

1993—No. 463

LOCAL GOVERNMENT ACT 1993—REGULATION

(Relating to elections)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

GARRY WEST, M.P.,
Minister for Local Government and Co-operatives.

Local Government (Elections) Regulation 1993 is amended:

(a) by omitting clause 3 and by inserting instead the following clause:

Application of Regulation

3. (1) This Regulation (except Part 12 and Schedules 3–5) applies to the election of the councillors (by ward or area) and the mayor (by area) of an area by the persons entitled to vote in the area.

(2) Parts 12 and 13 and Schedules 3–5 apply to other matters as specified in Part 12 (i.e. the election of a mayor or deputy mayor by councillors, the election of the members of a county council and the conduct of constitutional referendums and council polls).

(3) A reference in this clause to an area includes the City of Sydney.

(4) A reference in this clause to the mayor of an area includes the Lord Mayor of Sydney.

(b) by omitting the definition of **declared institution ballot-box** in clause 4 (1) and by inserting the following definition:

declared institutions ballot-box means the ballot-box reserved for the receipt of declared institution votes;

(c) by inserting in clause 4 (1) in alphabetical order the following definition:

section 305 vote means a vote by an elector whose name is not on the roll of electors for an election and who votes under section 305 of the Act;

(d) by omitting clauses 6 and 7, and by inserting instead the following clauses:

Electoral official cannot be candidate

6. (1) A person who is nominated for election to civic office in an area cannot be appointed as a returning officer or as an electoral official in respect of an election in that or any other area.

(2) A returning officer or an electoral official ceases to hold office in respect of an election in an area on being nominated for election in that or any other area.

Closing date

7. (1) For the purposes of the Dictionary to the Act, **closing date** is defined in this clause.

(2) The closing date in relation to an election or poll is the date of the fortieth day preceding the day for the election or poll.

(3) If an election or poll is delayed, the closing date in relation to it is:

(a) in the case of a delay occurring before the fortieth day preceding the original day of the election or poll—the date of the fortieth day preceding the new day; or

(b) in any other case—the date of the fortieth day preceding the original day.

(e) by omitting clause 9 and by inserting instead the following clause:

Advertising of enrolments

9. (1) The general manager is to give notice of the fact that persons are entitled to vote in an election, constitutional referendum or council poll, and are entitled to be enrolled as electors for a ward or area, if they are residents of the ward or area, or are owners, occupiers, or ratepaying lessees, of rateable land in the ward or area.

(2) The notice is to invite claims for the inclusion of the names of persons in the roll of electors or for the amendment of any particulars entered in the roll against the names of persons.

(3) The notice is to be given twice or more in the 60 days before the closing date for the election, constitutional referendum or council poll and each time is to be given by advertisement in a newspaper circulating in the relevant area.

(4) An advertisement may contain notices required by this clause relating to more than one area.

(f) by omitting clause 10 (1) (c) and by inserting instead the following paragraph:

(c) whether the person is entitled to vote at an election under the Act and whether the person claims enrolment as a resident of a ward or area, or is an owner, occupier, or ratepaying lessee, of rateable land in a ward or area (or has a requisite qualification under section 15 (1) (a) of the City of Sydney Act 1988);

(g) by inserting in clause 10 (1) (e) after the word “ward” the words “(if any)”;

(h) by omitting clause 10 (4) and by inserting instead the following subclause:

(4) An objection under section 303 (1) (b) or (c) of the Act (or section 18 (4) (b) of the City of Sydney Act 1988) to the inclusion of a name or the inclusion of any particulars against a name is to be in a form containing the following particulars:

(a) whether the objection is being lodged with the Electoral Commissioner or the general manager;

(b) the name or particulars to the inclusion of which the objection is made;

(c) the full name and full address of the person lodging the objection;

(d) the reasons for the objection.

(i) by omitting clause 10 (6);

(j) by inserting after clause 10 the following clause:

Notice of inclusion on list: Sydney City

10A. The general manager of the Sydney City Council must, as soon as practicable after:

(a) the name of a person is included on the Sydney non-residential list otherwise than pursuant to a claim by the person; or

(b) the secretary of a corporation is included in that list under section 21 (1) of the City of Sydney Act 1988,

serve notice by post of that inclusion on the person or secretary concerned.

- (k) by inserting in clause 11 (1) (b) after the word "notice" the words "(as endorsed by the Clerk of the Local Court)";
- (l) by omitting from clauses 14 (a) and 84 (3) (b) the words "Country Councils" and by inserting instead the word "Shires";
- (m) by omitting clause 18 and by inserting instead the following clause:

Nomination proposals

18. (1) A candidate for election is to be proposed for nomination in a nomination paper:—

- (a) in Form 2 by at least 2 proposers who are enrolled in respect of the same ward or area as the one in respect of which the candidate is proposed for nomination; or
- (b) in Form 3 by the registered officer for a political party registered in the Local Government Register of Political Parties.

(2) Each candidate must be proposed on a separate nomination paper.

(3) A nomination paper is not valid unless the person proposed for nomination in the paper has completed and signed the Form of Consent included in the paper.

(4) A nomination paper is not in Form 2 or 3 unless it has printed on the back sections 274, 275, 276 and 283 of the Act and is accompanied by a candidate resume which is in such form that the requirements of section 308 (1) of the Act can be satisfied.

(5) A nomination paper is to be delivered or sent so as to reach the returning officer by 5 p.m. on the day 2 days before the nomination day. The returning officer is to give a receipt for it if asked to do so.

(6) The general manager is to supply a reasonable number of copies of Forms 2 and 3 free of charge to any person who applies for them.

(7) A deposit for a nomination proposal is to be paid in cash or by bank cheque.

- (n) by omitting clause 21 and by inserting instead the following clause:

Multiple nomination proposals

21. (1) If a person has been proposed for nomination in respect of more than one ward in an area, and by 11 a.m. on the

nomination day there are still proposals for the nomination of the person in respect of more than one ward in that area, those proposals are all taken to be invalid.

(2) A proposal for nomination for election as councillor is invalid if it is made by a person who has already proposed another person for nomination for election as councillor in the same area.

(3) A proposal for nomination for election as mayor is invalid if it is made by a person who has already proposed another person for nomination for election as mayor in the same area.

(4) However, subsection (2) or (3) does not apply in the case where the proposals referred to are made by the registered officer for a political party registered in the Local Government Register of Political Parties.

(o) by omitting clause 23 and by inserting instead the following clause:

Inspection of names of persons proposed for nomination

23. A person is to be allowed, at any reasonable time in office hours, to inspect a list prepared by the returning officer of the full names of persons proposed for nomination and the names under which those persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers.

(p) by omitting clause 25 (3) and by inserting instead the following subclause:

(3) After declaring the election, the returning officer must:

(a) display the written declaration in a conspicuous position at the office of the relevant council and at the place of nomination (if that place is not the office of the council); and

(b) deliver or send a copy of the written declaration to the Electoral Commissioner, the Director-General, the Secretary of the Local Government and Shires Associations of New South Wales, and the relevant general manager; and

(c) insert a copy of the written declaration in a newspaper circulating in the relevant area.

(q) by omitting from clause 30 (1) (e) the words “present, and record in duplicate,” and by inserting instead the words “present and record”;

(r) by omitting clauses 34 and 35 and by inserting instead the following clauses:

Ballot-paper to be initialled

34. A ballot-paper, before being delivered or sent to an elector, is to be initialled on the back by the returning officer or an electoral official. The initials are to be placed so as to be easily seen when the ballot-paper is folded to conceal the elector's marks. The initials may be written or stamped.

Ballot-paper may be written

35. A ballot-paper must be in Form 4, but need not be one of those printed under clause 31 to be valid. If a polling-place runs out of ballot-papers, the returning officer OR presiding officer may have the ballot-paper reproduced in writing, or by any other means.

(s) by omitting clause 39 (1) and by inserting instead the following subclause:

(1) The general manager is to keep a register of general postal voters for each ward or area.

(t) by omitting clause 41 (1) and by inserting instead the following subclause:

(1) The elector may make written request to the general manager for the Electoral Commissioner to direct the general manager to review the cancellation.

(u) by inserting at the end of clause 43 the following subclauses:

(2) The general manager is to forward a copy of the register kept under clause 39 for a ward or area to the returning officer on the nomination day.

(3) The general manager is to forward to the returning officer before 8 a.m. on election day copies of those applications under clause 38 which were made by persons whose names are on the register as at the close of business at the council's office immediately before election day.

(v) by omitting clauses 44–46 and by inserting instead the following clauses:

Issue of postal ballot-paper

44. (1) Once the returning officer receives an application made in accordance with clause 37, the officer is to check whether the applicant's name is on the roll of electors.

(2) The returning officer is then to:

- (a) make a record that a ballot-paper is being issued to the applicant; and
- (b) deliver or send to the applicant a ballot-paper which is initialled on the back by the returning officer or an electoral official; and
- (c) deliver or send to the applicant an envelope bearing both the address of the returning officer and a form of declaration in Form 7 on which the returning officer has filled in the full name of the elector and the names of the area and the ward (if any) and the number given to the application under this Division; and
- (d) if the applicant's name is not on the roll of electors, deliver or send to the applicant also an envelope containing a blank declaration in Form 12.

Postal voting procedure

45. (1) To make a postal vote, an elector is to:

- (a) show to a witness the ballot-paper and Form 7 declaration delivered or sent by the returning officer under clause 44; and
- (b) in the presence of the witness, and if the facts on the declaration are correct, sign the declaration in the space provided.

(2) The witness is to sign the declaration and complete the spaces in it for the address of the witness and the date on which the declaration is signed. The witness is to do those things only if the witness:

- (a) is at least 18 years old and is not a candidate, or agent of a candidate, for civic office in the area in which the election is being held; and
- (b) is satisfied as to the elector's identity; and
- (c) has seen the elector sign the declaration; and
- (d) knows, from personal knowledge or after reasonable inquiry, that the statements in the declaration are true.

