

Authorised Version
Local Government (Electoral) Regulations 2016
S.R. No. 91/2016

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Authorised Version

STATUTORY RULES 2016

S.R. No. 91/2016

Local Government Act 1989

City of Melbourne Act 2001

Local Government (Electoral) Regulations 2016

The Governor in Council makes the following Regulations:

Dated: 26 July 2016

Responsible Minister:

NATALIE HUTCHINS
Minister for Local Government

ANDREW ROBINSON
Clerk of the Executive Council

Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe matters that relate to the conduct of local government elections.

2 Authorising provisions

These Regulations are made under section 243 of the **Local Government Act 1989** and section 29 of the **City of Melbourne Act 2001**.

3 Commencement

These Regulations come into operation on 7 August 2016.

4 Revocations

The following Regulations are **revoked**—

- (a) the Local Government (Electoral) Regulations 2005¹;
- (b) the Local Government (Electoral) Amendment Regulations 2012²;
- (c) the Local Government (Electoral) Further Amendment Regulations 2012³.

5 Definitions

(1) In these Regulations—

attendance election means an election conducted in accordance with Part 5;

candidate information means a candidate statement and a candidate indication of preferences lodged in accordance with regulation 38;

candidate questionnaire form means the form referred to in regulation 43 and set out in Form 2 of Schedule 1;

candidate statement means the statement and photograph lodged by a candidate in accordance with regulation 35;

counting place means a place designated by a returning officer under regulation 96;

declaration ballot-box means a box provided at a voting centre in accordance with regulation 64 for the receipt of pre-poll postal votes and declaration votes;

declaration vote means a vote cast in accordance with regulation 77;

disadvantaged voter means a voter to whom clause 2(1) of Schedule 3 to the Act applies;

early postal vote means an early postal vote issued in a postal election in accordance with regulation 89;

election official for an election, means the returning officer for the election or an authorised person who has made a declaration under clause 2 of Schedule 2 to the Act that is in accordance with regulation 20;

Electoral Commissioner has the same meaning as in the **Electoral Act 2002**;

general postal voter has the same meaning as in the **Electoral Act 2002**;

indication of preferences means a document containing an indication of a candidate's preferred order of voting;

postal ballot envelope means an envelope that complies with the requirements set out in regulation 84;

postal ballot receptacle means a ballot-box or any other container that is used at a postal election for the receipt or safekeeping of returned declaration envelopes containing ballot-papers;

postal election means an election at which all voting is by means of postal voting and that is in accordance with Part 6;

pre-poll postal vote means a postal vote cast by a voter in an attendance election in accordance with Division 2 of Part 5;

prosecution officer has the same meaning as in section 40(2) of the Act;

registered officer has the same meaning as in section 44 of the **Electoral Act 2002**;

registered political party has the same meaning as in the **Electoral Act 2002**;

silent voter means—

- (a) a voter whose address is not shown on a voters' roll; or
- (b) an elector whose address is not shown on the relevant Roll under the Commonwealth Electoral Act 1918 of the Commonwealth; or
- (c) a silent elector within the meaning of the **Electoral Act 2002**;

the Act means the **Local Government Act 1989**.

(2) In Division 1 of Part 2—

(a) ***corporation details*** of a corporation means—

- (i) the corporation's name; and
- (ii) the ACN of the corporation; and
- (iii) the registered address of the corporation; and
- (iv) the name and position of the person authorised to make an application on behalf of the corporation under section 16 of the Act;

(b) ***personal details*** of a person means—

- (i) the person's name; and
- (ii) the person's date of birth; and
- (iii) the person's residential address; and
- (iv) the person's postal address.

Part 2—Voters' rolls

Division 1—Enrolment of voters

6 Request to vary owner enrolment

- (1) For the purposes of section 13(5) of the Act, the following details are required—
 - (a) the name of the relevant Council;
 - (b) the address of the relevant rateable property;
 - (c) the names of all owners of the rateable property;
 - (d) the name of each owner to be removed from the voters' roll;
 - (e) the personal details of each owner requested to be enrolled on the voters' roll;
 - (f) a declaration signed and dated by each owner requesting to be enrolled that states that—
 - (i) the owner is the owner of the rateable property; and
 - (ii) the owner is not otherwise entitled to be enrolled on the voters' roll in respect of the relevant rateable property;
 - (g) an authorisation signed and dated by at least one joint owner of the property who is not 1 of the 2 owners requesting to be enrolled in respect of the property.
- (2) If a request to vary the enrolled owners under section 13(5) of the Act is a request to enrol a representative of a corporation, the details required under regulation 11 must be provided in addition to the details required under subregulation (1).

- (3) For the purposes of section 13(6) of the Act, the following details are required—
- (a) the name of the relevant Council;
 - (b) the personal details of the person referred to in that section;
 - (c) the address of the rateable property for which the person is currently enrolled;
 - (d) the address of the rateable property for which the person requests to be enrolled;
 - (e) a declaration signed and dated by the person requesting to be enrolled that states that the person is—
 - (i) an owner of the rateable property in respect of which the person is requesting to be enrolled; and
 - (ii) not otherwise entitled to be enrolled to vote in the municipal district as a resident.

7 Enrolment application from property owner

- (1) An application under section 14(1) or (4) of the Act must be in writing and include the following details—
- (a) the name of the relevant Council;
 - (b) the address of the relevant rateable property;
 - (c) the personal details of the person making the application;
 - (d) a declaration signed and dated by the person that states that the person is—
 - (i) an owner of the rateable property in respect of which the person is requesting to be enrolled; and

- (ii) not otherwise entitled to be enrolled to vote in the municipal district as a resident or an owner of rateable property.
- (2) In addition to the details required under subregulation (1), if the property is jointly owned, an application under section 14(1) of the Act must include the names of all other joint owners of the property.

8 Enrolment application from property occupier

An application under section 15(1) or (8) of the Act must be in writing and include the following details—

- (a) the name of the relevant Council;
- (b) the address of the relevant rateable property;
- (c) the personal details of the occupier making the application;
- (d) the name of the property owner;
- (e) a declaration signed and dated by the person that states that the person is—
 - (i) an occupier of the rateable property;
and
 - (ii) liable to pay the rates for that property;
and
 - (iii) not otherwise entitled to be enrolled to vote in the municipal district as the owner of rateable property in the municipal district under section 13 or 14 of the Act or as a resident under section 12 of the Act.

9 Resignation of occupier enrolment

An application under section 15(10) of the Act must be in writing and include the following details—

- (a) the name of the relevant Council;
- (b) the address of the relevant rateable property;
- (c) the personal details of the occupier making the application;
- (d) a declaration signed and dated by the occupier that states that the occupier wishes to resign the occupier's enrolment as an occupier of the rateable property.

10 Withdrawal of owner consent

An application under section 15(11) of the Act must be in writing and include the following details—

- (a) the name of the relevant Council;
- (b) the address of the relevant rateable property;
- (c) the name and residential address of each owner making the application;
- (d) a declaration signed and dated by each owner making the application that states that the consent for the occupier to be enrolled to vote in respect of the rateable property is withdrawn.

11 Appointment of corporation representative

An application under section 16(2) or (5) of the Act must be in writing and include the following details—

- (a) the name of the relevant Council;
- (b) the address of the relevant rateable property;

- (c) the personal details of the person to be appointed;
- (d) a declaration signed and dated by the person to be appointed that states that the person—
 - (i) consents to the appointment; and
 - (ii) is not otherwise entitled to be enrolled on the voters' roll for the municipal district in respect of which the appointment is to be made;
- (e) the corporation details of the corporation making the application;
- (f) a declaration signed and dated by a person authorised to sign on behalf of the corporation that states that—
 - (i) the person is authorised to make the application on behalf of the corporation; and
 - (ii) the corporation is an owner or occupier of the rateable property (as the case may be); and
 - (iii) the person named in the application as the prospective appointee is a company secretary or a director of the corporation (as the case may be) and is to be appointed to be the voting representative of the corporation.

12 Resignation of corporation representative

A notice under section 16(10)(a)(iii) of the Act must be in writing and include the following details—

- (a) the name of the relevant Council;
- (b) the name and residential address of the person who resigns the appointment;

- (c) the corporation details of the corporation that the person represented;
- (d) a declaration signed and dated by the person that states that the person resigns the appointment.

13 Revocation of corporation appointment

A notice under section 16(10)(b) of the Act must be in writing and include the following details—

- (a) the name of the relevant Council;
- (b) the corporation details of the corporation seeking to revoke the appointment;
- (c) the name of the person whose appointment is to be revoked;
- (d) a declaration signed and dated by a person authorised to sign on behalf of the corporation that states that—
 - (i) the person is authorised to make the notice of revocation on behalf of the corporation; and
 - (ii) the appointment is revoked.

14 Enrolment entitlement information

- (1) The Chief Executive Officer must provide details of a person's entitlement to be enrolled as a ratepayer on the voters' roll for the municipal district under section 13, 14, 15 or 16 of the Act, if requested by the person.
- (2) A notice published by the Registrar under section 23A(5) of the Act must also state how a person can check that person's enrolment before the entitlement date.

Division 2—Silent voters

15 Silent voter request

For the purposes of section 20(1) of the Act, the prescribed form is Form 1 in Schedule 1.

16 Silent voter list

- (1) The Chief Executive Officer must maintain a list of silent voters whose request to be a silent voter was granted under section 20(4) of the Act.
- (2) A person may be removed from the list of silent voters after the entitlement day if—
 - (a) the person is no longer entitled to be enrolled as a ratepayer on the voters' roll; or
 - (b) the person has requested in writing no longer to be listed as a silent voter.

17 Silent voter's details to be kept secure

- (1) The Chief Executive Officer must ensure that only a person authorised by the Chief Executive Officer has access to the address of a silent voter or to the information contained in a request made under section 20(1) of the Act.
- (2) A Registrar or returning officer must ensure that only a person authorised by the Registrar or returning officer has access to the address of a silent voter.

18 Silent voter not required to provide address

A silent voter is not required to provide the address in respect of which the voter is enrolled on any application or declaration under Part 5 or 6.

Division 3—Form of voters' rolls

19 Voters' roll

For the purposes of section 24(2) of the Act, the following are the prescribed particulars to be included in a voters' roll—

- (a) the name of the relevant Council;
- (b) if the relevant municipal district is divided into wards, the name of the relevant ward;
- (c) the year of the roll;
- (d) the surname and other name or names of each voter;
- (e) except in the case of a silent voter—
 - (i) the address in respect of which each voter is entitled to be enrolled on the roll; and
 - (ii) if the voter has a different address as a postal address, that postal address.

