



New South Wales

Local Government (General) Amendment Regulation 2021

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*.

SHELLEY HANCOCK, MP
Minister for Local Government

Explanatory note

The object of this Regulation is to amend the *Local Government (General) Regulation 2005* as follows—

- (a) to prescribe the information to be included on the roll of electors that is to be kept by the Electoral Commissioner,
- (b) to provide that the election manager may make arrangements for inspection of a list of names of persons proposed for nomination,
- (c) to provide for the forms, and the approval of the forms, to be used for the purposes of a claim for the grouping of candidates and the withdrawal of the claim for grouping of candidates,
- (d) to prescribe additional classes of persons who are qualified for postal voting,
- (e) to change the time that an envelope on which a postal vote certificate is printed must be received by the returning officer,
- (f) to provide that a person qualified to vote in the election of councillors to be held in September 2021 is qualified to vote before election day,
- (g) to reassign the functions relating to mobile booths for pre-poll voting in remote local government areas to the election manager,
- (h) to make arrangements for the COVID-19 pandemic in relation to polling places, scrutineers being present, and providing certain information be available on the election manager's website,
- (i) to allow the election manager to make a direction about the display of a poster or the handing out of tangible election material, in or on particular premises, if the direction is intended to comply with a public health order and to reduce the risk of infection from COVID-19,
- (j) to make provision for technology assisted voting,
- (k) to update the questions to be put to an elector,
- (l) to clarify the process for the preliminary scrutiny of postal voting envelopes,
- (m) to provide that, for an attendance election, an election manager may direct that a ballot-box be moved from a polling place to a ballot counting place,
- (n) to provide for the process required for the scrutiny and counting of votes at a ballot counting place,

- (o) to provide for certain ballot-papers in sealed envelopes to be counted if the elector was not entitled to be enrolled on a residential roll for a ward but was entitled to be enrolled for another ward in the area,
- (p) to make it an offence for a person to enter or remain at a polling place unlawfully, or refuse to leave a polling place after being required to leave by an election official,
- (q) to align provisions relating to the suspension or adjournment of polling at an attendance election with the *Electoral Act 2017*,
- (r) to provide that a policy under the Act, section 252 must provide for the making of payment of expenses associated with carer responsibilities that are adequate or reasonable,
- (s) to provide for when an election for chairperson of a county council is to be held,
- (t) to prescribe the process for the receipt and scrutiny of postal votes, including the rejection of informal votes,
- (u) to update a form,
- (v) to make other minor and consequential amendments.

This Regulation is made under the *Local Government Act 1993*, including sections 252(5), 305, 310A and 748 (the general regulation-making power) and Schedule 6.

Local Government (General) Amendment Regulation 2021

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Local Government Act 1993

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment Regulation 2021*.

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)—
ballot counting place—see clause 345A(1).

[2] Clause 277A Effect of changes to wards on approaching elections

Omit clause 277A(4).

[3] Clause 279 Form of roll of electors

Omit clause 279. Insert instead—

279 Form of roll of electors

The roll of electors kept by the Electoral Commissioner must contain—

- (a) the ward, if any, and area to which the roll relates, and
- (b) the surname, given name or names, date of birth, sex and address of each elector.

[4] Clause 294

Omit the clause. Insert instead—

294 Inspection of names of persons proposed for nomination

- (1) The returning officer must prepare a list including—
 - (a) the full names of persons proposed for nomination, and
 - (b) the names under which those persons have requested, in the consents to their nomination papers, that those persons be shown on the ballot-papers, and
 - (c) the suburb, town or other locality of the place of living as enrolled of those persons, as stated on the nomination papers.
- (2) A copy of the list in its current form—
 - (a) must be displayed on the election manager’s website from the time the first name is placed on the list until the returning officer has nominated candidates under clause 295, and
 - (b) may be made available for inspection in accordance with arrangements decided by the election manager.

[5] Clause 301 Claims for grouping of candidates

Omit “writing in an approved form” from clause 301(2).

Insert instead “the form approved by the election manager”.

