

Institute of Teachers Regulation 2005

[2005-17]



New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Parliamentary Electorates and Elections Amendment Act 2006 No 68](#) (not commenced)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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Institute of Teachers Regulation 2005



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Institute of Teachers Regulation 2005*.

2 Commencement

This Regulation commences on 24 January 2005.

3 Definitions

(1) In this Regulation:

casual teacher means a person employed as a teacher on a casual basis.

Catholic systemic school means a school that is part of a system of non-government schools registered as Catholic systemic schools under Part 7 of the *Education Act 1990*, being a school that is part of a system of schools under the auspices of the Catholic Education Commission of New South Wales.

elected member means an elected member of the Council as referred to in section 13 (1) (a) of the Act.

election of a representative of Catholic systemic school principals means an election for the purposes of electing a representative of Catholic systemic school principals as a member of the Council for the purposes of section 13 (1) (a) of the Act.

election of a representative of Catholic systemic school teachers means an election for the purposes of electing a representative of Catholic systemic school teachers for the purposes of section 13 (1) (a) of the Act.

election of a representative of government primary school principals means an election for the purposes of electing a representative of government primary school principals as a member of the Council for the purposes of section 13 (1) (a) of the Act.

election of a representative of government school teachers means an election

for the purposes of electing a representative of government school teachers as a member of the Council for the purposes of section 13 (1) (a) of the Act.

election of a representative of government secondary school principals

means an election for the purposes of electing a representative of government secondary school principals as a member of the Council for the purposes of section 13 (1) (a) of the Act.

election of a representative of independent school teachers means an election for the purposes of electing a representative of independent school teachers as a member of the Council for the purposes of section 13 (1) (a) of the Act.

electoral list means the list referred to in section 17 of the Act.

K means kindergarten.

new scheme teacher has the same meaning as in Division 3 of Part 4 of the Act.

part-time teacher means a person employed as a teacher on a part-time basis.

the Act means the [*Institute of Teachers Act 2004*](#).

transition scheme teacher has the same meaning as in Division 4 of Part 4 of the Act.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Accreditation of teachers

4 Additional particulars on accreditation list

For the purposes of section 18 (1) (d) of the Act, the following are prescribed as the additional particulars that are required to be included on the accreditation list in relation to each person who is accredited:

- (a) contact details, including postal address, telephone number and email address (if any),
- (b) tertiary education qualifications,
- (c) details of current employer,
- (d) employment history,
- (e) language background other than English (but only if the relevant person has consented to the inclusion of that information on the list),
- (f) Aboriginal or Torres Strait Islander status (but only if the relevant person has consented to the inclusion of that information on the list),

- (g) history of professional development undertaken to maintain accreditation,
- (h) in the case of a person who is conditionally accredited—proposals to complete:
 - (i) a recognised teaching qualification, or
 - (ii) professional development that is equivalent to a recognised teaching qualification and is approved by the Institute.

5 Conditions of accreditation

- (1) It is a condition of the accreditation of a person under Part 4 of the Act that the person must, within 21 days of any change in any of the following particulars in relation to the person, supply the Institute with details of that change:
 - (a) contact details, including name, postal address, telephone number and email address (if any),
 - (b) tertiary education qualifications,
 - (c) details of current employer,
 - (d) the name of the teacher accreditation authority that accredits the person.
- (2) It is a condition of the accreditation of a person under Part 4 of the Act that the person must supply the Institute, on an annual basis, with details of:
 - (a) the professional development undertaken by the person to maintain accreditation, and
 - (b) in the case of a person who is conditionally accredited—any change in relation to the proposal to complete:
 - (i) a recognised teaching qualification, or
 - (ii) professional development that is equivalent to a recognised teaching qualification and is approved by the Institute.

6 Annual accreditation fees

- (1) For the purposes of section 25 (2) of the Act, the following annual fees are prescribed:
 - (a) the annual fee for new scheme teachers who are accredited (other than at professional accomplishment level or professional leadership level) is \$92,
 - (b) the annual fee for transition scheme teachers who are accredited at professional competence level is \$92.
- (2) Any fee payable under section 25 of the Act is payable on or before an annual date as determined by the Institute.

- (3) The Institute may waive or refund part or all of any fee payable under section 25 of the Act if the person otherwise required to pay the fee was not accredited for the whole of the year for which the fee is payable.

7 Prescribed qualifications for new scheme teachers

For the purposes of paragraph (b) (i) of the definition of **new scheme teacher** in section 28 of the Act, the following tertiary or teaching qualifications are prescribed:

- (a) a degree from a higher education institution within Australia,
- (b) a degree from a higher education institution outside Australia that is recognised within the guidelines of the National Office of Overseas Skills Recognition.

8 Prescribed period applicable to new scheme teachers

For the purposes of paragraph (c) of the definition of **new scheme teacher** in section 28 of the Act, the prescribed period is the period that commences at the beginning of 1 October 2004 and ends at the beginning of 24 January 2005.

9 Determination of equivalent time for casual or part-time teachers

- (1) For the purposes of paragraph (b) (i) of the definition of **relevant period** in section 30 (5) of the Act, the period that is commensurate with the 3-year period for persons employed on a full-time basis is:
 - (a) the period determined by the Institute on the application of the person concerned, or
 - (b) if the Institute does not determine such a period—the period of 5 years following the date on which the person was provisionally accredited under section 30 of the Act.
- (2) For the purposes of paragraph (b) (i) of the definition of **relevant period** in section 31 (7) of the Act, the period that is commensurate with the 4-year period for persons employed on a full-time basis is:
 - (a) the period determined by the Institute on the application of the person concerned, or
 - (b) if the Institute does not determine such a period—the period of 6 years following the date on which the person was conditionally accredited under section 31 of the Act.

10 Transition scheme teachers

For the purposes of paragraph (b) (i) of the definition of **transition scheme teacher** in section 34 of the Act, the following teaching qualifications are prescribed:

- (a) teaching qualifications from a higher education institution within Australia,
- (b) teaching qualifications from a higher education institution outside Australia that is recognised within the guidelines of the National Office of Overseas Skills Recognition.

