



Tasmanian  
Electoral Commission

# Candidate guide

## House of Assembly elections







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House of Assembly  
elections

**YOUR VOTE IS BIGGER THAN YOU THINK.**



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## Table of contents

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## Introduction

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### Using this booklet

This information booklet is designed to assist intending candidates for Tasmanian House of Assembly 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 *Electoral Act 2004*.

**Useful tips— Shaded boxes throughout 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](http://www.tec.tas.gov.au).

### Approved forms and procedures

The Tasmania Electoral Commission (TEC) has the statutory responsibility to approve various electoral forms and procedures 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 interpretation of the Act forms part of the daily function of returning officers, it is not their role to provide legal advice to candidates or parties.

Providing legal advice to candidates or parties is outside the role of the Tasmanian Electoral Commission 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.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

## Returning Officers

Divisional Returning Officers, or other senior officers of the Australian Electoral Commission (AEC) are usually appointed as Returning Officers for Tasmanian House of Assembly elections. Current contact details are as follows:

Division of Bass	<b>Paul Eklom</b>
Address:	Ground floor, 87 George Street, Launceston
Postal Address:	PO Box 712 Launceston 7250
Phone 03 6331 6226	Fax 03 6334 2725
Division of Braddon	<b>Ngaire Edwards</b>
Address:	1 <sup>st</sup> floor, Harris Building, 49 Cattley Street, Burnie
Postal Address:	PO Box 468 Burnie 7320
Phone 03 6431 6188	Fax 03 6431 2457
Division of Denison	<b>Maree Fasoli</b>
Address:	2 <sup>nd</sup> floor, AMP Building, 86 Collins Street, Hobart
Postal Address:	GPO Box 1335 Hobart 7001
Phone 03 6235 0550	Fax 03 6235 0527
Division of Franklin	<b>Maree Ward</b>
Address:	2 <sup>nd</sup> floor, AMP Building, 86 Collins Street, Hobart
Postal Address:	GPO Box 1335 Hobart 7001
Phone 03 6235 0560	Fax 03 6235 0575
Division of Lyons	<b>Davin Foulkes</b>
Address:	Ground floor, 87 George Street, Launceston
Postal Address:	PO Box 123 Launceston 7250
Phone 03 6334 2600	Fax 03 6334 2725

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## House of Assembly divisions and polling places

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### House of Assembly divisions

There are five House of Assembly divisions: Bass, Braddon, Denison, Franklin and Lyons.

These divisions have the same boundaries as the five Commonwealth House of Representatives divisions for Tasmania.

There are twenty-five members of the House of Assembly, with five members elected for each of the divisions using the Hare Clark voting system of multi-member proportional representation. Members are elected for a term of up to four years.

### Maps

Maps of House of Assembly divisions are available from offices of the TEC or the Australian Electoral Commission.

The maps of each division can also be viewed on the Tasmanian Electoral Commission website at [www.tec.tas.gov.au](http://www.tec.tas.gov.au).

### Polling places

Generally the same polling places are used for the Commonwealth House of Representatives and Tasmanian House of Assembly elections. These are located in community and town halls, school buildings and sometimes at the office of the returning officer.

Polling places are appointed by the Tasmanian Electoral Commission.

While the names of polling places reflect their locations, the exact addresses cannot be confirmed until an election is announced.

Full addresses will be published in each of the three daily Tasmanian newspapers close to polling day and on the TEC website. These lists will indicate which polling places have access for disabled electors.

