

**Reprint
as at 1 February 2015**



**Health Practitioners Competence
Assurance (Election of Members of
Medical Council of New Zealand)
Regulations 2009
(SR 2009/49)**

Anand Satyanand, Governor-General

Order in Council

At Wellington this 16th day of March 2009

Present:
His Excellency the Governor-General in Council

Pursuant to sections 120(4) and 170 of the Health Practitioners Competence Assurance Act 2003, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Health.

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Regulations

- 1 Title**
These regulations are the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Regulations 2009.
- 2 Commencement**
These regulations come into force on 20 March 2009.
- 3 Interpretation**
In these regulations, unless the context otherwise requires,—
Act means the Health Practitioners Competence Assurance Act 2003
ballot paper includes, if an electronic ballot is available at a prescribed election, an electronic document or message by which a voter records his or her vote and transmits it electronically for counting
chief executive means the chief executive of the Council
Council means the Medical Council of New Zealand continued in existence by section 114(1)(a) of the Act
elected member, at any time, means a medical practitioner appointed as a member of the Council under section 120(1) of

the Act who was elected in the most recently held prescribed election

health practitioner has the meaning given by section 5(1) of the Act

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Council as a practitioner of medicine

nomination notice has the meaning given by regulation 12(1)

prescribed election means an election held for the purposes of regulation 4(1)

written notice includes a written notice given in accordance with regulation 8B.

Regulation 3 **2009 election**: revoked, on 24 July 2014, by regulation 4(1) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 3 **ballot paper**: inserted, on 24 July 2014, by regulation 4(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 3 **nomination notice**: inserted, on 24 July 2014, by regulation 4(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 3 **written notice**: inserted, on 24 July 2014, by regulation 4(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Part 1

Council to include medical practitioners elected in accordance with regulations

- 4 Membership of Council to include 4 elected medical practitioners**
- (1) Four of the health practitioners appointed as members of the Council under section 120(1) of the Act must be medical practitioners who have been elected in an election conducted by the Council in accordance with these regulations.
 - (2) Subclause (1) does not prevent the appointment as members of the Council under section 120(1) of the Act of any number of medical practitioners who have not been elected in a prescribed election.

- (3) If the number of candidates nominated for election at a prescribed election is fewer than 4, only that number of health practitioners appointed as members of the Council under section 120(1) of the Act must be medical practitioners who have been elected in a prescribed election.
- (4) Subclause (3) overrides subclause (1).
- (5) Neither subclause (1) nor subclause (3) prevents the number of elected members from falling below the number it would otherwise be required to be by that subclause because one or more elected members have vacated office.

5 Conduct of prescribed elections generally

Except as provided in Part 2, the Council may conduct a prescribed election in any reasonable manner the Council thinks fit.

Regulation 5: amended, on 24 July 2014, by regulation 5 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Part 2 Conduct of prescribed elections

Frequency and day of prescribed elections, and returning officer

6 Prescribed elections to be held in March every 3 years

A prescribed election must be held—

- (a) in March 2009; and
- (b) in March in every third year after that year.

7 Chairperson of Council to fix date of prescribed election

- (1) If by the close of 30 November in the year before the year in which a prescribed election is required by regulation 6 to be held, the chairperson of the Council has fixed a day in the following March for the election to be held, and the hour (on that day) on which the ballot for the election will close, and given the chief executive written notice of that day and hour,—
 - (a) the election must be held on that day; and
 - (b) the ballot for the election must close at that hour.

- (2) If by the close of 30 November in the year before the year in which a prescribed election is required by regulation 6 to be held, the chairperson of the Council has not fixed a day in the following March for the election to be held and given the chief executive written notice of that day,—
- (a) the election must be held on the fourth Monday in the following March; and
 - (b) the ballot for the election must close at 5 pm on that day.

8 Chief executive to be returning officer

The chief executive is the returning officer for every prescribed election.

8A Returning officer must determine voting method

The returning officer must determine the voting method to be used at a prescribed election by choosing—

- (a) a postal ballot; or
- (b) a combination of an electronic ballot (such as Internet voting) and a postal ballot.

Regulation 8A: inserted, on 24 July 2014, by regulation 6 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

8B Written notice by electronic means

- (1) A person may give a written notice under these regulations by email or other electronic means to a recipient who has provided the person with a suitable electronic address for notices.
- (2) However, the person must not do so if the recipient, by written notice to the person, objects to receiving written notices under these regulations in that way.

