



New South Wales

Local Government Legislation Amendment Act 1995 No 12

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New South Wales

Local Government Legislation Amendment Act 1995 No 12

Act No 12, 1995

An Act to amend the *Local Government Act 1993* with respect to minimum amounts of rates, group voting, disclosure of pecuniary interests and in other miscellaneous respects and to amend the *City of Sydney Act 1988* with respect to rates and elections. [Assented to 14 June 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Legislation Amendment Act 1995*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

4 Amendment of City of Sydney Act 1988 No 48

The *City of Sydney Act 1988* is amended as set out in Schedule 2.

Schedule 1 Amendment of Local Government Act 1993

(Section 3)

[1] Section 9 Public notice of meetings

Insert “or to any correspondence or reports in a business paper that, in the opinion of the general manager, are likely to be the subject of a resolution that they be treated as confidential” after “public” where lastly occurring in section 9 (2).

[2] Section 11 Public access to correspondence and reports

Insert after section 11 (2):

- (3) This section does not apply if the council or committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10 (2), are to be treated as confidential.

[3] Section 248A

Insert after section 248:

248A Annual fees not to be paid during period of suspension

A council must not pay an annual fee to a councillor for any period during which the councillor is suspended from office under section 482 or 485.

[4] Section 254A

Insert after section 254:

254A Circumstances in which annual fees may be withheld

Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:

- (a) for any period for which the councillor is absent, with or without prior leave, from an ordinary meeting or ordinary meetings of the council, or
- (b) in any other circumstances prescribed by the regulations.

[5] Section 283 Double candidature

Omit section 283 (2). Insert instead:

- (2) If a person is elected by the electors as mayor and the person is also a candidate for election as a councillor, the votes cast for the person as a councillor are not to be counted for that person but are to be distributed as prescribed by the regulations.

[6] Sections 308A–308D

Insert after section 308:

308A Grouping of candidates and group voting tickets

- (1) This section applies to an election in which there are 2 or more councillors to be elected.
- (2) Two or more candidates duly nominated for election may, before noon on the third day after the nomination day prescribed by the regulations, claim to have their names included in a group on the ballot-papers and in the order specified in the claim. The claim is to be lodged with the returning officer.
- (3) At an election for an area that is not divided into wards, the candidates included in a group may, before noon on the fourth day after the nomination day prescribed by the regulations, lodge with the returning officer 1, 2 or 3 group voting tickets.
- (4) If a group has a group voting ticket, an additional square is to be printed on the ballot-papers above the names of the candidates in the group.

- (5) An application under Part 7 for the name of a political party to be printed adjacent to the name of a candidate on the ballot-papers may include a further request for that name or a composite name to be printed on the ballot-papers adjacent to the candidates' group voting ticket square.

308B Group voting—recording of votes

- (1) If a ballot-paper has a group voting ticket square, a voter may record his or her vote by either marking that square or by marking the separate voting squares for the candidates.
- (2) If a voter records a vote by marking one group voting ticket square, the ballot-paper is taken to have recorded on it a vote in accordance with the relevant group voting ticket lodged for the election.
- (3) If a group has lodged 2 group voting tickets, one-half of the ballot-papers are taken to have recorded on them a vote in accordance with one group voting ticket and the other half in accordance with the other ticket.
- (4) If a group has lodged 3 group voting tickets, one-third of the ballot-papers are taken to have recorded on them a vote in accordance with one group voting ticket, one-third in accordance with another one of the tickets and the other one-third in accordance with the remaining ticket.
- (5) Odd ballot-papers resulting from the operation of subsections (3) and (4) are to be allocated to a group voting ticket by lot.

308C Group voting—marking of ballot papers

- (1) If a voter records a vote on a ballot-paper by placing a mark in a group voting ticket square but also indicates preferences for individual candidates, the following provisions apply:

- (a) if the indication of preferences for individual candidates would, if it stood alone, constitute a formal vote, that indication of preferences is taken to be the vote of the voter and the mark in the group voting ticket square is to be disregarded,
 - (b) if the indication of preferences for individual candidates would not, if it stood alone, constitute a formal vote, it is to be disregarded and the vote of the voter is to be taken to have been expressed by the mark in the group voting ticket square.
- (2) A ballot-paper is not informal by reason only that the voter has recorded a vote by placing a cross or a tick in a group voting ticket square and not placing any mark or writing in any other group voting ticket square, but the ballot-paper is to be treated as if the cross or tick were the number “1”.
- (3) A ballot-paper is not informal by reason only that the voter has recorded a vote by placing the number “1” or a tick in a group voting ticket square and placing a cross in (or a line through) all or some of the other group voting ticket squares on the ballot-paper, but the ballot-paper is to be treated as if the marks in those other squares did not appear on the ballot-paper and any such tick were the number “1”.
- (4) A ballot-paper is not informal by reason only that the voter has recorded a vote by placing the number “1” in a group voting ticket square and placing other numbers in all or some of the other group voting ticket squares on the ballot-paper, but the ballot-paper is to be treated as if those other numbers did not appear on the ballot-paper.

