



New South Wales

# Lord Howe Island (Elections) Regulation 1999

under the

Lord Howe Island Act 1953

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Lord Howe Island Act 1953*.

BOB DEBUS

Minister for the Environment

## Explanatory note

The object of this Regulation is to repeal and remake, with minor modifications, the *Lord Howe Island (Elections) Regulation 1994*. The new Regulation deals with the following matters:

- (a) the calling of elections (Part 2),
- (b) the appointment of the returning officer and other electoral officials (Part 3),
- (c) the preparation of an electoral roll (Part 4),
- (d) nominations of candidates for an election (Part 5),
- (e) the preparation of ballot-papers (Part 6),
- (f) postal voting (Part 7),
- (g) pre-poll voting (Part 8),
- (h) voting at a polling place on polling day (Part 9),
- (i) the scrutiny of the votes (Part 10),
- (j) other matters of a minor, consequential or ancillary nature (Parts 1 and 11 and Schedule 1).

The Regulation is made under the *Lord Howe Island Act 1953*, including section 38 (the general regulation-making power) and section 9C (Elections).

**1999 No 438**

Lord Howe Island (Elections) Regulation 1999

Explanatory note

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The Regulation relates to matters of a machinery nature.

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

## Contents

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	Page
<b>Part 1 Preliminary</b>	
1 Name of Regulation	6
2 Commencement	6
3 Definitions	6
4 Notes	7
<b>Part 2 Calling of election</b>	
5 Election to fill casual vacancy	8
6 Calling of election	8
7 Extension of time	9
<b>Part 3 Appointment of returning officer</b>	
8 Appointment of returning officer and other electoral officials	10
9 Delegation by returning officer	10
10 Scrutineers	10
<b>Part 4 The roll</b>	
11 Preparation, certification and transmission of roll	11
12 Particulars in roll	11
13 Persons entitled to vote	11
<b>Part 5 Nominations</b>	
14 Qualifications of candidates	12
15 Manner of nominating candidates	12
16 Rejection of nomination	12
17 Withdrawal of nomination	12
18 Uncontested election	13
19 Contested election	13

## **1999 No 438**

Lord Howe Island (Elections) Regulation 1999

### Contents

---

#### **Part 6 Ballot-papers**

20	Order of candidates' names on ballot-papers	14
21	Provision of ballot-papers	14
22	Printing of ballot-papers	14

#### **Part 7 Postal voting**

23	Application to vote by post	16
24	Distribution of postal ballot-papers	17
25	Duplicate postal ballot-papers	17
26	Recording of postal vote	17
27	Preliminary scrutiny of postal ballot-papers	18

#### **Part 8 Pre-poll voting**

28	Application to vote before polling day	19
29	If vote taken	19
30	Procedure for taking votes	20
31	Preliminary scrutiny of pre-poll ballot-papers	20

#### **Part 9 Voting at polling place**

32	Appointment of polling place	22
33	Arrangements at polling place	22
34	Hours of polling	22
35	Electors to give name and address	22
36	Questions for challenged voters	23
37	Errors not to forfeit vote	23
38	Initialling of ballot-papers	23
39	Recording of vote	24
40	Spoilt ballot-papers	24
41	Assistance to certain electors	24
42	Voting procedure—disputed votes	25

#### **Part 10 The scrutiny**

43	Scrutiny of votes at close of poll	27
44	Informal ballot-papers	27
45	Method of counting votes for 2 or 3 vacancies	28
46	Method of counting votes for 1 vacancy	28
47	Declaration of poll	29

Lord Howe Island (Elections) Regulation 1999

Contents

---

**Part 11 Miscellaneous**

48	Death of candidate	30
49	Decisions of Electoral Commissioner and returning officer	30
50	Notification of result of election	30
51	Retention of electoral papers	30
52	Offences	31
53	Repeal	31

**Schedule**

1	Forms	32
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## 1999 No 438

Clause 1 Lord Howe Island (Elections) Regulation 1999

Part 1 Preliminary

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# Lord Howe Island (Elections) Regulation 1999

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Lord Howe Island (Elections) Regulation 1999*.

