

ELECTIONS ACT 1958
ELECTIONS (POSTAL VOTING)
REGULATIONS 2003

IN exercise of the powers conferred by section 16 of the Elections Act 1958 [Act 19], the Election Commission, with the approval of the Yang di-Pertuan Agong, makes the following regulations:

PART I

PRELIMINARY

Citation, application and commencement

1. (1) These regulations may be cited as the **Elections (Postal Voting) Regulations 2003**.

(2) These Regulations come into operation on 16 June 2003.

(3) These Regulations shall be read as one with the Elections (Conduct of Elections) Regulations 1981 [P.U.(A) 386/1981].

Interpretation

2. In these Regulations, unless the context otherwise requires-

"Form 2" means a declaration of the identity of a postal voter and bearing the ballot paper number;

"agent" means the election agent or any person appointed to attend in the election agent's place;

"postal ballot paper" means a ballot paper issued to a postal voter;

"issue" includes the original and any subsequent issue;

"postal voter" means any person entitled to vote under regulation 3;

"absent voter" has the meaning assigned to it in the Elections (Registration of Electors) Regulations 2002 [P.U.(A) 293/2002];

"envelope A" means a covering envelope bearing the words "ballot paper envelope" and "ballot paper number";

"envelope B" means a covering envelope bearing the words "returning officer" for the return of envelope A and Form 2.

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PART II

POSTAL VOTERS

Persons entitled to vote as postal voters

3. (1) Any person who has registered as a Parliamentary or State elector under the Elections (Registration of Electors) Regulations 2002, and is -

- (a) an absent voter;
- (b) a person certified by the Election Commission to be an election officer and liable for duties on polling day;
- (c) a member of any police force established by any written law in force in Malaysia, other than a member of the Police Volunteer Reserve Force;
- (d) a member of any of the public services who on polling day is employed full-time in a post outside Peninsular Malaysia or Sabah or Sarawak;
- (e) a member of the Election Commission appointed under Article 114 of the Federal Constitution; or
- (f) a member of any category of persons designated as postal voters by the Election Commission from time to time by notification in the Gazette,

shall, on receipt of a postal ballot paper, be entitled to vote as a postal voter at an election in accordance with these Regulations.

(2) A person referred to in paragraphs (1)(b), (d), (e) and (f) desiring to vote by post shall apply to do so by using Form 1 in the Schedule.

(3) The application shall be made direct to the returning officer of the constituency in which he is registered through any State Elections Officer of a State as soon as it is known that an election is contested in that constituency.

(4) If an application is approved, the returning officer shall issue a postal ballot paper to the applicant and if it is not approved, the returning officer shall so inform the applicant and shall state his grounds for not approving in the letter prescribed in Form 1.

Forms of postal ballot papers

4. The ballot papers to be sent to postal voters shall be in the same form as, and indistinguishable from, the ballot papers delivered to other voters.

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PART III

ISSUING OF BALLOT PAPERS

Persons entitled to be present at issue of ballot papers and opening of postal voter's ballot boxes

5. (1) No person other than -

(a) the returning officer and his clerks;

(b) the candidates;

(c) an election agent or person appointed by a candidate to attend in the election agent's place; and

(d) members or officers of the Election Commission, may be present at the proceedings on the issue of postal ballot papers or the opening of postal voter's ballot boxes.

(2) If a candidate appoints a person under paragraph (1)(c), he shall give notice of the appointment to the returning officer, stating the name and address of the person so appointed at any time during the issue of the postal ballot papers or the opening of the postal voters' ballot boxes, as the case may be.

(3) If the person referred to in subregulation (2) dies or becomes incapable of acting, the candidate may appoint another person in his place and shall forthwith give to the returning officer notice in writing of the name and address of the person so appointed.

(4) A candidate may himself do any act or thing which any agent of his, if appointed, would have been authorized to do, or may assist his agent in doing any such act or thing.

