

LG302\*

Local Government Act 1995

## **Local Government (Elections) Amendment Regulations (No. 2) 1998**

Made by the Governor in Executive Council.

**1. Citation**

These regulations may be cited as the *Local Government (Elections) Amendment Regulations (No. 2) 1998*.

**2. The regulations amended**

The amendments in these regulations are to the *Local Government (Elections) Regulations 1997\**.

[\* *Published in Gazette 14 February 1997, pp. 905-1008.*

*For amendments to 8 December 1998 see Gazette 20 November 1998, pp. 6275-7.]*

**3. Regulation 18 amended**

- (1) After regulation 18(1) the following subregulation is inserted —

“

- (1a) If the CEO is not the RO, the RO may direct the CEO to consolidate the residents roll with the owners and occupiers roll for the purposes of the election.

”.

- (2) Regulation 18(2) is amended by deleting “consolidation roll under subregulation (1)” and inserting instead —

“ consolidated roll under subregulation (1) or (1a) ”.

**4. Regulation 26 amended**

- (1) Regulation 26(2) is amended by deleting “cheque,”.
- (2) Regulation 26(3) is amended by inserting after “deposit by” —  
“ cheque, ”.

**5. Regulations 30H, 30I and 30J renumbered**

Regulations 30H, 30I and 30J are redesignated, respectively, as regulations 30G, 30H and 30I.

**6. Regulation 43 amended**

After regulation 43(1) the following subregulation is inserted —

“

- (1a) A reference in —  
(a) regulation 50 to a postage pre-paid envelope; or  
(b) regulation 52, 52A, 58(3) or 61(3) to a ballot paper envelope,

includes a reference to an envelope that combines a ballot paper envelope referred to in subregulation (1)(d) with a postage pre-paid envelope referred to in subregulation (1)(f).

”.

**7. Regulation 45 amended**

Regulation 45(7) is amended by inserting after “or (f)” —

“

or, (other than in subregulation (6)), a combination of those kinds of voting papers as described in regulation 43(1a)

”.

**8. Regulation 52 amended**

After regulation 52(2) the following subregulation is inserted —

“

- (3) If the postage pre-paid envelope and the ballot paper are combined, subregulation (1)(d) does not apply.

”.

**9. Regulation 52A inserted**

After regulation 52 the following regulation is inserted —

“

**52A. Preparation of postal ballot papers for count**

- (1) Postal voting papers for a postal election that have been —
- (a) received by the RO before 6 p.m. on election day;
  - (b) checked in accordance with this Division; and
  - (c) accepted for further scrutiny in accordance with regulation 52,

may be prepared for counting by the RO.

- (2) To prepare postal voting papers under subregulation (1), the RO may, before 6 p.m. on election day —
- (a) remove the ballot paper envelopes from the ballot box in which they were placed under regulation 52(1)(d);
  - (b) open each ballot paper envelope; and
  - (c) without —
    - (i) examining the ballot paper personally; or
    - (ii) allowing the examination of the ballot paper by any scrutineers present,

remove the ballot paper from the envelope and place the ballot paper into a sealed ballot box, which must remain sealed until 6 p.m. on election day.

”.

**10. Regulation 62 amended**

Regulation 62(3)(b) is amended by inserting after “the *Electoral Act 1907*” —

“ or under the *Commonwealth Electoral Act 1918* ”.

**11. Regulation 69 amended**

- (1) Regulation 69(3) is amended by deleting “at a polling place for the election during the hours of polling on election day, and during those hours” and inserting instead —

“

at any stage in that election process, and during the election

”.

- (2) Regulation 69(4) and (5) are repealed and the following subregulations are inserted instead —

“

- (4) A person to be appointed as a scrutineer is to make a declaration on the duplicate notice of appointment described in subregulation (1) before —

- (a) a justice;
- (b) a person who has authority under the *Declarations and Attestations Act 1913* to take statutory declarations; or
- (c) the RO, a deputy returning officer or a presiding officer.

