

Adopted by decision of the Executive Board on [insert date]

The Motor Traders' Association of New South Wales

**RULES
FOR THE CONDUCT OF ELECTIONS OF
COUNCILLORS**

1. DEFINITIONS

The definitions in Rule 2(1) of the Rules of the Motor Traders' Association of New South Wales (except that for "member" and "Association Member") apply in these Election Rules. Additionally, the following definitions are used in (and only in) these Election Rules:

1.1 Candidate

Means a person who seeks or is nominated for an office. Also known as a nominee.

1.2 Close of Roll Day

The day on which the roll of voters for the ballot is closed. Any person who is eligible to vote on that day is included in the roll of voters.

1.3 Election Rules

Means these Election Rules.

1.4 incompatible offices

Refers to offices which cannot be held concurrently under the Rules.

1.5 irregularity

Means in relation to an election or ballot:

- (a) a breach of the Rules or these Rules; or
- (b) an act or omission by means of which:
 - (i) the full and free recording of votes by all persons entitled to record votes and by no other persons; or
 - (ii) a correct ascertainment or declaration of the results of the voting;is, or is attempted to be, prevented or hindered.

1.6 member

Has the same meaning as Association Member as defined in Rule **Error! Reference source not found..**

1.7 Nominator

Means a person who nominates another person for office.

1.8 Nominee

Means the person nominated for office. Also known as a candidate.

1.9 prescribed officer

The office holder or employee within the Association who is authorised by the Executive Board to make available the Register to the returning officer.

1.10 returning officer

Means the person appointed under these Election Rules to conduct the election.

2. RETURNING OFFICER

2.1 Returning Officer – Powers and Duties

- 2.1.1 A returning officer shall be appointed by the incumbent Executive Board to conduct each election for office.
- 2.1.2 The returning officer shall prepare and circulate a notice calling for nominations in accordance with these Election Rules.
- 2.1.3 After the close of nominations the returning officer shall consider all nominations received during the nomination period. The returning officer shall reject any nominations received after the nomination period has closed.
- 2.1.4 The returning officer shall accept all nominations which satisfy the requirements of these Election Rules.
- 2.1.5 The returning officer shall treat any defective nominations in the manner prescribed in these Election Rules.
- 2.1.6 Where a ballot is required, the returning officer shall conduct the ballot in accordance with the provisions of these Election Rules.
- 2.1.7 In respect to any matter pertaining to the conduct of any election, and in spite of anything else contained in these Election Rules, the returning officer shall take such action and give such directions as the returning officer considers necessary, including but not limited to making void a step already taken in the election, to ensure the secrecy of the ballot and to prevent or remedy an irregularity.

3. ADVERTISING

3.1 Publication

- 3.1.1 The returning officer shall cause an election notice to be published in accordance with Rule **Error! Reference source not found.** no later than the opening of nominations for the relevant election.

3.2 Election notice

- 3.2.1 The election notice shall:
 - (a) state that the election is being conducted by the returning officer;
 - (b) list the offices for which nominations are sought;
 - (c) invite nomination for election from all eligible persons;
 - (d) fix the time and date for the opening and closing of nominations;

- (e) fix the time and date for the opening and closing of the ballot;
- (f) specify the place where nomination forms may be obtained;
- (g) specify the place where nominations must be lodged;
- (h) specify the accepted method/s of lodgement;
- (i) fix a time and date for withdrawal of nominations; and
- (j) if applicable, specify other documentation required to be submitted with the nomination, ie a biographical and/or policy statement not exceeding 200 words in support of the nomination.

4. SCRUTINEERS

4.1 Appointment

- 4.1.1 Each candidate may appoint, in writing, one person as scrutineer to represent the candidate's interests in the conduct of the ballot. A scrutineer shall not be a candidate for any position which is also included in a ballot in the election. The candidate may appoint one or more substitute scrutineers, if required.

4.2 Rights and obligations

- 4.2.1 A scrutineer may be present at any stage in the ballot. This includes:

- (a) countersigning any seals or placing their own seal on any receptacle being used for the ballot;
- (b) bringing to the attention of the returning officer any alleged irregularity in:
 - (i) the issue of ballot papers;
 - (ii) the admission of envelopes to scrutiny;
 - (iii) the formality or informality of ballot papers; or
 - (iv) the counting of votes.

