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POLICE ACT 1892

POLICE APPEAL BOARD (ELECTION) REGULATIONS 2007

Western Australia

Police Appeal Board (Election) Regulations 2007

CONTENTS

1. Citation
2. Terms used in these regulations
3. Request for election
4. Returning officer and other officers
5. Time and place for nominations
6. Notice of election
7. Nominations
8. Candidate's profile
9. Withdrawal of nomination
10. Candidate elected unopposed
11. No candidate nominates
12. Death of candidate
13. Fixing of dates relating to the election
14. Election to be held by postal ballot
15. Electoral roll
16. Form of ballot paper and ballot paper envelope
17. Form of declaration
18. Issue of ballot papers
19. Issue of duplicate ballot paper or ballot paper envelope
20. How to mark ballot paper
21. Ballot Box
22. Scrutineers
23. Post Office box for receipt of ballot papers
24. Scrutiny
25. Method of count
26. Informal ballot papers
27. Recount of ballot papers
28. Declaration of result
29. Preservation and custody of election material

Police Appeal Board (Election) Regulations 2007**Contents**

30. The *Police Appeal Board Regulations* amended

Schedule 1 — Forms

1. Nomination by candidate
2. Appointment of scrutineer

Police Act 1892

Police Appeal Board (Election) Regulations 2007

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Police Appeal Board (Election) Regulations 2007*.

2. Terms used in these regulations

In these regulations, unless the contrary intention appears —

“**assistant**” means a person appointed under regulation 4(3) or (4);

“**Board**” has the meaning given to that term in the Act section 33A;

“**election**” means the election of a member of the Police Force to be a member of the Board under the Act section 33B(2)(c);

“**Electoral Commissioner**” has the meaning given to that term in the *Electoral Act 1907* section 4(1);

“**expiry day**” means the day on which the member’s office referred to in the Act section 33B(2)(c) becomes vacant by the effluxion of time;

“**Form**”, if followed by a number, means the form of that number in Schedule 1 completed in accordance with these regulations;

Police Appeal Board (Election) Regulations 2007**r. 3**

“member” means a person elected under the Act section 33B(2)(c);

“notice of election” means the notice published or sent under regulation 6(1);

“returning officer”, in relation to an election, means the person appointed or holding office as returning officer under regulation 4(1) or (2);

“scrutineer” means a person appointed under regulation 22(1);

“secretary” means the person appointed under the Act section 33D to be secretary to the Board.

3. Request for election

Not less than 2 months before the expiry day, the secretary is to request the Electoral Commissioner to conduct the election.

4. Returning officer and other officers

- (1) On receipt of a request under regulation 3, the Electoral Commissioner may appoint a returning officer to be responsible for conducting the election.
- (2) If the Electoral Commissioner has not appointed a returning officer on or before the day 6 weeks before the expiry day, the secretary of the Police Union of Workers of Western Australia is by virtue of the operation of this subregulation the returning officer responsible for conducting the election.
- (3) If the Electoral Commissioner appoints a returning officer under subregulation (1), the Electoral Commissioner may appoint other officers to assist the returning officer to conduct the election.
- (4) If the secretary of the Police Union of Workers of Western Australia is the returning officer by virtue of the operation of subregulation (2), the secretary may appoint other persons to assist him or her to conduct the election.

Police Appeal Board (Election) Regulations 2007

r. 5

- (5) A person must not be appointed under subregulation (1), (3) or (4) if the person is a candidate, or a person eligible to vote, in the election.

5. Time and place for nominations

- (1) The returning officer must, having regard to —
- (a) the expiry day; and
 - (b) the time required to lodge nominations; and
 - (c) the time required to conduct the election,

determine the dates and times for opening and closing the period for lodging nominations of candidates for the election.

- (2) The returning officer must determine the place at which nominations of candidates for the election must be lodged.

6. Notice of election

- (1) The returning officer must, not less than 14 days and not more than 21 days before the opening date for lodging nominations for an election, cause notice of the election to be —
- (a) published in the *Police Gazette*; or
 - (b) sent to all members of the Police Force by post.
- (2) The notice of election must —
- (a) state that the election is to be conducted; and
 - (b) invite persons to nominate as a candidate for the election; and
 - (c) give details of where the form on which nominations are to be made can be obtained; and
 - (d) give details of the place where nominations must be lodged; and
 - (e) specify the opening and closing dates and times for the period for lodging nominations; and

Police Appeal Board (Election) Regulations 2007**r. 7**

- (f) state that a candidate must be a member of the Police Force.

