



New South Wales

Local Government Legislation Amendment (Elections) Act 1998 No 141

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New South Wales

Local Government Legislation Amendment (Elections) Act 1998 No 141

Act No 141, 1998

An Act to amend the *Local Government Act 1993* and the *City of Sydney Act 1988* in relation to local government elections, and in other respects.
[Assented to 8 December 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Legislation Amendment (Elections) Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

4 Amendment of City of Sydney Act 1988 No 48

The *City of Sydney Act 1988* is amended as set out in Schedule 2.

Schedule 1 Amendment of Local Government Act 1993

(Section 3)

[1] Section 211 Ward boundaries

Omit section 211 (2) (b). Insert instead:

- (b) any changes to the boundaries of its existing wards which it proposes to make,

[2] Section 211 (2)

Omit "for consideration". Insert instead "for their information".

[3] Section 211 (3)

Insert ", and to ensure that the proposed boundaries comply with subsection (4)" after "census districts".

[4] Section 292 When is a by-election to be held?

Omit "the returning officer with the approval of".

[5] Section 306 Nominations

Insert ", and must be qualified to hold that civic office." after "a person must be enrolled as an elector for the area" in section 306 (2).

[6] Section 308 Candidate information sheets

Omit "candidate resume" from section 308 (1).
Insert instead "candidate information sheet".

[7] Section 308 (2)

Omit the subsection. Insert instead:

- (2) The regulations may make provision for the matters that are to be included in, or that may or may not be included in, a candidate information sheet. The regulations may not prohibit the inclusion in a candidate information sheet of matter relating to a candidate's policies.

[8] Section 308 (3) and (4)

Omit “resume” wherever occurring.
Insert instead “candidate information sheet”.

[9] Section 308A Grouping of candidates and group voting tickets

Omit “At an election for an area that is not divided into wards. the”
from section 308A (3).
Insert instead “The”.

[10] Section 313

Omit the section. Insert instead:

313 List of residents failing to vote

After the close of the poll at a contested election. the Electoral Commissioner is to prepare a list of the names of the persons on the residential roll for the election who, although entitled to vote at the election, appear to have failed to vote and do not appear to have a sufficient reason for the failure.

[11] Section 314 Penalty notice to be issued for failure to vote

Omit “each resident who is indicated on a marked roll delivered to the Electoral Commissioner“ from section 314 (1).
Insert instead “each resident who is indicated on the list prepared under section 313”.

[12] Section 314 (5)

Omit “courtesy letter served under section 100J of the *Justices Act 1902*”.
Insert instead “penalty reminder notice served under the *Fines Act 1996*”.

[13] Section 314 (6) (e)

Omit the paragraph.

[14] Section 314 (7)

Omit “on the marked roll”.

Insert instead “on the list prepared under section 313, or on a separate list of the residents on whom penalty notices have been served.”.

[15] Section 315 Evidence in list of non-voters

Omit “on a marked roll”. Insert instead “on a certified list”.

[16] Section 315

Insert at the end of the section:

- (2) For the purposes of this section, a certified list is a list that is certified by the Electoral Commissioner as (or as a copy of or extract from) the list prepared under section 313 or the separate list prepared under section 314 (7).

[17] Section 328 Obligation to disclose donations and expenditure.

Omit “and Parts 5” from section 328 (1).

Insert instead “and (4) (c) and Parts 5, 6A”.

[18] Section 328 (3)

Omit “Parts 5 and 7 and the matter relating to groups”.

Insert instead “Parts 5, 6A and 7”.

[19] Section 328 (3) (d), (f) and (f1)

Omit section 328 (3) (d) and (f). Insert instead:

- (d) references to the day for the return of the writs in an election were references to the close of polling in the election. and
- (f) references to the day of nomination were references to the nomination day prescribed by the regulations under this Act, except as provided by paragraph (f1), and

(f1) references to the day of nomination in provisions relating to the registration of groups or disclosures by groups were references to the third day after the nomination day prescribed by the regulations under this Act, and

[20] Section 328 (3) (i1)

Insert after section 328 (3) (i):

(i1) references to a group of candidates in relation to a periodic Council election were references to a group of candidates in relation to an election under this Act. and

[21] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1(1):

Local Government Legislation Amendment (Elections) Act 1998

[22] Schedule 8

Insert in the Schedule (with appropriate Part and clause numbers):

Part Provisions consequent on the enactment of the Local Government Legislation Amendment (Elections) Act 1998

Application of amendments

An amendment to this Act made by the *Local Government Legislation Amendment (Elections) Act 1998* does not apply to or in respect of an election which has a closing date before the commencement of the amendment.

Schedule 2 Amendment of City of Sydney Act 1988

(Section 4)

[1] Section 14 Definitions

Omit section 14 (1) (f) (i). Insert instead:

- (i) whether a person is entitled to have the person's name included in a roll of electors—the date on which the claim for enrolment is made. or

[2] Section 14 (4)

Insert "a ratepaying lessee or" before "an occupier".

[3] Section 14 (5)

Insert after section 14 (4):

- (5) If the City of Sydney is divided into wards, this Division applies to each ward in the same way as it applies to the area of the City of Sydney.

