

**Submission
No 7**

**ADMINISTRATION OF THE 2023 NSW STATE ELECTION AND OTHER
MATTERS**

Name: Mr Gregory Briscoe-Hough

Date Received: 12 February 2024

The Federal Parliament passed a disallowable Legislative Instrument to remove an exemption (Item 259(b) in Schedule 1) from the then Federal Regulations. That exemption related to Part XIV of the Commonwealth Electoral Act 1918. Removal of this exemption was to allow nominations by candidates for Commonwealth elections to be lodged electronically. The State Nomination process currently occurs through a paper-based process as well as electronic means established by the NSWEC, however, it is not clear if similar provisions were made to the NSW Electronic Transactions regulations to circumvent similar provisions in NSW law. Noting Section 7 of the NSW Electronic Transactions Act 2000: 7 Validity of electronic transactions (1) For the purposes of a law of this jurisdiction, a transaction is not invalid because it took place wholly or partly by means of one or more electronic communications. (2) The general rule in subsection (1) does not apply in relation to the validity of a transaction to the extent to which another, more specific, provision of this Part deals with the validity of the transaction The NSW Electronic Transactions Regulation 2017 states: 4 Certain laws excluded from section 7 (1) of the Act Section 7 (1) of the Act does not apply to the following laws of this jurisdiction—

- (a) the Election Funding, Expenditure and Disclosures Act 1981, and any regulations under that Act,
- (b) the Government Information (Public Access) Act 2009, and any regulations under that Act,
- (c) Chapter 10 of the Local Government Act 1993, and any regulations under that Act with respect to the matters dealt with in that Chapter,
- (d) the Parliamentary Electorates and Elections Act 1912, and any regulations under that Act,
- (e) the Poisons and Therapeutic Goods Act 1966, and any regulations under that Act,
- (f) any other Act or regulation that makes provision for the conduct of polls or elections by the Electoral Commissioner, to the extent only to which it makes such provision. and noting the general permissions of Division 2 Part 2 of the Act are also excluded under the regulations: 7 Certain laws excluded from Division 2 of Part 2 of the Act Division 2 of Part 2 of the Act does not apply to the following laws of this jurisdiction— (a) the Election Funding, Expenditure and Disclosures Act 1981, and any regulations under that Act, (b) the Government Information (Public Access) Act 2009, and any regulations under that Act, (c) Chapter 10 of the Local Government Act 1993, and any regulations under that Act with respect to the matters dealt with in that Chapter, (d) the Parliamentary Electorates and Elections Act 1912, and any regulations under that Act, (e) the Poisons and Therapeutic Goods Act 1966, and any regulations under that Act, (f) any other Act or regulation that makes provision for the conduct of polls or elections by the Electoral Commissioner, to the extent only to which it makes such provision. I would ask the Committee to consider if there are any other lawful provisions that would validate electronic nomination for both State and Local Government elections in NSW, and if not, why did the NSWEC, on notification of these concerns, fail to take action?