

MAKE YOUR MARK

VOTE LOCAL

LOCAL GOVERNMENT ELECTIONS



Information for Candidates

LOCAL GOVERNMENT ELECTIONS

Election Edition

June 2022

 Tasmanian
Electoral Commission

Contents

Introduction	1
Election rules.....	1
How to access the Act and other legislation.....	1
Other quick points.....	1
Changes for the 2022 local government elections	2
Local government elections are now compulsory.....	2
Changes to councillor ballot paper formality.....	2
A new close of poll time.....	2
Notice of election	3
Publication of notice.....	3
Timetable – 2022 elections	3
Nomination	4
Nomination as a councillor.....	4
Nomination as mayor or deputy mayor.....	4
The nomination form.....	5
Candidate statements and photographs.....	5
Acceptance or rejection of nomination.....	7
Election roll.....	7
Withdrawal of nomination.....	7
Publication of nominations.....	7
Voting.....	8
Who can vote.....	8
Order of names on ballot papers.....	8
Postal ballot pack.....	8
Replacement postal ballot pack.....	8
How to return a vote.....	9
Security and privacy of the postal ballot.....	9
Scrutineers	10
Role of the scrutineer.....	10
Appointment of scrutineers.....	10
Closing day	11
Close of poll (closing day).....	11
Formal votes.....	11
Informal votes.....	11
Electoral processes after the close of the poll	12
Tuesday activities – after 2.00pm.....	12
Counting mayor and deputy mayor ballot papers.....	12
Data entry of councillor ballot papers.....	12

Counting systems for local government elections	13
The Hare-Clark counting system	13
The counting system for mayor and deputy mayor ballots.....	13
Advertising	14
Electoral advertising	14
Printed electoral advertising material	14
'Prescribed' and 'relevant' periods	16
Electoral advertising return	17
All electoral advertising expenditure must be declared.....	17
Are candidates reimbursed their election expenditure?	18
Joint electoral advertising	18
Electoral Commissioner's responsibilities	18
Consequences for exceeding expenditure limits.....	18
Placement of campaign material	19
Posters and signs	19
Placement of posters	19
Electoral roadside signs.....	19
Offence to place electoral matter on electricity poles	19
Electronic billboards	20
Federal requirements for radio and television advertisements	20
Electoral offences	21
Use of candidate name, photograph or likeness	21
Use of published materials without permission	21
Advertising gifts, donations and prizes.....	21
Canvassing for votes.....	21
Offences in violation of secrecy of ballot	21
False or misleading statements.....	21
Bribery	22
Undue influence.....	22
Justices of the Peace.....	22
Filling a casual vacancy	23
Councillor recounts.....	23
By-elections	23
Members of Parliament	23

Introduction

This booklet is an easy reading summary of important information for all intending local government election candidates. The booklet has been organised in line with the following election stages:

- » Commencement – with the publication of the notice of election
- » The nomination period
- » The voting period
- » The counting and declaration of the poll ('closing day')

While **candidate campaigning** flows across all of these stages, it has been treated as a separate area and located towards the end of the booklet.

This booklet, additional election information, forms and previous election results are available on the Tasmanian Electoral Commission (TEC) website – www.tec.tas.gov.au. Please contact the TEC or your returning officer if you have any further queries.

Election rules

The rules for Tasmanian local government elections are established by the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulations 2015* ("the Regulations") and approved election forms and procedures.

Candidates should be aware that the role of the TEC and returning officers is to **administer** the election in accordance with the Act and the Regulations. While interpretation of the Act and the Regulations forms part of the function of returning officers, it is not their role to provide legal advice to candidates.

For ease of reading, some sections of the Act, and the 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 or the Regulations themselves.

How to access the Act and other legislation

The Act and other up-to-date Tasmanian Acts and Regulations can be accessed online at www.legislation.tas.gov.au.

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

Other quick points

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

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

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

Changes for the 2022 local government elections

Local government elections are now compulsory

Recent amendments made to the Act mean that local government elections are now **compulsory** for electors enrolled on the State roll.

Changes to councillor ballot paper formality

The requirements to cast a formal vote for a councillor ballot have been simplified, with electors now being required to only:

- » number the **boxes from 1 to at least 5** (where 5 or more candidates are to be elected), or
- » number the boxes from 1 to at least [*the number to be elected*] (where fewer than 5 candidates are to be elected).

For the 2022 local government elections, all councillor ballot papers will have a minimum requirement of marking preferences 1-5.

