



New South Wales

Local Government (Elections) Regulation 1998

under the
Local Government Act 1993

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ERNIE PAGE. M.P.,
Minister for Local Government

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).

The Regulation substantially applies 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.

This Regulation is made under the *Local Government Act 1993*, including Chapters 4 and 10 of the Act and section 748 (the general regulation-making power).

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

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Explanatory note

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

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Clause 1 Local Government (Elections) Regulation 1998

Part 1 Preliminary

Local Government (Elections) Regulation 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Local Government (Elections) Regulation 1998*.

2 Commencement

This Regulation commences on 1 September 1998.

3 Application of Regulation

- (1) This Regulation (except Part 12 and Schedules 3-6) 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 3-6 apply to other matters as specified in Part 12 (ie the election of a mayor or deputy mayor by councillors, the election of the members of, and the chairperson of, a county council and the conduct of constitutional referendums and council polls).

4 Definitions

- (1) In this Regulation:

declared institution means an institution declared under clause 57.

declared institutions ballot-box means the ballot-box reserved for the receipt of declared institution votes.

electoral official means a person appointed by the returning officer under section 296 (3) of the Act.

Note. An electoral official is appointed to the position of senior deputy returning officer, assistant senior deputy returning officer, deputy returning officer, or clerical assistant.

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 18.

polling day means the day specified under clause 20 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.

section 305 vote means a vote by an elector whose name is not on the roll of electors for an election and who votes under section 305 of the Act.

senior deputy returning officer means, in relation to a polling place, the senior deputy returning officer in charge of the polling place.

tendered vote means a vote tendered under clause 75.

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 8.

5 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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Clause 6 Local Government (Elections) Regulation 1998

Part 2 Administration

Part 2 Administration

6 Electoral official cannot be candidate

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

7 Notice of changes to wards

- (1) If a council divides its area into wards, abolishes all its wards, alters its ward boundaries or names or renames a ward in its area. the general manager of the council must give notice of that fact.
- (2) The notice is to be given:
 - (a) by advertisement in a newspaper circulating generally in the council's area, and
 - (b) in writing displayed at the office of the council, and
 - (c) in writing delivered or sent to the Electoral Commissioner.
- (3) If, as a result of the changes referred to in this clause, there are any wards that are new or that have altered boundaries, the notice must include a written description of, and a map showing, the boundaries of the new wards or boundaries as so altered.

Part 3 Electoral rolls

8 Closing date

- (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 or poll is the date of the fortieth day preceding the day for the election or poll.
- (3) If an election or poll is delayed, the closing date in relation to it is:
 - (a) in the case of a delay occurring before the fortieth day preceding the original day of the election or poll—the date of the fortieth day preceding the new day of the election or poll, or
 - (b) in any other case—the date of the fortieth day preceding the original day.

9 Form of roll of electors

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).

10 Advertising of enrolments

- (1) The general manager is to give notice of the fact that persons are entitled to vote in an election, constitutional referendum or council poll, and are entitled to be enrolled as electors for a ward or area, if they are residents of the ward or area, or are owners, occupiers, or ratepaying lessees, of rateable land in the ward or area.
- (2) The notice is to invite claims for the inclusion of the names of persons in the roll of electors or for the amendment of any particulars entered in the roll against the names of persons.

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Part 3 Electoral rolls

- (3) The notice is to be given twice or more in the 60 days before the closing date for the election, constitutional referendum or council poll and each time is to be given by advertisement in a newspaper circulating in the relevant area.
- (4) An advertisement may contain notices required by this clause relating to more than one area.

11 Enrolment claims and objections

- (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) the person's date of birth,
 - (d) 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 area, or is an owner, occupier, or ratepaying lessee, of rateable land in a ward or area (or has a requisite qualification under section 15 (1) (a) of the *City of Sydney Act 1988*).
 - (e) the full address of any such rateable land,
 - (f) whether the person is already enrolled in another ward (if any) of the same area,
 - (g) 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 (I) (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 name or particulars to the inclusion of which the objection is made,
 - (c) the full name and full address of the person lodging the objection,
 - (d) the reasons for the objection.
- (5) An objection under section 303 (I) (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.

12 Competing claimants for enrolment

- (1) A general manager who nominates a person under section 272 of the Act must do so on the basis of lots drawn in accordance with this clause.
- (2) For the purposes of this clause, the general manager writes the names of the claimants who are competing for enrolment in respect of the same parcel of land on similar slips of paper. The general manager then folds the slips so as to prevent the names being seen, mixes them, and draws one slip at random.
- (3) The person to be nominated is the one whose name appears on the slip that is drawn.

13 Notice of inclusion on list: Sydney City

The general manager of the Sydney City Council must, as soon as practicable after:

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Part 3 Electoral rolls

- (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.

14 Appeals

- (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 (as endorsed by the Clerk of the Local Court) to the officer whose decision is being appealed.
- (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.

15 Supply of forms

The Electoral Commissioner and general manager are to supply a reasonable number of copies of forms suitable for use for the purposes of clauses 11 and 14 free of charge to any person who applies for them.

16 Request for omission of residence from roll (non-resident electors)

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.

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Clause 17 Local Government (Elections) Regulation 1998

Part 4 Notice of election and nominations

Part 4 Notice of election and nominations

17 Notification of vacancy

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:

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

18 Nomination day

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.

19 Place of nomination

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

20 Notice of election

- (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:
 - (a) invite proposals for nomination for the election, and
 - (b) specify where nomination forms may be obtained, and
 - (c) specify the date of the nomination day and the place of nomination, and
 - (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, and

- (e) give notice of the requirements under the Act for proposals for nomination (including the payment of deposits, the provision of resumes and (if applicable) the grouping of candidates and creation of group voting tickets).
- (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.

21 Nomination proposals

- (1) A candidate for election is to be proposed for nomination in a nomination paper:
 - (a) in Form 2 by at least 2 proposers (other than the candidate) 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 in the Local Government Register of Political Parties.
- (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:
 - (a) it has printed on the back sections 274, 275, 276 and 283 of the Act. and
 - (b) it is accompanied by a candidate resume which is in such form that the requirements of section 308 (1) of the Act can be satisfied, and
 - (c) if the nomination proposal is for an ordinary election, it is accompanied by a statistical information sheet as specified in those forms.

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Part 4 Notice of election and nominations

- (5) A nomination paper must be delivered, sent or transmitted by facsimile so as to reach the returning officer by 5 pm on the second-last day before the nomination day (for example, by 5 pm on the Wednesday before a nomination day that falls on a Friday). The returning officer must give a receipt for it if asked to do so.
- (6) On receipt of a nomination paper, the returning officer must endorse on it the date and time of receipt.
- (7) 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.
- (8) A deposit for a nomination proposal is to be paid in cash or by a cheque issued by a bank, building society, credit union or other financial institution but not by way of personal cheque. The deposit must be paid by 5 pm on the day 2 days before the nomination day.

22 Candidates' resumes

- (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).
- (3) A resume must be written or typed on a form supplied by the returning officer or an electoral official. The form is to consist of one side of an A4 sheet of paper.

23 Withdrawal of nomination proposals

A nomination proposal may be withdrawn by the delivery, sending or transmission by facsimile to the returning officer before 11 am on the nomination day of a notice in writing signed by the person proposed for nomination.

24 Multiple nomination proposals

- (1) If a person has been proposed for nomination in respect of more than one ward in an area, and by 11 am 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 invalid.
- (2) A proposal for nomination for election as councillor is invalid if it is made by a person who has already proposed for nomination for election as councillor a number of other persons in the same area that equals the number of candidates to be elected.
- (3) A proposal for nomination for election as mayor is invalid if it is made by a person who has already proposed another person for nomination for election as mayor in the same area.
- (4) Subclauses (2) and (3) do not apply in any case where the proposals referred to are made by the registered officer for a political party registered in the Local Government Register of Political Parties.

25 Refund of deposit

- (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) the name of the candidate appears in a group on the ballot-papers and any candidate whose name appears in that group is elected or receives at least 4 per cent of the total number of formal first preference votes, or

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Clause 25 Local Government (Elections) Regulation 1998

Part 4 Notice of election and nominations

- (d) 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.

26 Inspection of names of persons proposed for nomination

- (1) A person is to be allowed, at any reasonable time in office hours, to inspect a list prepared by the returning officer of the full names and residential addresses 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.
- (2) A copy of the list in its current form must be displayed at the office of the returning officer between the time when the first name is placed on the list and noon on the nomination day.

27 Returning officer to nominate candidates

- (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 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.

28 Declaration of uncontested election

- (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 office of the relevant council and at the place of nomination (if that place is not the office of the council), 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 Shires Associations of New South Wales, and the relevant general manager, and
 - (c) insert a copy of the written declaration in a newspaper circulating in the relevant area.
- (4) The general manager of a council must, on application to the council by any person, deliver or send to the person a copy of the written declaration.

