**Australian Broadcasting Corporation**  
(Election of staff-elected Director)  
**Regulations**

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SCHEDULE

PROCEDURE FOR DETERMINING RESULT OF ELECTION
Statutory Rules 1991 No. 1

Australian Broadcasting Corporation
(Election of staff-elected Director)
Regulations

I. THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the Australian Broadcasting Corporation Act 1983.


BILL HAYDEN
Governor-General

By His Excellency's Command.

Kim C. Beazley
Minister of State for Transport and Communications

PART I—PRELIMINARY

Citation
1. These Regulations may be cited as the Australian Broadcasting Corporation (Election of staff-elected Director) Regulations.

Interpretation
2. (1) In these Regulations, unless the contrary intention appears:
   “deputy of staff-elected Director” has the same meaning as in section 13B of the Act;
   “disputes committee” means the committee established under regulation 30;
"election" means an election for the purposes of subsections 13A (1) and 13B (1) of the Act;

"election material" means the election material referred to in subregulation 16 (1);

"Electoral Commissioner" means the Electoral Commissioner within the meaning of the Commonwealth Electoral Act 1918;

"list of voters" means the list prepared by the Managing Director in accordance with regulation 5;

"official bulletin" means the official bulletin of the Australian Broadcasting Corporation;

"return envelope" means a return envelope referred to in subregulation 16 (2);

"returning officer", in relation to an election, means the person appointed under regulation 4 to be the returning officer for the election;

"staff-elected Director" has the same meaning as in section 13A of the Act;

"the Act" means the Australian Broadcasting Corporation Act 1983.

(2) In these Regulations, a reference to nomination day in relation to an election is a reference to:

(a) if there is a staff-elected Director in office—the Thursday that immediately precedes the period of 70 days ending at the expiry of the term of office of that Director; or

(b) if there is no staff-elected Director in office or the staff-elected Director has ceased to hold office before the expiry of his or her term of office—a Thursday specified by the Board by notice in the official bulletin, being a day not earlier than 28 days and not later than 90 days after the position of staff-elected Director becomes vacant.

(3) In these Regulations, unless the contrary intention appears, a provision that applies in relation to the election of the staff-elected Director applies in like manner in relation to the election of a deputy of the staff-elected Director.

Notification to Electoral Commissioner

3. Where a vacancy has arisen or is expected to arise in the position of the staff-elected Director or of the deputy of the staff-elected Director, or both, the Managing Director must notify the Electoral Commissioner that it will be necessary to hold an election to fill the vacancy or the expected vacancy.

Returning officer

4. On being notified by the Managing Director that it will be necessary to hold an election, the Electoral Commissioner must appoint a person to be the returning officer for that election.
PART II—CONDUCT OF ELECTIONS

List of voters

5. (1) As soon as practicable after the appointment of the returning officer, the Managing Director must cause to be prepared and forwarded to the returning officer a list of voters containing the name and last known address of each officer and employee who, on the day when the list is sent, is eligible to vote at the election.

(2) The Managing Director must ensure that the list of voters is received by the returning officer not later than 7 days before nomination day.

(3) Subject to subregulation (4), the list of voters must not be made available to any person other than the Managing Director, the returning officer or any person authorised in writing by the Managing Director or the returning officer for the purposes of this provision.

(4) An officer or employee is entitled to inquire in writing to the Managing Director whether his or her name and address are entered on the list of voters.

(5) An officer or employee who considers, in relation to the list of voters:

(a) that his or her name and address have been wrongly omitted; or

(b) that the entry of his or her name or address is incorrect; must inform the Managing Director accordingly.

Alteration to list of voters

6. (1) The Managing Director is to make such alterations to the list of voters as are necessary from time to time to maintain its accuracy.

(2) Where an alteration is made to the list of voters after it has been forwarded to the returning officer and not later than 7 days before the day fixed for the close of the poll, the Managing Director must at once notify the returning officer of the alteration.

(3) Where the Managing Director notifies the returning officer of an alteration to the list of voters, the returning officer must alter the list accordingly.

(4) Where the returning officer adds the name and address of a person to the list of voters following a notification by the Managing Director, the returning officer must issue election material to the person as soon as practicable and not later than 5 days before the day fixed for the close of the poll.

