



Western Australia

Real Estate and Business Agents Act 1978

## **Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980**

These regulations were repealed by the *Real Estate and Business Agents Supervisory Board (Elections) Repeal Regulations 2011* r. 3 as at 1 Jul 2011 (see. r. 2(b) and *Gazette* 30 Jun 2011 p. 2673).

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## **Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980**

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## **Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980**

### **1. Citation**

These regulations may be cited as the *Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980*<sup>1</sup>.

### **2. Interpretation**

In these regulations —

***Board*** means the Real Estate and Business Agents Supervisory Board;

***licensed*** means licensed as an agent under the Act;

***member*** means elective member of the Board, and ***deputy member*** has a corresponding meaning; and

***the Act*** means the *Real Estate and Business Agents Act 1978*.

### **3. Elections**

- (1) Subject to subregulation (2), an election of persons to hold office as elective member or elective deputy member of the Board shall be held as and whenever necessary.
- (2) Where both the member and the deputy member are required to be elected at or about the same time —
  - (a) the elections for the respective offices may be held concurrently; and

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- (b) each person elected at such an election shall be eligible for appointment to the office for which he has been elected upon that office becoming vacant or upon the date of the notification of his election in the *Gazette*, whichever is the later.
- (3) Prior to or upon a member or deputy member ceasing to hold office, the Chairman of the Board shall direct the returning officer to issue a notice in the form of Form 1 in the Appendix, to be published in the *Gazette* and in a newspaper circulating generally in the State, appointing a date and time for lodging nominations and a date and time for the closing of the poll to be taken at the election.
- (4) The nomination day appointed by any notice published pursuant to subregulation (3) shall not be less than 30 days after the date upon which the notice is published in the *Gazette*, and the day appointed for the holding of the election and the closing of the poll at such election shall not be less than 21 nor more than 40 days after the nomination day.

**4. Nominations**

- (1) Nominations of candidates shall be lodged with the returning officer in the form of Form 2 in the Appendix, not later than the day and the time appointed for the receipt of nominations by the notice published pursuant to regulation 3.
- (2) Every nomination shall —
  - (a) set out the full name of the candidate for election, and the office for which he is nominated;
  - (b) be signed by not less than 2 persons eligible to vote.
- (3) If no nominations are received for all or any of the offices in respect of which there is a vacancy, the returning officer may extend the time for the receipt of nominations and for the holding of an election in respect of such vacancy or vacancies and, where that time is so extended, the period of time between

the date for the receipt of nominations and the date of the election shall be as provided in regulation 3(4).

- (4) Where a person is nominated as a candidate for election both as a member and as a deputy member at elections to be held on the same day, the nomination as a deputy member is invalid and shall be rejected by the returning officer.

*[Regulation 4 amended in Gazette 25 Sep 1981 p. 4081.]*

**4A. Candidates details with ballot papers**

- (1) On or before the day and time appointed under regulation 4 for a particular election, each nominated candidate may contact the returning officer with a brief summary of that candidate's biographical details (not exceeding 300 words in length) to be sent to the voters along with the ballot paper.
- (2) If, in the returning officer's opinion, the candidate's summary is excessive, or any part of it is unsuitable, the returning officer may edit the summary, after making reasonable attempts to contact the candidate.

*[Regulation 4A inserted in Gazette 5 Jul 1996 p. 3219.]*

**4B. Order of names on ballot papers**

After all nominations have been received by the returning officer for a particular election, the returning officer shall determine the order in which the names of the candidates will appear on the ballot paper by a process of drawing lots.

*[Regulation 4B inserted in Gazette 5 Jul 1996 p. 3219.]*

**5. The voters list and entitlement to vote**

- (1) The Registrar of the Board shall, if an election is required, prepare and transmit to the returning officer, within 7 days of the day appointed for the receipt of nominations, a list of such of the persons licensed under the Act as were, on the day

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appointed for the receipt of nominations, eligible to exercise a vote.

- (2) The list prepared and transmitted pursuant to subregulation (1) shall —
  - (a) set out the full names and registered address of each voter included therein, and where that voter is the *bona fide* person in control for the purposes of these regulations of a firm or body corporate licensed under the Act, that firm or body corporate; and
  - (b) be certified as being true and correct by the Registrar of the Board.
- (3) Any natural person licensed pursuant to section 27 of the Act is eligible to exercise a vote under these regulations, and shall be included on the list of voters.
- (4) Where a firm licensed pursuant to section 28 or a body corporate licensed pursuant to section 29 of the Act is desirous of exercising a vote under these regulations, the name of the person in *bona fide* control of that firm or body corporate as registered with the Board shall be included by the Registrar on the list of voters as the representative of that firm or body corporate and this person shall thereupon be eligible to exercise a vote under these regulations in that capacity.
- (5) The exercise of a right to vote under these regulations is not compulsory.

