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Local Government (Electoral) Regulations 2020

The Governor in Council makes the following Regulations:

Dated: 7 July 2020

Responsible Minister:

SHAUN LEANE
Minister for Local Government

CLAIRE CHISHOLM
Clerk of the Executive Council

Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe matters that relate to the conduct of local government elections.

2 Authorising provisions

These Regulations are made under sections 325 and 326 of the Local Government Act 2020 and section 29 of the City of Melbourne Act 2001.

3 Commencement

These Regulations come into operation on 13 July 2020.
4 Revocations

The following Regulations are revoked—

(a) the Local Government (Electoral) Regulations 2016¹;

(b) the Local Government (Electoral) Amendment Regulations 2017².

5 Definitions

(1) In these Regulations—

*authorised deposit-taking institution* has the same meaning as in the Banking Act 1959 of the Commonwealth;

*candidate questionnaire form* means the relevant form referred to in regulation 43 and set out in Form 2 of Schedule 1;

*candidate statement* means the statement and any photograph lodged by a candidate in accordance with regulation 38;

*counting place* means a place designated by an election manager under regulation 63;

*disadvantaged voter* means a voter to whom Division 4 of Part 5 applies;

*early postal vote* means an early postal vote ballot envelope issued in accordance with regulation 53;

*election official* for an election, includes the election manager for the election;

*emergency* has the same meaning as in the Emergency Management Act 2013;

*nomination day* means the day that is 32 days before election day;
postal ballot envelope means an envelope that complies with the requirements set out in regulation 49;

postal ballot receptacle means a ballot-box or any other container that is used for the receipt or safekeeping of returned declaration envelopes containing ballot-papers;

prosecution officer has the same meaning as in section 267(1) of the Act;

registered officer has the same meaning as in section 44 of the Electoral Act 2002;

registered political party has the same meaning as in the Electoral Act 2002;

silent voter means—
(a) a voter whose address is not shown on a voters' roll; or
(b) an elector whose address is not shown on the relevant Roll under the Commonwealth Electoral Act 1918 of the Commonwealth; or
(c) a silent elector within the meaning of the Electoral Act 2002;

dend the Act means the Local Government Act 2020.

(2) In Division 1 of Part 2—
(a) corporation details of a corporation means—
(i) the corporation's name; and
(ii) the ACN of the corporation; and
(iii) the registered address of the corporation; and
(iv) the name and position of the person authorised to make an application on behalf of the corporation under section 245 of the Act;

(b) *personal details* of a person means—

(i) the person's name; and

(ii) the person's date of birth; and

(iii) the address of the person's principal place of residence; and

(iv) the person's postal address.
Part 2—Voters' rolls

Division 1—Enrolment of voters

6 Notice inviting renewal of enrolment

(1) A notice under section 240(10), (11) or (12) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;
(b) the address of the relevant rateable property;
(c) a statement specifying that the enrolment of the person on the voters' roll will cease to have effect at the close of the roll for the next general election and that if still entitled, an application to renew the enrolment can be made under section 242, 244 or 245 of the Act (as the case may be).

(2) A notice under subregulation (1) must be accompanied by the relevant application form under section 240(3)(b) or (c) of the Act.

7 Enrolment application from property owner

An application under section 242(1) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;
(b) the address of the relevant rateable property;
(c) the personal details of the person making the application;
(d) a declaration signed and dated by the person that states that the person is—

(i) an owner of the rateable property in respect of which the person is requesting to be enrolled; and

(ii) not otherwise entitled to be enrolled on the voters' roll in the municipal district as a resident or ratepayer of a rateable property.

8 **Resignation of owner enrolment**

An application under section 242(2) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;

(b) the address of the relevant rateable property;

(c) the personal details of the owner making the application;

(d) a declaration signed and dated by the owner that states that the owner wishes to resign the owner's enrolment as an owner of the rateable property.

9 **Request to vary owner enrolment**

(1) For the purposes of an application under section 243(2) of the Act, the following details are required—

(a) the name of the relevant Council;

(b) the address of the relevant rateable property;

(c) the names of all owners of the rateable property;

(d) the name of each owner to be removed from the voters' roll;
(e) the personal details of each owner requested to be enrolled on the voters' roll;

(f) a declaration signed and dated by each owner requesting to be enrolled that states that—
   (i) the owner is the owner of the rateable property; and
   (ii) the owner is not otherwise entitled to be enrolled on the voters' roll in respect of the relevant rateable property;

(g) an authorisation signed and dated by at least one joint owner of the rateable property who is not 1 of the 2 owners requesting to be enrolled in respect of the rateable property.

(2) If a request to vary the enrolled owners under section 243(2) of the Act is a request to enrol a representative of a corporation, the details required under regulation 12 must be provided in addition to the details required under subregulation (1).

10 Enrolment application from property occupier

An application under section 244(1) or (3) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;

(b) the address of the relevant rateable property;

(c) the personal details of the occupier making the application;

(d) the name of the property owner;

(e) a declaration signed and dated by the person that states that the person is—
   
   (i) an occupier of the rateable property; and
(ii) liable to pay the rates for that property; and

(iii) not otherwise entitled to be enrolled on the voters' roll in the municipal district as a resident or ratepayer of a rateable property.

11 Resignation of occupier enrolment

An application under section 244(4) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;
(b) the address of the relevant rateable property;
(c) the personal details of the occupier making the application;
(d) a declaration signed and dated by the occupier that states that the occupier wishes to resign the occupier's enrolment as an occupier of the rateable property.

12 Appointment of corporation representative

An application under section 245(1) or (2) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;
(b) the address of the relevant rateable property;
(c) the personal details of the person to be appointed;
(d) the office in the corporation held by the person to be appointed;
(e) a declaration signed and dated by the person to be appointed that states that the person—

(i) consents to the appointment; and
(ii) is not otherwise entitled to be enrolled on the voters' roll for the municipal district in respect of which the appointment is to be made;

(f) the corporation details of the corporation making the application;

(g) a declaration signed and dated by a person authorised to sign on behalf of the corporation that states that—

(i) the person is authorised to make the application on behalf of the corporation; and

(ii) the corporation is an owner or occupier of the rateable property (as the case may be); and

(iii) the person named in the application as the prospective appointee is a company secretary or a director of the corporation (as the case may be) and is to be appointed to be the voting representative of the corporation.

13 Resignation of corporation representative

A notice under section 245(7)(a)(iii) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;

(b) the personal details of the person who resigns the appointment;

(c) the corporation details of the corporation that the person represented;

(d) a declaration signed and dated by the person that states that the person resigns the appointment.
14 Revocation of corporation appointment

A notice under section 245(7)(b) of the Act must be in writing and include the following details—

(a) the name of the relevant Council;

(b) the corporation details of the corporation seeking to revoke the appointment;

(c) the personal details of the person whose appointment is to be revoked;

(d) a declaration signed and dated by a person authorised to sign on behalf of the corporation that states that—

   (i) the person is authorised to make the notice of revocation on behalf of the corporation; and

   (ii) the appointment is revoked.

15 Enrolment entitlement information

(1) The Chief Executive Officer must provide details of a person's entitlement to be enrolled as a ratepayer on the voters' roll for the municipal district under section 242, 243, 244 or 245 of the Act, if requested by that person.

(2) The Chief Executive Officer and the VEC may exchange relevant information to enrolment entitlements for a voters' roll to ensure the voters' roll is accurate and complete.

(3) In subregulation (2), *relevant information* includes information and records held by the Chief Executive Officer or the VEC for the purpose of their respective operations and the exercise of any and all functions.
16 Public notification of close of the roll

The VEC must at least 10 days before the close of the roll publish a public notice stating the following—

(a) the close of the roll;
(b) who can apply to enrol;
(c) how they can apply to enrol;
(d) how a person can check their enrolment.

