

South Australia

## Local Government (Elections) Regulations 1999

under the *Local Government (Elections) Act 1999*

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### Part 1—Preliminary

#### 1—Short title

These regulations may be cited as the *Local Government (Elections) Regulations 1999*.

#### 4—Interpretation

- (1) In these regulations—  
*Act* means the *Local Government (Elections) Act 1999*.
- (2) In these regulations, a reference to a form of a particular number is a reference to the form of that number set out in the Schedule.

### Part 2—Elections and polls

#### 5—Declaration of eligibility

For the purposes of section 8(2)(b) of the Act, the declaration set out as Form 1 is prescribed.

## 6—Application for enrolment

For the purposes of section 14(1)(a)(ii) of the Act, the application set out in Form 2 is prescribed.

## 7—Nominations

- (1) For the purposes of section 19(1) of the Act, a form nominating a person as a candidate for election to an office of a council (being a form determined by the Electoral Commissioner) must be delivered to the returning officer before the close of nominations.
- (3) For the purposes of section 19(2)(b) of the Act, the following requirements are prescribed with respect to a profile:
  - (a) the profile must be in typed or printed form; and
  - (b) the profile must not exceed 150 words; and
  - (c) the profile must be accurate and must not—
    - (i) be misleading; or
    - (ii) contain offensive or obscene material; or
    - (iii) refer to another person who has nominated as a candidate for election to the council (whether at the same election or any other election to be held on the same day) without the written consent of that person; or
    - (iv) comment on decisions or actions that have been made or taken by the council or on the decisions or actions of past or present members of the council; and
  - (d) the profile must be signed and dated by the candidate (but this signature and date will not form part of the profile for the purposes of section 39 of the Act).
- (4) If—
  - (a) a profile submitted with a nomination form exceeds 150 words; and
  - (b) the candidate has not reduced the size of the profile to 150 words or less by the close of nominations,the returning officer will exclude from the profile all words appearing after the 150th word (other than the signature and date).
- (5) The returning officer is not responsible for checking the accuracy of any information included in a profile and the returning officer bears no liability with respect to the publication of a profile under the Act and these regulations.
- (6) A written consent required under subregulation (3)(c)(iii) must be lodged with the profile.
- (7) Nothing in subregulation (3)(c) prevents a profile including declarations of public policy or promises of public action.

- (8) For the purposes of section 19(3) of the Act, the following requirements are prescribed with respect to a photograph provided with a profile:
- (a) unless otherwise approved by the returning officer, the photograph must be the same size as an Australian passport photograph; and
  - (b) the photograph must only (or predominantly) show the head and shoulders of the candidate; and
  - (c) the photograph must have been taken within the preceding period of 12 months; and
  - (d) the photograph must bear on its back an endorsement by the candidate to the effect that the photograph is a photograph of the candidate that has been taken within the preceding 12 months.

### **9—Ballot papers for elections**

Pursuant to section 29(5) of the Act, a ballot paper for an election—

- (a) must be in a form determined by the Electoral Commissioner; and
- (b) must—
  - (i) identify the council, and the election to which it relates; and
  - (ii) include directions to voters as to how to record a valid vote.

### **10—Ballot papers for polls**

- (1) Pursuant to section 33(3) of the Act, a ballot paper for a poll must contain—
- (a) a statement of the proposition being submitted to electors at the poll; and
  - (b) two squares—
    - (i) one clearly indicated as the square to be marked by a person who is in favour of the proposition being submitted to electors at the poll; and
    - (ii) one clearly indicated as the square to be marked by a person who is against the proposition being submitted to electors at the poll.
- (2) The statement under subregulation (1)(a) will be determined by the relevant council after consultation with the returning officer.

### **11—Notice of use of postal voting**

- (1) For the purposes of section 38 of the Act, information to the following effect is prescribed:
- (a) that the specified election or poll will be conducted entirely by means of postal voting and that no polling booth will be open for voting on polling day;
  - (b) that voting papers will be issued by post to every natural person, body corporate and group who or which has his, her or its name on the voters roll to be used for the purposes of the election or poll or, at the discretion of the returning officer, by personal delivery to potential voters at certain locations;

- (c) that the voting papers being issued by post should be delivered to persons, bodies corporate and groups on the voters roll not later than a date specified by the returning officer<sup>1</sup>;
  - (d) that a person who does not receive voting papers but who believes that he or she is entitled to exercise a vote at the election or poll may take specified steps to apply for voting papers.
- (2) A notice under section 38 of the Act may include other information which may, in the opinion of the returning officer, assist prospective voters to understand the postal voting system and processes under the Act and to participate in the election or poll.

**Note—**

- 1 This date must be consistent with section 39(1) of the Act.