[6] Clause 301(3)(b)

Omit the paragraph. Insert instead—

- (b) the claim is withdrawn by the candidates who made the claim by a notice—
 - (i) in the form approved by the election manager, and
 - (ii) delivered or sent to the returning officer to be received by the returning officer before midday on the nomination day.

[7] Clause 313 Postal voting: qualifications

Insert after clause 313(k)—

- (k1) is a permanent or temporary resident in a hospital, nursing home, retirement village or similar facility, or
- (k2) is self-isolating because of COVID-19 related reasons, or
- (k3) reasonably believes that attending a polling place on election day will pose a risk to the health or safety of the person, or of another person, because of the COVID-19 pandemic, or

[8] Clause 317 Issue of postal ballot-paper

Omit clause 317(1)(b). Insert instead—

- (b) an envelope on which a postal vote certificate is printed,

[9] Clause 317(2)

Omit “to the residential address of that elector”.

Insert instead—

to—

- (a) the residential address of that elector, or
- (b) if the elector specified another preferred postal address in the application for a postal ballot-paper and postal vote certificate envelope under clause 314—the address specified in the application.

[10] Clauses 318(4) and 344C(4)

Omit “so as to reach the returning officer before 6 pm on the first business day” wherever occurring.

Insert instead “to be received by the returning officer before 6pm on the 13th day”.

[11] Clauses 319 and 344D

Omit “does not reach the returning officer before 6 pm on the first business day” wherever occurring.

Insert instead “is not received by the returning officer before 6pm on the 13th day”.

[12] Clauses 320, 344E(1) and 386(b)

Omit “6 pm on the first business day” wherever occurring.

Insert instead “6pm on the 13th day”.

[13] Clause 321 Pre-poll voting: qualifications

Insert at the end of clause 321—

- (2) In relation to an ordinary election of councillors to be held in September 2021, all persons who are qualified to vote in the election are qualified to vote before election day under this Subdivision.
- (3) Subclause (2) and this subclause are repealed on 31 December 2021 at the end of the day.

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

Omit clause 326(3). Insert instead—

- (3) The election manager may require the pre-poll voting officer to display at the pre-poll voting office—
 - (a) a notice informing electors that—
 - (i) candidate information sheets are available on the election manager’s website, and
 - (ii) electors may request access to candidate information sheets, or
 - (b) a copy of each candidate information sheet.
- (3A) An elector who requests access to a candidate information sheet must be given access to the candidate information sheet by the pre-poll voting officer.
- (3B) For the purposes of subclause (3A), access may include electronic access to a website on which the candidate information sheet is published.

[15] Clause 332A(1), (2), (3)(b) and (7)

Omit “Electoral Commissioner’s” and “Electoral Commissioner” wherever occurring.
Insert instead “Election manager’s” and “election manager”, respectively.

[16] Part 11, Division 7A

Insert after Part 11, Division 7—

Division 7A Technology assisted voting

333A Application of Division

- (1) This Division applies to an election administered by the Electoral Commissioner.
- (2) To avoid doubt, this Division adopts the *Electoral Act 2017*, Part 7, Division 11.

333B Definitions

In this Division—

approved procedures means the procedures approved under clause 333F.

eligible elector—see clause 333C.

technology assisted voting means a method of voting where an eligible elector votes by means of an electronic device, whether networked or not.

333C Meaning of “eligible elector”

- (1) For the purposes of this Division, an ***eligible elector*** means an elector who meets any of the following eligibility requirements for technology assisted voting and any additional requirements imposed on those eligibility requirements under subclause (2)—
 - (a) the elector is qualified for a postal vote under Part 11, Division 7, Subdivision 1 and has duly applied for a postal ballot-paper and postal vote certificate envelope under that Subdivision, but has not received a postal ballot-paper and postal vote certificate envelope before 5pm on the day that is 8 days before election day,
 - (b) the elector has a disability, within the meaning of the *Anti-Discrimination Act 1977*, and because of the disability the elector has difficulty voting at a polling place or is unable to vote without assistance,

- (c) the elector is illiterate and because of that the elector is unable to vote without assistance,
 - (d) the elector's residence is not within 20 kilometres, by the nearest practicable route, of a polling place,
 - (e) the elector is a silent elector,
 - (f) the elector will not, during the hours of voting on election day, be within the area for which the election is being held,
 - (g) the elector is a registered early voter (technology assisted voting).
- (2) The Electoral Commissioner may, by order published on the NSW legislation website, impose additional requirements on any of the eligibility requirements for technology assisted voting.