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## The writ

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### What is the writ?

sections 63, 64, 67, 68, & 71

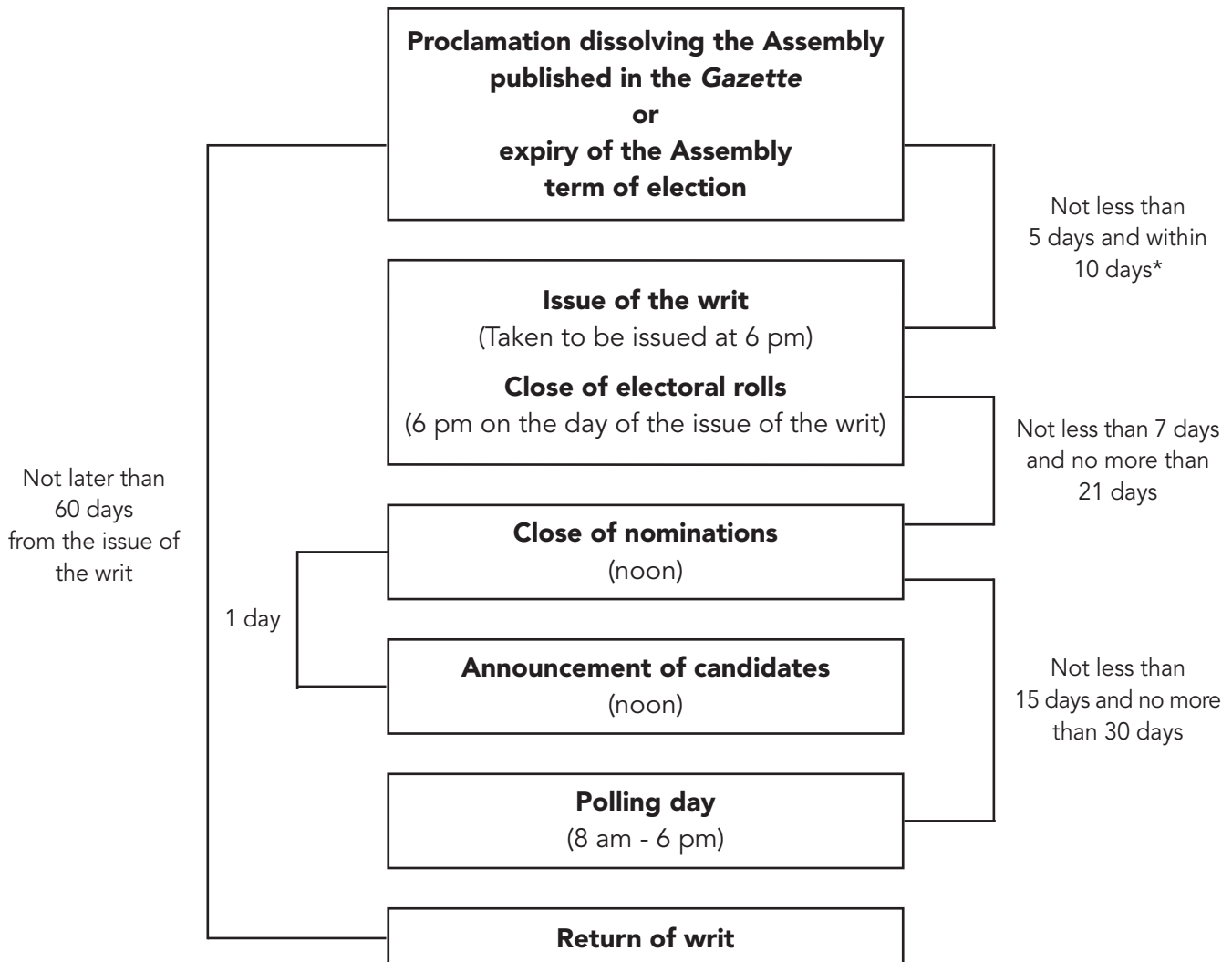
The writ is a document which commands an electoral officer to hold an election and specifies the dates for the close of nominations, polling day, and the return of the writ for that election.

House of Assembly elections commence with the proclamation dissolving the Assembly and conclude with the return of the writ.

The Governor issues five writs for a House of Assembly general election. Each writ is directed to the returning officer for the House of Assembly division concerned.

### Election timetable (House of Assembly)

sections 63, 64, 67-74, 77, 87 & 94



\*This period allows electors time to enrol or update their enrolment. All enrolment changes must be received by the AEC or the TEC before the close of rolls (faxes can be accepted).

