



New South Wales

City of Sydney Amendment (Business Voting and Council Elections) Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *City of Sydney Act 1988* as follows:

- (a) to require the Electoral Commissioner to keep voluntary registers of non-resident owners and occupiers and ratepaying lessees who are entitled to vote in City of Sydney elections,
- (b) to require the electoral rolls for those categories of electors to be prepared on the basis of the registers, subject to confirmation of details,
- (c) to provide for non-resident owners, occupiers and ratepaying lessees to be treated as postal voters, subject to the right to elect to vote instead in person,
- (d) to make the Electoral Commissioner responsible for the administration of elections, council polls and constitutional referendums for the City of Sydney.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of City of Sydney Act 1988 No 48

Schedule 1 [2] inserts a note explaining that the owners of businesses are, if all requirements are met, entitled to vote as non-resident owners, occupiers or ratepaying lessees.

Schedule 1 [3] requires the Electoral Commissioner to keep a non-resident owners register comprising persons who are entitled to be enrolled as electors as owners of rateable land in the City of Sydney and an occupiers and ratepaying lessees register comprising persons who are entitled to be enrolled as electors as occupiers of rateable land or ratepaying lessees in the City of Sydney. The registers are to contain the names of persons who are so entitled who make a claim to the Commissioner for listing on the registers. The registers are to be used as the basis for the roll for elections of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees. The registers are also to be made publicly available by both the Commissioner and the general manager of the Council of the City of Sydney. **Schedule 1 [1], [4] and [5]** make consequential amendments.

Schedule 1 [7] replaces the current requirement for an enrolment letter to be sent out by the Electoral Commissioner 90 days before the closing date of an election with a requirement for the Commissioner to contact persons on the non-resident owners register or the occupiers and ratepaying lessees register to confirm particulars for inclusion on the roll. When contacted for this purpose, a person may also elect not to be included on a roll for an election or to vote in person rather than by postal vote. The Electoral Commissioner is prohibited from including a person on a roll of non-resident owners or occupiers and ratepaying lessees if the person has elected not to be included, has otherwise indicated that the person does not wish to be so included or fails to respond to a request to confirm particulars. **Schedule 1 [6]** makes a consequential amendment.

Schedule 1 [8] provides for persons who are on the roll of non-resident owners of rateable land or the roll of occupiers and ratepaying lessees to be treated as postal voters, subject to an election to vote in person.

Schedule 1 [9] provides for the Electoral Commissioner to administer elections, council polls and constitutional referendums for the City of Sydney.



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City of Sydney Amendment (Business Voting and Council Elections) Bill 2014

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New South Wales

City of Sydney Amendment (Business Voting and Council Elections) Bill 2014

No. , 2014

A Bill for

An Act to amend the *City of Sydney Act 1988* in relation to the enrolment and voting in City of Sydney Council elections by non-residential voters and the conduct of those elections.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>City of Sydney Amendment (Business Voting and Council Elections) Act 2014</i> . | 3 |
| | 4 |
| 2 Commencement | 5 |
| This Act commences on the date of assent to this Act. | 6 |

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| Schedule 1 | Amendment of City of Sydney Act 1988 No 48 | 1 |
| [1] Section 14 Definitions | | 2 |
| Insert after section 14 (1): | | 3 |
| (1AA) In this Part: | | 4 |
| <i>non-resident owners register</i> and <i>occupiers and ratepaying lessees register</i> | | 5 |
| have the same meanings as they have in section 17A. | | 6 |
| <i>the roll of non-resident owners of rateable land</i> and <i>the roll of occupiers and</i> | | 7 |
| <i>ratepaying lessees</i> have the same meanings as they have in section 18A. | | 8 |
| [2] Section 15 Right to be enrolled as an elector—residents, business owners and other persons | | 9 |
| Insert at the end of section 15 (1): | | 11 |
| Note. The owner of a business who leases land for that business in the City of Sydney or otherwise occupies land for the purposes of that business will, if the owner meets the requirements set out in section 14 (1) for those categories of elector, be entitled to be an elector in City of Sydney elections. Also, the owner of a business in the City of Sydney who owns the land on which the business is operated but who does not reside on that land will be entitled to be an elector in City of Sydney elections. | | 12 13 14 15 16 17 |
| [3] Sections 17A and 18 | | 18 |
| Insert after section 17: | | 19 |
| 17A Registers of non-resident owners, occupiers and ratepaying lessees | | 20 |
| (1) The Electoral Commissioner must keep: | | 21 |
| (a) a register of persons who are entitled to be enrolled as electors as owners of rateable land in the City of Sydney (the <i>non-resident owners register</i>), and | | 22 23 24 |
| (b) a register of persons who are entitled to be enrolled as electors as ratepaying lessees or occupiers of rateable land in the City of Sydney (the <i>occupiers and ratepaying lessees register</i>). | | 25 26 27 |
| (2) The registers are to contain the names of the persons who are so entitled and who have made a claim to the Electoral Commissioner to be listed on the relevant register. A claim may be made at any time. | | 28 29 30 |
| (3) Without limiting subsection (2), a register is: | | 31 |
| (a) to contain the names of the persons and any other particulars determined by the Electoral Commissioner, and | | 32 33 |
| (b) in the case of a corporation or a firm, to contain the name and other particulars of the nominated elector for the corporation or firm, and | | 34 35 |
| (c) if requested by a person whose name is included on the register, to indicate that the person does not wish to be included on a roll for an election. | | 36 37 38 |
| (4) The Electoral Commissioner is to use the registers as the basis for the rolls prepared under section 18A. | | 39 40 |
| (5) The Electoral Commissioner is to make an up to date copy of each register available for public inspection at any reasonable time during office hours at the office of the Electoral Commissioner and at any other place determined by the Electoral Commissioner. | | 41 42 43 44 |