(3) The elector is then to do the following in the presence of the witness, but without showing the witness how the elector has voted:

- (a) vote as directed on the ballot-paper;
- (b) fold the ballot-paper so that the vote cannot be seen;
- (c) place the ballot-paper in the envelope addressed to the returning officer and close and seal the envelope.

(4) The elector is then to deliver or send the envelope, or have it delivered or sent, so that it reaches the returning officer before 6 p.m. on the day of the election or reaches a presiding officer between 8 a.m and 6 p.m on that day.

(5) An elector to whom a ballot-paper has been delivered or sent under this Division is not entitled to vote at a polling-place without first surrendering the ballot-paper and the declaration envelope to the presiding officer at the polling-place.

(6) However, if the elector makes a declaration in Form 8 that the elector has not received, or has lost, the ballot-paper or the form or both and that the elector will not use them if he or she later receives or finds them, the elector may be permitted to vote.

Postal voting by elector not on roll

46. (1) If an elector is sent an envelope in Form 12, the elector is to complete the envelope, place the ballot-paper and Form 7 declaration envelope inside it and return the Form 12 envelope to the returning officer.

(2) The returning officer is to check the particulars on the Form 12 envelope in accordance with clause 71, and, if it appears to the officer that the elector is entitled to vote, is to take the Form 7 declaration envelope (containing the ballot-paper) unopened out of the Form 12 envelope (without damaging the writing on the latter), place them in the postal ballot-box and separately keep the opened Form 12 envelope.

(w) by omitting clause 48 and by inserting instead the following clause:

Receipt of postal ballot-papers

48. On receiving an envelope containing or purporting to contain a postal ballot-paper before 6 p.m. on election day, the returning officer is to make an appropriate notation on the record referred to in clause 44 and place it unopened in the postal ballot-box.

(x) by omitting clause 51 (2) and by inserting instead the following subclause:

(2) When a ballot-paper has been so returned to the officer, the officer must:

- (a) in the presence of the elector, enclose it in the envelope bearing the elector's application and seal the envelope; and
- (b) (if the name of the elector is on the roll) place the envelope in the pre-poll ballot-box.

(y) by omitting clause 52 and by inserting instead the following clause:

Pre-poll voting by elector not on roll

52. (1) If an elector is handed an envelope in Form 12, the elector is to complete the envelope and return it to the returning officer or presiding officer.

(2) That officer is to place the application envelope (containing the ballot-paper) inside the Form 12 envelope and seal it.

(3) If that officer is not the returning officer, he or she is to deliver or send the envelope to the returning officer.

(4) The returning officer is to check the particulars on the Form 12 envelope in accordance with clause 71 and, if it appears to the officer that the elector is entitled to vote, is to take the inner application envelope (containing the ballot-paper) unopened out of the Form 12 envelope (without damaging the writing on the latter), place them in the pre-poll ballot-box and separately keep the opened Form 12 envelope.

(z) by omitting from clause 56 (1) the words “and section 114ZY”;
 (aa) by omitting from clause 57 (1) the words “in declared institutions” and by inserting instead the words “at declared institutions”;
 (ab) by omitting clause 57 (1) (e) and by inserting instead the following paragraph:

(e) a reference in those provisions of the Parliamentary Electorates and Elections Act 1912 to the returning officer is taken to include a reference to an electoral official.

(ac) by omitting from clause 58 the words “declared institution ballot-box” and by inserting instead the words “declared institutions ballot-box”;
 (ad) by omitting clause 59 and by inserting instead the following clause:

Declared institution voting by elector not on roll

59. (1) If the name of a person who claims to be entitled to vote at a declared institution is not on the roll of electors, the returning officer or presiding officer is to hand the person an envelope in Form 12.

(2) If an elector is handed an envelope in Form 12, the elector is to complete the envelope and return it to the returning officer or presiding officer.

(3) That officer is to place the declaration envelope (containing the ballot-paper) inside Form 12 envelope and seal it.

(4) If that officer is not the returning officer, he or she is to deliver or send the Form 12 envelope to the returning officer.

(5) The returning officer is to check the particulars on the Form 12 envelope in accordance with clause 71 and, if it appears to the officer that the elector is entitled to vote, is to take the inner declaration envelope (containing the ballot-paper) unopened out of the Form 12 envelope (without damaging the writing on the latter), place them in the declared institutions ballot-box and separately keep the opened Form 12 envelope.

(ae) by omitting clause 65 (1) (c) and (d) and by inserting instead the following paragraphs:

- (c) each table (or part of a table) used by 2 electoral officials scrutinising or counting votes at each polling-place for the ward or area for which the candidate is nominated for election while any post-polling electoral procedure is being carried out there;
- (d) each table (or part of a table) used by 2 electoral officials scrutinising or counting votes at the principal polling-place from the close of polling until the declaration of the result of the poll;

(af) by omitting clause 66 and by inserting instead the following clause:

Where electors may vote

66. A person who is qualified as an elector in respect of a ward (or, if an area is not divided into wards, in respect of an area) is entitled to vote at any polling-place appointed for the ward (or area).

(ag) by omitting from clause 67 (3) the words “and must,” and by inserting instead the words “and must”;

(ah) by omitting from clause 67 (4) the question numbered “4” and by inserting instead the following question:

4. Are you disqualified from voting at this election by section 266 of the Local Government Act 1993?

(ai) by omitting clause 67 (5) and by inserting instead the following subclause:

(5) A person who fails to satisfy a requirement under subclause (1) or (3) or who does not answer “yes” to questions 1–3, and “no” to questions 4 and 5, in subclause (4) must not be given a ballot-paper and must not be allowed to vote.

- (aj) by omitting from clause 67 (6) the words “if the electoral official so requires”;
- (ak) by omitting from clause 68 (2) the words “officer, seal the envelope and deliver the envelope to the electoral official” and by inserting instead the words “officer and seal the envelope”;
- (al) by omitting clause 68 (5) and by inserting instead the following subclause:

(5) If the declaration is in order and the residence is the appropriate one, the returning officer is to open the envelope containing the ballot-paper, extract the ballot-paper and, without damaging the writing on the envelope, place the ballot-paper still folded in the ballot-box for section 305 votes.

- (am) by omitting from clause 69 (1) the words “presiding officer” and by inserting instead the words “an electoral official”;
- (an) by omitting from clause 70 (b) the words “of the returning officer or presiding officer” and by inserting instead the words “on the back”;
- (ao) by omitting clauses 71–73 and by inserting instead the following clauses:

Elector whose name is not on roll

71. (1) An elector who claims to vote under section 305 of the Act, after making the declaration required by that section and receiving a ballot-paper, is to mark the ballot-paper and fold it to conceal the vote marked on it (but to show the initials on the back) and return it so folded to an officer or official referred to in that section.

(2) For the purposes of section 305 (c) of the Act, the prescribed form of declaration is Form 12 written or printed on an envelope.

(3) The officer or official who receives the ballot-paper must, in the presence of the elector and of any scrutineers present, and without unfolding the ballot-paper, enclose it in the envelope, seal the envelope and (if the officer is not the returning officer) deliver or send it to the returning officer.

(4) The returning officer must examine the declaration before the envelope is opened and, if necessary, make inquiries to determine whether the declaration is in order and the elector is entitled to vote.

(5) If the declaration is in order and it appears to the returning officer that the elector is entitled to vote, the returning officer is to

open the envelope containing the ballot-paper, extract the ballot-paper and, without damaging the writing on the envelope, place the ballot-paper still folded in the ballot-box for section 305 votes.

(6) If the declaration is not in order, or it appears to the returning officer that the elector is not entitled to vote, the returning officer is to leave the envelope containing the ballot-paper unopened.

(7) The returning officer and presiding officers are each to make a list of section 305 votes. On it each officer is to note the giving of a ballot-paper at the polling-place where the officer is in charge to an elector who has made a declaration under section 305 of the Act and the number of such votes delivered or sent to the returning officer from that polling-place (or, if the officer is the returning officer, retained by him or her).

Voting if name already marked on roll

72. (1) If an elector claims to vote at a polling-place, but the roll of electors has already been marked to show that the elector has received an ordinary, postal or pre-poll ballot-paper, the elector is to be given a ballot-paper if he or she answers the questions set out in clause 67 (4) in the manner specified in clause 67 (5) and a declaration has been completed in Form 13.

(2) An elector who is given a ballot-paper under this clause is to fold his or her ballot-paper after marking it and, showing the initials on the back of the ballot-paper to an electoral official, is to deliver it to the official.

(3) The official is (in the presence of the elector) to enclose the ballot-paper without unfolding it in an envelope bearing (or containing) the declaration of the elector required by this clause, and seal the envelope. The official is then to put the envelope in the ballot-box.

(4) The official is to enter on a list of tendered votes kept at the polling-place the giving of a ballot-paper to the elector under this clause.

Informal ballot-papers

73. (1) A ballot-paper of an elector at an election is informal if:

- (a) it has not been completed in accordance with the directions on it for the showing of preferences; or
- (b) it has not been initialled on the back by the returning officer or an electoral official; or

(c) it contains a mark or writing which, in the returning officer's opinion, would enable the elector to be identified.

(2) Despite subclause (1), a ballot-paper of an elector at an election is not informal if the only departure from the directions for its completion is that:

(a) a preference (other than a first preference) has been repeated or omitted; or

(b) if only one candidate is to be elected from 2 candidates, a tick or a cross has been placed in one square and the other square has been left blank.

(3) In the case referred to in subclause (2) (b), the tick or the cross is to be treated as a first preference.

(4) Despite subclause (1), a ballot-paper is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.

