

1991—No. 392

LOCAL GOVERNMENT ACT 1919—ORDINANCE

(Amendment of ordinances in relation to elections of councils)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1919, has been pleased to make the Ordinance set forth hereunder.

G. B. PEACOCKE
Minister for Local Government.

Amendment of Ordinance No. 7

1. Ordinance No. 7 under the Local Government Act 1919 is amended by omitting from clause 6 the words “, Poll Clerk, or Scrutineer” and by inserting instead the words “or Poll Clerk”.

Amendment of Ordinance No. 8

2. Ordinance No. 8 under the Local Government Act 1919 is amended:

(a) by omitting clause 4 and by inserting instead the following clause:

Notice of election

4. (1) Not less than one week before Nomination Day, the Returning Officer is to give public notice of the election by advertisement in a newspaper circulating in the area.

(2) The advertisement must:

- (a) specify the date of Nomination Day and the place of nomination (if practicable, the Council’s office); and
- (b) specify the date of the poll if there are more candidates nominated than there are aldermen or councillors to be elected; and

- (c) require the candidates to be proposed for nomination, and deposits to be paid, in accordance with clauses 5, 5A, 6 and 7.
- (3) An advertisement may contain notices required by subclause (1) relating to different areas, but in that case must be inserted in a newspaper or newspapers circulating in each of those areas.
- (b) by omitting from clause 5A (5) (b) and (c) the words “one-tenth” wherever occurring and by inserting instead the words “4 per cent”.

Amendment of Ordinance No. 9

3. Ordinance No. 9 under the Local Government Act 1919 is amended:

- (a) by inserting after clause 5C the following clauses:

Registration of general postal voters

5CA. (1) An elector who is included in one or more of the following categories may apply to the Clerk to be registered as a general postal voter for a ward or riding:

- (a) in relation to an area other than the City of Sydney, a person who is an owner of ratable land in the ward or riding but is not a resident of the area;
 - (b) in relation to the City of Sydney, a person who is an owner, ratepaying lessee or occupier of ratable land in the City but is not a resident of the City;
 - (c) a person who is a resident of the ward or riding but whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling-place usually appointed for the ward or riding;
 - (d) a person who is unable to travel, by reason of serious illness or infirmity, from the person's residence or the hospital (not being a polling-place or a declared institution under clause 2B) in which the person is a patient;
 - (e) a person who is being kept in a prison (within the meaning of the Prisons Act 1952);
 - (f) a person who is so physically incapacitated that the person cannot sign his or her name and the incapacity has been certified in writing by a registered medical practitioner.
- (2) The expressions used in subclause (1) (b) have the meanings given to them in section 14 of the City of Sydney Act 1988.
- (3) An application in relation to an elector to whom subclause (1) (f) applies:

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- (a) must be accompanied by the certificate referred to in subclause (1) (f); and
 - (b) may be made by another person acting on behalf of the elector.
- (4) An application under subclause (1) must be in Form 2AA.
- (5) If the Clerk is satisfied that an elector making an application under subclause (1) is qualified to vote at an election in the ward or riding and the information contained in the application is correct, the Clerk is:
- (a) to give the application a number; and
 - (b) to register the elector as a general postal voter for the ward or riding by entering the elector's name in the register referred to in clause 5CB.
- (6) If the Clerk registers an elector as a general postal voter, the Clerk is to notify the elector, in writing, of the registration.
- (7) If the Clerk is not satisfied:
- (a) that an elector making an application under subclause (1) is qualified to vote at an election in the ward or riding; or
 - (b) that the information contained in the application is correct,
- the Clerk is to notify the elector, in writing, to that effect.
- (8) A person must not, in or in connection with an application under subclause (1), give information that the person knows to be false or misleading in a material particular.

Maximum penalty (subclause (8)): \$1,000.

Register of General Postal Voters

5CB. (1) The Clerk is to cause to be kept a Register of General Postal Voters for each ward or riding.

(2) The Clerk is to cause to be entered in the Register in relation to an elector who is registered as a general postal voter for the ward or riding:

- (a) the application number given under clause 5CA; and
- (b) the name of the elector; and
- (c) the address of the land or place of living by which the person has the requisite qualification of an elector within the meaning of section 51 of the Act or section 15 of the City of Sydney Act 1988; and
- (d) the address of the place to which ballot-papers are to be sent, and

(e) such other particulars as the Electoral Commissioner determines.

(3) Each such register is to be open for public inspection, without fee, during ordinary office hours at the Council's office.

Cancellation of registration as general postal voter

5CC. (1) The Clerk may cancel the registration of an elector as a general postal voter if the Clerk is satisfied that:

- (a) the elector is no longer qualified to vote at an election in the ward or riding; or
- (b) the information contained in the application under clause 5CA (1) is no longer correct.