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| (6) | The general manager of the City Council is to make an up to date copy of each register available for public inspection at any reasonable time during office hours at the office of the City Council. | 1 2 3 |
| (7) | Section 303 (1)–(4) of the Principal Act apply to or in respect of each register in the same way as they apply to or in respect of the residential roll. Note. Subsection (7) enables claims to be made to the Electoral Commissioner for inclusion on a register or objections to be made to the inclusion of persons on a register or to particulars on a register. It also enables an appeal against a decision of the Electoral Commissioner relating to a claim or objection. | 4 5 6 7 8 9 |
| 18 | Initial registers | 10 |
| | On the commencement of section 17A: | 11 |
| (a) | the non-resident owners register is taken to consist of the particulars contained in the last roll of non-resident owners of rateable land for the City of Sydney, and | 12 13 14 |
| (b) | the occupiers and ratepaying lessees register is taken to consist of the particulars contained in the last roll of occupiers and ratepaying lessees for the City of Sydney. | 15 16 17 |
| [4] | Section 18A Electoral Commissioner to prepare roll of non-resident owners and roll of occupiers and ratepaying lessees | 18 19 |
| | Omit “and have applied for the inclusion of their names on the roll for the election” from section 18A (1) (a). | 20 21 |
| [5] | Section 18A (1) (b) | 22 |
| | Omit “and have applied for the inclusion of their names on the roll for the election”. | 23 |
| [6] | Section 18A (1), note | 24 |
| | Insert after section 18A (1): | 25 |
| | Note. Section 18B (5) requires the Electoral Commissioner not to include persons on the roll if they elect not to be included, otherwise indicate they do not want to be included or fail to respond to a request to confirm particulars. | 26 27 28 |
| [7] | Section 18B | 29 |
| | Omit the section. Insert instead: | 30 |
| 18B | Confirmation of enrolment and other matters | 31 |
| (1) | The Electoral Commissioner is, not later than 90 days before the closing date for an election, to contact all persons listed on the non-resident owners register and the occupiers and ratepaying lessees register to confirm the particulars of those persons for inclusion on the relevant roll for the election. | 32 33 34 35 |
| (2) | The Electoral Commissioner may require those persons to provide particulars that are sufficient to establish a right to be included on the roll and that they could reasonably be expected to know or be able to ascertain. | 36 37 38 |
| (3) | The Electoral Commissioner is, in contacting a person under this section, to advise the person of the person’s rights relating to elections that may be made under this section. | 39 40 41 |
| (4) | A person contacted by the Electoral Commissioner under this section may elect: | 42 43 |
| (a) | not to be included on a roll for the election, or | 44 |
| (b) | to vote in person rather than by postal vote. | 45 |

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| (5) | The Electoral Commissioner must not include a person on the roll for an election if the person: | 1 |
| | (a) elects under this section not to be included, or | 2 |
| | (b) has otherwise indicated that the person does not wish to be included, or | 3 |
| | (c) fails to respond to a request under this section to confirm particulars. | 4 |
| (6) | If a person has been listed on the non-resident owners register or the occupiers and ratepaying lessees register not earlier than 120 days before the closing date for an election, the Electoral Commissioner is not required to seek confirmation of the person's particulars but must contact the person and give the advice referred to in subsection (3). | 5 |
| (7) | The means of contact, confirmation and making an election under this section are to be determined by the Electoral Commissioner and must include an opportunity for a person listed on a register to use electronic means to confirm particulars or make an election under this section. | 6 |
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| [8] | Section 22A | 15 |
| | Insert after section 22: | 16 |
| 22A | Postal voting for non-resident owners, business owners and other persons | 17 |
| (1) | An elector who is on the roll of non-resident owners of rateable land or the roll of occupiers and ratepaying lessees for an election is qualified for a postal vote for the election and is to be treated as if the person had duly made application for a postal vote in the election. | 18 |
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| (2) | This section does not apply to a person who elects under section 18B to vote in person rather than by postal vote. | 22 |
| | | 23 |
| [9] | Part 3, Division 5 | 24 |
| | Insert after Division 4: | 25 |
| Division 5 | Miscellaneous | 26 |
| 25 | Administration of elections, polls and constitutional referendums | 27 |
| (1) | Elections, council polls and constitutional referendums in the City of Sydney are to be administered by the Electoral Commissioner. | 28 |
| | | 29 |
| (2) | The City Council may enter into an arrangement for the purposes of this section with the Electoral Commissioner under section 296 of the Principal Act. That section applies to council polls and constitutional referendums in the same way that it applies to elections. | 30 |
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| (3) | Section 296 (1) of the Principal Act does not apply to the City of Sydney. | 34 |