*[Regulation 5 amended in Gazette 5 Jul 1996 p. 3219.]*

**6. Proceedings after nomination**

- (1) Where one candidate only is nominated in relation to any vacancy he shall be declared elected, but if more than one candidate is nominated for the same vacancy, the returning officer shall proceed to take a poll.
- (2) Where more than one candidate is nominated for the same vacancy, the returning officer shall as soon as practicable after



the date fixed for receipt of nominations, send to each person whose name appears on the list furnished to the returning officer in accordance with regulation 5 —

- (a) one ballot paper, in the form of Form 3 in the Appendix, in respect of each election for a member and one ballot paper in respect of each election for a deputy member, initialled by the returning officer or bearing a facsimile of those initials;
  - (b) biographical details provided by the candidate under regulation 4A;
  - (c) one ballot paper envelope in the form approved by the returning officer; and
  - (d) one envelope addressed to the returning officer, bearing a voter's declaration in the form of Form 4 of the Appendix.
- (3) Each ballot paper, ballot paper envelope and addressed envelope with declaration shall be enclosed by the returning officer in a covering envelope, which shall be fastened and addressed and forwarded by post or otherwise to the person for whom it is intended.

*[Regulation 6 amended in Gazette 5 Jul 1996 p. 3219-20.]*

**7. Vote as representative**

A person who is eligible to vote as a natural person licensed under the Act may also exercise the right to vote as a representative of a firm or body corporate where his name appears on the voters list in that capacity.

**8. Manner of voting**

- (1) Voting at an election shall be by a preferential ballot.
- (2) An elector who wishes to record his vote —
  - (a) where only 2 persons are candidates in an election —

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- (i) shall mark his ballot paper by writing the numeral “1” opposite the name of the candidate for whom he votes; and
  - (ii) may mark his ballot paper by writing the numeral “2” opposite the name of the other candidate on the ballot paper;
- (b) where more than 2 persons are candidates in an election, shall mark his ballot paper —
- (i) by writing the numeral “1” opposite the name of the candidate for whom he votes; and
  - (ii) by writing the numerals “2”, “3”, and so on (as the case requires) opposite the names of the other candidates on the ballot paper,
- so as to indicate the order of his preference,

and after having marked his ballot paper in the manner prescribed in paragraph (a) or (b), as the case requires, of this subregulation the elector shall —

- (c) enclose the ballot paper alone in the envelope marked “Ballot Paper” and seal the envelope;
- (d) enclose the envelope marked “Ballot Paper” in the envelope marked with the address of the returning officer;
- (e) write his name in block letters, and sign his name, on the voter’s declaration on the envelope addressed to the returning officer;
- (f) forward the envelope addressed to the returning officer to the address of the returning officer on the envelope so as to reach that address not later than the day, and the hour thereof, fixed in the notice published pursuant to regulation 3.

*[Regulation 8 inserted in Gazette 21 May 1982 p. 1551-2;  
amended in Gazette 5 Jul 1996 p. 3220.]*

**9. Issue of duplicate ballot paper or addressed envelope**

- (1) Where, on application before the time of the close of the ballot in an election, the returning officer is satisfied that a ballot paper or an addressed envelope issued to a voter has not been received or has been lost, destroyed or spoilt, he shall issue to that person a duplicate ballot paper, or addressed envelope, as the case may be.
- (2) An application under subregulation (1) by a person for a duplicate ballot paper, or addressed envelope, for an election shall be in writing setting out the grounds on which the application is made and declaring that the person has not voted in the election and shall, if practicable, be accompanied by any evidence that is available of that non-receipt, loss, destruction or damage.

*[Regulation 9 inserted in Gazette 5 Jul 1996 p. 3220.]*

**10. Voter's eligibility to be checked**

- (1) The returning officer, before proceeding to count the number of votes to ascertain which candidate is successful in the election, shall, for each envelope received, check the voter's declaration against the list referred to in regulation 5 and —
  - (a) if the voter's declaration is found to be in order, mark the roll; or
  - (b) if the voter's declaration is not in order, mark the envelope with the word "rejected" and set the envelope aside for safekeeping.
- (2) If a voter's declaration is found to be in order, the returning officer shall place that envelope in a sealed ballot box, together with all other envelopes purporting to contain ballot paper envelopes (other than rejected envelopes) received by him up to the close of the poll.

**r. 10A**

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- (3) An envelope purporting to contain a ballot paper envelope received after the close of the poll shall not be admitted to the scrutiny.