308D Group voting—regulations

The regulations may make provision for or with respect to the grouping of candidates, group voting tickets and the matter to be printed on ballot-papers.

[7] Section 366 Calling of extraordinary meeting on request by councillors

Omit “7 days”. Insert instead “14 days”.

[8] Section 377 General power of the council to delegate

Insert “(but not including the sale of items of plant or equipment)” after “any land or other property”.

[9] Section 418 Public notice to be given of presentation of financial reports etc

Omit “1 month” from section 418 (2). Insert instead “6 weeks”.

[10] Section 446 What disclosures must be made by a member of a council committee?

Insert “, other than a committee that is wholly advisory,” after “committee”.

[11] Section 452 Participation in meetings despite pecuniary interests

Insert after section 452 (g):

- (h) a question relating to the appointment of a councillor to a body as the representative or delegate of the council, even though a fee or other recompense is payable to the representative or delegate.

[12] Section 460 Complaints concerning failure to disclose pecuniary interests

Insert after section 460 (2):

- (3) The provisions of subsection (2) (b), in so far as they require a complaint to identify the complainant, (d) and (e) do not apply to a complaint made by the Director-General.

[13] Section 612

Omit the section. Insert instead:

612 Public notice of approved fees

- (1) A council must not determine the amount of an approved fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.
- (2) Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft management plan for the year in which the fee is to be made.
- (3) However, if, after the date on which the management plan commences:
 - (a) a new service is provided, or the nature or extent of an existing service is changed, or
 - (b) the regulations in accordance with which the fee is determined are amended,

the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.

[14] Schedule 6 Regulations

Insert in the Examples in paragraph 14, Elections, “Grouping of candidates and group voting tickets” after “Nominations for candidature at an election”.

[15] Schedule 7 Savings, transitional and other provisions consequent on the enactment of this Act

Schedule 7, clause 24A

Insert after clause 24:

24A Ward boundaries

A council is taken to have complied with section 211 (subsection (4) excepted) in relation to the third year of

the term of office that fell within 1994 if the details referred to in section 211 (2) were submitted to the Electoral Commissioner on or before 28 February 1995 or such later date as the Minister, on the recommendation of the Electoral Commissioner, may determine in relation to a particular council.

[16] Schedule 7, clauses 30C, 30D

Insert after clause 30B:

30C Increase in councillors by certain councils

- (1) Despite section 224 (3), any of the following councils may, before the ordinary elections due to be held in September 1995, resolve to increase the number of councillors by one:

Bellingen Shire Council

Canterbury City Council

Liverpool City Council

Newcastle City Council

Shoalhaven City Council.

- (2) On the passing of a resolution under subclause (1) by a council, a resolution of the council of the kind referred to in clause 28 (3) ceases to have effect.

- (3) On the passing of a resolution under subclause (1) by the Newcastle City Council, the City of Newcastle is divided into wards as described in the proclamation published in Gazette No 102 of 21 August 1992 on pages 5959–5961.

30D Constitution of the Sutherland Shire Council

Despite sections 210 and 224 and any resolution of the kind referred to in clause 28 (3), for the ordinary election due to be held in September 1995:

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Schedule 1 Amendment of Local Government Act 1993

- (a) the Sutherland local government area is to be divided into 5 wards with boundaries as determined by the Sutherland Shire Council that comply with section 211 (4), and
- (b) the number of councillors of the Sutherland Shire Council is 15.

[17] Schedule 7, clause 55A

Omit the clause.

[18] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

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Schedule 2 Amendment of City of Sydney Act 1988

(Section 4)

[1] Section 14 Definitions

Section 14 (1) (b)

Insert “, subject to subsections (1A) and (3),” after “means”.

[2] Section 14 (1) (b)

Insert “and where the annual amount payable by the lessee (or by the lessee together with another person or other persons) for the lease and local government rates is at least \$5,000 (or, if the regulations prescribe a greater amount, the greater amount so prescribed)” after “land” where lastly occurring.

[3] Section 14 (1) (c)

Omit “subsections (2) and (3)”.
Insert instead “subsections (2), (3) and (4)”.

