

## Authorised Version

# Legal Profession Uniform Law Application Regulations 2015

S.R. No. 52/2015

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## **Authorised Version**

STATUTORY RULES 2015

S.R. No. 52/2015

*Legal Profession Uniform Law Application Act 2014*

### **Legal Profession Uniform Law Application Regulations 2015**

The Administrator of the State of Victoria as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: 16 June 2015

Responsible Minister:

MARTIN PAKULA  
Attorney-General

YVETTE CARISBROOKE  
Clerk of the Executive Council

## **Part 1—Preliminary**

### **1 Objective**

The objective of these Regulations is to prescribe a number of matters required or permitted to be prescribed or necessary to be prescribed to give effect to the **Legal Profession Uniform Law Application Act 2014**.

### **2 Authorising provision**

These Regulations are made under section 156 of the **Legal Profession Uniform Law Application Act 2014**.

### **3 Commencement**

These Regulations come into operation on 1 July 2015.

#### 4 Definitions

In these Regulations—

***Board*** means the Victorian Legal Services Board  
within the meaning of the Act;

***Form*** means a form in Schedule 1;

***the Act*** means the **Legal Profession Uniform  
Law Application Act 2014**.

## Part 2—Victorian Legal Services Board elections

### 5 Definitions

In this Part—

*ballot material* means the material sent to a person under regulation 19(2);

*candidate's indication of preferences* means an indication of preferences prepared by a candidate under regulation 18;

*candidate's personal statement* means a personal statement prepared by a candidate under regulation 13;

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

*declaration envelope* has the meaning given by regulation 19(2)(f);

*election official* means—

- (a) a person appointed as an election manager under regulation 6; or
- (b) a person appointed as a deputy election manager or an election official under regulation 7;

*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 9 or as altered by the election manager under regulation 10;

*nomination day* has the meaning given by regulation 11(2)(b);

*return envelope* has the meaning given by regulation 19(2)(g);

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*roll of advocates* means the roll kept under section 63(1)(a) of the Act;

*roll of non-advocates* means the roll kept under section 63(1)(b) of the Act;

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

## **6 Election manager**

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

## **7 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).

## **8 Election officials not to be candidates**

The election manager, deputy election manager or any election officials appointed under regulation 7 must not be candidates in the election.

## **9 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 11(1).

#### **10 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 either of the following that would, in the opinion of the election manager, necessitate altering the last day of voting—
  - (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.

#### **11 Notice of election**

- (1) The Board must cause a notice of each election to be published in the Government Gazette.
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- (2) The notice must specify the following—
  - (a) the vacancy for which the election is to be held;
  - (b) the day by which nominations of candidates for the election must be received by the election manager;
  - (c) the name of the election manager;
  - (d) the address at which the election manager will receive nominations;
  - (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.
- (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.

## **12 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 1 before 12 noon on the nomination day.
  - (2) A nomination must be signed by the candidate and by 2 other Australian 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.
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### **13 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
    - (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 the candidate's 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; and
    - (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.
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#### **14 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—
    - (i) stating that no valid nominations were received in the election; and
    - (ii) giving further notice of election in accordance with regulation 11.
- (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 11.

#### **15 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—

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- (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.

#### **16 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.

#### **17 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 the ballot referred to in subregulation (1).
  - (3) A ballot-paper—
    - (a) must be in Form 2; and
    - (b) must show the names of the candidates in the order determined under subregulation (1); and
    - (c) must not contain—
      - (i) a candidate's title or qualifications; or
      - (ii) reference to any political or other affiliation or allegiance.
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### **18 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.
- (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.

### **19 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 the following to each person on the electoral roll for the election—
    - (a) a ballot-paper made of a marked security paper;
    - (b) any candidate's personal statement lodged in accordance with regulation 13;
    - (c) any photograph lodged with a candidate's personal statement in accordance with regulation 13;
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- (d) any candidate's indication of preferences lodged in accordance with regulation 18;
  - (e) if a candidate has not lodged a personal statement or indication of preferences that complies with this Part, a statement to that effect;
  - (f) an envelope for the ballot-paper, indicating a place for the voter to sign and date it;
  - (g) a prepaid envelope bearing the election manager's address;
  - (h) instructions on how to vote;
  - (i) notice of how and when the ballot material must be returned;
  - (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 13 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.

