

No. 4 of 1980

Serial No. 106

Reprinted as at 1 November 2019 incorporating amendments up to No. 1/2019²

Regulation of Elections Act 1980

AN ACT

to consolidate and amend the Law for the Regulation of Elections by
Synod.

Short Title

1 This Act may be cited as the **Regulation of Elections Act 1980**.

Repeal

s.2 repealed No. 1/2019

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Definitions

s.3 amended by No. 5/2012 and 1/2016

3 In this Act—

- (i) ***national church*** means this Church;
- (ii) ***national church election*** means an election by or on behalf of this Diocese to an office or role provided for in the Constitution of the national church or in a canon or rule made under that Constitution which is not under that Constitution, canon or rule or under an Act of the Synod required to be by a body other than the Synod;
- (iii) ***returning Officer*** means the Secretary of Synod or a person appointed by the Secretary to be his deputy for the time being for the purposes of this Act.

Elections to which this Act applies

s.4 substituted by No. 5/2012

4 This Act applies to—

- (a) every election by the Synod required by an Act of the Synod,
and

- (b) a national church election.

President to name day for elections

s. 5 amended by No. 1/1994

- 5 (i) The President in his Mandate convening Synod by notice sent to each member of Synod shall specify the elections to be made in the Session of Synod convened by his Mandate; and shall name a day (in this Act called *polling day*) not earlier than the third day of the Session; and a polling place for the Elections and hours (not earlier than ten o'clock in the forenoon nor later than ten o'clock in the afternoon) during which such polling place shall be open and subject to this Act the poll for the Elections shall take place on the day and in the polling place so named between the hours so named.
- (ii) The President in his Mandate convening Synod or by proclamation made in Synod not later than the second day of the Session-
- (a) may name a further polling place or places for such Elections and
- (b) in respect of each such further polling place shall prescribe hours on polling day being hours not earlier than ten o'clock in the forenoon and not later than ten o'clock in the afternoon between which voting papers may be issued and deposited pursuant to this Act at that place.

Polling Day if session shorter than 3 days

s. 5A inserted by No. 1/2007

- 5A Despite anything to the contrary in section 5, if the President convenes a session of Synod for less than 3 days, the President shall name the last day of the session as the polling day for any elections to be held during that session.

Nominations of persons for election

6 Any ten members of Synod may unite in nominating in writing persons duly qualified for election to an office provided that every person nominated shall signify through one of his nominators duly authorised or in writing under his hand to be delivered to the Registrar of the Diocese with his nomination paper his assent thereunto.

Only one nomination paper for each candidate shall be received by the Registrar and no nomination shall be valid if the nomination paper contains the names of more than fifteen or less than ten such nominators.

Delivery of nomination

s.7 substituted by No. 1/2014

7 A nomination made under section 6 must be delivered to the Registrar of the Diocese on the day specified in the Mandate of the President convening the Synod, being not less than 28 before the date specified in the Mandate for the first sitting of Synod in its next session.

List of nominees to be sent to Synod members

s. 8 amended by No. 1/1994

8 The Registrar shall forthwith cause to be prepared lists of all persons so nominated and the offices to which they are nominated the names of the candidates in each list being in an order determined by lot under the supervision of the Returning Officer; the Returning Officer shall cause such lists to be printed and to be sent to each member of Synod. Provided that it shall be competent to Synod by resolution upon the first day of the Session to declare an Election urgent for which necessity has arisen after the issue of the President's Mandate convening Synod or of which notice shall not have been given in such Mandate in which case nominations for such Election made under the provisions of Section 6 not later than 6 pm on the 2nd day of the Session shall be sufficient notwithstanding that the provisions of this Section or Sections 7 and 9 of this Act have not been complied with.

Nomination to be exhibited

- 9 Every nomination shall be exhibited conspicuously in or about the place fixed for the meeting of Synod on the day of the assembling of Synod and shall continue to be so exhibited until the time of the closing of the Election.

Nominee may withdraw

s. 10 amended by No. 1/1994

- 10 If any person nominated shall express in writing to the Registrar of the Diocese or the Secretary of Synod not later than 6 pm on the 2nd day of the Session his unwillingness to stand for election his name shall be erased from the lists and his nomination cancelled by writing thereupon by the Registrar or Secretary.