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Clause 29 Local Government (Elections) Regulation 1998

Part 5 Polling places

Part 5 Polling places

29 Polling places

- (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.

30 Pre-poll voting offices

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 senior deputy returning officers.

Part 6 Preparation for poll

31 Poll

A contested election is to be determined by ballot.

32 Notification of poll

- (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 names of the political parties (if any) that must be printed adjacent to the names of the candidates on the ballot-papers.
 - (e) whether the word “Independent” must be printed adjacent to the name of any candidate on the ballot-papers.
 - (f) the location of the polling places where the poll will be taken on election day.
 - (g) 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.

33 Claims for grouping of candidates

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

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Clause 33 Local Government (Elections) Regulation 1998

Part 6 Preparation for poll

- (2) A claim must be in writing in the form approved by the Electoral Commissioner to be effective.
- (3) A claim is of no effect if:
 - (a) the name of any candidate included in the claim is included in any other claim, or
 - (b) the claim is withdrawn by the candidates who made the claim by a notice in writing in the form approved by the Electoral Commissioner delivered or sent to the returning officer so as to reach the returning officer before noon on the third day after the nomination day.
- (4) On receipt of a claim or notice of withdrawal of a claim, the returning officer must endorse on it the date and time of receipt.

34 Group voting tickets

- (1) A group voting ticket lodged with the returning officer under section 308A (3) of the Act:
 - (a) must indicate by consecutive numbers commencing with the number “ 1 ” an order of preference for at least the number of candidates required to be elected, and
 - (b) may indicate by consecutive numbers (commencing with the next number after the number of candidates required to be elected) a subsequent order of preference for some or all of the remaining candidates, and
 - (c) must indicate preferences for the candidates included in the group lodging the group voting ticket:
 - (i) in the order in which the names of those candidates are to appear on the ballot-paper. and
 - (ii) over all candidates in the election who are not included in that group.
- (2) On receipt of a group voting ticket, the returning officer must endorse on it the date and time of receipt.
- (3) A group voting ticket may be lodged in the form of a ballot-paper duly completed with the required order of preferences.

-
- (4) A group voting ticket must be signed. The signing may be:
- (a) by all the candidates included in the group, or
 - (b) if all the candidates included in the group have been endorsed by the same political party—by the registered officer of the party, or
 - (c) if the candidates included in the group have been endorsed by different political parties—by the registered officer of each of those parties, or
 - (d) by the candidate whose name appears first in the order, referred to in section 308A (2) of the Act, in the group, or
 - (e) by a person authorised to do so by all the candidates included in the group, by written instrument given to the returning officer at or before the time of the nomination of the candidates in the group.
- (5) The person or persons who signed a group voting ticket may (by notice in writing to the returning officer) withdraw that ticket before noon on the fourth day after nomination day.
- (6) If 2 or 3 group voting tickets are lodged by a group of candidates, the person or persons who signed the group voting tickets must indicate the order in which the tickets are to be displayed on the poster to be prepared in accordance with clause 65.

35 Order of candidates and groups on ballot-papers

- (1) If after noon on the third day after the nomination day there are:
- (a) two or more candidates. not included in a group, for the election, the returning officer must immediately hold a ballot in accordance with clause 36 to determine the order of those candidates' names on the ballot-papers. or
 - (b) two or more groups of candidates for the election. the returning officer must immediately hold a ballot in accordance with clause 37 to determine the order of those groups on the ballot-papers.

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- (2) However, if only one candidate is to be elected at the election, the order of the candidates' names on the ballot-papers is to be determined in accordance with clause 36 immediately after the nomination of the candidates.

36 Order of ungrouped candidates on ballot-papers

- (1) A ballot referred to in clause 35 (1) (a) is to be conducted in the following manner:
- (a) the returning officer must, at the place of nomination and before all persons present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated,
 - (b) the returning officer must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a securely fastened ballot-box.
 - (c) the returning officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same,
 - (d) the returning officer must then unfasten the ballot-box and take out and open each container one by one,
 - (e) the returning officer must then announce to the persons present and record 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 returning officer must sign the record and allow any of the persons present to do the same.
 - (g) the returning officer must promptly deliver or send the original of the record to the Electoral Commissioner.
- (2) Each candidate or an agent of each candidate is entitled to be present at a ballot in accordance with this clause.

37 Order of groups of candidates on ballot-papers

- (1) A ballot referred to in clause 35 (1) (b) is to be conducted in the following manner:

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

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Clause 38 Local Government (Elections) Regulation 1998

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38 Form of ballot-papers

- (1) The returning officer is to have ballot-papers printed for the election and is to provide a sufficient number of ballot-papers to be initialled and used for the election.
- (2) Every ballot-paper must contain a mark that has been determined by the Electoral Commissioner.
- (3) In printing the ballot-papers for an election in which there are no groups, the names of the candidates are to be printed in one column (starting at the top) in the order determined as referred to in clause 35 (1) (a) or (2).
- (4) In printing the ballot-papers for an election:
 - (a) in which there is only one group, the names of candidates included in that group are to be printed in a group before the names of candidates, if any, not included in that group. and
 - (b) in which there are 2 or more groups, the names of candidates included in the groups are to be printed in groups across the ballot-papers (starting from the left side) in the order determined as referred to in clause 35 (1) (b), before the names of candidates, if any, not included in any such group, and
 - (c) the order, within a group, in which the names of candidates in that group are to be printed in the ballot-papers is the order specified in the claim made by them under section 308A of the Act, and
 - (d) the names of candidates, if any, not included in any group are to be printed as a group, without any identification referred to in subclause (5), on the ballot-papers in the order determined as referred to in clause 35 (1) (a).
- (5) In printing the ballot-papers, each group (and each group voting ticket square relating to the group) is to be identified by the word "Group" followed by a successive letter of the English alphabet, starting with the letter "A". and if there are more than 26 groups each group (and each group voting ticket square relating to the group) after the twenty-sixth is to be identified by such symbol as may be determined by the returning officer.

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- (6) If 2 or more persons have been endorsed by a political party as candidates in an election and a claim has been made to include the names of those candidates in a group on the ballot-papers, the following requirements apply to the printing of the ballot-papers:
- (a) the name of the party by which each candidate was endorsed is to be printed adjacent to the name of that candidate on the ballot-papers,
 - (b) if all the candidates were endorsed by the same party and a group voting ticket square is printed on the ballot-papers in relation to the candidates—the name of the party is to be printed on the ballot-papers adjacent to that square,
 - (c) if an application under section 321 of the Act included a request that a composite name be printed on the ballot-papers adjacent to the candidates' group voting ticket square—the composite name is to be printed on the ballot-papers adjacent to that square.
- (7) The ballot-papers must show as the names of the candidates the names under which they were nominated. The names may be accompanied by descriptions or additions to distinguish them from each other in any case where a similarity in the names of 2 or more candidates is, in the opinion of the returning officer, likely to cause confusion.
- (8) For an election in which there are no groups, the ballot-papers are to be in Form 4. For an election in which there are one or more groups but no group has a group voting ticket, the ballot-papers are to be in Form 5. For an election in which there are one or more groups and one or more groups has a group voting ticket, the ballot-papers are to be in Form 6.

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

39 Supply of rolls and ballot-papers

- (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

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- (b) deliver to each senior deputy returning 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.

40 Return of numbers of ballot-papers before poll

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.

41 Ballot-paper to be initialled

A ballot-paper, before being delivered or sent to an elector, is to be initialled on the back by the returning officer or an electoral official. 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.

42 Ballot-paper may be written

A ballot-paper need not be one of those printed in accordance with clause 38 to be valid (but is still required to be in Form 4, 5 or 6). If a polling place runs out of ballot-papers, the returning officer or senior deputy returning 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****43 Postal voting: qualifications**

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 kilometers 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

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- (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.

44 Postal voting: application

- (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 7, 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 pm on the fifth day before election day, and
 - (f) if received by the returning officer within that period. is to be given a number.

45 Registration of general postal voters

- (1) An elector who is registered as a general postal voter for the purposes of the *Parliamentary Electorates and Elections Act 1912* is taken to be registered as a general postal voter for the purposes of the *Local Government Act 1993* without further application under the latter Act.
- (2) The elector is taken to be so registered for the ward or area corresponding to the address in respect of which the elector is registered as a general postal voter under the *Parliamentary Electorates and Elections Act 1912*.

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- (3) The elector must be so registered not later than 5 pm on the nomination day for an election if the applicant is to be treated as a general postal voter for the election.

