

THE PARLIAMENT OF WESTERN AUSTRALIA

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

EXPLANATORY MEMORANDUM

Glossary

The following abbreviations and acronyms are used throughout this Explanatory Memorandum

<i>Abbreviation</i>	<i>Definition</i>
Assembly	Legislative Assembly of Western Australia
Bill	Electoral Amendment (Finance and other Matters) Bill 2023
Council	Legislative Council of Western Australia
Act	Electoral Act 1907
WAEC	Western Australian Electoral Commission
WA Electoral Commissioner	Western Australian Electoral Commissioner

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

GENERAL OUTLINE

The Electoral Amendment (Finance and other Matters) Bill 2023 effects electoral reforms to the political finance system and introduces a modern Electoral Act for Western Australia, as summarised below.

1. Changes to modernise the Electoral Act 1907 provide (amongst other matters) that:
 - a. when the Electoral Commissioner performs a function under the Act, the Electoral Commissioner is to have regard to an inclusivity principle so that vulnerable groups are given a reasonable opportunity to enrol and vote;
 - b. campaign workers are recognised in the Act;
 - c. the pre-poll period has been reduced to 11 days (and to 14 days for mobile voting places, for example, which are in use in remote areas or institutions);
 - d. polling places will have designated entrances;
 - e. electors who have moved between districts and lived in the new district for more than one month prior to election day will now be able to apply to vote, and then provisionally vote in the district in which they currently reside, on polling day and during the pre-poll period;
 - f. how-to-vote cards must be registered;
 - g. voting has been streamlined and clarified to distinguish between:
 - i. ordinary voting at polling places,
 - ii. early voting at polling places,
 - iii. voting at mobile voting places,

- iv. declaration voting at polling places,
 - v. postal voting, and
 - vi. technology assisted voting for eligible electors;
 - h. early ballot papers are no longer required to be placed into envelopes;
 - i. the Electoral Commission may update the roll based on information from State government agencies;
 - j. like most other states, 16-year-old persons may provisionally enrol, but cannot vote; and
 - k. language used in the Act has been modernised.
2. The Bill introduces a ban on foreign donors.
 3. Parties that are registered federally can no longer comply by with donation disclosure laws by lodging a return prepared in compliance with the Commonwealth Electoral Act 1918.
 4. The Bill introduces electoral expenditure caps to be adjusted annually in line with the consumer price index (CPI), unless that would result in an amount that is less than the previous cap or specified amount.
 5. The Bill introduces one of the most rapid disclosure periods for donations in Australia. All donations must be disclosed within 7 days outside of the capped expenditure period and by the end of the next business day within the capped expenditure period. It is intended that disclosures will be made electronically on a portal managed by the WAEC.
 6. All political participants are to establish a state campaign account for the purpose of electoral expenditure:
 - a. Electoral expenditure must be paid from the campaign account;
 - b. Donations, membership subscriptions, and other income may be paid into the campaign account; and
 - c. Monies purposed for Commonwealth elections and foreign donations must not be paid into a campaign account.

7. The Bill introduces a higher rate of electoral expenditure reimbursement, increased from \$2.26 to \$4.40 per primary vote. This new rate is still lower than all public funding per elector for the Australian Capital Territory, the Commonwealth, New South Wales, Queensland, South Australia, and Victoria. Parties and non-party candidates must opt in to receive the higher rate.
8. There are currently no limits on electoral expenditure in Western Australia. Excessive electoral expenditure undermines democracy and can lead to an increasingly inequitable playing field. Political parties, their associated entities and endorsed candidates as well as non-party candidates are at liberty to spend (and raise) increasingly large war-chests in their effort to be elected. Third-party campaigners such as corporations and trade unions, while not being able to vote on election day, are also not subject to an expenditure cap – allowing them to potentially exert considerable influence on the preferences of electors.
9. New South Wales, Queensland, South Australia, the ACT, the Northern Territory and Tasmania all impose some form of electoral expenditure caps. In order to strengthen democracy and level the playing field, the Bill introduces electoral expenditure caps for all political participants as outlined in the table below:

Legislative Assembly Expenditure caps (permitted expenditure)	
Candidate district cap	\$130,000
Maximum permitted Party expenditure for State general election (Party cap)	59 x \$130,000 = \$7,670,000
Candidate by-election cap	\$390,000
Legislative Council Expenditure caps (permitted expenditure)	
Candidate cap SGE	\$65,000
Max. permitted Party expenditure for State general election (Party cap)	\$65,000 x 37 = \$2,405,000
Vacancy Cap	\$195,000
Third Party Campaigners Expenditure caps (permitted expenditure)	
Max. permitted Third party campaigner expenditure State general election (TPC cap)	\$500,000 overall with an Assembly candidate cap within the overall cap of \$13,000 and a Council candidate cap within the overall cap of \$6,500.
TPC LA by-election cap	\$39,000
TPC LC vacancy cap	\$19,500

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

NOTES ON CLAUSES

Part 1 Commencement

Clause 1 **sets out the short title of the Act.** It is a formal provision specifying the title of the Bill, when enacted, will be the *Electoral Amendment (Finance and Other Matters) Act 2023*.

Clause 2 provides for the commencement of Part 1 on Royal Assent, Part 2 but only sections 3, 176, 177, 178 and 179 on the day after assent day, and the rest of the Act – on 1 July 2024. This means that elections held between 1 July 2024 and the 2025 State general election will be conducted under the new system.

Part 2 *Electoral Act 1907* amended.

Clause 3 provides that this Part amends the Electoral Act 1907.

Clause 4 (1) **deletes the following defined terms:**

above the line

Australian citizen

authorised witness

below the line

candidate

christian name

early ballot paper

elector

electoral census

enrolment information
general polling place
hour of nomination
official paper
registered political party
returning officer
roll
secretary
sub-district

(2) inserts the following new defined term):

above-the-line square, in relation to a ballot paper for a Council election means a square printed on a ballot paper under section 94D(6)b(ii);

accountable person for a how-to-vote card means the person stated in s89C(4)(d) or s89H(2), or if they do not apply, the secretary of the party, or in any other case the distributor under s89C(4)(b);

amalgamated roll has the meaning given in section 76AD(1);

assistant returning officer, means an assistant returning officer appointed under section 141(5);

Australian citizen, has the meaning given in the Australian Citizenship Act 2007 (CWLTH) section 4;

below-the-line square, in relation to a ballot paper for a Council election that has at least one above the line square printed on the ballot paper means a square that is printed on a ballot paper under section 94D(6)(a);

business day, means a day other than other than a Saturday, a Sunday, or a public holiday;

candidate in Parts II and IV includes any person who within 3 months before polling day in an election, publicly announces that they will be a candidate for the election;

close of nominations means the time a writ fixes under section 69(a) for an election;

close of the roll means the time stated in section 69A;

counting place means a place deemed to be a counting place under section 141(1); or a polling place, unless the polling place is the subject of a declaration under section 141(2);

designated entrance for a mobile voting place or polling place has the meaning given in section 93A(1) or 93A(2);

disclose includes to give and give access to;

early polling place means a polling place appointed under section 90(1)(c)(i) as a place at which a person may vote in an election on an early voting day for the election;

early voting days for an election, means the early voting days for the election fixed under section 91;

elected member means a member of the Council or the Assembly;

election campaign worker means a person who works or volunteers for a candidate, group, or political party at a place to vote or a counting place; and includes a scrutineer for a candidate, group, or political party;

elector means a person who is enrolled;

electoral address in relation to an elector, means the address entered on the register of electors under section 40A(c) or (d);

endorsed candidate means a candidate in an election who has been endorsed by a political party;

enrolled has the meaning given in section 40A;

enrolment information means a register extract, information on the register, a roll, or other information relating to electors;

enrolment officer means an officer who the Electoral Commissioner directs to enrol persons on the register of electors and perform the other functions of an enrolment officer;

error notice has the meaning given in s89F(2);

general postal voter has the meaning given in s61(1);

how-to-vote-card has the meaning given in section 89A;

illegal practices have the meaning given in section 187(1);

issuing officer means each of the Electoral Commissioner, the Deputy Electoral Commissioner, a returning officer, a person appointed under section 15, a person employed in the Western Australian Electoral Commission, and a person appointed to be an issuing officer under section 92A;

lack of capacity notice has the meaning given in section 206A(3);

mental impairment means any of, or a combination of (a) an intellectual disability, (b) a mental illness (as defined in the Criminal Code), (c) an acquired brain injury, (d) dementia;

mobile voting officer for a mobile voting place, means the presiding officer and other officer appointed for the mobile voting place under section 90D(1);

mobile voting place means a place appointed as a mobile voting place under section 90(1)(d) or 90(1)(e);

mobile voting times for a mobile voting place, means the times decided under section 90D(3)(b);

non-party candidate means a candidate in an election who is not an endorsed candidate;

official paper has the meaning given in section 94A(2);

parliamentary party means a political party of which at least 1 member is a member of the Council or the Assembly:

permitted purpose means (a) for a member of the Council or the Assembly - performing the member's functions, a purpose connected with an election or referendum, monitoring the accuracy of information in the register of electors or a roll or researching in relation to electoral matters; (b) for a parliamentary party – assisting a member of the Council or the Assembly to perform the member's functions, a purpose connected with an election or referendum, monitoring the accuracy of information in the register of electors or a roll or researching in relation to electoral matters; (c) for a person to whom enrolment information is disclosed under section 62AC - the purpose for which the Electoral Commissioner agreed to disclose the information; and (d) for a person employed in a department or an organisation referred to in section 62AD to whom enrolment information is disclosed under that section - use in connection with performing functions of that department or organisation;

place to vote means a polling place or mobile voting place;

polling day has the meaning given in section 69(b);

postal ballot paper has the meaning given in section 100D(2)(a);

presiding officer for a polling place means the person appointed as the presiding officer for the polling place under section 92C(1)(a) and for a mobile voting place means the person appointed as the presiding officer for the mobile voting place under section 90D(1)(a);

primary residential address of a person means the address of the person's sole or principal place of residence;

register extract has the meaning given in section 62A(1);

registered how-to-vote card means a how-to-vote card registered under Part IV Division 2A that has not ceased to be registered under that Division;

registered officer of a political party means the secretary of the party, or another person registered as a registered officer in the register of political parties;

registered political party means a political party that is registered in the register of political parties;

register of electors has the meaning given in section 19(1);

register of political parties means the register kept under section 62D;

Registrar of Births, Deaths and Marriages means the Registrar of Births, Deaths and Marriages referred to in the Births, Deaths, and Marriages Registration Act 1998;

returning officer means a returning officer appointed under section 6(1);

roll means a roll prepared for an election under section 76AA(1);

scrutineer means a person appointed as a scrutineer under section 92F, 101D(1), 137(1), 146C or 156D(11);

secretary in relation to a political party means the person who holds the office of secretary or chief administrative officer (however described) of the party, or a person acting on behalf of that person;

silent elector means an elector whose application to be a silent elector is granted under section 51B(3) and whose status has not been revoked under section 51C(3);

suitable to be registered in relation to a how-to-vote card, has the meaning given in section 89B;

supplementary roll means a supplementary roll made under section 76AC(1);

voting area in relation to a place to vote, means the voting area declared under section 90(1)(f) for the place;

inserts revised meanings for existing defined terms:

(3) **absent voter** the reference to section 99A is deleted and replaced with a reference to section 97A(2);

(4) **conjoint election** the words “are both to be held on the same day” are deleted and the words “both have the same polling day” are inserted;

(5) **officer** the words "Act, except as an honorary Government electoral agent" are deleted, and the word "Act" inserted.