(5) Where in these Regulations any act or thing is required or authorized to be done in the presence of the candidates or their agents, the non-attendance of any such person or persons at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notice of issue of postal ballot papers

6. (1) The returning officer shall give each candidate or his election agent not less than twenty-four hours' notice in writing of the time and place at which he will issue postal ballot papers.

(2) Where any subsequent issue of postal ballot papers is to be made, the returning officer shall notify each candidate or his election agent as soon as practicable of the time and place at which he will make such subsequent issue.

Marking of postal ballot papers

7. (1) Each postal ballot paper issued shall be perforated or its reverse stamped with the official mark or initialled by the returning officer and the name and number of the elector shall be called out and such number shall be marked on the counterfoil of the ballot papers.

(2) A list shall be made of the persons to whom postal ballot papers have been sent but without showing the particular ballot paper issued.

(3) The number of postal ballot paper shall be marked in Form 2 and on the envelope A.

Documents to be sent to postal voters

8. The returning officer shall send to every postal voter the following documents:

(a) a ballot paper;

(b) Form 2;

(c) an envelope A; and

(d) an envelope B.

Despatch of postal ballot papers

9. All envelopes addressed to postal voters shall be counted and forthwith despatched according to the arrangements previously approved by the Election Commission.

Provision of postal voters' ballot box

10. (1) The returning officer shall, at the proceedings on the original issue of postal ballot papers, provide a ballot box or ballot boxes for the receipt of envelope B when returned by the postal voters.

(2) Every such ballot box shall be shown open and empty to the agents present and shall then be locked by the returning officer and affixed with security tape and signed by the returning officer and the agents present who desire to sign on the security tape.

(3) Every such ballot box shall be numbered and marked "postal voters' ballot box" and with the name of the constituency for which the election is held.

(4) The returning officer shall make arrangements for the safe custody of every such ballot box.

Sealing up of lists of postal voters and counterfoils of ballot papers

11. (1) The returning officer shall, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents, make up into separate packets -

(a) the list of postal voters; and

(b) the counterfoils of those ballot papers which have been issued, and shall affix security tape on such packets.

(2) The packet which has been affixed with the security tape containing the list of postal voters may be opened by the returning officer for the purposes of a subsequent issue, and on completion of the subsequent issue, the list and the counterfoil of the ballot papers which have been issued shall be again made up into separate packets and affixed with security tape in accordance with subregulation (1).

Exercise of postal vote

12. A postal voter who wishes to exercise his postal vote shall exercise it by completing and despatching the ballot paper and Form 2 in accordance with the instructions laid down in such Form to the voter.

Receipt of covering envelope

13. The returning officer shall, immediately on receipt of envelope B before five o'clock in the afternoon of polling day, place it unopened in a postal voters' ballot box which has been locked and affixed with security tape in accordance with regulation 10.

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PART IV

OPENING OF POSTAL VOTERS' BALLOT BOX

Opening of postal voters' ballot box

14. (1) Each postal voters' ballot box shall be opened by the returning officer in the presence of the agents.

(2) So long as the returning officer ensures that there is at least one postal voters' ballot box for the receipt of envelope B up to five o'clock in the afternoon of polling day, he may open the other postal voters' ballot boxes before then.

(3) The returning offices shall give each candidate or his election agent at least twenty-four hours' notice in writing of the time and place of the opening of each postal voters' ballot box and the envelopes contained in the ballot box.

Opening of covering envelopes

15. (1) When a postal voters' ballot box has been opened, the returning officer shall count and note the number of envelope B, and shall then open each envelope B separately.

(2) An envelope B shall be marked "rejected" -

(a) if it does not contain both Form 2 and an envelope A; or

(b) if it does not contain both Form 2 and a ballot paper.

(3) if an envelope B contains only an envelope A, the returning officer shall open envelope and if it is found not to contain Form 2, then the envelope B shall be marked "rejected".

(4) an envelope B marked "rejected" together with its contents, if any, shall be placed in a separate receptacle.