(ap) by omitting from clause 74 the words "person authorised by the Electoral Commissioner, returning officer" and by inserting instead the words "persons authorised by the Electoral Commissioner, the returning officer";

(aq) by omitting from clause 75 the matter "8.00 a.m." and by inserting instead the matter "8 am.>";

(ar) by omitting from clause 75 (a) the words "applications for registration" and by inserting instead the words "copies of applications for registration";

(as) by omitting from clause 76 (3) the word "record" and by inserting instead the words "list of section 305 votes";

(at) by omitting from clause 76 (4) (a) the words "votes under section 305 of the Act" and by inserting instead the words "section 305 votes";

(au) by omitting clause 77 (1) (b) and by inserting instead the following paragraph:

(b) in a second parcel the ballot-papers which have not been used, the cancelled postal ballot-papers and forms of declaration, the spoilt ballot-papers, the list of section 305 votes, the envelopes containing postal votes and the envelopes containing tendered votes, and the list of tendered votes; and

(av) by omitting clauses 78–80 and by inserting instead the following clauses:

Checking of ballot-papers in sealed envelopes

78. (1) The returning officer must on the close of the poll produce the applications for postal votes, produce the copies of applications for registration as a general postal voter, produce the postal votes received from the presiding officers, and open the ballot-box containing postal votes received by the returning officer and take all the envelopes from them.

(2) The returning officer is then to do the following or have the following done:

- (a) count the sealed ballot-paper envelopes unopened and record the count;
- (b) check the names on the envelopes against the roll of electors and, if an elector's name is on the roll, mark the roll in the manner determined by the Electoral Commissioner;
- (c) compare the signature of the elector on each postal vote declaration with the signature of the applicant on the correspondingly numbered application for a postal vote (or the appropriate application for registration as a general postal voter), allow the scrutineers to inspect both signatures, and examine each declaration as to its formality or informality;
- (d) if the returning officer is not satisfied that the signature of the elector on the declaration is that of the applicant who signed the application or that the declaration is formal, mark, initial and keep apart unopened the sealed ballot-paper envelope on which the declaration appears;
- (e) if the returning officer is satisfied that the signature of the elector on the declaration is that of the applicant who signed the application and that the declaration is formal, turn the sealed ballot-paper envelope so that the declaration is face downwards, then open the envelope (without damaging the writing on it) and take out the ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, place it in a securely fastened ballot-box for further scrutiny;
- (f) after dealing with all the envelopes and ballot-papers in accordance with paragraphs (d) and (e), open the ballot-box, take out the ballot-papers, unfold and scrutinise them and reject the informal ones.

(3) The returning officer must on the close of the poll open the ballot-boxes containing pre-poll votes and declared institution votes, take all the envelopes from them and do the following or have the following done:

- (a) count the sealed ballot-paper envelopes unopened and record the count;
- (b) check the names on the envelopes against the roll of electors and, if an elector's name is on the roll, mark the roll in the manner determined by the Electoral Commissioner;
- (c) turn each sealed ballot-paper envelope face downwards, then open the envelope (without damaging the writing on it) and take out the ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, place it in a securely fastened ballot-box for further scrutiny;
- (d) after dealing with all the envelopes and ballot-papers in accordance with paragraph (c), open the ballot-box, take out the ballot-papers, unfold and scrutinise them and reject the informal ones.

(4) The returning officer must on the close of the poll produce all envelopes containing tendered votes and do the following or have the following done:

- (a) count the number of envelopes containing tendered votes for each polling-place;
- (b) in the presence of the scrutineers examine the declarations on the envelopes and make such inquiries as the returning officer considers necessary as to whether the persons who signed the declarations are entitled to vote;
- (c) if the returning officer is not satisfied that the person who signed the declaration is entitled to vote or that the declaration is duly witnessed, keep apart and unopened the envelope on which the declaration appears;
- (d) if the returning officer is satisfied that the person who signed the declaration is entitled to vote and that the declaration is duly witnessed, turn the envelope so that the declaration is face downwards, then open the envelope (without damaging the writing on it) and take out the ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, place it in a securely fastened ballot-box for further scrutiny;

- (e) after dealing with all the envelopes and ballot-papers in accordance with paragraphs (c) and (d), open the ballot-box, take out the ballot-papers, unfold and scrutinise them and reject the informal ones.

Finalising the count

79. The returning officer must then do the following or have the following done:

- (a) complete the count by including the postal, pre-poll, declared institution and tendered votes and section 305 votes;
- (b) ascertain the result of the count in accordance with Schedule 1 or 2, depending on the system of election;
- (c) inform the persons present of the result of the count;
- (d) immediately notify the Electoral Commissioner of the result of the count;
- (e) deliver or send written notification to the candidates of the result of the count at 9 a.m. on the day following the day on which the result of the count is ascertained (or if the following day is a Sunday, on the following Monday instead).

Double candidature: candidate elected as mayor

80. (1) If in any election, one or more of the candidates for election as councillor for a ward in an area (or for an area) are also candidates for election as mayor of the area, the counting of the votes in the election of the mayor is to be completed before the distribution of preferences marked on ballot-papers in the election of the councillors of the ward (or area).

(2) For the purposes of section 283 of the Act, the procedure set out in clause 9 of Schedule 1 or clause 14 of Schedule 2 (as appropriate to the system) is to be used to determine who would be the next elected candidate once a person is elected by the electors to the office of mayor.

- (aw) by omitting from clause 84 (3) (a) the words “the place of nomination” and by inserting instead the words “the office of the relevant council”;
- (ax) by omitting clauses 86 and 87 by inserting instead the following clauses:

Misconduct in voting

86. (1) A person must not do any of the following:

- (a) make a declaration which the person knows is false in respect of any matter or thing for which a declaration is required by this Regulation;
- (b) impersonate an elector for the purpose of voting at an election;
- (c) vote twice at an election;
- (d) knowingly put more than one ballot-paper in the ballot-box at a polling-place (except if each of those ballot-papers relates to a different poll);
- (e) influence an elector's vote by threats or inducements.

Maximum penalty: 10 penalty units.

(2) This clause applies in relation to an election under clause 121 (County council elections) and to a constitutional referendum or council poll in the same way as it applies to elections under Chapter 10 of the Act.

False statements in forms

87. (1) A person must not make a statement which the person knows is false in a paper relating to an election or poll under the Act, or in information supplied to the Electoral Commissioner or a general manager for the purposes of the preparation, maintenance, or revision of an electoral roll under the Act.

(2) A person must not induce another person to make such a statement.

Maximum penalty: 10 penalty units.

- (ay) by omitting from clause 88 (1) the words "or postal voting envelope" and by inserting instead the words "and a postal voting envelope";
- (az) by omitting clause 89 and by inserting instead the following clause:

Misconduct in relation to postal voting

89. A person to whom an application for a postal ballot-paper and a postal voting envelope, or an envelope containing or purporting to contain a postal ballot-paper, is given by an elector for the purpose of delivery or sending to a returning officer, who has agreed to deliver or send the application or envelope, and who without reasonable excuse fails to deliver or send the application or envelope promptly is guilty of an offence.

Maximum penalty: 10 penalty units.

(ba) by omitting clause 92 and by inserting instead the following clause:

Breach of secrecy

92. An electoral official or scrutineer who knows how a particular elector has voted must not disclose that knowledge.

Maximum penalty: 5 penalty units.

(bb) by omitting clauses 94–96 and by inserting instead the following clauses:

False answers to questions put by electoral officials

94. A person who, knowing the answer to be untrue, answers a question put to the person by an electoral official under Part 8 is guilty of an offence.

Maximum penalty: 10 penalty units.

Obstructing access to polling-place

95. A person must not obstruct access to a space set aside for voting at a polling-place, to a polling-place or to a pre-poll voting office.

Maximum penalty: 0.5 penalty units.

Persons present in polling-place

96. (1) A person must not remain in a polling-place during polling or during the counting or the scrutiny of the ballot-papers.

(2) A person who unlawfully remains in a polling-place after being requested by the returning officer or an electoral official to leave the polling-place is guilty of an offence.

(3) This clause does not prevent:

- (a) the Electoral Commissioner, persons authorised by the Electoral Commissioner, the returning officer, electoral officials, scrutineers, and police officers on duty, from being present during those times; or
- (b) persons engaged in voting (and not exceeding the number determined by the returning officer) from being present during polling for as long as is necessary in order for them to vote.

Maximum penalty: 5 penalty units.

(bc) by inserting in clause 97 (2) after the words “directions of” the words “the returning officer or of”;

- (bd) by omitting from clause 98 (c) the words “pre-poll voting place” and by inserting instead the words “pre-poll voting office”;
- (be) by omitting clause 99 and by inserting instead the following clause:

Improperly signing or witnessing electoral papers

99. A person must not do any of the following:

- (a) sign as witness a blank electoral paper;
- (b) sign as witness an electoral paper which has been wholly or partly filled up unless it has been signed by the signatory;
- (c) sign as witness an electoral paper unless the person has seen the signatory sign it;
- (d) write a name which is not his or her own name on an electoral paper as his or her own name;
- (e) sign an electoral paper with a signature that purports to be that of another person.

Maximum penalty: 10 penalty units.

- (bf) by omitting from clause 102 the word “package” and by inserting instead the word “parcel”;
- (bg) by omitting clause 106 and by inserting instead the following clause:

Printing etc. false information

106. (1) A person must not do any of the following:

- (a) print, publish or distribute a “how to vote” card, electoral advertisement, notice, handbill, pamphlet, or card, containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, if the card, advertisement, notice, handbill or pamphlet includes directions intended or likely to mislead or improperly interfere with an elector in or in relation to voting;
- (b) print, publish or distribute a “how to vote” card, electoral advertisement, notice, handbill, pamphlet, or card, containing an untrue or incorrect statement intended or likely to mislead or improperly interfere with an elector in or in relation to voting;
- (c) print, publish or distribute a “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card using:
 - (i) the name, an abbreviation or acronym of the name or a derivative of the name of a party respectively

included in the Local Government Register of Parties (or a name or abbreviation resembling such a name, abbreviation, acronym or derivative) in a way that is intended or likely to mislead any elector; or

- (ii) the word “Independent” and the name or an abbreviation or acronym of the name or a derivative of the name of a party respectively included in that Register in a way that suggests or indicates an affiliation with that party (unless the name of the party in that Register includes the word “Independent”).

Maximum penalty: 10 penalty units.