- (5) On receipt of a completed notice and duplicate notice (Form 18) the RO or presiding officer is to endorse an acknowledgement of the appointment of a scrutineer on the duplicate notice and give it back to the candidate who is to give it to the person appointed.

”.

**12. Regulation 70 amended**

Regulation 70(1) is amended by deleting “69(4).” and inserting instead —

“ 69(5). ”.

**13. Regulation 71 amended**

Regulation 71 is amended by inserting after paragraph (d) the following paragraph —

“

- (da) to be present at the preparation of postal voting papers for counting under regulation 52A, but only at a sufficient distance from the preparation process that the markings on the ballot papers cannot be ascertained by the scrutineers;

”.

**14. Regulation 72 amended**

Regulation 72(e) is amended after “71 (d)” by inserting —

“ , (da) ”.

**15. Regulation 73 amended**

- (1) Regulation 73(1) is amended by deleting “a later day.” and inserting instead —  
“ as soon as is practicable thereafter. ”.
- (2) Regulation 73(3) is amended by deleting “a later day.” and inserting instead —  
“ as soon as is practicable thereafter. ”.
- (3) Regulation 73(4) is repealed.

**16. Regulation 76 amended**

Regulation 76(2) is repealed.

**17. Regulation 77 amended**

Regulation 77(1) is amended by deleting “to take votes cast in person”.

**18. Regulation 85 amended**

- (1) Regulation 85 is amended by inserting before “In adjudicating” the subregulation designation “(1)”.
- (2) At the end of regulation 85 the following subregulation is inserted —  
“  
  - (2) If the investigation of the invalidity complaint leads to a finding by the Court that 2 or more candidates received the same number of votes, the Court may order the RO to draw lots in accordance with Schedule 4.1 of the Act, and to inform the Court of the result to enable the Court to make a determination under subregulation (1).”.

**19. Regulation 89 amended**

- (1) Regulation 89 is amended by inserting before “A local” the subregulation designation “(1)”.
- (2) At the end of regulation 89 the following subregulations are inserted —  
“  
  - (2) Where a poll is required by the Minister under Schedule 2.1, clause 7 or 8 of the Act, the Minister may, by notice in writing to the relevant local government or local governments, fix the day on which the poll is to be held.
  - (3) Where —
    - (a) a poll is required by the Minister under Schedule 2.1, clause 7 or 8 of the Act; and”.

- (b) the Electoral Commissioner is to be responsible for the conduct of that poll, due to a declaration made under section 4.20(4) of the Act,

the local governments involved in that poll may, with the agreement of the Electoral Commissioner, abridge the time periods set out in sections 4.20(5) and (6), 4.39(1) and (2), 4.40(1) and (2), 4.41(1), and 4.61(3) and (5), to take account of periods in Part 4 of the Act that only apply to electoral polling.

”.

## 20. Schedule 1 amended

- (1) Form 5 in Schedule 1 is amended by deleting the heading “Back of Form 5” and the “Information to support your appeal” box and inserting instead —

“

<b>Information to support your appeal</b>	<p>You should include with this form details of any information which supports your appeal. You may wish to include:</p> <ul style="list-style-type: none"> <li>❶ your enrolment eligibility claim form;</li> <li>❷ the notice of rejection from the local government; and</li> <li>❸ if you are a nominee, a copy of the nomination.</li> </ul> <p><b>Note:</b> The Electoral Commissioner will not be able to process your appeal unless all necessary documentation is provided.</p>
---	---

### Back of Form 5

”.

- (2) Form 7 in Schedule 1 is amended by deleting the heading “Back of Form 7” and the “Information to support your appeal” box and inserting instead —

“

<b>Information to support your appeal</b>	<p>You should include with this form details of any information which supports your appeal. You may wish to include:</p> <ul style="list-style-type: none"> <li>❶ the notice of acceptance you received when your enrolment eligibility claim was accepted;</li> <li>❷ the notice of cancellation of eligibility; and</li> <li>❸ any other documents that support your appeal.</li> </ul> <p><b>Note:</b> The Electoral Commissioner will not be able to process your appeal unless all necessary documentation is provided.</p>
---	--

### Back of Form 7

”.

