

1992/78



**THE EDUCATION (TRUSTEE ELECTIONS) REGULATIONS
1992**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 13th day of April 1992

Present:

THE RIGHT HON. J. B. BOLGER PRESIDING IN COUNCIL

PURSUANT to section 118 of the Education Act 1989, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Education (Trustee Elections) Regulations 1992.

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Education Act 1989:

“School”, in relation to a Board, means the school or schools, or specified unit, that the Board administers:

“Specified unit” means a special institution that is not a correspondence school.

(2) In these regulations, unless the context otherwise requires, terms defined in section 92 (1) of the Act have the meanings there defined.

3. Returning officers—(1) There shall be a returning officer for every election under Part IX of the Act.

(2) Subject to subclause (3) of this regulation, the returning officer for an election shall be a person appointed by the Board concerned at least 14 days before the roll prepared for the election under regulation 4 of these regulations is required by that regulation to close.

(3) Where—

(a) A Board has failed or refused to appoint a returning officer for an election at least 14 days before the roll prepared for the election under regulation 4 of these regulations is required by that regulation to close; or

(b) The Secretary is satisfied on reasonable grounds that—

(i) A returning officer for an election appointed under subclause (2) of this regulation or under this subclause has died, or is unwilling or unable to carry out the duties of returning officer; and

(ii) It is too late to appoint another under subclause (2) of this regulation,—

the returning officer for the election shall be a person appointed by the Secretary for the purpose.

(4) The Secretary shall not appoint a returning officer under subclause (3) (b) of this regulation unless the Secretary—

(a) Has first made reasonable efforts to consult the Board concerned about the person to be appointed; or

(b) Believes on reasonable grounds that it is impossible or impracticable to consult the Board concerned about the person to be appointed.

4. Returning officers to prepare rolls—The returning officer for an election under Part IX of the Act shall prepare a roll, and enter on it the name and address of every person entitled to vote at the election; and the roll shall close at noon on the day—

(a) 31 days before the day of the election, in the case of the election of one or more parent representatives or student representatives on the Board of a correspondence school or specified unit:

(b) 23 days before the day of the election, in the case of the election of one or more parent representatives on the Board of any other school:

- (c) 21 days before the day of the election, in the case of any other election.

5. Supplementary rolls—(1) The returning officer for an election of one or more trustees on a Board (other than the Board of a correspondence school or specified unit) shall prepare a supplementary roll, and enter on it the name and address of every person who becomes entitled to vote at the election after the main roll has closed or whose name has wrongly been omitted from the main roll; and the supplementary roll shall close at noon on the day 10 days before the day of the election.

(2) Once it has closed, the supplementary roll shall form part of the roll for the election.

6. Inspection of rolls—Before and after it closes, every roll shall be open to inspection, in the hands of the returning officer, by any person whose name is on it, or who believes that the person is entitled to have the person's name entered on it.

7. People otherwise eligible to participate in 2 elections to choose between them—Where there are to be held (pursuant to section 101 (3) or section 109 (5) of the Act, or in respect of a newly established or integrated school) both an election of one or more parent representatives for a Board and one or more staff representatives for the Board, the following provisions shall apply:

- (a) Within 5 days of the closing of the roll, the returning officer for the election of one or more staff representatives shall make all reasonable efforts to ensure that people whose names are on the roll of members of the Board staff are informed that they are forbidden to participate in both elections, and that if they qualify to vote in both they may, by written notice to the returning officer received not later than 14 days after that closing, choose which election they wish to participate in:
- (b) If, by written notice to the returning officer received not later than 14 days after that closing, any person to whom notice has been given chooses to participate in the election of one or more parent representatives, the returning officer shall remove the person's name and address from the roll of members of the Board staff:
- (c) If any such person does not do so, the returning officer shall notify the returning officer for the other election of the person's name and address, and that other returning officer shall (as the case may be) remove them from the roll for the other election or ensure that they are not entered in it:
- (d) Until there are again to be held (pursuant to section 101 (3) or section 109 (5) of the Act) both an election of one or more parent representatives for a Board and one or more staff representatives for the Board,—
- (i) The name of a person whose name has been removed from a roll under paragraph (b) of this regulation shall not be entered in any roll for the election of one or more staff representatives for the Board unless the person is no longer eligible to vote in an election of one or more parent representatives for the Board; and
- (ii) The name of a person whose name has been notified under paragraph (c) of this regulation shall not be entered in any roll

for the election of one or more parent representatives for the Board unless the person is no longer eligible to vote in an election of one or more staff representatives for the Board.

