

1993—No. 263

## LOCAL GOVERNMENT ACT 1993—REGULATION

(Local Government (Elections) Regulation 1993)

NEW SOUTH WALES



*[Published in Gazette No. 73 of 1 July 1993]*

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.

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### PART 1—PRELIMINARY

#### **Citation**

1. This Regulation may be cited as the Local Government (Elections) Regulation 1993.

#### **Commencement**

2. This Regulation commences on 1 July 1993.

#### **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) Part 12 and Schedules 3–5 apply to other matters as specified in that Part (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.

### Definitions

4. (1) In this Regulation:

**declared institution** means an institution declared under clause 55;

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

**electoral official** means an electoral official appointed under section 296 (3) of the Act;

**general manager** means, in relation to an election or enrolment, the general manager of the council of the area in which the election is being held or of the area to which the enrolment relates;

**nomination day** means the day specified in clause 15;

**polling day** means the day specified under clause 17 for the holding of a poll for an election;

**postal ballot-box** means the ballot-box reserved for the receipt of postal votes;

**pre-poll ballot-box** means the ballot-box reserved for the receipt of pre-poll votes;

**presiding officer** means, in relation to a polling-place, the electoral official (being a senior deputy returning officer) in charge of the polling-place;

**tendered vote** means a vote tendered under clause 72 (Voting if name already marked on roll);

**the Act** means the Local Government Act 1993.

(2) In this Regulation, a reference to a form by number is a reference to a form contained in Schedule 7.

### Notes in the text

5. Notes in the text of this Regulation are explanatory notes and do not form part of this Regulation. They are provided to assist understanding.

**PART 2—ELECTORAL OFFICIALS****Electoral official cannot be candidate**

6. (1) A person who is nominated for election to civic office in any 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 that or any other area on being nominated for civic office in respect of an election in that or any other area.

**PART 3—ELECTORAL ROLLS****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, constitutional referendum or council poll is the date of the fortieth day preceding the day for the election, referendum or poll.

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

- (a) in the case of an election delayed before the fortieth day preceding the original day of the election—the date of the fortieth day preceding the new election day appointed for the election; or
- (b) in any other case—the date of the fortieth day preceding the original election day for the election.

**Form of roll of electors**

8. For the purposes of section 301 (2) of the Act, the form of the roll of electors is a form containing the following particulars:

- (a) the ward (if any) and area to which the roll relates;
- (b) a numbered entry containing the surname, other names and address of each elector (the entry being in alphabetical order according to surname).

**Advertising of enrolments**

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

(2) The advertising is to be done twice or more in the 60 days before the closing date for an election, constitutional referendum or council poll—at least once in the first 30 of those days and again at least once in the second 30 of those days.

(3) The advertisements are to appear in a newspaper circulating in the relevant area.

### **Enrolment claims and objections**

**10. (1)** A claim under section 303 (1) (a) of the Act (or section 18 (4) (a) of the City of Sydney Act 1988) for inclusion of a person's name is to be in a form containing the following particulars:

- (a) whether the claim is being lodged with the Electoral Commissioner or the general manager;
- (b) the person's full name and full address;
- (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 is an owner, occupier, or ratepaying lessee, of rateable land in a ward in the relevant area (or has the requisite qualifications under section 15 (1) (a) of the City of Sydney Act 1988);
- (d) the full address of any such rateable land;
- (e) whether the person is already enrolled in another ward of the same area;
- (f) particulars of any relevant nomination of the person under section 270 (1) of the Act (or section 16 of the City of Sydney Act 1988).

(2) A claim under section 303 (1) (a) of the Act (or section 18 (4) (a) of the City of Sydney Act 1988) for the amendment of any particulars entered in the roll against a person's name is to be in a form containing the following particulars:

- (a) whether the claim is being lodged with the Electoral Commissioner or the general manager;
- (b) the person's full name and full address;
- (c) particulars of the amendment sought.

(3) A claim under section 303 (1) (a) of the Act (or section 18 (4) (a) of the City of Sydney Act 1988) is to be signed by the person who lodges it and to contain a statement signed by a witness to the effect that the witness saw the person sign the claim and believes, to the best of the witness's knowledge, that the statements in the claim are true.

(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 full name and full address of the person to whose name the objection relates;
- (c) the full name and full address of the person lodging the objection;
- (d) the particulars (if any) to the inclusion of which the objection is made;
- (e) the reasons for the objection.

(5) An objection under section 303 (1) (b) or (c) of the Act (or section 18 (4) (b) of the City of Sydney Act 1988) is to be signed by the person who lodges it and that signature is to be witnessed by a justice of the peace.

(6) 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.

### **Appeals**

**11. (1)** For the purposes of section 303 (3) of the Act, a person may appeal against a decision of the Electoral Commissioner or general manager by:

- (a) lodging with the relevant Local Court a notice of appeal; and
- (b) delivering or sending a copy of the notice to the officer whose decision is being appealed against.

(2) The notice and the copy must be lodged and delivered or sent within 14 days after service on the person of notice of the decision which the person is appealing against.

(3) The notice must set out the following matters:

- (a) the name of the relevant Local Court;
- (b) the full name and full address of the person who is appealing;

- (c) particulars of the decision appealed against;
- (d) whether it was the Electoral Commissioner or the general manager who made that decision;
- (e) the reasons for the appeal.

### **Supply of forms**

**12.** The Electoral Commissioner and general manager are to supply a reasonable number of copies of forms suitable for use for the purposes of clauses 10 and 11 free of charge to any person who applies for them.

### **Request for omission of residence from roll**

**13.** For the purposes of section 739 of the Act, the prescribed form of request for the omission or removal of any matter that would disclose or discloses a person's place of living on the roll of electors is Form 1.

## **PART 4—NOTICE OF ELECTION AND NOMINATIONS**

### **Notification of vacancy**

**14.** When a civic office in an area becomes vacant, the general manager of the council of the area is to give notice of the vacancy within 7 days to:

- (a) the Director-General and the Secretary of the Local Government and Country Councils Associations of New South Wales if the vacancy is in the office of a mayor elected by councillors; or
- (b) the Electoral Commissioner, the Director-General and the Secretary of those Associations in any other case.

### **Nomination day**

**15.** The date of the nomination day for an ordinary election or a by-election is the date of the fifth Friday before the day of the election, or such other date as the Electoral Commissioner determines in a particular case.

### **Place of nomination**

**16.** The place of nomination is determined by the returning officer, but it is to be the council's office if practicable.

**Notice of election**

**17. (1)** Not less than one week before the nomination day, the returning officer is to give public notice of the election by advertisement in a newspaper circulating in the area.

**(2)** The notice must do the following:

- (a) invite proposals for nomination for the election;
- (b) specify where nomination forms may be obtained;
- (c) specify the date of the nomination day and the place of nomination;
- (d) specify the date when the poll will be held for the election if more candidates are nominated than the number of councillors to be elected;
- (e) give notice of the requirements under the Act for proposals for nomination (including the payment of deposits and the provision of resumes).

**(3)** The notice may contain any other information which the Electoral Commissioner thinks appropriate.

**(4)** An advertisement may contain notices required by subclause (1) relating to more than one area.

**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 under Part 7 of Chapter 10 of the Act.

**(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.

### **Candidates' resumes**

19. (1) The matters prescribed for the purposes of section 308 (2) of the Act which are to be included in a candidate resume are the proposed candidate's full name and full residential address.

(2) Nothing in this clause prevents the inclusion of 'other matters (such as the proposed candidate's date of birth, occupation, trade and professional qualifications, membership of organisations, the registered party (if any) which has endorsed the proposed candidate, and other qualifications relevant to the proposed candidature).

### **Withdrawal of nomination proposals**

20. A nomination proposal may be withdrawn by the delivery to the returning officer before 11 a.m. on the nomination day of a notice in writing signed by the person proposed for nomination.

### **Nomination in respect of more than one ward**

21. 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.

### **Refund of deposit**

22. (1) If a person withdraws a proposal for nomination or a person cannot be nominated because the person is not qualified to hold civic office, a deposit in respect of the nomination is to be returned to the candidate or a person authorised by the candidate in writing to receive the deposit.



(2) If a candidate dies before election day, the deposit is to be returned to the legal personal representative of the candidate.

(3) When the returning officer has declared the election, with or without poll, the returning officer is to return the deposit to a candidate or to a person authorised by the candidate in writing to receive the deposit if:

- (a) the candidate is elected; or
- (b) the candidate receives at least 4 per cent of the total number of formal first preference votes; or
- (c) a poll is not taken in the ward or area for which the candidate has been nominated.

(4) A deposit which is not required to be returned is to be forfeited to the council.

### **Inspection of names of persons proposed for nomination**

23. Any elector of the area is, at any reasonable time in office hours, to be allowed 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.

### **Returning officer to nominate candidates**

24. (1) On the nomination day the returning officer is to do the following, commencing at noon:

- (a) to attend at the place of nomination;
- (b) to read aloud the full names of the persons proposed for nomination and the names under which the persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers and of the wards or area for which they are proposed;
- (c) to announce any withdrawals;
- (d) to cancel the nomination papers of the persons who have withdrawn;
- (e) to nominate as candidates for election the persons whom the returning officer believes to be duly qualified under the Act, and whose nomination papers the returning officer believes to be valid, and which have not been cancelled.

(2) The name under which the returning officer is to nominate a person as a candidate for election is:

- (a) the name under which the person has requested, in the consent to that person's nomination paper, that the person be shown on the ballot-papers; or
- (b) if the returning officer is not satisfied that that name is either one of the given names of the person or a generally recognised abbreviation or derivative of one of the given names together with the full surname of the person—the first given name and the surname of the person.

