



New South Wales

# Parliamentary Electorates and Elections Amendment Bill 2010

## 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* (the **Principal Act**) so as to:

- (a) provide that the Electoral Commissioner is to conduct an investigation into the feasibility of providing internet voting for vision-impaired and other disabled persons for elections under the Principal Act and, if such internet voting is feasible, propose a detailed model of such internet voting, and
  - (b) clarify that the requirement under the Principal Act that advertisements, pamphlets, posters or notices containing certain electoral matter must contain a specified authorisation does not apply to T-shirts, buttons, badges and certain other articles, and
  - (c) provide that the Electoral Commissioner must not register electoral material for distribution on polling day if it appears to the Electoral Commissioner that the material does not clearly identify the person, political party, organisation or group on whose behalf the material is to be distributed, and
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- (d) facilitate the registration of political parties under the Principal Act under the same name as they are registered under the *Commonwealth Electoral Act 1918* of the Commonwealth (the *Commonwealth Act*), and
- (e) clarify how amendments of the particulars in the Register of Parties are to be dealt with.

The Bill also amends the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* to make a law revision amendment.

## 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 Parliamentary Electorates and Elections Act 1912 No 41 relating to investigation of internet voting for vision-impaired and other disabled persons**

**Schedule 1** inserts proposed section 187 into the Principal Act to provide that the Electoral Commissioner is to conduct an investigation into the feasibility of providing internet voting for vision-impaired and other disabled persons for elections under the Principal Act and, if such internet voting is feasible, propose a detailed model of such internet voting.

A report on the investigation and any proposed model are to be given to the Minister administering the Principal Act (currently the Premier) for tabling in Parliament.

The proposed section also makes it clear that the Electoral Commissioner is not required under the Principal Act or any other law to provide any special or alternative form of voting for vision-impaired or other disabled persons, other than that already provided for under the Principal Act. In particular, the Electoral Commissioner is not required under the Principal Act or any other law to provide a form of voting to vision-impaired or other disabled persons that enables such persons to vote without the assistance of another person.

### **Schedule 2      Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to authorisation and registration of electoral material**

Section 151E (1) (Name and address of author and printer to be printed on advertisements etc) of the Principal Act provides that advertisements, how to vote

cards, handbills, pamphlets, posters or notices containing any electoral matter must have printed on them:

- (a) the name and address of the person on whose instructions the matter was printed, and
- (b) the name of the printer and the address at which it was printed.

**Schedule 2 [1]** inserts proposed section 151E (3) into the Principal Act to provide that section 151E (1) does not apply in relation to:

- (a) a T-shirt, lapel button, lapel badge, pen, pencil or balloon, or
- (b) a business or visiting card that promotes the candidacy of any person in an election, or
- (c) a letter or other card:
  - (i) that bears the name and address of the sender, and
  - (ii) that does not contain a representation or purported representation of a ballot paper for use in an election, or
- (d) any other article prescribed (or of a class prescribed) by the regulations made under the Principal Act.

Sections 151F and 151G of the Principal Act provide that certain how to vote cards, handbills, pamphlets and notices containing electoral matter must not be distributed on polling day unless the items have been registered by the Electoral Commissioner.

**Schedule 2 [2]** inserts proposed section 151G (7A) (a1) into the Principal Act to provide that the Electoral Commissioner must not register the electoral material if it appears to the Electoral Commissioner that the material does not clearly identify the person, political party, organisation or group on whose behalf the material is to be distributed.

### **Schedule 3      Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to registration of political parties**

Part 4A of the Principal Act (sections 66A–66N) relates to the registration of political parties. Section 66G (3) (b)–(d) provide that the Electoral Commissioner must refuse to register a party if, in the opinion of the Electoral Commissioner, the name of the party or the abbreviation of the name (if any) as set out in the application for registration of the party:

- (a) is obscene or offensive, or
- (b) is the name, is an abbreviation or acronym of the name, or is a derivative of the name, of a registered party or a party currently represented in Parliament, or

- (c) so nearly resembles the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament that it is likely to be confused with or mistaken for that name or that abbreviation or acronym.

Section 129 of the Commonwealth Act contains almost identical provisions.

**Schedule 3 [1]** inserts proposed section 66G (5) into the Principal Act to ensure that the Electoral Commissioner does not refuse to register a party under a name or abbreviation by operation of those provisions where a party is already registered under the Commonwealth Act under that name or abbreviation (or has the written consent of that party) and, where relevant, the other political party concerned is also already registered under the Commonwealth Act.

Section 66H (Amendment of Register) of the Principal Act provides that the provisions of Part 4A relating to an application for the registration of a party apply (subject to the regulations) to an application for the amendment of the Register of Parties. Section 66FA provides that for certain specified purposes a party does not become registered under the Principal Act until 12 months after its registration. By operation of section 66H this 12 month delay would apply to amendments of the Register of Parties as well.

**Schedule 3 [2]** makes a law revision amendment.

**Schedule 3 [3]** clarifies that an application for an amendment of the Register of Parties (unlike an initial application for registration) need not be accompanied by a list of the names and addresses of 750 electors who are members of the party and declarations completed and signed by those members. It is noted that this amendment does not affect the continuing operation of section 66HA of the Principal Act that relates to annual returns with respect to continued registration and the power of the Electoral Commissioner to make inquiries and require information to be produced to determine whether a party is entitled to continued registration.

**Schedule 3 [4]** inserts proposed section 66H (3C)–(3E) into the Principal Act to provide that section 66FA does not apply to an amendment of the Register of Parties. The proposed provisions also provide that such an amendment to the Register of Parties must not be made in the period commencing on the day of the issue of the writ for an election and ending on and including the day fixed for the return of the writ.

## **Schedule 4      Amendment of Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 No 102**

Schedule 5 [62] to the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* on commencement will insert section 138 (Electoral information) into the Principal Act. The section provides that, after an election, certain electoral information about the distribution of first preference votes is to be made available to the public and certain other information is to be made available to each registered political party that so requests and each member of

Parliament who is not a member of a registered political party and who makes a request in respect of the member's district.

**Schedule 4** amends proposed section 138 in Schedule 5 [62] to the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* to make it clear that the information supplied relating to polling places is to include information relating to pre-poll voting places.