Division 2—Silent voters

17 Silent voter request

For the purposes of section 247(1) of the Act, the prescribed form is Form 1 in Schedule 1.

18 Silent voter list

(1) The Chief Executive Officer must maintain a list of silent voters whose request to be a silent voter was granted under section 247(4) of the Act.

(2) A person may be removed from the list of silent voters after the entitlement day if—

(a) the person is no longer entitled to be enrolled as a ratepayer on the voters' roll; or
(b) the person has requested in writing that they no longer be listed as a silent voter.

19 Silent voter's details to be kept secure

(1) The Chief Executive Officer must ensure that only a person authorised by the Chief Executive Officer has access to the address of a silent voter or to the information contained in a request made under section 247(1) of the Act.

(2) The VEC must ensure that only a person authorised by the VEC has access to the address of a silent voter.
Division 3—Form of voters' rolls

20 Voters' roll

For the purposes of section 249(1) of the Act, the following are the prescribed particulars to be included in a voters' roll—

(a) the name of the relevant Council;

(b) if the relevant municipal district is divided into wards, the name of the relevant ward;

(c) the date of the election for which the roll has been prepared;

(d) the surname and other name or names of each voter;

(e) except in the case of a silent voter—

(i) the address in respect of which each voter is entitled to be enrolled on the roll; and

(ii) if the voter has a different address as a postal address, that postal address.
Part 3—General election matters

21 Election managers and election officials

(1) The VEC, for the purposes of conducting elections under the Act and the City of Melbourne Act 2001, may appoint—

(a) election managers; and

(b) election officials.

(2) A person who is a candidate at the election or a Councillor of the Council in respect of which the election is to be held cannot be appointed or act as an election manager or election official at the election or otherwise assist in the conduct of the election.

(3) The election manager may by instrument of delegation delegate to any election official any power, duty or function of the election manager other than this power of delegation.

22 Notice of election

(1) Not less than 40 days before an election, the VEC must publish a public notice of the election.

(2) The public notice must—

(a) specify that nominations will be received at the place or places specified in the public notice by the VEC during the period beginning on the day that the certified voters' roll becomes available and ending at 12 noon on nomination day; and

(b) indicate the week in which postal ballot envelopes are likely to be posted or delivered to voters; and

(c) specify when voting closes; and
23 **Election manager to give election advice**

The election manager may give any advice to members of the public relating to the conduct of an election that the election manager considers appropriate.
Part 4—Candidates

Division 1—Candidates and scrutineers

24 Nomination form

(1) A candidate for election must—

(a) complete a nomination form containing the details required by subregulation (2); and

(b) sign the nomination form; and

(c) make a declaration in writing containing the details required by subregulation (3); and

(d) pay to the VEC the nomination fee of $250 in cash or by cheque drawn on account of an authorised deposit-taking institution.

(2) The nomination form must be in writing and must contain the following details—

(a) the name of the relevant Council;

(b) if the relevant municipal district is divided into wards, the name of the relevant ward;

(c) the surname and given names of the candidate;

(d) the address in respect of which the candidate is enrolled on the voters' roll;

(e) if different from the address referred to in paragraph (d), the candidate's residential and postal addresses;

(f) how the candidate may be contacted at short notice during business hours and during non-business hours, which may include—

(i) a telephone number; and

(ii) an email address;
Part 4—Candidates

(g) the form in which the candidate's name is to appear on the ballot-paper.

(3) A candidate must include in the nomination form a declaration that is signed and dated by the candidate and states that the candidate—

(a) is applying to be a candidate for the office of Councillor for [the --- Ward of the --- Council] at the election and the year of the election; and

(b) is qualified to be a Councillor under the Act; and

(c) has completed the Local Government Candidate Training in accordance with these Regulations specifying—

(i) the date and location where the candidate attended the Local Government Candidate Training; or

(ii) the date the candidate was provided access by electronic means to the Local Government Candidate Training; and

(d) is aware that it is an offence under the Act for a person who is not entitled to nominate as a candidate for an election under section 256 to nominate as a candidate for an election.

(4) A candidate must sign the declaration referred to in subregulation (3) in the presence of the election manager.

(5) If a candidate has changed his or her name from that which appears on the voters' roll, the candidate must attach evidence of the change of name to the nomination form.

(6) The candidate's name is to appear on the ballot-paper in the form specified in the notice under subregulation (2)(g).
(7) For the purposes of subregulation (6) a given name may be specified by—
   (a) an initial standing for that name; or
   (b) a commonly accepted variation of that name, including an abbreviation or an alternative form of that name; or
   (c) a commonly used other name specific to the candidate by which the candidate is usually identified.

(8) A name cannot be specified on a ballot-paper under subregulation (7)(c) unless the candidate produces evidence to the satisfaction of the election manager that the proposed name is a commonly used other name specific to the candidate by which the candidate is usually identified.

(9) A title or other designation cannot be included with, or as part of, the name of a candidate on a ballot-paper.

25 Validity of candidature

(1) A person is not eligible to be a candidate for election if—
   (a) the nomination form is not properly completed; or
   (b) the nomination fee has not been paid; or
   (c) the nomination has been rejected as void under subregulation (4).

(2) The election manager can only reject a nomination—
   (a) if section 256(4), (6) or (7) of the Act applies; or
   (b) if regulation 24 has not been complied with.
(3) If the election manager is satisfied that regulation 24 has been complied with, the election manager cannot reject the nomination because of—

(a) any possible defect or error in the qualification of the candidate; or

(b) any formal defect or error.

(4) The election manager must reject as being void a nomination from a person who is not enrolled on the voters' roll for the municipality.

(5) The election manager must return any rejected nomination form to the person who submitted it.

(6) If the election manager becomes aware before the election day that a nomination to which subregulation (2)(a) applies has not been rejected, the following provisions apply to that nomination—

(a) if practicable, the election manager must publish a public notice before the election day of the name of the person whose nomination is void;

(b) the election manager must take all practicable steps to remove the name of the person whose nomination is void from the ballot-papers;

(c) if the election manager receives a completed ballot-paper on which the name of the person whose nomination is void has not been removed, the name of that person and any figure next to the name are to be treated as removed and the ballot-paper is to be given effect to in the voter's order of preference in respect of the remaining candidates.
26 Withdrawal of nomination

(1) A candidate may withdraw a nomination before 12 noon on nomination day.

(2) A notice of withdrawal must be signed by the candidate and must include the following details—

(a) the name of the relevant Council;

(b) if the relevant municipal district is divided into wards, the name of the relevant ward;

(c) the full name of the withdrawing candidate;

(d) the date on which the withdrawing candidate signed the notice.

(3) The election manager must keep the nomination form.

(4) The election manager must retain the nomination fee paid by a candidate who withdraws their nomination under this regulation.

27 Retirement of a candidate

(1) A candidate may retire before a declaration of an election is made or, if an election is to be held, before the day of the election, only in accordance with this regulation.

(2) A candidate may retire before the day of an election if the retirement will result in an uncontested election.

(3) If regulation 29(5) applies to a candidate, the retirement of the candidate takes effect on and from the date the election manager sends the candidate advice under regulation 29(4)(b).

(4) To retire in any other circumstance, the candidate would not be qualified to be a Councillor as required under section 34 of the Act.
(5) If subregulation (4) applies to a candidate, the candidate may retire by giving the election manager—

(a) a written statement specifying that the candidate is not qualified to be a Councillor as required under section 34 of the Act and include or attach evidence in support of that statement; and

(b) a notice of retirement signed by the candidate.

(6) Retirement in accordance with subregulation (2) or (5) takes effect on the election manager receiving—

(a) the notice of retirement; and

(b) if subregulation (4) applies, the written statement specified in subregulation (5).