Vacancies to be filled by the Archbishop in Council

- 11 If the number of persons nominated for election to a position or body be not more than the number of persons to be elected to that position or body the persons nominated shall be declared duly elected and any vacancy or vacancies then existing in that position or body shall be filled by a person or persons nominated by the Archbishop in Council.

Form of voting papers

- 12 If the number of persons nominated for a position or body exceeds the number of persons to be elected to that position or body the Returning Officer shall cause voting papers to be prepared in the form or to the effect of Schedule A, the names of the candidates appearing in the order in which they appear in the lists prepared pursuant to Section 8.

Regulations as to voting papers

- 13 On the day and in the polling place or if more than one in one only of the polling places named for the Election by the President and between the hours prescribed by or under this Act every member of Synod shall be entitled subject to this Act to receive in person from the Returning Officer voting papers for the several Elections

and it shall be the duty of the Returning Officer before giving any voting paper to any member of Synod to initial the said voting paper and to keep a record of the name of every person to whom a voting paper has been issued and such person to whom a voting paper has been issued shall not be entitled to receive any other voting paper unless the voting paper already issued shall be returned to the Returning Officer in an unusable condition in which case the Returning Officer shall destroy the paper first issued and give a similar one in its stead.

Filling in and depositing voting papers

- 14 Every voter having received voting papers as aforesaid shall forthwith and without leaving the polling place at which he received them fill in the same in accordance with the provisions of this Act and deposit them in a ballot-box or ballot-boxes to be provided by the Returning Officer and leave forthwith.

Postal voting

15. Notwithstanding anything to the contrary contained in this Act any member of Synod may before the polling day make application in the form in Schedule B for a postal voting paper or papers enabling him to vote through the post instead of attending personally to tender his vote or votes at a place named for the Election.

Application for postal vote

16. On receiving from any member of Synod an application for a postal voting paper the Returning Officer having ascertained that the applicant is entitled to vote shall first initial and then deliver to the applicant or post to him at the postal address named in the application a postal voting paper or postal voting papers in the form of Schedule A with the addition "Postal Vote" together with a distinctive envelope addressed to the Returning Officer.

Postal voter not to vote personally

- 17 No member of Synod to whom a postal voting paper or voting papers for an Election has or have been sent shall be entitled to

vote personally at that Election unless he previously gives up such postal voting paper or voting papers in blank form to the Returning Officer who shall thereupon cancel such postal voting paper or voting papers and retain it or them.

Where postal voting paper not received

18 If a member of Synod to whom a postal voting paper or voting papers appear to have been sent states that he has not received it or them and claims to vote personally he may do so on making and handing to the Returning Officer a statutory declaration that he has not received such postal voting paper or voting papers.

Receipt of postal votes

19 On receipt by the Returning Officer by post or otherwise of any postal voting paper he shall place the same in a locked ballot-box which shall not be opened until the close of the poll.

Method of voting

s. 20 inserted by No. 8/1991

20 A member of Synod in recording a vote –

- (a) shall place on the member's voting paper the figure 1 opposite the name of the candidate for whom he or she votes; and
- (b) may, in addition, indicate the order of the member's choice of preference for as many other candidates as the member pleases by placing against their respective names the figures 2, 3, 4, 5, and so on in consecutive numerical order.

Results of election

s. 21 substituted by 1/2019 s 3

21 (1) Except as provided in section 11, the results of an election under this Act are to be ascertained by the Scottish STV system.

(2) A casual vacancy occurring after the poll in an election is to be filled by recounting the valid voting papers as if the

person whose position has become vacant was no longer a candidate.

- (3) Nothing in this section affects the continuation in office of a person elected in the election and whose office is not vacant.
- (4) In this section *Scottish STV system* means the system established by and described in the Scottish Local Government Elections Order 2007 (Statutory Instrument No 42 of 2007) made under the Local Governance (Scotland) Act 2004 of the Scottish Parliament.

Appointment of scrutineers

22 Two scrutineers may be appointed by vote of Synod previous to any Election being held on motion without notice or failing such appointment two scrutineers being members of Synod may be appointed by the Secretary whose duty it shall be to assist the Returning Officer in taking the votes at the said Election.

