



New South Wales

# Nurses (Elections) Regulation (No 2) 1997

under the  
Nurses Act 1991

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

Andrew Refshauge  
Minister for Health

## Explanatory note

The object of this Regulation is to repeal and remake the provisions of the *Nurses (Election) Regulation 1997* for the following purposes:

- (a) to make provision for the election to the Nurses Registration Board of a registered nurse authorised to practice midwifery as required by an amendment to the *Nurses Act 1991* made by the *Nurses Amendment Act 1996* and to make consequential amendments,
- (b) to provide that an accredited nurse cannot be nominated for election to membership of the Nurses Registration Board in more than one class,
- (c) to place responsibility for preparation of rolls for the purposes of elections under the *Nurses Act 1991* on the Registrar of the Nurses Registration Board rather than on the returning officer,
- (d) to make provision for the counting of votes in an election of registered nurses under section 9 (2) (a) of the *Nurses Act 1991* according to the optional multi-preferential system,
- (e) to make other amendments of a minor, ancillary or consequential nature.

This Regulation is made under the *Nurses Act 1991*, including sections 9 (Membership of the Board) and 78 (the general regulation making power). This Regulation comprises or relates to matters of a machinery nature.

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Part 1             Preliminary

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# Nurses (Elections) Regulation (No 2) 1997

## Part 1      Preliminary

### 1 Name of Regulation

This Regulation is the *Nurses (Elections) Regulation (No 2) 1997*.

### 2 Commencement

This Regulation commences on 12 September 1997.

### 3 Definitions

(1) In this Regulation:

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

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

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

*election* means an election conducted under section 9 (2) (a), (b) or (b1) of the Act for the purpose of electing members of the Board.

*returning officer* means:

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

*qualified voter* means:

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

- (b) in relation to an election of an enrolled nurse or enrolled nurse (mothercraft) under section 9 (2) (b) of the Act, a person who is an enrolled nurse or enrolled nurse (mothercraft), and
- (c) in relation to an election of a registered nurse authorised by the Board to practice midwifery under section 9 (2) (b1) of the Act, a person who is a registered nurse.

*the Act* means the *Nurses Act 1991*.

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

#### 4 Notes

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

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Part 2                Elections

Division 1

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## **Part 2        Elections**

### **Division 1    Calling of election**

#### **5    Notice of election**

- (1) As soon as possible after having been notified in writing by or on behalf of the Minister that one or more accredited nurses are required to be elected, the returning officer must cause notice of that fact:
  - (a) to be sent to the Registrar, and
  - (b) to be published in a newspaper circulating generally throughout New South Wales.
  
- (2) The notice to be sent to the Registrar:
  - (a) must state that an election is to be held for the purpose of appointing:
    - (i) one or more registered nurses, or
    - (ii) an enrolled nurse or enrolled nurse (mothercraft), or
    - (iii) a registered nurse authorised by the Board to practice midwifery, and
  - (b) must fix a time and date for the close of nominations.
  
- (3) The notice to be published in the newspaper:
  - (a) must state that an election is to be held for the purpose of appointing:
    - (i) one or more registered nurses, or
    - (ii) an enrolled nurse or enrolled nurse (mothercraft), or
    - (iii) a registered nurse authorised by the Board to practice midwifery, and
  - (b) must specify the number of nurses required to be elected, and
  - (c) must call for nominations of candidates, and
  - (d) must specify the time and date for the close of nominations, and

- (e) must advise where nomination forms may be obtained and where nominations may be lodged, and
  - (f) must specify the qualifications that qualify a person to nominate a candidate.
- (4) The date fixed for the close of nominations must not be earlier than 21 days, or later than 28 days, after the date on which the notice is published in the newspaper.

## **6 Postponement of close of nominations**

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

## **Division 2 Nominations**

### **7 Qualifications for nominating candidates**

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

### **8 Nomination of candidates**

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

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Division 2

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- (3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate, the returning officer may require the Registrar to furnish the returning officer with such information regarding the person as the returning officer may specify.
- (4) The Registrar must comply with such a requirement as soon as practicable.
- (5) A candidate who has been nominated in an election may withdraw the nomination by notice in writing addressed to the returning officer that is forwarded in sufficient time to be received by the returning officer by the close of nominations.
- (6) If a candidate consents to nomination for election in more than one of the classes specified in section 9 (2) (a), (b) and (b1) of the Act and if all but one of the nominations of the candidate are not withdrawn by the close of nominations, the returning officer must reject all nominations of the candidate.

### **9 Uncontested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected in a class, those candidates are or that candidate is taken to have been elected.

### **10 Contested elections**

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

### **11 Candidate information sheets**

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in Form 2, containing information intended for inclusion in a candidate information sheet.



