

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT (ELECTORAL) REGULATIONS

As in force at 17 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 17 March 2004

LOCAL GOVERNMENT (ELECTORAL) REGULATIONS

Regulations under the *Local Government Act*

Part 1 Preliminary

1 Short title

These Regulations may be cited as the *Local Government (Electoral) Regulations*.

1A Purposes

The purposes of these Regulations are:

- (a) to provide for the conduct of elections for the members of municipal councils; and
- (b) to provide a procedure for resolving disputes arising out of the conduct of those elections and elections for the members of community government councils.

2 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

assistant officer means a person appointed as an assistant officer under regulation 29(3)(b) or appointed under regulation 29(5) to act as an assistant officer.

assistant returning officer means a person appointed as an assistant returning officer under regulation 4(1).

authorized witness means a person who is enrolled, or is entitled to be enrolled, as a Commonwealth, Territory or State elector and, in relation to:

- (a) an application for a postal ballot-paper signed; or
- (b) a vote on a postal ballot-paper recorded,

outside the Commonwealth, also includes a person who is:

- (c) an officer of the naval, military or air forces of the Commonwealth or a member of an Australian Embassy or a Trade Commissioner or Assistant Trade Commissioner within the meaning of the *Trade Representatives Act 1933* of the Commonwealth; or
- (d) a Justice of the Peace, Commissioner for Oaths, Commissioner for Affidavits, Commissioner for Declarations, or Notary Public, appointed under a law of the Commonwealth or a State or another Territory of the Commonwealth.

ballot-box means a ballot box constructed and fitted as prescribed in regulation 21 of the *Northern Territory Electoral Regulations*.

ballot-paper includes a postal ballot-paper.

candidate's representative means:

- (a) for the purposes of Part VI – a person appointed under regulation 34(1); and
- (b) for the purposes of Part VII – a person appointed under regulation 56(1).

certified list of voters means a list referred to in regulation 29(4).

count or **re-count**, in relation to a ballot-paper or to votes on a ballot-paper, includes counting by means of a mechanical or electronic device, program or system approved by the returning officer and, where such a device, program or system is used, the manner of counting or re-counting prescribed by these regulations shall be modified to the extent necessary to take the device, program or system into account.

elector means a person whose name is on a roll.

enrolled, in relation to a person, means that the person's name is on a roll.

hours of polling means:

- (a) in relation to a place other than a place at which a mobile polling team is used – from 8.00 am until 6.00 pm on polling day; and

- (b) in relation to a place at which a mobile polling team is used – the hours during which the mobile polling team may, in accordance with these Regulations, conduct polling at that place.

mobile polling team means a mobile polling team authorised under regulation 29(1A).

mobile polling team leader means a mobile polling team leader appointed under regulation 29(3).

nomination, in relation to an election, means nomination in accordance with section 47 of the Act.

nominee means a person who has been nominated in accordance with Part IV.

officer means a returning officer, assistant returning officer, presiding officer or an assistant officer.

petition means a petition referred to in regulation 72B.

polling day means the day as determined under the Act for the holding of an election.

polling place means a place appointed as a polling place under regulation 29(1) and includes the area adjacent to a polling place designated by a notice erected by the presiding officer, during the period that the notice is displayed.

presiding officer means a person appointed as a presiding officer of a polling place under regulation 29(3)(a).

roll means a roll of electors kept under section 43 of the Act.

- (2) A ballot-paper is informal for the purposes of these Regulations:

- (a) unless it is either:
 - (i) printed by the Government Printer; or
 - (ii) created for the purposes of these Regulations by an officer and initialled by an officer;
- (b) if it has no vote indicated on it or it does not indicate the elector's first preference for one candidate and his or her other preferences for all the remaining candidates except:
 - (i) where the voter has indicated a first preference for one candidate and his or her other preferences for all the

remaining candidates except one and the square opposite the name of that candidate has been left blank, it shall be deemed that the voter's preference for that candidate is his or her last and that accordingly the voter has indicated the order of his or her preference for all the candidates; or

- (ii) where there are 2 candidates only and the voter has indicated his or her vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank, the voter shall be deemed to have indicated the order of his or her preference for both the candidates; or
- (c) if it has on it any mark or writing by which, in the opinion of the returning officer, the voter can be identified.

3 Forms

In these Regulations, a reference to a form by number is a reference to a form so numbered in Schedule 1.

Part II Administration

4 Assistant returning officer

- (1) A returning officer may appoint a person to be an assistant returning officer for a municipality or ward or a portion of a municipality or ward.
- (2) An assistant returning officer may, subject to the directions of the returning officer, exercise the powers and perform the duties of the returning officer in relation to the municipality or ward, or portion of a municipality or ward, for which the assistant returning officer is appointed.

5 Officer becoming candidate

- (1) An officer vacates his or her office if he or she becomes a candidate.
- (2) A candidate or a spouse or de facto partner of a candidate is not entitled to be appointed as an officer.
- (3) A person who has not attained the age of 18 years is not entitled to be appointed as an officer.

Part III Rolls

7 Preparation of rolls

The Electoral Commission shall prepare a new roll for a municipality or a ward whenever necessary in order to allow the conduct of an election.

8 Printing of rolls

The Electoral Commission shall arrange for the roll for a municipality or a ward to be printed:

- (a) immediately after the close of the roll for the purposes of an election, as provided in regulation 10; and
- (b) at such other times as the Electoral Commission thinks necessary in order to allow for the proper conduct of an election or by-election.

9 Availability of rolls

Copies of a roll prepared under regulation 7:

- (a) shall be open for public inspection, without fee, at the office of the returning officer; and
- (b) may be obtained from that office and such other place in the municipality as the returning officer may appoint, on payment of a fee as determined by the council or the returning officer.

10 Closing of rolls

The Electoral Commission shall, for the purposes of an election, close the roll at 6.00 pm on:

- (a) in the case of an election under section 37 of the Act – the day the Minister, in pursuance of section 37(1) of the Act, appoints a person as returning officer for that municipality;
- (b) in the case of an election under section 38 of the Act – the Friday occurring 14 days before nomination day or, where that Friday is a public holiday, the first day immediately preceding that Friday that is not a public holiday; and
- (c) in the case of a by-election – the day on which the returning officer publishes a notice, or the first of such notices, under regulation 11.

Part IV Nominations

11 Public notice of nominations

- (1) A returning officer shall invite nominations for an election by giving public notice and shall, in respect of a by-election, invite nominations by publishing a notice in a newspaper circulating in the municipality not earlier than 7 days following the occurrence of a vacancy in the office of a member and not later than 45 days after the occurrence of that vacancy.
- (2) A returning officer shall, in respect of a notice published under subregulation (1), specify in the notice, or where more than one notice is published, in the last notice so published, that the notice is, for the purposes of section 46(b) of the Act, the last publication of the notice inviting nominations for the election.

12 Mode of nomination

- (1) Nominations shall be called for the position of:
 - (a) mayor to be elected from the whole of a municipality; and
 - (b) alderman for:
 - (i) each ward, where a municipality is divided into wards; and
 - (ii) the whole of a municipality, where the municipality is not divided into wards.
- (2) A nomination shall:
 - (a) be in accordance with Form 1;
 - (b) set out the name and the place of residence of the nominee;
 - (c) be signed by not less than 3 persons, other than the nominee, entitled to vote at the election for which the nominee is nominating;
 - (d) contain a statement that the nominee consents to act as a member for the municipality if elected;
 - (e) contain a declaration that the nominee is qualified, in accordance with section 9 of the Act, to hold office as a member for the municipality;

- (f) be accompanied by a photograph of the nominee which shall:
 - (i) be a black and white, full faced, vertical portrait photograph of the nominee's head and shoulders;
 - (ii) subject to subregulation (3), be not less than 12.75 centimetres in length by 8.75 centimetres in width;
 - (iii) have been taken within 6 months before the date of the lodging of his or her nomination; and
 - (iv) have endorsed on its reverse side the full name of the nominee and a statement signed by him or her certifying that the photograph was taken within the period referred to in subparagraph (iii);
 - (g) be accompanied by the amount of \$100 or a banker's cheque for that amount; and
 - (h) be signed by the nominee.
- (3) For the purposes of subregulation (2)(f), a returning officer may, in his or her discretion, accept a photograph of a nominee which does not comply with the requirements set out in that subregulation.
- (4) Where a municipality is divided into wards and a person is nominated for the office of alderman in more than one ward, all his or her nominations for the office of alderman are invalid unless he or she lodges with the returning officer before 12 noon on nomination day a written withdrawal of his or her consent to all his or her nominations for the office of alderman except one.

13 Deposit to be returned in certain cases

- (1) After an election for the office of mayor, and subject to these Regulations, the amount of \$100 referred to in regulation 12(2)(g) shall be returned to a candidate or to some person authorized by him or her in writing to receive it, where:
- (a) the candidate is returned as elected; or
 - (b) the total number of votes polled in the candidate's favour as first preference votes is more than one-fifth of the total number of the first preference votes polled by the candidate returned as elected to the office of mayor,
- otherwise it shall be forfeited to the council.

- (2) After an election for the office of alderman, and subject to these Regulations, the amount of \$100 referred to in regulation 12(2)(g) shall be returned to a candidate or to some person authorized by him or her in writing to receive it, where:

- (a) the candidate is returned as elected; or
- (b) the total number of votes polled in the candidate's favour as first preference votes is more than one-fifth of the total number of the first preference votes polled by the candidate returned as elected first in the election,

otherwise it shall be forfeited to the council.

14 Withdrawal of consent

- (1) A nominee may withdraw his or her consent referred to in regulation 12(2)(d) by lodging a notice of withdrawal of consent in accordance with Form 2 with the returning officer before 12 noon on nomination day.
- (2) The amount of \$100 referred to in regulation 12(2)(g) shall be returned to a nominee who withdraws his or her consent under subregulation (1).

15 Nominations

- (1) The returning officer shall, as soon as practicable after their receipt, cause copies of all valid nominations to be displayed at the principal office of the council.
- (2) The returning officer shall, at his or her office, at 12 noon on nomination day, publicly produce all nomination forms lodged with him or her, other than the form of a nominee who has withdrawn his or her consent in accordance with regulation 14(1), and declare the names and addresses of all candidates nominated.

16 Declaration of candidates

Where, under regulation 15, the number of candidates nominated is not greater than the number of offices required to be filled, the returning officer must publicly declare those candidates duly elected to the offices for which they respectively nominated.

16A Term of office of mayor and aldermen

- (1) The term of office of mayor commences on:
 - (a) if the vacancy in the office of mayor is filled under regulation 16 – the day on which the declaration under that regulation is made; or
 - (b) if a poll is conducted in respect of that vacancy – the day on which the results of the poll are declared under regulation 71.
- (2) The term of office of alderman commences on:
 - (a) if every vacancy in the offices of aldermen for the municipality in respect of which there is a candidate nominated is filled under regulation 16 – the day on which the declaration under that regulation is made; or
 - (b) if a poll is conducted in respect of one or more vacancies in the offices of aldermen for the municipality – the day on which the results of the poll are declared under regulation 71.
- (3) The term of office of mayor or alderman ceases on:
 - (a) the day on which the next term of that office commences under subregulation (1) or (2); or
 - (b) the day on which the office otherwise becomes vacant.

