



New South Wales

Local Government Amendment (Elections) Bill 2025

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Local Government Act 1993 No 30	3
Schedule 2	Consequential amendments of Local Government (General) Regulation 2021	10

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Local Government Amendment (Elections) Bill 2025

No , 2025

A Bill for

An Act to amend the *Local Government Act 1993* to provide for matters relating to the administration of elections for local councils; and to make consequential amendments to the *Local Government (General) Regulation 2021*.

EXAMINED

Speaker

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Local Government Amendment (Elections) Act 2025</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1 Amendment of Local Government Act 1993 No 30

[1] Section 233 For what period is a councillor elected?	2
Insert “or appointed” after “elected” in section 233(3).	3
[2] Section 291A Countback to be held instead of by-election in certain circumstances	4
Omit section 291A(4). Insert instead—	5
(4) A countback election to fill a casual vacancy to which this section applies must be administered by a returning officer appointed by the Electoral Commissioner.	6 7 8
[3] Section 291A(5A)	9
Omit the subsection.	10
[4] Section 291A(7)	11
Insert after section 291A(6)—	12
(7) This section is repealed immediately before the day on which the next ordinary election after the commencement of this subsection is held.	13 14
Note— From the day on which the next ordinary election after the commencement of this subsection is held, section 291B provides for the filling of casual vacancies involving groups on ballot-papers.	15 16 17
[5] Section 291B	18
Insert after section 291A—	19
291B Filling of casual vacancies—groups of candidates	20
(1) This section applies to a casual vacancy in the office of a councillor if—	21
(a) at the election at which the person was elected, the name of the person (the <i>relevant person</i>) who caused the vacancy was included in a group on the ballot-papers, and	22 23 24
Note— See section 308A, which provides for the grouping of candidates for an election.	25 26
(b) the vacancy occurs after the relevant day.	27
(2) The Governor must, in accordance with the regulations, appoint to fill the vacancy—	28 29
(a) the candidate (the <i>second candidate</i>) whose name was the highest appearing on the ballot-papers of the unsuccessful candidates from the same group, or	30 31 32
(b) if the second candidate cannot, because of the operation of subsection (3), be appointed—the candidate whose name was the highest appearing on the ballot-papers, after the second candidate’s name, of the unsuccessful candidates from the same group, or	33 34 35 36
(c) if a candidate cannot be appointed under paragraph (b) because of the operation of subsection (3)—the next candidate, from the same group, whose name was the highest appearing on the ballot-papers, after the relevant person’s name and the second candidate’s name, who can be appointed under this section.	37 38 39 40 41
(3) The Governor must not appoint a person under subsection (2) if—	42
(a) the person already holds civic office, or	43

	(b) the person does not agree to being appointed to fill the casual vacancy, or	1 2
	(c) the person has failed to make a statement to the Electoral Commissioner, in a form approved by the Commissioner, that the person is not aware of any circumstances that may result in the person being disqualified from holding civic office under section 275, or	3 4 5 6
	(d) the person is prevented from holding civic office by section 276(2), or	7
	(e) for a relevant person who was endorsed by a registered political party—the registered officer of the registered political party has advised the Electoral Commissioner that the political party does not endorse the person’s appointment to fill the casual vacancy, or	8 9 10 11
	(f) the person would not otherwise be eligible to be elected to the council at the time of the person’s appointment.	12 13
	(4) If the Governor is not able to appoint a person to fill the casual vacancy under subsection (2) because there are no remaining candidates in the same group on the ballot-papers, the Electoral Commissioner must give the general manager of the council notice that—	14 15 16 17
	(a) an appointment cannot be made to fill the vacancy, and	18
	(b) a by-election must be held to fill the vacancy.	19
	(5) A by-election for the purposes of subsection (4)(b) must be administered not more than 3 months after the day on which the Electoral Commissioner gives the general manager of the council notice under subsection (4).	20 21 22
	(6) The regulations may provide for matters relating to the arrangements for filling casual vacancies in civic offices.	23 24
	(7) In this section—	25
	<i>relevant day</i> means the day on which the first ordinary election after the commencement of this section occurs.	26 27
[6]	Section 292 When is a by-election to be held?	28
	Omit section 292(b). Insert instead—	29
	(b) is fixed by the Electoral Commissioner.	30
[7]	Section 292(2)	31
	Insert at the end of the section—	32
	(2) If a countback election fails or the returning officer is otherwise unable to fill the casual vacancy by a countback election, the period under subsection (1)(a) must be calculated as if the vacancy occurred on the day immediately following the day on which the returning officer notifies the general manager under section 291A(5)(a).	33 34 35 36 37
[8]	Section 294 Dispensing with by-elections	38
	Insert after section 294(4)—	39
	(5) This section does not apply to a casual vacancy to which section 291B applies.	40
[9]	Sections 296–296D	41
	Omit sections 296AA–296B. Insert instead—	42