333D Application to vote by means of technology assisted voting

- (1) An elector may apply to vote at an election by means of technology assisted voting.
- (2) An application under this clause must be made in the way specified in the approved procedures and must specify the ground on which the elector is making the application.

333E Electoral Commissioner to determine applications

If the Electoral Commissioner is satisfied that an applicant is an eligible elector, the applicant must be permitted to vote at the election by means of technology assisted voting in accordance with this Division.

333F Electoral Commissioner to approve procedures for technology assisted voting

- (1) The Electoral Commissioner may approve procedures to facilitate voting by eligible electors at an election by means of technology assisted voting.
- (2) The approved procedures must provide—
 - (a) for an eligible elector to register before voting by means of technology assisted voting, and
 - (b) for the automatic registration of electors who are registered early voters (technology assisted voting) and the notification of those electors of that registration, and
 - (c) for the making of a record of each eligible elector who has voted by means of technology assisted voting, and
 - (d) for the authentication of the eligible elector's vote, and
 - (e) for the secrecy of the eligible elector's vote, and
 - (f) that a vote cast in accordance with the approved procedures be securely transmitted to the Electoral Commissioner and securely stored by the Electoral Commissioner until printed, and
 - (g) that the method of technology assisted voting creates an image file in the form of a ballot-paper, for example a PDF, for each vote cast that is capable of being viewed or printed if required for the purposes of the scrutiny, and
 - (h) the way the information about the votes is to be communicated to the returning officer for the area.
- (3) An image file of a ballot-paper created in accordance with the approved procedures does not need to be in or to the effect of Form 4, 5 or 6, as the case requires, or, when printed, create a ballot-paper of the same size or format as

the ballot-papers printed in accordance with Division 6, so long as the vote cast by the eligible elector can be accurately determined.

- (4) The Electoral Commissioner may approve procedures under this clause only if the Electoral Commissioner is satisfied that—
 - (a) a class of electors, who in other circumstances would be unable to vote or would have difficulty voting, would benefit from the approval of the procedures, or
 - (b) in relation to a trial of voting machines at one or more polling places—the trial would assist in determining whether the use of voting machines would improve the conduct of elections and benefit the electors using them.
- (5) The only limit on the power of the Electoral Commissioner to approve procedures under this clause is that the pre-condition for approval set out in subclause (4) is met.
- (6) The approval of procedures under this clause cannot be challenged, reviewed or called into question in proceedings before a court or tribunal except on the grounds that the approval exceeds the jurisdictional limit specified by subclause (5) for the approval of such procedures.
- (7) To avoid doubt, subclause (6) adopts the *Electoral Act 2017*, section 155(6).

333G Independent auditing of technology assisted voting

- (1) The Electoral Commissioner must engage an independent person (the *independent auditor*) to conduct audits of the information technology used under the approved procedures.
- (2) Audits under this clause are to be conducted and the results of those audits must be provided to the Electoral Commissioner—
 - (a) at least 7 days before voting commences in each ordinary election for councillors at which technology assisted voting is to be available, and
 - (b) within 60 days after the last declaration of the result of an election to which this Division applies.
- (3) Without limiting the content of the audit, the independent auditor must determine whether test votes cast in accordance with the approved procedures were accurately reflected in the corresponding test ballot-papers produced under those procedures.
- (4) The independent auditor may make recommendations to the Electoral Commissioner to reduce or eliminate a risk that could affect the security, accuracy or secrecy of voting in accordance with the approved procedures.

