

New South Wales

Electoral Funding Amendment Bill 2025

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Electoral Funding Act 2018* (the **EF Act**) to deal further with the relationship between—

- (a) the EF Act, Part 5, which deals with payments to members of Parliament and parties from the Administration Fund, and
- (b) provisions of the *Parliamentary Remuneration Act 1989* which deals with additional entitlements of members of Parliament.

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.

Schedule 1 Amendment of Electoral Funding Act 2018 No 20

Schedule 1[1] defines **additional entitlement** as an additional entitlement, other than the electoral allowance, of the kind referred to in the *Parliamentary Remuneration Act 1989*, section 10(3).

Schedule 1[2] omits section 84(1)(b)(ii) from the EF Act. The subparagraph provides that for the purpose of payments from the Administration Fund, administrative expenditure does not include expenditure for which a member of Parliament may claim a parliamentary allowance as a member, other than expenditure for which an electoral allowance is payable under the *Parliamentary Remuneration Act 1989*, Part 3.

Schedule 1[3] and [4] make amendments to the EF Act to make it clear that a party and an elected member are not eligible for a payment from the Administration Fund for an item of administrative expenditure for which an elected member of the party, or the elected member, has also made a claim for an additional entitlement.

Schedule 1[5] inserts proposed section 94(2)(b1) into the EF Act to provide that a claim for payment from the Administration Fund for an elected member of Parliament must be accompanied by a declaration that the member has not made and will not make, for the same item of administrative expenditure, a claim under Part 5 and a claim for an additional entitlement.

Schedule 1[6] provides that, when dealing with a claim for payment under the EF Act, Part 5, the Electoral Commission may, but need not, rely on a declaration made under proposed section 94(2)(b1) or 96A.

Schedule 1[7] provides that the Electoral Commission may recover, as a debt in a court of competent jurisdiction, an amount a party, or an elected member, has received as part of a quarterly payment for an item of administrative expenditure if an elected member of the party, or the elected member, has, after making a claim for payment under the EF Act, Part 5, received a payment of an additional entitlement for the same item of administrative expenditure.

Schedule 1[8] inserts proposed section 96(3) and (4) into the EF Act to provide that—

- (a) a party is not eligible for a quarterly payment from the Administration Fund while a failure by an elected member of the party to give the Electoral Commission a required declaration under proposed section 96A in relation to the claim for the quarterly payment continues, and
- (b) an elected member is not eligible for a quarterly payment from the Administration Fund while a failure by the elected member to give the Electoral Commission a declaration under section 94(2)(b1) in relation to the claim for the quarterly payment continues.

Schedule 1[9] inserts proposed section 96A into the EF Act to provide that the Electoral Commission may require an elected member of Parliament who is a member of a party to make a declaration if the party agent of the party has made a claim for payment from the Administration Fund for an item of administrative expenditure. The elected member must state in the declaration that the member has not made and will not make a claim for an additional entitlement for the item of administrative expenditure.

Schedule 1[10] makes provision about the determination and issue of guidelines by the Electoral Commission about administrative expenditure under the EF Act, Part 5.

Schedule 1[11] inserts savings and transitional provisions into the EF Act, which—

- (a) provide that the amendments made by the proposed Act, other than Schedule 1[10], are taken to have commenced on 1 April 2023, and
- (b) deal with claims for payment from the Administration Fund for administrative expenditure incurred on or after 1 April 2023 and before the commencement of the proposed Act that have already been made, whether or not the claim has been determined, including the repayment of excess amounts.



New South Wales

Electoral Funding Amendment Bill 2025

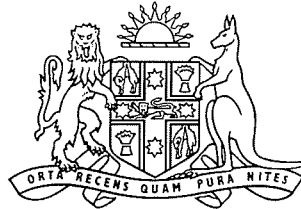
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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Electoral Funding Amendment Bill 2025

No , 2025

A Bill for

An Act to amend the *Electoral Funding Act 2018* to make further provision in relation to payments from the Administration Fund; and for related matters.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Electoral Funding Amendment Act 2025</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1 Amendment of Electoral Funding Act 2018 No 20

[1] Section 4 Definitions

Insert in alphabetical order—

additional entitlement means an additional entitlement, other than the electoral allowance, of the kind referred to in the *Parliamentary Remuneration Act 1989*, section 10(3).

[2] Section 84 Administrative expenditure—payments from Administration Fund

Omit section 84(1)(b)(ii).

[3] Section 87 Public funding of eligible parties for administrative expenditure

Insert after section 87(5)—

- (6) A party is not eligible for a payment from the Administration Fund for an item of administrative expenditure for which an elected member of the party has also made a claim for an additional entitlement.

[4] Section 88 Public funding of independent members for administrative expenditure

Insert after section 88(4)—

- (5) An elected member is not eligible for a payment from the Administration Fund for an item of administrative expenditure for which the elected member has also made a claim for an additional entitlement.