Part 3 Miscellaneous

11 Eligibility to be enrolled

For the purposes of section 17 (1) (c) (ii) of the Act, the following bodies are prescribed:

- (a) the NSW Teachers Federation,
- (b) the NSW/ACT Independent Education Union,
- (c) the Association of Independent Schools of NSW,
- (d) the Catholic Education Commission NSW or any Catholic Schools Office or Catholic Education Office located in a New South Wales diocese,
- (e) the approved authority for a system of non-government schools approved by the Minister under Part 7 of the [Education Act 1990](#),
- (f) the Professional Teachers' Council NSW,
- (g) the faculty or school of education in any higher education institution approved by the Institute,
- (h) the Office of the Board of Studies,
- (i) any other educational body or association approved by the Institute.

12 Exchange of information

For the purposes of paragraph (e) of the definition of **relevant agency** in section 42 (5) of the Act, any person or body responsible for registering or accrediting teachers under the law of another State or Territory, or of a jurisdiction outside Australia, is prescribed.

13 Maintenance of electoral list

- (1) The Institute must, in maintaining the electoral list, specify the following in relation to each person enrolled on the list who is employed to teach (whether or not as a principal but otherwise than as a casual teacher or a part-time teacher):
 - (a) the person or body by whom the person is employed,
 - (b) the single category of election of elected members of the Council for which the person is entitled to vote, in accordance with the following:
 - (i) any person who is enrolled only as a person employed to teach (otherwise than

- as a principal) in a government school is entitled to vote at an election of representatives of government school teachers on the Council,
- (ii) any person who is enrolled only as a person employed to teach as a principal in a K-Year 6 government primary school is entitled to vote at an election of a representative of government primary school principals on the Council,
 - (iii) any person who is enrolled only as a person employed to teach as a principal in a Year 7-Year 12 government secondary school is entitled to vote at an election of a representative of government secondary school principals on the Council,
 - (iv) any person who is enrolled only as a person employed to teach as a principal in a K-Year 10 or K-Year 12 government school is entitled to vote either at an election of a representative of government primary school principals on the Council or at an election of a representative of government secondary school principals on the Council, according to the category of election that the person nominated when he or she applied for inclusion on the roll of teachers,
 - (v) any person who is enrolled only as a person employed to teach (otherwise than as a principal) in a non-government school that is a Catholic systemic school is entitled to vote at an election of a representative of Catholic systemic school teachers on the Council,
 - (vi) any person who is enrolled only as a person employed to teach as a principal in a non-government school that is a Catholic systemic school is entitled to vote at an election of a representative of Catholic systemic school principals on the Council,
 - (vii) any person who is enrolled only as a person employed to teach (whether or not as a principal) in a non-government school that is not a Catholic systemic school is entitled to vote at an election of a representative of independent school teachers on the Council,
- (c) whether or not the person is accredited.
- (2) The Institute must, in maintaining the electoral list, specify the following in relation to each person enrolled on the list who is a casual teacher or a part-time teacher:
- (a) the single category of election of elected members of the Council for which the person is entitled to vote, which is to be:
 - (i) an election of a representatives of government school teachers on the Council, or
 - (ii) an election of a representative of Catholic systemic school teachers on the Council, or

- (iii) an election of a representative of independent school teachers on the Council, depending on the category of election that the person nominated when he or she applied for inclusion on the roll of teachers,
- (b) whether or not the person is accredited.
- (3) The Institute must, in maintaining the electoral list, specify the following in relation to each person enrolled on the list who is not employed to teach:
 - (a) the person or body by whom the person is employed,
 - (b) the single category of election of elected members of the Council for which the person is entitled to vote, depending on the category of election that the person nominated when he or she applied for inclusion on the roll of teachers.

Part 4 Election of elected members of Quality Teaching Council

Division 1 Definitions

14 Definitions

- (1) In this Part (and in Schedules 1 and 2):

category of election means 1 of the categories of elections specified in the definition of **election** in this subclause.

close of nominations means the time and date for the close of nominations for an election that have been fixed under this Part by the notice of the election, by a call for further nominations or, if that close has been postponed, the time and date to which that close has been postponed.

close of the ballot means the time and date for the close of any ballot for an election that have been fixed under this Part by the notice of the election or, if that close has been postponed, the time and date to which that close has been postponed.

close of the electoral list means the time and date for the close of the electoral list for an election that have been fixed under this Part by the notice of the election or, if that close has been postponed, the time and date to which that close has been postponed.

election means an election of 1 of the following categories:

- (a) an election of a representative of government school teachers,
- (b) an election of a representative of government primary school principals,
- (c) an election of a representative of government secondary school principals,

- (d) an election of a representative of Catholic systemic school teachers,
- (e) an election of a representative of Catholic systemic school principals,
- (f) an election of a representative of independent school teachers.

elector means a person entitled to vote in an election.

electoral list for an election means the electoral list delivered to the returning officer under clause 38.

enrolled means enrolled on the electoral list.

non-rural area means each of the Department of Education and Training's regions of Northern Sydney, South Western Sydney, Sydney and Western Sydney and the Newcastle and Wollongong School Education Groups.

non-rural teacher, in relation to a candidate for an election, means a person who, at the close of the nominations for an election, was enrolled as a person employed to teach in a government school in non-rural area or (if the person is a casual teacher) as a person employed to teach in a government school and whose home address is in a non-rural area.

notice of an election means a notice under clause 22.

representative of Catholic systemic school principals—see clause 16 (e).

representative of Catholic systemic school teachers—see clause 16 (d).

representative of government primary school principals—see clause 16 (b).

representative of government school teachers—see clause 16 (a).

representative of government secondary school principals—see clause 16 (c).

representative of independent school teachers—see clause 16 (f).

returning officer means the returning officer designated under clause 17.

rural area means the Department of Education and Training's regions of Hunter/ Central Coast (other than the Newcastle School Education Group), Illawarra and South Coast (other than the Wollongong School Education Group), New England, North Coast, Riverina and Western NSW.

rural teacher, in relation to a candidate for an election, means a person who, at the close of the nominations for an election, was enrolled as a person employed to teach in a government school in a rural area or, if the person is a casual teacher, a person employed to teach in a government school and whose home address is in a rural area.

