



Australian Broadcasting Corporation (Election of Staff-elected Director) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 13 December 2023

David Hurley
Governor-General

By His Excellency's Command

Michelle Rowland
Minister for Communications

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Part 1—Preliminary

1 Name

This instrument is the *Australian Broadcasting Corporation (Election of Staff-elected Director) Regulations 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	22 December 2023

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Australian Broadcasting Corporation Act 1983*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Purpose of this instrument

This instrument is made for the purposes of subsection 13A(1) of the Act and sets out how the staff-elected Director of the Corporation is to be elected.

6 Simplified outline of this instrument

The Board of the Corporation includes the staff-elected Director, who must be elected in accordance with this instrument.

An election of the staff-elected Director is generally conducted by the AEC.

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A returning officer must be appointed for each election to make decisions relating to the proper conduct of the election. A roll of voters containing the relevant details of each eligible voter for an election must be prepared by the Managing Director and given to the returning officer.

Nominations for candidates for election and acceptance of nominations by the returning officer are dealt with in Part 4 of this instrument.

Ballot papers for an election must comply with the requirements of Part 5 and must be dealt with by the returning officer under that Part.

The counting and scrutiny of ballot papers and the declaration of election results must comply with Part 6.

Disputes over the validity of an election may be dealt with under Part 7, which requires the Minister to establish a dispute committee for each election. The dispute committee, when required, must conduct an inquiry and report its decision to the Minister.

7 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Corporation;
- (b) Managing Director.

In this instrument:

Act means the *Australian Broadcasting Corporation Act 1983*.

AEC means the Australian Electoral Commission.

approved person means a person approved by the Minister under subsection 9(2) to conduct an election.

declaration envelope: see paragraph 27(1)(b).

dispute committee means a dispute committee established under section 36.

election material means the material mentioned in paragraphs 27(1)(a) to (d).

eligible voter means a person who meets the requirements of section 13.

informal ballot paper means a ballot paper to which subsection 33(2) applies.

returning officer means a returning officer appointed under section 11.

Part 2—Notice and method of election

8 Notice of election

- (1) The Managing Director must give the AEC written notice if an election is to be held to fill a vacancy in the position of staff-elected Director.
- (2) The Managing Director must give the notice to the AEC:
 - (a) for an expected vacancy—at least 12 months before the expected vacancy; and
 - (b) for an unexpected vacancy—as soon as practicable after the Managing Director becomes aware of the unexpected vacancy.

9 AEC generally to conduct elections

- (1) An election of the staff-elected Director is to be conducted by the AEC.
- (2) However, if the AEC advises the Managing Director that the AEC is unable to conduct the election, the election is to be conducted by a person approved in writing by the Minister.
- (3) For an election being conducted by the AEC, the AEC must publish on its website a statement stating that:
 - (a) the AEC is conducting the election; and
 - (b) an eligible voter may, under section 16, request the AEC to provide the eligible voter's name or address as it appears on the roll of voters.

Note: The roll of voters is prepared by the Managing Director under section 14.

- (4) For an election being conducted by an approved person, the approved person must publish, on the internet or in any other way the person considers appropriate, a statement stating that:
 - (a) the person is conducting the election; and
 - (b) an eligible voter may, under section 16, request the person to provide the eligible voter's name or address as it appears on the roll of voters.

10 Method of election

An election of the staff-elected Director is to be conducted by a secret postal ballot of eligible voters.

Part 3—Returning officer and roll of voters

11 Appointment of returning officer

- (1) If an election of the staff-elected Director is to be held, a returning officer for the election must be appointed by:
 - (a) for an election being conducted by the AEC—the AEC; or
 - (b) for an election being conducted by an approved person—the approved person.
- (2) The returning officer must be appointed as soon as practicable after:
 - (a) for an election being conducted by the AEC—the AEC is notified under section 8; or
 - (b) for an election being conducted by an approved person—the person is approved under subsection 9(2).
- (3) The returning officer must not be:
 - (a) the holder of any office of the Corporation; or
 - (b) an employee of the Corporation.

12 Powers and functions of returning officer

In addition to any powers given to the returning officer by this instrument, the returning officer may make any decisions that the returning officer considers reasonable and necessary for the proper conduct of the election in accordance with this instrument, including decisions to:

- (a) ensure the secrecy of the ballot; and
- (b) prevent or remedy any irregularity in the election.

