

1990 - No. 328

DENTISTS ACT 1989 - REGULATION

(Dentists (Dental Board Election) Regulation 1990)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Dentists Act 1989, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS
Minister for Health.

Citation

1. This Regulation may be cited as the Dentists (Dental Board Election) Regulation 1990.

Commencement

2. This Regulation is to be taken to have commenced on the date of assent to the Dentists Act 1989.

First election of Board members

3. (1) The first election of 5 members of the Board under section 8 (2) (a) of the Dentists Act 1989 is to be carried out at a poll to be held on Wednesday, 27 June 1990.

(2) The first election is to be conducted in accordance with the provisions of the Dentists Regulations made under the Dentists Act 1934 but as if the provisions of Regulations 27, 27A and 27B (as

inserted by the Regulation published in Gazette No. 46 of 30 March 1979 at pages 1454 - 1461) were as follows:

Primary votes

27. (1) Primary votes shall be counted and recorded in the following order:

- (a) firstly, the number of fifth preference votes cast for each candidate;
- (b) secondly, the number of fourth preference votes cast for each candidate;
- (c) thirdly, the number of third preference votes cast for each candidate;
- (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 shall total the primary votes of each candidate recorded in accordance with clause (1).

(3) The Returning Officer shall place the first preference votes cast for each one of the candidates in a separate bundle.

Procedure for determining election where 6 candidates

27A. Where there are 6 candidates, and 5 of those candidates are to be elected, the Returning Officer shall determine the election of candidates in accordance with the following procedure:

- (a) the candidate with the smallest number of primary votes shall be excluded;
- (b) if no candidate can be excluded under paragraph (a), the candidate who receives the smallest number of first preference votes shall be excluded;
- (c) if no candidate can be excluded under paragraph (b) 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 shall be excluded; and

(d) the remaining 5 candidates shall be declared elected.

Procedure for determining election where 7 or more candidates

27B. (1) Where there are 7 or more candidates, and 5 of those candidates are to be elected, the Returning Officer shall determine the election of candidates in accordance with the provisions of clauses (2)-(18).

(2) The candidate with the smallest number of primary votes shall be excluded.

(3) If no candidate can be excluded under clause (2), the candidate with the smallest number of first preference votes shall be excluded.

(4) If no candidate can be excluded under clause (3) 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 shall be excluded.

(5) After the exclusion of a candidate under clause (2), (3) or (4), the votes in the bundle of first preference votes cast for the excluded candidate shall be transferred in accordance with the next available preferences upon them to the bundles of first preference votes cast for the continuing candidates and the number of votes so transferred shall be respectively added to the numbers of primary votes for each of the continuing candidates.

(6) The candidate with the smallest number of votes determined in accordance with clause (5) shall be excluded.

(7) If no candidate can be excluded under clause (6), the candidate with the smallest number of primary votes shall be excluded.

(8) If no candidate can be excluded under clause (7), the candidate with the smallest number of first preference votes shall be excluded.

(9) If no candidate can be excluded under clause (8) 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 shall be excluded.

(10) Where only 5 candidates remain after the exclusion of candidates in accordance with the provisions of clauses (2)-(9), those 5 candidates shall be declared elected.

(11) Where more than 5 candidates remain after the exclusion of a candidate under clause (6), (7), (8) or (9), the votes in the bundle of first preference votes cast for the excluded candidate shall be transferred in accordance with the next available preferences upon them to the bundles of first preference votes cast for the continuing candidates and the number of votes so transferred shall be respectively added to the totals obtained for each of the continuing candidates pursuant to clause (5).

(12) The candidate with the smallest number of votes determined in accordance with clause (11) shall be excluded.

(13) If no candidate can be excluded under clause (12), the candidate with the smallest number of votes at the immediately previous count shall be excluded.

(14) If no candidate can be excluded under clause (13), the candidate with the smallest number of primary votes shall be excluded.

(15) If no candidate can be excluded under clause (14), the candidate with the smallest number of first preference votes shall be excluded.

(16) If no candidate can be excluded under clause (15) 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 shall be excluded.

(17) Where only 5 candidates remain after the exclusion of a candidate under clause (12), (13), (14), (15) or (16), those 5 candidates shall be declared elected.

(18) Where more than 5 candidates remain after the exclusion of a candidate under clause (12), (13), (14), (15) or (16), the process of transferring the votes in the bundle of first preference votes cast for the last excluded candidate in accordance with the next available preferences upon them to the bundles of first preference votes cast for the continuing candidates, and of adding the number of votes so transferred respectively to the totals next previously obtained for each of the continuing candidates shall be repeated and the method described in clauses (12)-(16) of excluding one of those candidates

shall be applied until all but 5 candidates have been excluded and the 5 candidates who remain shall be declared elected.

EXPLANATORY NOTE

When the uncommenced provisions of the Dentists Act 1989 are proclaimed to commence, they will repeal the Dentists Act 1934 and the Dentists Regulations made under the 1934 Act. The 1989 Act, among other things, reconstitutes the Dental Board. The 1989 Act provides that the Dental Board is to have 5 elected members instead of 4 elected members as was provided for under the 1934 Act.

The object of this Regulation is to specify the provisions that are to apply to the election of the elected members of the Dental Board. The Regulation is to apply only to the first election of members to be held on Wednesday, 27 June 1990. The Regulation adopts the provisions applicable to the election of Board members under the Dentists Regulations made under the 1934 Act but with such modifications as are necessary to permit the election of 5 members instead of 4 members.

The Regulation, being of a transitional nature, is made under clause 15 of Schedule 4 to the 1989 Act. Authority for the making and retrospective commencement of the Regulation is found in clause 2 and clause 15 (1) and (2) of Schedule 4.