7. Nominations

- (1) The nomination of a person as a candidate for the election —
 - (a) must be made in the form of Form 1; and
 - (b) must be signed by the person; and
 - (c) must specify the candidate's name to be used on the ballot paper, which must include the candidate's surname and one or more of the candidate's given names; and
 - (d) must be lodged at the place specified in the notice of election; and
 - (e) must be lodged —
 - (i) after the date and time specified in the notice of election for the opening of nominations; and
 - (ii) before the date and time specified in the notice of election for the close of nominations;and
 - (f) may be accompanied by a candidate's profile prepared in accordance with regulation 8.
- (2) The returning officer may reject a nomination that does not conform with subregulation (1)(a) to (e).
- (3) Before rejecting a nomination under subregulation (2), the returning officer may, by notice in writing to the person who nominated as a candidate, give the person an opportunity to remedy the defect within a period specified by the returning officer in the notice.

Police Appeal Board (Election) Regulations 2007

r. 8

8. Candidate's profile

A candidate's profile —

- (a) must be in the English language and must not contain more than 150 words; and
- (b) must be confined to biographical information about the candidate and a statement of the candidate's policies or beliefs; and
- (c) must be hand written, typed or printed on a single A4 page; and
- (d) must include the candidate's name in the form in which he or she has asked for it to be used on the ballot paper and details of an address where he or she can be contacted; and
- (e) may include other contact details such as a telephone number or email address; and
- (f) may include a photograph (passport size) of the proposed candidate's head or head and shoulders, taken not less than 6 months before the date of the nomination.

9. Withdrawal of nomination

A candidate for an election may, by notice in writing signed by the candidate and lodged with the returning officer before the date and time specified in the notice of election for the close of nominations, withdraw the person's nomination and the nomination is taken to have been withdrawn accordingly.

10. Candidate elected unopposed

If only one candidate duly nominates for the election, the returning officer is to declare that candidate elected unopposed.

Police Appeal Board (Election) Regulations 2007**r. 11**

11. No candidate nominates

If no candidate duly nominates for the election, the returning officer is to recommence the election process by —

- (a) determining the dates and times for opening and closing the period for lodging nominations of candidates for the election and the place at which nominations of candidates for the election must be lodged in accordance with regulation 5; and
- (b) causing a notice of election to be published in accordance with regulation 6.

12. Death of candidate

- (1) If a candidate dies before the date and time specified in the notice of election for the close of nominations, his or her name must not be included in the ballot paper for the election and the election may proceed.
- (2) If a candidate dies after the date and time specified in the notice of election for the close of nominations but before postal votes are dispatched, voting must not take place for the election and a fresh election must be held.
- (3) If a candidate dies after the dispatch of postal votes but before the close of polling —
 - (a) votes must not be counted in respect of the election; and
 - (b) the ballot papers must be placed in a sealed parcel and a fresh election must be held.
- (4) If the candidate elected dies after the close of polling but before the declaration of the poll, the candidate with the second highest number of votes recorded in his or her favour after the distribution of preferences, if any, is to be declared elected.

Police Appeal Board (Election) Regulations 2007

r. 13

- (5) If under this regulation a fresh election must be held, the returning officer is to —
- (a) determine the dates and times for opening and closing the period for lodging nominations of candidates for the election and the place at which nominations of candidates for the election must be lodged in accordance with regulation 5; and
 - (b) cause a notice of election to be published in accordance with regulation 6.

13. Fixing of dates relating to the election

If more than one candidate duly nominates for the election, the returning officer is to —

- (a) hold an election; and
- (b) fix the date for issuing ballot papers and the date and time of the close of the ballot having regard to —
 - (i) the expiry day; and
 - (ii) the time required to send and return ballot papers by post; and
 - (iii) the time required to complete the election.

14. Election to be held by postal ballot

An election is to be held by postal ballot.

15. Electoral roll

- (1) The date and time for the close of the electoral roll is the date and time for the close of the period for lodging nominations.
- (2) The electoral roll, which is a list of all members of the Police Force, must be certified by the secretary as containing the correct names and addresses of the members.
- (3) If an election is to be held, the secretary is to provide the returning officer, immediately following the close of the period

Police Appeal Board (Election) Regulations 2007**r. 16**

for lodging nominations, with a certified copy of the electoral roll for the election in the format specified by the returning officer.