13 Eligible voters

A person is eligible to vote in an election of the staff-elected Director if, on the day on which the Managing Director gives the roll of voters to the returning officer under subsection 14(2), the person (the *relevant person*):

- (a) is an employee of the Corporation; or
- (b) performs services for the Corporation, under the direction and control of the Managing Director or an employee of the Corporation, under a written contract entered into:
 - (i) between the Corporation and the relevant person; or
 - (ii) between the Corporation and another person, being a contract that specifies the relevant person as the person who would perform the services under the contract.

14 Roll of voters to be prepared and forwarded

- (1) The Managing Director must prepare a roll of voters containing the name and last known address of each eligible voter for an election of the staff-elected Director.
- (2) The Managing Director must, no earlier than 30 days before, and no later than 7 days before, the day on which nominations for the election open, give the roll of voters to the following:
 - (a) the returning officer for the election;
 - (b) if the election is being conducted by the AEC—the AEC;
 - (c) if the election is being conducted by an approved person—the approved person.

Note: Subsection 20(1) provides for when nominations open.

- (3) The Managing Director must take reasonable steps to ensure that the address given in the roll of voters for an eligible voter is the eligible voter's postal address rather than work address.
- (4) The roll of voters closes on the day on which the Managing Director gives the roll to the returning officer.

15 Returning officer may request further information

- (1) If, after receiving the roll of voters, the returning officer requires further information to identify an eligible voter, the returning officer may ask the Managing Director for the further information.
- (2) The Managing Director must give the further information to the returning officer.

16 Provision of eligible voter's details on roll of voters

- (1) For an election being conducted by the AEC:
 - (a) an eligible voter may, in writing, request the AEC to provide the eligible voter's name or address as it appears on the roll of voters; and
 - (b) the AEC must respond to a request under paragraph (a) as soon as practicable.
- (2) For an election being conducted by an approved person:
 - (a) an eligible voter may, in writing, request the approved person to provide the eligible voter's name or address as it appears on the roll of voters; and
 - (b) the approved person must respond to a request under paragraph (a) as soon as practicable.
- (3) If an eligible voter considers that the eligible voter's name or address has been wrongly omitted from the roll of voters, or is incorrectly entered on the roll of voters, the eligible voter may request the Managing Director to enter the correct name or address on the roll of voters.
- (4) A request under subsection (3) must be made:
 - (a) in writing; and

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(b) not later than 8 days before the day on which the ballot closes.

Note: Section 25 sets out when the ballot closes.

17 Notification of alternate address

(1) If an eligible voter for an election will be absent from the eligible voter's usual address during the period in which the ballot will be conducted, the eligible voter may give the Managing Director written notice of an alternate address to which election material is to be sent to the eligible voter.

(2) The notice must:

(a) be in a form approved by the Managing Director; and

(b) include the following information:

(i) the eligible voter's name and usual address;

(ii) the alternate address to which the election material is to be sent; and

(c) be given to the Managing Director not later than 8 days before the ballot closes.

Note: Section 25 sets out when the ballot closes.

(3) The Managing Director must notify the returning officer of the eligible voter's alternate address immediately after receiving the notice in accordance with subsection (2).

(4) The returning officer must:

(a) update the roll of voters to include the eligible voter's alternate address; and

(b) advise the following when the roll of voters has been so updated:

(i) for an election being conducted by the AEC—the AEC;

(ii) for an election being conducted by an approved person—the approved person.

18 Alteration of roll

(1) The Managing Director may, before the roll of voters closes, amend the roll of voters as necessary to maintain the accuracy of the roll.

Note: Subsection 14(4) sets out when the roll of voters closes.

(2) If, after the roll of voters has closed but not later than 7 days before the ballot for an election closes, the Managing Director considers that the name or address of an eligible voter should be amended on the roll, the Managing Director must notify the returning officer in writing immediately.

(3) If the returning officer receives a notice under subsection (2), the returning officer must:

(a) amend the roll accordingly; and

(b) advise the following when the roll of voters has been so amended:

(i) for an election being conducted by the AEC—the AEC;

(ii) for an election being conducted by an approved person—the approved person; and

- (c) issue, or re-issue, election material to the eligible voter as soon as possible before the close of the ballot.

