

Local Government (Elections) Bill

EXPLANATORY MEMORANDUM

Background

The purpose of the Act is to make changes concerning—

- (a) the election of Councils; and
- (b) the size of Councils; and
- (c) the payment of Councillors.

Proposed amendments

Clause 1 sets out the purpose of the Act.

Clause 2 provides that the Act will come into effect on the day on which it receives Royal Assent.

Clause 3 makes changes to the number of Councillors a Council may have and provides for the number of Councillors to be between 5 and 12.

It also repeals section 10 (4) of the **Local Government Act 1989** because it is a spent provision. This section has been wrongly interpreted as precluding councils from moving from a divided to an undivided district.

Clause 4 amends section 13A of the **Local Government Act 1989** to make the procedure for appointments by a combination of corporations and persons under section 13 (3) of the Act consistent with the procedure by corporations only under section 13 (1) of the Act.

Clause 5 makes changes concerning the voters' roll by removing the requirement for the voters' roll to be in a prescribed form. However the voters' roll will still be required to contain the prescribed particulars. This clause also removes the option of preparing a supplementary roll.

Clause 6 makes a minor housekeeping amendment to section 40 (2) of the **Local Government Act 1989** by substituting "Chief Executive Officer" for "municipal clerk".

Clause 7 extends the time for the review of a municipal electoral tribunal under section 48 of the **Local Government Act 1989** by specifying that the 7 day period commences from the giving of the decision or the furnishing of a statement of reasons which ever is the later. *Clause 7* also gives the Administrative Appeals Tribunal the discretion to extend the 7 day period if in its opinion special circumstances exist.

Clause 8 makes it an offence for a person who has agreed to return a postal ballot-paper on behalf of a voter not to do so in time for the counting of votes. The penalty is 5 penalty units.

Clause 9 inserts a new section 58A which makes it an offence for a person not authorised by the returning officer to interfere with any of the electoral materials being sent or delivered to a voter in an election by postal voting.

The penalty is 10 penalty units.

Clause 10 removes the offices of deputy-Mayor and deputy-Lord Mayor from the Act. These offices are of little purpose unless the Mayor is unable to act as Mayor. In these circumstances, the Act enables any other councillor to be appointed to act as Mayor.

Clause 11 substitutes section 74 of the **Local Government Act 1989**. It enables the levels of remuneration for Councillors and Mayors to be set by Order in Council and provides an ability to set different rates of remuneration by specifying minimum and maximum amounts.

This clause also makes special provision for the Melbourne City Council by enabling its councillors and Lord Mayors to be paid allowances of up to 50% higher than the maximum amounts set for other Councils in recognition of the extra demands on councillors and the Lord Mayor of a capital city.

In addition, this clause allows a councillor not to be paid an allowance if he or she does not wish to receive one and ensures that a councillor will only receive an allowance while he or she holds the office for which it is payable.

Clause 12 makes a minor amendment to section 220q (1) of the **Local Government Act 1989** which will enable an order in council to alter (i.e. increase or decrease) the number of wards rather than being limited to reducing the number of wards.

Clause 13 makes the necessary changes to Schedules 2 and 5 of the **Local Government Act 1989** to bring “nomination day” into line with that proposed for elections by postal voting which is 30 days before election day.

Clause 14 limits the circumstances in which a candidate can retire by removing the ability to retire for ill health or “any other personal reason”. Except in the case of a candidate being not qualified or disqualified, a candidate can only retire if the effect of the retirement is that the election will not be contested.

Clause 15 makes a minor housekeeping amendment to clause 10 of Schedule 2 by extending the returning officer’s obligation to declare a candidate or candidates elected if as a result of a candidate retiring the number of candidates is equal to or less than the number of vacancies to be filled at an election.

Clauses 16 and 17 reorganise Schedules 2 and 3 of the **Local Government Act 1989** by repealing or redrafting certain of its provisions to make it apply to all types of elections. This has become necessary because of the introduction of the option of conducting an election by means of postal voting.