

1994—No. 294

LOCAL GOVERNMENT ACT 1993—REGULATION

(Relating to elections)

NEW SOUTH WALES



[Published in Gazette No. 88 of 1 July 1994]

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.

EDWARD PICKERING, M.L.C.,
Minister for Local Government and Co-operatives.

Commencement

1. This Regulation commences on 1 July 1994.

Amendments

2. The Local Government (Elections) Regulation 1993 is amended:

(a) by omitting the heading to Part 2 and by inserting instead the following heading:

PART 2—ADMINISTRATION

(b) by inserting after clause 6 the following clause:

Notice of changes to wards

6A. (1) If a council divides its area into wards, abolishes all its wards, alters its ward boundaries or names or renames a ward in its area, the general manager of the council must give notice of that fact.

(2) The notice is to be given:

(a) by advertisement in a newspaper circulating generally in the council's area; and

- (b) in writing displayed at the principal office of the council;
and
- (c) in writing delivered or sent to the Electoral Commissioner.

(3) If, as a result of the changes referred to in this clause, there are any wards that are new or that have had their boundaries changed, the notice must include a map showing the new boundaries of those wards.

- (c) by inserting after clause 10 (1) (b) the following paragraph:
 - (ba) the person's date of birth;
- (d) by omitting clause 18 (1) (a) and by inserting instead the following paragraph:
 - (a) in Form 2 by at least 2 proposers (other than the candidate) 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
- (e) by omitting clause 18 (5) and by inserting instead the following subclause:
 - (5) A nomination paper must be delivered, sent or transmitted by facsimile so as to reach the returning officer by 5 p.m. on the day 2 days before the nomination day. The returning officer must give a receipt for it if asked to do so.
- (f) by inserting in clause 18 (7) after the word "cheque." the words "The deposit must be paid by 5 p.m. on the day 2 days before the nomination day."
- (g) by inserting after clause 19 (2) the following subclause:
 - (3) The length of all the matter included in a resume must not exceed 200 words.
- (h) by inserting at the end of clause 23 the following subclause:
 - (2) A copy of the list in its current form must be displayed at the office of the returning officer between the time when the first name is placed on the list and noon on the nomination day.
- (i) by inserting after clause 29 (1) (c) the following paragraphs:
 - (ca) the names of the political parties (if any) that must be printed adjacent to the names of the candidates on the ballot-papers;
 - (cb) whether the word "Independent" must be printed adjacent to the name of any candidate on the ballot-papers;

(j) by omitting clauses 38–43 and by inserting instead the following clauses:

Registration of resident general postal voters

38. (1) An elector who is registered as a general postal voter for the purposes of the Parliamentary Electorates and Elections Act 1912 is taken to be registered as a general postal voter for the purposes of the Local Government Act 1993 without further application under the latter Act.

(2) The elector is taken to be so registered for the ward or area corresponding to the address in respect of which the elector is registered as a general postal voter under the Parliamentary Electorates and Elections Act 1912.

(3) The elector must be so registered not later than 5 p.m. on the nomination day for an election if the applicant is to be treated as a general postal voter for the election.

Registration of non-resident general postal voters

39. (1) A person who is entitled to vote at an election in a ward or area as an owner, occupier or ratepaying lessee of rateable land in the ward or area, but is not a resident of the ward or area, is entitled to be registered as a non-resident general postal voter for the ward or area.

(2) The person may apply to the general manager for registration. The application must be in Form 6 and must be received by the general manager not later than 5 p.m. on the nomination day for an election if the applicant is to be treated as a general postal voter for the election.

(3) If the general manager is satisfied that the applicant is entitled to be registered as a non-resident general postal voter for the ward or area, the general manager must:

- (a) give the application a number; and
- (b) register the applicant as a non-resident general postal voter for the ward or area by entering the elector's name in the register kept by the general manager under clause 40.

(4) If the general manager registers an applicant as a non-resident general postal voter, the general manager must notify the applicant, in writing, of the registration.

(5) If the general manager is not satisfied that the applicant is entitled to registration, the general manager must refuse to register the applicant and must notify the applicant in writing of the refusal and of the reasons for it.

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(6) The notification of the refusal must include a statement setting out the applicant's right to have the refusal reviewed under this Division.

