



New South Wales

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).

First print



New South Wales

Parliamentary Electorates and Elections Amendment (Party Registration) Bill 2002

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41	2
Schedule 1 Amendments	3



New South Wales

Parliamentary Electorates and Elections Amendment (Party Registration) Bill 2002

No. , 2002

A Bill for

An Act to amend the *Parliamentary Electorates and Elections Act 1912* in relation to the registration of political parties.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Parliamentary Electorates and Elections Amendment (Party Registration) Act 2002</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41	8
The <i>Parliamentary Electorates and Elections Act 1912</i> is amended as set out in Schedule 1.	9 10

Schedule 1 Amendments

1

(Section 3)

2

[1] Section 66D Application for registration

3

Insert after section 66D (2):

4

- (2A) An application for the registration of a party may include an additional list of names and addresses of electors who are members of the party (and accompanying declarations) to supplement the required list of 750 electors who are members of the party 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.

5

6

7

8

9

10

11

[2] Section 66D (4)

12

Insert after section 66D (3):

13

- (4) On receipt of an application for the registration of a party, the Electoral Commissioner may carry out preliminary tests and inquiries (including any test or inquiry referred to in section 66G) to determine whether the party is an eligible party and the application is duly made.

14

15

16

17

18

[3] Section 66DA Notice of application for registration

19

Omit “On receipt of an application for the registration of a party, the” from section 66DA (1).

20

21

Insert instead “If, after carrying out any preliminary tests and inquiries with respect to an application for the registration of a party, the Electoral Commissioner is satisfied that the party may be an eligible party and the application may be duly made, the”.

22

23

24

25

[4] Section 66FA Entitlements resulting from party registration not available until first anniversary of registration	1 2
Insert after section 66FA (3):	3
(4) If the registration of a party has been wrongfully delayed by any act or omission of the Electoral Commissioner, the Supreme Court or the Electoral Commissioner may, by order, backdate the registration of the party to the date on which the party should have been registered. Such an order cannot be made so as to backdate the registration of a party to a date during or before a previous period referred to in section 66F.	4 5 6 7 8 9 10
(5) The Register of Parties cannot be amended to backdate the registration of a party, except as authorised by an order under subsection (4).	11 12 13
[5] Section 66G Refusal to register	14
Insert after section 66G (2):	15
(2A) The Electoral Commissioner:	16
(a) may, before registering a party, require a written response from at least a specified percentage of all or any specified number of the members relied on for registration of the party confirming that they are in fact members of the party, and	17 18 19 20 21
(b) may adopt any other test for verifying membership of the party that must be satisfied before the party is registered, and	22 23 24
(c) may 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.	25 26 27 28
The regulations may (but need not) sanction particular tests or inquiries for the purposes of this subsection.	29 30

[6] Section 66I Cancellation of registration	1
Insert after section 66I (2):	2
(2A) Without limiting subsection (2), the Electoral Commissioner may, for the purpose of determining whether a registered party is still an eligible party:	3
(a) carry out the tests and inquiries referred to in section 66G (2A), and	4
(b) require any such test to be satisfied within a reasonable period determined by the Electoral Commissioner.	5
[7] Section 66K Statutory declarations	6
Insert after section 66K (2):	7
(3) This section extends to verification of information provided by persons relied on as members of a party for the purposes of registration or continued registration.	8
[8] Section 66N Transitional and other arrangements	9
Insert after section 66N (12):	10
(13) The power conferred on the Electoral Commissioner by section 66G (2A), or by any other provision made by the <i>Parliamentary Electorates and Elections Amendment (Party Registration) Act 2002</i> , is taken to have been conferred on and from the commencement of the new registration requirements, and anything done or omitted by the Electoral Commissioner before the commencement of the provision that would have been validly done or omitted if the provision had been in force when it was done or omitted is validated.	11
(14) Without limiting subsection (13), the Electoral Commissioner was entitled (and continues to be entitled) to refuse to register (or to continue the registration of) a party until at least 75% of a sample of or of about 300 members relied on for registration or continued registration of the party (and chosen by the Electoral Commissioner) have replied to a letter from the Electoral Commissioner confirming that they are members of the party.	12
	13
	14
	15
	16
	17
	18
	19
	20
	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33

Parliamentary Electorates and Elections Amendment (Party Registration)
Bill 2002

Schedule 1 Amendments

- | | |
|---|----------------------------|
| (15) Despite anything to the contrary in this Part: | 1 |
| (a) the initial registration of the party called Save Our Suburbs that was directed to be made by order of the Supreme Court on 30 August 2002 is not affected by any amendment to this Part made by the <i>Parliamentary Electorates and Elections Amendment (Party Registration) Act 2002</i> , and | 2
3
4
5
6
7 |
| (b) that party is taken to have been registered on 1 March 2002, and | 8
9 |
| (c) the Register of Parties may be amended accordingly. | 10 |
| (16) Subsections (13) and (14) have effect in connection with an application for the registration or continued registration of a party even though proceedings are pending in a court on the commencement of those subsections in connection with that application or registration. | 11
12
13
14
15 |