(7) If practicable, the election manager must publish a public notice of a retirement before the day of the election.

(8) The following provisions apply if the candidate has retired in accordance with subregulation (5) or is taken to have retired under regulation 29(5)—

(a) if the retirement of the candidate is effective after the ballot-papers have been printed the election manager must take all practicable steps to remove the name of the retiring candidate from the ballot-papers;

(b) if the election manager receives a completed ballot-paper on which the name of the retiring candidate has not been removed, the name of the retiring candidate and any figure next to the name are to be treated as removed and the ballot-paper is to be given effect in the voter’s order of preference in respect of the remaining candidates.
(9) The election manager must keep the nomination form.

(10) The election manager must retain the nomination fee paid by a candidate who retires under this regulation or who is taken to have retired under regulation 29(5).

28 Death of a candidate

(1) If a candidate dies before 12 noon on nomination day, the nomination becomes void.

(2) If a candidate dies after 12 noon on nomination day but before the close of voting in the election, the following provisions apply—

(a) if the candidate dies after the ballot-papers have been printed, the election manager must take all practicable steps to remove the name of the deceased candidate from the ballot-papers;

(b) if the election manager receives a completed ballot-paper on which the name of the deceased candidate has not been removed, the name of the deceased candidate and any figure next to the name are to be treated as removed and the ballot-paper is to be given effect to in the voter’s order of preference in respect of the remaining candidates.

(3) The election manager must keep the nomination form.

(4) The election manager must return the nomination fee to the legal personal representative of the candidate.

29 Election manager may query qualifications of candidate

(1) The election manager must send written notice to a candidate for election if the election manager believes that the candidate is not entitled to
nominate as a candidate under section 256 of the Act.

(2) A notice under subregulation (1)—

(a) must be—

(i) personally served; or

(ii) sent by post or email to the postal or email address specified in the candidate's nomination form; and

(b) must specify that the election manager believes that the candidate is not entitled to nominate as a candidate under section 256 of the Act; and

(c) must specify the reasons for that belief; and

(d) must invite the candidate to submit written reasons explaining why the candidate should not be prevented from being a candidate for election; and

(e) must specify the date by which the candidate must submit written reasons (being a date not less than one day after the date of the election manager's written notice).

(3) The election manager must take action in accordance with subregulation (4) if the election manager—

(a) receives reasons from the candidate explaining why the candidate should not be prevented from being a candidate for election but the election manager is satisfied that the candidate is not entitled as specified in subregulation (1); or

(b) does not receive any written submission from the candidate.
(4) The election manager must—

(a) if nominations for the election have not closed, reject the nomination of the candidate and advise the candidate that the nomination has been rejected and the reasons for that rejection; or

(b) if nominations for the election have closed but the declaration of the election has not been made, advise the candidate that they are retired from the election and give reasons for retiring the candidate.

(5) For the purposes of subregulation (4)(b)—

(a) the candidate's nomination is void from the date that advice is sent to the candidate by the election manager; and

(b) the candidate is taken to have retired from the election on and from the date the advice is sent.

(6) The reasons given to a candidate by the election manager under subregulation (4)(a) or (b) must be in writing.

30 Availability of nomination information

The election manager may provide a list of candidates for an election which specifies contact details for each candidate.

31 Scrutineers

(1) A candidate may appoint one or more scrutineers.

(2) The appointment of a scrutineer must be made in writing and must include the following details—

(a) the name of the relevant Council;

(b) if the municipal district is divided into wards, the name of the relevant ward;
(c) the full name and the signature of the candidate appointing the scrutineer;

(d) the full name and residential address of the person being appointed as the scrutineer;

(e) a declaration signed and dated by the scrutineer in the presence of an election official that states that the scrutineer—
   (i) undertakes to be a scrutineer for the candidate; and
   (ii) will not disclose any fact coming to the scrutineer's knowledge which the scrutineer is required not to disclose under the Act or regulations; and
   (iii) is not a person who cannot be appointed as a scrutineer under the Act and the regulations.

(3) A separate form must be used for each appointment of a scrutineer.

(4) A person cannot be appointed as a scrutineer if they are—
   (a) a Councillor of the Council; or
   (b) a candidate at the election; or
   (c) a candidate at any other election conducted simultaneously with that election in relation to the same Council; or
   (d) a person appointed by the VEC to be involved in the conduct of the election.

(5) Before a scrutineer can act as a scrutineer they must make a written declaration containing the details set out in subregulation (2)(e).

(6) A scrutineer may be appointed by a candidate to scrutinise the following electoral activities before the counting of votes—
(a) the posting of postal ballot envelopes;
(b) the opening and emptying of a Post Office Box;
(c) the opening and emptying of a postal ballot receptacle;
(d) the receipt and processing of declaration envelopes.

(7) In respect of each candidate, one scrutineer for each election official involved in any of the electoral activities specified in subregulation (6) may be present at each electoral activity at any one time.

(8) An election official may cause a scrutineer to be removed if—

(a) the scrutineer's presence is contrary to subregulation (7); or
(b) the scrutineer commits a breach of the Act or these Regulations; or
(c) the scrutineer obstructs or hinders an election official who is performing an electoral activity referred to in subregulation (6); or
(d) the scrutineer fails to obey a lawful direction given by an election official.

Division 2—Candidate training

32 Local Government Candidate Training

For the purposes of section 256(7) of the Act, the prescribed training is—

(a) the Local Government Candidate Training as developed by the Department; and
(b) completed by the person nominating to be a candidate within 4 years before the election day for the general election or by-election.
33 Conducting training

(1) A Council’s Chief Executive Officer must with respect to a general election and a by-election of the Council—

(a) cause the Local Government Candidate Training to be conducted—

   (i) at least twice and on separate days; and

   (ii) either—

      (A) at the Council office or other location within the Council’s municipal district; or

      (B) by electronic means in a manner approved by the Minister in writing; and

   (iii) during the period of 60 days prior to the first day that nominations to be a candidate at the election may be received; and

(b) cause the Local Government Candidate Training to be conducted without modification or incorporation of other information; and

(c) provide reasonable assistance to a person to enable them to complete the Local Government Candidate Training.

(2) The Department must with respect to a general election of one or more Councils—

(a) cause the Local Government Candidate Training to be conducted—

   (i) at least twice and on separate days; and
(ii) either—

(A) with at least one session at a location in metropolitan Melbourne and at least one session in regional Victoria; or

(B) by electronic means in a manner approved by the Minister in writing; and

(iii) during the period of 8 days prior to nomination day; and

(b) cause the Local Government Candidate Training to be conducted without modification or incorporation of other information; and

(c) provide reasonable assistance to a person to enable them to complete the Local Government Candidate Training.

34 Undertaking training

A person undertaking the Local Government Candidate Training must—

(a) provide their name and date of birth and a valid form of photographic identification to the relevant Chief Executive Officer, or a person authorised by the Chief Executive Officer, or a Department representative (as appropriate) prior to taking the Local Government Candidate Training, either—

(i) in person at the location specified in regulation 33(1)(a)(ii)(A) or 33(2)(a)(ii)(A) on the day that the training is conducted; or

(ii) in another manner approved by the Minister in writing; and
(b) complete at least one session of the training either—
   (i) in person at the location specified in regulation 33(1)(a)(ii)(A) or 33(2)(a)(ii)(A); or
   (ii) by electronic means in a manner approved by the Minister in writing in regulation 33(1)(a)(ii)(B) or 33(2)(a)(ii)(B).