296 Elections to be administered by Electoral Commissioner

- (1) Elections must be administered by the Electoral Commissioner.
Note— Section 18 provides that certain provisions of this Act relating to the administration of elections apply to council polls and constitutional referendums, with necessary modifications, in the same way as the provisions apply to an election.
- (2) This section does not apply to an election of a mayor or a deputy mayor by councillors.
- (3) Expenses incurred by the Electoral Commissioner in connection with the administration of an election, poll or referendum—
 - (a) must be met by the council, and
 - (b) are recoverable from the council as a debt owed to the Electoral Commissioner.
- (4) To avoid doubt, subsection (3) applies to an election that—
 - (a) is uncontested, or
 - (b) has failed, or
 - (c) has been postponed by the Minister under Part 6A.
- (5) The Electoral Commissioner may apportion the expenses incurred by the Electoral Commissioner in connection with the administration of an election, poll or referendum between 2 or more councils in the way the Electoral Commissioner considers appropriate.
- (6) The expenses incurred by the Electoral Commissioner in connection with the administration of an election, poll or referendum include expenses incurred by the Electoral Commissioner in performing functions relating to the administration of elections, polls and referendums generally, including—
 - (a) the remuneration, allowances and reasonable expenses paid to election officials and members of staff of the Electoral Commission, and
 - (b) the costs of making appropriate administrative arrangements for the administration of elections, polls and referendums.
- (7) The Electoral Commissioner may decide to recover all or part of the expenses incurred in connection with the administration of an election, poll or referendum.
- (8) Without limiting this section, the regulations may make further provision about the following in connection with the administration of elections, polls and referendums—
 - (a) the types of expenses recoverable by the Electoral Commissioner,
 - (b) the recovery of expenses incurred by the Electoral Commissioner.

296A Election services plan

- (1) The Electoral Commissioner may decide to prepare a plan (an ***election services plan***) for the administration of an election, poll or referendum of a council.
- (2) An election services plan must include an estimate of the expenses to be incurred by the Electoral Commissioner in connection with the administration of the election, poll or referendum.
- (3) The Electoral Commissioner must consult with the council in preparing an election services plan.
- (4) To avoid doubt—

	(a) the expenses incurred by the Electoral Commissioner in connection with the administration of an election, poll or referendum are recoverable by the Electoral Commissioner whether or not the expenses have been estimated in an election services plan, and	1 2 3 4
	(b) a decision not to prepare an election services plan for an election, poll or referendum of a council does not prevent the Electoral Commissioner from administering the election, poll or referendum.	5 6 7
296B	Appointment of returning officers, substitute returning officers and electoral officials	8 9
	(1) The Electoral Commissioner must appoint the following for each area—	10
	(a) a returning officer,	11
	(b) a substitute returning officer.	12
	(2) The returning officer must conduct elections on behalf of, and under the direction of, the Electoral Commissioner.	13 14
	(3) In the absence of the returning officer, the substitute returning officer must exercise the functions of the returning officer.	15 16
	(4) The Electoral Commissioner must appoint one or more electoral officials.	17
	(5) An employee of a council for an area—	18
	(a) must not be appointed as a returning officer or substitute returning officer for the area, but	19 20
	(b) may be an electoral official.	21
	(6) For the purpose of conducting an election, the returning officer and substitute returning officer for an area are entitled to access any relevant records of the council for the area.	22 23 24
296C	Conduct of elections	25
	(1) For the purpose of conducting an election, the Electoral Commissioner must—	26
	(a) appoint polling places, and	27
	(b) determine the fees payable to the returning officer, substitute returning officer and electoral officials, and	28 29
	(c) determine other matters not provided for by this Act or the regulations.	30
	(2) A polling place for an election in relation to an area must not be located outside the area other than as provided for by the regulations.	31 32
	(3) An elector may vote in person before the election day for an election only—	33
	(a) in the 5 business days immediately before the election day, or	34
	(b) on the Saturday before the election day, or	35
	(c) as otherwise determined by the regulations.	36
	(4) The regulations may provide for other matters relating to pre-poll voting.	37
	(5) Each of the following persons must not vote at an election the person is administering—	38 39
	(a) the Electoral Commissioner,	40
	(b) the returning officer,	41
	(c) the substitute returning officer.	42

