



New South Wales

# Constitution and Parliamentary Electoralates and Elections Amendment Act 1997 No 88

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# Constitution and Parliamentary Electoral Districts and Elections Amendment Act 1997 No 88

Act No 88, 1997

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An Act to amend the *Constitution Act 1902* to vary the number of members of the Legislative Assembly and the maximum number of Ministers and to amend the *Parliamentary Electoral Districts and Elections Act 1912* in relation to the appointment of Electoral Districts Commissioners and the distribution of New South Wales into electoral districts. [Assented to 23 October 1997]

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Constitution and Parliamentary Electorates and Elections Amendment Act 1997*.

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Constitution Act 1902 No 32**

The *Constitution Act 1902* is amended as set out in Schedule 1.

**4 Amendment of Parliamentary Electorates and Elections Act 1912 No 41**

The *Parliamentary Electorates and Elections Act 1912* is amended as set out in Schedule 2.

**5 Transitional provisions**

For the purposes of the first distribution of electoral districts after the date of assent to this Act and of any matters necessary or incidental to that distribution, the amendment made by Schedule 1[1] commences on that date.

- (2) The amendment made by Schedule 1[ 1 ] applies to and in respect of the number of Members of the Legislative Assembly to be returned at the general election to be held next after the distribution referred to in subsection (1), and comes into force for all purposes as on and from that general election.

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## **Schedule 1 Amendments to the Constitution Act 1902**

(Section 3)

### **[1] Section 25 Number of Members of Legislative Assembly**

Omit “99”. Insert instead “93”.

### **[2] Section 35F Maximum number of Ministers**

Omit the section.

## **Schedule 2 Amendment of Parliamentary Electorates and Elections Act 1912**

(Section 4)

### **[1] Section 6 Appointment of commissioners for redistribution of seats**

Omit section 6 (2). Insert instead:

- (2) Of the persons appointed:
  - (a) one must be, or have been, a Judge of the Supreme Court, and
  - (b) one must be the person who for the time being holds the office of Electoral Commissioner, and
  - (c) one must be the person who for the time being holds the office of Surveyor-General under the *Public Sector Management Act 1988*.

### **[2] Section 6 (4) and (5)**

Insert after section 6 (3):

- (4) When a distribution of electoral districts becomes necessary under the *Constitution Act 1902* as a result of the enactment of the *Constitution and Parliamentary Electorates and Elections Amendment Act 1997*, the appointment of Electoral Districts Commissioners to carry out the distribution must be made within one month after the date of assent to that Act.
- (5) In any other case, the appointment of commissioners under this section must occur no more than 2 years after the date of return of the writs for choosing the Legislative Assembly that exists at the time the distribution becomes necessary under the provisions of the *Constitution Act 1902*. However, if that 2 year period has passed when the distribution becomes necessary, then the commissioners must be appointed within 6 months after the day that the distribution becomes necessary.

**[3] Section 8 Chairman**

Omit “, a member of the Industrial Commission of New South Wales or a Judge of the District Court”.

**[4] Section 13 Redistribution of electoral districts by commissioners etc**

Omit “in writing” from section 13 (2) (b).

**[5] Section 13 (7)**

Insert after section 13 (6):

- (7) If the comments lodged with the commissioners under subsection (2) (b) are made orally, the obligation to make them available for perusal is an obligation to make a transcript or summary of the comments available.

**[6] Section 14 Notice of proposed alteration of existing boundaries to be given**

Insert after section 14 (1):

- (1A) That notice must refer to the fact that a written statement of the commissioners’ reasons for making the proposed alteration will be available for inspection at no cost during office hours at the offices of the Electoral Commissioner, for the period referred to in subsection (2).
- (1B) For that purpose, the commissioners must ensure that such a statement is provided to the Electoral Commissioner and the Electoral Commissioner must ensure that the statement is made available in accordance with the notice.

**[7] Section 14 (4)–(15)**

Insert after section 14 (3):

- (4) The commissioners must complete their consideration of any suggestion or objection lodged with them as soon as is practicable and, in any event, before the expiration of the period of 60 days after the expiration of the period referred to in subsection (2).
- (5) The commissioners must hold an inquiry into any suggestion or objection unless the commissioners are of the opinion that:
  - (a) the matters raised in the suggestion or objection were raised, or are substantially the same as matters that were raised, in suggestions or comments relating to the redistribution lodged with the commissioners in pursuance of section 13, or
  - (b) the suggestion or objection is frivolous or vexatious.
- (6) The commissioners may hold one inquiry into a number of suggestions and objections.
- (7) Proceedings before the commissioners at an inquiry into any suggestion or objection must be held in public.
- (8) At an inquiry into any suggestion or objection, submissions in relation to the suggestion or objection may be made to the commissioners by or on behalf of the person who, or the organisation that, lodged the suggestion or objection with the commissioners and any person who, or organisation that, lodged suggestions or comments relating to the redistribution with the commissioners in pursuance of section 13.
- (9) At an inquiry into any suggestion or objection, the commissioners must consider all of the submissions made to them in relation to the suggestion or objection.

- (10) The commissioners are not bound by the legal rules of evidence and may regulate the conduct of proceedings at an inquiry into any suggestion or objection as they think fit.
- (11) Without limiting the generality of subsection (10), the following matters are within the absolute discretion of the commissioners:
- (a) the manner in which submissions may be made to the commissioners,
  - (b) the time within which submissions may be made to the commissioners,
  - (c) the extent to which the commissioners may be addressed, and the persons by whom they may be addressed, on any submission.
- (12) As soon as is practicable after the commissioners have concluded their inquiries into any suggestion or objection, they must determine the names and boundaries of electoral districts.
- (13) If, in the opinion of the commissioners, their determination is significantly different from the proposal notified in respect of any electoral district under subsection (1) the commissioners must publish in the Gazette and in a newspaper published or circulating in that district a statement to the effect that:
- (a) a person who, or an organisation that, was entitled to make submissions under subsection (8) may forthwith lodge with the commissioners a written objection, and
  - (b) subject to subsection (5), the commissioners must hold an inquiry into any such objection.
- (14) If such a statement is published:
- (a) a person who, or an organisation that, was entitled to make submissions to an inquiry under this section may, forthwith upon the publication of the statement, lodge with the commissioners a written objection, and



- (b) subject to subsection (S), the commissioners must hold an inquiry into any such objection, and
  - (c) subsections (S)–(II) apply to an inquiry into any such objection as if the objection were a suggestion or objection made under subsection (2).
- (15) As soon as is practicable after the commissioners have concluded their inquiries into any objection lodged under subsection (14), they must determine the names and boundaries of electoral districts.

[Minister's second reading speech made in—  
Legislative Council on 24 September 1997  
Legislative Assembly on 21 October 1997]