17 Failure of election

- (1) An election shall fail where:
 - (a) no nomination is declared under regulation 15;
 - (b) a candidate in the election dies before polling day; or
 - (c) no candidate in the election is returned as elected.
- (1A) Where there are insufficient nominations under regulation 12(1)(b), an election shall fail only in relation to the vacancy or vacancies for which a nomination was not received.
- (2) Where an election fails, the amount of \$100 referred to in regulation 12(2)(g) lodged by a candidate shall be returned:
 - (a) to the candidate or to some person authorized by him or her in writing to receive it; or
 - (b) in the case of a candidate who died before polling day – his or her personal representative.

18 New date for failed election

- (1) Where, in accordance with regulation 17, an election fails, a new election shall be held and the provisions of the Act and these Regulations relating to by-elections shall apply accordingly and for the purposes of regulation 11 the date on which the failed election was to be held shall be deemed to be the date on which the vacancy of the member occurred.
- (2) For the purposes of an election held under subregulation (1), the roll shall be the roll prepared for the election which failed.

Part V Voting by post**18A Register of Postal Voters**

- (1) The returning officer must establish a register for each municipality to be known as the Register of Postal Voters.
- (2) A Register of Postal Voters required to be established under subregulation (1) is to consist of so much of the Register of Postal Voters maintained under section 58 of the *Electoral Act* as relates to electors for the relevant municipality.
- (3) Where an election at which a registered postal voter is entitled to vote is to be held at any time during the period in respect of which he or she is so registered, the voter is to be taken to have applied for a postal vote in respect of the election and this Part, with the necessary changes, applies accordingly.

19 Application for postal ballot-paper

- (1) An elector who:
 - (a) will not, throughout the hours of polling, be within the municipality or within 20 kilometres of a polling place;
 - (b) will, throughout the hours of polling, be travelling under such conditions as will preclude the elector from voting at a polling place;
 - (c) will, by reason of illness, infirmity or approaching maternity, be precluded from attending at a polling place;
 - (ca) will, throughout the hours of polling, be unable to attend a polling place because the elector will be at a place caring for a person who is seriously ill or infirm or who is expected shortly to give birth (other than a polling place in respect of which a mobile polling team may be used and at which polling place

the elector may be permitted to vote);

- (cb) is a person whose address has been excluded from the roll;
- (cc) throughout the hours of polling, will be engaged in the elector's employment or occupation and:
 - (i) if an employee, is not entitled to leave of absence under regulation 53; and
 - (ii) in any other case, the elector's absence for the purpose of attending at a polling place to vote would be likely to cause loss to the person in the person's occupation;
- (d) is, by reason of membership of a religious order or his or her religious beliefs, precluded from attending:
 - (i) at a polling place; or
 - (ii) a polling place throughout the hours of polling or throughout the greater part of those hours; or
- (e) will not, by reason of being a prisoner, be able to attend at a polling place,

may apply for a postal ballot-paper.

(2) An application for a postal ballot-paper shall:

- (a) be in accordance with Form 3;
- (b) contain a declaration by the applicant that the applicant is entitled to a postal ballot-paper on grounds specified in subregulation (1);
- (c) be signed by the applicant in the presence of an authorized witness; and
- (d) be lodged with a returning officer.

(2A) An application for a postal ballot-paper may be made at any time before an election but remains in force for only 3 months from the date of the application.

(3) No person shall sign as applicant an application for a postal ballot-paper which contains a false statement.

Penalty: 10 penalty units.

- (4) No person shall unlawfully induce or persuade an elector to make an application for a postal ballot-paper.

Penalty: 10 penalty units.

- (5) No person to whom an envelope containing or purporting to contain an application for a postal ballot-paper is entrusted by an elector for the purpose of posting or delivery to a returning officer shall fail to post or deliver the envelope forthwith.

Penalty: 10 penalty units.

20 Duty of witnesses

A person shall not witness an application by an elector for a postal ballot-paper unless he or she:

- (a) has satisfied himself or herself as to the identity of the applicant;
- (b) has seen the applicant sign the application; and
- (c) is satisfied that the statements contained in the application are true.

Penalty: 20 penalty units or imprisonment for 6 months.

21 Issue of postal ballot-papers

- (1) Where a returning officer who receives a completed application for a postal ballot-paper made in accordance with this Part is satisfied that the application is properly signed by the applicant and is properly witnessed, the officer must deliver or post to the elector making the application:

- (a) a postal vote certificate in accordance with Form 4 printed on an envelope addressed to the returning officer for the municipality for which the applicant declares that he or she is enrolled; and
- (b) postal ballot-papers in accordance with Form 5.

- (2) Subregulation (1) does not apply to an application for a postal ballot-paper received by a returning officer after 6.00 pm on the day before polling day.

22 Possession of applications

- (1) All applications for postal ballot-papers received by a returning officer shall be endorsed by him or her with the date of the issue of the postal vote certificate and postal ballot-paper and shall:
 - (a) where they relate to the municipality for which he or she is the returning officer – be kept by him or her; or
 - (b) where they relate to another municipality – be sent by him or her, as soon as is practicable, to the returning officer for that other municipality.
- (2) A returning officer shall make available for public inspection at his or her office, at all convenient times during office hours, all applications for postal ballot-papers relating to the municipality for which he or she is the returning officer, for 14 days from and including the third day after polling day.

23 Numbering of applications

A returning officer shall:

- (a) number in consecutive order all applications for postal ballot-papers received by him or her;
- (b) number each postal vote certificate issued by him or her with the number corresponding to the number on the application for the postal ballot-paper accompanying the certificate; and
- (c) place his or her initials on the back of all postal ballot-papers issued by him or her in a position which allows the initials to be easily seen when the ballot-paper is folded so as to conceal any vote on that paper.

24 Returning officer to notify issue of postal ballot-papers

The returning officer for the municipality in respect of which a postal vote certificate and postal ballot-paper have been issued shall:

- (a) mark a certified list of voters to that effect; and
- (b) if practicable, advise all presiding officers in the municipality or ward for which he or she is the returning officer to whom a certified list of voters has been furnished that a postal vote certificate and a postal ballot-paper have been issued to the elector.

25 Directions for postal voting

- (1) Postal voting shall be carried out substantially in accordance with this regulation.
- (2) A postal vote may be cast at any time before 6.00 pm on polling day.
- (3) A postal ballot-paper shall be excluded from the determination of the results of a poll where it is:
 - (a) not posted or delivered to a returning officer or delivered to a presiding officer before 6.00 pm on polling day; or
 - (b) received by the returning officer after 6.00 pm on the Friday next following polling day.
- (4) A postal ballot-paper on which a vote was marked after 6.00 pm on polling day shall be excluded from the determination of the results of a poll.
- (5) In the absence of evidence to the contrary, the time and date appearing in the postal vote certificate of an elector shall be taken as the time and date on which the elector's vote was marked.
- (6) An elector shall show his or her postal ballot-paper (unmarked) and postal vote certificate to an authorized witness.
- (7) An elector shall, in the presence of an authorized witness, sign his or her name on the postal vote certificate.
- (8) An authorized witness shall sign his or her name on the postal vote certificate and shall add the title under which he or she acts as an authorized witness and the date and time.
- (9) Subject to this regulation, an elector shall, in the presence of an authorized witness but so that the authorized witness cannot see the vote:
 - (a) mark his or her vote on the postal ballot-paper in accordance with these Regulations; and
 - (b) fold the postal ballot-paper and place it in the envelope which bears the postal vote certificate and seal that envelope.

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- (10) Where an elector is so physically incapacitated that he or she is unable to mark his or her vote on the postal ballot-paper without assistance or is illiterate, an authorized witness shall:
- (a) mark the elector's postal ballot-paper in accordance with the instructions of the elector; and
 - (b) fold the postal ballot-paper and place it in the envelope which bears the postal vote certificate and seal that envelope.
- (11) Regulation 45(2) to (5) inclusive, with such alterations as the circumstances may require, apply to and in relation to an elector to whom subregulation (10) applies as if a reference in that regulation to an officer or presiding officer were a reference to the authorized witness referred to in subregulation (10) and a reference in that regulation to a ballot-paper were a reference to a postal ballot-paper.
- (12) An elector shall, as soon as practicable after complying with subregulation (9) or (10), and before the close of polling, cause the envelope referred to in that regulation to be posted or delivered to a returning officer or to be delivered to a presiding officer and the returning officer or the presiding officer shall deal with the envelope in accordance with these Regulations.
- (13) A person to whom an envelope containing or purporting to contain a postal ballot-paper is entrusted by an elector for the purpose of posting or delivering it to a returning officer or delivery to a presiding officer shall not fail to post or deliver the envelope forthwith.
- Penalty: 10 penalty units.
- (14) A returning officer who receives an envelope which bears a postal vote certificate for a municipality other than the municipality for which he or she is appointed, shall:
- (a) note on it the time of the receipt of the envelope;
 - (b) immediately notify the returning officer for the municipality in respect of which the postal ballot-paper was issued of the receipt of that envelope; and
 - (c) as soon as practicable, send that envelope to the returning officer referred to in paragraph (b).

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- (15) A presiding officer who receives an envelope which bears a postal vote certificate shall, immediately on receiving it, write his or her name, the location of the polling place to which he or she is appointed and the date and time of its receipt on the envelope and:
- (a) make and sign a record of the name of the elector and the name of the municipality appearing on the postal vote certificate;
 - (b) deposit the envelope in a ballot-box in the polling place to which he or she is appointed; and
 - (c) forward the record referred to in paragraph (a) to the returning officer for the municipality in which the polling place to which the presiding officer is appointed is situated.

26 Voting on postal ballot-papers

- (1) No person other than:
- (a) an elector to whom a postal ballot-paper has been issued; or
 - (b) a person acting in pursuance of regulation 25(10),
- shall mark a vote on a postal ballot-paper.
- Penalty: 20 penalty units or imprisonment for 6 months.
- (2) No person, other than the returning officer for the municipality in respect of which a postal ballot-paper has been issued, shall open an envelope in which a postal ballot-paper has been placed pursuant to regulation 25(9) or (10).
- Penalty: 20 penalty units or imprisonment for 6 months.
- (3) No person shall receive or take possession of a postal ballot-paper otherwise than in accordance with these Regulations.

Penalty: 20 penalty units or imprisonment for 6 months.

27 Disclosure of information

An authorized witness shall not disclose to a person anything relating to the vote of an elector voting by post.

Penalty: 20 penalty units or imprisonment for 6 months.

28 Postal Ballot-box

Subject to regulation 59, a returning officer shall keep a locked and sealed ballot-box with the words "Postal Ballot-box" marked thereon

and shall place and keep therein, until the determination of the results of the poll, all envelopes containing postal ballot-papers relating to his or her municipality received by him or her up to the time prescribed in regulation 25 for the receipt of those ballot-papers.

Part VI Polling

28A Pre-poll voting

- (1) At any time after the close of nominations for an election and before polling day, an elector entitled to vote at the election may apply to an officer appointed for that purpose by the returning officer, to vote at the election before 6.00 p.m. on the day before the polling day at a location determined by the returning officer.
- (2) Where the officer to whom an application under subregulation (1) is made is satisfied that the facilities for voting are presently available at the place the application is made and that the applicant satisfies the requirements for a postal vote under regulation 19(1), the applicant may there and then vote at the election.
- (3) In addition to any other question the officer issuing the ballot-paper to the applicant may ask under these Regulations in relation to the applicant's entitlement to vote at the election, the officer shall ask the applicant the following question: "Will you be able to attend a polling place on polling day during the hours of polling?" and shall not issue the ballot-paper unless the applicant answers the question in the negative.
- (4) Regulations 31 to 52 inclusive, with the necessary changes, apply to and in relation to an application to vote and voting under this regulation.