Advertisement for nominations

7. The returning officer must invite the nomination of persons who are eligible to be candidates for election by advertisement in the official bulletin not later than 21 days before nomination day.
Lodgment of nominations

8. Nominations must be lodged with the returning officer not later than 12.00 noon on nomination day.

Nominations

9. A nomination is not valid unless:
   (a) made in a form approved by the returning officer; and
   (b) signed by not fewer than 6 persons (other than the nominee) who are eligible to be candidates; and
   (c) lodged as required under regulation 8:
   and the nominee has, in the presence of a witness, endorsed the nomination to the effect that the nominee:
   (d) has consented to the nomination: and
   (e) is eligible to be a candidate for election.

Withdrawal of nominations

10. (1) A person nominated as a candidate for election may, in writing signed by the person and witnessed by a person entitled to vote, withdraw as a candidate in the election not later than the time referred to in regulation 8.

   (2) A withdrawal must be lodged with the returning officer.

   (3) A person who withdraws as a candidate must, as soon as practicable and not later than the time referred to in regulation 8, notify in writing accordingly each person who has signed his or her nomination.

Procedure on nomination day

11. (1) If one candidate only is nominated in respect of an election, the returning officer must:
   (a) declare that candidate elected: and
   (b) notify the Managing Director in writing of the name of the person so elected; and
   (c) cause a copy of the notification to the Managing Director to be published in the official bulletin.

   (2) If more than one candidate is nominated in respect of an election, the returning officer must conduct a poll to decide the election.

   (3) If no candidate is nominated in respect of an election, the returning officer is to notify the Managing Director accordingly and the election is not to take place.

Closure of poll

12. The poll closes at 10.00 a.m. on the Thursday 42 days after nomination day.
Statement by candidate

13. (1) Each candidate at an election may submit a statement in writing of not more than 250 words to the returning officer.

(2) A statement must be received by the returning officer not later than 4 days after nomination day.

(3) The returning officer is to arrange for the statement to be printed and issued with the election material.

(4) No action or proceeding, civil or criminal, for defamation lies:
   (a) against the Commonwealth or the returning officer in respect of the issuing by the returning officer under regulation 16 of a statement submitted by a candidate; or
   (b) where the returning officer causes the statement to be printed—against the person who printed the statement.

Determination of order of candidates on ballot-paper

14. For the purposes of determining the order in which the names of the candidates appear on the ballot-paper, the returning officer must conduct a public draw:
   (a) to which all candidates are to be invited; and
   (b) at which the order is to be determined by lot.

Ballot-paper

15. (1) A ballot-paper must:
   (a) be in a form approved by the returning officer; and
   (b) specify the names of the candidates in the order determined under regulation 14; and
   (c) set out voting instructions as provided in subregulation 16 (1).

(2) The returning officer must initial each ballot-paper before it is despatched under regulation 16.

Despatch of ballot-papers

16. (1) Where a poll is required under subregulation 11 (2) to decide an election, the returning officer must, not later than 14 days after nomination day, send to each person whose name appears on the list of voters, at the address of that person shown on the list, an envelope containing the following election material:
   (a) a ballot-paper;
   (b) a ballot-paper envelope;
   (c) a return envelope;
   (d) voting instructions to enable the voter to comply with regulation 19.
(2) A return envelope must:
(a) have printed on it a declaration in accordance with a form approved by the returning officer; and
(b) be addressed to the returning officer at a specified private box referred to in regulation 17; and
(c) be an envelope that may be posted to the returning officer without expense to the voter.

(3) The returning officer must ensure that the election material to be sent to a person under subregulation (1) is in an envelope which is sealed and addressed to the person.

(4) Each envelope referred to in subregulation (3) must bear a printed instruction to the effect that, if the envelope is not delivered to the addressee, it should be returned to the returning officer at a specified private box referred to in regulation 17, not being the private box referred to in paragraph (2) (b).

**Post boxes for ballot-papers**

17. (1) The returning officer must, for the purpose of receiving ballot-papers forwarded in accordance with paragraph 16 (2) (b) and subregulation 16 (4) in respect of an election, use private boxes at a post office, being private boxes used exclusively for that purpose.

(2) Access to a private box must not be given to any person except:
(a) persons authorised by the Australian Postal Corporation to have such access; and
(b) the returning officer; and
(c) any person authorised in writing by the returning officer for the purposes of this provision.

**Replacement of ballot-papers etc.**

18. (1) If, before the close of the poll at an election, a person eligible to vote at the election makes and delivers to the returning officer a statement in writing:
(a) setting out the person’s full name and address; and
(b) declaring that:
   (i) the person has not received specified election material; or
   (ii) specified election material received by the person has been lost or destroyed; and

(c) declaring that the person has not already voted at the election: the returning officer must provide to the person the election material to which the declaration under paragraph (b) relates.

