

Passed by both Houses



New South Wales

Electoral Legislation Amendment Bill 2022

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Electoral Act 2017 No 66—miscellaneous	3
Schedule 2	Amendment of Electoral Act 2017 No 66—regarding party logos on ballot papers	6
Schedule 3	Amendment of Electoral Funding Act 2018 No 20	13

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2022



New South Wales

Electoral Legislation Amendment Bill 2022

Act No _____, 2022

An Act to amend electoral legislation to make further provision about the election of members of Parliament, the regulation of political donations and electoral expenditure and the public funding of election campaigns and other activities; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Electoral Legislation Amendment Act 2022*.

2 Commencement

- (1) Subject to subsections (2) and (3), this Act commences on a day or days to be appointed by proclamation.
- (2) Schedule 2 commences on 1 October 2024.
- (3) Schedule 3[27]–[31] and [34]–[36] is taken to have commenced on 1 July 2022.

Schedule 1 Amendment of Electoral Act 2017 No 66— miscellaneous

[1] Section 114 Hours of operation of early voting centres

Omit section 114(2)(a). Insert instead—

- (a) any day before the Saturday preceding the election day, and

[2] Section 149 Preliminary scrutiny of postal ballot papers

Omit “5 days” from section 149(1)(a). Insert instead “14 days”.

[3] Section 149(1)(b)(i)

Omit the subparagraph. Insert instead—

- (i) received by the Electoral Commissioner following the close of voting before the expiry of the period prescribed by the regulations, being a period of not more than 13 days, or

[4] Section 149(2)(a1) and (a2)

Insert after section 149(2)(a)—

- (a1) for a postal vote certificate posted to the Electoral Commissioner—the certificate was completed before the close of voting, and
- (a2) for a postal vote certificate delivered to an election official—the certificate was delivered before the close of voting, and

[5] Section 149A

Insert after section 149—

149A Saving of certain postal ballot papers

- (1) This section applies if, for an election, the Electoral Commissioner has delivered or posted 2 envelopes to electors under this Division, being—

- (a) an envelope on which a postal vote certificate is printed, and
- (b) an envelope addressed to the Electoral Commissioner.

Note— See sections 144(a1) and 145(2)(a1).

- (2) Despite sections 148 and 149, a ballot paper is not to be rejected for further scrutiny because the ballot paper was not inside the envelope on which the postal vote certificate is printed if—

- (a) the ballot paper was sealed inside the envelope addressed to the Electoral Commissioner, and
- (b) the ballot paper was accompanied by the envelope on which the postal vote certificate is printed, and
- (c) the Electoral Commissioner is satisfied the postal vote certificate has been properly signed and witnessed and relates to the ballot paper.

[6] Section 182 Electoral matter involving joint voting directions

Omit “the registered officer or official agent” from section 182(3)(c).

Insert instead “the registered officer or the first candidate of the group of candidates”.

[7] Section 186 Name and address on electoral material

Insert after section 186(1)—

- (1A) For electoral material that is a social media post, the name and address of the individual on whose instructions the material was published or distributed must be published or distributed in a way, if any, prescribed by the regulations.

Example— For a 3-minute TikTok video, the regulations may prescribe that the name and address be displayed for a specified number of seconds or with a specified size as a percentage of the video display.

[8] Section 186(2)(d)

Insert “or thing” after “article”.

[9] Section 190 Defences and exceptions

Omit “councillor” from section 190(2)(d). Insert instead “member”.

[10] Section 206A

Insert after section 206—

206A Voting centre managers and election officials to consider guidelines before enforcing “6-metre” rules

- (1) A voting centre manager or an election official must not exercise a function under this Division in relation to contravention of a 6-metre offence unless the manager or official has considered the guidelines, if any, issued under subsection (2).
- (2) The Electoral Commissioner may, from time to time, determine and issue guidelines, not inconsistent with this Act, about the exercise, by voting centre managers and election officials, of functions under this Division in relation to a contravention of a 6-metre offence.
- (3) In this section—
6-metre offence means an offence against the following—
 - (a) section 191(b),
 - (b) section 192(1), but not in relation to an activity within an early voting centre,
 - (c) section 196(b),
 - (d) section 198(1), but not in relation to an activity within a voting centre.