8. Elections of parent representatives to be advertised—Except in the case of the Board of a correspondence school or specified unit, at least 30 days before any election of one or more parent representatives on a Board, the returning officer shall call for nominations by notice in a newspaper circulating in the area of the school, giving a general indication of the nature of the election and specifying—

- (a) The place where the roll is held; and
- (b) The fact it is open to inspection; and
- (c) The place where nomination forms may be obtained; and
- (d) The day and time nominations close; and
- (e) The number of trustees to be elected; and
- (f) The day and hour the poll closes.

9. Nominations to be called for staff and student representatives—At least 21 days before any election of one or more staff representatives or one or more student representatives for a Board, the returning officer shall, by notices prominently displayed in the school, call for nominations for the election.

10. Nomination forms to be posted out where election for Board of correspondence school or specified unit—Not later than 72 days before the day on which there is to be held any election of trustees for a correspondence school or specified unit, the returning officer shall post a nomination form to every person whose name is on the roll.

11. Eligibility—The nomination of a candidate for election as a staff or student representative on a Board is not valid unless the candidate's name is entered on the roll for the election.

12. Form of nomination—(1) Every nomination shall be in writing in the form specified in the First Schedule to these regulations, signed by a nominator whose name is on the roll for the election and consented to in writing and signed by the nominee; but where a nomination not consented to is received by the returning officer before nominations close, the nominee may at any time before nominations close give the returning officer written consent to nomination.

(2) The form may be accompanied by a brief statement, signed by the nominee, of—

- (a) The nominee's experience, qualifications, abilities, previous involvement with or with the affairs of a school or institution administered by the Board concerned, reasons for standing for election, and interests; or
- (b) Any of those matters.

13. Closure of nominations—Nominations shall close at noon on the day—

- (a) 50 days before the day of the election, in the case of an election for the Board of a correspondence school or specified unit; and

- (b) 14 days before the day of the election, in the case of an election for one or more parent representatives for the Board of a school other than a correspondence school or specified unit; and
- (c) 12 days before the day of the election, in every other case.

14. No election necessary in certain circumstances—Where the number of valid nominations received before nominations close in respect of an election does not exceed the number of trustees to be elected, the returning officer shall forthwith declare the nominee or nominees duly elected, and no election shall be held.

15. Candidate may withdraw—(1) A person validly nominated for election to a Board may withdraw from the election by written notice to the returning officer.

(2) Where any nominee withdraws from an election, regulation 14 of these regulations shall apply to the remaining nominees as if the nominee (and any other who may have withdrawn) had not been nominated.

(3) The returning officer shall take all reasonable steps to ensure that voters are notified of—

- (a) The withdrawal of any nominee from an election after nominations have closed; and
- (b) Where appropriate, the fact that an election will not after all be needed.

16. Elections—(1) Subject to regulations 14 and 15 of these regulations, after nominations close and at least—

- (a) 30 days before the day of the election, in the case of any election for the Board of a correspondence school or specified unit; and
- (b) 9 days before the day of the election, in the case of an election for one or more parent representatives for the Board of a school other than a correspondence school or a specified unit; and
- (c) 4 days before the day of the election, in the case of the election of one or more staff or student representatives for the Board of a school other than a correspondence school or a specified unit—

the returning officer shall give to every person whose name is on the roll (in the case of an election to which paragraph (a) or paragraph (b) of this regulation applies, by posting it to the person at the address appearing on the roll), together with an envelope addressed to the returning officer and inscribed with the words “Voting Paper”, a printed voting paper in the form specified in the Second Schedule to these regulations containing the names of all persons validly nominated, in alphabetical order of their surnames or family names.

(2) Subject to subclause (3) of this regulation, where the nomination form of any of the candidates whose names appear on the voting paper was accompanied by a statement of the kind referred to in regulation 12 (2) of these regulations, the voting paper shall be accompanied by a paper, prepared by the returning officer, containing all the statements accompanying the nomination forms of those candidates.

(3) The returning officer may—

- (a) Omit all or any part of a statement if satisfied on reasonable grounds that it is or is likely to be defamatory or offensive, or is unrelated to any of the matters referred to in regulation 12 (2) (a) of these regulations;
- (b) Abridge any statement, if satisfied on reasonable grounds that it is too long.

17. Closure of poll—(1) Subject to subclause (2) of this regulation, a vote is invalid, and shall not be counted, unless the returning officer receives the voting paper not later than noon on the day of the election.

(2) Subject to regulation 19 of these regulations, a vote in an election to which paragraph (a) or paragraph (b) of regulation 16 (1) of these regulations applies is valid if the returning officer receives the voting paper by post not later than 7 days after the day of the election and the envelope is postmarked with a time before noon on the day of the election.

(3) Until the result of an election is declared, the returning officer shall ensure that all voting papers remain in the returning officer's custody.

