



New South Wales

Nurses (Elections) Regulation 1997

under the
Nurses Act 1991

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Nurses Act 1991*.

Andrew Refshauge
Minister for Health

Explanatory note

The object of this Regulation is to repeal and remake the provisions of the *Nurses (Election) Regulation 1992*. The new Regulation deals with the following matters:

- (a) the calling of elections (Division 1 of Part 2),
- (b) nominations for elections (Division 2 of Part 2),
- (c) the calling of ballots for contested elections (Division 3 of Part 2),
- (d) the preparation of electoral rolls for contested elections (Division 4 of Part 2),
- (e) the conduct of ballots in contested elections (Division 5 of Part 2),
- (f) the scrutiny of votes in contested elections (Division 6 of Part 2),
- (g) other matters of a minor, ancillary or consequential nature (Parts 1 and 3).

This Regulation is made under the *Nurses Act 1991*, including section 78 (the general regulation-making power) and section 9.

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

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

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Clause 1 Nurses (Elections) Regulation 1997

Part 1 Preliminary

Nurses (Elections) Regulation 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Nurses (Elections) Regulation 1997*.

2 Commencement

This Regulation commences on 1 September 1997.

3 Definitions

(1) In this Regulation:

calling of the ballot for an election means the date on which a notice is first published for the election under clause 13.

calling of the election for an election means the date on which a notice is published for the election under clause 5.

close of enrolments for an election means the final time and date fixed by the returning officer for the close of enrolments for the election.

close of exhibition of the roll for an election means the final time and date fixed by the returning officer for the close of exhibition of the roll for the election.

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations for the election.

close of the ballot for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

election means an election conducted under section 9 (2) (a) or (b) of the Act for the purpose of electing members of the Nurses Registration Board.

final roll for an election means the roll prepared by the returning officer under Division 4 of Part 3.

preliminary roll for an election means the roll provided to the returning officer under clause 12.

returning officer means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer.

qualified voter means:

- (a) in relation to an election of a registered nurse under section 9 (2) (a) of the Act, a person who is a registered nurse, and
- (b) in relation to an election of an enrolled nurse or enrolled nurse (mothercraft) under section 9 (2) (b) of the Act, a person who is an enrolled nurse or enrolled nurse (mothercraft).

the Act means the *Nurses Act 1991*.

- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

4 Notes

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

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Clause 5 Nurses (Elections) Regulation 1997

Part 2 Elections
Division 1

Part 2 Elections

Division 1 Calling of the election

5 Notice of election

- (1) As soon as possible after having been notified in writing by or on behalf of the Minister that one or more nurses are required to be elected, the returning officer must cause notice of that fact:
 - (a) to be sent to the Registrar, and
to be published in a newspaper circulating generally throughout New South Wales.
- (2) The notice to be sent to the Registrar:
 - (a) must state that an election is to be held for the purpose of appointing:
 - (i) one or more registered nurses, or
 - (ii) an enrolled nurse or enrolled nurse (mothercraft),
and
 - (b) must fix a time and date for the close of nominations.
- (3) The notice to be published in the newspaper:
 - (a) must state that an election is to be held for the purpose of appointing:
 - (i) one or more registered nurses, or
 - (ii) an enrolled nurse or enrolled nurse (mothercraft),
and
 - (b) must specify the number of nurses required to be appointed, and
 - (c) must call for nominations of candidates, and
 - (d) must specify the time and date for the close of nominations, and
 - (e) must advise where nomination forms may be obtained and where nominations may be lodged, and
 - (f) must specify the qualifications that qualify a person to nominate a candidate.

- (4) The date fixed for the close of nominations must not be earlier than 21 days, or later than 28 days, after the date on which the notice is published in the Gazette.

6 Postponement of close of nominations

- (1) The returning officer may postpone the close of nominations for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice calling for the nomination of candidates.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 2 Nominations

7 Qualifications for nominating candidates

A person is qualified to nominate a candidate for election if the person is a qualified voter.

