



Western Australia

Settlement Agents Act 1981

Settlement Agents Supervisory Board (Elections) Regulations 1982

These regulations were repealed by the *Settlement Agents Supervisory Board (Elections) Repeal Regulations 2011* r. 3 as at 1 Jul 2011 (see r. 2(b) and *Gazette* 30 Jun 2011 p. 2679)

Ceased on 01 Jul 2011

Version 01-b0-07

Extract from www.slp.wa.gov.au, see that website for further information

Western Australia

Settlement Agents Supervisory Board (Elections) Regulations 1982

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Settlement Agents Supervisory Board (Elections) Regulations 1982

1. Citation

These regulations may be cited as the *Settlement Agents Supervisory Board (Elections) Regulations 1982*¹.

2. Interpretation

In these regulations unless the context otherwise requires —
the Act means the *Settlement Agents Act 1981*.

3. Elections

- (1) Subject to subregulation (2) an election of persons to hold office as elective members, or elective deputy members, of the Board shall be held as and whenever necessary.
- (2) Where more than one member or deputy member is required to be elected one election may be held at that time for the election of persons to be nominated for appointment to the respective offices by the Governor.
- (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.

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- (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 14 nor more than 30 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, both nominations are invalid and shall be rejected by the Returning Officer.

5. The voters list

- (1) The Registrar of the Board shall prepare and transmit to the Returning Officer, so as to reach him not later than noon on the day appointed for the receipt of nominations, a list of such of

the persons licensed under the Act as were, 14 days prior to that day, 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 representative 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 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 is desirous of exercising a vote under these regulations that firm or body corporate shall from time to time —
 - (a) in the case of a firm, by writing under the hand of the natural persons and the seal of the bodies corporate together comprising a majority of the persons constituting that firm;
 - (b) in the case of a body corporate, by writing under the seal of that body corporate,

appoint a representative being a natural person licensed under the Act who is a person concerned in the management of the business of that firm or body corporate, and on the Registrar of the Board being notified accordingly, the Registrar shall include the name of that representative on the list of voters as the representative for the time being of the firm or body corporate by which he is appointed and that 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.

6. Proceedings after nomination

- (1) Where one candidate only is nominated in relation to any vacancy he shall be declared elected as the person to be nominated for appointment by the Governor, 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 respect of each election for a member and one ballot paper in respect of each election for a deputy member, initialed or signed by the Returning Officer or by a person authorised in that behalf by the Returning Officer;
 - (b) an envelope marked with the words “Ballot Paper”; and
 - (c) an envelope addressed to the Returning Officer —
 - (i) on which is printed the number printed in the electoral roll against the name of the elector to whom the envelope is posted; and
 - (ii) which makes provision on the reverse thereof for the full name of the voter and his signature.
- (3) Each ballot paper, ballot paper envelope and addressed envelope 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.

7. Dual voting capacity

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

8. Replacement ballot paper

If on written application made before the close of the poll the Returning Officer is satisfied by a person who is entitled to vote at an election that —

- (a) a ballot paper has not been received by that person; or
- (b) a ballot paper has been received by that person but the ballot paper has been spoiled, lost, damaged or destroyed,

the Returning Officer shall forward to the applicant a fresh ballot paper together with the other items referred to in regulation 6.

9. Preferential ballot

- (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 —
 - (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

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- (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, the elector shall —

- (c) enclose the ballot paper alone in the envelope marked “Ballot Paper” and seal the envelope;
- (d) write his name in block letters and sign his name on the envelope addressed to the Returning Officer;
- (e) enclose the envelope marked “Ballot Paper” in the envelope marked with the address of the Returning Officer; and
- (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.

10. Receipt of ballot papers

- (1) The Returning Officer shall place and keep in a locked and sealed ballot box all envelopes purporting to contain ballot papers received by him up to the close of the poll.
- (2) An envelope containing a ballot paper received after the close of the poll shall not be admitted to the count.

11. Scrutineers

- (1) A candidate may by notice in writing given to the Returning Officer at any time before the close of the poll appoint a person, other than himself, as a scrutineer.

- (2) The Returning Officer shall give to every person appointed to be scrutineer reasonable notice of the place at which the count of the ballot papers will be undertaken and the date and hour thereof so as to enable the scrutineer to be present during the count.
- (3) A person who is appointed as scrutineer under subregulation (1) may —
 - (a) be present while the Returning Officer carries out his functions under regulation 12 and regulation 13; and
 - (b) direct the attention of the Returning Officer to any irregularity concerning the issue of ballot papers, the admission of any envelope to scrutiny and the admission or rejection of a ballot paper to the count.