A new close of poll time

For the first time at state-wide local government elections, the voting period will close at 2.00pm on closing day (Tuesday 25 October 2022).

Historically, local government elections closed at 10.00am. Over recent years Australia Post delivery times have changed, resulting in no guarantee that postal ballot packs posted to the returning officer after the last Friday of the polling period will be received before the traditional 10.00am Tuesday deadline.

The 2.00pm close provides more time for the Tuesday morning delivery from Australia Post and provides electors more time on the last day to be able to drop their completed postal vote into council offices so they can be included in the count.

With the later close time and expected increase in postal votes being delivered from councils, no hand counting of ballot papers will commence on Tuesday.

All local government by-elections since 2019 have closed at 2.00pm on closing day, with counting commencing on the Wednesday.

Notice of election

Publication of notice

(sections 44, 46 & 269)

A local government 'notice of election' is similar to a writ for a Parliamentary election. It specifies the:

- » date and time of closure of the roll,
- » vacancies to be filled,
- » details of entitlement to vote, and
- » any other matter the Electoral Commissioner considers appropriate.

For state-wide local government elections, the Electoral Commissioner will advertise the notice of election in the relevant daily newspaper on the 8th Saturday before closing day. Closing day is the last day of the polling period and is set down as the last Tuesday in October every four years unless the Governor changes this by an order under section 268A of the Act.

Councillors, mayors and deputy mayors are elected for a period of four years from the issue of the certificate of election until the issue of the next certificate of election.

For council by-elections, in accordance with section 308 of the Act, the Electoral Commissioner fixes the closing day, and, in consultation with the general manager of the Council, sets the day the notice of the by-election is advertised, the nomination period and the close of rolls.

Timetable — 2022 elections

Notice of election to be published	Saturday 3 September
Electoral rolls close at 6.00pm	Thursday 8 September
Nomination period	5 September – 19 September
Nominations close at 12 noon	Monday 19 September
Nominations announced at 12 noon	Tuesday 20 September
Ballot material delivered to electors by post	3 October – 7 October
Polling period	3 October – 25 October
Close of poll	2.00pm Tuesday 25 October
Counting to commence	9.00am Wednesday 26 October

Nomination

Nomination as a councillor

(section 270)

To be nominated, you must:

- » be an elector in the municipal area, and
- » have your principal place of residence in Tasmania.

You must not:

- » be a councillor of another council whose term of office is to end after the issue of the certificate of election,
- » have been barred by a court (under section 48(6), 338A, 339 or 339A of the Act) from nominating as a candidate,
- » be an employee of the council in that municipal area,
- » have previously been removed from the office of councillor because of inadequacy or incompetence,
- » be bankrupt,
- » be subject to an assessment order or treatment order under the *Mental Health Act 2013* or an order under the *Guardianship and Administration Act 1995*,
- » be undergoing a term of imprisonment, or
- » have been sentenced for a crime but the sentence has not been executed.

A person may not be a candidate for the office of councillor in more than one municipal area.

Nomination as mayor or deputy mayor

(section 41)

Anyone eligible to be nominated as a councillor is also entitled to be nominated as a candidate for mayor or deputy mayor. A person may not:

- » be a candidate for both the offices of mayor and deputy mayor concurrently, or
- » accept the office of mayor or deputy mayor unless they are also an elected councillor.

Nomination forms for the positions of councillor, mayor or deputy mayor can be downloaded from the TEC's website and are also available in hardcopy at the Tasmanian Electoral Commission.

Candidates contesting two positions need only complete a **single nomination form**.

The nomination form

(section 271)

A nomination form (referred to as a 'notice of nomination' in the Act) must be:

- » signed by at least 2 electors of the municipal area,
- » signed by the candidate, and
- » lodged, posted or faxed so as to be received by the returning officer or electoral officer for the council concerned before the close of nominations.

If your name has changed from that on the electoral roll you must provide:

- » evidence in writing of the change of name, and
- » a statement specifying the form in which your name is to appear on the ballot paper.

The returning officer may accept a second nomination form, in substitution for the first, up to 24 hours after the close of nominations if satisfied that the first form:

- » needs to be altered, completed, corrected or substituted, and
- » was lodged, posted or faxed, and received by the close of nominations.

Late nominations cannot be accepted.

Candidate statements and photographs

(section 284)

Candidate statements are provided in the postal ballot packs to provide information about candidates to assist voters in making an informed choice. They are intended to supplement, rather than replace, other means which candidates may use to bring their candidature to the attention of electors.