8 Nomination of candidates

- (1) A nomination of a candidate:
- (a) must be in Form 1, and
 - (b) must be made by at least 3 persons (other than the candidate) who are each qualified voters, and
 - (c) must be lodged with the returning officer before the close of nominations.
- (2) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.
- (3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate, the returning officer may require the Registrar to furnish the returning officer with such information regarding the person as the returning officer may specify.

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Part 2 Elections
Division 2

- (4) The Registrar must comply with such a requirement as soon as practicable.
- (5) A candidate who has been nominated in an election may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the returning officer.

9 Uncontested elections

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to have been elected.

10 Contested elections

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

11 Candidate information sheets

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in Form 2, containing information intended for inclusion in a candidate information sheet.
- (2) If more than the required number of persons have been nominated as candidates by the close of nominations, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.
- (3) In drawing up a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information contained in a candidate's statutory declaration as the returning officer considers:
 - (a) to be false or misleading, or
 - (b) to be inappropriate for inclusion in the candidate information sheet, or
 - (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.

- (4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words “NO INFORMATION RECEIVED”.
- (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

Division 3 Calling of the ballot

12 Preparation of preliminary roll

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held, the returning officer must cause notice of that fact to be sent to the Registrar.
- (2) The Registrar must provide the returning officer with:
 - (a) a preliminary roll of the persons who, in the opinion of the Registrar, are qualified to vote in the election, and
 - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that roll.
- (3) The Preliminary roll:
 - (a) must contain the names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll, and
 - (b) must be certified by the Registrar in accordance with Form 3.
- (4) This clause does not apply to an election held as a consequence of an earlier election that has failed if a preliminary roll for the earlier election has already been provided to the returning officer.

13 Notice of ballot

- (1) As soon as practicable after receiving the preliminary roll for the election, the returning officer:

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Part 2 Elections
Division 3

- (a) must cause notice that a ballot is to be held to be published in a newspaper circulating generally throughout New South Wales, and
 - (b) must cause copies of the preliminary roll to be exhibited for public inspection for at least 14 days (ending at the close of exhibition of the roll) at a place specified in the notice as a place where the roll will be exhibited.
- (2) The notice:
- (a) must state that a ballot is to be taken, and
 - (b) must fix a time and date for the close of exhibition of the roll, and
 - (c) must fix a time and date for the close of enrolments, and
 - (d) must fix a time and date for the close of the ballot, and
 - (e) must advise where copies of the preliminary roll will be exhibited, and
 - (f) must specify the qualifications that qualify a person to vote, and
 - (g) must advise where applications for enrolment and objections against enrolment may be lodged.
- (3) The close of exhibition of the roll must be not earlier than 14 days after the calling of the ballot.
- (4) The close of the ballot must be not earlier than 28 days after the calling of the ballot.
- (5) The close of enrolments must be not earlier than the close of exhibition of the roll and not later than 14 days before the close of the ballot.

14 Postponement of ballot

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of exhibition of the roll, the close of enrolments or the close of the ballot by a notice published in the same way as the notice stating that a ballot is to be held.

- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 4 Preparation of the final roll

15 Qualifications for voting

A person is qualified to vote in an election if, and only if, the person is a qualified voter.

16 Applications for enrolment

- (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 4 and must be lodged with the returning officer before the close of enrolments.

On receipt of the application, the returning officer:

- (a) if satisfied that the applicant is qualified to vote, must accept the application and enter the name and address of the applicant in the relevant final roll, or
- (b) if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected, or
- (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

17 Objections to enrolment

- (1) Before the close of enrolments, the returning officer and any qualified voter may object to the inclusion of the name of any person in the relevant final roll.
- (2) An objection:
 - (a) must be in Form 5, and
 - (b) must state the grounds on which the objection is made, and
 - (c) must be signed by the objector, and
 - (d) must be lodged with the returning officer.