*[Regulation 10 inserted in Gazette 5 Jul 1996 p. 3220-1.]*

**10A. Counting of votes received**

- (1) As soon as practicable after the close of the poll, and after all the voter's declarations are checked, the returning officer, in the presence of any scrutineer, shall open the sealed ballot box, open each envelope bearing a valid voter's declaration, and set those opened envelopes aside for safekeeping.
- (2) The returning officer shall then, in the presence of any scrutineer, open each ballot paper envelope and proceed with the count.

*[Regulation 10A inserted in Gazette 5 Jul 1996 p. 3221.]*

**11. Informal ballot papers**

- (1) Subject to subregulation (2), a ballot paper shall be informal —
- (a) if it does not bear the initials of the returning officer or a facsimile of those initials;
  - (b) if it is not marked in accordance with such of the requirements set out in regulation 8 of these regulations as apply to the election being conducted; or
  - (c) if it has upon it a mark of any writing by means of which the elector can be identified.
- (2) If a ballot paper has not been completed in accordance with regulation 8(2)(b), but the ballot paper clearly indicates the voter's intention, the ballot paper shall not be informal, and shall be given effect to in accordance with the voter's intention.

*[Regulation 11 inserted in Gazette 21 May 1982 p. 1552;  
amended in Gazette 5 Jul 1996 p. 3221.]*

**12. Scrutineers**

Each candidate may appoint one scrutineer to represent him at the scrutiny and all proceedings at the scrutiny shall be open to the inspection of the scrutineers.

**13. Legislative Assembly election procedure**

- (1) Where —
- (a) an election is held for only one office; or
  - (b) an election is held for the offices of member and deputy member simultaneously,

the successful candidate shall be ascertained in accordance with the laws for the time being in force regulating the elections for the Legislative Assembly of the Parliament of the State.

- (2) Where an election is held for the offices of member and deputy member simultaneously, the count for both offices may proceed simultaneously.

*[Regulation 13 inserted in Gazette 21 May 1982 p. 1552.]*

**14. Recount**

The returning officer may, at any time before the declaration of the poll, if he thinks fit, on his own motion or on the written request of a candidate or a scrutineer for a candidate in an election, order a recount of the votes cast in the election.

*[Regulation 14 inserted in Gazette 21 May 1982 p. 1552;  
amended in Gazette 5 Jul 1996 p. 3221.]*

**15. Result of election**

- (1) The returning officer shall declare the result of an election as soon as practicable and shall, immediately thereafter forward to the Board the name of the successful candidate in the election.

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- (2) The Board upon receiving the names of the successful candidate in an election shall forthwith submit the name to the Minister for the appointment of that person to the office to be filled in accordance with section 7 of the Act.

*[Regulation 15 inserted in Gazette 21 May 1982 p. 1552.]*

**16. Secret ballot**

The returning officer shall take such steps as are necessary for the purpose of ensuring the secrecy of the ballot, the safe custody of ballot papers and for the prevention of any irregularity in the conduct of the election.

*[Regulation 16 inserted in Gazette 21 May 1982 p. 1552.]*

**17. Conduct and costs of election**

- (1) The returning officer may appoint such persons as are necessary to conduct an election.
- (2) The returning officer and any other officers assisting the returning officer are entitled to such remuneration as is determined by the Electoral Commissioner.
- (3) All costs, charges and expenses incurred by the returning officer in connection with the election are to be reimbursed by the Board from the moneys described in section 7(7) of the Act.

*[Regulation 17 inserted in Gazette 21 May 1982 p. 1552-3;  
amended in Gazette 5 Jul 1996 p. 3221-2.]*

**Appendix**

Form 1

Western Australia

*Real Estate and Business Agents Act 1978*

NOTICE OF ELECTION

(Regulation 3)

NOTICE is hereby given that an election of the elective member and/or deputy member of the Real Estate and Business Agents Supervisory Board, as constituted under section 7 of the *Real Estate and Business Agents Act 1978* will take place at the office of the returning officer at ....., Perth, on the ..... day of ..... 20....., closing at ..... o'clock in the ..... noon on such date.

The vacancies in the membership of the Board to be filled at such election are those specified hereunder:

Nominations of candidates shall be made in accordance with the *Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980* and must be received by the returning officer at his office not later than ..... o'clock in the ..... noon.

Dated this ..... day of ....., 20.....

.....  
Returning officer

**Appendix**

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Form 2

Western Australia  
*Real Estate and Business Agents Act 1978*

[reg. 4]

**NOMINATION**

To the returning officer  
Perth.

