

# Legal Profession (Amendment) Regulations 2007

S.R. No. 31/2007

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STATUTORY RULES 2007

S.R. No. 31/2007

*Legal Profession Act 2004*

**Legal Profession (Amendment) Regulations 2007**

The Governor in Council makes the following Regulations:

Dated: 8 May 2007

Responsible Minister:

ROB HULLS  
Attorney-General

RUTH LEACH  
Clerk of the Executive Council

**1 Objective**

The objective of these Regulations is to amend the Legal Profession Regulations 2005 and revoke the Legal Profession (Board Election) Regulations 2006 to reflect amendments to the national model regulations and improve the regulation of the legal profession.

**2 Authorising provision**

These Regulations are made under section 7.2.17 of the **Legal Profession Act 2004**.

**3 Commencement**

- (1) These Regulations, except regulation 15, come into operation on the day after the day on which they are made.
- (2) Regulation 15 comes into operation on the day that is 6 months after the day on which these Regulations are made.

#### **4 Principal Regulations**

In these Regulations, the Legal Profession Regulations 2005<sup>1</sup> are called the Principal Regulations.

#### **5 Corresponding laws**

In the Table in regulation 1.2.2 of the Principal Regulations—

- (a) in column 2 opposite "Australian Capital Territory", for "Legal Practitioners Act 1970" **substitute** "Legal Profession Act 2006";
- (b) in column 2 opposite "Northern Territory", for "Legal Practitioners Act" **substitute** "Legal Profession Act".

#### **6 Associates of law practices**

Regulation 1.2.3 of the Principal Regulations is **revoked**.

#### **7 New Part 2.2 inserted**

After Part 1.2 of the Principal Regulations **insert—**

**"PART 2.2—RESERVATION OF LEGAL WORK  
AND LEGAL TITLES**

##### **2.2.1 Presumptions about taking or using name, title or description**

Schedule 2, which sets out circumstances in which a person is entitled to take or use a name, title or description, has effect."

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**8 Legal practice by Australian legal practitioners**

In the Principal Regulations—

- (a) regulation 2.4.1 is **revoked**;
- (b) in regulation 2.4.2(2)(a) and (b), after "required period" **insert** "worked out on a full-time basis".

**9 New regulation 2.7.1AA inserted**

After the heading to Part 2.7 of the Principal Regulations **insert**—

**"2.7.1AA Prohibition on conduct of managed investment scheme by incorporated legal practice**

Section 2.7.5(2) of the Act is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to the Corporations legislation.

**Note**

Section 5G of the Corporations Act provides that if a State law declares a provision of State law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency."

**10 New regulation 2.8.2 substituted**

For regulation 2.8.2 of the Principal Regulations  
**substitute—**

**"2.8.2 Trust money and trust accounts**

For the purposes of section 2.8.13 of the  
Act—

- (a) the provisions of Part 3.3 of the Act and any other provisions of the Act (other than Part 3.6 of the Act) relating to trust money and trust accounts; and
- (b) the provisions of Part 3.3 of these Regulations and any other provisions of these Regulations relating to trust money and trust accounts; and
- (c) any provisions of any legal profession rules relating to trust money and trust accounts—

apply to Australian-registered foreign lawyers as if a reference in those provisions to a law practice or an Australian legal practitioner were a reference to an Australian-registered foreign lawyer."

**11 Grounds for amending, suspending or cancelling foreign lawyer's registration**

Regulation 2.8.3 of the Principal Regulations is  
**revoked.**

**12 Trust money and trust accounts**

In the Principal Regulations—

- (a) in regulation 3.3.2 the definition of *deposit record* is **revoked**;

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- (b) in regulation 3.3.4(1)(a)—
    - (i) after "trust account" **insert** "receipts and payments";
    - (ii) for "retained" **substitute** "kept";
  - (c) for regulation 3.3.4(1)(c) **substitute**—

