

[Act 1999 No 70]



New South Wales

Parliamentary Electorates and Elections Amendment Bill 1999

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*:

- (a) to remove the power of political parties to determine a voter's preferences for other groups of candidates in Legislative Council elections, and
- (b) to revise the requirements of Part 4A of that Act with respect to the registration of political parties.

Amendments relating to group ticket voting in Council elections

The system of parties or other groups of candidates submitting a group voting ticket for Legislative Council elections will be abolished. Under the Bill, a voter who

* Amended in committee—see table at end of volume.

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records a vote for a party or other group “above the line” on the ballot-paper will be recording a vote for the candidates in that party or other group in the order shown “below the line” on the ballot-paper. The full list of candidates shown “below the line” will remain as an option for those voters who do not wish to vote for a party or other group but who wish to record their votes for individual candidates in whatever order of preference they wish. In addition, those voters who record a vote “above the line” for a party or other group will now be able to determine for themselves whether they wish to record preferences for other parties or groups and, if so, the order in which they wish to record their preferences (instead of the decision on whether preferences are to be given and the order in which they are given being determined by the party or other group in the group voting ticket submitted to the Electoral Commissioner). The Bill makes other minor or consequential changes, including with respect to the minimum number of members of a group and the maximum deposit payable by candidates in a group.

Amendments relating to political parties

At present a registered party is entitled to have its registered party name or abbreviation placed on ballot-papers for any election for the Legislative Council or Legislative Assembly. The principal changes made by the Bill to the registration system are as follows:

- (a) A party will be required to have at least 1,000 members to be eligible for registration (instead of at least 200 members). A party will no longer be eligible for registration merely because it is represented in Parliament by one of its members. Two or more parties will not be able to rely on the same party member to qualify or continue to qualify for registration.
- (b) An application for registration of a party will be required to be accompanied by declarations of party membership signed by 1,000 party members.
- (c) An application fee of \$3,500 will be required for any party that seeks registration.
- (d) A new party that becomes registered after the commencement of the proposed amendments will not be eligible, until 12 months after that first registration, to have its registered party name or abbreviation placed on ballot-papers or to be treated as a registered party in connection with the nomination of its candidates, the registration of its electoral material or election funding.
- (e) Registered parties will be required to submit annual returns as to their continuing eligibility to be registered. The Electoral Commissioner will be empowered to request further particulars to confirm eligibility to be registered.

- (f) Existing registered parties will become subject to the new registration requirements from 31 December next after the commencement of the proposed amendments and will be required to submit a special application to confirm their continued eligibility for registration in accordance with the new requirements (including submission of the requisite number of party membership declaration forms and payment of the fee of \$3,500).

The changes made by the Bill and the registration requirements do not apply to parties that are registered under the similar system for local government elections only.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Parliamentary Electorates and Elections Act 1912* set out in Schedules 1 and 2.

Clause 4 is a formal provision giving effect to the consequential amendment to the *Local Government Act 1993* set out in Schedule 3.

Schedule 1 Amendment of Parliamentary Electorates and Elections Act 1912 relating to group ticket voting

Schedule 1 [1], [8] and [12] omit provisions which permit parties or other groups of candidates to submit a group voting ticket for Legislative Council elections that determines the order of preferences for other candidates of those voters who record a first preference vote for the group.

Schedule 1 [2], [3], [6], [7], [9], [10], [11] and [15] continue the provisions which allow a group of candidates to request a voting square “above the line” on the ballot-paper for those voters who wish to record a vote for the group. Since the *Constitution Act 1902* (clause 2 of Sixth Schedule) requires voters to record a vote for at least 15 candidates, Schedule 1 [3] provides that groups of candidates will not be able to have a voting square “above the line” unless there are at least 15

candidates in the group. This change will ensure that voters can, under the revised voting system, continue to record a formal vote “above the line” by giving a first preference vote only for one of the groups of candidates.

Schedule 1 [4] requires a group that has a group voting square to nominate a contingent second preference vote for those ballot-papers on which voters record only a first preference vote to ensure the validity of the vote if a candidate in the group dies or is declared to be ineligible to be a candidate after the close of nominations, and the group ceases to have the minimum 15 candidates.

Schedule 1 [5] reduces the deposit for groups with more than 10 candidates (but not more than 21 candidates) by providing that the maximum deposit for all the candidates in the group is \$5,000. At present each candidate in a group is required to pay a deposit of \$500.