46 Electors entitled to postal vote

- (1) An elector who duly applies for a postal vote or is registered as a general postal voter is entitled to make a postal vote in the ward or area to which the elector's application or registration relates.
- (2) The Electoral Commissioner must forward to the returning officer as soon as possible after the nomination day for an election a list of those general postal voters registered under the *Parliamentary Electorates and Elections Act 1912* who are entitled to vote at an election in respect of a ward or area.
- (3) The list, when forwarded under subclause (2), must be accompanied by some indication of the signatures of the voters as those signatures appear on the applications they made for registration as general postal voters.

47 Issue of postal ballot-paper

- (1) On receiving the elector's duly made application for a postal vote or the list on which the elector's name appears, the returning officer is to:
- (a) make a record that a ballot-paper is being issued to the elector, and
- (b) deliver or send to the elector a ballot-paper that is initialled on the back by the returning officer or an electoral official, and
- (c) deliver or send to the elector an envelope bearing both the address of the returning officer and a form of declaration in Form 8 on which the returning officer has filled in the full name of the elector, the address of the land to which the elector's voting entitlement relates and the names of the area and the ward (if any) and the number (if any) given to the elector's application or registration as referred to in this Division.

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

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

48 Postal voting procedure

- (1) To make a postal vote, an elector is to:
- (a) show to a witness the ballot-paper and Form 8 declaration delivered or sent by the returning officer under clause 47, and
 - (b) in' the presence of the witness, and if the facts on the declaration are correct, sign the declaration in the space provided.
- (2) The witness is to sign the declaration and complete the spaces in it for the address of the witness and the date on which the declaration is signed. The witness is to do those things only if the witness:
- (a) is at least 18 years old and is not a candidate, or agent of a candidate, for civic office in the area in which the election is being held, and
 - (b) is satisfied as to the elector's identity, and
 - (c) has seen the elector sign the declaration. and
 - (d) knows. from personal knowledge or after reasonable inquiry, that the statements in the declaration are true.
- (3) The elector is then to do the following in the presence of the witness. but without showing the witness how the elector has voted:
- (a) vote as directed on the ballot-paper.
 - (b) fold the ballot-paper so that the vote cannot be seen.
 - (c) place the ballot-paper in the envelope addressed to the returning officer and close and seal the envelope.

- (4) The elector is then to deliver or send the envelope, or have it delivered or sent, so that it reaches the returning officer before 6 pm on the day of the election or reaches a senior deputy returning officer between 8 am and 6 pm on that day.
- (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 declaration envelope to the senior deputy returning officer at the polling place.
- (6) However, if the elector makes a declaration in Form 9 that the elector has not received, or has lost, the ballot-paper or the declaration envelope 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 117 as to spoilt ballot-papers and clause 118 as to the assistance of electors.

49 Closing time for postal vote

A postal vote that does not reach the returning officer or a senior deputy returning officer before 6 pm on election day is not valid and must not be counted.

50 Receipt of postal ballot-papers

- (1) If a senior deputy returning officer receives an envelope containing or purporting to contain a postal ballot-paper between 8 am and 6 pm on election day, the officer is to deliver or send the envelope to the returning officer.
- (2) If the returning officer receives an envelope containing or purporting to contain a postal ballot-paper before 6 pm on election day, the officer is to make an appropriate notation on the record referred to in clause 47 (1) (a).
- (3) If the elector's name is on the roll of electors, the returning officer is to place the envelope unopened in the postal ballot-box.
- (4) If the elector's name is not on the roll of electors, the returning officer is to check the particulars on the envelope in accordance with clause 74, and:

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Part 7 Postal and other special types of voting
Division 1

- (a) if it appears to the officer that the elector is entitled to vote—isto place the envelope unopened in the postal ballot-box, or
- (b) if it appears to the officer that the elector is not entitled to vote—isto place aside the envelope unopened.

Division 2 Pre-poll voting

51 Pre-poll voting: qualifications

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.

52 Pre-poll voting: application

- (1) A person qualified under this Division may apply to the returning officer or senior deputy returning 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 10, 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, roll number and (if it appears on the roll) the address 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 set out in clause 70 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, 5 or 6 which is initialled on the back by the officer.

53 Pre-poll voting procedure

- (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 senior deputy returning officer but so that the officer is unable to see the vote, and

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Division 2

- (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:
 - (a) in the presence of the elector, enclose it in the envelope bearing the elector's application and seal the envelope, and
 - (b) (if the name of the elector is on the roll) 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.

54 Pre-poll voting by elector not on roll

- (1) If the elector's name is not on the roll of electors and a senior deputy returning officer has sealed an envelope containing the elector's ballot-paper and bearing the elector's application, the officer must deliver or send the envelope to the returning officer.
- (2) If the elector's name is not on the roll of electors and the returning officer has sealed an envelope containing the elector's ballot-paper and bearing the elector's application or has received such an envelope from a senior deputy returning officer, the returning officer is to check the particulars on the envelope in accordance with clause 74 and:
 - (a) if it appears to the officer that the elector is entitled to vote—~~is to~~ place the envelope unopened in the pre-poll ballot-box. or
 - (b) if it appears to the officer that the elector is not entitled to vote—~~is to~~ place aside the envelope unopened.

55 Surrender of postal ballot-papers

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 senior deputy returning officer the elector's postal ballot-paper and form of declaration for cancellation.

56 Pre-poll voting offices and times

- (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 am and 6 pm 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 senior deputy returning 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) The returning officer or senior deputy returning officer at each pre-poll voting office is to ensure that a copy of each candidate resume is displayed at the pre-polling voting office.
- (4) 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 by the returning officer of electoral officials (and vice versa) as to the issue of pre-poll ballot-papers.

2 See clause 117 as to spoilt ballot-papers and clause 118 as to the assistance of electors.

Division 3 Declared institution voting**57 Declared institutions**

- (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.

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Clause 57 Local Government (Elections) Regulation 1998

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Division 3

- (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.

58 Application of Parliamentary Electorates and Elections Act 1912

- (1) The provisions which apply to voting at declared institutions are sections 114Z0-114ZR (except section 114ZR (6), (7), (8) (b), (10) and (11)) 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*.

59 Modification of provisions

- (1) In the application of those provisions of the *Parliamentary Electorates and Elections Act 1912* to voting at 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 set out in clause 70,
 - (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 11,
 - (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, 5 or 6,
 - (e) a reference in those provisions of the *Parliamentary Electorates and Elections Act 1912* to the returning officer is taken to include a reference to an electoral official.
- (2) No offence under the *Parliamentary Electorates and Elections Act 1912* (as applied by this clause) applies under this Regulation.

60 Declared institutions ballot-box

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

61 Declared institution voting by elector not on roll

- (1) If the elector's name is not on the roll of electors and an electoral official has securely fastened an envelope containing the elector's ballot-paper and bearing the elector's declaration, the official must deliver or send the envelope to the returning officer.
- (2) If the elector's name is not on the roll of electors and the returning officer has securely fastened an envelope containing the elector's ballot-paper and bearing the elector's declaration or has received such an envelope from an electoral official, the returning officer is to check the particulars on the envelope in accordance with clause 74 and:
 - (a) if it appears to the officer that the elector is entitled to vote—~~is~~ to place the envelope unopened in the declared institutions ballot-box, or
 - (b) if it appears to the officer that the elector is not entitled to vote—~~is~~ to place aside the envelope unopened.

Note.

1 The Electoral Commissioner can (under section 296 (6) of the Act) determine a procedure for the notification by the returning officer of electoral officials (and vice versa) as to the issue of ballot-papers at declared institutions.

2 See clause 117 as to spoilt ballot-papers and clause 118 as to the assistance of electors.

Division 4 Mobile booths**62 Mobile booths in hospitals etc**

- (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*.

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Clause 62 Local Government (Elections) Regulation 1998

Part 7 Postal and other special types of voting
Division 4

- (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

63 Assistance of officers

In this Part, a reference to a returning officer or a senior deputy returning 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

64 Principal polling place

- (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 preside at another polling place.

65 Display of group voting tickets

- (1) The returning officer must cause at least one poster showing all the group voting tickets registered for the election to be prominently displayed at each polling place, and at every other place at which a person is entitled to vote before polling day (while voting is taking place there).
- (2) A poster is to be prepared so that:
 - (a) group voting tickets are displayed on the poster in the same order as the order on the ballot-papers of the groups concerned, and
 - (b) if 2 or 3 tickets are lodged by a group, the tickets of the group are to be displayed in one vertical column in the order indicated by the candidates in the group when lodging those tickets, and
 - (c) each group voting ticket is identified in the same manner as the group concerned is identified on the ballot-papers (and not otherwise).

66 Senior deputy returning officer's functions

A senior deputy returning 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.

