

# **ELECTION OF OWNER DRIVER REPRESENTATIVE MEMBERS TO ATA COUNCIL REGULATIONS 2016**

(Amended 24 July 2019)

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# **Part 1 – Preliminary**

## **Division 1 – General**

### **1 Delegation power**

The Chief Executive Officer of the ATA may delegate their powers under these regulations to an employee of the ATA.

### **2 Appointment of an Independent Returning Officer**

The Chief Executive Officer of the ATA must appoint an Independent Returning Officer to conduct the election.

### **3 Definitions**

In this regulation:-

*“Person” includes a director of a company, a shareholder of a company, a trustee of a trust and a beneficiary of a trust.*

## **Division 2 – Owner Driver Representative Members**

### **4 Election of owner driver representatives**

- (1) An election will be conducted to elect two owner driver representatives to the ATA General Council.
- (2) One owner driver representative will be elected to the position of owner operator representative and one owner driver representative will be elected to the position of small fleet operator representative.

### **5 Term of office**

- (1) The term of office for each nominated representative is two years.
- (2) The term of office commences at the AGM following the election.
- (3) The term of office terminates at the AGM following the next election.

### **6 Casual vacancy**

- (1) In the event that a position becomes vacant during the term of office, the ATA Council must appoint the runner up in that particular category to the position.
- (2) If there was no runner up at the last election, or the runner up is no longer eligible or is otherwise unavailable to occupy the office, then the ATA Council must:
  - (a) appoint the next runner up, and so on, until the position is filled; or
  - (b) use its discretion to appoint a suitable representative to the position.

## **Part 2 – Registering to vote**

### **Division 1 – Eligibility to vote**

#### **7 Requirements**

- (1) A **person** is eligible to vote if:
  - (a) they own, are purchasing, or are leasing a minimum of 1 and a maximum of 5 trucks over 4.5 tonnes; and
  - (b) they are registered on the ATA Owner Driver Elections Electoral Roll at the time of the election; and
  - (c) they have paid the prescribed fee, if any, set by the ATA Council.
- (2) Individuals are not required to be a member of an ATA member association or an affiliate organisation.

## **Division 2 – Registering to vote**

### **8 Registration**

- (1) Registration to vote must be completed online through the ATA website.
- (2) The Chief Executive Officer of the ATA will review each registration for eligibility.
- (3) The Chief Executive Officer of the ATA must make reasonable enquiries and be satisfied of the identity of the individual wishing to register to vote.
- (4) A registration remains current for subsequent elections, subject to a person retaining their eligibility.
- (5) Registration will close 28 days from the announcement of the election, not including the announcement date itself.

### **9 Electoral roll**

- (1) The Chief Executive Officer of the ATA must establish and maintain an electoral roll.
- (2) The name, contact number, Australian Business Number (ABN) and email address of each eligible individual who registers to vote will be added to the electoral roll.
- (3) The electoral roll must be maintained by the Chief Executive Officer of the ATA.
- (4) The electoral roll will be provided to the Independent Returning Officer for use at each election.
- (5) The electoral roll and any other personal information obtained through the election process may be accessed by the Independent Returning Officer only for the purposes of conducting an election.
- (6) The electoral roll must not be released to any person.
- (7) Individuals registered to vote must notify the ATA of any changes to their contact details.
- (8) The Independent Returning Officer will review the electoral roll, including a sample of voter registrations, before conducting an election.
- (9) The Chief Executive Officer of the ATA must re-open the electoral roll following an election and must publicise the re-opening on the ATA website and in the ATA newsletter.

## Part 3 – Candidates

### Division 1 – Eligibility

#### 10 Eligibility criteria

- (1) Individuals must be a member of an ATA member association to be eligible to be nominated as a candidate in the election.
- (2) To be eligible as a candidate for the single truck owner driver representative position, a **person** must:
  - (a) own; or
  - (b) be purchasing; or
  - (c) be leasing;1 truck over 4.5 tonnes and spend time driving that truck.
- (3) To be eligible as a candidate for the small fleet operator representative position, a **person** must:
  - (a) own; or
  - (b) be purchasing; or
  - (c) be leasing;a minimum of 2 and a maximum of 5 trucks over 4.5 tonnes.
- (4) Individuals can only nominate as a candidate for one representative category at each election.
- (5) Nominees must be enrolled on the ATA electoral roll.

## **Division 2 – Nomination**

### **11 Nomination form**

Individuals must complete the online nomination form located on the ATA website to nominate as a candidate in the election.

