

Parliamentary Electorates and Elections Amendment Act 2006 No 68

[2006-68]



New South Wales

Status Information

Currency of version

Historical version for 9 July 2010 to 23 September 2010 (accessed 14 April 2024 at 8:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Does not include amendments by**
[Parliamentary Electorates and Elections Amendment \(Automatic Enrolment\) Act 2009 No 102](#) (not commenced)
- **Proposed repeal**
The Act is to be repealed by sec 5 (1) of this Act on the day following the day on which all of the provisions of this Act have commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Parliamentary Electorates and Elections Amendment Act 2006 No 68



New South Wales

An Act to amend the *Parliamentary Electorates and Elections Act 1912* with respect to the office and functions of the Electoral Commissioner and other officials, redistributions of electoral districts, the preparation, maintenance and cost of rolls of electors, the conduct of elections, the appointment of accredited election service providers for elections and elections under other legislation; to amend other legislation with respect to the conduct of those elections and polls; and for other purposes.

1 Name of Act

This Act is the *Parliamentary Electorates and Elections Amendment Act 2006*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of *Parliamentary Electorates and Elections Act 1912 No 41*

- (1) The *Parliamentary Electorates and Elections Act 1912* is referred to in this Act as the Principal Act.
- (2) The Principal Act is amended as set out in Schedules 1-18.
- (3) The omission of words by Schedule 18 does not apply to provisions or parts of provisions omitted by other Schedules.

4 Amendment of other legislation

The Acts and other instruments listed in Schedule 19 are amended as set out in that Schedule.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the

Interpretation Act 1987, affect any amendment made by this Act.

Schedules 1-4 (Repealed)

Schedule 5 Amendment of Part 3B of Principal Act

(Section 3)

[1], [2] (Repealed)

[3] Section 21E

Insert after section 21D:

21E Contributions from local councils for cost of maintaining the roll

- (1) Local councils are to make contributions to the State, in accordance with this section, in respect of amounts paid or payable by the State to the Commonwealth under an arrangement referred to in section 21B.
- (2) The amount of a contribution payable by a local council is to be as determined annually by the Electoral Commissioner in accordance with the regulations. Contributions are payable only if relevant provisions of the regulations are in force in respect of the contributions.
- (3) The total contributions by local councils in respect of an amount paid or payable by the State are not to exceed one-half of that amount in or in relation to any period of 12 months.
- (4) The amount of a contribution payable by a local council and the manner in which and the time by which it is to be paid is to be as notified to the council by a written notice served on the council by the Electoral Commissioner.
- (5) Any unpaid amount of a contribution payable by a local council is recoverable from the council as a debt due to the Electoral Commissioner as the holder of that office.
- (6) Without limiting any other provision authorising expenditure by local councils, a local council is authorised to pay from its funds the amount of contributions for which it is liable under this section.
- (7) No part of the costs incurred under an arrangement under this Part are recoverable from local councils under section 296 of the *Local Government Act 1993*, but otherwise nothing in this section affects the liability of a local council under that section to meet the costs incurred by the Electoral Commissioner and other officials in connection with an election as defined in that Act.

(8) A reference in this section to:

- (a) an amount payable by the State includes a reference to an amount payable by the Electoral Commissioner or another officer or authority of the State, and
- (b) an amount payable to the Commonwealth includes a reference to an amount payable to the Australian Electoral Commission or another officer or authority of the Commonwealth.

(9) A reference in this section to:

- (a) a local council includes a reference to the Lord Howe Island Board, and
- (b) the funds of a local council includes a reference to money standing to the credit of the Lord Howe Island Account.

