

# Impact Analysis Statement

## Summary IAS

### Details

<b>Lead department</b>	Department of Justice and Attorney-General
<b>Name of the proposal</b>	Remake of the expiring <i>Electoral Regulation 2013</i>
<b>Submission type</b>	Summary IAS
<b>Title of related legislative or regulatory instrument</b>	<i>Electoral Regulation 2024</i>
<b>Date of issue</b>	August 2024

### What is the nature, size and scope of the problem? What are the objectives of government action?

#### Background

The *Electoral Act 1992* (Electoral Act) governs the conduct of parliamentary elections in Queensland. It is the main piece of legislation that governs how Queensland democracy operates in practice and regulates various matters including electoral rolls, registration of political parties, election procedures, election funding and disclosure and voting.

The Electoral Act ensures that Queensland's electoral system, including Queensland's political finance regime, operates in a fair and transparent manner. Queensland voters cannot exercise their vote meaningfully if crucial information – such as a candidate's or political party's sources of funding – is not transparent. Transparency enhances accountability and enables voters to be confident that their decisions at election time are based on all the information they consider relevant.

#### Objectives

Section 392 of the Electoral Act provides that the Governor in Council may make regulations under the Act. The *Electoral Regulation 2013* (the Regulation 2013) will automatically expire (sunset) on 31 August 2024 under the *Statutory Instruments Act 1992*. The objective of the *Electoral Regulation 2024* (the Regulation 2024) is to remake the Regulation 2013.

Consistent with the Electoral Act and the Regulation 2013, the Regulation 2024:

- prescribes the date on which a person is enrolled on the electoral roll as information that must be included on the electoral roll for section 58 of the Electoral Act;
- prescribes the government entities that the Electoral Commission of Queensland (the ECQ) may ask for information about a person on the electoral roll for section 58 of the Electoral Act;
- prescribes the price for giving information about electoral rolls to local government for section 61 of the Electoral Act;
- declares certain information about a person on the electoral roll to be restricted information (with the effect that the information does not form part of the publicly available part of the electoral roll) for schedule 1 of the Electoral Act;
- prescribes the classes of electors who may utilise Electronically Assisted Voting (EAV) for section 121A of the Electoral Act;

- authorises procedures for EAV at elections for section 121B of the Electoral Act;
- prescribes various matters relating to election funding and financial disclosure including:
  - the qualifications that an auditor must hold for the purposes of section 197 of the Electoral Act;
  - the amount of policy development payment;
  - the period for giving returns by candidates about a gift or loan received for sections 261 and 262 of the Electoral Act;
  - the period for giving returns for gifts by third parties that incur expenditure for political purposes for section 263 of the Electoral Act;
  - the period for giving returns by third parties for gifts made to candidates for section 264 of the Electoral Act;
  - the period for giving returns by entities for gifts made to political parties for section 265 of the Electoral Act;
  - the time a person is taken to remain as candidate for section 271 of the Electoral Act;
  - the period for giving returns by a registered political party about a gift or loan received for section 290 of the Electoral Act;
  - the period for a financial controller of an associated entity to give returns about a gift or loan received for section 294 of the Electoral Act;
  - the detail to be provided in returns by political parties and associated entities for section 296 of the Electoral Act;
  - the details for an application for registration of a third party for an election for section 299 of the Electoral Act;
  - the particulars to be included in an election participant's register of non-monetary gifts for section 305F of the Electoral Act; and
  - the particulars for a registered political party's register of subscribed members and affiliates for section 305G of the Electoral Act;
- authorises procedures for electronic lodgement of returns for section 315A of the Electoral Act;
- prescribes the information to be kept in particular records for section 305AB of the Electoral Act to enable an election participant to demonstrate compliance with various provisions in part 11 of the Electoral Act including records about:
  - political donations made to or for the benefit of particular election participants;
  - a gift or loan that is not a political donation made to, or for the benefit of, a participant in an election, other than a third party;
  - a political donation, or another gift or loan, made by a participant in an election, other than a third party to another participant in the election;
  - gift made to, or for the benefit of, a third party about which the third party is required to give the commission a return under section 263 of the Electoral Act;
  - electoral expenditure incurred;
  - amounts paid into the State campaign account of a registered political party or candidate in an election;
  - amounts paid from the State campaign account of a registered political party or candidate in an election; and
- prescribes the documents that must accompany an application for registration of a political party for section 71 of the Electoral Act;
- authorises procedures for counting of absentee votes for section 130A of the Electoral Act; and
- prescribes the model procedures for the conduct of a preselection ballot for section 166 of the Electoral Act.