[11] Section 268 Disclosure of information

Insert at the end of the section after the penalty provision—

- (2) Despite subsection (1), the Electoral Commission or the Electoral Commissioner may disclose information if—
 - (a) the information is disclosed to a person who has given information to the Electoral Commission or Electoral Commissioner about a possible contravention of this Act or the *Electoral Funding Act 2018* or a regulation under either of the Acts, and
 - (b) the disclosure is reasonably necessary for the purpose of—
 - (i) reporting the progress of an investigation into the possible contravention, or
 - (ii) providing the person who gave the information with advice as to the outcome of the investigation or any action taken as a result of the investigation, and
 - (c) the Electoral Commission or the Electoral Commissioner, as the case requires, is satisfied the disclosure is in the public interest.

- (3) Despite subsection (1), the Electoral Commission or the Electoral Commissioner may disclose information if—
 - (a) the information concerns a possible contravention of this Act or the *Electoral Funding Act 2018* or a regulation under either of the Acts, and
 - (b) the disclosure is for the purpose of reporting to the public about the progress or outcome of an investigation into the possible contravention, and
 - (c) the Electoral Commission or the Electoral Commissioner, as the case requires, is satisfied the disclosure is in the public interest.
- (4) The Electoral Commission and the Electoral Commissioner have qualified privilege in proceedings for defamation arising out of a disclosure made under this section.

[12] Schedule 6 Special provisions relating to multiple voters

Omit “section 212(b)” from clause 1(1)(a) and (b).

Insert instead “section 212(1)(b)”.

[13] Schedule 7 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Special provision for 2023 general election and certain 2022 by-elections

Technology assisted voting other than telephone voting not to be used

- (1) Technology assisted voting, other than telephone voting for vision impaired or blind electors, is not to be used at—
 - (a) the 2023 general election, or
 - (b) a by-election held during the period after 30 June 2022 and before the 2023 general election.
- (2) Subclause (1) does not prevent the Electoral Commissioner determining under section 162 that technology assisted voting comprising telephone voting for vision impaired or blind electors is not to be used at the 2023 general election.

Schedule 2 Amendment of Electoral Act 2017 No 66— regarding party logos on ballot papers

[1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

registered abbreviation, of the name of a party, means the abbreviation of the name of the party included in the Register of Parties.

registered logo, of a party, means the logo of the party included in the Register of Parties.

registered name, of a party, means the name of the party included in the Register of Parties.

[2] Section 59 Application for registration

Insert after section 59(2)(b)—

- (b1) if the party wishes to be able to use a logo on ballot papers or electoral material—include the following—
 - (i) a copy of the logo as a black and white image in a format determined by the Electoral Commissioner,
 - (ii) a declaration that the use of the logo will not infringe the intellectual property rights of any person,
 - (iii) other requirements relating to the logo as determined by the Electoral Commissioner, and

[3] Section 62, heading

Omit “Party”. Insert instead “Parties and logos”.

[4] Section 62(1)

Insert “or logo” after “party”.

[5] Section 64 Refusal to register

Insert after section 64(5)—

- (5A) The Electoral Commissioner must refuse to register a party if, in the opinion of the Electoral Commissioner, the logo of the party, if any, as set out in the application for registration of the party—
 - (a) is obscene or offensive, or
 - (b) is the logo of a registered party or a party currently represented in Parliament or another person, or
 - (c) so nearly resembles the logo of a registered party or a party currently represented in Parliament or another person it is likely to be confused with or mistaken for the logo, or
 - (d) is one a reasonable person would think suggests a connection or relationship exists between the party and another registered party if that connection or relationship does not in fact exist, or
 - (e) comprises or contains the words “Independent Party” or comprises or contains the word “Independent” and—
 - (i) the name, or an abbreviation or acronym of the name, or logo of a registered party or a party currently represented in Parliament, or

- (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, or logo of a registered party or a party currently represented in Parliament that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.
- (5B) The Electoral Commissioner may refuse to register a party if, in the opinion of the Electoral Commissioner, the logo of the party, if any, as set out in the application for registration of the party—
 - (a) is the logo of a party registered under this Part at any time during the previous 2 years (a *recently deregistered party*), or
 - (b) so nearly resembles the logo of a recently deregistered party it is likely to be confused with or mistaken for the logo, or
 - (c) is one a reasonable person would think suggests a connection or relationship exists between the party and a recently deregistered party if that connection or relationship does not in fact exist, or
 - (d) comprises or contains the words “Independent Party” or comprises or contains the word “Independent” and—
 - (i) the name, or an abbreviation or acronym of the name, or logo of a recently deregistered party, or
 - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, or logo of a recently deregistered party that the matter is likely to be confused with or mistaken for that name, abbreviation, acronym or logo.