Register of non-resident general postal voters

40. (1) The general manager must keep a register containing the following details of each person registered as a non-resident general postal voter:

- (a) the number given to the person's application;
- (b) the name of the person;
- (c) the ward or area for which the person is entitled to vote;
- (d) the address of the land by which the person is entitled to vote for that ward or area;
- (e) the address to which ballot-papers are to be sent to the person;
- (f) such other particulars as the Electoral Commissioner determines.

(2) The register must be open for public inspection, without fee, at the office of the council when the office is open to the public.

Cancellation of registration of non-resident general postal voter

41. (1) The general manager may cancel the registration of a person as a non-resident general postal voter for a ward or area if the general manager is satisfied that the person is no longer entitled to be registered as a non-resident general postal voter for the ward or area.

(2) If the general manager cancels the registration of a person as a non-resident general postal voter, the general manager must notify the person, in writing, of the cancellation and the reasons for the cancellation.

(3) The notification must include a statement setting out the person's right to have the cancellation reviewed under this Division.

Review

42. (1) A person may make written request to the general manager for a review of a refusal to register the person, or the cancellation of the person's registration, as a non-resident general postal voter.

(2) The general manager is then to review the eligibility of the person for registration as a non-resident general postal voter. If, after the review, the general manager confirms the refusal or

cancellation, the general manager must deliver or send to the person a statement in writing setting out the reasons for the confirmation.

(3) After confirming a refusal or cancellation, the general manager must also deliver or send to the Electoral Commissioner a copy of the request for the review and a copy of the statement delivered or sent to the person.

(4) The general manager must, when directed to do so by the Electoral Commissioner, conduct a review of the register of non-resident general postal voters kept by the general manager and then alter the register as necessary to ensure that:

- (a) only persons entitled to be registered as non-resident general postal voters for the ward or area are so registered; and
- (b) the details entered in the register are accurate.

Registration treated as application

43. (1) A person is taken at each election held in respect of the ward or area for which he or she is registered (or taken to be registered) as a general postal voter to have made application in accordance with clause 37 on the nomination day. a s is so even if the person's qualification for registration does not correspond to any of the qualifications for postal voting under clause 36.

(2) The Electoral Commissioner must forward to the returning officer as soon as possible after the nomination day for an election a list of those general postal voters registered under the Parliamentary Electorates and Elections Act 1912 who are entitled to vote at an election in respect of a ward or area.

(3) The general manager must forward to the returning officer as soon as possible after the nomination day for an election a copy of the register of non-resident general postal voters who are entitled to vote at an election for a ward or area.

(4) The list and copy, when forwarded under subclauses (2) and (3), must be accompanied by some indication of the signatures of the voters as those signatures appear on the applications they made for registration as general postal voters.

- (k) by omitting from clause 44 (2) (c) the words "number given to the application under" and by inserting instead the words "number (if any) given to the applicant's application or registration as referred to in";
- (l) by omitting from clause 45 (6) the word "form" and by inserting instead the words "declaration envelope";

(m) by omitting clause 47 and by inserting instead the following clause:

Closing time for postal vote

47. A postal vote that does not reach the returning officer or a presiding officer before 6 p.m. on election day is not valid and must not be counted.

(n) by inserting in clause 73 (2) after the words “informal if” the words “the ballot-paper shows the minimum number of preferences required by the directions and”;

(o) by omitting from clause 78 (1) the words “copies of applications for registration as a general postal voter” and by inserting instead the words “indications forwarded to the returning officer as to the signatures of postal voters”;

(p) by omitting from clause 78 (2) (c) the words “or the appropriate application” and by inserting instead the words “or the signature of the applicant”;

(q) by omitting clause 110 (1) and by inserting instead the following subclause:

(1) A presiding officer who adjourns the taking of a poll must give immediate notice of the adjournment to the returning officer. The returning officer must give immediate notice of the adjournment to the Electoral Commissioner.

(r) by omitting clause 110 (3);

(s) by omitting clause 117 (5) and by inserting instead the following subclause:

(5) The general manager must have the parcels kept securely for 6 months, and then destroyed, unless the Electoral Commissioner in writing directs the general manager to deliver or send the parcels to the Commissioner or to keep them longer than 6 months.