"(c) lists of trust account ledgers and their balances are to be printed monthly as at the end of each month;"
  - (d) in regulation 3.3.4(3) and (4), for "retained" **substitute** "kept";
  - (e) in regulation 3.3.5(1)(e), after "number" **insert** "or other descriptor";
  - (f) in regulation 3.3.6—
    - (i) in subregulation (2)(b), for "retained" **substitute** "kept";
    - (ii) in subregulations (5) and (6), before "system" **insert** "computerised accounting";
  - (g) in regulation 3.3.7(b), for "retained" **substitute** "kept";
  - (h) in regulation 3.3.8(1), for "open" **substitute** "establish";
  - (i) in regulation 3.3.9—
    - (i) in subregulation (3)(a), after "received" **insert** ", except as provided by paragraph (b)";
    - (ii) in subregulation (3)(b), for "can access" **substitute** "accesses";
    - (iii) in subregulation (8), for "retained" **substitute** "kept";
  - (j) in regulation 3.3.10(5), for "retained" (where twice occurring) **substitute** "kept";
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- (k) in regulations 3.3.12(8) and 3.3.13(7), for "stored" **substitute** "kept";
- (l) for regulation 3.3.18(1)(b) **substitute**—
- "(b) in the case of a law practice, the transfer has been authorised in writing by—
- (i) if the law practice is constituted by a sole practitioner—the sole practitioner; or
  - (ii) a manager or receiver for the law practice; or
  - (iii) a person who is duly authorised by the law practice or by a manager or receiver for the law practice to sign cheques drawn on the general trust account without a cosignatory; or
  - (iv) 2 or more persons who are duly authorised by the law practice or by a manager or receiver for the law practice to sign cheques drawn on the general trust account jointly; and
- (c) in the case of an approved clerk, the transfer has been authorised in writing by—
- (i) the approved clerk; or
  - (ii) a person who is duly authorised by the approved clerk to sign cheques drawn on the general trust account without a cosignatory; or

- (iii) 2 or more persons who are duly authorised by the approved clerk to sign cheques drawn on the general trust account jointly.";
- (m) in regulation 3.3.19—
  - (i) in subregulation (1) **omit** "the only or";
  - (ii) in subregulation (4), for "retained" **substitute** "kept";
- (n) for regulation 3.3.22(1)(b) **substitute**—  
"(b) the expression "controlled money account" or the abbreviation "CMA" or "CMA/c";";
- (o) in regulation 3.3.23—
  - (i) in subregulation (4)(a), after "received" **insert** ", except as provided by paragraph (b)";
  - (ii) in subregulation (4)(b), for "can access" **substitute** "accesses";
  - (iii) in subregulation (10), for "retained" **substitute** "kept";
- (p) in regulations 3.3.26(7), 3.3.27(2) and 3.3.28(8), for "retain" **substitute** "keep".

### **13 New regulation 3.3.29 substituted**

For regulation 3.3.29 of the Principal Regulations **substitute**—

#### **"3.3.29 Trust account statements for sophisticated clients**

- (1) In this regulation—  
*sophisticated client* has the same meaning as in section 3.4.2 of the Act.

- (2) Regulation 3.3.28 does not apply to a sophisticated client to the extent to which the client directs the law practice not to provide trust account statements under that regulation.
- (3) If the sophisticated client directs the law practice to provide trust account statements on a basis different from that prescribed by regulation 3.3.28, the law practice must provide those statements as directed, except to the extent to which the direction is unreasonably onerous.
- (4) The law practice must keep a copy of a trust account statement provided under this regulation."

#### **14 Further trust money and trust account amendments**

- (1) In the Principal Regulations—
    - (a) in regulation 3.3.31(2) and (3), for "(whether alone or jointly with another person)" **substitute** "for or on behalf of another person";
    - (b) regulation 3.3.33 is **revoked**.
  - (2) For regulation 3.3.34(5) of the Principal Regulations **substitute**—
    - "(5) Instructions mentioned in subregulation (3)(a)(ii)—
      - (a) if given in writing, must be kept as a permanent record; or
      - (b) if not given in writing, must be confirmed in writing either before, or not later than 5 working days after, the law practice effects the withdrawal and a copy must be kept as a permanent record."
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(3) For regulation 3.3.35(5) of the Principal Regulations **substitute**—

"(5) Instructions mentioned in subregulation (3)(a)(ii)—

- (a) if given in writing, must be kept as a permanent record; or
- (b) if not given in writing, must be confirmed in writing either before, or not later than 5 working days after, the approved clerk effects the withdrawal and a copy must be kept as a permanent record."