- 4.2.2 A scrutineer shall not:

- (a) interrupt the scrutiny without lawful reason;
- (b) disclose any knowledge acquired by him/her concerning the votes of any particular voter or voters;
- (c) fail to carry out any lawful request by the returning officer;
- (d) touch any ballot material; or
- (e) act in a manner which will interfere with the proper conduct of the election.

- 4.2.3 Failure of a scrutineer to attend any scheduled event will not delay any step in the election.

5. TIMETABLE – NOMINATIONS AND VOTING

5.1 Nominations

- 5.1.1 Nominations for the office of Councillor shall open on the seventh day of the first month of the Quarter which immediately precedes the Quarter in which nominations for the office of members of the Executive Board open.
- 5.1.2 Nominations shall close at 12 noon on the twenty-first day after nominations have opened. Nominations received by the returning officer after that time shall not be accepted.
- 5.1.3 If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.
- 5.1.4 Nominations shall be called in the manner prescribed in these Election Rules.
- 5.1.5 Nominations lodged with the returning officer shall be in writing and include the following information:
- (a) the full name of the nominee;
 - (b) the form in which the nominee's name is to appear on a ballot paper if different to the name shown above;
 - (c) the nominee's contact details;
 - (d) the name and address of each nominator, if required;
 - (e) the office for which the nominee is nominating;
 - (f) the signed endorsement/consent of the nominee;
 - (g) the signature of each nominator; and
 - (h) any further documentation required by the returning officer.
- 5.1.6 If, after the close of nominations, the number of valid nominations received for an office is less than the number of positions to be filled, the returning officer shall not make another call for nominations.
- 5.1.7 This Election Rule will be adapted by the returning officer as necessary where the election is conducted in respect of only a new part of the Association (including a newly formed Division and a newly affiliated affiliate).

5.2 Voting

- 5.2.1 Voting shall open on the first day of the last month of the Quarter in which nominations are called.
- 5.2.2 The ballot shall close at 10 am on the twenty-first day after the day that the ballot opened. Ballot material received by the returning officer after that time shall not be included in the scrutiny.
- 5.2.3 If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.
- 5.2.4 In spite of the provisions of this Election Rule, if the returning officer is unable to commence the nomination period so as to comply with this Election Rule, the election timetable shall be established by applying the timeframes identified in this Election Rule, but commencing from the date of the opening of nominations.

6. ELIGIBILITY TO NOMINATE

6.1 Nominations

- 6.1.1 Each member's eligibility to participate as a nominee or nominator shall be determined as at the close of nominations.
- 6.1.2 A nominee for any office of the Councillor must be a Financial Member of the part of the Association that the office represents.
- 6.1.3 A nominator for any office of the Councillor must be a Financial Member of the part of the Association that the office represents. A nominee must self-nominate or be nominated by at least 1 nominator.

7. MULTIPLE NOMINATIONS

7.1 Holding more than one office

- 7.1.1 A person may hold simultaneously more than one office of Councillor.

8. DEFECTIVE NOMINATIONS

8.1 Notification

- 8.1.1 Where the returning officer finds that a nomination is or may be defective, the returning officer shall, before rejecting the nomination, notify the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect or providing further information in support of the nomination, within a period of not less than seven days after being notified.
- 8.1.2 Where the returning officer has notified a person of a defective nomination, and where that person has remedied the defect and advised the returning officer within the time prescribed by the returning officer, the returning officer shall accept the nomination.
- 8.1.3 Where the returning officer has notified a person of a nomination defect, and where that person has not corrected the defect and advised the returning officer within the time prescribed by the returning officer, the nomination shall be rejected.

9. WITHDRAWAL OF NOMINATIONS

9.1 Notification of withdrawal

- 9.1.1 A person nominating for any office may withdraw the nomination by notice in writing to the returning officer at any time before the closing time for the receipt of nominations;
- 9.1.2 The notification in writing referred to above must include the signed endorsement of the nominee and be in a form acceptable to the returning officer.
- 9.1.3 Once a nominator has endorsed the nomination of another person for election to any office in the Association, that nominator may not subsequently withdraw that endorsement.

10. UNCONTESTED ELECTIONS

10.1 Declaration

- 10.1.1 If, after the close of nominations, the number of valid nominations received for an office does not exceed the number of positions to be filled, the returning officer shall declare elected the person or persons nominated.

