



New South Wales

# Teacher Accreditation Amendment Regulation 2020

under the

Teacher Accreditation Act 2004

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Teacher Accreditation Act 2004*.

SARAH MITCHELL, MLC  
Minister for Education and Early Childhood Learning

## Explanatory note

The object of this Regulation is to enable electronic ballots to be held in elections for the elected members of the Quality Teaching Committee established under the *Teacher Accreditation Act 2004*. This Regulation also makes consequential and associated amendments, including replacing requirements for certain election-related notices to be published in newspapers with more flexibly framed requirements and updating cross-references.

This Regulation is made under the *Teacher Accreditation Act 2004*, including sections 13 and 52 (the general regulation-making power).

## **Teacher Accreditation Amendment Regulation 2020**

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Teacher Accreditation Act 2004

### **1 Name of Regulation**

This Regulation is the *Teacher Accreditation Amendment Regulation 2020*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Teacher Accreditation Regulation 2015

### [1] Clause 9 Definitions

Insert in alphabetical order in clause 9(1)—

*ballot-paper* includes an electronic ballot-paper, unless otherwise indicated.

*electronic ballot* means an electronic ballot conducted in accordance with this Part.

*postal ballot* means a postal ballot conducted in accordance with this Part.

*voting website*—see clause 48C.

### [2] Clause 9(1), definitions of “representative of early childhood education centre teachers”, “representative of government school teachers and principals” and “representative of non-government school teachers and principals”

Omit “clause 11(1)(c)”, “clause 11(1)(a)” and “clause 11(1)(b)” wherever occurring.

Insert instead “clause 11(c)”, “clause 11(a)” and “clause 11(b)”, respectively.

### [3] Clause 12

Omit clause 12. Insert instead—

#### 12 Designation of returning officer

The returning officer for an election may be one of the following—

- (a) the Electoral Commissioner,
- (b) a person employed in the office of and nominated by the Electoral Commissioner for the purpose of exercising the functions conferred or imposed on a returning officer under this Regulation,
- (c) a fee-for-service election provider nominated by the Authority.

### [4] Clause 13 Functions of returning officer

Insert after clause 13(2)—

- (3) In determining matters in relation to electronic ballots, the returning officer is to seek to align processes applying to electronic ballots with those applying to postal ballots, to the extent the returning officer considers appropriate.

### [5] Part 3, Division 4

Omit the heading. Insert instead—

#### Division 4 Calling an election

### [6] Clause 17 Notice of election

Omit clause 17(1)(c). Insert instead—

- (c) to be publicly advertised in a way that the returning officer considers appropriate.

### [7] Clause 17(2)(d)

Omit “where” wherever occurring. Insert instead “how”.

### [8] Clause 17(2)(l) and (m)

Insert at the end of clause 17(2)(k)—

, and

- (l) must specify whether, if a ballot is required to be held, the election is to be conducted by a postal ballot or an electronic ballot, or both, and
- (m) must specify that, if an electronic ballot is to be held, a person may choose to vote by means of a postal ballot if the person notifies the returning officer of that choice—
  - (i) in writing, and
  - (ii) no later than 21 days after the date on which the notice is first advertised under subclause (1)(c).

**[9] Clauses 17(3) and (4) and 31(3) and (4)**

Omit “published in a daily newspaper circulating generally in New South Wales” wherever occurring.

Insert instead “advertised under subclause (1)(c)”.

**[10] Clause 19A**

Insert after clause 19—

**19A Person may choose postal voting in electronic ballot**

- (1) An eligible person may notify the returning officer in writing that, if a ballot is required to be held, the person wants to receive a ballot-paper by post and return the completed ballot-paper by post rather than participate in an electronic ballot.

**Note.** Section 17 of the Act provides for eligibility for enrolment on the electoral list.

- (2) The notice must be given no later than 21 days after the date on which the notice of election is first advertised under clause 17(1)(c).
- (3) The person may at any time before the end of the 21-day period notify the returning officer in writing that the person wants to change the person’s choice and participate in an electronic ballot rather than a postal ballot.
- (4) A Division or other provision in this Part that is expressed to apply to a postal ballot or the conduct of an election by a postal ballot applies, with the necessary modifications, to voting in an electronic ballot by voters who have chosen to participate in a postal ballot in accordance with this clause.
- (5) In this clause—  
*eligible person* means a person who is eligible to be enrolled on the electoral list at the date on which a notice of election is first advertised under clause 17(1)(c).