(6) **political party** the references in the definition to "a candidate or candidates endorsed by it or by a body or organisation that forms part of it" are deleted and replaced with the words "an endorsed candidate";

(7) inserts a note on interpretation of political party;

(8) **polling place** inserts a reference to sections 90(1)(a) or (b) in the definition;

(9) **vote record** deletes the reference to section 99E(1) and inserts a reference to section 101B(1);

inserts references to assist in determining the meaning to be given to the following terms:

(10) **person's primary residential address** in respect of a person not always living in the district, in relation to a person serving a sentence of imprisonment, in lawful custody or detention in relation to an offence inserting new sections 4(4) and 4(4A);

an elector being enrolled for a district inserts a new section 4(4B));

endorsed candidate inserts a new section 4(4C);

political party moves unamended s.175A(3) to new section 4(4D);

inserts new definitions:

(11) returning officer new section 4(7);

Commonwealth subdivision new section 4(8).

Clause 5 **amends** section 4AA (official agents for appointment of scrutineers) by deleting the references to sections 99G, 114 and replacing them with references to sections 92F and 101D(1) and by deleting existing paragraphs (a), (c) and (e) to refer to "endorsed candidates", "registered officers" and "registered political parties".

Clause 6 **amends section 5B** by amending the heading, to refer to the defined term "parliamentary party" in section 5B(3), by deleting section 5B(5) and inserting a new 5B(5) and (6) providing clarification as to the process and timing relating to the resignation of the Electoral Commissioner, and modernises the language used in section 5B(2), 5B(3), 5B(4), 5B(10) and 5B(11).

Clause 7 **amends section 5D** by amending the heading, to refer to the defined term "parliamentary party" in section 5D(2) and 5D(5), by replacing references to "he" and "him" in sections 5D(3) and 5D(6) with references to the Acting Electoral Commissioner and by modernising the language used in sections 5D(2), 5D(3), 5D(5) and 5D(6).

Clause 8 **amends section 5F** by amending the heading, by replacing references to "him" and "his" in sections 5F(1) and (2) with references to the Electoral Commissioner and "their functions"

and by inserting a new paragraph (ec) to allow the Electoral Commissioner to perform the function of a returning officer where the returning officer cannot exercise the function, or it is necessary or convenient for the conduct of an election.

Deletes “electoral” in para (b) because the definition of “roll” is an “electoral roll.”

- Clause 9 **deletes section 5G(1) and inserts new sections 5G(1), (1A) and (1B)** which clarifies the process relating to the delegation of functions by the Electoral Commissioner.
- Clause 10 **inserts a new section 5I** to provide that the Electoral and Deputy Electoral Commissioners must have regard to the inclusivity principle when performing a function under the Act. The inclusivity principle is defined in new section 5I(1) to mean the principle that Aboriginal persons, persons from culturally or linguistically diverse communities, persons with a disability and homeless persons should be given a reasonable opportunity to enrol and vote.
- Clause 11 **replaces section 6** to remove references to the appointment of enrolment officers and clarify matters relating to the appointment of returning officers.
- Clause 12 **amends s.7** which provides for the returning officer to appoint a substitute in writing in circumstances where the returning officer is prevented from acting due to illness or other sufficient cause.
- Clause 13 **deletes sections 9 and 10.**
- Clause 14 **deletes** the heading to Part III Division 1 and **inserts** a new heading "Entitlement to be elector".
- Clause 15 **amends section 17** by amending section 17(1) to delete references to sub-districts in paragraphs (c) and (e), by deleting sections 17(2) and (3) and inserting in their place new subsections (2) and (3), by simplifying the language in section

17(4) and by deleting sections 17(4a) to (5). New subsections (2) and (3) apply to a person who is entitled to be enrolled and vote under subsection (1), and has lived in a district for more than 1 month on the day they intend to vote in an election, but is not enrolled for that district. They enable the person to attend a place to vote, be enrolled for the district and provisionally vote in the election.

Clause 16 **inserts a new section 17AA** which provides an entitlement for persons who have attained the age of 16 years to be enrolled for a district. However, a person so enrolled is not taken to be an elector, is not entitled to vote, and is taken to be a silent elector until the person attains the age of 18 years.

Clause 17 **amends section 17A** by amending the heading and provides for a person who has left Australia but remains on the Commonwealth roll to stay on the register of electors in WA. The amendments insert a new paragraph (aa); remove references to sub-districts and refer to a person's electoral address.

Clause 18 **amends section 17B** by amending the heading and provides for an elector with no fixed address who is on the Commonwealth roll to stay on the register of electors in WA by removing references to sub-districts.

Clause 19 **amends section 18** by amending the heading and providing for the circumstances where people will be disqualified from voting by simplifying the language of the provision and by removing the reference in paragraph (a) to persons of unsound mind and instead disqualifying the person where a lack of legal capacity notice is in effect or where the person's name has been removed from the Commonwealth roll under the equivalent provision in the Commonwealth Electoral Act and by referring to the holder of a temporary visa or an unlawful non-citizen in paragraph (d).

- Clause 20 **deletes** the Part III Division 2 heading and replaces it with "Register of electors".
- Clause 21 **deletes sections 19 to 30 and inserts new section 19.**
Section 19 provides for the Electoral Commissioner to establish a register of electors for the purpose of enrolling persons under the Act. The register of electors may be in electronic form and must include the details entered under section 40A but not include the names of persons whose names must be removed or omitted from the register or roll. The Electoral Commissioner must update the register of electors.
- Clause 22 **amends the heading to section 31 and amends s31(1) and (2)** to replace references to the roll with 'register of electors', simplify the language in s31(1), and in 31(2) in relation to the Australian Electoral Officer's powers, replace reference to s45(4) with 45(6).
- Clause 23 **amends section 31A** by amending the heading and deleting references in section 31A(2) to section 31AB and section 53, and inserting references to sections 35A and section 76AB, respectively.
- Clause 24 **deletes section 31AB.**
- Clause 25 **amends section 31B** by amending the heading and by inserting references to a "silent elector".
- Clause 26 **deletes section 34 and inserts a new section 34** which provides that the register of electors or another document will not be invalid only because the register or other document is not printed, kept, or published as required under the Act or contains an error in copying or printing.
- Clause 27 **amends section 35** by amending the heading and amends the wording of section 35 to refer to the preparation or revision of the register of electors.

- Clause 28 **inserts a new section 35A** which provides for the Electoral Commissioner where information is received from the Commonwealth or the State, to revise the register of electors by enrolling a person, changing an elector's enrolled address or the district for which the elector is enrolled or removing a person's name from the register for that district. Section 35A(1) contains a definition of "received information" for the purposes of the section.
- Clause 29 **deletes sections 37 to 39 and inserts section 38** which provides for the making of regulations in relation to the enrolment of persons as electors including regulations which impose a penalty not exceeding \$50 for the contravention of a regulation made under the section.
- Clause 30 **replaces section 40**. Section 40 provides for the removal of persons from the register of electors. These persons are persons not entitled to be enrolled, persons not entitled to be an elector and persons who do not live in the district for which they are enrolled including the giving of notice to the person whose name was removed.
- Clause 31 **deletes** the heading to Part III Division 3 and inserts a new heading for the Part "Division 3 Enrolment".
- Clause 32 **deletes section 41 and inserts new sections 40A and 41**. New section 40A provides that a person is enrolled where the following details are entered on the register of electors- the person's surname, given name, the address referred to in section 17B(1)(b) or otherwise the person's primary residential address, the district for which the person is enrolled and the person's gender. New Section 41 amends the current wording and provides that a person may be enrolled by an enrolment officer pursuant to a claim, or by the Electoral Commissioner under section 35A(2).

- Clause 33 **amends section 42** by amending the heading, by modernising the language in section 42(1) and inserting new sections 42(3) and (4) which provide that a claim is to be referred to an officer and recorded.
- Clause 34 **amends section 44** by amending the heading, by deleting sections 44(1) and (4), inserts new sections 44(1) and (4) and amends sections 44(2) and (3). The amendments simplify the requirements for a valid claim and modernise the language. The sections now refer to the claimant's primary residential address. The place of birth and usual signature of the claimant is not required. New section 44(4) clarifies the position in the case where the claimant is unable to provide a date of birth.
- Clause 35 **amends section 44A** by amending the heading, by clarifying the language used in section 44A(2), inserting new 44A(2A) requiring the enrolment officer to give the person claiming enrolment a notice and making provision for enrolment as a silent elector, and modernising the language in sections 44A(3) and (5).
- Clause 36 **replaces section 45** which provides for offences where a person fails to have their name placed on the register of electors.
- Clause 37 **amends section 46** by modernising the language including the use of gender-neutral terms in section 46(1) and correcting section references in section 46(3).
- Clause 38 **amends section 47** by modernising the language including the use of gender- neutral terms in section 47(1) and (3) and amending the section references in section 47(3) and (4).
- Clause 39 **amends section 48** by deleting references to the "roll" and "striking off the roll" and inserting references to the register of electors and "removing from the register of electors" and

modernising the language. Section 48(5) dealing with removal of people who are 17 years of age is deleted.

- Clause 40 **amends section 51** by amending the heading and deleting references to the roll in section 51(1) and inserts a reference to the register of electors. The amendment modernises the language including the use of gender-neutral terms in section 51(2).
- Clause 41 **replaces section 51A**. Provides for updated reference to persons who lack capacity to vote and sets out how those persons are to be not included or removed from the register of electors including a requirement to give notice.
- Clause 42 **amends section 51AA** by amending the heading and modernising the language in section 51AA(1) including the use of gender-neutral terms and by deleting section 51AA(2) and inserting an amended section 51AA(2).
- Clause 43 **deletes section 51B and inserts a new section 51B and section 51C** which amend the provisions that enable a person to be a silent elector. Section 51B(1) provides that a person may apply to the Electoral Commissioner to be a silent elector if the person considers that having the person's electoral address shown on a roll would place the personal safety of that person or members of the family of that person at risk. Section 51B(2) sets out the information required to be included in an application. Section 51C provides for the Electoral Commissioner to review the register of electors in relation to silent electors.
- Clause 44 **amends section 52** by amending the heading, deleting the references to "roll", and inserting references to the register of electors and deleting references to being "struck off" and inserting references to "removed" and by using gender neutral terms.
- Clause 45 **deletes sections 53 to 55**.

- Clause 46 **amends section 56** by amending the heading, modernising the language, and deleting the age of 17 years and inserting the age of 16 years in relation to information concerning persons whose deaths have been registered during the month and are to be forwarded to the Electoral Commissioner.
- Clause 47 **amends section 59** by amending the heading and clarifies the reference to list in section 59(3).
- Clause 48 **amends section 60** by amending the heading and by deleting the references to "roll" in the section to refer to the register of electors and updates the language in the section.
- Clause 49 **inserts section 61 and 62**. Section 61 provides that an elector may apply in writing to the Electoral Commissioner to be registered as an elector who votes by postal vote at every election and referendum (a general postal voter) if the elector satisfies the requirements in section 61(1). These requirements include that the elector has an enrolled address that is not within 20 km of a polling place, is seriously ill or infirm, has a mental or physical impairment (including an elector caring for such a person) has attained 70 years of age, is unable to attend due to religious beliefs or is a silent elector. The Electoral Commissioner may grant the application if it is validly made, and the Electoral Commissioner is satisfied the elector is entitled to be registered as a general postal voter and give notice to the elector of that decision. The Electoral Commissioner may revoke an elector's registration as a general postal voter. Section 62 provides for offences in relation to applications to be a general postal voter.
- Clause 50 **deletes section 62A**.
- Clause 51 **inserts new Division 6 comprising sections 62A to 62AF**.

Section 62A provides that the Electoral Commissioner must cause an extract of the register of electors to be prepared for the purpose of being made available to persons under the Act.

Section 62AA provides that the Electoral Commissioner must make a register extract available for inspection by the public at the office of the Electoral Commissioner without charge.

Section 62AB provides that certain information may be disclosed to members of Parliament and to parliamentary parties.

