

Part 8—Electoral provisions

Division 1—Voters

240 Entitlements relating to enrolment

- (1) A person can only be enrolled on the voters' roll of a Council if the person is a resident in the municipal district of the Council or a ratepayer to the Council exercising an entitlement under and in accordance with this Division.
- (2) Despite anything to the contrary in this Division, a person can only be enrolled on the voters' roll once and for one ward in a municipal district.
- (3) A person can only be enrolled on the voters' roll if—
 - (a) the person has an entitlement under section 241 or 243(1) as a resident or ratepayer to be enrolled without application as at the close of the roll; or
 - (b) the person is entitled under section 242, 243(2) or 244 as a ratepayer to apply to be enrolled and the application—
 - (i) complies with subsection (7); and
 - (ii) is accepted in accordance with this Division; or
 - (c) the person is appointed to vote on behalf of a corporation under section 245 and the application for appointment—
 - (i) complies with subsection (7); and
 - (ii) is accepted in accordance with this Division.

- (4) A person cannot exercise a right of entitlement conferred by section 242, 244 or 245 if the person has a right of entitlement under section 241 or 243.
- (5) For the purposes of subsection (3)(b) and (c), only 2 joint owners and only 2 joint occupiers can be enrolled in respect of each rateable property.
- (6) An application for enrolment made under section 242, 244 or 245 is void if—
 - (a) the application for enrolment is made by an owner and there are 2 joint owners already enrolled in respect of the rateable property at the date that the application is made; or
 - (b) the application is made by an occupier and there are 2 joint occupiers already enrolled in respect of the rateable property at the date that the application is made.
- (7) An application referred to in subsection (3)(b) or (c) must—
 - (a) be in writing; and
 - (b) contain the details required by the regulations; and
 - (c) be delivered to the Council office before the close of the roll.
- (8) Enrolment under an application referred to in section 243 has effect after it is accepted from the close of the roll and continues in force until the person who is enrolled—
 - (a) ceases to be an owner of the rateable property; or
 - (b) resigns the enrolment by an application under section 242(2); or

- (c) becomes otherwise enrolled as a resident in respect of an address in the municipal district under section 241.
- (9) Enrolment under an application referred to in sections 244 and 245 has effect from the next close of the roll after it is accepted and continues in force until the day before the subsequent close of the roll for a general election.
- (10) The Chief Executive Officer, or the VEC under an agreement with the Chief Executive Officer, must not later than 30 days before the close of the roll, send a notice which includes the information prescribed by the regulations to each person who was enrolled on the previous voters' roll under section 244 or 245.
- (11) For the purposes of the first general election to be conducted under section 257(1)(a), the Chief Executive Officer, or the VEC under an agreement with the Chief Executive Officer, must not later than 30 days before the close of the roll, send a notice which includes the information prescribed by the regulations to each person who was enrolled on the previous voters' roll under section 14, 15 or 16 of the **Local Government Act 1989**.
- (12) For the purposes of the second general election to be conducted under section 257(1)(b), the Chief Executive Officer, or the VEC under an agreement with the Chief Executive Officer, must not later than 30 days before the close of the roll, send a notice which includes the information prescribed by the regulations to each person who was enrolled on the previous voters' roll under section 243.

241 Residents entitled to be enrolled without application

- (1) A person who as at the close of the roll would be an elector in respect of an address in a municipal district if a roll of electors for the Legislative Assembly was compiled from the register of electors, is entitled as a resident without application to be enrolled on the voters' roll in respect of the ward in which that address is located.
- (2) Despite subsection (1), a person who—
- (a) will attain 18 years of age on or before election day; and
 - (b) had the person been not less than 18 years of age as at the close of the roll would be an elector in respect of an address in a ward if a roll of electors for the Legislative Assembly was compiled from the register of electors—
- is entitled as a resident without application to be enrolled on the voters' roll in respect of that address.

242 Owner ratepayers may apply for enrolment

- (1) A person who as at the close of the roll—
- (a) is not a person referred to in section 241; and
 - (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of 18 years on or before election day; and
 - (c) is an owner of any rateable property in the municipal district—
- is entitled as a ratepayer to apply to be enrolled on the voters' roll in respect of the ward in which that rateable property is located.

- (2) A person who is enrolled on the voters' roll as an owner under this section may resign the enrolment by an application containing the details required by the regulations delivered to the Council office before the close of the roll.

