



Publisher's manual

2022 LOCAL GOVERNMENT ELECTIONS



Introduction

Purpose of this booklet

The following information has been compiled to assist publishers in complying with the advertising provisions contained in the *Local Government Act 1993* and *Local Government (General) Regulations 2015*. Further information of a more general nature can be found in the 'Information for Candidates' booklet published for Local Government elections.

For ease of reading, some sections of the various Acts and Regulations have been paraphrased. However, it is important to note that this booklet has **no legal status and should not be substituted for the Act itself**.

References are to the *Local Government Act 1993* and *Local Government (General) Regulations 2015* unless otherwise specified.

(At the time of publication, the value of a penalty unit is \$181.)

Role of the office of the Tasmanian Electoral Commission

The role of the office of the Tasmanian Electoral Commission and returning officers is to **administer** the election in accordance with the relevant Tasmanian legislation. While interpretation of the Act forms part of the daily function of the Electoral Commissioner and returning officers, it is not their role to provide legal advice.

It is in the best interests of publishers to obtain legal interpretations from their own legal advisers.

Legislation on the Internet

Tasmanian legislation can be found on the Internet at www.legislation.tas.gov.au

Changes to advertising reporting requirements and expenditure limit

The *Local Government (General) Regulations 2015* were amended on 1 August 2018 and further amendments came into effect on 8 August 2018.

These amendments have resulted in:

- new reporting requirements that include all forms of advertising costs, and
- the following new expenditure limits as at August 2022:
 - \$18 000 for all candidates contesting an election for Clarence City, Glenorchy City, Hobart City, Launceston City or Kingborough Council.
 - \$11 500 for all other candidates contesting an election for any other Tasmanian local government council.

More information is provided later in this booklet.

Advertising requirements

Authorisation of printed electoral advertisements

(section 311)

The Act imposes obligations on any person who prints, publishes, keeps on display or distributes election articles. The requirements are set out in full in section 311 of the *Local Government Act 1993* and are summarised below.

Any article relating to an election, printed or published between the notice of election and the end of the polling period (the 'prescribed period'), must contain the **true name and address of the person taking responsibility for the article**.

Penalty— A fine not exceeding 5 penalty units.

'Address' is defined to mean an address, other than a post office box or an electronic address—

- (a) at which the responsible person resides; or
- (b) at or through which the responsible person may be readily contacted.

'Article' includes any **advertisement, direct mail item, sign, circular, pamphlet, handbill, poster, sticker, dodger, and report**.

This requirement does not apply to the printing or publication of—

- a leading article; or
- an article that consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) on a candidate at an election or on the issues being submitted to the electors at the election.

Example of suitable authorisation:

Authorised by: John Citizen, 1 Long Road, Hobart

Definition of 'relevant period'

(section 3)

For the purposes of the following provisions, the '**relevant period**' for electoral advertising is defined in the Act as the period starting on the 30th day before the date of notice of election and ending at the end of the polling period. For the 2022 local government elections, the relevant period is 4 August – 25 October 2022.

Offence to use candidate's name without permission

(sections 278(3) & (4))

A person, within the **relevant period**, must not print, publish or distribute any electoral advertising that contains the name, photograph or a likeness of a candidate or intending candidate at an election without the written consent of the candidate or intending candidate.

Penalty— A fine not exceeding 50 penalty units.

Note: this does not apply to any matter printed, published or distributed by or on behalf of the Electoral Commissioner in the exercise or performance of his or her powers or functions.

Offence for advertisement to refer to gift, donation or prize

(section 278(5))

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

Penalty— A fine not exceeding 50 penalty units.

Purchase of advertising space – consent of candidate (section 278 & regulation 22)

Regulation 22(1) of the *Local Government (General) Regulations 2005* prescribes that a person must not purchase advertising space in relation to the election of a candidate without the written authority of that candidate. Therefore, if a person other than a candidate wishes to purchase advertising space, publishers should ensure they have sighted written consent from the candidate concerned.

Joint electoral advertising

Regulation 22(6) provides that a candidate is taken to have incurred the *total* space of, and expenditure involved in, advertising which promotes that candidate, irrespective of whether the advertisement also promotes another candidate.

In other words, in the case of joint advertising, all candidates involved are required to declare the total time and expense of any advertisements in their electoral advertising returns.

