

**LOCAL GOVERNMENT ACT 1993—REGULATION**

(Relating to grouping of candidates and other electoral matters)

NEW SOUTH WALES



*[Published in Gazette No. 88 of 21 July 1995]*

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.

ERNEST THOMAS PAGE, M.P.,  
Minister for Local Government.

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**Commencement**

1. (1) This Regulation (except clause 2 (m)) commences on 21 July 1995.
- (2) Clause 2 (m) commences on 6 October 1995.

**Amendments**

2. The Local Government (Elections) Regulation 1993 is amended:
  - (a) by omitting from clause 17 (2) (e) the words “and the provision of resumes” and by inserting instead the words “, the provision of resumes and (if applicable) the grouping of candidates and creation of group voting tickets”;
  - (b) by omitting from clause 18 (5) the words “day 2 days before the nomination day” and by inserting instead the words “second-last day before the nomination day (for example, by 5 p.m. on the Wednesday before a nomination day that falls on a Friday)”;
  - (c) by inserting after clause 22 (3) (b) the following paragraph:
    - (b1) the name of the candidate appears in a group on the ballot-papers and any candidate whose name appears in that group is elected or receives at least 4 per cent of the total number of formal first preference votes; or

- (d) by omitting clause 25 (4) and by inserting instead the following subclause:

(4) The general manager of a council must, on application to the council by any person, deliver or send to the person a copy of the written declaration.

- (e) by inserting after clause 29 the following clauses:

**Claims for grouping of candidates**

29A. (1) This clause applies to a claim under section 308A (Grouping of candidates and group voting tickets) of the Act.

(2) A claim must be in writing in the form approved by the Electoral Commissioner to be effective.

(3) A claim is of no effect if:

(a) the name of any candidate included in the claim is included in any other claim; or

(b) the claim is withdrawn by the candidates who made the claim by a notice in writing in the form approved by the Electoral Commissioner delivered or sent to the returning officer so as to reach the returning officer before noon on the third day after the nomination day.

(4) On receipt of a claim or notice of withdrawal of a claim, the returning officer must endorse on it the date and time of receipt.

**Group voting tickets**

29B. (1) A group voting ticket lodged with the returning officer under section 308A (3) of the Act:

(a) must indicate by consecutive numbers commencing with the number “1” an order of preference for at least the number of candidates required to be elected; and

(b) may indicate by consecutive numbers (commencing with the next number after the number of candidates required to be elected) a subsequent order of preference for some or all of the remaining candidates; and

(c) must indicate preferences for the candidates included in the group lodging the group voting ticket:

(i) in the order in which the names of those candidates are to appear on the ballot-paper; and

(ii) over all candidates in the election who are not included in that group.

(2) A group voting ticket may be lodged in the form of a ballot-paper duly completed with the required order of preferences.

- (3) A group voting ticket must be signed. The signing may be:
- (a) by all the candidates included in the group; or
  - (b) if all the candidates included in the group have been endorsed by the same political party—by the registered officer of the party; or
  - (c) if the candidates included in the group have been endorsed by different political parties—by the registered officer of each of those parties; or
  - (d) by the candidate whose name appears first in the order, referred to in section 308A (2) of the Act, in the group; or
  - (e) by a person authorised to do so by all the candidates included in the group, by written instrument given to the returning officer at or before the time of the nomination of the candidates in the group.

(4) The person or persons who signed a group voting ticket may (by notice in writing to the returning officer) withdraw that ticket before noon on the fourth day after nomination day.

**Order of candidates and groups on ballot-papers**

29C. (1) If after noon on the third day after the nomination day there are:

- (a) two or more candidates, not included in a group, for the election, the returning officer must immediately hold a ballot in accordance with clause 30 to determine the order of those candidates' names on the ballot-papers; or
  - (b) two or more groups of candidates for the election, the returning officer must immediately hold a ballot in accordance with clause 30A to determine the order of those groups on the ballot-papers.
- (2) However, if only one candidate is to be elected at the election, the order of the candidates' names on the ballot-papers is to be determined in accordance with clause 30 immediately after the nomination of the candidates.
- (f) by omitting the heading to clause 30 and by inserting instead the heading **“Order of ungrouped candidates on ballot-papers”**;
  - (g) by omitting from clause 30 (1) the words “The returning officer, immediately after the nomination of the candidates, is to conduct a ballot to determine the order of candidates on the ballot-papers in the following manner:” and by inserting instead the words “A ballot referred to in clause 29 C (1) (a) is to be conducted in the following manner:”;

