



New South Wales

Electoral Regulation 2018

under the

Electoral Act 2017

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electoral Act 2017*.

GLADYS BEREJIKLIAN, MP
Premier

Explanatory note

The object of this Regulation is to make provision for matters that are required or authorised to be prescribed by the regulations as a consequence of the enactment of the *Electoral Act 2017*.

This Regulation:

- (a) prescribes the evidence of identity that must be provided in support of an application for enrolment or for a change of address of enrolment, and
- (b) sets out the procedures to be used in cases where the same person is relied on as a member by 2 or more political parties seeking registration (or continued registration) under the *Electoral Act 2017*, and
- (c) prescribes the Ombudsman as a person who has a duty to provide the Children's Guardian with access to records that the Children's Guardian reasonably requires for the purpose of exercising functions relating to child protection declarations by candidates, and
- (d) prescribes an additional requirement in relation to the electoral material that is to be made available for perusal by voters at declared facilities, and
- (e) prescribes the official mark that may be printed on ballot papers, and
- (f) provides, as a savings and transitional measure, that the *Parliamentary Electorates and Elections Act 1912* and the *Parliamentary Electorates and Elections Regulation 2008* continue to apply to by-elections held before the 2019 general election (and not the *Electoral Act 2017* and this Regulation), and
- (g) allows for the continued use of certain obsolete terms from the *Parliamentary Electorates and Elections Act 1912* in connection with the 2019 general election.

This Regulation is made under the *Electoral Act 2017*, including sections 34 (4), 57 (2) (a) and (c), 118 (9) (c), 165 (3) (c) and 267 (the general regulation-making power) and clause 1 of Schedule 7.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature, matters of a savings or transitional nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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1 Name of Regulation

This Regulation is the *Electoral Regulation 2018*.

2 Commencement

This Regulation commences on 1 July 2018 and is required to be published on the NSW legislation website.

3 Definition

(1) In this Regulation:

the Act means the *Electoral Act 2017*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Enrolment

For the purposes of section 32 (4) of the Act, an application for enrolment under section 32 (1) or (3), or for a change of address under section 32 (2), must be supported by one of the following:

- (a) if the applicant holds a driver licence issued under the law of a State or Territory—the number of the driver licence,
- (b) if the applicant holds an Australian passport—the number of the Australian passport,
- (c) an attestation as to the applicant's identity that is:
 - (i) in a form approved by the Electoral Commissioner, and
 - (ii) signed by another person who is enrolled.

5 Procedure where same member relied on by 2 or more parties

- (1) This clause applies, for the purposes of section 57 (2) of the Act, where a person is relied on by 2 or more parties as a member of the party for the purpose of qualifying or continuing to qualify as an eligible party.
- (2) In any such case, the Electoral Commission must:
 - (a) request the person in writing to nominate, within 30 days of receiving the request, the party entitled to rely on the member, and
 - (b) advise the parties in writing that the Electoral Commission has made that request.
- (3) If, as a result of a nomination made by the person or a failure by the person to make a nomination, a party ceases to qualify as an eligible party, the Electoral Commission

must advise the party in writing of that fact and give the party at least 60 days in which to provide the requisite particulars and declarations of party membership of the necessary number of additional members of the party that it requires to qualify as an eligible party.

6 Child protection declarations by candidates—Ombudsman to provide access to documents to Children’s Guardian

The office of Ombudsman is prescribed for the purposes of paragraph (c) of the definition of *prescribed person* in section 98 (4) of the Act.

7 Voting in mobile voting centres—registered how-to-vote card additional requirements

- (1) For the purposes of section 118 (9) (c) of the Act, it is an additional requirement that not more than one item of electoral material relating to a candidate may be made available for perusal by voters at declared facilities.
- (2) In the case of an Assembly general election or by-election, if more than one item of electoral material has been registered in relation to a particular candidate, the one item available for perusal, for the purposes of subclause (1), is to be the item nominated to the Electoral Commissioner by:
 - (a) if a registered party has endorsed the candidate for election—the registered officer of the registered party or another person representing that officer, or
 - (b) in any other case—the candidate.
- (3) In the case of a periodic Council election, if more than one item of electoral material has been registered in relation to a particular candidate, the one item available for perusal, for the purposes of subclause (1), is to be the item nominated to the Electoral Commissioner by:
 - (a) if a registered party has endorsed the candidate for election—the registered officer of the registered party or another person representing that officer, or
 - (b) if the candidate is included in a group—a person representing that group, or
 - (c) in any other case—the candidate.

8 Official mark on ballot papers

For the purposes of section 165 (3) (c) of the Act, a mark depicting the arms of the State enclosed within a fastened oval belt which bears the words “Electoral Commission” and across the lower half of which is superimposed a banner bearing the words “New South Wales” (whether or not the mark depicts any other decorative matter) is prescribed as an official mark.

9 Savings—by-elections held before March 2019

The *Parliamentary Electorates and Elections Act 1912* and the *Parliamentary Electorates and Elections Regulation 2008* continue to apply as if that Act and that Regulation had not been repealed (and the Act and this Regulation do not apply) to a by-election that is required to be held before 23 March 2019.

10 Use of historic terms and phrases in instruments and documents

- (1) In any document, a reference to a term used in Column 1 of the Table to this clause is, if used in relation to the general election to be held in March 2019, to be construed as a reference to the corresponding term in Column 2 of that Table.
- (2) In this clause, *document* means any Act or statutory or other instrument, or any contract or agreement (other than the Act or this Regulation).

Table

Column 1	Column 2
polling place	voting centre
pre-poll voting place	early voting centre
returning officer (for an electoral district)	election manager (for an electoral district)
pre-poll manager	early voting centre manager
polling place manager	voting centre manager
child-related conduct declaration	child protection declaration
general postal voter	registered early voter (postal)
declared institution	declared facility
count centre	ballot counting place

Schedule 1 Penalty notice offences

For the purposes of section 263 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

Column 1	Column 2	Column 3
Provision	Penalty for a corporation	Penalty for an individual
Offences under the Act		
Section 183	\$2,750	\$550
Section 184 (1)	\$2,750	\$440
Section 184 (2)	\$330	\$110
Section 185 (1)	\$440	\$110
Section 186 (1)	\$2,750	\$550
Section 187	\$2,750	\$550
Section 191	\$1,375	\$275
Section 193	\$275	\$275
Section 195 (1)	\$2,750	\$550
Section 196	\$1,375	\$275
Section 197	\$275	\$275