Changes to the *Local Government (General) Regulations 2015*

The Government has made amendments to the *Local Government (General) Regulations 2015*, with changes coming into effect on 8 August 2018.

The election related changes to the Regulations are:

- The previous limits on the size and number of posters/signs have been removed.
Posters/signs still need to comply with the relevant local council planning scheme.
- The previous advertising limits on radio and television time and newspaper space have been removed.
- New reporting requirements that include all forms of advertising costs.
- The new expenditure limits as at August 2022 are:
 - \$18 000 for all candidates contesting Clarence City, Glenorchy City, Hobart City, Launceston City or Kingborough elections.
 - \$11 500 for all candidates contesting an election for any other Tasmanian local government council.
- **All electoral advertising** used during the relevant period is to be included in the expenditure limit.
Previously, the limit only included purchased newspaper, television and radio advertising.

The *relevant period* for the 2022 local government elections is **4 August to 25 October**.
As the expenditure limit relates to the *cost incurred*, these limits are inclusive of GST.

Electoral advertising is defined in section 3 of the *Local Government Act 1993* to include:

- any notice, sign or poster;
- any pamphlet or handbill;
- any “how-to-vote” card;
- any print medium;
- any broadcast by radio or TV;
- advertising on the internet.

Publisher's electoral advertising returns

(section 279)

All publishers must lodge with the Electoral Commissioner an electoral advertising return within 45 days after the day the certificate of election is given. Completed returns will assist in the verification of the compliance of candidates with the legislation. If there is no electoral advertising to declare, a nil return must still be lodged. All returns will be made available for public inspection for a 12-month period.

Returns should show details of electoral advertisements published during the '**relevant period**', which starts on the 30th day before the notice of election and finishes on polling day (section 3).

Forms are available from the office of the Tasmanian Electoral Commission, by phoning 1800 801 701 or from the website (www.tec.tas.gov.au).

The Act provides that returns are to be lodged with the Electoral Commissioner within 45 days after the day on which the certificate of election is given.

The declaration on the return that the information given is true, complete and accurate should be signed by the publisher in front of a Justice of the Peace or Commissioner for Declarations. Completed returns will assist in the verification of the compliance of candidates with the legislation. If there is no electoral advertising to declare, a nil return must still be lodged. All returns will be made available for public inspection for a 12-month period.

It is an offence under the Act to fail to lodge a return within the time specified.

Penalty— A fine not exceeding 30 penalty units.

If the Electoral Commissioner is not satisfied that a return is authentic or complete, he may require further information.

Publisher's returns

The return of a publisher should include the following information in relation to each advertisement—

- Name of firm or person lodging advertisement (eg advertising agency) **and** name and address of person authorising the advertisement;
- Name of candidate(s) promoted in the advertisement;
- Pages/folio and space occupied by advertisement (shown as pages or fractions);
- Date advertisement was published; and
- Amount of charge, and whether the amount was charged at the normal commercial rate.

NOTE: Production and other costs **should** now be included, even if they were incurred before the commencement of the relevant period.

'Prescribed' and 'relevant' periods

Below is a summary only of some of the periods relating to regulation of advertising at local government elections. The time periods shown below are for the 2022 local government elections.

Section/ regulation	Subject	Period
s.3, s.278, s.279, reg 22A	Limit on 'electoral advertising' expenditure. Prohibition on use of candidate name, photograph or likeness of a candidate or intending candidate without consent. Reporting of 'electoral advertising' expenditure.	'relevant period' – starts on the 30th day before the notice of election and finishes on polling day. 4 August – 25 October 2022
s.311	Authorisation of electoral 'articles'. Electoral 'article' includes any advertisement, direct mail item, sign, circular, pamphlet, handbill, poster, sticker, dodger and report.	'prescribed period' – means the period commencing on the day on which the notice of election is advertised and ending on the closing day. 3 September – 25 October 2022
s.314(3)	The supply of food, drink or entertainment with a view to influencing the vote of an elector during the period opposite.	'relevant period' – starts on the 30th day before the notice of election and finishes on polling day. 4 August – 25 October 2022
s.314(4) & (5)	Gifts or donations to clubs, associations or bodies (regular donations may be excepted).	'relevant period' – starts on the 30th day before the notice of election and finishes on polling day. 4 August – 25 October 2022