[6] Section 64(8)

Insert after section 64(7)—

- (8) Despite subsection (5A), if a party is registered under the Commonwealth Act (a *Commonwealth registered party*), the Electoral Commissioner must not refuse to register the Commonwealth registered party, under this Act, or another party if the Commonwealth registered party has given its consent in writing to the registration, with the same logo as the Commonwealth registered party is registered under the Commonwealth Act by reason only of a ground set out in the following—
 - (a) subsection (5A)(a),
 - (b) subsection (5A)(b) or (c), unless the registered party or party currently represented in Parliament referred to in subsection (5A)(c) or (d) is not registered under the Commonwealth Act.

[7] Section 70 Public access to Register

Insert after section 70(3)(b)—

- (b1) the registered logo of the party, if any,

[8] Section 101 Assembly election ballot papers

Omit “the names of registered parties or the word “Independent” is” from section 101(3)(f).

Insert instead “the names of registered parties and logos, or the word “Independent” and the candidate’s logo, are”.

[9] Section 102 Periodic Council election ballot papers

Insert “and logos” after “names” in section 102(5)(f).

[10] Section 104 Notification of party nomination

Insert after section 104(1)—

- (1A) The registered officer of a registered party may request that the registered logo of the party be appropriately printed on the ballot papers for an election for a candidate who has been nominated by that registered officer.

[11] Section 104(5)

Omit the subsection.

[12] Section 105A

Insert after section 105—

105A Request for use of independent candidate logo

- (1) A candidate, or a person intending to become a candidate, in an Assembly election may make a written request that a logo be printed on the ballot papers for the election adjacent to the candidate's name.
- (2) The request must include the following—
 - (a) a copy of the logo as a black and white image in a format determined by the Electoral Commissioner,
 - (b) a declaration that the use of the logo will not infringe the intellectual property rights of any person,
 - (c) other requirements relating to the logo as determined by the Electoral Commissioner.
- (3) The request must be given to the Electoral Commissioner at least 2 weeks, or another period prescribed by the regulations, before 12 noon on the nomination day.
- (4) The Electoral Commissioner must refuse a request that does not comply with subsection (3).
- (5) The Electoral Commissioner must also refuse a request under this section if, in the opinion of the Electoral Commissioner, the logo—
 - (a) is obscene or offensive, or
 - (b) is the logo of a registered party or a party currently represented in Parliament or another person, or
 - (c) so nearly resembles the logo of a registered party or a party currently represented in Parliament or another person it is likely to be confused with or mistaken for the logo, or
 - (d) is one a reasonable person would think suggests a connection or relationship exists between the candidate and another person or a registered party if that connection or relationship does not in fact exist, or
 - (e) comprises or contains the words “Independent Party” or comprises or contains the word “Independent” and—
 - (i) the name, or an abbreviation or acronym of the name, or logo of a registered party or a party currently represented in Parliament, or
 - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, or logo of a registered party or a party currently represented in Parliament that the matter is likely to be

confused with or mistaken for that name or that abbreviation or acronym.

- (6) The Electoral Commissioner may refuse a request under this section if, in the opinion of the Electoral Commissioner, the logo—
- (a) is the logo of a party registered under Part 6 at any time during the previous 2 years (a *recently deregistered party*), or
 - (b) so nearly resembles the logo of a recently deregistered party it is likely to be confused with or mistaken for the logo, or
 - (c) is one a reasonable person would think suggests a connection or relationship exists between the candidate and a recently deregistered party if that connection or relationship does not in fact exist, or
 - (d) comprises or contains the words “Independent Party” or comprises or contains the word “Independent” and—
 - (i) the name, or an abbreviation or acronym of the name, or logo of a recently deregistered party, or
 - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, or logo of a recently deregistered party that the matter is likely to be confused with or mistaken for that name, abbreviation, acronym or logo.