67 Hours of voting

- (1) The voting at a poll is to commence at 8 am and close at 6 pm 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.

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Clause 67 Local Government (Elections) Regulation 1998

Part 8 Voting on election day

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

68 Scrutineers

- (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 table (or part of a table) used by 2 electoral officials scrutinising or counting votes at 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) each table (or part of a table) used by 2 electoral officials scrutinising or counting votes at 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 78, and also any subsequent electoral procedures, are being carried out.
- (2) Despite subclause (1) (b), (c) and (d), if candidates' names are included in a group, the candidates (or any one of them) may, by instrument in writing signed by one or more of those candidates, only appoint scrutineers (including relief scrutineers) so that the entire group has no more than one scrutineer at each of the places referred to in subclause (1) (b), (c) and (d).
- (3) 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 this clause.

- (4) A scrutineer must, on demand by an electoral official, produce his or her instrument of appointment as scrutineer for inspection.
- (5) A person must not be both a candidate and a scrutineer at the polling or scrutinising or counting of votes:
 - (a) at the principal polling place, or
 - (b) at any other polling place or pre-poll voting office in the area for which the candidate is nominated for election.

69 Where electors may vote

A person who is qualified as an elector in respect of a ward (or, if an area is not divided into wards, in respect of an area) is entitled to vote at any polling place appointed for the ward (or area).

70 Questions put to elector

- (1) A person claiming to vote at a 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?

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4. Are you disqualified from voting at this election by section 266 of the *Local Government Act 1993*?
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 1–3, and "no" to questions 4 and 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 12.
- (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.

71 Voting by elector with confidential address

- (1) An elector who has made a declaration of residence under clause 70 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 and seal the envelope.
- (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 damaging the writing on the envelope, place the ballot-paper still folded in the ballot-box for section 305 votes.
- (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.

72 Delivery of ballot-paper to elector

- (1) An electoral official is to deliver a ballot-paper initialled on the back by the returning officer or an electoral official 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.

73 Voting

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 on the back, 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.

74 Elector whose name is not on roll

- (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 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 the returning officer, substitute returning officer or senior deputy returning officer.

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- (2) For the purposes of section 305 (c) of the Act, the prescribed form of declaration is Form 8 written or printed on an envelope.
- (3) The officer 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 (if the officer is not the returning officer) 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 it appears to the returning officer that the elector is entitled to vote, the returning officer is to open the envelope containing the ballot-paper, extract the ballot-paper and, without damaging the writing on the envelope, place the ballot-paper still folded in the ballot-box for section 305 votes.
- (6) If the declaration is not in order. or it appears to the returning officer that the elector is not entitled to vote, the returning officer is to leave the envelope containing the ballot-paper unopened.
- (7) The returning officer and senior deputy returning officers are each to make a list of section 305 votes. On it each officer is to note the giving of a ballot-paper at the polling place where the officer is in charge to an elector who has made a declaration under section 305 of the Act and the number of such votes delivered or sent to the returning officer from that polling place (or, if the officer is the returning officer, retained by him or her).

75 Voting if name already marked on roll

- (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, the elector is to be given a ballot-paper if he or she answers the questions set out in clause 70 (4) in the manner specified in clause 70 (5) and a declaration has been completed in Form 13.

- (2) The elector, after marking his or her ballot-paper, is to fold it, show the initials on the back of the ballot-paper to an electoral official and deliver it to the official.
- (3) The official is (in the presence of the elector) to enclose the folded ballot-paper (without unfolding it) in an envelope bearing (or containing) the declaration of the elector required by this clause, and seal the envelope. The official is then to put the envelope in the ballot-box.
- (4) The official is to enter on a list of tendered votes kept at the polling place the giving of a ballot-paper to the elector under this clause.

Note. See clause 117 as to spoilt ballot-papers and clause 118 as to the assistance of electors.

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76 informal ballot-papers

- (1) A ballot-paper of an elector at an election is informal if:
 - (a) the elector has failed to record a vote on it in the manner directed on it, or
 - (b) it has not been initialled on the back by the returning officer or an electoral official, or
 - (c) it contains 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 in which only one candidate is to be elected is not informal merely because a tick or a cross has been placed in one square and the other square or squares have been left blank. In such a case the tick or the cross is to be treated as a first preference.
- (3) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because a preference (other than a first preference) has been repeated or omitted so long as the ballot-paper shows the minimum number of preferences required by the directions.
- (4) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because it has not been initialled on the back by the returning officer or an electoral official, so long as it bears the mark referred to in clause 38 (2).
- (5) Despite subclause (1), a ballot-paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.
- (6) Nothing in subclause (2) authorises any person to encourage a voter to place a tick or a cross in a square on a ballot-paper.

77 Persons present at scrutiny and count

The Electoral Commissioner or persons authorised by the Electoral Commissioner, the 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.

78 Postal, pre-poll and declared institution votes

The returning officer may, at any time after 8 am on the day of the poll and in the presence of any scrutineers lawfully present:

- (a) produce all applications for postal votes and the list and signature indications of general postal voters, 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 81 (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 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.

79 Initial scrutiny and count

- (1) On the close of the poll at an election each senior deputy returning 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 senior deputy returning 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 senior deputy returning officer must have counted, in that officer's presence and subject to that 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 list of section 305 votes (required under clause 74) as being delivered or sent to the returning officer.

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- (4) Then the senior deputy returning officer is to send to the returning officer returns, verified by the signatures of the senior deputy returning 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 section 305 votes as being delivered or sent to the returning officer, and
 - (b) details of the numbers of ballot-papers in Form 14.

80 Sending ballot-papers to returning officer

- (1) The senior deputy returning officer must then, in the presence of the witnesses referred to in clause 79 (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 section 305 votes, the envelopes containing postal votes and the envelopes containing tendered votes, and the list of tendered votes, and
 - (c) in a third parcel the certified copies of the rolls supplied to the senior deputy returning officer, signed by the senior deputy returning officer, and all books, roils and papers (except the ballot-papers and the lists of ballot-papers) kept, used, and received by the senior deputy returning officer in connection with polling.
- (2) The senior deputy returning 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.

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- (e) deliver or send the parcels to the returning officer (except if the senior deputy returning officer's functions are being exercised by 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 senior deputy returning officer if, in the returning officer's opinion, it is informal, and
 - (b) accept any ballot-paper classed as informal by the senior deputy returning officer if, in the returning officer's opinion, it is formal.

81 Checking of ballot-papers in sealed envelopes

- (1) The returning officer must on the close of the poll produce the applications for postal votes, produce the list and signature indications of general postal voters forwarded to the returning officer, produce the postal votes received from the senior deputy returning officers, and open the ballot-box containing postal votes received by the returning officer and take all the envelopes from them.
- (2) The returning officer is then to 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, if an elector's name is on the roll, mark the roll 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

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- (or the signature of the applicant 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 (without damaging the writing on it) 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. if an elector's name is on the roll. mark the roll in the manner determined by the Electoral Commissioner,
 - (c) turn each sealed ballot-paper envelope face downwards, then open the envelope (without damaging the writing on it) 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.

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- (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 must on the close of the poll produce all envelopes containing tendered votes and do the following or have the following done:
- (a) count the number of envelopes containing tendered votes for each polling place,
 - (b) in the presence of the scrutineers examine the declarations on the envelopes and make such inquiries as the returning officer considers necessary as to whether the persons who signed the declarations are entitled to vote,
 - (c) if the returning officer is not satisfied that the person who signed the declaration is entitled to vote or that the declaration is duly witnessed, keep apart and unopened the envelope on which the declaration appears,
 - (d) if the returning officer is satisfied that the person who signed the declaration is entitled to vote and that the declaration is duly witnessed, turn the envelope so that the declaration is face downwards. then open the envelope (without damaging the writing on it) 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,
 - (e) after dealing with all the envelopes and ballot-papers in accordance with paragraphs (c) and (d). open the ballot-box. take out the ballot-papers. unfold and scrutinise them and reject the informal ones.

82 Finalising the count

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 and tendered votes and section 305 votes.

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- (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 am on the day following the day on which the result of the count is ascertained (or if the following day is a Sunday, on the following Monday instead).

83 Double candidature: candidate elected as mayor

- (1) If, in any election, one or more of the candidates for election as councillor for a ward in an area (or for an area) are also candidates for election as mayor of the area, the counting of votes in the election of the mayor is to be completed, and the result obtained, before any distribution of preferences in the election of councillors.
- (2) Then the count in the election of councillors is to continue, treating the person who has already been elected as mayor as not being a candidate for election as councillor.
- (3) Each preference indicated on ballot-papers in the election of councillors for the person elected as mayor is disregarded and any subsequent preferences are treated as if the numbers representing them had been reduced by one.