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# Nomination

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## How to nominate & nomination forms

sections 75, 76 & 77

To nominate for election, an approved nomination form must be completed and lodged, posted or sent by facsimile to the returning officer for the division or, in the case of a party nomination, the returning officer or the Electoral Commissioner.

The nomination form for House of Assembly elections will vary according to whether a candidate is a non-party candidate, a party candidate or a candidate who wishes to appear in a group (not under a heading of a registered party).

**Candidate responsible for their nomination:** 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 for 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 support the candidate's nomination.

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

- he/she is qualified to be elected as a member of the House of Assembly (see below); and
- he/she is not disqualified from being elected under the *Constitution Act 1934*.

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, or group of candidates, nominated by a registered party

A valid nomination for a candidate, or group of candidates, nominated by a registered party requires:

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

Each candidate is also required to complete and sign a declaration on the nomination forms that:

- he/she is qualified to be elected as a member of the House of Assembly (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.

### **Group candidate(s)**

A valid nomination for one or more candidates to appear in a group not under a heading of a registered party requires:

- at least 100 nominators (electors within the division);
- the details, signature and a statement of consent of each candidate;

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

- he/she is qualified to be elected as a member of the House of Assembly (see below); and
- he/she is not disqualified from being elected under the *Constitution Act 1934*.
- 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.

**Nomination forms** are available from the Tasmanian Electoral Commission or at [www.tec.tas.gov.au](http://www.tec.tas.gov.au)

**No personal cheques:** Please note that personal cheques are not acceptable payment of the deposit.

## 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 House of Assembly division; **and**
- must 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 an Assembly election if he or she is:

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

## Nominations invalid due to change of name

section 84 & 85

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

If the Commission determines that a nomination is invalid on a ground mentioned above it must advise the person of the reasons and of any right to appeal to the Supreme Court under section 85.

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.

**Lodge nomination early:** Lodging your nomination form early will give you time to fix any possible problems with your form.

**More nominators:** Providing one or two extra nominators on the form will help avoid last minute difficulties with identification.

**Name on ballot paper:** 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 ‘Ballot paper’ section for more information).

## 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.

For current approved methods please refer to our website at [www.tec.tas.gov.au](http://www.tec.tas.gov.au) or phone the Tasmanian Electoral Commission.

## Deposit and refund of \$400

sections 77(8) & 86

As mentioned in "How to nominate & nomination forms", 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 a quota;
- 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 the candidate.

## Withdrawal of nomination

section 83 & approved form

A candidate may withdraw his/her 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 he or she consents to the withdrawal of the nomination.

A 'group candidate' must also provide a signed statement from each other candidate nominated in the group, that he or she consents to the withdrawal of the nomination.

## Close of nominations

sections 3, 67(1)(a), 73(1)(a) & 77

The "**nomination day**" is the day fixed in the writ, 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 Commissioner where appropriate) **before noon** on nomination day.

## Announcement of candidates

section 87

At noon on the day after nomination day, the returning officer will make public all nomination forms that have been endorsed as accepted and publicly announce the names of the candidates.



## Draws for positions on ballot paper

section 89(2)

As soon as practicable after the announcement of candidates, the returning officer is to conduct:

- a draw to determine the columns in which each group will appear on all ballot papers; and
- draws to determine the positions of candidates within each column on the first batch of ballot papers.

## Holders of an office of profit under the Crown, State public servants & Government contractors

*Constitution Act 1934* (sections 32 & 34), and others

The *Constitution Act 1934*, *Constitution (State Employees) Act 1944* and the *Crown Servants' Reinstatement Act 1970* contain a number of provisions concerning the nomination and election of holders of an office of profit under the Crown, State public servants and Government contractors.

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

## Electoral rolls

sections 40(5) , 41(1) & 166

Following a request from a candidate on the approved form, a printed copy of the electoral roll (as at the close of rolls) will be provided to the candidate 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 roll provided under section 40, except for a purpose permitted under section 41.

## Death of a candidate at election

section 90 & 86(3)

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, and there are more than 5 candidates remaining, the election is to proceed and the votes cast for the deceased candidate are to be counted as votes cast for the candidate next in order of the elector's preference.
- 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.