Part 3—General election matters

Division 1—Authorised persons

20 Declaration by returning officer, authorised person or interpreter

For the purposes of clause 2 of Schedule 2 to the Act, a declaration made by a returning officer, an authorised person or an interpreter must be signed and dated in the presence of a witness and include the following details—

- (a) the full name and address of the person making the declaration;
- (b) a statement by the person making the declaration that the person—
 - (i) undertakes to be a returning officer, an authorised person or an interpreter (as the case may be) at the election; and
 - (ii) will properly perform the duties and functions of a returning officer, an authorised person or an interpreter (as the case may be) and is aware of the offences under the Act that relate to the relevant position; and
 - (iii) will not disclose any fact coming to the person's knowledge at the election that must not be disclosed under any provision of the Act or regulations made under the Act.

Division 2—Ballot-papers

21 Form of ballot-paper

For the purposes of clause 14(1) of Schedule 2 to the Act, a ballot-paper must include the following details—

- (a) the name of the relevant Council;
- (b) if the relevant municipal district is divided into wards, the name of the relevant ward;
- (c) the name of each candidate and a box opposite each name;
- (d) instructions to the voter on how to mark the voter's ballot-paper, being instructions in the form of words or a statement to the following effect—

"Number the boxes 1 to [2, 3, 4, 5... as the case may be] in the order of your choice. Number every box to make your vote count."

22 Validity of ballot-paper

- (1) A ballot-paper is taken to be valid and must be counted in an election if it is—
 - (a) issued in accordance with these Regulations or the Act; and
 - (b) completed in accordance with this regulation; and
 - (c) lodged in accordance with these Regulations.
- (2) A voter must mark the voter's vote on the ballot-paper by placing—
 - (a) the number 1 opposite the name of the candidate for whom the voter votes as first preference; and

- (b) the numbers 2, 3, 4 (and so on as the case requires) opposite the remaining candidates' names so as to indicate the order of preference by an unbroken numerical sequence.
- (3) In the case of 2 candidates, the requirements of subregulation (2) are sufficiently complied with if the ballot-paper is marked with the number 1 opposite the name of one candidate to indicate the voter's first preference.
- (4) In the case of more than 2 candidates, the requirements of subregulation (2) are sufficiently complied with if the ballot-paper is marked with a number 1, 2, 3 or 4 (and so on as the case requires) opposite the names of all the candidates on the ballot-paper except one.

Division 3—Assistance for voters

23 Disadvantaged voters signing declarations

- (1) If a disadvantaged voter is requested or required to sign a declaration in accordance with Part 5 or 6, the declaration may be signed by a person authorised by the disadvantaged voter to sign in the place of the disadvantaged voter.
- (2) A person signing a declaration under Part 5 or 6 for a disadvantaged voter must clearly write the person's name and the words "authorised signatory" beneath the person's signature.

Part 4—Candidates

Division 1—Candidates and scrutineers

24 Nomination form

- (1) For the purposes of clause 5(1)(a) of Schedule 2 to the Act, a nomination form must be in writing and must contain the following details—
 - (a) the name of the relevant Council;
 - (b) if the relevant municipal district is divided into wards, the name of the relevant ward;
 - (c) the full name of the candidate;
 - (d) the address in respect of which the candidate is enrolled on the voters' roll;
 - (e) if different from the address referred to in paragraph (d), the candidate's residential and postal addresses;
 - (f) how the candidate may be contacted at short notice during business hours and during non-business hours, which may include—
 - (i) a telephone number; and
 - (ii) an email address;
 - (g) the form in which the candidate's name is to appear on the ballot-paper.
- (2) A candidate must include in the nomination form a declaration for the purposes of clause 5(1)(c) of Schedule 2 to the Act that is signed and dated by the candidate and states that the candidate—
 - (a) in the case of a candidate for the office of Councillor, is applying to be a candidate for the office of Councillor for [the --- Ward of the --- Council] at the election and the year of the election; and

- (b) in the case of a candidate for the office of Mayor of the Greater Geelong City Council, is applying to be a candidate for the office of Mayor at the election and the year of the election; and
- (c) is qualified to be a candidate under the Act; and
- (d) is aware that it is an offence under the Act for a person who is not qualified to be a candidate and is not capable of being a Councillor to submit a nomination form.

25 Notice of withdrawal of nomination

For the purposes of clause 7(2) of Schedule 2 to the Act, a notice of withdrawal of nomination must include the following details—

- (a) the name of the relevant Council;
- (b) if the relevant municipal district is divided into wards, the name of the relevant ward;
- (c) the full name of the withdrawing candidate;
- (d) the date on which the withdrawing candidate signed the notice.

26 Appointment and declaration of scrutineer

- (1) For the purposes of clause 15(2A) of Schedule 2 to the Act, an appointment of a scrutineer by a candidate must include the following details—
 - (a) the name of the relevant Council;
 - (b) if the municipal district is divided into wards, the name of the relevant ward;
 - (c) the full name and the signature of the candidate appointing the scrutineer;

- (d) the full name and residential address of the person being appointed as the scrutineer.
- (2) For the purposes of clause 15(4) of Schedule 2 to the Act, a declaration by a scrutineer appointed under clause 15(1) of that Schedule must be in writing and include the following details—
- (a) the name of the relevant Council;
 - (b) if the relevant municipal district is divided into wards, the name of the relevant ward;
 - (c) the name of the candidate who appointed the scrutineer;
 - (d) the full name and residential address of the person being appointed as the scrutineer;
 - (e) a declaration signed and dated by the scrutineer in the presence of an election official that states that the scrutineer—
 - (i) undertakes to be a scrutineer for the candidate; and
 - (ii) will not disclose any fact coming to the scrutineer's knowledge which the scrutineer is required not to disclose under the Act or regulations made under the Act; and
 - (iii) is not a person who cannot be appointed as a scrutineer under the Act and the regulations.

Division 2—How-to-vote cards

27 Application of Division

This Division applies to attendance elections.

28 Submission of how-to-vote card to returning officer

- (1) A person may submit a how-to-vote card to the returning officer for registration at any time within the period that—
 - (a) starts on the first working day after the close of nominations; and
 - (b) ends at noon on the sixth working day before election day.
- (2) A how-to-vote card must be submitted for registration—
 - (a) at the place that nominations are received under clause 3(2) of Schedule 2 to the Act; or
 - (b) if the returning officer has advised candidates that how-to-vote cards are to be received at another place, at that other place.
- (3) The returning officer may provide such assistance to the person wishing to submit a how-to-vote card as the returning officer considers appropriate before the person submits the how-to-vote card to the returning officer for registration.

29 Details to be included in how-to-vote card submission

- (1) A how-to-vote card submitted for registration must include—
 - (a) the name and address of the person who authorised the how-to-vote card; and
 - (b) an endorsement in the following form—

"Registered by the returning officer for [insert name of Council]".

- (2) If a how-to-vote card contains a section in a language other than English, the person submitting the card for registration must submit with the card—
- (a) an accurate translation into English of the section; and
 - (b) a declaration that the translation is accurate.
- (3) A person submitting a how-to-vote card to the returning officer for registration must submit with the card a written declaration containing—
- (a) the following details—
 - (i) the name of the relevant Council;
 - (ii) if the municipal district is divided into wards, the name of the relevant ward;
 - (iii) the full name and residential address of the person submitting the how-to-vote card;
 - (iv) if the how-to-vote card is submitted on behalf of another person, organisation or group—
 - (A) the full name of the other person, organisation or group; and
 - (B) the capacity in which the person is submitting the how-to-vote card; and
 - (C) a statement that the person is authorised to submit the how-to-vote card on behalf of the other person, organisation or group; and

- (b) a statement that—
 - (i) the details contained in the submitted how-to-vote card and the declaration are correct; and
 - (ii) the person is aware that it is an offence for a person to knowingly make a false statement in a declaration.
- (4) A declaration under subregulation (3) must be witnessed by an election official.

30 Registration or refusal of registration of how-to-vote card

- (1) Before noon on the next working day after receiving a how-to-vote card under regulation 28, the returning officer must—
 - (a) register the how-to-vote card or refuse to register the how-to-vote card; and
 - (b) give the person who submitted the card for registration notice of the decision under paragraph (a) and the reasons for the decision.
- (2) In deciding whether or not to register a how-to-vote card, the returning officer must have regard to whether the card—
 - (a) clearly identifies the person, organisation or group on whose behalf the card is to be distributed; and
 - (b) indicates the order of voting preference for all candidates listed on the card or contains a statement that a number must be placed opposite the name of each candidate; and
 - (c) contains the matters required by regulation 29(1); and

- (d) is accompanied by the translation and declaration required by regulation 29(2) and the declaration required by regulation 29(3).
- (3) The returning officer must refuse to register a how-to-vote card if the returning officer is satisfied that the card—
 - (a) is likely to mislead or deceive a voter in relation to the casting of the voter's vote; or
 - (b) is likely to induce a voter to mark the voter's vote otherwise than in accordance with the directions on the ballot-paper; or
 - (c) contains material that is offensive or obscene.

31 Review of returning officer's decision

- (1) A person may apply to VCAT for review of a returning officer's decision under regulation 30.
- (2) An application under subregulation (1) must be made no later than whichever of the following occurs first—
 - (a) noon on the second working day after the day on which the returning officer gives notice of the returning officer's decision under regulation 30(1);
 - (b) noon on the fourth working day before election day.

32 Provision of how-to-vote cards

- (1) As soon as practicable after registering a how-to-vote card the returning officer must—
 - (a) make a copy of the card available for inspection at the returning officer's office; and

- (b) on an Internet site maintained by or on behalf of the returning officer that is not the Internet site of the Council, publish in relation to each how-to-vote card registered under regulation 30—
 - (i) the name of the person who submitted the how-to-vote card for registration; and
 - (ii) if the how-to-vote card was submitted on behalf of another person, organisation or group, the name of that person, organisation or group.
- (2) If a how-to-vote card is registered under regulation 30, the person who submitted the card for registration must, as soon as practicable, provide the returning officer with 3 additional how-to-vote cards.

Division 3—Candidate statements

33 Application and interpretation of Division

- (1) This Division applies to postal elections.
- (2) In this Division a reference to "another candidate" includes a reference to a particular candidate or class of candidate by name or description.

34 Candidate statements a prescribed document

For the purposes of section 41A(2)(b)(vi) of the Act, a candidate statement is a prescribed document.

35 Lodgement of candidate statements

- (1) A candidate may lodge with the returning officer a candidate statement for inclusion in the postal ballot envelope.
- (2) A candidate statement must be lodged before noon on the day after the close of nominations.

- (3) A candidate statement must be lodged—
- (a) at the place that nominations are received under clause 3(2) of Schedule 2 to the Act; or
 - (b) if the returning officer has advised candidates that candidate statements are to be received at another place, at that other place; or
 - (c) by electronic communication in accordance with conditions determined by the returning officer.
- (4) A candidate statement must be accompanied by a declaration signed and dated by the candidate which states—
- "I declare that my candidate statement is true and correct, that it does not contain matter that may mislead or deceive a voter in the casting of the voter's vote and that I am aware I may be liable to prosecution if my candidate statement contains matter that may mislead or deceive a voter when casting a vote."
- (5) A candidate statement may be lodged by the candidate or by a person authorised in writing by the candidate.
- (6) If a candidate statement is lodged by a person authorised by the candidate, the signed and dated authorisation must be lodged with the candidate statement.

