

Parliamentary Electorates and Elections Amendment (Party Registration) Bill 2002

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to confer specific authority on the Electoral Commissioner to apply particular tests for the purposes of determining whether a party is entitled to be registered (following the recent decision of the court in *Save Our Suburbs (SOS) NSW Inc v Electoral Commissioner of NSW* [2002] NSWSC 785 that the Electoral Commissioner lacked that authority and that accordingly the Save Our Suburbs party, the subject of those proceedings, was entitled to be registered), and
- (b) to backdate the registration of the Save Our Suburbs party (which the court was unable to do) in order to confer entitlements resulting from party registration for the next State election (such as the inclusion of its name on ballot-papers and entitlements to election funding), and
- (c) to clarify other provisions of the *Parliamentary Electorates and Elections Act 1912* relating to the registration of parties.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Parliamentary Electorates and Elections Act 1912* set out in Schedule 1.

Schedule 1 [1] ensures that a party that applies for registration may supplement the list of 750 electors on whom it relies as members of the party to qualify for registration in the event that the Electoral Commissioner determines that the party is not entitled to rely on any person named in the application as a member of the party.

Schedule 1 [2] and [3] provide that the Electoral Commissioner may carry out preliminary tests and inquiries as to the eligibility of a party for registration (including the tests and inquiries authorised under the amendments made by Schedule 1 [5]) before giving public notice of the application and calling for any objections to registration.

Schedule 1 [4] enables the Supreme Court or Electoral Commissioner to backdate the registration of a party if its registration has been wrongfully delayed by the Electoral Commissioner. Under section 66FA a party is not entitled to the entitlements resulting from party registration (such as the inclusion of its name on ballot-papers and entitlements to election funding) until the first anniversary after its registration.

Schedule 1 [5] confers specific authority on the Electoral Commissioner to apply tests and make other inquiries for the purposes of determining whether a party is entitled to be registered. In particular, the Electoral Commissioner may:

- (a) require a written response from at least a designated percentage of all or any number of the members relied on for registration of a party confirming that they are in fact members of the party, or
- (b) adopt any other test for verifying membership of the party that must be satisfied before the party is registered, or
- (c) make other inquiries about the members of the party or the party for the purpose of determining whether the party is an eligible party and the application for its registration is duly made.

The regulations may (but need not) sanction particular tests or inquiries.

Schedule 1 [6] enables those tests and inquiries to be carried out for the purpose of determining whether the registration of a party should be cancelled because the party is no

longer an eligible party.

Schedule 1 [7] makes it clear that the power of the Electoral Commissioner to require information concerning party registration to be verified by statutory declaration extends to verification of information provided by persons relied on as members of the party.

Schedule 1 [8] makes transitional and other special provisions. In particular:

- (a) the previous action of the Electoral Commissioner in carrying out the tests and inquiries for party registration that are specifically authorised by the proposed Act is validated (subject to the following), and
- (b) the initial registration of the Save Our Suburbs party in accordance with the recent order of the Supreme Court is preserved, and
- (c) the registration of the Save Our Suburbs party is backdated to 1 March 2002 so that the party will qualify as a registered party for the next general election (and accordingly will be entitled to the inclusion of its name on ballot-papers and to election funding).