[13] Section 106 Printing of party name etc on ballot papers

Omit “under this Subdivision” from section 106(1)(b).

Insert instead “under section 104(1)”.

[14] Section 106A

Insert after section 106—

106A Printing of party logo on ballot papers

(1) Assembly elections

The registered logo of a registered party must be printed on the ballot papers adjacent to the name of a candidate in an Assembly election if—

- (a) the candidate has been nominated by the registered officer of the registered party as a candidate in the election, and
- (b) a request has been made for the candidate under section 104(1A).

(2) Periodic Council elections

This subsection applies if—

- (a) 2 or more persons have been nominated as candidates in a periodic Council election by 1 or more registered officers of registered parties, and
- (b) the candidates have duly requested under Division 3 a group voting square for the purposes of the election, and
- (c) a request has been made for the candidates under section 104(1A).

(3) If subsection (2) applies, the following requirements apply to the printing of the ballot papers in the periodic Council election—

- (a) if all the candidates were endorsed by the same party and a group voting square is printed on the ballot papers in relation to the candidates—the registered logo of the registered party must be printed on the ballot papers adjacent to that square,

- (b) if the request under this Subdivision included a request that a composite name be printed adjacent to the group voting square on the ballot papers in relation to the candidates—the registered logos of the registered parties must be printed on the ballot papers adjacent to that square.

106B Printing of independent candidate logo on ballot papers

- (1) The logo of a candidate in an Assembly election must be printed on the ballot papers adjacent to the name of a candidate if—
 - (a) a request has been validly made by the candidate under section 105A, and
 - (b) the Electoral Commissioner has not refused the request.
- (2) Subsection (1) does not apply to a candidate nominated or endorsed by a registered party.

[15] Section 165 Informal ballot papers

Insert after section 165(3)(g)—

- (h) in relation to any ballot paper written by hand—by reason of the failure of the ballot paper having printed on it—
 - (i) the registered logo of a registered party, or
 - (ii) if a composite name was required to be printed on the ballot paper for a periodic Council election—the registered logo of each registered party to which the composite name relates, or
 - (iii) the logo of a candidate as required by section 106B.

[16] Schedule 4 Legislative Assembly ballot paper

Insert after ‘the word “Independent”.’—

Insert the candidate’s logo or the registered party logo of the candidate’s registered party adjacent to the name of the candidate, if appropriate.

[17] Schedule 5

Omit the Schedule. Insert instead—

Schedule 5 Legislative Council ballot paper

Sections 100(3), 103(2) and 155(3)

1 Form of ballot paper for periodic Council election with 33 groups or fewer

NEW SOUTH WALES Election of 21 Members of Legislative Council

You may vote either ABOVE or BELOW the line:

If you vote ABOVE the line:

Write the number **1** in the square for the group of your choice.
 You can show more choices, if you want to, by writing numbers in the other squares, starting with the number **2**.
 Do not write any numbers below the line.
 Fold this ballot paper so your vote cannot be seen and place it in the ballot box (or in the envelope provided).

GROUP A *	GROUP C *	GROUP Q *
<input type="checkbox"/> **	<input type="checkbox"/> **	<input type="checkbox"/> **

OR

If you vote BELOW the line:

Write the numbers **1 to 15** in the squares for candidates in the order of your choice. You must number at least 15 squares for your vote to be counted.
 You can show more choices, if you want to, by writing numbers in the other squares, starting with the number **16**.
 Do not write any numbers above the line.
 Fold this ballot paper so your vote cannot be seen and place it in the ballot box (or in the envelope provided).