To be included in the candidate statements booklet, your candidate statement and photo must be submitted electronically before the end of the nomination period (12 noon Monday 19 September 2022). Please refer to the TEC website during the nomination period for further information.

Statements and photographs are not compulsory for a valid nomination.

The following requirements for candidate statements and photographs have been approved by the Commission under section 284(4):

Candidate statement requirements:

- » There will be one statement per candidate, even if the candidate is contesting two elections.
- » Statements are limited to 600 characters, including spaces, punctuation and carriage returns.
- » The heading above your statement will include your ballot paper name and the position(s) you are contesting.
- » Statements are limited to two paragraphs.
- » Statements may not include lists or dot points: use semi-colons within paragraphs if necessary.

- » You may not mention another candidate by name without their written consent.
- » You may not refer to the office of Justice of the Peace.
- » You may not refer to giving gifts, donations or prizes.
- » You are responsible for the accuracy of your statement.
- » Statements may be amended or rejected at the Electoral Commissioner's discretion.

Candidate photographs:

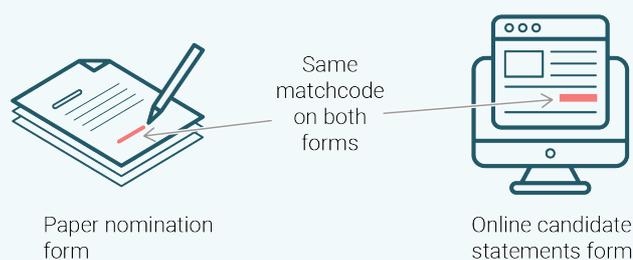
- » should be passport style, that is, head and shoulders on a neutral background. However, you may smile and/or wear glasses, as you wish,
- » should be recent,
- » will be published in black and white at a resolution of 300 dpi, and
- » may be adjusted or rejected at the Electoral Commissioner's discretion.

Candidate web links:

Candidates are also invited to submit a web link with their candidate statement, as an opportunity to present more information to interested voters. The link could be your own website or a Facebook page or other online presence. Web links will be published on the TEC's website, at the Electoral Commissioner's discretion, and candidates are responsible for the content on the linked pages.

The match code:

To help us match each nomination form with the correct candidate statement, you are asked to create your own 'match code'. This can be anything you like – just a simple 'match code' that you enter on both your paper nomination form, and your online candidate statements form.



Acceptance or rejection of nomination

(section 272)

The returning officer may accept your nomination if satisfied that:

- » the form that has been completed—
 - includes signatures from at least 2 persons enrolled for the municipal area,
 - is signed by the you, as the candidate, and
 - is received by the returning officer before the close of nominations.
- » your name is on the electoral roll for the municipal area,
- » your name is the name you normally use, and
- » your name is not obscene, frivolous or assumed for an ulterior purpose.

The returning officer will advise a person whether their nomination is accepted or rejected as soon as possible after making the decision. Where possible, the returning officers will communicate with candidates via email.

Appealing the returning officer's decision

A person may appeal to the Commission against the rejection of a nomination no later than 24 hours after the end of the nomination period. In considering an appeal, the Commission may either direct the returning officer to accept the nomination or confirm the rejection of the nomination. A decision of the Commission is final.

Election roll

(section 261)

Accepted candidates can request a printed copy of the election roll from the returning officer. Electronic copies of the election roll cannot be provided. The roll may only be used for purposes connected with the election, and strict penalties apply for misuse.

Withdrawal of nomination

(section 273)

You may withdraw your nomination for an election by lodging, posting, or faxing a notice in writing (which you have signed), which must be received by the returning officer before the close of nominations. Late withdrawals cannot be accepted.

Publication of nominations

(sections 275 & 276)

At 12 noon on the day after nominations close, the returning officer will formally announce the candidates contesting each ballot and undertake a draw to determine the order of candidates' names on the first rotation of ballot papers for councillors, mayor and deputy mayor.

The returning officer is also required to display a notice at the council office, listing the name and address of each person whose nomination has been accepted. A draw will then be conducted to determine the order of names on the ballot paper.

The Tasmanian Electoral Commission will, soon after 12 noon on the day after nominations close, publish all candidate names for each election on its website and in a media release. The Electoral Commissioner will also publish candidate details and issuing places open during the voting period in the daily newspapers.