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

Division 2 Election of members

15 Manner of conduct of election

For the purposes of section 13 (1) (a) of the Act, the election of elected members of the Council is to be held and conducted in the manner set out in this Part.

16 Election of members to represent categories of teachers and principals

There are to be 6 categories of elected members of the Council, as follows:

- (a) 5 members are to be elected from persons employed to teach (other than as a principal) in a government school (these are called ***representatives of government school teachers***) and of those 5 members at least 2 must be rural teachers,
- (b) 1 member is to be elected from persons employed as a principal in a government school that is a primary school (***representative of government primary school principals***),
- (c) 1 member is to be elected from persons employed as a principal in a government school that is a secondary school (***representative of government secondary school principals***),
- (d) 1 member is to be elected from persons employed to teach (other than as a principal) in a non-government school that is a Catholic systemic school (***representative of Catholic systemic school teachers***),
- (e) 1 member is to be elected from persons employed as a principal in a non-government school that is a Catholic systemic school (***representative of Catholic systemic school principals***),
- (f) 1 member is to be elected from persons employed to teach (whether or not as a principal) in a non-government school that is not a Catholic systemic school (***representative of independent school teachers***).

Note—

The composition of the Council, as provided for by this clause, reflects the proportion of members of the teaching service who are government school teachers, government primary school principals, government secondary school principals, Catholic systemic school teachers, Catholic systemic school principals and independent school teachers. If the composition of the teaching service changes over time, this clause may be amended to reflect that change.

Division 3 Returning officer

17 Designation of returning officer

The Electoral Commissioner of New South Wales, or a person or body approved by the

Electoral Commissioner of New South Wales for the purposes of exercising the functions of a returning officer under this Regulation, is the returning officer for an election.

18 Functions of returning officer

- (1) The returning officer is to conduct elections under this Part.
- (2) For the purposes of conducting an election, the returning officer may determine any matter not provided for by the Act or this Regulation.

19 Delegation by returning officer

The returning officer may delegate any of the returning officer's functions under this Part (other than this power of delegation) to any member of staff of the returning officer.

20 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 holding of a ballot, the decision of the returning officer on that matter is final.

Division 4 Pre-ballot procedure

21 Timing of second and subsequent elections

Each election of elected members of the Council after the first such election is to be held so that the result of the election is declared at least 1 month before the expiry of the term of the existing elected members of the Council.

22 Notice of election

- (1) As soon as possible after having been notified in writing by or on behalf of the Minister that 1 or more elected members of the Council are required to be elected, the returning officer must cause notice of that fact:
 - (a) to be sent to the Chief Executive, and
 - (b) to be published in the Gazette, and
 - (c) to be published in a daily newspaper circulating generally throughout the State.
- (2) The notice:
 - (a) must state that an election is to be held for the purpose of electing:
 - (i) one or more representatives of government school teachers, or
 - (ii) a representative of government primary school principals, or
 - (iii) a representative of government secondary school principals, or

- (iv) a representative of Catholic systemic school teachers, or
 - (v) a representative of Catholic systemic school principals, or
 - (vi) a representative of independent school teachers, and
 - (b) must specify how many candidates are to be elected, and
 - (c) must call for nominations of candidates, and
 - (d) must advise where nomination forms may be obtained and where nominations may be lodged, and
 - (e) must specify the qualifications that qualify a person to nominate a candidate or be nominated as a candidate, and
 - (f) must fix the time and date for the close of nominations, and
 - (g) must specify the qualifications that entitle a person to vote, and
 - (h) must indicate that a nominee is entitled to submit information for a candidate information sheet and must specify the maximum amount of information that the returning officer considers is suitable for inclusion in a candidate information sheet, and
 - (i) must state that the electoral list will be closed as at the close of nominations, and
 - (j) must fix the time and date for the determination of the order of the candidates on the ballot-papers, and
 - (k) must fix the time and date for the close of the ballot.
- (3) The close of nominations is to be not less than 21 days nor more than 28 days after the date when the notice of the election is first published in a daily newspaper circulating generally in New South Wales.
- (4) The close of the ballot is to be not less than 28 days after the close of nominations and not less than 56 days after the date the notice of election is first published in a daily newspaper circulating generally in New South Wales.
- (5) A notice can relate to more than 1 category of election, but if it does, it must make clear who is qualified to nominate, to be nominated and to vote in each category of election.

23 Extension of closing times

- (1) The returning officer may, if of the opinion that an election would otherwise fail, fix later times and dates instead of those previously fixed.

- (2) The times and dates, and the publication of notice of them, must be in accordance with clause 22 (3) and (4).
- (3) A new date must not be more than 14 days after the corresponding date that was previously fixed.
- (4) The returning officer may exercise the power conferred by this clause more than once in respect of an election.

24 Notification of Minister

As soon as possible after having been notified in writing by or on behalf of the Minister that 1 or more elected members of the Council are required to be elected, the returning officer must also notify the Minister in writing of the times and dates fixed:

- (a) for the close of nominations and of the electoral list, and
- (b) for the determination of the order of candidates, and
- (c) for the close of the ballot,

including any later times and dates.

Division 5 Nominations

25 Qualifications to be nominated

- (1) **General qualifications** A person is qualified to be nominated as a candidate for an election if the person:
 - (a) has the qualifications specified in this clause, and
 - (b) has not served more than 1 full term as a member of the Council (whether an elected member, an appointed member or the chairperson), and
 - (c) is not a candidate for another category of election notice of which has been given but which is yet to be held, and
 - (d) in any election after the third anniversary of the first election of elected members of the Council of any category—is accredited under Part 4 of the Act.
- (2) **Election of representative of government school teachers** Any person who, at the time of nomination:
 - (a) is enrolled as a person employed to teach (other than as a principal) in a government school, and
 - (b) is employed full-time or part-time as a teacher in a government school,is qualified to be nominated as a candidate for an election of 1 or more

representatives of government school teachers.

(3) **Election of representative of government primary school principals** Any person who, at the time of nomination:

(a) is enrolled as a person employed as a principal in a government primary school, and

(b) holds a substantive position, and undertakes duties, as a principal in a government primary school,

is qualified to be nominated as a candidate for an election of a representative of government primary school principals.