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Part 4—Nominations and candidates' statements

19 Notice of invitation for nominations

- (1) The returning officer must publish a notice inviting nominations for candidates for the election of the staff-elected Director by:
 - (a) placing the notice on the Corporation's internal website; or
 - (b) sending the notice by electronic means directly to each person who is eligible to be a candidate for election.

Note: Subsection 13A(2) of the Act sets out who is eligible to be a candidate for election, and hold office, as the staff-elected Director.

- (2) The returning officer must publish the notice:
 - (a) as soon as practicable after the returning officer is appointed; and
 - (b) before the opening time and day for nominations specified in the notice.
- (3) The notice must:
 - (a) state that an election is to be conducted by the returning officer for the position of staff-elected Director of the Corporation; and
 - (b) invite nominations from persons who are eligible to be candidates for election, and hold office, as the staff-elected Director under subsection 13A(2) of the Act; and
 - (c) state the time and day for the opening and closing of nominations; and
 - (d) state the time and day for the opening and closing of the ballot for the election; and
 - (e) specify where nomination forms may be obtained; and
 - (f) specify where and how nomination forms must be lodged; and
 - (g) state the latest day and time by which nominations may be withdrawn.

Note: Section 25 sets out when the ballot opens and closes.

20 Lodgement of nominations

- (1) Nominations for candidates for election to the position of staff-elected Director open on the day stated in the notice published under subsection 19(1) as the day for the opening of nominations.
- (2) A person wanting to nominate as a candidate for election to the position of staff-elected Director must lodge the person's nomination with the returning officer no later than 12 noon on the 28th day after the day on which nominations open, as stated in the notice.
- (3) However, if the day worked out according to subsection (2) as the day by which nominations must be lodged is a Saturday, Sunday or public holiday in New South Wales, the day by which nominations must be lodged is the next business day after that day.
- (4) The nomination must be in the form approved by the returning officer.

21 Candidates' statements

- (1) Each candidate may give the returning officer a statement (which may include a biography) in support of the candidate's candidature.
- (2) The statement must:
 - (a) be given with the candidate's nomination; and
 - (b) not exceed 200 words.
- (3) Not later than 7 days after the close of nominations, the returning officer must publish the candidates' statements by:
 - (a) placing the statements on the Corporation's internal website; or
 - (b) sending the statements directly to each eligible voter by electronic means.
- (4) However, the returning officer may refuse to publish a candidate's statement if:
 - (a) the statement does not comply with subsection (2); or
 - (b) the returning officer believes the statement:
 - (i) is false or misleading in a material particular; or
 - (ii) may be defamatory.
- (5) If the returning officer refuses to publish a candidate's statement, the returning officer must notify the candidate in writing and give the candidate a reasonable opportunity to provide a replacement statement within 2 business days after the notice.
- (6) The candidates' statements must be published in the same order as the order of candidates on the ballot paper, as determined under section 26.
- (7) If a candidate does not provide a statement, the returning officer must advise of this fact in the publication of candidates' statements.

22 Acceptance of nominations

- (1) The returning officer must accept a nomination of a person as a candidate in an election of the staff-elected Director if the following requirements are met:
 - (a) the person nominated (the *nominee*) is eligible to be a candidate for election, and hold office, as the staff-elected Director under subsection 13A(2) of the Act;
 - (b) the nomination was lodged, in the form approved by the returning officer, with the returning officer by the day required by section 20;
 - (c) the nomination contains the following information:
 - (i) the full name of the nominee;
 - (ii) if the nominee wants the nominee's name to appear in a different form on the ballot paper—the form of the nominee's name to appear on the ballot paper;
 - (iii) the nominee's contact details;
 - (iv) the names, addresses and signatures of 6 eligible voters who are endorsing the nominee for the position of staff-elected Director;
 - (d) the nomination is signed by the nominee, in the presence of a witness.

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- (2) If a nomination does not meet the requirements mentioned in paragraph (1)(c), the returning officer must:
 - (a) if practicable—notify the nominee and give the nominee 7 days in which to meet the requirements; or
 - (b) in any other case—reject the nomination.