243 Entitlement to enrolment without application until the second general election to be conducted under section 257(1)(b)

- (1) Despite section 242 but subject to subsection (2), if a person—
- (a) is immediately before the commencement of this section enrolled on the last voters' roll for the Council in respect of a rateable property in accordance with section 13 of the **Local Government Act 1989**; and
 - (b) would, but for the repeal of section 13 of the **Local Government Act 1989**, have continued to be entitled to be so enrolled—

the person is by virtue of this section entitled to be enrolled without application on the voters' roll prepared in respect of the first general election to be conducted under section 257(1)(a) and any by-election required to be held before the second general election to be conducted under section 257(1)(b).

- (2) Despite subsection (1), if an application by the owner or 2 owners of a rateable property to which subsection (1) applies to be enrolled on the voters' roll instead of a person that would otherwise be enrolled by virtue of subsection (1) is accepted, the owner or 2 owners are to be enrolled on the voters' roll referred to in subsection (1) instead of that person.

244 Occupier ratepayers may apply to be enrolled

- (1) A person who as at the close of the roll—
- (a) is not a person referred to in section 241; and
 - (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of 18 years on or before the election day; and
 - (c) is the occupier of any rateable property in the municipal district, whether solely or jointly with any other person or persons and is liable to pay the rates in respect of that rateable property—

is entitled as a ratepayer to apply to be enrolled on the voters' roll in respect of the ward in which that rateable property is located.

- (2) For the purposes of subsection (1), an occupier is liable to pay the rates in respect of that rateable property only if—
- (a) the occupier is paying the rates to the Council; or
 - (b) the lease under which the occupier occupies the rateable property specifies that the occupier is liable to pay the rates.
- (3) A person who is enrolled on the voters' roll as an occupier under subsection (1) may renew the enrolment by an application containing the details required by the regulations delivered to the Council office before the close of the roll for the next general election.
- (4) A person who is enrolled on the voters' roll as an occupier under subsection (1) may resign the enrolment by an application containing the details required by the regulations delivered to the Council office before the close of the roll.

- (5) A person who is enrolled on the voters' roll as an occupier under subsection (1) ceases to be enrolled on the voters' roll if the entitlement under subsection (1) ceases to exist.

245 Provisions relating to corporations

- (1) If as at the close of the roll a corporation is the owner of any rateable property in the municipal district whether solely or jointly, the corporation may apply to appoint a person to represent it at Council elections and to be enrolled on the voters' roll for the ward where the rateable property is located and vote on its behalf.
- (2) If as at the close of the roll a corporation is the occupier of any rateable property in the municipal district whether solely or jointly and is liable to pay the rates in respect of that rateable property, the corporation may apply to appoint a person to represent it at Council elections and to be enrolled on the voters' roll for the ward where the rateable property is located and vote on its behalf.
- (3) Section 244(2) applies in respect of an application under subsection (2) as if any reference to "subsection (1)" in that section was a reference to "subsection (2)" of this section.
- (4) A corporation may only exercise the right of entitlement conferred by subsections (1) and (2) once, regardless of how many rateable properties it owns or occupies or jointly owns or occupies in the municipal district.
- (5) A corporation may only be represented by one person under this section at a Council election in respect of the municipal district, regardless of anything to the contrary in subsections (1) and (2).
- (6) An application for a person to be appointed under this section is void if at the time the appointment is made the person appointed—

- (a) is not a director or company secretary (however styled) of the corporation; or
 - (b) has not reached 18 years of age and will not attain the age of 18 years on or before election day; or
 - (c) has not consented in writing to be appointed; or
 - (d) is as a result of another appointment for the purposes of subsection (1) or (2) which is still in force, already enrolled on the voters' roll in respect of the municipal district for which the appointment is made.
- (7) An appointment for the purposes of subsection (1) or (2) is revoked if—
- (a) the person appointed—
 - (i) ceases to be a director or company secretary (however styled) of the corporation; or
 - (ii) dies; or
 - (iii) delivers a notice of resignation containing the details required by the regulations to the Council office; or
 - (iv) for any other reason becomes entitled in their own right to be enrolled on the voters' roll in respect of the municipal district for which the appointment was made; or
 - (b) notice of revocation containing the details required by the regulations is delivered to the Council office; or
 - (c) the entitlement under subsection (1) or (2) ceases to exist.

246 Provisions relating to appointments and enrolments

- (1) On receiving a notice of an appointment under section 245 or an application for enrolment under section 242 or 244, the Chief Executive Officer must enrol the person unless the Chief Executive Officer believes that the person is not entitled to be enrolled.
- (2) If the Chief Executive Officer believes the person is not entitled to be enrolled, the Chief Executive Officer must—
 - (a) refuse to enrol the person; and
 - (b) advise the person who submitted the notice of appointment or application for enrolment of the refusal in writing and give the person the reason for the refusal.
- (3) The Chief Executive Officer may, either orally or in writing, request any person or corporation to provide information to enable the Chief Executive Officer to determine the eligibility of a person to be enrolled.
- (4) If a request under subsection (3) is made in writing, the Chief Executive Officer may require the information to be given in writing and signed by the person giving the information.