#### **Declaration of uncontested election**

**25. (1)** If, on the nomination day, candidates are taken to be elected in accordance with section 311 of the Act, the returning officer must, at the place and time of nomination, declare in writing the names of the candidates so elected.

(2) The declaration is to be signed by the returning officer and is to state the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.

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

- (a) display the written declaration in a conspicuous position at the principal polling-place and at the place of nomination; 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 Country Councils Associations of New South Wales, and the relevant general manager; and
- (c) insert in a newspaper circulating in the relevant area a copy of a notice signed by the returning officer and containing the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.

(4) The council must, upon application made to it by any person, deliver or send to the person a copy of the written declaration.

**PART 5—POLLING-PLACES****Polling-places**

**26. (1)** At least one polling-place is to be appointed by the Electoral Commissioner for each ward.

**(2)** A place is to be appointed by the Electoral Commissioner as the principal polling-place for the area.

**(3)** A polling-place is not to be appointed after the nomination day.

**Pre-poll voting offices**

**27.** For the purpose of enabling electors to vote in person before election day, the Electoral Commissioner:

- (a)** is to appoint a pre-poll voting office for the returning officer; and
- (b)** may appoint additional pre-poll voting offices for presiding officers.

**PART 6—PREPARATION FOR POLL****Poll**

**28.** A contested election is to be determined by ballot.

**Notification of poll**

**29. (1)** If there is to be a contested election in respect of any ward or area, the returning officer must at the time and place of nomination publicly announce the following:

- (a)** that a poll will be taken in respect of the ward or area;
- (b)** the date of the poll;
- (c)** the full names of the persons who have become candidates and the names under which those persons have been nominated as candidates;
- (d)** the location of the polling-places where the poll will be taken on election day;
- (e)** the location of the pre-poll voting office or offices and the hours between which and the days on which electors may vote at the pre-poll voting office or offices.

**(2)** The returning officer must also notify the matters referred to in subclause (1) (and any other matters which the Electoral Commissioner determines should be notified) in a newspaper circulating in the area and in a written notice posted at the council's office.

**Order of candidates on ballot-papers**

**30. (1)** 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:

- (a) the officer must, at the place of nomination and before all persons present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated;
- (b) the 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 officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same;
- (d) the officer must then unfasten the ballot-box and take out and open each container one by one;
- (e) the officer must then announce to the persons present, and record in duplicate, the name of the candidate whose name appears on the slip enclosed in the container first taken from the ballot-box and, in consecutive order, the name of the candidate whose name appears on the slip enclosed in the container next taken from the ballot-box, and so on until the placing of all the names has been determined;
- (f) the officer must sign the record and allow any of the persons present to do the same;
- (g) the 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 determination in accordance with this clause.

**Form of ballot-papers**

**31. (1)** For the purposes of this clause, the name of the candidate which has been first taken in the determination under clause 30 is to be shown closest to the top of the ballot-papers, the name of the candidate which has been next taken is to be shown immediately below the name of the candidate which has been first taken and so on.

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

- (3) The ballot-papers:
- (a) are to be in Form 4; and
  - (b) are to show the names of the candidates (being the names under which they were nominated) in one column in the order prescribed by subclause (1); and
  - (c) may show the names accompanied with 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.

#### **Supply of rolls and ballot-papers**

32. (1) On or before the day of polling the returning officer is to:
- (a) provide for use at each polling-place sufficient copies certified under his or her hand to be true copies of the roll of electors for the ward or area in which the poll is to be taken; and
  - (b) deliver to each presiding officer, and retain, such numbers of the ballot-papers as are sufficient for the use of the electors entitled to vote at each polling-place.
- (2) The returning officer is to keep an exact count of all those ballot-papers.
- (3) The returning officer is to retain for use at his or her office:
- (a) at least one true copy of the roll of electors for the ward or area in which the poll is to be taken; and
  - (b) such number of ballot-papers as the returning officer considers will be required for the use of electors who are permitted to vote at his or her office before polling day.
- (4) The returning officer is to keep an exact count of those ballot-papers.

#### **Return of numbers of ballot-papers before poll**

33. Not later than the day before election day, the returning officer is to deliver or send to the Electoral Commissioner a return of the following numbers of ballot-papers:
- (a) the numbers ordered and received from the printer;
  - (b) the numbers issued as postal ballot-papers;
  - (c) the numbers issued for use at pre-poll voting offices, declared institutions and polling-places;
  - (d) the numbers not issued at all.

**Ballot-paper to be initialled**

**34. (1)** A ballot-paper (whether delivered under clause 32 or reproduced under clause 35) is to be initialled on the back by a presiding officer. 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.

**(2)** The presiding officer is to keep an account of the ballot-papers initialled and those issued after being initialled.

**Ballot-paper may be written**

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

**PART 7—POSTAL AND OTHER SPECIAL TYPES  
OF VOTING****Division 1—Postal voting****Postal voting: qualifications**

**36.** A person is qualified for a postal vote under this Division if the person:

- (a) will not throughout the hours of polling on election day be within the ward or area for which the election is being held; or
- (b) 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 he or she is entitled to vote; or
- (c) will throughout the hours of polling on election day be travelling under conditions which prevent him or her from attending at any such polling-place to vote; or
- (d) is seriously ill or disabled and so will be prevented from attending at any such polling-place to vote; or
- (e) is prevented by approaching maternity from attending at any such polling-place to vote; or

- (f) is by reason of that person's membership of a religious order or religious beliefs prevented from attending at any such polling-place or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours; or
- (g) is, by reason of that person being kept in a prison, prevented from attending at any such polling-place to vote; or
- (h) will be, at a place other than a hospital, caring for another person who requires his or her care for medical reasons and so will be prevented from attending at any such polling-place to vote; or
- (i) will, by reason of 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.

**Postal voting: application**

**37. (1)** A person qualified under this Division may apply to the returning officer for a postal ballot-paper and postal voting envelope.

**(2)** The application:

- (a) is to be in Form 5; and
- (b) is to be completed and signed by the applicant; and
- (c) is to be witnessed as shown on the application; and
- (d) is to be placed by the applicant in an envelope addressed to the returning officer and sealed; and
- (e) is to be delivered or sent directly to the returning officer by the applicant (or if the applicant is physically incapable of delivering or sending the application and entrusts it to another person for that purpose, by that person) so that it reaches the returning officer between the nomination day and 5 p.m. on the fifth day before election day; and
- (f) if received by the returning officer within that period, is to be given a number.

**Registration of general postal voters**

**38. (1)** An elector who is included in one or more of the following categories may apply to the general manager to be registered as a general postal voter for a ward or area:

- (a) a person who is an owner, occupier or ratepaying lessee of rateable land in the ward or area but is not a resident of the ward or area;

- (b) a person who is a resident of the ward or area but whose place of living is not within 20 kilometres, by the nearest practicable route, of a polling-place usually appointed for the ward or area;
  - (c) a person who is unable to travel, by reason of serious illness or disability, from the person's residence or a hospital (not being a polling-place or a declared institution) in which the person is a patient;
  - (d) a person who is being kept in a prison;
  - (e) a person who is so physically disabled that the person cannot sign his or her name and the disability has been certified in writing by a registered medical practitioner.
- (2) An application under subclause (1) must be in Form 6.
- (3) An application in relation to an elector to whom subclause (1) (e) applies:
- (a) must be accompanied by the certificate referred to in subclause (1) (e); and
  - (b) may be made by another person acting on behalf of the elector.
- (4) If the general manager is satisfied that an elector making an application under subclause (1) is entitled to vote at an election in the ward or area and that the information contained in the application is correct, the general manager is:
- (a) to give the application a number; and
  - (b) to register the elector as a general postal voter for the ward or area by entering the elector's name in the register kept under clause 39.
- (5) If the general manager registers an elector as a general postal voter, the general manager is to notify the elector, in writing, of the registration.
- (6) If the general manager is not satisfied:
- (a) that an elector making an application under subclause (1) is entitled to vote at an election in the ward or area; or
  - (b) that the information contained in the application is correct,
- the general manager is to notify the elector, in writing, to that effect.

### **Register of General Postal Voters**

**39. (1)** The general manager is to keep a Register of General Postal Voters for each ward or area.



(2) The general manager is to enter in the register in relation to an elector who is registered as a general postal voter for a ward or area the following:

- (a) the number given to the application under clause 38;
- (b) the name of the elector;
- (c) the address of the land or place of living by which the person is entitled to be an elector for the ward or area;
- (d) the address to which ballot-papers are to be sent;
- (e) such other particulars as the Electoral Commissioner determines.

(3) The register is to be open for public inspection, without fee, during ordinary office hours at the council's office.

#### **Cancellation of registration as general postal voter**

**40. (1)** The general manager may cancel the registration of an elector as a general postal voter if the general manager is satisfied that:

- (a) the elector is no longer entitled to vote at an election in the ward or area; or
- (b) the information contained in the application by which the elector was registered is no longer correct.

(2) If the general manager cancels the registration of an elector as a general postal voter, the general manager is to notify the elector, in writing, of the cancellation.

(3) A notification of cancellation must include a statement setting out the person's right to request the Electoral Commissioner to direct the general manager to review the cancellation.

#### **Review of cancellation**

**41. (1)** The elector may request the Electoral Commissioner to direct the general manager to review the cancellation. The elector's request is to be in writing and is to be sent or delivered to the general manager who is then to forward it to the Electoral Commissioner.

