

1993—No. 454

## PHARMACY ACT 1964—REGULATION

(Pharmacy (Elections) Regulation 1993)

NEW SOUTH WALES



*[Published in Gazette No. 97 of 1 September 1993]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Pharmacy Act 1964, has been pleased to make the Regulation set forth hereunder.

RON PHILLIPS  
Minister for Health.

---

### PART 1—PRELIMINARY

#### Citation

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

#### Commencement

2. This Regulation commences on 1 September 1993.

#### Definitions

3. In this Regulation:

“**close of nominations**”, in relation to an election, means the final time and date fixed by the returning officer for the close of nominations in the election;

“**close of the ballot**” in relation to an election, means the final time and date fixed by the returning office for the close of the ballot in the election;

**“Director-General”** means the Director-General of the Department of Health;

**“election”** means an election of a person to hold office as a member of the Pharmacy Board of New South Wales, as referred to in section 6 (2) (a) of the Act;

**“registered pharmacist”** means a person who is registered as a pharmacist under the Act;

**“the Act”** means the Pharmacy Act 1964.

### **Returning officer**

4. (1) The Electoral Commissioner for New South Wales is the returning officer for the purposes of this Regulation.

(2) The Electoral Commissioner may delegate to any member of staff of the State Electoral Office any of the returning officer’s functions under this Regulation, other than this power of delegation.

## **PART 2—CALLING OF ELECTION**

### **Notice of election**

5. (1) As soon as practicable after being notified by the Minister that an election is required to be held, the returning officer:

- (a) must cause to be published in the Gazette, and in at least 1 daily newspaper circulating throughout New South Wales, a notice calling for the nomination of candidates for the election; and
- (b) must notify the Director-General in writing that an election is to be held and of the times and dates for the close of nominations and the close of the ballot, as stated in the notice published under paragraph (a).

(2) The notice referred to in subclause (1) (a):

- (a) must state that an election is to be held; and
- (b) must call for the nomination of candidates; and
- (c) must fix the times and dates for the close of nominations and the close of the ballot; and
- (d) must state the places where nominations may be lodged.

(3) The close of nominations is to be not earlier than 21 days, and not later than 28 days, after the date on which the notice is first published.

(4) The close of the ballot is to be not earlier than 28 days after the close of nominations.

**Extension of time**

6. (1) The returning officer may, by a notice in a form similar to, and published in the same manner as, the notice calling for the nomination of candidates, postpone (for a period not exceeding 14 days) the close of nominations or the close of the ballot.

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

**PART 3—NOMINATIONS****Nomination of candidates**

7. (1) A nomination must contain the full names, residential addresses and signatures of not less than 2 nominators, each being a registered pharmacist.

(2) The returning officer must reject any nomination received by the returning officer after the close of nominations.

**Withdrawal of nomination**

8. A candidate who has been nominated in an election may, by notice in writing given to the returning officer, withdraw the nomination at any time before the close of nominations.

**Uncontested election**

9. If, by the close of nominations, the number of persons duly nominated as candidates is the same as or fewer than the number of persons to be elected, those persons are elected.

**Contested election**

10. If, by the close of nominations, the number of persons duly nominated as candidates is more than the number of persons to be elected, a ballot is to be held.

**Candidate information sheet**

11. (1) A candidate may, at any time before the close of nominations, submit to the returning officer a statutory declaration containing information intended for inclusion in a candidate information sheet.

(2) If a ballot is to be held, the returning officer is to draw up a candidate information sheet consisting of the information in the statutory declarations submitted by candidates.

(3) The returning officer may, in drawing up a candidate information sheet, omit so much of the information contained in a candidate's statutory declaration as the returning officer considers:

- (a) to be false or misleading; or
- (b) to be inappropriate for inclusion in the candidate information sheet; or
- (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.

#### **PART 4—THE BALLOT**

##### **Printing of ballot-papers, directions to voters etc.**

**12. (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 for the purposes of section 82A of the Parliamentary Electorates and Elections Act 1912; and
- (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be sent to each registered pharmacist; and
- (c) if a candidate information sheet has been duly drawn up, must cause sufficient copies of it to be printed so that a copy can be sent to each registered pharmacist.

**(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 the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates; and
- (c) such directions as to the manner in which a vote is to be recorded as are required by subclause (3); and
- (d) such further directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.

**(3)** The directions to voters must include the following:

- (a) that 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;

- (b) that the voter may, if the voter so wishes, vote for additional candidates by placing consecutive numbers (beginning with the number “2”) in the squares opposite the names of the additional candidates in the order of the voter’s preferences for them.

### **Distribution of ballot-papers**

**13.** The returning officer must, as soon as practicable after the printing of the ballot-papers, send to each registered pharmacist:

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

### **Duplicate ballot-papers**

**14. (1)** The returning officer may, at any time before the close of the ballot, issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:

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

**(2)** The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

### **Recording of vote**

**15.** In order to vote in an election, a registered pharmacist:

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

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

## **PART 5—THE SCRUTINY**

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

**16. (1)** The returning officer must reject (without opening it) any envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.