(4) **Election of representative of government secondary school principals** Any person who, at the time of nomination:

(a) is enrolled as a person employed as a principal in a government secondary school, and

(b) holds a substantive position, and undertakes duties, as a principal in a government secondary school,

is qualified to be nominated as a candidate for an election of a representative of government secondary school principals.

(5) **Election of representative of Catholic systemic school teachers** Any person who, at the time of nomination:

(a) is enrolled as a person employed to teach (other than as a principal) in a Catholic systemic school, and

(b) is employed full-time or part-time as a teacher in a Catholic systemic school,

is qualified to be nominated as a candidate for an election of a representative of Catholic systemic school teachers.

(6) **Election of representative of Catholic systemic school principals** Any person who, at the time of nomination:

(a) is enrolled as a person employed as a principal in a Catholic systemic school, and

(b) holds a substantive position, and undertakes duties, as a principal in a Catholic systemic school,

is qualified to be nominated as a candidate for an election of a representative of Catholic systemic school principals.

(7) **Election of representative of independent school teachers** Any person who, at the time of

nomination:

- (a) is enrolled as a person employed to teach (whether or not as a principal) in a non-government school that is not a Catholic systemic school, and
- (b) is employed full-time or part-time as a teacher, or the duties of a principal, in a non-government school that is not a Catholic systemic school,

is qualified to be nominated as a candidate for an election of a representative of independent school teachers.

26 Qualifications for nominating candidates

A person is qualified to nominate a candidate for an election of a particular category only if the person is, at the time of nomination, also qualified to be nominated as a candidate for that category.

27 Nominations

(1) A nomination of a candidate:

- (a) must be in writing in the form provided by the returning officer, and
- (b) must set out the full name of the candidate nominated and the residential address of that candidate, and
- (c) must be made by at least 2 persons (other than the candidate) who are qualified to nominate a candidate for that category of election, by virtue of clause 26, and
- (d) must set out the full names and residential addresses of the persons nominating the candidate, and
- (e) must include the written consent to the nomination by the candidate, and
- (f) must be lodged with the returning officer before the close of nominations.

(2) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.

(3) For the purpose of enabling the returning officer to form an opinion:

- (a) as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate for that category of election, or
- (b) as to whether a person who has been nominated is qualified to be nominated for that category of election,

the returning officer may require the Chief Executive to furnish the returning officer

with such information regarding the person as the returning officer may specify.

- (4) The Chief Executive must comply with such a request as soon as possible after it is made.
- (5) Each candidate must be nominated on a separate nomination form.
- (6) On receipt of the nomination, the returning officer must endorse on it the date and time of receipt.
- (7) Once a valid nomination reaches the returning officer, the nominee becomes a candidate for election.

28 Withdrawal of nomination

- (1) A candidate who has been nominated in an election may withdraw the nomination.
- (2) A withdrawal of nomination:
 - (a) must be in writing, and
 - (b) must contain a statement, signed by the candidate, stating that the candidate withdraws the nomination, and
 - (c) must be lodged with the returning officer before the close of nominations.

29 Candidate information sheets

- (1) A person who is nominated for election may submit to the returning officer a statement, in Form 1, containing information intended for inclusion in a candidate information sheet.
- (2) A candidate information sheet for 1 candidate cannot refer to another candidate standing in the election without the written consent of that other candidate.
- (3) The candidate information sheet may be given to the returning officer at any time before the close of nominations.

Division 6 Procedure on close of nominations (election of 5 representatives of government school teachers)

30 Application of Division

This Division applies to an election of 5 representatives of government school teachers.

31 Procedure on close of nominations

- (1) If no person has been duly nominated as a candidate by the close of nominations, then the returning officer must call for further nominations in accordance with clause 32.

- (2) If only 1, 2 or 3 persons has been duly nominated as a candidate by the close of nominations, then:
 - (a) that person is, or those persons are, taken to have been elected, and
 - (b) the returning officer must call for further nominations in accordance with clause 32.
- (3) If only 4 persons have been duly nominated as a candidate by the close of nominations and at least 1 of those persons is a rural teacher, then:
 - (a) those persons are taken to have been elected, and
 - (b) the returning officer must call for further nominations in accordance with clause 32.
- (4) If only 4 persons have been duly nominated as a candidate by the close of nominations and all 4 of those persons are non-rural teachers, then:
 - (a) none of those persons is taken to have been elected, and
 - (b) the returning officer must call for further nominations in accordance with clause 32.
- (5) If only 5 persons have been duly nominated as a candidate by the close of nominations and at least 2 of the persons are rural teachers, then those 5 persons are taken to have been elected.
- (6) If only 5 persons have been duly nominated as a candidate by the close of nominations and of those persons 1 is a rural teacher and 4 are non-rural teachers, then:
 - (a) the rural teacher is taken to have been elected, and
 - (b) the returning officer must call for further nominations in accordance with clause 32.
- (7) If 5 or more persons have been duly nominated as a candidate by the close of nominations and none of those persons is a rural teacher then none is taken to have been elected and the returning officer must call for further nominations in accordance with clause 32.
- (8) If 6 or more persons have been duly nominated as a candidate by the close of nominations and 1 of those persons is a rural teacher then:
 - (a) the rural teacher is taken to have been elected, and
 - (b) the returning officer must call for further nominations in accordance with clause 32.

- (9) If 6 or more persons have been duly nominated as a candidate by the close of nominations and 2 of those persons are rural teachers then:
 - (a) the rural teachers are taken to have been elected, and
 - (b) a ballot must be held to fill the remaining 3 positions.
- (10) If 6 or more persons have been duly nominated as a candidate by the close of nominations and 3 or more of those persons are rural teachers then a ballot must be held to fill all 5 positions.
- (11) If the returning officer is required by this clause to call for further nominations then the persons been duly nominated but not taken to have been elected after the first call for nominations are to be treated as having been nominated after the call for further nominations. No ballot is to be held until the call for further nominations has closed.