Voting

Who can vote

(sections 254 – 258)

Anyone who is enrolled on the State roll for an address in a municipal area, is automatically enrolled for that municipal area. Other persons who:

- » own or occupy land in the municipal area, or
- » are the nominated representatives of a corporate body (which owns or occupies land in the municipal area),

are also eligible to vote, but must lodge an enrolment application with the General Manager for the municipal area.

Voting in local government elections is now compulsory for all electors on the State roll for the municipal area.

Order of names on ballot papers

(section 288 & regulations)

Candidates' names on ballot papers are rotated in accordance with the 'Robson Rotation' system (as set out in the Regulations) so that each candidate name appears in each position on the ballot paper.

Following the announcement of candidates, the returning officer will conduct a draw to determine the order of candidate names for the first rotation.

Postal ballot pack

(section 284)

After the close of the nomination period, all electors will be sent a postal ballot pack. The postal ballot pack will contain:

- » ballot paper(s),
- » a booklet containing voting instructions and candidate statements and photographs,
- » a ballot paper envelope in which to place the completed ballot paper(s), and
- » a reply-paid envelope to return the ballot paper envelope.

Replacement postal ballot pack

(section 286)

Electors may request a replacement postal ballot pack from the TEC via email or by phone. Electors may also request a replacement postal ballot pack at the issuing place appointed for their council (usually located at the council office).

In the case where a replacement postal ballot pack has been issued to an elector, security measures are in place to ensure that an elector can cast only one vote.

How to return a vote

Electors should return their completed postal ballot pack as soon as possible, to ensure the returning officer receives it before the close of the poll.

Electors can also physically deliver their vote by placing it in the ballot box at the council. However, the completed ballot papers must be sealed within the signed ballot paper envelope.

Security and privacy of the postal ballot

(section 285)

The Electoral Commission takes very seriously the right of electors to cast their vote in a secret and secure manner. To this end, in conjunction with Australia Post security personnel, there are a number of measures in place to ensure the safe delivery and return of your ballot paper. In particular:

- » *to protect the privacy of the elector in the postal system:*
no elector details are shown on the reply-paid envelope,
- » *to verify that the eligible elector has voted on the ballot paper:*
the elector must sign the perforated declaration flap on the ballot paper envelope,
- » *to ensure the secrecy of the vote:*
 - when the envelope is received by the returning officer – the perforated declaration flap containing the electors' details and signature is removed from the still sealed envelope and stored separately (after marking the elector as voted), and
 - after the close of the poll – the ballot papers are removed for the declaration envelope.

Scrutineers

Role of the scrutineer

(section 293)

Scrutineers represent the candidate at any place where ballot material is sorted, checked or counted. While acting as a scrutineer, a person must not:

- » fail to comply with a reasonable direction given by an electoral officer,
- » interfere with or attempt to influence an elector or other person,
- » communicate with a person except if necessary to do so while scrutineering, or
- » without authority, touch or interfere with ballot material.

Your returning officer will be happy to advise you when the issue, scrutiny and counting of ballot papers is taking place, and the number of scrutineers permitted.

Appointment of scrutineers

(sections 292 & 293)

A candidate is entitled to appoint scrutineers. Scrutineers may not be candidates at that election. The appointment of a scrutineer is to be:

- » in an approved form, and
- » signed by the candidate and the scrutineer.

Signed appointment forms are to be presented to the returning officer or the electoral officer in charge who will provide an identity badge to be worn by the scrutineer.

Returning officers provide *Appointment of scrutineer* forms to candidates.

Closing day

Close of poll (closing day)

(section 268A)

Closing day is the last day of the polling period. It is the last Tuesday in October every four years, unless the Governor fixes another day. The Electoral Commissioner sets the hours of the polling period.

For the 2022 elections, the polling period will conclude at **2.00pm on Tuesday 25 October**. All votes must be received by this time.

Formal votes

(sections 289, 290 & 300 & Schedule 6)

Councillor ballot paper

For a councillor ballot paper to be formal, the elector must record preferences:

- » 1 to 5 (where 5 or more candidates are to be elected), or
- » 1 to [*the number to be elected*] (where less than 5 candidates are to be elected).

There can be no omission or repetition of preferences within the range of numbers.

For example,

- » If there are 9 councillors to be elected, to cast a formal vote an elector **must** number at least 1, 2, 3, 4 and 5.
- » If there are 3 councillors to be elected, to cast a formal vote an elector **must** number at least 1, 2 and 3 on their ballot paper.

