

Local Government Amendment (No Forced Amalgamations) Bill 2003

Explanatory note

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

Overview of Bill

The object of this Bill is to require the Local Government Boundaries Commission to poll the residents and ratepayers affected by a proposed amalgamation of two or more local government areas, or by a substantial change to the boundaries of a local government area, so as to ascertain their attitude to the proposal.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Schedule 1 Amendments

At present, any proposal to amalgamate two or more local government areas into one or more new areas, or to alter the boundaries of one or more areas, must be referred by the Minister for examination and report to the Boundaries Commission or to the Director-General. It is only if the proposal concerns amalgamation that the Boundaries Commission or the Director-General is required to seek the views of electors of each of the areas by means of advertised public meeting or formal poll. (See current section 218F of the *Local Government Act 1993*).

The amendments made by Schedule 1 will require all proposals for the amalgamation of two or more areas, or that involve a substantial alteration to a boundary of an area, to be referred to the Boundaries Commission. (See proposed section 218F (1A)). The term **substantial alteration** to a boundary of an area is defined to mean an alteration the net effect of which is to increase or reduce the physical size of the area concerned by 10% or more or that is part of a redistribution of boundaries throughout the State. (See the proposed amendment to the Dictionary).

The Boundaries Commission will be required to conduct a public hearing in relation to each such proposed amalgamation or substantial boundary alteration and to have regard to the matters raised at that public hearing. (See proposed section 265A).

The Boundaries Commission will also be required to conduct a postal ballot in relation to each such proposed amalgamation or substantial boundary alteration (although the Boundaries Commission may request the Electoral Commissioner to conduct the postal ballot). (See proposed section 265B).

The people who may vote at the postal ballot are the same as the people who may vote at local council elections, namely, residents, owners of rateable land, occupiers of rateable land and ratepaying lessees of rateable land. (See proposed section 265C).

The electors in a postal ballot conducted under proposed section 265B will be taken to be in favour of the proposal the subject of the postal ballot if a majority of the formal votes cast in each area to which the proposal relates is in favour of the proposal. In any other case, the electors are taken to have rejected the proposal. (See proposed section 265D (1)).

Once a postal ballot is determined, the Boundaries Commission is required to cause notice of the result of the postal ballot to be published in a newspaper circulating in the area to which the proposal the subject of the postal ballot relates. (See proposed section 265D (2)).

The Boundaries Commission is required to have regard to the result of the public hearing and the postal

ballot in the report that it is required to prepare for the Minister. The report of the Boundaries Commission must contain an analysis of the public hearing and, if the recommendation of the report is contrary to any general consensus reached at the public hearing, must contain a detailed explanation as to why the Boundaries Commission does not endorse that general consensus. (See proposed section 265A (4)). The report must also contain an analysis of the postal ballot (specifying the result of the postal ballot). If the recommendation of the report is contrary to the result of the postal ballot, the report must contain a detailed explanation as to why the Boundaries Commission does not endorse the result of the postal ballot. (See proposed section 265D (3)). The proposed amendments do not apply to boundary changes or amalgamations that are in progress. (See proposed amendment to Schedule 8).