

Introduced by Dr P A C Macdonald, MP

First print



New South Wales

Parliamentary Electorates and Elections Amendment (Terms of Office) Bill 1996

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 *Parliamentary Electorates and Elections Act 1912* to require members of the Legislative Assembly who resign their seats during their terms of office to pay the cost of any resulting by-elections, except on certified medical grounds.

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 giving effect to the Schedule of amendments.

Clause 4 is a transitional provision that makes it clear that the proposed amendments to the Principal Act will not apply to the members of the Legislative Assembly holding office at the commencement of the proposed Act (until they are re-elected).

Schedule 1 Amendments

Schedule 1 [1] requires candidates at future Legislative Assembly elections to declare their intention to serve the full term if elected.

Schedule 1 [2] inserts a new section 179A, which imposes the requirement to pay the cost of a resulting by-election as referred to above. The cost will be as determined and certified by the Electoral Commissioner, subject to any regulations, and is recoverable by court proceedings. The requirement will not apply in the case of resignation caused by the illness of the member concerned or of a person for whose care the member is responsible.

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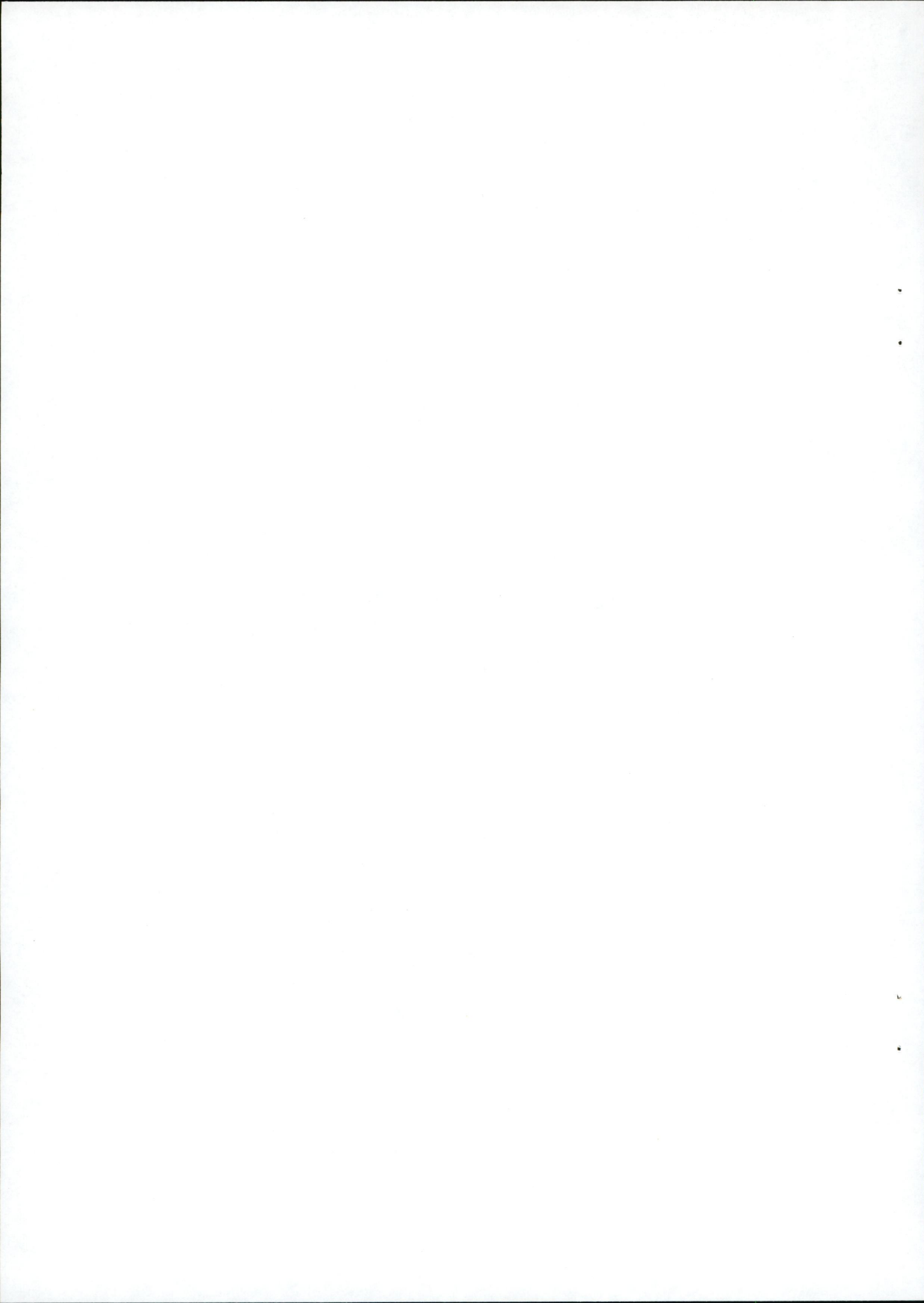