296D	Application of Electoral Act 2017, section 15	1
	To avoid doubt, the <i>Electoral Act 2017</i> , section 15 applies in relation to the Electoral Commissioner exercising the Electoral Commissioner's function of administering elections, polls and referendums under this Act.	2 3 4
[10]	Section 298 Residential roll	5
	Omit section 298(3)–(8) and the penalty.	6
[11]	Section 299 Non-residential roll	7
	Omit section 299(3).	8
[12]	Section 299(4)	9
	Omit “(in relation to an election administered by the Electoral Commissioner)”.	10
[13]	Section 300 Roll of occupiers and ratepaying lessees	11
	Omit section 300(3).	12
[14]	Section 300(4)	13
	Omit “(in relation to an election administered by the Electoral Commissioner)”.	14
[15]	Section 313 Check on double-voting and failure to vote	15
	Omit section 313(2).	16
[16]	Section 317 Validity of elections	17
	Omit section 317(1)(c). Insert instead—	18
	(c) the time for closing the poll for postal voting was extended with the approval of the Electoral Commissioner, or	19 20
[17]	Section 328A General manager to keep register of political donation disclosures	21
	Insert “or countback election” after “by-election” in section 328A(2).	22
[18]	Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts	23
	Insert at the end of the schedule, with appropriate part and clause numbering—	24 25
Part	Provisions consequent on enactment of Local Government Amendment (Elections) Act 2025	26 27
	Definitions	28
	In this part—	29
	<i>amendment Act</i> means the <i>Local Government Amendment (Elections) Act 2025</i> .	30 31
	<i>countback election</i> has the same meaning as in section 291A.	32
	Countback election for Fairfield City Council	33
	(1) This clause applies to a countback election to fill a casual vacancy in Fairfield City Council if the casual vacancy occurs before 14 March 2026.	34 35
	(2) Subject to subclause (3), this Act and the regulations made under this Act, as in force immediately before the commencement of the amendment Act,	36 37

	continue to apply to the countback election as if this Act and the regulations had not been amended by the amendment Act.	1 2
(3)	The amendments made to section 292 by the amendment Act apply if a countback election for Fairfield City Council fails or the returning officer for the election is otherwise unable to fill the casual vacancy by the countback election.	3 4 5 6
	By-election for Brewarrina Shire Council	7
(1)	This clause applies if—	8
(a)	before the commencement of the amendment Act, a casual vacancy occurred in the Brewarrina Shire Council, and	9 10
(b)	a countback election to fill the casual vacancy fails or failed, or the returning officer for the election is otherwise unable to fill the casual vacancy by the countback election.	11 12 13
(2)	The casual vacancy must be filled by a by-election under Chapter 10, Part 5 as if the by-election had been held within the period specified in section 292(1)(a).	14 15 16
(3)	This clause applies despite any other provision of this Act.	17
	Amendment of provisions relating to countback elections	18
(1)	The amendments made by subclauses (2) and (3) commence on the day section 291A is repealed.	19 20
(2)	Section 328A(2) is amended by omitting “or countback election”.	21
(3)	The dictionary, definition of <i>election</i> , paragraph (c1) is omitted.	22
[19]	Schedule 10 Further provisions about de-amalgamation proposals, de-amalgamation constitutional referendums and de-amalgamations	23 24
	Omit “sections 296AA–296A and” from clause 5(1)(b).	25
[20]	Schedule 11 Rural and remote councils	26
	Omit clause 6(3).	27
[21]	Schedule 11, clause 6(4)	28
	Omit “, 296AA, 296(1) and 296A”.	29
[22]	Schedule 11, clause 8(6)	30
	Insert after clause 8(5)—	31
(6)	Subclause (3)(b) is repealed on the day section 291A is repealed.	32
[23]	Dictionary	33
	Insert after the definition of <i>election</i> , paragraph (c)—	34
(c1)	a countback election, or	35
[24]	Dictionary	36
	Insert in alphabetical order—	37
	<i>Electoral Commission</i> means the New South Wales Electoral Commission constituted under the <i>Electoral Act 2017</i> .	38 39