29 Returning officer to appoint polling places etc.

- (1) A returning officer may, after consultation with the council if practicable, by notice in writing, appoint such places as he or she thinks fit to be polling places for a municipality or ward, which may include places outside the municipality or ward.
- (1A) A returning officer may, by notice in writing, authorise the use of mobile polling teams at particular polling places for a municipality or part of a municipality and where the use of the mobile polling team is to service the voting needs of a class of voters, such as the in-patients or inmates in a hospital or institution, specify that class of voters.

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- (1B) Subject to regulation 29B, where a returning officer authorises the use of a mobile polling team at a polling place in an election, the returning officer must specify the date and hours during which a mobile polling team is to be used at the place for the purposes of the election.
- (2) A returning officer must take such steps as he or she considers necessary or convenient to give public notice of:
- (a) the location of polling places appointed under subregulation (1); and
 - (b) where the use of a mobile polling team has been authorised under subregulation (1A) – the dates and hours during which the team is to be used and, if applicable, the class of voters that is to be served by the team.
- (3) A returning officer shall for the municipality for which he or she is appointed make all necessary arrangements for the conduct of an election and, in particular, shall appoint:
- (a) a presiding officer to preside at each polling place;
 - (b) where the use of a mobile polling team has been authorised under subregulation (1A) – a mobile polling team leader for the mobile polling team who has all the functions, powers and duties of a presiding officer; and
 - (c) such assistant presiding officers as he or she thinks fit for a polling place or, where the use of a mobile polling team has been authorised under subregulation (1A), to be members of a mobile polling team.
- (4) A returning officer shall supply a list of electors enrolled in a municipality or ward, certified under his or her hand, to all presiding officers appointed for polling places in the municipality or ward.
- (5) A presiding officer may appoint a person to act as an assistant officer on polling day where it is necessary, in his or her opinion, for the conduct of polling at the polling place for which the presiding officer is appointed.
- (6) A presiding officer may appoint a substitute to perform his or her duties during his or her temporary absence and such substitute may, while so acting, exercise all the powers of the presiding officer and shall, in the exercise of those powers, be deemed to be the presiding officer.

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- (7) An assistant officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

29A Voting at certain polling places may be restricted to class of voters

Where a returning officer:

- (a) authorises under regulation 29(1A) the use of a mobile polling team to service the voting needs of a class of voters at a polling place; and
- (b) specifies under regulation 29(1B) the dates and hours during which a mobile polling team is to be used at the polling place,

only members of that class may vote by the use of that mobile polling team at that place and those times.

29B Places and hours of use of mobile polling team

(1) If:

- (a) a mobile polling team is unable to be at an appointed polling place on a date or during the hours specified under regulation 29(1B); or
- (b) the returning officer who authorised the use of the mobile polling team considers that the exigencies of the election require it,

the returning officer or the mobile polling team leader may:

- (c) subject to subregulation (2), substitute another place for the appointed polling place; or
 - (d) change or vary the specified date or hours.
- (2) A returning officer or mobile polling team leader may not substitute another place for the appointed polling place if the mobile polling team is authorised under regulation 29(1A) to service the voting needs of a class of voters.
- (3) Where a returning officer or mobile polling team leader substitutes another place or changes or varies dates or hours under subregulation (1), he or she must take such steps as he or she considers necessary or convenient to give public notice of the substitution, change or variation.

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- (4) An election or the result of an election is not invalidated on the ground that a mobile polling team failed to attend at a polling place or on a date or during the hours specified under regulation 29(1B) or at a polling place or on a date or during the hours as substituted, changed or varied under this regulation.

30 Licensed premises to be used only in certain circumstances

- (1) Subject to subregulation (2), no part of premises licensed within the meaning of the *Liquor Act* is to be used for the purposes of a polling place.
- (2) Premises licensed within the meaning of the *Liquor Act* may be used for the purposes of a polling place if a returning officer declares in writing that he or she is satisfied that, during the hours of polling on polling day:
- (a) intoxicating liquor will not be available for sale or consumption on the part of the premises proposed for use for the purpose of the polling place;
 - (b) the part of the premises proposed for use for the purpose of the polling place will be segregated from the part of the premises where intoxicating liquor will be available for sale or consumption; and
 - (c) access to the part of the premises proposed for use for the purpose of the polling place will not involve passing through the part of the premises where intoxicating liquor will be available for sale or consumption.

31 Separate voting compartments

- (1) A polling place shall have separate polling booths constructed so as to screen a voter from observation while he or she marks his or her ballot-paper.
- (2) No person, other than an officer, shall exhibit in a polling booth a card or paper having on it any directions or instructions with respect to voting.

Penalty: 10 penalty units.

32 Ballot-boxes

A polling place shall be provided with such ballot-boxes as the returning officer thinks fit.

33 Ballot-papers

Ballot-papers:

- (a) other than postal ballot-papers, shall be in accordance with Form 6;
- (b) shall show the names of the candidates for the municipality or ward for which the ballot-paper is to be used:
 - (i) in alphabetical order according to their surnames;
 - (ii) where there are 2 or more candidates of the same surname – in alphabetical order according to the given names of those candidates;
 - (iii) where there are 2 or more candidates with the same surname and given names – in alphabetical order according to the places of residence of those candidates which shall be so arranged and stated on the ballot-paper; and
 - (iv) where the names of 2 or more candidates are, in the opinion of the returning officer, so similar that confusion may be caused – with such description or addition to the names of the candidates as will distinguish one from the other; and
- (c) other than in respect of a ballot-paper referred to in regulation 46(3) or a ballot-paper created for the purposes of allowing voting in accordance with regulation 21 or 28A, shall have a photograph of each candidate opposite his or her name on the ballot-paper.

34 Candidate's representatives at polling

- (1) A candidate may appoint such persons as he or she thinks fit to be his or her representatives at each polling place in the municipality or ward for which he or she is a candidate.
- (2) During the hours of polling, not more than one candidate's representative per candidate shall enter or remain in a polling place at any one time.
- (3) An appointment under subregulation (1) shall be made by notice in writing:
 - (a) addressed to the returning officer for the municipality for which the election is to be held or the presiding officer of the polling place for which the candidate's representative is appointed;

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- (b) signed by the candidate; and
 - (c) stating the name and address of the candidate's representative.

35 Persons present at polling

No person other than:

- (a) an officer;
- (b) subject to regulation 34(2), a candidate's representative; or
- (c) an elector voting or about to vote,

shall enter or remain in a polling place except by permission of the presiding officer of that polling place.

Penalty: 20 penalty units or imprisonment for 6 months.

36 Polling

- (1) Subject to these Regulations, polling at a polling place shall be conducted in such manner as the returning officer may determine.
- (2) The presiding officer of a polling place shall:
 - (a) subject to subregulation (4), before a vote is taken, exhibit the ballot-box empty and then securely fasten it closed; and
 - (b) subject to subregulation (3), at the close of polling, in the presence of any candidates' representatives who may be in attendance, publicly close, fasten, seal and take charge of the ballot-box, and with the least possible delay forward it for the purposes of the determination of the results of the poll,and the ballot-box shall on no account be opened except in accordance with these Regulations.
- (3) Where the determination of the results of a poll is proceeded with immediately after the close of polling at the polling place at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten or seal the ballot-box as required by subregulation (2)(b).
- (4) Where the presiding officer is a mobile team leader, he or she need not comply with subregulation (2)(a) other than at the first polling place attended by the mobile polling team.

37 Person may vote only once

Subject to these Regulations, a person shall not vote more than once at an election.

Penalty: 10 penalty units.

38 Name to be on roll

Subject to this Part, an officer shall not issue a ballot-paper to a person unless the person's name appears on the roll for the municipality or ward for which that person wishes to vote.

39 Person claiming to vote to give names and other particulars

(1) Subject to this Part, an officer shall issue a ballot-paper to a person where the person:

- (a) states his or her full name and such other particulars as may be necessary to identify the person as a person whose name appears on a roll; and
- (b) has answered the following question in the absolute affirmative: "Is this the first time you have voted either here or elsewhere in this election?".

(2) An officer may, and at the request of a candidate's representative shall, put all or any of the following questions, in addition to the questions referred to in subregulation (1), to a person who claims to vote under regulation 46(1) before issuing a ballot-paper to that person:

- (a) "Are you of the age of 18 years or more?";
- (b) "Are you an Australian citizen?"; and
- (c) "Are you qualified to vote?",

and, where the person answers the question specified in paragraph (b) in the negative:

- (d) "Were you a British subject who was enrolled as a Commonwealth, Territory or State elector on 25 January 1984?".

(3) No person shall fail to truthfully answer all questions put to the person under this Part.

Penalty: 5 penalty units.

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- (4) Subject to this regulation and regulation 28A, a ballot-paper is to be issued under this Part:
- (a) at a polling place, other than a polling place in respect of which the use of a mobile polling team is authorised, only:
 - (i) between the hours of 8.00 am and 6.00 pm on polling day; or
 - (ii) to an elector who is in the polling place at 6.00 pm on a polling day and who is desiring to vote; or
 - (b) at a polling place in respect of which the use of a mobile polling team is authorised only:
 - (i) on the date and during the hours specified under regulation 29(1B), or the date or during the hours substituted, changed or varied under regulation 29B(1), in relation to the polling place; or
 - (ii) to an elector who is in the polling place designated by a notice erected by the mobile polling team leader at the end of the hours so specified, changed or varied and who is desiring to vote.

40 Withholding ballot-paper

A presiding officer shall refuse to issue a ballot-paper to a person required to answer a question put to him or her under regulation 39 who refuses to answer the question or fails to answer it (other than one put under regulation 39(2)(b)) in the affirmative.

41 Record of objections

A presiding officer shall keep a record of an objection by a candidate's representative to the issue of a ballot-paper to a person.

42 Ballot-papers to be initialled

- (1) An officer shall not issue a ballot-paper to a person unless he or she has first placed his or her initials on the back of the ballot-paper in such a position as to be capable of being easily seen when the ballot-paper is folded so as to conceal the names of the candidates printed on it.
- (3) An officer shall, immediately before issuing a ballot-paper to a person whose name is on a certified list of voters, place a mark against that person's name on that list.

43 Vote to be marked in private

Subject to regulation 45, a person who has been issued with a ballot-paper shall, without delay:

- (a) retire alone to an unoccupied polling booth and there mark his or her vote on the ballot-paper in accordance with these Regulations;
- (b) having complied with paragraph (a), fold the ballot-paper so as to conceal his or her vote;
- (c) exhibit the ballot-paper folded in accordance with paragraph (b) to an officer; and
- (d) openly, and without unfolding the ballot-paper, deposit it in a ballot-box.

44 Incorrect details in roll

- (1) A claim to vote at a polling place shall not be rejected by reason only of the omission from the roll or a certified list of voters of the given name of a person or the entry of a wrong given name, address, occupation or spelling of a surname where, in the opinion of the presiding officer, the voter is sufficiently identified.
- (2) No female voter shall be disqualified from voting under the name appearing on the roll by reason only of her surname having changed by marriage.

