

Electoral Amendment Bill 2009

FACT SHEET

The *Electoral Amendment Bill 2009* Bill makes a number of amendments to the *Electoral Act 2004*, most of which are to clarify, simplify or correct certain provisions and to implement changes of a minor or technical nature.

The Bill amends schedule 3 of the *Electoral Act 2004* by doubling the current number of rotations of names on ballot papers to further reduce any remaining advantage that can be gained from 'linear' or so-called 'donkey' voting. The amendments will double the current number of rotations by adding another set of rotations, with the order of names under the top position reversed, for each current rotation.

Another amendment contained in this Bill is to provide that electors who fail to vote may be referred to the Monetary Penalties Enforcement Service. If an elector fails to reply to an original notice of failure to vote, or a notice determining that their excuse is insufficient, an infringement notice will be issued that will come under the provisions of the *Monetary Penalties Enforcement Act 2005*.

Section 31 of the *Electoral Act* provides that a person is entitled to be enrolled on the State roll if the person is enrolled on the Commonwealth roll. However under the *Commonwealth Electoral Act 1918*, a claim for enrolment is suspended from the date of the issue of the writ for a Federal election in that division, until the close of polling for that election. Amendments to Part 3 of the Act will ensure that enrolment for state purposes still proceeds during this period, notwithstanding a Federal election.

The Bill amends section 191 of the Electoral Act to make it an offence to "keep on display" unauthorised electoral matter. This will cover the situation where a sign of poster, which is not authorised, is printed and distributed before the writ is issued but is kept on display after, and is in line with recent amendments to the *Local Government Act 1993*.

Currently, under the *Constitution Act 1934*, a person is eligible to be nominated if that person is (amongst other things) an elector. However with the commencement of the new *Electoral Act* in 2004, a person's name can be placed on the roll at the age of 17 under provisions of the Commonwealth Electoral Act, which we automatically adopt by virtue of section 32 of our Act.

Amendments to section 75 will therefore clarify that persons must have attained the age of 18 years to nominate as a candidate. This will close this

loophole that was an unintended consequence of the *Electoral Act 2004* adopting automatic enrolment of electors on the Commonwealth roll.

Section 195 of the Act will be amended to provide a specific period for the word “advertisement” to be printed as a headline to paid electoral advertising. This period will be the same as the period for authorisation of campaign material.

The latest day that nominations will be announced will be a Friday rather than a Saturday, under amendments to section 70, ensuring ballot paper printing to commence and candidate names to be advertised in Saturday’s newspapers.

The defence to electoral treating contained in section 188(5) of the Act will be clarified. As currently drafted it provides that it is a defence to show that similar gifts or donations are regularly given to the club, association or body for similar purposes. It has been argued that this defence may be relied upon if the body regularly receives such gifts or donations from any persons and not just the person seeking to rely upon the defence. The equivalent provision in the Local Government Act was recently amended to close the same loophole.

The Bill will also amend the *Electoral Act* to exclude inexpensive items such as pens or balloons that do not exceed in total 1 fee unit (currently \$1.28) per person, from the offences of electoral bribery and treating.

The nomination form will be simplified, and will no longer require the complex one page declaration as to eligibility which has at times caused confusion amongst candidates. The basic requirements of the declaration will be set out in the Act and the form approved by the Tasmanian Electoral Commission, as are most other forms and procedures under the Act.

Section 115 currently only allows for absent voting before polling day by electors who are voting by way of mobile polling. This was an unintended restriction and will be amended to also allow such voting on polling day.

Currently the Commission may approve any procedures that are reasonable and appropriate to assist an elector at a polling place who is unable to vote without assistance. The amendment to section 130 will enable the Commission to approve procedures to assist such electors who are voting by post.