11. ROLL OF VOTERS

11.1 Supply of listings for the roll of voters

- 11.1.1 The only persons eligible to appear on the roll of voters in a ballot are those persons who, on Close of Roll Day, are Financial Members of the part of the Association that the office represents.
- 11.1.2 Close of Roll Day shall be a day which is no earlier than 30 days and no later than 7 days before the day on which nominations for the election open. Wherever the last day of a Quarter falls within this period, Close of Roll Day shall be that day. Otherwise Close of Roll day shall be the day 7 days prior to the date for the opening of nominations.
- 11.1.3 The returning officer shall request the prescribed officer to supply the name and postal and/or email or other electronic address of every member eligible to vote at an election. The returning officer may also request the prescribed officer to supply additional information which does not form the roll of voters but is to be used to ensure no irregularity occurs, and to supply the information in electronic form. The prescribed officer shall comply with such a request.
- 11.1.4 The prescribed officer must take all reasonable steps to ensure the listings supplied to the returning officer contain, where practicable, each eligible member's residential or other postal address rather than workplace address.
- 11.1.5 Any candidate for election and any member entitled to vote in an election may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

11.2 Absent Voting

- 11.2.1 Any member who is entitled to vote at any election held under these Election Rules and who will be absent from their usual address during the period in which the ballot is to be conducted, may apply to the returning officer for ballot material to be sent to another address that the member so nominates.
- 11.2.2 Notification to the returning officer shall be in a form acceptable to the returning officer and shall set out the member's name and usual address and the address to which the member elects to have ballot material sent.
- 11.2.3 Where a returning officer receives a request for an absent vote made in the form described in this rule, the returning officer shall comply with that request.

12. CONTESTED ELECTIONS

12.1 Ballot

- 12.1.1 If the number of valid nominations received for an office exceeds the number of positions to be filled, the returning officer shall conduct a secret ballot of members entitled to vote. The returning officer may include a number of ballots on the same ballot paper.

13. BALLOT PAPERS

13.1 Ballot paper wording

13.1.1 The following features shall appear on all ballot papers prepared in respect of a secret ballot for an election for office:

- (a) the name of the Association;
- (b) the initials of the returning officer or other authenticating mark;
- (c) the name and number of office/s to be filled;
- (d) instructions for marking the ballot paper;
- (e) the names of the candidates in the format and order required by these rules;
- (f) instructions for returning the ballot paper;
- (g) name of the returning officer; and
- (h) any other instruction considered necessary by the returning officer.

13.1.2 The returning officer shall arrange for the printing or making of ballot papers and distribution to members eligible to vote.

13.1.3 The ballot papers shall contain the names of the candidates with the surname first followed by the given names. No other candidate information will be printed on the ballot paper.

13.1.4 The order of names in each ballot on the ballot paper shall be determined by lot drawn by the returning officer.

13.1.5 The ballot shall be conducted under a first past the post system where:

- (a) the method of voting shall be by placing a tick or cross or number, as required by the returning officer, in the square next to the name/s of the candidate/s for whom the elector wishes to vote;
- (b) the candidate(s) with the highest number of votes shall be elected;
- (c) if two or more candidates each receive the same number of votes the returning officer shall decide by lot which candidate is to be elected; and
- (d) a ballot paper shall be informal if marked other than in accordance with this Election Rule.

13.1.6 The ballot paper shall contain instructions for the voter to place a tick, cross or number, as the returning officer may determine, opposite the name or names of the candidates for whom the voter wishes to vote.

14. POSTAL OR ELECTRONIC BALLOT

14.1 Postal or electronic ballot

14.1.1 The returning officer may prepare ballot material in paper or electronic form or a combination of both.

14.1.2 The returning officer may issue and receive ballot material by postal facilities or any electronic means or any other technology or a combination of the foregoing.

14.2 Postal and other facilities for ballot material

14.2.1 To the extent that postal ballot is adopted, the returning officer shall, for the purpose of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this Election Rule shall be limited to:

- (a) persons authorised by Australia Post;
- (b) the returning officer, and
- (c) persons authorised in writing by the returning officer.

14.2.2 To the extent that electronic ballot is adopted, the returning officer shall, for the purpose of receiving ballot material in respect of a ballot, use any secure electronic ballot facility utilising any technology. Access to the facility for receiving ballot material mentioned in this Election Rule shall be limited to:

- (a) persons authorised by provider of the relevant technology;
- (b) the returning officer, and
- (c) persons authorised in writing by the returning officer.