- (2) A person is not guilty of an offence against this clause merely by printing, publishing or distributing a “how to vote” card which contains instructions on how to vote for a particular candidate or candidates, so long as those instructions are not intended or likely to mislead an elector in or in relation to voting.
- (bh) by omitting from clause 110 (1) the word “that” and by inserting instead the words “the adjournment”;
- (bi) by omitting from clause 110 (3) the word “fact”;
- (bj) by omitting clauses 111–113 and by inserting instead the following clauses:

Votes at adjourned poll

111. If the poll has been adjourned at a polling-place within a ward, only those electors who are entitled to be enrolled for that ward are entitled to vote at the adjourned poll.

Postponed and adjourned elections

112. In the case of an election postponed under section 288 of the Act or adjourned under clause 109:

- (a) ballot-papers already printed may be used for the election, even though they show the original date of the election and not the date to which the election has been postponed or adjourned; and
- (b) the postal ballot-papers issued by the returning offices on or before or after the original date of the election and received by the returning officer up to the time of the closing of the poll on the new date of the election are to be produced by the returning officer, along with the applications for them and the copies of the applications for registration as a general postal voter, at the scrutiny and counting of votes; and

- (c) in the application of this Regulation, the new date of the election is taken to be the election day; and
- (d) the ballot-papers of electors who have voted at a pre-poll voting office or at a declared institution before the original date of the election are to be produced by the returning officer at the scrutiny and counting of votes.

Spoilt ballot-papers

113. If an elector satisfies the returning officer or an electoral official that he or she has spoilt by reason of accident or mistake the ballot-paper handed to him or her, and that ballot-paper has not been enclosed in an envelope in accordance with Part 7 or 8, the officer or official, on receipt of the spoilt ballot-paper, must:

- (a) hand or send to the elector a new ballot-paper; and
- (b) cancel and preserve the spoilt ballot-paper.

- (bk) by omitting clause 115 (3) and (4);
- (bl) by omitting clauses 117 and 118 and by inserting instead the following clauses:

Security of election materials

117. (1) The returning officer, after the election has been declared, is to parcel the marked and unmarked ballot-papers, copies of the roll, and other papers used in the election.

(2) The returning officer is to seal, endorse and sign each parcel, and to allow any scrutineers entitled to be present to do the same to each parcel. The endorsement is to specify the contents of each parcel and the name of the ward (if any) and area, as well as the date of the polling, to which the contents relate.

(3) The returning officer is to forward the parcels to the general manager of the relevant council.

(4) The general manager is to give to the returning officer a receipt for the parcels once they have been forwarded. The receipt is to specify the endorsement on each parcel.

(5) The general manager is to have the parcels kept securely for 6 months (or for such longer period as the Electoral Commissioner may direct), and then destroyed.

Access to election materials

118. If a court or the Electoral Commissioner so directs, or any legislation so requires or permits, the general manager is to allow any person to inspect any of the election materials kept under clause 117, except the sealed parcels of marked ballot-papers.

(bm) by omitting Part 12 and by inserting instead the following Parts:

**PART 12—MAYORS, COUNTY COUNCILS AND
REFERENDUMS**

Election of mayors by councillors

120. If a mayor or deputy mayor is to be elected by the councillors of an area, the election is to be in accordance with Schedule 3.

County council elections

121. Schedule 4 applies in relation to the election of the members of a county council.

Constitutional referendums and council polls

122. Parts 1–11 and 13 apply with such modifications as may be necessary, including the modifications in Schedule 5, to the taking of constitutional referendums and council polls for the purposes of Part 3 of Chapter 4 of the Act in the same way as they apply to an election.

PART 13—SAVINGS

Savings

123. Any act, matter or thing that, immediately before the amendment of this Regulation by the Regulation published in the Gazette on 3 September 1993, had effect under this Regulation is taken to have effect under this Regulation as so amended.

(bn) by omitting Schedules 1–3 and by inserting instead the following Schedules:

**SCHEDULE 1—COUNTING OF VOTES UNDER
OPTIONAL PREFERENTIAL SYSTEM
(OR PROPORTIONAL SYSTEM WHERE ONLY ONE
CANDIDATE IS TO BE ELECTED**

(Cl. 79)

General

1. This Schedule sets out the method of counting votes according to the optional preferential system and also where only 1 candidate is to be elected under the proportional system. The counting is to be carried out under the supervision of the returning officer.

Definitions

2. In this Schedule:

absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers;

continuing candidate means a candidate not already elected or excluded from the count;

unrejected ballot-papers means all ballot-papers not rejected as informal.

One candidate to be elected (optional preferential system or proportional system)

3. If only one candidate is to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (a) The unrejected ballot-papers are arranged under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate.
- (b) The total number of first preferences given for each candidate on such ballot-papers are then counted.
- (c) The candidate who has received the largest number of first preference votes is elected if that number constitutes an absolute majority of votes.
- (d) If no candidate has received an absolute majority of first preference votes, a second count is made.
- (e) On the second count the candidate who has received the fewest first preference votes is excluded, and each unexhausted ballot-paper counted to him or her is counted to the candidate next in the order of the voter's preference.
- (f) If a candidate then has an absolute majority of votes, he or she is elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his or her unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference is repeated until one candidate has received an absolute majority of votes.
- (g) The candidate who has received an absolute majority of votes is elected.

Two candidates to be elected (optional preferential system only)

4. If 2 candidates are to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (a) One of the candidates is elected in accordance with clause 3 of this Schedule.
- (b) All the unrejected ballot-papers are rearranged under the names of the respective candidates in accordance with the first preferences marked on the ballot-papers, except that each ballot-paper on which a first preference for the elected candidate is indicated is placed in the parcel of the candidate next in the order of the voter's preference.
- (c) The number of ballot-papers in the parcel of each candidate is counted and the total number of votes so counted to each candidate is ascertained.
- (d) If a candidate then has an absolute majority of votes he or she is elected. If not, the count proceeds according to clause 3 (d), (e) and (f) of this Schedule, until one candidate has received an absolute majority of votes.
- (e) Clause 3 (d) and (e) of this Schedule is to be read for the purposes of this clause as if a reference in those paragraphs to first preference votes were a reference to all the votes counted to a candidate under this clause.
- (f) The candidate who has received an absolute majority of votes is elected.

Three or more candidates to be elected (optional preferential system only)

5. (1) If 3 or more candidates are to be elected, 2 of the candidates are elected in accordance with clauses 3 and 4 of this Schedule.

(2) The third and every subsequent candidate is elected in the manner provided in clause 4 of this Schedule as regards the election of the second candidate. However, a ballot-paper on which a first preference for any elected candidate is marked is placed in the parcel of the continuing candidate next in the order of the voter's preference.

General principles

6. (1) In the process of counting under clause 3, 4 or 5 of this Schedule, exhausted ballot-papers are set aside as finally dealt

with and are not taken into account in the election of a candidate under the appropriate clause.

(2) When a candidate is elected or excluded, each ballot-paper counted to the candidate is regarded as exhausted if there is no indication on it of a next preference for a continuing candidate.

(3) In this clause, **next preference** includes the first of the subsequent preferences marked on a ballot-paper which is not given to an elected or excluded candidate. However, if there is a repetition or omission in the consecutive numbering of preferences marked on a ballot-paper (other than a repetition or omission which makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.

Equality

7. (1) If, on any count at which the candidate with the fewest number of votes has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates):

- (a) the candidate who had the fewest votes at the last count before the equality occurred is excluded; or
- (b) if they had an equal number of votes at all preceding counts, the candidate whose name is on a slip drawn in accordance with subclause (2) is excluded.

(2) For the purposes of subclause (1) (b) the returning officer writes the names of the candidates who have an equal number of votes on similar slips of paper. The returning officer then folds the slips so as to prevent the names being seen, mixes them, and draws one slip at random.

End of counting

8. The process of counting each of the unexhausted ballot-papers of an excluded candidate to the continuing candidate next in the order of the voter's preference is not repeated if there is only one continuing candidate. Instead, that continuing candidate is elected.

Double candidature

9. (1) If a candidate is elected as mayor and is also elected under this Schedule (except clause 3 (c)) as councillor so as to fill the one remaining vacancy in the office of councillor, the candidate is taken not to be elected as councillor and the candidate last excluded under clause 3 is the next elected candidate.

(2) If (in a case to which subclause (1) does not apply) a candidate is elected as mayor and is also elected under this Schedule as councillor, the candidate is taken not to be elected as councillor. Instead, each unexhausted ballot-paper counted to the candidate is counted to the continuing candidate next in the order of the voter's preference.

(3) If a candidate then has an absolute majority of votes, he or she is elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his or her unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference is repeated in accordance with this Schedule until one candidate has received an absolute majority of votes. That candidate is elected.

**SCHEDULE 2—COUNTING OF VOTES UNDER
PROPORTIONAL SYSTEM (WHERE 2 OR MORE
CANDIDATES TO BE ELECTED)**

(Cl. 79)

General

1. This Schedule sets out the method of counting votes according to the proportional system (where 2 or more candidates are to be elected). The counting is to be carried out under the supervision of the returning officer.

Note: Schedule 1 applies where only 1 candidate is to be elected under the proportional system.

Definitions

2. (1) In this Schedule:

continuing candidate means at any given time a candidate not already elected or not already excluded from the poll;

fraction includes a decimal fraction;

quota means the number of votes sufficient to elect a candidate;

surplus, at any given time, means:

(a) except as provided in paragraph (b)—the number of votes which a candidate has obtained at that time in excess of the quota; or

(b) if the number of exhausted ballot-papers counted to a candidate at that time is greater than the quota—the number of votes which the candidate has obtained at that time in excess of the number of those exhausted ballot-papers

(2) When a candidate is elected or excluded, each ballot-paper counted to the candidate is regarded as exhausted if there is no indication on it of a next preference for a continuing candidate.

(3) In subclause (2), **next preference** includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate. However, if there is a repetition or omission in the consecutive numbering of preferences marked on the ballot-paper (other than a repetition or omission which makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.

Parcels of first preferences

3. If 2 or more candidates are to be elected, the ballot-papers are divided into parcels according to the names of the candidates for whom the first preferences on the ballot-papers are recorded.