35 Register of attendance

   (1) A Chief Executive Officer and the Department (as appropriate) must keep a register of persons who have attended or were provided access by electronic means to the Local Government Candidate Training (as appropriate) under regulation 34 by making a record of—
      (a) each person's name and date of birth; and
      (b) either—
          (i) the date and location the person attended the Local Government Candidate Training; or
          (ii) the date the person was provided access by electronic means to the Local Government Candidate Training.
   
   (2) The register referred to in this regulation constitutes confidential information for the purposes of section 3 of the Act.

36 Request for information

   (1) The Chief Municipal Inspector or the VEC may by written notice require a Chief Executive Officer or the Department to provide any information from the register referred to in regulation 35.
(2) The Chief Executive Officer or Department must comply with a notice given under subregulation (1) within a reasonable time after receiving the request.

**Division 3—Candidate statements**

37 Interpretation of Division

In this Division a reference to "another candidate" includes a reference to a particular candidate or class of candidate by name or description.

38 Lodgement of candidate statements

(1) A candidate may lodge with the election manager a candidate statement for inclusion in the postal ballot envelope.

(2) A candidate statement must be lodged before 12 noon on the day after nomination day.

(3) A candidate statement must be lodged—

   (a) at the place or places that nominations are received under regulation 22(2)(a); or

   (b) if the election manager has advised candidates that candidate statements are to be received at another place, at that other place; or

   (c) by electronic communication in accordance with conditions determined by the election manager.

(4) A candidate statement must be accompanied by a declaration signed and dated by the candidate which states—

"I declare that my candidate statement is true and correct, that it does not contain matter that may mislead or deceive a voter in the casting of the voter's vote and that I am aware I may be liable to prosecution if my candidate statement contains
mater that may mislead or deceive a voter when casting a vote."

(5) A candidate statement may be lodged by the candidate or by a person authorised in writing by the candidate.

(6) If a candidate statement is lodged by a person authorised by the candidate, the signed and dated authorisation must be lodged with the candidate statement.

39 Form of a candidate statement

(1) Subject to subregulation (2), a candidate statement—

(a) must include a written statement of no more than 300 words; and

(b) may include a recent passport-size photograph of the candidate.

(2) A candidate statement must not include either of the following—

(a) a reference to another candidate standing for an election in the municipal district without the written consent of that other candidate;

(b) unless subregulation (3) applies, a claim of endorsement or support from a party, an organisation or a person.

(3) A candidate statement may include a claim of endorsement or support from a party, an organisation or a person if the candidate lodges with the candidate statement the written consent of the party, organisation or person to include the claim of endorsement or support on the candidate statement.
(4) A candidate must—

(a) provide the election manager two identical prints of any photograph lodged with the statement and write the candidate’s name on the back of one of the prints; or

(b) if the photograph is provided in electronic format, include the candidate’s name in the electronic file name.

(5) The election manager may specify formatting limitations that may apply to the publication of candidate statements and may alter the format of submitted statements to comply with those limitations.

40 Rejection and amendment of candidate statements

(1) The election manager must reject a candidate statement if—

(a) in the opinion of the election manager, the statement contains any of the following—

(i) material that is offensive or obscene;

(ii) material that is likely to mislead or deceive a voter in casting a vote;

(iii) a reference to another candidate that is included without the written consent of that candidate;

(iv) a claim of endorsement or support from a party, an organisation or a person that is not supported by the written consent referred to in regulation 39(3);

(v) material that is in breach of an Act or regulation; or

(b) the candidate has not lodged a declaration in accordance with regulation 38(4).
(2) If the election manager rejects a candidate statement under subregulation (1), the election manager must notify the candidate no later than 12 noon on the second day after nomination day—

(a) that the candidate statement has been rejected and the reasons for the rejection; and

(b) which section or sections of the candidate statement needs to be amended for the candidate statement to be accepted; and

(c) subject to subregulation (4), that the candidate may amend that section or those sections of the candidate statement and resubmit the statement.

(3) For the purposes of subregulation (2), it is sufficient for the election manager to notify the candidate in accordance with the contact details provided by the candidate in the candidate's nomination form in accordance with regulation 24(2)(f).

(4) A candidate whose candidate statement is rejected by the election manager may, no later than 24 hours after the election manager notified the candidate under subregulation (2), resubmit the candidate statement to the election manager in accordance with regulation 38(3).

(5) A candidate who resubmits the candidate statement may only amend the section or sections of the statement referred to in subregulation (2)(b).

41 **Publication of candidate statements**

(1) As soon as practicable after a candidate's candidate statement is accepted by the election manager, the election manager must ensure that it is published on an Internet site maintained by or on behalf of the election manager that is not the
Internet site of the Council and may publish it in printed form.

(2) The election manager must not publish a candidate statement that—

(a) has been rejected under regulation 40; or

(b) has been resubmitted under regulation 40 and is subsequently rejected again under that regulation.

(3) The election manager may only publish the first 300 words of the candidate statement.

(4) If a candidate has not lodged all information that may be published under these Regulations, the election manager must publish a notice that the candidate has not provided all information.

(5) Candidate statements and any notice referred to in subregulation (4) must be published in the order in which the candidates appear on the ballot-paper and must clearly identify the relevant candidate in each case.

42 Disclaimer on candidate statement

The election manager must ensure that on any Internet site or printed form where candidate statements are published by the election manager the following disclaimer is prominently displayed—

"The contents of candidate statements are provided by the candidates. Any enquiries about candidate statements should be directed to the relevant candidate. Candidate statements are not verified or endorsed by the election manager.".
Division 4—Candidate questionnaire

43 Lodgement of candidate questionnaire form

(1) A candidate may lodge with the election manager a completed candidate questionnaire form.

(2) The candidate questionnaire form is Form 2 in Schedule 1.

(3) A candidate questionnaire form must be lodged before 12 noon on the day after nomination day—

   (a) at the place or places that nominations are received under regulation 22(2); or

   (b) if the election manager has advised candidates that candidate questionnaire forms are to be received at another place, at that other place; or

   (c) by electronic communication in accordance with conditions determined by the election manager.

(4) A lodged candidate questionnaire form must be accompanied by a declaration signed and dated by the candidate which states that the answers provided are true and correct.

(5) If the lodged candidate questionnaire form includes a claim of endorsement by a registered political party, the candidate must lodge a document containing the written consent of the registered officer of the party to the claim of endorsement with the completed candidate questionnaire form.

44 Publication of candidate questionnaire form

(1) The election manager must not publish an answer contained in a lodged candidate questionnaire form if the form—

   (a) contains material that is offensive or obscene; or
(b) is not completed in accordance with the instructions in the form; or

(c) contains material that is unrelated to a question; or

(d) includes a claim of endorsement from a registered political party that is not supported by the written consent referred to in regulation 43(5).

(2) As soon as practicable after the lodged candidate questionnaire form is accepted by the election manager, the election manager must—

(a) ensure that the questions in the candidate questionnaire form and the answers given by the candidate (other than an answer to which subregulation (1) applies), are published on an Internet site maintained by or on behalf of the election manager that is not an Internet site of the Council; and

(b) provide the questions and answers referred to in paragraph (a) in printed form or by electronic communication to any person on request.

(3) If the candidate—

(a) has not lodged the candidate questionnaire form in accordance with regulation 43; or

(b) has not given an answer to a question that is in the candidate questionnaire form; or

(c) has given an answer to which subregulation (1) applies—

the election manager must publish a notice in place of the questions and answers published under subregulation (2) to the effect that the candidate has not lodged the candidate questionnaire form or has not given the relevant answer (as the case may be).
(4) A notice referred to in subregulation (3) and an answer given by a candidate referred to in subregulation (2)(a) must be published in the order in which the candidates appear on the ballot-paper and must clearly identify the relevant candidate in each case.

(5) The election manager must ensure that each postal ballot envelope that is sent or delivered in respect of the relevant ward or municipal district for which the candidate has nominated contains a statement about how the questions and answers referred to in subregulation (2) may be accessed.