23 Withdrawal of nominations

- (1) A person may withdraw the person's nomination as a candidate by notice to the returning officer.
- (2) The notice must be:
 - (a) in writing, signed by the person, and witnessed by an eligible voter; and
 - (b) in the form approved by the returning officer; and
 - (c) given to the returning officer not later than the day and time specified in the notice calling for nominations as the latest day and time by which nominations may be withdrawn.
- (3) A person cannot withdraw the person's endorsement of a candidate once the nomination has been lodged.

24 Procedure on closure of nominations

- (1) If only one person's nomination for election is accepted by the returning officer, the returning officer must:
 - (a) declare the person elected as a candidate; and
 - (b) give the Managing Director written notice of the name of the person elected; and
 - (c) place a copy of the notice on the internal website of the Corporation.
- (2) If no nominations are received by the day on which nominations close, or no nominations are accepted by the returning officer, the returning officer must give the Managing Director written notice that the election will not take place.
- (3) The Managing Director must, on receipt of a notice under subsection (2), arrange for another election to be conducted as soon as practicable.
- (4) If more than one nomination is accepted by the returning officer, the returning officer must conduct a ballot of the candidates in accordance with Part 5.

Part 5—Ballot

25 Opening and closing of ballot

- (1) The ballot for the election of the staff-elected Director opens on the day that is 14 days after the day on which nominations for the election close.
- (2) The ballot closes at 10 am on the 35th day after the day on which the ballot opens.
- (3) However, if the day on which the ballot would open under subsection (1), or close under subsection (2), is a Saturday, Sunday or public holiday in New South Wales, the ballot is to open or close on the next business day after that day.
- (4) Ballots received before the ballot opens, or after the ballot closes, must not be counted in the election.

26 Ballot papers

- (1) The ballot paper for the election of the staff-elected Director must:
 - (a) be in the form approved by the returning officer for the election; and
 - (b) specify the names of the candidates for election in the order determined under subsection (3); and
 - (c) state the day on which the ballot opens and the day on which, and time at which, the ballot closes; and
 - (d) include instructions on how to complete the ballot paper.
- (2) The ballot paper must not contain any information about the candidates other than their names.
- (3) The returning officer must determine the order of candidate's names on the ballot paper by a lot drawn by the returning officer.
- (4) The returning officer must give eligible voters notice of the time and place for the lot to be drawn, in order to give eligible voters a reasonable opportunity to attend the draw.
- (5) The returning officer must authenticate each ballot paper, before the ballot paper is distributed to an eligible voter, by initialling the paper or placing another form of authenticating mark on the ballot paper.

27 Printing and distribution of election material

- (1) The returning officer must send the following material (the *election material*) in a sealed envelope to each eligible voter:
 - (a) the ballot paper;
 - (b) an envelope to contain the completed ballot paper, bearing a declaration in the form approved by the returning officer (the *declaration envelope*);

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- (c) a reply paid envelope addressed to the private mail box, or other secure postal facility at a post office or other mail centre, to be used for the return of ballot papers;
 - (d) a copy of each candidate's statement (if any) given in accordance with section 21 (other than a statement rejected by the returning officer under that section).
- (2) The returning officer must send the election material to the eligible voter by prepaid post to the voter's address as it appears on the roll of voters.
- (3) The envelope containing the election material must bear printed instructions that if the material is not delivered to the addressee, the material must be returned to the returning officer at a specified private mail box that is different from the mail box or secure postal facility used for the return of ballot papers.

28 Replacement election material

- (1) An eligible voter may apply to the returning officer for replacement election material on the basis that:
- (a) the eligible voter did not receive the election material; or
 - (b) the election material received by the eligible voter has been lost, damaged or destroyed.
- (2) The application must:
- (a) be in writing; and
 - (b) state the eligible voter's full name and address; and
 - (c) set out the reasons for the application; and
 - (d) contain a declaration, signed by the eligible voter, that the eligible voter has not voted in the election; and
 - (e) if the election material has been lost, damaged or destroyed—be accompanied by evidence of the loss, damage or destruction, if practicable.
- (3) If the returning officer is satisfied that the information contained in the application is correct, the returning officer must:
- (a) send replacement election material to the eligible voter; and
 - (b) make a record that the replacement election material has been sent to the eligible voter.