- (h) by omitting from clause 30 (1) (a)–(g) the word “officer” wherever occurring and by inserting instead the words “returning officer”;
- (i) by omitting from clause 30 (2) the word “determination” and by inserting instead the word “ballot”;
- (j) by inserting after clause 30 the following clause:

**Order of groups of candidates on ballot-papers**

30A. (1) A ballot referred to in clause 29 C (1) (b) is to be conducted in the following manner:

- (a) the returning officer must, at the place of nomination and before all persons present, make out in respect of each group of candidates a slip bearing the surname of every candidate in the group and, if the returning officer considers it necessary to do so, the given names or the initial letter or letters of the given names of every candidate in the group;
- (b) the returning officer must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a securely fastened ballot-box;
- (c) the returning officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same;
- (d) the returning officer must then unfasten the ballot-box and take out and open each container one by one;
- (e) the returning officer must then write the word “Group” followed by the letter “A” on the slip enclosed in the container first taken from the ballot-box and write the word “Group” followed by the letter “B” on the slip enclosed in the container next taken from the ballot-box, and so on until the word “Group” and a successive letter of the alphabet (or, if there are more than 26 groups, a distinctive symbol determined by the returning officer) have been written on each slip;
- (f) the returning officer must then announce to the persons present, and record, the names of the candidates in each group and include in that record, before the names of the candidates in each group, the word “Group” followed by the identifying letter or symbol determined in respect of that group in accordance with paragraph (e);
- (g) the record must be signed by the returning officer and may also be signed by any of the persons present;

- (h) the returning officer must promptly deliver or send the original of the record to the Electoral Commissioner.
- (2) Each candidate or an agent of each candidate is entitled to be present at a ballot in accordance with this clause.
- (k) by omitting clause 31 and by inserting instead the following clause:

**Form of ballot-papers**

31. (1) The returning officer is to have ballot-papers printed for the election and is to provide a sufficient number of ballot-papers to be initialled and used for the election.

(2) In printing the ballot-papers for an election in which there are no groups, the names of the candidates are to be printed in one column (starting at the top) in the order determined as referred to in clause 29C (1) (a).

(3) In printing the ballot-papers for an election:

- (a) in which there is only one group, the names of candidates included in that group are to be printed in a group before the names of candidates, if any, not included in that group; and
- (b) in which there are 2 or more groups, the names of candidates included in the groups are to be printed in groups across the ballot-papers (starting from the left side) in the order determined as referred to in clause 29C (1) (b), before the names of candidates, if any, not included in any such group; and
- (c) the order, within a group, in which the names of candidates in that group are to be printed in the ballot-papers is the order specified in the claim made by them under section 308A of the Act; and
- (d) the names of candidates, if any, not included in any group are to be printed as a group, without any identification referred to in subclause (4), on the ballot-papers in the order determined as referred to in clause 29C (1) (a).

(4) In printing the ballot-papers, each group (and each group voting ticket square relating to the group) is to be identified by the word “Group” followed by a successive letter of the English alphabet, starting with the letter “A”, and if there are more than 26 groups each group (and each group voting ticket square relating to the group) after the twenty-sixth is to be identified by such symbol as may be determined by the returning officer.

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(5) If 2 or more persons have been endorsed by a political party as candidates in an election and a claim has been made to include the names of those candidates in a group on the ballot-papers, the following requirements apply to the printing of the ballot-papers:

- (a) the name of the party by which each candidate was endorsed is to be printed adjacent to the name of that candidate on the ballot-papers;
- (b) if all the candidates were endorsed by the same party and a group voting ticket square is printed on the ballot-papers in relation to the candidates—the name of the party is to be printed on the ballot-papers adjacent to that square;
- (c) if the application under Part 7 of Chapter 10 of the Act for the name of the political party to be printed adjacent to the names of those candidates included a request that a composite name be printed adjacent to the group voting ticket square on the ballot-papers in relation to the candidates—the composite name is to be printed on the ballot-papers adjacent to that square.