Quota

4. The aggregate number of first preferences is divided by one more than the number of candidates to be elected. The quotient (disregarding any remainder), increased by one, becomes the quota.

Election on first preferences

5. (1) A candidate who has, upon the first preferences being counted, a number of first preferences equal to or greater than the quota is elected.

(2) If the number of first preferences obtained by the candidate is equal to the quota, all the ballot-papers on which first preferences are recorded for that candidate are set aside as finally dealt with.

Surplus on first count

6. If the number of first preferences obtained by any candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of voters' preferences, in accordance with the following directions:

(a) The ballot-papers on which first preferences are recorded for the elected candidate are re-examined, and the number of second preferences, or (in accordance with clause 12 of this Schedule) third or next consecutive preferences, recorded on them for each continuing candidate and the number of exhausted ballot-papers is counted.

- (b) The surplus is divided by the total number of first preferences recorded for such elected candidate (excluding any exhausted ballot-papers). The transfer value is equal to the resulting fraction or the first 4 digits of the resulting decimal fraction or (if the fraction exceeds 1) to 1.
- (c) The number of second or other preferences, ascertained in paragraph (a) as being recorded for each continuing candidate, is multiplied by the transfer value.
- (d) The resulting number for each continuing candidate is added to the number of votes obtained by the candidate on the counting of first preferences.
- (e) However, if as a result of the multiplication referred to in paragraph (c), any fraction results, so many of those fractions (taken in the order of their magnitude and beginning with the largest) as are necessary to ensure that the number of votes transferred equals the number of the elected candidate's surplus votes are treated as equal to 1, and the remaining fractions are ignored.
- (f) If, as a result of the multiplication referred to in paragraph (c), 2 or more fractions are equal and one of them is to be treated as equal to 1, the fraction arising from the largest number of second or other preferences referred to in paragraph (a) is treated as the largest, and if the numbers of those preferences are equal, the fraction credited to the candidate with the highest number of votes at the last count or transfer at which the candidates with the equal number of preferences had an unequal number of votes is treated as the largest, and if those candidates have had an equal number of votes at all preceding counts and transfers, the returning officer decides by lot which fraction is taken to be the largest.
- (g) From the ballot-papers on which a second or other preference is recorded for my continuing candidate, a number of ballot-papers equal to the number of votes directed by paragraph (d) to be credited to the candidate are selected at random, and these are to be placed in a separate parcel and transferred to the candidate.
- (h) All ballot-papers of the elected candidate not transferred under paragraph (g) (including any exhausted ballot-papers) are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.

- (i) A transfer of votes under this clause is not made unless the surplus of the elected candidate, together with any other surpluses not transferred, exceeds the difference in numbers between the votes of the 2 continuing candidates lowest on the poll.
- (j) This clause takes effect subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause no further transfer under this clause can be made.

Surplus on transfer

7. (1) If by a transfer of a surplus on the count of first preferences or of a surplus under this clause the number of votes obtained by a candidate equals or exceeds the quota, the candidate is elected.

(2) In that case, despite the fact that the candidate has reached the quota, the transfer is to be completed, and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate.

(3) If by a transfer the number of votes obtained by a candidate equals the quota, the whole of the ballot-papers on which those votes are recorded are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.

(4) If by a transfer the number of votes obtained by a candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of the voters' respective preferences in the following manner:

- (a) The ballot-papers transferred to the elected candidate in the last transfer are re-examined, and the number of next consecutive preferences recorded for each continuing candidate on the papers and the number of exhausted ballot-papers are counted.
- (b) The surplus is divided by the total number of ballot-papers transferred to the elected candidate in the last transfer (excluding any exhausted ballot-papers). The transfer value is equal to the resulting fraction or the first 4 digits of the resulting decimal fraction or (if the fraction exceeds 1) to 1.
- (c) The surplus is transferred and the papers dealt with in a manner similar to that prescribed by clause 6 of this Schedule for the transfer of a surplus arising at the first count.

- (d) A transfer of votes under this subclause is not made unless the surplus of the elected candidate, together with any other surpluses not transferred, exceeds the difference in numbers between the votes of the 2 continuing candidates lowest on the poll.
- (e) This clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause no further transfer under this clause can be made.

Transfer of surpluses

8. (1) If, on the counting of the first preferences or on any transfer, more than one candidate has a surplus, the largest of the surpluses is transferred, then the next largest, and so on.

(2) However, if there is an untransferred surplus obtained at a previous count or transfer, that surplus is transferred before those caused by subsequent transfers.

(3) If there are equal surpluses at the first count, the returning officer decides by lot which surplus is transferred first.

(4) If there are equal surpluses at a later count or at a transfer, the surplus of the candidate who was the highest on the poll at the count or transfer at which the tied candidates last had an unequal number of votes is the first to be transferred. If those candidates have had an equal number of votes at all preceding counts or transfers, the returning officer decides by lot which candidate's surplus is the first to be transferred.

Exclusion of lowest candidates

9. (1) If, after the first preferences have been counted and transfers of surpluses have been made, fewer than the number of candidates required to be elected have obtained the quota, the candidate lowest on the poll is excluded.

(2) All the unexhausted votes obtained by that candidate are transferred in one transfer to the continuing candidates who, on the ballot-papers on which such votes are recorded, are next in the order of the voters' respective preferences.

(3) Any exhausted ballot-papers are set aside as finally dealt with.

(4) The same process of exclusion and transfer is repeated until all the candidates, except the number required to be elected, have been excluded. At that point, the continuing candidates who have not already been elected are elected.

(5) Whenever it becomes necessary to exclude a candidate and two or more candidates have the same number of votes and are lowest on the poll, the one who was lowest on the poll at the last count or transfer at which they had an unequal number of votes is first excluded.

(6) If those candidates have had equal numbers of votes at all preceding counts or transfers, or there has been no preceding count, the returning officer decides by lot which candidate is first excluded.

(7) This clause takes effect subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause no further exclusion under this clause can be made.

Effect of reaching quota while transfers are proceeding

10. (1) If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate equals or exceeds the quota, the candidate is elected.

(2) In that case, despite the fact that the candidate has reached the quota, the transfer is to be completed, and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate.

(3) If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate equals the quota, the whole of the ballot-papers on which those votes are recorded are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.

(4) If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of the voters' respective preferences in the manner prescribed by clause 7 (4) of this Schedule.

Election without reaching quota

11. (1) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled the continuing candidates are elected, even if they have not reached the quota.

(2) When only one vacancy remains unfilled and the votes of one continuing Candidate exceed the total of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate is elected.

(3) When more than one vacancy remains unfilled and the votes of the candidate who (if all the vacancies were filled by the successive election of the continuing candidates with the largest number of votes) would be the last to be elected exceed the total of any surplus not transferred plus the votes of all the continuing candidates with fewer votes than that candidate, that candidate and all the other continuing candidates who do not have fewer votes than that candidate are elected.

(4) When only one vacancy remains unfilled, and there are only 2 continuing candidates, and those 2 candidates each have the same number of votes, and no surplus votes remain capable of transfer, one candidate is excluded in accordance with clause 9 (5) and (6) and the other is elected.

Determining order of preference

12. In determining which candidate is next in the order of the voter's preference, any candidates who have been declared elected or who have been excluded are not considered, and the order of the voter's preference is determined as if the names of those candidates had not been on the ballot-paper.

Deciding by lot

13. (1) For the purposes of excluding a candidate by lot under clause 9 or 11 of this Schedule, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is excluded.

(2) For the purpose of deciding by lot which candidate's surplus is first to be transferred under clause 8 of this Schedule, the names of the candidates who have equal surpluses are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed, one of the slips is drawn at random by the returning officer and the candidate whose name is on the drawn slip is the one whose surplus is the first to be transferred.

(3) For the purposes of determining the largest fraction under clause 6 of this Schedule, the names of the candidates who have been credited with the equal fractions are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed, one of the slips is drawn at random by the returning

officer and the candidate whose name is on the drawn slip is taken to have been credited with the largest fraction.

Double candidature

14. (1) If a candidate is elected as mayor and is also elected under this Schedule (except clause 5) as councillor so as to fill the one remaining vacancy in the office of councillor, the candidate is taken not to be elected as a councillor and the candidate last excluded under clause 9 of this Schedule is the next elected candidate.

(2) If (in a case to which subclause (1) does not apply) a candidate is elected as mayor and is also elected as councillor under this Schedule, the candidate is taken not to be elected as councillor and each unexhausted ballot-paper counted to the candidate, including all unexhausted votes transferred to the candidate at the last transfer (if any), is counted to the continuing candidate next in the order of the voter's preference.

(3) If a candidate then obtains a number of votes which equals or exceeds the quota, the procedure in clause 18 of this Schedule is then followed.

(4) If the number of votes obtained by a candidate does not reach the quota after the procedure in subclause (2) is completed, the candidate lowest on the poll is then excluded in accordance with clause 9 of this Schedule.

Check counting

15. (1) A scrutineer may at any time during the counting of the votes, either before the commencement or after the completion of the transfer of the votes (whether original or transferred votes) of any candidate, request the returning officer to make a check count of the papers then comprised in the parcels of all or any candidates (but not of papers set aside as finally dealt with).

(2) The returning officer is to make a check count immediately on receiving the request, unless the returning officer has already made a check-count of the same votes.

(3) The returning officer may also recount votes as often as he or she thinks necessary to establish accuracy.

Records and returns of voting and transfers

16. (1) At each step of the proceedings the returning officer is to keep a record of the number of votes counted for each candidate, the transfer of surpluses, the exclusion of candidates and the transfer of their votes, the votes which are found to be informal, and those which at some stage become exhausted votes.

(2) At the same time as the declaration of the election, the returning officer is to exhibit in some conspicuous position at the principal polling-place and at the office of the relevant council a record of the voting, counting and transfers.

(3) The council must, upon application made to it by any person, deliver or send to the person a copy of the record of voting, counting and transfers.