32 Call for further nominations

- (1) As soon as possible after determining (in accordance with clause 31) that a call for further nominations must be made, the returning officer must cause a notice calling for further nominations:
 - (a) to be sent to the Chief Executive, and
 - (b) to be published in the Gazette, and
 - (c) to be published in a daily newspaper circulating generally throughout the State.
- (2) The notice:
 - (a) must state that an election is to be held for the purpose of electing a representative or representatives of government school teachers, and
 - (b) must specify that nominations will be accepted from both rural and non-rural teachers though in some cases only a rural teacher will be elected and non-rural teachers will be on the replacement list for filling casual vacancies, and
 - (c) must specify the number of members required to be elected, and
 - (d) must call for nominations of candidates, and
 - (e) must advise where nomination forms may be obtained and where nominations may be lodged, and
 - (f) must specify the qualifications that qualify a person to nominate a candidate or be nominated as a candidate, and
 - (g) must fix the time and date for the close of nominations.

- (3) The close of nominations is to be not less than 21 days nor more than 28 days after the date when the notice of the call is first published in a daily newspaper circulating generally in New South Wales and not the date specified under clause 22.
- (4) The close of the ballot is to be not less than 28 days after the close of nominations and not less than 56 days after the notice of the call is first published in a daily newspaper circulating generally in New South Wales and not the date specified under clause 22.
- (5) A notice can relate to more than 1 category of election, but if it does it must make clear who is qualified to nominate, to be nominated and to vote in each election.

33 Procedure on close of further nominations

- (1) Clause 31 applies to determine the procedure after the close of further nomination in the same way that it applies to the first close of nominations, but any person who has been taken to have been elected is taken to have been nominated as a rural teacher or a non-rural teacher, as the case may be.
- (2) Clause 31 does not so apply until after the close of further nominations.

Division 7 Procedure on close of nominations (other elections)

34 Application of Division

This Division applies to an election that is not an election of 5 representatives of government school teachers.

35 Contested elections

If the number of persons who have been duly nominated as candidates for an election exceeds 1, a ballot must be held.

36 Uncontested elections

If only 1 person has been duly nominated as candidates for an election, that person is taken to be elected.

Division 8 Electoral list

37 Notification that electoral list is required

As soon as practicable after the close of nominations, the returning officer is to request the Institute to deliver the electoral list for the election to the returning officer.

Note—

Part 3 of the Act provides for the keeping of the electoral list.

38 Delivery of electoral list

- (1) The Chief Executive is to deliver the following to the returning officer within 7 days after receiving a request under clause 37:
 - (a) the electoral list (in written or electronic form) that sets out (as at the close of nominations) in relation to the relevant category of election:
 - (i) the full name of each person enrolled on it and the address to which that person's ballot-paper is to be sent, and
 - (ii) the single category of election for which each person is qualified to vote,
 - (b) an appropriately addressed written label or envelope (or an electronic record enabling labels to be produced or envelopes to be addressed) for every person whose name and address is on that electoral list and who is qualified to vote in relation to the relevant election.
- (2) The address to which a person's ballot-paper is to be sent is to be the one nominated by the person or otherwise made available to the Institute. However, if none has been nominated by the person, the address is to be one nominated by the Chief Executive as the address at which the person is usually employed (or the address of the person's headquarters in the case of a person who has more than one usual place of employment).
- (3) The Chief Executive Officer must certify, in accordance with Form 2, that the electoral list for the election complies with this clause.
- (4) This clause does not apply to an election held as a consequence of an earlier election for which there have been insufficient nominations, and a call for further nominations, if an electoral list for the earlier election has already been provided to the returning officer.

39 Inspection of electoral list

The returning officer is to allow any person to inspect the electoral list for an election without charge during the normal office hours of the returning officer.

40 Information concerning government school teachers

The Institute may, on the request of the Electoral Commissioner, provide information, in relation to any person employed to teach in a government school, as to whether the person is enrolled as being employed to teach in a rural area or a non-rural area.

Division 9 Entitlement to vote

41 Entitlement to vote

Any person is entitled to vote at an election of the category for which the person is

specified on the electoral list as being entitled to vote at the close of the electoral list.

42 No other persons entitled to vote

Only a person who is enrolled at the close of the electoral list as a person entitled to vote in a particular category of election is entitled to vote at that category of election.

Division 10 Ballot-papers

43 Position on ballot-paper

- (1) The order of candidates' names on ballot-papers for an election that is a contested election is to be determined by a ballot held by the returning officer.
- (2) That is to be done at the office of the returning officer at the time, and on the date, last fixed for the determination by notice of the election.
- (3) The ballot is to be conducted by the returning officer in the presence of at least 2 persons who are not candidates for election.
- (4) The ballot is to be conducted in the following manner:
 - (a) the returning officer must, at the place determined by the returning officer 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 box,
 - (c) the returning officer must then shake and rotate the box and, on request, permit any other person present to do the same,
 - (d) the returning officer must then unfasten the 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 box and, in consecutive order, the name of the candidates whose names appear on the slip enclosed in the container next taken from the box and so on until the placing of all names has been determined,
 - (f) the returning officer must sign the record and allow any of the persons present to do the same.
- (5) Each candidate or an agent of the candidate is entitled to be present at a ballot in accordance with this clause.

44 Form of ballot-papers

- (1) If there is to be a contested election, the returning officer is to have ballot-papers printed for the election.
- (2) The names of the candidates are to be printed in 1 column.
- (3) The name of the candidate that has been first taken from the ballot-box in the determination of the order of names under clause 43 is to be shown closest to the top of the ballot-papers. The name of the candidate that has been next taken from the ballot-box is to be shown immediately below the name of the candidate that has been first taken, and so on.
- (4) The ballot-paper must contain:
 - (a) the names of the candidates with a small square opposite each name, and
 - (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 those candidates, and
 - (c) the directions as to the manner in which a vote is to be recorded on the ballot-paper, and directions as to how the ballot-paper is to be returned to the returning office, being directions in Form 3 (in the case of an election of a representative of government school teachers) or Form 4 (in any other case).
- (5) The ballot-paper may contain such other directions as the returning officer considers appropriate.