45 Disclaimer on candidate questionnaire form

The election manager must ensure that on any Internet site or printed form where answers contained in a lodged candidate questionnaire form are published by the election manager, the following disclaimer is prominently displayed—

"Answers to questions contained in lodged candidate questionnaires are provided by the candidates. Any enquiries about a candidate's answers should be directed to the relevant candidate. Answers to candidate questionnaires are not verified or endorsed by the election manager."

Division 5—Election campaign donations

46 Prescribed form details

For the purposes of section 306(2)(a) of the Act, an election campaign donation return is in the prescribed form if it contains the following prescribed details—

(a) the name of the relevant Council;

(b) if the relevant municipal district is divided into wards, the name of the relevant ward;
(c) the full name and address of the candidate;

(d) a declaration signed and dated by the candidate which states that—

(i) the election campaign donation return includes a complete record of all gifts required to be disclosed; and

(ii) the details provided in the election campaign donation return are a true and accurate record;

(e) in respect of each gift received during the donation period—

(i) the full name and address of each person who made the gift to the candidate; and

(ii) the date on which the gift was given to the candidate; and

(iii) in respect of a gift in the form of money—

(A) the exact value of the gift; and

(B) the form in which the gift was given; and

(iv) in respect of each gift in the form of goods or services—

(A) a description of the gift; and

(B) the estimated market value of the gift.
Part 5—Voting in elections

Division 1—Ballot-papers

47 Form of ballot-paper

(1) A ballot-paper for an election must include the following details—

(a) the name of the relevant Council;

(b) if the relevant municipal district is divided into wards, the name of the relevant ward;

(c) the name of each candidate and a box opposite each name;

(d) instructions to the voter on how to mark the voter's ballot-paper, being instructions in the form of words or a statement to the following effect—

"Number the boxes 1 to [2, 3, 4, 5... as the case may be] in the order of your choice. Number every box to make your vote count.".

(2) Subject to regulation 53(5), the election manager must ensure that ballot-papers are printed on marked security paper.

48 Order of candidates on ballot-paper

(1) The election manager must as soon as practicable after 12 noon on nomination day hold a ballot by lot whether manually or by electronic means to determine the order in which the name of each candidate is to appear on the ballot-paper.

(2) If in the opinion of the election manager a similarity in the names of 2 or more candidates is likely to cause confusion, the election manager may arrange for the names of the candidates to be
(3) Despite subregulation (2), a ballot-paper must not contain any reference to the allegiance of a candidate to any political party or other cause or to the fact that a candidate has no such allegiance.

(4) Subregulation (3) does not apply to the name of a candidate.

**Division 2—Issue of postal ballot materials**

**49 Issue of postal ballot envelopes**

(1) At least 15 days before the last day of voting, the election manager must ensure that a postal ballot envelope is posted or delivered to each person whose name appears on the voters’ roll.

(2) The postal ballot envelope must contain the following—

(a) a declaration envelope referred to in regulation 50;

(b) a ballot-paper;

(c) a prepaid envelope for the return of the declaration and ballot-paper;

(d) instructions on how to vote;

(e) notice of how and when the ballot-paper must be returned by;

(f) candidate statements for the ward or municipal district in which the voter is entitled to vote;

(g) the statement referred to in regulation 44(5);

(h) any other material that the election manager thinks is appropriate.
(3) Postal ballot envelopes may not be posted or delivered to more than 35% of voters on any one day.

(4) For the purpose of subregulation (3), the postal ballot envelopes to be sent or delivered on any one day must be selected on a random basis.

(5) The election manager is responsible for the safe custody of postal ballot envelopes and all documents and materials contained in the postal ballot envelopes until they are sent or delivered under this regulation.

(6) The election manager must keep a record of all postal ballot envelopes sent or delivered.

50 Declaration envelopes

(1) The election manager must ensure that each postal ballot envelope contains a sealable declaration envelope in which voters may place their marked ballot-paper.

(2) The election manager must ensure that the declaration envelopes are opaque.

(3) The election manager must ensure that a declaration envelope has a declaration flap which is capable of being removed by an election official without opening the declaration envelope and which includes the following—

(a) the name of the relevant Council;

(b) if the municipal district is divided into wards, the name of the relevant ward;

(c) the name and entitlement address of the voter;

(d) the postal address of the voter (if different from the entitlement address);

(e) the declaration to be signed by the voter;
(f) a place for the voter to sign and date the declaration;

(g) any other information that the election manager considers necessary to assist voting.

(4) The declaration under subregulation (3)(e) must be in the following form or to the following effect—

"I am the voter named on this envelope. I have enclosed my completed ballot-paper in this envelope. I have not already voted in this Council election."

51 **Voter not to receive postal vote**

(1) This regulation applies if the election manager receives notice that an enrolled voter has died or is no longer entitled to be enrolled as a voter by virtue of section 48(2)(d) of the Constitution Act 1975.

(2) If the election manager receives notice under subregulation (1) before a postal ballot envelope is posted or delivered to the voter, the election manager must take all reasonable steps to ensure that a postal ballot envelope is not posted or delivered to the voter.

(3) If the election manager receives notice under subregulation (1) after a postal ballot envelope has been sent to the voter, the election manager must ensure that any returned declaration envelope bearing the voter’s name is disallowed.

52 **Amendment of voters' roll**

(1) This regulation applies if, as a result of an amendment of the voters' roll under section 250 of the Act, it appears that—

(a) an enrolled voter has not been sent a ballot-paper; or
(b) an incorrect ballot-paper has been sent to a voter; or
(c) a ballot-paper has been sent to a person who is not entitled to vote.

(2) As soon as possible after becoming aware of the amendment of the voters' roll, the election manager must—

(a) send to each person whose enrolment records have been altered written advice of the amendment of the voters' roll and how the amendment affects the person; and
(b) send to each person who, as a result of the amendment is an enrolled voter and is entitled to vote, a postal ballot envelope containing a ballot-paper.

(3) If the election manager sends a postal ballot envelope to a voter under this regulation, and a declaration envelope previously issued to the voter is returned by the voter, the election manager must ensure that the previously issued declaration envelope is disallowed.

(4) The election manager must keep a record of—

(a) all postal ballot envelopes issued under this regulation; and
(b) all declaration envelopes disallowed under this regulation.

53 Early postal vote

(1) A voter may request an early postal ballot envelope from an election official.

(2) A voter who makes a request under subregulation (1) must give reasons for the request.
(3) If the election official considers that the request is reasonable, the election official must comply with the request.

(4) An election official may comply with a request under this regulation even if the candidate statements have not yet been printed.

(5) An election official may issue a ballot-paper under this regulation that is not printed on marked security paper if the election official initials the ballot-paper.

54 Request to redirect postal ballot envelope

(1) A voter may make a request in writing to the election manager to have the voter's postal ballot envelope redirected to another address specified in the request.

(2) A request to redirect a postal ballot envelope under this regulation must be lodged no later than—

   (a) the day on which the voters' roll is certified under section 249(4) of the Act; or

   (b) a later date specified by the election manager in accordance with regulation 22(2)(f).

(3) If a person makes a request under this regulation, the election manager must ensure that a postal ballot envelope is sent or delivered to that person at the address specified in the request.

55 Request by an unenrolled voter

(1) A person who claims to be entitled to vote but is not enrolled on the voters' roll may apply to the election manager for a postal ballot envelope as an unenrolled voter.
(2) Despite regulation 49(1), the election manager must issue a postal ballot envelope to a person who applies under subregulation (1) for a postal ballot envelope.

(3) The declaration envelope issued to an unenrolled voter under this regulation must be identified as a declaration envelope for an unenrolled voter.

