

**ERRATUM**

(The regulation appearing at page 8528–8536 of Government Gazette No. 139 of 4 October 1991 was published in error. The correct form of the regulation appears below.)

**SYDNEY ELECTRICITY ACT 1990—REGULATION**

(Sydney Electricity (Electricity Supply Districts—Elected Directors)  
Regulation 1991)

NEW SOUTH WALES



*[Published in Gazette No. 141 of 8 October 1991]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Sydney Electricity Act 1990, has been pleased to make the Regulation set forth hereunder.

R. J. WEBSTER  
Minister for Energy.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Sydney Electricity (Electricity Supply Districts—Elected Directors) Regulation 1991.

**Commencement**

2. This Regulation commences on 8 October, 1991.

**Definitions**

3. In this Regulation:

**“close of nominations”**, in relation to an election, means the time and date for the close of nominations in the election, fixed by a notification:

- (a) except as provided by paragraph (b)—given under clause 4 (1) (a); or
- (b) if the Electoral Commissioner fixes a later time and date for the close of nominations than that fixed by a previous notification—given under clause 5;

**“close of the ballot”**, in relation to an election, means the time and date for the close of the ballot in the election, fixed by a notification:

- (a) except as provided by paragraph (b)—given under clause 4 (1) (a); or
- (b) if the Electoral Commissioner fixes a later time and date for the close of the ballot than that fixed by a previous notification—given under clause 5;

**“election”** means an election of a person to hold office as an elected director of Sydney Electricity, as referred to in section 8 (2) (a) of the Act, for an electricity supply district;

**“electricity supply district”** means an electricity supply district referred to in Schedule 1 to the Act;

**“qualified elector”**, in relation to an electricity supply district, means a member of the council of a local government area comprised in that district;

**“the Act”** means the Sydney Electricity Act 1990.

## PART 2—CALLING OF ELECTION

### Calling of election

**4. (1)** The Electoral Commissioner must, as soon as practicable after being notified in writing by the Minister that an election is required to be held in respect of an electricity supply district:

- (a) cause to be given to each of the qualified electors a notification:
  - (i) stating that an election is to be held; and
  - (ii) inviting nominations; and
  - (iii) fixing the close of nominations; and
  - (iv) fixing the close of the ballot; and
- (b) notify the Chief Executive in writing that an election is to be held and of the times and dates fixed under paragraph (a) (iii) and (iv).

(2) The close of nominations is to be not less than 21 days nor more than 28 days after the Electoral Commissioner is notified that the election is required to be held.

(3) The close of the ballot is to be not less than 28 days after the close of nominations.

#### **Extension of time**

5. (1) The Electoral Commissioner may, if of the opinion that an election would otherwise fail, by a notification in a form similar to and given in the same manner as a notification referred to in clause 4 (1) (a), fix a later time and date for the close of nominations or the close of the ballot than that fixed by a previous notification.

(2) A notification must not fix a time and date more than 14 days after the time and date fixed by a previous notification.

(3) The power conferred on the Electoral Commissioner by this clause may be exercised more than once in respect of an election.

### **PART 3—NOMINATIONS ETC.**

#### **Nominations for elected member**

6. (1) A nomination of a candidate at an election must contain the full names, residential addresses and signatures of not less than 2 nominators, each being a qualified elector for the electricity supply district in respect of which the election is to be held.

(2) The Electoral Commissioner must reject any nomination received by the Electoral Commissioner after the close of nominations.

#### **Withdrawal of nomination**

7. A candidate may withdraw from an election by notice in writing delivered to the Electoral Commissioner at any time before the close of nominations.

#### **Uncontested election**

8. If, by the close of nominations, only 1 person has been nominated as a candidate, that person is elected.

#### **Contested election**

9. If, by the close of nominations, 2 or more persons have been nominated as candidates, a ballot is to be held.

**PART 4—THE BALLOT****Printing of ballot-papers, directions to voters etc.**

- 10. (1)** If a ballot is to be held, the Electoral Commissioner:
- (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the Parliamentary Electorates and Elections Act 1912; and
  - (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be forwarded to each qualified elector.
- (2)** The ballot-paper must contain:
- (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square opposite each name; and
  - (b) if, in the opinion of the Electoral Commissioner, the names of 2 or more candidates are so similar as to cause confusion, such other matter as will, in the opinion of the Electoral Commissioner, distinguish between those candidates; and
  - (c) such directions as to the manner in which the vote is to be recorded and the ballot-paper returned to the Electoral Commissioner as are required by subclause (3) and as the Electoral Commissioner considers appropriate.
- (3)** The directions to voters must include a direction that:
- (a) the voter must record a vote for at least 1 candidate by placing the number "1" in the square opposite the name of the candidate for whom the voter wishes to give his or her first preference; and
  - (b) the voter may vote for additional candidates by placing consecutive numbers, beginning with the number "2", in the squares opposite the names of those additional candidates in the order of the voter's preferences for them.