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# Advertising

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## Campaign material to be authorised

sections 4, 190 & 191

Between the issue of the writ for an election and the close of poll for that 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*.

'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.

**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.

## Examples of suitable authorisations

Authorised by: John Citizen, 1 Long Road, Hobart      or

Authorised by: John Citizen, Parliament House, Hobart

## 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 for an election and the close of poll at that 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 (including 'Facebook' pages) containing electoral matter should ensure that **the name and address of the responsible person appears on each page**.

For example, an appropriate place to include authorisation on a website would be on a footer, or on 'Facebook' at the end of a post that contains electoral matter.

## Consent required to use candidate name, photograph or likeness

section 196

Between the issue of the writ for an election 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.

## 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.

Further, 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 and 194 of the Act.

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

section 195

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 between the issue of the writ for an election and the close of poll at that election, the proprietor must cause the word 'advertisement' to be printed as a headline, in letters not smaller than 10 point.

## False information

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, is likely to or has the capacity to mislead or deceive an elector in, or in relation to, the 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 the material is not covered by this section.**

**How-to-vote material:** Voters should not be misled into only voting 1 and having their votes rejected as informal.

The requirements of a formal vote are discussed at page 24 of this handbook and under 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](http://www.austlii.edu.au)

Queries concerning the Commonwealth provisions should be directed to Commercial Television Australia (CTVA – formerly FACTS) or Commercial Radio Australia Ltd (formerly FARBS) through your local TV or radio station.

Alternatively contact the Australian Communications 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](http://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.

## 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*.

## Polling day restrictions on electoral matter

section 198

Additional restrictions relating to the distribution and publication of electoral matter apply 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.

It is also an offence to publish or cause to be published in a newspaper:

- an advertisement for or on behalf of, or relating in any way to, a candidate or a party; or
- a matter or comment relating to a candidate or a questions arising from, or an issue of, the election campaign.

**How-to-vote cards** in any form, cannot be distributed on polling day.

**Electors using how-to-vote cards:** Electors may bring with them how-to-vote cards to assist them with their vote, but cards must not be displayed or left in a polling place where polling is taking place.

## Restrictions within 100 metres of a polling place

section 177

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 recent 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.

## Justices of the Peace

Candidates who are Justices of the Peace are advised to take note of the Attorney General's current policy which states that—

The fact that a person is a justice of the peace should **not** be mentioned in or on any papers relating to the candidature of the justice in Federal, State or Local Government elections whether by the use of the letters "J.P." or otherwise.

This has been interpreted to include all electoral campaign material.

## Placement of posters

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 Infrastructure, Energy & Resources - Transport Division 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 visibility of road users could be obstructed.

## Offence to place electoral matter on electricity poles

It is an offence under section 190(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 of up to \$5,000 for an individual or \$10,000 for a body corporate.

Queries or complaints related to material being attached to electricity power poles should be directed to Aurora Energy.

## 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 subsection 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 Transport division of the Department of Infrastructure, Energy & Resources (DIER).

## Electoral roadside signs

The Transport division of the Department of Infrastructure, Energy & Resources (DIER) have produced the Tasmanian Roadside Signs Manual (14 July 2006). The manual contains the following information on page 84 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 together with requirements under the Electoral Act make adequate provision for such advertising.*

(The Tasmanian Roadside Signs Manual can be accessed online at [www.transport.tas.gov.au/publications/tasmanian\\_roadside\\_signs\\_manual](http://www.transport.tas.gov.au/publications/tasmanian_roadside_signs_manual) )

Queries or complaints related to roadside signs should be directed to the Transport division of DIER.

## 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 \$1.46, so total cost of the item must not exceed \$4.38.

Under section 188(A), inexpensive food, drink or entertainment, and gifts, donations and prizes up to the value of three fee units (again currently \$4.38) are excluded from the offence of electoral treating.

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

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# The ballot paper

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## Structure

section 97

The names of candidates will be listed in columns across the ballot paper, either under a registered party name, as a group or in a column of ungrouped candidates.