Section 62AC provides that the Electoral Commissioner may disclose particular information to other persons provided that the Electoral Commissioner considers the public interest in making the information available outweighs the public interest in protecting the privacy of personal information and the person gives to the Electoral Commissioner the undertakings set out in the section relating to the use of the information, including use for the agreed purpose, prohibitions on copying and further disclosure. A fee may be charged for disclosing enrolment information under the section.

Section 62AD provides for the disclosure of enrolment information to government departments.

Section 62AE provides for an offence where a person uses disclosed information contrary to the section. A penalty of a fine of \$10,000 is provided for.

Section 62AF provides for a penalty of a fine of \$10,000 for disclosing protected information. Where the disclosure of protected information is made for a commercial purpose a fine of \$100,000 is provided for. Section 62AF(1) provides a definition of "protected information" for the purposes of the section.

Clause 52

amends section 62C by deleting the definitions of "parliamentary party", "register of political parties" and

"registered political party" and makes minor amendments to the definition of "eligible political party".

Clause 53 amends section 62E by deleting section 62E(4)(c) and inserting a new paragraph (c) which requires the name of the secretary and another person who is to be a registered officer of the political party to be included in the form of application for registration.

Clause 54 **amends section 62G** by amending the heading and amending section 62G(1) and (4). Section 62G(1) is amended in relation to the means by which a notice may be published by the Electoral Commissioner, by removing the reference to "a newspaper circulating in the State" and including a notice on the Commission's website or another manner approved by the Electoral Commissioner. Section 62G(4) is amended to replace 'residential address' with 'enrolled address'.

Clause 55 **amends section 62HA** by amending section references.

Clause 56 **amends section 62L** by amending the means by which the Electoral Commissioner may give notice of a proposed cancellation of registration of a political party by removing the reference to "a newspaper circulating in the State" and including a notice on the Commission's website or another manner approved by the Electoral Commissioner. Minor amendments are also made to modernise the language of the section.

Clause 57 **amends section 62M** by amending the heading, deleting the reference to "secretaries", and inserting a reference to "registered officers".

Clause 58 **amends section 62P** by amending the heading, deleting the references to "secretary", and inserting a reference to "a registered officer".

Clause 59 **amends section 69** by amending the heading deleting paragraph 69(a) and inserting a new paragraph (a) to provide

that the writ is to fix the time before which a person may nominate as a candidate.

- Clause 60 **amends section 69A** by amending the heading and to refer to "roll" in the singular.
- Clause 61 **replaces section 70** and provides rules for the fixing of the close of nominations.
- Clause 62 **amends section 71** by amending the heading and by adding Christmas Day to the definition of excluded day, deleting the reference to "date of nomination", and replacing it with a reference to "the day on which the close of nominations occurs".
- Clause 63 **amends section 74** by deleting the reference to "deputy returning officers" and inserting a reference to "returning officer for each district".
- Clause 64 **amends section 75** by inserting a time for the advertisement to occur in relation to the writ in section 75(2)(a) and to insert references to "places to vote and voting areas for places to vote" in section 75(2)(c). Section 75(3) is deleted.
- Clause 65 **inserts a new Part IV Division 1A comprising sections 76AA to 76AF.**

Section 76AA(1) provides that as soon as practicable after the close of the roll, the Electoral Commissioner must cause a roll to be prepared for the election.

Section 76AA(2) sets out the persons who must be included on the roll and those who may be included.

Section 76AA(3) sets out the details to be included for each person who is included on the roll and how the names of persons are to be arranged.

Section 76AA(4) provides details of the form in which the roll is to be held and other matters including the date on which the roll is prepared and the election for which the roll is to be used.

Section 76AA(5) provides that the roll must not include the address of a silent elector, or a person enrolled under section 17(4), 17A or 17B.

Section 76AA(6) provides that the roll must not include an elector's status as a silent elector if the register of electors is revoked under s51C(4)(b) during the preparation period.

Section 76AA(7) provides that if a roll is prepared for a Council election the roll for the election is formed by all of the rolls for the districts.

Section 76AB provides for the circumstances in which alterations or amendments to the rolls may be made after rolls are prepared. Rolls must not be amended otherwise than in accordance with the section.

Section 76AC provides for the making of a supplementary roll to alter or amend a roll.

Section 76AD provides for the issue of an amalgamated roll if a supplementary roll has been made.

Section 76AE provides that a roll is not invalid only because it is not printed, kept, or published as required under the Act or contains an error in copying or printing.

Section 76AF provides a power for the making of regulations in relation to the preparation of rolls, including anything necessary or convenient for that purpose.

Clause 66 **amends section 76A** by modernising the language in sections 76A(1) and (2), by referring to a vote "in" an election and by deleting references to "a roll" and inserting references to "the register of electors".

Clause 67 **amends section 77** by amending the heading and by inserting gender- neutral language. Reference in s77(2)(b) and (c) to "hour of nomination" is replaced with "close of nominations". The

penalty in section 77(4) is increased to the amount of \$2500. Section 77(5) is deleted and replaced with wording which clarifies the operation of the section.

- Clause 68 **amends section 78** by amending the heading, by deleting references to "christian name" and "place of residence" in section 78(1) and inserting references to "given name" and "primary residential address", and inserting new subsection 78(1)(ba) requiring that a nomination form includes a means by which the candidate can be contacted. The wording in section 78(2A) is simplified to refer to the candidate as a silent elector.
- Clause 69 **amends section 79** by amending the heading and deleting a reference to "hour of nomination" and inserting a reference to "close of nominations".
- Clause 70 **amends section 80** by deleting references to "hour of nomination" and inserting references to "close of nomination", deleting references to "secretary" and inserting references to "registered officer".
- Clause 71 **inserts new section 80A** which provides that if a group claim is made to the Electoral Commissioner the claim is taken to have been made to the returning officer when the Electoral Commissioner receive the claim. The section does not affect the operation of section 81A.
- Clause 72 **amends section 81** by deleting references to "hour of nomination" and inserting references to "close of nomination" and inserting a reference to payment by electronic transfer.
- Clause 73 **amends section 81A** by deleting the definition of the term "party nomination" and replacing it with a new simplified definition. Section 81A(2) is amended to delete references to "hour of nomination" and insert references to "close of nomination". New sections 81A(2A) and (2B) are inserted which provide for the case where the Electoral Commissioner receives

2 or more party nominations for the same registered political party for a single member election and all but 1 of the party nominations is not withdrawn. In that case section (2B) provides that all of the party nominations for the registered political party are invalid. New sections 81A(4A) and (4B) are inserted which provide for the case in a Council election where the Electoral Commissioner receives more party nominations by the same registered political party than the relevant number for the election. In that case section (4B) provides that all party nominations for the Council by the registered political party are invalid.

- Clause 74 **amends section 82** by amending the heading and to insert gender neutral language, refer to close of nominations and modernise the language of the section.
- Clause 75 **amends section 85** by amending the heading and deleting section 85(2).
- Clause 76 **amends section 86** by deleting section 86(2) and inserting a new section 86(2). Section 87(2) provides that the returning officer must as soon as practicable after the close of nominations produce all nomination papers received between the issue of the writ and the close of nominations, declare the names of all nominated candidates, and publish the names and contact details of all candidates on the Commission website. Section 86(2AAA) is amended to prevent the publication of a candidate's primary residential address if the candidate is a silent elector. The reference in section 86(2b) to "telegraph" is deleted and replaced with a reference to "electronic communication" and to refer to the Commission website. Section 86 is amended to modernise the language used.
- Clause 77 **amends section 87** by modernising the language in section 87(2), deleting sections 87(3) and (4A) and inserting sections 87(3) and (3A). Section 87(3) provides that the returning officer

must as soon as practicable after the close of nominations produce all nomination papers received between the issue of the writ and the close of nominations, declare the names of all nominated candidates, and publish the names and contact details of all candidates on the Commission website. Section 87(3A) prevents the publication of a candidate's primary residential address if the candidate is a silent elector. Sections 87(5) and (6) are amended to modernise the language used. Section 87(7) is deleted.

Clause 78

amends section 88 to insert new paragraphs 88(2)(a)(iii) and (2)(b)(ia) to clarify that where a candidate in a single member election dies on or before polling day, if the polling place is an early polling place for another election the polling place is to remain open to receive votes for the other election. The amendments delete section 88(4) and insert a new section 88(4) and (5) to provide for the vacation of a seat on the death of a candidate for a Council election after the close of the poll but before counting of votes has been completed and the candidate is elected.

Clause 79

inserts a new Division 2A comprising sections 89A to 89I relating to the registration of how-to-vote-cards.

Section 89A provides a definition of a how- to- vote card for the purposes of the Division.

Section 89B(1) sets out the requirements for a how- to- vote card to be suitable to be registered. Section 89B (2) provides the circumstances in which a how- to -vote card will not be suitable to be registered.

Section 89C provides that during the registration period for an election, a person, political party, or group wishing to distribute or publish a how- to -vote card to apply to the Electoral Commissioner to register a how- to -vote card for the election. The term "registration period" is defined in section 89(1). An

application for registration must satisfy the requirements set out in section 89C(4).

Section 89D provides for the registration of a suitable how-to-vote card. The Electoral Commissioner may refuse to register a how-to-vote card if a how-to-vote card is already registered for the person political party or group and that registration has not been cancelled and the second how-to-vote card is substantially similar to the first. The Electoral Commissioner must give written notice of the decision including if the decision is not to register the reasons for the decision.

Section 89E provides for a person political party or group to apply to the Electoral Commissioner to replace a registered how-to-vote card with another how-to-vote card. An application must satisfy the requirements set out in section 89E(2). If the Electoral Commissioner considers the replacement how-to-vote card suitable to be registered, the Electoral Commissioner must register the replacement and cancel registration of the previous card and give the applicant notice in writing of the decision and the effect of the decision. If the Electoral Commissioner considers the replacement card unsuitable to be registered, the Commissioner must refuse registration of the replacement, give written notice of the decision and the reasons for the decision.

Section 89F provides for the correction of errors identified by the Electoral Commissioner in registered how-to-vote cards.

Section 89G provides for the cancellation of registration of registered how-to-vote cards on the request of a person political party or group on whose behalf the card is registered.

Section 89H provides a process for nominating or changing the accountable person for a registered how-to-vote card.

Section 89I provides that the Electoral Commissioner must publish each how- to- vote card on the Commission website. A failure to publish 1 or more how- to- vote cards for an election does not invalidate the election.

Clause 80

deletes Part IV Division 3 and inserts a new Division 3 comprising sections 90 to 103A.

Subdivision 1 - Establishing places to vote.

Section 90 provides for the Electoral Commissioner by written notice published on the Commission website to appoint a place as a polling place. The section provides for the appointment of licenced premises in certain circumstances. This provision replaces ss.100(1)-(4) and 108.

Section 90A provides for the Electoral Commissioner by written notice published on the Commission website to abolish a polling place, cancel declarations, amend boundaries, and otherwise amend or repeal notices.

Section 90B provides for the use of places free of charge as a place of declaration, of nomination or as a mobile voting place or polling place.

Section 90C provides that liquor must not be sold in a place being used as a place to vote.

Section 90D provides for a returning officer for a district to appoint a presiding officer and another officer for each mobile voting place in a district and decide how many mobile ballot boxes are to be present at the mobile voting place and the times during which the relevant officers for the mobile voting place are required to attend.

Section 90E provides that the Electoral Commissioner is to ensure that each candidate in the election is given written notice

of each mobile voting place and mobile voting times 48 hours before the first mobile voting time.

Subdivision 2 – Early voting days for elections

Section 91 provides for the fixing of early voting days for an election. The 11 consecutive available days ending on the Friday before the polling day are the early voting days on which a person can vote in the election at an early polling place.

Section 91(1) provides a definition of the term "available day". The Electoral Commission must publish a written notice on the Commission website stating the early voting days for the election.