333H Independent monitoring of technology assisted voting

- (1) The Electoral Commissioner may appoint one or more independent persons (an *independent monitor*) to monitor and observe the technology assisted voting process at an election, including the counting of votes cast by means of technology assisted voting and the general operation of the technology assisted voting process.
- (2) An independent monitor must report and may make recommendations to the Electoral Commissioner regarding the technology assisted voting process.

333I Scrutineers

A candidate or registered political party may appoint a scrutineer to observe—

- (a) the production of printed ballot-papers and bundling and sealing of those ballot-papers in accordance with the approved procedures, and
- (b) any other element of the technology assisted voting process that is approved for the purposes of this clause.

333J Secrecy relating to technology assisted voting

- (1) This clause adopts the *Electoral Act 2017*, section 159.
Note— The Act, section 748(3) and (4) provides for the creation of offences in connection with elections and polls by adopting, with modifications as necessary, a provision of the *Electoral Act 2017*, and for the penalty for an offence not to exceed the penalty for the corresponding offence in that Act.
- (2) A person who becomes aware of how an eligible elector, voting in accordance with the approved procedures, voted is not to disclose that information to another person except in accordance with the approved procedures.
Maximum penalty—20 penalty units or imprisonment for 6 months, or both.
- (3) A person must not disclose to another person a source code or other computer software that relates to technology assisted voting under the approved procedures, except in accordance with the approved procedures or in accordance with an arrangement entered into by the person with the Electoral Commissioner.
Maximum penalty—200 penalty units or imprisonment for 2 years, or both.

333K Protection of computer hardware and software

- (1) This clause adopts the *Electoral Act 2017*, section 160.
Note— The Act, section 748(3) and (4) provides for the creation of offences in connection with elections and polls by adopting, with modifications as necessary, a provision of the *Electoral Act 2017*, and for the penalty for an offence not to exceed the penalty for the corresponding offence in that Act.
- (2) A person must not, without reasonable excuse, destroy or interfere with a computer program, data file or electronic device used, or intended to be used, by the Electoral Commissioner for or in connection with technology assisted voting.
Maximum penalty—200 penalty units or imprisonment for 3 years, or both.
- (3) An offence under this clause is an indictable offence.

333L Electoral Commissioner may determine that technology assisted voting is not to be used

- (1) The Electoral Commissioner may determine that technology assisted voting is not to be used at a specified election.
- (2) A determination under this clause must be in writing and published on the Electoral Commission's website.

[17] Clause 335A

Insert after clause 335—

335A Polling place—arrangements for COVID-19 pandemic

- (1) The election manager may require an election official to display a notice near the candidate information sheets displayed at a polling place in accordance with the Act, section 308(4).
- (2) The notice must include information that—
 - (a) reminds electors to socially distance, and

- (b) informs electors that candidate information sheets are available—
 - (i) on the election manager’s website, and
 - (ii) if the elector makes a request to an election official for a candidate information sheet.
- (3) An election official must provide access to a candidate information sheet on the request of an elector.

[18] Clause 337A

Insert after clause 337—

337A Special provisions about scrutineers for COVID-19 pandemic

- (1) Despite clause 337, the election manager may direct that—
 - (a) scrutineers are prohibited from being physically present at a relevant place, or
 - (b) there is a maximum number of scrutineers that may be present at a relevant place.
- (2) The direction must be published on the election manager’s website.
- (3) A direction under subclause (1) may be made only if the election manager is satisfied—
 - (a) there are alternative scrutiny arrangements for each relevant place, and
 - (b) the direction is necessary—
 - (i) to comply with a public health order that is in force at the time of the election or counting of votes, or
 - (ii) to reduce the risk of infection from COVID-19 to a scrutineer or another person present at a relevant place.
- (4) For the purposes of subclause (3), an alternative scrutiny arrangement, in relation to a place at which votes are counted, includes an arrangement that an employee of the election manager film the counting of the votes.
- (5) A direction given under this clause has effect despite clause 333I.
- (6) This clause is repealed on 31 December 2021 at the end of the day.
- (7) In this clause—
relevant place means a place at which polling is carried out, ballot-papers are scrutinised or votes are counted.

