



# Broadcaster's manual

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PARLIAMENTARY ELECTIONS

 Tasmanian  
Electoral Commission

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## New legislation before Parliament

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Please note that this edition of the Broadcaster's manual for Parliamentary elections is accurate at the time of publication.

However, two pieces of legislation are currently before Parliament:

- » *Electoral Disclosure and Funding Bill 2022*; and
- » *Electoral Matters (Miscellaneous Amendments) Bill 2022*.

These pieces of legislation will have an impact on some sections of this manual.

In the event that any amendments to the legislation are enacted that impact broadcasters during the election, the TEC will publish an update on its website if these amendments come into effect prior to polling day.

For further information on the details of these bills, please see the Parliament of Tasmania website at [www.parliament.tas.gov.au](http://www.parliament.tas.gov.au) .

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## Introduction

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### Purpose of this booklet

The following information has been compiled to assist broadcasters in complying with the advertising provisions contained in the *Electoral Act 2004*. Further information of a more general nature can be found in the 'Information for Candidates' booklets published for House of Assembly and Legislative Council elections.

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

References are to the *Electoral Act 2004* unless otherwise specified.

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

### Role of the office of the Tasmanian Electoral Commission

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

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

### Legislation on the internet

Tasmanian legislation can be found on the internet at [www.legislation.tas.gov.au](http://www.legislation.tas.gov.au) .

## Broadcast electoral matter

### Tasmanian *Electoral Act 2004*

Apart from section 197 (see below), there are no requirements for broadcasting election advertising contained in the Tasmanian Electoral Act.

There are, however, requirements under Commonwealth legislation (see below).

### False information

Under section 197 of the *Electoral Act 2004*, it is an offence to broadcast on radio or television, or permit or authorise the broadcasting on radio or television of, any electoral matter that is intended to, is likely to or has the capacity to mislead or deceive an elector in or in relation to the recording of his or her vote.

Penalty—

A fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months, or both.

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.**

### Commonwealth *Broadcasting Services Act 1992*

The Commonwealth *Broadcasting Services Act 1992* also contains requirements for broadcast election advertising. The Act can be found at [www.austlii.edu.au](http://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 Communications and Media Authority (ACMA). Guidelines on the requirements under the *Broadcasting Services Act 1992* in relation to broadcasting political and election matter are available from the ACMA website at <https://www.acma.gov.au/publications/2019-08/guide/political-and-election-matters-guidelines>.

### Broadcasting blackout (Commonwealth *Broadcasting Services Act 1992*)

The *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.

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## Legislative Council candidate advertising expenditure

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### Party expenditure

(section 162)

No political party expenditure is allowed at Legislative Council elections. Printers, publishers and broadcasters should therefore be alert for any party advertisements or promotional material which appear to promote or procure the election of a Legislative Council candidate.

### Expenditure by person other than candidate

(sections 159 & 199)

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

If a person other than a candidate seeks to incur advertising expenses, the printer, publisher or broadcaster should ensure that this person is the election agent of the candidate.

### Permitted electoral expenditure

(sections 160 & 199)

It is an offence for a Legislative Council candidate or his or her election agent to spend more than the 'expenditure limit' on their election campaign within the 'expenditure period' (see below).

The '**expenditure limit**' for 2021 and the next 3 years is shown below—

Year	Permitted maximum amount
2023	\$19 000
2024	\$19 500
2025	\$20 000
2026	\$20 500

Candidates spending more than the expenditure limit will be liable to a penalty. In addition, if an elected candidate exceeds the expenditure limit by more than \$1000, **their election may be declared void.**

### Expenditure period

(sections 3 and 5)

The '**expenditure period**' is defined to be:

- in the case of a Council 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 Council 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 expenditure period in respect of goods and services which are to be supplied, provided to, or made use of during the expenditure period, is included in the definition of electoral expenditure (section 5).

## Candidate's return of electoral expenditure

(sections 161,165 & 199)

All candidates must file an accurate return of their electoral expenditure with the Electoral Commissioner, within 60 days of the result of the election being declared. The return is to be accompanied by any invoice account or receipt in respect of each item that exceeds \$20. 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 Electoral Commissioner has the power to require information, records, explanation of records and answers to questions relating to candidate expenditure where he believes that a person is in possession of relevant information.

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## Polling day and night

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### Persons permitted at a polling place

(section 120)

Candidates are not permitted to take part in any way in the conduct of polling at the polling place other than to cast their vote.

**Photographing or filming:** 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 election official in charge of that polling place.

Photographs of candidates inserting their ballot paper (vote concealed) into the ballot box may be taken by party workers or the press.

Electors recording their vote should not be filmed.

### After close of the poll

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

For House of Assembly elections, a tally room has historically been provided with areas for candidates, parties, media and the public. The provisional primary votes for each Division usually appear on tally boards progressively when available from polling places.

If provided, the office of the Tasmanian Electoral Commission will arrange a meeting with media at the tally room location to discuss technical and other requirements prior to polling day.

Progressive results for both House of Assembly and Legislative Council elections will be available on the Tasmanian Electoral Commission website at [www.tec.tas.gov.au](http://www.tec.tas.gov.au).