(2) Where the returning officer provides election material to a person under subregulation (1), the returning officer is to keep a record in writing of that fact and of the name and address of that person.
Manner of voting

19. (1) A voter is to indicate his or her preference, or the order of his or her preference, on a ballot-paper by placing the number “1” opposite the name of the candidate for whom the voter wishes to vote as his or her first preference or, if the voter so desires, by placing a series of consecutive numbers, beginning with the number “1”, opposite the names of all, or some only, of the candidates so as to indicate the order of the voter’s preference, one number being placed opposite the name of each such candidate.

(2) After marking his or her preference on a ballot-paper, the voter is to:
   (a) fold the ballot-paper so as to conceal the vote, place the ballot-paper in the ballot-paper envelope and seal that envelope; and
   (b) place the ballot-paper envelope in the return envelope, seal the return envelope and complete and sign the declaration printed on the return envelope; and
   (c) post the return envelope to the returning officer.

(3) The return envelope must reach the returning officer not later than 10.00 a.m. on the day fixed for the close of the poll.

PART III—SCRUTINY AND DECLARATION OF RESULT

Custody of ballot-paper envelopes

20. (1) The returning officer must, in respect of an election:
   (a) keep in his or her custody a locked and sealed container endorsed to indicate clearly the election to which the container relates; and
   (b) place, and keep, unopened in the container until the scrutiny all return envelopes received by the returning officer before the close of the poll at the private box referred to in paragraph 16 (2) (b).

(2) The returning officer must not admit to the scrutiny any return envelopes:
   (a) received by the returning officer at the private box referred to in paragraph 16 (2) (b) after the close of the poll; or
   (b) received by the returning officer at the private box referred to in subregulation 16 (4);
but must place those envelopes unopened in a parcel, seal it, endorse it to indicate clearly both its contents and the election to which it relates and must sign and date the endorsement.

Scrutineers

21. (1) Each candidate at an election may appoint one scrutineer to represent the candidate at the scrutiny.
(2) Upon appointing a scrutineer a candidate must:
   (a) notify the scrutineer:
       (i) in writing signed by the candidate; or
       (ii) by telegram; and
   (b) send a copy of the notification to the returning officer.

(3) The copy of the notification sent to the returning officer must
reach the returning officer not later than 10.00 a.m. on the day fixed
for the close of the poll.

(4) All proceedings at the scrutiny must be open to the inspection
of the scrutineers.

Scrutiny of votes and declarations

22. As soon as practicable after the close of a poll, the returning
officer must, in the presence of such scrutineers as attend:
   (a) open the container referred to in subregulation 20 (1) and take
out the return envelopes; and
   (b) without opening the return envelopes, examine each envelope
and:
       (i) if the returning officer is satisfied that the declaration on
the envelope has been effectively completed and signed
by a person eligible to vote at the election, being a person
who has not already voted in the poll—accept the ballot-
paper contained in the envelope for further scrutiny; and
       (ii) if the returning officer is not so satisfied—reject the
ballot-paper without opening the envelope; and
   (c) place the return envelopes containing the ballot-papers rejected
under subparagraph (b) (ii) in a parcel, seal it, endorse it to
indicate clearly both its contents and the election to which it
relates and sign and date the endorsement; and
   (d) place the return envelopes containing the ballot-papers accepted
for further scrutiny under subparagraph (b) (i) before the
returning officer with the declaration on each envelope facing
downwards, and then, without further examining the declaration
or permitting any other person to do so, withdraw from each
envelope the ballot-paper envelope contained in it and, without
opening the ballot-paper envelope or permitting any other person
to do so, place the ballot-paper envelope in a locked and sealed
container; and
   (e) place the return envelopes from which the ballot-paper envelopes
have been withdrawn in a parcel, seal it, endorse it to indicate
clearly both its contents and the election to which it relates and
sign and date the endorsement; and
   (f) open the container referred to in paragraph (d) and take out
the ballot-paper envelopes; and
(g) open the ballot-paper envelopes referred to in paragraph (f) and withdraw the ballot-paper from each envelope; and

(h) place the ballot-paper envelopes opened under paragraph (g) in a parcel, seal it, endorse it to indicate clearly both its contents and the election to which it relates and sign and date the endorsement.