84 Recount

- (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.

85 Who pays for the recount?

- (1) If a recount of ballot-papers is conducted under clause 84 (3) (b) or (c). the council is to pay for the recount.
- (2) If a recount of ballot-papers is conducted under clause 84 (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 84 (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.

86 Result of recount

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

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Part 9 Scrutiny and counting

87 Declaring the election

- (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 office of the relevant council, 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 Shires 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 general manager of a council must, on application to the council by any person, deliver or send to the person a copy of the written declaration.

Part 10 Offences

88 Penalty notices

For the purposes of section 314 of the Act, the prescribed form of penalty notice is Form 15.

89 Misconduct in voting

- (1) A person must not do any of the following:
- (a) make a declaration which the person knows is 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: 10 penalty units.

- (2) This clause applies in relation to an election under clause 125 or 126 and to a constitutional referendum or council poll in the same way as it applies to elections under Chapter 10 of the Act.

90 False statements in forms

- (1) A person must not make a statement which the person knows is 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.
- (2) A person must not induce another person to make such a statement.

Maximum penalty: 10 penalty units.

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Part 10 Offences

91 Misconduct by witness to postal vote

- (1) A witness must not witness the signature of an elector to an application for a postal ballot-paper and a 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.

92 Misconduct in relation to postal voting

A person to whom an application for a postal ballot-paper and 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 without reasonable excuse fails to deliver or send the application or envelope promptly is guilty of an offence.

Maximum penalty: 10 penalty units.

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

- (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 senior deputy returning 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 118.

Maximum penalty: 10 penalty units.

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

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 118.

Maximum penalty: 10 penalty units.

95 Breach of secrecy

An electoral official or scrutineer who knows how a particular elector has voted must not disclose that knowledge.

Maximum penalty: 5 penalty units.

96 Obstruction of electoral officials

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.

97 False answers to questions put by electoral officials

A person who, knowing 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: 10 penalty units.

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Clause 98 Local Government (Elections) Regulation 1998

Part 10 Offences

98 Obstructing access to polling place

A person must not obstruct access to a space set aside for voting at a polling place, to a polling place or to a pre-poll voting office.

Maximum penalty: 0.5 penalty units.

99 Persons present in polling place

- (1) A person must not remain in a polling place during polling 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 an electoral official to leave the polling place is guilty of an offence.
- (3) This clause does not prevent:
 - (a) the Electoral Commissioner, persons authorised by the Electoral Commissioner, the returning officer, electoral officials, scrutineers, and police officers on duty, 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 for as long as is necessary in order for them to vote.

Maximum penalty: 5 penalty units.

100 Misconduct by scrutineers

- (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 the returning officer or 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.

101 Misconduct at polling place or pre-poll voting office

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 office 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.

102 Improperly signing or witnessing electoral papers

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 signatory,
- (c) sign as witness an electoral paper unless the person has seen the signatory sign it,
- (d) write a name which is not his or her own name on an electoral paper as his or her own name.
- (e) sign an electoral paper with a signature that purports to be that of another person.

Maximum penalty: 10 penalty units.

103 Forging or uttering electoral papers

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

Maximum penalty: 10 penalty units.

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Clause 104 Local Government (Elections) Regulation 1998

Part 10 Offences

104 Stuffing ballot-boxes

- (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.

105 Opening sealed parcels

A person must not intentionally break open a sealed parcel 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.

106 Bribery

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.

107 Treating

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.

108 Intimidation

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.

109 Printing etc false information

- (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 card, advertisement, notice, handbill or pamphlet includes directions intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote,
 - (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 the casting of his or her vote.
 - (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: 10 penalty units.

- (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 the casting of his or her vote.

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Clause 110 Local Government (Elections) Regulation 1998

Part 10 Offences

110 Exhibition of posters

- (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.

111 Name and address on advertisements etc

- (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 15 1B of the *Parliamentary Electorates and Elections Act 1912*.

112 Encouraging ticks or crosses on ballots

A person must not print, publish or distribute any “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card which encourages any elector to place a tick or a cross in a square on a ballot-paper.

Maximum penalty:

- (a) in the case of corporation—50 penalty units, or
- (b) in any other case—10 penalty units.

1998 No 503

Clause 113 Local Government (Elections) Regulation 1998

Part 11 Miscellaneous

Part 11 Miscellaneous

113 When polling may be adjourned etc

- (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 senior deputy returning officer is to adjourn the taking of the poll there to the following day. If necessary the senior deputy returning officer is to adjourn the poll from day to day until the interruption or obstruction has ceased.
- (2) If the senior deputy returning 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 senior deputy returning 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 senior deputy returning officer is to adjourn the polling there to a day not later than 21 days following the polling day. The senior deputy returning officer is to cause public notice to be given immediately of the new day.

114 Notice of adjournment to returning officer

- (1) A senior deputy returning officer who adjourns the taking of a poll must give immediate notice of the adjournment to the returning officer. The returning officer must give immediate notice of the adjournment to the Electoral Commissioner.
- (2) In the case of an adjournment at any polling place, the initial scrutiny and count under clause 79 at the polling place and the completion of the count under clause 82 in the ward or area where the poll has been adjourned are not to proceed until the adjourned poll has been finally closed.

115 Votes at adjourned poll

If the poll has been adjourned at a polling place within a ward, only those electors who are entitled to be enrolled for that ward are entitled to vote at the adjourned poll.

116 Postponed and adjourned elections

In the case of an election postponed under section 288 of the Act or adjourned under clause 113:

- (a) ballot-papers already printed may be used for the election, even though they show the original date of the election and not the date to which the election has been postponed or adjourned. and
- (b) the postal ballot-papers issued by the returning officer on or before or after the original date of the election and received by the returning officer up to the time of the closing of the poll on the new date of the election are to be produced by the returning officer. along with the applications for them and the list and signature indications of general postal voters forwarded to the returning officer. at the scrutiny and counting of votes, and
- (c) in the application of this Regulation, the new date of the election is taken to be the election day, and
- (d) the ballot-papers of electors who have voted at a pre-poll voting office or at a declared institution before the original date of the election are to be produced by the returning officer at the scrutiny and counting of votes.

117 Spoilt ballot-papers

If an elector satisfies the returning officer or an electoral official 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 or 8, the officer or official, 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.

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Clause 118 Local Government (Elections) Regulation 1998

Part 11 Miscellaneous

118 Assistance to certain electors

- (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 senior deputy returning 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 senior deputy returning 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.

119 Signature to electoral paper

- (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.

120 Check on double-voting

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

121 Security of election materials

- (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. The endorsement is to specify the contents of each parcel and the name of the ward (if any) and area, as well as the date of the polling, to which the contents relate.
- (3) The returning officer is to forward the parcels to the general manager of the relevant council.
- (4) The general manager is to give to the returning officer a receipt for the parcels once they have been forwarded. The receipt is to specify the endorsement on each parcel.
- (5) The general manager must have the parcels kept securely for 6 months. and then destroyed, unless the Electoral Commissioner in writing directs the general manager to deliver or send the parcels to the Commissioner or to keep them longer than 6 months.
- (6) The returning officer is to detach the statistical information sheet from each nomination paper before the papers are parceled under this clause. The returning officer is then to forward the sheets to the general manager of the relevant council. The general manager must treat the information on the sheets confidentially and the information is to be made available only to the Director-General.

122 Access to election materials

If a court or the Electoral Commissioner so directs, or any legislation so requires or permits, the general manager is to allow any person to inspect any of the election materials kept under clause 121, except the sealed parcels of marked ballot-papers.

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Clause 123 Local Government (Elections) Regulation 1998

Part 11 Miscellaneous

123 Application of Election Funding Act 1981

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 7.

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

124 Election of mayors by councillors

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.

125 Election of chairpersons of county councils

The chairperson of a county council is to be elected in accordance with Schedule 4.

126 Election of members of county councils

Schedule 5 applies in relation to the election of the members of a county council.

127 Constitutional referendums and council polls

Parts 1–11 and 13 apply with such modifications as may be necessary, including the modifications in Schedule 6, 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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Clause 128 Local Government (Elections) Regulation 1998

Part 13 Savings and transitional

Part 13 Savings and transitional

128 Repeal

The *Local Government (Elections) Regulation 1993* is repealed.

129 General saving

Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the *Local Government (Elections) Regulation 1993* is taken to have effect under this Regulation.

130 Transitional provision

If a casual vacancy occurs in any civic office before the commencement of this Regulation, any by-election to be held to fill the vacancy is to be conducted in accordance with the provisions of the *Local Government (Elections) Regulation 1993* as if it had not been repealed by this Regulation.

