

South Australia

Electoral Variation Regulations 2016

under the *Electoral Act 1985*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Electoral Regulations 2009*

- 4 Variation of regulation 5—Prescribed authorities (section 27A)
 - 5 Insertion of regulations 25 to 27
 - 25 Agent of candidate disendorsed by party to notify Electoral Commissioner of disendorsement (section 139)
 - 26 Application and modification of Part 13A where candidate disendorsed by party (section 139)
 - 27 Transitional provision—returns under Part 13A (section 139)
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Electoral Variation Regulations 2016*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Electoral Regulations 2009*

4—Variation of regulation 5—Prescribed authorities (section 27A)

Regulation 5(1)—after paragraph (e) insert:

- (f) the Independent Commissioner Against Corruption;
 - (g) the Office for Public Integrity.
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5—Insertion of regulations 25 to 27

After regulation 24 insert:

25—Agent of candidate disendorsed by party to notify Electoral Commissioner of disendorsement (section 139)

- (1) For the purposes of Part 13A of the Act, if a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed, the agent of the party must, as soon as is reasonably practicable after the disendorsement (and in any event no later than 7 days after the disendorsement), give to the Electoral Commissioner a notice setting out—
 - (a) the name of the candidate; and
 - (b) the date of the disendorsement.
- (2) The agent must give a copy of the notice under subregulation (1) to the agent of the candidate on the same day on which it is given to the Electoral Commissioner.

26—Application and modification of Part 13A where candidate disendorsed by party (section 139)

In accordance with section 139(2)(g) of the Act, the application of Part 13A of the Act is modified in relation to the disendorsement of a candidate by a registered political party as follows:

- (a) section 130A applies as if the following subsection was inserted after subsection (10):
 - (11) For the purposes of this Part, if a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed—
 - (a) prescribed party expenditure and prescribed candidate expenditure (both within the meaning of section 130Z(3e)) will not be regarded as political expenditure of the party; and
 - (b) prescribed candidate expenditure (within the meaning of section 130Z(3e)) will not be regarded as political expenditure of the candidate.;
- (b) section 130I applies as if the following subsection was inserted after subsection (3):

- (4) If—
- (a) a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed; and
 - (b) the agent of the party was the candidate's agent prior to the disendorsement,

the agent's appointment as agent of the candidate is taken to be revoked on the date of the disendorsement.;
- (c) the application of section 130Y(5) extends to any candidate who ceases to be endorsed by a registered political party in relation to an election (not merely a candidate who is a member of Parliament or is a member of a group a member of which is a member of Parliament);
- (d) section 130Z applies as if the following subsections were inserted after subsection (3):
- (3a) Despite the preceding provisions, if a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed during the capped expenditure period for the election, the following provisions apply:
 - (a) if the party does not endorse another candidate in the relevant electoral district, any amount allocated by the party to the candidate under subsection (2) prior to the disendorsement is, for the purposes of determining the party's applicable expenditure cap under subsection (1)(b)(i), to be included in the calculation of the sum of the amounts allocated to candidates in accordance with subsection (2);
 - (b) if the candidate who has ceased to be endorsed subsequently—
 - (i) lodges (or is taken for the purposes of this Part to have lodged) a certificate under section 130Y; or

- (ii) forms part of a group of candidates that has lodged a certificate under section 130Y; or
- (iii) is endorsed in relation to the election by another registered political party that has lodged a certificate under section 130Y,

the applicable expenditure cap under subsection (1) that applies to the candidate, group or party (as the case requires) is reduced by the sum of the prescribed party expenditure and the prescribed candidate expenditure;

- (c) if paragraph (b)(iii) applies, the maximum amount that the other registered political party may allocate to the candidate under subsection (2) in relation to the election is \$100 000 (indexed) less the sum of the prescribed party expenditure and the prescribed candidate expenditure.

(3b) For the purposes of the preceding provisions, if a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed during the capped expenditure period for the election—

- (a) the agent of a registered political party must, as soon as is reasonably practicable after the disendorsement (and in any event no later than 7 days after the disendorsement), furnish a return to the Electoral Commissioner setting out—
 - (i) the name of the candidate; and
 - (ii) the amount of prescribed party expenditure; and

- (b) the agent of the candidate must, as soon as is reasonably practicable after the disendorsement (and in any event no later than 7 days after the disendorsement), furnish a return to the Electoral Commissioner setting out—
 - (i) the name of the candidate; and
 - (ii) the amount of prescribed candidate expenditure.
- (3c) The agent of the registered political party must, so far as is reasonably practicable, make available to the agent of the candidate any records or information in the possession of the party relevant to a return under subsection (3b)(b).
- (3d) The agent of the registered political party must give the agent of the candidate a copy of the return under subsection (3b)(a), and the agent of the candidate must give the agent of the party a copy of the return under subsection (3b)(b), on the same day on which the agent furnishes the relevant return to the Electoral Commissioner.
- (3e) In this section—
 - prescribed candidate expenditure*, in relation to a candidate disendorsed by a registered political party, means political expenditure incurred (prior to the disendorsement) by the candidate (as set out in a return under subsection (3b)(b)) during the capped expenditure period for the election;
 - prescribed party expenditure*, in relation to a candidate disendorsed by a registered political party, means political expenditure incurred (prior to the disendorsement) by the party (as set out in a return under subsection (3b)(a)) during the capped expenditure period for the election that—
 - (a) in the case of a House of Assembly election—related to the election of the candidate in the relevant electoral district; or

- (b) in the case of a Legislative Council election—was for electoral matter that—
 - (i) expressly mentioned the name or displayed the image of the candidate; and
 - (ii) did not expressly mention the name or display the image of any other candidate endorsed by the party in relation to the Legislative Council election;

related to the election of the candidate has the same meaning as in section 130ZB(3).

**27—Transitional provision—returns under Part 13A
(section 139)**

In accordance with section 139(2)(h) of the Act, nothing in Part 13A of the Act is to be taken to require a return under that Part to set out details relating to any period before 1 July 2015.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 4 February 2016

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