[4] Section 15

Omit the section. Insert instead:

15 Right to be enrolled as an elector

- (1) A person is entitled to be enrolled as an elector for the City of Sydney if the person is:
 - (a) an owner of rateable land in the City of Sydney, or
 - (b) a ratepaying lessee or occupier of rateable land in the City of Sydney, or
 - (c) a resident of the City of Sydney.

- (2) A person is not entitled to be enrolled as an elector under subsection (1) unless the person (or, in the case of a corporation, the person nominated as the elector by the corporation) is entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives.
- (3) Sections 266 and 269–272 of the Principal Act do not apply to the City of Sydney.

[5] Section 16 Provisions relating to right to be enrolled as an elector

Omit section 16 (2).

[6] Section 16A

Insert after section 16:

16A Partnerships

- (1) This section applies for the purposes of this Division and sections 267 and 268 of the Principal Act.
- (2) If a person is an owner, ratepaying lessee or occupier of rateable land in the person's capacity as a partner of a firm:
 - (a) the person is taken not to be an owner, ratepaying lessee or occupier of that rateable land, and
 - (b) the firm is taken to be a corporation that is the owner, ratepaying lessee or occupier of that rateable land.

[7] Section 17

Omit the section. Insert instead:

17 Roll of electors

In the application of Division 2 of Part 6 of Chapter 10 of the Principal Act to an election for the City of Sydney:

- (a) a reference in that Division to persons entitled to be enrolled as electors because they are non-resident owners of land within an area is to be read as a reference to persons entitled under section 15(1) (a) to be enrolled as electors, and
- (b) a reference in that Division to persons entitled to be enrolled as electors because they are ratepaying lessees or occupiers of land within an area is to be read as a reference to persons entitled under section 15 (1) (b) to be enrolled as electors, and
- (c) a reference in that Division to persons entitled to be enrolled as electors because they are residents of an area is to be read as a reference to persons entitled under section 15 (1) (c) to be enrolled as electors.

[8] Section 17A Non-residential roll for use in September 1995 ordinary election

Omit the section.

[9] Section 18 List of electors for compulsory enrolment on non-residential roll

Omit the section.

[10] Section 18A

Insert after section 18:

18A Electoral Commissioner to prepare all electoral rolls

- (1) For the purposes of any election for the City of Sydney the Electoral Commissioner (and not the general manager of the City of Sydney) is to prepare the

non-residential roll and the roll of occupiers and ratepaying lessees, despite anything to the contrary in Division 2 of Part 6 of Chapter 10 of the Principal Act.

- (2) References in that Division to the general manager are to be read as references to the Electoral Commissioner.
- (3) The Electoral Commissioner must, at least 3 months before the closing date for an ordinary election, send to all the persons on each such roll a letter informing them that they are electors for elections for the City of Sydney.
- (4) The costs of the Electoral Commissioner with respect to the preparation of rolls under this section are to be met by the Council of the City of Sydney and are recoverable from the Council as a debt owed to the Electoral Commissioner as the holder of that office. Any dispute as to the amount of those costs is to be determined by the Electoral Commissioner.
- (5) In this section, *closing date* for an election has the same meaning as it has for an election under the Principal Act.

[11] Section 19 Non-residential roll

Omit the section.

[12] Section 19A Regulations—non-residential roll

Omit the section.

[13] Section 21 Voting where secretary of corporation enrolled as elector

Omit the section.

[14] Section 22

Omit the section. Insert instead:

22 Compulsory voting

- (1) Electors whose names are on the residential roll, the non-residential roll or the roll of occupiers and ratepaying lessees must vote at a contested election for the City of Sydney, unless exempt from voting under the Principal Act or this Act. Section 286 of the Principal Act does not apply to a contested election for the City of Sydney.
- (2) In the application of Division 4 of Part 6 of Chapter 10 of the Principal Act to any such election:
 - (a) a reference in those provisions to a resident is to be read as including a reference to a person included on the non-residential roll or the roll of occupiers and ratepaying lessees for the election.
and
 - (b) a reference in those provisions to a residential roll is to be read as including a reference to the non-residential roll or the roll of occupiers and ratepaying lessees for the election.

[15] Section 23A

Insert after section 23:

23A Lord Mayor must also be candidate for election as councillor

A person who is a candidate for election as the Lord Mayor of Sydney must also be a candidate for election as a councillor of the City of Sydney at the same time. Section 283 of the Principal Act applies accordingly.

[16] Part 3, Division 4

Insert after Division 3 of Part 3:

Division 4 Council poll or constitutional referendum

24 Applicable provisions of Principal Act and this Part

- (1) The provisions of this Part apply (and the provisions of sections 266 and 269–272 of the Principal Act do not apply) to a council poll or constitutional referendum in the City of Sydney.
- (2) However, section 22 (1) applies to a constitutional referendum but not a council poll in the City of Sydney.

[17] Schedule 3 Savings, transitional and other provisions

Insert "or the *Local Government Legislation Amendment (Elections) Act 1998*" after "1997" in clause 29

[Minister's second reading speech made in—
Legislative Assembly on 20 May 1998
Legislative Council on 30 June 1998]