the purposes of dealing with a transitional matter arising from the operation of the previous Act.

4. Failure to vote at elections held under previous Act

- (1) Division 2A of Part 15 of the previous Act continues to apply in relation to a failure to vote at an election held under the previous Act as if that Division had not been repealed by this Act.
- (2) Without limiting subclause (1), the provisions referred to in subclause (1) continue to apply in relation to any notice, determination, payment, infringement notice, liability, proceeding or other matter arising from, or relating to, a failure to vote at an election referred to in subclause (1).
- (3) A thing may be done under the provisions referred to in subclause (1) after the commencement of this Act as if those provisions had not been repealed.

5. Candidates at elections held under previous Act taken to be eligible candidates

- (1) This clause applies in relation to a recount conducted under section 81 to fill a casual vacancy in the office of councillor that occurs before the issue of the certificate of election for the first ordinary election held under this Act after the commencement of this Act.
- (2) For the purposes of section 81(3), a person who was a candidate at an election held under the previous Act at which the councillor whose office has become vacant was elected is taken to be an eligible candidate.
- (3) Subclause (2) does not affect the operation of section 81(3)(a) or (b).

6. Proceedings and other matters arising from elections held under previous Act

- (1) The provisions of the previous Act and any regulations made under that Act relating to elections continue to apply in relation to any offence, proceeding, dispute, application, review, appeal, determination or other matter arising from, or relating to, an election held under the previous Act.
- (2) A thing may be done under the previous Act or any regulations made under that Act after the commencement of this Act in relation to a matter referred to in subclause (1) as if the relevant provisions of the previous Act and those

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regulations had not been repealed or otherwise
ceased to have effect.

**7. Retention of electoral material from last ordinary
election held under previous Act**

- (1) The Electoral Commissioner must retain any electoral material kept by the Electoral Commissioner under the previous Act in relation to the last ordinary election held under that Act.
- (2) The Electoral Commissioner must retain the electoral material referred to in subclause (1) until the certificate of election is issued for the first ordinary election held under this Act.

**8. Persons enrolled on electoral rolls kept under
previous Act taken to be enrolled on Local
Government Electoral Roll**

- (1) A person who, immediately before the commencement of this Act, was enrolled on an electoral roll kept by a general manager under section 258 of the previous Act is taken, on the commencement of this Act, to be enrolled on the Local Government Electoral Roll.
- (2) A person taken to be enrolled on the Local Government Electoral Roll under subclause (1) is entitled to vote in an electoral area in respect of which the person was enrolled on an electoral roll kept under section 258 of the previous Act immediately before the commencement of this Act.

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- (3) For the avoidance of doubt, a person taken to be enrolled on the Local Government Electoral Roll under subclause (1) is taken to be enrolled once only on that Roll, regardless of the number of electoral areas in respect of which the person was enrolled under the previous Act.

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SCHEDULE 4 – CONSEQUENTIAL AMENDMENTS

Section 129

Tasmanian Civil and Administrative Tribunal Act 2020

1. Schedule 1 is amended by inserting after item 98 the following item:
 99. The *Local Government Electoral Act 2026*.
2. Schedule 2 is amended as follows:
 - (a) by inserting the following paragraph after paragraph (zx) in clause 1(1) of Part 3:
 - (zxa) the *Local Government Electoral Act 2026*;
 - (b) by omitting paragraph (za) from clause 2 of Part 6 and substituting the following paragraph:
 - (za) section 20 of the *Local Government Electoral Act 2026*;
 - (c) by omitting from clause 3(m) of Part 8 “, 28ZP and 262” and substituting “and 28ZP”.