(2) If the Clerk cancels the registration of an elector as a general postal voter, the Clerk is to notify the elector, in writing, of the cancellation

(3) A notification of cancellation must include a statement setting out the person's right to request the Electoral Commissioner to direct the Clerk to review the cancellation.

(4) If the Clerk receives a request referred to in subclause (3), the Clerk is to immediately forward to the Electoral Commissioner a copy of the request and a statement in writing setting out the reasons for the cancellation of the registration of the person as a general postal voter.

(5) The Electoral Commissioner is, on receipt of a request referred to in subclause (3) or a copy of any such request under subclause (4), to decide whether to direct the Clerk to conduct a review of the register in relation to the cancellation.

(6) When the Electoral Commissioner makes a decision under subclause (5), the Electoral Commissioner is to cause written notice of the decision to be given to:

- (a) the person who made the request; and
- (b) the Clerk.

Review of register

5CD. The Clerk must, when directed to do so by the Electoral Commissioner, conduct a review of the register for a ward or riding and, upon completion of the review, is to make such alterations to the register as he or she thinks necessary to ensure that:

- (a) only electors entitled to be registered general postal voters for the ward or riding are so registered; and

- (b) the details entered in the register in relation to registered general postal voters are accurate.

Registered general postal voters to be considered to have applied for postal vote

5CE. Clause 5D applies in respect of a registered general postal voter as if the Returning Officer had received an application duly made in accordance with clause 5C by the elector for the ward or riding concerned and had received it on the day following the notification of the day of the election.

- (b) by inserting in clause 5D (1) (c) (ii) (b) after the words “filled in” the words “the applicant’s full name,”;
- (c) by omitting from clause 5D (1) (c) (ii) (b) the matter “clause 5C (2) (g)” and by inserting instead the words “this Ordinance”;
- (d) by omitting clause 5E (4) and (5) and by inserting instead the following subclauses:
 - (4) The elector must:
 - (a) deliver or post the envelope, or cause it to be delivered or posted, to the Returning Officer so that it reaches the Returning Officer before 6 p.m. on the day of election; or
 - (b) deliver the envelope, or cause it to be delivered, to a Presiding Officer between 8 am. and 6 p.m. on the day of election.
 - (5) A person to whom an envelope containing or purporting to contain a postal ballot-paper is entrusted by the elector for the purpose of delivery or posting to the Returning Officer must:
 - (a) as soon as possible, deliver or post the envelope to the Returning Officer; or
 - (b) deliver the envelope to a Presiding Officer between 8 am. and 6 p.m. on the day of election.
- (e) by inserting in clause 5J (b) after the words “with the applications therefor” the words “or, in the case of postal votes from registered general postal voters, with the applications for registration”;
- (f) by inserting after clause 11 (1) the following subclause:
 - (1 A) A person must not be both a candidate and a scrutineer at the one election in an area.
- (g) by inserting after clause 14 (b) the following subclause:
 - (c) In the circumstances described in subclause (b), the Presiding Officer is to deposit the envelopes containing postal votes received by the Presiding Officer in that ballot-box.

- (h) by inserting after clause 16 (b) the following subclause:
 - (c) A Presiding Officer to whom a postal vote has been delivered on election day (other than a postal vote delivered for cancellation) is to cause an appropriate notation to be made on a certified copy of the roll next to the name of the postal voter and is to deposit the postal vote in the ballot-box.
- (i) by inserting in clause 24 (b) after the word “containing” the words “postal votes or”;
- (i) by inserting in clause 24 (c) after the word “informal” wherever occurring the word “, postal”;
- (k) by omitting from clause 24 (c) (2) the matter “—(a)”;
- (l) by inserting in clause 24 (c) (2) after the words “Section 56A votes...” the words “Postal votes..”;
- (m) by inserting in clause 24 (d) (2) after the words “section 56A votes;” the words “the envelopes containing postal votes;”;
- (n) by inserting in clause 24 (e) after the words “tendered votes” the words “or postal votes”;
- (o) by omitting from clause 24 (f) the words “, open the ballot-box containing postal votes” and by inserting instead the words “and for registration as general postal voters, produce all postal votes received from Presiding Officers, open the ballot-box containing postal votes received from postal voters by the Returning Officer”;
- (p) by inserting in clause 24 (f) (iii) after the words “a postal vote” the words “or for registration as a general postal voter”;
- (q) by omitting from clause 24 (ff) (1) the words “, open the ballot-box containing postal votes” and by inserting instead the words “and for registration as general postal voters, open the ballot-box containing postal votes received from postal voters by the Returning Officer”;
- (r) by omitting from paragraph 4 of Form 2 the words “(e.g., as owner)” and by inserting instead the words “, as owner or resident,”;
- (s) by inserting after Form 2 the following form:

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Form 2AA (Ordinance No. 9)

APPLICATION FOR REGISTRATION AS GENERAL POSTAL VOTER

To the Town/Shire Clerk.