Subdivision 3 – Appointments and functions of persons in relation to the holding of an election

Section 92 provides duties of the returning officer in relation to the election.

Section 92A provides for the appointment of issuing officers.

Section 92B provides for the Electoral Commissioner to give directions necessary and expedient for the proper and efficient conduct of an election.

Section 92C provides for the appointment of presiding officers and assistant presiding officers at polling places.

Section 92D provides for the appointment of substitute presiding officers and assistant presiding officers at mobile voting places or polling places.

Section 92E provides for the circumstance where a poll is not taken at a polling place on a polling day because neither the presiding officer nor substitute presiding officer is present on polling day.

Section 92F provides that a candidate or a candidate's agent may appoint scrutineers to represent the candidate at a polling

place. The appointment must satisfy the requirements set out in section 92F(3). Before appointment, a scrutineer must make a declaration in the approved form in the presence of the returning officer. Note that the number of scrutineers at a polling place during the polling is limited by s.96(2).

Section 92G provides that the Electoral Commissioner ensure that to the extent practicable election campaign workers have access to toilet facilities at places to vote. MPs have raised this with the Minister for some time.

Section 92H sets out the responsibilities of election campaign workers and provides candidates, groups and political parties must ensure their election campaign workers comply. The presiding officer may give a direction to a campaign worker to do or refrain from doing something that ensures the worker complies with those responsibilities.

Section 92I provides that the returning officer may require persons to wear identification.

Section 92J provides that the Electoral Commissioner, returning officer or presiding officer may request police to attend a place to vote for the purpose of preserving order or removing persons from a place to vote.

Section 92K provides that a candidate and an election campaign worker who is not a scrutineer must not take part in the conduct of an election.

Subdivision 4 – Requirements for places to vote.

Section 93 sets out the returning officer's duties in relation to places to vote, ballot boxes and ballot papers.

Section 93A provides for the presiding officer to designate an entrance as a designated entrance for the place to vote. The

terms 'entrance' and 'designated entrance' are defined in sections 93A(1) and (2).

Section 93B provides that the returning officer is to ensure that separate voting compartments are erected, and pens or pencils are available at places to vote.

Section 93C(1) provides that if the roll is in electronic form, the Electoral Commissioner must ensure that each returning officer, the presiding officer other officers at places to vote have access to the electronic roll. Section 93C(2) and (3) provide that if the roll is in printed form, sufficient copies of the printed roll are delivered to returning officers or to each presiding officer prior to voting occurring.

Subdivision 5 – Ballot papers

Section 94 provides that the returning officer for each district to provide ballot papers to each place to vote.

Section 94A sets out the required form and content of ballot papers.

Section 94B provides for the printing of the names of political parties on ballot papers.

Section 94C provides that a non-party candidate in an election may apply to the returning officer to have the word "independent" printed next to the candidate's name on the ballot papers for the election.

Section 94D provides for the printing of ballot papers for a Council election.

Section 94E provides for the printing of ballot papers for an election in a district.

Division 3A – Voting

Subdivision 1 – Entitlement to vote if person on roll.

Section 95 provides that inclusion of an elector's name on the roll for an election is conclusive evidence that they are entitled to vote.

Subdivision 2 – Ordinary voting at polling places

Section 96 provides that a person must not enter or remain at a polling place unless the person is a person set out in paragraphs (a) to (i) of section 96(1). The section provides that 1 scrutineer is allowed for a candidate.

Section 96A sets out the procedure to be followed before voting commences in relation to the opening, securing, sealing and placement of ballot boxes.

Section 96B provides that electors can vote at a polling place when the polling place is open on polling day or if an early polling place on each early voting day. On polling day, the polls at a polling place must open at 8 am and close when all electors who are at the polling place at 6 pm and want to vote have voted. Disputes about whether a polling place is to open or close are to be decided by the presiding officer.

Section 96C sets out the questions to be asked of each person claiming to vote in an election at a polling place. It provides that an elector's claim to vote must be rejected if any of the matters set out in section 96C(6) apply.

Section 96D provides for a person to vote at a polling place for a district in which their name is on the roll.

Subdivision 3 – Absent and provisional voting at polling place

Section 97 defines the term "vote as a provisional voter."

Section 97A provides for absent voting.

Section 97B provides for an officer to require a person claiming to vote to make a prescribed declaration before the person is

permitted to provisionally vote. A scrutineer may request that a person make a prescribed declaration.

Section 97C provides that where a person is enrolled under section 47(3)(g) the person must make a prescribed declaration before they provisionally vote.

Section 97D provides that a person who is entitled to be enrolled for a district who claims to vote may vote as a provisional voter if the person's name has been omitted because of an error or mistake of fact, a claim for enrolment was received before the close of the roll, no circumstances exist for rejecting the claim under section 47 to remove the name from the register and the person makes a prescribed declaration.

Section 97E provides that a person may vote as a provisional voter if the person is enrolled and claims to vote at a polling place, but the person's name cannot be found on the roll, claims that their name appears or should appear on the roll and makes a prescribed declaration.

Section 97F provides that a person may vote as a provisional voter if the person is enrolled and claims to vote at a polling place, but a record has been made that they have received a ballot paper and makes a prescribed declaration.

Section 97G provides that a person entitled to be enrolled under section 17(3) may vote as a provisional voter if, at a place to vote on the day on which the person intends to vote, the person makes either a claim for enrolment under the Act or the Commonwealth Electoral Act and makes a prescribed declaration.

Section 97H provides that a declaration made under Subdivision 3 applies in relation to an election in a district and a Council election that are held on the same day.

Section 97I provides for the making of regulations for and in relation to absent voting and provisional voting and anything necessary or convenient for carrying the provisions of the Act relating to absent voting and provisional voting into effect and specifically refers to the making of regulations in relation to declaration ballot papers. Section 97I provides a definition of the terms "absent voting" "provisional voting" and "relevant ballot paper" for the purposes of the section.

Subdivision 4 – How to Vote

Section 98 provides a definition of the term's "voter", "claim voter" and "declaration voter" for the purposes of Subdivision 3.

Section 98A provides that an officer working at a polling place must give a voter a ballot paper and make a record in respect of the voter's name to show that the voter has received a ballot paper. The record may be made on the electronic roll or on a copy of the printed roll. The record is evidence of the identity of the voter and that the voter voted in the election.

Section 98B provides that after a voter has received a ballot paper the voter must go to an unoccupied voting compartment, mark the voter's vote on the ballot paper, fold the ballot paper, deposit the folded ballot paper in the ballot box and leave the polling place.

Section 98C provides how a voter must mark the voter's vote on the ballot paper in a single member election.

Section 98D provides how a voter must mark the voter's vote on the ballot paper in a Council election where the relevant number is more than 1 and there is at least 1 above-the-line square.

Section 98E provides how a voter must mark the voter's vote on the ballot paper in a Council election where the relevant number is more than 1 and there are no above-the-line squares or the elector votes in the below-the-line squares.

Section 98F provides for a nominated person to assist a voter who cannot vote without assistance because the voter has a sight impairment, other physical impairment or is illiterate and for the marking of ballot papers in that circumstance.

Section 98G. provides for voters with physical impairment who are close to polling places.

Section 98H provides how an officer must deal with a spoilt ballot paper.

Section 98I provides for the matters to be done by the presiding officer in relation to ballot boxes and rolls at the close of the poll.

Subdivision 5 – Voting at mobile voting places.

Section 99 provides for the persons who may be at mobile voting places.

Section 99A provides for the opening and closing of mobile voting places.

Section 99B provides that voting at mobile voting places is to be conducted as far as is practicable in accordance with voting at polling places.

Subdivision 6 - Postal voting

Section 100 defines the terms “postal application period” and “postal vote application.”

Section 100A provides that the Electoral Commission may by written notice published on the Commission website fix a day as the day on which the postal application period for an election begins.

Section 100B provides for an elector make an application to an issuing officer for a postal vote in the approved form to postal vote for an election. The application must comply with the requirements set out in section 100B(2).

Section 100C provides for the matters to be done by an issuing officer on receipt of an application for a postal vote.

Section 100D provides for the sending of postal ballot papers and other documents to postal voters.

Section 100E provides for the replacement of lost, destroyed, or undelivered documents sent to a postal voter and of spoiled postal ballot papers.

Section 100F provides for a political party and a non-party candidate to ask for the names and enrolled addresses of electors who are approved postal voters and general postal voters. A person must not use or disclose that information other than for a permitted purpose. A fine of \$100,000 for breach involving use or disclosure for a commercial purpose. Otherwise, a fine of \$10,000 is provided.

Section 100G provides that a person who receives a postal ballot paper must mark the voter's vote on the ballot paper, enclose the postal ballot paper in the envelope marked "postal ballot paper", sign and date the declaration, enclose the envelope marked "postal ballot paper" and the declaration in the envelope addressed to the Electoral Commissioner and send the envelope to the Electoral Commissioner. An envelope is sent to the Commissioner if the matters set out in section 100G(3) are satisfied.

Section 100H provides for an elector in circumstances where the envelope will not be able to be sent or delivered to the Electoral Commissioner before the close of the poll to deliver the envelope to the returning officer or presiding officer at a polling place before the close of the poll. A returning officer or a presiding officer must not accept an envelope received after the close of the poll.

Section 100I provides for the assistance that may be given to an elector who receives a postal ballot paper to postal vote.

Section 100J provides that it is an offence to sign or make a mark on a declaration as another person, whether or not the person has the authority of the other person. A fine of \$1000 is provided.

Section 100K provides that a medical practitioner may prohibit any person from visiting an elector who resides in a relevant place in connection with or in relation to the elector postal voting at that place. A fine of \$1000 is provided for a person who visits the elector contrary to a prohibition.

Section 100L provides that the Electoral Commissioner is to store postal ballot papers until scrutiny of declarations begins.

Section 100M provides for the preliminary scrutiny of declarations relating to postal ballot papers and for the rejection of postal ballot papers due to matters relating to a declaration.

Section 100N provides that a decision of an officer to reject, disallow, allow, or admit a postal ballot paper is final, subject to review by the Court of Disputed Returns.

Section 100O provides that the Electoral Commissioner may open an envelope containing a postal ballot paper and deal with it in the prescribed manner if the ballot paper has not been rejected on grounds relating to the declaration.

Section 100P provides for an offence where a person obtains a postal ballot by impersonating another person or by making a false statement. A penalty of imprisonment for 12 months is provided. A person commits a crime if the person distributes or makes available or causes to distribute or make available a postal vote application form unless the person is authorised to do so, or the form is in the approved form and accompanied by a statement that the completed form is to be returned directly to

the Electoral Commissioner. The penalty provided is imprisonment for 2 years and a fine of \$24,000.

Section 100Q provides for an offence where a person persuades or induces an elector to make a postal vote application. It is also an offence to persuade or induce an elector to hand over a postal ballot paper on which a vote has been recorded. A fine of \$1,000 is provided in each case.

Section 100R provides for an offence where an elector makes, or a person induces an elector to make a false statement in a postal vote application or an application to be a general postal voter. A fine of \$1,000 is provided.

Section 100S provides for an offence where a person marks a vote on a ballot paper and the person is not the person who received the ballot paper or is not the nominated person assisting an elector. It is also an offence for the nominated person to disclose any knowledge of the vote of the person who they assisted. A fine of \$1,000 is provided for in each case.

Section 100T provides for an offence where a person who has been given a postal vote application or an envelope containing a postal ballot so the person can send or deliver it to an officer does not send or deliver it. It is also an offence for a person to open an envelope addressed to the Electoral Commissioner in which is a postal ballot paper unless the person is authorised to do so. A fine of \$1000 is provided in each case.

Section 100U provides for the making of regulations for and in relation to postal voting and postal ballot papers.