45 Candidate information sheets

- (1) If there is to be a ballot, the returning officer is to prepare a candidate information sheet. The returning officer must base the information in that sheet on what has been set out in the statutory declarations received by the returning officer before the close of nominations under clause 29.
- (2) If a ballot is to be held, the returning officer must compile a candidate information sheet consisting of the information submitted by the candidate.
- (3) In compiling a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information submitted by the candidate:
 - (a) as the returning officer considers to be false or misleading in a material particular, or
 - (b) as the returning officer considers to be inappropriate for inclusion in the candidate information sheet, or

- (c) as exceeds the maximum amount of information that the returning officer considers is suitable for inclusion in the candidate information sheet (as specified in the notice of election given under clause 22).
- (4) If a candidate does not submit any information, the returning officer may, in compiling the candidate information sheet, include in respect of the candidate the words "NO INFORMATION RECEIVED".
- (5) The names of the candidates and the information about them must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.
- (6) Where a ballot is to be taken, the returning officer must cause any candidate information sheet compiled under this clause to be printed in sufficient quantity to be distributed with all ballot-papers.

Division 11 Distribution of ballot-papers

46 Distribution of ballot-papers

- (1) The returning officer is to provide sufficient ballot-papers for each person entitled to vote in an election.
- (2) The returning officer must send to each elector:
 - (a) a ballot-paper, printed in accordance with clause 44, on which to record his or her vote, and
 - (b) an large unsealed reply-paid envelope addressed to the returning officer and bearing on the back:
 - (i) the words "full name and address of elector" together with appropriate spaces for the insertion of a name and address, and
 - (ii) the words "signature of elector", together with an appropriate space for the insertion of a signature, and
 - (c) where appropriate, a copy of the candidate information sheet prepared under clause 45.
- (3) Those items must be sent, not later than 20 days before the date fixed for the close of the ballot, by post to the address nominated in the electoral list of each person enrolled at the date of the close of nominations for the election.

47 Initialling of ballot-paper

A ballot-paper is to be initialled by the returning officer (or by a person authorised by the returning officer) before the returning officer sends it to an elector. The initials may be

written or stamped.

48 Notation that ballot-paper sent

The returning officer is to make an appropriate notation on the electoral list to show that the elector has been sent the ballot-paper.

49 Duplicates

- (1) If an elector satisfies the returning officer that he or she has spoiled by reason of accident or mistake any ballot-paper handed or sent to him or her, the returning officer may, on receipt of the spoiled ballot-paper:
 - (a) hand or send to the elector a new ballot-paper, and
 - (b) cancel and preserve the spoiled paper.
- (2) The returning officer may, at any time before the close of the ballot, send or deliver to an elector a new ballot-paper if the elector satisfies the returning officer by statutory declaration:
 - (a) that the elector's previous ballot-paper in the election has not been received or has been lost or destroyed, and
 - (b) that the elector has not already received another ballot-paper for the election, and
 - (c) that the elector has not already voted at the election.
- (3) The returning officer must maintain a record of all ballot-papers sent or delivered to electors under this clause.
- (4) The returning officer may, at the request of an elector, send or deliver to the elector a duplicate of an envelope or candidate information sheet.

Division 12 The ballot

50 Type of ballot

A ballot in an election is to be a postal ballot.

51 Voting not compulsory

Voting is not compulsory.

52 Method of voting

At an election, an elector is:

- (a) required to record a vote for at least the number of candidates specified in the instructions on the ballot-paper, and

- (b) permitted to record a vote for as many more candidates as the elector pleases, so as to indicate, in such manner as is required by this Part, the candidates for whom the elector votes and the order of the elector's preference for them.

53 Recording of votes

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it and clause 52, and
- (b) must place the completed ballot-paper in the envelope provided, and
- (c) must seal the envelope, and
- (d) must write legibly the person's full name and address on, and sign, the back of the envelope in the spaces provided, and
- (e) must return the envelope to the returning officer before the close of the ballot.

Division 13 Scrutiny of votes

54 Ascertaining result of ballot

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

55 Scrutineers

- (1) Each candidate at an election is entitled to appoint a scrutineer to represent the candidate in respect of the ballot. The appointment is to be by notice in writing sent or delivered to the returning officer.
- (2) A candidate for election may not act as a scrutineer.
- (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, from the ballot for the position on the ballot-paper, to the examination, opening and counting of votes by the returning officer, to the final sealing, endorsement and signing of the parcels of papers used in the election.
- (4) Any scrutineer, whether appointed by a candidate or not, may be present at any counting table during the counting of votes.

56 Examination of envelopes

- (1) The returning officer must, as soon as practicable after the receipt of an envelope purporting to contain a ballot-paper, examine the envelope for the purpose of deciding whether to accept or reject the envelope.

- (2) The returning officer is to reject an envelope purporting to contain a ballot-paper issued in respect of an election if:
 - (a) the envelope does not have legibly marked on its rear flap the name, address and signature that appear to the returning officer to be those of a person enrolled, or
 - (b) the envelope is not sealed, or
 - (c) the envelope is not received by the returning officer at or before the time stated on ballot-papers issued in respect of the election as the time at or before which the envelope is to be so received.
- (3) The returning officer must examine the name on the back of an envelope not rejected under subclause (1), and:
 - (a) if satisfied that a person of that name is an elector, must accept the envelope without opening it and must place it in a locked ballot-box, or
 - (b) if not so satisfied, must reject the envelope.
- (4) If it appears to the returning officer that the signature on the back of an envelope is not the signature of the person whose name and address are there, the returning officer may make any inquiries in respect of the apparent anomaly that the returning officer thinks fit.
- (5) If, after making those inquiries, the returning officer is satisfied that the signature is not the signature of that person, the officer must reject the envelope.
- (6) If an envelope is to be rejected, its contents must also be rejected and the returning officer must not open it.
- (7) The returning officer:
 - (a) must keep a record of any rejection of an envelope, and
 - (b) must note in that record the reason for the rejection, and
 - (c) must keep a record of the total number of envelopes rejected.

57 Scrutiny of votes

The scrutiny of votes in a ballot must be conducted as follows, after the close of the ballot:

- (a) the returning officer must unlock the ballot-box referred to in clause 56, remove the envelopes and then remove the ballot-papers from the envelopes,
- (b) the returning officer must then reject all ballot-papers in an envelope if the envelope contains more than 1 ballot-paper,
- (c) the returning officer must then place the ballot-papers and envelopes in separate piles

or containers,

- (d) the returning officer must unfold and examine each ballot-paper and reject those that are informal,
- (e) the returning officer must then proceed to count the votes, and ascertain the result of the ballot, in accordance with Division 14.