**(2)** The returning officer must examine the name on the back of each remaining envelope and, without opening the envelope:

- (a) must accept the ballot-paper in the envelope, if satisfied that a person of that name is a registered pharmacist; or
- (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.

**(3)** The returning officer may reject a ballot-paper without opening the envelope if, after making such inquiries as the returning officer thinks fit:

- (a) the returning officer is unable to identify the signature on the back of the envelope; or
- (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

### **Ascertaining result of ballot**

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

### **Scrutineers**

**18. (1)** Each candidate is entitled to appoint a scrutineer to represent the candidate at all stages of the scrutiny.

**(2)** A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

**Scrutiny of votes**

**19. (1)** 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;
- (b) the returning officer is then to open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box;
- (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers;
- (d) the returning officer is then to examine each ballot-paper and reject those that are informal;
- (e) the returning officer is then to proceed to count the votes and ascertain the result of the election.

**(2)** At the scrutiny of votes, a ballot-paper must be rejected as informal:

- (a) if it is neither initialled by the returning officer (or a person authorised by the returning officer) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the Parliamentary Electorates and Elections Act 1912; or
- (b) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it; or
- (c) if it has not been completed in accordance with the directions shown on it.

**(3)** However, a ballot-paper is not to be rejected as informal:

- (a) merely because of any mark or writing on it which is not authorised or required by this Regulation (unless it is a mark or writing referred to in subclause (2) (b)) if the returning officer considers that the voter's intention is clearly indicated on the ballot-paper; or
- (b) if the voter has recorded a vote by placing in a square the number "1":
  - (i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate; or
  - (ii) merely because there is a break in the order of preferences recorded on the ballot-paper.

**Counting the votes**

**20. (1)** If only one person is to be elected:

- (a) the method of counting the votes is to be as set out in Part 2 of the Seventh Schedule to the Constitution Act 1902; and
- (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is taken to be a reference to the returning officer under this Regulation.

**(2)** If 2 or more persons are to be elected:

- (a) the method of counting the votes is to be as set out in Part 2 of the Sixth Schedule to the Constitution Act 1902; and
- (b) for the purpose of applying the provisions of that Part to the election:
  - (i) a reference in those provisions to the Council returning officer is taken to be a reference to the returning officer under this Regulation; and
  - (ii) the quota referred to in those provisions is to be determined by dividing the number of first preference votes for all candidates by 1 more than the number of persons to be elected, and by increasing the number so obtained (disregarding any remainder) by 1.

**Notification of result of election**

**21.** As soon as practicable after the votes have been counted, the returning officer:

- (a) must notify the Minister in writing of the name or names of the candidate or candidates elected; and
- (b) must cause notice of the election of the candidate or candidates to be published in the Gazette.

**PART 6—MISCELLANEOUS****Returning officer's decision final**

**22.** If the returning officer is by this Regulation permitted or required to make a decision on any matter relating to the taking of a ballot, the decision of the returning officer on that matter is final.



**Death of candidate**

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

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

**Offences**

**24.** A person must not:

- (a) vote, or attempt to vote, more than once in an election; or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote.

Maximum penalty: 2 penalty units.

---

## TABLE OF PROVISIONS

## PART 1—PRELIMINARY

- 1. Citation
- 2. Commencement
- 3. Definitions
- 4. Returning officer

## PART 2—CALLING OF ELECTION

- 5. Notice of election
- 6. Extension of time

## PART 3—NOMINATIONS

- 7. Nomination of candidates
- 8. Withdrawal of nomination
- 9. Uncontested election
- 10. Contested election
- 11. Candidate information sheet

## PART 4—THE BALLOT

- 12. Printing of ballot-papers, directions to voters etc.
- 13. Distribution of ballot-papers
- 14. Duplicate ballot-papers
- 15. Recording of vote

**PART 5—THE SCRUTINY**

16. Receipt of ballot-papers
17. Ascertaining result of ballot
18. Scrutineers
19. Scrutiny of votes
20. Counting the votes
21. Notification of result of election

**PART 6—MISCELLANEOUS**

22. Returning officer's decision final
  23. Death of candidate
  24. Offences
- 

**EXPLANATORY NOTE**

The object of this Regulation is to make provision with respect to the election of members to the Pharmacy Board. The provisions of this Regulation replace those of the Pharmacies Regulations which are repealed by the Pharmacies (General) Regulation 1993. The new Regulation contains provisions with respect to the following matters:

- (a) the calling of elections (Part 2);
- (b) the nomination of candidates for an election (Part 3);
- (c) the conduct of the ballot in an election (Part 4);
- (d) the counting of the votes in an election, in accordance with an optional preferential system (Part 5);
- (e) other matters of a minor, consequential or ancillary nature (Parts 1 and 6).

This Regulation is made under the Pharmacy Act 1964, including section 38 (the general regulation making power) and section 6.

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

---