- (4) After the electoral roll is provided to the returning officer, the secretary is to provide the returning officer with the name and address of any person who has been omitted in error from the roll and the returning officer must add that person's name and address to the electoral roll.
- (5) The secretary is to provide the returning officer with the name of any person who ceases to be a member of the Police Force after the electoral roll is provided to the returning officer and the returning officer must delete that person's name and address from the electoral roll.
- (6) The returning officer is, from the day on which the electoral roll is provided until the day on which the result of the election is declared, to cause the roll to be made available for inspection by members of the Police Force at the offices of the returning officer during normal office hours.

16. Form of ballot paper and ballot paper envelope

- (1) A ballot paper must be printed on security paper.
- (2) The returning officer is to draw lots to determine the order in which the candidates names are to be placed on the ballot paper.
- (3) The returning officer is to include on the ballot paper information and instructions to the voter with respect to the following matters —
 - (a) the title of the office to which the election relates;
 - (b) the names of the candidates as determined in accordance with subregulation (2);
 - (c) the date and time of the close of the ballot;
 - (d) how to mark the ballot paper in order to record a formal vote.

Police Appeal Board (Election) Regulations 2007

r. 17

- (4) The returning officer is to include on or attached to the ballot paper envelope information and instructions to the voter with respect to the following matters —
- (a) placing the ballot paper, when completed, in the envelope marked “ballot paper envelope” and then to seal that envelope;
 - (b) completing the details on the declaration in the form specified in regulation 17 attached to the ballot paper envelope;
 - (c) placing the ballot paper envelope in the envelope addressed to the returning officer;
 - (d) sealing the envelope addressed to the returning officer and posting it to reach the returning officer before the time of the close of the ballot.
- (5) The returning officer is to obtain from the printer of the ballot papers a certificate stating the number of ballot papers printed.

17. Form of declaration

The declaration must contain —

- (a) the full name of the elector; and
- (b) the address of the elector; and
- (c) an identifying number shown against the name of the elector on the returning officer’s electoral roll; and
- (d) the nature of the election; and
- (e) provision for the elector to declare, by placing his or her signature in the space provided, that he or she is the elector named on the declaration.

18. Issue of ballot papers

- (1) As soon as practicable after the date fixed under regulation 13 for issuing ballot papers in respect of the election, the returning officer is to send by post to each person whose name appears on

Police Appeal Board (Election) Regulations 2007**r. 19**

the electoral roll at the address shown on the roll in a sealed envelope —

- (a) a ballot paper; and
 - (b) an envelope marked “ballot paper envelope”; and
 - (c) voting instructions; and
 - (d) candidates’ profiles; and
 - (e) a reply-paid envelope —
 - (i) that is addressed to the returning officer at the box used under regulation 23; and
 - (ii) that may be posted without expense by the voter.
- (2) The sealed envelope referred to in subregulation (1) must bear an instruction that, if it is not delivered to the addressee, it should be returned to the box referred to in subregulation (1)(e)(i).

19. Issue of duplicate ballot paper or ballot paper envelope

- (1) If, on an application before the time of the close of the ballot in an election, the returning officer is satisfied that a ballot paper or ballot paper envelope issued to a person whose name is on the electoral roll has not been received or has been lost, destroyed or spoilt, the returning officer is to issue to that person a duplicate ballot paper, or ballot paper envelope, as the case may be.
- (2) An application under subregulation (1) must —
- (a) be made in writing; and
 - (b) set out the grounds on which the application is made; and
 - (c) declare that the person has not voted in the election.

Police Appeal Board (Election) Regulations 2007

r. 20**20. How to mark ballot paper**

- (1) Voting is to be by means of a preferential ballot.
- (2) If there are 2 nominations only, a person is to mark his or her vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he or she votes.
- (3) If there are more than 2 nominations, a person is to —
 - (a) mark his or her vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he or she votes as his or her first preference; and
 - (b) give contingent votes for all the remaining candidates by placing the numerals 2, 3 and so on, as the case requires, opposite their names, so as to indicate by such numerical sequence the order of his or her preference.