Regulation 8B: inserted, on 24 July 2014, by regulation 6 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

8C Written notice of election in March 2015

[Revoked]

Regulation 8C: revoked, on 1 February 2015, by regulation 8C(5).

Nominations, etc

9 Chief executive to notify medical practitioners of prescribed election

- (1) The chief executive must, at least 90 days before the day on which a prescribed election is to be held, take all reasonably practicable steps to ensure that written notice of the election is given to every medical practitioner known to be residing in New Zealand.
- (2) The written notice must—
 - (a) specify the day of the election; and
 - (b) specify the hour at which the ballot for the election will close; and
 - (c) describe the voting method to be used; and
 - (d) specify the criteria for eligibility to participate in the election.

Regulation 9: replaced, on 24 July 2014, by regulation 7 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

10 Notice to invite nominations for candidates

A written notice given under regulation 9 must also—

- (a) invite nominations of candidates for the election; and
- (b) specify the closing date and time for nominations; and
- (c) describe the process for nominating a candidate; and
- (d) set out the form in which a nomination must be made, including for the biographical sketch and the statement required by regulation 13(1)(b) and (d).

Regulation 10: replaced, on 24 July 2014, by regulation 8 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

11 Eligibility to participate

A person is eligible to participate in a prescribed election if (and only if) he or she is a medical practitioner, and resides in New Zealand.

12 Process for nominating candidate

- (1) A nomination of a candidate for a prescribed election must be made by giving written notice (the **nomination notice**) to

the returning officer in the form required by the written notice given under regulation 9.

- (2) The nomination notice must be given by, or evidence the agreement of,—
- (a) the candidate; and
 - (b) 5 other medical practitioners who are eligible to participate in the election.

Regulation 12: replaced, on 24 July 2014, by regulation 9 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

13 Contents of nomination notice

- (1) Every candidate for a prescribed election must give in his or her nomination notice—
- (a) his or her full name, residential address, postal or electronic address, and registration number; and
 - (b) a biographical sketch (of no more than 100 words), stating his or her medical qualifications, experience, and current appointments or employment (or both); and
 - (c) details of any investigation of competence, complaint, or health or disciplinary matter, by virtue of which his or her membership of the Council might bring the medical profession into disrepute; and
 - (d) a brief statement to voters (of no more than 100 words) as to why he or she should be elected.
- (2) Every candidate for a prescribed election must give a recent photograph of himself or herself with his or her nomination notice.

Regulation 13 heading: replaced, on 24 July 2014, by regulation 10(1) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 13(1): amended, on 24 July 2014, by regulation 10(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 13(1)(a): replaced, on 24 July 2014, by regulation 10(3) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 13(2): amended, on 24 July 2014, by regulation 10(4) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

14 Appointment of scrutineers

- (1) A nomination notice may be accompanied by a written notice to the returning officer of the name of a person appointed to act as scrutineer for the candidate.
- (2) If no candidate has appointed a scrutineer, the returning officer must appoint a person to act as scrutineer on behalf of all candidates.

Regulation 14: replaced, on 24 July 2014, by regulation 11 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

15 Certain nominations invalid

A nomination is invalid, and must be disregarded, if—

- (a) the returning officer has received it after 5 pm on the day 60 days before the day on which the election concerned is to be held; or
- (b) the nominee is not eligible to participate in the election.

16 Candidates may withdraw

At any time before a prescribed election is held, a candidate may, by written notice to the returning officer, withdraw his or her nomination.

17 Effect of withdrawal or death of candidate

- (1) If a candidate withdraws his or her nomination, or dies, before the ballot paper for the election concerned is prepared,—
 - (a) his or her name must not appear on the ballot paper; and
 - (b) the election must take place as if the candidate had not been nominated.
- (2) If a candidate withdraws his or her nomination, or dies, after the ballot paper for the election concerned is prepared,—
 - (a) votes may be cast for him or her, and must be counted; and
 - (b) if he or she receives enough votes, he or she must be treated as—
 - (i) having been elected; but
 - (ii) having vacated office immediately after having been elected.

Regulation 17(1): amended, on 24 July 2014, by regulation 12 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 17(2): amended, on 24 July 2014, by regulation 12 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Ballots

18 No ballot if fewer than 5 candidates

If fewer than 5 candidates are nominated for a prescribed election,—

- (a) every candidate nominated is elected; and
- (b) no ballot is to be held.

19 Ballot if more than 4 candidates

If more than 4 candidates are nominated for a prescribed election, a ballot must be held, in accordance with the following requirements:

- (a) the register of medical practitioners at 5 pm on the day 60 days before the day on which the election is to be held, with each name distinctively numbered for the purposes of the ballot, must be used as the roll for the ballot;
- (b) as soon as practicable after the day 60 days before the day on which the election is to be held, the returning officer must have ballot papers prepared.