#### What options were considered?

A sunset review requires consideration of the option of 'allowing the regulation to expire' against alternatives. Accordingly, three options were considered:

- **Option 1:** Allowing the Regulation 2013 to expire without introducing a new regulation.
- **Option 2:** Remaking the Regulation 2013 without changes.
- **Option 3:** Remaking the Regulation 2013 with changes.

**Option 1: Allowing the Regulation 2013 to expire without introducing a new regulation**

Not making the Regulation 2024 and allowing the Regulation 2013 to expire is not a suitable policy option. If the matters prescribed in the Regulation 2013 are no longer provided for in a regulation, the election funding and disclosure requirements in the Electoral Act, which were introduced following a comprehensive review in 2020, would be ineffective and inefficient and public confidence in Queensland's electoral laws and party financing arrangements would be diminished. An absence of regulation in this area would also mean that the ECQ is not able to fulfil its statutory obligations under the Electoral Act and efficiently and effectively manage electoral laws.

**Option 2 - Remaking the Regulation 2013 without changes**

Remaking the Regulation 2013 without changes would not improve the efficiency and effectiveness of regulation in this area. Changes are required to provide for current drafting practices, clarify existing provisions and ensure that electoral laws otherwise meet current needs such as providing for electronically assisted voting, updated procedures for counting absentee vote, and modernised model procedures for the conduct of preselection ballots.

**Option 3 - Remaking the Regulation 2013 with changes**

Given the ongoing relevance of electoral laws in protecting Queensland's democracy, continuation of regulation in this area is necessary to ensure the efficient and effective operation of the Electoral Act so that voters are empowered to vote in free and fair elections.

Option 3 involves remaking the Regulation 2013 with minor changes to reflect current drafting practices, clarify existing provisions and ensure that electoral laws meet current needs.

In relation to ensuring that electoral laws continue to meet current needs, the Regulation 2024 modernises the model procedures for the conduct of a preselection ballot and incorporates a change to the classes of voters who may make an electronic vote by enabling voters who are overseas or interstate during an election to vote using EAV. This change is a vote saving measure given that postal voting services for these electors are not always reliable. It will also allow votes to be counted more quickly. EAV for overseas or interstate voters is already allowed for by-elections and will strengthen Queensland's democracy. The Regulation 2024 also updates and modernises the model procedures for a preselection ballot to reflect the use of electronic voting.

**What are the impacts?**

Option 3 will have impacts for:

- electoral participants including candidates, third parties/donors, entities, associated entities and registered political parties;
- voters in Queensland and the wider Queensland community; and
- the ECQ.

Option 3 will not result in negative social impacts for voters in Queensland and the wider Queensland community. Maintaining public confidence in Queensland's electoral laws, and particularly party financing arrangements, will strengthen Queensland's democracy.

**Electoral Roll**

The provisions in the Regulation 2024 in relation to the electoral roll will not have any significant impacts. The provisions in the Electoral Act primarily regulate electoral rolls by requiring the ECQ to keep a roll that includes the person's surname and given names, address, sex, occupation, date of birth and identifying number, and regulating the inspection of the roll and the provision of information on the roll to particular people and organisations. The matters prescribed in the Regulation 2024, including the government entities

that the ECQ may ask for information about a person on the electoral roll, the price for giving information about electoral rolls to local government and what is restricted information, are merely supplementary to the Electoral Act. They are necessary to protect private information and the integrity of the roll. In relation to the price for giving information about electoral rolls to local government, there are only on average 12 requests per year.

#### Reporting, disclosure and record keeping requirements

Reporting, disclosure and record keeping requirements are imposed by the Electoral Act on candidates, third parties/donors, entities, associated entities and registered political parties. The purpose of the provisions in the Regulation 2024 is to merely support the requirements in the Electoral Act by prescribing the period for giving various returns required by the Electoral Act and the details and particulars to be included in returns, registers and records. As noted above, the reporting, disclosure and record keeping requirements in the Electoral Act and the Regulation 2013 were introduced in 2020 following a comprehensive review. If these matters are not prescribed in the Regulation 2024, the effectiveness of the requirements in the Electoral Act would be undermined.

There are direct compliance costs associated with the reporting, disclosure and record keeping requirements in the Electoral Act and to a lesser extent the Regulation 2024. These costs cannot be quantified given that they are dependent on a range of variables including the number of gifts or loans received (which are discretionary) and the number of candidates in an election.

