shape your state

2020 Legislative Council Elections

Information for Candidates
Table of contents

Table of contents .................................................................................................................. 1

Introduction ......................................................................................................................... 4

Using this booklet .................................................................................................................. 4
Tasmanian Electoral Commission (TEC) website .................................................................. 4
Approved forms and procedures ............................................................................................ 4
Interpretation of the Electoral Act 2004 .............................................................................. 4
How to access the Electoral Act 2004 and other legislation .................................................. 4
The periodic election cycle 2020 - 2025 .............................................................................. 4

Legislative Council divisions, returning officers and polling places ................................. 6

Legislative Council divisions ............................................................................................... 6
Maps ......................................................................................................................................... 6
Returning officers .................................................................................................................... 6
Polling places .......................................................................................................................... 6

The writ .................................................................................................................................. 7

What is the writ? ......................................................................................................................... 7
Election timetable for the Legislative Council ...................................................................... 7

Nomination .............................................................................................................................. 8

How to nominate & nomination forms .................................................................................. 8
Candidate’s consent to be nominated ...................................................................................... 9
Qualifications of members ...................................................................................................... 9
Persons ineligible for nomination ............................................................................................ 9

Holders of an office of profit under the Crown, State public servants & Government contractors .............................................................................................................. 10
Nominations invalid due to change of name .......................................................................... 10
Withdrawal of nomination ...................................................................................................... 10
Close of nominations .............................................................................................................. 10
Announcement of candidates ................................................................................................. 10
Election without poll .............................................................................................................. 11
Election with poll .................................................................................................................... 11
Electoral rolls .......................................................................................................................... 11
Deposit and refund of $400 ................................................................................................. 11
Death of a candidate at election ............................................................................................. 11

Candidate expenditure .......................................................................................................... 12

Candidate’s expenditure limit ................................................................................................. 12
Expenditure period ................................................................................................................... 12
Election expenditure ............................................................................................................... 12
Election agents ....................................................................................................................... 12
Party not to incur election expenditure ............................................................................... 12
Expenditure by person other than candidate ...................................................................... 13
Recycled election material .................................................................................................... 13
Lodgement of election expenditure return .......................................................................... 13
Power of TEC to require information ................................................................................... 13
Advertising

Campaign material to be authorised ................................................................. 14
Examples of suitable authorisations ................................................................. 14
The word ‘advertisement’ to appear at the top of paid advertisements or advertorials in newspapers and periodicals ................................................................. 15
Electoral matter on the internet ......................................................................... 15
Use of published materials without permission ............................................... 15
Consent required to use candidate name, photograph or likeness .................. 15
Justices of the Peace ......................................................................................... 15
Authorisation not required on specific items .................................................... 16
Campaign items ................................................................................................ 16
Misleading and deceptive electoral matter ....................................................... 16
Radio and television advertisements ................................................................ 16
Broadcasting blackout ...................................................................................... 17
Placement of posters ........................................................................................ 17
Offence to place electoral matter on electricity poles ....................................... 17
Electronic billboards ........................................................................................ 17
Election roadside signs ..................................................................................... 18
Restrictions within 100 metres of a polling place ........................................... 18
Postal voting restrictions on electoral matter .................................................. 18

The ballot paper

Structure ........................................................................................................... 19
Names of candidate .......................................................................................... 19
Party name or “independent” on ballot paper .................................................... 19
Robson rotation ................................................................................................ 19
Voting instructions ............................................................................................ 19

Methods of voting

Ordinary voting ................................................................................................ 20
Pre-poll voting ................................................................................................... 20
Mobile voting .................................................................................................... 20
Out of division voting ....................................................................................... 20
Interstate voting ................................................................................................ 20
Express voting not currently available .............................................................. 20
Person not on roll or already marked off roll .................................................... 20
Postal voting ...................................................................................................... 20
Return of postal votes ....................................................................................... 21

Formality & informality

Formal votes ..................................................................................................... 22
Informal votes ................................................................................................... 22

Polling day

Hours of polling (8am - 6pm) ........................................................................... 23
Polling day distribution and publication of electoral matter ............................. 23
Assistance to certain electors at a polling place .............................................. 23
Candidates can only enter a polling place to vote .......................................... 23
After close of the poll ....................................................................................... 24
Post election and scrutiny timetable  25

Scrutineer  26
  Role of the scrutineer ................................................................. 26
  Appointment of scrutineers ......................................................... 26

Disputing elections and returns  27
  Application to dispute an election or return ..................................... 27
  Determination of a disputed election application ............................. 27
  Immaterial errors not to void election ............................................ 27

Filling a vacancy in the Legislative Council  28
  What is a by-election? ................................................................. 28
  Candidature for a by-election ..................................................... 28
  By-election timetable .................................................................... 28

Distribution of preferences  29
  Method of counting votes at a Legislative Council election ............... 29
Introduction

Using this booklet
This information booklet is designed to assist intending candidates for Tasmanian Legislative Council elections. Any comments or suggestions for improvement are welcome.

For ease of reading, some sections of the Electoral Act 2004 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.

The word candidate is used in a general sense in this booklet to mean either an ‘intending candidate’ or a ‘candidate’ as defined in the Act.

Unless otherwise specified, section references in subject headings are from the act.

Useful tips: Shaded boxes in the booklet highlight practical advice for candidates.

Tasmanian Electoral Commission (TEC) website
This booklet and a variety of information, forms and results relating to Tasmanian elections are available on the TEC website at www.tec.tas.gov.au

Approved forms and procedures
The TEC has the statutory responsibility to approve electoral forms and procedures which are required under the Electoral Act 2004. This allows electoral processes to incorporate the use of appropriate modern technology and practice as it becomes available.