14.3 Issue of ballot material

14.3.1 On or before the opening day of the ballot the returning officer shall forward ballot material:

- (a) to the extent postal ballot is adopted, in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters; and
- (b) to the extent electronic ballot is adopted, in any secure manner to each person on the roll of voters.

14.3.2 Ballot material shall include:

- (a) one or more ballot papers showing the time and date of the close of the ballot;
- (b) to the extent postal ballot is adopted, a Reply Paid envelope addressed to the private box referred to in this rule, being an envelope that may be posted without expense to the voter; and
- (c) to the extent postal ballot is adopted, an inner "Declaration Envelope" suitable for containing the ballot paper/s.

14.4 Replacement ballot material

14.4.1 Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the member may make an application to the returning officer for the issue of replacement ballot material.

14.4.2 The application shall:

- (a) be in writing;
- (b) set out the applicant's full name and postal address and to the extent electronic ballot is adopted, email address;
- (c) set out the grounds on which the application is made;

- (d) contain a declaration that the applicant has not voted in the ballot; and
- (e) be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.

14.4.3 If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

15. SCRUTINY

15.1 During the ballot

15.1.1 To the extent postal ballot is adopted:

- (a) during the course of the ballot the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny;
- (b) the returning officer shall make a final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny; and
- (c) no envelopes returned after the close of the ballot shall be admitted to the scrutiny.

15.1.2 To the extent electronic ballot is adopted:

- (a) during the course of the ballot the returning officer may collect, returned electronic ballot papers and keep them in safe custody until the commencement of the scrutiny;
- (b) the returning officer shall make a final clearance of returned electronic ballot papers so that all electronic ballot papers received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny; and
- (c) no electronic ballot papers returned after the close of the ballot shall be admitted to the scrutiny.

15.2 Preliminary scrutiny

15.2.1 The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes or electronic ballot papers to ensure that only one returned envelope or electronic ballot papers from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.

15.2.2 Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:

- (a) to the extent postal ballot is adopted:
 - (i) remove the "Declaration Envelope" from the Reply Paid envelopes, and
 - (ii) examine the voter's declaration attached to each "Declaration Envelope", and mark off the voter's name against a copy of the roll of voters; and
- (b) to the extent electronic ballot is adopted, examine the voter's declaration attached to each electronic ballot paper, and mark off the voter's name against a copy of the roll of voters.

15.2.3 A voter's returned ballot material shall be rejected and set aside if:

- (a) to the extent postal ballot is adopted, the "Declaration Envelope" has not been returned; or
- (b) the voter has not completed the declaration on the "Declaration Envelope" or attached to the electronic ballot paper to satisfy the returning officer; or
- (c) the voter is ineligible to vote; or
- (d) the returning officer is unable to identify the voter on the roll of voters.

15.2.4 Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.

15.2.5 The returning officer shall note on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.

15.3 Scrutiny of ballot papers

15.3.1 To the extent postal ballot is adopted:

- (a) when the returning officer has determined which declaration envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified; and
- (b) each envelope shall then be opened and the ballot papers extracted to be counted.

15.3.2 To the extent electronic ballot is adopted, each electronic ballot paper shall be counted when accepted by the returning officer.

15.3.3 The returning officer shall reject as informal a ballot paper that:

- (a) does not bear the initials or other authenticating mark of the returning officer; and/or
- (b) has upon it any mark or writing by which the voter can be identified; and/or
- (c) is not marked substantially in accordance with the instructions included on the ballot paper; and/or
- (d) the marking is such that the intention of the voter is not clear; and/or
- (e) is not returned inside the declaration envelope or through the required electronic means, as applicable.

15.3.4 Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the returning officer shall decide whether the returned envelope or ballot paper is to be admitted or rejected and endorse the decision on the envelope or ballot paper. The decision of the returning officer is to be final.

16. DECLARATION OF RESULTS

16.1 Notice

16.1.1 The returning officer shall declare the result of the election within fourteen days of the closing day of the ballot by giving notice of the result in writing to the relevant officer of the Association at its registered office.

16.1.2 The returning officer shall, at the same time and in the same manner as the returning officer declares the result of the election, declare the following information in relation to the ballot:

- (a) the total number of persons on the roll of voters;
- (b) the total number of ballot papers issued;
- (c) the total number of envelopes or electronic ballot papers that were returned undelivered or rejected by the closing date of the ballot;
- (d) the total number of ballot papers received by the returning officer; and
- (e) the total number of ballot papers rejected as informal.

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