[19] Clause 339 Questions put to elector

Omit clause 339(3)–(5). Insert instead—

- (3) The election official may, and at the request of a scrutineer must, put to the person the following questions before giving the person a ballot-paper—
 - (a) Are you the person whose name appears as [name] on the roll for [ward of area or area]?
 - (b) Are you of or above the age of 18 years?
 - (c) Have you already voted, either here or elsewhere, at this election?
 - (d) Are you disqualified from voting at this election?
 - (e) Do you live in [ward of area or area]?
- (4) A person must not be given a ballot-paper and must not be allowed to vote if the person—

- (a) fails to satisfy a requirement under subclause (1), or
- (b) does not answer “yes” to questions (3)(a), (b) or (e), or
- (c) does not answer “no” to questions (3)(c) or (d).

[20] Clause 344B Issue of postal ballot-paper

Omit clause 344B(2)(b). Insert instead—

- (b) an envelope on which a postal vote certificate is printed,

[21] Clause 347 Preliminary scrutiny of postal voting envelopes

Insert before clause 347(1)—

- (1A) The returning officer may, if satisfied that an envelope on which a postal vote certificate is printed is likely to be sealed inside another envelope addressed to the returning officer (an *outer envelope*), open the outer envelope and—
 - (a) if an envelope on which a postal vote certificate is printed is sealed inside the outer envelope—take out the envelope on which the postal vote certificate is printed, or
 - (b) if an envelope on which a postal vote certificate is printed is not sealed inside the outer envelope—mark the outer envelope in a way approved by the election manager and reseal the outer envelope, or
 - (c) if a ballot-paper is inside the outer envelope and the ballot-paper is not sealed inside an envelope on which a postal vote certificate is printed—mark the outer envelope in a way approved by the election manager and reseal the outer envelope.

[22] Clause 347(1)(a)

Omit the paragraph. Insert instead—

- (a) may, on a day not more than 14 days before election day, at an approved time and place, and in the presence of scrutineers who choose to be present, produce—
 - (i) unopened envelopes containing postal votes as have been received by the returning officer, and
 - (ii) envelopes opened and resealed under (1A)(b) or (c), and

[23] Clause 347(1)(b)(i)

Omit “6 pm on first business day”.

Insert instead “6pm on the 13th day”.

[24] Clause 347(2)

Omit clause 347(2). Insert instead—

- (2) The returning officer must open an envelope produced under subclause (1), unless a postal vote certificate is printed on the envelope.
- (2AA) The returning officer must—
 - (a) accept the envelope on which a postal vote certificate is printed for further scrutiny if the returning officer is satisfied the postal vote certificate has been properly signed and witnessed and that the elector is entitled to vote in the ward or area to which the postal vote certificate relates, or

- (b) disallow the ballot-paper without opening the envelope if the returning officer is not satisfied the postal vote certificate has been properly signed or witnessed or that the elector is entitled to vote in the ward or area to which the postal vote certificate relates.

[25] Clause 347(2A)

Omit “a postal vote certificate envelope”.

Insert instead “an envelope on which a postal vote certificate is printed”.

[26] Clauses 348–348B

Omit clause 348. Insert instead—

348 Directions in relation to ballot counting places

- (1) This clause applies only to attendance elections.
- (2) An election manager may direct that a ballot-box be moved from a polling place to a ballot counting place for the scrutiny of ballot-papers and the counting of votes.
- (3) The direction may apply to all, or some, ballot-boxes from the polling place.

348A Initial scrutiny of ballot-papers and counting of votes

- (1) This clause applies to—
 - (a) each polling place at which a ballot-box is located, and
 - (b) each ballot counting place at which a ballot-box is located.
- (2) To avoid doubt, this clause applies to ballot-boxes moved under a direction made under clause 348.
- (3) On the close of the poll, each counting place manager must, with the assistance of the election officials, and in the presence of any scrutineers present at the polling place or ballot counting place—
 - (a) open the ballot-box, and
 - (b) scrutinise the ballot-papers, and
 - (c) reject the informal ballot-papers, and
 - (d) place the envelopes containing postal votes and provisional votes on one side as they are taken from the ballot-box, and
 - (e) count—
 - (i) the first preferences recorded for each candidate and group of candidates, and
 - (ii) the number of informal votes, and
 - (iii) the number of envelopes containing postal vote certificates or other declarations under this Part.
- (4) The counting place manager must send to the returning officer returns for each polling place and ballot counting place in an approved form—
 - (a) stating the details of those counts, and
 - (b) signed by—
 - (i) the counting place manager and another election official, and
 - (ii) any scrutineer who desires to sign the returns.
- (5) In this clause—