Interpretation of the Electoral Act 2004
Candidates should be aware that the role of the TEC and returning officers is to administer the election in accordance with the Electoral Act 2004. While implementation of the Act forms part of the daily function of returning officers, it is not their role to provide legal advice to candidates, groups or parties.

Providing legal advice to candidates or parties is outside the role of the TEC and returning officers.

It is in the best interests of candidates to obtain legal interpretation of the relevant legislation from their own legal advisers.

How to access the Electoral Act 2004 and other legislation
The Electoral Act 2004 and other up-to-date Tasmanian Acts and Regulations can be accessed on-line at www.legislation.tas.gov.au

The periodic election cycle 2020 - 2025
Elections for the Legislative Council are conducted on a 6-year periodic cycle. Elections for 3 members are held in May one year, with elections for 2 members held in May the following year and so on.
The following table outlines the divisions due for elections in the period 2020-2025.

<table>
<thead>
<tr>
<th>Year</th>
<th>Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>Huon Rosevears</td>
</tr>
<tr>
<td>2021</td>
<td>Derwent Mersey Windermere</td>
</tr>
<tr>
<td>2022</td>
<td>McIntyre Elwick</td>
</tr>
<tr>
<td>2023</td>
<td>Launceston Murchison Rumney</td>
</tr>
<tr>
<td>2024</td>
<td>Hobart Prosser</td>
</tr>
<tr>
<td>2025</td>
<td>Montgomery Nelson Pembroke</td>
</tr>
</tbody>
</table>
Legislative Council divisions, returning officers and polling places

Legislative Council divisions
There are 15 Legislative Council divisions: Derwent, Elwick, Hobart, Huon, Launceston, McIntyre, Mersey, Montgomery, Murchison, Nelson, Pembroke, Prosser, Rosevears, Rumney and Windermere.
One member is elected for each division.
Periodic elections of Members of the Legislative Council are in May every year, on the first Saturday (unless the Governor appoints another Saturday in May).

Maps
Maps of Legislative Council divisions are available from the office of the TEC and on the LIST.
The maps of each division can also be viewed on the TEC website at www.tec.tas.gov.au, along with some history behind the name of each of the current divisions.

Returning officers
Returning officers are appointed by the TEC to conduct Legislative Council elections. Such appointments usually occur in the two months leading up to the issue of the writ for an election. Contact details for the returning officer for a particular division will be made available on the TEC website.

Polling places
A polling place is a place appointed by the TEC at which electors may vote. It may be an ordinary polling place, a pre-poll polling place or a mobile polling place.
Polling places are located in community and town halls, school buildings and sometimes at the office of the returning officer.
While the names of polling places reflect their locations, the exact addresses may not be confirmed until after the announcement of candidates for an election in a division.
Full addresses will be published in a daily Tasmanian newspaper circulating within the division on polling day and on the TEC website and smartphone app.
These lists will indicate which polling places have access for disabled electors.
The writ

What is the writ?  

Constitution Act 1934 - section 19; Electoral Act 2004 - sections 65, 66, 67, 68, 69, 70 & 71

The writ is a document which carries the Governor’s commands to conduct an election and specifies the key election dates (close of nominations, polling day, and the return of the writ).

Legislative Council elections commence with the issue of the writ and conclude with the return of the writ. Each writ is directed to the returning officer for the Legislative Council division concerned.

Every year the Governor issues a writ for each Legislative Council division due for election. These are called periodic elections. Writs are also issued for by-elections when vacancies occur which are not due to the expiry of a Member’s term.

Election timetable for the Legislative Council

```
Issue of the writ
(taken to be issued at 6 pm)

Close of electoral rolls
(6 pm on the day of the issue of the writ)

Close of nominations
(noon)

Announcement of nominations
(noon)

Polling day
(usually 1st Saturday in May)
8 am - 6 pm

Return of writ
```

Not later than 60 days from the issue of the writ  
s.71

15 – 51 days  
s.65(2)

7 – 21 days  
s.69

1 day  
s.87

s.70(b)
Nomination

How to nominate & nomination forms
sections 75, 76 & 77
To nominate for election, an approved nomination form must be completed and lodged with the returning officer for the division.

The nomination form for Legislative Council elections will vary according to whether a candidate is a non-party candidate (nominated by at least 10 electors) or is nominated by a registered political party.

It is the responsibility of the candidate to ensure that the nomination form and the deposit are received by the returning officer or the Commissioner (party nominations only) before the close of nominations.

Non-party candidate
A valid nomination for an individual non-party candidate requires:

- the candidate’s details, signature and a statement of consent of the candidate;
- the details and signatures of at least 10 electors who are entitled to vote at the election to which the nomination relates and who support the candidate’s nomination.

The candidate is required to complete and sign a declaration on the nomination form that he/she:

- is qualified to be elected as a member of the Legislative Council (see below);
- is not disqualified from being elected under the Constitution Act 1934; and
- indicate whether or not he/she wishes that the word “independent” appear on the ballot paper under his/her name; and if so, declare that he/she is not a candidate nominated by a registered party.

The nomination form must be completed and lodged (accompanied by the $400 deposit) with the appropriate returning officer after the issue of the writ and before noon on nomination day.

The deposit must be in legal tender or in a cheque drawn by an authorised deposit-taking institution or other financial institution on itself.

Candidate nominated by a political party
A valid nomination for a candidate nominated by a political party requires:

- a signed statement by the registered officer of the political party that the candidate has been endorsed by the party.
- the details, signature and a statement of consent of the candidate;

The candidate is also required to complete and sign a declaration on the nomination form that:

- he/she is qualified to be elected as a member of the Legislative Council (see below); and
- he/she is not disqualified from being elected under the Constitution Act 1934.
The party nomination form must be completed and lodged (accompanied by the $400 deposit) with the appropriate returning officer or the Commissioner after the issue of the writ and before noon on nomination day.