## **12—Postal voting papers**

- (2) Pursuant to subsection (3) of section 39 of the Act, envelopes used under subsection (1) of that section for ballot papers sent by post must have an extension to a flap on the back of the envelope that bears the name and address of the natural person, body corporate or group to whom the voting papers are issued.
- (3) For the purposes of section 39(6) of the Act, an explanatory notice will be prepared by the returning officer and must outline the steps which a voter must follow in order to comply with the requirements of section 40 of the Act.

## **12A—Collation of certain information**

For the purposes of section 51(1a) of the Act, a return must show, in relation to the relevant election—

- (a) the number of ballot papers printed for the election; and
- (b) the number of ballot papers issued to natural persons, bodies corporate or groups on the voters roll; and
- (c) the number of ballot papers issued on the basis of names declared to have been omitted in error from the voters roll; and
- (d) the number of ballot papers replaced due to the re-issue of voting papers; and
- (e) the number of declaration envelopes accepted at the count; and
- (f) the number of declaration envelopes rejected at the count; and
- (g) the number of declaration envelopes returned because they have not been able to be effectively delivered; and
- (h) the number of ballot papers removed from envelopes accepted at the count; and
- (i) the number of ballot papers included in the count; and
- (j) the number of ballot papers rejected as informal.

## **13—Campaign donations returns**

For the purposes of section 80(2) of the Act, a campaign donations return must be in the form set out as Form 13.

## Schedule—Prescribed forms

### Form 1

*Local Government (Elections) Act 1999*

#### **Declaration of eligibility with respect to an appointment under section 8(1) of the *Local Government (Elections) Act 1999***

<sup>1</sup> Please read instructions below before filling in this form.

I, .....  
(Given name/s) (Surname)

of .....  
(Address<sup>2</sup>)

declare that if an election were being held for the office of <sup>3</sup> .....  
for the <sup>4</sup> area/ ..... ward of the <sup>5</sup> .....

I would be eligible to be a candidate for election under the provisions of the *Local Government (Elections) Act 1999*<sup>6</sup>

<sup>7</sup> .....

This declaration was made before me this <sup>8</sup> ..... day of <sup>9</sup> .....

.....  
(Justice of the Peace or other person authorised  
to take declarations under the *Oaths Act 1936*<sup>10</sup>)

#### **Instructions**

- 1 This form is to be completed in block letters except for signatures.
- 2 Insert full residential address of person making the declaration.
- 3 Insert description of office.
- 4 Strike out area or ward as the case may be.
- 5 Insert full name of council.
- 6 Section 17 of the *Local Government (Elections) Act 1999* (see over) is relevant to determining eligibility.
- 7 Insert normal signature of declarant.
- 8 Insert day of month on which declaration is made.
- 9 Insert month and year in which declaration is made.
- 10 Other persons authorised to take declarations under the *Oaths Act 1936* include a Commissioner for Taking Affidavits, a proclaimed manager of an office of a bank, building society or credit union and a proclaimed member of the police force.

#### **Notes—**

- 1 It is an offence under section 64(1) of the *Local Government (Elections) Act 1999* to make a statement in a declaration under the Act that is, to the declarant's knowledge, false or misleading in a material respect.  
Maximum penalty: \$5 000 or imprisonment for one year.

- 2 Section 17 of the *Local Government (Elections) Act 1999* provides as follows:
- (1) Subject to this Act and the *Local Government Act 1999*, a person is eligible to be a candidate for election as a member of a council if—
    - (a) the person is—
      - (i) an Australian citizen; or
      - (ii) a prescribed person; and
    - (b) —
      - (i) the person is an elector for the area; or
      - (ii) the person is the nominee of a body corporate which has its name on the voters roll for the area; or
      - (iii) the person is the nominee of a group which has its name on the voters roll for the area; or
      - (iv) the person's name has been omitted in error from the voters roll for the area, or the person is the nominee of a body corporate or group which has had its name omitted in error from the voters roll for the area (and would be eligible for nomination under subparagraph (ii) or (iii) (as the case may be) were the name on the roll).
  - (2) Subsection (1)(b) operates subject to the following qualifications:
    - (a) a nominee of a body corporate must be an officer of the body corporate; and
    - (b) a nominee of a group must be a member of the group, or an officer of a body corporate that is a member of the group; and
    - (c) a body corporate or group cannot nominate more than one person for a particular election; and
    - (d) a body corporate or group cannot nominate a person who has not attained the age of majority.
  - (3) A person is not eligible to be a candidate for election as a member of a council if the person—
    - (a) is a member of an Australian Parliament; or
    - (b) is an undischarged bankrupt or is receiving the benefit of a law for the relief of insolvent debtors; or
    - (c) has been sentenced to imprisonment and is, or could on the happening of some contingency become, liable to serve the sentence or the remainder of the sentence; or
    - (d) is an employee of the council; or
    - (e) is disqualified from election by court order under the *Local Government Act 1999*.
  - (4) A person is not eligible to be a candidate for election as a member of a council if the person—
    - (a) in the case of a supplementary election—is a member of another council; or
    - (b) in the case of any election—is a candidate for election as a member of another council.
  - (5) In this section—

