

[Act 1998 No 141]



New South Wales

Local Government Legislation Amendment (Elections) Bill 1998

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Local Government Act 1993* to make a number of miscellaneous changes relating to all council elections, including:
 - (i) to clarify obligations of councils to notify the Electoral Commissioner of changes in ward boundaries,
 - (ii) to authorise the Electoral Commissioner instead of the returning officer to fix the date for holding a by-election.
 - (iii) to make it clear that a candidate for civic office must be qualified to hold that office in order to be nominated for election (in addition to being enrolled as an elector for the area concerned).
 - (iv) to provide for candidate information sheets rather than candidate resumes in order to expand the matters that may be included in them.

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

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- (v) to allow group voting tickets at all council elections and not just at elections for council areas not divided into wards,
 - (vi) to alter the procedure for recording a failure to vote,
 - (vii) to require groups to make declarations of electoral contributions and expenditure,
 - (viii) to extend the period for lodging declarations of electoral contributions and expenditure from 3 months to 4 months after an election,
- (b) to amend the *City of Sydney Act 1988* to make a number of miscellaneous changes relating to elections for the City of Sydney, including:
- (i) to provide for the updating of the roll of non-residential electors for the purposes of each election, and to provide that those electors are not to be enrolled unless they duly apply for enrolment for the purposes of each such election,
 - (ii) to require non-residential electors who are ratepaying lessees in the City to be residents of New South Wales (as is the case for non-resident electors who are occupiers of land in the City).
 - (iii) to ensure that non-residential electors (or, in the case of corporations. their nominees) are qualified as electors for the State parliament or the Commonwealth Parliament, including voting age qualification,
 - (iv) to treat partnerships in the same way as corporations with respect to qualification for enrolment as non-residential electors. namely. to require them to nominate a single elector instead of each partner being qualified to vote.

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 *Local Government Act 1993* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *City of Sydney Act. 1988* set out in Schedule 2.

Schedule 1 Amendment of Local Government Act 1993

Schedule 1 contains the changes to the *Local Government Act 1993* mentioned above relating to all council elections.

Schedule 1 [1]–[3] clarify the obligations of councils to notify the Electoral Commissioner of changes in ward boundaries. The amendments make it clear that the changes are determined by councils and do not require the approval of the Electoral Commissioner.

Schedule 1 [4] authorises the Electoral Commissioner instead of the returning officer to fix the date for holding a council by-election.

Schedule 1 [5] makes it clear that a candidate for civic office must be qualified to hold that office in order to be nominated for election (in addition to being enrolled as an elector for the area concerned). Sections 274 and 275 of the *Local Government Act 1993* set out the qualifications for holding civic office.

Schedule 1 [6]–[8] provide for candidate information sheets in council elections rather than candidate resumes in order to expand the matters that may be included in them (for example, the inclusion of statements of future policies of the candidate).

Schedule 1 [9] allows group voting tickets at all council elections and not just at elections for council areas not divided into wards.

Schedule 1 [10]–[16] alter the procedure for recording a failure to vote and the action taken to deal with that failure. The amendments replace a procedure based on the making of notations on the electoral rolls used at an election with the procedure applicable in Commonwealth elections of the preparation of a separate list of non-voters. The amendments also update a superseded reference to courtesy letters under the *Justices Act 1902*.

Schedule 1 [17]–[20] require groups at council elections to make declarations of electoral contributions and expenditure and extend the period for lodging declarations of electoral contributions and expenditure from 3 months to 4 months after a council election.

Schedule I [21] and [22] make amendments of a savings or transitional nature.

Schedule 2 Amendment of City of Sydney Act 1988

Schedule 2 contains the changes to the *City of Sydney Act 1988* mentioned above relating to elections for the City of Sydney.

Schedule 2 [1], [5], [8]–[13] provide for the updating of the roll of non-residential electors for the purposes of each election for the City of Sydney. and provide that those electors are not to be enrolled unless they

duly apply for enrolment for the purposes of each such election. The amendments apply the procedure applying in the last general council election whereby the general manager of the council is required to send, before the election, a claim for enrolment to each person on the list of non-residential electors.

Schedule 2 [2] requires non-residential electors who are ratepaying lessees in the City to be of New South Wales (as is the case for non-resident electors who are occupiers of land in the City).

Schedule 2 [3] makes a consequential amendment to ensure that the provisions of the Act will continue to apply if the City of Sydney were divided into wards.

Schedule 2 [4] and [7] ensure that non-residential electors (or, in the case of corporations, their nominees) are qualified as electors for the State Parliament or the Commonwealth Parliament, including voting age qualification.

Schedule 2 [6] provides that partnerships are to be treated in the same way as corporations with respect to qualification for enrolment as non-residential electors, namely, to require them to nominate a single elector instead of each partner being qualified to vote.

Schedule 2 [14] and [15] make consequential amendments to the provisions relating to compulsory voting. It preserves the requirement for compulsory voting of residential electors and of persons who have been enrolled as non-residential electors.

Schedule 2 [16] ensures that the relevant provisions applying to elections in the City of Sydney apply to council polls and constitutional referendums in the City.

Schedule 2 [17] and [18] make amendments of a savings or transitional nature.