29 Receipt of completed ballot papers

- (1) The returning officer must use a private mail box or other secure postal facility at a post office or other mail centre for the return of envelopes containing ballot papers.
- (2) A person must not access the mail box or other secure postal facility unless the person is:
- (a) the returning officer; or
 - (b) authorised to do so by the Australian Postal Corporation or the returning officer.

- (3) The returning officer may collect envelopes from the private mail box or other secure postal facility before the ballot has closed, and keep the envelopes in a secure location.

Part 6—Counting and scrutiny of ballot papers

30 Appointment of scrutineers

- (1) Each candidate for an election of the staff-elected Director may appoint one person as a scrutineer for the election, to represent the candidate's interests in the election.
- (2) The scrutineer cannot be a candidate in the election.
- (3) The appointment must be:
 - (a) in writing and signed by the candidate; and
 - (b) given to the returning officer no later than the time when the ballot closes.

Note: Section 25 sets out when the ballot closes.

31 Conduct of scrutineers

- (1) A scrutineer may be present at any time during:
 - (a) the preliminary scrutiny of declaration envelopes; and
 - (b) the counting of the ballot papers.
- (2) A scrutineer may countersign any seal, or place the scrutineer's own seal, on any receptacle used for completed ballot papers.
- (3) A scrutineer may bring to the attention of the returning officer any alleged irregularity in relation to any of the following:
 - (a) the issue of election material;
 - (b) a decision by the returning officer to count, or not to count, a ballot paper;
 - (c) the counting of ballot papers.
- (4) A scrutineer must not:
 - (a) interrupt the counting and scrutiny of ballot papers without lawful reason; or
 - (b) disclose any knowledge acquired during scrutiny about the vote of a particular voter; or
 - (c) fail to comply with any lawful request made by the returning officer; or
 - (d) touch any election material; or
 - (e) act in a way that interferes with the proper conduct of the ballot.
- (5) If a scrutineer fails to comply with subsection (4), the returning officer may exclude the scrutineer from the counting and scrutiny of the ballot papers.
- (6) The returning officer must not delay the preliminary scrutiny of declaration envelopes or counting of ballot papers solely because a scrutineer is unable to attend the scrutiny or counting.

32 Preliminary scrutiny of declaration envelopes

- (1) The returning officer must conduct a preliminary scrutiny of declaration envelopes, to ensure no more than one ballot paper is counted for each eligible voter, by:
 - (a) removing each voter's declaration envelope from the reply paid envelope; and
 - (b) examining the voter's declaration on the declaration envelope; and
 - (c) marking the voter's name off on the roll of voters.
- (2) The preliminary scrutiny may commence before the ballot closes.
- (3) The returning officer must not count a voter's ballot paper if:
 - (a) the voter did not complete the declaration envelope to the returning officer's satisfaction; or
 - (b) the voter is not an eligible voter; or
 - (c) the returning officer is unable to find the voter on the roll of voters.
- (4) If a voter has returned more than one ballot paper, the returning officer must not count any of the ballot papers returned by the voter.
- (5) If a ballot paper is not counted because of subsection (3) or (4), the returning officer must:
 - (a) place the ballot paper, and any other election material returned by the voter, in a sealed parcel; and
 - (b) endorse the parcel to indicate the parcel's contents and the election to which the parcel relates; and
 - (c) sign and date the endorsement.

33 Counting of ballot papers*Removal of declaration section*

- (1) Before opening a declaration envelope to count a ballot paper, the returning officer must remove the declaration from the declaration envelope so that the eligible voter can no longer be identified.

Informal ballot papers not to be counted

- (2) The returning officer must not count a ballot paper if:
 - (a) it does not bear the initials or other authenticating mark of the returning officer; or
 - (b) it does not indicate the voter's first preference in accordance with the instructions on how to complete the ballot paper; or
 - (c) the voter's intention is not clear from the marking used by the voter; or
 - (d) the ballot paper is not returned inside a declaration envelope.