counting place manager means—

- (a) for a polling place—the polling place manager, and
- (b) for a ballot counting place—an election official nominated by the election manager.

348B Ballot-papers placed in incorrect ballot-box

- (1) This clause applies if, during the initial scrutiny of ballot-papers and counting of votes under clause 348A, at a polling place appointed for 2 or more areas or 2 or more wards, the polling place manager is satisfied—
 - (a) a ballot-paper was deposited in a ballot-box for the wrong area or ward for the ballot-paper, and
 - (b) the area or ward to which the ballot-paper relates is an area or ward appointed for the polling place.
- (2) An election official may arrange for the ballot-paper to be included in the scrutiny for the correct area or ward.

[27] Clause 350 Checking and counting of ballot-papers in sealed envelopes

Insert after clause 350(5)—

- (6) Despite subclause (5)(d), subclause (7) applies if—
 - (a) in relation to an envelope referred to in subclause (4), it appears to the returning officer that the elector is not entitled to vote or was, on the day of polling, not entitled to be enrolled on the residential roll for the ward (the *first ward*), but
 - (b) the person is entitled to be enrolled for another ward in the area (the *second ward*).
- (7) The returning officer must arrange for the envelope to be included in the scrutiny for the second ward in the area and, at the scrutiny for the second ward—
 - (a) if the ballot-paper is for an election of a councillor in the first ward—the ballot-paper is to be disallowed, or
 - (b) if the ballot-paper is for a council poll under the Act, Chapter 4, Part 3 applicable to the first ward—the ballot-paper is to be disallowed, or
 - (c) otherwise—the ballot-paper is to be accepted for further scrutiny and placed in a ballot-box for the second ward.

[28] Clauses 356TA and 356TB

Insert after clause 356T—

356TA Posters—arrangements for COVID-19 pandemic

- (1) Despite clause 356E, the election manager may direct that a person must not display a poster in or on—
 - (a) a polling place or pre-polling office, or
 - (b) relevant premises within 100 metres of—
 - (i) a polling place, or
 - (ii) a pre-polling office.
- (2) A direction under subclause (1) may be given only if the election manager is satisfied the direction is necessary—

- (a) to comply with a public health order that is in force at the time of the election, or
 - (b) to reduce the risk of infection from COVID-19 where the poster would be displayed.
- (3) Notice of the direction must be published on the election manager's website.
 - (4) If a direction is made, the election manager may publish links to election material published by the political participants on the election manager's website.
 - (5) If an election official is satisfied that a poster contravenes the direction, the election official may remove and confiscate the poster, or cause the poster to be removed and confiscated.
 - (6) A poster removed and confiscated under this clause may be destroyed.
 - (7) This clause is repealed on 31 December 2021 at the end of the day.
 - (8) In this clause—
relevant premises means premises occupied or used by, or under the control or management of—
 - (a) the Crown, or
 - (b) a NSW agency, or
 - (c) a council, county council or joint organisation.

356TB Handing out electoral materials—arrangements for COVID-19 pandemic

- (1) The election manager may direct that a person must not hand out tangible electoral material in or on—
 - (a) a polling place or pre-polling office, or
 - (b) relevant premises within 100 metres of—
 - (i) a polling place, or
 - (ii) a pre-polling office.
- (2) A direction under subclause (1) may be given only if the election manager is satisfied the direction is necessary—
 - (a) to comply with a public health order that is in force at the time of the election, or
 - (b) to reduce the risk of infection from COVID-19 where the material would be handed out.
- (3) Notice of the direction must be published on the election manager's website.
- (4) If a direction is made, the election manager may publish links to electoral material published by the political participants on the election manager's website.
- (5) If an election official is satisfied that a person has contravened the direction, the election official may remove and confiscate, or cause to be removed and confiscated, any tangible electoral material.
- (6) Electoral material removed and confiscated under this clause may be destroyed.
- (7) The extension of the meaning of electoral material under clause 356L applies to electoral material for the purposes of this clause.
- (8) This clause is repealed on 31 December 2021 at the end of the day.