Determination of result of election

23. The result of an election must be determined in accordance with the procedure set out in the Schedule.

Informal ballot-papers

24. A ballot-paper is informal if:
   (a) it is not initialed by the returning officer; or
   (b) it has no vote marked on it; or
   (c) it does not indicate in accordance with the directions on the ballot-paper the voter's first preference; or
   (d) it has on it any mark or writing by which the voter can be identified.

Completion of scrutiny

25. (1) After the scrutiny conducted in respect of an election has been completed, the returning officer must:
   (a) prepare and sign a statement setting out:
      (i) as at each count:
         (A) the number of votes counted to each candidate; and
         (B) the number of ballot-papers on which a voter has not indicated a further preference; and
      (ii) the number of informal ballot-papers;
   (b) place in separate parcels ballot-papers rejected as informal and ballot-papers not so rejected; and
   (c) endorse each parcel to indicate clearly both its contents and the election to which it relates and must sign and date the endorsement.

   (2) A scrutineer may countersign a statement referred to in paragraph (1)(a) or an endorsement referred to in paragraph (1)(c).

Declaration and notification of result of an election

26. As soon as practicable after the completion of the scrutiny conducted in respect of an election and, in any event, not later than 28 days after the close of the poll, the returning officer must:
   (a) declare by notice in writing given to the Managing Director the name of the candidate elected; and
(b) cause to be published in the official bulletin:

(i) a copy of the notice to the Managing Director; and

(ii) a copy of the statement prepared under paragraph 25 (1)(a).

Request for recount of votes

27. (1) At any time before the notice under paragraph 26 (a) is given, the returning officer may, upon a request in writing of a candidate stating the reasons for the request or on the returning officer's own motion, conduct a recount of the ballot-papers received in respect of the election.

(2) Where the returning officer, on a request being made to him or her by a candidate, refuses to conduct a recount of the ballot-papers, the candidate may, by notice in writing, appeal to the Electoral Commissioner against the refusal and the Electoral Commissioner may, as he or she thinks fit, either direct the returning officer to conduct a recount of the ballot-papers or refuse to direct a recount.

Conduct of recount

28. In conducting a recount in respect of an election, the returning officer has the same powers for the purposes of the recount as the returning officer had in the scrutiny in respect of the election and may make any decision in respect of the allowance and admission, or disallowance and rejection, of a ballot-paper that the returning officer could have made in the course of the scrutiny.

Destruction of electoral papers

29. At the end of 12 months after:

(a) the publication in the official bulletin of a notice under regulation 26 declaring a candidate to be elected at an election; or

(b) where the validity of an election is disputed—the publication in the official bulletin of a notice referred to in paragraph 33 (c) in relation to the election:

the returning officer is to destroy the following election material:

(c) the ballot-papers and envelopes relating to the election contained in the parcels referred to in subregulation 20 (2) and paragraph 22 (c); and

(d) the envelopes relating to the election contained in the parcels referred to in paragraphs 22 (e) and (h); and

(e) the ballot-papers relating to the election contained in the parcels referred to in regulation 25.
PART IV—DISPUTES AND IRREGULARITIES

Disputes committee

30. (1) Not later than 14 days before an election is held, the Minister is to establish, by instrument in writing, a disputes committee consisting of:

(a) one person nominated by the Electoral Commissioner; and
(b) 2 other persons nominated by the Minister.

(2) The returning officer for an election must not be a member of the disputes committee in relation to that election.

(3) If the members of the disputes committee are required to meet in relation to a matter under this Part, the members are, at the first meeting, to elect one of their number to be chairperson of the committee.

Application to dispute election

31. (1) A candidate at an election may, by application in writing addressed to the returning officer, dispute the validity of the election.

(2) An application is not valid unless it:
(a) sets out the grounds relied on to dispute the validity of the election; and
(b) is signed by the candidate; and
(c) is lodged with the returning officer not later than 14 days after notice is given by the returning officer under paragraph 26 (a).

(3) As soon as practicable after a candidate makes an application, the candidate must serve a copy of the application on the person declared to be elected at the election to which the application relates.

(4) The returning officer must forward the application to the Minister who, unless the Minister considers the application frivolous or vexatious, is to refer the application to the disputes committee.

Inquiry

32. (1) The disputes committee must inquire into the validity of the election to which the application referred to it by the Minister relates.