21. Ballot Box

- (1) The returning officer is to provide such ballot boxes as are necessary for the election.
- (2) Before a ballot box is used to take reply-paid envelopes for the election that have been sent to the returning officer, the returning officer is to satisfy himself or herself that it is empty and then secure it with a security device in a way that ensures that nothing can be removed from it without breaking the security device.
- (3) When a reply-paid envelope for the election is received by the returning officer, the returning officer or an assistant is to place the envelope in a ballot box provided for that purpose.
- (4) The ballot box is to remain secured by the security device until the close of the ballot.

Police Appeal Board (Election) Regulations 2007**r. 22**

22. Scrutineers

- (1) Each candidate for the election may, by notice given to the returning officer in the form of Form 2 before the close of the ballot, appoint a scrutineer to represent the candidate at the counting of votes.
- (2) A scrutineer must make a declaration in the form of the declaration in Form 2.
- (3) A scrutineer may —
 - (a) be present while the returning officer carries out his or her functions under regulations 24, 25 and 27; and
 - (b) direct the attention of the returning officer to —
 - (i) any irregularity relating to the issue of ballot papers; and
 - (ii) the admission of any envelope to scrutiny; and
 - (iii) the admission of a ballot paper as formal; and
 - (iv) the rejection of a ballot paper as informal; and
 - (v) the counting of the vote.
- (4) A scrutineer must not touch a ballot paper or an envelope containing a ballot paper.
- (5) If a scrutineer —
 - (a) interrupts the scrutiny otherwise than in accordance with subregulation (3); or
 - (b) fails to make a declaration under subregulation (2); or
 - (c) touches a ballot paper or an envelope containing a ballot paper,the returning officer may direct the scrutineer to leave the place where the scrutiny is being conducted.
- (6) A scrutineer must not refuse or fail to comply with a direction given by the returning officer under subregulation (5).
Penalty: a fine of \$100.

Police Appeal Board (Election) Regulations 2007

r. 23**23. Post Office box for receipt of ballot papers**

The returning officer must use, for the purpose of receiving ballot papers in respect of the election —

- (a) if the returning officer is appointed under regulation 4(1), the Western Australian Electoral Commission post office box; or
- (b) if the returning officer is the returning officer by virtue of the operation of regulation 4(2), the Police Union of Workers of Western Australia post office box; or
- (c) a private box at a post office, being a private box used exclusively for that purpose.

24. Scrutiny

- (1) As soon as practicable after the close of the ballot, the returning officer must, in the presence of any scrutineer who wishes to attend, produce and open the ballot box.
- (2) The returning officer or an assistant must —
 - (a) remove ballot paper envelopes from the reply-paid envelopes; and
 - (b) check the declaration attached to the ballot paper envelope; and
 - (c) reject any ballot paper envelope if the declaration attached to it does not comply with regulation 17(a) to (d) or the elector has not completed it in accordance with regulation 17(e).
- (3) If not satisfied as to the matters referred to in subregulation (2), the returning officer or an assistant is to make a record on the ballot paper envelope of its rejection without opening the envelope or allowing it to be opened.

Police Appeal Board (Election) Regulations 2007**r. 25**

- (4) If satisfied as to the matters referred to in subregulation (2), the returning officer or an assistant is to —
 - (a) mark off the name on the electoral roll of the person who completed the declaration attached to the ballot paper envelope; and
 - (b) remove the declaration attached to the ballot paper envelope; and
 - (c) open all the ballot paper envelopes and remove the ballot papers; and
 - (d) proceed with the scrutiny and counting of votes.

25. Method of count

- (1) The method of counting the ballot papers is the preferential system.
- (2) The method and procedure for conducting the count is as provided in the *Electoral Act 1907* for Legislative Assembly elections.
- (3) If on any count 2 or more candidates have received the same number of votes, the returning officer is to draw lots to determine which candidate's preference votes are to be distributed first.
- (4) The returning officer may, from time to time, adjourn the scrutiny and count to a day and hour fixed or to be fixed by the returning officer.
- (5) If the returning officer adjourns the scrutiny and count, he or she must notify the candidates and scrutineers of the day and time to which scrutiny and count is adjourned.

Police Appeal Board (Election) Regulations 2007

r. 26**26. Informal ballot papers**

- (1) The returning officer must reject as informal a ballot paper that —
 - (a) is not printed on security paper; or
 - (b) is not marked substantially in accordance with the instructions on the ballot paper.
- (2) If, during the scrutiny, a scrutineer informs the returning officer that the scrutineer objects to a ballot paper being admitted as formal or rejected as informal, the returning officer must decide the matter and endorse his or her decision on the back of the ballot paper.
- (3) The returning officer is the sole and final judge of whether or not a ballot paper is formal or informal.