**Distribution of ballot-papers**

**11.** The Electoral Commissioner must forward to each qualified elector for the electricity supply district concerned:

- (a) a ballot-paper initialled by the Electoral Commissioner or a person authorised by the Electoral Commissioner in that behalf; and
- (b) an unsealed envelope addressed to the Electoral Commissioner and bearing on the back the words "Name and address of voter" and "Signature of voter", together with appropriate spaces for the insertion of the name, address and signature.

**Duplicate ballot-papers**

**12. (1)** If any person to whom a ballot-paper has been forwarded satisfies the Electoral Commissioner by statutory declaration:

- (a) that the ballot-paper has been spoilt, lost or destroyed; and
- (b) that the person has not already voted at the election to which the ballot-paper relates,

the Electoral Commissioner may, at any time before the close of the ballot, forward to the voter a new ballot-paper and envelope.

**(2)** The Electoral Commissioner must maintain a record of all ballot-papers forwarded to voters under this clause.

**Recording of vote**

**13.** A qualified elector who wishes to vote at the election:

- (a) must record the person's vote on the ballot-paper in accordance with the directions shown on it; and
- (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the Electoral Commissioner and forwarded with the ballot-paper; and
- (c) must seal the envelope; and
- (d) must complete the person's full name and address on, and sign, the back of the envelope; and
- (e) must return the envelope to the Electoral Commissioner so as to be received by the Electoral Commissioner before the close of the ballot.

**PART 5—THE SCRUTINY****Receipt of ballot-papers**

**14. (1)** In any ballot, the Electoral Commissioner must reject any envelope purporting to contain a ballot-paper if the envelope:

- (a) is received after the close of the ballot; or
- (b) is unsealed,

without opening the envelope or inspecting the ballot-paper.

**(2)** On receipt, before the close of the ballot, of an envelope purporting to contain a ballot-paper, the Electoral Commissioner must examine the name on the back of the envelope and:

- (a) if satisfied that a person of that name is a qualified elector for the electricity supply district concerned, must accept the ballot-paper in that envelope for scrutiny without opening the envelope; or
- (b) if not so satisfied, or if a name, address or signature does not appear on the back of the envelope, must reject any ballot-paper in the envelope without opening the envelope.

(3) If it appears to the Electoral Commissioner that the signature appearing on the back of any envelope referred to in subclause (2) is not the signature of the person whose name and address appear on the back of the envelope, the Electoral Commissioner may make such inquiries as the Electoral Commissioner thinks fit and if, after making those inquiries, the Electoral Commissioner is satisfied that the signature is not the signature of that person, must reject any ballot-paper in the envelope without opening the envelope.

#### **Ascertaining result of ballot**

15. The result of the ballot is to be ascertained by the Electoral Commissioner as soon as practicable after the close of the ballot.

#### **Scrutineers**

16. Each candidate is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at the scrutiny of votes in accordance with section 90 of the Parliamentary Electorates and Elections Act 1912.

#### **Scrutiny of votes**

17. (1) At the scrutiny of votes, a ballot-paper must be rejected as informal if

- (a) it is neither initialled by a person authorised by the Electoral Commissioner nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the Parliamentary Electorates and Elections Act 1912; or
- (b) it has on it any mark or writing which, in the opinion of the Electoral Commissioner, will enable any person to identify the voter who completed it; or
- (c) it has not been completed in accordance with the directions shown on it.

(2) A ballot-paper is not to be rejected as informal:

- (a) merely because of any mark or writing on it which is not authorised or required by this Regulation if, in the opinion of the Electoral Commissioner, the voter's intention is clearly indicated on the ballot-paper; or

- (b) if the voter has recorded a vote by placing in a square the number “1”:
  - (i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate; or
  - (ii) merely because there is a break in the order of preferences recorded on the ballot-paper.
- (3) The scrutiny of votes in a ballot is to be conducted as follows:
  - (a) the Electoral Commissioner is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny, other than any envelope purporting to contain a ballot-paper rejected under clause 14 (3);
  - (b) the Electoral Commissioner is then to open each such envelope, extract the ballot-paper and, without unfolding it, place it in a locked ballot-box;
  - (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the Electoral Commissioner is then to unlock the ballot-box and remove the ballot-papers;
  - (d) the Electoral Commissioner is then to examine each ballot-paper and reject those which are informal;
  - (e) the Electoral Commissioner is then to proceed to count the votes and ascertain the result of the election in accordance with clause 18.

### Counting of votes

18. (1) In this clause:

“**absolute majority of votes**” means a greater number than one-half of the number of ballot-papers counted;

“**continuing candidate**”, in relation to any count, means a candidate not excluded at a previous count;

“**exhausted ballot-paper**” means a ballot-paper on which no vote for a continuing candidate has been recorded.