### 2 Commencement

This Regulation commences on 1 September 1999.

### 3 Definitions

(1) In this Regulation:

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

*deputy returning officer* means the person appointed as deputy returning officer under clause 8.

*election* means an election under Division 3 of Part 2 of the Act.

*election notice* for an election means the notice published in respect of the election under clause 6.

*elector* for an election means a person whose name appears on the roll for the election.

*polling day* for an election means the final time and date fixed by the returning officer for the taking of the poll in the election.

*returning officer* means the person appointed as returning officer under clause 8.

*roll* for an election means a roll of electors prepared and certified in accordance with Part 4 in respect of the election.

*the Act* means the *Lord Howe Island Act 1953*.

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

**4 Notes**

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

## **1999 No 438**

Clause 5 Lord Howe Island (Elections) Regulation 1999

Part 2 Calling of election

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### **Part 2 Calling of election**

#### **5 Election to fill casual vacancy**

The Minister must notify the Electoral Commissioner that an election is required to be held under section 9A (c) of the Act when a member vacates office in the circumstances referred to in section 4 (4A) (a) of the Act.

#### **6 Calling of election**

- (1) When required to conduct an election under section 9A of the Act, the Electoral Commissioner:
  - (a) must cause a notice of the proposed election to be published in the Gazette, and
  - (b) must cause a copy of the notice to be displayed on at least 2 public notice boards on the Island.
- (2) The notice:
  - (a) must state that an election is to be held, and
  - (b) must specify the address of the office of the returning officer on the Island, and
  - (c) must invite nominations of candidates for the election, and
  - (d) must fix the close of nominations, and
  - (e) must fix the day for taking the poll.
- (3) The close of nominations must be not less than 7 days and not more than 14 days after the publication in the Gazette of the election notice.
- (4) The polling day:
  - (a) must be not less than 30 days after the publication in the Gazette of the election notice, and
  - (b) must not be a Saturday, a Sunday or a day that is a public holiday on the Island.

**7 Extension of time**

- (1) If of the opinion that an election would fail, the Electoral Commissioner may (by a notice published and displayed in the same manner as the election notice) fix a later time and day for the close of nominations or for polling day than that fixed by a previous notice for the election.
- (2) The notice must not fix a day more than 14 days after the day fixed by the previous notice for the election.
- (3) The power conferred on the Electoral Commissioner by this clause may be exercised more than once in respect of an election.

## **1999 No 438**

Clause 8 Lord Howe Island (Elections) Regulation 1999

Part 3 Appointment of returning officer

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### **Part 3 Appointment of returning officer**

#### **8 Appointment of returning officer and other electoral officials**

The Electoral Commissioner must appoint:

- (a) a returning officer for the purposes of conducting elections, and
- (b) a deputy returning officer, and
- (c) such other electoral officials as may be necessary to assist the returning officer.

#### **9 Delegation by returning officer**

The returning officer may delegate to the deputy returning officer any or all of the returning officer's powers, authorities, duties and functions under this Regulation, other than this power of delegation.

#### **10 Scrutineers**

Each candidate for election is entitled to appoint, by writing signed by the candidate:

- (a) one scrutineer to act on the candidate's behalf at the taking of the votes, and
- (b) one scrutineer (who may, but need not be, the scrutineer referred to in paragraph (a)) to act on the candidate's behalf at the scrutiny.

## **Part 4 The roll**

### **11 Preparation, certification and transmission of roll**

As soon as practicable after the publication in the Gazette of an election notice, the Electoral Commissioner must prepare, certify and transmit to the returning officer a roll of the persons entitled to be enrolled as electors for the election, as at the date of publication of the election notice.