(2) If the general manager receives such a request, the general manager is to deliver or send immediately to the Electoral Commissioner a copy of the request and a statement in writing setting out the reasons for the cancellation of the registration of the person as a general postal voter.

(3) The Electoral Commissioner is, on receipt of a copy of such a request, to decide whether to direct the general manager to conduct a review of the register in relation to the cancellation.

(4) When the Electoral Commissioner makes a decision under subclause (3), the Electoral Commissioner is to send written notice of the decision to:

- (a) the person who made the request; and
- (b) the general manager.

### **Review of register**

42. The general manager must, when directed to do so by the Electoral Commissioner, conduct a review of the register kept under clause 39 for a ward or area and, upon completion of the review, is to make such alterations to the register as he or she thinks necessary to ensure that:

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

### **Registration treated as application**

43. A person is taken at each election held in respect of the ward or area for which he or she is registered as a general postal voter to have made application in accordance with clause 37 on the nomination day.

### **Issue of 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 officer; and
  - (c) deliver or send to the applicant an envelope bearing the address of the returning officer at the principal polling-place 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.

**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.

### **Postal voting procedure**

**45. (1)** Sections 114H (except subsections (1) (f) and (g), (1A) and (2)) and 114I of the Parliamentary Electorates and Elections Act 1912 (modified as necessary) apply to postal voting under the Act in the same way as they apply to postal voting under the Parliamentary Electorates and Elections Act 1912.

**(2)** In its application to postal voting under the Act, section 114H (1) (b) of the Parliamentary Electorates and Elections Act 1912 is to be read as if the words "who become so registered in pursuance of a claim made under section 32 (3) or in pursuance of an application made under section 114AA (1) (e) or (f)" were omitted.

**(3)** In its application to postal voting under the Act, a requirement in section 114H of the Parliamentary Electorates and Elections Act 1912 to post or deliver a postal voting paper to the returning officer is taken to be a requirement to send or deliver a postal voting paper to the returning officer or a presiding officer.

**(4)** No offence under the Parliamentary Electorates and Elections Act 1912 (as applied by this clause) applies under this Regulation.

**(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 form of declaration 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.

**Note.** See clause 114 as to the assistance of electors and clause 113 as to spoilt ballot-papers.

### **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 declaration envelope inside it and return the 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 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 postal ballot-box and separately keep the opened Form 12 envelope.

#### **Closing time for postal vote**

47. A postal vote which is not delivered or sent to the returning officer or a presiding officer before 6 p.m. on election day is not valid and must not be counted.

#### **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 or a presiding officer is to make an appropriate notation on the record referred to in clause 44 and place it unopened in the postal ballot-box.

### **Division 2—Pre-poll voting**

#### **Pre-poll voting: qualifications**

49. A person is qualified to vote before election day under this Division if the person:

- (a) will not throughout the hours of polling on election day be within the ward or area for which the election is being held; or
- (b) 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 he or she is entitled to vote; or
- (c) will throughout the hours of polling on election day be travelling under conditions which prevent him or her from attending at any such polling-place to vote; or
- (d) is by reason of that person's membership of a religious order or religious beliefs prevented from attending at any such polling-place or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours; or
- (e) will be, at a place other than a hospital, caring for another person who requires his or her care for medical reasons and so will be prevented from attending at any such polling-place to vote; or

- (f) will, by reason of 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.

**Pre-poll voting: application**

**50. (1)** A person qualified under this Division may apply to the returning officer or presiding officer at a pre-poll voting office for a pre-poll ballot-paper.

**(2)** An application for pre-poll voting:

- (a) is to be in Form 9; and
- (b) is to be printed or written on a ballot-paper envelope; and
- (c) is to be obtained by the applicant from the officer, who, before handing it to the applicant, must fill in on the application:
  - (i) the name of the area and ward (if any); and
  - (ii) the name, address and roll number of the applicant as they appear on the roll of electors or, if the applicant is claiming to vote under section 305 of the Act, the full name and full address of the applicant; and
- (d) is to be completed and signed by the applicant in the presence of the officer; and
- (e) is to be returned to the officer who is to witness the applicant's signature.

**(3)** On receiving an application, the officer may, and if requested to do so by any scrutineer, must, put to the elector who made the application such of the questions prescribed by clause 67 as are applicable to the case, and, if the elector answers the questions satisfactorily or if no questions are required to be put to the elector, the officer must hand to the elector a ballot-paper in Form 4 which is initialled on the back by the officer.

**(4)** If the applicant's name is not on the roll of electors, the officer is to hand to the applicant also an envelope in Form 12.

**Pre-poll voting procedure**

**51. (1)** On receiving a pre-poll ballot-paper, the elector is to:

- (a) mark his or her vote on the ballot-paper in accordance with the directions on it in view of the returning officer or presiding officer but so that the officer is unable to see the vote; and

- (b) fold the ballot-paper so that the vote cannot be seen; and
  - (c) at once return the ballot-paper so folded to the officer.
- (2) When a ballot-paper has been so returned to the officer, the officer must (if the name of the elector is on the roll):
- (a) in the presence of the elector, enclose it in the envelope bearing the elector's application and seal the envelope; and
  - (b) place the envelope in the pre-poll ballot-box.
- (3) The officer is to record the name of each elector who makes a pre-poll vote. The record is to be kept at the pre-poll voting office where an elector's application is made.

#### **Pre-poll voting by elector not on roll**

52. (1) If an elector is sent an envelope in Form 12, the elector is to complete the envelope, place the ballot-paper and declaration envelope inside it and return the 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 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 pre-poll ballot-box and separately keep the opened Form 12 envelope.

#### **Surrender of postal ballot-papers**

53. An elector to whom a postal ballot-paper and form of declaration have been issued is not entitled to vote in accordance with this Division unless the elector first delivers to the returning officer or presiding officer the elector's postal ballot-paper and form of declaration for cancellation.

#### **Pre-poll voting offices and times**

54. (1) The pre-poll voting office for the returning officer is to be used for the purpose of enabling electors to vote in person before election day in accordance with this Division during the ordinary office hours of the council between the twelfth and second day before election day, between 9 a.m. and 6 p.m. on the day preceding election day and during such further period on any such day as the Electoral Commissioner may determine.

(2) In addition, the pre-polling voting offices for presiding officers are to be used for the purpose of enabling electors to vote in person before election day in accordance with this Division between such hours and on such day or days, being between the twelfth and first days before election day, as the Electoral Commissioner may determine for that office.

(3) Nothing in this clause prevents the offices referred to in this clause from being used for other purposes in connection with the election.

**Note. 1.** 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.

2. See clause 114 as to the assistance of electors and clause 113 as to spoilt ballot-papers.

### **Division 3—Declared institution voting**

#### **Declared institutions**

**55. (1)** The Electoral Commissioner may, not later than on the nomination day, declare an institution in a ward or area to be a declared institution for the purpose of enabling patients or inmates of the institution who are electors of the ward or area to vote in person before election day.

(2) An institution may be declared under this clause only if it is a nursing home, hospital or similar institution in which a polling-place has not been appointed.

#### **Application of Parliamentary Electorates and Elections Act 1912**

**56. (1)** The provisions which apply to voting at declared institutions are sections 114ZO–114ZR (except section 114ZR (6), (7), (8) (b), (10) and (11)) and section 114ZY of the Parliamentary Electorates and Elections Act 1912.

(2) Those provisions apply to voting at declared institutions under the Act in the same way as they apply to voting at declared institutions under the Parliamentary Electorates and Elections Act 1912.

#### **Modification of provisions**

**57. (1)** In the application of those provisions of the Parliamentary Electorates and Elections Act 1912 to voting in declared institutions, the following modifications apply:

- (a) a reference in those provisions to a district is taken to be a reference to the ward or area in respect of which the voting is to take place;

- (b) the reference in section 114ZR (3) of the Parliamentary Electorates and Elections Act 1912 to the questions prescribed by section 100 (1) of that Act is taken to be a reference to the questions prescribed by clause 67;
  - (c) the requirement in section 114ZR (3) of the Parliamentary Electorates and Elections Act 1912 as to the form of the declaration is taken to be a requirement that the declaration be in Form 10;
  - (d) a reference in section 114ZR (5) of the Parliamentary Electorates and Elections Act 1912 to the forms prescribed in Schedules 4 and 4A to that Act is taken to be a reference to Form 4 alone;
  - (e) a reference in those provisions of the Parliamentary Electorates and Elections Act 1912 to the ballot-box is taken to be a reference to the declared institutions ballot-box.
- (2) No offence under the Parliamentary Electorates and Elections Act 1912 (as applied by this clause) applies under this Regulation.

#### **Declared institution ballot-box**

**58.** An envelope containing a ballot-paper marked at a declared institution is to be put in the declared institution ballot-box for the relevant area.

#### **Declared institution voting by elector not on roll**

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

**Note. 1.** 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.

**2.** See clause 114 as to the assistance of electors and clause 113 as to spoilt ballot-papers.



**Division 4—Mobile booths****Mobile booths in hospitals etc.**

**60. (1)** Mobile polling may take place for the purposes of the Act in accordance with section 87A of the Parliamentary Electorates and Elections Act 1912.

**(2)** Section 87A of the Parliamentary Electorates and Elections Act 1912 applies to voting at a mobile polling booth under the Act in the same way as it applies to voting at a mobile polling booth under the Parliamentary Electorates and Elections Act 1912.

**(3)** No offence under the Parliamentary Electorates and Elections Act 1912 (as applied by this clause) applies under this Regulation.

**Division 5—Miscellaneous****Assistance of officers**

**61.** In this Part, a reference to a returning officer or a presiding officer includes a reference to an electoral official appointed to assist the officer in the performance of his or her duties.