The deposit must be in legal tender or in a cheque drawn by an authorised deposit-taking institution or other financial institution on itself.

**Candidate’s consent to be nominated** section 77

Candidates should indicate their consent to be nominated where provided on the nomination form.

If a candidate is unable to indicate consent on the actual nomination form, the returning officer may accept consent in another approved method.

<table>
<thead>
<tr>
<th>Lodge nomination early:</th>
<th>Lodging your nomination form early will give you time to fix any possible problems with your form.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>More than ten nominators:</strong></td>
<td>Providing one or two extra nominators on the form will help avoid last minute difficulties.</td>
</tr>
<tr>
<td><strong>Name on ballot paper:</strong></td>
<td>Please state (in the box provided on the nomination form) the names as they are to appear on the ballot paper – eg John Walter Citizen may wish his name to appear on the ballot paper as CITIZEN John (see ‘The ballot paper’ section for more information).</td>
</tr>
</tbody>
</table>

**Qualifications of members** Constitution Act 1934 - section 14

To be elected as a Member, a person must:

- be an elector, or be entitled to have his/her name placed on the roll for a Legislative Council division; and
- have:
  - resided in Tasmania for 5 years at any one time; or
  - resided in Tasmania for 2 years immediately preceding his/her nomination.

**Persons ineligible for nomination** section 76

A person is ineligible to be nominated as a candidate for a Council election if the person

- is a member of the House of Assembly or for another Council division; or
- is a candidate for election in another division of either House for which the writ has not been returned; or
- is a member of the Parliament of the Commonwealth.

**Nomination forms are available** from the office of the TEC or at www.tec.tas.gov.au

**No personal cheques:** Please note that personal cheques are not an acceptable payment of the deposit.
Holders of an office of profit under the Crown, State public servants & Government contractors


Candidates are strongly advised to seek their own legal advice concerning their particular situation.

Nominations invalid due to change of name

The TEC may determine that a nomination for a Council election is invalid on the ground that the candidate has changed his or her name to a name which –

- is a party name; or so nearly resembles a party name that it is likely to be confused with, or mistaken for, the party name; or
- includes the word “independent” or a word of similar import; or
- is the name of a public body; or so nearly resembles a public body that it is likely to be confused with, or mistaken for, the name of the public body; or
- is obscene or offensive.

The TEC may also determine that a nomination in respect of a person as a candidate for a Council election is invalid on the ground that the person has changed his or her name to a name which the TEC considers could cause confusion.

If the TEC determines that a nomination is invalid on a ground mentioned above it must advise the person in writing of the reasons and of any right to appeal the determination.

A person aggrieved by such a determination may appeal to the Supreme Court in accordance with section 85, provided that their nomination was received before 5 pm on the fourth business day before nomination day.

Withdrawal of nomination

A candidate may withdraw their nomination by notice signed by the candidate and lodged with the returning officer (or Commissioner where appropriate) before noon on nomination day.

A ‘party candidate’ must also provide a signed statement by the registered officer of the party that they consents to the withdrawal of the nomination.

Close of nominations

The "nomination day" means the day on or before which candidates for election are to be nominated as required by the Electoral Act 2004.

Nominations must be received by the returning officer (or the Electoral Commissioner for party nominations) before noon on nomination day.

Announcement of candidates

At noon on the day after nomination day, the returning officer will publicly announce the names of the candidates and produce all nomination forms that have been endorsed as accepted.
Election without poll

If there is only one candidate nominated, the returning officer will announce that a poll will not take place and that the candidate will be declared elected unopposed on polling day. The declaration will be announced in a notice published in a newspaper circulated in the relevant division.

Election with poll

If there are two or more candidates, the returning officer will announce that a poll will take place on the day fixed by the writ. As soon as practicable after the announcement of candidates, the returning officer is to conduct a draw to determine the positions of candidate names on the first rotation of the ballot papers.

A notice specifying the date of the poll, and a list of the candidates, will be published in a newspaper circulated in the relevant division. Elector brochures detailing the list of candidates, early voting services and polling places for polling day is mailed to each elector on the election roll.

Electoral rolls

Following a candidate request on the approved form, a printed copy of the electoral roll (as at the close of rolls) will be provided by the returning officer. Please note that it can take 3-4 days after the close of rolls for printed rolls to be prepared and distributed. Section 41(1) provides that a candidate may only use the roll for a purpose connected with an election or referendum, or monitoring the accuracy of information on the roll. Section 166 provides that it is an offence to use, without reasonable excuse, information from a candidate roll, except for a purpose permitted under section 41.

Deposit and refund of $400

As mentioned above, each nomination must include a deposit of $400. The returning officer will refund the sum if the nominated candidate has:

- been elected;
- not been elected but, at any stage of the scrutiny obtained a number of votes which is not less than 20% of an absolute majority of votes;
- withdrawn his/her nomination as a candidate as provided by section 83; or
- died before polling day.

If an election fails, the deposit will be returned to all candidates.

Death of a candidate at election

If a candidate dies:

- before noon on nomination day — nominations may be lodged until noon on the day after nomination day and candidates are to be announced as soon as practicable thereafter;
- after noon on nomination day and before polling day — the election fails;
- on or after polling day — the count for the election is to be conducted, and if the deceased candidate receives sufficient votes to be elected, a vacancy is taken to have occurred.