Schedule 1 Counting of votes under optional preferential system

(Clause 82)

1 General

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

2 Definitions

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.

exhausted ballot-paper means a ballot-paper on which there is no indication of a next preference for a continuing candidate.

next preference means 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.

unrejected ballot-papers means all ballot-papers not rejected as informal.

3 One candidate to be elected

If only one candidate is to be elected, the votes are to be counted and the result of the election ascertained 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.

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Schedule 1 Counting of votes under optional preferential system

- (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 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 elected.

4 Two candidates to be elected

If 2 candidates are to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (a) One of the candidates is elected in accordance with clause 3 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.

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- (d) If a candidate then has an absolute majority of votes he or she is elected. If not, the count proceeds according to clause 3 (d), (e) and (f) of this Schedule, until one candidate has received an absolute majority of votes.
 - (e) Clause 3 (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.

5 Three or more candidates to be elected

- (1) If 3 or more candidates are to be elected, 2 of the candidates are elected in accordance with clauses 3 and 4 of this Schedule.
- (2) The third and every subsequent candidate is elected in the manner provided in clause 4 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.

6 Exhausted ballot-papers

In the process of counting under clause 3, 4 or 5 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.

7 Equality

- (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.

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Schedule 1 Counting of votes under optional preferential system

- (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.

8 End of counting

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 elected.

Schedule 2 Counting of votes under proportional system

(Clause 82)

1 General

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.

2 Definitions

In this Schedule:

continuing candidate means at any given time a candidate not already elected or not already excluded from the poll.

exhausted ballot-paper means a ballot-paper on which there is no indication of a next preference for a continuing candidate.

fraction includes a decimal fraction.

next preference means 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.

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.

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Schedule 2 Counting of votes under proportional system

3 Parcels of first preferences

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.

4 Quota

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.

5 Election on first preferences

- (1) A candidate who has, upon the first preferences being counted, a number of first preferences equal to or greater than the quota is 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.

6 Surplus on first count

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.

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- (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.

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- (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 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.

7 Surplus on transfer

- (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 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.

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- (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.

8 Transfer of surpluses

- (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.

9 Exclusion of lowest candidates

- (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.

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- (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 voters' 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 elected are 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 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 exclusion under this clause can be made.

10 Effect of reaching quota while transfers are proceeding

- (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 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.

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- (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 set out in clause 7 (4) of this Schedule.

11 Election without reaching quota

- (1) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled the continuing candidates are 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 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 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 excluded in accordance with clause 9 (5) and (6) of this Schedule and the other is elected.

12 Determining order of preference

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.

13 Deciding by lot

- (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

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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.

14 Check counting

- (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.

15 Records and returns of voting and transfers

- (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.

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Schedule 3 Election of mayor by councillors

Schedule 3 Election of mayor by councillors

(Clause 124)

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (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 (one of whom may be the nominee). The nomination 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.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 76 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) 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) A further vote is to be taken of the 2 remaining candidates.

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Schedule 3 Election of mayor by councillors

- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more Candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 76 of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes, The latter is elected.

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- (4) In this clause, *absolute majority*, in relation to votes, means a number which is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

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.

13 Result

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

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

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Local Government (Elections) Regulation 1998

Schedule 4 Election of chairpersons of county councils

Schedule 4 Election of chairpersons of county councils

(Clause 125)

Part 1 Preliminary

1 When election to be held

An election for chairperson of a county council is to be held:

- (a) at the first meeting of the county council after an ordinary election of members of the county council, and
- (b) at the first meeting of the county council after each anniversary of that ordinary election until the next ordinary election of members of the county council is held.

2 Returning officer

The general manager of the county council in respect of which an election is being held (or a person appointed by the general manager) is the returning officer.

3 Notification of vacancy

- (1) The general manager of the county council in respect of which an election is being held must give notice of the occurrence of a vacancy in the office of chairperson of the county council to the Director-General and to the general managers of the councils of the areas part or all of which constitute the county council electorate in which the vacancy has occurred.
- (2) The general manager is to do that within 7 days of the occurrence of the vacancy.

4 Nomination

- (1) A member of a county council may be nominated without notice for election as chairperson of the county council.

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- (2) The nomination is to be made in writing by 2 or more members of the county council (one of whom may be the nominee). The nomination 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.
 - (4) The returning officer is to announce the names of the nominees at the county council meeting at which the election is to be held.

5 Election

- (1) If only one member of the county council is nominated, that member is elected.
- (2) If more than one member is nominated, the county council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the county council meeting at which the county council resolves on the method of voting.
- (4) In this clause:
ballot has its normal meaning of secret ballot.
open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

6 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

7 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 76 (1) (b) and (c) and (S) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

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Schedule 4 Election of chairpersons of county councils

8 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

9 Count—3 or more Candidates

- (1) 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) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 8 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

10 Application of Part

This Part applies if the election proceeds by preferential ballot.

11 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The members of the county council are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.

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- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 76 of this Regulation as if it were a ballot-paper referred to in that clause.
 - (3) An informal ballot-paper must be rejected at the count.

12 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, *absolute majority*, in relation to votes, means a number which is more than one-half of the number of unexhausted formal ballot-papers.

13 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

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Schedule 4 Election of chairpersons of county councils

Part 4 General

14 Choosing by lot

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.

15 Result

The result of the election (including the name of the candidate elected as chairperson of the county council) is:

- (a) to be declared to the members of the county council at the county council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

16 By-elections

- (1) Subject to subclause (2), a by-election to fill a vacancy in the office of chairperson of a county council is to be held at the next meeting of the county council occurring after the vacancy occurs.
- (2) 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 election of chairperson of the county council in accordance with clause 1 (a) of this Schedule.

Schedule 5 Election of members of county councils

(Clause 126)

Part 1 General

1 When elections to be held

- (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.

2 Notification of vacancy

- (1) The general manager of a county council must give notice of the occurrence of a vacancy in the office of a member of the county council to the Director-General and to the general managers of the councils of the areas part or all of which constitute the county council electorate in which the vacancy has occurred.
- (2) The general manager is to do that within 7 days of the occurrence of the vacancy.

Part 2 Single area electorate

3 Application of Part

This Part applies to the election of one or more members of a county council by the councillors of one constituent council, where the electorate comprises the whole or part of the area of that council only.

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Local Government (Elections) Regulation 1998

Schedule 5 Election of members of county councils

4 Returning officer

The general manager of the constituent council (or a person appointed by that general manager) is the returning officer.

5 Nomination

- (1) A councillor of the constituent council may be nominated for election as a member of the county council.
- (2) The nomination:
 - (a) may 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.
- (3) The returning officer is to announce the names of the nominees at a council meeting.

6 Election

- (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, an 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.

7 Ballot-papers and voting

- (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 76 of this Regulation as if it were a ballot-paper referred to in that clause.

- (3) An informal ballot-paper is to be rejected at the scrutiny of votes.

8 Count

The votes are to be counted in accordance with Schedule 1 of this Regulation.

9 Result

The result of the election (including the names of the candidates elected as members) is:

- (a) to be declared to the councillors by the returning officer at the council meeting where the election is held, 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

10 Application of Part

This Part applies to the joint election of one or more members of a county council by the councillors of two or more constituent councils, where the electorate comprises the whole or parts of those councils' areas.

11 Definitions

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.

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Schedule 5 Election of members of county councils

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

12 Preferential system

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

13 Returning officer

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).

14 Calling of election

- (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 35 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

15 Nominations for elected member

- (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 and 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 a nomination not made in accordance with this clause or a nomination received by the returning officer after the close of nominations.

16 Withdrawal of nomination

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

17 Uncontested election

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

18 Contested election

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

19 Printing of ballot-papers, directions to voters etc

- (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 set out in clause 36 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

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- (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 directions to the effect 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.

20 Distribution of ballot-papers

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

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- (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.

21 Duplicate ballot-papers

- (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 spoiled, 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.

22 Recording of vote

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

23 Receipt of ballot-papers

- (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

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- (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.

24 Ascertaining result of ballot

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

25 Scrutineers

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*.

26 Scrutiny of votes

- (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 76 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.

27 Notification of result of election

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 declared elected.

Division 6 Miscellaneous

28 Voting not compulsory

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

29 Electoral roll

- (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

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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.

30 Death of candidate

If a candidate for election as a member of a county council dies after the close of nominations and before the day when the poll at a contested election closes, the election fails in respect of the electorate for which the candidate is nominated.

31 Validity of elections

- (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.

32 Lapsed or void election

- (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.

33 Security of election materials

- (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 general manager.
- (4) The general manager is to have the parcels kept securely for 6 months, and then destroyed.

34 Decision of returning officer final

If the returning officer is permitted or required by this Part 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.