(t) by omitting from the heading to Schedule 1 the words (OR PROPORTIONAL SYSTEM WHERE ONLY ONE CANDIDATE IS TO BE ELECTED);

(u) by omitting from clause 1 of Schedule 1 the words “and also where only 1 candidate is to be elected under the proportional system”;

(v) by inserting in clause 9 (1) of Schedule 1 and clause 14 (1) of Schedule 2 after the words “office of councillor”, wherever occurring, the words “(and all other candidates have already been elected or excluded)”;

- (w) by omitting from the heading to Schedule 2 the words “(WHERE 2 OR MORE CANDIDATES TO BE ELECTED)”;;
- (x) by omitting from clause 1 to Schedule 2 the words “(where 2 or more candidates are to be elected)”;;
- (y) by omitting from clause 3 of Schedule 2 the words “If 2 or more candidates are to be elected, the ballot-papers” and by inserting instead the words “The ballot-papers”;
- (z) by omitting clause 1 of Schedule 3 and by inserting instead the following clause:

Returning officer

- 1. The general manager (or a person appointed by the general manager) is the returning officer.
- (aa) by inserting at the end of clause 5 of Schedule 3 the following subclauses:
 - (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 73 (1) (b) and (c) and (4) of this Regulation as if it were a ballot-paper referred to in that clause.
 - (3) An informal ballot-paper must be rejected at the count.
- (ab) by omitting from clause 9 (1) of Schedule 3 the words “for the candidates” and by inserting instead the words “for all the candidates”;
- (ac) by inserting after clause 9 (2) of Schedule 3 the following subclause:
 - (3) An informal ballot-paper must be rejected at the count,
- (ad) by inserting in clause 10 (2) of Schedule 3 before the words “ballot-papers”, where firstly occurring, the word “unexhausted”;
- (ae) by inserting in clause 10 (3) of Schedule 3 before the words “ballot-papers” the word “unexhausted”;
- (af) by inserting in clause 10 (4) of Schedule 3 before the words “formal ballot-papers” the word “unexhausted”;
- (ag) by omitting clause 2 (1) of Schedule 4 and by inserting instead the following subclause:
 - (1) The general manager of a county council must give notice of the occurrence of a vacancy in the office of a member of the county council to the Director-General and to the general managers of the councils of the areas part or all of which constitute the county council electorate in which the vacancy has occurred.

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(ah) by omitting clause 8 of Schedule 4 and by inserting instead the following clause:

Count

8. The votes are to be counted in accordance with Schedule 1 of this Regulation.

(ai) by inserting in clause 3 (c) of Schedule 5 after the words “Political Parties” the words “, or by the Electoral Commissioner”;

(aj) by omitting Form 6 in Schedule 7 and by inserting instead the following form:

Form 6

(Cl. 39 (2))

APPLICATION FOR REGISTRATION AS A NON-RESIDENT GENERAL POSTAL VOTER

To the general manager, (*here specify 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 area in ward* (*if the area is divided into wards*).

Please register me as a non-resident general postal voter for that area (*and, if the area is divided into wards, in that ward*).

I do not reside in that local government area, but I am (*as defined in the Local Government Act 1993*) the owner, ratepaying lessee, or occupier, of rateable land in the area at:

Building/House No. Street/Road
Suburb/Town Postcode

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

.....

.....
(signature of applicant)

.....
(date)

Notes:

1. This application must reach the general manager by 5 p.m. on the nomination day for an election if the applicant is to be treated as a non-resident general postal voter for that election.

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2. See the back of this form for the provisions of the Local Government Act 1993 defining who is an “owner of rateable land”, “occupier” or “ratepaying lessee”.

(Sections 270 and 271 of the Local Government Act 1993 are to appear on the back of this form.)

EXPLANATORY NOTE

The object of this Regulation is to amend the Local Government (Elections) Regulation 1993 as a consequence of the changes made to Chapters 9 and 10 of the Local Government Act 1993 by the Local Government Legislation (Miscellaneous Amendments) Act 1994. The opportunity has also been taken to clarify or recast certain provisions of that Regulation in the light of further experience in its implementation. In general, the normal practice of the Electoral Commissioner (whose office supervises the elections, referendums and polls under the Local Government Act 1993) has been taken as a guide in preparing the amendments.

As a consequence of the amendments to Schedules 1 and 2 of the Regulation, the note to clause 1 of Schedule 2 should be omitted.

This Regulation is made under Part 3 of Chapter 4 (referendums and polls), Part 1 of Chapter 9 (areas), 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, referendums and polls in the City of Sydney.
