

Passed by both Houses



New South Wales

# Electoral Amendment (COVID-19) Bill 2021

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council*  
2021

*Clerk of the Parliaments*



New South Wales

## **Electoral Amendment (COVID-19) Bill 2021**

Act No           , 2021

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An Act to amend the *Electoral Act 2017* to provide for by-elections held during the COVID-19 pandemic.

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Electoral Amendment (COVID-19) Act 2021*.

**2 Commencement**

This Act commences on the date of assent to this Act.

## Schedule 1 Amendment of Electoral Act 2017 No 66

### Part 10, Division 3

Insert after clause 271—

### Division 3 By-elections during COVID-19 pandemic

#### 272 Definition

In this Division—

*prescribed period* means the period—

- (a) starting at the beginning of the day on which this Division commences, and
- (b) ending at the end of 30 June 2022.

#### 273 Early voting and postal voting

- (1) If a by-election is held during the prescribed period, an elector may apply under section 113 to vote before election day, whether or not the elector is unable to attend at a voting centre on election day, as referred to in section 6.
- (2) If a by-election is held during the prescribed period, an elector may apply under section 143 to vote by post if the elector—
  - (a) is self-isolating because of COVID-19 related reasons, or
  - (b) reasonably believes that attending a voting centre 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
  - (c) is a permanent or temporary resident in a hospital, nursing home, retirement village or similar facility.

#### 274 Regulation-making power

- (1) The regulations may modify the application of this Act for a by-election held during the prescribed period, for the purposes of responding to the public health emergency caused by the COVID-19 pandemic.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if the proposed regulations are—
  - (a) in accordance with advice issued by the Electoral Commissioner, and
  - (b) reasonable to protect the health, safety and welfare of persons from risk of harm caused by the COVID-19 pandemic.
- (3) A copy of the following must be tabled in each House of Parliament before a regulation is made under this section—
  - (a) advice issued by the Electoral Commissioner referred to in subsection (2)(a),
  - (b) any advice obtained by the Minister from the Chief Health Officer in relation to the making of the regulation.
- (4) Regulations made under this section—
  - (a) are not limited by the regulation-making power in this Act, and
  - (b) may override the provisions of this Act.
- (5) A regulation made under this section must not enable a by-election to be conducted exclusively by—

- (a) postal voting, or
  - (b) postal voting and technology assisted voting, within the meaning of Part 7, Division 11.
- (6) A regulation must not be made under this section in relation to a by-election held during the prescribed period that—
- (a) restricts or prevents a person from displaying a poster or handing out tangible electoral material in accordance with this Act, or
  - (b) enables the Electoral Commissioner or an election official to give a direction to a person restricting or preventing the person from displaying a poster or handing out tangible electoral material in accordance with this Act, or
  - (c) restricts or otherwise modifies provisions of this Act relating to the following—
    - (i) the number of scrutineers that may be appointed by a candidate or registered party,
    - (ii) the entitlement of a scrutineer to be present in a voting centre or ballot counting place,
    - (iii) the functions of a scrutineer, or
  - (d) enables the Electoral Commissioner or an election official to give a direction to a person that restricts or otherwise modifies the matters specified in paragraph (c).
- (7) A regulation made under this section is repealed at the end of the day on which this Division is repealed.

**275 Repeal of Division**

This Division is repealed at the end of 30 June 2022.