35 Delegation of returning officer's functions

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

36 Costs of election to be borne by the county council

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

Schedule 6 Constitutional referendums and council polls

(Clause 127)

- 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 33–38, 65, 76, 82 (b) and (e), 83 and 123–126,
 - (c) Schedules 1–5 and 7 and Forms 1–12.

- 2** Clause 88 and Form 15 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) a reference to a ballot-paper is taken to be a reference to a poll-paper,
 - (b) if the referendum or poll is not held in conjunction with an election of councillors, the reference in clause 29 (3) to the nomination day is taken to be a reference to the fifth Friday before the polling day for the referendum or poll,
 - (c) scrutineers are to be appointed not by candidates but by the returning officer at the request of the general manager or mayor of the relevant council, or by the registered officer for a political party registered in the Local Government Register of Political Parties, or by the Electoral Commissioner.
 - (d) a reference in clause 84 (1) or (2) to a candidate is taken to be a reference to a scrutineer appointed in relation to the referendum or poll.
 - (e) clause 84 (2) (d) is taken as reading as follows:
 - (d) be lodged with the returning officer within 24 hours after the persons present are informed of the result of the count.

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- (f) clause 85 (2) and (3) is read:
- (2) as if the words “an alteration in the candidates who are elected”, wherever occurring, were omitted and the words “an alteration in the decision of the constitutional referendum or council poll” inserted instead, and
 - (3) as if the references to the candidate were references to the scrutineer,
- (g) clause 87 (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.
- (h) clause 87 (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 in which a referendum is to be taken, or the area or part of the area in which a 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:

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Schedule 6 Constitutional referendums and council polls

- (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 20 of this Regulation,
- (c) the poll-paper at a constitutional referendum or council poll is to be in Form 16,
- (d) a poll-paper at a constitutional referendum or council poll is informal if:
 - (i) neither the word “Yes” nor the word “No” is written in or near the space provided opposite the question, or
 - (ii) the poll-paper is not initialled on the back by the returning officer or an electoral official, or
 - (iii) the poll-paper contains a mark or writing which, in the returning officer’s opinion, would enable the voter to be identified,
- (e) in spite of paragraph (d) a poll-paper is not informal if:
 - (i) neither the word “Yes” nor the word “No” is written in or near the space provided opposite the question. or
 - (ii) the poll-paper contains an unnecessary mark.
if, in the opinion of the returning officer, the voter’s intention is clearly indicated on the poll-paper.
- (f) in spite of paragraph (d) a poll-paper is not informal because it is not initialled on the back by the returning officer or an electoral official if it contains the mark referred to in clause 38 (2) of this Regulation.
- (g) a poll-paper which is informal is to be rejected at the scrutiny.

Schedule 7 Application of Election Funding Act 1981

(Clause 123)

- 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:
 - (b) in any other case where the Authority considers that compliance would not be appropriate.
- 3 Part 3 and clauses 28-32 of the *Election Funding Regulation 1994* 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 a reference to a group in any of those provisions were omitted.

Schedule 8 Forms

Form 1 Request for omission or removal of place of living from roll (non-resident electors)

(Clause 16)

To the General Manager,
(here specify local government area)

In reference to my enrolment in.. (ward)
..... (local government area)

I, (Surname in BLOCK letters)
..... (other names in BLOCK letters)
of.. (full residential address)

request that *my residential address/*the following matter that would disclose or discloses my place of living be omitted or removed from the roll of electors for the abovementioned area (*cross out what does not apply):

.....
(here specify any other matter that would disclose or discloses the place of living).

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.

- 1 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.
- 2 Resident electors who wish to have their address or other matter removed from the electoral roll must make an application to the Australian Electoral Commission or the State Electoral Office.

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 (month) (year)

.....
Justice of the Peace

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Schedule 8 Forms

Form 2 Nomination paper: proposal by electors

(Clause 21 (1) (a))

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 residential address)*

..... *(occupation)*

.....
(full name of proposer in BLOCK letters)

.....
(full name of proposer in BLOCK letters)

.....
(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 was enrolled as an elector for the area on *(the closing date for the election)**my name has been mistakenly or accidentally omitted from the roll of electors (**cross out what does not apply*),
- (2) consent to my being proposed for nomination,

-
- (3) request that my name be shown on the ballot-papers as
-
- (*surname in BLOCK letters, given name in BLOCK letters*)
- being my full surname and one of my given names or a generally recognised abbreviation or derivative of that given name,
- (4) *request/*do not request that the word “Independent” be printed adjacent to my name on the ballot-papers (**cross out what does not apply*).

Note.

- 1 See the back of this Form [or the attached page] for the provisions of the *Local Government Act 1993* covering qualification and disqualification for a civic office.
- 2 Examples of recognised abbreviations or derivatives of given names are Bill for William and Rose for Rosemary. Nicknames, eg Blue or Bunny, are not abbreviations or derivatives. Names are not to be accompanied by any title or academic or other qualification.
- 3 A person must not propose for nomination more than one candidate for election as mayor in the area, or more candidates for election as councillors in the ward or area than the total number of councillors to be elected for that ward or area (eg if five councillors are to be elected for an area, a person must not propose more than five persons for nomination as councillor for that area).

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STATISTICAL INFORMATION SHEET

I, (full name in BLOCK letters)
of (full residential address).

declare that:

(tick the squares that apply) (only complete this item for ordinary elections, not by-elections):

- (a) I am male female, and
- (b) I am between 18 and 24 years old
 between 25 and 29 years old
 between 30 and 39 years old
 between 40 and 49 years old
 between 50 and 59 years old
 between 60 and 69 years old
 between 70 and 79 years old
 80 years old or older, and

- (c) I was a candidate at the last ordinary election of the council
 Yes No.

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

Note.

The information supplied above will be used for statistical purposes only. This information will be treated confidentially. All statistics will be published in aggregate or consolidated form only.

Form 3 Nomination paper: proposal by registered officer for party

(Clause 21 (1) (b))

I, the person whose name appears on this form as the registered officer for the political party (registered in the Local Government Register of Political Parties) which has endorsed the person proposed for nomination, hereby propose for nomination

.....
(here state name in full in BLOCK letters, occupation and full residential 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).

I request that the *registered name/*abbreviated name of the party be printed adjacent to the candidate's name on the ballot-papers (*cross out what does not apply).

Dated this..... day of (month) (year)

Name in full of registered officer	Name of political 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 was enrolled as an elector for the area on *(the closing date for the election)*/*my name has been mistakenly or accidentally omitted from the roll of electors (*cross out what does not apply).

(2) consent to my being proposed for nomination,

(3) request that my name be shown on the ballot-papers as

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

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

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Note.

- 1 See the back of this Form [or the attached page] for the provisions of the *Local Government Act 1993* covering qualification and disqualification for a civic office.
- 2 Examples of recognised abbreviations or derivatives of given names are Bill for William and Rose for Rosemary. Nicknames, eg Blue or Bunny, are not abbreviations or derivatives. Names are not to be accompanied by any title or academic or other qualification.

STATISTICAL INFORMATION SHEET

I (*full name in BLOCK letters*)
of (*full residential address*),
declare that:

(*tick the squares that apply*) (*only complete this item for ordinary elections, not by-elections*):

- (a) I am male female. and
- (b) I am between 18 and **24** years old
 between 25 and 29 years old
 between 30 and 39 years old
 between 40 and 49 years old
 between 50 and 59 years old
 between 60 and 69 years old
 between 70 and 79 years old
 80 years old or older, and

- (c) I was a candidate at the last ordinary election of the council
 Yes No.

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

Note.

The information supplied above will be used for statistical purposes only. This information will be treated confidentially. All statistics will be published in aggregate or consolidated form only.

Form 4 Ballot-paper

(Clause 38)

.....
(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

(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-paper)

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Schedule 8 Forms

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

Ordinary Voting

- 2 After marking the ballot-paper according to paragraph 1 of these directions, you must fold it so that the vote cannot be seen, show the folded ballot-paper to an electoral official and then place it in the ballot-box.

Pre-poll Voting. Declared Institution Voting, Voting when name omitted from Roll or marked through on Roll

- 3 After marking the ballot-paper according to paragraph 1 of these directions, you must fold it so that the vote cannot be seen and return it to the returning officer or electoral official for placement in the envelope bearing the declaration.

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING PLACE.

Form 5 Ballot-paper

(Clause 38)

.....
 (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) councillors held on (insert election day).

Candidates

GROUP A

GROUP B

GROUP C

CLARKE.
Kenneth
(Blackacre)

BROWN,
Denise
**

DAVIS,
Ronald
(Storekeeper,
Tenterfield)
*

MAHON
Sharon

ARRAIZA.
Ramon
*

KABOS,
Colin
**

DAVIS,
Ronald
(Grazier,
Tenterfield)
*

WHITMORE,
Terence

CLARKE,
Kenneth
(Tenterfield)

SMITH,
Graham
*

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

(The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper, an appropriate reference to their appearance on the back must be made on the front of the ballot-paper.)