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Counting of ballot papers

- (3) If, after first preference votes have been counted, a candidate has an absolute majority of the votes, namely 50% plus one vote, the returning officer must declare the candidate to be elected.
- (4) If no candidate has an absolute majority after first preferences are counted, the returning officer must:
 - (a) exclude the candidate with the fewest number of first preference votes; and
 - (b) distribute the excluded candidate's second preference votes to the remaining candidates, discarding any ballot papers that do not show a second preference.
- (5) Then, the returning officer must:
 - (a) if a candidate has an absolute majority of votes—declare the candidate to be elected; or
 - (b) if no candidate has an absolute majority of votes—repeat the process in paragraphs (4)(a) and (b) for later preferences, until one candidate has an absolute majority of votes, and declare that candidate to be elected.
- (6) For the purposes of paragraph (5)(b), if an excluded candidate's preference is for another excluded candidate, the returning officer must distribute the vote to the candidate (not being an excluded candidate) for whom the voter's next preference is shown.
- (7) If 2 or more candidates receive the same number of votes after preferences, the returning officer must conduct a draw of lots and declare the candidate, whose name is drawn first, to be elected.
- (8) The returning officer must give eligible voters reasonable notice of the time and place for the lot to be drawn, in order to give candidates and eligible voters the opportunity to attend the draw.

Election material to be kept

- (9) After counting the ballot papers, the returning officer must:
 - (a) place all ballot papers, declaration envelopes and reply paid envelopes in a sealed parcel; and
 - (b) endorse the parcel to indicate the parcel's contents and the election to which it relates; and
 - (c) sign and date the endorsement.

34 Objections to ballot papers

- (1) A scrutineer may object, during the scrutiny process, if:
 - (a) a ballot paper is counted by the returning officer, but the scrutineer considers that the counting of the ballot paper is precluded by section 32 or 33; or
 - (b) a ballot paper is not counted by the returning officer on the basis that section 32 or 33 precludes the ballot paper being counted, but the scrutineer considers that the counting of the ballot paper is not so precluded.

-
- (2) If a scrutineer objects, the returning officer must decide whether to count or not count the ballot paper, and endorse the returning officer's decision:
 - (a) if the ballot paper was not counted because of a defect in relation to the declaration envelope—on the declaration envelope; or
 - (b) in any other case—on the ballot paper.
 - (3) No further objection may be made in relation to the returning officer's decision under subsection (2).

35 Declaration of results

- (1) As soon as practicable after the ballot has closed, the returning officer must:
 - (a) give the information mentioned in subsection (2), in writing, to the Managing Director; and
 - (b) either:
 - (i) place that information on the Corporation's internal website; or
 - (ii) send that information to each eligible voter by electronic means.
- (2) For the purposes of subsection (1), the information is as follows:
 - (a) the result of the election;
 - (b) the number of persons on the roll of voters;
 - (c) the number of ballot papers issued;
 - (d) the number of envelopes containing election material that were returned undelivered by the day on which, and time at which, the ballot closed;
 - (e) the number of ballot papers returned to the returning officer;
 - (f) the number of informal ballot papers;
 - (g) the number of ballot papers that were not counted because of subsection 32(3);
 - (h) the number of eligible voters whose ballot papers were not counted because of subsection 32(4);
 - (i) the number of votes counted for each candidate;
 - (j) the number of ballot papers on which a voter did not indicate a further preference after the voter's first preference;
 - (k) any other information the returning officer considers relevant to the election.

Part 7—Disputes and irregularities

36 Dispute committee

- (1) No later than 14 days before a ballot for the election of the staff-elected Director opens, the Minister must, by written instrument, establish a dispute committee for the election.
- (2) The Minister must appoint 3 persons as members of the committee.
- (3) The returning officer for the election must not be appointed as a member of the dispute committee.
- (4) If the dispute committee meets, the committee must, at the committee's first meeting, elect a member as the committee's Chair.

37 Application to dispute election

- (1) A candidate for an election may, by giving written notice to the returning officer for the election, dispute the validity of the election.
- (2) The notice must:
 - (a) set out the grounds relied on to dispute the validity of the election; and
 - (b) be signed by the candidate giving the notice; and
 - (c) be given not later than 14 days after the day on which the information mentioned in subsection 35(2) is placed on the Corporation's internal website.
- (3) As soon as practicable after giving the notice, the candidate must give a copy of the notice to the person declared to have been elected as the staff-elected Director at the election.
- (4) The returning officer must, as soon as practicable after receiving the notice, forward the notice to the Minister.
- (5) The Minister must, as soon as practicable after receiving the notice, refer the notice to the dispute committee established for the election under section 36, unless the Minister considers that the notice is frivolous or vexatious.