**[11] Clause 22 Nominations**

Insert after clause 22(7)—

- (8) A nomination form may be lodged through a remote electronic nomination system if made available by the returning officer.
- (9) An electronic nomination form may be endorsed electronically, or in accordance with a procedure determined by the returning officer, for the purposes of this clause.

**[12] Clause 23 Withdrawal of nomination**

Insert after clause 23(2)—

- (3) If a remote electronic nomination system is made available by the returning officer, a withdrawal of nomination, which may be signed electronically, may be lodged through that system.

**[13] Clause 24 Candidate information sheets and contact details**

Insert after clause 24(3)—

- (4) A candidate information sheet may be submitted through a remote electronic system if made available by the returning officer.

**[14] Clause 31 Call for further nomination**

Omit clause 31(1)(c). Insert instead—

- (c) to be publicly advertised in a way that the returning officer considers appropriate.

**[15] Clause 31(2)(h) and (i)**

Insert at the end of clause 31(2)(g)—

, and

- (h) must specify whether, if a ballot is required to be held, the election is to be conducted by a postal ballot or an electronic ballot, or both, and
- (i) must specify that, if an electronic ballot is to be held, a person may choose to vote by means of a postal ballot if the person notifies the returning officer of that choice—
- (i) in writing, and
- (ii) no later than 21 days after the date on which the notice is first advertised under subclause (1)(c).

**[16] Clause 31(6)**

Insert after clause 31(5)—

- (6) A nomination form may be lodged through a remote electronic nomination system if made available by the returning officer.

**[17] Clauses 32 and 33(1)**

Omit “deliver” wherever occurring. Insert instead “provide”.

**[18] Clause 33, heading**

Omit “**Delivery**”. Insert instead “**Provision**”.

**[19] Clause 33(1)(a)(i)**

Insert “or access to the voting website” after “ballot-paper”.

**[20] Clause 33(1)(b)**

Insert “for a postal ballot—” before “an appropriately”.

**[21] Clause 33(2)**

Omit the subclause. Insert instead—

- (2) The address referred to in subclause (1)(a)(i) is to be the postal or email address, as applicable to the type of ballot concerned, entered in relation to the person in the accreditation list.

**[22] Clause 37A**

Insert after clause 37—

**37A Voting not compulsory**

Voting is not compulsory

**[23] Part 3, Division 9A**

Insert after Division 9—

**Division 9A Types of ballots**

**37B Ballot may be postal, electronic or both**

- (1) The returning officer must decide whether an election is to be conducted by a postal ballot or an electronic ballot, or both.
- (2) In making the decision, the returning officer must consult with the Authority.
- (3) If an electronic ballot is to be held, the returning officer must make arrangements for persons who have notified the returning officer in accordance with clause 19A of wanting to vote in the election by means of a postal ballot.

**[24] Clause 39, heading**

Omit “Form”. Insert instead “Postal ballots—form”.

**[25] Clause 39(1A)**

Insert before clause 39(1)—

- (1A) This clause applies to the conduct of an election by a postal ballot.

**[26] Clause 40 Candidate information sheets**

Omit “The” from clause 40(7). Insert instead “For a postal ballot, the”.

**[27] Part 3, Division 11**

Omit the heading. Insert instead—

**Division 11 Postal ballot—distribution of ballot-papers**

**[28] Clause 41A**

Insert after the heading to Division 11—

**41A Application of Division**

This Division applies to the conduct of an election by a postal ballot.

**[29] Part 3, Division 12**

Omit the heading. Insert instead—

**Division 12 Postal ballot**

**[30] Clauses 45 and 46**

Omit the clauses.

**[31] Clause 47A**

Insert after the heading to Division 12—

**47A Application of Division**

This Division applies to the conduct of an election by a postal ballot.

**[32] Part 3, Division 12A**

Insert after Division 12—

**Division 12A Electronic ballot**

**48A Application of Division**

This Division applies to the conduct of an election by an electronic ballot.

**Note.** Division 12 applies in relation to voters who have given notice to the returning officer under clause 19A of wanting to vote by means of a postal ballot in an electronic ballot—see clause 19A(4).

**48B Means of voting in electronic ballot**

An electronic ballot is to be conducted by remote electronic voting.