New South Wales

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New South Wales

Parliamentary Electorates and Elections Amendment (Terms of Office) Bill 1996

No. , 1996

A Bill for

An Act to amend the *Parliamentary Electorates and Elections Act 1912* to require a Member of the Legislative Assembly who resigns his or her seat to pay the cost of any resulting by-election except in limited circumstances.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Parliamentary Electorates and Elections Amendment (Terms of Office) Act 1996*.

2 Commencement

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This Act commences on the date of assent.

3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41

The *Parliamentary Electorates and Elections Act 1912* is amended as set out in Schedule 1.

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4 Application of amendments

Section 179A of the *Parliamentary Electorates and Elections Act 1912*, as inserted by this Act, applies only to persons who are elected or re-elected as members of the Legislative Assembly after the commencement of this Act.

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Schedule 1 Amendments

(Section 3)

[1] Section 79 Nomination of Assembly candidates

Insert at the end of section 79 (4):

I, the abovenamed _____ declare that, if
elected at the election, I intend to continue as a member of the
Legislative Assembly until the Assembly expires or is dissolved
in accordance with law, and that I will not resign as such a
member unless on medical grounds concerning my health or the
health of a person for whose care I am responsible. 5
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[2] Section 179A

Insert after section 179:

179A Resignation of member of Assembly

- (1) If a member of the Assembly resigns his or her seat in
the Assembly, he or she is required to pay the costs (as
certified by the Electoral Commissioner) incurred by the
State in connection with any resulting by-election. 15
- (2) The costs are to commence with the cost of the issue of
the writ for the by-election.
- (3) The cost as certified by the Electoral Commissioner is
recoverable from the former member in a court of
competent jurisdiction as a debt due to the Crown. 20
- (4) The cost is to be as determined by the Electoral
Commissioner, but, if regulations make provision for or
with respect to the method of determining the cost of a
by-election for the purposes of this section, the cost must
be determined in accordance with the regulations. 25

- (5) The foregoing provisions of this section do not apply to a by-election if the member or former member furnishes the Speaker with a written statement, verified by statutory declaration, declaring that he or she resigned on the ground of: 5
- (a) the ill health or physical or mental incapacity of the member or former member, as a result of which he or she would be unlikely to be able to perform his or her duties as a member for at least 3 months from the date of resignation, or 10
- (b) the ill health or physical or mental incapacity of a close relative or other person who requires the full-time care of the member or former member, as a result of which he or she would be unlikely to be able to perform his or her duties as a member for at least 3 months from the date of resignation, 15
- and with a written medical certificate, signed by two medical practitioners acceptable to the Speaker, certifying the medical aspects of the statement.
- (6) A statement is of no effect for the purposes of subsection (5) unless it is furnished to the Speaker before the end of the period of 14 days after the resignation. 20
- (7) A medical certificate is of no effect for the purposes of subsection (5) unless it is furnished to the Speaker before the end of the period of 28 days after the resignation. 25