Section 100V provides that if an elector has been enrolled under section 47(3)(g) and makes a declaration under this Subdivision, the elector is taken to have made a prescribed declaration as required under section 97C(1).

Subdivision 7 – Technology assisted voting.

Section 101 provides definitions of the terms "approved procedures", "eligible elector" and "technology assisted voting" for the purposes of the Subdivision. The term "technology assisted voting" means a method of voting by which an eligible elector votes by means of an electronic device, such as by a telephone or by a computer linked to the internet. The term "eligible elector" means an elector who cannot vote without assistance because the elector has insufficient literacy skills or is sight impaired or otherwise incapacitated but does not include an elector or class of elector excluded by regulation.

Section 101A provides that the Electoral Commissioner may approve procedures to facilitate voting by eligible electors at an election by means of technology assisted voting. The approved procedures must meet each of the requirements in section 101A(2) and 101A(3) which include that they be in writing, published on the Commission website, and provide for the recording, authentication, secrecy, secure transmission, and scrutiny and counting of any vote cast.

Section 101B provides that regulations may be made to provide for the production of a record of the vote the person has cast using technology assisted voting. The vote record must not contain any means of identifying the person who cast the vote but must be in a form to enable the vote cast to be accurately determined.

Section 101C provides for the Electoral Commissioner to engage an independent person to conduct audits of the information technology used under the approved procedures. The results of any audit are to be published on the Commission website.

Section 101D provides that a scrutineer appointed by a candidate or candidates official agent may observe the production of a vote record and any other element of the

technology assisted voting process. Section 137 does not apply to the scrutiny of votes cast under this Subdivision.

Section 101E provides that a vote cast in an election by an eligible elector and transmitted to the Electoral Commissioner in accordance with the approved procedures is to be counted as if it were a vote cast by a person at a polling place under subdivision 3.

Section 101F provides that a person commits a crime if the person becomes aware of how an eligible voter voting in accordance with the approved procedures has voted and gives that information to another person (except in accordance with the approved procedures). The penalty for this subsection is imprisonment for 2 years. A summary conviction penalty of a fine of \$6000 is provided for. A person also commits a crime if the person discloses to another person any source code or other computer software that relates to technology assisted voting (except in accordance with the approved procedures or under an arrangement with the Electoral Commissioner). The penalty for this subsection is imprisonment for 5 years. A summary conviction penalty of imprisonment for 2 years and a fine of \$24,000 is provided for.

Section 101G provides for an offence where a person knowingly makes a false or misleading statement in a material particular for the purposes of or in connection with an application for registration for technology assisted voting or casting a vote by means of technology assisted voting. A fine of \$1000 is provided for.

Section 101H provides that a person commits a crime if the person without reasonable excuse destroys or interferes with any computer program, data file or electronic device used for or in connection with technology assisted voting. A penalty of imprisonment for 5 years is provided for. A summary conviction

penalty of imprisonment for 2 years and a fine of \$24,000 is also provided for.

Section 101I provides that regulations may be made in relation to technology assisted voting.

Section 101J provides how the requirements of the Act are taken to have been satisfied in relation to a vote cast in accordance with the approved procedures.

Section 101K provides that the Electoral Commissioner may determine that technology assisted voting is not to be used at a specified election.

Section 101L provides that an eligible elector enrolled under section 47(3) (g) who votes by technology assisted voting is taken to have made a declaration as required by section 97C(1).

Subdivision 8 – Visiting electors who need assistance.

Section 102 provides that the Subdivision applies to an elector who cannot go to a place to vote during the hours of polling because the elector has a physical impairment and has not applied to postal vote.

Section 102A provides that an issuing officer must not visit an elector for the purpose of taking an elector's vote unless the visit is made under this Subsection.

Section 102B provides that an elector to whom this Subdivision applies, or a person acting on their behalf, may contact an issuing officer within the time period set out in the section to request that the issuing officer visit the elector to take the elector's vote. On visiting, the issuing officer must obtain an oral application to vote in accordance with the requirements set out in the section.

Section 102C provides that issuing officers must give electors ballot papers, where the elector has requested a visit.

Section 102D provides that the elector is to their vote on the ballot paper so that no other person can see the vote, put the ballot paper in the envelope and enclose that envelope with the declaration in another envelope then the envelope to the issuing officer. If the elector cannot vote without assistance, the elector may nominate a person to assist them to do these things.

Section 102E provides that the issuing officer must give an envelope received under this section to the Electoral Commissioner. In this case, the ballot paper is taken to be a postal ballot paper and the envelope an envelope containing a postal ballot paper.

Section 102F provides for an offence if a person signs or makes a mark on a declaration under this Subdivision as another person, whether or not they have the authority of the other person. A fine of \$1000 is provided for.

Subdivision 9 - Adjourning and postponing voting

Section 103 provides that the presiding officer at a place to vote may adjourn polling where polling is interrupted or obstructed due to a threat to safety, including from fire or flood, riot, or other act of violence until the threat has ended. If the adjournment exceeds 24 hours the Electoral Commissioner or presiding officer must give public notice of the adjournment. If for any reason a polling place or mobile voting place is not opened on polling day or opens but polling cannot proceed the Electoral Commissioner or presiding officer may postpone or adjourn polling for a period not longer than 21 days. In this case the Electoral Commissioner or presiding officer must give public notice of the postponement or adjournment.

Section 103A provides that only those electors who have not already voted are entitled to vote at the postponed or adjourned polling at that polling place.

- Clause 81 **amends section 134** by amending the heading, inserting gender- neutral language, correcting a section reference and modernising the language used in the section.
- Clause 82 **amends section 136** by amending the heading, modernising the language used in section 136(1), removing the reference to the "cleft" to refer to a sealing device and inserts new sections 136(1A) and (1B) to provide for the scrutineer to sign the record of the sealing advice secured on the ballot box and for the officer conducting the count to close and seal the cleft.
- Clause 83 **amends section 137** by amending the heading and by deleting the references to "returning officer" and inserting the words "returning officer for the district", and deleting references to place where the scrutiny and count of vote are conducted and inserting the words "counting place".
- Clause 84 **amends section 139** modernises the language.
- Clause 85 **amends section 140** by amending the section references in section 140(3).
- Clause 86 **amends section 140A** by correcting the reference to the numeral 1.
- Clause 87 **replaces section 141** which modernises the language used in the unamended section and providing for the appointment of places as counting places and appointment of assistant returning officers.
- Clause 88 **amends section 142** by amending the heading, modernising the language using gender-neutral terms deleting section 142(6)(c) inserting a new section 142(6)(c) to provide for the sealing of packets containing used ballot papers, inserting new section 142(7) to provide that a scrutineer may sign a packet sealed in front of the scrutineer under section 142(6)(c).

- Clause 89 **amends section 142A** by amending the heading, deleting section 142A(1) and inserting a new section 142A(1) to provide for the term “directed officer” and to insert references to the term directed officer in sections 142A(2), (3) and (4) and to amend section references in the section. References to early voters’ ballot papers are replaced with postal ballot papers.
- Clause 90 **amends section 144** by amending the heading, modernising the language of the section using gender- neutral language, amending section references, deleting the reference to remote polling place and assistant returning officers and inserting a reference to mobile voting place.
- Clause 91 **amends section 146** by amending the heading deleting the reference to the scrutineer and providing that the re-count may be conducted on the returning officer's own motion or at the written request of the candidate setting out the reasons for the request.
- Clause 92 **amends section 146B** by amending the heading and deleting the references to sections 141 in s146B(2).
- Clause 93 **amends section 146C** by amending the heading and by inserting references to counting place and referring to a returning officer for the whole of the State electorate and returning officer for the district and deleting the reference to deputy returning officer.
- Clause 94 **amends section 146E** by inserting a note on the method for an elector to mark their vote at a Council election where the relevant number is one.
- Also replaces s.146E(3) with new ss. 146E(3) – (3G) to modernise these provisions. Deletes s146E(6).
- Clause 95 **amends section 146EA** to refer to above and below the line squares.

- Clause 96 **amends section 146EB** to refer to above and below the line squares and to amend section references.
- Clause 97 **amends section 146EC** to refer to above the line squares and amend section references.
- Clause 98 **amends section 146G** by amending the heading and to refer to above the line squares and to simplify the language in section 146G(2).
- Clause 99 **amends section 146H** by amending the heading, deleting the reference to the deputy returning officer and inserting a reference to officer and to refer to above the line squares.
- Clause100 **amends section 146I** by amending the heading, use gender neutral language and modernise the language, to refer to other officers, and insert a new paragraph (ba) to provide for the destruction of books, documents or papers used in a Council election where they have been recorded in automated form.
- Clause 101 **amends section 150** by amending the heading, modernising the language, correcting section references, and inserting a new section 150(1A) to provide for an electronic roll used at the election to be made available to the Electoral Commissioner.
- Clause 102 **amends section 151** by amending the heading, modernise the language, use gender neutral language, correct section references, delete a reference to "marked rolls" and "early votes" and inserting a reference to postal votes, insert new paragraphs (da) and (db) which provide that printed rolls are to be sealed up, endorsed and transmitted to the Electoral Commissioner and if the roll in use is electronic, return the roll to or ensure the roll is accessible by the Electoral Commissioner.
- Clause 103 **amends section 152** by amending the heading and by inserting a note.

- Clause 104 **amends section 153** by amending the heading and by deleting the reference to returning officer in section 153(1) and inserting a reference to the Electoral Commissioner and to provide that the returning officer must disclose the electronic roll or produce the printed roll.
- Clause 105 **amends section 155** by amending the heading and to insert a note.
- Clause 106 **amends section 156** by amending the heading inserting a definition of the term "valid and sufficient reason" in relation to a failure to vote. A valid and sufficient reason includes an honest belief on the part of an elector that abstaining from voting is part of their religious duty. A reference to mental or physical impairment is inserted. Section 156(8) is deleted, and a new section is inserted which provides for a modified penalty to be an amount of \$50 where the elector has not previously paid a modified penalty or been convicted of an offence under the section. Otherwise, a penalty of \$75 is provided for. Amendments insert gender neutral language and modernise the language. Section 156(16) is deleted and new sections (15A) (16) and (16A) are inserted to provide that a person whose name has been removed from the register of electors must make a new claim for enrolment before reinstatement on the register. Section 156(16) provides that it is an offence if an elector fails to vote in an election without a valid and sufficient reason. A penalty of \$200 is provided. Section 156(16A) provides that an elector must not make a statement in response to a penalty notice or infringement notice that is to the elector's knowledge false or misleading in a material particular.
- Clause 107 **amends section 156AA** by deleting the reference to "vote at" and inserts a reference to "vote in" in section 156AA(2)(c).
- Clause 108 **amends section 156D** by amending the heading, modernising the language, and inserting a note.

- Clause 109 **amends section 158** by amending the heading, deleting the reference to "prayer asking" in section 158(2) and inserting a reference to "request".
- Clause 110 **amends section 163** by amending the heading and modernising the language used.
- Clause 111 **amends section 172** by amending the heading, modernising the language used and using gender- neutral language.
- Clause 112 **deletes the heading to Part VI and inserts a new heading "Part 6 - Electoral Finance"**.
- Clause 113 **amends section 175** by deleting the definitions of the terms "associated entity", "campaign committee", "election period", "electoral expenditure", "entity", "gift" and "specified amount" and inserting the following new defined terms:
- affiliate fee** means a fee paid by a person to an associated entity or political party so the person can affiliate with the entity or party;
- associated entity** means an incorporated body, unincorporated body or trustee of a trust controlled by or operated for the benefit of one or more political parties;
- campaign committee** means the body of persons appointed or engaged to form a committee to assist the campaign of endorsed candidates;
- capped expenditure period** means the period commencing on the day of the issue of the writ for the election and ending on the latest time on polling day which an elector could enter a place to vote for the purpose of casting a vote;
- compulsory party levy** means an amount a political party required to be paid by an elected party member or person employed by the party including an electoral officer;

electoral expenditure has the meaning given in section 175AA(1);

foreign contribution means a political contribution the donor of which is a foreign donor;

foreign donor means a person who makes a political contribution and who is (a) a body politic of a foreign country, (d) foreign public enterprise (as defined in the Commonwealth Criminal Code), (e) a body that is not incorporated, have its head office or principal place of activity in Australia, or (f) an individual who is not an elector, Australian citizen, Australian resident or New Zealand citizen holding a subclass 444 visa;

gift has the meaning given in section 175AB.

higher reimbursement amount has the meaning given in section 175LB(1);

LA by-election cap amount means for a polling day in an election before 1 July 2025 the amount of \$390,000 or the amount recalculated under section 175AC.