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- (2) If more than the required number of persons have been nominated as candidates by the close of nominations, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.
  - (3) In drawing up a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information contained in a candidate's statutory declaration as the returning officer considers:
    - (a) to be false or misleading, or
    - (b) to be inappropriate for inclusion in the candidate information sheet, or
    - (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.
  - (4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words "NO INFORMATION RECEIVED".
  - (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

### **Division 3 Ballot**

#### **12 Preparation of roll**

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held, the returning officer must cause notice of that fact to be sent to the Registrar.
- (2) The Registrar must provide the returning officer with:
  - (a) a roll of the persons who, in the opinion of the Registrar, are qualified to vote in the election, and
  - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in the roll.

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Part 2 Elections  
Division 3

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- (3) The roll:
- (a) must contain the names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll, and
  - (b) must be certified by the Registrar in accordance with Form 3.
- (4) This clause does not apply to an election held as a consequence of an earlier election that has failed if a roll for the earlier election has already been provided to the returning officer.

### 13 Printing of ballot-papers

- (1) As soon as practicable after the close of nominations in an election, the returning officer:
- (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
  - (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the roll for the election, and
  - (c) if a candidate information sheet has been drawn up, must cause sufficient copies to be printed so that a copy may be sent to each person included in the roll.
- (2) A ballot-paper for an election must contain:
- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
  - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.

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- (3) The directions to voters must include a direction that:
- (a) the voter must record a vote for at least the number of candidates to be elected by placing consecutive numbers (beginning with the number “1” and ending with the number equal to the number of candidates to be elected) in the squares set opposite their names in the order of the voter’s preferences for them, and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number next higher than the number of candidates to be elected) in the square set opposite their names in the order of the voter’s preferences for them.

#### 14 Distribution of ballot-papers

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

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

#### 15 Duplicate ballot-papers

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

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Part 2              Elections

Division 3

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### **16 Recording of votes**

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer, and
- (c) must seal the envelope, and
- (d) must complete the person's full name and address on, and must sign, the back of the envelope, and
- (e) must return the envelope to the returning officer so as to be received before the close of the ballot.

### **Division 4 Scrutiny**

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

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

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

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

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

### **19 Scrutineers**

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

### **20 Scrutiny of votes**

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
- (a) the returning officer must produce unopened the envelopes containing the ballot-papers accepted for scrutiny,
  - (b) the returning officer must then open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
  - (c) when the ballot-papers from all the envelopes so opened have been placed in the ballot-box, the returning officer must then unlock the ballot-box and remove the ballot-papers,
  - (d) the returning officer must then examine each ballot-paper and reject those that are informal,
  - (e) the returning officer must then proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:
- (a) if it is neither initialled by the returning officer (or by a person authorised by the returning officer in that behalf) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or

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Part 2 Elections  
Division 4

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- (b) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it, or
  - (c) if it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper must not be rejected as informal merely because there is any mark or writing on it that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (2) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

### 21 Counting of votes

- (1) If there is only one person to be elected:
- (a) the method of counting the votes so as to ascertain the result of the election is to be as provided in Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and
  - (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.
- (2) If there are 3 persons to be elected, the method of counting the votes is to be according to an optional multi-preferential system in which the first, second and third preference votes (represented by the numbers "1", "2" and "3", respectively, marked on the ballot-paper) are regarded as primary votes.

### 22 Notice of result of election

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

## Part 3      General

### 23    Date of elections

- (1)    An election of members of the Board for the purposes of section 9 (2) (a), (b) or (b1) of the Act is to be carried out on a date determined by the Minister.
- (2)    The first such date determined by the Minister after the date of commencement of this Regulation is to be as near as practicable to 1 December 1997, and the subsequent dates are to be as near as practicable to 1 December in every third year afterwards.

### 24    Decisions of returning officer final

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

### 25    Death of a candidate

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

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

### 26    Offences

A person must not:

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

Maximum penalty: 5 penalty units.

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Part 3            General

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### **27 Repeal**

- (1) The *Nurses (Elections) Regulation 1997* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Nurses (Elections) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.



## Schedule 1 Forms

### Form 1 Nomination of Candidate

(Clause 8)

(Nurses (Elections) Regulation (No 2) 1997)

We nominate .....  
*(name in full)*

of .....  
*(postal address)*

as a candidate for the following election:

.....  
.....  
*(specify the election to which the nomination relates)*

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

Name in full	Address	Signature
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

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

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

Postal address: .....

Postcode: ..... Telephone No.: .....

Date of birth: .....

Dated: ..... Signed: .....

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Schedule 1 Forms

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**Form 2 Statutory Declaration**

(Clause 11)

(Nurses (Elections) Regulation (No 2) 1997)

I, ..... of .....  
do solemnly and sincerely declare that:

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

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

Declared at ..... this  
..... day of ..... 19.....

Before me:

.....  
Justice of the Peace  
.....

(signature)

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

\* Delete whichever is inapplicable.

### Form 3 Certificate

(Clause 12)

(Nurses (Elections) Regulation (No 2) 1997)

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

.....

.....

*(specify the election to which the roll relates)*

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

First entry: No.: .....

Name: .....

Address: .....

Last entry: No.: .....

Name: .....

Address: .....

Dated: ..... Signed: .....