Would you please register me as a general postal voter for
Ward/Riding of (delete if inapplicable) the City/Municipality/Shire of
.....
(Please use BLOCK letters)

My name is

Surname

All given names

I am qualified to vote at elections in the aovementioned Ward/Riding (delete if inapplicable) of the City/Municipality/Shire

I reside in the City/Municipality/Shire at:

Flat/HouseNo. Street/road.....

Suburb/town..... Postcode.....

OR

I do not reside in the City/Municipality/Shire but I own ratable land in the City/Municipality/Shire at:

Flat/House No. Street/Road

Suburb/Town Postcode

The ground on which I seek registration is:
(Please tick the box next to the ground which applies)

I am

[] (a) an elector who is an owner of ratable land in the Ward/Riding/City/Municipality/Shire but is not a resident of the City/Municipality/Shire;

[] (b) an elector who is an owner, ratepaying lessee or occupier of ratable land in the City of Sydney but is not a resident of the City;

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- [] (c) an elector who is a resident of the Ward/Riding/City/Municipality/Shire but whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling-place usually appointed for the Ward/Riding/City/Municipality/Shire;
- [] (d) an elector who is unable to travel from my residence because of serious illness or infirmity;
- [] (e) an elector who is a patient in a hospital (not being a polling-place or a declared institution) and I am unable to travel from the hospital because of serious illness or infirmity;
 - the name of that hospital is:
 -
 - the address of that hospital is:
 -
- [] (f) an elector who:
 - (i) is serving a sentence of imprisonment; or
 - (ii) is otherwise in lawful custody or detention:
 - the name and address of the place where I am detained is:
- [] (g) an elector whom a registered medical practitioner has certified, in writing, to be so physically incapacitated as to be unable to sign my name.

The address to which any postal voting papers are to be sent is

Personal signature or mark of elector or person making application on behalf of elector

Dated:

- (t) by omitting from Form 2A the words “I declare” and by inserting instead the words “I declare”.

Amendment of Ordinance No. 10A

4. Ordinance No. 10A under the Local Government Act 1919 is amended:

- (a) by inserting in clause 2 (1), in alphabetical order, the following definition:
 - “**Fraction**” includes decimal fraction.
- (b) by inserting in clauses 10 (b) and 11 (c) (ii) after the words “the resulting fraction” wherever occurring the words “, or the first 4 figures of the resulting decimal fraction,”

Amendment of Ordinance No. 14

5. Ordinance No. 14 under the Local Government Act 1919 is amended:

- (a) by omitting from clause 7 (2) the words “one month” and by inserting instead the matter “2 months”;
- (b) by inserting after clause 7 (2) the following subclause:
 - (3) An advertisement may contain matter relating to different areas, but in that case must be inserted in a newspaper or newspapers circulating in each of those areas.

Amendment of Ordinance No. 96

6. Ordinance No. 96 under the Local Government Act 1919 is amended:

- (a) by inserting in clause 2 (d) after the word “ordinary” the words “and extraordinary”;
- (b) by inserting in clause 2 (e) and (f) after the word “ordinary” wherever occurring the words “or extraordinary”;
- (c) by inserting in Forms 3, 3A, 4 and 4A after the word “Ordinary” wherever occurring the word “Extraordinary”.

EXPLANATORY NOTE

The object of this Ordinance is to amend various Ordinances under the Local Government Act 1919 relating to elections of council members.

The effect of the amendments is as follows:

- (a) to transfer (from Ordinance No. 7 to Ordinance No. 9) the provision preventing a person from standing as a candidate and being a scrutineer in an election;
- (b) to enable an advertisement that is required to be published giving notice of an election or of the preparation of a non-residential roll of electors to contain notices for more than one local government area;
- (c) to change the period during which notice of the preparation of a non-residential roll of electors is to be advertised from the period of one month before the closing date of the election or poll to 2 month before that closing date;
- (d) to provide that a candidate's deposit for nomination is to be refunded after the election if the candidate receives at least 4 per cent of the total number of first preference votes (at present a candidate is required to receive 10 per cent of the total);

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- (e) to establish a scheme for the registration as general postal voters of persons who for various specified reasons might have difficulty in attending polling-places to vote (such persons are then to be treated as Raving applied for a postal vote without actually having to apply);
 - (f) to provide that the declaration accompanying a postal vote is to contain the voter's name;
 - (g) to enable postal voters to deliver their votes to Presiding Officers on election day (as an alternative to posting them to the Returning Officer, as at present);
 - (h) to enable the use of decimal fractions in the calculation of results of elections conducted on the basis of proportional representation;
 - (i) to require councils to submit returns showing the number of persons enrolled for, and the number of persons who voted in, each extraordinary election (in addition to ordinary elections as at present);
 - (j) to make consequential and minor amendments.
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