registered political party means a political party registered under Chapter 10,
Part 7.

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2

Schedule 2 Consequential amendments of Local Government (General) Regulation 2021

- | | |
|--|----|
| | 1 |
| | 2 |
| [1] Whole regulation, except as otherwise amended by this schedule | 3 |
| Omit “election manager” wherever occurring. Insert instead “Electoral Commissioner”. | 4 |
| [2] Whole regulation, except as otherwise amended by this schedule | 5 |
| Omit “election manager’s website” wherever occurring. | 6 |
| Insert instead “Electoral Commission’s website”. | 7 |
| [3] Section 275 Definitions | 8 |
| Omit section 275(1), definitions of <i>election manager</i> , <i>Electoral Commission</i> , <i>electoral services provider</i> and <i>registered political party</i> . | 9 |
| | 10 |
| [4] Section 275(4) | 11 |
| Omit the subsection. | 12 |
| [5] Section 275A(1) | 13 |
| Omit “election manager’s functions”. Insert instead “Electoral Commissioner’s functions”. | 14 |
| [6] Section 295 Returning officer to nominate candidates | 15 |
| Omit section 295(4). | 16 |
| [7] Section 295(5) | 17 |
| Omit “under subsection (4)”. | 18 |
| [8] Section 297 Polling places | 19 |
| Omit section 297(1A) and (3). | 20 |
| [9] Section 305 Form of ballot-papers | 21 |
| Omit section 305(2). Insert instead— | 22 |
| (2) Every ballot-paper must contain a mark that has been determined by the Electoral Commissioner. | 23 |
| | 24 |
| [10] Section 316 Electors entitled to postal vote | 25 |
| Omit section 316(2). | 26 |
| [11] Section 326 Pre-poll voting offices and times | 27 |
| Omit section 326(1). Insert instead— | 28 |
| (1) The Electoral Commissioner must determine the hours of operation of the pre-poll voting offices to be used to enable electors to vote in person before election day in accordance with this subdivision. | 29 |
| | 30 |
| | 31 |
| Note— See the Act, section 296C(3), which provides that an elector may vote in person during the 5 business days immediately before the election. | 32 |
| | 33 |
| [12] Section 332A Mobile booths for pre-poll voting in remote local government areas | 34 |
| Omit “Election manager’s functions” from section 332A(1), heading. | 35 |
| Insert instead “Electoral Commissioner’s functions”. | 36 |

[13] Section 333M Technology assisted voting	1
Omit “a website maintained by the election manager” from section 333M(1B).	2
Insert instead “the Electoral Commission’s website”.	3
[14] Section 335 Polling place—arrangements	4
Omit “returning officer” wherever occurring in section 335(1) and (2).	5
Insert instead “Electoral Commissioner”.	6
[15] Section 335(5)	7
Omit the subsection. Insert instead—	8
(5) Functions of polling place managers and other election officials	9
The functions of polling place managers and other election officials must,	10
subject to the Act and this regulation, be determined by the Electoral	11
Commissioner.	12
[16] Section 348 Directions in relation to ballot counting places	13
Omit “An election manager” from section 348(2).	14
Insert instead “The Electoral Commissioner”.	15
[17] Section 356 Declaring the election	16
Omit section 356(3)(b). Insert instead—	17
(b) deliver or send a copy of the written declaration to the Secretary, the	18
Chief Executive Officer of Local Government NSW and the relevant	19
general manager, and	20
[18] Section 356B Non-complying electoral material	21
Omit “, the Electoral Commission or an electoral services provider” from section 356B(i).	22
Insert instead “or the Electoral Commission”.	23
[19] Section 356OA Definition	24
Omit the section.	25
[20] Sections 356P(1) and (6)–(8), 356Q(1)–(3) and (5), 356R(4) and 356S(1)	26
Omit “electoral material registrar” wherever occurring.	27
Insert instead “Electoral Commissioner”.	28
[21] Section 383 Suspension of voting	29
Omit “An election manager” from section 383(1).	30
Insert instead “The Electoral Commissioner”.	31
[22] Section 388A Special format of ballot-papers	32
Omit “election manager’s role” from section 388A(11), heading.	33
Insert instead “Electoral Commissioner’s role”.	34
[23] Section 391 Security of election materials	35
Omit “election manager’s obligation” from section 391(5).	36