(4) The declaration envelope issued to a person under this regulation must include directions for the person—

   (a) to specify the address for which the person claims to be entitled to be enrolled; and

   (b) to describe the basis of the person’s claim to entitlement; and

   (c) to specify the person's date of birth; and

   (d) to declare that the details provided on the declaration envelope are true and correct.

(5) The election manager must ensure that a record is kept of all declaration envelopes, ballot-papers and postal ballot envelopes issued under this regulation.

56 Request for replacement voting materials

(1) This regulation applies if, on or before the last day of voting, a voter—

   (a) makes a claim to an election official that the voter has not received a postal ballot envelope at the address to which the postal ballot envelope was sent; or

   (b) makes a claim to an election official that the voter is not at the address to which the postal ballot envelope was sent and has not received a postal ballot envelope; or
(c) makes a claim to an election official that the voter has lost or destroyed the declaration envelope or ballot-paper or both; or

(d) satisfies an election official that the voter has spoilt the declaration envelope or ballot-paper or both and returns the spoilt declaration envelope or the spoilt ballot-paper or both.

(2) The election official must issue the voter with whichever of the following is appropriate—

(a) a replacement declaration envelope;
(b) a replacement ballot-paper;
(c) a replacement postal ballot envelope.

(3) A declaration envelope issued under this regulation must be identified as a replacement declaration envelope.

(4) The election manager must ensure that a record is kept of all declaration envelopes, ballot-papers and postal ballot envelopes issued under this regulation.

(5) If a spoilt declaration envelope or spoilt ballot-paper has been returned under this regulation, the election official must—

(a) cancel the spoilt declaration envelope or spoilt ballot-paper by marking it with the words "spoilt by voter"; and

(b) initial the spoilt ballot-paper; and

(c) retain the spoilt declaration envelope or ballot-paper until the close of voting.
Division 3—Return of postal ballot materials

57 Return of declaration envelopes and ballot-papers

(1) A voter, or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, must—

(a) mark the voter's ballot-paper in accordance with the instructions; and

(b) insert the ballot-paper in the declaration envelope; and

(c) personally sign the declaration envelope with the voter's (or nominated or authorised person's) usual signature; and

(d) fill in the date in the place provided; and

(e) place the declaration envelope in the prepaid envelope provided.

(2) Postal voting closes at 6 p.m. on the day before election day in the election.

(3) For the purposes of subregulation (2), a voter is taken to have voted before 6 p.m. on the day before election day if—

(a) the voter or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, complies with subregulation (1); and

(b) the declaration is signed and dated before election day; and

(c) the voter or, in the case of a disadvantaged voter, a person nominated or authorised by the disadvantaged voter, posts the declaration envelope containing the marked ballot-paper to the place designated by the election manager for that purpose; and
Local Government (Electoral) Regulations 2020
S.R. No. 72/2020
Part 5—Voting in elections

(d) the declaration envelope is received by the election manager before 12 noon on the fifth working day after election day.

(4) The election official must not reject a declaration envelope solely because it is not posted or delivered in the prepaid envelope provided.

(5) For the purposes of this regulation, the day before election day includes—

(a) a working day; and

(b) a public holiday.

58 Receipt of declaration envelopes and ballot-papers

(1) Before election day an election official may—

(a) remove a declaration envelope from the outer envelope if applicable; and

(b) separate signed declaration envelopes from unsigned declaration envelopes; and

(c) put aside declaration envelopes returned without declaration flaps; and

(d) if the municipal district for the election is divided into wards, arrange all the declaration envelopes according to the appropriate ward.

(2) The election manager must ensure that until after 6 p.m. on the day before election day—

(a) all declaration envelopes received are placed in a properly secured postal ballot receptacle; and

(b) no declaration flaps are removed from declaration envelopes; and

(c) all declaration envelopes remain unopened.
(3) The election manager must keep a record of the number of declaration envelopes returned and the persons who have returned declaration envelopes.

59 Procedure after close of receipt of declaration envelopes and ballot-papers

As soon as practicable after 6 p.m. on the day before election day, the election manager must ensure that the following things are done by election officials in the presence of any scrutineer who is present—

(a) open the postal ballot receptacle and remove its contents;

(b) make a record of the number of declaration envelopes received;

(c) if the count is to be conducted at another location, securely transfer the declaration envelopes to the counting place designated by the election manager.

60 Change to the last day of voting

(1) The election manager may alter the last day of voting by fixing a different later day if the election manager is of the opinion that it is necessary to do so because of—

(a) an unforeseen delay in the printing of election materials or in the processing of candidate statements; or

(b) a postal strike or any other disruption to the postal service; or

(c) an emergency.

(2) If the election manager alters the last day of voting, the election manager must—

(a) as soon as practicable publish a public notice of the new last day of voting; and
Part 5—Voting in elections

Division 4—Assistance for voters

61 Disadvantaged voters

(1) This Division applies to any voter who—
   (a) is wholly or partially blind; or
   (b) is unable to read or write; or
   (c) has severe difficulty in reading or writing; or
   (d) is not sufficiently familiar with the English language to vote without assistance and an interpreter is not available.

(2) After receiving a ballot-paper, the voter may request—
   (a) a person nominated by the voter; or
   (b) an election official—
   to assist the voter to mark the ballot-paper or to mark the ballot-paper as the voter instructs.

(3) The voter may also request—
   (a) a person nominated by the voter; or
   (b) an election official—
   to complete any declaration that must accompany a postal vote or to sign such a declaration on the voter's behalf.

(4) The voter may indicate the manner in which they want to mark their vote by presenting a statement in writing.

62 Disadvantaged voters signing declarations

(1) If a disadvantaged voter is requested or required to sign a declaration in accordance with this Part, the declaration may be signed by a person...
authorised by the disadvantaged voter to sign in the place of the disadvantaged voter.

(2) A person signing the declaration for a disadvantaged voter must clearly write the person's name and include the words "authorised person" beneath the person's name and signature.
**Part 6—Counting of votes**

**Division 1—General counting provisions**

63 **Place at which votes to be counted**

(1) The election manager must designate a place or places to be counting places at which ballot-papers used in an election are to be counted.

(2) A counting place designated under subregulation (1) may be located either within or outside the municipal district of the Council.

(3) Votes may only be counted at a counting place.

(4) The election manager must advise each candidate not later than the day before the count where the count is to be made.

64 **Scrutineers at a counting place**

(1) In respect of each candidate, the number of scrutineers who may be present at any one time is limited to—

   (a) one scrutineer for each election official involved in the manual counting or recounting of ballot-papers; or

   (b) if a computerised system of counting is used, one scrutineer for each election official involved in entering data during the counting and recounting of ballot-papers.

(2) A scrutineer must not be prevented from entering or leaving a counting place except in accordance with the Act and these Regulations.
(3) An election official may remove from the counting place a scrutineer who—

(a) interferes with, or disrupts, the counting of votes; or

(b) commits a breach of the Act or these Regulations; or

(c) fails to obey a lawful direction given by an election official.

65 Adjournment of count

(1) The election manager may from time to time adjourn the count of votes.

(2) If the count of votes is adjourned the election manager must advise the scrutineers of the adjournment.

(3) If an adjourned count is conducted by electronic counting, the election official in charge of the counting place must—

(a) record the number of ballot-papers that were electronically recorded at the time of the adjournment; and

(b) advise any scrutineers at the counting place of the number of electronically recorded ballot-papers; and

(c) verify the number of electronically recorded ballot-papers before recommencing the count after the adjournment.