(4) In the Principal Regulations—

- (a) in the heading to regulation 3.3.37, for "**Retaining**" **substitute** "**Keeping**";
- (b) in regulation 3.3.37(1) and (2), for "retained" **substitute** "kept".

(5) For regulation 3.3.40(1) of the Principal Regulations **substitute**—

"(1) The law practice or approved clerk must appoint an approved external examiner within one month after receiving trust money (other than transit money)."

(6) In the Principal Regulations—

- (a) in regulation 3.3.47(4), for "(3), the examiner must" **substitute** "(3)(b), the examiner or a person assisting the examiner must";
- (b) regulation 3.3.51 is **revoked**.

**15 New regulation 3.4.3 inserted**

After regulation 3.4.2 of the Principal Regulations  
**insert—**

**"3.4.3 Interest on unpaid legal costs**

- (1) This regulation is made for the purposes of section 3.4.21(4) of the Act and prescribes the rate of interest in excess of which a law practice may not charge interest under section 3.4.21 of the Act or under a costs agreement.
- (2) The rate for the period commencing on and including the first commencement day and ending immediately before the second commencement day is the rate fixed under section 2 of the **Penalty Interest Rates Act 1983** as at the relevant date.
- (3) The rate for the period commencing on and including the second commencement day is the rate that is equal to the Cash Rate Target as at the relevant date, increased by 2 percentage points.
- (4) In this regulation—

***Cash Rate Target*** means the percentage (or maximum percentage) specified by the Reserve Bank of Australia as the Cash Rate Target;

***first commencement day*** means the day on which regulation 15 of the Legal Profession (Amendment) Regulations 2007 comes into operation;

***relevant date*** means the date the bill was issued by the law practice concerned;

***second commencement day*** means the day that is 28 days after the first commencement day."

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**16 New regulations substituted for regulation 6.2.1**

For regulation 6.2.1 of the Principal Regulations  
**substitute—**

**"6.2.1 Definitions**

In this Part—

*ballot material* means the material sent to a person under regulation 6.2.15(2);

*candidate's indication of preferences* means an indication of preferences prepared by a candidate under regulation 6.2.14;

*candidate's personal statement* means a personal statement prepared by a candidate under regulation 6.2.9;

*close of voting* means 5.00 p.m. on the last day of voting;

*declaration envelope* has the meaning given in regulation 6.2.15(2)(f);

*election official* means—

- (a) a person appointed as an election manager under regulation 6.2.2; or
- (b) a person appointed as a deputy election manager or election official under regulation 6.2.3;

*electoral rolls* means the roll of advocates and the roll of non-advocates;

*last day of voting* means the day fixed by the election manager under regulation 6.2.5 or as altered by the election manager under regulation 6.2.6;

*nomination day* has the meaning given in regulation 6.2.7(2)(b);

*return envelope* has the meaning given in regulation 6.2.15(2)(g);

*roll of advocates* means the roll kept under clause 1(1)(a) of Schedule 1 to the Act;

*roll of non-advocates* means the roll kept under clause 1(1)(b) of Schedule 1 to the Act;

*working day* means a day that is not a Saturday, Sunday or public holiday within the meaning of the **Public Holidays Act 1993**.

#### **6.2.2 Election manager**

From time to time the Board may appoint an election manager to conduct elections of elected members to the Board.

#### **6.2.3 Deputy election manager and other election officials**

- (1) The election manager may appoint a deputy election manager to assist the election manager or to act in their absence and may appoint election officials to assist in the conduct of elections.
  - (2) An appointment under subregulation (1) must be in writing and signed by the election manager.
  - (3) A deputy election manager may exercise any power or perform any function of an election manager under these Regulations, other than the power of appointment under subregulation (1).
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**6.2.4 Election officials not to be candidates**

The election manager, deputy election manager and any election officials appointed under regulation 6.2.3 must not be candidates in the election.

