



New South Wales

Local Government Amendment (Conduct of Elections) Bill 2013

Explanatory note

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

Overview of Bill

The object of this Bill is to provide more flexible arrangements for the administration of local council elections by the Electoral Commissioner in place of the existing arrangements that require a council to decide whether to have the Electoral Commissioner administer its elections within 12 months after the previous ordinary election of councillors and that only permit an arrangement for all of a council's elections to be administered by the Electoral Commissioner.

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.

Schedule 1 **Amendment of Local Government Act 1993 No 30**

Schedule 1 [1] provides for the following arrangements for council elections to be administered by the Electoral Commissioner:

- (a) a council will be able to enter into an arrangement for all of its elections to be administered by the Electoral Commissioner but such an arrangement must be entered into no later than 15 months before the next ordinary election and the council resolution to authorise such an arrangement must be passed at least 18 months before the next ordinary election,
- (b) a council will be able to enter into an arrangement at any time for a particular election (other than an ordinary election) to be administered by the Electoral Commissioner,
- (c) a council will be able to enter into an arrangement for an ordinary election to be administered by the Electoral Commissioner less than 15 months before the election but only if the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner,
- (d) an arrangement for all of a council's elections to be administered by the Electoral Commissioner can be terminated by the Electoral Commissioner or the council after the next ordinary election and will be terminated automatically 18 months before the next ordinary election after that,
- (e) the first election for an area after its constitution will be administered by the Electoral Commissioner.

Schedule 1 [2] omits a transitional provision that will be made redundant by the proposed amendments.

Schedule 1 [3] inserts a transitional provision that will terminate existing contracts or arrangements for the Electoral Commissioner to administer a council's elections (with termination being delayed until after any pending election for which the Electoral Commissioner has already begun to make preparations).

First print



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New South Wales

Local Government Amendment (Conduct of Elections) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Local Government Act 1993* to make further provision for the administration of council elections by the Electoral Commissioner.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Local Government Amendment (Conduct of Elections) Act 2013</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1 Amendment of Local Government Act 1993 No 30

[1] Section 296

Omit the section. Insert instead:

296 How elections are to be administered

- (1) Elections for the purposes of this Chapter are to be administered by the general manager of the council concerned, except as provided by this section.

Note. Section 18 provides that certain provisions of this Act (relating to the conduct of elections) apply to council polls and constitutional referendums, with such modifications as may be necessary, in the same way as they apply to elections.

- (2) A council can enter into an arrangement (an *election arrangement*) with the Electoral Commissioner, by contract or otherwise, for the Electoral Commissioner to administer elections of the council as provided by this section. If such an arrangement is entered into, the Electoral Commissioner is to administer elections of the council in accordance with the arrangement.
- (3) An election arrangement for the Electoral Commissioner to administer all elections of a council can be entered into if:
- (a) the council resolves at least 18 months before the next ordinary election of councillors that such an arrangement is to be entered into, and
 - (b) the arrangement is entered into no later than 15 months before the next ordinary election of councillors.
- (4) An election arrangement for the Electoral Commissioner to administer a particular election of a council (other than an ordinary election of councillors) can be entered into at any time if the council has resolved that an election arrangement for the election is to be entered into.
- (5) An election arrangement for the Electoral Commissioner to administer an ordinary election of councillors can be entered into less than 15 months before the election if:
- (a) the council has resolved that an election arrangement for the election is to be entered into, and
 - (b) the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or

	desirable for the election to be administered by the Electoral Commissioner.	1 2
(6)	An election arrangement for the Electoral Commissioner to administer all elections of a council can be terminated by the council or the Electoral Commissioner at any time after the next ordinary election of councillors (by giving written notice of termination). If the arrangement is not terminated by either party after an ordinary election of councillors, the arrangement is automatically terminated 18 months before the next ordinary election of councillors.	3 4 5 6 7 8 9 10
(7)	The Electoral Commissioner is to administer the first election for an area after its constitution. Expenses incurred by the Electoral Commissioner (including the remuneration of election officials) in connection with such an election are to be met by the council and are recoverable from the council as a debt owed to the Electoral Commissioner.	11 12 13 14 15 16
(8)	This section does not apply to an election of the mayor or a deputy mayor by councillors.	17 18
[2]	Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts	19 20
	Omit clause 102A.	21
[3]	Schedule 8	22
	Insert at the end of the Schedule with appropriate Part and clause numbering:	23
Part	Provisions consequent on enactment of Local Government Amendment (Conduct of Elections) Act 2013	24 25 26
	Existing arrangements for elections to be administered by Electoral Commissioner	27 28
(1)	A contract or arrangement with the Electoral Commissioner in force under section 296 immediately before the commencement of this clause is terminated as follows:	29 30 31
(a)	the contract or arrangement is terminated on the commencement of this clause unless paragraph (b) applies,	32 33
(b)	if an election is pending under the contract or arrangement on the commencement of this clause, the contract or arrangement is terminated on the conclusion of that election.	34 35 36 37

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- (2) An election is pending under a contract or arrangement if the contract or arrangement provides for the Electoral Commissioner to administer the election and the Electoral Commissioner has, before the commencement of this clause, commenced preparations for the administration of the election by the Electoral Commissioner. 1
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- (3) The termination of a contract or arrangement by this clause does not affect any liability incurred under the contract or arrangement before the contract or arrangement was terminated. 7
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