SCHEDULE 3—SELECTION OF MAYOR BY COUNCILLORS

(Cl. 120)

PART 1—PRELIMINARY

Returning officer

1. The general manager is the returning officer.

Nomination

2. (1) A councillor may be nominated without notice for election as mayor or deputy mayor.

(2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

(3) The nomination is to be delivered or sent to the returning officer.

(4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

Election

3. (1) If only one councillor is nominated, that councillor is elected.

(2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.

(3) The election is to be held at the council meeting at which the council resolves on the method of voting.

(4) In this clause:

ballot has its normal meaning of secret ballot;

open voting means voting by a show of hands or similar means.

PART 2—ORDINARY BALLOT OR OPEN VOTING**Application of Part**

4. This Part applies if the election proceeds by ordinary ballot or by open voting.

Marking of ballot-papers

5. If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.

Count—2 candidates

6. (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.

(2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

Count—3 or more candidates

7. (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.

(2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.

(3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.

(4) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.

(5) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

PART 3—PREFERENTIAL BALLOT**Application of Part**

8. This Part applies if the election proceeds by preferential ballot.

Ballot-papers and voting

9. (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for the candidates.

(2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 73 of this Regulation as if it were a ballot-paper referred to in that clause.

Count

10. (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.

(2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.

(3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.

(4) In this clause **absolute majority** in relation to votes means a number which is more than one-half of the number of formal ballot-papers.

Tied candidates

11. (1) If, on any count of votes, the numbers of votes cast for 2 candidates are equal and:

- (a) those candidates are the only candidates in, or remaining in, the election—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected; or
- (b) those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

(2) If, on any count of votes, the numbers of votes cast for 3 or more candidates are equal and the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

PART 4—GENERAL

Choosing by lot

12. To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning

officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

Result

13. The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer; and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

(bo) by omitting Part 2 of Schedule 4 and by inserting instead the following Part:

PART 2—SINGLE AREA ELECTORATE

Application of Part

3. This Part applies to the election of members of a county council whose electorate comprises the whole or part of one area only.

Returning officer

4. The general manager of the council of the area part or all of which constitutes a county council electorate (or a person appointed by that general manager) is the returning officer.

Nomination

5. (1) A councillor of the council of the area part or all of which constitutes a county council electorate may be nominated for election as a member of the county council.

(2) The nomination may:

- (a) be made without notice by any councillor of the council; and
- (b) be in writing delivered or sent to the returning officer; and
- (c) not be valid unless the nominee has indicated consent to the nomination in writing.

(3) The returning officer is to announce the names of the nominees at a council meeting.

Election

6. (1) If the number of candidates nominated is not more than the number of vacancies to be filled, those candidates are to be declared elected.

(2) If there are more candidates nominated than the number to be elected, an election is to be determined by preferential ballot. The ballot is to be conducted by the preparation, marking and counting of ballot-papers in the presence of the council.

Ballot-papers and voting

7. (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the figures 1, 2 and so on against the various names so as to indicate the order of their preference for at least the number of candidates to be elected.

(2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 73 of this Regulation as if it were a ballot-paper referred to in that clause.

(3) An informal ballot-paper is to be rejected at the scrutiny of votes.

Count

8. Schedule 1 of this Regulation applies to the counting of votes under this Part in the same way as it does to the counting of votes in an election of councillors.

Result

9. The result of the election (including the names of the candidates elected as members) is:

- (a) to be declared to the councillors by the returning officer at the council meeting where the election is held; and
- (b) to be delivered or sent to the general manager of the county council and the Director-General.

(bp) by omitting from clause 14 (2) of Schedule 4 the words “28 days” and by inserting instead the words “35 days”;

(bq) by omitting clause 15 (2) and (3) of Schedule 4 and by inserting instead the following subclauses:

(2) The nomination must also contain the full name and full residential address of the nominee and a statement signed by the nominee that the nominee consents to the nomination.

(3) The returning officer must reject a nomination not made in accordance with this clause or a nomination received by the returning officer after the close of nominations.

(br) by omitting from clause 19 (3) of Schedule 4 the words “include a direction that” and by inserting instead the words “include directions to the effect that”;

(bs) by inserting in clause 27 of Schedule 4 after the words “who have been” the word “declared”;

(bt) by omitting clause 30 of Schedule 4 and by inserting instead the following clause:

Death of candidate

30. If a candidate for election as a member of a county council dies after the close of nominations and before the day when the poll at a contested election closes, the election fails in respect of the electorate for which the candidate is nominated.

(bu) by omitting clause 33 (3) and (4) of Schedule 4 and by inserting instead the following subclauses:

(3) The returning officer is to forward the parcels to the general manager.

(4) The general manager is to have the parcels kept securely for 6 months, and then destroyed.

(bv) by omitting clause 34 of Schedule 4 and by inserting instead the following clause:

Decision of returning officer final

34. If the returning officer is permitted or required by this Part to make a decision on any matter relating to the taking of a ballot in an election, the decision of the returning officer on that matter is final.

(bw) by omitting clause 37 of Schedule 4;

(bx) by omitting Schedule 5 and by inserting instead the following Schedule:

**SCHEDULE 5—CONSTITUTIONAL REFERENDUMS
AND COUNCIL POLLS**

(Cl. 122)

1. The following provisions of this Regulation do not apply to constitutional referendums or council polls under Part 3 of Chapter 4 of the Act:

(a) Parts 2 and 4;

(b) clauses 30, 31, 73, 79 (b) and (e), 80 and 119–121;

(c) Schedules 1–4 and 6 and Forms 1–14

2. Clause 85 and Form 16 of this Regulation do not apply to council polls under Part 4 of Chapter 4 of the Act.

3. This Regulation, in its application to a constitutional referendum or council poll, is modified as follows:

- (a) a reference to a ballot-paper is taken to be a reference to a poll-paper;
- (b) if the referendum or poll is not held in conjunction with an election of councillors, the reference in clause 26 (3) to the nomination day is taken to be a reference to the fifth Friday before the polling day for the referendum or poll;
- (c) scrutineers are to be appointed not by candidates but by the returning officer at the request of the general manager or mayor of the relevant council, or by the registered officer for a political party registered in the Local Government Register of Political Parties;
- (d) a reference in clause 81 (1) or (2) to a candidate is taken to be a reference to a scrutineer appointed in relation to the referendum or poll;
- (e) clause 81 (2) (d) is taken as reading as follows:
 - (d) be lodged with the returning officer within 24 hours after the persons present are informed of the result of the count.
- (f) clause 82 (2) and (3) is read:
 - (i) as if the words “an alteration in the candidates who are elected”, wherever occurring, were omitted and the words “an alteration in the decision of the constitutional referendum or council poll” inserted instead; and
 - (ii) as if the references to the candidate were references to the scrutineer;
- (g) clause 84 (2) is taken to be omitted and the following subclause inserted instead:
 - (2) The declaration is to be signed by the returning officer and is to state the question on the poll-paper and the number of “Yes” votes and the number of “No” votes.
- (h) clause 84 (3) (c) is taken to be omitted and the following paragraph inserted instead:
 - (c) insert in a newspaper circulating in the relevant area a copy of notice signed by the returning officer and containing a statement of the question on the poll-paper and the number of “Yes” votes and the number of “No” votes.

4. The following additional provisions apply to constitutional referendums and council polls under Part 3 of Chapter 4 of the Act:

- (a) If a council resolves to take a constitutional referendum or council poll, the general manager is to notify the Electoral Commissioner of the resolution within 21 days after the council makes the resolution.
- (b) The returning officer is to notify in a newspaper circulating in the area or the part of the area in which a referendum or poll is to be taken the date of the referendum or poll, the question to be asked at the referendum or poll and the locations and times of polling for the referendum or poll:
 - (i) except as provided by subparagraph (ii)—immediately after being notified by the Electoral Commissioner of the date of the referendum or poll; or
 - (ii) in the case of a referendum or poll to be held in conjunction with an election of councillors—at the same time as the returning officer gives public notice of the election under clause 17 of this Regulation.
- (c) The poll-paper at a constitutional referendum or council poll is to be in Form 15.
- (d) A poll-paper at a constitutional referendum or council poll is informal if:
 - (i) neither the word “Yes” nor the word “No” is written in or near the space provided opposite the question; or
 - (ii) the poll-paper is not initialled on the back by the returning officer or an electoral official; or
 - (iii) the poll-paper contains a mark or writing which, in the returning officer’s opinion, would enable the voter to be identified.
- (e) In spite of paragraph (d) a poll-paper is not informal by virtue of the existence of an unnecessary mark on the poll-paper (or if neither the word “Yes” nor the word “No” is written in or

near the space provided opposite the question) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the poll-paper.

- (f) A poll-paper which is informal is to be rejected at the scrutiny.
- (by) by omitting from clause 3 (3) of Schedule 6 the words "shall be disregarded" and by inserting instead the words "is to be disregarded";
- (bz) by omitting Schedule 7 and by inserting instead the following Schedule:

SCHEDULE 7—FORMS

Form 1

(Cl. 13)

REQUEST FOR OMISSION OR REMOVAL OF PLACE OF LIVING FROM ROLL

To the *Electoral Commissioner/*General Manager,
(here specify local government area)

In reference to my enrolment in *(ward)*

..... *(local government area)*

I, *(surname in BLOCK letters)*

..... *(other names in BLOCK letters)*

of *(full residential address)*

request that *the above address/*the following matter that would disclose or discloses my place of living be omitted or removed from the roll of electors for the abovementioned area:

..... *(here specify any other matter that would disclose or discloses the place of living).*

The disclosure of my place of living on those rolls would place or places my personal safety or that of members of my family at risk. The following are particulars of the relevant risk:

.....

.....
(signature of applicant)

.....
(date)

* Cross out what does not apply.

Note. This request must be verified by statutory declaration by the person making the request or by another person. The form of statutory declaration on the back of this form may be used for this purpose.

STATUTORY DECLARATION

I, *(full name in BLOCK letters), of*
 *(full address),*

do solemnly and sincerely declare as follows:

.....