27. Recount of ballot papers

- (1) At any time before the declaration of the poll, the returning officer may, if he or she thinks fit, at the request of a scrutineer, or of his or her own volition, recount the ballot papers.
- (2) The returning officer in conducting the recount has the same powers as if the recount was the count and may reverse any decision in relation to the scrutiny as to the admission or rejection of a ballot paper.

28. Declaration of result

- (1) The returning officer is to declare the result of the election by giving written notice of the result to the secretary.
- (2) The returning officer's notice of the result given to the secretary in respect of the election is also to declare —
 - (a) the number of ballot papers printed, as certified by the printer; and
 - (b) the number of ballot papers (other than duplicate ballot papers) issued; and

Police Appeal Board (Election) Regulations 2007**r. 29**

- (c) the number of duplicate ballot papers issued; and
- (d) the number of unused ballot papers; and
- (e) the number of ballot paper envelopes rejected under regulation 24(2); and
- (f) the number of ballot papers admitted as formal; and
- (g) the number of ballot papers rejected as informal; and
- (h) the number of votes admitted as recorded in favour of each candidate; and
- (i) the number of votes recorded in favour of the last 2 candidates after any distribution of preferences.

29. Preservation and custody of election material

- (1) On the completion of the counting of votes, the returning officer is to give the following items to the secretary —
 - (a) all nomination papers;
 - (b) all ballot papers admitted as formal;
 - (c) all rejected ballot paper envelopes or informal ballot papers;
 - (d) all declarations removed from ballot paper envelopes;
 - (e) all reply-paid envelopes received after the close of the ballot;
 - (f) the marked electoral roll against which the declarations were checked;
 - (g) all unused ballot papers, declarations and other documents prepared in connection with the election.
- (2) Before giving the secretary the items referred to subregulation (1), the returning officer is to place them in a container sealed by the returning officer and with a label signed and dated by the returning officer showing that items in the container relate to the election.

Police Appeal Board (Election) Regulations 2007

r. 30

- (3) The secretary is to retain the container for a period of not less than one year after the date of the election.

30. The *Police Appeal Board Regulations* amended

- (1) The amendments in this regulation are to the *Police Appeal Board Regulations**.

[* *Reprint 1 as at 3 December 2004.*]

- (2) Regulation 2 is amended by deleting the definitions of “Appendix” and “returning officer”.
- (3) Regulations 3, 4, 5 and 6 are repealed.
- (4) The Appendix is repealed.

Police Appeal Board (Election) Regulations 2007
Schedule 1 Forms

Schedule 1 — Forms

[r. 7(1)(a), 22(1)]

1. Nomination by candidate

**NOMINATION FOR ELECTION FOR MEMBER OF THE POLICE
 APPEAL BOARD**

Candidate's details					
Title		Surname			
Given names					
Name requested to be shown on ballot paper					
Postal address	No.		Street name		
	Suburb/Town			Postcode	
Telephone numbers	(H)		(W)		
Fax number			Email		

Signature of candidate		Date / /
-------------------------------	--	--------------------

Nominations must be received by the returning officer before *(date and time for the close of nominations to be inserted here)*, the date and time for the close of nominations.

(Name and address of returning officer to be inserted in this box)

(Telephone and facsimile number and email address (if any) of the returning officer to be inserted in this box)

Police Appeal Board (Election) Regulations 2007Forms **Schedule 1****2. Appointment of scrutineer**

APPOINTMENT OF SCRUTINEER FOR THE ELECTION OF MEMBER OF THE POLICE APPEAL BOARD
--

Candidate's details				
Title		Surname		
Given names				
Postal address	No.		Street name	
	Suburb/ Town			Postcode

I appoint the following person as a scrutineer for the above election.
--

Signature of candidate		Date / /
------------------------	--	----------

Scrutineer's details				
Title		Surname		
Given names				
Postal address	No.		Street name	
	Suburb/ Town			Postcode
Telephone numbers	(H)		(W)	
Fax number			Email	

I DECLARE that I will observe the election processes and comply with lawful directions given by the returning officer.
--

Signature of scrutineer		Date / /
-------------------------	--	----------

By Command of the Governor,

G. M. PIKE, Clerk of the Executive Council.