- (9) In this clause—
relevant premises means premises occupied or used by, or under the control or management of—
- (a) the Crown, or
 - (b) a NSW agency, or
 - (c) a council, county council or joint organisation.

[29] Clause 368 Persons present in polling place

Omit clause 368(2). Insert instead—

- (2) A person must not, without lawful authority, proof of which lies on the person—
- (a) enter or remain at a polling place, or
 - (b) refuse to leave the polling place on being required to leave by an election official, or by a police officer acting under the direction or authority of an election official.

Note— See clause 356SA in relation to maintenance of order at and near polling places by police officers.

[30] Clause 369 Misconduct by scrutineers

Omit clause 369(1). Insert instead—

- (1) A scrutineer must not, at a place where polling is carried out, ballot-papers are scrutinised or votes are counted—
- (a) interfere with, influence or attempt to influence an elector or an election official, or
 - (b) communicate with a person except as necessary to carry out the scrutineer's functions.

[31] Clause 369(4)

Insert after subclause (3) [before the penalty to the clause]—

- (4) Without limiting clause 356SA, a scrutineer who, within a polling place, pre-poll voting office, ballot counting place or declared institution or mobile booth, does any of the following, may be removed from the place by a police officer on the request of an election official—
- (a) contravenes this clause,
 - (b) engages in misconduct,
 - (c) fails to obey the lawful direction of the election official.

[32] Clause 383

Omit the clause. Insert instead—

383 Suspension of voting

- (1) An election manager may temporarily suspend voting for a period not exceeding 4 hours at a polling place on election day if the election manager considers that it is necessary to do so because of—
- (a) a riot or open violence, or
 - (b) a serious threat of a riot or open violence occurring, or
 - (c) a storm, tempest, flood or other similar event, or

- (d) a health hazard, or
 - (e) a fire or the activation of a fire alarm or fire safety equipment, or
 - (f) another reason which the election manager considers—
 - (i) may affect the safety of electors, or
 - (ii) may interrupt or obstruct the proper conduct of voting.
- (2) The election manager must ensure that a person who attends the polling place during the period that voting is temporarily suspended is provided with information to assist the person to vote, including—
- (a) the time at which the polling place is expected to reopen, and
 - (b) the location of other polling places.

383A Adjournment of voting

- (1) This clause applies if polling has been suspended under clause 383.
- (2) The election manager must adjourn the taking of the poll at the polling place to a later day if—
- (a) voting cannot be reopened on election day, or
 - (b) the election manager is of the opinion that a person who would have voted at the polling place could not reasonably have voted at another polling place.
- (3) The election manager must specify the day the election is adjourned to.
- (4) The election manager may only adjourn the election to a day that is—
- (a) as soon as practicable after the election day, but
 - (b) between the day following the election day and the 13th day following the election day.
- (5) The election manager must give public notice of the day the election is adjourned to on the election manager’s website.
- (6) The initial scrutiny and count under clause 348 at the polling place and the completion of the count under clause 351 in the ward or area where the poll has been adjourned are not to proceed until the adjourned poll has been finally closed.
- (7) If the poll has been adjourned at a polling place within a ward, only those electors who are entitled to be enrolled for that ward are entitled to vote at the adjourned poll.

[33] Clause 393B Exercise of council functions during caretaker period

Omit “or the Central Sydney Planning Committee” from clause 393B(1).

Insert instead “, the Central Sydney Planning Committee or a local planning panel”.

[34] Clause 393B(1)(b)(i)

Omit “section 82 of the *Environmental Planning and Assessment Act 1979*”.