36 Form of a candidate statement

- (1) Subject to subregulation (2), a candidate statement must include—
- (a) a written statement of no more than 200 words; and

- (b) a recent passport-size photograph of the candidate.
- (2) A candidate statement must not include either of the following—
 - (a) a reference to another candidate standing for an election in the municipal district without the written consent of that other candidate;
 - (b) unless subregulation (3) applies, a claim of endorsement or support from a party, an organisation or a person.
- (3) A candidate statement may include a claim of endorsement or support from a party, an organisation or a person if the candidate lodges with the candidate statement the written consent of the party, organisation or person to include the claim of endorsement or support on the candidate statement.
- (4) A candidate must—
 - (a) write the candidate's name on the back of any photograph of the candidate provided under this regulation; or
 - (b) if the photograph is provided in electronic format, include the candidate's name in the electronic file name.
- (5) The returning officer may specify formatting limitations that may apply to the publication of candidate statements and may alter the format of submitted statements to comply with those limitations.

37 Rejection and amendment of candidate statements

- (1) The returning officer must reject a candidate statement if—
 - (a) in the opinion of the returning officer, the statement contains any of the following—

- (i) material that is offensive or obscene;
 - (ii) material that is likely to mislead or deceive a voter in casting a vote;
 - (iii) a reference to another candidate that is included without the written consent of that candidate;
 - (iv) a claim of endorsement or support from a party, an organisation or a person that is not supported by the written consent referred to in regulation 36(3); or
- (b) the candidate has not lodged a declaration in accordance with regulation 35(4).
- (2) If the returning officer rejects a candidate statement under subregulation (1), the returning officer must notify the candidate no later than noon on the second day after the close of nominations—
- (a) that the candidate statement has been rejected and the reasons for the rejection; and
 - (b) which section or sections of the candidate statement needs to be amended for the candidate statement to be accepted; and
 - (c) that the candidate may amend that section or those sections of the candidate statement and resubmit the statement.
- (3) For the purposes of subregulation (2), it is sufficient for the returning officer to notify the candidate in accordance with the contact details provided by the candidate in the candidate's nomination form in accordance with regulation 24(1)(f).
- (4) Subject to subregulation (6), a candidate whose candidate statement is rejected by the returning officer may, no later than noon on the third day

after the close of nominations, resubmit the candidate statement to the returning officer in accordance with regulation 35(3).

- (5) A candidate who resubmits the candidate statement may only amend the section or sections of the statement referred to in subregulation (2)(b).
- (6) If the returning officer believes that a candidate statement is in breach of an Act or regulation, other than in relation to a matter specified in subregulation (1), the returning officer may advise the candidate and allow the candidate to amend the relevant section of the candidate statement and resubmit it before noon on the third day after the close of nominations.

38 Candidate indication of preferences

- (1) A candidate, or a person authorised in writing by the candidate, may lodge an indication of preferences for inclusion in the postal ballot envelope.
- (2) An indication of preferences must be lodged with the returning officer no later than noon on the third day after the close of nominations.
- (3) An indication of preferences must be lodged—
 - (a) at the place that nominations are received under clause 3(2) of Schedule 2 to the Act; or
 - (b) if the returning officer has advised candidates that candidate statements are to be received at another place, at that other place; or
 - (c) by electronic communication in accordance with conditions determined by the returning officer.

- (4) An indication of preferences must—
- (a) be in the form of a ballot-paper and identify each candidate and the order in which they appear on the ballot-paper; and
 - (b) place a number 1, 2, 3, 4 (and so on as the case requires) opposite the names of all the candidates so as to indicate the candidate's order of preference for them by an unbroken numerical sequence.
- (5) The returning officer must reject an indication of preferences that does not comply with this regulation.

39 Candidate information on the Internet

As soon as practicable after a candidate's candidate information is accepted by the returning officer, the returning officer must ensure that it is published in accordance with regulation 40 on an Internet site maintained by or on behalf of the returning officer that is not the Internet site of the Council and may publish it in printed form in accordance with regulation 40.

40 Publication of candidate information

- (1) This regulation applies to the publication of candidate information by the returning officer in printed form or on an Internet site.
- (2) The returning officer must not publish candidate information that—
- (a) has been rejected under regulation 37 or 38;
or
 - (b) has been resubmitted under regulation 37 and is subsequently rejected again under that regulation.

- (3) In the case of a candidate statement, the returning officer may only publish the first 200 words of the candidate statement.
- (4) If a candidate has not lodged all candidate information that may be published under these regulations, the returning officer must publish a notice that the candidate has not provided all candidate information.
- (5) Candidate information and any notice referred to in subregulation (4) must be published in the order in which the candidates appear on the ballot-paper and must clearly identify the relevant candidate in each case.

41 Disclaimer on candidate information

The returning officer must ensure that on any Internet site or printed form where candidate information is published by the returning officer the following disclaimer is prominently displayed—

"The contents of candidate information are provided by the candidates. Any enquiries about candidate information should be directed to the relevant candidate. Candidate statements are not verified or endorsed by the returning officer."

Division 4—Candidate questionnaire

42 Application of Division

This Division applies to postal elections and attendance elections.

43 Lodgement of candidate questionnaire form

- (1) A candidate may lodge with the returning officer a completed candidate questionnaire form.
- (2) The candidate questionnaire form is Form 2 in Schedule 1.

- (3) A candidate questionnaire form must be lodged before noon on the day after nominations close—
- (a) at the place that nominations are received under clause 3(2) of Schedule 2 to the Act; or
 - (b) if the returning officer has advised candidates that candidate statements are to be received at another place, at that other place; or
 - (c) by electronic communication in accordance with conditions determined by the returning officer.
- (4) A lodged candidate questionnaire form must be accompanied by a declaration signed and dated by the candidate which states that the answers provided are true and correct.
- (5) If the lodged candidate questionnaire form includes a claim of endorsement by a registered political party, the candidate must lodge a document containing the written consent of the registered officer of the party to the claim of endorsement with the completed candidate questionnaire form.

44 Publication of candidate questionnaire form

- (1) The returning officer must not publish an answer contained in a lodged candidate questionnaire form if the form—
- (a) contains material that is offensive or obscene; or
 - (b) is not completed in accordance with the instructions in the form; or
 - (c) contains material that is unrelated to a question; or

- (d) includes a claim of endorsement from a registered political party that is not supported by the written consent referred to in regulation 43(5).
- (2) As soon as practicable after the lodged candidate questionnaire form is accepted by the returning officer, the returning officer must—
- (a) ensure that the questions in the candidate questionnaire form and the answers given by the candidate (other than an answer to which subregulation (1) applies), are published on an Internet site maintained by or on behalf of the returning officer that is not an Internet site of the Council; and
 - (b) provide the questions and answers referred to in paragraph (a) in printed form or by electronic communication to any person on request.
- (3) The returning officer must publish a notice in place of the questions and answers published under subregulation (2) to the effect that the candidate has not lodged the candidate questionnaire form or has not given the relevant answer (as the case may be) if the candidate—
- (a) has not lodged the candidate questionnaire form in accordance with regulation 43; or
 - (b) has not given an answer to a question that is in the candidate questionnaire form; or
 - (c) has given an answer to which subregulation (1) applies.
- (4) A notice referred to in subregulation (3) and an answer given by a candidate referred to in subregulation (2)(a) must be published in the order in which the candidates appear on the ballot-paper and must clearly identify the relevant candidate in each case.
-

- (5) The returning officer must ensure that at a postal election, each postal ballot envelope that is sent or delivered in respect of the relevant ward or municipal district for which the candidate has nominated contains a statement about how the questions and answers referred to in subregulation (2) may be accessed.
- (6) The returning officer must ensure that at an attendance election, each voter notice under regulation 48 that is sent or delivered in respect of the relevant ward or municipal district for which the candidate has nominated contains a statement about how the questions and answers referred to in subregulation (2)(a) may be accessed.

45 Disclaimer on candidate questionnaire form

The returning officer must ensure that on any Internet site or printed form where answers contained in a lodged candidate questionnaire form are published by the returning officer, the following disclaimer is prominently displayed—

"Answers to questions contained in lodged candidate questionnaires are provided by the candidates. Any enquiries about a candidate's answers should be directed to the relevant candidate. Answers to candidate questionnaires are not verified or endorsed by the returning officer."

Part 5—Voting in attendance elections

Division 1—General provisions for attendance elections

46 Application of Part

This Part applies if a Council does not decide that all voting at an election is to be by means of postal voting.

47 Public notice of voting arrangements

- (1) At the same time as public notice of an election is given under clause 3 of Schedule 2 to the Act, the returning officer—
 - (a) must give public notice of how a voter may apply to vote by pre-poll postal voting; and
 - (b) may give public notice of the locations of voting centres and times of voting.
- (2) At least 5 days before election day, the returning officer must give public notice of—
 - (a) the times when, and locations of voting centres where, voters may vote on election day; and
 - (b) the voting centres which have suitable access for persons with a physical disability; and
 - (c) any other information that the returning officer considers necessary to assist voting.
- (3) Public notice under subregulation (2)(a) may be given at the same time as a notice of an election or a notice of an extraordinary vacancy is given under clause 10(7) of Schedule 2 to the Act.

48 Voter notice

- (1) At least 15 days before election day, the returning officer must ensure that a voter notice in accordance with subregulation (2) is posted or delivered to each person enrolled on the voters' roll to whom a ballot-paper has not been issued under regulation 51 or 52.
- (2) A voter notice must include the following details—
 - (a) the times when, and places where, the voter may vote on election day;
 - (b) the times when, and places where, the voter may vote at an early voting centre;
 - (c) how the voter may apply for a pre-poll postal vote;
 - (d) the statement referred to in regulation 44(6);
 - (e) any other information that the returning officer considers necessary to assist persons to vote.

Division 2—Pre-poll postal voting

49 Application to be a pre-poll postal voter

- (1) A person who is entitled to vote at an election may make an application to the returning officer to be a pre-poll postal voter enabling the person to vote under this Division on or before election day.
- (2) An application under subregulation (1) must contain the following details—
 - (a) the name of the relevant Council;
 - (b) the address in respect of which the applicant is enrolled on the voters' roll;
 - (c) the full name of the applicant;
 - (d) the postal address of the applicant;

- (e) the applicant's date of birth;
 - (f) a contact telephone number for the applicant;
 - (g) a declaration dated and made by the applicant to the satisfaction of the returning officer that states that the applicant—
 - (i) is entitled to vote in the forthcoming election; and
 - (ii) has not voted at the election.
- (3) An application under subregulation (1) must not be made before 9 a.m. on the day after the close of nominations and must reach the returning officer not later than noon on the Thursday immediately before election day.
- (4) A written application for a pre-poll postal vote may be sent by post or by electronic communication.
- (5) The returning officer must ensure that a record is kept of all applications received under subregulation (1).