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

.....
(signature of person making the declaration)

Declared before me at

this day of 19

.....
 Justice of the Peace

Form 2

(Cl. 18 (1) (a))

NOMINATION PAPER: PROPOSAL BY ELECTORS

WE, the undersigned persons enrolled for the election to be held in the

.....
(name of ward and area or name of area alone, as appropriate)on (date), hereby propose for nomination as a candidate at that election
for the office of (here specify whether as councillor or mayor)

..... (full name in BLOCK letters) of

..... (full address)

..... (occupation)

.....
(full name of proposer in
BLOCK letters).....
(full name of proposer in
BLOCK letters).....
(signature of proposer).....
(signature of proposer).....
(address of proposer).....
(address of proposer).....
(date).....
(date)

FORM OF CONSENT

I, the abovenamed
(full name of person proposed for nomination in BLOCK letters)

hereby—

- (1) declare that, to the best of my knowledge and belief, I am entitled to be elected to the office for which I have been proposed for nomination;
- (2) consent to my being proposed for nomination;
- (3) request that my name be shown on the ballot-papers as

.....
(surname in BLOCK letters, given name in BLOCK letters)

being my full surname and one of my given names or a generally recognised abbreviation or derivative of that given name;

- (4) *request/*do not request that the word "Independent" be printed adjacent to my name on the ballot-papers.

.....
(signature of person proposed for nomination)

* Cross out what does not apply.

Note:

1. See the back of this Form for the provisions of the Local Government Act 1993 covering qualification and disqualification for a civic office.
2. Examples of recognised abbreviations or derivatives of given names are Bill for William and Rose for Rosemary. Nicknames, e.g. Blue or Bunny, are not abbreviations or derivatives. Names are not to be accompanied by any title or academic or other qualification.
3. A person must not propose for nomination more than one candidate for election as mayor, or more than one candidate for election as councillor, in the area.
(Sections 274, 275, 276 and 283 of the Local Government Act 1993 are to appear on the back of this form.)

Form 3

(Cl. 18 (1) (b))

NOMINATION PAPER: PROPOSAL BY REGISTERED OFFICER FOR PARTY

I, the person whose name appears on this form as the registered officer for the political party (registered in the Local Government Register of Political Parties) which has endorsed the person proposed for nomination, hereby propose for nomination
(here state name in full in BLOCK letters, occupation and full address of the person proposed for nomination) as a candidate at the election to be held in the

.....
(name of ward and area or name of area alone, as appropriate)

on
(date) for the office of
(here specify whether as councillor or mayor).

I request that the *registered name/*abbreviated name of the party be printed adjacent to the candidate's name on the ballot-papers.

Dated this day of 19

Name in full of registered officer	Name of political party	Signature of registered officer
---------------------------------------	----------------------------	------------------------------------

FORM OF CONSENT

I, the abovenamed
(full name of person proposed for nomination in BLOCK letters)

hereby:

- (1) declare that, to the best of my knowledge and belief, I am entitled to be elected to the office for which I have been proposed for nomination;
- (2) consent to my being proposed for nomination;
- (3) request that my name be shown on the ballot-papers as

.....
(surname in BLOCK letters, given name in BLOCK letters)

being my full surname and one of my given names or a generally recognised abbreviation or derivative of that given name.

.....
(signature of person proposed for nomination)

* Cross out what does not apply.

Note:

1. See the back of this Form for the provisions of the Local Government Act 1993 covering qualification and disqualification for a civic office.
2. Examples of recognised abbreviations or derivatives of given names are Bill for William and Rose for Rosemary. Nicknames, e.g. Blue or Bunny, are not abbreviations or derivatives. Names are not to be accompanied by any title or academic or other qualification.

(Sections 274, 275, 276 and 283 of the Local Government Act 1993 are to appear on the back of this form.)

Form 4

(Cl. 31)

BALLOT-PAPER

.....
(insert name of ward if applicable)

.....
(insert name of area)

Election of *(here insert the number of vacancies which the election is being held to fill and whether the election is of councillors or of the mayor)* held on *(insert election day).*

Candidates

(If the returning officer has accepted an application to print the name of a political party or the word "Independent" adjacent to the name of a candidate, the name or word must be printed there.)

CANDIDATES

VALADON, Susan
(Blackacre)
ARRAIZA, Ramon
VALADON, Sue
(Tenterfield)
BROWN, Denise
KABOS, Colin
DAVIS, Ron
(Storekeeper, Tenterfield)
DAVIS, Ron
(Grazier, Tenterfield)
HO, Liam
MAHON, Sharon
WHITMORE, Kim

(The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper, an appropriate reference to their appearance on the back must be made on the front of the ballot-paper.)

Directions for Voting

(Here insert the following direction if only one candidate is to be elected)

1. In marking your vote on this ballot-paper, you must place the number "1" in the square opposite the name of the candidate for whom you desire to give your first preference vote and may, if you wish, vote for additional candidates by placing consecutive numbers beginning with the number "2" in the squares opposite the names of those additional candidates in the order of your preferences for them.

(Here insert the following direction if 2 or more candidates are to be elected)

1. In marking your vote on this ballot-paper, you must vote for at least
(here insert the number of vacancies to be filled) candidates by placing the numbers
(here insert the sequence of numbers which corresponds to the number of vacancies to be filled) in the squares opposite the names of the candidates in the order of your preferences for them and may, if you wish, vote for additional candidates by placing consecutive numbers beginning with the number
(here insert the number which corresponds to the number of vacancies to be filled plus one) in the squares opposite the names of those additional candidates in the order of your preferences for them.

Ordinary Voting

2. After marking the ballot-paper according to paragraph 1 of these directions, you must fold it so that the vote cannot be seen, show the folded ballot-paper to an electoral official and then place it in the ballot-box.

Pre-poll Voting, Declared Institution Voting, Voting when name omitted from Roll or marked through on Roll

3. After marking the ballot-paper according to paragraph 1 of these directions, you must fold it so that the vote cannot be seen and return it to the returning officer or electoral official for placement in the envelope bearing the declaration.

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING-PLACE.

Form 5

(Cl. 37)

APPLICATION FOR POSTAL VOTE

To the returning officer for (*here specify local government area*).

I declare that:

1. My full name is
(in *BLOCK letters*)

2. I am entitled to vote at the forthcoming election to be held in the

ward of the abovementioned local government area and the address of the land to which my entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is

3. If my name is not on the roll of electors, I claim to vote under section 305 of the Local Government Act 1993.

4. I have not already voted in connection with this election.

5. I am making this application for the following reason:

*(a) I will not throughout the hours of polling on election day be within the ward or area for which this election is being held;

*(b) I will not throughout the hours of polling on election day be within 8 kilometres by the nearest practicable route of any polling-place at which I am entitled to vote;

*(c) I will throughout the hours of polling on election day be travelling under conditions which will prevent me from attending at any such polling-place to vote;

*(d) I am seriously ill or disabled and will be prevented by that illness or disability from attending at any such polling-place to vote;

*(e) I will be prevented by approaching maternity from attending at any such polling-place to vote;

*(f) I am, by reason of my membership of a religious order or my religious beliefs prevented from attending at any such polling-place on election day or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours;

- *(g) I am, by reason of my being kept in prison, prevented from attending at any such polling-place to vote;
- *(h) I will be, at a place other than a hospital, caring for a person who requires my care for medical reasons and because of that I will be prevented from attending at any such polling-place to vote;
- *(i) I will, by reason of my being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending at any such polling-place to vote.

I hereby apply for a postal ballot-paper and postal voting envelope so that I may vote at the abovementioned election. Please send them to the address below.

.....
(signature of elector)

.....
(date)

.....
(address to which ballot-paper and envelope are to be sent)

STATEMENT OF WITNESS

I am of or above the age of 18 years and am not a candidate or the agent of a candidate at the abovementioned election; and

I am satisfied as to the identity of the applicant; and

I have seen the applicant sign the application; and

I know, or have satisfied myself by inquiry, that the statements contained in the application are true.

.....
(signature of witness)

.....
(address of witness)

.....
(date)

* Cross out what does not apply.

Application No.
(official use only)

Form 6

(Cl. 38 (2))

APPLICATION FOR REGISTRATION AS A GENERAL POSTAL VOTER

To the general manager, (*here specify local government area*).
 Would you please register me as a general postal voter for
 *ward of the abovementioned local government area.

My name is

Surname (*in BLOCK letters*)

All given names (*in BLOCK letters*)

I am entitled to vote at elections in the abovementioned ward (or area, if the area is not divided into wards).

I reside in (*area*) at:

Flat/House No. Street/Road

Suburb/Town Postcode

OR

I do not reside in (*area*) but I own, lease or occupy rateable land in the area at:

Street No. Street/Road

Suburb/Town Postcode

The ground on which I seek registration is (*please tick the appropriate box*):

- I am an owner, ratepaying lessee or occupier of rateable land in (*ward or area*) but am not a resident of that ward or area;
- I am a resident of (*ward or area*) but my place of living is not within 20 kilometres, by the nearest practicable route, of a polling-place usually appointed for the ward or area;
- I am unable to travel, by reason of serious illness or disability, from my residence or the (*name of hospital*) hospital where I am a patient (and that hospital is not, I believe, a polling-place or a declared institution);
- I am being kept in the (*name of prison*) prison;
- I am so physically disabled that I cannot sign my name and the disability has been certified in writing by a registered medical practitioner. I attach the medical practitioner's certificate.

The address to which any postal voting papers are to be sent is

.....

.....
(Personal signature or mark of elector or person making application on behalf of elector)

.....
(date)

* Cross out if inapplicable.

Form 7

(Cl. 44)

POSTAL VOTE DECLARATION

I
(insert full name in BLOCK letters)

declare that I am still entitled to vote at the forthcoming election to be held in the ward of *(local government area)* and I have not already voted in connection with this election.

.....
(signature of elector)

I am at least 18 years old and am not a candidate or an agent of a candidate at the abovementioned election; and

I am satisfied as to the identity of the elector; and

I have seen the elector sign the declaration; and

I know, or have satisfied myself by reasonable inquiry, that the statements contained in the declaration are true.