45 Assistance of certain persons

- (1) Where a voter satisfies a presiding officer that he or she is so physically incapacitated that he or she is unable to vote without assistance or is illiterate, the presiding officer shall, or shall direct an officer to:
 - (a) enter an unoccupied polling booth with the voter;
 - (b) mark the voter's ballot-paper in accordance with the instructions of the voter; and
 - (c) fold the voter's ballot-paper and deposit it in a ballot-box.
- (2) Where a presiding officer is satisfied that the physical incapacity or illiteracy of a voter is such as will not enable the voter to:
 - (a) communicate his or her instructions for marking his or her ballot-paper to the presiding officer or an officer under subregulation (1); or

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- (b) verify that his or her ballot-paper will be marked in accordance with his or her instructions,

the presiding officer may permit a person appointed by the voter to:

- (c) assist the voter in accomplishing the matters referred to in paragraphs (a) and (b); and
 - (d) be present while the ballot-paper of the voter is marked, folded and deposited in accordance with subregulation (1).
- (3) For the purposes of this regulation, it shall be a sufficient indication of a voter's instructions where the voter or the person appointed by the voter under subregulation (2) presents to an officer referred to in subregulation (1) a piece of paper or card, whether or not a recognizable how-to-vote card, containing a list of names of all candidates and indicating an order of preference for them, and that officer is satisfied that the piece of paper or card reflects the wishes of the voter.
- (4) An officer who:
- (a) pursuant to this regulation is required to mark the ballot-paper of a voter; and
 - (b) marks the ballot-paper of the voter otherwise than in accordance with instructions given by the voter or, in a case where subregulation (2) applies, by a person appointed by the voter,

is guilty of an offence.

Penalty: 20 penalty units or imprisonment for 6 months.

- (5) A person, appointed under subregulation (2) by a voter, who causes the ballot-paper of the voter to be marked by an officer, otherwise than in accordance with the instructions of the voter, is guilty of an offence.

Penalty: 20 penalty units or imprisonment for 6 months.

- (6) A candidate's representative, or a person appointed under subregulation (2) by a voter, shall not disclose to any person anything relating to the vote of a person voting under this regulation.

Penalty: 20 penalty units or imprisonment for 6 months.

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- (7) Nothing in these Regulations shall prevent a candidate's representative from being present, if he or she so desires, while the ballot-paper of a voter is marked, folded and deposited in accordance with this regulation.

46 Vote of unlisted person

- (1) A presiding officer may, subject to these Regulations, issue a ballot-paper to a person whose name is not on the certified list of voters for a municipality or ward for which the polling place is appointed, where the person makes a declaration in accordance with Form 7 that:
- (a) the person has complied with Part VIII of the *Commonwealth Electoral Act 1918* of the Commonwealth immediately before the close of the roll for the election in accordance with regulation 10 and in accordance with section 41 of the *Local Government Act*;
 - (b) to the best of his or her knowledge, no objection has been upheld in relation to the inclusion of his or her name on a roll; and
 - (c) he or she is not qualified for enrolment in a municipality or ward other than the municipality or ward for which he or she claims to vote.
- (2) A presiding officer may, subject to these Regulations, issue a ballot-paper to a person whose name appears on a certified list of voters marked in accordance with regulation 42(3) or who has been issued with a postal ballot-paper where the person makes a declaration in accordance with Form 7 that he or she has not already voted and surrenders the postal ballot-paper where the person is in possession of a postal ballot-paper.
- (3) A presiding officer may, subject to these Regulations, issue a ballot-paper to a person whose name is not on a certified list of voters for a municipality or ward in respect of which the polling place is appointed where that person makes a declaration in accordance with Form 7 that he or she is enrolled in another municipality or ward and that he or she has not already voted at the election for that other municipality or ward.
- (4) A presiding officer who issues a ballot-paper under this regulation shall:
- (a) make and sign a record of:
 - (i) the name of the person to whom it is issued; and

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- (ii) the municipality or ward for which the person declares under subregulation (3) he or she is enrolled; and
 - (b) forward the record to the returning officer for the municipality in which the polling place to which the presiding officer is appointed is situated.

47 Record of withholding ballot-paper

- (1) Where a presiding officer refuses to issue a ballot-paper to a person referred to in regulation 46 who has made the relevant declaration under that regulation, he or she shall make a written note of the person's request to be issued with a ballot-paper and his or her reasons for refusing to issue it and sign the note in the presence of such candidate's representatives as are present at the polling place.
- (2) A note referred to in subregulation (1) shall be forwarded to the returning officer for the municipality in which the polling place to which the presiding officer is appointed is situated at the close of polling.

48 Method of voting

- (1) Where a person is issued with a ballot-paper under regulation 46, he or she shall mark and fold his or her ballot-paper in the manner prescribed in regulation 43(a) and (b) and return it so folded to the presiding officer for the polling place.
- (2) A presiding officer who receives a ballot-paper in accordance with subregulation (1) shall, in the presence of the person who marked and folded the ballot-paper and of such candidate's representatives as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the person referred to in regulation 46 (1), (2) or (3), as the case may be, and addressed to the returning officer for the municipality for which the person claims to be entitled to vote, and shall forthwith securely fasten the envelope and deposit it in a ballot-box.
- (3) A person who is authorized to open a ballot-box shall, without opening the envelope referred to in subregulation (2), transmit it to the returning officer for the municipality in respect of which the person referred to in subregulation (1) claims that he or she is entitled to vote.

49 Spoilt and discarded ballot-papers

- (1) If a person who has been issued with a ballot-paper satisfies the presiding officer of a polling place that the ballot-paper has been spoilt by mistake or accident, or the presiding officer or assistant

officer finds a ballot-paper discarded in a polling booth or otherwise at the polling place, the presiding officer may, on receiving the spoilt ballot-paper or finding or being given the discarded ballot-paper, cancel the ballot-paper and, in the case of a spoilt ballot-paper, issue to that person to whom the ballot-paper was originally issued a new ballot-paper.

- (2) A presiding officer who cancels a spoilt or discarded ballot-paper under subregulation (1) shall write the word "spoilt" or "discarded" (as the case requires) across the face of the paper, place it in an endorsed envelope and, after the close of polling, forward it to the returning officer.

50 Adjournment of polling

- (1) A presiding officer of a polling place may adjourn polling at that place from day to day where the polling is interrupted by:

- (a) riot or open violence; or
- (b) fire, storm, tempest, flood or a similar occurrence,

and shall take such steps as he or she considers necessary or convenient to give public notice of any such adjournment as soon as is practicable.

- (2) A returning officer may adjourn polling at a polling place for a period not exceeding 21 days where, from any cause, the polling place is not open, and shall take such steps as he or she considers necessary or convenient to give public notice of that adjournment as soon as is practicable.
- (3) Where polling at an election is adjourned in accordance with subregulation (1) or (2), those persons only who, in accordance with the Act and these Regulations, are entitled to vote in that election and who have not already voted, shall be entitled to vote at the adjourned polling.

51 Marking of ballot-papers

- (1) A person issued with a ballot-paper shall:
- (a) place the figure "1" in the square on the ballot-paper opposite the name of the candidate for whom he or she votes as his or her first preference; and
 - (b) place consecutively increasing numbers in the squares opposite the names of the other candidates appearing on the ballot-paper in the order of his or her preference until a number is placed against the names of all candidates

appearing on the ballot-paper.

- (2) Subject to these Regulations, a person must not mark a vote on a ballot-paper other than a ballot-paper issued to the person.

Penalty: 5 penalty units.

52 Offences in relation to elections

- (1) No person shall falsely impersonate a person to secure a ballot-paper to which the impersonator is not entitled.

Penalty: 5 penalty units.

- (2) Subject to these Regulations, no person shall willfully destroy or deface a nomination paper or ballot-paper.

Penalty: 20 penalty units or imprisonment for 6 months.

- (3) No person shall fraudulently put a ballot-paper or other paper into a ballot-box.

Penalty: 5 penalty units.

- (4) No person shall fraudulently take a ballot-paper out of a polling place or a place at which the results of a poll are being determined.

Penalty: 20 penalty units or imprisonment for 6 months.

- (5) Subject to these Regulations, no person shall willfully take a ballot-paper out of a polling place.

Penalty: 2 penalty units.

- (6) No person shall in a polling place misconduct himself or herself or fail to obey the lawful directions of the presiding officer.

Penalty: 2 penalty units.

- (7) No person shall supply ballot-papers without authority.

Penalty: 10 penalty units or imprisonment for 6 months.

- (8) No person shall unlawfully destroy, take or otherwise interfere with, a ballot-box or a ballot-paper contained in a ballot-box.

Penalty: Imprisonment for 6 months.

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- (9) Subject to these Regulations, no person shall wear or display an emblem, poster, representation or other identification of a candidate or a political party in a polling place.

Penalty: 2 penalty units.

- (10) No person, other than an officer conducting a determination of the results of a poll, shall open a ballot-box.

Penalty: Imprisonment for 6 months.

- (11) Where the presiding officer at a polling place believes, on reasonable grounds, that a person, by his or her conduct at the polling place, is or is likely to disrupt the orderly conduct of voting or the counting of votes at the polling place, the presiding officer may, whether or not the person is a candidate or a candidate's representative or is entitled to vote at the polling place and has not voted, direct the person to leave and remain away from the polling place, and the person shall leave and remain away from the polling place in accordance with the direction.

Penalty: 10 penalty units or imprisonment for 6 months.

53 Employee wishing to vote

- (1) Subject to subregulation (2), where an elector notifies his or her employer that he or she desires leave of absence to enable him or her to vote at an election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him or her leave of absence without a penalty or disproportionate deduction of pay for such reasonable period, not exceeding 2 hours, as is necessary to enable the employee to vote at the election.

- (2) No employee shall, under pretense that he or she intends to vote at an election, but without the bona fide intention of so doing, obtain leave of absence under this regulation.

Penalty: 1 penalty unit.

- (3) This regulation does not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which he or she is engaged.

Part VII Determination of results of polling

54 Definitions

In this Part:

ballot-paper includes a ballot-paper issued under regulation 28A or 46.

officer means a returning officer or an assistant returning officer.

postal ballot-paper means a ballot-paper issued under Part V.

55 Determination

The results of a poll shall be ascertained in accordance with this Part.

56 Candidate's representative at determination

- (1) A candidate may appoint such persons as he or she thinks fit to be his or her representatives at a place at which the results of the poll are determined.
- (2) Where, at a place referred to in subregulation (1), tables are used for the purposes of counting the ballot-papers in respect of the poll to which the place relates, not more than one candidate's representative per candidate per table shall enter or remain in that place.

Penalty: 20 penalty units or imprisonment for 6 months.

- (3) An appointment under subregulation (1) shall be made by notice in writing:
 - (a) addressed to the officer conducting the determination of the results of the poll;
 - (b) signed by the candidate; and
 - (c) stating the name and address of the candidate's representative.

57 Proceedings at determination

- (1) Candidates' representatives and such other persons who are approved by the officer conducting a determination may be present at the determination of the results of a poll.

- (2) Proceedings at a determination of the results of a poll shall be open to inspection by candidates' representatives.
- (3) An officer conducting a determination of the results of a poll may adjourn the determination from time to time.

58 Conduct of determination

- (1) An officer conducting a determination of the results of a poll shall:
 - (a) open the ballot-boxes under his or her control;
 - (b) notwithstanding paragraphs (c) to (f) inclusive, where he or she is not the returning officer for the municipality in respect of which the vote on a ballot-paper contained in an envelope is cast – transmit, unopened, all envelopes containing such ballot-papers received by him or her to the returning officers for the municipality in respect of which the votes on such ballot-papers are cast;
 - (c) place all informal ballot-papers in a parcel;
 - (d) arrange all formal ballot-papers under the names of the candidates in respect of whom the first preference vote on the papers was cast;
 - (e) count the first preference votes given for each candidate on formal ballot-papers;
 - (f) make and sign a statement setting out the number of:
 - (i) votes cast as first preference votes for each candidate; and
 - (ii) informal votes;
 - (g) where he or she is not the returning officer for the municipality in respect of which the election is being held – transmit the information contained in the statement referred to in paragraph (f) to the returning officer for the municipality in respect of which the election is being held;
 - (h) place all formal ballot-papers referred to in paragraph (d) in separate parcels according to the candidate in respect of whom the first preference vote was cast;
 - (j) seal the parcels referred to in paragraphs (c) and (h) and endorse on each parcel a statement of the contents; and

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- (k) where he or she is not the returning officer for the municipality in respect of which the election is being held – transmit to the returning officer for the municipality in respect of which the election is being held, as soon as practicable, all the parcels and statements.
 - (2) A candidate's representative may sign:
 - (a) a statement referred to in subregulation (1)(f); and
 - (b) a parcel referred to in subregulation (1)(h).
 - (3) The returning officer for a municipality in respect of which votes on ballot-papers used for voting under regulation 46 are cast, shall, in accordance with regulation 60, examine, count and deal with those ballot-papers.