While the compliance costs cannot be quantified, the policy development payment (a payment to eligible registered political parties and independent members to support policy development), which will be prescribed in the Regulation 2024, outweighs some of the costs associated with the reporting, disclosure and record keeping requirements. In any event, the breadth of this impact is not considered to be significant. This is because there are only a small number of candidates, third parties/donors, entities, associated entities and registered political parties relative to the number of voters in Queensland and the wider Queensland community. Any costs are also minimised by the Electoral Act which utilises:

- reporting and disclosure windows to limit the duration of the requirements; and
- thresholds which reduce the compliance burden for smaller gifts or loans that are less likely to be associated with improper influence.

Further, the reporting, disclosure and record keeping requirements are necessary to provide transparency and inform the public, including voters, about the financial dealings of candidates, third parties, entities, associated entities and registered political parties. This will assist voters to form judgements about the potential for improper, corrupting or undue influence.

#### Model procedures

The Regulation 2024 will also prescribe model procedures for the conduct of a pre-selection ballot which may impose compliance costs on registered political parties. The model procedures are specifically required by the Electoral Act and merely complement and support existing requirements in the Electoral Act in relation to pre-selection ballots. The impact of the model procedures is not considered to be significant given the breadth of the impact is limited to registered political parties in Queensland that conduct preselection ballots.

The compliance costs in relation to pre-selection ballots cannot be quantified. The costs are dependant on a range of variables such as the number of candidates seeking nomination.

#### Other measures:

The Regulation 2024 will also include other measures to assist the ECQ in ensuring electoral participants are complying with electoral laws, including the authorisation of various procedures. While there are direct costs associated with monitoring compliance with electoral laws, these costs are outweighed by the wider public benefit in maintaining public confidence in electoral laws. Existing systems and procedures, which are also used as part of monitoring compliance with local government electoral laws, also mean that resource requirements are minimised.



In summary, Option 3 will have:

- an impact on candidates, third parties/donors, entities, associated entities and registered political parties who will incur compliance costs associated with the disclosure, return and record keeping requirements;
- an impact on registered political parties who will incur compliance costs associated with model procedures for the conduct of a pre-selection ballots; and
- an impact on Government which will incur costs relating to funding the ECQ to manage electoral laws and monitor compliance.

The impact of these costs is not considered to be significant due to the targeted nature of the regulation on specific actors in the electoral system and given the majority of the costs arise due to requirements imposed by the primary legislation (i.e. the Electoral Act) rather than the Regulation 2024. In any event, any impact of the Regulation 2024 is of a limited breadth and the costs are outweighed by the wider public benefit in:

- ensuring that the ECQ is well placed to manage electoral laws and monitor compliance;
- providing voters in Queensland with the opportunity to exercise their franchise;
- providing voters in Queensland with information that will enable them to make an informed vote; and
- reducing the potential for improper, corrupting or undue influence in the electoral system.

The benefits of fair and honest elections supported by appropriate regulation are integral to maintaining a healthy system of democracy in Queensland.

#### Who was consulted?

The ECQ was consulted during the development of the proposal and identified opportunities to clarify provisions.

Registered political parties were also consulted in relation to the modernisation of the model procedures for the conduct of a pre-selection ballots. As a result of this consultation, opportunities to reduce the regulatory burden were identified including making greater use of electronic communication and specifically providing for electronic voting.

#### What is the recommended option and why?

**Option 3** is the recommended option.

The continuation of the Regulation 2024 is necessary to ensure that voters are empowered to vote in free and fair elections and that there is confidence in Queensland's democracy.

The Regulation 2024, along with the Electoral Act, will assist voters to form judgements about the potential for improper, corrupting or undue influence. It will also assist the ECQ to ensure that electoral participants are complying with electoral laws.

Option 3 is also recommended on the basis that it is consistent with the regulation of local government elections. Subject to some differences, it is also broadly consistent with the regulation of elections in other jurisdictions across Australia. Maintaining consistency of regulation in this area benefits election participants and the wider community.

**Impact assessment**

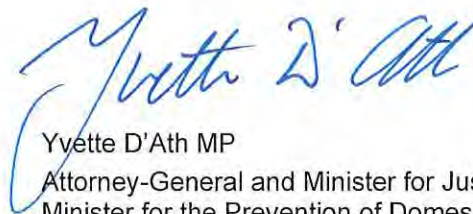
	First full year	First 10 years**
<b>Direct costs – Compliance costs*</b>	Not quantifiable	Not quantifiable
<b>Direct costs – Government costs</b>	Not quantifiable	Not quantifiable

**Signed**



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Date: 14.08.2024



Yvette D'Ath MP  
 Attorney-General and Minister for Justice and  
 Minister for the Prevention of Domestic and  
 Family Violence

Date: 19/08/2024