Mayor and deputy mayor ballot paper

For a mayor or deputy mayor ballot paper to be formal, the elector must mark the ballot paper by placing the number 1 in the box next to the name of the candidate of the elector's first preference.

Voters are encouraged to record a preference for all candidates listed on the ballot paper.

Informal votes

(section 300 & Schedule 6)

A ballot paper will be treated as informal if:

- » no vote has been recorded on it,
- » the vote is recorded on the ballot paper otherwise than in accordance with section 290 (see above formality requirements),
- » it contains a mark or writing which will identify the voter, or
- » it has not been appropriately authenticated.

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

Electoral processes after the close of the poll

The change to compulsory voting is expected to increase the voting return from 200,000 to 300,000 postal packs. This will significantly increase the workload of extraction and then balancing of around 900,000 individual ballot papers.

Tuesday activities – after 2.00pm

Immediately following the close of the poll:

- Ballot boxes at council offices will be sealed and transported to the offices of the returning officer.
- Ballot papers will be extracted from the declaration envelopes already received by the returning officer.

Later in the evening, completed postal ballot packs transported from the council offices will be processed and added to already extracted and bundled ballot papers.

No hand counting of ballot papers will occur on the Tuesday.

Counting mayor and deputy mayor ballot papers

The hand counting of all mayor ballots will commence on Wednesday morning. It is expected that first preference figures and some election results will be known around midday. Hand counting of deputy mayor ballot papers will commence either following the completion of the mayor ballot for the council or from 3.00 pm, whichever is earlier, so that first preference figures for all ballots will be published on Wednesday.

While some very large or close ballots may need to be completed on the Thursday, it is hoped that all mayor and deputy mayor results will be known on Wednesday night.

Data entry of councillor ballot papers

At the 2018 local government elections, the Commission data entered councillor ballot papers for 24 councils.

At the 2022 elections, councillor ballot papers for all councils will be data entered at either the Launceston or Hobart data entry centre. Assuming similar sized candidate fields to the 2018 elections, the expansion to 29 councils and the expected increased return due to compulsory voting could result in the data entry process requiring around 29 million keystrokes.

The Commission is hoping to have provisional partial first preference and distribution results for all councillor ballots (either 20% or 50% of ballot papers entered – first entry) on the Wednesday evening. However, the completion of the data entry process will continue into the following week for some councils.

Counting systems for local government elections

The Hare-Clark counting system

Like the process for counting House of Assembly votes, local government councillor elections use the Hare-Clark counting system.

The Hare-Clark counting 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.

The Hare-Clark system is named after the Englishman, Thomas Hare, who, in 1856 proposed the idea of a proportional representation election system and Andrew Inglis Clark (former Tasmanian Attorney-General), who introduced a modified version of Hare's system into Tasmanian law in 1896.

How are candidates elected?

A candidate is elected when their total number of votes equals or exceeds the quota. 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.

The number of the elected candidate's votes that exceed the quota (surplus) are passed on to candidates remaining in the count using the preferences shown on the ballot papers. If no other candidate has a surplus of votes, the candidate with the lowest number of votes is excluded from the count and their ballot papers are passed on to candidates remaining in the count using the preferences shown on the ballot papers.

These two processes continue until the required number of candidates are elected. A more detailed explanation can be found on the TEC website.

2 decimal places: Due to the relatively small number of electors in some municipal areas, votes for each candidate in all councils will be calculated to 2 decimal places during the distribution of preferences to reduce the loss of votes by fraction.

The counting system for mayor and deputy mayor ballots

The system for counting votes for mayor and deputy mayor ballots is essentially the same system as used for counting the Legislative Council and (federal) House of Representative votes.

How are candidates elected?

A candidate is elected if they have a majority of the total votes cast. If no candidate has a majority, then the candidate with the lowest number of votes is excluded from the count and their ballot papers are passed on to other candidates remaining in the count using the preferences shown on the ballot papers. The process of exclusion continues until one candidate has a majority of the votes.

Advertising

Electoral advertising

(section 3, 278 & regulations)

Electoral advertising is defined in the Act as:

Any advertising, by any of the following means, that is directly or indirectly in respect of a campaign for election by a candidate or intending candidate:

- (a) any notice, sign or poster,
- (b) any pamphlet or handbill,
- (c) any "how-to-vote" card,
- (d) any print medium,
- (e) any broadcast by radio or television,
- (f) on the internet.

