



Western Australia

Industrial Relations Act 1979

**Industrial Relations Commission (Railways  
Classification Board [Elections]) Regulations  
1985**



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# Industrial Relations Commission (Railways Classification Board [Elections]) Regulations 1985

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**Defined terms**



Western Australia

Reprinted under the  
*Reprints Act 1984* as  
at 5 November 2004

Industrial Relations Act 1979

## Industrial Relations Commission (Railways Classification Board [Elections]) Regulations 1985

### Part 1 — Preliminary

#### 1. Citation

These regulations may be cited as the *Industrial Relations Commission (Railways Classification Board [Elections]) Regulations 1985*<sup>1</sup>.

#### 2. Interpretation

- (1) In these regulations unless the contrary intention appears —
- election* means an election conducted under these regulations;
  - office* means office of member under section 80N(2)(c) of the Act;
  - Railways Commission* means the Western Australian Government Railways Commission;
  - regulation* means a regulation of these regulations;
  - subregulation* means a subregulation of the regulations;
  - Union* means the Western Australian Railway Officers Union;
- and

*Weekly Notice* means the publication entitled “Weekly Notice” published by the Railways Commission.

- (2) In these regulations, other than in regulation 6 and 7, the terms *Chief Electoral Officer* includes the officer appointed by the Chief Electoral Officer pursuant to section 80N(4) of the Act.

**3. Chief Electoral Officer to have regard to prescribed periods**

In carrying out any function under these regulations or fixing any date or period for the purposes of that regulation the Chief Electoral Officer shall have regard to the prescribed periods referred to in regulation 4.

**4. Prescribed periods (section 80N)**

The prescribed period for the purposes of section 80N(4) is 80 days, and for the purposes of section 80N(5)(a) is 90 days.

**5. Notification of request under section 80N(3)**

Where pursuant to section 80N(3) of the Act the Union receives a written request to submit the name of a person willing to act in an office the Union shall forthwith in writing notify the Chief Electoral Officer of the request.

**6. Election following notification of request**

Where pursuant to regulation 5 the Chief Electoral Officer receives notification from the Union the Chief Electoral Officer shall cause an election to be held for the purpose of filling the office referred to in the notification.

**7. Notice inviting nominations**

- (1) The Chief Electoral Officer shall as soon as possible after the receipt by him of the notification referred to in regulation 5 cause a notice to be published in the “Weekly Notice” setting out —

- (a) the title of the office for which an election is to be held;

- (b) the place where application forms for nomination are available;
- (c) the place for lodging nominations; and
- (d) the times and dates of the commencement and close of the period for lodging nominations for the election,

and inviting nominations of persons as candidates in the election.

- (2) Where the request of the Minister made pursuant to section 80N(3) of the Act specifies that nominations are required for the office of member and the office of deputy member separate elections shall be held simultaneously for each office.
- (3) The date to be specified in any notice published pursuant to subregulation (1) as the last day for the lodging of nominations shall be a date that is not later than 21 days after the first publication of the notice of the election in the “Weekly Notice”.

#### **8. Form and details of nomination**

- (1) A nomination of a person as a candidate for election for appointment to an office —
  - (a) shall be in writing;
  - (b) shall contain a statement signed by the candidate that he is willing to accept and act in the office to which he is elected;
  - (c) shall be signed by 2 members of the Union; and
  - (d) where nominations are called for the office of member and the office of deputy member nominations for each office shall be made separately.
- (2) Where the Chief Electoral Officer receives a nomination that does not conform to subregulation (1) he shall notify the candidate of that fact as soon as possible.

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- (3) A person whose nomination does not conform to subregulation (1) is not eligible to be a candidate in an election.
- (4) A person who is nominated as a candidate in an election may, at any time before the day fixed as the date for the close of nomination, by notice in writing addressed to the Chief Electoral Officer, withdraw his consent to his nomination as a candidate in the election and where he does so he is deemed not to have nominated in the election.