59 Checking postal vote certificates

- (1) The returning officer for a municipality in respect of which votes on postal ballot-papers are cast shall, at such times as he or she considers practicable after the receipt of a postal vote, in the presence of another officer or a person approved by him or her:
 - (a) compare the signature of the elector on his or her postal vote certificate with the signature of the same elector on his or her application for a postal ballot-paper;
 - (b) where satisfied that:
 - (i) the elector's signature on his or her postal vote certificate is that of the elector who signed the application referred to in paragraph (a);
 - (ii) the signature purports to be witnessed by an authorized witness; and
 - (iii) the vote marked on the postal ballot-paper contained in the envelope purports to have been cast before 6.00 pm on polling day,
- the returning officer must:
- (iv) place a mark against the name of the elector on a certified list of voters to be used by him or her for the purposes of the determination of the results of the poll; and
 - (v) place the envelope unopened in the postal ballot-box referred to in regulation 28; and

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- (c) if not satisfied of the matters referred to in paragraph (b)(i), (ii), and (iii), mark the unopened envelope with the word "rejected" and place it in the postal ballot-box referred to in regulation 28.
- (2) The returning officer for a municipality in respect of which votes on postal ballot-papers are cast shall, at such times as he or she considers practicable after the close of polling, but not earlier than the time specified in paragraph (a), in the presence of such candidates' representatives as choose to attend and other persons approved by him or her:
- (a) produce unopened all envelopes containing postal ballot-papers received by him or her not later than 6.00 pm on the Friday next following polling day;
 - (b) allow candidates' representatives to inspect postal vote certificates marked with the word "rejected" and:
 - (i) exclude the postal ballot-papers contained in those unopened postal vote certificates from the determination of the results of the poll; and
 - (ii) place postal vote certificates, unopened, in a parcel;
 - (c) withdraw from each envelope admitted to the determination of the results of the poll, the postal ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, deposit the folded postal ballot-paper in a locked and sealed ballot-box;
 - (d) place all envelopes from which postal ballot-papers were withdrawn in accordance with paragraph (c) in a parcel; and
 - (e) seal the parcels referred to in paragraphs (b) and (d) and endorse on each parcel a statement of its contents.

60 Examination of regulation 46 declarations

- (1) A returning officer for a municipality in respect of which votes on ballot-papers used for voting under regulation 46 are cast shall, after the close of the polling, in the presence of such candidates' representatives as choose to attend and other persons approved by the returning officer:
- (a) produce unopened all envelopes containing ballot-papers;
 - (b) examine each envelope and where satisfied that:
 - (i) the declaration on the envelope is properly signed and attested; and

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- (ii) the person who made the declaration is, in his or her opinion, entitled to vote in respect of, and, in the case of a person who made a declaration under regulation 46(2) or (3), enrolled for, the municipality in respect of which the returning officer is appointed,

the returning officer must:

- (iii) place a mark against the name of the person, other than a person who made a declaration under regulation 46(1), on a certified list of voters to be used by him or her for the purposes of the determination of the results of the poll;
 - (iv) withdraw from the envelope the ballot-paper and, without inspecting it or unfolding the ballot-paper or allowing any other person to do so, deposit the folded ballot-paper in a locked and sealed ballot-box; and
 - (v) place the envelope from which the ballot-paper has been withdrawn in a parcel together with all other envelopes from which ballot-papers have been withdrawn in accordance with subparagraph (iv);
- (c) if not satisfied of the matters referred to in paragraph (b)(i) and (ii), exclude the ballot-paper from the determination of the results of the poll, without opening the envelope in which it is contained;
 - (d) place in a parcel the unopened envelopes bearing declarations made under regulation 46 of those persons whose ballot-papers he or she has excluded from the determination of the results of the poll; and
 - (e) seal up the parcels referred to in paragraphs (b), (c) and (d) and endorse on each parcel a statement of its contents.
- (2) The returning officer for a municipality in respect of which votes on ballot-papers used for voting under regulation 46 are cast shall not exclude such ballot-paper from the determination of the results of the poll by reason only of the fact that the presiding officer of the polling place where the vote was cast omitted to attest the declaration of the voter where the voter's name appears on the record made and signed by the presiding officer in accordance with regulation 46.

61 Part-counting of votes

It is not necessary for a returning officer, for the purposes of regulations 59 and 60, to await the receipt of all envelopes

containing postal ballot-papers or ballot-papers issued under regulation 46 before he or she proceeds to deal with such postal ballot-papers or ballot-papers, as the case may be, in accordance with regulation 58(1), but sufficient uncounted postal ballot-papers or ballot-papers issued under regulation 46 shall be kept in the ballot-box referred to in regulation 59(2)(c) or 60(1)(b)(iv), as the case may be, to ensure that any postal ballot-papers or ballot-papers for an election which are taken from a ballot-box for the purpose of being counted are taken from a number sufficient to prevent the identity of the voters from being disclosed.

62 Omissions and errors in ballot-papers

- (1) Without derogating from these Regulations:
 - (a) a postal ballot-paper shall not be counted where it is received by a returning officer otherwise than in the envelope bearing the postal vote certificate; and
 - (b) a ballot-paper issued under regulation 46 shall not be counted where it is received by a returning officer otherwise than in the envelope bearing the declaration of the voter.
- (2) A postal ballot-paper or a ballot-paper issued under regulation 46 is not to be rejected as being informal by reason only of:
 - (a) the name of a wrong municipality or ward appearing on it;
 - (b) the omission of the name of the municipality or ward from the postal ballot-paper or ballot-paper in a case where the name of the municipality or ward for which the voter is enrolled appears on the postal vote certificate or the declaration signed by the elector, as the case may be;
 - (c) the surname only of a candidate being written on it in a case where no other candidate has the same surname; or
 - (d) a mistake in spelling of the name of a candidate in a case where, in the opinion of the returning officer, there is no doubt as to the identity of the candidate.

63 Objections by candidate's representatives

- (1) A candidate's representative may object to the officer conducting a determination of the results of a poll as to the admission or rejection of a ballot-paper as a formal ballot-paper.
- (2) The officer conducting a determination of the results of a poll shall determine an objection made under subregulation (1) by admitting or rejecting the ballot-paper which is the subject of the objection as

a formal ballot-paper and shall mark the ballot-paper "admitted" or "rejected" according to his or her decision.

- (3) Nothing in this regulation shall prevent the officer conducting a determination of the results of a poll from rejecting any ballot-paper as being informal although no objection is made to it.
- (4) A reference in this regulation to the officer conducting a determination of the results of a poll shall be read as a reference to the returning officer for the municipality in respect of which the election is being held in the application of this regulation to a ballot-paper used for voting under regulation 46.

64 Determination of first preference votes

A returning officer conducting a determination of the results of a poll shall, from the statements made under regulation 58 and the result of the scrutiny of the votes counted by him or her, determine the number of first preference votes cast in respect of each candidate for the municipality or ward in respect of which he or she is returning officer.

65 Method of determining election

An election for the office of mayor or the office of alderman of a municipality or ward is to be determined in accordance with Schedule 2.

67 Disregarding certain votes

A returning officer conducting a determination of the results of a poll may declare a candidate to be elected where he or she is satisfied that any ballot-papers which have not been:

- (a) received by him or her; or
- (b) dealt with in accordance with these Regulations,

cannot, due to the number of those ballot-papers, affect the outcome of a determination of the results of a poll.

68 Re-count

- (1) A returning officer conducting a determination of the results of a poll may at any time before a candidate is declared to be elected, on the written request of a candidate or of his or her own motion, re-count any ballot-papers placed in a parcel in accordance with this Part.

- (2) A request under subregulation (1) shall contain a statement of the reasons for the request.

69 Applicable provisions for re-count

- (1) The provisions of this Part shall apply to and in relation to a re-count of any ballot-papers under regulation 68 as if the re-count were the determination of the results of a poll, and any decision in relation to the determination as to the admission or rejection of a ballot-paper as a formal ballot-paper may be reversed.
- (2) If the votes of 2 or more candidates are equal and one of them was excluded by lot at the count, the same candidate must be excluded at the re-count.

70 Referral of question to returning officer

- (1) Where an officer conducting a re-count under regulation 68 is not the returning officer, he or she shall, if so required by a candidate's representative, refer a question relating to the formal or informal nature of a ballot-paper to the returning officer.
- (2) The returning officer shall decide any question referred for his or her decision under subregulation (1).

71 Public declaration of result

A returning officer conducting a determination of the results of a poll shall, as soon as practicable after the results have been determined, publicly declare the results and the name of each candidate returned as elected.

72 Declaration of poll

A returning officer conducting a determination of the results of a poll shall, after declaring a candidate returned as elected under regulation 71:

- (a) by writing signed by the returning officer, send a copy of the declaration to the Minister and to the chief executive officer of the municipality in which the election was held; and
- (b) give public notice of the results of the poll.

Part VIIA Electoral disputes

72B Method of disputing validity of election

- (1) The validity of an election may be disputed by petition addressed to the Tribunal, but not otherwise.
- (2) A petition shall, in respect of the election to which it relates:
 - (a) set out the facts relied on to invalidate the election;
 - (b) set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;
 - (c) contain a prayer asking for the relief the petitioner claims to be entitled to;
 - (d) be signed by the person making the petition;
 - (e) be attested by 2 witnesses whose occupations and addresses are stated; and
 - (f) be filed with the Registrar of the Local Court not later than 21 days after the day of the public declaration under regulation 71 in relation to the election.

72C Persons to be served

- (1) A notice of the lodging of a petition and a copy of the petition shall be served on:
 - (a) the returning officer; and
 - (b) where the petition claims a seat for a candidate who has not been declared under section 48 of the Act as the mayor or an alderman or to fill the office of member which has become vacant, as the case may be – the candidate, if any, so declared,

which persons so served shall be parties to the proceedings under this Part.

- (2) Where a petition disputes the validity of the election as mayor of a candidate for election as alderman as referred to in regulation 66(2), a notice of the lodging of the petition and the copy of the petition shall also be served on each person who was a candidate for election as alderman at the election and a person so served shall also be a party to the proceedings.

- (3) Where a person served in accordance with subregulation (1) or (2) with a petition proposes to contest the petition, the person shall, not later than 7 days after the service, or such further time as allowed by the Tribunal, lodge a reply to the petition with the Registrar and the petitioner.
- (4) A reply referred to in subregulation (3) shall:
 - (a) set out the facts on which the person proposes to rely;
 - (b) ask for the relief to which the person claims to be entitled;
 - (c) be signed by the person; and
 - (d) other than where the reply is by the returning officer, be attested by 2 witnesses whose occupations and addresses are stated.

72D No proceedings unless requisites complied with

A petition shall not be proceeded with unless the requirements of regulations 72B and 72C are complied with.