**6.2.5 Last day of voting**

- (1) For the purpose of an election, the election manager must fix a day by which postal votes in that election must be received by the election manager.
- (2) The last day of voting—
  - (a) must be a working day; and
  - (b) must be at least 6 weeks after the day on which notice of the election is published in the Government Gazette under regulation 6.2.7(1).

**6.2.6 Change to last day of voting**

- (1) If special circumstances exist, the election manager may alter the last day of voting and fix a different later day by notice published in the Government Gazette.
- (2) If ballot material has not yet been issued, the notice must indicate the week in which it is likely to be issued.
- (3) No later than 7 days after the publication of the notice in the Government Gazette, the election manager must cause a copy of the notice to be published in a daily newspaper circulating throughout Victoria.

- (4) For the purposes of subregulation (1), a special circumstance includes—
- (a) an unforeseen delay in printing ballot material or in the processing of candidates' personal statements or indications of preferences; or
  - (b) a postal strike or any disruption to the postal service—

that would, in the opinion of the election manager, necessitate altering the last day of voting.

#### **6.2.7 Notice of election**

- (1) The Board must cause a notice of each election to be published in the Government Gazette.
  - (2) The notice must specify—
    - (a) the vacancy for which the election is to be held; and
    - (b) the day by which nominations of candidates for the election must be received by the election manager (*nomination day*); and
    - (c) the name of the election manager; and
    - (d) the address at which the election manager will receive nominations; and
    - (e) the last day of voting.
  - (3) The nomination day must be a working day that is at least 14 days after the day the notice of election is published in the Government Gazette.
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- (4) No later than 7 days after the publication of the notice of election in the Government Gazette, the Board must cause a copy of the notice to be published in a daily newspaper circulating throughout Victoria.

**6.2.8 Nominations**

- (1) A person wishing to be a candidate in an election must deliver or cause to be delivered to the election manager a nomination in Form C1 before 12 noon on the nomination day.
- (2) A nomination must be signed by the candidate and by 2 other local legal practitioners entitled to vote at the election.
- (3) The Board must confirm that the person nominated is entitled to be a candidate and that the nominators are entitled to vote in the election.
- (4) If requested, the election manager must issue a receipt for a nomination.

**6.2.9 Candidate's personal statement**

- (1) A candidate may lodge with the election manager a personal statement for inclusion in the ballot material.
- (2) A personal statement—
- (a) must be no longer than 250 words; and
  - (b) must not refer to another candidate standing in the election without that person's written consent; and
  - (c) may be accompanied by a recent photograph of passport-photograph size for distribution with the statement; and
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- (d) must be lodged before 12 noon on the nomination day.
- (3) A consent under subregulation (2)(b) must be lodged with the personal statement.
- (4) A candidate who provides a photograph under subregulation (2)(c) must write his or her name on the back of the photograph.
- (5) The election manager may—
  - (a) liaise with any candidate with respect to the form and content of a personal statement;
  - (b) amend a personal statement in accordance with the written authorisation of the candidate.
- (6) The election manager must keep a record of any amendments made under subregulation (5)(b).
- (7) A candidate who lodges a personal statement is responsible for the accuracy and integrity of all statements contained in it.

**6.2.10 No or insufficient nominations**

- (1) If no valid nominations are received in an election—
    - (a) the election manager must notify the Board immediately after the nomination day; and
    - (b) the Board must cause a notice to be published in the Government Gazette as soon as practicable after the nomination day—
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- (i) stating that no valid nominations were received in the election; and
    - (ii) giving further notice of election in accordance with regulation 6.2.7.
  - (2) In the case of an election of the non-advocate members, if only one valid nomination is received—
    - (a) the election manager must notify the Board immediately after the nomination day; and
    - (b) the Board must cause a notice to be published in the Government Gazette as soon as practicable after the nomination day—
      - (i) stating that the candidate whose nomination was received is elected; and
      - (ii) in relation to the vacancy that has not been filled, giving further notice of election in accordance with regulation 6.2.7.