A person must not purchase electoral advertising time or space in relation to the election of a candidate without the written authority of that candidate.

Printed electoral advertising material

(section 311)

All articles relating to an election that are printed, published, kept on display or distributed between the notice of election and the end of the polling period, must contain the true name and address of the person taking responsibility for the article.

"Address" means:

an address, other than a post office box or an electronic address:

- (a) at which the responsible person resides, or
- (b) at or through which the responsible person may be readily contacted.

The above requirements apply to any advertisement, direct mail item, sign, circular, pamphlet, handbill, poster, sticker, dodger, and report.

This does not apply to the printing or publication of:

- » a leading article, or
- » an article that consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) on a candidate at an election or on the issues being submitted to the electors at the election.

Authorisation: If you are unsure whether a particular item requires authorisation, it is prudent to authorise it.

Example of authorisation:

Authorised by: Jane Citizen, 1 Long Road, Hobart

‘Prescribed’ and ‘relevant’ periods

Below is a summary of the main periods relating to restrictions on candidates at local government elections. The time periods shown below are for the 2022 elections.

Section/ regulation	Subject	Period
s.3, s.278, s.279, reg 22A	Limit on ‘electoral advertising’ expenditure Prohibition on use of candidate name, photograph or likeness of a candidate or intending candidate without consent Reporting of ‘electoral advertising’ expenditure	‘relevant period’ – starts on the 30th day before the notice of election and finishes on closing day. 4 August – 25 October 2022
s.311	Authorisation of electoral ‘articles’ Electoral ‘article’ includes any advertisement, direct mail item, sign, circular, pamphlet, handbill, poster, sticker, dodger and report	‘prescribed period’ – means the period commencing on the day on which the notice of election is advertised and ending on closing day. 3 September – 25 October 2022
s.314(3)	The supply of food, drink or entertainment with a view to influencing the vote of an elector during the period opposite.	‘relevant period’ – starts on the 30th day before the notice of election and finishes on closing day. 4 August – 25 October 2022
s.314(4) & (5)	Gifts or donations to clubs associations or bodies (regular donations may be excepted)	‘relevant period’ – starts on the 30th day before the notice of election and finishes on closing day. 4 August – 25 October 2022

All candidates must lodge with the Electoral Commissioner an electoral advertising return within the 45-day period after the certificate of election is issued. Candidates must declare all electoral advertising in their returns, and include all invoices, accounts and receipts. Candidates must sign the completed return in front of a Justice of the Peace or Commissioner for Declarations.

Candidates need to consider costs such as:

- » design costs for printed advertising,
- » materials for erecting signs,
- » stationery and postage or delivery costs for mail outs to electors,
- » production costs for newspaper advertising or television advertising,
- » productions costs, and costs of showing online advertising,
- » website development, and
- » printing costs of advertising via business cards, stickers, fliers, balloons etc.

It is an offence not to complete and lodge a return with the Electoral Commissioner. The penalty that may be imposed by a court for this offence is a fine of up to 30 penalty units.

All electoral advertising expenditure must be declared

Electoral advertising is defined in section 3 of the Act to include:

- » any notice, sign or poster,
- » any pamphlet or handbill,
- » any “how-to-vote” card,
- » any print medium,
- » any broadcast by radio or TV, and
- » advertising on the internet.

Candidates are required to declare **all** forms of advertising costs in an ‘electoral advertising return’. The return is available on the TEC website and will be sent to each candidate once their nomination has been accepted.

All electoral advertising **used during the relevant period** is to be included in the expenditure limit. This means every candidate must declare the costs incurred for all electoral advertising used during the relevant period, **including costs incurred prior to 4 August** for electoral advertising **used on or after 4 August 2022**.

The expenditure limits for 2022 are:

- » \$18,000 for all candidates contesting Clarence City, Glenorchy City, Hobart City, Launceston City or Kingborough elections.
- » \$11,500 for all candidates contesting an election for any other Tasmanian local government council.

The *relevant period* for the 2022 elections is **4 August to 25 October 2022**.

As the expenditure limit relates to the *cost incurred*, these limits are inclusive of GST.

Are candidates reimbursed their election expenditure?

Expenditure returns are required to ensure candidates comply with the candidate expenditure limits set in the Act. The legislation does not provide any provisions to reimburse any candidate expenditure.