The order of party and group lists is determined by ballot. The ungrouped candidates are always listed in the final column.

## Names of candidate

section 80, 84 & 99

Each candidate is identified on the ballot paper by his or her 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.

## Robson rotation

section 97, Schedule 3 & Regulations

The rotation of candidates' names within each column 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 each position in the column.

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

## Voting instructions

section 100

Voters are instructed at the top of the ballot paper to number the boxes from 1 to X in order of choice. (X is the number of candidates).

At the bottom, voters are instructed that their vote will not count unless they number at least 5 boxes. (That is, from 1 to 5).

If these instructions seem inconsistent, the first should be thought of as an "ideal", the second a "minimum".

Please consider campaign material carefully: "Vote 1 Jane Doe" could be misleading; "Vote 1 Jane Doe and number at least 5 boxes" is not.

**Voting instructions:** All voters should be encouraged to read the instructions on the ballot paper carefully before casting their vote.



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## Methods of voting

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### Ordinary voting

section 108

An ordinary vote is a vote cast at a polling place on polling day, where the electors name is marked off the election roll.

### Pre-poll voting

sections 108 & 115

Electors unable to attend a polling place on polling day may vote at a pre-poll polling place. The elector's name is marked off the election roll.

For further information, check the Tasmanian Electoral Commission website or look for electoral advertising in the main daily newspapers.

### Mobile voting

sections 108 & 114

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. The elector's name is marked off the election roll.

### Out of division voting

section 115 & 118

Following the introduction of notebook computer voter lists, electors may now cast an ordinary vote at any polling place open on polling day in Tasmania. This has replaced absent voting.

### Interstate voting

section 132(a)

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, pre-poll and interstate voting will be advertised in daily newspapers prior to each election and on our website at [www.tec.tas.gov.au](http://www.tec.tas.gov.au)

### Person not on roll or already marked off roll

sections 116, 117 & 118

A person may request a 'declaration vote' if he or she claims to be entitled to vote and his or her 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

sections 125-130

An elector may vote by post if he or she:

- expects to be unable to attend a polling place on polling day; or
- is a silent elector.

Postal vote applications can be obtained from electoral offices, Tasmanian post offices or [www.tec.tas.gov.au](http://www.tec.tas.gov.au).

Return of applications for postal votes:

Applications for a postal vote must reach a returning officer, or a person approved for the purpose, before—

- if the postal vote is to be sent *within Australia*  
6.00pm on the Thursday before polling day; or
- if the postal vote is to be sent *outside Australia*  
6.00pm on the Tuesday before polling day.

**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 Tasmanian Electoral Commission 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.

### 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

## Express voting

sections 131-136

The *Electoral Act 2004* provides for the approval of special procedures to enable electors to vote while overseas, in remote areas or on Australian Antarctic stations or ships.

Please visit our website for complete information about the available options.

Overseas and remote area voters may still vote by postal vote.

For further information refer to our website.

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## Formality & informality

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### Formal votes

section 102(1)

To cast a valid vote, an elector must record a preference for at least 5 candidates, by numbering boxes 1, 2, 3, 4 and 5.

### Informal votes

section 103

A ballot paper is informal if:

- no vote has been recorded on it;
- it is not marked in accordance with section 102(1) (see above);
- it contains any unauthorised marking or writing which will (in the opinion of the electoral officer responsible) enable a person to identify the elector concerned;
- a number from 1-5 is repeated;
- a number from 1-5 has been omitted; or
- it has not been:
  - authenticated by the initials of the election official; or
  - 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 5 does not make the ballot paper informal. The preferences preceding the error on such ballot papers will be included in the scrutiny.

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## Polling day

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### Hours of polling (8.00am – 6.00pm)

sections 94 & 3

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 6 pm, if an elector is in the polling place before 6 pm, 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

See the "Advertising" chapter in this booklet for polling day restrictions.

### Assistance to certain electors at a polling place

section 113 & 169

If an elector requires assistance when voting, he or she should refer to the officer-in-charge of the polling place 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 Commission 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 booth 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.