Schedules 6-14 (Repealed)

Schedule 15 Insertion of Part 6A into Principal Act

(Section 3)

Part 6A

Insert after Part 6:

Part 6A Accredited election service providers

175K Accredited election service providers

- (1) The Electoral Commissioner may accredit persons as accredited election service providers who are eligible to be authorised or appointed under other Acts or statutory rules to exercise functions under those other Acts or statutory rules in connection with the conduct of elections, polls or other matters.
- (2) Except to the extent that such another Act or statutory rule expressly provides otherwise:
 - (a) the authorisation or appointment of an accredited election service provider under the other Act or statutory rule may be made by a contractual or other arrangement, and
 - (b) a statutory authority or other person by or in respect of which or whom such an arrangement is entered into is authorised to pay, in accordance with the terms of the arrangement, for the provision of services by the accredited election service provider in the exercise of functions under the other Act or statutory rule, and

- (c) subject to any such arrangement, the accredited election service provider may be assisted by employees, contractors or other persons in the exercise of functions under the other Act or statutory rule.
- (3) Accreditation may be conditional or unconditional, and may be general or may be limited to particular elections, polls or other matters or particular classes or kinds of elections, polls or other matters.
- (4) The regulations may make provision for or with respect to:
 - (a) the accreditation of persons as accredited election service providers and the removal of accreditation, and
 - (b) the audit of the performance of accredited election service providers in the exercise of their functions under other Acts or statutory rules.
- (5) The Commission is taken to be an accredited election service provider except to the extent that the regulations otherwise provide.
- (6) The Australian Electoral Commission is taken to be an accredited election service provider except to the extent that the regulations otherwise provide.
- (7) A reference in this section to the conduct of an election or poll includes a reference to the exercise of functions as returning officer for the election or poll.

175L Ministerial exercise of power to authorise or appoint accredited election service providers

- (1) If:
 - (a) another Act or statutory rule provides for the authorisation or appointment of an accredited election service provider for an election, poll or other matter, and
 - (b) the relevant Minister is satisfied that there is or will be no provider authorised or appointed to conduct or complete the conduct of the election, poll or other matter,the relevant Minister may, by instrument in writing, exercise the power to authorise or appoint an accredited election service provider for the election, poll or other matter.
- (2) In this section:
 - relevant Minister**, in relation to an election, poll or other matter under an Act or statutory rule, means:
 - (a) the Minister administering the Act or the Act under which the statutory rule was made or has effect, or

(b) the Minister administering this Act.

175M Powers of authorisation or appointment imply additional powers

- (1) Without limiting anything in the *Interpretation Act 1987*, section 47 of that Act applies, with any necessary modifications, to the power conferred by another Act or statutory rule to authorise or appoint a person to conduct an election, poll or other matter in the same way as it applies to a power to appoint a person to an office.
- (2) Subsection (1) extends to a power exercisable by a Minister under section 175L.
- (3) This section has effect subject to a contrary intention appearing in the other Act or statutory rule concerned.

Note—

Section 47 of the *Interpretation Act 1987* provides that a power to appoint may be exercised from time to time and implies other powers, including the power to remove an appointed person.

Schedules 16-18 (Repealed)

Schedule 19 Amendment of other legislation

(Section 4)

19.1 Agricultural Industry Services Act 1998 No 45

Section 32J Special provisions for polls relating to extra-territorial committees

Omit “The Minister may authorise the Electoral Commissioner or a person appointed by the Electoral Commissioner” from section 32J (1).

Insert instead “The Minister may authorise an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*)”.

19.2 Agricultural Industry Services Regulation 2009

[1] Clause 17 Definitions

Omit the definition of **returning officer** from clause 17 (1). Insert instead:

returning officer, in relation to a poll or election, means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the appropriate officer to exercise the functions conferred or imposed on a returning officer by this Regulation.

[2] Clause 17 (1), definition of “official mark”

Omit the definition. Insert instead:

official mark means a mark authorised by the Electoral Commissioner.

[3] Clauses 37 (4) (a) and 64 (4) (a)

Omit “neither” wherever occurring. Insert instead “not”.

[4] Clauses 37 (4) (a) and 64 (4) (a)

Omit “nor bears an official mark” wherever occurring.

