



New South Wales

Electoral Funding Amendment (Local Government Expenditure Caps) Regulation 2020

under the

Electoral Funding Act 2018

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electoral Funding Act 2018*.

DON HARWIN, MLC

Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

Explanatory note

The object of this Regulation is to make further provision regarding the determination and redetermination of the number of enrolled electors for local government area or ward elections. The determined number of enrolled electors for local government areas and wards is used to calculate applicable caps on electoral expenditure for local government election campaigns. The Regulation—

- (a) provides for the redetermination of the number of enrolled electors for local government area or ward elections where the local council concerned divides its area into wards, abolishes all its wards or changes its number of wards, and
- (b) deals with situations where a general manager of a local council has failed to comply with a request to provide the Electoral Commissioner with a copy of a roll, and
- (c) provides that copies of non-residential rolls and rolls of occupiers and ratepaying lessees are to be provided to the Electoral Commissioner in the form and manner approved by the Electoral Commissioner (including, for example, in an electronic form).

This Regulation is made under the *Electoral Funding Act 2018*, including sections 31A(9)(a)–(c) and 156 (the general regulation-making power).

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Electoral Funding Act 2018

1 Name of Regulation

This Regulation is the *Electoral Funding Amendment (Local Government Expenditure Caps) Regulation 2020*.

2 Commencement

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

Schedule 1 **Amendment of Electoral Funding Regulation 2018**

Clauses 29A–29C

Insert before clause 30—

29A Local government expenditure caps—redetermination of number of enrolled electors after area or ward changes—section 31A(9)(b)

- (1) This clause applies in relation to an ordinary election of the councillors under section 287(1) of the *Local Government Act 1993* and any election of a mayor by the electors held on the same day (including the elections to be held in September 2021).
- (2) The Electoral Commissioner is to redetermine the number of enrolled electors for a local government area or ward for an election to which this clause applies if—
 - (a) after the Electoral Commissioner has made a determination under section 31A of the Act of the number of enrolled electors for the local government area or ward for the election but, before the election is held, the local council divides its area into wards, abolishes all its wards or changes its number of wards (the *change*), and
 - (b) the change occurred—
 - (i) before the 10-month period referred to in clause 277A(2) of the *Local Government (General) Regulation 2005* (that is, 10 months before the closing date for the election), or
 - (ii) during that 10-month period, but before the commencement of the capped local government expenditure period for the election, but only where the Electoral Commissioner has approved under that subclause that the election be held as if the change had been made.
- (3) The redetermination is to occur before the commencement of the capped local government expenditure period for the election and as soon as is reasonably practicable after the following occurs—
 - (a) in relation to a change referred to in subclause (2)(b)(i)—the change,
 - (b) in relation to a change referred to in subclause (2)(b)(ii)—the Electoral Commissioner’s approval.
- (4) The relevant date for the purposes of the redetermination is the date of the event referred to in subclause (3)(a) or (b), as applicable.
- (5) If the Electoral Commissioner makes a redetermination in accordance with this clause, the number of enrolled electors for a local government area or ward for an election for a local government area or ward, for the purposes of section 31 of the Act, is that redetermined number.
- (6) The general manager of a local council is, on request, to provide the Electoral Commissioner with the latest copy of the non-residential roll and of the roll of occupiers and ratepaying lessees for the purposes of a redetermination under this clause.
- (7) The Electoral Commission must, as soon as is reasonably practicable after a redetermination under this clause and before the commencement of the capped local government expenditure period concerned—

- (a) publish the relevant information in relation to the redetermination on its website, and
 - (b) provide the relevant information to persons registered as candidates on the Local Government Register of Candidates kept under Part 7 of the Act for the election concerned.
- (8) If a person is registered as a candidate on a Local Government Register of Candidates for an election kept under Part 7 of the Act after a redetermination under this clause relating to the election, the Electoral Commission is, as soon as is reasonably practicable after that registration, to provide the person with the relevant information in relation to the redetermination.
- (9) In this clause, **relevant information**, in relation to a redetermination under this clause, means the following—
- (a) the number of enrolled electors for the local government area or ward redetermined in accordance with this clause,
 - (b) the corresponding applicable caps that apply to the local government area or ward.

29B Local government expenditure caps—determination and redetermination of number of enrolled electors where failure to deliver copies of rolls—section 31A(9)(a)

If a general manager of a local council has failed to comply with a request to provide the Electoral Commissioner with a copy of a roll under section 31A(6) of the Act or clause 29A(6) within 21 days (or a longer period agreed between the general manager and the Electoral Commissioner) of that request, the Electoral Commissioner may carry out the determination or redetermination concerned, as the case requires, using copies of the non-residential roll and of the roll of occupiers and ratepaying lessees that were used at the most recent ordinary election of the councillors for the local council held under section 287(1) of the *Local Government Act 1993*.

29C Local government expenditure caps—general managers to provide copies of rolls in approved manner and form—section 31A(9)(c)

A copy of a non-residential roll or roll of occupiers and ratepaying lessees to be provided to the Electoral Commissioner for the purposes of section 31A(6) of the Act or clause 29A(6) is to be provided in the form and manner approved by the Electoral Commissioner (including, for example, in an electronic form).