- (3) Form 13 (a) in Schedule 1 is amended by deleting the “Election package” box and inserting instead —

“

<b>Election package</b>	<p>This is your Postal Voting Election Package. It contains:</p> <ul style="list-style-type: none"> <li>• profiles of each of the candidates in your electorate;</li> <li>• a ballot paper;</li> <li>• an elector’s certificate<sup>1,1a</sup>;</li> <li>• a ballot paper envelope<sup>1a</sup>;</li> <li>• a postage pre-paid envelope addressed to the Returning Officer<sup>1a</sup>.</li> </ul> <p>If any of these papers are missing from your package please contact the Returning Officer for your district.</p>
-------------------------	---

”.

- (4) Form 13 (a) in Schedule 1 is amended in the “How to vote” box by deleting “**vote**” and inserting instead —

“ **vote**<sup>1b</sup> ”.

- (5) Form 13 (b) in Schedule 1 is amended by deleting the “Election package” box and inserting instead —

“

<b>Election package</b>	<p>This is your Postal Voting Election Package. It contains:</p> <ul style="list-style-type: none"> <li>• for the election of mayor<sup>4</sup>: <ul style="list-style-type: none"> <li>• profiles of each of the candidates; and</li> <li>• a mayoral<sup>4</sup> ballot paper;</li> </ul> </li> <li>• for the election of councillors: <ul style="list-style-type: none"> <li>• profiles of each of the candidates; and</li> <li>• a councillors ballot paper;</li> </ul> </li> <li>• an elector’s certificate<sup>1,1a</sup>;</li> <li>• a ballot paper envelope<sup>1</sup>;</li> <li>• a postage pre-paid envelope addressed to the Returning Officer<sup>1a</sup>.</li> </ul> <p>If any of these papers are missing from your package please contact the Returning Officer for your district.</p>
-------------------------	---

”.

- (6) Form 13 (b) in Schedule 1 is amended in the “How to vote” box by deleting “**vote**” and inserting instead —

“ **vote**<sup>3a</sup> ”.

(7) The notes to Form 13 in Schedule 1 are amended as follows:

(a) after note 1 by inserting —

“

**1a Ballot paper envelopes and prepaid envelopes**

*If the ballot paper envelope is also the postage pre-paid envelope addressed to the Returning Officer and incorporates the elector's certificate, delete these 3 items and insert instead —*

“• a combined ballot paper envelope and postage pre-paid envelope addressed to the Returning Officer with an elector's certificate attached.”.

**1b How to vote (Form 13 (a))**

*If the ballot paper envelope is also the postage pre-paid envelope addressed to the Returning Officer and incorporates the elector's certificate, delete these “How to vote” instructions and insert instead —*

<b>How to vote</b>	<p>❶ Decide which candidate(s) you want to elect and mark your choice on the ballot paper. The instructions with the ballot paper tell you how to do this.</p> <p>❷ Put your completed ballot paper into the envelope provided and seal the envelope.</p> <p>❸ Fill in and sign the elector's certificate.</p> <p>❹ Post the envelope to the Returning Officer, or deliver it to an electoral officer at:</p> <ul style="list-style-type: none"> <li>• the offices of the local government during office hours before election day; or</li> <li>• a polling place between 8 a.m. and 6 p.m. on election day.</li> </ul> <p>If you post your vote the Returning Officer must receive it before 6 p.m. on election day. Make sure you post it in plenty of time.</p>
--------------------	--

”;

(b) after note 3 by inserting —

“

**3a How to vote (Form 13 (b))**

*If the ballot paper envelope is also the postage pre-paid envelope addressed to the Returning Officer and*