Joint electoral advertising

(regulation 22(6))

Regulation 22(6) provides that:

‘A candidate is taken to have incurred the total time and space of, and expenditure involved in, advertising which promotes that candidate, in respect of an election, irrespective of whether or not that electoral advertising also promotes another candidate.’

In other words, in the case of joint advertising, all candidates involved are required to declare the total time and space and expense of any advertisements in their electoral advertising returns.

Electoral Commissioner’s responsibilities

(section 280)

The Electoral Commissioner must be satisfied that each return is authentic and accurate and that all particulars that ought to have been included in the return have been included. As part of this assessment, the Commissioner will evaluate the total expenditure incurred by the candidate to ensure compliance with section 278 of the Act and the Regulations.

For the 2022 local government elections, the Electoral Commissioner, for the purpose of assessing candidate returns, is of the view that:

- » The full cost of new signs must be declared in the return.
- » In lieu of providing receipts for the materials and costs to erect signs, each candidate can declare a cost of \$2 per sign as the set-up cost.
- » The full cost provided on any invoice must be declared. Where an invoice includes a discount or reimbursement of a commission, the original full cost is to be declared, as these deductions cannot be included in the return.

Candidates must complete an electoral advertising return, even if no expenditure has been incurred.

Consequences for exceeding expenditure limits

(section 278)

If a candidate exceeds their expenditure limit for electoral advertising used during the relevant period, a court may impose a penalty of a fine up to 100 penalty units.

Further, if a court convicts a candidate who is successful at an election, the court must declare that candidate’s election void, unless the court is satisfied that there are special circumstances that make it undesirable or inappropriate for it to make such a declaration.

One penalty unit is currently \$181.

Placement of campaign material

Posters and signs

(regulation 21)

A person must not publicly display a poster or sign relating to the election of a candidate without the written authority of that candidate.

Council planning schemes outline any restrictions on the size of signs, the earliest signs can be displayed without a permit, and when they must come down. As planning schemes are currently variable between council areas, please check with your Council as to what applies.

Permission: Candidates considering affixing signs in public places or to vehicles should ensure they have all required permissions.

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 road users could be distracted or have their sight obstructed.

Placement of posters

Electoral posters must be authorised. Permission to display posters on private property must always be obtained from the owner of the land concerned.

It is generally not permitted to place signs or posters on public land or infrastructure.

Electoral roadside signs

The *Tasmanian Roadside Signs Manual*¹ produced by the Department of State Growth contains the following information in relation to electoral signs:

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

Queries regarding roadside signs should be directed to the Department of State Growth.

Offence to place electoral matter on electricity poles

It is an offence under section 109(1)(a) of the *Electricity Supply Industry Act 1995* to attach anything to a power pole without proper authority.

The penalty for an offence under this section is a fine of up to 50 penalty units for an individual or 100 penalty units for a body corporate.

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

¹www.transport.tas.gov.au/roads_and_traffic_management/managing_the_roads/road_signs/tasmanian_roadside_signs_manual

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 State Roads Division of the Department of State Growth.

Federal requirements for radio and television advertisements

The *Commonwealth Broadcasting Services Act 1992* provides that broadcast political advertisements must include certain 'required particulars'. Radio and television stations can provide more detailed information of these requirements. The Australian Communication and Media Authority regulates broadcasting of political and election matters and the content of electronic communications. Further information is available on its website².

The 'broadcasting blackout' on political advertising contained in the federal *Broadcasting Services Act 1992* applies only to parliamentary elections, and not local government elections.

² www.acma.gov.au/publications/2022-03/guide/political-and-election-matter-guidelines

Electoral offences

Use of candidate name, photograph or likeness (section 278(3))

It is an offence for a person, within the relevant period, to print, publish or distribute any electoral advertising that contains the name, photograph or a likeness of a candidate or intending candidate at an election without the written consent of the candidate or intending candidate.

Use of published materials without permission

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

Advertising gifts, donations and prizes (section 278(5))

A person, within the relevant period, must not print, publish, keep on display, distribute any electoral advertising that refers to the offering, promising or giving by a candidate or intending candidate of a gift, donation or prize to or for any specific club, association or body or to or for clubs, associations or bodies generally.

Penalty: Fine not exceeding 50 penalty units.

Canvassing for votes (Section 312(3)(d))

A person must not personally attempt to induce an elector within the elector's residence during the polling period to vote or not to vote for a particular person.

At the time this provision was introduced in Parliament, it was stated that it will still allow canvassing at the front door but will give the elector the protection of not being pressured by candidates or canvassers while in the act of recording their postal vote.