Insert instead “Electoral Commissioner’s obligation”.	1
[24] Section 391A Provisional voting envelopes	2
Omit the section.	3
[25] Section 393A General manager to report on election	4
Omit the section.	5
[26] Section 393C Countback elections	6
Insert after section 393C(3)—	7
(4) This section is repealed on the day the Act, section 291A is repealed.	8
[27] Section 393D	9
Insert after section 393C—	10
393D Filling of casual vacancies—groups of candidates—the Act, s 291B	11
(1) Before the Governor may appoint a person under the Act, section 291B to fill a casual vacancy, the Electoral Commissioner must give notice to each person included in the same group of candidates on the ballot-papers at the election at which the person who caused the casual vacancy was elected.	12 13 14 15
(2) The notice must—	16
(a) be given not more than 14 days after the Electoral Commissioner is given notice of the vacancy, and	17 18
(b) include the following information—	19
(i) that a casual vacancy in the office of a councillor has occurred,	20
(ii) that the person may apply to the Electoral Commissioner for the person to be appointed by the Governor to fill the vacancy,	21 22
(iii) the date and time applications close (the <i>close of applications</i>), being not more than 14 days after the giving of the notice,	23 24
(iv) the documents and other information the Electoral Commissioner requires to be included in the application.	25 26
(3) An application to the Electoral Commissioner for a person to be appointed by the Governor to fill the vacancy must—	27 28
(a) be in the form approved by the Electoral Commissioner, and	29
(b) include the documents and other information requested by the Commissioner in the notice.	30 31
(4) The Electoral Commissioner must, within 7 days after the close of applications, give the Minister notice about whether a person is available for appointment to fill the vacancy in accordance with the Act, section 291B.	32 33 34
(5) If the Minister receives notice from the Electoral Commissioner under subsection (4) that a person is available for appointment to fill the vacancy, the Minister must recommend to the Governor that the person be appointed to fill the vacancy.	35 36 37 38
(6) As soon as practicable after the appointment of the person to fill the vacancy, the Minister must give notice of the appointment to the following persons—	39 40
(a) the person appointed to fill the vacancy,	41
(b) the Electoral Commissioner,	42

	(c) the general manager of the council,	1
	(d) the Departmental Chief Executive,	2
	(e) the Chief Executive Officer of Local Government NSW.	3
[28]	Schedule 9A Countback elections	4
	Omit section 2(1A)–(2). Insert instead—	5
	(1) After a casual vacancy that must be filled by a countback election occurs, the Electoral Commissioner must appoint a returning officer to conduct the countback election.	6 7 8
	(2) The returning officer must be appointed within 14 days after the Electoral Commissioner is given notice of the casual vacancy under section 285.	9 10
[29]	Schedule 9A, section 2(3)	11
	Omit “being given notice or”.	12
[30]	Schedule 9A, section 2(3)(a)	13
	Omit the paragraph. Insert instead—	14
	(a) arrange for the publication of the casual vacancy on the Electoral Commission’s website and the relevant council’s website, and	15 16
[31]	Schedule 9A, section 2(5)(a)	17
	Omit “of the relevant council’s website”.	18
	Insert instead “on the Electoral Commission’s website”.	19
[32]	Schedule 9A, section 8(4)(a)(iv)	20
	Omit the subparagraph.	21
[33]	Schedule 9A	22
	Insert at the end of the schedule, with appropriate part and clause numbering—	23
	Part Repeal of schedule	24
	Repeal	25
	This schedule is repealed on the day the Act, section 291A is repealed.	26