

Act No. 23

**LOCAL GOVERNMENT (ELECTIONS) AMENDMENT
BILL 1987***

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Local Government Act 1919 to make provision for—

- (a) the conduct by the Electoral Commissioner holding office under the Parliamentary Electorates and Elections Act 1912 of elections and polls under the Local Government Act 1919 at which voting is compulsory for resident electors;
- (b) the maintenance by the Electoral Commissioner of a roll of resident electors eligible to vote at such an election or poll;
- (c) the preparation by the town or shire clerk, as the need arises, of a roll of non-residential electors eligible to vote at such an election or poll;
- (d) the issue by the town or shire clerk of a penalty notice where a resident has failed to vote at such an election; and
- (e) other miscellaneous matters.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 provides that the Local Government Act 1919 is referred to in the proposed Act as the Principal Act.

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

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Clause 4 is a formal provision that gives effect to the Schedules of amendments.

Clause 5 dispenses with the necessity for an election of the Warringah Shire Council on the statutory date for council elections (26 September 1987) if a fresh election for the council is held in 1987 before that date.

Clause 6 gives effect to the transitional provisions in Schedule 7.

Clause 7 amends the Justices Act 1902 in a manner that applies the follow up and enforcement provisions of that Act to penalty notices served on persons who fail to vote at an election or poll under the Principal Act at which voting is compulsory.

SCHEDULE 1—AMENDMENTS TO PART I OF THE PRINCIPAL ACT

Schedule 1 inserts in the Principal Act certain definitions required for the purposes of the amendments to be effected by the proposed Act.

SCHEDULE 2—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT

Schedule 2 (1) enables the Electoral Commissioner to conduct any poll required to be held for the purpose of determining whether a mayor or shire president should be elected by the electors at a general election.

Schedule 2 (2) provides that the holder of a civic office does not incur disqualification from office because of a loss, while holding the office, of qualification as an elector.

Schedule 2 (3) provides for vacation of office by an alderman or councillor after failing to attend 3 consecutive ordinary meetings of the council without the leave of the council.

Schedule 2 (4) clarifies the meaning of "year" in relation to the number of meetings of a council during a year.

Schedule 2 (5) enables the Minister, on the application of a council, to dispense with an election to fill an extraordinary vacancy on the council if the vacancy occurs after 1 January in the year of an ordinary election.

Schedule 2 (6) requires the returning officer to obtain the approval of the Electoral Commissioner before fixing and advertising the date for an extraordinary election.

Schedule 2 (7) makes consequential amendments.

Schedule 2 (8) makes a consequential amendment.

SCHEDULE 3—AMENDMENTS TO PART V OF THE PRINCIPAL ACT

Schedule 3 (1) makes a consequential amendment.

Schedule 3 (2) makes a consequential amendment.

Schedule 3 (3) has the effect of preventing more than one non-resident vote in relation to land in a ward or riding if the land is owned jointly or severally, or by a corporation, or by trustees.

Schedule 3 (4) provides for determination of the date at which a person is eligible to be enrolled, or to vote, as a resident.

Schedule 3 (5) makes a consequential amendment.

Schedule 3 (6) makes gender neutralising and consequential amendments.

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Schedule 3 (7) makes consequential amendments.

Schedule 3 (8) makes a consequential amendment.

Schedule 3 (9) repeals Division 4 of Part V of the Principal Act and substitutes a new Division 4 in which—

- (a) proposed section 63A provides for the interpretation of the new Division;
- (b) proposed section 64 makes general provision with respect to the roll of electors consisting of the residential roll and the non-residential roll;
- (c) proposed section 65 provides for the keeping by the Electoral Commissioner of the residential roll;
- (d) proposed section 65A provides for the preparation by the town or shire clerk of a non-residential roll for each election or poll to be conducted by the Electoral Commissioner and for its ceasing to have effect 3 months after the election or poll; and
- (e) proposed section 66 provides that a person qualified for enrolment in more than one ward or riding in a council area may be enrolled only in respect of one of them.

Schedule 3 (10) provides for—

- (a) the conduct of specified elections and polls (being those at which voting by resident electors is compulsory) by the Electoral Commissioner;
- (b) the appointment by the Electoral Commissioner of a returning officer (who will usually be the town or shire clerk) for each council area; and
- (c) enables the Electoral Commissioner to make such other arrangements as are necessary for the conduct of an election or poll.

Schedule 3 (11) enables the Electoral Commissioner to delegate functions under the Principal Act.

Schedule 3 (12) makes consequential amendments.

Schedule 3 (13) makes consequential amendments.

Schedule 3 (14) substitutes sections 74C–74F which provide for the service of a penalty notice by the town or shire clerk on a resident who fails to vote at an election or poll at which voting is compulsory. The penalty notice would enable the resident to avoid further proceedings (fine \$50) by giving a sufficient reason for the failure to vote or by paying to the council a penalty of \$25.

Schedule 3 (15)–(18) makes consequential amendments.

SCHEDULE 4—AMENDMENT TO PART VI OF THE PRINCIPAL ACT

Schedule 4 makes a consequential amendment.

SCHEDULE 5—AMENDMENT TO PART XXIVA OF THE PRINCIPAL ACT

Schedule 5 provides for the compilation of rolls of electors following establishment of a local district and for the conduct by the Electoral Commissioner of an election to determine the elected members of the district committee.

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SCHEDULE 6—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

Schedule 6 makes miscellaneous consequential amendments to uncommenced provisions of 2 other Acts amending the Principal Act.

SCHEDULE 7—TRANSITIONAL PROVISIONS

Clause 1 provides for the interpretation of the Schedule.

Clauses 2 and 3 provide for a transitional arrangement under which the residential roll will be prepared by the town or shire clerk under the existing provisions of the Principal Act. The arrangement will apply only in respect of certain areas pending finalisation by the Electoral Commissioner of arrangements for taking over preparation of the rolls for those areas.

Clause 4 continues in force any leave of absence from ordinary meetings of a council if it was effective immediately before the commencement of the proposed Act.
