



New South Wales

Parliamentary Electorates and Elections Amendment (Voting Age) Bill 2005

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 *Parliamentary Electorates and Elections Act 1912* so as to reduce the minimum voting age from 18 to 16.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Parliamentary Electorates and Elections Act 1912* set out in Schedule 1.

Clause 4 is a transitional provision that suspends the rights to vote that are conferred by the proposed Act for a period of 12 months from the date of assent.

Schedule 1 Amendments

Schedule 1 [1] amends section 20 (Qualification of electors) so as to reduce the age from which a person becomes entitled to enrolment (and therefore to vote) from 18 to 16.

Schedule 1 [2] makes a consequential amendment to section 20B (Eligibility of spouse or child of eligible overseas elector) so as to replace references to the age of 18 years with references to the age of 16 years.

Schedule 1 [3] amends section 21 (Disqualifications from voting) so as to ensure that a person who is the subject of a detention order under the *Children (Criminal Proceedings) Act 1987* is disqualified from voting if the order has a term of 12 months or more.

Schedule 1 [4] and [5] make consequential amendments to section 33A (Claims for provisional enrolment) so as to replace references to the age of 18 years with references to the age of 16 years and so as to replace a reference to the age of 17 years with a reference to the age of 15 years.

Schedule 1 [6] amends section 34 (Compulsory enrolment and transfer) so as to ensure that enrolment as an elector is optional for a person who is under the age of 18 years.

Schedule 1 [7] makes a consequential amendment to section 41 (Information as to deaths and convictions) so as to replace references to the age of 17 years with references to the age of 15 years.

Schedule 1 [8] applies the reporting requirements of section 41 (Information as to deaths and convictions) to the Director-General of the Department of Juvenile Justice, in relation to persons detained in detention centres, in the same way as they apply to the Commissioner of Corrective Services in relation to persons detained in a correctional centre.

Schedule 1 [9] makes a consequential amendment to section 89 (Deputy returning officers to be furnished with copies of rolls and ballot-papers) so as to replace a reference to the age of 18 years with a reference to the age of 16 years.

Schedule 1 [10] makes a consequential amendment to section 100 (Questions to be put if voter challenged) so as to replace a reference to the age of 18 years with a reference to the age of 16 years.

Schedule 1 [11] and [12] amend sections 120C (Penalty notices for certain offences) and 120F (Offences relating to failure to vote) so as to ensure that voting is optional for an elector who is under the age of 18 years.

Schedule 1 [13] inserts a new section 187. The proposed section contains five subsections:

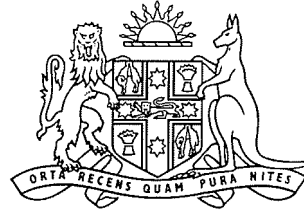
- (a) Proposed subsection (1) ensures that a person who is under the age of 18 years is not under any disability or incapacity of infancy in relation to enrolment and voting.
- (b) Proposed subsection (2) ensures that the lowering of the voting age from 18 to 16 does not have the effect of granting any rights, entitlements or privileges under the Principal Act to a person who is under the age of 18 years simply because they are granted by reference to the person's entitlement to

vote or to be enrolled for voting. For example, an elector is eligible for appointment as a returning officer. But for the proposed amendment, a person who is under the age of 18 years would, merely by being an elector, be eligible to be appointed as a returning officer. The proposed subsection makes it clear that such a person does not become eligible for such an appointment.

- (c) Proposed subsection (3) ensures that the lowering of the voting age from 18 to 16 does not have the effect of granting any rights, entitlements or privileges under any other Act or law to a person who is under the age of 18 years simply because they are granted by reference to the person's entitlement to vote or to be enrolled for voting. The proposed subsection is to be subject to any contrary intention that appears in the Act or law concerned.
- (d) Proposed subsection (4) makes particular provision with respect to the *Jury Act 1977*. It specifically states that an elector who is under 18 years of age is not qualified to serve as a juror.
- (e) Proposed subsection (5) makes particular provision with respect to local government elections. By virtue of section 266 of the *Local Government Act 1993*, a person who is qualified to vote in a State election is also qualified to vote in a local government election. The effect of the proposed subsection is to ensure that the reduction in voting age for State elections flows through to local government elections.