**PART 8—VOTING ON ELECTION DAY****Principal polling-place**

**62. (1)** The returning officer is normally to preside and take the poll at the principal polling-place.

**(2)** However, a senior deputy returning officer may do that instead, and the returning officer may act as presiding officer at another polling-place.

**Presiding officer's functions**

**63.** A presiding officer is to exercise the functions of the returning officer in respect of the taking of the poll at the polling-place at which he or she is presiding.

**Hours of voting**

**64. (1)** The voting at a poll is to commence at 8 a.m. and close at 6 p.m. on the same day. A person entitled to vote who at the time of closing the poll is within the polling-place is to be permitted to vote.

(2) This clause does not apply to any form of voting under Part 7 (Postal and other special types of voting).

### **Scrutineers**

**65. (1)** Each candidate may, by instrument in writing signed by the candidate, appoint scrutineers (including relief scrutineers) so that the candidate has no more than one scrutineer at each of the following places at any moment during the following periods:

- (a) each pre-poll voting office while it is open for polling and also while any subsequent electoral procedure is being carried out there;
- (b) each table used by an electoral official during polling at each polling-place for the ward or area for which the candidate is nominated for election while the polling-place is open for polling;
- (c) 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) the principal polling-place from the close of polling until the declaration of the result of the poll;
- (e) each place where, and during such times as, any of the electoral procedures referred to in Divisions 3 and 4 of Part 7 and clause 75, and also any subsequent electoral procedures, are being carried out.

(2) A scrutineer, on presentation to an electoral official of his or her instrument of appointment as scrutineer, is entitled to be present in accordance with his or her appointment under subclause (1).

(3) A scrutineer must, on demand by an electoral official, produce his or her instrument of appointment as scrutineer for inspection.

(4) A person must not be both a candidate and a scrutineer at the one election in an area.

### **Where electors may vote**

**66.** A person who is qualified as an elector in respect of a ward or area is entitled to vote at any polling-place appointed for the ward or area.

### **Questions put to elector**

**67. (1)** A person claiming to vote at any polling-place must state to an electoral official the name under which the person claims to vote, and such other particulars as the official requires for the purpose of checking that name on the roll.

(2) The electoral official must check that the name given by the person is on the roll in force for the ward or area for which the polling-place has been appointed.

(3) The electoral official may (and must, if required by a scrutineer) require any such person to sign his or her name or make his or her mark in a book to be kept for that purpose.

(4) The electoral official may (and must if required by a scrutineer) put to the person, before giving the person a ballot-paper, questions in the following form:

1. Are you the person whose name appears as ..... (name) in the roll of electors for ..... ward of ..... area?
2. Are you 18 years of age or older?
3. Are you:
  - (a) an Australian citizen; or
  - (b) a British subject (other than an Australian citizen) who was on a Commonwealth or State of New South Wales electoral roll on 25 January 1984?
4. Are you entitled to vote at this election?
5. Have you already voted at this election?

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

(6) However, if a request for a person’s place of living not to be included in a roll of electors has been granted under section 739 of the Act, the person need not indicate a place of living in response to a requirement under subclause (1) but instead the person is to make a declaration of residence on an envelope in Form 11 if the electoral official so requires.

(7) This clause does not prevent a person from voting:

- (a) because of errors or omissions in the entry of the person’s name as appearing on the roll if he or she satisfies the electoral official of his or her identity as the person referred to by that name; or
- (b) because the person’s name is not on the roll if he or she complies with section 305 of the Act.

**Voting by elector with confidential address**

**68. (1)** An elector who has made a declaration of residence under clause 67 is to mark and fold the ballot-paper and return the folded ballot-paper to an electoral official.

**(2)** In the presence of the elector and any scrutineers present, the electoral official is to enclose the folded ballot-paper in the envelope containing the declaration of residence and addressed to the returning officer, seal the envelope and deliver the envelope to the electoral official.

**(3)** The electoral official is to deliver or send the envelope to the returning officer.

**(4)** The returning officer is to examine the declaration on the unopened envelope and ascertain from the Electoral Commissioner or the general manager whether the residence specified in the declaration is the residence specified in the appropriate request (as affected by any change of residence annotated on the request) under section 739 of the Act.

**(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 destroying the declaration, place it unfolded in the ballot-box for votes under section 305 of the Act.

**(6)** If the declaration is not in order, or the residence is not the appropriate one, the returning officer is to leave the envelope containing the ballot-paper unopened.

**Delivery of ballot-paper to elector**

**69. (1)** An electoral official is to deliver a ballot-paper initialled on the back by the returning officer or presiding officer to each person who is entitled to vote.

**(2)** The electoral official is to make an appropriate notation on the roll of electors to show that the elector has received a ballot-paper.

**(3)** The electoral official may require an elector to show the electoral official those initials on the ballot-paper before the elector deposits it in the ballot-box.

**Voting**

**70.** After receiving a ballot-paper, an elector is to:

- (a) go alone to an unoccupied space set aside for voting at the polling-place, and privately record his or her vote there on the ballot-paper; and

- (b) fold the ballot-paper so as to conceal the vote marked on it but to show clearly the initials of the returning officer or presiding officer, show it so folded to an electoral official, and then put it in the ballot-box without unfolding it; and
- (c) leave the polling-place.

**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 elector's 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 and addressed to the returning officer for the area for which the elector claims to be entitled to be enrolled.

**(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 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 the residence is the appropriate one, the returning officer is to open the envelope containing the ballot-paper, extract the ballot-paper and, without destroying the declaration, place it unfolded in the ballot-box for votes under section 305 of the Act.

**(6)** If the declaration is not in order, or the residence is not the appropriate one, the returning officer is to leave the envelope containing the ballot-paper unopened.

**(7)** Each presiding officer is to make a record of votes under section 305 of the Act and on it note the giving of a ballot-paper to an elector who has made a declaration under that section and the number of such votes delivered or sent to the returning officer.

**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, section 106 (1), (1A), (3) (a) and (c)–(e) and (5) of the Parliamentary Electorates and Elections Act 1912 applies in relation to the claim.

**(2)** For the purposes of this clause a reference in section 106 (1) and (1A) of the Parliamentary Electorates and Elections Act 1912:

(a) to the “prescribed questions” is taken to be a reference to the questions in clause 67; and

(b) to the “prescribed form” is taken to be a reference to Form 13.

**(3)** For the purposes of this clause, the reference to the “district” in section 106 (3) (c) of the Parliamentary Electorates and Elections Act 1912 is taken to be a reference to the ward or area in respect of which the elector has claimed to vote.

**(4)** The returning officer is to note on a List of Tendered Votes the giving of a ballot-paper to the elector under this clause.

**(5)** No offence under the Parliamentary Electorates and Elections Act 1912 (as applied by this clause) applies under this Regulation.

**Note.** See clause 114 as to the assistance of electors and clause 113 as to spoilt ballot-papers.

**PART 9—SCRUTINY AND COUNTING****Formal ballot-papers**

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

(a) it has been completed in accordance with the directions on it for the showing of preferences; and

(b) it has been initialled on the back by the returning officer or presiding officer; and

(c) it does not contain 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 one marked preference is to be treated as a first preference.

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

### **Persons present at scrutiny and count**

74. The Electoral Commissioner or person authorised by the Electoral Commissioner, returning officer, electoral officials, scrutineers and police officers on duty are entitled to be present in a polling-place and the principal polling-place during the scrutiny and counting and recounting of the ballot-papers and the declaration of the election.

### **Postal, pre-poll and declared institution votes**

75. The returning officer may, at any time after 8.00 a.m. on the day of the poll and in the presence of any scrutineers lawfully present:

- (a) produce all applications for postal votes and applications for registration as a general postal voter, open the ballot-box containing postal votes received from postal voters by the returning officer and take out all the envelopes, and follow the procedure set out with respect to postal votes in clause 78 (2) (a)–(d); and
- (b) open the ballot-boxes in the returning officer's possession at that time containing pre-poll votes and any ballot-box containing declared institution votes, take out all the envelopes, count the sealed ballot-paper envelopes unopened and record the count, and check the names on the envelopes against the roll of electors and mark each elector's name in the manner determined by the Electoral Commissioner on a copy of the roll.

### **Initial scrutiny and count**

76. (1) On the close of the poll at an election each presiding officer must, in the presence of the electoral officials and scrutineers and any police officers on duty at the polling-place, open the ballot-box, and have the ballot-papers scrutinised in his or her presence and under his or her supervision and must reject the informal ballot-papers.

(2) Each presiding officer is to have the envelopes containing postal votes and tendered votes placed on one side as they are taken from the ballot-box.

(3) After the scrutiny each presiding officer must have counted, in the presiding officer's presence and subject to the presiding officer's supervision, the first preferences recorded for each candidate, the number of informal, postal and tendered votes, and the number of votes shown on the record required under clause 71 as being delivered or sent to the returning officer.

(4) Then the presiding officer is to send to the returning officer returns, verified by the signatures of the presiding officer, another electoral official and any scrutineer who desires to sign the returns, stating:

- (a) the number of first preferences recorded for each candidate, the number of informal, postal and tendered votes and the number of votes shown on the list of votes under section 305 of the Act required under clause 71 as being delivered or sent to the returning officer; and
- (b) details of the numbers of ballot-papers in Form 14.