GROUP A **	GROUP B **	GROUP C **		GROUP Q **	
<input type="checkbox"/> PARKER Allan ***	<input type="checkbox"/> WILLIAMS Gregory ***	<input type="checkbox"/> LEVY Mark ***		<input type="checkbox"/> BOOKMAN John ***	<input type="checkbox"/> RODGER Jodie ****
<input type="checkbox"/> MILLER John ***	<input type="checkbox"/> ROGERS Ralph ***	<input type="checkbox"/> WOOD Henry ***		<input type="checkbox"/> CRANE June ***	<input type="checkbox"/> PASCALIS Sasha ****
	<input type="checkbox"/> PERCIVAL Eleanor ***				<input type="checkbox"/> ADLER Greg ****
<input type="checkbox"/> MORGAN Albert ***		<input type="checkbox"/> FONG Phillip ***		<input type="checkbox"/> KING Henry ***	<input type="checkbox"/> SPICER Melanie ****
<input type="checkbox"/> LUMSDAINE Elaine ***		<input type="checkbox"/> ILIC Petar ***		<input type="checkbox"/> WILSON Mary ***	
<input type="checkbox"/> POULOS Nicholas ***		<input type="checkbox"/> HAYES Graham ***		<input type="checkbox"/> FRENCH Charles ***	

* Here insert logo of registered party or logos of registered parties forming composite name if to be printed ** Here insert name of registered party or composite name if to be printed
 *** Here insert name of registered party if to be printed **** Here insert name of registered party or word "Independent" if to be printed

2 Form of ballot paper for periodic Council election with more than 33 groups

BALLOT PAPER

NEW SOUTH WALES Election of 21 Members of Legislative Council

You may vote either ABOVE or BELOW the line:

<p style="border: 1px solid black; padding: 2px; text-align: center;">If you vote ABOVE the line:</p> <p>Write the number 1 in the square for the group of your choice. You can show more choices, if you want to, by writing numbers in the other squares, starting with the number 2. Do not write any numbers below the line. Fold this ballot paper so your vote cannot be seen and place it in the ballot box (or in the envelope provided).</p>	<p>GROUP A *</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">**</p>	<p>GROUP L *</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">**</p>	<p>GROUP M *</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">**</p>	<p>GROUP K *</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">**</p>	<p>GROUP V *</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">**</p>		
<p>OR</p> <p style="border: 1px solid black; padding: 2px; text-align: center;">If you vote BELOW the line:</p> <p>Write the numbers 1 to 15 in the squares for candidates in the order of your choice. You must number at least 15 squares for your vote to be counted. You can show more choices, if you want to, by writing numbers in the other squares, starting with the number 16. Do not write any numbers above the line. Fold this ballot paper so your vote cannot be seen and place it in the ballot box (or in the envelope provided).</p>	<p>GROUP A **</p> <p><input type="checkbox"/> PARKER Alan ***</p> <p><input type="checkbox"/> MILLER John ***</p> <p>.....</p> <p><input type="checkbox"/> LUMSDAINE Elaine ***</p>	<p>GROUP B **</p> <p><input type="checkbox"/> WILLIAMS Gregory ***</p> <p><input type="checkbox"/> HANSON Richard ***</p> <p><input type="checkbox"/> HAMMOND Maureen ***</p>	<p>GROUP K **</p> <p><input type="checkbox"/> BROOKMAN John ***</p> <p><input type="checkbox"/> CRANE June ***</p> <p>.....</p> <p><input type="checkbox"/> ILIC Petar ***</p>	<p>GROUP L **</p> <p><input type="checkbox"/> JONES Frederick ***</p> <p>.....</p> <p><input type="checkbox"/> JOHNSON Alice ***</p> <p><input type="checkbox"/> WATSON Reginald ***</p>	<p>GROUP M **</p> <p><input type="checkbox"/> YOUNG David ***</p> <p>.....</p> <p><input type="checkbox"/> TAYLOR George ***</p> <p><input type="checkbox"/> ASSAF Joseph ***</p>	<p>GROUP V **</p> <p><input type="checkbox"/> O'KEEFE John ***</p> <p>.....</p> <p><input type="checkbox"/> McAULIFFE Paul ***</p> <p><input type="checkbox"/> WHITE Veronica ***</p>	<p><input type="checkbox"/> RODGERS Jodie ****</p> <p><input type="checkbox"/> PASCALIS Sasha ****</p> <p><input type="checkbox"/> REID Lisa ****</p> <p><input type="checkbox"/> ADLER Greg ****</p>

* Here insert logo of registered party or logos of registered parties forming composite name if to be printed ** Here insert name of registered party or composite name if to be printed
 *** Here insert name of registered party if to be printed **** Here insert name of registered party or word "Independent" if to be printed

[18] Schedule 7 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provision consequent on enactment of Electoral Legislation Amendment Act 2022

Registered party logo provisions not to extend to local government elections

- (1) The amendments made by the *Electoral Legislation Amendment Act 2022*, Schedule 2 do not apply in relation to a local government election until a date prescribed by the regulations for the purposes of this clause.
- (2) To avoid doubt, the reference in the *Local Government Act 1993*, section 320(2) to the “procedure applicable under Part 6 of the *Electoral Act 2017*” does not include a procedure relating to a registered logo of a party until the prescribed date.