Parliamentary Electorates and Elections Amendment (Voting Age) Bill 2005

Explanatory note



New South Wales

Parliamentary Electorates and Elections Amendment (Voting Age) Bill 2005

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41	2
4 Certain elections unaffected by amendments made by this Act	2
Schedule 1 Amendment of Parliamentary Electorates and Elections Act 1912 No 41	3

Parliamentary Electorates and Elections Amendment (Voting Age) Bill 2005

Contents

Page



New South Wales

Parliamentary Electorates and Elections Amendment (Voting Age) Bill 2005

No. , 2005

A Bill for

An Act to amend the *Parliamentary Electorates and Elections Act 1912* so as to reduce the minimum voting age from 18 years to 16 years; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Parliamentary Electorates and Elections Amendment (Voting Age) Act 2005</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41	7
The <i>Parliamentary Electorates and Elections Act 1912</i> is amended as set out in Schedule 1.	8 9
4 Certain elections unaffected by amendments made by this Act	10
A person who is under 18 years of age is not entitled to vote at any election under:	11 12
(a) the <i>Parliamentary Electorates and Elections Act 1912</i> , or	13
(b) Chapter 10 of the <i>Local Government Act 1993</i> ,	14
if the polling day for the election occurs within 12 months after the date of assent to this Act, and any such election is to be conducted as if this Act had not been enacted.	15 16 17

**Schedule 1 Amendment of Parliamentary
Electorates and Elections Act 1912 No 41**

(Section 3)

[1] Section 20 Qualification of electors

Omit “18” wherever occurring in section 20 (1), (3) and (4).

Insert instead “16”.

[2] Section 20B Eligibility of spouse or child of eligible overseas elector

Omit “18” wherever occurring in section 20B (1).

Insert instead “16”.

[3] Section 21 Disqualifications from voting

Insert after section 21 (b):

(b1) is the subject of an order in force under section 33 (1) (g) of the *Children (Criminal Proceedings) Act 1987*, being an order by which the person has been committed to the control of the Minister administering the *Children (Detention Centres) Act 1987* for 12 months or more, or

[4] Section 33A Claims for provisional enrolment

Omit “17” from section 33A (1). Insert instead “15”.

[5] Section 33A

Omit “18” wherever occurring in section 33A (1) and (2).

Insert instead “16”.

[6] Section 34 Compulsory enrolment and transfer

Insert after section 34 (6):

(7) A person’s failure to comply with the requirements of subsection (1) or (3) does not give rise to an offence if the person is under 18 years of age.

[7] Section 41 Information as to deaths and convictions

Omit “17” wherever occurring in section 41 (1) and (2).

Insert instead “15”.

[8] Section 41 (2A)	1
Insert after section 41 (2):	2
(2A) The Director-General of the Department of Juvenile Justice must comply with the requirements of subsection (2) as if:	3
(a) a reference in that subsection to a prison were a reference to a detention centre, and	4
(b) a reference in that subsection to a person's being sentenced to a term of imprisonment included a reference to an order under section 33 (1) (g) of the <i>Children (Criminal Proceedings) Act 1987</i> being made in respect of the person, and	5
(c) a reference in that subsection to a period of imprisonment were a reference to a period of detention.	6
[9] Section 89 Deputy returning officers to be furnished with copies of rolls and ballot-papers	7
Omit "18" from section 89 (3). Insert instead "16".	8
[10] Section 100 Questions to be put if voter challenged	9
Omit "eighteen" from section 100 (1) (b). Insert instead "16".	10
[11] Section 120C Penalty notices for certain offences	11
Insert after section 120C (7):	12
(8) This section does not apply to or in respect of an elector who is under the age of 18 years.	13
[12] Section 120F Offences relating to failure to vote	14
Insert at the end of section 120F (3) (c):	15
, or	16
(d) an elector who is under the age of 18 years.	17
[13] Section 187	18
Insert after section 186:	19
187 Special provisions with respect to persons under 18 years of age	20
(1) A person who is under 18 years of age is not under any disability or incapacity of infancy in relation to any entitlement to vote at an election, or any entitlement to enrolment as an elector, conferred on the person by this Act.	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33

-
- (2) Any provision of this Act: 1
- (a) that confers a right or privilege on a person (other than an entitlement to vote at an election), or 2
3
 - (b) that imposes an obligation or liability on a person, or 4
 - (c) that qualifies a person to hold a position or exercise a power, 5
6
- by virtue of the fact that the person is entitled to vote at an election, or is enrolled or entitled to enrolment as an elector, is taken not to do so in relation to a person who is under 18 years of age. 7
8
9
10
- (3) Any provision of any other Act or law: 11
- (a) that confers a right or privilege on a person, or 12
 - (b) that imposes an obligation or liability on a person, or 13
 - (c) that qualifies a person to hold a position or exercise a power, 14
15
- by virtue of the fact that the person is entitled to vote at an election, or is enrolled or entitled to enrolment as an elector, is taken not to do so in relation to a person who is under 18 years of age. This subsection is subject to any contrary intention that appears in the Act or law concerned. 16
17
18
19
20
- (4) In particular, a person who is under 18 years of age is not qualified or liable to serve as a juror under the *Jury Act 1977* merely because the person is enrolled as an elector. 21
22
23
- (5) Subsection (1) extends to an election conducted under Chapter 10 of the *Local Government Act 1993*, and subsection (3) does not disqualify a person who is under 18 years of age from voting at such an election. 24
25
26
27