(6) The ballot-papers must show as the names of the candidates the names under which they were nominated. The names may be accompanied by descriptions or additions to distinguish them from each other in any case where a similarity in the names of 2 or more candidates is, in the opinion of the returning officer, likely to cause confusion.

(7) For an election in which there are no groups, the ballot-papers are to be in Form 4. For an election in which there are one or more groups but no group has a group voting ticket, the ballot-papers are to be in Form 4A. For an election in which there are one or more groups and one or more groups has a group voting ticket, the ballot-papers are to be in Form 4B.

**Note.** Section 323 of the Act requires the name of a party (or the word “Independent”) to be printed as well in certain circumstances.

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

- (1) A person who:
  - (a) 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; and
  - (b) is not a resident of the ward or area; and
  - (c) is qualified for a postal vote under this Division,

is entitled to be registered as a non-resident general postal voter for the ward or area in respect of the election.

- (m) by inserting in clause 39 (2) before the words “not later than” the words “on or after the date that is 6 months before election day and”;
- (n) by omitting from clause 40 (2) the words “The register” and by inserting instead the words “Until it lapses, the register”;
- (o) by inserting at the end of clause 40 the following subclause:
  - (3) The register lapses after the election for which it is prepared.
- (p) by omitting the heading to clause 43 and by inserting instead the heading “**Electors entitled to postal vote**”;
- (q) by omitting clause 43 (1) and by inserting instead the following subclause:
  - (1) An elector who duly applies for a postal vote or is registered as a general postal voter (whether as a resident or non-resident) is entitled to make a postal vote in the ward or area to which the elector’s application or registration relates.
- (r) by omitting clause 44 and by inserting instead the following clause:

**Issue of postal ballot-paper**

44. (1) The returning officer is to check whether an elector’s name is on the roll of electors once the returning officer has the elector’s duly made application for a postal vote or has the list, or copy of the register, on which the elector’s name appears.

- (2) The returning officer is then to:
  - (a) make a record that a ballot-paper is being issued to the elector; and
  - (b) deliver or send to the elector a ballot-paper that is initialled on the back by the returning officer or an electoral official; and
  - (c) deliver or send to the elector 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 (if any) given to the elector’s application or registration as referred to in this Division; and
  - (d) if the elector’s name is not on the roll of electors, deliver or send to the elector also an envelope containing a form of declaration in Form 12 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).

(3) Ballot-papers and envelopes delivered or sent under this clause to a non-resident general postal voter are to be delivered or sent to the residential address of that elector.

**Note.** The Electoral Commissioner can (under section 296 (6) of the Act) determine a procedure for the notification of other electoral officials as to the issue of postal ballot-papers.

- (s) by omitting from clause 50 (2) (c) (ii) the words “, address and roll number of the applicant” and by inserting instead the words “, roll number and (if it appears on the roll) the address of the applicant”;
- (t) by inserting after clause 62 the following clause:

**Display of group voting tickets**

62A. (1) The returning officer must cause at least one poster showing all the group voting tickets registered for the election to be prominently displayed at each polling-place, and at every other place at which a person is entitled to vote before polling day (while voting is taking place there).

(2) A poster is to be so prepared that:

- (a) group voting tickets are displayed in vertical columns; and
- (b) the tickets are displayed in the columns in the same order as the order on the ballot-papers of the groups concerned; and
- (c) tickets lodged by the same group are displayed in the same column; and
- (d) each group voting ticket is identified in the same manner as the group concerned is identified on the ballot-papers (and not otherwise).

(3) If a group has more than one group voting ticket, the tickets relating to that group are to be displayed in the order indicated by the candidates in the group when lodging those tickets.

- (u) by inserting after clause 65 (1) the following subclause:

(1A) Despite subclause (1) (b), (c) and (d), if candidates' names are included in a group, the candidates (or any one of them) may, by instrument in writing signed by one or more of those candidates, only appoint scrutineers (including relief scrutineers) so that the entire group has no more than one scrutineer at each of the places referred to in subclause (1) (b), (c) and (d).