Regulation 19: amended, on 24 July 2014, by regulation 13(1) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 19(b): amended, on 24 July 2014, by regulation 13(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

20 Form of ballot papers

Each ballot paper for a prescribed election—

- (a) must list the full names of all candidates—
 - (i) in an order determined by the returning officer in the presence of a member of the Council; and
 - (ii) with each candidate's family name appearing first; and

- (b) must state the day on which and hour at which the ballot closes, and that for a vote to be valid, the ballot paper must be received by the returning officer before that hour on that day; and
- (c) except as provided in paragraphs (a) and (b), may be in any form the Council determines.

Regulation 20(b): amended, on 24 July 2014, by regulation 14 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

21 Ballot papers to be issued to voters

- (1) The returning officer must take all reasonably practicable steps to ensure that, within the following time frame, a ballot paper is issued to every medical practitioner on the electoral roll who is known to be residing in New Zealand:
 - (a) as soon as practicable after the ballot papers have been prepared;
 - (b) in any case, no later than 30 days before the day on which the election is to be held.
- (2) If a printed ballot paper is issued to a recipient, it must be issued together with an envelope addressed to the returning officer and marked “ballot paper”.

Regulation 21: replaced, on 24 July 2014, by regulation 15 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

22 Voting procedure

Voting must be by the single transferable vote system, under which each voter—

- (a) marks against the name of his or her most preferred candidate the number “1”; and
- (b) to the extent that he or she wishes to do so, marks against the name of his or her next preferred candidate or candidates the numbers “2”, “3”, etc.

23 Counting and recording of votes

- (1) The returning officer must ensure that no ballot paper is reviewed, and no envelope containing a printed ballot paper is opened, before the ballot has closed.

- (2) Promptly after the ballot has closed, the returning officer must—
- (a) review all ballot papers that were received before the ballot closed; and
 - (b) validate the voters against the electoral roll; and
 - (c) exclude all informal votes; and
 - (d) count and record the preferences expressed in the other ballot papers received before the ballot closed; and
 - (e) determine, in accordance with the rules in the Schedule, which candidates have been elected.

Regulation 23(1): replaced, on 24 July 2014, by regulation 16(1) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 23(2)(a): replaced, on 24 July 2014, by regulation 16(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

24 Informal ballot papers

For the purposes of these regulations, a ballot paper is informal if—

- (a) the voter was not on the electoral roll at the required time; or
- (b) it was received after the ballot concerned closed; or
- (c) it does not indicate clearly the candidate or candidates the voter prefers; or
- (d) it contains any information (other than a code inserted by the returning officer) by which the identity of the voter may be ascertained; or
- (e) the number “1” is marked against the name of more than one candidate; or
- (f) the number “1” is not marked against the name of any candidate.

25 Returning officer sole judge of regularity

The returning officer is the sole and final judge of—

- (a) whether a ballot paper or an envelope was issued to a voter;
- (b) whether a ballot paper was received by the returning officer;

- (c) when a ballot paper was received by the returning officer:
- (d) whether a ballot paper is informal:
- (e) whether any irregularity affecting the conduct of a prescribed election has occurred.

Regulation 25(a): replaced, on 24 July 2014, by regulation 17 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 25(b): replaced, on 24 July 2014, by regulation 17 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 25(c): replaced, on 24 July 2014, by regulation 17 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

26 Scrutineers

- (1) Any scrutineer appointed for a prescribed election under regulation 14 is entitled to be present during, and observe,—
 - (a) the review of ballot papers that were received before the ballot closed (including the opening of envelopes containing printed ballot papers); and
 - (b) the counting and recording of preferences.
- (2) *[Revoked]*

Regulation 26(1): amended, on 24 July 2014, by regulation 18(1) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 26(1)(a): replaced, on 24 July 2014, by regulation 18(2) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Regulation 26(2): revoked, on 24 July 2014, by regulation 18(3) of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Certain extraordinary vacancies

27 Filling vacancy where vacating member elected

- (1) This subclause applies to a vacancy in the membership of the Council if—
 - (a) it arises more than 6 months before the expiry of the vacating member's term of office; and
 - (b) the vacating member was a medical practitioner elected in the most recently held prescribed election; and