**9. If no person nominated**

Where at the close of nominations no person has been nominated as a candidate for election for appointment to an office the Chief Electoral Officer shall notify the Union of that fact and the Union shall notify the Minister accordingly.

**10. If only one person nominated**

Where at the close of nominations only one candidate is nominated to be elected for appointment to an office the Chief Electoral Officer shall notify the Union of that fact and the Union shall submit the name of the candidate to the Minister for appointment to the office to be filled.

**11. Union to give electoral roll to Chief Electoral Officer**

The Union shall, not later than 7 days after the day fixed as the date for the close of nominations, furnish the Chief Electoral Officer with an electoral roll for the purposes of the election being held.

**12. Form and contents of electoral roll**

The electoral roll to be furnished pursuant to regulation 11 —

- (a) shall contain the full names of the persons who on the day 14 days before the day fixed as the date for close of nominations, were members of the Union;



- (b) shall be listed in accordance with the place of employment of the officers with the Railways Commission and in alphabetical order of surnames, or last names and, where the surnames or last names are identical, also in alphabetical order of the christian or given names; and
- (c) shall be numbered consecutively.

**13. Electoral roll open for inspection**

The electoral roll for an election shall be open for inspection during reasonable hours while an election is in progress by any member of the Union, or by any person authorised by the Chief Electoral Officer.

**14. Conduct of election**

- (1) The laws, for the time being in force that apply to the conduct of an election for the Legislative Assembly of the Parliament of the State apply with such modifications as are necessary to and in relation to an election.
- (2) An election shall be by secret postal ballot.

**15. Address of Chief Electoral Officer**

The Chief Electoral Officer shall use a private box at a post office or such other address as he thinks fit for the purposes of conducting the election.

**16. Notice required when more than one nomination**

- (1) Where more than one person has been nominated for election for appointment to an office the Chief Electoral Officer shall, at the close of nominations, publish a notice of that fact in a daily newspaper.
- (2) The notice referred to in subregulation (1) —
  - (a) shall set out the title of the office for which the election is being held;

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- (b) shall set out the names of the candidates in the election;  
and
- (c) shall state the date and hours thereof for the close of the  
poll.

**17. Ballot papers to be sent**

As soon as possible after the publication of the notice referred to in regulation 16 the Chief Electoral Officer shall forward by pre-paid post or by some other means to every person whose name is on the electoral roll for the election at his address shown on the roll, a sealed envelope containing the following items —

- (a) ballot paper bearing the initials of the Chief Electoral Officer or a facsimile of those initials;
- (b) an envelope marked with the words “Ballot Paper”; and
- (c) an envelope addressed to the Chief Electoral 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.

**18. Form and content of ballot papers**

- (1) Every ballot paper issued for the purposes of an election shall be of the same colour and size.
- (2) Notwithstanding subregulation (1) where an election is being held for 2 offices simultaneously the Chief Electoral Officer may determine that both ballot papers issued in respect of the election may be printed on a single sheet.

**19. If ballot paper not received**

If on written application made before the close of the poll the Chief Electoral Officer is satisfied by a person who is entitled to vote 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 Chief Electoral Officer shall forward to the applicant a fresh ballot paper together with the other items referred to in regulation 17.

**20. Voting**

- (1) Voting at an election shall be by 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
    - (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) write his name in block letters and sign his name on the envelope addressed to the Chief Electoral Officer;

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- (e) enclose the envelope marked “Ballot Paper” in the envelope marked with the address of the Chief Electoral Officer; and
- (f) forward the envelope addressed to the Chief Electoral Officer to the address of the Chief Electoral 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 16.

**21. Ballot box and late votes**

- (1) The Chief Electoral 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.

**22. Scrutineers**

- (1) A candidate may by notice in writing given to the Chief Electoral Officer at any time before the close of the poll appoint a person, other than himself, as a scrutineer.
- (2) The Chief Electoral 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 Chief Electoral Officer carries out his functions under regulations 23 and 24; and
  - (b) direct the attention of the Chief Electoral 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.