#### **Visually impaired electors**

The Commission has developed computer-based magnification and audio systems to enable visually impaired electors to cast their vote privately without the direct involvement of another person. The Commission expects to have the computerised systems available in returning officers' offices during the pre-poll period.

For further information on procedures approved by the Commission to assist voters, please refer to [www.tec.tas.gov.au](http://www.tec.tas.gov.au) or phone the Tasmanian Electoral Commission.

## Candidates can only enter a polling place to vote

section 120

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 normally be made through the returning officer. In any case, photographers are only permitted into a polling place at the discretion of the officer-in-charge. 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

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 Commission may approve combining the ballot papers received at a small polling place with the ballot papers received at another polling place.

A tally room is provided for candidates, parties, media and the public.

Progressive results will be available at the tally room, and at our website [www.tec.tas.gov.au](http://www.tec.tas.gov.au), which also has previous election results.

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# Post election and scrutiny timetable

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sections 145 & 148

The following tasks are undertaken in the returning officer's office following the return of ballot papers and other election material from polling places.

## **10 Day period for the return of postal votes**

Postal vote declaration envelopes, and  
declaration vote envelopes  
— declarations checked and eligible  
ballot papers admitted to the scrutiny

Progressive counting of postal votes

Two re-checks of ordinary ballot papers

Amalgamation of first preference votes  
for each candidate

Final check of the ballot papers

## **2<sup>nd</sup> Monday after polling day**

Returning officers may commence a provisional distribution of some ballot papers (usually those held by candidates who have reached a quota of votes on first preference votes). Scrutineers will be advised prior to the commencement of any such provisional distribution.

## **Commencing 2<sup>nd</sup> Tuesday after polling day**

Distribution of preferences  
(2 - 4 days)

Recount — if the returning officer decides  
or the Commission directs

Declaration of the poll

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## Candidate expenditure, and disclosure of donations by (Commonwealth) registered parties

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There are **no** expenditure regulations or restrictions on candidates for House of Assembly elections.

However, while there are no Tasmanian provisions concerning disclosure of gifts to political parties or candidates, **all** parties registered under the Commonwealth *Electoral Act 1918* **must** lodge with the Australian Electoral Commission an annual return showing relevant receipts and expenditure.

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# Scrutineers

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## Role of the scrutineer

sections 105 & 106

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 he or she believes 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 he or she considers appropriate; and
- if requested by the scrutineer, record details of the request and the 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 during the 10 days after polling day.

## Appointment of scrutineers

section 104

- 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—
  - o he or she will perform these functions in accordance with the Act; and
  - o preserve the secrecy of the voting.
- Copies of the forms are available from returning officers and the Tasmanian Electoral Commission.

**Entry to the polling place scrutiny:** Scrutineers wishing to witness the counting of ballot papers in a polling place should arrange access with the officer-in-charge well before the close of poll. Scrutineers are entitled to enter or leave a polling place at any time, before or after 6 pm.



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## Disputing elections and returns

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### 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 House of Assembly 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;
- the Commission.

### 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 Commission, 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.

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## Filling a vacancy in the House of Assembly

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House of Assembly vacancies are usually filled by recount.

When a vacancy occurs, a new member is elected by a recount process based on votes cast at the previous general election. Only unsuccessful candidates at the general election are eligible to contest the recount.

Only the ballot papers which were used to elect the vacating member are distributed in the recount. These votes are distributed to consenting candidates. The candidates receiving the fewest votes are excluded until one candidate receives an absolute majority (50% + 1).

### Eligibility to contest a recount

section 227

A person is entitled to nominate himself or herself for the vacant seat so long as he or she:

- was a candidate at the last full divisional election; and
- was not elected at, that election; and
- is still qualified under the *Constitution Act 1934* to be elected to the Assembly.

### Nomination to contest a recount

sections 226 & 228

The Commissioner will publish a notice in at least one approved newspaper that the seat has become vacant.

If a candidate wishes to be included in a recount, he/she must nominate in an approved form.