- (c) as a result of the vacancy, the Council has fewer than 4 members who were medical practitioners elected in that election; and
 - (d) there is at least one medical practitioner who is not a member of the Council and was an unsuccessful candidate in that election.
- (2) Where subclause (1) applies to a vacancy,—
- (a) the returning officer must—
 - (i) send to the last known address of every unsuccessful candidate in the most recently held prescribed election a registered letter asking if the candidate is still prepared to serve as a member of the Council; but
 - (ii) treat as being still prepared to serve as a member of the Council only those of them who, within 28 days of the posting of the letter, give the returning officer written notice to that effect:
 - (b) if none is still prepared to serve as a member of the Council, the vacancy may be filled by the appointment by the Minister of any medical practitioner willing to be appointed:
 - (c) if only one is still prepared to serve as a member of the Council, the vacancy must be filled by his or her appointment by the Minister:
 - (d) if more than one is still prepared to serve as a member of the Council,—
 - (i) a recount must be held in accordance with subclause (3); and
 - (ii) the vacancy must be filled by the appointment by the Minister of the candidate in respect of whom the Minister has received a notification under subclause (4).
- (3) The recount must be held in accordance with the rules in the Schedule, but—
- (a) as if the following members had been eliminated:
 - (i) the vacating member:
 - (ii) any other elected member who has already vacated office:

- (iii) any unsuccessful candidate who is not still prepared to serve as a member of the Council; and
 - (b) with their preferences being transferred to other candidates accordingly.
- (4) Promptly after ascertaining the result of the recount, the returning officer must give the Minister written notice of the name of the new member elected.
- (5) A single recount may be held to fill 2 or more vacancies to which subclause (1) applies; and in that case, subclauses (2) to (4) apply with any necessary modifications.
- (6) In subclause (2)(a)(i), **registered letter** includes any written letter for which a signature is required on delivery.

Regulation 27(6): inserted, on 24 July 2014, by regulation 19 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

28 Ballot papers to be retained

- (1) The returning officer must ensure that all ballot papers received in a prescribed election (other than informal ballot papers) are retained, and available for use in a recount, until the next prescribed election is held.
- (2) Regulation 27 and subclause (1) override every provision of the Schedule requiring ballot papers to be set aside as finally dealt with or set aside as exhausted.

Part 3

Special provisions relating to 2009 election

[Revoked]

Part 3: revoked, on 24 July 2014, by regulation 20 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

29 Day and closing of ballot for 2009 election

[Revoked]

Regulation 29: revoked, on 24 July 2014, by regulation 20 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

30 Actions taken before commencement of regulations

[Revoked]

Regulation 30: revoked, on 24 July 2014, by regulation 20 of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197).

Schedule

r 23(2)(e)

Single transferable vote rules

1 Interpretation

In these rules, **remaining candidate**, at any time, means a candidate not then elected or eliminated.

2 First preferences to be recorded

The number of first preferences marked for each candidate must be recorded.

3 Quota

The quota for a prescribed election is to be ascertained by—

- (a) adding all first preferences marked; and
- (b) dividing the total by 5; and
- (c) increasing the quotient (disregarding any fractional remainder) by 1.

4 Treatment of ballot papers where first preferences for candidate equal to quota

(1) If (initially, or after one or more additions under rule 5(1)(b), rule 8(1)(b), or both) the number of first preferences for a candidate is or becomes exactly equal to the quota,—

- (a) he or she is elected; and
- (b) all the ballot papers on which a first preference is marked for him or her must be set aside as finally dealt with; and
- (c) all preferences marked for him or her on other ballot papers must be disregarded, with any lower preferences for other candidates still unelected being promoted accordingly.

(2) Subclause (1)(b) is subject to regulations 27 and 28.

5 Treatment of ballot papers where first preferences for candidate exceed quota

- (1) If (initially, or after one or more additions under paragraph (b), rule 8(1)(b), or both) the number of first preferences for a candidate is or becomes greater than the quota,—
- (a) he or she is elected; and
 - (b) the number of those preferences in excess of the quota (the **surplus**) must be added to those of the remaining candidates, as follows:
 - (i) the surplus must be divided by the number of first preferences for him or her, to produce a transfer value; and
 - (ii) the number of second preferences marked for any remaining candidate on a ballot paper on which a first preference is marked (whether in fact or by promotion) for the elected candidate must be counted; and
 - (iii) that number must be multiplied by the transfer value; and
 - (iv) the resulting number (disregarding any fractional remainder) must be added to the number of first preferences for the remaining candidate on the counting of the first preferences (as increased by any number already added under this subparagraph or rule 8(1)(b)); and
 - (c) all the ballot papers on which a first preference is marked for him or her must then be set aside as finally dealt with; and
 - (d) all preferences marked for him or her on other ballot papers must be disregarded, with any lower preferences for other candidates still not elected or eliminated being promoted accordingly.
- (2) Subclause (1)(c) is subject to regulations 27 and 28.

