



New South Wales

# Local Government Amendment (Elections) Bill 2012

## 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 *Local Government Act 1993* (the *LG Act*) and the *Local Government (General) Regulation 2005* (the *LG Regulation*) so as:

- (a) to provide that the system of continuous automatic enrolment of electors on the rolls for State parliamentary elections extends to enable persons to be enrolled on the roll of residential electors for a local government election during the period leading up to the polling day for the election, and
- (b) to allow persons eligible to enrol as residential electors for local government elections to enrol and cast a provisional vote at an election on polling day, provided the person can produce a New South Wales driver licence or Photo Card, and
- (c) to make other miscellaneous amendments to improve the conduct of local government elections under the LG Act.

## 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**

### **Amendments relating to automatic enrolment**

Schedule 1 [1], [2], [4], [5] and [9] make amendments to give effect to the objective set out in paragraph (a) of the Overview. The result of the amendments is that the Electoral Commissioner will be required to continuously keep a roll for each local government area of persons who are, in the opinion of the Electoral Commissioner, entitled to be enrolled as electors because they are residents of the area. The Electoral Commissioner may use the roll used for elections of the Legislative Assembly (that is, the automatically updated roll for State elections under the *Parliamentary Electorates and Elections Act 1912*) or the roll used for Commonwealth elections as a basis for the local government residential roll (see section 298 of the LG Act).

Schedule 1 [6]–[8] and [14] make consequential amendments to provide for printed and electronic authorised copies of the roll of electors for use at local government elections. (See also proposed provisional voting provisions that will allow certain residents who are not on the authorised copy of the roll to cast a provisional vote at an election).

### **Amendments relating to provisional voting**

Schedule 1 [10] and Schedule 2 [11] make amendments to give effect to the objective set out in paragraph (b) of the Overview. Substituted section 305 allows regulations to be made to enable provisional votes to be cast in certain circumstances in local government elections under the LG Act.

Proposed Subdivision 1A of Division 7 of Part 11 of the LG Regulation (proposed clauses 320A–320E) will enable an elector to cast a provisional vote in a local council election in a similar manner as a provisional vote is cast in a State election under section 106 of the *Parliamentary Electorates and Elections Act 1912*. The proposed Subdivision provides for 4 types of provisional vote. Provisional voting is currently allowed:

- (a) where a person is already marked off an authorised roll but the person claims not to have voted (clause 344 of the LG Regulation), and
- (b) where a person's name has been incorrectly omitted from a roll (section 305 of the LG Act and clause 343 of the LG Regulation).

Under the new provisions, provisional voting will also be permitted:

- (a) where a resident of the local government area is enrolling for the first time, re-enrolling or transferring enrolment (provided the resident can produce a New South Wales driver licence or Photo Card), and

(b) where a person has enrolled for the election before polling day but after authorised copies of the rolls have been finalised.

The proposed Subdivision and related provisions also deal with the procedure for provisional voting and the scrutiny and counting of provisional votes.

**Schedule 2 [2], [3], [12]–[19] and [28]–[31]** make consequential changes to the LG Regulation.

### **Miscellaneous amendments**

**Schedule 1 [3]** amends section 290 of the LG Act to make it clear that, in determining when an election of a mayor by the councillors must be held after an election of councillors, time begins to count after the declaration of election of all the councillors of the council concerned.

**Schedule 1 [11] and [15] and Schedule 2 [27]** make amendments to the LG Act and LG Regulation to streamline the process, after an election, for checking the rolls of electors for double-voting and failure to vote. All the rolls used in a local government election (whether the election is administered by the Electoral Commissioner or by the general manager of a council) are to be checked by the Electoral Commissioner.

**Schedule 1 [12] and Schedule 2 [6]–[10]** make amendments to the LG Act and LG Regulation to enable the relevant election manager to approve methods of random selection (for example, by electronic means) to determine the order that candidates' names and groups' names appear on ballot-papers rather than being limited to the method of balloting of names currently set out in the LG Regulation.

**Schedule 1 [13]** enables regulations to be made containing provisions of a savings or transitional nature as a consequence of the enactment of the proposed Act.

## **Schedule 2      Amendment of Local Government (General) Regulation 2005**

**Schedule 2 [1] and [4]** make amendments to make certain terminology used in the LG Regulation consistent.

**Schedule 2 [5]** makes it clear that a candidate for nomination at an election must be proposed by persons who are enrolled in respect of the same ward or area as at the prescribed closing date for the election.

**Schedule 2 [20]–[26]** make amendments to provide that, in relation to elections administered by the general manager of a council, the returning officer is to be responsible for the registration of electoral material under Subdivision 6 of Division 9A of Part 11 of the LG Regulation (rather than the general manager).