50 Consideration of application to be a pre-poll postal voter

- (1) An election official must grant an application made under regulation 49 if the election official is satisfied that—
- (a) the applicant is, or is entitled to be, on a voters' roll to be used at the election specified in the application; and
 - (b) the applicant is not prohibited from voting.
- (2) If the election official is not the returning officer and is not satisfied that both requirements specified in subregulation (1) have been met, the election official must refer the application to the returning officer.

- (3) If the returning officer is not satisfied that both requirements specified in subregulation (1) have been met, the returning officer must refuse the application and as soon as practicable give to the applicant a notice containing the following—
 - (a) advice that the application has been refused and the reason for its refusal;
 - (b) if the reason for the refusal relates to a technical defect in the application that is capable of being rectified, advice that the voter may complete and return a fresh application to be a pre-poll postal voter within the time allowed;
 - (c) if there is insufficient time to submit a fresh application under paragraph (b), advice that the voter must vote in person at a voting centre.
- (4) A notice under subregulation (3) may be given to an applicant by post, hand delivery or by electronic communication.
- (5) An application under regulation 49 must not be rejected solely because it contains errors or omissions if, in the opinion of the returning officer, those errors or omissions are immaterial.
- (6) The election official must endorse each application as being accepted or rejected.

51 Issue of pre-poll postal ballot-papers

- (1) If an application to be a pre-poll postal voter has been granted under regulation 50, the returning officer must ensure that the following materials are given to the applicant, or posted or delivered to the address shown on the application form—
 - (a) a ballot-paper;

- (b) a pre-poll declaration envelope which includes the following—
 - (i) the name of the relevant Council;
 - (ii) the full name of the applicant;
 - (iii) the address in respect of which the applicant is enrolled;
 - (iv) provision for the applicant to sign and date a declaration that states that the applicant—
 - (A) is enrolled or entitled to be enrolled on the voters' roll for the election; and
 - (B) has not voted at the election;
 - (v) provision for the voter to include the voter's date of birth;
 - (c) a reply paid envelope for the voter to return the declaration envelope;
 - (d) information designed to assist voters, including—
 - (i) instructions to number every box on the ballot-paper in order of choice and not to use any number more than once; and
 - (ii) advice on how a disadvantaged voter may vote and make the declaration; and
 - (iii) details of the procedures to be followed after the voter has marked the ballot-paper.
- (2) An election official must initial each ballot-paper issued.
- (3) The pre-poll declaration envelope must be opaque.

52 General postal voters and requests for ballot-papers in Braille or large print

- (1) The returning officer must ensure that the ballot-paper, pre-poll declaration envelope and other materials specified in regulation 51 are given, posted or delivered to—
 - (a) each general postal voter at least 15 days before election day; and
 - (b) each person who has requested to receive a large print or Braille ballot-paper at any time before the close of voting on election day.
- (2) A person referred to in subregulation (1) is not required to make an application to the returning officer to be a pre-poll postal voter under regulation 49.

53 Record of issue of pre-poll postal ballot-papers

The returning officer must—

- (a) ensure a record is kept of all ballot-papers printed and issued to applicants to be a pre-poll postal voter for the purposes of this Division; and
- (b) reconcile the number of ballot-papers printed with the number of ballot-papers that are issued, spoilt, discarded, unused or unaccounted for.

54 Voter to complete pre-poll postal ballot material and return pre-poll declaration envelope

- (1) A voter, or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, must—
 - (a) mark the voter's ballot-paper in accordance with the instructions; and

- (b) insert the marked ballot-paper in the pre-poll declaration envelope provided and seal the envelope; and
 - (c) sign the pre-poll declaration envelope with the voter's (or nominated or authorised person's) usual signature and fill in the date in the places provided; and
 - (d) return the voter's pre-poll declaration envelope containing the voter's ballot-paper by—
 - (i) posting it to the returning officer at the address on the reply paid envelope on or before election day; or
 - (ii) placing it in the declaration ballot-box at any voting centre for the election during the hours of voting at that voting centre.
- (2) For the purposes of subregulation (1)(d)(i), a ballot-paper is taken to have been returned to the returning officer by post if it is received by the returning officer before noon on the fifth day after election day and—
- (a) the postmark on the envelope is dated any day on or before election day; or
 - (b) the postmark on the envelope is dated with the date of the Sunday or Monday immediately after election day and the declaration is signed and dated on or before election day; or
 - (c) in the case of no postmark being legible, the pre-poll declaration envelope is signed and dated on or before election day.

Division 3—Voting centres

55 Appointment of voting centres

- (1) The returning officer must appoint as many voting centres as the returning officer considers necessary.
- (2) The returning officer may designate appropriate voting centres as—
 - (a) early voting centres; or
 - (b) mobile voting centres.
- (3) The returning officer may specify the class of voter entitled to vote at a particular early voting centre or mobile voting centre.
- (4) The returning officer may—
 - (a) appoint voting centres outside the ward or municipal district; or
 - (b) appoint additional voting centres on election day.
- (5) The returning officer must, in exercising the returning officer's powers under this Division, ensure that voters are provided with an accessible service that facilitates the opportunity to vote.
- (6) The returning officer must notify candidates of the opening times and locations of appointed voting centres.

56 Hours of voting

- (1) The returning officer must ensure that on election day each election day voting centre is open for voting from 8 a.m. until 6 p.m.
- (2) The returning officer may open any early voting centre to be used in an election during the period starting on the day after the close of nominations and ending on the day before election day.

- (3) The returning officer must ensure that at least one early voting centre where any voter may vote is open between 9 a.m. and 5 p.m. on each working day during the period referred to in subregulation (2).
- (4) The returning officer must ensure that any mobile voting centre used in an election—
 - (a) is open at the times and places appointed by the returning officer; and
 - (b) is not open for voting while in transit between appointed locations.
- (5) Unless regulation 59 applies, the returning officer must ensure that no voting centre remains open after 6 p.m. on election day.
- (6) If, at the close of voting, a person is in a voting centre for the purpose of voting the person is entitled to vote.

57 Use of licensed premises as voting centre

- (1) Subject to this regulation, no part of any licensed premises within the meaning of the **Liquor Control Reform Act 1998** may be used as a voting centre.
- (2) Despite subregulation (1), if the returning officer considers that there are exceptional circumstances, the returning officer may, subject to any conditions, authorise the use of any premises which is, or of which any part is, a licensed premises within the meaning of the **Liquor Control Reform Act 1998** as a voting centre.
- (3) During the period that part of any premises is used as a voting centre under this regulation, that part of the premises must not—
 - (a) be used for the sale of liquor; or

- (b) be accessible from any other part of the premises which is being used for the sale of liquor.
- (4) Despite the issue of a limited licence under section 14 of the **Liquor Control Reform Act 1998**, if a voting centre is appointed in any premises which is part of an area in respect of which the supply of liquor is authorised by the limited licence, liquor may not be supplied under the limited licence in that area during the hours of voting on election day.

58 Use of prescribed premises as voting centre

- (1) The returning officer may use any room or hall in a prescribed premises as an election day voting centre.
- (2) The returning officer must give at least 7 days' notice to the managers, trustees or owners of the prescribed premises of the returning officer's intention to use the premises as an election day voting centre.
- (3) The Victorian Electoral Commission must pay—
 - (a) reasonable costs for lighting, air conditioning and cleaning of the prescribed premises; and
 - (b) if, as a result of using the premises as a voting centre, the premises or any furniture in the premises is damaged, the full costs of repairing the damage.
- (4) If there is a dispute between the Victorian Electoral Commission and the managers, trustees or owners of the prescribed premises about the amount payable under subsection (3), the matter is to be determined by the Magistrates' Court.

- (5) In this regulation, *prescribed premises* means a school or building that is not used exclusively for religious services and that—
- (a) is supported wholly or in part by—
 - (i) public funds; or
 - (ii) a perpetual endowment; or
 - (b) has been built with, or is supported wholly or in part by, a grant from the Consolidated Fund.

59 Adjournment of voting

- (1) If from any cause voting does not open or the holding of an election is interrupted or obstructed at any election day voting centre, the returning officer must adjourn the holding of the election at the election day voting centre—
- (a) for a period not exceeding 7 days; and
 - (b) if necessary, further adjourn the holding of the election until the interruption or obstruction has ceased but not for a period exceeding 21 days after election day.
- (2) The returning officer must give public notice of an adjournment in the form and manner that the returning officer considers appropriate.

60 Temporary suspension of voting

- (1) Without limiting the generality of regulation 59, the returning officer may temporarily suspend voting at an election day voting centre for a period not exceeding 4 hours if—
- (a) the proper conduct of the election is interrupted or obstructed; or
 - (b) the returning officer considers that the temporary suspension of voting is necessary for the safety of voters.

- (2) The returning officer must ensure that any person who attends an election day voting centre during a period of temporary suspension is provided with the following information to assist the person to vote—
 - (a) the time at which the voting centre is expected to reopen;
 - (b) the location of other election day voting centres.
- (3) If for any reason the election day voting centre cannot be reopened for voting on election day, the returning officer must adjourn the holding of the election at the voting centre in accordance with regulation 59.

61 Scrutineers at voting centres

- (1) A candidate may appoint one scrutineer for each election official issuing ballot-papers at a voting centre for the ward or municipal district for which the candidate is seeking election.
- (2) A scrutineer must not—
 - (a) interfere with, or attempt to influence, any voter within a voting centre; or
 - (b) communicate with any person in a voting centre except as is necessary in the discharge of the functions of the scrutineer; or
 - (c) handle any ballot-papers.
- (3) A scrutineer must not be prevented from entering or leaving a voting centre except in accordance with the Act and these Regulations.
- (4) A scrutineer must wear identification at a voting centre that—
 - (a) is supplied by an election official; and
 - (b) shows that the scrutineer is a scrutineer.

- (5) A scrutineer may be removed from a voting centre by a police officer if the scrutineer—
- (a) is in the counting place in contravention of the Act or these Regulations; or
 - (b) obstructs or hinders an election official in the performance of any of the official's duties at the voting centre; or
 - (c) fails to obey the lawful directions of an election official.

62 Persons who may remain in a voting centre

- (1) The following persons may remain in a voting centre—
- (a) a person who is voting;
 - (b) a nominated or authorised person assisting a disadvantaged voter who is voting;
 - (c) an election official or interpreter;
 - (d) a scrutineer appointed in accordance with clause 15 of Schedule 2 to the Act;
 - (e) a police officer whose presence at the voting centre is necessary to keep the peace.
- (2) The election official in charge of a voting centre may require any person not referred to in subregulation (1) to leave the voting centre.
- (3) A police officer or an election official may remove a person not referred to in subregulation (1) from a voting centre.