#### **6.2.11 Uncontested elections**

If the number of nominations received for an election is equal to the number of vacancies to be filled, the election manager must—

- (a) publish a notice in the Government Gazette declaring the candidate or candidates elected; and
- (b) forward a copy of the notice to the Board.

**6.2.12 Contested elections**

If the number of nominations received for an election is greater than the number of vacancies to be filled, the election manager must—

- (a) announce the full name of each candidate on the nomination day; and
- (b) publish a notice of each nomination in the Government Gazette as soon as practicable after the nomination day.

**6.2.13 Preparation and form of ballot-papers**

- (1) In the event of a contested election, the election manager must hold a ballot immediately after the nomination day to determine the order of candidates on the ballot-paper.
- (2) Candidates may be present at this ballot.
- (3) A ballot-paper—
  - (a) must be in Form C2; and
  - (b) must show the names of the candidates in the order determined under subregulation (1); and
  - (c) must not contain a candidate's title, qualifications or reference to any political or other affiliation or allegiance.

**6.2.14 Candidate's indication of preferences**

- (1) A candidate may lodge with the election manager an indication of preferences containing the candidate's preferred order of voting.
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- (2) A candidate's indication of preferences—
- (a) must be in the form of a ballot-paper; and
  - (b) must be lodged in person by the candidate, or a person authorised by the candidate, no later than 3 days after the nomination day.
- (3) In an indication of preferences a candidate must—
- (a) identify each candidate in the form and order in which the candidates appear on the ballot-paper; and
  - (b) place once only the figures 1, 2, 3, 4 (and so on as the case requires) in the squares opposite the names of the candidates so as to indicate the candidate's preference for them.

**6.2.15 Dispatch of polling material**

- (1) No later than 7 days after the nomination day, the Board must supply the election manager with the electoral roll for the election.
  - (2) At least 14 days before the last day of voting the election manager must post or deliver to each person on the electoral roll for the election—
    - (a) a ballot-paper made of a marked security paper; and
    - (b) any candidate's personal statement lodged in accordance with regulation 6.2.9; and
    - (c) any photograph lodged with a candidate's personal statement in accordance with regulation 6.2.9; and
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- (d) any candidate's indication of preferences lodged in accordance with regulation 6.2.14; and
  - (e) if a candidate has not lodged a personal statement or indication of preferences that complies with these Regulations, a statement to that effect; and
  - (f) an envelope for the ballot-paper, indicating a place for the voter to sign and date it (*declaration envelope*); and
  - (g) a prepaid envelope bearing the election manager's address (*return envelope*); and
  - (h) instructions on how to vote; and
  - (i) notice of how and when the ballot material must be returned; and
  - (j) any other material that the election manager thinks is appropriate.
- (3) The election manager may specify formatting limitations that will apply to the publication of candidate statements and may alter the format of statements lodged in accordance with regulation 6.2.9 to comply with those limitations.
- (4) An election is not invalidated only because ballot material has been forwarded to a person who is not entitled to vote.

#### **6.2.16 Marking a vote**

- (1) Subject to this regulation, a voter must mark his or her vote by placing once only the figures 1, 2, 3, 4 (and so on as the case requires) in the squares opposite the names of the candidates so as to indicate the voter's preference for them.
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- (2) If there are only 2 candidates at an election, the requirements of subregulation (1) are sufficiently complied with in the case of any ballot-paper marked with the figure 1 opposite the name of only one candidate to indicate the voter's first preference.
- (3) If there are more than 2 candidates, the requirements of subregulation (1) are sufficiently complied with in the case of any ballot-paper marked with the figures 1, 2, 3, 4 (and so on as the case requires) opposite the names of all the candidates on the ballot-paper except one.
- (4) In the circumstances set out in subregulation (3), the voter is to be taken to have given his or her last preference vote to the candidate opposite whose name no figure is marked.

#### **6.2.17 Return of ballot-papers**

- (1) A voter must—
  - (a) insert the marked ballot-paper in the declaration envelope and seal that envelope; and
  - (b) sign and date the declaration envelope; and
  - (c) place the declaration envelope in the prepaid return envelope.
- (2) The voter must post or deliver the return envelope to the election manager at the address on the envelope, or at another address notified to the voter by the election manager, so as to reach the election manager by the close of voting.