58 Informal ballot-papers

- (1) The returning officer is to reject a ballot-paper as being informal if:
 - (a) the elector has failed to record a vote on it in accordance with the directions printed on the ballot-paper, or
 - (b) it has not been initialled by the returning officer, or
 - (c) it contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified.
- (2) However, a ballot-paper is not informal just because of the existence of marks or writing on the paper (such as a tick or a cross) that are not in accordance with the directions for its completion if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper. However, in the case of an election of more than 1 representative of government school teachers, a ballot-paper that shows 2 or more crosses or ticks is informal.
- (3) A ballot-paper that shows at least 1 preference is not informal just because a second or later preference has been repeated or omitted. 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 that makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.
- (4) 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.

Division 14 Method of counting

59 Counting the votes: optional preferential system

The method of counting the votes is to be that set out in Schedule 2.

60 Special provisions for election of a representative of government school teachers

- (1) This clause applies if, in relation to an election of a representative of government school teachers, the procedure referred to in clause 59 would result in a person who is not a rural teacher being elected.

- (2) If the election of that person would mean that there were not, and could not be, at least 2 rural teachers on the Council then the election of that person is to be disregarded and the counting is to continue until a rural teacher is elected.

61 Recount

- (1) Any candidate present when the returning officer declares the result of the count at an election under clause 62, or later notified of the result under clause 62 or otherwise, may request a recount of the ballot-papers.
- (2) If such a request is made, the returning officer may again have the papers scrutinised and counted and is to inform the persons present of the results of the recount.

Division 15 Miscellaneous

62 Declaring the election

- (1) As soon as practicable after counting votes in an election and ascertaining the result of an election, the returning officer is to declare the result of the election.
- (2) The returning officer is then is to notify the Chief Executive, in writing:
 - (a) of the candidate or candidates elected, and
 - (b) of the order in which unsuccessful candidates were excluded from the counting of votes.
- (3) The Chief Executive is to cause notice of the candidate or candidates elected in the election:
 - (a) to be sent to each candidate in the election, and
 - (b) to be published in the Gazette, and
 - (c) to be published in a daily newspaper circulating generally throughout New South Wales.

63 Misconduct in voting

A person must not:

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

Maximum penalty: 5 penalty units.

Note—

Section 307B of the [Crimes Act 1900](#) makes it an offence for a person to give information to another person who is exercising or performing any power, authority, duty or function under, or in connection with, a law of the State

(which would include the returning officer designated under this Part) knowing that the information is false or misleading or that it omits any matter or thing without which the information is misleading.

64 Validity of election

- (1) An election is not invalid just because there was a formal defect or error in or relating to the election, if the election was held substantially in accordance with this Part.
- (2) In particular, an election is not invalid just because:
 - (a) a person whose name is on the electoral list did not receive a ballot-paper, or
 - (b) the returning officer did not receive a ballot-paper sent to the returning officer.

65 Death of candidate

- (1) If a candidate dies after the close of nominations and before the close of the ballot in an election:
 - (a) the returning officer is to cause notice of the death to be published in 1 or more newspapers that circulate generally throughout the State, and
 - (b) the count is to proceed in accordance with this Part and, if the deceased candidate is elected, the election of the deceased candidate is to be disregarded and the count is to be continued.
- (2) However, if the deceased elected candidate was taken to have been elected by virtue of clause 31, a fresh election must be held to replace the candidate so taken to have been elected.

66 Security of election materials

- (1) After the result of an election has been declared, the returning officer is to make a parcel of the papers used in the election.
- (2) If there was a ballot, the officer is to make 2 parcels:
 - (a) one parcel containing the marked and unmarked ballot-papers, including any rejected envelopes or informal ballot-papers, together with the copies of the relevant electoral list, and
 - (b) the other parcel containing the other papers (including, but not limited to, any candidate information statements or sheets and any notices) used in the election.
- (3) The returning officer is to seal, endorse and sign each parcel, and to allow any scrutineers, candidates, or agents of candidates, who are present to watch the returning officer carry out those actions and countersign the parcel.
- (4) The returning officer is to have each parcel kept securely for at least 12 months, and then destroyed.

- (5) If a court so directs, or any legislation so requires or permits, the returning officer is to allow any person to inspect any of the election materials, except the sealed parcels of marked ballot-papers.

Part 5 Filling vacancies in office of elected members of the Council

67 Appointment of persons to act temporarily in office of elected member

- (1) This clause applies if it is expected by the Minister that an elected member will be absent from 2 or more consecutive meetings of the Council for illness or another reason, other than a vacancy in the office of that member.
- (2) For the purposes of clause 3 (2) of Schedule 2 to the Act, the Minister may appoint a person to act in the office of the elected member at the meetings from which the elected member will be absent.
- (3) If possible, the person appointed must have been a candidate for the election in which the elected member was elected and must, at the date of appointment, still be a person who is qualified to be nominated at an election for the relevant category of election held on that date.
- (4) The Minister must offer the appointment to the candidate last excluded from the count at that election, then to the second last person excluded and so on until a person agrees to be appointed.
- (5) In the case of a representative of government school teachers, if the elected member was, at the time of nomination for his or her election, a person enrolled as a person who teaches in a rural area and there would, in the absence of that person, be fewer than 2 rural teachers on the Council, the person appointed must, at the time of appointment, also be enrolled as a person who teaches in a rural area, and accordingly, the Minister must offer the appointment to the candidate last excluded from the count at that election that at the time of appointment is enrolled as a person who teaches in a rural area, then to the second last such person excluded and so on until such a person agrees to be appointed.
- (6) If the procedure in this clause does not result in the appointment of any person, the Minister may appoint any person to act in the office of the elected member, being a person who would be qualified as a candidate for any relevant category of election held on the date of appointment. The Minister must first give notice of the Minister's intention to appoint a replacement person and call for expressions of interest from eligible persons wishing to be considered for replacement appointment. An expression of interest is to be accompanied by the relevant nomination form and a completed Form 1.