(4) The election manager must ensure that the ballot-papers and documents relating to the election are kept secure during the adjournment.
Division 2—Preparation for counting

66 Unsigned declaration envelopes

Despite anything to the contrary in this Division—

(a) an election official must disallow a ballot-paper within a declaration envelope that is not signed without removing the declaration flap or opening the declaration envelope; and

(b) an election official must disallow the ballot-paper within a declaration envelope that is returned without its declaration flap without opening the declaration envelope; and

(c) if the election manager is satisfied that a declaration envelope is not signed in accordance with regulation 57(1)(c), the election manager may disallow the ballot-paper within the declaration envelope and must neither remove the declaration flap nor open the declaration envelope.

67 Postal ballot envelopes issued to unenrolled voters

(1) The election manager must identify the declaration envelopes that were issued to persons who—

(a) applied for a postal ballot envelope under regulation 55; and

(b) are entitled to be enrolled on the voters’ roll at the close of the roll.

(2) The election manager must accept a ballot-paper contained in a declaration envelope referred to in subregulation (1) without opening the declaration envelope if the election manager is satisfied that the voter is entitled to be enrolled on the voters' roll at the close of the roll.
(3) The election manager must disallow a ballot-paper contained in a declaration envelope referred to in subregulation (1) without removing the declaration flap or opening the declaration envelope if the election manager is not satisfied that the voter is entitled to be enrolled on the voters' roll at the close of the roll.

68 **Replacement postal ballot envelopes**

(1) The election manager must identify the declaration envelopes that were issued to voters who—

(a) were issued with declaration envelopes under regulation 56; and

(b) have not voted or attempted to vote more than once at the election.

(2) If it appears to the election manager that a person has signed and returned more than one declaration envelope, without removing the declaration flaps or opening the declaration envelopes the election manager must—

(a) accept the ballot-paper within the declaration envelope that appears to have been signed first by the voter; and

(b) disallow all ballot-papers in other declaration envelopes that appear to have been returned by the voter.

(3) If it appears to the election manager that 2 or more declaration envelopes bearing the name of the same voter have been signed and returned by different people, and regulation 66(c) does not apply, the election manager must—

(a) disallow the ballot-papers contained in the declaration envelopes without removing the declaration flaps or opening the declaration envelopes; and
(b) keep a record of the number of persons whose declaration envelopes have been disallowed under this subregulation and the actions taken in each case.

69 Opening declaration envelopes

(1) The election manager must ensure that the following things are done at each counting place by election officials in the presence of any scrutineer who is present—

(a) remove the declaration flaps from the declaration envelopes that have not been disallowed;

(b) place the removed declaration flaps in a secure receptacle or location;

(c) open the declaration envelopes and remove the ballot-papers contained in them.

(2) An election official must not open a declaration envelope under subregulation (1)(c) until the declaration flap on the envelope has been removed and placed in a secure receptacle or location.

(3) An election official must disallow all the ballot-papers within the same declaration envelope and mark them in a manner that indicates why the ballot-papers have been disallowed if the declaration envelope contains—

(a) more than one ballot-paper for the same election; or

(b) ballot-papers for more than one ward or election.

(4) If a declaration envelope contains a ballot-paper for an election other than the election for which the declaration envelope was issued, an election official must disallow the ballot-paper and mark it in a manner that indicates why the ballot-paper has been disallowed.
Division 3—Manual counting of votes

70 Procedure for manual counting of votes

The election manager must, after opening the declaration envelopes—

(a) set aside ballot-papers disallowed or rejected under the Act and these Regulations; and

(b) determine the number of first preference votes received by each candidate; and

(c) undertake the counting of votes in accordance with Division 6 or 7 of Part 8 of the Act.

71 Records of a manual count to be made available

(1) After all votes have been distributed to candidates in accordance with voters' first preferences, the election manager must ensure that a record of the distribution of first preference votes is prepared and is made available to any scrutineer present at the count.

(2) After the conclusion of the count, the election manager must—

(a) prepare a final record of the complete count showing the distribution of votes to candidates in accordance with voters' preferences at each stage of the count; and

(b) make copies of the record referred to in paragraph (a) available to any scrutineer present at the count to enable the scrutineer a reasonable time in which to examine the record before the declaration of the poll.

(3) The election manager may prepare additional records of the count at other stages of the count and make them available to any scrutineer present at the count.
(4) The election manager must provide a copy of the final record of the count to a candidate if requested to do so by the candidate.

(5) The election manager may publish a record of the count or make the record available to any person.

**Division 4—Electronic counting of votes**

72 **Electronic counting systems**

An electronic counting system used to count votes under section 263(2) of the Act must—

(a) comply with the counting procedures set out in Division 6, 7 or 8 of Part 8 of the Act; and

(b) comply with the rules under section 269 of the Act for determining the validity of a marked ballot-paper; and

(c) enable the electronic record of the preferences from any ballot-paper to be verified by comparison to the ballot-paper after being recorded.

73 **Validation procedures**

(1) The election manager must ensure that the method of electronically recording preferences from ballot-papers involves suitable validation procedures.

(2) The election manager must document the validation procedures and make copies of the documentation available to scrutineers before the commencement of the count.

(3) If the validation procedures include the double entry of preferences, the election manager may determine that a recount is to comprise a single entry where each entry is validated against the equivalent earlier entry.
74 **Procedures for electronic counting**

(1) If votes are counted using electronic counting equipment, the election manager may determine that a reference in Division 6 or 7 of Part 8 of the Act to the physical arrangement or movement of ballot-papers is not applicable if the equivalent process is performed electronically.

(2) The election manager may decide to separate disallowed ballot-papers before preferences are electronically recorded and not to make an electronic record of disallowed ballot-papers.

(3) The election manager must ensure that any scrutineer present at the count who wishes to observe the electronic recording of the preferences on ballot-papers by an election official is not prevented from doing so.

(4) Before calculating the result, the election manager must reconcile the electronic record of ballot-papers with the total number of ballot-papers received.

75 **Records of an electronic count to be made available**

(1) At those stages of the count determined by the election manager, the election manager must ensure that records are prepared showing the progressive distribution of first preference votes to candidates and that copies of the records are made available to any scrutineers present at the count.

(2) After the conclusion of the count, the election manager must prepare a final record of the count, recording the complete distribution of votes to candidates in accordance with voters' preferences.

(3) The election manager must ensure that a copy of the final record of the count is made available to any scrutineer present at the count to enable the scrutineer a reasonable time to examine the record before the declaration of the poll.
(4) The election manager must provide a copy of the final record of the count to any candidate on request.

(5) The returning officer may publish a record of the count or make the record available to any person.

76 Recount of votes

(1) At any time before a candidate has been declared elected, the election manager may—

(a) if the election manager thinks fit; or

(b) at the written request of the candidate specifying reasons—

open any sealed parcel containing ballot-papers and recount the ballot-papers.

(2) The following applies to recounts—

(a) a recount may be conducted at the discretion of the election manager;

(b) the election manager may conduct one or more recounts;

(c) the election manager must make reasonable efforts to notify candidates or their representatives before a recount is conducted.

(3) In conducting a recount the election manager—

(a) has the same powers as the election official in determining the number of votes for each candidate; and

(b) may reverse any decision in relation to the allowance and admission or disallowance and rejection of any ballot-paper.
(4) A candidate is not entitled to be present at a recount.

(5) In respect of each candidate only one scrutineer for each election official involved in the recounting of ballot-papers can be present at any one time.

(6) Regulation 31 applies to the scrutineers as if they had been appointed under that regulation.

**Division 5—Custody of election materials**

**77 Record of election materials**

(1) The election manager must keep a record of—

   (a) the number of ballot-papers printed, issued and received; and
   (b) the number of declaration envelopes issued and received.

(2) The election manager must reconcile the number of ballot-papers printed with the number of ballot-papers issued, spoilt, left unused or not returned by voters.

(3) The election manager must certify the record kept under subregulations (1) and (2) as being true and correct.