Schedule 3 Amendment of Electoral Funding Act 2018 No 20

[1] Section 4 Definitions

Omit the definition of *auditor*. Insert instead—

auditor includes a person appointed to conduct an audit under section 59(3) or 74(3).

[2] Section 7 Meaning of “electoral expenditure”

Omit “or in auditing campaign accounts” wherever occurring in section 7(1)(h) and (4).

[3] Section 7(4A)

Insert after section 7(4)—

- (4A) For the purposes of Part 3 (Political donations and electoral expenditure), Division 4 (Caps on electoral expenditure for election campaigns), electoral expenditure does not include expenditure incurred on travel and travel accommodation for candidates and staff engaged in electoral campaigning.
- (4B) For the purposes of Part 3 (Political donations and electoral expenditure), Division 4 (Caps on electoral expenditure for election campaigns), electoral expenditure does not include expenditure incurred for office accommodation for a single campaign office for a candidate or a party engaged in an election campaign, including for the campaign headquarters of a party, but only to a maximum amount of \$20,000 for each capped expenditure period.
- (4C) To avoid doubt, expenditure incurred for office accommodation that exceeds the amount referred to in subsection (4B) in a capped expenditure period is electoral expenditure for the purposes of Part 3, Division 4.
- (4D) The amount referred to in subsection (4B) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.
- (4E) Subsection (4A) does not apply to expenditure incurred in connection with a motor vehicle, vessel or aircraft decorated with or displaying advertising or electoral material for a candidate or party.
- (4F) Accordingly, expenditure incurred in connection with a motor vehicle, vessel or aircraft decorated with or displaying advertising or electoral material for a candidate or party is electoral expenditure for the purposes of Part 3, Division 4.

[4] Section 14A

Insert after section 14—

14A Person responsible for making disclosures for dis-endorsed candidates

- (1) This section applies to State elections.
- (2) A party agent of the registered party may, by written notice given in an approved way, notify the Electoral Commission the party has dis-endorsed a candidate.
- (3) Despite subsection 14(1)(d), on and from the receipt of the notice by the Electoral Commission, the person responsible for making a disclosure required under this Part for the candidate is the candidate and not the party agent of the registered party.
- (4) The party agent of the registered party must give a copy of the notice to the candidate.

- (5) A written notice given under subsection (2) is not invalid because of a failure to comply with subsection (4).
- (6) The regulations may make further provision dealing with the consequences of the giving of notices under this section.

[5] Section 15 When disclosures of political donations to be made

Omit “4 weeks” wherever occurring in section 15(1)(b) and (2)(b).

Insert instead “6 weeks”.

[6] Section 15(2)(a)

Omit “4 weeks”. Insert instead “6 weeks”.

[7] Section 17 How are disclosures to be made

Omit section 17(3).

[8] Section 19 Political donations required to be disclosed

Insert “received or” before “made during” in section 19(2).

[9] Section 19(2)(b)

Insert “received or” before “made”.

[10] Part 3, Division 4, note

Omit the note. Insert instead—

Note— Under section 7(4)–(5) certain types of expenditure are taken not to be electoral expenditure for the purposes of this Division (for example, expenditure incurred in raising funds for an election or expenditure on travel and travel accommodation for candidates and staff engaged in electoral campaigning).

[11] Section 29 Applicable caps on electoral expenditure for State election campaigns

Omit section 29(10). Insert instead—

(10) **Third-party campaigners**

For a State general election, the applicable cap for a third-party campaigner is—

- (a) \$1,288,500—if the third-party campaigner was registered under this Act before the commencement of the capped State expenditure period for the election, or
- (b) \$644,300—in other cases.

[12] Section 35 Limit on electoral expenditure—third-party campaigner acting in concert with others

Omit the section.