If a candidate dies before polling day, the nomination deposit will be refunded to the candidate's personal representatives.
Candidate expenditure

Candidate’s expenditure limit

It is an offence for a candidate or his/her election agent to exceed the expenditure limit on their election campaign within the ‘expenditure period’ (see below).

The expenditure limit for 2020 and the next 5 years is shown below—

<table>
<thead>
<tr>
<th>Year</th>
<th>Permitted maximum amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$17 500</td>
</tr>
<tr>
<td>2021</td>
<td>$18 000</td>
</tr>
<tr>
<td>2022</td>
<td>$18 500</td>
</tr>
<tr>
<td>2023</td>
<td>$19 000</td>
</tr>
<tr>
<td>2024</td>
<td>$19 500</td>
</tr>
</tbody>
</table>

Candidates spending more than the permitted maximum amount will be liable to a penalty. In addition, if an elected candidate exceeds the permitted maximum amount by more than $1000, a court may declare their election void.

Expenditure period

The ‘expenditure period’ is defined to be:

- in the case of a periodic election, the period beginning on 1 January in the year in which the election is to be held and ending at the close of poll; or
- in the case of a by-election, the period beginning on the day on which the seat of a Member of the Council becomes vacant and ending at the close of poll.

Expenditure which was incurred before the relevant period in respect of goods and services which are supplied or provided or made use of during the relevant period, is included in the definition of electoral expenditure.

Election expenditure

The following expenses are not considered to be ‘relevant electoral expenditure’:

- personal and reasonable living and travelling expenses of the candidate and his/her employed agent;
- renting or hiring of premises for the campaign;
- appointment of scrutineers; and
- conveying electors to and from a polling place on polling day.

Election agents

Any expenditure incurred by the election agent of a candidate or intending candidate is included in that candidate’s expenditure.

It is an offence for a candidate or intending candidate to authorise anyone other than his/her election agent to incur expenses on his/her behalf.

Party not to incur election expenditure

No political party expenditure is allowed at Legislative Council elections.
Expenditure by person other than candidate  
section 159(1)

It is an offence for a person, other than a candidate, or his/her election agent, to incur any expenditure with a view to promoting or procuring the election of that candidate. For example, payment for election advertisements should only be made by the candidate or his/her authorised election agent.

This section does not prevent the payment or giving of any money, security or equivalent of money directly to a candidate or his/her election agent for that campaign.

Recycled election material  
section 5(2)

The TEC policy requires reporting of expenses incurred only for this election. This means:

- Only expenditure incurred in relation to the particular Legislative Council election should be included in a return. In other words, if a candidate is re-using material from a previous election campaign, they should not include a value for that re-used material in their return.
- Expenditure incurred to update old advertising material, such as stickers to overlay on old signs, should be included as it is expenditure incurred for this election.

Lodgement of election expenditure return  
sections 161, 164 & 199

All candidates must file an accurate return of their electoral expenditure with the TEC, within 60 days of the result of the election being declared. This return must show:

- all election expenditure paid by the candidate (or by his/her election agent) relating to the campaign; and
- all disputed claims, and all unpaid claims in respect of any election expenditure.

Please note: returns are required to be signed before a Justice of the Peace or Commissioner for Declarations.

Receipts in respect of each item of election expenditure that exceeds $20 are to accompany the return.

If a candidate does not file his/her return within the time specified, he/she is subject to a penalty. In addition, elected candidates who do not file their returns on time may have their election declared void.

The TEC may allow an extension of this period by up to 30 days. A candidate will need to make a written request to the TEC for consideration of an extension.

The TEC is to keep all returns for a period of 12 months after filing, and they are open to public inspection during this time.

Electoral expenditure return forms: are available from the TEC or from the returning officer and are included with the acceptance of nomination email for candidates that have had their nomination accepted by the returning officer.

Power of TEC to require information  
section 165

The TEC has the power to require information, records, explanation of records and answers to questions relating to candidate expenditure where it believes that a person is in possession of relevant information.
Advertising

Campaign material to be authorised

Between the issue of the writ and the close of poll for an election:

- any printed **electoral matter** that is printed, published, kept on display or distributed must have the name and address of the responsible person printed at the end in legible characters; and

- any **electoral matter** which is published on the internet must also have the name and address of the responsible person appearing at the end.

‘**Electoral matter**’ is defined in section 4 of the *Electoral Act 2004* and means “matter which is intended to, is likely to or has the capacity to affect voting in an election”.

Further without limiting the above definition, matter is taken to be intended or likely to affect voting in an election if it—

(a) contains an express or implicit reference to, or comment on—

   (i) the election; or

   (ii) the Government, the Opposition, a previous Government or a previous Opposition; or

   (iii) the Government or Opposition, or a previous Government or Opposition, of the Commonwealth or a State or Territory; or

   (iv) a member or former member of the Parliament of the Commonwealth or a State or of the legislature of a Territory; or

   (v) a party, a branch or division of a party or a candidate or intending candidate or group of candidates or intending candidates in the election; or

   (vi) an issue submitted to, or otherwise before, the electors in connection with the election; or

(b) contains—

   (i) a photograph of a candidate or intending candidate in an election; or

   (ii) a drawing or printed matter which purports to depict a candidate or intending candidate in an election or which purports to be a likeness or representation of any such candidate or intending candidate.

‘**Address**’ is defined in section 190 as the address, other than a post office box or an electronic address—

(a) at which the person resides; or

(b) at or through which the person can be readily contacted.

‘**Responsible person**’ means the person who is taking responsibility for causing electoral matter to be printed, published or distributed.

