

Electoral Regulation 2018

[2018-320]



New South Wales

Status Information

Currency of version

Current version for 7 June 2024 to date (accessed 3 July 2024 at 13:52)

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—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

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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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 Definitions

(1) In this Regulation—

associated entity has the same meaning as in the *Electoral Funding Act 2018*.

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

relevant name and address, for electoral material, means the name and address of the individual on whose instructions the electoral material was published or distributed.

the Act means the *Electoral Act 2017*.

third-party campaigner has the same meaning as in the *Electoral Funding Act 2018*.

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)

- (1) The Electoral Commissioner may appoint a person or class of persons employed or engaged by or on behalf of any of the following as an election official—
 - (a1) (Repealed)
 - (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,
- (zb) Dialog Pty Ltd,
- (zc) Ethos BeathChapman Australia Pty Ltd.

(2) The Electoral Commissioner may appoint the following persons, or a class of the following persons, as an election official—

- (a) an officer or member of staff of an electoral commission or electoral office of the Commonwealth or of a State or Territory,

- (b) an APS employee within the meaning of the *Public Service Act 1999* of the Commonwealth who is engaged as an employee for the Commonwealth Department of Foreign Affairs and Trade and working at an overseas Australian high commission or consulate,
- (c) an employee of a Public Service agency within the meaning of the *Government Sector Employment Act 2013* who is working for the agency at an overseas location,
- (d) an employee or member of staff of the Royal Borough of Kensington and Chelsea Council.

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.

7A Prescribed period for scrutiny of postal votes received

For the Act, section 149(1)(b)(i), the period prescribed is—

- (a) for the 2023 State general election—12 days, or
- (b) otherwise—13 days.

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.

8AA Requirements for name and address on particular forms of electoral material on social media—the Act, s 186(1A)

- (1) This clause applies to electoral material that is a social media post.
- (2) The relevant name and address for the electoral material must be legibly shown in the social media post.

Examples—

The relevant name and address for the electoral material may be included—

- (a) if the social media post includes text—in the text, or
 - (b) if a photograph, image, video or animation is attached to or embedded in the social media post—in the photograph, image, video or animation.
- (3) If the relevant name and address for the electoral material is shown in a video or animation attached to or embedded in the social media post, the relevant name and address must be legibly shown for a period of at least 3 seconds.

8A Exemptions 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 published on a social media platform by an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if—
 - (i) no amount was paid to the provider of the social media platform in connection with the publication of the post, and
 - (ii) the relevant name and address for the electoral material is published—
 - (A) on the social media account profile for the social media account that was used to publish the post, or
 - (B) on a website that is directly linked to in the post, and

Example—

The relevant name and address for the electoral material is included in the “about”, “bio” or “impressum” part of the webpage or social media account 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 or embedded in or accompanying the post.

- (iii) the social media account profile or website on which the relevant name and address is published remains publicly available until the end of the regulated period, and
 - (iv) a link to a website on which the relevant name and address for the electoral material is published that is shown in a video or animation attached to or embedded in the post is legibly shown for a period of at least 3 seconds,
- (b) a social media post published on a social media platform by a person other than an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if no amount was paid, nor any benefit given, to the person who published the post or the provider of the social media platform

in connection with the publication of the post by—

- (i) an electoral participant, or
 - (ii) an officer, employee or agent of an electoral participant on behalf of the electoral participant,
- (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,
- (e) an SMS text message containing electoral material that is distributed by an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if—
- (i) the SMS text message includes a hyperlink to a website on which the relevant name and address for the electoral material is published, and
 - (ii) the website on which the relevant name and address is published remains publicly available until the end of the regulated period,
- (f) an SMS text message (the **primary message**) containing electoral material that is distributed by an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if—
- (i) a second SMS text message is sent immediately after the primary message, and
 - (ii) the second SMS text message contains the relevant name and address for the electoral material contained in the primary message, and
 - (iii) the second SMS text message is sent from the same number as the primary message.

(2) (Repealed)

9 Limitation of technology assisted voting at by-elections—the Act, s 161

- (1) Technology assisted voting under the Act, Part 7, Division 11, other than telephone voting by electors who are blind or have low vision, must not be used at a by-election held during the period after the commencement of this clause and before the 2027 general election.
- (2) Despite subclause (1), the Electoral Commissioner may, at any time, determine that telephone voting must not be used during a specified period during a by-election.

Note—

The Act, section 162 also provides that the Electoral Commissioner may determine that technology assisted voting must not be used at a specified election.

- (3) A determination under subclause (2) must be in writing and published on the Electoral Commission's website.

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.

Column 1	Column 2	Column 3
Provision	Penalty for a corporation	Penalty for an individual
Offences under the Act		
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 187A	\$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 (Repealed)