68 Filling of casual vacancy in office of elected member in first 30 months of term of office

- (1) For the purposes of clause 5 (2) of Schedule 2 to the Act, if the office of an elected

member becomes vacant during the first 30 months of the term of that office, the vacancy is to be filled in accordance with this clause.

- (2) In the case of a vacancy in the office of a representative of government school teachers if the elected member was, at the time of nomination for his or her election, enrolled as a person who teaches in a rural area and there would, in the absence of that person, be fewer than 2 rural teachers on the Council, the vacancy is to be filled by a person who, at the time of appointment, is enrolled as a person who teaches in a rural area being the last such person excluded from the count in the election in which the elected member was elected.
- (3) In the case of a representative other than a representative of government school teachers, the vacancy is to be filled by the candidate last excluded from the count in the election in which the elected member was elected who, at the date of appointment, is still be a person who is qualified to nominate at an election for the relevant category of election.
- (4) Despite subclauses (2) and (3), if an elected member was elected at an uncontested election, his or her vacancy is to be filled by an election. The method of counting for such an election is the method referred to in clause 59. If the elected member being replaced was elected as a representative of government school teachers who is a rural teacher, only persons who are, at the time of nomination in the second election, enrolled as rural teachers are qualified to nominate for that election.

69 Filling of vacancy in office of member appointed to fill casual vacancy

- (1) For the purposes of clause 5 (2) of Schedule 2 to the Act, if the office of a member filling a vacancy in the office of an elected member under clause 68 itself becomes vacant during the first 30 months of that office, the new vacancy is to be filled in accordance with clause 68, subject to this clause.
- (2) However, the process of filling vacancies set out in this clause can continue only until positions have been filled 3 times in each category other than government school teachers, where it can continue until positions have been filled 5 times. After that, a by-election will be held for the vacant position, unless this occurs in the last 6 months of the 3 year term, in that case, the filling of positions by the list of persons in the order in which they were elected or finished in the counting for the election will continue.

Part 6 Term of office of elected members

70 Extension of term of office of elected members

- (1) The Minister may, by notice in writing to an elected member, extend the term of office of the elected member for a period not exceeding 12 months.
- (2) Subclause (1) has effect despite clause 2 (2) of Schedule 2 to the Act, but is otherwise

subject to the provisions of that Schedule.

(3) This clause extends to persons holding office as elected members immediately before the commencement of this clause.

Schedule 1 Forms

(Clause 14 (2))

Form 1 Information in support of candidature for election to the Council

(Clauses 29 (1) and 67 (6))

(Institute of Teachers Act 2004)

1 Name

2 School

3 Information in support of candidature:

.....

.....

.....

.....

.....

.....

Signed

Dated

Form 2 Certificate of Chief Executive

(Clause 38 (3))

(Institute of Teachers Act 2004)

I, Chief Executive of the Institute of Teachers, certify that the attached electoral list containing pages and names, commencing with the name and ending with the name, is a true and correct list of persons eligible to be enrolled on the electoral list by virtue of section 17 of the *Institute of Teachers Act 2004* as at on the day of 20..

.....[Chief Executive]

.....

[date]

Form 3 Ballot-paper for election of representative of government school teachers

(Clause 44 (4) (c))

(Institute of Teachers Act 2004)

Election of government school teacher representative members of Quality Teaching Council

READ CAREFULLY THE FOLLOWING INSTRUCTIONS BEFORE VOTING

1 You must vote for at least [insert number of candidates] candidates in the order of your preference by placing the numbers [insert consecutive numbers, beginning with the number “1” and ending with the number equal to the number of candidates to be elected] in the squares opposite the names of those candidates. You may, if

you so desire, indicate your preference for the remaining candidates using the numbers [*insert the 2 next highest number*] and so on.

- 2 After marking your ballot-paper, fold it so that the vote cannot be seen, then place it in the business reply envelope and seal the envelope. PRINT YOUR NAME AND ADDRESS AND SIGN YOUR NAME IN THE SPACE PROVIDED ON THE REAR FLAP OF THE ENVELOPE. Post or deliver the business reply envelope so that it will be received by the returning officer NOT LATER THAN [*indicate date and time of close of ballot*].
- 3 Your vote will not be accepted unless your particulars and signature are shown on the rear flap of the business reply envelope. Remember to show the registered address to which voting materials were posted.
- 4 Only 1 ballot-paper is to be enclosed in each business reply envelope, otherwise the ballot-papers will not be accepted.
- 5 Any correspondence concerning this election should be addressed to the [*insert name of other returning officer*].

Form 4 Ballot-paper for election of other representatives

(Clause 44 (4) (c))

(*Institute of Teachers Act 2004*)

Election of [*indicate category of representative*] member of the Quality Teaching Council

READ CAREFULLY THE FOLLOWING INSTRUCTIONS BEFORE VOTING

- 1 You must vote for at least 1 candidate in the order of your preference by placing a tick or a cross or the number 1 in the square opposite the names of that candidate. You may, if you so desire, indicate your preference for the remaining candidates using the numbers 2, 3, 4, 5 and so on.
- 2 After marking your ballot-paper, fold it so that the vote cannot be seen, then place it in the business reply envelope and seal the envelope. PRINT YOUR NAME AND ADDRESS AND SIGN YOUR NAME IN THE SPACE PROVIDED ON THE REAR FLAP OF THE ENVELOPE. Post or deliver the business reply envelope so that it will be received by the returning officer NOT LATER THAN [*indicate date and time of close of ballot*].
- 3 Your vote will not be accepted unless your particulars and signature are shown on the rear flap of the business reply envelope. Remember to show the registered address to which voting materials were posted.
- 4 Only 1 ballot-paper is to be enclosed in each business reply envelope, otherwise the ballot-papers will not be accepted.
- 5 Any correspondence concerning this election should be addressed to the returning officer [*insert name of returning officer*].

Schedule 2 Counting of votes under optional preferential system

(Clause 59)

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 that 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 that 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 Election of candidate

If only 1 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.
- (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 1 candidate has received an absolute majority of votes.
- (g) The candidate who has received an absolute majority of votes is elected.

4 Election of 2 candidates

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.
- (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 1 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 Election of 3 or more candidates

- (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 a 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.
- (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 1 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.