### **Sending ballot-papers to returning officer**

77. (1) The presiding officer must then, in the presence of the witnesses referred to in clause 76 (1), make up:

- (a) in one parcel the ballot-papers classed as formal and the ballot-papers classed as informal; and
- (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 votes under section 305 of the Act, the envelopes containing postal votes and the envelopes containing tendered votes, and the list of postal and tendered votes; and
- (c) in a third parcel the certified copies of the rolls supplied to the presiding officer, signed by the presiding officer, and all books, rolls, and papers (except the ballot-papers and the lists of ballot-papers) kept, used, and received by the presiding officer in connection with polling.

(2) The presiding officer is to do the following:

- (a) seal the parcels;
- (b) permit any of the scrutineers who wish to do so to affix their seals to the parcels;
- (c) endorse the parcels with descriptions of their contents and with the name of the ward and area, the name of the polling-place, and the date of the polling;



- (d) sign with his or her name the endorsement on each parcel;
- (e) deliver or send the parcels to the returning officer (except if the presiding officer is the returning officer).

(3) The returning officer may (and must if so required by a scrutineer) have the parcels opened, and have the ballot-papers scrutinised and counted in the presence of the electoral officials, scrutineers and police officers on duty at the principal polling-place.

(4) During such scrutiny, the returning officer must:

- (a) reject any ballot-paper classed as formal by the presiding officer if, in the returning officer's opinion, it is informal; and
- (b) accept any ballot-paper classed as informal by the presiding officer if, in the returning officer's opinion, it is formal.

#### **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 and for registration as a general postal voter, produce the postal votes received from the presiding officers, and open the ballot-boxes containing postal votes received by the returning officer and take all the envelopes from them.

(2) The returning officer is then to:

- (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 mark each elector's name 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 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 mark each elector's name in the manner determined by the Electoral Commissioner;
- (c) turn each sealed ballot-paper envelope face downwards, then open the envelope 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 is to check also the tendered votes.

### **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, tendered votes and votes under section 305 of the Act;
- (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 9.00 a.m. after the result of the count is ascertained.

**Double candidature: candidate elected as mayor**

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

**(2)** For the purposes of section 283 of the Act, the procedures set out in this clause are 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.

**(3)** In the case of the optional preferential system, the unexhausted ballot-papers of the candidate elected as both councillor and mayor are to be distributed among the continuing candidates as if the elected one had not achieved an absolute majority of votes.

**(4)** In the case of the proportional system, the unexhausted ballot-papers of the candidate elected as both councillor and mayor are to be distributed among the continuing candidates as if the elected one had not achieved a quota.

**Recount**

**81. (1)** At any time before the declaration of the poll:

- (a) a candidate may request a recount of the ballot-papers used in the ward or area for which the candidate was nominated; and
- (b) the Electoral Commissioner may direct the returning officer to recount any ballot-papers used in the election.

**(2)** A request under subclause (1) (a) must:

- (a) be in writing; and
- (b) be signed by the candidate; and
- (c) set out the reasons for the request; and
- (d) be lodged with the returning officer within 24 hours after written notification of the result of the count has been delivered or sent to the candidates.

**(3)** The returning officer must again have the ballot-papers scrutinised and counted and, if necessary, have any other papers used at the election inspected, if:

- (a) a request is received under subclause (1) (a) and the candidate has paid to the returning officer, on behalf of the council, a deposit to cover the cost of the recount and the ballot-papers referred to in the request have not already been recounted; or

- (b) a direction is received in accordance with subclause (1) (b); or
- (c) the returning officer in any case believes it necessary.

(4) The deposit is to be determined by reference to a scale of charges fixed by the Electoral Commissioner before election day.

### **Who pays for the recount?**

**82. (1)** If a recount of ballot-papers is conducted under clause 81 (3) (b) or (c), the council is to pay for the recount.

(2) If a recount of ballot-papers is conducted under clause 81 (3) (a) and the recount results in an alteration in the candidates who are elected, the deposit referred to in that paragraph is to be refunded to the candidate.

(3) If a recount of ballot-papers is conducted under clause 81 (3) (a) and the recount does not result in an alteration in the candidates who are elected, the expense of the recount is to be paid out of the deposit and any remainder is to be refunded to the candidate, and any shortfall paid by the council.

### **Result of recount**

**83.** Immediately after the completion of a recount of ballot-papers, the returning officer must notify the Electoral Commissioner of the result of the recount.

### **Declaring the election**

**84. (1)** The Electoral Commissioner is to approve of the returning officer's declaring the election in writing as soon as practicable after the notification of the result of any recount or it becomes clear that no recount will be required.

(2) The declaration is to be signed by the returning officer and is to state the number of votes recorded for each candidate, the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.

- (3) After declaring the election, the returning officer must:
- (a) display the written declaration in a conspicuous position at the principal polling-place and at the place of nomination; 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 Country Councils Associations of New South Wales, and the relevant general manager; and

(c) insert in a newspaper circulating in the relevant area a copy of a notice signed by the returning officer and containing the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.

(4) The council must, upon application made to it by any person, deliver or send to the person a copy of the written declaration.

## **PART 10—OFFENCES**

### **Penalty notices**

**85.** For the purposes of sect on 314 of the Act, the prescribed form of penalty notice is Form 16.

### **Misconduct in voting**

**86.** A person must not do any of the following:

- (a) make a declaration which the person believes to be 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: 100 penalty units.

### **False statements in forms**

**87. (1)** A person must not make a statement which the person believes to be 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.

Maximum penalty: 10 penalty units.

**(2)** Nothing in this clause affects the liability of a person to be proceeded against in respect of any other offence, whether against the Act or otherwise, but a person is not liable to be punished more than once in respect of the same act.

**Misconduct by witness to postal vote**

**88. (1)** A witness must not witness the signature of an elector to an application for a postal ballot-paper or postal voting envelope unless the witness knows that the statements contained in the application are true, or is satisfied by the applicant's answers to the witness's inquiries or by other means that the statements contained in the application are true.

Maximum penalty: 5 penalty units.

**(2)** The witness must not:

- (a) do anything to find out the elector's vote; or
- (b) disclose to a third party any knowledge that the witness has of the vote of the elector; or
- (c) influence the vote of an elector voting by post in the presence of the witness.

Maximum penalty: 10 penalty units.

**Misconduct in relation to postal voting**

**89.** A person to whom an application for a postal ballot-paper or 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 fails to deliver or send the application or envelope promptly is guilty of an offence.

Maximum penalty: 10 penalty units.

**Misconduct by person present at pre-poll or declared institution voting**

**90. (1)** A person who is present when an elector is attending a pre-poll voting office for the purpose of pre-poll voting or when an elector is visited by a returning officer or presiding officer for the purpose of voting at a declared institution:

- (a) must comply with a lawful direction given to the person by the returning officer or an electoral official; and
- (b) must not communicate with the elector in relation to the vote; and
- (c) must not assist the elector or in any manner interfere with the elector in relation to the vote; and
- (d) must not look at the elector's vote or do anything to find out how the elector voted.

(2) A person is not guilty of an offence against this clause by virtue of anything done in accordance with clause 114 (Assistance to certain electors).

Maximum penalty: 10 penalty units.

#### **Other misconduct in relation to postal, pre-poll or declared institution voting**

91. A person other than the elector must not mark or purport to mark a vote on a postal or pre-poll ballot-paper or a ballot-paper handed to an elector at a declared institution unless the person in so doing is acting under clause 114 (Assistance to certain electors).

Maximum penalty: 10 penalty units.

#### **Breach of secrecy**

92. An electoral official or scrutineer who knows how a particular elector has voted must not disclose that knowledge except if required to do so under this Act or any other legislation.

Maximum penalty: 5 penalty units.

#### **Obstruction of electoral officials**

93. A person must not hinder or obstruct an electoral official or scrutineer in the exercise or performance of his or her functions.

Maximum penalty: 10 penalty units.

#### **False answers to questions put by electoral officials**

94. A person who, believing 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: 100 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 the office of a returning officer.

Maximum penalty: 0.5 penalty units.

**Persons present in polling-place**

**96. (1)** A person must not remain in a polling-place during polling longer than is necessary for him or her to vote, or within 15 minutes before polling commences, 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 another electoral official to leave the polling-place is guilty of an offence.

**(3)** This clause does not prevent:

- (a) the Electoral Commissioner, and persons authorised by the Electoral Commissioner, the returning officer and other electoral officials, the scrutineers, and police officers 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.

Maximum penalty: 5 penalty units.

**Misconduct by scrutineers**

**97. (1)** A scrutineer must not within a polling-place, pre-poll voting office, declared institution or mobile booth, while polling is in progress:

- (a) interfere with or influence an elector; or
- (b) communicate with any person except as necessary to carry out the scrutineer's functions.

**(2)** A scrutineer must obey the lawful directions of an electoral official.

**(3)** A scrutineer does not breach subclause (1) merely by wearing the badge or emblem of a candidate or political party.

Maximum penalty: 10 penalty units.

**Misconduct at polling-place or pre-poll voting office**

**98.** A person must not, without lawful authority:

- (a) remove a ballot-paper from a polling-place or pre-poll voting office; or
- (b) enter a space set aside for voting in a polling-place while a person is in that space; or



- (c) remain in a space set aside for voting in a polling-place or at a pre-poll voting place for a longer period than is necessary for the purpose of marking his or her ballot-paper; or
- (d) obstruct or unnecessarily delay the proceedings at a polling-place or pre-poll voting office.

Maximum penalty: 10 penalty units.

#### **Improperly 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 person intended to sign it;
- (c) sign as witness an electoral paper unless the person has seen the person sign it whose signature he or she purports to witness;
- (d) write a name which is not his or her own name on an electoral paper as his or her own name.

Maximum penalty: 10 penalty units.

