



New South Wales

Electoral Legislation Amendment (Local Government Elections) Bill 2021

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) amend the *Electoral Funding Act 2018* to enable a party agent of a registered party to elect to be the person responsible for disclosing certain political donations and electoral expenditure relating to local government, and
- (b) amend the *Local Government Act 1993* to—
 - (i) clarify the relationship between the regulations under that Act and arrangements between a council and the Electoral Commissioner for administration of local council elections, and
 - (ii) provide for the making of rules for the safe conduct of council elections during the COVID-19 pandemic, and
 - (iii) clarify that the postponement of a council election by the Minister does not affect the validity of certain council resolutions passed and arrangements entered into by the council.

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 1 July 2021.

Schedule 1 Amendment of Electoral Funding Act 2018 No 20

Schedule 1[2] inserts proposed section 14(4A) into the *Electoral Funding Act 2018* to enable a party agent of a registered party to decide to be the person responsible for making a disclosure of political donations received or made, and electoral expenditure incurred, by or on behalf of the following—

- (a) an elected member who is a councillor who is a member of the registered party,
- (b) a candidate in a council election who is a member of the registered party,
- (c) a group in a council election where 1 or more of the members of the group are members of the registered party.

Currently, under section 14(4) of the *Electoral Funding Act 2018*, a party agent of a registered party may only become the person who is responsible for making a disclosure for an elected member, candidate or group by lodging a written consent with the Electoral Commissioner made with the agreement of the elected member, candidate or group concerned.

Schedule 1[1] and [3] make consequential amendments. **Schedule 1[4]** inserts machinery provisions and **Schedule 1[5]** inserts a related savings provision.

Schedule 2 Amendment of Local Government Act 1993 No 30

Schedule 2[1] amends the *Local Government Act 1993*, section 296 to clarify that a provision of an election arrangement between a council and the Electoral Commissioner for the administration of an election of the council has no effect if the provision is inconsistent with, or would prevent a person from casting a vote in a way provided by, the regulations under that Act.

The proposed amendment also provides that the Electoral Commissioner does not contravene the requirement to administer an election in accordance with an election arrangement by doing, or omitting to do, something for the purposes of complying with the regulations.

Schedule 2[2] inserts proposed section 296C into the *Local Government Act 1993* to enable the Electoral Commissioner to specify rules for the safe conduct, during the COVID-19 pandemic, of elections administered by the Electoral Commissioner under arrangements with councils. The proposed section makes it clear that the Electoral Commissioner does not contravene its obligation to administer elections in accordance with arrangements with councils for something done, or not done, for the purpose of complying with COVID-19 safe election rules.

Schedule 2[3] amends the *Local Government Act 1993*, section 318B to clarify that the postponement of a council election does not affect the validity or operation of certain resolutions passed, or arrangements entered into, by the council for the administration of the election. **Schedule 2[4]** provides that the proposed amendment extends to resolutions passed and arrangements entered into before the commencement of the provision in relation to an election that has been postponed.