(5) On opening an envelope B, other than an envelope referred to in subregulation (3), the returning officer shall first satisfy himself that the Form 2 has been duly signed and authenticated and, if he is not so satisfied, he shall mark on the Form 2 "declaration rejected", attach to the Form 2 envelope A or, if there is no such envelope, the ballot paper, and place it in the receptacle for votes rejected.

(6) Before placing the Form 2 in the receptacle for votes rejected, the returning officer shall show the Form 2 to the agents and, if any objection is made by any agents to his decision, he shall add the words "rejection objected to" on the Form 2.

(7) Where the number on the Form 2, duly signed and authenticated, agrees with the number on envelope A, the returning officer shall place the Form 2 in a separate receptacle and the envelope A in another receptacle.

(8) Where there is no envelope A or an envelope A has been opened under subregulation (3), returning officer shall -

(a) where the number on the Form 2, duly signed and authenticated, agrees with the number on the ballot paper, place the declaration in the receptacle for declarations of identity and the ballot paper in a ballot box previously shown open and empty to the agents present and locked by the returning officer and affixed with security tape and signed by the returning officer and the agents desiring to sign on the security tape;

(b) where the number on the Form 2 does not agree with the number on the ballot paper, mark on the Form 2 "vote rejected", attach to it the ballot paper and place it in the receptacle for votes rejected.

(9) Where the number on the Form 2, duly signed and authenticated, does not agree with the number on an envelope or that envelope A has no number on it, the returning officer shall open the envelope and shall -

(a) where the number on the Form 2 agrees with the number on the ballot paper, place the Form 2 in the receptacle for Form 2 and the ballot paper in the ballot box referred to in paragraph (8)(a); and

(b) where the number on the Form 2 does not agree with the number on the ballot paper or there is no ballot paper, mark on the Form 2 "vote rejected", attach to it the ballot paper, if any, and place it in the receptacle for votes rejected.

(10) Except for the purposes of ascertaining under subregulation (3) whether an envelope A contains a Form 2 or under subregulation (9) whether the number on the Form 2 agrees with the number on the ballot paper, the returning officer shall not open envelope A before it is due to be opened under regulation 17.

Sealing up of rejected votes and Form 2

16. On the conclusion of the proceedings under regulation 15, the returning officer shall put the contents of the receptacle for votes rejected and the contents of the receptacle for Form 2 into two separate packets and shall affix security tape on the packets.

Opening of envelope A

17. (1) After security tape has been affixed on the packets referred to in regulation 16, the returning officer shall open separately each envelope A placed in the receptacle for envelopes A.

(2) Where an envelope A does not contain a ballot paper, the returning officer shall mark on the envelope "empty".

(3) Where the number on an envelope A agrees with the number on the ballot paper contained in the envelope, the returning officer shall place the ballot paper in the ballot box referred to in paragraph 15(8)(a) and shall put aside the envelope for immediate destruction.

(4) Where the number on an envelope A does not agree with the number on the ballot paper contained in the envelope, the returning officer shall mark on the ballot paper "rejected" and attach the envelope A to it.

(5) The returning officer shall put into separate packets the envelopes marked "empty" and the ballot papers marked "rejected" and shall affix security tape on the packets.

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PART V

GENERAL

Procedure on the discovery of more than one ballot paper

18. At any stage when envelopes are opened in accordance with subregulation 15(1), (3) or (9) or subregulation 17(1), it is discovered that there is more than one ballot paper in an envelope, the returning officer shall, after checking the number on the ballot paper with the number on the Form 2 or an envelope A, as the case may be, place the correct ballot paper in the ballot box referred to in subregulation 15(8) and retain the other ballot paper or papers together with all other documents and shall then make a statement of facts as discovered, witnessed by the candidates or agents present.

Postal voter not to vote in person

19. A postal voter shall not be entitled to vote in person on polling day.

Revocation

20. The Elections (Postal Voting) Regulations 1959 [L.N.71/1959] and the Elections (Postal Voting) (Sabah and Sarawak) Regulations 1968 [L.N.(F) 184/1968] are revoked.