- (v) by omitting from clause 65 (2) the matter “subclause(1)” and by inserting instead the matter “this clause”;



- (w) by omitting from clause 71 (1) the words “an officer or official referred to in that section’, and by inserting instead the words “the returning officer, substitute returning officer or presiding officer”;
- (x) by omitting from clause 71 (3) the words “or official”;
- (y) by omitting clause 73 (1) (a) and by inserting instead the following paragraph:
  - (a) the elector has failed to record a vote on it in the manner directed on it; or
- (z) by omitting clause 73 (2) and (3) and by inserting instead the following subclauses:
  - (2) Despite subclause (1), a ballot-paper of an elector at an election in which only one candidate is to be elected from 2 candidates is not informal merely because a tick or a cross has been placed in one square and the other square has been left blank. In such a case the tick or the cross is to be treated as a first preference.
  - (3) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because a preference (other than a first preference) has been repeated or omitted so long as the ballot-paper shows the minimum number of preferences required by the directions.
- (aa) by omitting from clause 75 (a) the words “copies of applications for registration as a general postal voter” and by inserting instead the words “the list, copy of the register, and signature indications, of general postal voters”;
- (ab) by omitting from clause 76 (4) the words “required under clause 71”;
- (ac) by inserting in clause 78 (1) after the words “signatures of” the word “general”;
- (ad) by omitting clause 80 and by inserting instead the following clause:

**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 votes in the election of the mayor is to be completed, and the result obtained, before any distribution of preferences in the election of councillors.

(2) Then the count in the election of councillors is to continue, treating the person who has already been elected as mayor as not being a candidate for election as councillor.

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(3) Each preference indicated on a ballot-paper in the election of councillors for the person elected as mayor is disregarded and any subsequent preferences are treated as if the numbers representing them had been reduced by one.

- (ae) by omitting clause 84 (4) and by inserting instead the following subclause:

(4) The general manager of a council must, on application to the council by any person, deliver or send to the person a copy of the written declaration.

- (af) by omitting from clause 112 (b) the words “copies of the 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 general postal voters”;
- (ag) by omitting the heading to Part 13 and by inserting instead the following headings:

**PART 13—SAVINGS AND TRANSITIONAL**

**Division 1—Provisions consequent on September 1993 amendments**

- (ah) by omitting the heading to clause 123 and by inserting instead the heading “General saving”;
- (ai) by inserting after clause 123 the following Division:

**Division 2—Provisions consequent on July 1995 amendments**

**Non-resident general postal voters**

124. A person who, immediately before 21 July 1995, was registered under clause 39 as in force immediately before its amendment by the Regulation that inserted this clause is taken to be registered under that clause as so amended.

**Residential addresses of non-resident general postal voters**

125. When a general manager forwards to the returning officer a copy of the register of non-resident general postal voters under clause 43 (3), the general manager must also forward details of the residential addresses of those voters to the extent that those details do not appear on the register.

- (aj) by omitting clause 9 of Schedule 1;
- (ak) by omitting clause 14 of Schedule 2;



*(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*

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 4B

(Cl. 31)

BALLOT-PAPER

(insert name of area)

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

**You may vote in one of two ways**

**either**

Place the number "1" in one and one only of these squares to indicate the voting ticket you wish to adopt as your vote

GROUP A

Ticket  
 or

GROUP B

Ticket  
 or

GROUP D

Ticket  
 or

**or**

Place the numbers (here insert the sequence of numbers which corresponds to the number of candidates to be elected) in the squares opposite the names of (here insert the number of candidates to be elected) candidates in order of your preference for them. If you wish to vote for additional candidates, place consecutive numbers beginning with the number (here insert the next number after the number of candidates to be elected) in the squares opposite the names of those additional candidates in order of your preferences for them.

GROUP A

PARKER  
Alan  
..  
 MILLER  
John  
..  
 MORGAN  
Albert  
..  
 LUMSDAINE  
Elsie  
..

GROUP B

WILLIAMS  
Gregory  
...  
 ROGERS  
Ralph  
...  
 COWAN  
Pamela  
...

GROUP C

WRIGHT  
Elizabeth  
..  
 LEVY  
Mark  
..  
 MCKENZIE  
Donald  
..  
 PAGANO  
Vittoria  
..  
 WOOD  
Henry  
..

GROUP D

SMITH  
Byron  
..  
 HANSON  
Richard  
..  
 LANHAM  
Margaret  
..  
 PEREZ  
Juan  
..