#### **Forging or uttering electoral papers**

**100.** A person must not forge an electoral paper or utter a forged electoral paper, knowing it to be forged.

Maximum penalty: 10 penalty units.

#### **Stuffing ballot-boxes**

**101. (1)** A person must not place in a ballot-box a ballot-paper which the person knows has not been lawfully issued to an elector.

**(2)** An elector must not place in the ballot-box a paper other than the ballot-paper issued to him or her.

Maximum penalty: 10 penalty units.

#### **Opening sealed packages**

**102.** A person must not intentionally break open a sealed package of ballot-papers or other electoral material unless authorised to do so by the returning officer or the Electoral Commissioner or required or authorised to do so by or under any legislation or direction of a court.

Maximum penalty: 10 penalty units.

**Bribery**

**103.** A person must not, in relation to an election under the Act, or an elector at such an election, do any of the things set out in section 147 of the Parliamentary Electorates and Elections Act 1912.

Maximum penalty: 100 penalty units.

**Treating**

**104.** A candidate at an election must not, in relation to an election under the Act, do any of the things set out in section 149 of the Parliamentary Electorates and Elections Act 1912.

Maximum penalty: 100 penalty units.

**Intimidation**

**105.** A person must not, in relation to an election under the Act, or an elector at such an election, do any of the things set out in section 151 of the Parliamentary Electorates and Elections Act 1912.

Maximum penalty: 100 penalty units.

**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 representation 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: 50 penalty units in the case of a body corporate and 10 penalty units in the case of a person other than a body corporate.

(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.

#### **Exhibition of posters**

**107. (1)** A person must not, in relation to an election under the Act, do any of the things set out in section 151B of the Parliamentary Electorates and Elections Act 1912.

Maximum penalty: 2.5 penalty units.

(2) The reference in that section to “this Act” is taken to be a reference to the Local Government Act 1993.

(3) The returning officer, an electoral official authorised for the purposes of this clause by a returning officer, or any member of the police force may remove or cause to be removed any poster exhibited or posted up in contravention of this clause. Such a poster when so removed is to be confiscated and is to be destroyed.

#### **Name and address on advertisements etc.**

**108. (1)** A person must not print, publish or distribute matter (for example an advertisement, “how to vote” card, handbill, pamphlet, poster or notice) containing electoral matter (other than the announcement in a newspaper of the holding of a meeting), without legibly showing on the matter:

- (a) the name and address of the person on whose instructions the matter was printed; and
- (b) the name of the printer and address at which it was printed.

Maximum penalty: 5 penalty units.

(2) If a newspaper contains matter referred to in subclause (1) and the name of the printer of the newspaper and the address at which it was printed appear on the newspaper in accordance with any Act, subclause (1) does not require that name and address to be shown separately on the matter itself.

(3) In this clause, **electoral matter** has the same meaning as in section 151B of the Parliamentary Electorates and Elections Act 1912.

## PART 11—MISCELLANEOUS

### When polling may be adjourned etc.

**109. (1)** When the proceedings for taking the poll at an election are interrupted or obstructed at a polling-place by a riot or open violence, the presiding officer is to adjourn the taking of the poll there to the following day. If necessary the presiding officer is to adjourn the poll from day to day until the interruption or obstruction has ceased.

(2) If the presiding officer fails to open the polling at a polling-place for 30 minutes after the time when the polling should have started or if he or she becomes incapable of performing his or her duties after polling has opened, and remains so incapable for a period of 30 minutes or more, the other electoral officials present are to act for the presiding officer and may exercise his or her functions.

(3) If for any reason other than riot or open violence the polling has not been opened at a polling-place on the polling day or if the polling has been opened but from the absence of necessary forms, documents or materials the poll cannot be proceeded with, the presiding officer is to adjourn the polling there to a day not later than 21 days following the polling day. The presiding officer is to cause public notice to be given immediately of the new day.

### Notice of adjournment to returning officer

**110. (1)** If a poll has been adjourned by a presiding officer, the presiding officer is to give notice of that to the returning officer.

(2) In the case of an adjournment at any polling-place, the initial scrutiny and count under clause 76 at the polling-place and the completion of the count under clause 79 in the ward or area where the poll has been adjourned are not to proceed until the adjourned poll has been finally closed.

(3) If a poll has been adjourned at a polling-place, the returning officer must immediately notify the Electoral Commissioner of that fact.

**Votes at adjourned poll**

**111.** If the poll has been adjourned at a polling-place, only those electors who are enrolled for the ward or area in which the polling-place is situated 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 postponed election, even though they show the date originally appointed for the election and not the date to which the election has been postponed; and
- (b) the postal ballot-papers issued by the returning officer on or before or after the day of election originally appointed and received by the returning officer up to the time of the closing of the poll on the new day appointed for the election are to be produced by the returning officer along with the applications for them at the scrutiny and counting of votes; and
- (c) in the application of this Regulation, the new day appointed for the election is taken to be the election day; and
- (d) the ballot-papers of electors who have voted in person in pre-poll voting before the original election day 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 presiding officer 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, the officer, 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.

**Assistance to certain electors**

**114. (1)** If an elector is so disabled or so illiterate that the elector is unable to vote without assistance or if the elector is under a religious obligation not to mark a ballot-paper with his or her own hand, a person appointed by the elector may assist the elector.

(2) The person so appointed must, in the same manner as would be required if he or she were the elector, mark a vote on the ballot-paper (and complete and sign any declaration) according to the instructions of the elector and then fold and return it to an electoral official.

(3) However, if (in any form of voting except postal voting) the elector fails to appoint such a person, the presiding officer must mark a vote on the ballot-paper (and complete and sign any declaration) according to the instructions of the elector and then fold the ballot-paper.

(4) The presiding officer must do that in the presence of such scrutineers as are present, or, if there are no scrutineers present, either in the presence of another electoral official or (if the elector so wishes), in the presence of a person appointed by the elector.

#### **Signature to electoral paper**

**115. (1)** An electoral paper which is required to be signed by a person is to be signed by that person with his or her personal signature.

(2) If a person who is unable to sign his or her name in writing makes his or her mark as his or her signature to an electoral paper, the mark is taken to be his or her personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness.

(3) Nothing in this clause authorises a person to sign an electoral paper by a mark or otherwise than in his or her own handwriting in cases where this Regulation requires him or her to sign the electoral paper in his or her own handwriting.

(4) A person must not make the signature of any other person on an electoral paper.

Maximum penalty: 10 penalty units.

#### **Check on double-voting**

**116.** The Electoral Commissioner is to have the rolls checked to determine which electors' names (if any) have been marked more than once.

#### **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.

(3) The returning officer is to forward the parcels to the Electoral Commissioner.

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

#### **Access to election materials**

**118.** The Electoral Commissioner is to allow any person to inspect any of the election materials kept under clause 117, except the parcels of marked ballot-papers.

#### **Application of Election Funding Act 1981**

**119.** The manner in which the Election Funding Act 1981 is to be applied in relation to elections under the Act is modified or provided for in Schedule 6.

**Note.** Under section 296 (6) of the Act, the Electoral Commissioner may determine any matter not provided for by the Act or the regulations made under the Act. Such determinations might relate to some of the areas originally provided for under the repealed Local Government Act 1919 (but now not covered in detail under the new Local Government Act 1993), such as:

- the provision, inspection and security of ballot-boxes
- the provision and security of rolls and ballot-papers.

### **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.** The election of the members of a county council is to be in accordance with Schedule 4.

**Constitutional referendums and council polls**

**122.** Parts 1–11 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.

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**SCHEDULE 1—COUNTING OF VOTES UNDER OPTIONAL PREFERENTIAL SYSTEM**

(Cl. 79)

**Definitions**

1. 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**

2. If only one candidate is to be elected, the votes are to be counted and the result of the election ascertained by the returning officer, or under his or her supervision, 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 declared 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 declared elected.

**Two candidates to be elected**

3. If 2 candidates are to be elected, the votes are to be counted and the result of the election ascertained by the returning officer, or under his or her supervision, in accordance with the following procedures:

- (a) One of the candidates is elected in accordance with clause 2 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 2 (d), (e) and (f) of this Schedule, until one candidate has received an absolute majority of votes.
- (e) Clause 2 (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**

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

(2) The third and every subsequent candidate is elected in the manner provided in clause 3 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**

5. (1) In the process of counting under clause 2, 3 or 4 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 him or her is regarded as exhausted if there is not indicated upon it a next preference for one 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**

6. (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**

7. 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 declared elected.

**SCHEDULE 2—COUNTING OF VOTES UNDER  
PROPORTIONAL SYSTEM**

(Cl. 79)

**Method of counting votes**

1. This Schedule sets out the method of counting votes according to the proportional system. The counting is to be carried out under the supervision of the returning officer.

**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. 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 declared 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 any 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 declared 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 electors' 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 declared elected are declared 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 declared 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 declared 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 declared 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 declared 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 declared excluded by lot and the other is declared 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.

**Check counting**

14. (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**

15. (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—ELECTION OF MAYOR BY COUNCILLORS**

(Cl. 120)

### **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, and 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.

### **Election**

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

(2) If more than one councillor is nominated, the election is to proceed by secret ballot.

**Count—2 candidates**

4. (1) At such a ballot, if there are only 2 candidates, the candidate with the higher number of votes is to be declared elected.

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

**Count—3 or more candidates**

5. (1) At such a ballot, 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) Clauses 4 and 6 of this Schedule then apply 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 this clause, 2 or more candidates are tied on the lowest number of votes, the one to be excluded is to be chosen by lot.

**Choosing by lot**

6. 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**

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

- (a) to be announced to the councillors by the returning officer; and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Country Councils Associations of New South Wales.