72E Powers of Tribunal

- (1) Subject to regulation 72G, the powers of the Tribunal shall include the power to:
 - (a) declare that a person whose name was declared under section 48(2) of the Act was not duly elected (including as a consequence of a decision of the Tribunal relating to an election of mayor or an alderman in circumstances referred to in clause 8 of Schedule 2);
 - (b) declare under section 48(2) of the Act the name of the mayor or alderman or of the person to fill the office of a member, as the case may be;
 - (c) declare an election void; and
 - (d) dismiss or uphold a petition, in whole or in part.
- (2) The Tribunal may exercise all or any of its powers under this section on such grounds as it thinks fit.
- (3) Without limiting the powers conferred by this regulation, the power of the Tribunal to declare that a person returned as elected was not duly elected or to declare an election void, may be exercised on the ground that illegal practices were committed in connection with the election.

72F Inquiries by Tribunal

- (1) The Tribunal shall inquire whether or not the requirements of regulations 72B and 72C have been complied with and, so far as voting is concerned, may inquire into the identity of persons and whether their votes were improperly admitted or rejected, and whether the result of the polling was correctly ascertained, but the Tribunal shall not inquire into the correctness of a roll and shall take the roll to be conclusive evidence that the persons enrolled were, at the time of the public declaration under regulation 71 in relation to the election, entitled to be enrolled.
- (2) The qualification of a person enrolled shall not be questioned, and an election shall not be declared void, on the ground that a person whose name appears on the roll for a municipality, and who has voted as an elector for the municipality, was not qualified to be enrolled or to continue to be enrolled as an elector for that municipality.

72G Exercise of powers

- (1) The Tribunal shall not exercise the power referred to in regulation 72E(1)(a) or (b) on the ground of:
 - (a) an action which occurred without the knowledge of the candidate declared elected at an election; or
 - (b) the commission of an offence against the Act or these Regulations by the candidate declared elected at an election,unless it is satisfied:
 - (c) that the result of the election was likely to have been affected by that action or the commission of the offence; and
 - (d) that it is just that the Tribunal exercise that power.
- (2) The Tribunal shall not:
 - (a) in determining whether the actions of a presiding officer affected the results of an election, admit evidence of the manner in which a person, who was wrongly prevented from voting at an election by a presiding officer, would have voted; or
 - (b) admit evidence from a person referred to in paragraph (a) unless the person satisfies the Tribunal that the person was wrongly prevented from voting.

72H Reporting of offences

Where the Tribunal finds that a person has committed an offence against the Act or these Regulations, the Registrar shall, as soon as practicable, report that finding to the Minister.

72I Tribunal may have regard to certain rejected ballot-papers

In making its decision on a petition, the Tribunal may have regard to:

- (a) ballot-papers used for voting under Division 3 of Part 3 of the Act or these Regulations rejected at the determination, if satisfied that the votes marked on the ballot-papers were recorded before the close of the poll; and
- (b) any ballot-paper for voting under Part V or regulation 28A or 46 rejected at the determination if of the opinion that the ballot-papers should not have been rejected.

72J Immaterial errors not to vitiate election

An election shall not be voided on account of a delay in the declaration of nominations, the polling or the public declaration under regulation 71 in relation to the election.

72K Returning officer to receive copy of petition and decision

The Registrar shall:

- (a) as soon as practicable after the issue of a petition; and
- (b) after the determination of the petition,

forward to the returning officer a copy of the petition and a copy of the order of the Tribunal made after the determination.

Part VIII Offences**73 Exemption of public policy statements**

Notwithstanding anything contained in these Regulations, no declaration of public policy or promise of public action shall be construed as an offence.

74 Printing of advertisements

(1) No person shall:

- (a) print or publish a printed electoral advertisement, handbill or pamphlet, other than an advertisement in a newspaper, without the name and place of business (if any) of the printer or other person producing the matter being printed at the foot of the matter;
- (b) publish an electoral advertisement, handbill or pamphlet or issue an electoral notice, other than the announcement by advertisement in a newspaper of the holding of a meeting, without the name and address of the person authorizing the advertisement, handbill, pamphlet or electoral notice appearing at the end of the document;
- (c) print, publish or distribute an electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, having on it any directions intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote;
- (d) print, publish or distribute an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote; or
- (e) wilfully inform an elector that he or she is not enrolled, or that he or she is not enrolled for a particular municipality or ward where he or she is enrolled, or is enrolled for that municipality or ward, as the case may be.

Penalty: 10 penalty units or imprisonment for 6 months.

- (2) In subregulation (1) ***publish*** and ***distribute*** include publish and/or distribute by electronic means and that subregulation applies whether or not the electronic means results in the production of printed matter.

75 Heading of advertisements

The proprietor of every newspaper published or distributed in the Territory shall cause the word "advertisement" to be printed as a headline in letters not smaller than 10 point to each article or paragraph in his or her newspaper containing:

(a) matter intended or calculated to affect the result of an election;
or

(b) a report of a speech of a candidate,

the insertion of which is or is to be paid for or for which any reward or compensation or promise is or is to be made.

Penalty: 10 penalty units or imprisonment for 6 months.

76 Articles to be signed

(1) Subject to subregulation (3), on and after the close of a roll under regulation 10 and before the close of polling for an election, every article, report, letter or other matter commenting on a candidate, political party or the issues being submitted to the electors at the election, published in a newspaper, circular, pamphlet or handbill shall:

(a) be signed by the author; or

(b) state the true name and address of the author at the end of the article, report, letter or other matter, or that part of it which is published.

Penalty: 10 penalty units or imprisonment for 6 months.

(2) Subject to subregulation (3), a newspaper editor or proprietor who permits, in a newspaper which he or she edits or owns, the contravention or failure to comply with subregulation (1) is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months.

(3) This regulation does not apply to the publication in a newspaper of:

(a) a leading article; or

(b) an article which consists solely of a report of a meeting and does not contain any comment, other than comment made by a speaker at the meeting, on any candidate or political party or the issues being submitted to the electors.

77 Untrue statements

No person shall make an untrue statement or supply false information:

- (a) to an officer for the purposes of or in connection with:
 - (i) the preparation, maintenance and revision of a roll; or
 - (ii) obtaining a ballot-paper; or
- (b) in any document required by or under these Regulations to be signed by the person.

Penalty: 20 penalty units or imprisonment for 2 years.

78 Signature to papers

- (1) Where a person who is required by these Regulations to sign a document is unable to sign his or her name in writing and instead makes his or her mark as his or her signature, the mark shall be deemed to be his or her personal signature where, subject to subregulation (2), it is made in the presence of a witness who signs the document as witness.
- (2) Where a person of a description referred to in subregulation (1) makes an application for a postal ballot-paper or completes a postal vote certificate, a reference in subregulation (1) to a witness who signs the document as witness shall be read as a reference to 2 witnesses who sign the application or postal vote certificate, as the case may be, as witnesses.
- (3) No person shall make the signature of any other person on a document required by these Regulations to be signed by the other person.

Penalty: 20 penalty units or imprisonment for 6 months.

79 Witnesses to papers

- (1) No person shall:
 - (a) sign his or her name as witness on a blank document which is required by these Regulations to be witnessed;
 - (b) sign his or her name as witness on a document required by these Regulations to be witnessed which has been wholly or partly completed unless it has been signed by the person intended to sign it;

- (c) sign his or her name as witness on a document required by these Regulations to be witnessed unless he or she has seen the person, whose signature he purports to witness, sign it; or
- (d) write a name other than his or her own name as his or her own name on a document required by these Regulations.

Penalty: 20 penalty units or imprisonment for 6 months.

- (2) No nominee or candidate shall sign his or her name as witness on a document required by these Regulations to be witnessed.

Penalty: 1 penalty units.

80 Prohibition of canvassing near polling booths

Subject to these Regulations, no person shall, during polling hours on polling day or a day to which polling is adjourned, within 10 metres of the entrance of a polling place, or by means of sound amplification with the intention that the message is audible in or within 10 metres of the entrance of a polling place:

- (a) canvass for votes;
- (b) solicit the vote of an elector;
- (c) induce an elector not to vote for a particular candidate;
- (d) induce an elector not to vote at the election; or
- (e) exhibit a notice or sign relating to the election.

Penalty: 10 penalty units.

81 Making unauthorized marks

- (1) No person shall, without lawful authority, proof of which authority lies on him or her:
 - (a) make on or in a paper a mark required by these Regulations to be placed on or in the paper;
 - (b) have in his or her possession any paper bearing a mark referred to in paragraph (a); or
 - (c) make, use or have in his or her possession an instrument capable of making on or in a paper a mark referred to in paragraph (a) other than an instrument used for the purposes of voting.

Penalty: 20 penalty units or imprisonment for 6 months.

- (2) A person who, without lawful authority, proof of which authority lies on him or her, makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, a mark referred to in subregulation (1)(a), shall be deemed to have forged the ballot-paper.
- (3) A paper bearing a mark referred to in subregulation (1)(a), and all instruments capable of making that mark on or in a paper made, used or in the possession of any person without lawful authority, proof of which authority lies on him or her, shall be forfeited to the Territory, and may without warrant be seized by any member of the Police Force and destroyed or dealt with in such manner as the Commissioner of Police thinks fit.

82 Forged documents

No person shall forge or utter, knowing it to be forged, a document required by these Regulations.

Penalty: 20 penalty units or imprisonment for 6 months.

83 Publication of matter regarding candidates

- (1) No person shall announce or publish or cause to be announced or published on behalf of any person or body of persons, without the written authority of the candidate, proof of which authority lies on that person, that a candidate in an election is associated with, or supports the policy or activities of, that person or body of persons.

Penalty: 10 penalty units or imprisonment for 6 months.

- (2) Where a matter, the announcement or publication of which by a person without the written authority of a candidate would be an offence against subregulation (1), is announced or published by or on behalf of or with the support of a body corporate or body of persons, every person who is an officer of the body at the time of the announcement or publication shall be guilty of an offence against subregulation (1).
- (3) For the purposes of this regulation, where a matter purports expressly or impliedly to be announced or published by or on behalf of or in the interests or with the support of a person or body of persons, the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf of or with the support of the person or body of persons.
- (4) Nothing in this regulation shall apply to or in relation to an announcement or publication made or authorized by a bona fide political party or by a bona fide branch of such a party respecting a candidate who, by public announcement, has declared his or her

candidature on behalf of or in the interests of that party.

84 Failure to vote

- (1) As soon as practicable after an election, the returning officer shall prepare a list of electors for his or her municipality who failed to vote at the election.
- (2) The returning officer may, within 3 months after the declaration of the results of the poll, send a written notice by post to an elector whose name appears on the list referred to in subregulation (1) requiring the elector, within 21 days after receiving that notice, to give an explanation of his or her reasons for failing to vote at the election.
- (2A) Where a person to whom a notice under subregulation (2) has been sent does not, within the time specified, give an explanation for not having voted or gives an explanation which, in the opinion of the returning officer, subject to subregulation (3), is not a satisfactory explanation for not having done so, the returning officer shall, by notice in writing posted to the person, so advise the person and further advise him or her that legal proceedings may be commenced against him or her.
- (3) Where a person to whom a notice under subregulation (2) has been sent has not voted at the election to which the notice relates because of his or her religious beliefs, the person may, for the purposes of subregulation (2A), give those religious beliefs as his or her explanation for not having voted at that election and, where such an explanation is given, that explanation shall be deemed, for the purposes of subregulation (2A), to be a satisfactory explanation for not having voted at that election.
- (4) A returning officer shall, for the municipality for which he or she is the returning officer, keep a register of the name and address of each person who has, in pursuance of subregulation (3), given his or her religious beliefs as an explanation for not having voted at an election.
- (5) In any legal proceedings commenced against an elector for failing to vote at an election the returning officer shall send to the court before which the charge is to be heard the explanation under this regulation, if any, of the elector.
- (6) In any legal proceedings referred to in this regulation the court shall, whether or not the defendant is present, consider the contents of the written explanation of an elector as if it were given in evidence before the court.
- (7) Where an elector attends the court and sets up a defence different in substance from the explanation contained in his or her written

explanation under this regulation, the court shall, where it dismisses the complaint, do so without awarding the defendant the costs of his or her defence.