KNIGHT  
Colin  
....  
 ASSAF  
Joseph  
....  
 WHITE  
Veronica  
....  
 CRAWFORD  
James  
....  
 MARTIN  
Michael  
....

- \* Here insert name of registered party or composite name if to be printed.
- \*\* Here insert name of registered party if to be printed.
- \*\*\* Here insert the word "Independent" if to be printed.
- \*\*\*\* Here insert name of registered party or word "Independent" if to be printed.

*Directions for Voting*

(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:)

*Ordinary Voting*

After marking the ballot-paper according to the directions on the ballot-paper, 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.

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

After marking the ballot-paper according to the directions on the ballot-paper, 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.

- (ao) by inserting in clause 5 of Form 5 after the words “the following reason” the words “or reasons (*tick the squares that apply*)”;
- (ap) by omitting the asterisks from clause 5 of Form 5 and by inserting squares instead;
- (aq) by omitting from Form 5 the words “(*address to which ballot-paper and envelope are to be sent*)” and by inserting instead the words “(*address to which ballot-paper and envelope are to be sent: for a resident voter this can be any address, but for a non-resident voter it must be the voter’s residential address*)”;
- (ar) by omitting from Form 5 the note “\* Cross out what does not apply.”;
- (as) by inserting in Form 6 after the words “in that ward)” the following matter:

I am making this application for the following reason or reasons (*tick the squares that apply*):

- (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;

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- (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.
- (at) by omitting from Form 6 the words “The address to which postal voting papers are to be sent to me is” and by inserting instead the words “The address to which postal voting papers are to be sent to me is the following address, which is my residential address”;
- (au) by inserting a square in Form 8 before the word “declare”;
- (av) by inserting in Form 8 after the words “issued to me.” the following matter:
- declare that I have lost or have not received a declaration envelope in connection with the election being held in the abovementioned ward or area, even though a record has been made that such an envelope has been issued to me.
- Tick the square that applies. Tick both squares if both apply.*
- (aw) by omitting from Form 9 the word “(address)” and by inserting instead the words “(address on roll, if address appears on roll)”;
- (ax) by omitting the asterisks from clause 4 of Form 9 and by inserting squares instead;
- (ay) by inserting in clause 4 of Form 9 after the words “the following reason” the words “or reasons (*tick the squares that apply*)”;
- (az) by omitting from Form 9 the note “\* Cross out what does not apply.”;
- (ba) by omitting from Form 10 the word “(address)” and by inserting instead the words “(address on roll, if address appears on roll)”;
- (bb) by omitting from Form 13 the words “(address in full, as it appears on the roll)” and by inserting instead the words “(address in fill)”.
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**EXPLANATORY NOTE**

The object of this Regulation is to amend the Local Government (Elections) Regulation 1993 as follows:

- (a) to make minor changes to reflect the fact that some persons do not have their addresses appearing on the roll for local council elections;
- (b) to add as an additional qualification for registration as a non-resident general postal voter the same qualifications as apply to ordinary postal voters (relating to inability to attend a polling-place on election day) with a savings provision to preserve the registration of existing non-resident general postal voters;
- (c) to limit the time for the making of applications for registration as a non-resident general postal voter to the period starting 6 months before the election day, and ending on nomination day, for each election;
- (d) to provide that registration as a non-resident general postal voter lapses after the election for which registration was obtained;
- (e) to require that postal ballot-papers be sent to the residential address of a non-resident general postal voter;
- (f) to make other minor changes in the procedure for postal voting;
- (g) to make minor changes to various provisions to reflect existing practice in the conduct of elections and to clarify other provisions;
- (h) to amend a provision concerned with the taking of polls and constitutional referendums to reflect the fact that a referendum can only be taken in the whole of a council's area, whereas a poll can be taken in either the whole or part of an area;
- (i) to provide that when a candidate for election as a councillor is elected as mayor, votes for the candidate are to be disregarded and next and subsequent preferences reduced by one;
- (j) to insert new provisions and modify existing provisions to provide for the grouping of candidates on ballot-papers and group voting tickets (including provision for the form of grouping claims, the ordering of candidates on ballot-papers and the setting-out of ballot-papers).

The Regulation is made under the Local Government Act 1993, including sections 283 (Double candidature), 308D (Group voting—regulations) and 748 (the general regulation-making power).

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