



Local Government (General) Amendment (Elections) Regulation 2011

under the

Local Government Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

DON PAGE, MP
Minister for Local Government

Explanatory note

The object of this Regulation is to update the *Local Government (General) Regulation 2005* as a consequence of the enactment of the *Local Government Amendment (Elections) Act 2011* which provides that council elections, polls and referendums may be administered by the general manager of the council or by the Electoral Commissioner.

This Regulation is made under the *Local Government Act 1993*, including section 748 (the general regulation-making power) and items 4 and 14 of Schedule 6.

2011 No 479

Clause 1 Local Government (General) Amendment (Elections) Regulation 2011

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under the

Local Government Act 1993

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Elections) Regulation 2011*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 **Amendment of Local Government (General) Regulation 2005**

[1] **Clause 275 Definitions**

Insert in alphabetical order in clause 275 (1):

election manager means:

- (a) in relation to an election, council poll or constitutional referendum administered by the general manager of a council—the general manager, or
- (b) in relation to an election, council poll or constitutional referendum administered by the Electoral Commissioner—the Electoral Commissioner.

[2] **Clause 275 (1), definitions of “election official” and “polling place manager”**

Omit “section 296 (3)” wherever occurring.

Insert instead “section 296A (3) or 296B (3)”.

[3] **Clause 275 (3)**

Omit “Commission” wherever occurring. Insert instead “Commissioner”.

[4] **Clause 275 (4)**

Insert after clause 275 (3):

- (4) In this Part, a reference to the election manager’s website is a reference to:
 - (a) in relation to an election, council poll or constitutional referendum administered by the general manager of a council—the council’s website, and
 - (b) in relation to an election, council poll or constitutional referendum administered by the Electoral Commissioner—the Electoral Commissioner’s website.

2011 No 479

Local Government (General) Amendment (Elections) Regulation 2011

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- [5] **Clause 275 (1), definitions of “polling place manager” and “pre-poll voting officer”, clauses 277B, 280 (5), 286, 288, 289 (7), 290 (4), 295 (3), 297, 298 (1), 300, 301 (2) and (3) (b), 303 (1) (g), 304 (1) (h), 305 (5), 310, 326 (1) and (2), 327 (1), 335 (3), 346, 351, 353 (1) (b) and (4), 355, 356, 356J (2) (b), 356K (4) (b), 356N (4) (b), 356O (4) (b), 356P (1) and (6)–(8), 356Q (1)–(3) and (5), 356R (1), (4) and (7) (b), 356S (1), 356U, 368 (3) (a), 374, 383 (3), 384 (1), 388A, 391 (3) and (4) and 392 and Schedule 10, clause 4 (b)**

Omit “Electoral Commission”, “Electoral Commission’s”, “the Commission”, “the Commission’s” and “The Commission” wherever occurring.

Insert instead “election manager”, “election manager’s”, “the election manager”, “the election manager’s” and “The election manager” respectively.

- [6] **Clause 276A**

Insert after clause 276:

276A Election official to be on electoral roll

A person is not qualified for appointment as an election official unless:

- (a) if the person resides in New South Wales—the person is enrolled for an electoral district under the *Parliamentary Electorates and Elections Act 1912*, or
- (b) in any other case—the person is enrolled in any other State or Territory of the Commonwealth as an elector for the House of Representatives.

- [7] **Clauses 280 (6), 288 (6), 290 (5) and 356 (6)**

Omit the subclauses.

- [8] **Clause 295 Returning officer to nominate candidates**

Insert after clause 295 (3):

- (4) Within 5 days after the nomination day, the returning officer (in relation to an election administered by a general manager) is to deliver or send to the Election Funding Authority of New South Wales a list or lists of:
 - (a) the persons proposed for nomination and the names under which the persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers and of the wards or area for which they are proposed, and
 - (b) the persons nominated as candidates under subclause (1).

[9] Clause 305 Form of ballot-papers

Omit clause 305 (2). Insert instead:

- (2) Every ballot-paper must contain a mark:
 - (a) in relation to an election administered by a general manager—that bears the name of the council, or
 - (b) in relation to an election administered by the Electoral Commissioner—that has been determined by the Electoral Commissioner.

[10] Clause 317 Issue of postal ballot-paper

Omit the note to the clause.

[11] Clause 326 Pre-poll voting offices and times

Omit Note 1 to the clause.

[12] Clause 335 Polling place—arrangements

Omit clause 335 (5). Insert instead:

- (5) **Functions of polling place managers and other election officials**

The functions of polling place managers and other election officials are, subject to the Act and this Regulation, to be as determined by:

 - (a) in relation to an election administered by a general manager—the returning officer, or
 - (b) in relation to an election administered by the Electoral Commissioner—the Electoral Commissioner.

[13] Clause 341 Delivery of ballot-paper to elector

Omit “an appropriate notation” from clause 341 (2).

Insert instead “a notation, in the manner and form specified by the Electoral Commission,”.

[14] Clause 356 Declaring the election

Insert “(in relation to an election administered by the Electoral Commissioner) or the Electoral Commissioner (in relation to an election administered by a general manager)” after “the relevant general manager” in clause 356 (3) (b).

2011 No 479

Local Government (General) Amendment (Elections) Regulation 2011

Schedule 1 Amendment of Local Government (General) Regulation 2005

[15] Clause 356T Confiscation of posters and other electoral material

Omit “authorised by the Electoral Commission” from clause 356T (1).

Insert instead “authorised by the returning officer or the polling place manager”.

[16] Clause 390

Omit the clause. Insert instead:

390 Check on double-voting and failure to vote

- (1) The election manager is to have the rolls checked to determine:
 - (a) which electors’ names (if any) have been marked more than once, and
 - (b) which electors (if any) appear to have failed to vote.
- (2) A general manager (in relation to an election administered by the general manager) is to comply with subclause (1) by forwarding the rolls to the Electoral Commissioner within the period specified by the Electoral Commissioner for checking.
- (3) The Electoral Commissioner is to ascertain 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.

Note. Section 313 of the Act requires the general manager (in relation to an election administered by the general manager) 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. The general manager may rely on the results of the checking and enquiries undertaken by the Electoral Commissioner under this clause for the preparation of that list.

[17] Clause 393A

Insert after clause 393:

393A General manager to report on election

- (1) This clause applies to an election administered by the general manager of a council.
- (2) After an election, the general manager must provide the Minister with a written report setting out details of the election, including (but not limited to) the following information:
 - (a) time spent on the election by the general manager as a proportion of the general manager’s remuneration,

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- (b) time spent on the election by council staff as a proportion of council staff remuneration,
 - (c) the remuneration of council staff employed specifically for the purpose of the election,
 - (d) the remuneration, recruitment and training costs of election officials,
 - (e) the cost of running any candidate information seminars,
 - (f) the cost of hiring venues and equipment for the election, including council venues and equipment and any associated costs,
 - (g) the cost of any technological support, including the development of any counting software,
 - (h) the cost of preparing a written report under this clause,
 - (i) any electoral services provided to electors,
 - (j) any electoral services provided to candidates,
 - (k) operational details of the election,
 - (l) an overall evaluation of the conduct of the election, including feedback from stakeholders.
- (3) The report must be provided to the Minister within 6 months after the declaration of the election.

[18] Schedule 10 Constitutional referendums and council polls

Insert “(if the Electoral Commissioner is to administer the referendum or poll)” after “makes the resolution” in clause 4 (a).

[19] Schedule 10, clause 4 (a1)

Insert “(if the Electoral Commissioner is to administer the referendum or poll and the election)” after “for the election”.