**6.2.18 Issue of replacement ballot-papers**

The election manager may issue a replacement ballot-paper to a voter if the voter gives the election manager a declaration to the effect that—

- (a) the voter has not received a ballot-paper or the ballot-paper has been lost, spoilt or destroyed; and
- (b) the voter has not already voted in the election.

**6.2.19 Withdrawal or death of candidate**

- (1) A candidate for an election may withdraw his or her consent to the nomination by lodging a notice of retirement with the election manager at any time before the commencement of the scrutiny of votes in the election.
- (2) If a candidate withdraws or dies after the close of nominations but before the commencement of the scrutiny of votes in an election, the candidate's first preference votes are to be distributed amongst the other eligible candidates next in order of the voters' preference and are deemed to be first preference votes for those candidates.

**6.2.20 Place where votes are to be counted**

The election manager must designate the place where the votes are to be counted and must advise each candidate of that place.

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**6.2.21 Scrutineers**

- (1) A candidate may appoint one or more scrutineers to scrutinise the electoral activities set out in subregulation (2), but only one scrutineer for a candidate may be present at an electoral activity at any one time.
- (2) The electoral activities referred to in subregulation (1) are—
  - (a) the opening and emptying of the ballot box or other container in which the declaration envelopes are kept;
  - (b) the processing of declaration envelopes;
  - (c) the counting and recounting of ballot-papers.
- (3) An appointment of a scrutineer must be in Form C3.
- (4) The election manager may have a scrutineer removed if—
  - (a) more than one scrutineer for a candidate is present at an electoral activity at the one time; or
  - (b) the scrutineer touches a ballot-paper or otherwise interferes with or obstructs an electoral activity; or
  - (c) the scrutineer fails to obey a lawful instruction from an election official.
- (5) A person cannot be appointed as a scrutineer in an election if he or she is—
  - (a) a member or employee of the Board; or
  - (b) a candidate in the election; or

- (c) a candidate in any other election being held simultaneously with the election.
- (6) For the avoidance of doubt, a reference in subregulation (5) to a member of the Board includes a reference to the chairperson of the Board.

#### **6.2.22 Receipt of return envelopes**

- (1) The election manager, with the assistance of any election officials, may on the receipt of return envelopes at any time before the close of voting—
    - (a) remove the declaration envelopes from the return envelopes; and
    - (b) separate the signed declaration envelopes from the unsigned declaration envelopes and record receipt of each declaration envelope on the electoral roll; and
    - (c) accept any declaration envelopes that are undated but disallow the unsigned declaration envelopes; and
    - (d) place each signed declaration envelope in a sealed postal ballot receptacle.
  - (2) As soon as practicable after the close of voting, the election manager must, in accordance with subregulation (1), deal with all ballot-papers received on or before the close of voting that have not already been dealt with under that subregulation.
  - (3) The election manager must reject any declaration envelope not received in accordance with regulation 6.2.17(2).
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- (4) If it appears to the election manager that a voter has signed and returned more than one declaration envelope, the election manager must—
- (a) accept the declaration envelope that appears to have been signed first by the voter;
  - (b) reject all other declaration envelopes that appear to have been returned by the voter—

without opening the declaration envelopes.

#### **6.2.23 Scrutiny of votes**

As soon as practicable after the close of voting, the election manager must—

- (a) produce unopened all signed declaration envelopes containing ballot-papers received by the close of voting; and
- (b) open each signed declaration envelope, withdraw the ballot-paper and deposit it in the ballot box; and
- (c) when all ballot-papers have been deposited in the ballot box, withdraw the ballot-papers and count the votes in accordance with the Act and these Regulations.

#### **6.2.24 Adjournment of scrutiny**

The election manager may from time to time adjourn the scrutiny of votes to a day and time fixed by the election manager and notified to the scrutineers.