[5] Section 94 Claims for payment

Insert after section 94(2)(b)—

- (b1) for an elected member—be accompanied by a further declaration that the member has not made and will not make, for the same item of administrative expenditure, a claim under this part and a claim for an additional entitlement, and

[6] Section 94(3A)

Insert after section 94(3)—

- (3A) In dealing with a claim for payment, the Electoral Commission may, but need not, rely on a declaration made under section 94(2)(b1) or 96A.

[7] Section 94(6A)

Insert after section 94(6)—

- (6A) The Electoral Commission may recover, as a debt in a court of competent jurisdiction, an amount a party, or an elected member, has received as part of a quarterly payment for an item of administrative expenditure if an elected member of the party, or the elected member, has, after making a claim for payment under this part, received a payment of an additional entitlement for the same item of administrative expenditure.

[8] Section 96 Payments conditional on compliance with other obligations under this Act

Insert after section 96(2)—

- (3) A party is not eligible for a quarterly payment from the Administration Fund under this part while a failure by an elected member of the party to give the

	Electoral Commission a required declaration under section 96A in relation to the claim for the quarterly payment continues.	1
		2
(4)	An elected member is not eligible for a quarterly payment from the Administration Fund under this part while a failure by the elected member to give the Electoral Commission a declaration under section 94(2)(b1) in relation to the claim for the quarterly payment continues.	3
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[9]	Section 96A	7
	Insert after section 96—	8
96A	Declarations about public funding of eligible parties for administrative expenditure	9
		10
(1)	The Electoral Commission may, by written notice, require an elected member of a party to make a declaration under this section if the party agent of the party has made a claim for payment from the Administration Fund for an item of administrative expenditure.	11
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(2)	The elected member must state in the declaration that the member has not made and will not make a claim for an additional entitlement for the item of administrative expenditure.	15
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(3)	The declaration must be—	18
	(a) made in writing, and	19
	(b) given to the Electoral Commission within the reasonable period specified by the Electoral Commission.	20
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[10]	Section 152 Guidelines	22
	Insert after section 152(2)—	23
(3)	The Electoral Commission must, if practicable, before a guideline relating to administrative expenditure under Part 5 is determined and issued—	24
		25
	(a) make a draft of the guideline publicly available by—	26
	(i) publishing the draft guideline on the Electoral Commission's website, and	27
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	(ii) giving the draft guideline to the President of the Council and the Speaker of the Assembly, and	29
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(b)	invite written submissions about the draft guideline to be made within a specified period after the date the draft guideline was made publicly available, being a period of at least 4 weeks (the <i>submission period</i>), and	31
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(c)	consider the written submissions made about the draft guideline received by the Electoral Commission within the submission period.	35
		36
(4)	The Electoral Commission may, but need not, make publicly available the written submissions made about the draft guideline or a summary of or report on the written submissions.	37
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(5)	A failure to comply with a requirement under subsection (3) in relation to a guideline does not affect the validity of the guideline or a decision made by the Electoral Commission having regard to the guideline under subsection (2).	40
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		42
(6)	The Electoral Commission may dispense with compliance with subsection (3) if it is satisfied that compliance should be dispensed with because of the minor nature or urgency of the matter.	43
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(7)	To avoid doubt—	1
(a)	the Electoral Commission is not prevented from making decisions about administrative expenditure during the submission period for a draft guideline, and	2 3 4
(b)	the determination and issue of a guideline under subsection (1) does not affect the validity of a decision made by the Electoral Commission before the guideline was determined and issued.	5 6 7
[11]	Schedule 2 Savings, transitional and other provisions	8
	Insert at the end of the schedule—	9
Part 8	Provisions consequent on enactment of Electoral Funding Amendment Act 2025	10 11
27	Definition	12
	In this part—	13
	<i>amending Act</i> means the <i>Electoral Funding Amendment Act 2025</i> .	14
28	Retrospective commencement of amendments	15
(1)	The amendments to this Act made by the amending Act, other than by Schedule 1[10], are taken to have commenced on 1 April 2023.	16 17
(2)	For a claim for payment under this Act, Part 5 for administrative expenditure incurred on or after 1 April 2023 and before the commencement of the amending Act that has been made, whether or not the claim has been determined—	18 19 20 21
(a)	the party agent of the party or an elected member who made the claim may, within 12 months after the commencement, make a supplementary claim for payment, and	22 23 24
(b)	for a supplementary claim for an elected member—the claim must comply with this Act, section 94(2)(b1), and	25 26
(c)	for a supplementary claim for a party—this Act, section 96A extends to the supplementary claim.	27 28
(3)	The Electoral Commission must determine the supplementary claim as if it was a claim made under this Act, Part 5.	29 30
(4)	For a claim for payment under this Act, Part 5 for administrative expenditure incurred on or after 1 April 2023 and before the commencement of the amending Act, the making of a supplementary claim is, for this Act, section 153, a proper reason justifying an extension of the time required under section 90(2) or 91(6) to repay an excess amount to the Electoral Commission.	31 32 33 34 35
(5)	Despite subclause (4), the time must not be extended to a date later than 31 December 2026.	36 37