- (8) A complaint for an offence against section 42 of the Act may be made within 6 months from the time when the matter of the complaint arose.

85 Court hearing

- (1) In any proceedings referred to in regulation 84, there shall be served on the defendant a notice that the defendant may attend the court and answer the charges in person or may, at any time not less than 7 days before the date fixed for the hearing, lodge with or send by post to the prosecuting officer a statutory declaration setting out any matter he or she desires to set out in answer to the charge.
- (2) A notice referred to in subregulation (1) may be written on the summons or may be a separate document served with the summons.
- (3) Where a statutory declaration is received by the prosecuting officer in pursuance of subregulation (1), he or she shall, as far as it is practicable for him or her so to do, inquire into the truth of its contents and shall, unless he or she withdraws the prosecution, bring the declaration to the notice of the court.
- (4) The court shall, at the hearing of the case, consider the statutory declaration, whether the defendant is present or not, as if its contents were given in evidence before it, but where the defendant attends the court and sets up a defence different in substance from the statement contained in his or her declaration, the court shall, where it dismisses the prosecution, do so without awarding the defendant the costs of his or her defence.
- (5) The court may, in its discretion, on the application of the prosecuting officer, adjourn the hearing for any period it thinks fit, to enable that officer to answer the declaration.

Part IX Miscellaneous

86 Disclosure of information

A person who is or has been an officer shall not, except for the purposes of these Regulations, disclose any document or information which he or she has received while acting or purporting to act in accordance with his or her duty as an officer.

Penalty: 20 penalty units or imprisonment for 6 months.

87 Undertaking by officers and candidates' representatives

- (1) All officers conducting an election and candidates' representatives present at a polling place during an election or candidates' representatives present at a place at which the results of a poll are determined during that determination or any part of it, shall make and subscribe an undertaking in accordance with Form 8.
- (2) An omission by an officer or a candidate's representative to make or subscribe an undertaking required by this regulation to be made or subscribed shall not be grounds for setting aside an election.

88 Destruction of ballot-papers

- (1) A returning officer shall preserve all:

- (a) ballot-papers;
- (b) certified lists of voters; and
- (c) declarations,

used at an election until 6 months after the date of the public declaration of the poll, at which time he shall arrange for their destruction.

- (2) An omission by an officer or a candidate's representative to make or subscribe an undertaking required by this regulation to be made or subscribed shall not be grounds for setting aside an election

89 Regulatory offences

An offence against or contravention or failure to comply with regulation 19(5), 25(13), 26, 31(2), 35, 37, 51(2) or 79 is a regulatory offence.

Schedule 1

FORM 1

NORTHERN TERRITORY OF AUSTRALIA

regulation 12(2)

Local Government (Electoral) Regulations

NOMINATION OF MAYOR OR ALDERMAN

To the returning officer for the municipality of *(insert name of municipality)*

WE, being electors of the municipality/ward of hereby
nominate

Given Names <i>(in full)</i>	Surname <i>(in block letters)</i>	Address
Here insert given name or names in full, surname and place of residence of person nominated		

as a candidate for the office of mayor/alderman of the municipality/ward of . . .
.....

Dated this day of 20.....

To be completed by nominators:

A nomination must be signed by 3 persons entitled to vote at the election

Name of nominators <i>(In block letters)</i>	Signature of nominators	Address

To be completed by nominee (*use block letters*)

I.....
(*given names*) (i)surname)

of

declare that I am a person entitled to hold, in accordance with section 9 of the *Local Government Act*, the office of mayor/alderman and hereby consent to be nominated for the office of mayor/alderman.

Dated this day of 20....

.....
(*Signature of nominee*)

FORM 2

regulation 14(1)

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

WITHDRAWAL BY CANDIDATE OF CONSENT TO NOMINATION

To the returning officer for the municipality of *(insert name of municipality)*

I *(insert given names, surname and address)* do hereby withdraw my consent to my nomination as a candidate for the office of mayor/alderman for the municipality/ward of

Dated the day of 20

.....
(*Signature of nominee*)

FORM 3

regulation 19(2)

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

APPLICATION FOR POSTAL BALLOT-PAPER

To the returning officer for the municipality of *(insert name of municipality)*

I *(insert given names, surname and address as appearing on the roll)*, hereby apply for a postal ballot-paper to enable me to vote by post at the next forthcoming election.

I declare:

- (1) that I am an elector enrolled on the roll for the municipality/ward of *(insert name of municipality/ ward)*;
- (3) that the ground on which I apply to vote by post is:
 - (a) that I will not, throughout the hours of polling on polling day, be within the municipality or within 20 kilometres of a polling place;
 - (b) that I will, throughout the hours of polling on polling day, be travelling under such conditions as will preclude me from voting at a polling place within the municipality;
 - (c) that I will, by reason of illness, infirmity or approaching maternity, be precluded from attending at a polling place;
 - (ca) that I will, throughout the hours of polling, be unable to attend a polling place because I will be at a place caring for a person who is seriously ill or infirm or who is expected shortly to give birth;
 - (cb) that my address has been excluded from the roll;
 - (cc) that, throughout the hours of polling, I will be engaged in employment or occupation and:
 - (i) I am not entitled to leave of absence under regulation 53; or
 - (ii) my absence for the purpose of attending at a polling place to vote would be likely to cause loss to me in my occupation;
 - (d) that I will, by reason of my membership of a religious order, or my religious beliefs, be precluded:
 - (i) from attending at a polling place; or

-
- (ii) from attending at a polling place throughout the hours of polling on polling day or throughout the greater part of those hours; or
- (e) that I will not, by reason of being a prisoner, be able to attend at a polling place on polling day.

(strike out the grounds that are not applicable)

The address to which the postal ballot-paper may be posted to me is:

.....
.....

.....
(Signature of elector)

Signed by the elector in the presence of

Name:

Address:

Title under which witness acts as authorized witness, if witness is a person other than a person who is enrolled, or entitled to be enrolled, as a Commonwealth, Territory or State elector:

.....
(Signature of authorized witness)

Where an elector makes his or her mark as his or her signature, the mark must be made in the presence of, and witnessed by, another person, other than the authorized witness, who shall also sign the declaration.

Signed before me at

Dated this day of, 20...

.....
(Signature of witness)

Note

Authorized Witness – The following persons are authorized witnesses for the purpose of postal voting by electors:

A person who is enrolled, or is entitled to be enrolled, as a Commonwealth, Territory or State elector and, where an application is made outside the Commonwealth, also includes a person who is:

- (a) an officer of the naval, military or air forces of the Commonwealth, or a member of the Australian Embassy, or a Trade Commissioner or Assistant Trade Commissioner within the meaning of the *Trade Representatives Act 1933* of the Commonwealth; or
- (b) a Justice of the Peace, Commissioner for Oaths, Commissioner for Affidavits, Commissioner for Declarations, or Notary Public, appointed under a law of the Commonwealth, a State or another Territory of the Commonwealth.

FORM 4

regulation 21(1)(a)

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

POSTAL VOTE CERTIFICATE

I hereby certify that

of is entitled to vote by post in
 respect of the municipality/ ward of at the
 election to be held on 20.....

Returning Officer for the municipality of

.....

I declare that I am the person referred to above and am enrolled as

Surname	Given names (in full)	Place of residence (as appearing on roll)

on the roll of electors for the above-named municipality/ ward.

That I have not already voted in connection with the election to which the
 above certificate relates, and I promise and declare that if I am permitted to
 vote I will not again vote in connection with the said election.

.....
 (Signature of elector)

Signed before me at the day of
 20..... at a.m./p.m.

.....
 (Signature of authorized witness)

Name

Address

Title under which witness acts as authorized witness if witness is a person other than a person who is enrolled, or entitled to be enrolled, as a Commonwealth, Territory, or State elector

Signed before me at

Dated this day of 20.... at a.m/p.m.

.....
(Signature of authorized witness)

Where a voter makes his or her mark as his or her signature, the mark must be made in the presence of, and witnessed by, another person, other than the authorized witness, who shall also sign the declaration.

Signed before me at

Dated this day of 20....

.....
(Signature of witness)

FORM 5

regulation 21(1)(b)

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

POSTAL BALLOT-PAPER

ELECTION OF MAYOR/ALDERMAN FOR THE MUNICIPALITY/WARD OF

.....

DIRECTIONS: Mark your vote on this ballot-paper by placing the numbers (*insert "1" and "2" where there are 2 candidates, "1", "2" and "3" where there are 3 candidates, "1", "2", "3" and "4" where there are 4 candidates, and so on as the case requires*) in the squares respectively opposite the names and photographs of the candidates so as to indicate the order of your preference for them; fold the ballot-paper, place it in the envelope addressed to the returning officer and fasten the envelope.

CANDIDATES

[]
[]
[]
[]

Notes

1. The elector must not mark his or her vote hereon until after he has first shown the ballot-paper (*unmarked*) to the authorized witness.
2. Unless the elector's vote is marked on the ballot-paper on or before 6 o'clock in the evening on polling day, namely the (*insert date of polling day*) and is received by the returning officer before 6.00 pm on the Friday next following polling day it will not be included in the determination of the results of the election.

FORM 6

regulation 33

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

BALLOT-PAPER

ELECTION OF MAYOR/ALDERMEN FOR THE MUNICIPALITY/WARD OF

.....

DIRECTIONS: Mark your vote on this ballot-paper by placing the numbers (*insert "1 and 2" where there are 2 candidates, "1", "2" and "3" where there are 3 candidates, "1", "2", "3" and "4" where there are 4 candidates, and so on, as the case requires*) in the squares respectively opposite the names and photographs of the candidates so as to indicate the order of your preference for them.

CANDIDATES

[]

[]

[]

[]

FORM 7

regulation 46

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

DECLARATION UNDER REGULATION 46

To the Returning Officer for the:

Municipality/Ward

Surname

Given Names

Address for which you claim to be
enrolled

Date of Birth

Names that you may have been
previously enrolled as

The grounds for issuing ballot-papers under Regulation 46 of the *Local Government (Electoral) Regulations* are listed on the other side of this Form.

I declare that (tick the relevant
box):

DECLARATION
UNDER
Regulation 46(1)

- I have complied with Part VIII of the *Commonwealth Electoral Act 1918* of the Commonwealth before the close of the roll for the election.
- To the best of my knowledge no objection has been upheld in relation to the inclusion of my name on a roll.
- I am not qualified for enrolment in a municipality or ward other than this municipality or ward.

DECLARATION
UNDER
Regulation 46(2)

I have not already voted. (See note on the other side of the form regarding postal ballot-paper.)

DECLARATION UNDER Regulation 46(3)	I am enrolled in another municipality or ward other than the municipality or ward in respect of which the polling place is appointed and that I have not already voted at the election.
------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Signature of Elector

Signature of Presiding Officer

Polling Place

Date

(Reverse side of form)

GROUND FOR ISSUING BALLOT-PAPERS UNDER REGULATION 46 OF THE LOCAL GOVERNMENT (ELECTORAL) REGULATIONS

Regulation 46(1)

The voter's name is not on the certified list of voters for the municipality or ward for which the polling place has been appointed and the voter wishes to make a declaration under regulation 46(1) of the *Local Government (Electoral) Regulations* so that the voter may be issued with a ballot-paper.