Counting of votes

s. 23 inserted by No. 8/1991, repealed No. 1/2019 s 4

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Invalidity

s. 24 inserted by No. 8/1991

24 A voting paper is invalid if:

- (a) it has not been initialed by the Returning Officer, or
- (b) the Returning Officer cannot determine for which candidate the first preference of the voter is recorded.

Results

s. 25 inserted by No. 8/1991, am No. 1/2019 s 5

25 The Returning Officer shall report the results of an Election to the President and shall forthwith provide all the voting papers to the Registrar who shall keep them secure until the conclusion of the

next session of Synod at which an election is held to fill the offices to which the reported election relates.

Publication of Results

S. 25A inserted by Act No. 2/2010

25A (1) The President must publish the results of an Election on receiving the report of the Returning Officer.

(2) Except as otherwise provided in an Act, the term of a person elected in an Election commences on the day on which the President publishes the results of the Election.

Communication of results

s. 26 inserted by No. 8/1991, am No. 1/2019 s 6

26 (1) The Returning Officer shall, within ten days of the report of the result, send to every candidate-

- (a) a full return, signed by the Returning Officer, showing the names of those elected, and
- (b) a copy of the record of how the results were calculated.

(2) The record of how the results were calculated shall be available for inspection at the Diocesan Registry for a period of six months after the date of the count.

Questions affecting the validity of any election

27 All questions affecting the validity of any Election or of any vote under this Act shall be referred to the Elections Committee appointed under the provisions of Act No. 2 of 1972 provided that no question as to the validity of an Election shall be raised after seven days subsequent to the publication by the President of the result thereof.

Elections Committee

s. 28 inserted by No. 8/1991

28 If upon a reference to the Elections Committee –

- (a) any voting papers counted by the Returning Officer are rejected as invalid, or
- (b) any rejected voting papers are declared valid, the Elections Committee may direct the whole or any part of the voting papers to be recounted and the result of the election ascertained in accordance with the Regulations.

Filling of vacancies by the Archbishop in Council

s. 29 inserted by No. 8/1991 and substituted by No. 5/2012

29 If—

- (a) this Act applied to an election, and
 - (b) there is following the election a vacancy in a position for which the election was conducted, and
 - (c) there are no other provisions for filling that vacancy—
- the Archbishop in Council may nominate a person to fill the vacancy.

Continuance in office till election of successors

s. 30(2) and s. 30(3) inserted by No. 4/1985

- 30 (1) When any Act or Resolution of Synod directs that any Election shall be held by Synod if such Election be not duly held the persons if any who immediately previous to the time for holding such Election held such office shall continue to hold the same until their successors have been duly appointed.
- (2) Where by any Act of Synod it is provided that the term of office of a person elected by Synod shall be a number of years a year in which no ordinary session of Synod is held shall not be taken into account in determining when that term of office expires.
 - (3) Where in any Act of Synod it is provided that an elections shall be held at the first session of synod in a year it shall be deemed in the absence of an express direction to the contrary

that the reference is and always has been to the first ordinary session of synod in a year.

Extra Sessional elections

s.31(1) substituted by No. 5/2012

31 (1) In the case of any election to which this Act applies, the President may instead of convening Synod for the purpose of the election determine that there will be a postal ballot.

(1A) When the President determines that there is to be a postal ballot, the President must give notice by post to each member of Synod specifying—

- (a) what election is to be conducted by postal ballot;
- (b) a day (“the closing day”), not earlier than two weeks after the day on which notice is posted, on or before which nominations for the election may be delivered to the Registrar of the Diocese; and
- (c) a polling day, not earlier than three weeks after the closing day.

(2) The provisions of this Act for Elections specified by the President in his Mandate convening Synod shall so far as practicable apply to such Election save that-

- (a) upon receiving a nomination the Registrar shall display it or a copy thereof prominently in the vicinity of the Diocesan Registry until the time of the closing of the Election;
- (b) a person nominated may in writing express to the Registrar not later than the closing day his unwillingness to stand for elections and his nomination shall thereupon be cancelled;
- (c) As soon as practicable after closing day the Registrar shall post to each member of Synod a voting paper for the Election in the form of Schedule A with the addition of “Postal Vote” together with a distinctive envelope addressed to the Returning Officer.