18. Scrutineers—Any candidate may by written notice received by the returning officer before the day of the election appoint a scrutineer, who may be present at and observe the opening of envelopes containing voting papers, any such envelopes, the voting papers, their examination, and the counting of votes.

19. Invalid votes—A vote is invalid, and shall not be counted, if—

(a) The voter votes more than once in the election:

(b) The voter votes for more candidates than there are trustees to be elected:

(c) In the opinion of the returning officer, the voting paper does not indicate clearly enough the candidate or candidates for whom the voter intended to vote:

(d) The returning officer believes on reasonable grounds that the voting paper was not issued to the voter by the returning officer.

20. Counting of votes—The returning officer shall,—

(a) On the 9th day after the day of the election, in the case of an election to which paragraph (a) or paragraph (b) of regulation 16 (1) of these regulations applies; and

(b) Before the 9th day after the day of the election, in every other case,—

examine and open the envelopes, examine the voting papers, count the valid votes, and by reference to the number of trustees to be elected and the number of valid votes cast for each candidate, ascertain the candidate or candidates elected.

21. Tied polls—Where, because each of 2 or more candidates has received the same number of valid votes, the returning officer cannot ascertain which of them has been elected, the returning officer shall decide which of them is elected by lot, in the presence of their scrutineers (if any) and,—

(a) In the case of an election for the Board of a correspondence school or specified unit, 2 members of the Board staff; and

(b) In every other case, 2 existing trustees selected by the returning officer.

22. Declaration of result—Forthwith after ascertaining which candidate or candidates have been elected, the returning officer shall,—

(a) By notice displayed prominently at the school and (except in the case of a correspondence school or specified unit) by notice published in a newspaper circulating in the area of the school; and

(b) By written notice posted to all voters (in the case of an election for the Board of a correspondence school or specified unit); and

(c) By written notice to the Secretary,—

declare the names of the trustee or trustees elected, the number of valid votes cast for each candidate, and the number of invalid votes cast.

23. Voting papers—Forthwith after declaring the result of an election, the returning officer shall seal up the voting papers and give them and a copy of the roll for the election to the Registrar of the nearest District Court, who, subject to any order to the contrary made by a Court of competent jurisdiction,—

(a) Shall not open the papers; and

(b) Shall keep them and the copy for 6 months; and

(c) Shall then destroy them and the copy.

24. Duties of returning officers, clerks, and scrutineers—(1) Every returning officer, every clerk or other person assisting any returning officer, and every scrutineer, shall faithfully and impartially perform the duties of that office, and shall not, directly or indirectly,—

(a) Before the final declaration of the result of the election by the returning officer, make known the state of the poll, or give or pretend to give any information by which the state of the poll might be known; or

(b) Make known for which candidate any person has voted; or

(c) Give any person any information likely to defeat the secrecy of an election.

(2) Except as provided in the Act or these regulations, every election under Part IX of the Act shall be conducted as the returning officer thinks fit.

25. Consequential revocation—The School Trustees (Elections) Regulations 1989 are hereby consequentially revoked.

SCHEDULES

FIRST SCHEDULE
NOMINATION PAPER

Reg. 12

I [*Name and address*] nominate as a candidate for election as a trustee of the [*Name of school*] Board of Trustees at the election to be held on [*Date of election*]:

[*Name of nominee*]

[*Signature of Nominator*]

I believe I am eligible to be elected, and consent to my nomination

[*Signature of Nominee*]

NOTES

Unless the nominator's name is on the roll for the election, the nomination is invalid

This paper should be referred to [*Address*] no later than [*Day*].

SECOND SCHEDULE
VOTING PAPER

Reg. 16

VOTING PAPER FOR USE AT ELECTION TO BE HELD ON [*DATE OF ELECTION*] OF TRUSTEE[S] FOR [*NAME OF SCHOOL*] BOARD OF TRUSTEES

CANDIDATES

[*Names of candidates in alphabetical order of surnames or family names*]

DIRECTIONS TO VOTERS

You must put a tick opposite the name of every candidate you wish to vote for.

You must not put a tick against more than [*Number*] name[s].

You may put a tick against fewer names.

Your vote will not be counted unless this paper is delivered or posted to the returning officer in a closed envelope with the words "Voting Paper" written on the outside.

If you post this paper, your vote will not be counted unless it is posted to [*Address*] on or before noon on the day of the election and received by the returning officer not later than 7 days after the day of the election.

SECOND SCHEDULE—*continued*

If you deliver this paper to the returning officer, or have it delivered, your vote will not be counted unless the paper is delivered to [Address] before noon on the day of the election.

DIANE WILDERSPIN,
Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force 28 days after notification in the *Gazette*, prescribe the procedures for the election of trustees for the boards of trustees of schools.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 16 April 1992.

These regulations are administered in the Ministry of Education.