12. The count

- (1) As soon as practicable after the poll has closed and not before, in the presence of such of the scrutineers as may attend —
 - (a) each envelope addressed to the Returning Officer shall be checked against the electoral roll;
 - (b) each counterfoil shall be checked against the electoral roll;
 - (c) each envelope addressed to the Returning Officer shall be checked to ensure that it contains the full name and signature of the voter;
 - (d) the name of each voter who has forwarded an envelope addressed to the Returning Officer and ballot paper shall be marked on the electoral roll;
 - (e) if the envelope addressed to the Returning Officer is in order the ballot paper envelope enclosed therein shall be placed unopened into a separate sealed ballot box;
 - (f) if the envelope addressed to the Returning Officer has been found not to be in order the envelope containing the ballot paper shall be marked “Not in Order”;

- (g) the ballot box containing the unopened ballot paper envelopes shall be opened and the ballot papers removed from the envelopes.
- (2) For the purposes of the count each ballot paper shall be sorted according to the candidate receiving the first preference on the ballot paper but where a ballot paper —
- (a) does not bear the initials of the Returning Officer or a facsimile thereof;
 - (b) has upon it a mark or any writing by means of which the elector can be identified; or
 - (c) is not marked in accordance with such of the requirements set out in regulation 20 as apply to the election being conducted,
- the ballot paper shall be rejected as informal.
- (3) A person who is appointed as scrutineer for an election may make submissions on the rejection of a ballot paper from, or the admission of a ballot paper to, the count to the Returning Officer.
- (4) The Returning Officer shall consider any submissions made to him under subregulation (3) before rejecting a ballot paper from, or admitting a ballot paper to the count.
- (5) Where the Returning Officer rejects a ballot paper from the count or admits a ballot paper to the count after submissions have been made to him under subregulation (3) the Returning Officer shall endorse on the ballot paper the word “REJECTED” or the word “ADMITTED” as the case requires and initial such endorsement.

13. Legislative Assembly election procedure

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.

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.

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.
- (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 6 of the Act.

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.

17. Conduct and costs of election

- (1) The Returning Officer may appoint such persons as are necessary to conduct an election.

- (2) All costs, charges and expenses incurred by the Returning Officer or by Officers employed by him, in connection with the conduct of any election under these regulations or in connection with any matters incidental thereto, as certified in writing by the Returning Officer under his hand and communicated by him to the Board, shall be paid in accordance with section 6(5) of the Act and the Board may have the accounts of the Returning Officer audited by the Auditor General whose decision thereon shall be final.

Appendix

Form 1

Western Australia

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NOTICE OF ELECTION

(Regulation 3)

NOTICE is hereby given that an election of the elective members and deputy members of the Settlement Agents Supervisory Board, as constituted under section 6 of the *Settlement Agents Act 1981* will take place at the office of the Chief Electoral Officer, 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 *Settlement Agents Supervisory Board (Elections) Regulations* and must be received by the Chief Electoral Officer at his office not later than o'clock in the noon.

Dated this day of 20

.....
Returning Officer.

Appendix

Form 2

Western Australia
Settlement Agents Act 1981

NOMINATIONS

(Regulation 5)

TO: The Chief Electoral Officer,
Perth.

WE, the undersigned persons eligible to vote at the election of an elective member or a deputy member of the Settlement Agents Supervisory Board, do hereby nominate —

.....
.....
.....

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

Dated this day of 20

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 TWO persons eligible to vote for the nominee).

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

Dated this day of 20

Signature

NOTE: No person may be nominated as a candidate for both member and deputy member at the same election — reg. 4(4).

Received the above nomination this day of
20, at o'clock in the noon.

.....
Returning Officer.

Notes

- ¹ This is a compilation of the *Settlement Agents Supervisory Board (Elections) Regulations 1982* 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>Settlement Agents Supervisory Board (Elections) Regulations 1982</i>	19 Mar 1982 p. 888-92	19 Mar 1982
Reprint 1: The Settlement Agents Supervisory Board (Elections) Regulations 1982 as at 2 Apr 2004		
These regulations were repealed by the <i>Settlement Agents Supervisory Board (Elections) Repeal Regulations 2011</i> r. 3 as at 1 Jul 2011 (see r. 2(b) and <i>Gazette</i> 30 Jun 2011 p. 2679)		

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
the Act.....	2