

# Electoral Regulation 2018

[2018-320]



New South Wales

## Status Information

### Currency of version

Historical version for 19 January 2022 to 30 June 2022 (accessed 20 November 2024 at 18:37)

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

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
Sch 2, cl 9 of this Regulation (Sch 2, cl 9 repeals Sch 2 on 30.6.2022)

### 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](#).

File last modified 19 January 2022

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# Electoral Regulation 2018



New South Wales

## 1 Name of Regulation

This Regulation is the *Electoral Regulation 2018*.

## 2 Commencement

This Regulation commences on 1 July 2018 and is required to be published on the NSW legislation website.

## 3 Definition

(1) In this Regulation—

**the Act** means the *Electoral Act 2017*.

### Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

## 4 Enrolment

For the purposes of section 32 (4) of the Act, an application for enrolment under section 32 (1) or (3), or for a change of address under section 32 (2), must be supported by one of the following—

- (a) if the applicant holds a driver licence issued under the law of a State or Territory—the number of the driver licence,
- (b) if the applicant holds an Australian passport—the number of the Australian passport,
- (c) an attestation as to the applicant's identity that is—
  - (i) in a form approved by the Electoral Commissioner, and
  - (ii) signed by another person who is enrolled.

**5 Procedure where same member relied on by 2 or more parties**

- (1) This clause applies, for the purposes of section 57 (2) of the Act, where a person is relied on by 2 or more parties as a member of the party for the purpose of qualifying or continuing to qualify as an eligible party.
- (2) In any such case, the Electoral Commissioner must—
  - (a) request the person in writing to nominate, within 30 days of receiving the request, the party entitled to rely on the member, and
  - (b) advise the parties in writing that the Electoral Commissioner has made that request.
- (3) If, as a result of a nomination made by the person or a failure by the person to make a nomination, a party ceases to qualify as an eligible party, the Electoral Commissioner must advise the party in writing of that fact and give the party at least 60 days in which to provide the requisite particulars and declarations of party membership of the necessary number of additional members of the party that it requires to qualify as an eligible party.

**5A Election officials: section 81 (1) (b)**

The Electoral Commissioner may appoint a person employed or engaged by or on behalf of any of the following as an election official—

- (a) Access Testing Pty Ltd,
- (b) Adecco Australia Pty Ltd,
- (c) Ashdown Consulting Pty Limited,
- (d) Bluefin Resources Pty Limited,
- (e) CGI Technologies And Solutions Australia Pty Limited,
- (f) Clicks Recruit (Australia) Pty Ltd,
- (g) Davidson Executive And Boards Pty Ltd,
- (h) Egloo Technologies Pty Limited,
- (i) Enterprise IT Resources Pty Ltd,
- (j) Future Prospects International Pty Limited,
- (k) Hays Specialist Recruitment (Australia) Pty Limited,
- (l) Hudson Global Resources (Aust) Pty Limited,

- (m) JRH Australia Holdings Pty Ltd,
- (n) Kelly Services Australia Pty Ltd,
- (o) Michael Page International (Australia) Pty Limited,
- (p) People2People Recruitment Pty Limited,
- (q) Precision Sourcing Australia Pty Ltd,
- (r) Programmed Skilled Workforce Limited,
- (s) Quay Appointments Pty Ltd,
- (t) Randstad Pty Limited,
- (u) Saaspeople Pty Ltd,
- (v) Spinifex Recruiting Pty Ltd,
- (w) Techforce Services Pty Ltd,
- (x) The Missing Link Security Pty Ltd,
- (y) The Next Step Recruitment Company Pty Limited,
- (z) The Recruitment Company Pty Limited,
- (za) TL Consulting Group NSW Pty Ltd.

**5B Electronic lodgment of nomination papers: section 84 (7)**

A nomination paper lodged through an online electronic nomination system made available by the Electoral Commissioner is taken to have been lodged with the Electoral Commissioner.

**6 Child protection declarations by candidates—Ombudsman to provide access to documents to Children’s Guardian**

The office of Ombudsman is prescribed for the purposes of paragraph (c) of the definition of **prescribed person** in section 98 (4) of the Act.

**7 Voting in mobile voting centres—registered how-to-vote card additional requirements**

(1) For the purposes of section 118 (9) (c) of the Act, the following are additional requirements—

- (a) not more than one item of the electoral material relating to a candidate that has been registered in response to applications under section 199 (2) of the Act (Applications by or on behalf of parties, groups or candidates) may be made available for perusal by voters at declared facilities,

- (b) not more than one item of the electoral material that has been registered by or on behalf of a body or person in response to applications under section 199 (3) of the Act (Applications by or on behalf of others) may be made available for perusal by voters at declared facilities.

(2) For the purposes of subclause (1) (a)—

- (a) in the case of an Assembly general election or by-election, if more than one item of electoral material has been registered in relation to a particular candidate, the one item available for perusal is to be the item nominated to the Electoral Commissioner by—
  - (i) if a registered party has endorsed the candidate for election—the registered officer of the registered party or another person representing that officer, or
  - (ii) in any other case—the candidate, and
- (b) in the case of a periodic Council election, if more than one item of electoral material has been registered in relation to a particular candidate, the one item available for perusal is to be the item nominated to the Electoral Commissioner by—
  - (i) if a registered party has endorsed the candidate for election—the registered officer of the registered party or another person representing that officer, or
  - (ii) if the candidate is included in a group of candidates—the first candidate listed in the group, or
  - (iii) in any other case—the candidate.