(2) Without limiting the generality of subregulation (1), in an inquiry into the validity of an election, the disputes committee:
(a) is not bound by the rules of evidence but may inform itself in any manner the committee thinks fit; and
(b) may inquire into the identity of voters at the election and whether their votes were improperly accepted or rejected; and
(c) must give the following persons an opportunity to make submissions and to give evidence to the committee:
(i) the applicant disputing the validity of the election; and
Australian Broadcasting Corporation  
(Election of staff-elected Director)  1991 No.

(ii) the candidate declared under paragraph 26 (a) to be elected at the election; and
(iii) the returning officer; and
(iv) any other person the committee considers should be given an opportunity to make submissions or to give evidence; and
(d) may grant leave to a person referred to in paragraph (c) to inspect the list of voters, the record referred to in subregulation 18 (2) and any other document used at or in relation to the election and to take extracts from that list or record or those documents.

(3) The disputes committee is not to inquire into the accuracy of the list of voters.

(4) If the members of the disputes committee are divided in opinion as to the validity of an election, the decision of the majority of the members of the committee is to prevail.

Decision of committee
33. Where the disputes committee has completed an inquiry into the validity of an election, the committee must:
   (a) by notice to the Managing Director:
      (i) confirm the election of the candidate who was declared elected under paragraph 26 (a) to be elected at the election; or
      (ii) declare:
         (A) that the candidate who was declared under paragraph 26 (a) to be elected at the election was not so elected: and
         (B) that a candidate who was not declared under paragraph 26 (a) to be elected at the election is elected: and
   (b) send to the Minister a report setting out the findings of the committee and the reasons for those findings; and
   (c) cause a copy of the notice to be published in the official bulletin.

Effect of committee's decision
34. (1) A decision of the disputes committee under regulation 33 has effect as provided by this regulation.

   (2) If the committee confirms the election of a candidate who was declared under paragraph 26 (a) to be elected, the candidate is to be taken to have been elected.

   (3) If a candidate who was declared under paragraph 26 (a) to be elected at an election is declared by the committee not to have been so elected, the candidate is to be taken not to have been elected.
(4) If a candidate who was not declared under paragraph 26 (a) to be elected at an election is declared by the committee to have been elected, the candidate is to be taken to have been elected.

Irregularities at election

35. (1) Subject to subregulation (3), where the returning officer has reasonable grounds to believe that there has been an irregularity in the conduct of an election, the returning officer may, before a candidate is declared to be elected, declare the election to be void.

(2) Subject to subregulation (3), where the disputes committee has reasonable grounds to believe that there has been an irregularity in the conduct of the election, the committee may, whether or not an inquiry under regulation 31 is proposed or in progress, or has taken place, declare the election to be void.

(3) An election must not be declared void under subregulation (1) or (2):

(a) by reason only of a defect or irregularity in the conduct of the election that did not affect the result of the election; or

(b) by reason only of an error or defect in an instrument, notice, statement or other document made under these Regulations, or purporting to have been so made: or

(c) by reason only of any illegal practice, other than bribery or corruption or attempted bribery or corruption, having been engaged in by a person, unless:

(i) it is likely that the result of the election was affected by the practice: and

(ii) it is just that the election be declared void.

(4) Where an election is declared void under subregulation (1) or (2), these Regulations apply as if the election had not been held.

SCHEDULE

PROCEDURE FOR DETERMINING RESULT OF ELECTION

1. In this Schedule, a reference to a first preference vote includes a reference to a vote that, in accordance with this Schedule, is to be taken to be a first preference vote.

2. The returning officer must, in the presence of such scrutineers as attend, count the first preference votes given for each candidate on the ballot-papers referred to in paragraph 22 (g) not rejected as informal.

3. If a candidate has an absolute majority of first preference votes, that candidate is elected.

4. If no candidate has an absolute majority of first preference votes:

(a) the candidate who has had the fewest first preference votes must be excluded; and
(b) all ballot-papers recording a first preference vote for that excluded candidate must be scrutinised and, where any such ballot-paper records a second preference vote for another candidate, that second preference vote must be counted to that other candidate and is to be deemed to be a first preference vote for that other candidate; and

(c) if, after the count referred to in paragraph (b), a candidate has an absolute majority of first preference votes, that candidate is elected.

5. If, after the count referred to in paragraph 4(b), no candidate has an absolute majority of first preference votes, the process described in item 4 is to be repeated until one candidate has an absolute majority of first preference votes and that candidate is elected.

6. If, on any count, 2 or more candidates have an equal number of votes, the returning officer is to decide by lot which candidate is to be excluded.

NOTE