38 Inquiry by dispute committee

- (1) If the Minister refers a notice disputing the validity of an election to a dispute committee under section 37, the committee must inquire into the validity of the election.
- (2) The committee must, if reasonably practicable, conclude its inquiry not later than 30 days after the Minister refers the notice to the committee.
- (3) In carrying out its inquiry the committee is not bound by the rules of evidence and may inform itself in any manner the committee considers appropriate.

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- (4) The committee must give the following persons an opportunity to make submissions or give evidence to the committee:
 - (a) the candidate disputing the validity of the election;
 - (b) the candidate declared to be elected at the election;
 - (c) the returning officer for the election;
 - (d) any other person that the committee considers should be given an opportunity to make submissions or give evidence.
 - (5) Without limiting how the committee may carry out an inquiry, the committee may do any of the following:
 - (a) inquire into the identity of voters at the election;
 - (b) inquire into whether a decision by the returning officer to count, or not count, a ballot paper was a proper decision;
 - (c) grant leave to a person mentioned in subsection (4) to:
 - (i) inspect the roll of voters, any applications for replacement election material, and any other document used at or in relation to the election; and
 - (ii) make copies of any material mentioned in subparagraph (i) of this paragraph.
 - (6) On completion of an inquiry, the committee must either:
 - (a) confirm the election of the candidate declared by the returning officer to have been elected; or
 - (b) declare that the candidate declared by the returning officer to be elected is not elected, and declare a different candidate as having been elected.
 - (7) The decision of the majority of members of the committee is the decision of the committee.

39 Report on dispute committee's decision

- (1) Not later than 7 days after a dispute committee completes an inquiry under section 38, the committee must give a written report to the Minister and the Managing Director setting out:
 - (a) the committee's decision; and
 - (b) the findings of the committee; and
 - (c) the reasons for the findings.
- (2) Not later than 30 days after it completes its inquiry, the committee must place a copy of the report on the Corporation's internal website, or send a copy of the report to each eligible voter by electronic means.

40 Effect of dispute committee's decision

- (1) If the dispute committee for an election confirms the election of the candidate declared by the returning officer to have been elected, the candidate is taken to be elected.
- (2) If the committee declares that the candidate declared by the returning officer to be elected is not elected:

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- (a) that candidate is taken not to have been elected; and
- (b) the other candidate declared by the committee as having been elected is taken to have been elected.

41 Irregularities in conduct of election

- (1) If the returning officer for an election reasonably believes there has been an irregularity in the conduct of the election, the returning officer may, before a candidate is declared to be elected, declare the election to be void.
- (2) If the dispute committee for an election reasonably believes there has been an irregularity in the conduct of the election, the committee may, regardless of whether or not an inquiry by the committee is proposed or is being carried out, or has been carried out, declare the election to be void.
- (3) However, the returning officer or dispute committee must not declare an election to be void if the only reason for the declaration is:
 - (a) an irregularity that did not affect the result of the election; or
 - (b) an error or defect in an instrument, notice, statement or other document made or given under this instrument; or
 - (c) an illegal action, other than bribery or corruption or attempted bribery or corruption, unless it is likely that the result of the election was affected by the action and it would be just to declare the election void.
- (4) If an election is declared void, the Managing Director must make arrangements for another election to be conducted.

Part 8—Application, saving and transitional provisions

42 Saving provision

Despite the repeal of the *Australian Broadcasting Corporation (Election of Staff-elected Director) Regulation 2012* (the **repealed Regulation**) by this instrument, the repealed Regulation continues to apply in relation to an election, as if that repeal had not happened, if, before the commencement of this instrument, a notice of the election is given to the AEC under section 5 of the repealed Regulation.

Schedule 1—Repeals

Australian Broadcasting Corporation (Election of Staff-elected Director) Regulation 2012

1 The whole of the instrument

Repeal the instrument.