(3) For the purposes of subclause (1) (b)—

- (a) if more than one item of electoral material has been registered on behalf of an incorporated or unincorporated body, the one item available for perusal is to be the item nominated to the Electoral Commissioner by an officer or representative of the body, and
- (b) if more than one item of electoral material has been registered on behalf of an individual who is not a candidate, the one item available for perusal is to be the item nominated to the Electoral Commissioner by the individual.

## **8 Official mark on ballot papers**

For the purposes of section 165 (3) (c) of the Act, a mark depicting the arms of the State enclosed within a fastened oval belt which bears the words “Electoral Commission” and across the lower half of which is superimposed a banner bearing the words “New South Wales” (whether or not the mark depicts any other decorative matter) is prescribed as an official mark.

**8A Exemption from requirement to have name and address on electoral material**

(1) For the purposes of section 186 (2) (d) of the Act, the following articles (or classes of articles) are prescribed—

(a) a social media post made by an electoral participant (or on behalf of an electoral participant by an officer, employee or agent of the electoral participant), but only if—

(i) the name and address of the electoral participant was included in or directly linked to the post, and

**Note—**

For example, a name and address may—

(a) be included at the end of a post, or

(b) be included in a photograph or image attached to or embedded in the post, or

(c) be included in the “about”, “bio” or “impressum” part of the webpage or profile of the person who made the post (or on whose behalf the post was made) that is accessible via a hyperlink or URL included in or accompanying the post.

(ii) no amount was paid to the social media platform provider concerned in connection with the printing, publication, distribution or public display of the post,

(b) a social media post that was not made by an electoral participant (or on behalf of an electoral participant), but only if no amount was paid to the social media platform provider concerned in connection with the printing, publication, distribution or public display of the post,

(c) a letter or email to a person in reply to a letter or email from that person, but only being a letter or email that is not sent as part of a bulk or multiple sending of letters or emails,

(d) a letter or email sent for personal purposes.

(2) In this clause—

**address**, in relation to an individual, has the same meaning as in section 4 (3) (a) of the Act.

**Note—**

Section 4 (3) (a) of the Act provides that the **address** of an individual means an address, including a full street address and suburb or locality, that is located in Australia and at which the individual can usually be contacted during the day, but does not include a post office box.

**associated entity** and **third-party campaigner** have the same meanings as in the [Electoral Funding Act 2018](#).

**electoral participant** means a party, candidate, member, third-party campaigner or associated entity.

## 9 By-elections during COVID-19 pandemic

Schedule 2 has effect.

## 10 (Repealed)

## Schedule 1 Penalty notice offences

For the purposes of section 263 of the Act—

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for a corporation</b>	<b>Penalty for an individual</b>
<b>Offences under the Act</b>		
Section 183	\$2,750	\$550
Section 184 (1)	\$2,750	\$440
Section 184 (2)	\$330	\$110
Section 185 (1)	\$440	\$110
Section 186 (1)	\$2,750	\$550
Section 187	\$2,750	\$550
Section 191	\$1,375	\$275
Section 193	\$275	\$275
Section 195 (1)	\$2,750	\$550
Section 196	\$1,375	\$275
Section 197	\$275	\$275

## Schedule 2 By-elections during COVID-19 pandemic

clause 9

### 1 Application of Schedule

This clause applies to a by-election if it is held during the period—

- (a) starting at the beginning of the day on which this Schedule commences, and



(b) ending at the end of 30 June 2022.

## **2 Postal vote by declared COVID-19 affected electors—the Act, s 274**

- (1) The Electoral Commissioner may, if satisfied it is necessary to comply with a public health order, or to reduce the risk of infection from COVID-19, declare, by order published on the Electoral Commission's website, that electors of a specified electoral district are **COVID-19 affected electors** for a by-election to which this Schedule applies.
- (2) The Electoral Commissioner may also publish a copy of the declaration in other ways the Electoral Commissioner considers necessary to bring the declaration to the attention of the COVID-19 affected electors.
- (3) A declaration under subclause (1) must include a notice that informs the specified COVID-19 affected electors that the electors are entitled, but not required, to vote by post, but may instead vote in person at a voting centre.
- (4) A COVID-19 affected elector is entitled to vote by post in the by-election.
- (5) On the making of a declaration of COVID-19 affected electors under this clause, the Electoral Commissioner is, for each COVID-19 affected elector, other than an elector to whom a ballot paper has been delivered or posted under the Act, section 144 or 145, to make a record that a ballot paper is being issued to the elector and deliver or post the items and information referred to in the Act, section 145(2)(a)–(b) to the elector.
- (6) The Electoral Commissioner must, at a scrutiny referred to in the Act, section 149, disallow a postal vote if the Electoral Commissioner is satisfied the COVID-19 affected elector also received a ballot paper at a voting centre, including an early voting centre.

## **3 Timing of preliminary scrutiny of postal votes—the Act, s 274**

For a by-election to which this Schedule applies—

- (a) the reference to 5 days in the Act, section 149(1)(a) is to be read as a reference to 14 days, and
- (b) the reference to the fourth day in the Act, section 149(1)(b)(i) is to be read as a reference to the thirteenth day.

## **4 Technology assisted voting—the Act, ss 152(3) and 161(3)**

Technology assisted voting is not to be used at a by-election to which this Schedule applies, other than telephone voting for vision impaired or blind electors.

## **5 Repeal of Schedule**

Clause 9 and this Schedule are repealed at the end of 30 June 2022.