[13] Section 37 Campaign accounts of parties

Insert “a” before “party agent” in section 37(8).

[14] Section 57 Exception to aggregation for small donations at fundraising ventures and functions

Omit “\$50” from section 57(1)(a). Insert instead “\$100”.

[15] Section 58 Recovery of unlawful donations and expenditure and certain other property developer donations

Omit section 58(5).

[16] Section 59 Electoral Commission may audit disclosures

Omit “an auditor” from section 59(3).

Insert instead “a person, who the Electoral Commission is satisfied has sufficient skills and experience,”.

[17] Section 60 Extension of due date for making disclosures

Insert “on or” before “before” in section 60(1).

[18] Section 63 Definition

Omit “State election” from the definition of *actual campaign expenditure*, paragraph (a).

Insert instead “State general election”.

[19] Section 72 Entitlements to advance payments

Omit section 72(2) and (3). Insert instead—

- (2) A party may receive the following amounts by way of advance payment under this section at the following times—
 - (a) 50% of the total amount to which the party was entitled under this Part in respect of the previous general election, after the commencement of the capped State expenditure period for the general election and before the issue of the writs for the general election,
 - (b) a further 25% of the total amount to which the party was entitled under this Part in respect of the previous general election, after the issue of the writs for the general election.
- (3) The amount payable by way of an advance payment under this section may be paid as a lump sum or in instalments.

[20] Section 74 Electoral Commission may audit claims

Omit “an auditor” from section 74(3).

Insert instead “a person, who the Electoral Commission is satisfied has sufficient skills and experience,”.

[21] Section 87 Public funding of eligible parties for administrative expenditure

Omit “Division” from section 87(4). Insert instead “Part”.

[22] Section 87(4A)

Insert after section 87(4)—

- (4A) Despite subsection (4), the number of endorsed elected members of a party in relation to any quarterly payment for a quarter during which a dissolution or expiry of the Assembly occurs is to be determined as at the date immediately before the date of the dissolution or expiry.

[23] Section 90 Provisions relating to quarterly payments

Omit “party or elected member (or agent of the party or elected member)” from section 90(2).

Insert instead “party or party agent of the party or elected member”.

[24] Section 90(2A)

Insert after section 90(2)—

- (2A) If actual administrative expenditure incurred by or on behalf of a party or elected member in a quarter was less than the maximum amount, if any, the party or elected member would have been eligible to receive under section 87 or 88 for the quarter, had the actual administrative expenditure been incurred, the difference may be carried over to a subsequent quarter in the same calendar year and added to the maximum amount the party or elected member is eligible to receive under section 87 or 88 in the subsequent quarter.

[25] Section 91 Quarterly advance payments

Omit “50%” from section 91(2). insert instead “100%”.

[26] Sections 91(2), (4) and (5)

Omit “section 90” wherever occurring. Insert instead “section 87 or 88”

[27] Part 5, Division 3, note

Omit the note.

[28] Part 5, Division 3

Omit “calendar year” wherever occurring.

Insert instead “financial year”.

[29] Section 93 Public funding of eligible parties for policy development expenditure—payment from New Parties Fund

Omit “63 cents” from section 93(4). Insert instead “70 cents”.

[30] Section 93(5)

Omit “\$12,300” wherever occurring. Insert instead “\$13,300”.

[31] Section 94 Claims for payment

Insert “or financial year” after “calendar year” wherever occurring.

[32] Section 94(7)

Omit “party or elected member or agent of the party or elected member”.

Insert instead “party or party agent of the party or elected member”.

[33] Section 157

Insert after section 156—

157 Registered officer may act when party agent is absent

- (1) If at any time a party agent for a party is absent or otherwise unavailable, the registered officer of the party under the *Electoral Act 2017* or under the *Local Government Act 1993*, as the case requires, may lodge the following on behalf of the party agent—
- (a) a declaration under Part 3, Division 2,
 - (b) a claim for a payment under Part 4 or Part 5.