**6.2.25 Notification and publication of results**

- (1) The election manager must notify each candidate of the result of the election within 7 days after the day on which the scrutiny of votes in the election is completed.
- (2) As soon as practicable after all candidates have been notified in accordance with subregulation (1), the election manager must declare the result of the election by notice published in the Government Gazette.
- (3) The election manager must send a copy of the notice published in the Government Gazette to the Board.

**6.2.26 Recounts**

At any time before notice of an election result is published in the Government Gazette, the election manager may (and must, if requested in writing by a candidate) conduct a recount of the votes in the election.

**6.2.27 Disposal of ballot-papers**

At the end of the period of 60 days after notice of an election result is published in the Government Gazette, the election manager must destroy all ballot-papers, declaration envelopes and return envelopes used in the election."

**17 New forms inserted in Schedule 1**

After Form B2 in Schedule 1 to the Principal Regulations **insert**—

**"FORM C1**

Regulation 6.2.8(1)

**NOMINATION FORM**

**Legal Services Board**

**Advocate/Non-advocate<sup>(1)</sup>**

Legal Profession Regulations 2005, regulation 6.2.8(1)

**CANDIDATE**

Name

Postal address for correspondence

Date of admission

Form in which given names are to appear on ballot-paper<sup>(2)</sup>

To the election manager: We, the local legal practitioners named below, being enrolled on the roll of advocates/roll of non-advocates<sup>(1)</sup>, nominate the local legal practitioner of not less than 5 years' standing referred to above as a candidate for election to the Legal Services Board.

**NOMINATORS**

Name

Postal address for correspondence

Signature

Date

Name

Postal address for correspondence

Signature

Date

**Candidate's declaration of consent:**

I consent to be nominated as a candidate for election to the Legal Services Board as an advocate/non-advocate member to represent electors on the advocates'/non-advocates' roll<sup>(1)</sup>.

I declare that I am qualified to be a candidate under the provisions of the **Legal Profession Act 2004**<sup>(3)</sup>.

Signature of candidate

Date

(1) *Delete whichever is not appropriate*

(2) *You may use an initial or initials or common abbreviation or alternative for your given names*

(3) *A candidate should ensure that he or she is qualified to be a candidate.*

**FORM C2**

Regulation 6.2.13(3)(a)

**BALLOT-PAPER**

**Legal Services Board**

**[Advocate/Non-advocate] Roll**

Number the boxes from 1 to [*insert number of candidates*] in the order of your choice.

You must number EVERY box.

You must NOT use any number more than once.

[Candidate name]

[Candidate name]

[Candidate name]

[Candidate name]

[Candidate name]

[Candidate name]

Dimensions of ballot-paper: 105 mm × 210 mm.

**FORM C3**

Regulation 6.2.21(3)

**APPOINTMENT AND DECLARATION  
OF SCRUTINEER**

**Legal Services Board  
Advocate/Non-advocate Roll<sup>(1)</sup>**

Legal Profession Regulations 2005, regulation 6.2.21(3)

**Candidate**

Name  
Address

**Scrutineer**

Name  
Address

**Appointment**

I, a candidate for election as an elected member of the Legal Services Board at the election to be held on [*insert date*], appoint the person named above to be my scrutineer.

Candidate's signature

Date

**Scrutineer's declaration:**

I, the scrutineer named above, undertake to be a scrutineer for the candidate named above and declare that I am an eligible person to be appointed as a scrutineer<sup>(2)</sup>.

Scrutineer's signature  
in the presence of

Date

Name and signature of witness

Date

- (1) *Delete whichever is not appropriate*  
(2) *Regulation 6.2.21(5) of the Legal Profession Regulations 2005 provides that a person cannot be appointed as a scrutineer in an election if he or she is—*  
*(a) a member or employee of the Legal Services Board; or*  
*(b) a candidate in the election; or*  
*(c) a candidate in any other election being held simultaneously with the election."*

**18 New Schedule 2 inserted**

After Schedule 1 to the Principal Regulations  
**insert—**

**"SCHEDULE 2**

Regulation 2.2.1

**PRESUMPTIONS ABOUT TAKING OR USING NAME, TITLE  
 OR DESCRIPTION**

1. For the purposes of section 2.2.4(1A) of the Act, the kinds of persons specified in column 3 of the following Table are persons who are entitled, in the circumstances specified opposite in column 4, to take or use a name, title or description specified opposite in column 2.