**prescribed person** means a person who has held office as a member of a council at any time between 5 May 1997 and 1 January 2000.
- 3 For the purposes of the *Local Government (Elections) Act 1999*, an **officer** of a body corporate is a director, manager, secretary or public officer of the body corporate and includes any other person who takes part in the management of the affairs of the body corporate.

## Form 2

*Local Government (Elections) Act 1999*

### **Application for inclusion on the voters roll under section 14(1)(a)(ii) of the *Local Government (Elections) Act 1999***

<sup>1</sup> Please read instructions below before filling in this form.

To: Chief Executive Officer of .....  
(Insert name of council)

I, <sup>2</sup> .....  
(Given name/s) (Surname)

.....  
(Place of residence<sup>3</sup>)

Date of birth ..... day ..... month ..... year  
apply for enrolment on the voters roll for .....  
..... ward/area  
and declare that all statements made in this application are true to the best of my  
knowledge and belief.

<sup>4</sup> ..... Date ..... / ..... / .....  
(Signature)

<sup>5</sup> .....  
(Signature) (Address of witness)

Date ..... / ..... / .....

#### **Instructions**

- 1 This form is to be completed in block letters except for signatures.
- 2 Insert full name of applicant.
- 3 Insert full residential address of applicant.
- 4 Insert usual signature of applicant.
- 5 Insert signature and usual address of witness. A witness may be any person of or above the age of 18 years.

#### **Note—**

It is an offence under section 64(1) of the *Local Government (Elections) Act 1999* to make a statement in an application under the Act that is, to the applicant's knowledge, false or misleading in a material respect.

Maximum penalty: \$5 000 or imprisonment for one year.

## Form 13

*Local Government (Elections) Act 1999*

### Campaign donations return

<sup>1</sup>Please read instructions and notes below before filling in this form.

Full name of candidate or member<sup>2</sup>:.....

Period to which return relates<sup>3</sup>:..... / ..... / ..... to ..... / ..... / .....

I declare that between the dates referred to above—

no gifts<sup>4</sup> of a kind required to be disclosed<sup>5</sup> were received by me

or

gifts<sup>4</sup> of a kind required to be disclosed<sup>5</sup> were received by me.

The total value of those gifts is .....

The number of persons who made those gifts is .....

Specific details concerning such gift are provided below.

.....  
 (Signature) (Date)

### Specific details of gifts

Amount or value of each gift <sup>6</sup>	Name and address of each donor <sup>7</sup>	Date on which gift made

*(If space is insufficient, please attach a list.)*

### Instructions/Notes

- 1 This form is to be completed in block letters except for signatures.
- 2 Any person who is a candidate for election to an office of a council (whether or not successfully elected) must complete this form and furnish it to the chief executive officer of the council within six weeks after the conclusion of the election.
- 3 The period to which the return must relate is called the **disclosure period**. For the purposes of this return—
  - (a) subject to paragraph (b), the disclosure period is the period that commenced—

- (i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—on the day on which he or she announced that he or she could be a candidate in the election or the day on which his or her nomination was lodged with the returning officer, whichever is the earlier;
  - (ii) in relation to a candidate in an election who was a new candidate and when he or she became a candidate in the election was a member of the council by virtue of having been appointed under the *Local Government Act 1999*—on the day on which the person was so appointed as a member of the council;
  - (iii) in relation to a candidate in an election who was not a new candidate—at the end of 30 days after polling day for the last preceding election in which the person was a candidate,  
and that ended, in any of the above cases, at the end of 30 days after polling day for the election; and
- (b) a candidate is a new candidate, in relation to an election, if the person had not been a candidate in the last general election of the council and had not been elected at a supplementary election held after the last general election of the council.
- 4 A *gift* is a disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.
- 5 A return need not set out any details in respect of—
- (a) a private gift made to the candidate; or
  - (b) a gift if the amount or value of the gift is less than \$500.
- A gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.
- 6 Two or more gifts (excluding private gifts) made by the same person to a candidate during the disclosure period are to be treated as one gift.
- 7 The following information must be included:
- (a) in the case of each gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—
    - (i) the name of the association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
  - (b) in the case of each gift purportedly made out of a trust fund or out of the funds of a foundation—
    - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
    - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
  - (c) in the case of each other gift—the name and address of the person who made the gift.
- A *registered industrial organisation* is an industrial association or organisation registered under a law of the State or of the Commonwealth.