Division 4—Voting at voting centres

63 Closing and sealing of ballot-boxes

- (1) An election official must—
 - (a) immediately before a voting centre is opened for voting, or whenever a ballot-box is to be used for the first time, in the presence of any scrutineer who is present, exhibit the ballot-box for inspection and show that the ballot-box is empty; and
 - (b) after exhibiting the ballot-box in accordance with paragraph (a), close and securely fasten and seal the ballot-box ensuring that it is still empty.
- (2) As soon as practicable after the close of an early voting centre or a mobile voting centre, an election official must, in the presence of any scrutineer who is present, effectively seal the opening in each ballot-box.
- (3) If the returning officer decides to reuse a ballot-box, an authorised person appointed under clause 1(7) of Schedule 2 to the Act must in the presence of any scrutineer or other authorised person who is present unseal the opening in the ballot-box.
- (4) A sealed ballot-box used at a voting centre must not be opened until after the close of voting.

64 Declaration ballot-boxes

- (1) The returning officer must ensure that at least one declaration ballot-box is provided at each voting centre during the hours in which the voting centre is open.

- (2) Each declaration ballot-box must be secured and sealed by an election official in the presence of any scrutineer who is present to prevent the declaration ballot-box from being opened without breaking the seal.
- (3) An election official must ensure any pre-poll or declaration envelope received before the close of voting is deposited unopened in the declaration ballot-box.
- (4) A declaration ballot-box may be opened before the close of voting at the voting centre by the election official in charge of the voting centre and in the presence of any scrutineer who is present.
- (5) If a declaration ballot-box is opened before the close of voting at a voting centre, the election official must—
 - (a) remove the pre-poll and declaration envelopes and ensure that each envelope remains unopened; and
 - (b) sign and date a record of the envelopes removed from the box and allow any scrutineer who is present to sign the record; and
 - (c) seal the unopened envelopes and the record in a parcel and deliver the parcel to the place designated by the returning officer for processing pre-poll and declaration votes; and
 - (d) close and reseal the declaration ballot-box.

65 How-to-vote cards at a mobile voting centre

If how-to-vote cards relating to an election are supplied to the returning officer for the election, the election official in charge of a mobile voting centre used in that election must—

- (a) advise voters that how-to-vote cards have been supplied; and
- (b) on request, show voters the how-to-vote cards.

66 Entitlement to vote at voting centres

A person who is entitled to vote in the municipal district in which an election is being held may vote at—

- (a) any election day voting centre established for voting in the election; or
- (b) any early voting centre or mobile voting centre, subject to any limitations specified by the returning officer under regulation 55(3).

67 Questions to be asked of a voter

- (1) An election official must put the following questions to each person claiming an entitlement to vote at a voting centre before giving that person a ballot-paper—
 - (a) "What is your full name?";
 - (b) "What address are you enrolled for in this election?";
 - (c) "Have you voted in this election?".
- (2) The election official must not ask the question specified in subregulation (1)(b) if the person is a silent voter.
- (3) An election official must refuse to give a person a ballot-paper if the person—
 - (a) states that the person has already voted in the election; or
 - (b) subject to subregulation (2), refuses to answer the questions asked under subregulation (1).

- (4) The election official must not refuse to give a person a ballot-paper because of an apparent mistake in the voters' roll if the election official is satisfied as to the voter's identity.

68 Voter to receive ballot-paper

If a person is entitled to vote, the election official must—

- (a) give the person a ballot-paper that is initialled by the election official; and
- (b) record a mark against the person's name on the voters' roll to show that the person has received a ballot-paper.

69 Method of voting

- (1) After receiving a ballot-paper, a voter must mark the ballot-paper in accordance with the instructions.
- (2) Except as provided in clause 2 of Schedule 3 to the Act, the voter must mark the ballot-paper in private and secretly, using the facilities provided at the voting centre.
- (3) Unless the voter is casting a declaration vote under regulation 71, 73 or 75 the voter must deposit the marked ballot-paper in the ballot-box provided at the voting centre.

70 Spoilt ballot-paper

- (1) The election official must issue another ballot-paper to a voter if the voter—
 - (a) has not deposited a ballot-paper in the ballot-box; and
 - (b) satisfies the election official that the voter has spoilt the ballot-paper; and
 - (c) returns the spoilt ballot-paper to an election official.

- (2) The election official must—
 - (a) cancel the returned spoiled ballot-paper by writing on it "spoiled by voter"; and
 - (b) initial the spoiled ballot-paper; and
 - (c) retain the spoiled ballot-paper until the close of voting.

Division 5—Declaration voting at a voting centre

71 Unidentified voter

- (1) If an election official reasonably suspects that a person claiming an entitlement to vote is impersonating a voter, the election official may request the person to make a declaration in accordance with regulation 72.
- (2) A person who complies with a request under subregulation (1) may make a declaration vote.
- (3) A person who does not comply with a request under subregulation (1) is prohibited from voting at the election.
- (4) If a scrutineer objects to the entitlement of a person to vote, the election official in charge of the voting centre must record the objection.

72 Declaration of voter identity

- (1) A declaration by an unidentified voter must include the following details—
 - (a) the name of the relevant Council;
 - (b) if the municipal district is divided into wards, the name of the relevant ward;
 - (c) details of the identity of the voter, including the voter's—
 - (i) full name; and
 - (ii) date of birth; and

- (iii) entitlement address; and
 - (iv) postal address (if different from the entitlement address);
 - (d) a statement that the voter is the person whose details are shown on the declaration.
- (2) The voter must sign and date the declaration in the presence of an election official.

73 Unenrolled voter

- (1) This regulation applies if a person—
- (a) claims to be entitled to vote at an election; and
 - (b) the name of that person is not on, or cannot be found on, the relevant voters' roll.
- (2) The election official in charge of the relevant voting centre must request the person claiming to be entitled to vote to make a declaration in accordance with regulation 74.
- (3) A person who complies with a request under subregulation (2) may make a declaration vote.
- (4) The election official must not issue a ballot-paper to a person to whom subregulation (1) applies unless the person makes a declaration in accordance with regulation 74.

74 Declaration of voter entitlement

- (1) A declaration by a person to whom regulation 73(1) applies must include the following details—
- (a) the name of the relevant Council;
 - (b) if the municipal district is divided into wards, the name of the relevant ward;
 - (c) details of the voter, including the voter's—
 - (i) full name; and

- (ii) date of birth; and
 - (iii) entitlement address; and
 - (iv) postal address (if different from the entitlement address); and
 - (v) former name, if previously enrolled under a different name;
- (d) the address in respect of which the person claims to be entitled to be enrolled on the voters' roll and the basis on which the person claims to be entitled to be enrolled in respect of that address;
- (e) a statement that—
- (i) the person has not voted at the election; and
 - (ii) the information provided in the declaration is true and correct.
- (2) The person must sign and date the declaration in the presence of an election official.

75 Person who appears to have previously voted

- (1) This regulation applies if a person—
- (a) is recorded as having received a ballot-paper; and
 - (b) claims to be entitled to vote and not to have received a ballot-paper.
- (2) The election official in charge of the relevant voting centre must request the person to make a declaration in accordance with regulation 76.
- (3) A person who complies with a request under subregulation (2) may make a declaration vote.

- (4) The election official must not issue a ballot-paper to a person to whom subregulation (1) applies unless the person makes a declaration in accordance with regulation 76.

76 Declaration that person has not previously voted

- (1) A declaration that a person has not voted must include the following details—
- (a) the name of the relevant Council;
 - (b) if the municipal district is divided into wards, the name of the relevant ward;
 - (c) details of the person, including the person's—
 - (i) full name; and
 - (ii) date of birth; and
 - (iii) entitlement address; and
 - (iv) postal address (if different from the entitlement address);
 - (d) a statement that the person has not voted at the election.
- (2) The person must sign and date the declaration in the presence of an election official.

77 Declaration vote

- (1) This regulation applies if a person is entitled to a declaration vote under regulation 71, 73 or 75.
- (2) After a person has made a declaration in accordance with regulation 72, 74 or 76, the election official must initial a ballot-paper and give it to the person.
- (3) After the person has marked the ballot-paper in accordance with the instructions, the person must, in the presence of an election official—

- (a) insert the ballot-paper in an envelope provided by the election official; and
 - (b) seal the envelope; and
 - (c) return the sealed envelope to the election official.
- (4) The election official must, in the presence of the person making the declaration vote and any scrutineer who is present—
- (a) mark the envelope with the name of the person; and
 - (b) attach the signed declaration to the envelope; and
 - (c) place the envelope in the declaration ballot-box.

Division 6—Procedure at close of voting

78 Procedure at voting centre that is not a counting place

- (1) This regulation applies to a voting centre that is—
- (a) an early voting centre; or
 - (b) a mobile voting centre; or
 - (c) an election day voting centre that is not a counting place.
- (2) After the close of voting at the voting centre, the election official in charge of the voting centre must—
- (a) ensure that the declaration ballot-box is closed and delivered unopened to the counting place designated by the returning officer; and
 - (b) seal and transfer each ballot-box, unopened, to the counting place designated by the returning officer.

- (3) As soon as practicable after the close of voting at the voting centre, the election official in charge of the voting centre must—
 - (a) make up into separate parcels the copies of the voters' rolls, the spoilt ballot-papers, the unused ballot-papers and any other records used in the voting centre; and
 - (b) forward the parcels to the returning officer.
- (4) All procedures set out in this regulation must be undertaken in the presence of any scrutineer who is present at the voting centre.

79 Procedure at a voting centre that is a counting place

- (1) This regulation applies to an election day voting centre that is a counting place.
- (2) After the close of voting at the election day voting centre, the election official in charge of the election day voting centre must—
 - (a) open each declaration ballot-box forwarded to or used at the centre; and
 - (b) remove the pre-poll and declaration envelopes and ensure that each envelope remains unopened; and
 - (c) sign and date a record of the envelopes removed from the box and allow any scrutineer who is present to sign the record; and
 - (d) seal the unopened envelopes and the record in a parcel and deliver the parcel to the place designated by the returning officer for the processing of pre-poll and declaration votes.
- (3) The election official in charge of the election day voting centre must open each ballot-box that is not a declaration ballot-box and remove all ballot-papers from each box.

- (4) At the conclusion of counting at the election day voting centre, the election official in charge of the voting centre must—
- (a) prepare and sign a record of counting undertaken at the voting centre; and
 - (b) make a copy of the signed record available to any scrutineer who is present at the counting place or, if copying facilities are unavailable, allow any scrutineer at the counting place to sign the record; and
 - (c) place all ballot-papers and records used in the count in parcels, write a description of the contents on the outside of each parcel and seal each parcel; and
 - (d) deliver the sealed parcels to the returning officer.
- (5) As soon as practicable after the close of voting, the election official in charge of the election day voting centre must make up into separate parcels and send to the returning officer the copies of the voters' rolls, the spoilt ballot-papers and the unused ballot-papers.
- (6) All procedures set out in this regulation must be undertaken in the presence of any scrutineer who is present.

Part 6—Voting in postal elections

Division 1—General provisions for postal elections

80 Application of Part

This Part applies if a Council decides that all voting at an election is to be by means of postal voting.