**78 Packaging of election records**

(1) As soon as practicable after the completion of the count of votes, the election manager must enclose, secure and seal each of the following in one or more separate packets—

   (a) the parcels of used ballot-papers;
   (b) the parcels of unused ballot-papers;
   (c) the parcels of spoilt ballot-papers;
   (d) the parcels of disallowed and rejected ballot-papers;
(e) declaration envelopes that contain disallowed ballot-papers;

(f) all copies of voters' rolls;

(g) all applications and declarations in relation to the relevant election made under these Regulations;

(h) all mail in relation to the relevant election that is returned to the election manager undelivered;

(i) all other documents that contain records of the conduct of the relevant election, including, if used in the election, an electronic copy of records of preferences used for electronic counting of votes.

(2) The election manager must sign each packet referred to in subregulation (1).

(3) Before packaging mail that is returned to the election manager undelivered, the election manager may, for the purpose of maintaining voters' rolls, make a record of undelivered mail.

79 Storage of election records

(1) The VEC must ensure that the packets of election records referred to in regulation 78 are kept safely and secretly.

(2) The VEC must manage the election records under subregulation (1) in accordance with the relevant standard for such records established under the Public Records Act 1973.

(3) If the packets of election records referred to in regulation 78 are opened in accordance with any Act or regulations, the VEC must secure and reseal the opened packet.
80 Declaration of result

(1) The election manager must as soon as practicable on or after election day publicly declare the result of the election by giving the name or names of the candidate or candidates elected.

(2) The election manager must as soon as practicable after publicly declaring the result—

(a) give public notice of—

   (i) the name or names of the Councillor or Councillors elected; and
   (ii) the order in which the Councillors were elected; and

(b) advise the Minister and the Chief Executive Officer of the Council of the result.

81 Refund of nomination fee

The nomination fee paid for or on behalf of a candidate must be repaid to the candidate on the certificate of the election manager if—

(a) the candidate is declared elected; or

(b) the total number of first preference votes in the candidate’s favour is at least equal to 4% of the total number of first preference votes in favour of all the candidates in the election.

82 Retained nomination fee to be paid to Council

Any nomination fee retained by the election manager in accordance with these Regulations must be paid to the Council.

83 Report on election

(1) The VEC must prepare a report to the Chief Executive Officer on the conduct of the election within the period of 6 months after election day.
(2) The report must include a certified record of the number of ballot-papers and declarations printed, issued, used, spoiled and returned.

(3) The Chief Executive Officer must ensure that the report is submitted to the Council at the earliest practicable meeting of the Council held after the report is received by the Chief Executive Officer.
Part 7—Enforcement of compulsory voting

84 Exemptions from compulsory voting

(1) For the purposes of section 266(4) of the Act, it is not compulsory for a person to vote if the prosecution officer is satisfied that the person had a sufficient excuse for not voting.

(2) Without limiting the generality of subregulation (1), any of the following is a sufficient excuse for not voting—

(a) the voter was ill, disabled or infirm and for that reason was unable to vote at the election or could have voted only with difficulty;

(b) the voter was absent from Victoria during the 15 days immediately before the last day of voting;

(c) the voter—

   (i) returned a declaration envelope within 7 days immediately after the last day of voting; or

   (ii) returned a declaration envelope that was disallowed under regulation 52(3); or

   (iii) made a request to have the postal ballot envelope redirected under regulation 54 but did not receive a postal ballot envelope; or

   (iv) was entitled to receive replacement voting material under regulation 56 but did not receive the replacement voting material.
85 Preparation of the list of non-voters

(1) As soon as is practicable after an election, the VEC must undertake a scrutiny of the voters’ roll used at the election and prepare a list of the names of the persons who were required to vote at the election and did not vote.

(2) For the purposes of preparing the list referred to in subregulation (1), the VEC may open any sealed packets containing a record kept of persons who have returned a declaration envelope.

(3) After examining any record referred to in subregulation (2), the VEC must return the record to the parcel from which it was taken and secure and deal with that parcel in accordance regulation 79.

86 Prosecution officer to deal with persons on the list of non-voters

(1) The prosecution officer must, within a period of 6 months starting on the day immediately after election day, send by post to each person whose name appears on the list of non-voters prepared under regulation 85 a notice containing the following—

(a) advice that the person must provide a statement signed by the person as to whether the person has a sufficient excuse for not voting and if so, what that excuse is;

(b) the time allowed for providing the excuse, which must not be less than 21 days;

(c) advice of the action which may be taken if the person does not provide a sufficient excuse within the meaning of regulation 84.

(2) The notice must be sent to the last known address of the voter.
(3) If a person is unable by reason of absence from the person's residence or illness, disability or infirmity to meet the requirements of a notice given under this regulation within the time allowed, another person of or over the age of 18 years who has personal knowledge of the facts may do so on the person's behalf.

(4) The prosecution officer must keep a record of—

(a) all persons who have provided a sufficient excuse for not voting; and

(b) all persons who have not provided a sufficient excuse for not voting; and

(c) all persons who did not respond to a notice sent under subregulation (1).

(5) A person must not provide a false excuse for not voting.

Penalty: 10 penalty units.
**Schedule 1—Forms**

**FORM 1**

Regulation 17

**SILENT VOTER REQUEST FORM**

Local Government Act 2020

Section 247(1)

A person must use this form to lodge a request with the Chief Executive Officer that the person's address not be shown on any voters' roll.

<table>
<thead>
<tr>
<th>General details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of relevant Council:</td>
</tr>
<tr>
<td>Address of rateable property for which you are enrolled to vote:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Details of person making request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surname:</td>
</tr>
<tr>
<td>Given name:</td>
</tr>
<tr>
<td>Date of birth:</td>
</tr>
<tr>
<td>Address for correspondence:</td>
</tr>
</tbody>
</table>

I request that my address not be shown on the voters' roll for the above named Council.

Having my residential address shown on a voters' roll would place the personal safety of myself or members of my family at risk for the reasons described and as declared on the statutory declaration accompanying this form.

<table>
<thead>
<tr>
<th>Signature of voter:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
</tr>
</tbody>
</table>
FORM 2

CANDIDATE QUESTIONNAIRE

Local Government (Electoral) Regulations 2020

A candidate for the office of Councillor may provide answers to the following questions. Answers in response to this questionnaire lodged with the election manager before 12 noon on the day after nominations close may be published on the Victorian Electoral Commission’s Internet site and be made available to any person on request.

Name:

Ward (if applicable):

Council:

Instructions to complete the questionnaire are in italics below.

What is your vision for the municipality of the above Council?

Maximum 50 words

What expertise or attributes do you have which would help you in undertaking the role of Councillor?

Provide details. Maximum 50 words

Have you read the current Council Plan for the Council named above?

* Yes / * No

Have you read the current Councillor Code of Conduct for the Council named above?

* Yes / * No

Are you endorsed by a registered political party? ¹

* Yes / * No

If yes, provide the name of the registered political party.

Are you currently a Councillor?

* Yes / * No

If yes, what has been your attendance record at Council meetings ² during your current term of office?

< 50% / 50 – < 75% / 75 – 90% / > 90%

Indicate one

What are your contact details (so that voters can contact you)?

Provide details

* Delete if not applicable.
Notes

1. *Registered political party* has the same meaning as in Part 4 of the *Electoral Act 2002*.

2. *Council meetings* means Council meetings referred to in section 61 of the *Local Government Act 2020* but does not include meetings held for which a Councillor has been granted leave from attending by the Council.
Endnotes


Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the Sentencing Act 1991. The amount of the penalty is to be calculated, in accordance with section 7 of the Monetary Units Act 2004, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2020 is $165.22.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the Monetary Units Act 2004. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.