### **12 Particulars in roll**

The roll for an election must be in the same form and contain the same particulars of electors as the State electoral roll for the electorate in which the Island is situated.

### **13 Persons entitled to vote**

The persons entitled to vote at an election are the persons included in the roll for the election.

## **1999 No 438**

Clause 14 Lord Howe Island (Elections) Regulation 1999

Part 5 Nominations

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### **Part 5 Nominations**

#### **14 Qualifications of candidates**

A person is qualified to be nominated as a candidate at an election if the person is an Islander and is entitled to be enrolled as an elector for the election.

#### **15 Manner of nominating candidates**

- (1) A person may be nominated as a candidate at an election by the delivery to the returning officer, at any time after the publication of the election notice and before the close of nominations, of a nomination paper in Form 1.
- (2) A candidate at an election must be nominated by at least 2 persons (other than the candidate) each of whom is entitled to be enrolled as an elector for the election.
- (3) One person may not nominate more candidates than the number of persons to be elected.
- (4) On receiving a nomination paper, the returning officer must, if required to do so, give a receipt for it.
- (5) A nomination paper is not available for public inspection.

#### **16 Rejection of nomination**

The returning officer must reject the nomination of a person as a candidate at an election:

- (a) if the person is not qualified to be nominated under clause 14, or
- (b) if the person has not been duly nominated under clause 15.

#### **17 Withdrawal of nomination**

A candidate may withdraw the candidate's nomination by notice in writing delivered to the returning officer at any time before the close of nominations.

**18 Uncontested election**

If, by the close of nominations, the number of candidates nominated for election does not exceed the number of persons to be elected, the returning officer:

- (a) must publicly declare those candidates elected, and
- (b) must notify the Electoral Commissioner that those candidates have been elected.

**19 Contested election**

- (1) If, by the close of nominations, the number of candidates nominated exceeds the number of persons to be elected:
  - (a) a poll must be taken on polling day, and
  - (b) the returning officer must publicly announce that a poll will be so taken, together with the names of the candidates.
- (2) Immediately after making an announcement under subclause (1), the returning officer must cause a like announcement, together with the address of the polling place and the day and the hours that the polling place will open for voting, to be displayed on at least one public notice board on the Island.

## **1999 No 438**

Clause 20 Lord Howe Island (Elections) Regulation 1999

Part 6 Ballot-papers

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### **Part 6 Ballot-papers**

#### **20 Order of candidates' names on ballot-papers**

As soon as practicable after the close of nominations, the returning officer:

- (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
- (b) must notify the Electoral Commissioner of the order so determined.

#### **21 Provision of ballot-papers**

The ballot-papers are to be provided by the Electoral Commissioner.

#### **22 Printing of ballot-papers**

- (1) The following provisions must be observed in printing the ballot-papers:
  - (a) the names of the candidates must be listed in the order determined under clause 20,
  - (b) the surname of each candidate must be in more conspicuous type than that used for the given name or names of the candidate,
  - (c) if, in the opinion of the Electoral Commissioner, the names of 2 or more candidates are so similar as to cause confusion, the Electoral Commissioner may include such other matter as will, in the Electoral Commissioner's opinion, distinguish between those candidates,
  - (d) a square must be printed opposite the name of each candidate,
  - (e) the directions as to the manner in which the vote is to be recorded must comprise such of the directions referred to in subclause (2) as are applicable to the election.