Examples of suitable authorisations

Authorised by: John Citizen, 1 Long Road, Hobart

or

Authorised by: John Citizen, Parliament House, Hobart
Post office box addresses or electronic addresses are not permitted for authorisation of electoral matter.

Authorisation: If you are unsure whether a particular item requires authorisation, it is advisable to authorise it to avoid committing an offence under the Act.

The word ‘advertisement’ to appear at the top of paid advertisements or advertorials in newspapers and periodicals

If payment, reward or compensation is made, or is to be made for the insertion of an advertisement, article or paragraph published in a newspaper or periodical, the proprietor must cause the word ‘advertisement’ to be printed as a headline, in letters not smaller than 10 point.

Electoral matter on the internet

Under section 191(1)(b) of the Electoral Act 2004, all electoral matter published on the internet between the issue of the writ and the close of poll at an election must contain the name and address of the responsible person at the end.

The Electoral Commissioner recommends that candidates and other persons with websites containing electoral matter should ensure that the name and address of the responsible person appears on each page, possibly in the footer. For social media, such as Twitter and Facebook, an appropriate place to include authorisation would be in the about section, or as part of the profile.

Use of published materials without permission

Reproduction of published materials (e.g. newspaper photos, headlines or articles) is likely to require the permission of the authors and publishers. Candidates should clarify the status of material with the publisher to avoid breaching the Commonwealth Copyright Act 1968.

Consent required to use candidate name, photograph or likeness

Between the issue of the writ and the close of poll, it is an offence to print, publish or distribute any advertisement, “how to vote” card, handbill, pamphlet, poster or notice which contains the name, photograph or a likeness of a candidate or intending candidate at that election without the written consent of the candidate.

Justices of the Peace

Candidates who are Justices of the Peace are advised to take note of the Code of Conduct contained in the Justices of the Peace (Code of Conduct) Regulations 2019 which includes the following provisions:

An appointed justice must not use his or her office as Justice of the Peace for the purpose of benefitting his or her business, commercial or personal interests. An appointed justice must not convey, or permit another person to convey, the impression that the justice is in a special position of influence by reason of being a Justice of the Peace.

Mentioning JP status on campaign material may be considered to be an attempt to use the office for personal benefit, or imply a special position of influence.
Authorisation not required on specific items
sections 192, 193 & 194

Electoral matter does not require authorisation if it is printed on—

(a) an item of clothing, lapel button or lapel badge; or
(b) a pen, pencil or balloon; or
(c) a business card or visiting card that promotes the candidacy of a person in an election; or
(d) a letter or card on which the name and address of the sender appears; or
(e) any other approved item.

The requirement to authorise electoral matter may not apply to reportage and commentary in a newspaper or periodical, or a letter to the editor of a newspaper or periodical if particular information is provided – refer to sections 193 & 194 of the Act.

Campaign items
sections 187(1A) and 188(1A)

Section 187A provides that inexpensive items up to the value of three fee units are excluded from the offence of electoral bribery. At the time of printing one fee unit is $1.62, so total cost of the item must not exceed $4.86.

Under section 188(A), inexpensive food, drink or entertainment, and gifts, donations and prizes up to the value of three fee units (again currently $4.86) are excluded from the offence of electoral treating.

Candidates are strongly advised to read these sections of the Electoral Act 2004.

Misleading and deceptive electoral matter
section 197

It is an offence to print, publish or distribute any printed electoral matter, or publish any electoral matter on the internet, or broadcast electoral matter on radio or television, that is intended to, likely to or has the capacity to mislead or deceive an elector in recording his or her vote.

This section applies to the more mechanical aspects of obtaining and marking a ballot paper and depositing it in a ballot box and not to the formation of a judgment as to who to vote for. That is, the truth or otherwise of campaign material is not covered by this section.

How-to-vote material: Voters should not be misled into making an informal vote.

The requirements of a formal vote are discussed in the ‘Formality & informality’ section of this handbook. Refer also to section 102(2) of the Act.

Radio and television advertisements

There are Commonwealth requirements in relation to radio or television advertising, but no additional restrictions in the Electoral Act 2004, except in relation to false information (see above).

The Commonwealth Broadcasting Services Act 1992 provides that broadcast political advertisements must include certain ‘required particulars’. The Act can be found at www.austlii.edu.au

Queries concerning the Commonwealth provisions should be directed to Free TV Australia or Commercial Radio Australia through your local TV or radio station.
Alternatively contact the Australian Communication and Media Authority (ACMA). Guidelines on the requirements under the Broadcasting Services Act 1992 in relation to broadcasting political matter are available from the ACMA website at www.acma.gov.au.

Broadcasting blackout
The Commonwealth Broadcasting Services Act 1992 prohibits broadcasters from broadcasting political advertisements from midnight on the Wednesday prior to polling day, to the close of the polls.
This does not prohibit news coverage of the election, discussion of political issues, or interviews with candidates.

Placement of posters and signs
Electoral posters must be authorised, as mentioned above. Permission to display posters on private property must always be obtained from the owner of the land concerned.
Before placing posters on public property (eg. fences or trees) it is advisable to obtain permission from the responsible bodies such as local government (individual councils), the Department of State Growth, etc.
Many Tasmanian councils have specific planning schemes and by-laws regulating the placement and size of election posters. Candidates are advised to check with their relevant councils prior to erecting posters.

| Permission: Candidates considering affixing signs in public places or to vehicles should ensure they do not breach any council or police restrictions. |
| Safety: Signs should not be placed in positions that could jeopardise public safety for example, near ‘stop’ signs, traffic lights, intersections or any other position where the attention of road users could be distracted. |

Offence to place electoral matter on electricity poles
If is an offence under section 109(1)(a) of the Electricity Supply Industry Act 1995 to attach anything to a power pole without proper authority. The penalty for an offence under this section is a fine not exceeding 50 penalty units for an individual or 100 penalty units for a body corporate.
Queries or complaints related to material being attached to electricity power poles should be directed to TasNetworks.