Insert instead “the *Environmental Planning and Assessment Act 1979*, section 8.11(1)”.

[35] Clause 393B(3), definition of “controversial development application”

Omit the definition. Insert instead—

controversial development application means a development application for designated development for which at least 25 persons have made a submission during community consultation.

[36] Clause 393B(3)

Insert in alphabetical order—

designated development means designated development within the meaning of the *Environmental Planning and Assessment Act 1979*, section 4.10.

local planning panel has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

[37] Clause 403 Payment of expenses and provision of facilities

Insert at the end of the clause—

- (2) A policy under the Act, section 252 must provide for the making of payment of expenses associated with carer responsibilities that are adequate or reasonable.

[38] Clause 420

Insert after clause 419—

420 Adoption of policy concerning payment of expenses in relation to carer responsibilities

- (1) Clause 403(2), as inserted by the amending regulation, does not apply to a policy adopted by a council before the commencement of the amending regulation.
- (2) In this clause—
amending regulation means the *Local Government (General) Amendment Regulation 2021*.

[39] Schedule 8 Election of chairpersons of county councils

Omit clause 1. Insert instead—

1 When election to be held

An election for chairperson of a county council is to be held at the first meeting of the county council after—

- (a) the county council is established, and
- (b) the term of the chairperson of the county council has ended, and
- (c) the office of the chairperson becomes vacant under the Act, section 391(3)(b)(ii).

[40] Schedule 8, clause 16

Omit the clause.

[41] Schedule 9A Countback elections

Insert in alphabetical order in clause 1—

close of applications—see clause 3(3).

[42] Schedule 9A, clause 2(3)

Omit “the being”. Insert instead “being”.

[43] Schedule 9A, clause 3(1)(c)

Insert “at the close of applications” after “councillor”.

[44] Schedule 9A, clause 3(2)

Omit “an approved manner and form”.

Insert instead “the way approved by the election manager”.

[45] Schedule 9A, clause 3(4)

Insert “in the way approved by the election manager” after “withdrawal”.

[46] Schedule 9A, clause 3(5)

Omit “returning officer”. Insert instead “election manager”.

[47] Schedule 9A, clause 7(4A)(b)

Omit the subclause. Insert instead—

- (b) if 2 or more candidates have an equal number of votes—
 - (i) if the number of votes at the last count or transfer was unequal—the candidate who had the highest number of votes at the last count or transfer at which the candidates had an unequal number of votes is taken to be elected, or
 - (ii) otherwise—the elected candidate is to be determined by a method of random selection, including by electronic means, approved by the election manager.

[48] Schedule 9A, clause 8(4)

Omit the subclause. Insert instead—

- (4) After the election is declared—
 - (a) the election manager must deliver or send a copy of the written declaration to—
 - (i) the Secretary, and
 - (ii) the Chief Executive Officer of Local Government NSW, and
 - (iii) the relevant general manager, and
 - (iv) for an election administered by an electoral services provider—the Electoral Commissioner, and
 - (b) the general manager of the council must display the written declaration in a conspicuous position at the office of the relevant council.

[49] Schedule 9A, clause 11

Omit “returning officer, substitute returning officer and election officials”.

Insert instead “the election manager”.

[50] Schedule 10 Constitutional referendums and council polls

Omit Schedule 10, clause 4(d)(i). Insert instead—

- (i) neither the square beside the word “Yes” nor the square beside the word “No” is ticked, or

[51] Schedule 10, clause 4(e)(i)

Omit the subparagraph. Insert instead—

- (i) neither the square beside the word “Yes” nor the square beside the word “No” is ticked, or

[52] Schedule 11, Form 16

Omit the form. Insert instead—

Form 16 Constitutional referendum or council poll paper

Schedule 10, clause 4

[local government area]
Constitutional referendum/council poll taken on *[date]*

Directions— The question below requires a “Yes” or “No” answer.
If you decide to answer “Yes” to the question, place a tick in the square next to the word “Yes”.
If you decide to answer “No” to the question, place a tick in the square next to the word “No”.

Question— *[here set out question]*
Yes No