- (2) An elector must record the elector's vote on the ballot-paper in accordance with the following directions:
- (a) if there are 3 persons to be elected:
    - (i) the elector must record the elector's vote for at least 3 candidates by placing the numbers "1", "2" and "3" in the squares opposite the names of 3 candidates in the order of the elector's preferences for them, and
    - (ii) the elector may vote for additional candidates by placing consecutive numbers (beginning with the number "4") in the squares opposite the names of those additional candidates in the order of the elector's preferences for them,
  - (b) if there are 2 persons to be elected:
    - (i) the elector must record the elector's vote for at least 2 candidates by placing the numbers "1" and "2" in the squares opposite the names of 2 candidates in the order of the elector's preferences for them, and
    - (ii) the elector may vote for additional candidates by placing consecutive numbers (beginning with the number "3") in the squares opposite the names of those additional candidates in the order of the elector's preferences for them,
  - (c) if there is 1 person to be elected:
    - (i) the elector must record the elector's vote for at least 1 candidate by placing the number "1" in the square opposite the name of the candidate for whom the elector desires to give a first preference vote, and
    - (ii) the elector 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 elector's preferences for them.

## 1999 No 438

Clause 23 Lord Howe Island (Elections) Regulation 1999

Part 7 Postal voting

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### Part 7 Postal voting

#### 23 Application to vote by post

- (1) An elector:
  - (a) who will not, throughout the hours of polling on polling day, be on the Island, or
  - (b) who, because of illness or infirmity or (in the case of a woman) approaching maternity, will be precluded from attending at the polling place to vote, or
  - (c) who, because of the elector's membership of a religious order or the elector's religious beliefs:
    - (i) is precluded from attending at the polling place to vote, or
    - (ii) is precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours, or
  - (d) who, because of the elector's being an inmate of a correctional centre (within the meaning of the *Correctional Centres Act 1952*), is precluded from attending at the polling place to vote,may make an application to the returning officer to vote by post.
- (2) An application to vote by post:
  - (a) must be in writing, and
  - (b) must specify the ground on which it is made, and
  - (c) must be signed by the elector, and
  - (d) may be made at any time after the publication in the Gazette of the election notice in respect of the election but not later than 7 days before polling day.
- (3) The returning officer must number in consecutive order all applications to vote by post.

**24 Distribution of postal ballot-papers**

- (1) The returning officer must deliver or post to each elector who duly applies to vote by post:
  - (a) a ballot-paper:
    - (i) that has been initialled on the back by the returning officer, and
    - (ii) if the particulars of the candidates are not already printed on the ballot-paper, on which the returning officer has entered the names of the candidates in the order determined under clause 20, and
  - (b) an unsealed envelope addressed to the returning officer and bearing on the back the words "NAME AND ENROLLED ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of the elector's name, address and signature.
- (2) The returning officer must note on a certified copy of the roll the names of the electors to whom a ballot-paper has been delivered or posted.
- (3) An elector to whom a ballot-paper has been delivered or posted is not entitled to vote in accordance with Part 8 or 9 unless the elector first delivers the elector's ballot-paper to the returning officer for cancellation.

**25 Duplicate postal ballot-papers**

- (1) If an elector to whom a ballot-paper has been delivered or posted satisfies the returning officer that the elector has spoilt the ballot-paper by mistake or accident, the elector may, on giving it up, receive a new ballot-paper from the returning officer.
- (2) The returning officer must cancel and preserve the spoilt ballot-paper.

**26 Recording of postal vote**

On receipt of a ballot-paper, an elector who wishes to vote by post:

- (a) must record the elector's 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

## **1999 No 438**

Clause 26 Lord Howe Island (Elections) Regulation 1999

Part 7 Postal voting

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- (c) must seal the envelope, and
- (d) must insert the elector's full name, address and signature on the back of the envelope, and
- (e) must post or deliver the envelope to the returning officer so as to be received by the returning officer not later than 6 pm on polling day.

### **27 Preliminary scrutiny of postal ballot-papers**

At the scrutiny, the returning officer:

- (a) must produce all applications under this Part and all envelopes purporting to contain ballot-papers received by the returning officer before 6 pm on polling day, and
- (b) must compare the signature of the elector on each such envelope with the signature of the same elector on the relevant application and allow the scrutineers to inspect both signatures, and
- (c) if the returning officer is satisfied that the signature on the envelope is that of the elector who signed the relevant application, must accept the ballot-paper for further scrutiny, and
- (d) if the returning officer is not so satisfied, must disallow the ballot-paper without opening the envelope, and
- (e) must take from the envelopes all ballot-papers accepted for further scrutiny and (without inspecting or unfolding them or allowing any other person to do so) must place them in a locked ballot-box for further scrutiny under Part 10.