LA candidate cap amount means for a polling day in an election before 1 July 2025 the amount of \$130,000 or the amount recalculated under section 175AC.

LC by-election cap amount means for a polling day in an election before 1 July 2025 the amount of \$195,000 or the amount recalculated under section 175AC.

LC candidate cap amount means for a polling day in an election before 1 July 2025 the amount of \$65,000 or the amount recalculated under section 175AC.

lower reimbursement amount has the meaning given in section 175LB(2);

non-party group means a group that is not a party group;

party group means a group of endorsed candidates endorsed by the same political party or one or more political parties;

political contribution means an affiliate fee, compulsory party levy or a gift.

political entity means a member of the Council or the Assembly, a political party, an associated entity, a candidate, a group or a third –party campaigner;

political purpose means the purpose of promoting or opposing a political party, to have a candidate elected or to otherwise influence voting in an election;

registered third- party campaigner means a person who is registered on the third-party campaigners register;

responsible person means the agent for a member of the Council or the Assembly, the agent for a political party, the financial controller of an associated entity, the agent of a candidate, the agent of a group, the agent of the third –party campaigner if an unincorporated body or the third-party campaigner;

specified amount means before 1 July 2025 the amount of \$2,600 or the amount worked out under section 175AC;

third- party campaigner means a person who incurs or authorises another to incur electoral expenditure or receives a gift made for a political purpose but does not include a member of the Council or the Assembly, a registered political party, an associated entity, a candidate, or a group;

third-party campaigners register has the meaning given in section 175SS(1);

third-party general cap amount means for a polling day in an election before 1 July 2025 the amount of \$500,000 or the amount recalculated under section 175AC.

third-party LC cap amount means for a polling day in an election before 1 July 2025 the amount of \$19,500 or the amount recalculated under section 175AC.

The definition of the term "broadcast" is amended to delete the reference to "radio or televise" and insert a reference to "radio, television, the internet or another form of electronic communication".

The definition of the term "disposition of property" is amended to insert a reference to "loan" and to "the release, discharge, surrender, forfeiture, or abandonment at law or in equity of interest payments in respect of a debt or a loan".

The definition of the term "principal officer" is amended to refer to an "SES organisation under the Public Sector Management Act 1994".

Clause 114

inserts new sections 175AA, 175AB and 175AC after section 175.

Section 175AA provides a definition of the term "electoral expenditure" and when electoral expenditure is incurred during the capped expenditure period.

Section 175AB provides that "gift" means a disposition of property made by a person to another person that is not made by will and is without consideration, or without adequate consideration. The term will include the provision of a service for no or inadequate consideration but will not include membership subscriptions of \$200 or less paid to political parties;

Section 175AC provides for the recalculation of the amounts listed in section 175AC(1) defined as relevant amounts for the fiscal year beginning on 1 July 2025 and each subsequent fiscal year in accordance with the formula set out in section 1175AC(2). The Electoral Commissioner must publish each

- relevant amount for a fiscal year calculated under the section on the Commission website.
- Clause 115 **amends section 175A** by deleting sections 175A(2), (3) and (6), and inserting new section 175A(4A) which provides guidance on how the value of a gift should be determined where it involves inadequate consideration.
- Clause 116 **amends section 175C** by amending the heading and by referring to "an election in accordance with section 175E" and to refer to "an endorsed candidate of a registered political party".
- Clause 117 **inserts a new section 175CA after section 175C**. Section 175CA provides for the appointment of a person as the agent of a member of the Council or the Assembly. The appointment must be in accordance with section 175E. In circumstances where there is no appointment in which case the agent of the member is the agent of the political party if the member is a candidate the agent of the candidate or otherwise the member.
- Clause 118 **amends section 175D** by amending the heading and by and by referring to "an election in accordance with section 175E" and to refer to "an endorsed candidate of the same registered political party" and amends a section reference.
- Clause 119 **inserts a new section 175DA** after section 175D. Section 175DA provides for the appointment of a person as the agent of a third- party campaigner that is an unincorporated body. The appointment must be in accordance with section 175E. The section provides for the circumstance where there is no appointment in which case where there is an executive committee the agent is each member of the executive committee or otherwise each member of the third- party campaigner.
- Clause 120 **amends section 175E** by amending the heading inserting additional section references and inserting in section 175E(1)(b)

a reference to a member of the Council or Assembly, and to a third- party campaigner.

Clause 121 **deletes sections 175K and 175L and inserts a new section 175K.** Section 175K(1) defines the term "principal" for the purposes of the section. Section 175K provides that the principal of the agent may by giving notice to the Electoral Commissioner revoke the appointment of the agent. The notice must meet the requirements of section 175K(3).The agent's principal must without delay give notice to the Electoral Commissioner of the death or resignation of an agent.

Clause 122 **amends section 175LA** by deleting the definition of "party group" . Section 175LA(3) is deleted and new sections 175LA(3), (4) and (5) are inserted. The sections provide that electoral expenditure incurred in relation to an election by or with the authority of a candidate of a registered political party is taken to be incurred with the authority of the party. Section 175LA(5) provides for the circumstance where the electoral expenditure is incurred by or with authority of the party group.

Clause 123 **deletes sections 175LB and 175LC and inserts new sections 175LB, 175LC, 175LCA, 175LCB and 175LCC.**

Section 175LB specifies the higher reimbursement amount before 1 July 2025 of \$4.40 and otherwise the amount worked out for a fiscal year under section 175AC and the lower reimbursement amount before 1 July 2025 of \$2.26 and otherwise the amount worked out for a fiscal year under section 175AC.

Section 175LC provides for the registered officer of a political party to lodge a party opt-in request to receive the higher reimbursement amount. A party opt- in request may be withdrawn.

Section 175LCA provides that the agent of a non-party candidate may lodge an opt-in request to receive the higher reimbursement amount. A party opt-in request may be withdrawn.

Section 175LCB provides that the Electoral Commissioner must publish on the Commission website the name of the registered political party for which an opt-in request has been lodged and the withdrawal of an opt-in request.

Section 175LCC provides that after an election the higher reimbursement amount is payable for each eligible vote given in the election for an eligible candidate. The lower reimbursement amount is payable for each eligible vote given for a candidate who is not an eligible candidate. Section 175LCC(1) provides a definition of the term "eligible candidate" for the purposes of the section.

Clause 124 **amends section 175LD** by inserting the word "has" in section 175LD(3) and inserts a reference to a non-party candidate in section 175LD(4).

Clause 125 **amends section 175LF** by inserting references to "endorsed candidates" in section 175LF(3).

Clause 126 **amends section 175LH** by inserting a reference to "endorsed candidates" in section 175LH(1).

Clause 127 **amends section 175LJ** by amending the heading and inserting a reference to a non-party candidate in section 175LJ(2)(a) and non-party group in section 175LJ(3)(a).

Clause 128 **inserts a new Division 2B – State Campaign accounts comprising sections 175LL to section 175LV.**

Section 175LL provides for the defined terms used in the Division-

authorised deposit taking institution has the meaning given in the Banking Act 1959 (CWLTH);

group terminating event has the meaning given in section 175LT(1)(a)

participation day in relation to a political entity, means the day on which the political party becomes a registered political party, the group is constituted for an election, the candidate is nominated or the third- party campaigner or associated entity incurs electoral expenditure.

State campaign account in relation to a political entity, means an account for the purposes of money being paid into and out of the account for the political entity's electoral expenditure in relation to an election.

Section 175LM provides that the responsible person for a political entity must keep a State campaign account. A fine of \$36,000 is provided where the political entity is a political party and otherwise a fine of \$24,000 is provided.

Section 175LN provides that the responsible person must give the Electoral Commissioner written notice of the details of the State campaign account.

Section 175LO provides that the responsible person for a political entity must ensure that money is not paid into the State campaign account unless the section allows the money to be paid into the account. A fine of \$36,000 is provided where the political entity is a political party. Otherwise, a fine of \$24,000 is provided.

Section 175LO(2) lists the types of payments that may be made into the State campaign account.

Section 175LO(3) provides that money to be used for an election or by-election under the Commonwealth Electoral Act and a foreign contribution must not be paid into the account.

Section 175LP provides that the responsible person for a political entity must ensure that the political entity does not make a payment for electoral expenditure unless the payment is made out of the political entity's State campaign account. A fine of an amount equal to 2 times the payment or \$36,000 whichever is the lesser is provided. The responsible person for a political entity must ensure that the political entity does not make a payment out of the political entity's State campaign account unless the payment is for electoral expenditure or made under one of the terminating event provisions s175LR-LV. A fine of an amount equal to 2 times the payment or \$36,000 whichever is the lesser is provided.

Section 175LQ provides for the lodgement by responsible persons of annual returns in relation to State campaign accounts by 30 November in each year.

Section 175LR provides that if a candidate terminating event occurs, the responsible person for a candidate must pay the amount remaining in the candidate's State campaign account to, if they were part of a group, the group's State campaign account, if they were an endorsed candidate of a registered political party, the registered political party's State campaign account, or otherwise a charity nominated by the candidate or responsible entity. Section 175LR(1) provides a definition of "candidate terminating event" for the purposes of the section. A penalty for a breach of the section of a term of imprisonment of 2 years and a fine of \$24,000 is provided.

Section 175LS provides that if a member terminating event occurs, the responsible person for a member must pay the amount remaining of the member's State campaign account to, if

the member was part of a group, the group's campaign account, if the member is a member of a political party when the terminating event occurs, the political party's State campaign account, or otherwise a charity nominated by the candidate or responsible person. Section 175LS(1) provides a definition of "member terminating event" for the purposes of the section. A penalty for a breach of the section of a term of imprisonment of 2 years and a fine of \$24,000 is provided.

Section 175LT provides that if a group terminating event occurs, the responsible person for the group must pay the amount remaining in the group's State campaign account to, if the group is a party group, the State campaign account of the registered political party that endorsed the candidates, or otherwise a charity nominated by the candidate or responsible person. Section 175LT(1) provides a definition of "group terminating event" for the purpose of the section.

Section 175LU provides that if a party terminating event occurs, the responsible person must pay the amount remaining in the party's State campaign account to a charity nominated by the party or responsible person. Section 175LU(1) provides a definition of "party terminating event".

Section 175LV provides that if a campaigner terminating event occurs, the responsible person for a third- party campaigner must pay the amount remaining in the party's State campaign account to a charity nominated by the third- party campaigner or responsible person. Section 175LV provides a definition of "campaigner terminating event".

Clause 129 **amends the heading to Part VI** Division 3 to read "Disclosure of political contributions and other income."

Clause 130 **deletes section 175M and inserts new sections 175M, 175MA, 175MB and 175MC.**

Section 175M provides that the relevant details of a political contribution are the amount or value of the contribution, the date on which the contribution was made or paid, and if the contribution is a compulsory levy, a description of the person who paid the levy. If the contribution is a gift or affiliate fee, further details are required to be provided as set out in section 175M(2).

Section 175MA sets out the more frequent disclosure requirements that must be undertaken by donees.