**SCHEDULE 4—ELECTION OF MEMBERS OF COUNTY COUNCILS**

(Cl. 121)

**PART 1—GENERAL****When elections to be held**

1. (1) The first ordinary election of members of a county council is to be held within 2 months of its establishment.

(2) Subsequent ordinary elections are to be held within 2 months after each ordinary election of councillors under Chapter 10 of the Act.

(3) A by-election to fill an office vacated by a member is to be held within 2 months after the occurrence of the vacancy.

(4) No such by-election is to be held if the vacancy occurs after an ordinary election of councillors under Chapter 10 of the Act and before an ordinary election of members of a county council.

**Notification of vacancy**

2. (1) The general manager of a county council is to notify the Director-General of the occurrence of a vacancy in the office of a member of a county council.

(2) The general manager is to do that within 7 days of the occurrence of the vacancy.

**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) is to be in writing delivered or sent to the returning officer; and
- (c) is not valid unless the nominee has indicated consent to the nomination in writing.

**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, the 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.

**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 announced on the spot to the councillors by the returning officer; and
- (b) to be delivered or sent to the general manager of the county council and the Director-General.

**PART 3—JOINT ELECTORATE****Division 1—Preliminary****Application of Part**

10. This Part applies to the election of members of a county council whose electorate comprises the whole or parts of more than one area.

**Definitions**

11. In this Part:

close of nominations, in relation to an election, means the time and date for the close of nominations in the election, fixed by a notification under clause 14 of this Schedule;

close of the ballot, in relation to an election, means the time and date for the close of the ballot in the election, fixed by a notification under clause 14 of this Schedule;

general manager means the general manager of the county council in respect of which an election is being held;

qualified elector, in relation to a county council electorate, means a councillor of a constituent council within that electorate in the county council's area of operations.

**Division 2—Calling of election****Preferential system**

12. An election under this Part is to be by the optional preferential system.

**Returning officer**

13. The returning officer is to be the general manager or a person appointed by the general manager (or, if no general manager has been appointed, a person appointed by the Minister).

**Calling of election**

14. (1) The returning officer must, as soon as practicable after an ordinary election of councillors or as soon as practicable after being notified in writing of circumstances requiring that an election be held under clause 1 (1) or (3) of this Schedule, cause to be given to each of the qualified electors a notification:

(a) stating that an election is to be held; and

- (b) inviting nominations; and
- (c) fixing the close of nominations; and
- (d) fixing the close of the ballot.

(2) The close of nominations is to be not less than 21 days nor more than 28 days after an ordinary election of councillors or after the returning officer is notified in writing of circumstances requiring that an election be held under clause 1 (1) or (3) of this Schedule.

(3) The close of the ballot is to be not less than 21 days after the close of nominations.

### **Division 3—Nominations etc.**

#### **Nominations for elected member**

15. (1) A nomination of a candidate at an election must contain the full names, full residential addresses and signatures of not less than 2 nominators, each being a qualified elector for the county council electorate in respect of which the election is to be held.

(2) The nomination must also contain the full name, the 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 an informal nomination or a nomination received by the returning officer after the close of nominations.

#### **Withdrawal of nomination**

16. A candidate may withdraw from an election by notice in writing delivered to the returning officer at any time before the close of nominations.

#### **Uncontested election**

17. If, by the close of nominations, the number of candidates is not greater than the number of vacancies, those candidates are elected.

#### **Contested election**

18. If, by the close of nominations, the number of candidates is greater than the number of vacancies, a ballot is to be held.

**Division 4—The ballot****Printing of ballot-papers, directions to voters etc.**

19. (1) If a ballot is to be held, the returning officer:
  - (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure prescribed by clause 30 of this Regulation; and
  - (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be forwarded to each qualified elector.
- (2) The ballot-paper must contain:
  - (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square opposite each name; and
  - (b) if, in the opinion of the returning officer, the names of 2 or more candidates are so similar as to cause confusion, such other matter as will, in the opinion of the returning officer, distinguish between those candidates; and
  - (c) the directions as to the manner in which the vote is to be recorded, and the ballot-paper returned to the returning officer, required by subclause (3) or (4) and such other directions as the returning officer considers appropriate.
- (3) If only 1 candidate is to be elected, the directions to voters must include a direction that:
  - (a) the voter must record a vote for at least one candidate by placing the number "1" in the square opposite the name of the candidate for whom the voter wishes to give his or her first preference; and
  - (b) the voter may 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 the voter's preferences for them.
- (4) If 2 or more candidates are to be elected, the directions to voters must include directions to the effect that:
  - (a) the voter must record a vote for at least the number of candidates which corresponds to the number of vacancies to be filled by placing the sequence of numbers corresponding to the number of vacancies to be filled in the squares opposite the names of the candidates in the order of the voter's preferences for them; and



- (b) the voter may vote for additional candidates by placing consecutive numbers, beginning with the number corresponding to the number of vacancies to be filled, plus one, in the squares opposite the names of those additional candidates in the order of the voter's preferences for them.

**Distribution of ballot-papers**

- 20. The returning officer must forward to each qualified elector:
  - (a) a ballot-paper initialled by the returning officer or a person authorised by the returning officer in that behalf; and
  - (b) an unsealed 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 the name, address and signature.

**Duplicate ballot-papers**

21. (1) If any person to whom a ballot-paper has been forwarded satisfies the returning officer by statutory declaration:

- (a) that the ballot-paper has been spoilt, lost or destroyed; and
- (b) that the person has not already voted at the election to which the ballot-paper relates,

the returning officer may, at any time before the close of the ballot, forward to the voter a new ballot-paper and envelope.

(2) The returning officer must maintain a record of all ballot-papers forwarded to voters under this clause.

**Recording of vote**

- 22. A qualified elector who wishes to vote at the election:
  - (a) must record his or her 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 forwarded with the ballot-paper; and
  - (c) must seal the envelope; and

- (d) must state his or her full name and full address on, and sign, the back of the envelope; and
- (e) must return the envelope to the returning officer so as to be received by the returning officer before the close of the ballot.

### **Division 5—The scrutiny**

#### **Receipt of ballot-papers**

23. (1) In any ballot, the returning officer must reject any envelope purporting to contain a ballot-paper if the envelope:

- (a) is received after the close of the ballot; or
- (b) is unsealed,

without opening the envelope or inspecting the ballot-paper.

(2) On receipt, before the close of the ballot, of an envelope purporting to contain a ballot-paper, the returning officer must examine the name on the back of the envelope and:

- (a) if satisfied that a person of that name is a qualified elector, must accept the ballot-paper in that envelope for scrutiny without opening the envelope; or
- (b) if not so satisfied, or if a name, address or signature does not appear on the back of the envelope, must reject any ballot-paper in the envelope without opening the envelope.

(3) If it appears to the returning officer that the signature appearing on the back of any envelope referred to in subclause (2) is not the signature of the person whose name and address appear on the back of the envelope, the returning officer may make such inquiries as the returning officer thinks fit and if, after making those inquiries, the returning officer is satisfied that the signature is not the signature of that person, must reject any ballot-paper in the envelope without opening the envelope.

#### **Ascertaining result of ballot**

24. The result of the ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

#### **Scrutineers**

25. Each candidate is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at the scrutiny of votes in accordance with section 90 of the Parliamentary Electorates and Elections Act 1912.

**Scrutiny of votes**

26. (1) At the scrutiny of votes, a ballot-paper must be rejected if it is informal.

(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) The scrutiny of votes in a ballot is to be conducted as follows:

- (a) the returning officer is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny, other than any envelope (purporting to contain a ballot-paper) rejected under clause 23 (3) of this Schedule;
- (b) the returning officer is then to open each such envelope, extract the ballot-paper and, without unfolding it, place it in a securely fastened ballot-box;
- (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unfasten the ballot-box and remove the ballot-papers;
- (d) the returning officer is then to examine each ballot-paper and reject those which are informal;
- (e) the returning officer is then to proceed to count the votes and ascertain the result of the election in accordance with Schedule 1 of this Regulation.

**Notification of result of election**

27. As soon as practicable after candidates have been elected, the returning officer must notify the candidates, the general manager of each council participating in the joint election, the general manager of the county council and the Director-General in writing of the names of the candidates who have been elected.

**Division 6—Miscellaneous****Voting not compulsory**

28. Voting at an election of members of a county council under this Part is not compulsory.

**Electoral roll**

29. (1) For the purpose of preparing a roll of qualified electors for the purposes of this Part, the returning officer may (by notice in writing sent to the general managers of the councils participating in the joint election

of the county council) require the general managers to furnish to the returning officer, within such time as may be specified in the notice, a list of the councillors for the time being of those councils.

(2) A general manager of a council to whom such a notice is sent must comply with the requirements of the notice.

#### **Death of candidate**

30. If a candidate who is nominated for election to a county council dies before the day when the poll at a contested election closes, the election fails in respect of the county council.

#### **Validity of elections**

31. (1) An election is not invalid just because:

- (a) there was a formal defect or error in or relating to the election, if the election was held substantially in accordance with this Regulation; or
- (b) there was a defect in the appointment of the returning officer.

(2) A proclamation of the Governor to the effect that a specified irregularity does not invalidate an election is conclusive as to the matter stated in the proclamation.

#### **Lapsed or void election**

32. (1) If an election for the office of member of a county council is not held when it is due, fails or is later declared void:

- (a) the holder of the office at the time when the election should have been held or when the election failed (or, in the case of a void election, if there is no such holder, the candidate purporting to have been elected at the void election), holds the office as if duly elected until an election is held under paragraph (b); and
- (b) the returning officer is to hold another election as if a casual vacancy had occurred in the office.