247 Request that address not be shown

- (1) A person who is entitled as a ratepayer to be enrolled on the voters' roll under section 242, 243, 244 or 245 may lodge a request in the prescribed form with the Chief Executive Officer that the address of the person not be shown on any voters' roll if the person considers that having the address on the voters' roll places or would place the personal safety of the person or of members of the person's family at risk.

- (2) A request must—
 - (a) give particulars of the relevant risk; and
 - (b) be verified by statutory declaration by the person making the request.
- (3) If the Chief Executive Officer is satisfied that having the address of the person making the request shown on any voters' roll places or would place the personal safety of the person or of members of the person's family at risk, the Chief Executive Officer must ensure that the address of the person is not entered on any voters' roll.
- (4) The Chief Executive Officer must notify the person in writing of a decision to grant or refuse a request made by a person under subsection (1).

Division 2—Voters' rolls

248 Chief Executive Officer to prepare voters' list of ratepayers

- (1) The Chief Executive Officer must supply to the VEC as at the times and in the form determined by the VEC—
 - (a) a voters' list of the persons who appear to the Chief Executive Officer to be entitled to be enrolled under sections 242, 243, 244 and 245 identifying those persons whose request that their address not be shown has been accepted; and
 - (b) any information required by the VEC to enable the VEC to compile or amend the voters' roll.
- (2) For the purposes of section 243, in the absence of any other information as to a person's place of residence, the Chief Executive Officer may include in the voters' list under subsection (1)(a) a person whose address for the service of a rate

notice appears from the rate records of the Council to be specified as an address (not being a post office box) that is located outside the municipal district.

249 VEC to compile voters' rolls

- (1) The VEC must compile a voters' roll containing the prescribed particulars of persons entitled to be enrolled as at the close of the roll from—
 - (a) a roll of electors for the Legislative Assembly compiled from the register of electors in accordance with section 268; and
 - (b) the voters' lists and information provided under section 248.
- (2) A voters' roll must not include the address of any person who has been granted a request to be a silent elector under section 247 of this Act or section 31 of the **Electoral Act 2002**.
- (3) A voters' roll must be prepared—
 - (a) in the case of a Council with an un-subdivided municipal district, for the whole of the municipal district; and
 - (b) in the case of a Council with a municipal district that is divided into wards, for each ward.
- (4) The VEC must, not later than 3 working days before nomination day, certify in writing that the voters' roll has been prepared in accordance with this Act.
- (5) A voters' roll provided to any person under section 252, 253 or 254 must not include the address of any person who has been granted a request, whether before or after the close of the voters' roll, to be a silent elector under section 247 of this Act or section 31 of the **Electoral Act 2002**.

250 Amendment of certified voters' roll

- (1) A certified voters' roll may be amended by the VEC only if—
 - (a) there is any error or omission in the preparation, printing or copying of the voters' roll; or
 - (b) there is any misnomer or any inaccurate description of any person, place or thing on the voters' roll.
- (2) The amendment of the voters' roll under subsection (1) must be certified by the VEC.
- (3) The certification under subsection (2) must—
 - (a) be in writing; and
 - (b) detail the amendments made; and
 - (c) specify the reasons why the amendments were made.

251 Inspection of certified voters' roll

- (1) The VEC must ensure that the voters' roll, as certified under section 249 and incorporating any amendments certified under section 250, is available for inspection by members of the public from the day the voters' roll is certified until one month after the election day.
- (2) The certified voters' roll must be available for inspection—
 - (a) at the locations; and
 - (b) at the times; and
 - (c) in the format—determined by the VEC.

252 Provision of voters' rolls to a candidate

- (1) On the request after nomination day of any candidate for an election, the VEC must provide a copy of the voters' roll for the ward for which the candidate has nominated to be the candidate.
- (2) The voters' roll must be provided to the candidate—
 - (a) free of charge; and
 - (b) in a form determined by the VEC.
- (3) A candidate must only use a copy of the voters' roll provided under subsection (1) for the purpose of conducting the election campaign.

Penalty: 120 penalty units.

- (4) A candidate who retires after the close of nomination day must—
 - (a) destroy the copy of the voters' roll and any copies made from it; or
 - (b) return the copy of the voters' roll and any copies made from it to the VEC—

within the period of 30 days after retiring.

Penalty: 120 penalty units.