**48C Voting website**

- (1) If an electronic ballot is to be conducted by means of accessing a website (the ***voting website***), the voting website must include—
  - (a) access to the following—
    - (i) an electronic declaration form,
    - (ii) an electronic ballot-paper,
    - (iii) an electronic candidate information sheet, if appropriate, and
  - (b) instructions on how to vote, including directions that—
    - (i) the voter must complete and submit the electronic declaration form, and
    - (ii) the voter must record a vote by marking the electronic ballot-paper next to the name of the voter's preferred candidates, and
    - (iii) the voter must record a vote for at least the number of candidates to be elected in the order of the voter's preferences for them, and
    - (iv) the voter may, but is not required to, vote for additional candidates in the order of the voter's preferences for them, and
    - (v) the voter must submit the electronic ballot-paper, and
  - (c) the closing date of the ballot.
- (2) The electronic ballot-paper must—
  - (a) list the names of all candidates for election in the order determined under clause 38, and
  - (b) include a check box or other facility for recording a vote opposite each name.
- (3) The voting website must be established in a way that—
  - (a) enables the voter to make a declaration stating that the voter is eligible to vote in the election, and
  - (b) ensures that the vote recorded by a voter cannot be identified, and

- (c) alerts a voter who is about to submit an informal vote that the proposed vote is informal, and
- (d) enables a voter to review and amend as necessary the voter's recording of a vote before submitting it.

**48D Secure storage of electronic votes**

The returning officer must ensure that electronic votes are kept secure until the counting of votes is concluded in accordance with Division 14.

**48E Receipt of electronic votes**

The returning officer must reject an electronic vote not submitted before the close of the ballot.

**[33] Clause 50 Scrutineers**

Omit "sent or delivered" from clause 50(1).

**[34] Clause 50(3)**

Omit the subclause. Insert instead—

- (3) A scrutineer appointed in accordance with this clause is entitled to be present at any proceeding in the election for which the person who appointed the scrutineer is a candidate.

**[35] Clause 50(4)**

Omit "at any counting table".

**[36] Clause 51, heading**

Omit the heading. Insert instead—

**51 Postal ballots—examination of envelopes**

**[37] Clause 51(1A)**

Insert after the heading to the clause—

- (1A) This clause applies to the conduct of an election by a postal ballot.

**[38] Clause 52, heading**

Omit the heading. Insert instead—

**52 Postal ballots—scrutiny of votes**

**[39] Clause 52**

Insert "(2)" before "The scrutiny".

**[40] Clause 52(1)**

Insert before clause 52(2) (as amended by item [39])—

- (1) This clause applies to the conduct of an election by a postal ballot.

**[41] Clause 53, heading**

Omit the heading. Insert instead—

**53 Postal ballots—informal ballot—papers**



**[42] Clause 53(1A)**

Insert after the heading to the clause—

- (1A) This clause applies to the conduct of an election by a postal ballot.

**[43] Clause 53A**

Insert after clause 53—

**53A Electronic ballots—informal ballot-papers and scrutiny of votes**

- (1) This clause applies to the conduct of an election by an electronic ballot.
- (2) The returning officer is to reject an electronic vote as being informal if the elector has failed to record a vote in accordance with the instructions on the voting website.
- (3) Each informal electronic vote is to be recorded by the voting website as an informal vote and the voting website is to count the formal electronic votes.
- (4) A scrutineer may inspect a report or record from an electronic database or retrieval system containing electronic votes used in the electronic ballot.
- (5) The returning officer is to make available for scrutineers information that details the scrutiny process and method used in the scrutiny of votes in the electronic ballot.

**[44] Clause 56 Recount**

Omit “papers” from clause 56(2). Insert instead “ballot-papers”.

**[45] Clause 57 Declaring the election**

Omit clause 57(3)(c). Insert instead—

- (c) to be publicly advertised in a way that the Chief Executive Officer considers appropriate.

**[46] Clause 60 Death of candidate**

Omit clause 60(1)(a). Insert instead—

- (a) the returning officer is to cause notice of the death to be publicly advertised in a way that the returning officer considers appropriate, and

**[47] Clause 61 Security of election materials**

Insert “, and all electronic files,” after “each parcel” in clause 61(4).

**[48] Schedule 2 Counting of votes under optional preferential system**

Insert at the end of clause 1—

- (2) Requirements in this Schedule to arrange, rearrange, set aside or parcel ballot-papers, and associated requirements, may be adapted for the purposes of an electronic ballot in a way the returning officer considers appropriate.