6 Application of rules 4 and 5

Rule 4(1)(a) or 5(1)(a) (as the case requires) applies to a candidate whose first preferences were initially fewer than the quota as soon as an addition to them makes them equal to or greater than the quota.

7 Dealing with multiple surpluses

Where more than one candidate has a surplus,—

- (a) a surplus arising before an addition must be dealt with under rule 5(1)(b) before a surplus arising later; and
- (b) of 2 or more surpluses arising at the same time, the largest must be dealt with first under rule 5(1)(b); but
- (c) if 2 or more surpluses arising at the same time are equal,—
 - (i) the surplus of the candidate who most recently had a larger surplus than the other or others must be dealt with first under rule 5(1)(b); but
 - (ii) if the candidates have so far had equal surpluses at all times, the surplus to be dealt with first under rule 5(1)(b) must be determined by lot.

8 Lowest polling candidate to be eliminated, if fewer than 4 candidates elected after transfers

- (1) Where, after compliance with rules 4 and 5 (or with those rules and this rule), the number of candidates with a number of first preferences equal to or exceeding the quota is fewer than 4 (or there is no candidate with a number of first preferences equal to or exceeding the quota),—
 - (a) the remaining candidate who then has the lowest number of first preferences must be eliminated; and
 - (b) the number of second preferences marked (whether in fact or by promotion) for any other remaining candidate on a ballot paper on which a first preference is marked for the eliminated candidate must be added, sequentially, to the number of first preferences marked for the remaining candidate on the counting of the first preferences (as increased by any number already added under this paragraph or rule 5(1)(b)); and
 - (c) all the ballot papers on which a first preference is marked for the eliminated candidate must then be set aside as finally dealt with; and
 - (d) all preferences marked for the eliminated candidate on other ballot papers must be disregarded, with any lower preferences for remaining candidates being promoted accordingly.

- (2) The first preferences initially marked for the eliminated candidate as first preferences must be dealt with first.
- (3) The first preferences of the eliminated candidate later added to those initially marked for the eliminated candidate as first preferences must then be dealt with in the order in which they were added.
- (4) Subclause (1)(c) is subject to regulations 27 and 28.

9 Candidates with equal numbers of votes

- (1) This subclause applies where,—
 - (a) after compliance with rules 3 and 4 (or with those rules and this rule), the number of candidates with a number of first preferences equal to or exceeding the quota is less than 4 (or there is no candidate with a number of first preferences equal to or exceeding the quota); and
 - (b) 2 or more candidates not yet elected or eliminated have an equal number of first preferences that is lower than those of any other.
- (2) Where subclause (1) applies,—
 - (a) the candidate who most recently had the lowest number of first preferences must be eliminated; but
 - (b) if the candidates have so far had an equal number of first preferences at all times, the candidate to be eliminated must be determined by lot.
- (3) Subclause (2) overrides rule 8(1)(a).

10 No transfer required where elimination produces appropriate number of candidates.

Where, after the elimination of a candidate under rule 8, the number of candidates already elected or not yet eliminated is 4,—

- (a) every candidate not yet eliminated is elected; and
- (b) rule 8(1)(b) to (d) does not apply.

11 Exhausted ballot papers

- (1) A ballot paper must be set aside as exhausted if there is no longer any candidate opposite whose name a number is

-
- marked, other than a candidate who has already been elected or eliminated.
- (2) Where the preferences of an elector have been indicated on a ballot paper in any way other than by marking it with an unbroken sequence of numbers beginning with “1”, it must be set aside as exhausted after the counting of—
- (a) the first preference indicated by the number “1”, if that is the only number used; or
 - (b) the preferences indicated by an unbroken sequence of numbers beginning with “1”.
- (3) For the purposes of subclause (2), a sequence of numbers beginning with “1” that (but for this subclause) would be unbroken must be treated as having been broken immediately before the last number in it, if that number is marked twice or more on the ballot paper concerned.
- (4) This rule is subject to regulations 27 and 28.

Rebecca Kitteridge,
Clerk of the Executive Council.

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Reprints notes

1 *General*

This is a reprint of the Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Amendment Regulations 2014 (LI 2014/197)

Health Practitioners Competence Assurance (Election of Members of Medical Council of New Zealand) Regulations 2009 (SR 2009/49): regulation 8C(5)