The nomination must be received by the Commissioner before noon, on the **10th day after the notice of vacancy was published.**

### Announcement of candidates

section 229

As soon as practicable after the close of nominations for a recount, the Commissioner is to publicly announce the names of the persons who are to contest the recount.

### By-elections

section 232

Where all eligible candidates of the vacating member's party are unavailable, the registered officer of that party may request that a by-election be held.

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## The Hare-Clark electoral system

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The Hare-Clark electoral system is a Single Transferable Vote (STV) method of proportional representation used in multi-member electorates. Single transferable vote means that a ballot paper moves between candidates as determined by the elector's preferences.

### Where does the name Hare-Clark come from?

Thomas Hare was an Englishman who, in 1856, proposed the idea of a proportional representation election system which was further developed and became known as the Hare system. Andrew Inglis Clark, Tasmanian Attorney-General, introduced a modified version of the Hare system into Tasmanian law in 1896. This system is now known as the Hare-Clark electoral system.

### How is a candidate elected?

A candidate is elected when his/her total number of votes equals or exceeds the quota.

### What is the quota?

The quota is the lowest number of votes a candidate needs to be certain of election.

To calculate the quota, the number of formal votes is divided by one more than the number of candidates to be elected. This figure is then rounded up to the next whole number.

For a House of Assembly election in which five members per division are elected, the quota is one sixth or 16.7% of the formal votes.

### Representation in the Parliament

Under Hare-Clark, parties, groups and independents are elected to the House of Assembly in proportion to their support in the electorate. The composition of the House of Assembly approximates the proportion of votes received by registered parties represented there.

### Need for parties to stand extra candidates

Parties and groups usually nominate more candidates than they expect to be elected, in order to provide a pool of candidates to contest any recount to fill a vacancy.

As a result, the voters are provided with a choice of candidates within each party, as well as a choice of candidates across parties, groups and independents.

### Hare-Clark — a broad description of how votes are counted

The first step is to distribute all ballot papers to the candidates according to the first preference of each ballot paper. The quota is then calculated from the total formal vote.

If any candidate(s) receives more votes than the quota, he or she is declared elected, and the excess (surplus) votes are passed on to continuing candidates. Following the distribution of each surplus, any candidate(s) who has reached the quota is declared elected, and any resulting surplus again passed on.

Once all surplus votes have been distributed, the candidate with the fewest votes is excluded and all of his or her votes passed on to continuing candidates. Further candidates are excluded until another candidate reaches the quota.

The process of distributing surplus votes and excluding candidates continues until five candidates reach the quota. In some cases the final candidate(s) will be elected without reaching the quota as all other candidates have been either elected or excluded.

## Do you always need a quota to be elected?

In House of Assembly elections, it is common that the last elected member in a division is elected without obtaining a quota. In some cases the last two elected members in a division are elected without each obtaining a quota.

During the distribution of preferences, some votes are “lost” from the count. A small number can be lost due to rounding of fractional numbers. A more significant number of votes are “exhausted” toward the end of the count, as many ballot papers do not show a preference for any remaining candidate.

Where the contest for the last seat is close, it is common for the remaining two candidates to both have less than a quota. The candidate with the least votes is excluded, and the other candidate elected without reaching the quota. The more votes that are lost during the scrutiny, the more likely that not all elected members will obtain the quota.

A less common situation occurs where the three remaining candidates (each with less than a quota) are contesting the last two seats. In this case, the candidate with the least votes is excluded, and the other two candidates elected without either reaching the quota.

TASMANIAN ELECTORAL COMMISSION

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Phone 03 6233 2000 or 1800 801 701

Fax 03 6224 0217

E-mail [ballot.box@tec.tas.gov.au](mailto:ballot.box@tec.tas.gov.au)

Website [www.tec.tas.gov.au](http://www.tec.tas.gov.au)

All electoral forms, including those mentioned in this booklet, can be obtained from the Tasmanian Electoral Commission, or the returning officer appointed for each election.

Many forms are also available at the TEC website:  
[www.tec.tas.gov.au](http://www.tec.tas.gov.au)







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