



New South Wales

# Local Government Amendment (Elections) Bill 2025

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Local Government Act 1993* (***the Act***)—
  - (i) to require an election, poll or constitutional referendum of a council to be administered by the Electoral Commissioner rather than by either the Electoral Commissioner or an electoral services provider engaged by the council, and
  - (ii) to provide that pre-poll voting may only occur during the 5 business days immediately before the date of an election, and
  - (iii) to provide that a polling place for a council election must not be located outside the council's local government area,
- (b) to make consequential amendments.

## 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 the date of assent to the proposed Act.

## **Schedule 1      Amendment of Local Government Act 1993 No 30**

**Schedule 1[2]** provides that a countback election to fill a casual vacancy must be administered by a returning officer appointed by the Electoral Commissioner. **Schedule 1[3]** makes a consequential amendment.

**Schedule 1[4]** provides for section 291A, which provides that countback elections must be held instead of by-elections to fill casual vacancies in certain circumstances, to be repealed immediately before the next ordinary election held after the commencement of the proposed Act. **Schedule 1[22]** makes a consequential amendment.

**Schedule 1[5]** inserts proposed section 291B, which applies to casual vacancies created after the next ordinary election held after the commencement of the proposed Act. The proposed section provides that, if there is a casual vacancy and the name of the person who caused the vacancy was included in a group on the ballot-papers at the election at which the person was elected, the Governor must, in accordance with the regulations, appoint another eligible person included in the group to fill the vacancy. If the Governor is not able to appoint a person, a by-election must be held to fill the vacancy. The proposed section also allows the regulations to provide for matters relating to the arrangements for filling casual vacancies. **Schedule 1[1] and [8]** make consequential amendments.

**Schedule 1[7]** provides that, if a countback election is unsuccessful, a by-election must be held not later than 3 months after the day immediately following the day on which the returning officer notified the general manager that the countback election was unsuccessful.

**Schedule 1[9]** omits sections 296AA–296B, which provide for an election, poll or constitutional referendum of a council to be administered by either the Electoral Commissioner or an electoral services provider engaged by the council, and inserts proposed sections 296–296D.

Proposed section 296 requires an election, poll or referendum to be administered by the Electoral Commissioner and provides for the Electoral Commissioner's expenses to be met by the council. The proposed section does not apply to an election of a mayor or a deputy mayor by councillors.

Proposed section 296A allows the Electoral Commissioner to prepare a plan for the administration of an election, poll or referendum of a council. The proposed section also requires the Electoral Commissioner to consult with the council in preparing the plan and to include in the plan an estimate of the expenses to be incurred by the Electoral Commissioner in administering the election, poll or referendum.

Proposed section 296B sets out provisions relating to the appointment of returning officers, substitute returning officers and electoral officials by the Electoral Commissioner.

Proposed section 296C sets out requirements in relation to the conduct of elections. The proposed section provides that a polling place for a council election must not be located outside the council's local government area, other than as provided for by the regulations, and that an elector may vote in person before the election day only in the 5 business days immediately before the election day or as otherwise determined by the regulations. The proposed section also allows the regulations to provide for other matters relating to pre-poll voting.

Proposed section 296D makes it clear that persons may be employed in the Public Service to enable the Electoral Commissioner to exercise the function of administering elections, polls and referendums under the Act.

**Schedule 1[6], [10]–[15] and [19]–[21]** make amendments consequential on Schedule 1[9].

Schedule 1[16] makes an amendment consequential on Schedule 1[9], providing that only the Electoral Commissioner, rather than either the Electoral Commissioner or a returning officer, may approve extending the time for closing a poll for postal voting.

**Schedule 1[18]** inserts savings, transitional and other provisions that apply to certain elections of Fairfield City Council and Brewarrina Shire Council, and provides that the amendments made by

Schedule 1[17] and [23] are repealed immediately before the next ordinary election held after the commencement of the proposed Act.

**Schedule 1[23]** amends the definition of *election* to include a countback election. However, **Schedule 1[17]** provides that, in section 328A, which requires a council's general manager to keep a register of current political donation disclosures, a countback election must be excluded when determining the relevant disclosure period that includes the date of the last election.

**Schedule 1[24]** inserts definitions of *Electoral Commission* and *registered political party*.

## **Schedule 2      Consequential amendments of Local Government (General) Regulation 2021**

**Schedule 2[1]–[13], [15]–[25], [30] and [32]** make amendments consequential on Schedule 1[9].

Schedule 2[14] requires the Electoral Commissioner, rather than the returning officer, to assign polling place managers and other election officials to polling places.

**Schedule 2[26] and [33]** make amendments consequential on Schedule 1[4].

**Schedule 2[27]** requires certain notices to be given before and after an appointment to fill a casual vacancy under the Act, proposed section 291B, as inserted by Schedule 1[5].

**Schedule 2[28]** makes an amendment consequential on Schedule 1[9], allowing the Electoral Commissioner to appoint any returning officer to conduct a countback election to fill a casual vacancy instead of the Electoral Commissioner having to first contact the returning officer or substitute returning officer who conducted the election at which the person whose departure created the vacancy was elected. **Schedule 2[29]** makes a consequential amendment.

**Schedule 2[31]** provides that a countback election to fill a casual vacancy must occur at least 14 days after the date of publication of the notice of the vacancy on the Electoral Commission's website rather than the relevant council's website.