81 Notice of election

In addition to the requirements specified in clause 3(2) of Schedule 2 to the Act, public notice of an election must—

- (a) indicate the week in which postal ballot envelopes are likely to be posted or delivered to voters; and
- (b) specify when voting closes in accordance with section 41A(3) of the Act and these Regulations; and
- (c) describe how a voter may request an early postal vote; and
- (d) describe how a voter may apply for the redirection of the voter's postal ballot envelope; and
- (e) state the last day on which a redirection request may be lodged.

82 Change to the last day of voting

- (1) The returning officer may alter the last day of voting by fixing a different later day if the returning officer is of the opinion that it is necessary to do so because of—
 - (a) an unforeseen delay in the printing of election materials or in the processing of candidate statements; or

- (b) a postal strike or any other disruption to the postal service.
- (2) If the returning officer alters the last day of voting, the returning officer must—
- (a) as soon as practicable give public notice of the new last day of voting; and
 - (b) if postal ballot envelopes have not yet been posted or delivered, indicate in the notice the week in which they are likely to be issued.

83 Scrutineers

- (1) A scrutineer may be appointed by a candidate to scrutinise the following electoral activities before the counting of votes—
- (a) the posting of postal ballot envelopes;
 - (b) the opening and emptying of a Post Office Box;
 - (c) the opening and emptying of a postal ballot receptacle;
 - (d) the receipt and processing of declaration envelopes.
- (2) In respect of each candidate, one scrutineer for each election official involved in any of the electoral activities specified in subregulation (1) may be present at each electoral activity at any one time.
- (3) An election official may cause a scrutineer to be removed if—
- (a) the scrutineer's presence is contrary to subregulation (2); or
 - (b) the scrutineer commits a breach of the Act or these Regulations; or

- (c) the scrutineer obstructs or hinders an election official who is performing an electoral activity referred to in subregulation (1); or
- (d) the scrutineer fails to obey a lawful direction given by an election official.

Division 2—Issue of postal ballot materials

84 Issue of postal ballot envelopes

- (1) At least 15 days before the last day of voting, the returning officer must ensure that a postal ballot envelope is posted or delivered to each person whose name appears on the voters' roll.
- (2) Postal ballot envelopes may not be posted or delivered to more than 35% of voters on any one day.
- (3) For the purpose of subregulation (2), the postal ballot envelopes to be sent or delivered on any one day must be selected on a random basis.
- (4) In addition to the electoral materials specified in section 41A(2) of the Act, the returning officer must ensure that each postal ballot envelope contains—
 - (a) the declaration envelope referred to in regulation 86; and
 - (b) the candidate information for the ward or municipal district in which the voter is entitled to vote; and
 - (c) the statement referred to in regulation 44(5).
- (5) The returning officer is responsible for the safe custody of postal ballot envelopes and all documents and materials contained in the postal ballot envelopes until they are sent or delivered under this regulation.

- (6) The returning officer must keep a record of all postal ballot envelopes sent or delivered.

85 Ballot-papers

Subject to regulation 89(5), the returning officer must ensure that ballot-papers are printed on marked security paper.

86 Declaration envelopes

- (1) The returning officer must ensure that each postal ballot envelope contains a sealable declaration envelope in which voters may place their marked ballot-paper.
- (2) The returning officer must ensure that the declaration envelopes are opaque.
- (3) The returning officer must ensure that a declaration envelope has a declaration flap which is capable of being removed by an election official without opening the declaration envelope and which includes the following—
- (a) the name of the relevant Council;
 - (b) if the municipal district is divided into wards, the name of the relevant ward;
 - (c) the name and entitlement address of the voter;
 - (d) the postal address of the voter (if different from the entitlement address);
 - (e) the declaration to be signed by the voter;
 - (f) a place for the voter to sign and date the declaration;
 - (g) any other information that the returning officer considers necessary to assist voting.

- (4) The declaration under subregulation (3)(e) must be in the following form or to the following effect—

"I am the voter named on this envelope. I have enclosed my completed ballot-paper in this envelope. I have not already voted in this Council election".

87 Voter not to receive postal vote

- (1) This regulation applies if the returning officer receives notice that an enrolled voter has died or is no longer entitled to be enrolled as a voter by virtue of section 48(2)(d) of the **Constitution Act 1975**.
- (2) If the returning officer receives a notice under subregulation (1) before a postal ballot envelope is posted or delivered to the voter, the returning officer must take all reasonable steps to ensure that a postal ballot envelope is not posted or delivered to the voter.
- (3) If the returning officer receives notice under subregulation (1) after a postal ballot envelope has been sent to the voter, the returning officer must ensure that any returned declaration envelope bearing the voter's name is disallowed.

88 Amendment of voters' roll

- (1) This regulation applies if, as a result of an amendment of the voters' roll under section 24A of the Act, it appears that—
- (a) an enrolled voter has not been sent a ballot-paper; or
 - (b) an incorrect ballot-paper has been sent to a voter; or
 - (c) a ballot-paper has been sent to a person who is not entitled to vote.

- (2) As soon as possible after becoming aware of the amendment of the voters' roll, the returning officer must—
 - (a) send to each person whose enrolment records have been altered written advice of the amendment of the voters' roll and how the amendment affects the person; and
 - (b) send to each person who, as a result of the amendment is an enrolled voter and is entitled to vote, a postal ballot envelope containing a ballot-paper.
- (3) If the returning officer sends a postal ballot envelope to a voter under this regulation, and a declaration envelope previously issued to the voter is returned by the voter, the returning officer must ensure that the previously issued declaration envelope is disallowed.
- (4) The returning officer must keep a record of—
 - (a) all postal ballot envelopes issued under this regulation; and
 - (b) all declaration envelopes disallowed under this regulation.

89 Early postal vote

- (1) A voter may request an early postal ballot envelope from an election official.
- (2) A voter who makes a request under subregulation (1) must give reasons for the request.
- (3) If the election official considers that the request is reasonable, the election official must comply with the request.

- (4) An election official may comply with a request under this regulation even if the candidate statements or indication of preferences have not yet been printed.
- (5) An election official may issue a ballot-paper under this regulation that is not printed on marked security paper if the election official initials the ballot-paper.

90 Request to redirect postal ballot envelope

- (1) A voter may make a request in writing to the returning officer to have the voter's postal ballot envelope redirected to another address specified in the request.
- (2) A request to redirect a postal ballot envelope under this regulation must be lodged no later than—
 - (a) the day on which the voters' roll is certified under section 24(6) of the Act; or
 - (b) a later date specified by the returning officer in accordance with regulation 81.
- (3) If a person makes a request under this regulation, the returning officer must ensure that a postal ballot envelope is sent or delivered to that person at the address specified in the request.

91 Request by an unenrolled voter

- (1) A person who claims to be entitled to vote but is not enrolled on the voters' roll may apply to the returning officer for a postal ballot envelope as an unenrolled voter.
- (2) Despite regulation 84, the returning officer must issue a postal ballot envelope to a person who applies under subregulation (1) for a postal ballot envelope.

- (3) The declaration envelope issued to an unenrolled voter under this regulation must be identified as a declaration envelope for an unenrolled voter.
- (4) The declaration envelope issued to a person under this regulation must include directions for the person—
 - (a) to specify the address for which the person claims to be entitled to be enrolled; and
 - (b) to describe the basis of the person's claim to entitlement; and
 - (c) to specify the person's date of birth; and
 - (d) to declare that the details provided on the declaration envelope are true and correct.
- (5) The returning officer must ensure that a record is kept of all declaration envelopes, ballot-papers and postal ballot envelopes issued under this regulation.

92 Request for replacement voting materials

- (1) This regulation applies if, on or before the last day of voting, a voter—
 - (a) makes a claim to an election official that the voter has not received a postal ballot envelope at the address to which the postal ballot envelope was sent; or
 - (b) makes a claim to an election official that the voter is not at the address to which the postal ballot envelope was sent and has not received a postal ballot envelope; or
 - (c) makes a claim to an election official that the voter has lost or destroyed the declaration envelope or ballot-paper or both; or
 - (d) satisfies an election official that the voter has spoilt the declaration envelope or ballot-paper or both and returns the spoilt

- declaration envelope or the spoilt ballot-paper or both.
- (2) The election official must issue the voter with whichever of the following is appropriate—
 - (a) a replacement declaration envelope;
 - (b) a replacement ballot-paper;
 - (c) a replacement postal ballot envelope.
 - (3) A declaration envelope issued under this regulation must be identified as a replacement declaration envelope.
 - (4) The returning officer must ensure that a record is kept of all declaration envelopes, ballot-papers and postal ballot envelopes issued under this regulation.
 - (5) If a spoilt declaration envelope or spoilt ballot-paper has been returned under this regulation, the election official must—
 - (a) cancel the spoilt declaration envelope or spoilt ballot-paper by marking it with the words "spoilt by voter"; and
 - (b) initial the spoilt ballot-paper; and
 - (c) retain the spoilt declaration envelope or ballot-paper until the close of voting.

Division 3—Return of postal ballot materials

93 Return of declaration envelopes and ballot-papers

- (1) A voter, or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, must—
 - (a) mark the voter's ballot-paper in accordance with the instructions; and
 - (b) insert the ballot-paper in the declaration envelope; and

- (c) personally sign the declaration envelope with the voter's (or nominated or authorised person's) usual signature; and
 - (d) fill in the date in the place provided; and
 - (e) place the declaration envelope in the prepaid envelope provided.
- (2) For the purposes of section 41A(3) of the Act, a voter is taken to have voted by postal vote before 6 p.m. on the last working day before election day if—
- (a) the voter or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, complies with subregulation (1); and
 - (b) the declaration is signed and dated before election day; and
 - (c) the voter or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, posts the declaration envelope containing the marked ballot-paper to the place designated by the returning officer for that purpose; and
 - (d) if the envelope is marked with a legible postmark, the postmark is dated with a date not later than the Monday immediately after election day; and
 - (e) the declaration envelope is received by the returning officer before noon on the fifth working day after election day.
- (3) The election official must not reject a declaration envelope solely because it is not posted or delivered in the prepaid envelope provided.

94 Receipt of declaration envelopes and ballot-papers

- (1) Before election day an election official may—
 - (a) remove a declaration envelope from the outer envelope if applicable; and
 - (b) separate signed declaration envelopes from unsigned declaration envelopes; and
 - (c) put aside declaration envelopes returned without declaration flaps; and
 - (d) if the municipal district for the election is divided into wards, arrange all the declaration envelopes according to the appropriate ward.
- (2) The returning officer must ensure that until after 6 p.m. on the day before election day—
 - (a) all declaration envelopes received are placed in a properly secured postal ballot receptacle; and
 - (b) no declaration flaps are removed from declaration envelopes; and
 - (c) all declaration envelopes remain unopened.
- (3) The returning officer must keep a record of the number of declaration envelopes returned and the persons who have returned declaration envelopes.