**Note—**

If a person who is required to furnish a return considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

- (a) prepare the return to the extent that it is possible to do so without those particulars; and
- (b) furnish the return so prepared; and
- (c) give to the chief executive officer notice in writing—
  - (i) identifying the return; and
  - (ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars; and
  - (iii) identifying those particulars; and
  - (iv) setting out the reasons why he or she is unable to obtain those particulars; and
  - (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Revocation of regulations

The *Local Government (Elections) Regulations 1999* were revoked by Sch 2 of the *Local Government (Elections) Regulations 2010* on 27.8.2010.

### Legislation revoked by principal regulations

The *Local Government (Elections) Regulations 1999* revoked the following:

*Local Government (How-to-Vote Cards) Regulations 1987*

### Principal regulations and variations

Year	No	Reference	Commencement
1999	242	<i>Gazette 25.11.1999 p2800</i>	1.1.2000: r 2
2002	36	<i>Gazette 23.5.2002 p1984</i>	23.6.2002: r 2
2005	250	<i>Gazette 1.12.2005 p4099</i>	1.1.2006: r 2

### Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>rr 2 and 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.1.2006</i>
Pt 2		
r 7		
r 7(1)	substituted by 250/2005 r 4(1)	1.1.2006
r 7(2)	<i>deleted by 250/2005 r 4(1)</i>	<i>1.1.2006</i>
r 7(8)	varied by 36/2002 r 3	23.6.2002
<i>r 7(9) and (10)</i>	<i>deleted by 250/2005 r 4(2)</i>	<i>1.1.2006</i>
<i>r 8</i>	<i>deleted by 250/2005 r 5</i>	<i>1.1.2006</i>
r 9	substituted by 250/2005 r 6	1.1.2006
r 12		

<i>r 12(1)</i>	<i>deleted by 250/2005 r 7</i>	<i>1.1.2006</i>
<i>r 12A</i>	<i>inserted by 250/2005 r 8</i>	<i>1.1.2006</i>
<i>Pt 3</i>	<i>deleted by 250/2005 r 9</i>	<i>1.1.2006</i>
Sch		
Form 1	<i>varied by 250/2005 r 10(1), (2)</i>	<i>1.1.2006</i>
Form 2	<i>varied by 250/2005 r 10(3)</i>	<i>1.1.2006</i>
Form 3	<i>varied by 36/2002 r 4(a)</i> <i>deleted by 250/2005 r 10(4)</i>	<i>23.6.2002</i> <i>1.1.2006</i>
Form 4	<i>varied by 36/2002 r 4(b)</i> <i>deleted by 250/2005 r 10(4)</i>	<i>23.6.2002</i> <i>1.1.2006</i>
Form 5	<i>varied by 36/2002 r 4(c)</i> <i>deleted by 250/2005 r 10(4)</i>	<i>23.6.2002</i> <i>1.1.2006</i>
Form 6	<i>deleted by 250/2005 r 10(4)</i>	<i>1.1.2006</i>
Form 7	<i>deleted by 250/2005 r 10(4)</i>	<i>1.1.2006</i>
Form 8	<i>deleted by 250/2005 r 10(4)</i>	<i>1.1.2006</i>
Form 9	<i>deleted by 250/2005 r 10(4)</i>	<i>1.1.2006</i>
Form 10	<i>deleted by 250/2005 r 10(4)</i>	<i>1.1.2006</i>
Form 11	<i>substituted by 36/2002 r 4(d)</i> <i>deleted by 250/2005 r 10(4)</i>	<i>23.6.2002</i> <i>1.1.2006</i>
Form 12	<i>deleted by 250/2005 r 10(4)</i>	<i>1.1.2006</i>
Form 14	<i>deleted by 250/2005 r 10(5)</i>	<i>1.1.2006</i>
Form 15	<i>deleted by 250/2005 r 10(5)</i>	<i>1.1.2006</i>

## **Transitional etc provisions associated with regulations or variations**

### ***Local Government (Elections) Variation Regulations 2005 (No 250 of 2005), Sch 1***

#### **1—Transitional provision**

If polling day for a supplementary election is to fall on or after 1 January 2006 in respect of a casual vacancy occurring before 1 January 2006, the provisions of the *Local Government (Elections) Act 1999* and the *City of Adelaide Act 1998*, and regulations made under those Acts, as the case requires, as in force at the time of the occurrence of the vacancy, will apply in relation to the election.

## **Historical versions**

Reprint No 1—23.6.2002