SCHEDULE

[Regulations 3, 8 and 12]

FORM 1

APPLICATION FOR POSTAL BALLOT PAPER

[Subregulation 3(2)]

To:

The Returning Officer,
Constituency of.....

Through:

The State Elections Officer,

I,
(Full name in block letters)

N.R.I.C. No
of

.....
.....
(Full postal address)

apply for a postal ballot paper to be sent to me at the above:

*(a) I am a person certified by the Election Commission to be an election officer and liable for duty on polling day as per certificate hereunder.

*(b) I am a member of the Election Commission appointed under Article 114 of the Federal Constitution as per certificate hereunder.

*(c) I am a member of the public service and will on polling day be employed full time at
(Department/Office/Authority)
outside
(Peninsular/Sabah/Sarawak)
as per certificate hereunder.

*(d) I am a member of the category of persons designated as postal voters by the Election Commission as per certificate hereunder.

I am at present registered as an elector in
..... in the State of

Dated
.....
Signature of Applicant

* Delete whichever is inapplicable

CERTIFICATE

I hereby certify that the above-named is a person referred to in paragraph
*(a)/(b)/(c)/(d) who on polling day will be liable for duties/employed full-time in the
post of

.....
(Designation)

in
(Peninsular/Sabah/Sarawak)

Dated

.....
* Chairman of Election Commission/Head
of Department

FOR OFFICE USE ONLY

Code No. :
N.R.I.C. No. :
Serial No. in Electoral Roll :

* Application approved

* Application rejected and applicant informed

Ground :

Dated :
.....
Returning Officer

* Delete whichever is inapplicable.

Affix
stamp
here

To :

(Full Name)

.....

(Full Postal Address)

.....

.....

.....

(Fold along dotted line)

Sir/Madam,

I regret to inform you that your application for a postal ballot paper dated
..... is not approved on the ground that

.....

Your obedient servant,

.....

Returning Officer

Dated

FORM 2

[Regulations 8 and 12]

DECLARATION OF IDENTITY

(Please read the Instructions To The Voter before filling up this form)

Ballot Paper No.

I hereby declare that I have received the ballot paper numbered as above and the envelope in which it was enclosed (both of which I now produce).

Voter's name (in capital letters) :
Voter's signature/thumb print :
N.R.I.C. No. :

The above-named, who is personally known to me, has produced the ballot paper and the envelope referred to above and has signed the above declaration in my presence.

Dated

Witness's Signature :
Full name:
(In capital letters)
Address :
.....
N.R.I.C.No.:

INSTRUCTIONS TO THE VOTER

[Regulations 8 and 12]

1. Before marking the accompanying ballot paper, you must produce to a person to whom you are known who will witness your Form 2 the following :
 - (a) the ballot paper showing the number on the ballot paper;
 - (b) Form 2; and
 - (c) the envelope in which you receive the Form 2 and the ballot paper.
2. You must sign the Form 2 in the presence of the witness.
3. You can vote once only and for only ONE candidate.
4. You vote by marking the ballot paper on the right-hand side with a cross opposite the name of the candidate for whom you vote, thus "X". As voting is a secret, this should be done in absolute secrecy.
5. Immediately after voting, you must place the marked ballot paper in the enclosed small envelope marked "A" and close it up. You must then place the envelope marked "A", together with the Form 2, in the larger envelope marked "B" addressed to the returning officer and despatch it to the returning officer without delay. The ballot paper, in order to be counted, must be received by the returning officer not later than five o'clock in the afternoon of polling day.
6. If by mistake you receive more than one ballot paper, you are required to destroy the ballot paper whose number does not correspond with the number marked on the Form 2. Remember that it is illegal to vote more than once at the same general election or by-election.
7. If you are a postal voter, you shall not vote in person on polling day.

Made 29 May 2003

[SPR(S) 72/4(21); PN(PU²)178c/XXXIV]

By Order of the Election Commission

DATO' HAJI WAN AHMAD BIN WAN OMAR
Secretary
Election Commission Malaysia

[To be laid before the Dewan Rakyat pursuant to section 17 of the Elections Act 1958]