95 Procedure after close of receipt of declaration envelopes and ballot-papers

As soon as practicable after 6 p.m. on the day before election day, the returning officer must ensure that the following things are done by election officials in the presence of any scrutineer who is present—

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- (a) open the postal ballot receptacle and remove its contents;
- (b) make a record of the number of declaration envelopes received;
- (c) if the count is to be conducted at another location, securely transfer the declaration envelopes to the counting place designated by the returning officer.

Part 7—Counting of votes

Division 1—General counting provisions

96 Place at which votes to be counted

- (1) The returning officer must designate a place or places to be counting places at which ballot-papers used in an election are to be counted.
- (2) A counting place designated under subregulation (1) may be located either within or outside the municipal district of the Council.
- (3) The returning officer may determine that—
 - (a) the ballot-papers are to be counted separately at each election day voting centre; or
 - (b) the ballot-papers are to be collected and counted at a central counting place; or
 - (c) the count is to be conducted partly at election day voting centres and partly at a central counting place.
- (4) Votes may only be counted at a counting place.

97 Scrutineers at a counting place

- (1) In respect of each candidate, the number of scrutineers who may be present at any one time is limited to—
 - (a) one scrutineer for each election official involved in the manual counting or recounting of ballot-papers; or

- (b) if a computerised system of counting is used, one scrutineer for each election official involved in entering data during the counting and recounting of ballot-papers.
- (2) A scrutineer must not be prevented from entering or leaving a counting place except in accordance with the Act and these Regulations.
- (3) An election official may remove from the counting place a scrutineer who—
 - (a) interferes with, or disrupts, the counting of votes; or
 - (b) is in the counting place in contravention of the Act or these Regulations.

98 Adjournment of count

- (1) If an adjourned count is conducted by electronic counting, the election official in charge of the counting place must—
 - (a) record the number of ballot-papers that were electronically recorded at the time of the adjournment; and
 - (b) advise any scrutineers at the counting place of the number of electronically recorded ballot-papers; and
 - (c) verify the number of electronically recorded ballot-papers before recommencing the count after the adjournment.
- (2) The returning officer must ensure that the ballot-papers and documents relating to the election are kept secure during the adjournment.

Division 2—Preparation for counting in an attendance election

99 Application of Division

This Division applies to attendance elections.

100 Acceptance of pre-poll declaration envelopes

- (1) At the counting place, the election official in charge of the counting place must remove all pre-poll postal votes from parcels and declaration ballot-boxes.
- (2) If a pre-poll postal ballot-paper was issued to a postal voter following an application under regulation 49, the election official must—
 - (a) if satisfied that the voter is the same person who made the application under regulation 49, accept the ballot-paper without opening the declaration envelope containing the ballot-paper; and
 - (b) if not satisfied that the voter is the same person who made the application under regulation 49, disallow the ballot-paper without opening the pre-poll declaration envelope in which the ballot-paper is contained.
- (3) If a pre-poll declaration envelope was issued to a disadvantaged voter or to a general postal voter under regulation 52, the election official must—
 - (a) accept the ballot-paper without opening the declaration envelope in which it is contained;
or
 - (b) if satisfied that the declaration envelope was not signed in accordance with regulation 54, disallow the ballot-paper without opening the pre-poll declaration envelope in which it is contained.

- (4) If the returning officer disallows a pre-poll ballot-paper, the reason for disallowing the ballot-paper must be recorded on the pre-poll declaration envelope.
- (5) The returning officer must place the disallowed envelopes unopened in a separate parcel.
- (6) A scrutineer who is present at the counting place may observe processes undertaken in accordance with this regulation.

101 Acceptance of declaration votes

- (1) At the counting place, the election official in charge of the counting place must remove all declaration votes from their parcels and declaration ballot-boxes.
- (2) The election official must identify the declaration envelopes that were issued to persons who—
 - (a) made a declaration under regulation 74; and
 - (b) are entitled to be enrolled on the voters' roll on the entitlement day.
- (3) The election official must allow or disallow each declaration vote contained in an envelope without opening the envelope.
- (4) The election official must accept a ballot-paper contained in a declaration vote referred to in subregulation (2) if the election official is satisfied that the person is entitled to be enrolled on the voters' roll on entitlement day.
- (5) The election official must disallow a ballot-paper contained in a declaration vote referred to in subregulation (2) if the election official is not satisfied that the person is entitled to be enrolled on the voters' roll on entitlement day.
- (6) The election official must place the disallowed votes in a separate parcel.

- (7) Any scrutineer who is present at the counting place may observe the processes undertaken in accordance with this regulation.

102 Opening ballot-boxes and envelopes

- (1) The election official must—
- (a) open the ballot-box and take out the ballot-papers; and
 - (b) open the declaration envelopes that have been allowed under regulations 100 and 101 and take out the ballot-papers.
- (2) In relation to subregulation (1)(b), as far as is practicable, the election official must ensure that a ballot-paper is removed from a signed declaration envelope in a way that prevents any person (including a scrutineer) from seeing how a voter voted.
- (3) Any scrutineer who is present may observe the processes undertaken in accordance with this regulation.

103 Transfers between counting places

- (1) The returning officer may decide that the counting of votes that commenced at an election day voting centre is to be transferred to a central counting place.
- (2) If the returning officer decides to transfer the counting of votes to a central counting place under subregulation (1), the returning officer must ensure that—
- (a) the returning officer receives a full record of the counting done at the first counting place; and
 - (b) all ballot-papers and voting materials are transferred in a secure manner to the central counting place.

Division 3—Preparation for counting in a postal election

104 Application of Division

This Division applies to postal elections.

105 Unsigned declaration envelopes

Despite anything to the contrary in this Division—

- (a) an election official must disallow a ballot-paper within a declaration envelope that is not signed without removing the declaration flap or opening the declaration envelope; and
- (b) an election official must disallow the ballot-paper within a declaration envelope that is returned without its declaration flap without opening the declaration envelope; and
- (c) if the returning officer is satisfied that a declaration envelope is not signed in accordance with regulation 93(1)(c), the returning officer may disallow the ballot-paper within the declaration envelope and must neither remove the declaration flap nor open the declaration envelope.

106 Postal ballot envelopes issued to unenrolled voters

- (1) The returning officer must identify the declaration envelopes that were issued to persons who—
 - (a) applied for a postal ballot envelope under regulation 91; and
 - (b) are entitled to be enrolled on the voters' roll on the entitlement day.
- (2) The returning officer must accept a ballot-paper contained in a declaration vote referred to in subregulation (1) without opening the declaration

envelope if the returning officer is satisfied that the voter is entitled to be enrolled on the voters' roll on entitlement day.

- (3) The returning officer must disallow a ballot-paper contained in a declaration vote referred to in subregulation (1) without removing the declaration flap or opening the declaration envelope if the returning officer is not satisfied that the voter is entitled to be enrolled on the voters' roll on entitlement day.

107 Replacement postal ballot envelopes

- (1) The returning officer must identify the declaration envelopes that were issued to voters who—
 - (a) were issued with declaration envelopes under regulation 92; and
 - (b) have not voted or attempted to vote more than once at the election.
- (2) If it appears to the returning officer that a person has signed and returned more than one declaration envelope, without removing the declaration flaps or opening the declaration envelopes the returning officer must—
 - (a) accept the ballot-paper within the declaration envelope that appears to have been signed first by the voter; and
 - (b) disallow all ballot-papers in other declaration envelopes that appear to have been returned by the voter.
- (3) If it appears to the returning officer that 2 or more declaration envelopes bearing the name of the same voter have been signed and returned by different people, and regulation 105(c) does not apply, the returning officer must—

- (a) disallow the ballot-papers contained in the declaration envelopes without removing the declaration flaps or opening the declaration envelopes; and
- (b) keep a record of the number of persons whose declaration envelopes have been disallowed under this subregulation and the actions taken in each case.

108 Opening declaration envelopes for a postal election

- (1) The returning officer must ensure that the following things are done at each counting centre by election officials in the presence of any scrutineer who is present—
 - (a) remove the declaration flaps from the declaration envelopes that have not been disallowed;
 - (b) place the removed declaration flaps in a secure receptacle or location;
 - (c) open the declaration envelopes and remove the ballot-papers contained in them.
- (2) An election official must not open a declaration envelope under subregulation (1)(c) until the declaration flap on the envelope has been removed and placed in a secure receptacle or location.
- (3) An election official must disallow all the ballot-papers within the same declaration envelope and mark them in a manner that indicates why the ballot-papers have been disallowed if the declaration envelope contains—
 - (a) more than one ballot-paper for the same election; or
 - (b) ballot-papers for more than one ward.

- (4) If a declaration envelope contains a ballot-paper for an election other than the election for which the declaration envelope was issued, an election official must disallow the ballot-paper and mark it in a manner that indicates why the ballot-paper has been disallowed.

Division 4—Manual counting of votes

109 Procedure for manual counting of votes

The returning officer must, after opening the ballot-boxes or declaration envelopes—

- (a) set aside disallowed ballot-papers; and
- (b) determine the number of first preference votes received by each candidate; and
- (c) undertake the counting of votes in accordance with Schedule 3 to the Act.

110 Records of a manual count to be made available

- (1) After all votes have been distributed to candidates in accordance with voters' first preferences, the returning officer must ensure that a record of the distribution of first preference votes is prepared and is made available to any scrutineer present at the count.
- (2) After the conclusion of the count, the returning officer must—
 - (a) prepare a final record of the complete count showing the distribution of votes to candidates in accordance with voters' preferences at each stage of the count; and
 - (b) make copies of the record referred to in paragraph (a) available to any scrutineer present at the count to enable the scrutineer a reasonable time in which to examine the record before the declaration of the poll.

- (3) The returning officer may prepare additional records of the count at other stages of the count and make them available to any scrutineer present at the count.
- (4) The returning officer must provide a copy of the final record of the count to a candidate if requested to do so by the candidate.
- (5) The returning officer may publish a record of the count or make the record available to any person.

Division 5—Electronic counting of votes

111 Electronic counting systems

An electronic counting system used by the returning officer to count votes under clause 5A of Schedule 3 to the Act must—

- (a) comply with the counting procedures set out in Schedules 3 and 3A to the Act; and
- (b) comply with the rules for determining the validity of a marked ballot-paper; and
- (c) enable the electronic record of the preferences from any ballot-paper to be verified by comparison to the ballot-paper after being recorded.

112 Validation procedures

- (1) The returning officer must ensure that the method of electronically recording preferences from ballot-papers involves suitable validation procedures.
- (2) The returning officer must document the validation procedures and make copies of the documentation available to scrutineers before the commencement of the count.

- (3) If the validation procedures include the double entry of preferences, the returning officer may determine that a recount is to comprise a single entry where each entry is validated against the equivalent earlier entry.