19.3 Architects Regulation 2004

[1] Schedule 2 Election of Board members

Omit the definition of **returning officer** from clause 1 (1). Insert instead:

returning officer means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Board for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

[2] Schedule 2, clause 15 Distribution of ballot-papers

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 15 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

[3] Schedule 2, clause 21 Scrutiny of votes

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 21 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

19.4-19.7

(Repealed)

19.8 Fisheries Management (General) Regulation 2002

[1] Clause 374 Definitions

Omit the definition of **returning officer**. Insert instead:

returning officer means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) nominated by the Director for the purpose of exercising the functions of a returning officer.

[2] Clause 392 Scrutiny of votes

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 392 (1) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

19.9

(Repealed)

19.10 Industrial Relations Act 1996 No 17

Section 172 Power to order secret ballot

Omit “the Electoral Commissioner” from section 172 (6) (b).

Insert instead “an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*)”.

19.11 Institute of Teachers Regulation 2005

[1] Clause 17 Designation of returning officer

Omit “The Electoral Commissioner of New South Wales, or a person or body approved by the Electoral Commissioner of New South Wales”.

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Institute”.

[2] Clause 40 Information concerning government school teachers

Omit the clause.

19.12

(Repealed)

19.13 Marketing of Primary Products Regulation 2005

[1] Clause 3 Definitions

Omit the definition of returning officer from clause 3 (1). Insert instead:

returning officer means an accredited election service provider (referred to in Part 6A

of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Director-General for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

[2] Clause 18 Distribution of ballot-papers

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 18 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

[3] Clauses 24 (2) (a) and 51 (2) (a)

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” wherever occurring.

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

[4] Clause 45 Distribution of ballot-papers

Omit “or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 45 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

19.14-19.16

(Repealed)

19.17 Ports and Maritime Administration Act 1995 No 13

Section 18 Special provision for election of staff director

Omit section 18 (5). Insert instead:

- (5) An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by a Port Corporation is to be the returning officer in relation to the Port Corporation and has all the functions conferred on the returning officer by the regulations under this section.

19.18-19.21

(Repealed)

19.22 Rice Marketing Act 1983 No 176

[1] Sections 39 (2), 40 (2), 101 (2) and 102 (2)

Omit “The Electoral Commissioner for New South Wales, or a person employed in the

office of and nominated by the Electoral Commissioner,” wherever occurring.

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Director-General”.

[2] Section 107 Payment of costs and expenses

Omit section 107 (1). Insert instead:

(1) The costs and expenses of any poll or election under this Act taken or held with respect to:

(a) a board or committee, or

(b) the primary product in respect of which a board or committee is or may be constituted,

are to be paid by the board or committee to the accredited election service provider concerned in accordance with the contract or other arrangement entered into with the provider in connection with the poll or election.

[3] Section 107 (3) and (4)

Omit the subsections. Insert instead:

(3) Any amount required to be paid under subsection (2) is to be paid within such period as is specified in the notice or such further period as the Minister may allow.

(4) The costs and expenses referred to in subsection (1) are, if the board or committee is non-existent or not functioning, to be met by the Minister from money available for the purpose.

19.23 Rural Lands Protection (General) Regulation 2001

Schedule 2 Elections

Insert at the end of the definition of returning officer in clause 1:

Without limiting paragraph (a) or (b), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed or determined to be the returning officer.

19.24-19.26

(Repealed)

19.27 Water Management Act 2000 No 92

Schedule 5 Constitution and procedure of water supply authorities

Omit “The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for an election” from clause 2 (3).

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by a water supply authority is to be the returning officer for an election in relation to the water supply authority”.

19.28 Water Management (General) Regulation 2004

[1] Clause 56 Returning officer for election of members of a private water trust or directors of a private drainage board

Insert after clause 56 (2):

- (3) Without limiting subclause (1), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed as the returning officer for an election.

[2] Clause 57 Returning officer for election of members of a private irrigation board

Insert after clause 57 (3):

- (4) Without limiting subclause (1) or (2), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed as the returning officer for an election referred to in either subclause.