## Part 8 Pre-poll voting

### 28 Application to vote before polling day

- (1) An elector:
- (a) who intends to leave the Island after the close of nominations and who will not, throughout the hours of polling on polling day, be on the Island, or
  - (b) who, because of illness or infirmity or (in the case of a woman) approaching maternity, will be precluded from attending at the polling place to vote,
- may make an application to the returning officer to vote before polling day.
- (2) An application to vote before polling day:
- (a) must be in writing, and
  - (b) must specify the ground on which it is made, and
  - (c) must be signed by the elector, and
  - (d) may be made:
    - (i) in the case of an application under subclause (1) (a), at any time after the close of nominations, or
    - (ii) in the case of an application under subclause (1) (b), at any time after the publication in the Gazette of the election notice,but not later than 5 pm on the day before polling day, and
  - (e) in the case of an application under subclause (1) (a), must be delivered by the elector in person to the office of the returning officer.
- (3) The returning officer must number in consecutive order all applications to vote before polling day.

### 29 If vote taken

The vote of an elector who makes an application to vote before polling day must be taken before polling day at the office of the returning officer or during a visit made to the elector by the returning officer.

## **1999 No 438**

Clause 30 Lord Howe Island (Elections) Regulation 1999

Part 8 Pre-poll voting

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### **30 Procedure for taking votes**

- (1) The returning officer must deliver to each elector voting under this Part:
  - (a) a ballot-paper:
    - (i) that has been initialled on the back by the returning officer, and
    - (ii) if the particulars of the candidates are not already printed on the ballot-paper, on which the returning officer has entered the names of the candidates in the order determined under clause 20, and
  - (b) an unsealed envelope addressed to the returning officer and bearing on the back the words "NAME AND ENROLLED ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of the elector's name, address and signature.
- (2) On receiving a ballot-paper, the elector:
  - (a) must record the elector's vote on the ballot-paper in accordance with the directions shown on it, and
  - (b) must place the completed ballot-paper in the envelope addressed to the returning officer and delivered with the ballot-paper, and
  - (c) must seal the envelope, and
  - (d) must insert the elector's full name, address and signature on the back of the envelope, and
  - (e) must place the envelope in a locked ballot-box provided by the returning officer,but so that the returning officer cannot see the vote.
- (3) The provisions of clauses 36, 37, 38, 40 and 41 apply to the taking of the votes under this Part in the same way as they apply to the taking of the votes under Part 9.

### **31 Preliminary scrutiny of pre-poll ballot-papers**

At the scrutiny, the returning officer:

- (a) must produce all applications under this Part and all envelopes purporting to contain ballot-papers that were placed in a ballot-box, and

- (b) must compare the signature of the elector on each such envelope with the signature of the same elector on the relevant application and allow the scrutineers to inspect both signatures, and
- (c) if the returning officer is satisfied that the signature on the envelope is that of the elector who signed the relevant application, must accept the ballot-paper for further scrutiny, and
- (d) if the returning officer is not so satisfied, must disallow the ballot-paper without opening the envelope, and
- (e) must take from the envelopes all ballot-papers accepted for further scrutiny and (without inspecting or unfolding them or allowing any other person to do so) place them in a locked ballot-box for further scrutiny under Part 10.

## **1999 No 438**

Clause 32 Lord Howe Island (Elections) Regulation 1999

Part 9 Voting at polling place

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### **Part 9 Voting at polling place**

#### **32 Appointment of polling place**

The returning officer must appoint a polling place on the Island for the purposes of taking the poll at an election.