**23. Counting and validity of votes**

- (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 Chief Electoral Officer shall be checked against the electoral roll;
  - (b) each counterfoil shall be checked against the electoral roll;
  - (c) each envelope addressed to the Chief Electoral 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 Chief Electoral Officer and ballot paper shall be marked on the electoral roll;
  - (e) if the envelope addressed to the Chief Electoral Officer is in order, the ballot paper envelope enclosed therein shall be placed unopened into a sealed ballot box;
  - (f) if the envelope addressed to the Chief Electoral Officer has been found not to be in order the envelope containing the ballot paper shall be marked “Not in Order”; and
  - (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 Chief Electoral 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 21 as apply to the election being conducted,

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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 Chief Electoral Officer.
- (4) The Chief Electoral 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 Chief Electoral 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 Chief Electoral Officer shall endorse on the ballot paper the word "REJECTED" or the word "ADMITTED" as the case requires and initial such endorsement.

**24. If voting for more than one office**

- (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 and a person is not candidate for both offices,

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 —
  - (a) an election is held for the offices of member and deputy member simultaneously; and
  - (b) a person is a candidate for both offices,

the count for the office of member shall be completed before the count for the office of deputy member is commenced otherwise the count for both offices may proceed simultaneously.

- (3) Where —

- (a) an election is held for the offices of member and deputy member simultaneously;
- (b) a person is a candidate for the office of member and the office of deputy member; and
- (c) a person who is a candidate for the offices of member and deputy member is the successful candidate for the office of member,

the ballot papers shall be re-arranged again under the names of the respective candidates in accordance with the first preferences indicated thereon, except that each ballot paper on which a first preference for the candidate elected as member is indicated shall be placed in the parcel of the candidate next in order of the voter's preference and if a candidate then has an absolute majority of votes, the successful candidate shall be ascertained in accordance with the laws for the time being in force relating to elections for the Legislative Assembly of the Parliament of the State as modified by this subregulation.

**25. Recount**

The Chief Electoral 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.

**26. Declaration of result**

- (1) The Chief Electoral Officer shall declare the result of an election as soon as practicable and shall, immediately thereafter forward to the Union the name of the successful candidate in the election.
- (2) The Union 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 the request made by the Minister pursuant to section 80N(3) of the Act.

**27. Secrecy and safe custody of ballot papers**

The Chief Electoral 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.

**28. Power to appoint other persons as are necessary**

- (1) The Chief Electoral Officer may appoint such persons as are necessary to conduct an election.
- (2) The persons employed in the conduct of an election shall be paid one half of such amounts as are prescribed in relation to the conduct of State Parliamentary elections for duties performed by a returning officer at those elections and at the rate so prescribed for the count and scrutiny of votes.

*[Regulation 28 amended: Gazette 29 Nov 1985 p. 4496.]*



### Notes

- <sup>1</sup> This reprint is a compilation as at 5 November 2004 of the *Industrial Relations Commission (Railways Classification Board [Elections]) Regulations 1985* 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>Industrial Relations Commission (Railways Classification Board [Elections]) Regulations 1985</i>	28 Feb 1985 p. 767-71	1 Mar 1985
<i>Industrial Relations Commission (Railways Classification Board [Elections]) Amendment Regulations 1985</i>	29 Nov 1985 p. 4496	29 Nov 1985

**Reprint 1: The *Industrial Relations Commission (Railways Classification Board [Elections]) Regulations 1985* as at 5 Nov 2004** (includes amendments listed above)

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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>
Chief Electoral Officer.....	2(2)
election.....	2(1)
office .....	2(1)
Railways Commission .....	2(1)
regulation .....	2(1)
subregulation.....	2(1)
Union .....	2(1)
Weekly Notice .....	2(1)