## **20 Marking a vote**

- (1) Subject to this regulation, a voter must mark the voter's 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.
  - (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
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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 the voter's last preference vote to the candidate opposite whose name no figure is marked.

## **21 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.

## **22 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.
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### **23 Withdrawal or death of candidate**

- (1) A candidate for an election may withdraw consent to the candidate's 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 among the other eligible candidates next in order of the voters' preference and are taken to be first preference votes for those candidates.

### **24 Place where votes are to be counted**

The election manager must—

- (a) designate the place where the votes are to be counted; and
- (b) advise each candidate of that place.

### **25 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 the following—
  - (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 3.

- (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 the person 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.

## **26 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
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- (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 21(2).
- (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; and
  - (b) reject all other declaration envelopes that appear to have been returned by the voter—without opening the declaration envelopes.

## **27 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.
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## **28 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.

## **29 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.

## **30 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.

## **31 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.

## **Part 3—Fidelity fund**

### **32 Maximum fidelity fund contributions and levies**

- (1) For the purposes of section 131(2) of the Act, the prescribed amount is the following—
    - (a) in the case of an annual contribution to the fidelity fund—
      - (i) \$100.00 per person in the case of a person employed by a community legal service; or
      - (ii) \$1500.00 per person or community legal service in any other case;
    - (b) in the case of a levy—
      - (i) \$110.00 per person in the case of a person employed by a community legal service; or
      - (ii) \$1650.00 per person or community legal service in any other case.
  - (2) A person or community legal service must not be required to pay levies imposed under section 226 or 231(1)(b) of the Legal Profession Uniform Law (Victoria), or section 129 of the Act, which in aggregate exceed—
    - (a) \$1650.00 in any 12 month period; or
    - (b) \$8250.00 in total.
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## Schedule 1—Forms

### FORM 1

Regulation 12(1)

#### NOMINATION FORM

**Victorian Legal Services Board**

**Roll of \*Advocates/\*Non-advocates**

Legal Profession Uniform Law Application Regulations 2015

(regulation 12(1))

#### CANDIDATE

Name:

Postal address for correspondence:

Date of admission:

Form in which given names are to appear on ballot-paper<sup>(1)</sup>

#### **To the election manager:**

We, the local legal practitioners named below, being enrolled on the roll of \*advocates/\*non-advocates, nominate the Australian legal practitioner of not less than 5 years' standing referred to above as a candidate for election to the Victorian 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 Victorian Legal Services Board as an \*advocate/\*non-advocate member to represent electors on the roll of \*advocates/\*non-advocates.

I declare that I am qualified to be a candidate under the provisions of the **Legal Profession Uniform Law Application Act 2014**<sup>(2)</sup>.

Signature of candidate:

Date:

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Legal Profession Uniform Law Application Regulations 2015

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Schedule 1—Forms

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**Notes**

- (1) You may use an initial or initials or common abbreviation or alternative for your given names.
  - (2) A candidate must ensure that the candidate is qualified to be a candidate.
- \* Delete if not applicable

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**FORM 2**

Regulation 17(3)(a)

**BALLOT-PAPER**

**Victorian Legal Services Board**

**Roll of \*Advocates/\*Non-advocates**

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.

\* Delete if not applicable

**FORM 3**

Regulation 25(3)

**APPOINTMENT AND DECLARATION OF SCRUTINEER**

**Victorian Legal Services Board**

**Roll of \*Advocates/\*Non-advocates**

Legal Profession Uniform Law Application Regulations 2015  
(regulation 25(3))

**Candidate**

Name:

Address:

**Scrutineer**

Name:

Address:

**Appointment**

I, a candidate for election as an elected member of the Victorian 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>(1)</sup>.

Scrutineer's signature:

Date:

in the presence of

Name and signature of witness:

Date:

**Note**

- (1) Regulation 25(5) of the Legal Profession Uniform Law Application Regulations 2015 provides that a person cannot be appointed as a scrutineer in an election if the person is—
- (a) a member or employee of the Victorian Legal Services Board; or
  - (b) a candidate in the election; or
  - (c) a candidate in any other election being held simultaneously with the election.

\* Delete if not applicable

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## **Endnotes**