*incorporates the elector's certificate, delete these "How to vote" instructions and insert instead —*

<b>How to vote</b>	<p>❶ Decide which candidate you want to elect as mayor<sup>4</sup> and mark your choice on the mayoral<sup>4</sup> ballot paper. The instructions with the ballot paper tell you how to do this.</p> <p>❷ Decide which candidate(s) you want to elect as councillors and mark your choice on the councillors ballot paper. The instructions with the ballot paper tell you how to do this.</p> <p>❸ Put your completed ballot papers into the envelope provided and seal the envelope.</p> <p>❹ Fill in and sign the elector's certificate.</p> <p>❺ Post that envelope to the Returning Officer, or deliver it to an electoral officer at:</p> <ul style="list-style-type: none"> <li>• the offices of the local government during office hours before election day; or</li> <li>• a polling place between 8 a.m. and 6 p.m. on election day.</li> </ul> <p>If you post your vote the Returning Officer must receive it before 6 p.m. on election day. Make sure you post it in plenty of time.</p>
--------------------	--

”.

- (8) Form 15 in Schedule 1 is amended by deleting the “Applicant” box and inserting instead —

“

<b>Applicant</b>	Full name:
	Home Address:
	Postal Address: <i>(if different to Home Address)</i>
	Phone numbers (H): _____ (W): _____
	Fax number: _____ Email: _____

”.

- (9) Form 16 in Schedule 1 is deleted and the following form is inserted instead —

“

**Form 16. Provisional Voter's Declaration**

*Local Government (Elections) Regulations 1997, regs. 46 and 62*

**PROVISIONAL VOTER'S  
DECLARATION**

<b>Elector</b>	Full name:
	Home Address:
	Postal Address: <i>(if different to Home Address)</i>
	Phone numbers (H): (W):
	Fax number: Email:

<b>Electorate</b>	Local government district:
	Ward:

<b>Reason for application</b>	I apply for provisional voting papers because:
	<input type="checkbox"/> a mark has been made against my name on the electoral roll showing that I have voted although I have not voted; or <input type="checkbox"/> my name has been omitted from the electoral roll in error.

[Tick one box]

I am eligible to be included on the owners and occupiers roll for the electorate and I have submitted an enrolment eligibility claim form in accordance with the requirements of the Act. The address of the property of which I am an owner or occupier is:

<b>Type of vote</b>	I wish to vote:
	<input type="checkbox"/> in person; or <input type="checkbox"/> by lodging a postal vote.

[Tick one box]

<b>Declaration</b> [Making a false declaration is an offence]	I declare that all of the details set out above are true and correct.
	Signature: Date:

<b>Electoral officer</b>	Full name:	
[Tick appropriate boxes]	In considering this claim, I have had regard to:	
	<input type="checkbox"/>	a previously compiled electoral roll of the local government;
	<input type="checkbox"/>	an electoral roll or other document prepared under the <i>Electoral Act 1907</i> or the <i>Commonwealth Electoral Act 1918</i> ;
	<input type="checkbox"/>	the owners and occupiers register;
	<input type="checkbox"/>	advice sent by the CEO as to whether or not the person is an elector;
	<input type="checkbox"/>	other relevant documents and materials – (describe briefly)
	This application is <input type="checkbox"/> accepted <input type="checkbox"/> rejected	
	Signature:	Date:

- (10) The back of Form 17 in Schedule 1 is amended in the “Property” box by deleting “must give the address of each property.” and inserting instead —

“

need only give the address of one property, but the application process will be facilitated if you list all the properties.

”.

- (11) The back of the original copy of Form 18 in Schedule 1 is amended in the “Where to send this form” box before “, send both” by inserting —

“ and the declaration by the scrutineer has been completed ”.

- (12) The duplicate copy of Form 18 in Schedule 1 is amended in the “DECLARATION BY SCRUTINEER” box by deleting “after” and inserting instead —

“ before ”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.