[4] Section 14 (1A)

Insert after section 14 (1):

- (1A) If the annual amount payable for the lease and local government rates under a lease in writing or other document of title relating to rateable land exceeds \$5,000 (or the greater amount prescribed for the purposes of subsection (1) (b)), the maximum number of ratepaying lessees of that rateable land for the purposes of subsection (1) (b) is the number obtained by dividing the annual amount so payable by \$5,000 (or an amount equivalent to the greater amount prescribed) ignoring any remainder.

[5] Section 14 (3)

Insert “(1A) or” after “subsection”.

[6] Section 14 (3)

Insert “joint ratepaying lessees or” before “joint occupiers”.

[7] Section 14 (3) (a)

Insert “those lessees or” before “those occupiers”.

[8] Section 14 (3) (b)

Insert “lessees or” before “occupiers”.

[9] Section 14 (4)

Insert after section 14 (3):

- (4) A person is not an occupier if his or her primary place of residence is not within New South Wales.

[10] Section 15 Right to be enrolled as an elector

Insert after section 15 (1):

- (1A) In addition to the qualifications specified in subsection (1), a person must be:
- (a) an Australian citizen, or
 - (b) a person (other than an Australian citizen) who would, if the relevant Commonwealth law had continued in force, be a person who had the status of a British subject and who was, immediately before 26 January 1984, enrolled as an elector for the Legislative Assembly of New South Wales or enrolled in any other State or Territory of the Commonwealth as an elector for the House of Representatives.

Relevant Commonwealth law means the *Australian Citizenship Act 1948* of the Commonwealth as amended and in force immediately before 1 May 1987 and the regulations in force immediately before that day under that Act as so amended and in force.

[11] Section 17 Roll of electors

Insert “and (1A)” after “section 15 (1) (a)” in section 17 (a).

[12] Section 17 (b)

Insert “and (1A)” after “section 15 (1) (b)” in section 17 (b).

[13] Section 17A

Insert after section 17:

17A Non-residential roll for use in September 1995 ordinary election

- (1) This section applies to the preparation of the non-residential roll to be used for the ordinary election for the City of Sydney to be held in September 1995.
- (2) On the commencement of this section, the general manager of the City Council must send to each person whose name is included in the list kept under section 18 (1) a form that enables the person to make a claim under section 18 (4) for the inclusion of the person’s name in the list or for the amendment of any particulars entered in the list against the name.
- (3) If the form is not returned to the general manager on or before 31 July 1995 the general manager must remove the person’s name from the list.
- (4) A person who is entitled to be enrolled as an elector under section 15 (1) (a) and (1A) in respect of the City of Sydney must, on or before 24 July 1995 lodge with the general manager a claim, witnessed by an adult person, to have the person’s name included in the list kept under section 18 (1) or, if appropriate, to have any particulars shown on the list against the person’s name amended.

[14] Section 18 List of electors for compulsory enrolment on non-residential roll

Omit “and continuously maintain up to date” from section 18 (1).

[15] Section 18 (1)

Insert “and (1A)” after “section 15 (1) (a)”.

[16] Section 19 Non-residential roll

Insert “and (1A)” after “section 15 (1) (a)” in section 19 (1).

[17] Section 19A

Insert after section 19:

19A Regulations—non-residential roll

The regulations may make provision for or with respect to the preparation of the non-residential roll.

[18] Part 3, Division 3

Insert after Division 2 of Part 3:

Division 3 Election of Lord Mayor

23 Election by electors

The Lord Mayor of Sydney is to be elected by the electors in accordance with section 282 (1) of the Principal Act.

[19] Section 52A

Insert before section 53:

52A Amount of ordinary rate for year commencing 1 July 1995 and later years

- (1) The City Council may resolve that the amount of the ordinary rate that is to be levied on a parcel of rateable land for the year commencing on 1 July 1995 or for any subsequent year is to be not more than a specified percentage higher than the amount of the ordinary rate levied on the same parcel of rateable land for the previous year.
- (2) The specified percentage is to be stated in the City Council's resolution and must be the percentage approved by the Minister for the relevant year. The Minister may approve a nil percentage.
- (3) The City Council must levy the ordinary rate in accordance with its resolution.
- (4) The City Council's resolution does not apply to a parcel of rateable land that did not exist as that parcel of rateable land for the whole of the previous year (because, for example, it was exempt from rating for the whole or a part of that year or it is a lot in a subdivision created during that year).

[Minister's second reading speech made in—
Legislative Assembly on 31 May 1995
Legislative Council on 8 June 1995]