



New South Wales

RSL NSW Bill 2018

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 constitute a corporation with the name of the Returned and Services League of Australia (New South Wales Branch) which may also be called RSL NSW and to provide that RSL NSW is a continuation of the corporation constituted by the *Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935*,
- (b) to establish a board of directors (the **Board**) to govern and act for RSL NSW,
- (c) to provide that the directors of the Board are to be elected by RSL NSW service members and will include at least 1 independent director,
- (d) to require RSL NSW to provide an annual report to the Minister to be tabled in Parliament,
- (e) to require the directors of the Board to disclose any pecuniary interests in matters being considered by the Board,
- (f) to provide for the remuneration by RSL NSW of the directors of the Board.

Outline of provisions

Part 1 Preliminary

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 defines certain words and expressions used in the proposed Act. The term *RSL NSW Constitution* is defined as the document called the “Constitution of the Returned and Services League of Australia (New South Wales Branch)” as in force for the time being and *service member* has the meaning it has in the RSL NSW Constitution.

Part 2 Constitution and management of RSL NSW

Clause 4 constitutes RSL NSW as a corporation. It is a continuation of the existing corporation constituted by the *Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935*, which is repealed by the proposed Act.

Clause 5 provides for a board of directors of RSL NSW. The Board is to consist of at least 3 (but not more than 10) directors. The directors are to be service members elected by the RSL NSW service members (who each have 1 vote) in accordance with the RSL NSW Constitution. The Board is to also appoint at least 1 (but not more than 2) independent directors.

Clause 6 provides that all decisions relating to the functions of RSL NSW are to be made by or under the authority of the Board.

Part 3 Functions of RSL NSW

Clause 7 specifies the functions of RSL NSW. Some of the functions of RSL NSW are conferred or imposed by or under the RSL NSW Constitution.

Clause 8 requires RSL NSW to prepare an annual report of its operations. The annual report is to include the audited financial statements and accounts of RSL NSW.

Clause 9 provides that RSL NSW is the guardian of the Cenotaph in Martin Place, Sydney.

Clause 10 provides that RSL NSW is the guardian of the Anzac Memorial Building.

Clause 11 enables RSL NSW to delegate its functions.

Part 4 Miscellaneous

Clause 12 requires the directors of the Board to disclose any of their pecuniary interests in matters being considered by the Board.

Clause 13 authorises the directors, subject to any other Act or law, to be paid remuneration by RSL NSW.

Clause 14 provides for the manner in which documents requiring authentication by RSL NSW may be authenticated without the seal of RSL NSW.

Clause 15 requires amendments to the RSL NSW Constitution to be registered by the Registrar-General.

Clause 16 provides for the manner in which documents may be served on RSL NSW.

Clause 17 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 18 repeals the *Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935*.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act, including the power to make regulations of a savings or transitional nature. The Schedule provides that the existing State Council established under the RSL NSW Constitution is taken to be the Board under the proposed Act, and may exercise the functions of the Board, until the terms of office of the existing State Council members expire and directors are elected under the proposed Act. However, an independent director or directors are to be appointed as soon as practicable after the commencement of the proposed Act.



