



New South Wales

# Dentists (Elections) Regulation 1996

under the

Dentists Act 1989

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dentists Act 1989*.

Andrew Refshauge

Deputy Premier and Minister for Health

## Explanatory note

The object of this Regulation is to remake the provisions of the *Dentists Regulation 1991* (which is repealed by the *Dentists (General) Regulation 1996*, commencing at the same time as this Regulation) that deal with the election of 5 dentists to the Dental Board constituted under the *Dentists Act 1989*.

This Regulation comprises or relates to matters of a machinery nature.

This Regulation is made under the *Dentists Act 1989*, and, in particular, under sections 8 (Membership of the Board) and 67 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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### Dentists (Elections) Regulation 1996

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## 1996 No 409

Clause 1 Dentists (Elections) Regulation 1996

Part 1 Preliminary

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# Dentists (Elections) Regulation 1996

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Dentists (Elections) Regulation 1996*.

### 2 Commencement

This Regulation commences on 1 September 1996.

### 3 Definitions

In this Regulation:

**close of nominations**, in relation to an election, means the time and date for the close of nominations for the election that have been fixed under this Regulation by the notice of the election, or, if that close has been extended, the time and date fixed under clause 7.

**close of ballot**, in relation to an election, means the time and date for the close of the ballot for the election that have been fixed under this Regulation by the notice of the election, or, if that close has been extended, the time and date fixed under clause 7.

**election** means an election for the purposes of electing 5 dentists to the Board as provided by section 8 (2) (a) of the Act.

**primary votes** in an election means the first, second, third, fourth and fifth preference votes indicated on a ballot-paper in accordance with the directions printed on the ballot-paper.

**returning officer** means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person employed in the office of and nominated by the Electoral Commissioner for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

**the Act** means the *Dentists Act 1989*.

#### **4 Notes**

The explanatory note and the table of contents do not form part of this Regulation.

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Clause 5 Dentists (Elections) Regulation 1996

Part 2 Elections  
Division 1

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## **Part 2 Elections**

### **Division 1 Calling of election**

#### **5 Time of elections**

An election of 5 members of the Board under section 8 (2) (a) of the Act is to be held once every 4 years, commencing in 1998, on a date in July determined by the Minister (or as soon as practicable after that date).

#### **6 Notice of election**

- (1) The returning officer is to publish written notice of an election as soon as practicable after being notified in writing by the Minister of the date on which the election is to be held.
- (2) The notice is to be published in the Gazette and in at least one newspaper that is published on no fewer than 5 days per week and circulates in New South Wales.
- (3) The notice must:
  - (a) state that an election is to be held, and
  - (b) state that 5 dentists are to be elected, and
  - (c) invite nominations of candidates, and
  - (d) fix a time and a date for the close of nominations, and
  - (e) fix a time and date for the close of ballot.
- (4) The close of nominations is to be at least 30 days after the date on which the notice is first published in a newspaper referred to in subclause (2).
- (5) The close of ballot is to be at least 28 days after the close of nominations.

#### **7 Extension of closing times**

- (1) The returning officer may, if of the opinion that an election would otherwise fail, fix later times and dates than those previously fixed.

- (2) The times and dates, and publication of notice of them, is to be in accordance with clause 6 (2)–(5).
- (3) A new date must not be more than 14 days after the corresponding date that was previously fixed.
- (4) The returning officer may exercise the power conferred by this clause more than once in respect of an election.

## **Division 2 Nominations**

### **8 Nominations**

- (1) Nomination of a candidate is to be made in writing, in a form approved by the Board, and is to contain the following:
  - (a) the full name of the candidate,
  - (b) the residential address of the candidate,
  - (c) the full names, residential addresses and signatures of at least 2 nominators, being dentists other than the candidate,
  - (d) an endorsement by the candidate of his or her consent to the nomination.
- (2) The nomination must reach the returning officer at or before the close of nominations.

### **9 Withdrawal of nomination**

A candidate may withdraw his or her nomination by notification in writing delivered to the returning officer at any time before the close of nominations.

### **10 Candidate information sheets**

- (1) At any time before the close of nominations a candidate may submit personal information to the returning officer in the form approved by the Registrar.
- (2) After the close of nominations, the returning officer is to draw up a candidate information sheet containing all the information submitted under subclause (1).

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Part 2 Elections  
Division 2

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- (3) However, if the returning officer considers that any such information is:
  - (a) misleading in a material particular, or
  - (b) longer than that permitted by the approved form,the returning officer may, in drawing up the candidate information sheet, omit or rectify that particular, or reduce the length of the information.
- (4) Information concerning candidates is to appear on a candidate information sheet in the order in which the candidates are listed on the ballot-paper.

### **11 Determination of whether ballot required**

- (1) If there are 5 or fewer candidates after the close of nominations, the returning officer is to declare those candidates duly elected.
- (2) If there are more than 5 candidates after the close of nominations, a ballot must be held.