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Schedule 8 Forms

Directions for Voting

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

Ordinary Voting

- 2 After marking the ballot-paper according to paragraph 1 of these directions, you must fold it so that the vote cannot be seen, show the folded ballot-paper to an electoral official and then place it in the ballot-box.

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

- 3 After marking the ballot-paper according to paragraph 1 of these directions, you must fold it so that the vote cannot be seen and return it to the returning officer or electoral official for placement in the envelope bearing the declaration.

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING PLACE.

Form 6 Ballot-paper

(Clause 38)

(insert name of area)


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

You may vote in one of two ways

either 

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

GROUP A • Ticket <input type="checkbox"/> or	GROUP B • Ticket <input type="checkbox"/> or	GROUP C • Ticket <input type="checkbox"/> or	GROUP D • Ticket <input type="checkbox"/> or
----------------------------------------------------	----------------------------------------------------	----------------------------------------------------	----------------------------------------------------

or 

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

GROUP A	GROUP B	GROUP C	GROUP D	
<input type="checkbox"/> PARKER Allan ..	<input type="checkbox"/> WILLIAMS Gregory ***	<input type="checkbox"/> WRIGHT Elizabeth ..	<input type="checkbox"/> SMITH Byron ..	<input type="checkbox"/> KNIGHT Colin ****
<input type="checkbox"/> MILLER John ..	<input type="checkbox"/> ROGERS Ralph ***	<input type="checkbox"/> LEVY Mark ..	<input type="checkbox"/> HANSON Richard ..	<input type="checkbox"/> ASSAF Joseph ****
<input type="checkbox"/> MORGAN Albert ..	<input type="checkbox"/> COWAN Pamela ***	<input type="checkbox"/> MCKENZIE Donald ..	<input type="checkbox"/> LANHAM Margaret ..	<input type="checkbox"/> WHITE Veronica ****
<input type="checkbox"/> LUMSDAINE Elaine ..		<input type="checkbox"/> PAGANO Vittore ..	<input type="checkbox"/> PEREZ Juan ..	<input type="checkbox"/> CRAWFORD James ****
		<input type="checkbox"/> WOOD Henry ..		<input type="checkbox"/> MARTIN Michael ****

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

Directions for Voting

(The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper; an appropriate reference to their appearance on the back must be made on the front of the ballot-paper)

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Ordinary Voting

After marking the ballot-paper according to the directions on the ballot-paper, you must fold it so that the vote cannot be seen, show the folded ballot-paper to an electoral official and then place it in the ballot-box.

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

After marking the ballot-paper according to the directions on the ballot-paper, you must fold it so that the vote cannot be seen and return it to the returning officer or electoral official for placement in the envelope bearing the declaration.

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING PLACE.

Form 7 Application for postal vote

(Clause 44)

To the returning officer for (*here specify local government area*).

I declare that:

- 1 My full name is
(*in BLOCK letters*)
- 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 or reasons (*tick the squares that apply*):
 - (a) I will not throughout the hours of polling on election day be within the ward or area for which this election is being held,
 - (b) I will not throughout the hours of polling on election day be within 8 kilometres by the nearest practicable route of any polling place at which I am entitled to vote,
 - (c) I will throughout the hours of polling on election day be travelling under conditions which will prevent me from attending at any such polling place to vote,
 - (d) I am seriously ill or disabled and will be prevented by that illness or disability from attending at any such polling place to vote,
 - (e) I will be prevented by approaching maternity from attending at any such polling place to vote,
 - (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.

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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: for a resident voter this can be any address, but for a non-resident voter it must be the voter's residential address)

STATEMENT OF WITNESS

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)

Application No

(official use only)

Foam 8 Postal vote declaration and declaration where name not on roll

(Clauses 48 and 74)

I

(insert full name in BLOCK letters)

declare that:

- 1 I have not already voted in connection with the forthcoming election being held in the..
 _____ ward of *(local government area).*
- 2 I am still entitled to vote at the election and the address of the land to which my voting entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is:

- 3 To the best of my knowledge and belief I am enrolled on the New South Wales or Commonwealth electoral roll.

If my name is not on the roll of electors being used at the election, in accordance with section 305 of the *Local Government Act 1993* I claim to be entitled to vote at the election.

.....
(signature of elector)

Witnessing of declaration—postal votes only

I am at least 18 years old 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 reasonable inquiry, that the statements contained in the declaration are true.

.....
(signature of witness)

.....
(address of witness)

.....
(date)

Application No.....

(official use only)

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Form 9 Postal ballot-paper lost or not received

(Clause 48)

To the returning officer/senior deputy returning 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.
- declare that I have lost or have not received a declaration envelope in connection with the election being held in the abovementioned ward or area, even though a record has been made that such an envelope has been issued to me.

Tick the square that applies. Tick both squares if both apply.

I claim to vote under clause 48 of the *Local Government (Elections) Regulation 1998*.

.....

(signature of elector)

Declared before me, this day of (month)..... (year) at the
polling place.

.....

(returning officer/senior deputy returning officer)

Form 10 Application for pre-poll vote

(Clause 52)

To the returning/senior deputy returning officer for (*local government area*).

I declare that (*tick the square that applies and complete the appropriate declaration*):

1 (a) I am the person enrolled as.....
 (*name on roll*) of..
 (*address on roll, if address appears on roll*) on the roll of electors for the
 ward of that area.

OR

(b) My name is not on the appropriate roll of electors. 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

To the best of my knowledge and belief I am enrolled on the New South
 Wales or Commonwealth electoral roll.

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 or reasons (*tick the squares
 that apply*)::

(a) I will not throughout the hours of polling on election day be within the
 ward or area for which this election is being held,

(b) I will not throughout the hours of polling on election day be within 8
 kilometres by the nearest practicable route of any polling place at which I
 am entitled to vote,

(c) I will throughout the hours of polling on election day be travelling under
 conditions which will prevent me from attending at any such polling place
 to vote,

(d) I am, 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,

(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.

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I apply to vote' before election day at the abovementioned election.

.....

(signature of applicant)

Declared before me, this day of (month) (year).

.....

(returning officer/senior deputy returning officer)

Form 11 Declared institution vote declaration

(Clause 59)

To the returning/senior deputy returning officer for
..... (local government area).

I declare that (tick the square that applies and complete the appropriate declaration):

1 [] (a) I am the person enrolled as (name on roll) of
(address on roll, if address appears on roll) on the roll of electors for the ward of that area.

OR

(b) My name is not on the appropriate roll of electors. 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

To the best of my knowledge and belief I am enrolled on the New South Wales or Commonwealth electoral roll.

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.

.....
(signature of elector)

Declared before me, this day of (month) (year)

.....
(returning) officer/senior deputy returning officer)

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Form 12 Declaration by an elector whose place of living is not on the roll

(Clause 70)

To the returning officer/senior deputy returning 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 at this election.

I declare that the information shown above is true.

Signature of elector

Polling place

Ward

Area

Date

Form 13 Voting if name already marked on roll

(Clause 75)

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/senior deputy returning officer(ward)
..... (local government area)

I, (name in full as it appears on the roll),
of, (address in full)

declare that:

- 1 My name appears on the roll used at the
polling place opposite the number on that roll.
- 2 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.

I claim to vote under clause 75 of the *Local Government (Elections) Regulation 1998*.

.....
(signature of voter)

Declared before me, this day of (month) (year) at the
..... polling-place.

.....
(returning officer/senior deputy returning officer)

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**Form 14 Account of ballot-papers:
polling place**

(Clause 79)

To the returning officer, (*local government area*).

Ballot-papers received from returning officer for use at the polling place

Ballot-papers written out by senior deputy returning officer

Total:
.....

Ballot-papers unused

Ballot-papers spoilt

Ballot-papers used

Ballot-papers issued to, but not returned by, electors

Tendered votes

Section 305 votes

Total:
.....

Postal ballot-papers delivered up and cancelled

.....

(*senior deputy returning officer*)

Form 15 Penalty notice—Failure to vote

(Clause 88)

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.

I declare that I did vote at *(polling place)*
 in respect of the election/constitutional referendum held on..... *(date)*

.....
(signature)

IF YOU DID NOT VOTE:

1 If you think you have a sufficient reason for not voting, please complete and sign the following declaration:

I declare that I did not vote at the election/constitutional referendum held on *(date)* for the following reason:

.....

(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.

1998 No 503

Local Government (Elections) Regulation 1998

Schedule 8 Forms

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. 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)

Form 16 Constitutional referendum or council poll Paper

(Schedule 6, clause 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)

.....