Electronic billboards
It is an offence under section 78(1) of the Traffic Act 1925 for a person to—
(a) place or leave an electronic billboard on a public street; or
(b) place or leave an electronic billboard in a public place if any occupant of any motor vehicle on any public street can, with the naked eye, read any words or make out any images being displayed by the electronic billboard.
Penalty: Fine not exceeding 20 penalty units.
Section 78(2)(a) provides that ss 1(a) does not apply to electronic billboards that are—
(a) used for traffic management or road safety purposes by a road authority; or
(b) used for the purposes of a civil or other emergency by a statutory service within the meaning of the *Emergency Management Act 2006*; or

(c) placed or left on a public street with and in accordance with the written approval of the Transport Commission.

Further, Section 78(2)(b) provides subsection 1(b) does not apply to an electronic billboard that is placed or left in a public place by, or with the approval of, the owner or occupier of that public place.

Queries or complaints related to electronic billboards should be directed to the State Roads Division of the Department of State Growth.

**Electoral roadside signs**

The Department of State Growth has produced the *Tasmanian Roadside Signs Manual* (© June 2015 – amended March 2019). The manual contains the following information in relation to electoral signs—

The erection or display of electoral advertising signs within State and Local Government Roads is *prohibited*. The provisions of Local Authority Planning Schemes and Bylaws make adequate provision for such advertising.

(*Tasmanian Roadside Signs Manual* can be accessed online at www.transport.tas.gov.au)

Queries or complaints related to roadside signs should be directed to the Department of State Growth.

**Restrictions within 100 metres of a polling place**

A person is not permitted to—

- canvass for votes; or
- solicit the vote of an elector; or
- induce or attempt to induce an elector not to vote for a particular candidate or particular candidates;

within 100 metres of a polling place.

Please note that legal advice on the interpretation of section 177 indicates that the 100 metre restriction does not apply to static signs in place before polling day. However under section 198, it is an offence to distribute a poster on polling day, which would prevent the erection of signs on polling day.

**Polling day restrictions on electoral matter**

An additional restriction relating to the distribution of electoral matter applies for polling day.

It is an offence to distribute any advertisement, ‘how-to-vote’ card, handbill, pamphlet, poster, or notice containing any electoral matter on polling-day.

**Newspaper advertising on polling day:** Following recent amendments to the *Electoral Act 2004*, the restrictions on publishing advertisements or comments relating to a candidate or election issue in a newspaper on polling day have been removed.
The ballot paper

Structure

The ballot paper names of candidates will be listed in a single column with a box printed next to each name.

Names of candidate

Each candidate is identified on the ballot paper by their ballot paper name as specified on the nomination form.

The Commissioner may approve a ballot paper name, other than a form of the candidate’s name, if satisfied that the person is commonly known by that name.

Where the names of 2 or more candidates are similar and are likely to cause confusion, the Commissioner may arrange the names with additional information so that each candidate can be distinguished.

Party name or “independent” on ballot paper

For candidates nominated by a political party, the name of the political party will appear under the candidate’s name.

The word “independent” can be placed under the ballot name of non-party candidates if requested on the nomination form.

Robson rotation

The rotation of candidates’ names on the ballot paper is determined by Robson rotation. This system rotates the names of the candidates so that each name receives an equal share of the favoured positions at the top and bottom of the column.

The returning officer will conduct a draw to determine the random order of candidate names for the first rotation following the public announcement of the candidates.

Voting instructions

The Electoral Act 2004 requires that instructions on the ballot papers indicate that:

- the elector is to number the boxes from 1 to the number of candidates on the ballot paper; and
- the elector’s vote will not count unless the elector numbers the minimum number of preferences required for a formal vote.
Methods of voting

Ordinary voting
An ordinary vote is a vote cast at a polling place on polling day.

Pre-poll voting
Electors unable to attend a polling place on polling day may vote at a pre-poll polling place.
For further information, check the TEC website or look for electoral advertising in the Tasmanian daily newspapers.

Mobile voting
On or before polling day, a mobile polling team will visit appointed institutions, such as hospitals and nursing homes. Closer to the election period, returning officers can provide a list of these institutions and the dates and times that they will be visited.

Out of division voting
Since the introduction of notebook computer voter lists in 2010, electors may cast an ordinary vote at any polling place open on polling day in Tasmania. This has superseded absent voting.

Interstate voting
An elector who is interstate may record an interstate vote at a pre-poll polling place arranged by the Commissioner and provided by another electoral authority.

Polling place locations for ordinary, and pre-poll voting will be advertised in the elector brochures produced by the TEC, the relevant daily newspapers and on the TEC website.

Express voting not currently available
With increased cybersecurity threats on Australian elections and democracy and following independent expert advice, the Commission has taken the view that there are too many risks to provide the Express voting service at the current time.

Person not on roll or already marked off roll
A person may request a ‘declaration vote’ if they claim to be entitled to vote and their name cannot be found on the roll, or the roll is marked and indicates that the person has already voted.

The elector signs a declaration on an envelope and the ballot paper is enclosed in the envelope for sending to the appropriate division. If the returning officer is satisfied that the elector is entitled to vote, the envelope will be opened and the ballot paper will be admitted to the scrutiny.

Postal voting
An elector may vote by post if they:
• expect to be unable to attend a polling place on polling day; or
• are a silent elector.