## **Division 3 Ballot**

### **12 Roll for the election**

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot must be held, the returning officer is to notify the Registrar of that fact.
- (2) Not later than 7 days after being so notified by the returning officer, the Registrar is to prepare, certify and deliver to the returning officer:
  - (a) a roll containing the full name and address of every dentist, and
  - (b) if required by the returning officer, a label for every dentist on the roll, being a label of a size suitable for fixing to an envelope and on which is written the dentist's full name and address.



- (3) A reference in subclause (2) to the name and address of a dentist is a reference to the dentist's name and residential address as they appear in the Register at the close of nominations.

### 13 Printing of ballot-papers

If a poll is to be taken, the returning officer must:

- (a) hold a ballot, in the manner prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, to determine the order in which the candidates' names are to be entered on the ballot-papers, and
- (b) cause ballot-papers in a form approved by the Board to be drawn up in the manner prescribed by section 83 of the *Parliamentary Electorates and Elections Act 1912*, and
- (c) cause the ballot-papers to be printed together with copies of the candidate information sheet drawn up under clause 10.

### 14 Distribution of ballot-papers

- (1) Not later than 20 days before the close of ballot, the returning officer is to post to every dentist on the roll delivered to the returning officer under clause 12, at the address on that roll:
  - (a) a ballot-paper printed in accordance with clause 13 and initialled by the returning officer, and
  - (b) an envelope addressed to the returning officer, and
  - (c) a copy of the candidate information sheet.
- (2) The envelope must contain a space on its outside for the insertion of a voter's name, address and signature.

### 15 Duplicate ballot-papers

- (1) At any time before the close of ballot, the returning officer may supply a duplicate ballot-paper to a dentist to whom a ballot-paper was forwarded if:
  - (a) the dentist makes a written application to the returning officer for a duplicate ballot-paper, and
  - (b) the returning officer is satisfied that the ballot-paper forwarded to the dentist has been lost or destroyed.

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Part 2 Elections  
Division 3

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- (2) The returning officer is to maintain a record of all ballot-papers supplied under this clause.

### **16 Recording of vote**

- (1) In order to vote in an election, an elector must:
  - (a) complete the ballot-paper in accordance with the directions printed on the ballot-paper, and
  - (b) place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer. and
  - (c) seal the envelope, and
  - (d) insert his or her full name and address in the space provided on the back of the envelope, and sign the envelope, and
  - (e) send or deliver it to the returning officer so that it is received by the returning officer before the close of ballot.
- (2) The envelope may be sent or delivered to the returning officer inside a further envelope supplied by the elector.

## **Division 4 Scrutiny**

### **17 Scrutineers**

- (1) Each candidate may appoint, in writing, a scrutineer to represent that candidate.
- (2) The scrutineer may be present at any stage from the examination of the envelopes to the counting of the votes by the returning officer (including both those stages).

### **18 Examination of envelopes**

- (1) The returning officer is to examine every envelope received that purports to contain a ballot-paper and is to determine whether it should be accepted or rejected.

- (2) An envelope must be rejected if:
- (a) it does not have legibly marked on its outside a name, an address and a signature that appear to the returning officer to be those of a dentist, or
  - (b) it is not sealed, or
  - (c) it is not received by the returning officer at or before the close of ballot, or
  - (d) if there is more than one envelope purporting to be from the same dentist—the envelope appears to the returning officer on any reasonable evidence to bear a falsified signature or, if it does not so appear, the envelope was received by the returning officer after the first envelope which purports to be from that dentist.

## 19 Counting of votes

- (1) As soon as practicable after the close of ballot, the returning officer must:
- (a) open all the envelopes received (except those envelopes rejected under clause 18) and extract the ballot-papers, and, without unfolding them, place the ballot-papers in a ballot-box, and
  - (b) mix the ballot-papers and draw them at random, and
  - (c) unfold them, reject those that are informal, and count and record, in accordance with clause 20, the votes recorded on those that are formal.
- (2) A ballot-paper is informal if
- (a) it contains any matter by which the voter may be identified, or
  - (b) it is not completed in accordance with the directions printed on it.

## 20 Primary votes

- (1) Primary votes are to be counted and recorded in the following order:
- (a) firstly, the number of fifth preference votes cast for each candidate, and
  - (b) secondly, the number of fourth preference votes cast for each candidate, and

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Part 2 Elections  
Division 4

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- (c) thirdly, the number of third preference votes cast for each candidate, and
  - (d) fourthly, the number of second preference votes cast for each candidate, and
  - (e) fifthly, the number of first preference votes cast for each candidate.
- (2) The returning officer is to total the primary votes of each candidate recorded in accordance with this clause.
- (3) The returning officer is to place the first preference votes cast for each one of the candidates in a separate bundle.

### **21 Procedure for determining election if 6 candidates**

If there are 6 candidates for election, the returning officer is to determine the election of candidates in accordance with the following procedure:

- (a) the candidate with the smallest number of primary votes is to be excluded,
- (b) if no candidate can be so excluded, the candidate who receives the smallest number of first preference votes is to be excluded,
- (c) if no candidate can be so excluded because 2 or more candidates have an equal number of first preference votes, the candidate of those 2 or more candidates whose name is determined by lot in accordance with clause 23 is to be excluded,
- (d) the remaining 5 candidates are to be declared elected.