- (5) A candidate must—
 - (a) destroy the copy of the voters' roll and any copies made from it; or
 - (b) return the copy of the voters' roll and any copies made from it to the VEC—

within the period of 30 days after the election day.

Penalty: 120 penalty units.

253 Provision of voters' rolls to a person or organisation other than a candidate

- (1) After receiving a request from any person or organisation, other than a candidate under section 252, for a voters' roll, the VEC must—
 - (a) identify the public interest in providing the requested information; and
 - (b) consult with the Information Commissioner on the public interest in protecting the privacy of personal information; and
 - (c) taking into account the advice of the Information Commissioner, make a finding whether or not the public interest in providing the voters' roll outweighs the public interest in protecting the privacy of personal information in the particular circumstances.
 - (2) Subject to subsection (3), if the VEC has made a finding under subsection (1) that the public interest in providing the voters' roll outweighs the public interest in protecting the privacy of personal information, the VEC may—
 - (a) provide the voters' roll to the person or organisation; and
 - (b) charge a fee that covers the cost to the VEC of providing the voters' roll.
 - (3) The VEC must obtain from the person or organisation to be provided with a voters' roll under this section an undertaking that the person or organisation will—
 - (a) only use the voters' roll for the purpose for which the VEC agreed to provide the voters' roll; and
 - (b) not copy the voters' roll or give it to any other person or organisation; and
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(c) return the voters' roll to the VEC or destroy the voters' roll after using it for the purpose for which the VEC agreed to provide the voters' roll.

(4) A person or organisation that is provided with a copy of the voters' roll under subsection (2) must comply with subsection (3).

Penalty: In the case of a natural person,
120 penalty units;

In the case of a body corporate,
600 penalty units.

254 Use of voters' roll by the Chief Executive Officer

(1) The Chief Executive Officer may use a copy of the voters' roll on behalf of the Council for the purpose of communicating or consulting with the municipal community in relation to the performance of the Council's functions.

(2) The Chief Executive Officer must obtain from any person or organisation to be provided with a voters' roll under this section an undertaking that the person or organisation will—

(a) not copy the voters' roll or give it to any other person or organisation; and

(b) return the voters' roll to the Chief Executive Officer or destroy the voters' roll after using it for the purposes of this section.

(3) A person or organisation that is provided with a copy of the voters' roll under subsection (1) must comply with an undertaking given under subsection (2).

Penalty: In the case of a natural person,
120 penalty units;

In the case of a body corporate,
600 penalty units.

- (4) If requested by the Chief Executive Officer for the purposes of this section, the VEC must provide a copy of the voters' roll to the Chief Executive Officer.

255 Validity of voters' rolls

The validity of a voters' roll is not affected if—

- (a) from any cause, any act or thing required to be done in connection with the preparation, printing or copying of the voters' roll has been omitted or has not been completed; or
- (b) from any cause, there has been an error in the preparation, printing or copying of the voters' roll; or
- (c) there has been any misnomer or any inaccurate description of any person, place or thing on the voters' roll which is capable of being given meaning.

Division 3—Candidate for election

256 Candidate for election

- (1) Subject to this section, a person may nominate as a candidate for an election for any ward of the Council if they are qualified to be a Councillor under this Act.
- (2) A person who is a Councillor of a Council cannot nominate as a candidate for an election as a Councillor of any Council unless at the time of the nomination the person will cease to hold office as a Councillor on or before the election day for that election.
- (3) A person who has nominated as a candidate for an election as a Councillor of a Council cannot nominate as a candidate for any other election as a Councillor unless at the time of the nomination

the person has withdrawn the previous nomination.

- (4) If a person makes a nomination in contravention of subsection (2) or (3), the nomination is void.
- (5) A person must not nominate as a candidate for more than one election of Councillors to be held on the same day.
- (6) If a person makes nominations in contravention of subsection (5), all the nominations are void.
- (7) A person cannot nominate as a candidate for an election as a Councillor unless the person has completed the prescribed training.
- (8) A person who is not qualified to be a Councillor under this Act only because they hold a position or office specified in section 34(2)(b) or (d), is not prevented from nominating as a candidate at an election if for the duration of the election period for that election—
 - (a) the person has taken leave from that office or position; and
 - (b) the person does not perform any of the duties of that office or position.

Note

A person who holds a position specified in section 34(2)(b) or (d) cannot take the oath or affirmation of office as a Councillor unless they resign from that office or position before taking the oath or affirmation of office.

Division 4—Holding of general elections and by-elections

257 General elections

- (1) A general election of Councillors for all Councils must be held—
 - (a) on the fourth Saturday in October 2020; and