113 Procedures for electronic counting

- (1) If votes are counted using electronic counting equipment, the returning officer may determine that a reference in Schedule 3 to the Act to the physical arrangement or movement of ballot-papers is not applicable if the equivalent process is performed electronically.
- (2) The returning officer may decide to separate disallowed ballot-papers before preferences are electronically recorded and not to make an electronic record of disallowed ballot-papers.
- (3) The returning officer must ensure that any scrutineer present at the count who wishes to observe the electronic recording of the preferences on ballot-papers by an election official is not prevented from doing so.
- (4) Before calculating the result, the returning officer must reconcile the electronic record of ballot-papers with the total number of ballot-papers received.

114 Records of a computer count to be made available

- (1) At those stages of the count determined by the returning officer, the returning officer must ensure that records are prepared showing the progressive distribution of first preference votes to candidates and that copies of the records are made available to any scrutineers present at the count.
- (2) After the conclusion of the count, the returning officer must prepare a final record of the count, recording the complete distribution of votes to candidates in accordance with voters' preferences.

- (3) The returning officer must ensure that a copy of the final record of the count is made available to any scrutineer present at the count to enable the scrutineer a reasonable time to examine the record before the declaration of the poll.
- (4) The returning officer must provide a copy of the final record of the count to any candidate on request.
- (5) The returning officer may publish a record of the count or make the record available to any person.

Division 6—Custody of election materials

115 Record of electoral materials

- (1) The returning officer must keep a record of—
 - (a) the number of ballot-papers printed, issued and received; and
 - (b) the number of declaration envelopes issued and received.
- (2) The returning officer must reconcile the number of ballot-papers printed with the number of ballot-papers issued, spoiled, left unused or not returned by voters.
- (3) The returning officer must certify the record kept under subregulations (1) and (2) as being true and correct.
- (4) For the purposes of this regulation—
 - (a) the election official in charge of a voting centre must give the returning officer a receipt specifying the total number of ballot-papers that the election official has received; and

- (b) the election official in charge of a voting centre must ensure that—
 - (i) the ballot-papers are kept secure until they are issued or otherwise dealt with by the election official; and
 - (ii) used ballot-papers are returned to the returning officer.

116 Packaging of election records

- (1) As soon as practicable after the completion of the count of votes, the returning officer must enclose, secure and seal each of the following in one or more separate packets—
 - (a) the parcels of used ballot-papers;
 - (b) the parcels of unused ballot-papers;
 - (c) the parcels of spoilt ballot-papers;
 - (d) the parcels of disallowed ballot-papers;
 - (e) declaration envelopes that contain disallowed ballot-papers;
 - (f) all copies of voters' rolls;
 - (g) all applications and declarations in relation to the relevant election made under these Regulations;
 - (h) all mail in relation to the relevant election that is returned to the returning officer undelivered;
 - (i) all other documents that contain records of the conduct of the relevant election, including, if used in the election, an electronic copy of records of preferences used for electronic counting of votes.

- (2) The returning officer must—
- (a) write the following on each packet referred to in subregulation (1)—
 - (i) a description of the contents;
 - (ii) the name of the relevant Council;
 - (iii) if the municipal district is divided into wards, the name of the relevant ward;
 - (iv) the date of the election; and
 - (b) sign each packet.
- (3) Before packaging mail that is returned to the returning officer undelivered, the returning officer may, for the purpose of maintaining voters' rolls, make a record of undelivered mail.

117 Storage of election records

- (1) The Electoral Commissioner must ensure that the packets of election records referred to in regulation 116 are kept safely and secretly.
- (2) If the packets of election records referred to in regulation 116 are opened in accordance with any Act or regulations, the Electoral Commissioner must secure and reseal the opened packet.

Part 8—Election donations

118 Prescribed form details

For the purposes of section 62(2) of the Act, an election campaign donation return is in the prescribed form if it contains the following prescribed details—

- (a) the name of the relevant Council;
- (b) if the relevant municipal district is divided into wards, the name of the relevant ward;
- (c) the full name and address of the candidate;
- (d) a declaration signed and dated by the candidate which states that—
 - (i) the campaign donation return includes a complete record of all gifts required to be disclosed; and
 - (ii) the details provided in the campaign donation return are a true and accurate record;
- (e) in respect of each gift received during the donation period—
 - (i) the full name and address of each person who made the gift to the candidate; and
 - (ii) the date on which the gift was given to the candidate; and
 - (iii) in respect of a gift in the form of money—
 - (A) the exact value of the gift; and
 - (B) the form in which the gift was given; and

- (iv) in respect of each gift in the form of goods or services—
 - (A) a description of the gift; and
 - (B) the estimated market value of the gift.

Part 9—Enforcement of compulsory voting

119 Exemptions from compulsory voting

- (1) For the purposes of section 40(1) of the Act, it is not compulsory for a person to vote if the prosecution officer is satisfied that the person had a sufficient excuse for not voting.
- (2) Without limiting the generality of subregulation (1), any of the following is a sufficient excuse for not voting—
 - (a) the voter was ill, disabled or infirm and for that reason was unable to vote at the election or could have voted only with difficulty;
 - (b) the voter was at the time of the election of or over the age of 70 years;
 - (c) the voter was absent from Victoria on election day or, in the case of an election by postal voting, the voter was absent during the 15 days immediately before the last day of voting;
 - (d) in the case of an attendance election, the voter—
 - (i) was issued with a ballot-paper for the purpose of voting; or
 - (ii) made an application for a pre-poll postal vote under regulation 49 but did not receive a ballot-paper;
 - (e) in the case of a postal election, the voter—
 - (i) returned a declaration envelope within 7 days immediately after the last day of voting; or

- (ii) made a request to have the postal ballot envelope redirected under regulation 90 but did not receive a postal ballot envelope; or
 - (iii) was entitled to receive replacement voting material under regulation 92 but did not receive the replacement voting material; or
 - (iv) returned a declaration envelope that was disallowed under regulation 88;
- (f) the voter did not vote at the election for religious reasons.

120 Preparation of the list of non-voters

- (1) As soon as is practicable after an election, the Electoral Commissioner must prepare a list of the names of the persons who were required to vote at the election and did not vote.
- (2) For the purposes of preparing the list referred to in subregulation (1), the Electoral Commissioner may open any sealed packets containing a record kept of persons who have returned a declaration envelope.
- (3) After examining any record referred to in subregulation (2), the Electoral Commissioner must return the record to the parcel from which it was taken and secure and deal with that parcel in accordance with Division 6 of Part 7.

121 Prosecution officer to deal with persons on the list of non-voters

- (1) The prosecution officer must, within a period of 6 months starting on the day immediately after election day, send by post to each person whose name appears on the list of non-voters prepared under regulation 120 a notice containing the following—

- (a) advice that the person must provide a statement signed by the person as to whether the person has a sufficient excuse for not voting and if so, what that excuse is;
 - (b) the time allowed for providing the excuse, which must not be less than 21 days;
 - (c) advice of the action which may be taken if the person does not provide a sufficient excuse within the meaning of regulation 119.
- (2) The notice must be sent to the last known address of the voter.
- (3) If a person is unable by reason of absence from the person's residence or illness, disability or infirmity to meet the requirements of a notice given under this regulation within the time allowed, another person of or over the age of 18 years who has personal knowledge of the facts may do so on the person's behalf.
- (4) The prosecution officer must keep a record of—
- (a) all persons who have provided a sufficient excuse for not voting; and
 - (b) all persons who have not provided a sufficient excuse for not voting; and
 - (c) all persons who did not respond to a notice sent under subregulation (1).
- (5) A person must not provide a false excuse for not voting.

Penalty: 10 penalty units.

122 Fine for failure to vote—infringement penalty

For the purpose of section 40(3A) of the Act the prescribed penalty for an offence against section 40(1A) of the Act is 0.5 penalty units.

Part 10—Municipal electoral tribunal

123 Application for an inquiry into an election

For the purposes of section 45(1A) of the Act, the following details are required—

- (a) the name of the Council where the election was held and the name of the ward (if applicable);
- (b) if the applicant is a candidate, the candidate's full name, address and home and business telephone numbers;
- (c) if 10 voters who dispute the validity of the election are making the application, the full name and address of each voter and the home and business telephone numbers of a contact person for the purposes of the application;
- (d) if the applicant is a returning officer, the returning officer's full name, address and business telephone number;
- (e) the signature of the candidate, the signatures of the 10 voters or the signature of the returning officer and the date on which the application was signed;
- (f) the grounds on which the application for an inquiry into the election is made.

124 Fee

- (1) For the purposes of section 45(3) of the Act, the prescribed fee is 20 fee units.
- (2) The fee may be refunded in whole or in part at the discretion of the relevant municipal electoral tribunal.

Schedule 1—Forms

FORM 1

Regulation 15

SILENT VOTER REQUEST FORM

Local Government Act 1989

Section 20

A person must use this form to lodge a request with the Chief Executive Officer that the person's address not be shown on any voters' roll.

General details	
Name of relevant Council:	
Address of rateable property for which you are enrolled to vote:	

Details of person making request	
Surname:	
Given name:	
Date of birth:	
Address for correspondence:	

I request that my address not be shown on the voters' roll for the above named Council. Having my residential address shown on a voters' roll would place the personal safety of myself or members of my family at risk for the reasons described on this form and as declared on the statutory declaration accompanying this form.	
Signature of voter:	
Date:	

FORM 2

Regulation 43

CANDIDATE QUESTIONNAIRE

A candidate may provide answers to the following questions. Answers in response to this questionnaire lodged with the returning officer before noon on the day after nominations close may be published on the Victorian Electoral Commission's Internet site and made available to any person on request.

Name:

Council:

Ward (if applicable):

Instructions to complete the questionnaire are in italics below.

Have you undertaken training¹ to help prepare you to take on the responsibility of being a Councillor? * Yes / * No

If yes, provide the name of the course and the course provider.

Maximum 40 words

Have you read the (name of Council) Council's current Council Plan?

* Yes / * No

Have you read the (name of Council) Council's current Councillor Code of Conduct? * Yes / * No

Are you endorsed by a registered political party²? * Yes / * No

If yes, provide the name of the registered political party.

Are you currently a Councillor? * Yes / * No

If yes, what has been your attendance record at Council meetings³ during your current term of office?

< 50% / 50 – 75% / 75 – 90% / > 90% *Indicate one*

What are your contact details (so that voters can contact you)?

Provide details

*** Delete if not applicable.**

Notes

¹ Examples of training include training provided by the Council, the Victorian Local Governance Association, the Municipal Association of Victoria or the Australian Institute of Company Directors.

² **Registered political party** has the same meaning as in Part 4 of the **Electoral Act 2002**.

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Schedule 1—Forms

³ *Council meetings* means ordinary meetings and special meetings of the Council referred to in section 83 of the **Local Government Act 1989** but do not include meetings held for which a Councillor has been granted leave from attending by the Council.

Endnotes

¹ Reg. 4(a): S.R. No. 98/2005 as amended by S.R. Nos 40/2012 and 100/2012 and extended in operation by S.R. No. 92/2015.

² Reg. 4(b): S.R. No. 40/2012.

³ Reg. 4(c): S.R. No. 100/2012.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2016 is \$13.94. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2016 is \$155.46.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.