(2) An election held for the purposes of this clause is as valid as it would have been if it had been held at the time originally appointed for the purpose.

**Security of election materials**

33. (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.

(3) The returning officer is to forward the parcels to the Electoral Commissioner.

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

**Decision of returning officer final**

34. If the returning officer is by this Schedule permitted or required 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.

**Delegation of returning officer's functions**

35. The returning officer may delegate to any member of staff of the county council any of the returning officer's functions under this Part.

**Costs of election to be borne by the county council**

36. The costs of conducting an election under this Part are to be borne by the county council.

**Offences**

37. A person must not:

- (a) vote more than once in any election under this Part; or
- (b) vote in an election under this Part at 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):
  - (i) to the returning officer in connection with an election under this Part; or
  - (ii) in any document that the person furnishes for the purposes of such an election.

Maximum penalty: 5 penalty units.

**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), 80, 82, 120 and 121;
- (c) Schedules 1–4 and Forms 1–14.

2. Clause 85 and Form 16 of this Regulation do not apply to council polls under Part 3 of Chapter 4 of the Act.

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

- (a) 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;
- (b) the reference in clause 79 (e) to the candidates is taken to be a reference to the mayor;
- (c) a reference in clause 81 (1) or (2) to a candidate is taken to be a reference to a person entitled to vote in the referendum or poll;
- (d) clause 81 (2) (d) and (4) are taken to be omitted;
- (e) clause 81 (3) (a) is taken to be omitted and the following paragraph inserted instead:

(a) a request is received under subclause (1) (a); or

- (f) 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.

- (g) 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 a 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) The mayor may appoint scrutineers to be present at each pre-poll voting office, at each polling-place, at each declared institution and at the count.
  - (e) A poll-paper at a constitutional referendum or council poll is formal if:
    - (i) the word “Yes” or the word “No” is written in or near the space provided opposite the question, or alternatively, in the returning officer’s opinion, the voter has clearly indicated his or her intention; and
    - (ii) the poll-paper is initialled on the back by the returning officer or presiding officer; and
    - (iii) the poll-paper does not contain a mark or writing which, in the returning officer’s opinion, would enable the voter to be identified.
  - (f) A poll-paper is informal if it does not satisfy paragraph (e) and is to be rejected at the scrutiny.
-

---

**SCHEDULE 6—APPLICATION OF ELECTION FUNDING  
ACT 1981**

(Cl. 119)

1. The Election Funding Act 1981, as applied by the Local Government Act 1993, is to be read as if section 52 (2) and any references to groups were omitted.

2. The Election Funding Act 1981, as applied by the Local Government Act 1993, is to be read as if section 93 (3) (b) were omitted and the following paragraph were inserted instead:

(b) in any other case where the Authority considers that compliance would not be appropriate.

3. (1) For the purposes of section 94 of the Election Funding Act 1981, as applied by the Local Government Act 1993, the prescribed manner of vouching for political contributions received by a candidate is by the official agent of the candidate lodging with the declaration:

(a) the receipt book containing the triplicate forms of each receipt issued in accordance with clause 22 of the Election Funding Regulation 1981 and containing the original, duplicate and triplicate of each unused receipt; and

(b) the acknowledgment book containing the triplicate forms of each acknowledgment issued in accordance with clause 23 of the Election Funding Regulation 1981 and containing the original, duplicate and triplicate of each unused acknowledgment.

(2) For the purposes of section 94 of the Election Funding Act 1981, as applied by the Local Government Act 1993, the prescribed manner of vouching for the expenditure incurred on:

(a) election campaign advertising by radio or television or in newspapers, periodicals or cinemas; or

(b) on printed election campaign material of a kind not referred to in paragraph (a),

is by the registered agent for the party or candidate attaching to the declaration:

(c) the originals of either the accounts or receipts (or a mixture of both) issued in respect of the expenditure; and

(d) where the expenditure is incurred in respect of:

(i) an advertisement by radio or television or in a cinema—a copy of the text, if any, of each advertisement; or

(ii) an advertisement in one or more newspapers or periodicals—a full page of a newspaper or periodical on which the advertisement is displayed and a statement



identifying the advertisement and listing the name of each newspaper and periodical in which that advertisement was published, the size of the advertisement and the date of each publication; or

(iii) printed election campaign material of a kind not referred to in subparagraph (i) or (ii)—a copy of each printed item.

(3) An account or receipt shall be disregarded for the purposes of subclause (2) if it does not set out such particulars as are sufficient to identify clearly the nature of the expenditure to which it relates.

4. Clauses 12–31 and Forms 2 and 3 of the Election Funding Regulation 1981 apply in relation to elections under the Local Government Act 1993:

- (a) as if a reference in any of those provisions to a party were a reference to a party registered under that Act; and
- (b) as if the reference in clause 22 of the Election Funding Regulation 1981 to clause 11 (1) of that Regulation were a reference to clause 3 (1) of this Schedule; and
- (c) as if a reference to a group in any of those provisions were omitted.

**SCHEDULE 7—FORMS**

**Form 1**

(Cl. 13)

**REQUEST FOR OMISSION OR REMOVAL OF PLACE OF LIVING FROM ROLL**

To the Electoral Commissioner

In reference to my enrolment in ..... (ward)

..... (local government area)

I, ..... (family name or surname in BLOCK letters)

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

of ..... (full address)

request that the following matter that would disclose or discloses my place of living be omitted or removed from the residential roll and the roll of electors for the abovementioned area:

.....  
.....

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)*

**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)

.....  
(date)

.....  
(date)

.....  
(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

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

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

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

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

\* Cross out what does not apply.

Note. Sections 274, 275, 276 and 283 of the Local Government Act 1993 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 registered party 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) of (here specify ward and area, or area alone, as appropriate).

I request that the registered name or 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 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

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

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

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

**Note.** Sections 274, 275, 276 and 283 of the Local Government Act 1993 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

Note. 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-papers)*

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---

*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 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)*

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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)*

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 if not applicable.

Application No. ....

**Form 6**

(Cl. 39 (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 local government area of

.....  
(Please use BLOCK letters)

My name is

Surname ..... (in BLOCK letters)

All given names .....

I am entitled to vote at elections in the abovementioned ..... \*ward of ..... (area).

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:

Flat/House No. .... Street/Road .....

Suburb/Town ..... Postcode .....



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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 whose actual 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 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 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 hereby apply to be registered as a general postal voter.

\*I attach the medical practitioner's certificate.

.....  
(signature of applicant)

.....  
(address)

.....  
(date)

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  
(if applicable))

.....

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)

.....  
(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 of or above the age of 18 years 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 inquiry, that the statements contained in the  
 declaration are true.

.....  
*(signature of witness)*

.....  
*(address of witness)*

.....  
*(date)*

Application No. ....

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.

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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;

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\*(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

(CI. 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 .....

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.

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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 in this election.

I declare that the information shown above is true.

Signature of elector .....
Polling-place .....
Ward .....
Area .....
Date .....

Form 12

(Cl. 71)

VOTING WHERE NAME OMITTED FROM ROLL

To the returning officer ..... (ward)
..... (local government area)
I, ..... (family name or surname in BLOCK letters)
..... (other names)
of ..... (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 .....

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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

(C1. 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)

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Form 14

(Cl. 76)

ACCOUNT OF BALLOT-PAPERS:

..... POLLING-PLACE

To the returning officer, ..... 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

Votes under section 305 of the Act

Total:

Postal ballot-papers delivered up and cancelled

.....

(presiding officer)

Form 15

CONSTITUTIONAL REFERENDUM OR COUNCIL POLL PAPER

(Sch. 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
------	------	-------------

(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)*  
..... *(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)*



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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)  
 ..... (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 at.

.....  
 (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.

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**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)

**NOTE**

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99. Improperly witnessing electoral papers
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## PART 11—MISCELLANEOUS

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## PART 12—MAYORS, COUNTY COUNCILS AND REFERENDUMS

- 120. Election of mayors by councillors
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## SCHEDULE 1—COUNTING OF VOTES UNDER OPTIONAL PREFERENTIAL SYSTEM

## SCHEDULE 2—COUNTING OF VOTES UNDER PROPORTIONAL SYSTEM

## SCHEDULE 3—ELECTION OF MAYOR BY COUNCILLORS

## SCHEDULE 4—ELECTION OF MEMBERS OF COUNTY COUNCILS

## SCHEDULE 5—CONSTITUTIONAL REFERENDUMS AND COUNCIL POLLS

## SCHEDULE 6—APPLICATION OF ELECTION FUNDING ACT 1981

## SCHEDULE 7—FORMS

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**EXPLANATORY NOTE**

The object of this Regulation is to complement Chapters 4 and 10 of the Local Government Act 1993 with provisions relating to:

- (a) the conduct of constitutional referendums and council polls (under Part 3 of Chapter 4 of the Act);
- (b) the conduct of elections of members of county councils (under section 390 (3) of the Act);
- (c) the conduct of elections of councillors and mayors (under Chapter 10 of the Act);
- (d) the application of the Election Funding Act 1981 (under Part 8 of Chapter 10 of the Act).

In relation to elections, referendums and polls, the Regulation provides machinery provisions for:

- electoral rolls
- notices
- nominations
- polling procedures
- scrutiny and counting
- forms.

The Regulation also provides for offences.

The Regulation substantially applies also to elections etc. under the City of Sydney Act 1988 (by virtue of section 3 of that Act), though in this regard it is qualified by the specific terms of that Act and certain express provisions in the Regulation itself.

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