Schedule 1 [13], [14], [16] and [17] alter the method of voting for groups of candidates “above the line” on the ballot-paper. A voter who records a vote for a party or other group “above the line” on the ballot-paper will be recording a vote for the candidates in that party or other group in the order shown “below the line” on the ballot-paper. The full list of candidates shown “below the line” will remain as an option for those voters who do not wish to vote for a party or other group but who wish to record their votes for individual candidates in whatever order of preference they wish. In addition, those voters who record a vote “above the line” for a party or other group will be able to determine for themselves whether they wish to record preferences for other parties or groups and, if so, the order in which they wish to record their preferences (instead of the decision on whether preferences are to be given and the order in which they are given being determined by the party or other group in the group voting ticket submitted to the Electoral Commissioner).

Schedule 1 [18] and [19] set out the revised forms of ballot-papers for Legislative Council elections.

Schedule 2 Amendment of Parliamentary Electorates and Elections Act 1912 relating to political parties

Schedule 2 [1] alters the existing eligibility requirements for registration of a party (namely, that the party is represented in Parliament by at least one member or has at least 200 members). Under the new requirements:

- (a) a party will be required to have at least 1,000 members, and

(b) a party will not be eligible to be registered merely because it is represented in Parliament by one of its members.

Schedule 2 [2] provides that 2 or more parties cannot rely on the same party member to qualify or continue to qualify for registration. Registered parties will be given an opportunity to change the members on whom they rely to avoid cancellation of their registration on that ground. Section 66G (4) of the Principal Act already gives an applicant for registration of a party an opportunity to change the application to avoid a refusal of the application on that ground.

Schedule 2 [3], [6], [8] and [11] make consequential amendments.

Schedule 2 [4] makes a consequential amendment and requires an application for registration of a party to be accompanied by party membership declarations signed by the requisite number of party members.

Schedule 2 [5] requires an applicant for registration of a party to pay an application fee of \$3,500.

Schedule 2 [7] provides that a new party that becomes registered after the commencement of the proposed amendments will not be eligible, until 12 months after that first registration, to have its registered party name or abbreviation placed on ballot-papers (section 83H) or to be treated as a registered party in connection with the nomination of its candidates (sections 79 and 81B), the registration of its electoral material (section 151G) or election funding. The provision does not apply to existing registered parties. The postponement of the application of the election funding provisions will not alter the amount of funding for which the party would be eligible if it contests an election, but will require any such funding to be provided on the basis that the candidates endorsed by the party for an election during the period are an independent group of candidates.

Schedule 2 [9] provides that the \$3,500 application fee for registration does not apply to an application for the amendment of the Register of Parties (but enables another fee to be prescribed by the regulations). The amendment also enables the Electoral Commissioner to dispense with the requirement for advertising an application for such an amendment that is minor and does not warrant advertising.

Schedule 2 [10] inserts a provision that will require registered parties to submit annual returns as to their continuing eligibility to be registered. The Electoral Commissioner will also be empowered at any time, including in connection with such a return or a registration application, to request further particulars to confirm eligibility to be registered.

Schedule 2 [12] ensures that applications for registration (together with the documents that accompany the applications) are available for public inspection.

Schedule 2 [13] provides that prescribed or approved party registration or other forms may require information to be verified by statutory declaration and ensures that the existing power of the Electoral Commissioner to require information in an application for registration to be verified by statutory declaration extends to all applications, returns and requirements for information made in connection with the registration of parties.

Schedule 2 [14] provides that existing registered parties will become subject to the new registration requirements on 31 December next after the commencement of the proposed amendments and will be required to submit a special application to confirm their continued eligibility for registration in accordance with the new requirements (including submission of the requisite number of party membership declaration forms and the payment of the fee of \$3,500).

Schedule 3 Consequential amendment of Local Government Act 1993

The Schedule makes a consequential amendment to section 320 of the *Local Government Act 1993* (which provides that parties registered under Part 4A of the *Parliamentary Electorates and Elections Act 1912* are taken to be registered for the purposes of elections under the *Local Government Act 1993* and enables parties to be specially registered for those elections in accordance with the procedure in Part 4A).

The amendment provides that the new registration requirements and other changes made to Part 4A of the *Parliamentary Electorates and Elections Act 1912* do not apply to parties specially registered for the purposes of elections under the *Local Government Act 1993*.