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Part 2 Elections
Division 4

- (3) The returning officer must send particulars of an objection to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 14 day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or refuse to accept an objection.
- (7) If the returning officer accepts an objection, the returning officer must exclude from the relevant final roll the name of the person to whom the objection relates and must inform that person and the objector, in writing, that the name is so excluded.
- (8) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector, in writing, that the returning officer has rejected the objection.
- (9) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.

18 Postponement of ballot not to affect final roll

The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of exhibition of the roll, and the roll remains the final roll for the election.

Division 5 The ballot

19 Printing of ballot-papers

- (1) As soon as practicable after the close of enrolments in an election, the returning officer:

-
- (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
 - (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the final roll for the election, and
 - (c) if a candidate information sheet has been drawn up, must cause sufficient copies to be printed so that a copy may be sent to each person included in that roll.
 - (2) A ballot-paper for an election must contain:
 - (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
 - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
 - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
 - (3) The directions to voters must include a direction that:
 - (a) the voter must record a vote for at least the number of candidates to be elected by placing consecutive numbers (beginning with the number "1" and ending with the number equal to the number of candidates to be elected) in the squares set opposite their names in the order of the voter's preferences for them, and
 - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number next higher than the number of candidates to be elected) in the square set opposite their names in the order of the voter's preferences for them.

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Clause 20 Nurses (Elections) Regulation 1997

Part 2 Elections
Division 5

28 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the final roll for the election:

- (a) a ballot-paper initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912* and
- (b) an unsealed reply-paid envelope addressed to the returning officer and bearing on the back the words “NAME AND ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of a name, address and signature, and
- (c) if applicable, a candidate information sheet.

21 Duplicate ballot-papers

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
 - (a) that the original ballot-paper has been spoiled, lost or destroyed, and
 - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

22 Recording of votes

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer, and

- (c) must seal the envelope, and
- (d) must complete the person's full name and address on, and must sign, the back of the envelope, and
- (e) must return the envelope to the returning officer so as to be received before the close of the ballot.

Division 6 The scrutiny

23 Receipt of ballot-papers

- (1) The returning officer must reject (without opening it) any envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of the envelope and, without opening the envelope:
 - (a) must accept the ballot-paper in the envelope and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the relevant final roll for the election, or
 - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper in an envelope without opening the envelope if, after making such inquiries as the returning officer thinks fit:
 - (a) the returning officer is unable to identify the signature on the back of the envelope, or
 - (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

24 Ascertaining result of ballot

The result of a ballot must be ascertained by the returning officer as soon as practicable after the close of the ballot.

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Clause 25 Nurses (Elections) Regulation 1997

Part 2 Elections
Division 6

25 Scrutineers

Each candidate in a ballot is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at all stages of the scrutiny.

26 Scrutiny of votes

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
 - (a) the returning officer must produce unopened the envelopes containing the ballot-papers accepted for scrutiny,
 - (b) the returning officer must then open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
 - (c) when the ballot-papers from all the envelopes so opened have been placed in the ballot-box, the returning officer must then unlock the ballot-box and remove the ballot-papers,
 - (d) the returning officer must then examine each ballot-paper and reject those that are informal,
 - (e) the returning officer must then proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:
 - (a) if it is neither initialled by the returning officer (or by a person authorised by the returning officer in that behalf) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or
 - (b) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it, or
 - (c) if it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper must not be rejected as informal:
 - (a) merely because there is any mark or writing on it that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (2) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper, or

- (b) if the voter has recorded a vote by placing in one square the number "1":
 - (i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate, or
 - (ii) merely because there is a break in the order of preferences recorded on the ballot-paper.