We, the undersigned persons eligible to vote at the election of an elective member or a deputy member of the Real Estate and Business Agents Supervisory Board, do hereby nominate —

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(Surname)

(Christian or given names)

for the election as a member (or deputy member) of the Board (*strike out whichever is inapplicable*).

Signature of nominator	Name and address of nominator	Firm or body corporate of which nominator is the representative (if any)

(To be signed by not less than 2 persons eligible to vote for the nominee)

I, ..... of .....  
hereby consent to the above nomination and to act, if elected, in the capacity abovementioned.

**Form of name to be printed on ballot paper (refer note below)**

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(Surname)

(Given names)



**Note:**

The form of the candidate's name to be printed on the ballot paper shall include the candidate's surname and may include each, or one or more of the candidate's given names.

For this purpose, a given name may be stated by specifying —

- (a) the name;
- (b) an initial standing for the name; or
- (c) a commonly accepted variation of the name (including an abbreviation of the name) or an alternative of the name.

(Date)

(Signature of candidate)

**Note:**

If a person is nominated as a candidate for both member and deputy member at the same election the nomination for deputy member is invalid —  
Regulation 4(4).

The nomination was received on ....../....../..... at ..... a.m./p.m. Returning officer's signature .....
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*[Form 2 inserted in Gazette 5 Jul 1996 p. 3222-3.]*

**Appendix**

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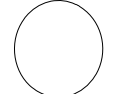
Form 3

Western Australia  
*Real Estate and Business Agents Act 1978*

[reg. 6]

**BALLOT PAPER**

ELECTION of an elective member (or deputy member) to the  
Real Estate and Business Agents Supervisory Board.

  
Returning officer's  
initials

Date and hour for the close of voting

.....  
*(Here insert the appropriate day, date and time)*

**Number the boxes from \_\_\_ to \_\_\_  
in the order of your choice**

- Name of candidate
- Name of candidate
- Name of candidate
- Name of candidate
- (etc)

*Remember ....*

*Number every box to make your vote count.*

**Instructions for voting**

1. The ballot paper must be completed by you, the voter, personally.
2. Do not put on the ballot paper any mark or writing by which you can be identified.
3. Place in and seal the ballot paper in the envelope marked "Ballot Paper".
4. The information required on the back of the return envelope is used to mark your name off the roll. The smaller ballot paper envelope will be removed from the return envelope before the ballot paper is opened. Therefore, the information you provide cannot be used to identify your voting preference.

5. Make sure that the completed ballot reaches the returning officer no later than *(Here insert the appropriate day, date and time)*.

.....  
*(Here insert the name of the returning officer)*

[ *NOTE: Separate ballot papers should be used for the election of a person as a member and a deputy member.* ]

*[Form 3 inserted in Gazette 5 Jul 1996 p. 3223.]*

**Appendix**

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Form 4

Western Australia  
*Real Estate and Business Agents Act 1978*

[reg. 6]

**VOTER'S DECLARATION**

Date of close of poll: .....

ELECTION of an elective member (or deputy member) to the  
Real Estate and Business Agents Supervisory Board

I, the undersigned, declare that I am an eligible voter in the election of the  
member(s) set out in the accompanying ballot paper.

Name of voter: .....

Name of firm or body corporate of which the voter is a representative (if any):  
.....  
.....

Usual signature: .....

*[Form 4 inserted in Gazette 5 Jul 1996 p. 3224.]*

*[Appendix amended in Gazette 25 Sep 1981 p. 4082; 21 May 1982 p. 1553;  
5 Jul 1996 p. 3222-4.]*

### Notes

- <sup>1</sup> This is a compilation of the *Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980</i>	12 Sep 1980 p. 3201-5	12 Sep 1980
<i>Real Estate and Business Agents Supervisory Board (Elections) Amendment Regulations 1981</i>	25 Sep 1981 p. 4081-2	25 Sep 1981
<i>Real Estate and Business Agents Supervisory Board (Elections) Amendment Regulations 1982</i>	21 May 1982 p. 1551-3	21 May 1982
<i>Real Estate and Business Agents Supervisory Board (Elections) Amendment Regulations 1996</i>	5 Jul 1996 p. 3218-24	5 Jul 1996

**Reprint 1: The Real Estate and Business Agents Supervisory Board (Elections) Regulations 1980 as at 14 May 2004** (includes amendments listed above)

**These regulations were repealed by the Real Estate and Business Agents Supervisory Board (Elections) Repeal Regulations 2011 r. 3 as at 1 Jul 2011 (see. r. 2(b) and Gazette 30 Jun 2011 p. 2673)**

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Defined terms

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**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
Board .....	2
deputy member .....	2
licensed .....	2
member .....	2
the Act.....	2