It provides that if a political entity that receives a political contribution which is more than the specified amount the responsible person must within 7 days of receipt lodge a notice in writing with the Electoral Commissioner in relation to the contribution which states the fact of the receipt and the relevant details of the contribution.

If the political contribution is made during the capped expenditure period, a notice must be lodged with the Commissioner by the end of the next business day.

Section 175MB provides that where in a financial year a political entity receives more than 1 political contribution from the same person and although each contribution may be an amount or value equal or less than the specified amount the combined value or amount of all contributions is more than the specified value the responsible person must by the end of the next business day after the day of receipt of the trigger contribution lodge a notice in writing with the Electoral Commissioner in relation to the trigger contribution which states the fact of the receipt and the relevant details of each contribution.

Section 175MC provides that if the Electoral Commission receives a notice under sections 175MA(1) or 175MB(2) or (4) it must publish the information in the notice on the Commission website as soon as practicable.

- Clause 131 **amends section 175N** by amending the heading and by deleting references to "gifts" and inserting references to "political contributions". Sections 175N(4) and (5) are deleted.
- Clause 132 **amends section 175NA** by amending the heading and by deleting the reference to "entity" in section 175NA(1) and inserting a reference to "an incorporated body, unincorporated body or trustee of a trust", deleting the reference to "gifts", and inserting a reference to "political contributions". Sections 175NA(2) and (3) are deleted and a new section 175NA (2) is inserted which provides the details of political contributions that are required to be set out in a return by an associated entity.
- Clause 133 **amends section 175O** by amending the heading and deleting the reference to "15 weeks" and inserting "12 weeks" as the period for lodging a return under the section. Section 175O(5) is deleted.
- Clause 134 **amends section 175P** by amending the heading and deleting the reference to "15 weeks" and inserting "12 weeks" as the period for lodging a return under the section. Section 175P(5) is deleted.
- Clause 135 **amends section 175Q** is amended by amending the heading and by deleting section 175Q(1) and inserting new section 175(1) and (3) which provide for the lodgement of returns by third party campaigners.
- Clause 136 **amends section 175R** by amending the heading and by deleting references to "gifts", inserting references to "political contributions", inserting new s175R(1)(aa) in relation to associated entities receiving political contributions, and inserting references to "third party campaigners".
- Clause 137 **amends section 175S** by amending the heading and by deleting references to "gifts" and inserting references to "political

contributions of a kind required to be disclosed" and to section 175NA.

Clause 138

inserts a new Division 3A – Prohibition on receiving foreign contributions comprising new sections 175SAA to 175SAF.

Section 175SAA provides for the defined terms used in the Division-

acceptable action means in relation to a foreign contribution an amount equal to the amount or value of the contribution is transferred to the State, or returned to the donor;

acceptable action period in relation to a foreign contribution means a period of 6 weeks which generally speaking commences on the day on which the foreign contribution is made;

appropriate donor information means if the donor is an individual the particulars relating to the individual on the register of electors or a document evidencing the individual's Australian citizenship, visa or other information prescribed for the purposes of the definition. If the donor is not an individual the information may comprise a certificate of incorporation in Australia, particulars of registration under Australian law evidencing incorporation in Australia or other information prescribed for the purposes of the definition;

donor means the person on whose behalf the political contribution is made;

management actions in relation to a donor that is not an individual include decisions setting operational policies, decisions appointing officers, directions as to how to perform functions and decisions on matters of finance;

official documents in relation to a donor that is not an individual include documents recording the number of staff or

members of the donor in Australia and overseas carrying on activities for the donor and documents recording the scale of activities of the donor in Australia and overseas;

Section 175SAB provides that a responsible person for a political entity (other than a third- party campaigner) commits an offence if the political entity or responsible party receives a foreign contribution or the benefit of a foreign contribution and at the end of the acceptable action period, acceptable action has not been taken in relation to the foreign contribution. A penalty of imprisonment for 3 years or a fine of \$36,000 is provided for. A daily penalty of a fine of \$500 for each day or part day after the end of the acceptable action period until acceptable action is taken is also provided for.

Section 175SAC provides that third- party campaigners commit an offence if the third- party campaigner receives a foreign contribution or the benefit of a foreign contribution greater than the specified amount, uses it for the purpose of incurring electoral expenditure or creating or communicating electoral matter and at the end of the acceptable action period acceptable action has not been taken in relation to the foreign contribution. A penalty of imprisonment for 3 years or a fine of \$36,000 is provided for. A daily penalty of a fine of \$500 for each day or part day after the end of the acceptable action period until acceptable action is taken is also provided for.

Section 175SAD provides for the recovery of foreign contributions by the State if a person receives a political contribution and a court determines that a person has contravened sections 175SAB or 175SAC.

Section 175SAE provides that a person must not make an affirmation or give appropriate donor information or other information under sections 175SAB(5) or 175SAC(2) that the person knows is false or misleading in a material particular. A

penalty of a term of imprisonment for 3 years or a fine of \$36,000 is provided for.

inserts section 175SAF which provides that a person must not enter into or carry out an arrangement, understanding, course of conduct or scheme, whether alone or with others, to receive a foreign donation that is not permitted under the Division. A penalty of a term of imprisonment for 3 years and a fine of \$36,000 is provided for.

Clause 139 **inserts section 175SAG** which provides a definition of the term “expenditure disclosure period” for the purposes of Division 4.

This provision is inserted to identify all electoral expenditure within a designated time frame, for the purpose of an election return to the WA Electoral Commission. The time frame may extend beyond the capped expenditure period so as to accurately identify all electoral expenditure that has been made by political participants in relation to an election. Only expenditure incurred during (or for goods and services provided within) the capped expenditure period count towards the permitted expenditure cap. However, the community and the Commission will have a clearer view of total electoral expenditure in relation to each election.

Clause 140 **amends section 175SA** by amending the heading and by inserting references to the term "expenditure disclosure period" and amends the reference to 15 weeks to 12 weeks for the lodgement of a return.

Clause 141 **amends section 175SB** by amending the heading and by inserting references to the term "expenditure disclosure period" and amends the reference to 15 weeks to 12 weeks for the lodgement of a return.

Clause 142 **amends section 175SC** by amending the heading and by inserting references to the term "expenditure disclosure period"

and amends the reference to 15 weeks to 12 weeks for the lodgement of a return.

Clause 143 **replaces section 175SD** which provides for a third-party campaigner to lodge a return where the third- party campaigner incurs or authorises another person to incur electoral expenditure of more than \$500 during the expenditure disclosure period.

Clause 144 **amends section 175SE** by amending the heading and by deleting a reference to "disclosed" and inserting a reference to "the subject of a return".

Clause 145 **inserts a new Division 4A – Caps on electoral expenditure in relation to elections comprising sections 175SG to section 175SQ.**

Subdivision 1 – Preliminary

Section 175SG provides for the defined terms " expenditure cap" and "permitted" for the purposes of the Division.

Section 175SH provides that incurring electoral expenditure is permitted during a capped expenditure period if the electoral expenditure is incurred in relation to the election by a person to whom an expenditure cap applies or is authorised to be incurred by such a person and the total amount of the electoral expenditure incurred during the capped expenditure period is the same as or less than the expenditure cap that applies to the person for the election.

Section 175SI provides that electoral expenditure incurred during the capped expenditure period by or with authority of an endorsed candidate of a registered political party, by an elected party member, by a registered political party's associated entity or by a party group is taken to have been incurred with the authority of that political party, registered political party, party or party group as the case may be.

Subdivision 2 – Expenditure caps for particular elections

Section 175SSJ provides for expenditure caps for conjoint elections.

Section 175SK provides for expenditure caps for Council elections not part of conjoint elections.

Section 175SL provides for expenditure caps for Assembly elections not part of conjoint elections.

Section 175SM provides for expenditure caps for electoral expenditure on particular Assembly candidates.

Section 175SN provides for expenditure caps for electoral expenditure on particular Council candidates.

Subdivision 4 – Miscellaneous

Section 175SO provides that where the electoral expenditure incurred during the capped expenditure period is more than the applicable expenditure cap, an amount equal to twice the amount by which the expenditure cap was exceeded may be recovered by the State. Recovery by the State under this section does not affect the liability of a person convicted of an offence under sections 175SP or 175SQ.

Section 175SP provides that the agent of a registered political party, agent of a non-party candidate, agent of a non-party group, and agent of a third-party campaigner commit an offence if authorised electoral expenditure is not permitted under the Division. A penalty of a term of imprisonment of 3 years and a fine in an amount of \$36,000 is provided for.

Section 175SQ provides that a person must not enter into or carries out an arrangement, understanding, course of conduct or other scheme whether alone or with others for the purpose of incurring electoral expenditure that is not permitted under the

Division. A penalty of a term of imprisonment for 3 years and a fine of \$36,000 is provided for.

Clause 146

inserts a new Division 4B – Registration of third- party campaigners comprising sections 175SR to 175SW.

Section 175SR provides that the responsible person for a third-party campaigner must ensure that the third- party campaigner does not incur or authorise another person to incur more than \$500 in electoral expenditure in relation to an election unless the third- party campaigner is registered on the third -party campaigners register. A penalty of a fine of an amount equal to twice the amount by which the electoral expenditure exceeds \$500 is provided for.

Section 175SS provides for the keeping of a register of third-party campaigners and sets out the information in respect of a third -party campaigner that must be included in the register. The register must be published on the Commission website.

Section 175ST provides that a third- party campaigner may apply to the Electoral Commissioner to be a registered third-party campaigner and registered on the third- party campaigners register. The section provides for the persons who may make an application and details of the form, timing, and content of the application.

Section 175SU provides that the Electoral Commission must as soon as practicable after receiving an application decide whether or not to register the applicant. The Electoral Commissioner must advise the applicant of the decision by giving written notice to the applicant of the decision.

Section 175SV provides for the responsible person for the third-party campaigner to notify the Electoral Commissioner within 30 days of any change in the information included in the register. A fine of \$6000 is provided for.

Section 175SW provides for the responsible person for a registered third -party campaigner to request the Electoral Commissioner to cancel the registration of a third -party campaigner.

- Clause 147 **replaces section 175T** which provides a definition of the term "disclosure document" for the purposes of the Division.
- Clause 148 **amends section 175U** by deleting sections 175U(1) to (4) and inserting new sections 175U(1) to (4) which provide for penalties for failing to lodge a disclosure document under Part VI.
- Clause 149 **amends section 175W** by amending the heading, by providing for increased penalties for the offences in sections 175W(6) and 175W(7) and by modernising the language and using gender-neutral language.
- Clause 150 **replaces section 175X** which provides that a person may lodge an incomplete document where the person is unable to obtain the particulars that are required for the document if the person has given written notice to the Electoral Commissioner setting out the matters in section 175X(1)(c).
- Clause 151 **amends section 175Z** by amending the heading, deleting a reference to "return", and inserting a reference to "disclosure document (other than an annual return under Division 2B" and deleting a reference to "Division 3 or 4" and inserting a reference to "this Part".
- Clause 152 **amends section 175ZB** by amending the heading and by deleting references to "return" and inserting references to "disclosure document".
- Clause 153 **amends section 175ZC** by amending the heading and by inserting a reference to disclosure document in section 175ZC(1) and by deleting section 175ZC(2) and inserting new sections 175ZC(2)-(5) which provide for the Electoral Commissioner to publish a claim or disclosure document on the

Commission website as soon as possible after lodgement. A person is entitled to see a copy of the document at the office of the Electoral Commission and obtain a copy for a fee. The Electoral Commission must ensure that the information in 175ZC(4) is not published or available for perusal, and must ensure that a silent elector's address is not published.