27 Counting of votes

- (1) If there is only one person to be elected:
 - (a) the method of counting the votes so as to ascertain the result of the election is to be as provided in Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and
 - (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.
- (2) If there are 2 or more persons to be elected:
 - (a) the method of counting the votes so as to ascertain the result of the election is to be as provided in Part 2 of the Sixth Schedule to the *Constitution Act 1902*, and
 - (b) for the purpose of applying the provisions of that Part to the election:
 - (i) a reference in those provisions to the Council returning officer is to be read as a reference to the returning officer under this Regulation, and
 - (ii) the quota referred to in those provisions is to be determined by dividing the number of first preference votes for all candidates by one more than the number of persons to be elected, and by increasing the quotient so obtained (disregarding any remainder) by one.

28 Notice of result of election

As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister and the Registrar, in writing, of the name of the candidate elected.

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Clause 29 Nurses (Elections) Regulation 1997

Pari 3 General

Part 3 General

29 Decisions of returning officer final

If the returning officer is permitted or required by the Act or this Regulation 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.

30 Death of a candidate

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and must be taken again.

31 Offences

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote, or
- (c) make a false or wilfully misleading statement (not being a statement verified by statutory declaration): 21]to the returning officer in connection with an election, or
 - (i) in any document that the person furnishes for the purposes of an election, or
- (d) apply for enrolment in respect of an election in respect of which the person is already enrolled.

Maximum penalty: 5 penalty units.

32 Repeal

- (1) The *Nurses (Election) Regulation 1992* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Nurses (Election) Regulation 1992*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Forms

Form 1 Nomination of Candidate

(Clause 8)

(Nurses (Elections) Regulation 1997)

We nominate
(name in full)

of
(postal address)

as a candidate for the following election:

.....

(specify the election to which the nomination relates)

We declare that we are each qualified to vote in the election.

Name in full	Address	Signature
.....

NOTE: This nomination must be completed by not less than 3 persons (other than the candidate), each of whom is qualified to vote in the election.

I.....
consent to being a candidate at the election to which this nomination relates.

Postal address:

Postcode: Telephone No.:

Date of birth:

Dated: Signed:.....

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Schedule 1 Forms

Form 2 Statutory Declaration

(Clause 11)

(Nurses (Elections) Regulation 1997)

I,of ,
do solemnly and sincerely declare that:

1. My full name is.....
2. My residential address is
..... Postcode:
3. My date of birth is.....
4. I am self-employed*/employed by *
as
(specify nature of employment)
5. I hold the following qualifications (academic/professional):
.....
.....
6. I am a member of the following organisations:
.....
.....
7. I hold the following offices (other than employment):
.....
.....
8.
.....
.....
..... (See Note)

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

Declared at this
.....day of 19.....,
Before me:
.....
Justice of the Peace
.....
(signature)

NOTE: A candidate may include further information relating to the candidacy. Such information should not exceed 4 lines of typescript.

* Delete whichever is inapplicable.

Form 3 Certificate

(Clause 12)

(Nurses (Elections) Regulation 1997)

I certify that this roll contains the names (consecutively numbered and listed in alphabetical order) and addresses of those persons who, in my opinion, are qualified to vote in the election in relation to which this roll has been prepared.

The first and last entries in the roll are as follows:

First entry: No.:

Name:

Address:

Last entry: No.:.....

Name:

Address:

Dated: Signed:

Form 4 Application for Enrolment

(Clause 16)

(Nurses (Elections) Regulation 1997)

Surname:

Given names:

Postal address:

Postcode: Telephone No.:

I apply to be enrolled in the final roll for the following election:

.....

.....

(specify the election to which the application relates)

I declare that I am qualified to vote in the election.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated: Signed:

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Schedule 1 Foms

Form 5 Objection to Enrolment

(Clause 17)

(Nurses (Elections) Regulation 1997)

I object to the inclusion in the final roll for the following election:

(specify the election to which the objection relates)

of the name of
(name in full)

of
(postal address)

This objection is based on the following grounds:

(specify the grounds of the objection)

Name of objector:

Postal address:

Postcode: Telephone No.:

Dated: Signed: