

Lord Howe Island (Elections) Regulation 1999

[1999-438]



New South Wales

Status Information

Currency of version

Repealed version for 30 August 2002 to 31 August 2004 (accessed 18 July 2024 at 7:42)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Repeal**

The Regulation was repealed by the [Subordinate Legislation Act 1989 No 146](#), sec 10 (2) with effect from 1.9.2004.

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](#).

File last modified 1 September 2004

Lord Howe Island (Elections) Regulation 1999



New South Wales

Contents

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

17	Withdrawal of nomination.....	8
18	Uncontested election.....	8
19	Contested election.....	9
	Part 6 Ballot-papers.....	9
20	Order of candidates' names on ballot-papers.....	9
21	Provision of ballot-papers	9
22	Printing of ballot-papers	9
	Part 7 Postal voting	10
23	Application to vote by post.....	10
24	Distribution of postal ballot-papers	11
25	Duplicate postal ballot-papers.....	11
26	Recording of postal vote.....	11
27	Preliminary scrutiny of postal ballot-papers	12
	Part 8 Pre-poll voting.....	12
28	Application to vote before polling day	12
29	If vote taken	13
30	Procedure for taking votes.....	13
31	Preliminary scrutiny of pre-poll ballot-papers	14
	Part 9 Voting at polling place	14
32	Appointment of polling place.....	14
33	Arrangements at polling place.....	14
34	Hours of polling	15
35	Electors to give name and address	15
36	Questions for challenged voters.....	15
37	Errors not to forfeit vote	15
38	Initialling of ballot-papers.....	16
39	Recording of vote	16
40	Spoilt ballot-papers	16
41	Assistance to certain electors.....	16
42	Voting procedure—disputed votes.....	17
	Part 10 The scrutiny	18

43 Scrutiny of votes at close of poll.....	18
44 Informal ballot-papers	18
45 Method of counting votes for 2 or 3 vacancies.....	19
46 Method of counting votes for 1 vacancy.....	19
47 Declaration of poll	20
Part 11 Miscellaneous	20
48 Death of candidate	20
49 Decisions of Electoral Commissioner and returning officer.....	20
50 Notification of result of election.....	20
51 Retention of electoral papers	20
52 Offences	20
53 Repeal	21
Schedule 1 Forms	21

Lord Howe Island (Elections) Regulation 1999



New South Wales

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.

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.

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.

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.

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 is more than 1 person to be elected, the elector must record the elector's vote for the number of persons to be elected by placing a number of ticks or crosses, each tick or cross being placed in a square opposite the name of a candidate for whom the elector desires to record a vote, where the number of ticks or crosses placed is equal to the number of persons to be elected,
 - (b) 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.

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

- (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.

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.

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.

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.

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

- (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.

- (3) If there is only 1 person to be elected, 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.
- (4) If there is more than 1 person to be elected, despite anything to the contrary in this Regulation, a ballot-paper must not be rejected as informal by reason only that the number of candidates the elector has recorded a vote for is less than the number of persons to be elected.
- (5) If there is more than 1 person to be elected, despite anything to the contrary in this Regulation, a ballot-paper must not be rejected as informal by reason only that the elector has placed a single number in a number of squares if the number of squares with a single number in them is no more than the number of persons to be elected, but the ballot-paper is to be treated as if any such single number was a tick or a cross.
- (6) Nothing in subclause (5) authorises any person, if there is more than 1 person to be elected, to encourage an elector to place a number in a square on a ballot-paper.

45 Method of counting votes for 2 or 3 vacancies

- (1) If there is more than 1 person to be elected, the method of counting votes is to be the "first past the post" method, that is, the candidates with the most votes are taken to be elected.
- (2) If the number of candidates to be elected cannot be determined because of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn from a lot containing the names of each of the candidates having equal votes.

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.

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.

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.