- Clause 154 **amends section 175ZF** by deleting s175ZF(1) (a), (ab) and (ba), and (2), deleting the reference to "any entity" and inserting a reference to "an incorporated body, unincorporated body or trustee of a trust", and by deleting a reference to " gifts" and by inserting a reference to "political donations".
- Clause 155 **amends section 179** by deleting section 179 and inserting a new section 179 with simplified language and removal of the specific references to bribery and undue influence under illegal practices.
- Clause 156 **amends section 181** by amending the heading and by deleting the references in section 181 to "any early ballot paper" and inserting a reference to "a postal ballot paper".
- Clause 157 **amends section 183** by amending the heading and by inserting references to a "place to vote" and using gender- neutral terms.
- Clause 158 **amends section 186** by deleting the reference to "2 years" and inserting a period of 4 years as the period of disqualification.
- Clause 159 **amends section 187** by deleting section 187(1) and inserting new section 187(1A) and (1) which provide for the defined terms "electoral material" and "illegal practices".
- Clause 160 **amends section 188** by amending the heading and by deleting section 188(1) and inserting new section 188(1A) which provides a penalty for a person who engages in bribery or undue influence other than in relation to a postal ballot paper or postal voting of a term of imprisonment for 12 months and section 188(1) which provides for a penalty for a person who engages in

bribery or undue influence in relation to a postal ballot paper or postal voting of a term of imprisonment for 2 years.

Clause 161 **amends section 190** by inserting a new section 190(1) to 190(5) which provide penalties for persons who impersonate a person to secure a ballot paper to which the person is not entitled or for the purpose of voting, forging or fraudulently destroying or defacing a nomination or ballot paper or using a forged nomination or ballot paper commits a crime. A penalty of a term of imprisonment of 2 years is provided. The Table to the section is amended to reflect the above amendments and to increase the penalty for certain electoral offences set out in the Table.

Clause 162 **amends section 191** to modernise the language used in the section.

Clause 163 **amends section 191A** by amending the heading and by increasing the penalties provided for in sections 191A(1) and (2) and modernising the language used in the section.

Clause 164 **inserts new sections 191B to 191D** after section 191A.

Section 191B provides for an offence where (a) a person distributes a how to vote card within 100 metres of a place to vote or (b) publishes a how to vote card unless it is a registered how to vote card. A penalty of a term of imprisonment of 2 years and a fine of \$24,000 is provided for in each case.

Section 191C provides for an offence where a person who has registered a registered how to vote card becomes aware of a material error and does not within 3 days of becoming aware of the error cease to publish or distribute the how to vote card. A penalty of a term of imprisonment of 2 years and a fine of \$24,000 is provided.

Section 191D provides that if a presiding officer reasonably suspects there has been a contravention of section 191B or

191C the presiding officer may require a person to produce the how- to- vote card, inspect the how- to- vote card and to confiscate the card if it is not a registered how- to- vote card.

Clause 165 **replaces section 192** which provides that it is an offence for a person at a place to vote or within 6 metres of the entrance to a place to vote during a voting day to canvas for votes, solicit a vote, induce an elector not to vote for a particular candidate or not to vote. A penalty of a fine of \$1000 is provided for.

Clause 166 **replaces section 193** which provides for an offence where a person conducts a petition, poll, or survey at a place to vote or in the voting area of the place to vote. A penalty of a fine of \$1000 is provided for.

Clause 167 **amends section 195** by amending the heading, deleting the reference to "roll" in section 195(1) and by inserting new section 195(2) and (3). These sections provide for separate offences of failing to answer a question under section 195(1) truthfully and completely and to the best of the person's knowledge information and belief and of failing to comply to the best of their ability with a requirement to furnish a return or sign a claim. A penalty of a fine of \$1000 is provided for in each case.

Clause 168 **deletes sections 197 and 198 and inserts new sections 197 and 198.**

Section 197 provides that a person may be removed from a place to vote by a police officer if the person misconducts themselves or fails to obey the lawful directions of the presiding officer.

Section 198 provides that it is an offence for a person who has been removed from a place to vote under section 197 to re-enter the place. A penalty of a fine of \$2,000 is provided for.

- Clause 169 **amends section 199A** by correcting the reference to the penalty amount and to refer to "Part 6" in the definition of "political gift".
- Clause 170 **deletes section 204.**
- Clause 171 **inserts new sections 206A and 206B** at the beginning of Part VIII.
- Section 206A provides that where the Electoral Commissioner considers that a person may have a mental impairment so that the person may not have the capacity to vote, the Electoral Commissioner may give written notice to the person of the Commissioner's intention to remove the name of the person from the register of electors because the person lacks capacity to vote. The person may make submissions as to whether the person objects to the removal. The Electoral Commissioner having regard to any submissions may decide to give the person a lack of capacity notice which notice must set out the matters provided for in section 206A(5).
- Section 206B provides for the Electoral Commissioner on application by the person to revoke a lack of capacity notice.
- Clause 172 **amends section 207** by deleting the reference to "qualified" and inserting a reference to "entitled".
- Clause 173 **amends section 208** by amending the heading and by modernising the language and by deleting paragraph (a) and inserting a new paragraph (a) using gender neutral terms and referring to an elector's electoral address.
- Clause 174 **amends section 211A** by modernising the language and amending a section reference.
- Clause 175 **amends section 211** by amending the heading and by using gender- neutral language and amending a section reference.

- Clause 176 **amends the heading to Part 9** so that the heading reads "Transitional Provisions".
- Clause 177 **inserts a heading at the beginning of Part 9** for "Division 1 – Transitional provisions for Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021".
- Clause 178 **amends section 215** by deleting the reference to "Part" and inserting a reference to "Division".
- Clause 179 **inserts after section 217 a new Division 2 - Transitional provisions for Electoral Amendment (Finance and Other Matters) Act 2023**. Subdivision 1 provides for transitional provisions commencing on the day of Royal Assent comprising sections 218 to 223.
- Section 218 provides for the defined terms used in the Subdivision-
- amended Part 6 Division 2A** means the Part as amended by this Act;
- amount change day** means the day on which section 123 of this Act comes into operation;
- commencement day** means the day on which section 179 of this Act comes into operation;
- higher reimbursement amount** means the amount as defined in section 175LB(1);
- independent candidate** means a candidate in an election who has not been endorsed by a body or organisation that is, includes or is part of a political party;
- lodgement period** means the period of 28 days beginning on commencement day;
- post change election** means an election held after the amount change day;

pre-commencement registered party means a registered political party whose registration was in force immediately before commencement day.

Section 219 provides that the secretary of a pre-commencement registered party may within the lodgement period, lodge a request in writing to receive the higher reimbursement amount under Part 6 Division 2A when that Division comes into operation. If during the period beginning on the commencement day and ending on the amount change day a political party becomes a registered political party the secretary of the party may within 28 days after notice of registration lodge a request in writing to receive the higher reimbursement amount. A secretary of a registered political party may withdraw a request before the amount change day.

Section 220 provides for elected non-party members opting in to receive a higher reimbursement amount for the next election after the amount change day.

Section 221 provides for independent candidates opting in to receive a higher reimbursement amount for next post change election.

Section 222 provides for independent candidates opting in to receive a higher reimbursement amount for that election held after the amount change day.

Section 223 provides for the publication by the Electoral Commissioner of information about persons who have opted in to receive higher reimbursement amounts.

Clause 180

inserts a new Subdivision 2 – Transitional provisions commencing on 1 July 2024 comprising sections 224 to 233.

Section 224 provides for the defined terms used in the Subdivision.

Section 225 provides for the former provisions to apply if a writ issues prior to commencement day for an election to be held after commencement day.

Section 226 provides that a person on a roll before commencement is taken to be enrolled on commencement day.

Section 227 provides for claims for enrolment made before commencement.

Section 228 provides that a person enrolled before commencement day is taken to be enrolled on the register of electors; and in the district in respect of which the person is enrolled immediately before commencement day.

Section 229 provides that arrangements made under section 31, 31A and 31B as in force immediately before commencement, continue to apply, relating to an arrangement between the Commonwealth and the State for a single enrolment procedure and to an order by the Governor under s.31(3) in force immediately before commencement;

Section 230 provides that a person whose residence is not shown on the roll before commencement because of a request granted under s51B continues to be a silent elector after commencement.

Section 231 provides that a person registered as a general election early voter continues as a general postal voter.

Section 232 provides that approved procedures for technology assisted voting continue to be approved procedures under unamended section 99D.

Section 233 provides that a person does not commit an offence under section 175LM in relation to the establishment of a state campaign account or 175U in relation to residual funds following

a terminating event if compliance is made within 5 business days after commencement day.

Section 234 provides for the making of regulations in relation to transitional matters.

Clause 181 **amends Schedule 1** clause 8(a)(i) and 8(b)(i) to provide for the possibility of different transfer values in clause 8.

Clause 182 **amends various provisions of the Act listed in the Table** to provide for gender- neutral language.

Part 3 *Adoption Act 1994 amended.*

Clause 183 **provides that this Part amends the Adoption Act 1994.**

Clause 184 **deletes Schedule 1 clause 2(1)(b).**

Part 4 *Local Government Act 1995 amended.*

Clause 185 **provides that this Part amends the Local Government Act 1995.**

Clause 186 **inserts a note** at the end of section 4.29(1) and deletes the reference to "relevant electoral roll" and inserts the words "register of electors".

Clause 187 inserts a note at the end of section 4.30(1), deletes reference to "an electoral roll under the Electoral Act 1907 or" and inserts the words "the register of electors under the Electoral Act 1907 or an electoral roll under".

Clause 188 **amends** Schedule 4.1 clause 11.

Part 5

Referendums Act 1983 amended.

- Clause 189 **provides that this Part amends the Referendums Act 1983.**
- Clause 190 **amends section 2** by deleting the definition of "official paper" and inserting a new definition. The term "official paper" has the meaning given in the Electoral Act 1907 section 94A(2)". A definition of place to vote is inserted.
- Clause 191 **deletes section 11 and 12.** Polling places for referendums are now provided for by reference to new s90 and amended s2 of the Referendums Act 1983.
- Clause 192 **deletes section 13 and inserts new section 13.** Section 13 provides that the Electoral Commissioner must cause a roll to be prepared for the referendum. A separate roll must be prepared for each district. Part IV Division 1A applies with necessary modifications to the preparation of the roll for a referendum.
- Clause 193 **amends section 17** by inserting a new section 17(4) which provides that the returning officer for each district is to provide ballot papers to be used at the referendum to each place in the district at which votes are being taken.
- Clause 194 **deletes section 18** and inserts a new section 18. The new section provides for specified provisions of the Electoral Act to apply to the referendum as if the referendum was an election.
- Clause 195 **amends section 19** by deleting in paragraph (a) references to an application for an early ballot paper, permission to vote as an absent voter and provisional voter and inserting in its place an application for permission to vote as an absent or provisional voter under Part IV Division 3A Subdivision 3 or to vote by postal ballot under Part IV Division 3A Subdivision 6 of the Electoral Act. A reference to section 112 of the Electoral Act is amended to refer to section 76AA.

- Clause 196 **amends section 20** by simplifying the language in section 20(1) to refer to "place to vote" and inserting after section 20(2) a new section 20(3) which provides for a scrutineer to make a declaration in the approved form before being appointed.
- Clause 197 **amends section 22** by deleting section 22(2)(aa).
- Clause 198 **amends section 30** by deleting the references to various ballot papers set out in section 30(1) and inserting the words "the postal ballot papers and the ballot papers for absent voting and provisional voting under the Electoral Act 1907 Part IV Division 3A Subdivision 3". Section 30(4)(a) is amended to delete a reference to "some remote place" and to refer to a mobile voting place that is a place to vote. A new section 30(4)(b) is inserted to refer to postal ballot papers and ballot papers for absent voting and provisional voting which have not been received by the Electoral Commissioner and to use gender- neutral language.
- Clause 199 **amends section 40** by deleting the reference to "Sections" and inserting a reference to "The Electoral Act 1907 sections". A reference to section 204 of the Electoral Act is deleted.