#### **33 Arrangements at polling place**

- (1) The returning officer must make or cause to be made all the necessary arrangements for taking the poll at the polling place.
- (2) Immediately before taking the poll at the polling place, the returning officer:
  - (a) must exhibit the ballot-box, open and empty, for the inspection of any candidate, scrutineer or other person present, and
  - (b) must immediately afterwards close it, lock it and place it on the table at which the returning officer is to preside in full view of all persons present.
- (3) The ballot-box must be kept unopened on the table on which it is placed until the close of the poll.

#### **34 Hours of polling**

The polling place must be open for voting on polling day at all times between 8 am and 6 pm.

#### **35 Electors to give name and address**

Each person claiming to vote at the polling place:

- (a) must state the person's surname and given name or names, and
- (b) if required to do so by the returning officer, must state any other particulars necessary for the purpose of identifying the name on the roll under which the vote is claimed.

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**36 Questions for challenged voters**

- (1) The returning officer may, and at the request of any scrutineer must, put to any person claiming to vote all or any of the following questions:
  - (a) Are you the person whose name appears as (*here state name under which the person claims to vote*) on the roll for this election?
  - (b) Are you of or above the age of 18 years?
  - (c) Have you already voted at this election?
  - (d) Are you disqualified from voting?
  - (e) Are you a resident on the Island?
- (2) If any person refuses to answer fully any question put to the person by the returning officer, or by the person's answer shows that the person is not entitled to vote, the person's claim to vote must be rejected.
- (3) The person's answers to the questions are conclusive, and the person's entitlement to vote is not to be further inquired into during the polling.

**37 Errors not to forfeit vote**

- (1) No omission of any given name or names, or entry of a wrong given name or names, address or occupation, and no mistake in the spelling of any surname, justifies the rejection of any claim to vote if, in the opinion of the returning officer, the elector is sufficiently identified.
- (2) No female elector is disqualified from voting under the name appearing on the roll because her surname has been changed by marriage, but in that case a note of the fact must be made by the returning officer.

**38 Initialling of ballot-papers**

- (1) Before giving a ballot-paper to an elector, the returning officer must initial the ballot-paper on the back.
- (2) The returning officer must keep an exact account of all initialled ballot-papers.
- (3) The returning officer must mark off the roll the name of any elector to whom a ballot-paper is given.

## **1999 No 438**

Clause 39 Lord Howe Island (Elections) Regulation 1999

Part 9 Voting at polling place

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### **39 Recording of vote**

On receipt of a ballot-paper the elector:

- (a) must retire alone to some unoccupied booth at the polling place and there in private record the elector's vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must fold the ballot-paper so as to conceal the names of the candidates and then forthwith deposit it in the ballot-box, and
- (c) must then leave the polling place.

### **40 Spoilt ballot-papers**

- (1) If an elector to whom a ballot-paper has been given satisfies the returning officer that the elector has spoilt the ballot-paper by mistake or accident, the elector may, on giving it up, receive a new ballot-paper from the returning officer.
- (2) The returning officer must cancel and preserve the spoilt ballot-paper.

### **41 Assistance to certain electors**

- (1) If an elector satisfies the returning officer that the elector's sight is so impaired or that the elector is so physically incapacitated that the elector is unable to vote without assistance, the returning officer must permit a person appointed by the elector:
  - (a) to accompany the elector to an unoccupied booth, and
  - (b) to mark the ballot-paper according to the instructions of the elector, and
  - (c) to fold and deposit the ballot-paper in the ballot-box.
- (2) If the elector fails to appoint a person, or satisfies the returning officer that the elector is so illiterate that the elector is unable to vote without assistance, the returning officer must, in the presence of:
  - (a) such scrutineers as choose to be present, or
  - (b) if there are no scrutineers present, in the presence of such person as the elector may appoint,mark the ballot-paper according to the instructions of the elector and fold and deposit the ballot-paper in the ballot-box.