Postal vote applications can be obtained from electoral offices, Tasmanian post offices within the divisions going to election or www.tec.tas.gov.au

Applications for a postal vote must reach the returning officer, or a person approved for the purpose, before 4 pm on the 8th day before polling day. The deadline for receipt of postal vote applications for the 2020 Legislative Council elections is 4pm on Friday 24 April, 2020.

Use of postal vote applications by candidates and political parties: Candidates and parties who are using bulk supplies of postal vote applications are requested to obtain these from the TEC or the offices of returning officers. Please do not remove large numbers of applications from post offices as this may result in electors being unable to obtain an application in time and being denied a vote.

Postal vote applications must be accompanied by TEC reply paid envelopes, as a delay to the return of an application could jeopardise the timely receipt of the postal ballot pack by the elector and also may be a breach of section 128.

Return of postal votes

An elector who has applied for and received a postal vote must, **before the close of polling**, complete the ballot paper, place it in the declaration envelope, sign the declaration; and

• post it to the returning officer; or
• deliver it to a polling place, before close of polling.

To allow for the return of postal votes from interstate or overseas through the postal system, the returning officer may receive envelopes until 10.00am on the second Tuesday after polling day.
Formality & informality

Formal votes

To cast a valid vote an elector must initially mark the ballot paper as follows:

- where there are more than 3 candidates — by placing the numbers 1,2 and 3 in the boxes next to the names of the candidates in order of preference; or
- where there are 3 candidates — by placing the numbers 1 and 2 in the boxes next to the names of the candidates in order of preference; or
- where there are 2 candidates — placing the number 1 in the box next to the name of the candidate of first preference.

The elector may then place further consecutive numbers in any or all of the remaining boxes next to the names of the other candidates.

Informal votes

A ballot paper is informal if:

- no vote has been recorded on it;
- it is not marked in accordance with section 102(2) (see above);
- it contains any unauthorised marking or writing which will (in the opinion of the election officer responsible) enable a person to identify the elector concerned;
- it has not been:
  o authenticated by the initials of the election official; or
  o authenticated by an approved mark.

A ballot paper will not be treated as informal if, in the opinion of the returning officer, the elector's intention is clear.

A repetition or omission of a preference after the number 3 does not make the ballot paper informal. The preferences preceding the error on such ballot papers will be included in the count.
Polling day

**Hours of polling (8am - 6pm)**

Each ordinary polling place is to be open for polling from 8am on polling day until the close of poll at 6pm. While electors may not be admitted after 6pm, if an elector is in line to vote before 6pm, and wishes to vote, the poll will not close until that elector has voted.

The Commissioner is to determine the times during which each pre-poll polling place and mobile polling place is to be open for polling.

**Polling day distribution and publication of electoral matter**

Refer to the "Advertising" section in this booklet for polling day restrictions.

**Assistance to certain electors at a polling place**

If an elector requires assistance when voting, they should refer to the Polling Place Manager as to the appropriate approved method of voting. If an elector is to be assisted, an electoral official is to advise any scrutineers present of the approved procedure by which the elector is voting.

**Voter assistance at a polling place**

The TEC has approved the following procedures to assist an elector who is unable to vote without assistance:

- An elector may nominate another person to help them fill in a ballot paper at a polling screen if the elector is unable to do so without assistance;
- The person assisting the elector is to mark the ballot paper in accordance with any directions whether in writing or otherwise presented;
- An election official may take ballot material outside a polling place (for example to a parked car) to assist a voter who can come near to a polling place but is unable, due to a disability, to enter the polling place.

**Vision impaired electors**

The TEC has developed a computer-based magnification and audio system (VI-Vote) to enable blind and vision impaired electors to cast their vote privately without the direct involvement of another person. Contact the TEC or the returning officers’ office for information regarding access to this system.

For further information on procedures approved by the TEC to assist voters, please refer to www.tec.tas.gov.au or phone the office of the TEC.

**Candidates can only enter a polling place to vote**

Candidates are not permitted to take part in any way in the conduct of polling at a polling place other than to cast their vote.
Photographers: Prior arrangements to photograph or film inside a polling place should be made through the returning officer. In any case, photographers are only permitted into a polling place at the discretion of the polling place manager. Party workers or the press may take photographs of candidates casting their vote provided that ballot papers are folded over.

After close of the poll
sections 140 & 141

After the close of the poll, a provisional count of the first preference votes is conducted at each polling place.

In order to ensure the secrecy of the vote, the TEC may approve combining the ballot papers received at a small polling place with the ballot papers received at another polling place.

Progressive results will be available at www.tec.tas.gov.au. Previous Legislative Council results are also available at the website.
The following tasks are undertaken in the returning officer’s office following the return of ballot papers and other election material from polling places.

### Following the close of the poll

<table>
<thead>
<tr>
<th>Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re-check of ordinary ballot papers</td>
</tr>
<tr>
<td>Amalgamation of candidates’ parcels of ballot papers from each polling place</td>
</tr>
<tr>
<td>Provisional distribution of preferences</td>
</tr>
<tr>
<td><em>(If practical, a provisional count usually takes place from Sunday afternoon to determine a result as early as possible)</em></td>
</tr>
</tbody>
</table>

### Throughout the 10-day period for the return of postal votes

<table>
<thead>
<tr>
<th>Task</th>
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</thead>
<tbody>
<tr>
<td>Returned postal votes counted,</td>
</tr>
<tr>
<td>Declaration vote envelopes processed</td>
</tr>
<tr>
<td><em>(Dec envelopes checked and eligible ballot papers admitted to the count)</em></td>
</tr>
<tr>
<td>Progressive counting of postal votes</td>
</tr>
<tr>
<td>Final check of the ballot papers</td>
</tr>
</tbody>
</table>

### Commencing 2nd Tuesday after polling day

<table>
<thead>
<tr>
<th>Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final distribution of preferences</td>
</tr>
<tr>
<td>Recount</td>
</tr>
<tr>
<td><em>(if returning officer decides or Commission directs)</em></td>
</tr>
</tbody>
</table>

The declaration of the poll may take place prior to the final distribution of preferences if the returning officer and the Commissioner are satisfied that any votes not yet counted could not affect the result of the election.
Scrutineer

Role of the scrutineer

Candidates are not permitted to take part in the conduct of polling other than by casting their own vote. The role of the scrutineer is to represent the candidate at the places where voting or counting take place.