### **22 Procedure for determining election if 7 or more candidates**

If there are 7 or more candidates for election, the returning officer is to determine the election of candidates in accordance with Schedule 1

### **23 Determination of name of candidate by lot**

A candidate's name that is to be determined by lot for the purposes of an election conducted under this Part is to be determined as follows:

- (a) the names of the 2 or more candidates are to be written on separate and similar slips of paper,

- (b) each slip is to be folded so as to prevent identification of the name on it,
- (c) the slips are to be mixed and one is to be drawn at random, and
- (d) the name on the slip drawn is the name determined by lot.

#### **24 Notification of result of election**

As soon as is practicable after the result of an election has been ascertained, the returning officer must:

- (a) publicly declare the candidates elected by notice published in the Gazette and in at least one newspaper that is published on no fewer than 5 days per week and circulates in New South Wales, and
- (b) notify the Minister, in writing, of the result.

### **Division 5 Miscellaneous**

#### **25 Death of candidate**

If a candidate dies after the close of nominations and before the close of ballot, the returning officer is to invite fresh nominations in accordance with this Regulation.

#### **26 Validity of election**

- (1) The fact that a dentist did not receive a ballot-paper, envelope or copy of the candidate information sheet, or the returning officer did not receive a ballot-paper sent by a dentist, does not make an election invalid.
- (2) A formal defect or error relating to an election does not make the election invalid if the election was held substantially in accordance with this Regulation.

#### **27 Savings provision**

Any act, matter or thing relating to the election of dentists to the Dental Board that was done for the purposes of the *Dentists Regulation 1991*, or, immediately before the repeal of that Regulation by the *Dentists (General) Regulation 1996*, had effect under it, is taken to have been done for the purposes of, or to have effect under, this Regulation.

## **Schedule 1 Procedure for determining election if 7 or more candidates**

(Clause 22)

### **1 Definition**

In this Schedule:

*continuing candidate*, in relation to a count, means a candidate not already excluded from the count.

### **2 Exclusion of candidate after first count**

- (1) Exclude the candidate with the smallest number of primary votes.
- (2) If no candidate can be excluded under subclause (1), exclude the candidate with the smallest number of first preference votes.
- (3) If no candidate can be excluded under subclause (2), because 2 or more candidates have equal numbers of first preference votes, determine one of those candidates by lot under clause 23 of this Regulation and exclude that candidate.

### **3 Distribution of first preferences**

- (1) After excluding a candidate under clause 2, distribute the first preference votes cast for the excluded candidate (in accordance with the next preferences on them) to the bundles of first preference votes cast for the continuing candidates.
- (2) Add the numbers of votes so distributed respectively to the numbers of primary votes for each of the continuing candidates.

### **4 Exclusion of candidate after distribution of first preferences**

- (1) Exclude the continuing candidate with the smallest total of votes under clause 3.
- (2) If no candidate can be excluded under subclause (1), exclude the one who had the smallest number of primary votes.
- (3) If no one can be excluded under subclause (2), exclude the one who had the smallest number of first preference votes.

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- (4) If no one can be excluded under subclause (3) because 7 or more candidates have equal numbers of first preference votes, determine one of those candidates by lot under clause 23 of this Regulation, and exclude that candidate.

**5 Further distribution of first preferences, if required**

- (1) If at this stage only 5 candidates remain, declare them elected.
- (2) If at this stage more than 5 candidates remain, distribute the first preference votes cast for the last excluded candidate (in accordance with the next preferences on them) to the bundles of first preference votes cast for the now continuing candidates.
- (3) Add the numbers of votes so distributed respectively to the totals obtained under clause 3(2), but only for each of the continuing candidates.

**6 Exclusion of candidate after further distribution of first preferences**

- (1) Exclude the candidate with the smallest total of votes under clause 5 (3).
- (2) If no one can be excluded under subclause (1), exclude the one with the smallest number of votes at the immediately previous count.
- (3) If no one can be excluded under subclause (2), exclude the one who had the smallest number of primary votes.
- (4) If no one can be excluded under subclause (3), exclude the one who had the smallest number of first preference votes.
- (5) If no one can be excluded under subclause (4) because 2 or more candidates have equal numbers of first preference votes, determine one of those candidates by lot under clause 23 of this Regulation, and exclude that candidate.

**7 Repetition of procedure**

- (1) If at this stage only 5 candidates remain, declare them elected.

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Schedule 1      Procedure for determining election if 7 or more candidates

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- (2) If at this stage more than 5 candidates remain, repeat the procedure of
- (a) distributing the first preference votes cast for the last excluded candidate (in accordance with the next preferences on them) to the bundles of first preference votes cast for the still continuing candidates,
  - (b) adding the number of votes so distributed respectively to the totals last obtained for each of the still continuing candidates,
  - (c) excluding one of those candidates according to the method in clause 6 (treating the reference in clause 6 (1) to the smallest total of votes as a reference instead to the smallest sum obtained under paragraph (b) of this clause),
- until all but 5 candidates have been excluded. Declare those 5 elected.