New South Wales

RSL NSW Bill 2018

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New South Wales

RSL NSW Bill 2018

No. , 2018

A Bill for

An Act to reconstitute the Returned and Services League of Australia (New South Wales Branch) as a corporation with the alternate name of RSL NSW; to repeal the *Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935*; and for other purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>RSL NSW Act 2018</i> .	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Definitions	7
(1) In this Act:	8
Board means the board of directors of RSL NSW established under section 5.	9
director means a director of the Board.	10
former Act means the <i>Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935</i> .	11
function includes a power, authority or duty, and exercise a function includes perform a duty.	12
RSL NSW means the corporation constituted by this Act.	13
RSL NSW Constitution means the document called the “Constitution of the Returned and Services League of Australia (New South Wales Branch)” as in force for the time being.	14
service member means a person who is a service member within the meaning of the RSL NSW Constitution.	15
Note. The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	16
(2) Notes included in this Act do not form part of this Act.	17
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Part 2	Constitution and management of RSL NSW	1
4	Constitution	2
(1)	There is constituted by this Act a corporation with the corporate name of the Returned and Services League of Australia (New South Wales Branch).	3 4
(2)	The Returned and Services League of Australia (New South Wales Branch) may also be called RSL NSW and the use of that name has the same effect for all purposes as the use of its corporate name.	5 6 7
(3)	RSL NSW is not and does not represent the Crown.	8
(4)	RSL NSW is a continuation of, and the same legal entity as, the corporation constituted by the former Act.	9 10
	Note. Section 53 of the <i>Interpretation Act 1987</i> contains savings provisions in relation to the effect of the alteration of the name and constitution of the former corporation.	11 12
5	Board of directors of RSL NSW	13
(1)	There is to be a board of directors of RSL NSW.	14
(2)	The Board is to consist of at least 3 but not more than 10 directors.	15
(3)	Except as provided by subsection (5), the directors are to be service members who are elected, in accordance with the RSL NSW Constitution, as directors by the service members.	16 17 18
(4)	Each service member has one vote in an election of the directors.	19
(5)	At least 1 but not more than 2 persons are to be appointed by the Board as independent directors. An <i>independent director</i> is a person who is not, or was not in the previous 5 years, admitted as a member of RSL NSW in any class of membership under the RSL NSW Constitution.	20 21 22 23
(6)	The RSL NSW Constitution may make provision for or with respect to the directors (including terms of office and removal from office).	24 25
(7)	The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.	26 27 28
6	Role of Board	29
(1)	All decisions relating to the functions of RSL NSW are to be made by or under the authority of the Board.	30 31
(2)	Any act, matter or thing done in the name of, or on behalf of, RSL NSW by or under the authority of the Board is taken to have been done by RSL NSW.	32 33

Part 3	Functions of RSL NSW	1
7	General functions	2
(1)	RSL NSW has the functions conferred or imposed on it by or under any of the following:	3
		4
(a)	the RSL NSW Constitution,	5
(b)	this Act or any other Act or law.	6
	Note. See for example section 50 of the <i>Interpretation Act 1987</i> .	7
(2)	RSL NSW must keep proper accounts and records in relation to its operations.	8
8	Annual report of RSL NSW	9
(1)	RSL NSW must, within 6 months after the end of each financial year of RSL NSW or within a longer period allowed by the Minister, prepare and forward to the Minister an annual report of its operations for that financial year.	10
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(2)	The annual report must include:	13
(a)	copies of the financial statements and accounts of RSL NSW, prepared in accordance with the Australian Accounting Standards, for the financial year to which the report relates, and	14
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(b)	an independent auditor's report, prepared in accordance with the Australian Auditing Standards, on those financial statements and accounts, and	17
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(c)	information relating to the determination of the remuneration for each director, and	19
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(d)	any other information prescribed by the regulations.	21
(3)	The Minister is to table the annual report or cause it to be tabled in both Houses of Parliament as soon as practicable after it is forwarded to the Minister.	22
		23
(4)	RSL NSW is to make copies of its annual report publicly available at no cost.	24
(5)	The financial year of RSL NSW is, for the purposes of this section, the period of 12 months as determined by RSL NSW.	25
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9	The Cenotaph	27
(1)	RSL NSW is to be taken to be the guardian of the Cenotaph in Martin Place in the City of Sydney.	28
		29
(2)	The Council of the City of Sydney is required to appoint, as custodian of the Cenotaph, a person nominated by RSL NSW.	30
		31
(3)	Any information or complaint in respect of any offence concerning the Cenotaph may be laid or made by the custodian of the Cenotaph.	32
		33
10	Anzac Memorial Building	34
(1)	RSL NSW is taken to be the guardian of the Anzac Memorial Building.	35
(2)	The Trustees of the Anzac Memorial Building are required to appoint, as custodian of the Anzac Memorial Building, a person nominated by RSL NSW.	36
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(3)	Any information or complaint in respect of any offence concerning the Anzac Memorial Building may be laid or made by the custodian of the Anzac Memorial Building.	38
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(4)	In this section, the Anzac Memorial Building means the memorial building within the meaning of the <i>Anzac Memorial (Building) Act 1923</i> .	41
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11 Delegation

RSL NSW may delegate the exercise of any of its functions (other than this power of delegation) to:

- (a) a director, or
- (b) an employee of RSL NSW, or
- (c) a committee comprised of, or a combination of, those persons, or
- (d) any other person.