.....
(signature of witness)

.....
(address of witness)

.....
(date)

Application No.
(official use only)

Form 8

(Cl. 45)

POSTAL BALLOT-PAPER LOST OR NOT RECEIVED

To the returning officer/presiding officer *(ward)*
 *(local government area)*

I, *(full name as it appears on the roll)*,
 of *(full address as it appears on the roll)*,
 declare that I have lost or have not received a postal ballot-paper in connection with the
 election being held in the abovementioned ward or area, even though a mark has been
 placed against my name on the roll to indicate that a postal ballot-paper has been issued
 to me.

I claim to vote under clause 45 of the Local Government (Elections) Regulation 1993.

.....
(signature of elector)

Declared before me, this day of 19
 at the polling-place.

.....
(returning officer/presiding officer)

Form 9

(Cl. 50)

APPLICATION FOR PRE-POLL VOTE

To the returning/presiding officer for *(local government area)*.

I declare that:

1. *(a) I am the person whose name appears as *(name on roll)*
 of *(address)*
 on the roll of electors for the ward of that area.

OR

*(b) My name is *(full name in BLOCK letters)*
 and the address of the land to which my voting entitlement relates (as
 resident, non-resident owner, occupier or ratepaying lessee) is

My name is not on the appropriate roll of electors, and I claim to vote
 under section 305 of the Local Government Act 1993 in the
 ward of that area.

2. I am entitled to vote at the forthcoming election to be held in the
 abovementioned ward or area.

3. I have not already voted in connection with this election and if I vote here I will not vote anywhere else in that area at this election.
4. I am making this application for the following reason:
 - *(a) I will not throughout the hours of polling on election day be within the ward or area for which this election is being held;
 - *(b) I will not throughout the hours of polling on election day be within 8 kilometres by the nearest practicable route of any polling-place at which I am entitled to vote;
 - *(c) I will throughout the hours of polling on election day be travelling under conditions which will prevent me from attending at any such polling-place to vote;
 - *(d) I am, by reason of my membership of a religious order or my religious beliefs prevented from attending at any such polling-place on election day or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours;
 - *(e) I will be, at a place other than a hospital, caring for a person who requires my care for medical reasons and by reason of that I will be prevented from attending at any such polling-place to vote;
 - *(f) I will, by reason of my being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending at any such polling-place to vote.

I apply to vote before election day at the abovementioned election.

.....
(signature of applicant)

Declared before me, this day of 19

.....
(returning officer/presiding officer)

* Cross out what does not apply.

Form 10

(Cl. 57)

DECLARED INSTITUTION VOTE DECLARATION

To the returning/presiding officer (ward)
..... (local government area)

I declare that:

1. *(a) I am the person enrolled as (name)
of (address)
on the roll of electors for the (ward)
in (local government area)

OR

* (b) My full name is (in BLOCK letters) and
the address of the land to which my voting entitlement relates (as resident, non-resident
owner, occupier or ratepaying lessee) is

1993—No. 463

My name is not on the appropriate roll of electors, and I claim to vote under section 305 of the Local Government Act 1993.

2. I am entitled to vote at the forthcoming election to be held in the abovementioned ward of the abovementioned area.

3. I have not already voted in connection with this election and if I vote here I will not vote elsewhere at this election.

.....
(signature of elector)

Declared before me, this day of 19

.....
(returning officer/presiding officer)

* Cross out what does not apply.

Form 11

(Cl. 67 (6))

DECLARATION BY AN ELECTOR WHOSE PLACE OF LIVING IS NOT ON
THE ROLL

To the returning officer/presiding officer (ward)
..... (local government area)

Surname of elector (in BLOCK letters)

Given names (in BLOCK letters)

Address for which I claim to be enrolled
.....

*If you have changed your name since you enrolled for the above address please
print your previous name here*

I am entitled to vote. I have not already voted at this election.

I declare that the information shown above is true.

Signature of elector

Polling-place

Ward

Area

Date

1993—No. 463

Form 12

(Cl. 71)

VOTING WHERE NAME OMITTED FROM ROLL

To the returning officer *(ward)*
 I, *(local government area)*
 *(surname in BLOCK letters)*
 of *(other names)*
 *(full address)*

declare that:

1. I have not voted in connection with the election being held in the abovementioned ward or area.
2. To the best of my knowledge and belief
 - (a) my name is not on the roll of electors being used at this election; and
 - (b) I am enrolled on the New South Wales or Commonwealth electoral roll; and
 - (c) the full address of the land to which my voting entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is

In accordance with section 305 of the Local Government Act 1993 or section 20 of the City of Sydney Act 1988 I claim to be entitled to vote at this election.

.....
(signature of elector)

Declared before me, this day of 19
 at the polling-place.

.....
(returning officer)

Form 13

(Cl. 72)

VOTING IF NAME ALREADY MARKED ON ROLL

(To be made by person claiming to vote when the person's name has already been marked off at the same polling-place)

To the returning/presiding officer *(ward)*
 *(local government area)*
 I, *(name in full as it appears on the roll),*
 of *(address in full, as it appears on the roll),*

declare that:

1. My name appears on the roll used at the polling-place opposite the number.. on that roll.

2. I claim to vote under clause 72 of the Local Government (Elections) Regulation 1993. I claim that I have not voted in connection with the election for the abovementioned ward or area being held today, despite the fact that the roll has been marked to indicate that a ballot-paper has purportedly been issued to me at the polling-place.

.....
(signature of voter)

Declared before me, this day of 19 at the polling-place.

.....
(returning officer/presiding officer)

Form 14

(Cl. 76)

ACCOUNT OF BALLOT-PAPERS:

..... POLLING-PLACE
To the returning officer, (*local government area*).

Ballot-papers received from returning officer for use at the polling-place
Ballot-papers written out by presiding officer

Total:

Ballot-papers unused

Ballot-papers spoilt

Ballot-papers used

Ballot-papers issued to, but not returned by, electors

Tendered votes

Section 305 votes

Total:

Postal ballot-papers delivered up and cancelled

.....
(presiding officer)

1993—No. 463**Form 15**

CONSTITUTIONAL REFERENDUM OR COUNCIL POLL PAPER

(Sched. 5, cl. 4)

..... (*local government area*)Constitutional referendum/council poll taken on (*date*)

Directions: The question below requires a “Yes” or “No” answer.

If you decide to answer “Yes” to the question, write the word “Yes” in the space provided opposite the question.

If you decide to answer “No” to the question, write the word “No” in the space provided opposite the question.

Question: (*here set out question*)

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Form 16

(Cl. 85)

PENALTY NOTICE

FAILURE TO VOTE

Area	Ward	No. on Roll
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(Name and address)

The Electoral Commissioner’s records indicate that you appear to have failed to vote at the election/constitutional referendum held on

The maximum penalty for failing to vote is (*insert maximum amount of penalty*).

IF YOU DID VOTE:

Please complete and sign the following declaration in front of another elector.

I declare that I did vote at (*polling-place*)
in respect of the election/constitutional referendum held on (*date*)

.....
(*signature*)

Then ask the other elector to complete and sign the following declaration:

I, (*full name*)
of (*full address*),
declare that to the best of my knowledge and belief
..... (name of person who voted) did vote as he/she has declared above.

.....
(*signature*)

IF YOU DID NOT VOTE:

1. If you think you have a sufficient reason for not voting, please complete and sign the following declaration in front of another elector:

I declare that I did not vote at the election/constitutional referendum held on (*date*) for the following reason:

.....
.....

.....
(*signature*)

Then ask the other elector to complete and sign the following declaration:

I, (*full name*)
 of (*full address*)
 declare that to the best of my knowledge and belief
 (*name of person who did not vote*)
 did not vote for the reason declared by him/her above.

.....
 (*signature*)

2. If you do not think you have a sufficient reason for not voting, you may dispose of the matter by:
 - paying a penalty of (*insert amount of penalty*) to the Electoral Commissioner within 28 days of the date of this notice
 OR
 - having the matter dealt with by a Court, where the maximum penalty is (*insert maximum amount of penalty*) and you may also have to pay court costs.

IF A DECLARATION OF VOTING IS NOT MADE, A REASON FOR NOT VOTING IS NOT GIVEN AND THE PENALTY IS NOT PAID WITHIN 28 DAYS, PROCEEDINGS MAY BE TAKEN AGAINST YOU IN COURT.

PROCEDURE FOR PAYMENT OF PENALTY OR OFFER OF EXPLANATION

Deliver or send the penalty or the explanation to the Electoral Commissioner.

.....
 (*address of Electoral Commissioner's office*)

Cheques and money orders should be crossed, marked not negotiable and made payable to the Electoral Commissioner. DO NOT SEND CASH.

PART PAYMENT OF THIS PENALTY CANNOT BE ACCEPTED

The PENALTY for any person making a false statement in this Form is (*insert maximum amount of penalty*).

THIS FORM MUST BE DELIVERED OR
SENT WITH YOUR PAYMENT OR EXPLANATION

.....
Electoral Commissioner

TICK IF RECEIPT IS REQUIRED

.....
(date)

EXPLANATORY NOTE

The object of this Regulation is to amend the Local Government (Elections) Regulation 1993 in the light of preliminary experience in the implementation of that Regulation. This Regulation:

- (a) simplifies the procedures and expressions used in some cases (and especially in the scrutiny and counting of votes) in relation to elections, constitutional referendums and council polls under the Local Government Act 1993;
- (b) provides greater detail and flexibility in the procedures used for the election of mayors by councillors;
- (c) clarifies certain matters or recasts certain provisions in order to adapt them to the normal practice of the Electoral Commissioner (whose office will supervise the elections, referendums and polls under the Local Government Act 1993).

This Regulation is made under Part 3 of Chapter 4 (referendums and polls), Chapter 10 (elections of councillors and mayors), section 390 (elections of members of county councils) and section 748 (general and detailed regulation-making powers) of the Local Government Act 1993. By virtue of section 3 of the City of Sydney Act 1988, this Regulation also relates to elections etc. in the City of Sydney.