Offences in violation of secrecy of ballot (section 313)

At an election, a person must not attempt to find out, or directly or indirectly aid in finding out the person for whom a vote is given, nor disclose any knowledge of the person for whom an elector has voted at an election that they have obtained in the exercise of their office at that election.

Penalty: Fine not exceeding 10 penalty units.

False or misleading statements (section 315)

When giving any information, making a notice of nomination, filing a return, or making an application under Part 15 of the Act, a person must not make a statement knowing it to be false or misleading, or omit any matter from a statement, knowing that without that matter the statement is misleading.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months.

Bribery

(section 314)

It is an offence for a person to promise, offer, give or take any money or valuable consideration, advantage, recompense, reward or benefit in relation to:

- » a nomination for an election or a withdrawal of a nomination from an election,
- » a vote or an abstention from voting,
- » support of or opposition to a candidate, or
- » a promise of any such vote, abstention, support or opposition.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 12 months.

This includes the supply of food, drink or entertainment with a view to influencing the vote of an elector, if the supply is made during the relevant period.

A candidate or intending candidate must also not directly or indirectly offer, promise or give a gift, donation or prize to or for any specific club, association or body, or to or for clubs, associations or bodies generally during this period.

Penalty: Fine not exceeding 5 penalty units.

A person who instigates such an offence is punishable in the same manner as if they had committed the offence.

Undue influence

(section 314(6))

A person must not directly or indirectly threaten, offer, suggest, use, cause, inflict or instigate violence, punishment, damage, loss or disadvantage to another person in relation to:

- » a nomination for an election or a withdrawal of a nomination from an election,
- » a vote or an abstention from voting,
- » support of or opposition to a candidate, or
- » a promise of any such vote, abstention, support or opposition.

Penalty: Fine not exceeding 10 penalty units.

Justices of the Peace

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

Reg 7(5): An appointed justice must not convey, or permit another person to convey, the impression that the justice is in a special position of influence by reason of being a Justice of the Peace.

Reg 7(6): An appointed justice must not use his or her office as Justice of the Peace for the purpose of benefitting his or her business, commercial or personal interests.

Mentioning JP status on campaign material may be considered to be an attempt to use the office for personal benefit, or imply a special position of influence.

Filling a casual vacancy

A councillor casual vacancy is filled by recount, if possible, unless that vacancy occurs during the period commencing 6 months before the day on which the notice of election for a forthcoming council election is to be given.

Councillor recounts

(sections 307 & 308 & Schedule 8)

In a recount, the electors who elected the vacating member determine that councillor's replacement. Therefore, only the ballot papers received by the vacating councillor are distributed in the recount. The elected candidate remains as a councillor until the next ordinary council election.

A person may be included in a recount for a vacancy so long as they:

- » were a candidate not elected at the relevant election,
- » remain eligible (see 'Nomination' section), and
- » consent to be included in the recount.

The Electoral Commissioner is required to notify candidates that a recount will take place by either:

- » written notice sent to each eligible candidate, or
- » an advertisement published in a local daily newspaper.

If a candidate wishes to be included in a recount, they can provide written consent by hand, post, fax or scan. Written consent must be received by the Electoral Commissioner at or before noon, on the 8th day after the notice of vacancy.

Candidates who have consented will receive a notice detailing the time and location at which the recount will take place. Recounts will be finalised within 7 days of the close of nominations.

By-elections

(section 308)

By-elections will only occur when:

- » a vacancy cannot be filled by recount, or
- » the vacating councillor is also the mayor: in this case the councillor vacancy is filled at a by-election held concurrently with the mayoral by-election.

Members of Parliament

(Schedule 5)

The office of a councillor becomes vacant if, at the time of commencing to hold that office, they are a member of the House of Assembly or Legislative Council and remain such a member for 30 days continuously during their term of office as a councillor.

The office of a councillor also becomes vacant if the councillor becomes a member of the House of Assembly or Legislative Council.



Level 3, TasWater building
169 Main Rd, Moonah
PO Box 307 Moonah 7009

Phone 1800 801 701 or 03 6208 8700

Fax 03 6208 8791

Email ballot.box@tec.tas.gov.au

Web www.tec.tas.gov.au

All electoral forms mentioned in this booklet can be obtained from the TEC's website: www.tec.tas.gov.au, or the Tasmanian Electoral Commission, or the returning officer.