- (3) An elector's instructions may be given by handing to the person marking the ballot-paper a "how-to-vote" card, or a printed or written statement indicating:
- (a) the candidate for whom the elector desires to vote, or
  - (b) the candidates for whom the elector desires to vote and the order of the elector's preferences for them.

#### **42 Voting procedure—disputed votes**

- (1) A person claiming to vote at the polling place may vote in accordance with this Part:
- (a) even if a mark on the roll indicates that the person has already voted, so long as the person's answers to the questions put to the person by the returning officer under clause 36 show that the person is entitled to vote, and
  - (b) even if a mark on the roll indicates that a ballot-paper has been delivered or posted to the person under Part 7, so long as the person states that the person has not applied to vote by post and the person's answers to the questions put to the person by the returning officer show that the person is entitled to vote, and
  - (c) even if the person's name cannot be found on the roll, so long as the person claims to be entitled to be enrolled as an elector for the election.
- (2) After recording a vote in accordance with this clause, the elector:
- (a) must place the completed ballot-paper (folded so that the vote cannot be seen) in an envelope that is addressed to the returning officer and on which the person has made a written declaration specifying the ground on which the person claims to vote, and
  - (b) must sign the declaration, and
  - (c) must seal the envelope, and
  - (d) must hand the envelope to the returning officer.
- (3) The returning officer:
- (a) must examine the declarations on all envelopes purporting to contain ballot-papers of persons voting in accordance with this clause, and

**1999 No 438**

Clause 42 Lord Howe Island (Elections) Regulation 1999

Part 9 Voting at polling place

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- (b) if after making such inquiries as the returning officer considers necessary the returning officer is satisfied that the person who signed the declaration on any such envelope is entitled to vote, must accept the ballot-paper for further scrutiny, and
- (c) if the returning officer is not so satisfied, must disallow the ballot-paper without opening the envelope, and
- (d) must take from the envelopes all ballot-papers accepted for further scrutiny and (without inspecting or unfolding them or allowing any other person to do so) place them in a locked ballot-box for further scrutiny under Part 10.

## Part 10 The scrutiny

### 43 Scrutiny of votes at close of poll

- (1) At the close of the poll, the returning officer:
  - (a) must carry out the procedures prescribed by clauses 27, 31 and 42, and
  - (b) must unlock the ballot-boxes, and
  - (c) must remove the ballot-papers from the ballot-boxes, and
  - (d) must examine each ballot-paper and reject those which are informal, and
  - (e) must proceed to count the votes and ascertain the result of the election in accordance with clause 45 or 46, as the case requires.
- (2) The scrutiny of votes is to be carried out in the presence of the returning officer's assistants and of such scrutineers as choose to be present, but in the presence of no other persons.

### 44 Informal ballot-papers

- (1) A ballot-paper must be rejected as informal:
  - (a) if it is neither initialled by the returning officer nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or
  - (b) if the elector has failed to record the elector's vote in the manner directed on the ballot-paper, or
  - (c) if it has on it any mark or writing that, in the opinion of the returning officer, will enable any person to identify the elector.
- (2) A ballot-paper must not be rejected as informal just because of any mark or writing that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (1) (c)) if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.

## 1999 No 438

Clause 44 Lord Howe Island (Elections) Regulation 1999

Part 10 The scrutiny

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- (3) A ballot-paper on which the elector has recorded votes for not less than the number of persons to be elected must not be rejected as informal:
- (a) just because the same preference (other than the elector's first preference) has been recorded on the ballot-paper for more than 1 candidate, but in that event the ballot-paper must be treated as if those preferences and any subsequent preferences had not been recorded on the ballot-paper, or
  - (b) just because there is a break in the order of the elector's preferences recorded on the ballot-paper, but in that event the ballot-paper must be treated as if any subsequent preferences had not been recorded on the ballot-paper.