Regulation 46(2)

The voter's name has been previously marked on a certified list of voters in accordance with regulation 42(3) of the *Local Government (Electoral) Regulations* or the voter has been issued with a postal ballot-paper and the voter wishes to make a declaration under regulation 46(2) of those Regulations so the voter may be issued with a ballot-paper.

Note: If the voter is in possession of a postal ballot-paper it is required to be surrendered to the presiding officer.

Regulation 46(3)

The voter's name is not on a certified list of voters for the municipality or ward in respect of which the polling place is appointed (but the voter is enrolled in another municipality or ward and has not already voted) and the voter wishes to make a declaration under regulation 46(3) of the *Local Government (Electoral) Regulations* so that the voter may be issued with a ballot-paper.

FORM 8

regulation 87

NORTHERN TERRITORY OF AUSTRALIA

Local Government (Electoral) Regulations

UNDERTAKING TO BE MADE BY OFFICERS AND CANDIDATE'S
REPRESENTATIVES

I,
(Given names) (Surname)

of.....Occupation.....

promise and undertake that I will faithfully perform the duties of an officer/candidate's representative* to the best of my understanding and ability, and that I will not directly or indirectly attempt to influence the vote of any elector or, except by recording my vote as allowed by law, the result of any election, and that I will not disclose any knowledge officially acquired by me touching the vote of any elector, except in reply to a question which I am legally bound to answer.

Dated this day of, 20.....

.....
(Signature)

.....
(Signature of witness)

(*Strike out whichever is not applicable)

Schedule 2

regulation 65

METHOD OF COUNTING VOTES AT CONTESTED ELECTIONS

(1) In this Schedule:

absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers.

continuing candidate means a candidate not already elected or excluded from the count.

next preference includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate.

unrejected ballot-papers means all ballot-papers not rejected as informal.

- (2) Where one candidate only is to be elected at an election, the votes shall be counted and the result of the election ascertained by the returning officer conducting the determination of the results of the poll or under his or her direction and supervision, in accordance with the following:
- (a) the unrejected ballot-papers shall be arranged under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
 - (b) the total number of first preferences given for each candidate on each ballot-paper shall then be counted;
 - (c) the candidate who has received the largest number of first preference votes shall, where that number constitutes an absolute majority of votes, be elected;
 - (d) where no candidate has received an absolute majority of first preference votes, a second count shall be made;
 - (e) on the second count the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him or her shall be counted to the candidate next in the order of the voter's preference;

- (f) where a candidate then has an absolute majority of votes, he or she shall be declared elected, but where no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his or her ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes; and
 - (g) the candidate who receives an absolute majority of votes shall be declared elected.
- (3) Where 2 candidates are to be elected at an election, the votes shall be counted and the result of the election ascertained by the returning officer conducting the determination of the results of the poll or under his or her direction and supervision, in accordance with the following:
 - (a) one of the candidates shall be elected in accordance with clause 2;
 - (b) all the unrejected ballot-papers shall be rearranged under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in the order of the voter's preference;
 - (c) the number of ballot-papers in the parcel of each candidate shall then be counted and the total number of votes so counted to each candidate shall be ascertained;
 - (d) where a candidate then has an absolute majority of votes he shall be elected, but where no candidate then has an absolute majority of votes, the count shall proceed as provided in clause (2)(d), (e) and (f) until one candidate has received an absolute majority of votes provided that in the application of clause (2)(d) and (e) any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this clause; and
 - (e) the candidate who receives an absolute majority of votes shall be elected.
- (4) Where 3 or more candidates are to be elected at an election:
 - (a) 2 of the candidates shall be elected in accordance with clauses 2 and 3; and
 - (b) the third and every subsequent candidate shall be elected in the manner provided for the election of the second candidate

provided that a ballot-paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in the order of the voter's preference.

- (5) Where, on any count at which the candidate with the fewest number of votes has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates):
 - (a) such one of those candidates as had the fewest number of votes at the last preceding count shall be excluded; or
 - (b) where they had an equal number of votes at the last preceding count, the candidate whose name is on a slip drawn in accordance with clause (6) shall be excluded.
- (6) For the purposes of clause (5)(b), the returning officer conducting the determination of the results of the poll shall write the names of the candidates who have an equal number of votes on similar slips of paper, fold the slips so as to prevent the names being seen, mix them, and draw at random one of those slips.
- (7) Notwithstanding anything to the contrary in this Schedule, the process of counting each of the ballot-papers of an excluded candidate to the continuing candidate next in the order of the voter's preference shall not be repeated where there is only one continuing candidate, but that one continuing candidate shall be declared elected.
- (8) Where a candidate for election as alderman has been elected as mayor, the candidate is to be excluded from the election of alderman and each vote counted to the candidate in the election as alderman is to be counted to the candidate for alderman next in order of the voter's preference.
- (9) The candidates ascertained in accordance with this schedule are to be declared elected by the returning officer conducting the determination of the results of a poll.
- (10) The returning officer conducting the determination of the results of a poll must, on completing the determination –
 - (a) place in separate parcels all informal votes and all formal votes;
 - (b) seal the parcels referred to in paragraph (a) and endorse on each parcel a statement of the contents; and

-
- (c) allow any candidates' representatives present, if they desire, to sign each parcel.

ENDNOTES

1**KEY**

rKey to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

2**LIST OF LEGISLATION*****Local Government (Electoral) Regulations (SL No. 39, 1986)***

Notified	14 October 1986
Commenced	14 October 1986

Amendment of Local Government (Electoral) Regulations (SL No. 18, 1988)

Notified	11 May 1988
Commenced	11 May 1988

Amendments of Local Government (Electoral) Regulations (SL No. 5, 1992)

Notified	28 February 1992
Commenced	28 February 1992

Amendments of Local Government (Electoral) Regulations (SL No. 12, 1996)

Notified	1 March 1996
Commenced	1 March 1996

Amendments of Local Government (Electoral) Regulations (SL No. 7, 2000)

Notified	9 February 2000
Commenced	9 February 2000

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date	7 January 2004
Commenced	17 March 2004 (Gaz G11, 17 March 2004, p 8)

Electoral (Consequential Amendments) Act 2004 (Act No. 12, 2004)

Assent date	1 March 2004
Commenced	15 March 2004 (s 2, s 2 <i>Electoral Act 2004</i> (Act No. 11, 2004) and Gaz S6, 15 March 2004)

3 LIST OF AMENDMENTS

r 1A	ins No. 7, 2000, r 2
r 2	amd No. 5, 1992, r 2; No. 12, 1996, rr 2 and 22; No. 7, 2000, r 3
r 5	amd No. 7, 2000, r 4; Act No. 1, 2004, s 63
r 6	amd No. 12, 1996, r 22; No. 7, 2000, r 36 rep Act No. 12, 2004, s 7
r 7	amd Act No. 12, 2004, s 7
r 8	amd No. 12, 1996, r 3; Act No. 12, 2004, s 7
r 10	amd No. 5, 1992, r 3; No. 12, 1996, r 22; No. 7, 2000, r 5; Act No. 12, 2004, s 7
rr 11 – 12	amd No. 12, 1996, r 22; No. 7, 2000, r 36
rr 13 – 14	amd No. 7, 2000, r 36
r 15	amd No. 12, 1996, r 4; No. 7, 2000, r 36
r 16	amd No. 7, 2000, r 6
r 16A	ins No. 7, 2000, r 7
r 17	amd No. 5, 1992, r 4; No. 7, 2000, r 36
r 18A	ins No. 7, 2000, r 8 amd Act No. 12, 2004, s 7
r 19	amd No. 12, 1996, r 5; No. 7, 2000, r 9
r 20	amd No. 7, 2000, r 36
r 21	amd No. 7, 2000, r 10
rr 22 – 24	amd No. 7, 2000, r 36
r 25	amd No. 7, 2000, r 11
rr 26 – 28	amd No. 7, 2000, r 36
r 28A	ins No. 12, 1996, r 6
r 29	amd No. 12, 1996, r 7; No. 7, 2000, r 12
rr 29A – 29B	ins No. 7, 2000, r 13
r 30	sub No. 7, 2000, r 13
r 31	amd No. 7, 2000, r 36
r 33	amd No. 12, 1996, r 8; No. 7, 2000, r 36
r 34	amd No. 5, 1992, r 5; No. 7, 2000, r 36
r 35	amd No. 7, 2000, r 36
r 36	amd No. 7, 2000, r 14
r 37	amd No. 7, 2000, r 36
r 39	amd No. 12, 1996, r 9; No. 7, 2000, r 15
r 40	amd No. 7, 2000, r 36
r 42	amd No. 12, 1996, r 10; No. 7, 2000, r 36
r 43	amd No. 12, 1996, r 11; No. 7, 2000, r 36
r 45	amd No. 7, 2000, r 36
r 46	amd No. 12, 1996, r 12; No. 7, 2000, r 16
rr 47 – 48	amd No. 7, 2000, r 36
r 49	amd No. 12, 1996, r 13
r 50	amd No. 7, 2000, r 36
r 51	amd No. 7, 2000, r 17
r 52	amd No. 12, 1996, r 14; No. 7, 2000, r 36
r 53	amd No. 7, 2000, r 36
r 54	sub No. 7, 2000, r 18
r 56	amd No. 5, 1992, r 6; No. 7, 2000, r 36
r 58	amd No. 7, 2000, r 36
r 59	amd No. 7, 2000, r 19
rr 60 – 61	amd No. 7, 2000, r 36
r 62	amd No. 7, 2000, r 20
rr 63 – 64	amd No. 7, 2000, r 36
r 65	sub No. 7, 2000, r 21

r 66	amd No. 12, 1996, r 15 rep No. 7, 2000, r 21
rr 67 – 68	amd No. 7, 2000, r 36
r 69	amd No. 7, 2000, r 22
r 70	sub No. 12, 1996, r 16 amd No. 7, 2000, r 36
r 71	amd No. 7, 2000, r 23
r 72	amd No. 7, 2000, r 24
pt VIIA hdg	ins No. 12, 1996, r 17
r 72A	ins No. 12, 1996, r 17 rep No. 7, 2000, r 25
rr 72B – 72D	ins No. 12, 1996, r 17
r 72E	ins No. 12, 1996, r 17 amd No. 7, 2000, r 26
rr 72F – 72H	ins No. 12, 1996, r 17
r 72I	ins No. 12, 1996, r 17 amd No. 7, 2000, r 27
rr 72J – 72K	ins No. 12, 1996, r 17
r 74	amd No. 12, 1996, r 18; No. 7, 2000, r 28
rr 75 – 79	amd No. 7, 2000, r 36
r 80	amd No. 12, 1996, r 19; No. 7, 2000, r 36
rr 81 – 82	amd No. 7, 2000, r 36
r 83	amd No. 7, 2000, r 29
r 84	amd No. 18, 1988; No. 12, 1996, r 20; No. 7, 2000, r 30
r 85	amd No. 7, 2000, r 36
r 86	amd No. 7, 2000, r 31
r 87	amd No. 7, 2000, r 32
r 88	amd No. 7, 2000, r 33
r 89	sub No. 12, 1996, r 21
sch 1	amd No. 12, 1996, r 22; No. 7, 2000, r 34
sch 2	amd No. 7, 2000, r 35