Term of General Synod representatives

s.31A inserted by No. 5/2012

31A The term of those elected as representatives to the General Synod of the national church commences at the conclusion of the election of all such representatives and concludes on the commencement of the term of those elected to the next General Synod.

Regulations

s. 32 inserted by No. 8/1991, am No. 1/2019 s 7

- 32 (1) The Archbishop in Council may make regulations for the purposes of this Act.
- (1A) Regulations made under sub-section (1) may provide for the application of the system adopted under section 21 to specific types of election or in particular circumstances.
- (2) Regulations under sub-section (1) may be made so as to—
- (a) confer a discretionary authority or impose a duty on the Registrar or Returning Officer; or
 - (b) make different provisions for different cases.
- (2A) For the purposes of this section, the regulations in the Schedule to the **Regulation of Elections Amendment Act 2019** are regulations made under sub-section (1).
- (3) In the event that the Archbishop in Council makes any regulations under this section the Archbishop shall, at or about the time he issues a mandate for an election under this Act or a notice under section 31, cause reasonable steps to be taken to promulgate to members of Synod the general effect of such regulations.
- (4) On the first day of the ordinary session of the Synod next following the making of any regulations under this section a copy of the regulations shall be laid before Synod which

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may at that or any subsequent session thereafter by resolution of the whole Synod disallow the regulations provided that such action by Synod shall not invalidate nor affect anything done under the regulations before the disallowance.

Review of Act

s. 33 inserted by No. 8/1991

33 The Archbishop in Council shall review the operation of this Act at least once during each Synod and shall report on the review to that Synod.

SCHEDULES

Schedule A substituted by No. 8/1991

Schedule A

Anglican Church of Australia
Diocese of Melbourne

VOTING PAPER

Election of (describe office or position to be filled)
(number).....vacancies are to be filled

Directions:

Votes will be counted according to the quota-preferential method of proportional representation prescribed by the Regulation of Elections Act 1980. To record a valid vote you must indicate one of the candidates as your first preference by placing the number 1 beside the name of the candidate. You may indicate succeeding preferences by placing the numbers 2, 3, 4, 5 and so on beside other names, using each number only once. Voters are encouraged to show all their preferences, or at least as many as there are vacancies.

Numerical order of voter's preference:	Names of Candidates:
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Schedule B

SYNOD OF THE DIOCESE OF MELBOURNE
APPLICATION FOR A POSTAL BALLOT PAPER

I,.....
of
hereby declare:-

1. That I am a Clerical/ Lay* member of Synod of the Diocese of Melbourne and I do hereby apply for a Postal Ballot Paper (or Postal Ballot Papers) to enable me to vote by post at the next forthcoming Synod Election.

2. I request that the Postal Ballot Paper may be *forwarded to me at*delivered to me personally.

Signature.....

Date.....

Witness-

Name.....

Address.....

* Strike out inapplicable words

Schedule C repealed by No. 8/1991

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NOTES

1. The *Regulation of Elections Act 1980* was assented to on 9 October 1980 and came into operation on that day.
2. This reprint incorporates the amendments made to the *Regulation of Elections Act 1980* by the following Acts:

Name	No	Date of assent	Date of commencement
<i>Regulation of Elections (Amendment) Act 1985</i>	4/1985	1 October 1985	1 October 1985 (deemed by s 4)
<i>Regulation of Elections (Amendment) Act 1991</i>	8/1991	18 October 1991	1 October 1992 (day appointed by Archbishop in Council on 20 August 1992)
<i>Regulation of Elections (Amendment) Act 1994</i>	1/1994	14 November 1994	14 November 1994
<i>Regulation of Elections (Polling Day) Act 2007</i>	1/2007	16 June 2007	16 June 2007
<i>Synod Election (Terms of Office) Act 2010</i>	2/2010	8 October 2010	8 October 2010
<i>Regulation of Elections (National Church Elections) Act 2012</i>	5/2012	23 October 2012	23 October 2012
<i>Regulation of Elections (Delivery of Nominations) Amendment Act 2014</i>	1/2014	29 October 2014	29 October 2014
<i>Interpretation of Diocesan Legislation Act 2016</i>	1/2016	15 December 2016	15 December 2016
<i>Regulation of Elections Amendment Act 2019</i>	1/2019	17 October 2019	18 October 2019

REGULATION OF ELECTIONS (VOTING) REGULATIONS 2019³

1 Title

These regulations may be cited as the Regulation of Elections (Voting) Regulations 2019.