- (2) Despite subsection (1), a registered officer may lodge a declaration or claim or both on behalf of a party agent only if—
 - (a) the registered officer has completed the training prescribed by the regulations for appointment as a party agent, unless the person is of a class of persons recognised by the regulations as a person eligible for appointment as a party agent without further training, and
 - (b) the party agent or the registered officer has given the Electoral Commission written notice of the party agent's absence or unavailability and the registered officer's intention to lodge declarations or claims or both under this section during the absence or unavailability.
- (3) To avoid doubt, a party agent for a party remains the person responsible for making a disclosure required under Part 3, Division 2 even if the registered officer of the party has lodged a declaration under this section.
- (4) A reference in section 142 to a party agent is taken to include a reference to a registered officer of a party under the *Electoral Act 2017* or under the *Local Government Act 1993* exercising functions under this section.

[34] Schedule 1 Adjustment for inflation of monetary amounts

Omit “and new party policy development” from the heading to clause 5.

[35] Schedule 1, clause 5(1) and (2)

Omit “Divisions 2 and 3 of Part 5” wherever occurring.

Insert instead “Part 5, Division 2”.

[36] Schedule 1, clause 5A

Insert after clause 5—

5A Adjustment of new party policy development amounts

- (1) Each of the adjustable amounts specified in section 93 must be adjusted for inflation for the 2023–24 financial year and each subsequent financial year as provided by this clause.
- (2) The adjustable amounts that are to apply for the 2023–24 financial year are to be determined by multiplying the adjustable amounts specified in section 93 by the annual increase in the Consumer Price Index during the previous financial year.
- (3) The adjustable amounts that are to apply for a subsequent financial year are to be determined by multiplying the adjustable amounts that applied for the previous financial year by the annual increase in the Consumer Price Index during that previous financial year.
- (4) The annual increase in the Consumer Price Index during a financial year must to be calculated as B/A where—

A is the Consumer Price Index number for the last quarter for which that number was published before the start of the financial year.

B is the Consumer Price Index number for the last quarter for which that number was published before the end of the financial year.
- (5) If B/A is less than 1 (as a result of deflation), B/A is deemed to be 1.

- (6) The Electoral Commission must publish notice on the NSW legislation website and its website of the amount of each adjustable amount for a financial year, as adjusted under this Schedule, before the start of the financial year.

5B Adjustment of office accommodation amount excluded from electoral expenditure caps

- (1) The adjustable amount specified in section 7(4B) applies for the first election period that is current when the provision commences and is then to be adjusted for inflation for subsequent election periods as provided by this clause.
- (2) An *election period* is the period between the end of an election day and the end of the election day of a successive general election.
Note— State general elections and local government general elections have different election periods.
- (3) For the purposes of subclause (2), any local government general election held on a day other than a day specified by the *Local Government Act 1993*, section 287(1) is to be disregarded.
Note— The election period for local government general elections is the ordinary 4-year cycle and is to disregard early elections caused by mergers or other causes.
- (4) The adjustable amounts that are to apply for a subsequent election period are to be determined by multiplying the adjustable amounts that applied for the previous election period by the increase in the Consumer Price Index during that previous election period.
- (5) The increase in the Consumer Price Index during an election period is to be calculated as B/A where—
A is the Consumer Price Index number for the last quarter for which the number was published before the start of the election period.
B is the Consumer Price Index number for the last quarter for which the number was published before the end of the election period.
- (6) If B/A is less than 1 (as a result of deflation), B/A is deemed to be 1.
- (7) Before the start of each election period after the election period that is current when this clause commences, the Electoral Commission is to publish notice on the NSW legislation website and its website of the amount of each adjustable amount for the election period that results from an adjustment under this clause.

[37] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provision consequent on enactment of Electoral Legislation Amendment Act 2022

Disclosures of political donations—section 15

Section 15, as in force immediately before the *Electoral Legislation Amendment Act 2022*, Schedule 3[5] and [6] commenced, applies to a half-year or a relevant disclosure period ending on 30 June 2022.

New Parties Fund—change to financial year

Part 5, Division 3, as in force immediately before the *Electoral Legislation Amendment Act 2022*, Schedule 3[27]–[31] and [34]–[36] commenced,

applies, for the period beginning on 1 January 2022 and ending on 30 June 2022, as if—

- (a) the period were a calendar year, and
- (b) the reference in section 93(4) to 63 cents was a reference to 35 cents,
and
- (c) the reference in section 93(5) to \$12,300 was a reference to \$6,650.