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Part 4 Miscellaneous

12 Disclosure of pecuniary interests by directors

- (1) If: 3
- (a) a director has a pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and 4
 - (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter, 6
- the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board. 8
- (2) A disclosure by a director at a meeting of the Board that the director: 10
- (a) is a director, or is in the employment, of a specified company or other body, or 11
 - (b) is a partner, or is in the employment, of a specified person, or 12
 - (c) has some other specified interest relating to a specified company or other body or to a specified person, 13
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1). 14
- (3) Particulars of any disclosure made under this section must be recorded by the Board in a document kept for the purpose and that document must be made available at all reasonable hours for inspection by any person on payment of a reasonable fee determined by the Board. 15
- (4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Board otherwise determines: 16
- (a) be present during any deliberation of the Board with respect to the matter, or 17
 - (b) take part in any decision of the Board with respect to the matter. 18
- (5) For the purpose of the making of a determination by the Board under subsection (4), a director who has a pecuniary interest in a matter to which the disclosure relates must not: 19
- (a) be present during any deliberation of the Board for the purpose of making the determination, or 20
 - (b) take part in the making by the Board of the determination. 21
- (6) A contravention of this section does not invalidate any decision of the Board. 22
- (7) This section does not prevent a director from taking part in the making of a determination that relates to the remuneration of the directors if the requirements specified in the RSL NSW Constitution relating to the making of the determination are complied with. 23

13 Remuneration of directors

- (1) A director may, subject to any other Act or law, receive remuneration from RSL NSW. 24
- (2) In determining the level of remuneration to be paid to a director, RSL NSW must have regard to the following: 25
- (a) the specific role of the director, 26
 - (b) the remuneration paid to the directors of comparable organisations, 27
 - (c) any other matter prescribed by the regulations. 28

(3)	The level of remuneration paid to a director must not, having regard to the matters referred to in subsection (2), be manifestly excessive.	1 2
14	Authentication of documents	3
	Any document requiring authentication by RSL NSW is sufficiently authenticated without the seal of RSL NSW if it is:	4 5
(a)	signed by 2 directors, or	6
(b)	signed:	7
(i)	by a director, and	8
(ii)	by an employee of RSL NSW authorised by RSL NSW to sign the document.	9 10
15	Amendments to RSL NSW Constitution to be registered	11
(1)	If any amendment is made to the RSL NSW Constitution on or after the commencement of this Act, an instrument certified under the seal of RSL NSW setting out the terms of the amendment is to be registered by the Registrar-General.	12 13 14
(2)	A copy of a registered instrument certified by the Registrar-General is conclusive evidence of the contents of the instrument.	15 16
16	Service of documents	17
(1)	A document may be served on RSL NSW by any of the following methods:	18
(a)	by post to the address specified by RSL NSW for the service of documents of that kind,	19 20
(b)	by post to an office of RSL NSW or by leaving it at an office of RSL NSW with a person apparently over the age of 16 years,	21 22
(c)	by email to an email address specified by RSL NSW for the service of documents of that kind,	23 24
(d)	by any other method authorised by the regulations for the service of documents of that kind.	25 26
(2)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on RSL NSW by any other method.	27 28
(3)	In this section, <i>serve</i> includes give or send.	29
17	Regulations	30
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	31 32 33 34
18	Repeal of Act 1935 No 39	35
	<i>The Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935</i> is repealed.	36 37

Schedule 1	Savings, transitional and other provisions	1
Part 1	General	2
1	Regulations	3
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	4 5
(2)	A savings or transitional provision:	6
(a)	may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date, and	7 8
(b)	has effect despite anything to the contrary in this Schedule.	9
(3)	To the extent to which a savings or transitional provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	10 11 12
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	13 14 15
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	16 17 18
(4)	Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations.	19 20 21
Part 2	Provisions consequent on enactment of this Act	22
2	Continuation of State Council pending election of Board directors	23
(1)	The State Council is, until:	24
(a)	the terms of office of the existing State Council members expire, and	25
(b)	the directors are elected under section 5 (3),	26
	taken to be the Board for the purposes of this Act and is to exercise the functions of the Board.	27 28
(2)	In this clause:	29
	<i>existing State Council member</i> means a person who held office as a member of the State Council immediately before the commencement of this Act.	30 31
	<i>State Council</i> means the State Council established under the RSL NSW Constitution.	32
3	Initial appointment of independent director	33
	As soon as practicable after the commencement of this Act, the Board is to convene a meeting at which the Board is to appoint at least 1 but not more than 2 persons who are independent directors as referred to in section 5 (5).	34 35 36