

**28. Public employees standing for election**

- (1) In this regulation, unless the contrary intention appears —
- “**election**” means a Legislative Council election or Legislative Assembly election;
- “**election period**”, in relation to a candidate in an election, means the period commencing when the nomination of that candidate is lodged and ending when —
- (a) that nomination is withdrawn;
  - (b) that candidate or another candidate is declared elected to the Legislative Council or Legislative Assembly, as the case may be; or
  - (c) the Electoral Commissioner, during the counting of the votes, certifies under subregulation (2) that the candidate has no prospect of being elected,
- whichever occurs first;
- “**member**” in relation to a prescribed body means —
- (a) any member of the body whether known as a member, commissioner, councillor, trustee, director or by any other title;
  - (b) any deputy, alternate or acting member of the body,
- and includes a person holding the office of chairman or president or any other office of the body;
- “**prescribed body**” means a commission, council, board, committee or other body mentioned in Part 3 of Schedule V to the *Constitution Acts Amendment Act 1899*;
- “**public employee**” means a person who holds any office or place mentioned in Part 2 of Schedule V to the *Constitution Acts Amendment Act 1899*.
- (2) The Electoral Commissioner may during the counting of the votes certify that a candidate has no prospect of being elected.
- (3) A public employee who nominates as a candidate in an election is to take leave of absence from employment as a public employee, such leave to commence not later than the working day next following the day on which the election period commences and to end not earlier than the day on which the election period ends or, if that day is not a working day, the working day next preceding that day.
- (4) Notwithstanding anything contained in the Act under which a public employee is appointed or employed —
- (a) the employee is by this regulation authorized to apply for and take; and
  - (b) the employer of the employee is by this regulation authorized to grant,
- leave of absence that is required to be taken under subregulation (3).
- (5) Leave of absence taken by a public employee under subregulation (3) is to be taken without pay except to the extent that the employee has an accrued entitlement to, and applies for, leave with pay.

- (6) A member of a prescribed body who nominates as a candidate in an election is not at any time during the election period to attend any meeting of the body, or perform any function or duty as a member of the body, or receive any salary, fees, allowances, expenses or other remuneration as a member of the body.
- (7) The inability of a member of a prescribed body to —
- (a) attend a meeting of the body; or
  - (b) perform a function or duty as a member of the body,
- without contravening subregulations (6) is sufficient cause for a duly appointed or elected deputy as alternate of that member to attend the meeting or perform the duty or function, as the case may require.
- (8) Where a member of a prescribed body —
- (a) is absent from a meeting of the body; or
  - (b) fails to perform a function or duty as a member of the body,
- in compliance with subregulation (6), that absence or failure is to be disregarded for the purposes of any enactment under which the member may vacate or be removed from office as a member by reason of absence from meetings or neglect of duty.

*[Regulation 28 amended in Gazette 8 November 1996 p.6267; 20 October 2000 p.5929.]*