(2) For the purposes of the definition of “exhausted ballot-paper” in subclause (1):

- (a) if the same preference (other than a first preference) has been recorded on a ballot-paper for more than 1 candidate, the ballot-paper is to be treated as if those preferences and any subsequent preference had not been recorded on the ballot-paper; and

(b) if there is a break in the order of preferences recorded on a ballot-paper, the ballot-paper is to be treated as if any subsequent preference had not been recorded on the ballot-paper.

(3) The Electoral Commissioner is to ascertain the total number of first preference votes recorded for each candidate on all ballot-papers not rejected as informal.

(4) If a candidate has an absolute majority of the first preference votes, the candidate is elected.

(5) If no candidate is elected under subclause (4), the Electoral Commissioner is to make a second count.

(6) On the second count, the candidate who has the fewest first preference votes is to be excluded, and each of the candidate's ballot-papers that is not exhausted is to be transferred to the candidate next in the order of the voter's preference and counted to him or her as a vote.

(7) If, on the second count, a candidate has an absolute majority of the votes remaining in the count, the candidate is elected.

(8) If, on the second count, no candidate has an absolute majority of the votes remaining in the count, the process of excluding the candidate who has the fewest votes, transferring each of the candidate's ballot-papers that is not exhausted to the continuing candidate next in the order of the voter's preference and counting it to him or her as a vote is to be repeated by the Electoral Commissioner until 1 candidate has a majority of the votes remaining in the count.

(9) The candidate who, in accordance with subclause (8), has an absolute majority of the votes remaining in the count is elected.

(10) Despite subclauses (6) and (8), the process of transferring to a continuing candidate each of the ballot-papers that is not exhausted and counting it to him or her as a vote is not to be repeated if there is only 1 continuing candidate, but that 1 continuing candidate is elected.

(11) If, on any count at which a candidate has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates):

- (a) such 1 of those candidates as had the fewest number of votes at the last count at which they did not have an equal number of votes is to be excluded; or
- (b) if they had an equal number of votes at all preceding counts, the candidate whose name is on a slip drawn in accordance with subclause (12) is to be excluded.



(12) For the purposes of subclause (11), the names of the candidates who have an equal number of votes having been written on similar slips of paper, and the slips having been folded so as to prevent the names being seen and having been mixed, 1 of those slips is to be drawn at random by the Electoral Commissioner.

#### **Notification of result of election**

19. As soon as practicable after a candidate is elected, the Electoral Commissioner:

- (a) must notify the Minister in writing of the name of the candidate who has been elected; and
- (b) must cause notice that the candidate has been elected to be published in the Gazette.

### **PART 6—MISCELLANEOUS**

#### **Voting not compulsory**

20. Voting at an election is not compulsory.

#### **Electoral roll**

21. (1) For the purpose of preparing a roll of qualified electors for an electricity supply district, the Electoral Commissioner may (by notice in writing sent to the clerk of the council of a local government area comprised in the district) require the clerk to furnish to the Electoral Commissioner, within such time as may be specified in the notice, a list of the members for the time being of that council.

(2) The clerk of a council to whom such a notice is sent must comply with the requirements of the notice.

#### **Death of candidate**

22. If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the Electoral Commissioner is to cause notice of the death to be published in the Gazette; and
- (b) all proceedings taken after the Minister notified the Electoral Commissioner that the election was required to be held are of no effect and those proceedings must again be taken.

**Decision of Electoral Commissioner final**

23. If the Electoral Commissioner is by this Regulation permitted or required to make a decision on any matter relating to the taking of a ballot in an election, the decision of the Electoral Commissioner on that matter is final.

**Delegation of Electoral Commissioner's functions**

24. The Electoral Commissioner may delegate to any member of staff of the State Electoral Office any of the Electoral Commissioner's functions under this Regulation.

**Costs of election to be borne by Sydney Electricity**

25. The costs of conducting an election are to be borne by Sydney Electricity.

**Offences**

26. A person must not:

- (a) vote or attempt to vote more than once in any election; or
- (b) vote or attempt to vote in an election in which the person is not entitled to vote; or
- (c) make a false or wilfully misleading statement (not being a statement verified by statutory declaration):
  - (i) to the Electoral Commissioner in connection with an election; or
  - (ii) in any document that the person furnishes for the purposes of an election.

Maximum penalty: 5 penalty units.

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**EXPLANATORY NOTE**

The object of this Regulation is to set out the procedures to be followed for the election of a person to hold office as an elected director of Sydney Electricity, in accordance with section 8 (2) (a) of the Sydney Electricity Act 1990, in respect of an electricity supply district referred to in Schedule 1 to that Act.