### 45 Method of counting votes for 2 or 3 vacancies

- (1) If there are 2 or 3 persons to be elected, the method of counting the votes to ascertain the result of the election is to be as provided by Part 2 of the Sixth Schedule to the *Constitution Act 1902*.
- (2) For the purposes of the application of Part 2 of the Sixth Schedule to the *Constitution Act 1902* to an election under this Regulation:
  - (a) a reference to the Council returning officer is to be construed as a reference to the returning officer under this Regulation, and
  - (b) the quota is to be determined by dividing the total number of first preference votes for all candidates by 1 more than the number of persons to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1.

### 46 Method of counting votes for 1 vacancy

- (1) If there is 1 person to be elected, the method of counting the votes to ascertain the result of the election is to be as provided by Part 2 of the Seventh Schedule to the *Constitution Act 1902*.
- (2) For the purposes of the application of Part 2 of the Seventh Schedule to the *Constitution Act 1902* to an election under this Regulation, a reference to the returning officer is to be construed as a reference to the returning officer under this Regulation.

**47 Declaration of poll**

Immediately after the result of a poll has been ascertained, the returning officer:

- (a) must publicly declare the candidates elected, and
- (b) must notify the Electoral Commissioner that those candidates have been elected.

## **1999 No 438**

Clause 48 Lord Howe Island (Elections) Regulation 1999

Part 11 Miscellaneous

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### **Part 11 Miscellaneous**

#### **48 Death of candidate**

If a candidate dies after the close of nominations and before polling day for an election:

- (a) the election is taken to have failed, and
- (b) the Electoral Commissioner must proceed to conduct a new election.

#### **49 Decisions of Electoral Commissioner and returning officer**

If the Electoral Commissioner or the returning officer is by this Regulation permitted or required to make a decision on any matter relating to the conduct of an election, the decision of the Electoral Commissioner or returning officer on that matter is final.

#### **50 Notification of result of election**

As soon as practicable after the Electoral Commissioner has been notified by the returning officer that one or more candidates in an election have been elected, the Electoral Commissioner:

- (a) must cause the Minister to be notified in writing, and
- (b) must cause a notice to be published in the Gazette,  
of the name or names of the candidate or candidates who have been elected.

#### **51 Retention of electoral papers**

- (1) After one or more candidates in an election have been elected, the returning officer must forward to the Electoral Commissioner all nomination papers, ballot-papers, applications to vote by post or before polling day, rolls and other papers connected with the election.
- (2) The Electoral Commissioner must retain those papers for at least 3 months after polling day.

## 52 Offences

Any person:

- (a) who votes, or attempts to vote, more than once in an election, or
- (b) who votes, or attempts to vote, in an election in which the person is not entitled to vote, or
- (c) who makes a false or wilfully misleading statement:
  - (i) to the returning officer in connection with an election, or
  - (ii) in any document that the person furnishes for the purposes of an election, or
- (d) who obstructs the proceedings at the polling place or at the office of the returning officer, or
- (e) who enters any occupied booth at the polling place,

is guilty of an offence against this Regulation and liable to a penalty not exceeding 4 penalty units.

## 53 Repeal

- (1) The *Lord Howe Island (Elections) Regulation 1994* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Lord Howe Island (Elections) Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

**1999 No 438**

Lord Howe Island (Elections) Regulation 1999

Schedule 1      Forms

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**Schedule 1   Forms**

**Form 1**

(Clause 15)

NOMINATION OF CANDIDATE

We, being entitled to be included in the roll for the election of members of the Lord Howe Island Board, nominate:

.....  
*(full name in block letters)*

of .....  
*(place of residence as enrolled)*

as a candidate for that election.

Date .....

Names (in full) of nominators	Signatures	Place of residence (as enrolled)	Occupation
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

I, ..... , consent to the nomination.  
*(name of candidate)*

.....  
*(candidate's signature)*

*NOTE: This form must be completed by at least 2 nominators.*

BY AUTHORITY