**TABLE**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item</i>	<i>Name, title or description</i>	<i>Kinds of persons who are entitled to take or use name, title or description</i>	<i>Circumstances in which the persons are entitled to take or use name, title or description</i>
1	legal practitioner	Australian legal practitioner	all circumstances (no restriction)
2	legal practitioner	Australian lawyer	when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice as an employee of a government agency in circumstances in which an Australian law permits an Australian lawyer to engage in legal practice of that kind without having to hold an Australian practising certificate

Legal Profession (Amendment) Regulations 2007

S.R. No. 31/2007

r. 18

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item</i>	<i>Name, title or description</i>	<i>Kinds of persons who are entitled to take or use name, title or description</i>	<i>Circumstances in which the persons are entitled to take or use name, title or description</i>
3	barrister and solicitor, or solicitor and barrister, or solicitor, or attorney	Australian legal practitioner	when the Australian legal practitioner holds an Australian practising certificate and engages in legal practice in the manner of a solicitor
4	barrister and solicitor, or solicitor and barrister, or solicitor, or attorney	Australian lawyer	when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice in the manner of a solicitor as an employee of a government agency in circumstances in which an Australian law permits an Australian lawyer to engage in legal practice of that kind without having to hold an Australian practising certificate
5	barrister	Australian legal practitioner	when the Australian legal practitioner holds an Australian practising certificate and engages in legal practice in the manner of a barrister

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r. 18

S.R. No. 31/2007

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item</i>	<i>Name, title or description</i>	<i>Kinds of persons who are entitled to take or use name, title or description</i>	<i>Circumstances in which the persons are entitled to take or use name, title or description</i>
6	barrister	Australian lawyer	when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice in the manner of a barrister as an employee of a government agency in circumstances in which an Australian law permits an Australian lawyer to engage in legal practice of that kind without having to hold an Australian practising certificate
7	counsel	Australian legal practitioner	all circumstances (no restriction)
8	counsel	Australian lawyer	when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice as an employee of a government agency in circumstances in which an Australian law permits an Australian lawyer to engage in legal practice of that kind without having to hold an Australian practising certificate; or

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r. 18

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item</i>	<i>Name, title or description</i>	<i>Kinds of persons who are entitled to take or use name, title or description</i>	<i>Circumstances in which the persons are entitled to take or use name, title or description</i>
			when the Australian lawyer, not holding an Australian practising certificate, provides legal service to his or her employer, or to a related entity, in the ordinary course of his or her employment and for no fee, gain or reward other than his or her ordinary remuneration as an employee
9	Senior Counsel or SC	Australian lawyer	when the Australian lawyer currently holds the status of Senior Counsel, as recognised by the High Court or a Supreme Court of any jurisdiction
10	Queen's Counsel or QC, or King's Counsel or KC, or Her Majesty's Counsel, or His Majesty's Counsel	Australian lawyer	when the Australian lawyer currently holds the appropriate status, as conferred by the Crown in any capacity or as recognised by the High Court or a Supreme Court of any jurisdiction

2. In this Schedule—

*Australian law* means a law of the Commonwealth or of a State or Territory;

*employee* of an entity means a person who is employed or engaged under a contract of service or contract for services in or by the entity whether or not—

- (a) the person works full time, part time, or on a temporary or casual basis; or
- (b) the person is a law clerk or articled clerk;

*government agency* means—

- (a) a government department of the Commonwealth or of a State or Territory; or
- (b) a body that is established by or under the law of the Commonwealth or of a State or Territory for a public purpose or to exercise governmental functions."

**19 Revocation of Board election regulations**

The Legal Profession (Board Election) Regulations 2006<sup>2</sup> are **revoked**.

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**ENDNOTES**

<sup>1</sup> Reg. 4: S.R. No. 152/2005.

<sup>2</sup> Reg. 19: S.R. No. 27/2006.