

[Act 1995 No 12]



New South Wales

## Local Government Legislation Amendment Bill 1995

### Explanatory note

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

### Overview of Bill

The objects of this Bill are to amend the *Local Government Act 1993* with respect to minimum amounts of rates, group voting, disclosure of pecuniary interests and in other miscellaneous respects and to amend the *City of Sydney Act 1988* with respect to rating and elections within the City of Sydney.

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

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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides that the proposed Act will commence on a day or days to be proclaimed.

**Clause 3** gives effect to the Schedule of amendments to the *Local Government Act 1993*.

**Clause 4** gives effect to the Schedule of amendments to the *City of Sydney Act 1988*.

## **Schedule 1      Amendment of Local Government Act 1993**

### **Confidentiality of correspondence and reports**

**Schedule 1 (1) and (2)** make amendments that will enable a council or a committee of the council to withhold from the public correspondence and reports that are of a confidential nature and that are dealt with at a meeting that is open to the public. In the absence of the amendments, confidentiality could only be maintained if the meeting were closed to the public.

### **Public collections**

**Schedule 1 (3)** will prevent persons from conducting a fundraising collection in a public place or from door to door unless they do so with the approval of the council.

### **Withholding of councillors' fees**

**Schedule 1 (4)** makes it clear that a councillor is not to be paid annual fees for any period for which the councillor is suspended from office.

**Schedule 1 (5)** will enable a council to withhold or reduce the amount of fees payable to councillors if they are absent from meetings and in such other circumstances as may be prescribed by the regulations.

### **Candidature as mayor and councillor**

**Schedule 1 (6)** facilitates and clarifies the procedure for the counting of votes if a candidate for the office of councillor has successfully contested the office of mayor.

### **Grouping of candidates and group voting tickets**

**Schedule 1 (7) and (15)** will enable the grouping of candidates on a ballot paper for an election of councillors and the distribution of votes in accordance with group voting tickets lodged by groups with the returning officer.

### **Calling of extraordinary meetings of councils**

**Schedule 1 (8)** extends from 7 days to 21 days the period within which the mayor must call an extraordinary meeting of the council if requested to do so by at least 2 councillors.

### **Delegation of council functions**

**Schedule 1 (9)** will enable a council to delegate the power to sell items of plant or equipment.

### **Presentation of audited financial reports**

**Schedule 1 (10)** extends from 1 month to 6 weeks the period within which a council must fix a meeting to present its audited financial reports after receiving them from its auditor.

### **Pecuniary interests**

**Schedule 1 (11)** removes the requirement that a member of a council committee must disclose pecuniary interests in matters before the committee if the committee is a wholly advisory committee.

**Schedule 1 (12)** enables a councillor, despite having a pecuniary interest, to participate in and vote on a question relating to the appointment of a councillor to a remunerated position on a body as the representative or delegate of the council.

**Schedule 1 (13)** removes several formal requirements concerning the making of a complaint that a person has failed to disclose a pecuniary interest where the complaint is made by the Director-General of the Department of Local Government.

### **Public notice of council fees**

**Schedule 1 (14)** enables a council to amend or introduce a fee during a year after giving public notice.

## **Constitution of councils and council areas**

**Schedule 1 (16)** exempts a council from a failure to notify the Electoral Commissioner and the Australian Statistician of changes to ward boundaries before the end of the third year of its term of office (as required by section 211 of the *Local Government Act 1993*) if the notification was given on or before 28 February 1995 or a later date determined by the Minister for Local Government.

**Schedule 1 (17)** enables certain councils to increase their number of councillors by one for the purpose of the ordinary election due to be held in September 1995. Schedule 1 (17) also provides for the constitution of the Sutherland Shire Council.

## **Minimum amounts of rates**

**Schedule 1 (18)** repeals a provision in the *Local Government Act 1993* that would, if it were not repealed, prevent a council from specifying a minimum amount of a rate on or after 1 July 1995. The consequence is that councils will be able to continue to set minimum amounts of rates.

## **Savings and transitional regulations**

**Schedule 1 (19)** will enable the making of regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

## **Schedule 2 Amendment of City of Sydney Act 1988**

The amendments made by this Schedule have been prepared on the basis that they will not commence until after the amendments made to the *City of Sydney Act 1988* by the proposed *Statute Law Revision (Local Government) Act 1995* have commenced.

## **Qualifications of electors**

**Schedule 2 (1), (2) and (4)–(8)** amend the qualifications of an elector who is entitled to participate in the election of persons to the Sydney City Council where the elector is a ratepaying lessee. An additional requirement is to be imposed that the ratepaying lessee must be a person who pays at least \$5,000 per annum for the lease and rates. This is currently a requirement for an elector who votes in the capacity of an occupier.

**Schedule 2 (3) and (9)** provide that an elector is not qualified to vote in the capacity of an occupier if the occupier's primary place of residence is not within New South Wales.

**Schedule 2 (10)–(12), (15) and (16)** make it clear that only persons who are Australian citizens or British subjects are entitled to have their names placed on the non-residential roll for the City of Sydney.

### **The non-residential roll**

**Schedule 2 (13)** provides for the preparation of the non-residential roll to be used for the ordinary election for the City of Sydney to be held in September 1995.

**Schedule 2 (14)** removes the requirement that the general manager must maintain a list, between elections, of persons who are entitled to have their names entered on the non-residential roll.

**Schedule 2 (17)** enables the making of regulations concerning the preparation of the non-residential roll.

### **Election of Lord Mayor**

**Schedule 2 (18)** will require the Lord Mayor of Sydney to be popularly elected on a compulsory preferential voting system.

### **Capping of ordinary rates for year commencing 1 July 1995**

**Schedule 2 (19)** will enable the Sydney City Council to limit individual rate increases in the ordinary rate for the year commencing 1 July 1995 and for later years by a specified percentage.