2 Purpose

The purpose of these regulations is to provide for the application of the system adopted under section 21 of the Act to specific types of election or in particular circumstances.

3 Definitions

In these regulations—

Act means the **Regulation of Elections Act 1980**

casual vacancy means a vacancy in an office or position that has a fixed term where the vacancy is to be filled during the period of that fixed term;

order of election means the order in which candidates in an election achieve a quota and are declared elected, or are entitled to be declared elected, in that election and includes the order in which they are considered elected when it is necessary to determine an order by lot; and

periodic vacancy means a vacancy to be filled for the whole of a fixed term.

4. Election to fill periodic and casual vacancies

- 4.1 This regulation applies where an election is held to fill both one or more periodic vacancies on a body and one or more casual vacancies on that body.
- 4.2 The Returning Officer must conduct a single count to determine the persons elected to fill the vacancies.
- 4.3 Candidates are to be declared elected according to the order of election—
 - (a) first to the longest period vacancy to be filled; and
 - (b) then to the next longest periodic vacancy or vacancies to be filled in order of the length of the term; and

- (c) then to the casual vacancy or vacancies to be filled in order of the length of the term.

5 Where candidates to be elected by categories

In an election in which there must be a minimum number elected in different categories and the remaining positions are elected without regard to category, the Returning Officer must—

- (a) conduct a single count for all categories;
- (b) declare elected in one category the candidate or candidates qualified to be elected in that category who are highest in the order of election, up to the number that must be elected in that category;
- (d) declare elected in each other category the candidate or candidates qualified to be elected in that other category who are highest in the order of election, up to the number that must be elected in that other category; and
- (e) declare elected to any remaining positions to be filled, up to the number of remaining positions to be filled, the remaining candidates highest in the order of election.

6 General Synod representatives

6.1 When an election for representatives to the General Synod is to be held, the number of clerical and the number of lay positions to be declared elected are in each case 90% of the number notified to the Returning Officer by the Registrar as the likely numbers of representatives of the Diocese at the next meeting of the General Synod.

6.2 As soon as possible after the issue of a mandate for a session of General Synod, the Registrar must inform the Returning Officer of the number of clerical and lay representatives entitled to attend that session of General Synod and the Returning Office must—

- (a) ascertain whether any of the candidates elected under sub-regulation 6.1 are unable to attend the session and whether any of the candidates not elected would be unable to attend the session, if elected, and
- (b) conduct a recount—
 - (i) as if each person unable to attend was no longer a candidate; and

- (ii) so as to have and to declare elected all the clerical and lay representatives entitled to attend.

6.3 Despite sub-regulation 6.2, a person elected under sub-regulation 6.1 and able to attend the session remains elected following a recount under sub-regulation 6.2.

6.4 For the purposes of section 31A of the Act, the terms of a representative to the General Synod of the national church—

- (a) commences when first declared election under sub-regulation 6.1 or 6.2 (whichever is earlier); and
- (b) concludes when representatives to the General Synod of the national church are next declared election under sub-regulation 6.1.

7 Method of counting

7.1 The counting of votes may take place manually or with the assistance of a computer program certified by the Registrar as being consistent with the **Regulation of Elections Act 1980** and these Regulations.

7.2 A computer program may be certified as consistent with these Regulations despite providing for determination by random number instead of by lot but any such provision shall be taken to be a provision for determination by lot.

7.3 If the counting of votes takes place with the assistance of a computer or computer program, the Returning Officer may, and if a candidate so requests must, certify as to the accuracy of the manual input to the computer or computer program.

7.4 In this regulation, *computer program* includes a commercially provided electronic counting service.

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- 3. The Regulation of Elections (Voting) Regulations 2019 were made by Schedule A of the Regulation of Elections Amendment Act 2019 and came into operation on 18 October 2019.