



New South Wales

# Electoral Amendment (Electoral Material and Election Officials) Regulation 2023

under the

Electoral Act 2017

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electoral Act 2017*.

DOMINIC PERROTTET, MP  
Premier

## Explanatory note

The object of this Regulation is to amend the *Electoral Regulation 2018* to do the following—

- (a) prescribe the requirements for publishing the name and address of the individual on whose instructions electoral material that is a social media post is published,
- (b) make amendments relating to the persons or classes of persons the Electoral Commissioner may appoint as an election official,
- (c) provide for exemptions from the requirements for particular social media posts and SMS text messages to include the name and address of the person on whose instructions the material was published or distributed.

## **Electoral Amendment (Electoral Material and Election Officials) Regulation 2023**

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### **1 Name of Regulation**

This Regulation is the *Electoral Amendment (Electoral Material and Election Officials) Regulation 2023*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Electoral Regulation 2018

**[1] Clause 3, heading**

Omit the heading. Insert instead—

**3 Definitions**

**[2] Clause 3(1)**

Insert in alphabetical order—

*associated entity* has the same meaning as in the *Electoral Funding Act 2018*.

*electoral participant* means a party, candidate, member, third-party campaigner or associated entity.

*relevant name and address*, for electoral material, means the name and address of the individual on whose instructions the electoral material was published or distributed.

*third-party campaigner* has the same meaning as in the *Electoral Funding Act 2018*.

**[3] Clause 5A Election officials: section 81(1)(b)**

Insert “or class of persons” after “person” in clause 5A.

**[4] Clause 5A(a1)**

Omit the paragraph.

**[5] Clause 5A(zb) and (zc)**

Insert after clause 5A(za)—

(zb) Dialog Pty Ltd,

(zc) Ethos BeathChapman Australia Pty Ltd.

**[6] Clause 5A(2)**

Insert at the end of clause 5A—

(2) The Electoral Commissioner may appoint the following persons, or a class of the following persons, as an election official—

- (a) an officer or member of staff of an electoral commission or electoral office of the Commonwealth or of a State or Territory,
- (b) an APS employee within the meaning of the *Public Service Act 1999* of the Commonwealth who is engaged as an employee for the Commonwealth Department of Foreign Affairs and Trade and working at an overseas Australian high commission or consulate,
- (c) an employee of a Public Service agency within the meaning of the *Government Sector Employment Act 2013* who is working for the agency at an overseas location,
- (d) an employee or member of staff of the Royal Borough of Kensington and Chelsea Council.

**[7] Clause 8AA**

Insert after clause 8—

**8AA Requirements for name and address on particular forms of electoral material on social media—the Act, s 186(1A)**

- (1) This clause applies to electoral material that is a social media post.
- (2) The relevant name and address for the electoral material must be legibly shown in the social media post.

**Examples—** The relevant name and address for the electoral material may be included—

- (a) if the social media post includes text—in the text, or
  - (b) if a photograph, image, video or animation is attached to or embedded in the social media post—in the photograph, image, video or animation.
- (3) If the relevant name and address for the electoral material is shown in a video or animation attached to or embedded in the social media post, the relevant name and address must be legibly shown for a period of at least 3 seconds.

**[8] Clause 8A, heading**

Omit “**Exemption**”. Insert instead “**Exemptions**”.

**[9] Clause 8A(1)(a) and (b)**

Omit clause 8A(1)(a) and (b). Insert instead—

- (a) a social media post published on a social media platform by an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if—
  - (i) no amount was paid to the provider of the social media platform in connection with the publication of the post, and
  - (ii) the relevant name and address for the electoral material is published—
    - (A) on the social media account profile for the social media account that was used to publish the post, or
    - (B) on a website that is directly linked to in the post, and

**Example—** The relevant name and address for the electoral material is included in the “about”, “bio” or “impressum” part of the webpage or social media account profile of the person who made the post, or on whose behalf the post was made, that is accessible via a hyperlink or URL included or embedded in or accompanying the post.

  - (iii) the social media account profile or website on which the relevant name and address is published remains publicly available until the end of the regulated period, and
  - (iv) a link to a website on which the relevant name and address for the electoral material is published that is shown in a video or animation attached to or embedded in the post is legibly shown for a period of at least 3 seconds,
- (b) a social media post published on a social media platform by a person other than an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if no amount was paid, nor any benefit given, to the person who published the post or the provider of the social media platform in connection with the publication of the post by—
  - (i) an electoral participant, or
  - (ii) an officer, employee or agent of an electoral participant on behalf of the electoral participant,

**[10] Clause 8A(1)(e) and (f)**

Insert after clause 8A(1)(d)—

- (e) an SMS text message containing electoral material that is distributed by an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if—
  - (i) the SMS text message includes a hyperlink to a website on which the relevant name and address for the electoral material is published, and
  - (ii) the website on which the relevant name and address is published remains publicly available until the end of the regulated period,
- (f) an SMS text message (the *primary message*) containing electoral material that is distributed by an electoral participant or an officer, employee or agent of an electoral participant on behalf of the electoral participant if—
  - (i) a second SMS text message is sent immediately after the primary message, and
  - (ii) the second SMS text message contains the relevant name and address for the electoral material contained in the primary message, and
  - (iii) the second SMS text message is sent from the same number as the primary message.

**[11] Clause 8A(2)**

Omit the subclause.