A scrutineer may observe the issuing, sorting, checking and counting of ballot material and may bring to the attention of an election official any matter they believe may not be in accordance with the provisions of the Act.

If a scrutineer brings a matter to the attention of an election official, that official is to:
- consider the request; and
- take any action they consider appropriate; and
- if requested by the scrutineer, record details of the request and action taken.

If a scrutineer leaves a polling place another scrutineer may replace them.

Scrutineers may also be present at further scrutiny of the ballot papers and the distribution of preferences.

Polling place count only provisional: The counting at each polling place provides provisional figures. A thorough check of all votes occurs at the Returning Officer’s office.

Appointment of scrutineers

The appointment of a scrutineer must be made in an approved form which is signed by the candidate.

This appointment must be provided to an election official by the scrutineer before commencing his or her functions as a scrutineer.

Further, the scrutineer is required by the Electoral Act 2004 to sign a declaration that:
- they will perform these functions in accordance with the Act; and
- preserve the secrecy of the voting.

Copies of these forms are available from the TEC.

Entry to the polling place scrutiny: Scrutineers wishing to witness the counting of ballot papers in a polling place should arrange access with the polling place manager well before the close of poll.

Scrutineers are entitled to enter or leave a polling place at any time, before or after 6pm.
Disputing elections and returns

Application to dispute an election or return
sections 205, 206 & 209

The validity of an election, a recount or the return of a person as a Member of the Legislative Council may be disputed by an application made to the Supreme Court within 90 days after the return of the writ for the election.

An application may be made by:
- a candidate at the election;
- an elector entitled to vote at the election; or
- the TEC.

Determination of a disputed election application
section 215

The Supreme Court may make an order that:
- an election is void and a by-election is to be held; or
- a person who has been declared elected was not duly elected; or
- a person who has not been declared elected was duly elected; or
- the application be dismissed in whole or part.

Immaterial errors not to void election
section 238

An election may not be declared void merely on account of:
- any irregularity or delay in the declaration of nominations, polling for the election or the return of the writ for the election;
- the absence of a returning officer or an election official which, in the opinion of the Supreme Court, did not affect the result of the election; or
- an omission or error by the TEC, the Commissioner, a returning officer or an election official which in the opinion of the Supreme Court, did not affect the result of the election.
Filling a vacancy in the Legislative Council

When a vacancy occurs in the Legislative Council, a by-election for that seat is held.

What is a by-election?  
A by-election is an election held to elect a Member of the Legislative Council, in circumstances where a seat becomes vacant other than by the expiry of a Member’s 6-year term of office (for example, a vacancy caused by the resignation or death of a Member).

By-elections are conducted in a similar manner to normal periodic elections.

Candidature for a by-election
The qualifications for nomination as a candidate for a Legislative Council by-election are the same as those for a normal periodic election, as outlined in the ‘Nomination’ section.

By-election timetable  
When a seat becomes vacant on or after 1 January and before the issue of the writs for the periodical Legislative Council elections for that year, the by-election is deferred and held in conjunction with the periodical elections.

When a by-election is not held concurrently with the periodical elections:
- The writ for holding a by-election is to be issued within 40 days of the vacancy occurring, except in the case below.
- The period between the issue of the writ and nomination day for a by-election is not less than 7 days nor more than 21 days (the same as for normal periodic elections).
- The period between nomination day and polling day for a by-election is not less than 14 days nor more than 30 days.
Distribution of preferences

Method of counting votes at a Legislative Council election

For a candidate to be elected at a Legislative Council election, she/he must obtain an absolute majority of votes, where:

**absolute majority** is more than one half of the total number of formal votes (less exhausted votes).

The method of counting votes is as follows:

- All ballot papers are examined with all formal ballot papers being included in the count (each paper = 1 vote) and informal ballot papers being rejected.
- Each formal ballot paper is distributed to the candidate allocated the 1st preference.
- Once all formal ballot papers are allocated, the first preference total for each candidate is counted.
- If a candidate has received the same or more votes than the absolute majority, she/he is elected.
- If no candidate has an absolute majority, then the candidate with the fewest votes is excluded (removing him/her from the count), and each ballot paper he/she received is distributed to the continuing candidate with the next earliest preference on the ballot paper.
- Where none of the continuing candidates have been allocated a preference, the ballot paper drops out of the count and the vote associated with that ballot paper is declared “exhausted”.
- If no candidate has an absolute majority of votes at this stage, then the process of excluding the candidate with the fewest votes is repeated, until one candidate reaches the absolute majority.

If at any count, two or more candidates have the fewest number of votes, then whichever of those candidates was recorded as having the fewer number of votes at the last count at which they were unequal is to be excluded.

If those candidates have had an equal number of votes for all preceding counts the returning officer decides by an approved method which candidate will be excluded.

The process of determining the excluded candidate is the same for the final count if the remaining 2 candidates have an equal number of votes and one has to be excluded. In this case the unexcluded candidate is elected.
Tasmanian Electoral Commission

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