### **12 Nomination period**

The nomination period will be 28 days from the announcement of an election, not including the announcement date itself.

### **13 Nomination fees**

Nominees must pay the prescribed nomination fee, if any, set by the ATA Council at the time of nomination.

### **14 Acceptance or rejection of nominations**

- (1) The eligibility of each nomination will be validated by the Independent Returning Officer with the CEO of the ATA.
- (2) All nominees will be advised via email of the acceptance or otherwise of their nomination.

### **15 Nominee statements**

- (1) Nominees may submit a 500 word statement with their nomination form. This statement will be available to voters through the online election portal.
- (2) Statements provided by nominees must not comment on other nominees or organisations or be defamatory.
- (3) Statements should promote the policies of the nominees.
- (4) Statements must be submitted in Microsoft Word or Rich Text Format.

### **16 No nominations received**

If no nominations are received for a category or both categories, the ATA Council may appoint a representative(s) to hold the office until the next election is conducted.

## **Part 3 – Elections**

### **Division 1 – Holding a ballot**

#### **17 When a ballot must be held**

- (1) A ballot must be held if at the end of the nomination period there is more than one valid nomination in one or both categories of representative.
- (2) If a ballot must be held, it must commence no more than 7 days after the nomination period closes.

#### **18 When no ballot is required the ballot will be declared**

If there is only one valid nomination in a category, the Independent Returning Officer must declare the poll as soon as practicable, but no later than 7 days after the nomination period closes.

## **Division 2 – Notice of elections**

### **19 The Independent Returning Officer is to give notice**

- (1) The Independent Returning Officer must send written notice via email to all individuals registered to vote advising that an election is to be held.
- (2) This written notice must call for nominations and specify the closing date for any nominations.
- (3) This written notice must specify the commencement date of the election.
- (4) A copy of the written notice must be published on the ATA website and in the ATA newsletter.

## **Division 3 – Online ballot papers**

### **20 Creation of the online election portal**

The election must be registered on a secure online election portal. The Independent Returning Officer must verify and be satisfied as to the security of the online election portal.

### **21 Format of online ballot papers**

- (1) Elections must be conducted through a secure online election portal.
- (2) (a) For the owner driver position, the online election portal must display the title “Australian Trucking Association – Election of Owner Driver Representative.”  
  
(b) For the small fleet position, the online election portal must display the title “Australian Trucking Association – Election of Small Fleet Operator Representative.”
- (3) The online election ballot paper must display the title “Election of one representative to the Australian Trucking Association General Council – Category: Single Truck Owner Driver Representative” and the title “Election of one representative to the Australian Trucking Association General Council – Category: Small Fleet Operator Representative”.
- (4) The online election ballot paper must prompt voters to review their votes and confirm their selections.

### **22 Order of candidates’ names on the online ballot papers**

The online election portal must generate the order of the candidates’ names at random.

### **23 Declaration of continuing eligibility to vote**

The online ballot paper must require the voter to declare that they continue to be eligible to vote in the election. The eligibility requirement detailed in section 15 of these regulations must be displayed on the online election ballot paper.

### **24 Incomplete online ballot papers**

An incomplete online ballot paper must not be accepted by the online election portal.

### **25 Optional preferential voting**

Voting must be conducted on an optional preferential basis.

## **Division 4 – Voting period**

### **26 Duration**

The duration of the voting period is 21 days from the issue date of the website link to the online ballot paper.

### **27 Extension of voting period**

The failure of an email carrying the link to the online ballot paper to pass through a voter's spam filter, or arrive at the correct address, whether through error caused by the online election portal, the Independent Returning Officer, the ATA, or the voter, does not extend the voting period for the affected voter.

### **28 Voting reminder**

The Independent Returning Officer must send a reminder email containing the link to the online election ballot 7 days prior to the close of the election.

## **Division 5 – Declaration of the poll**

### **29 A draw in any category**

In the case of a draw in any category, the Independent Returning Officer must conduct a draw by lot to determine the successful candidate.

### **30 Declaration requirements**

- (1) The Independent Returning Officer must declare the poll in writing.
- (2) The Independent Returning Officer must include in their written declaration the full results of the election immediately after the declaration of the poll.
- (3) The written declaration must be provided to the Chief Executive Officer of the ATA as soon as practicable after the closing of the poll.
- (4) The Chief Executive Officer of the ATA must publish on the ATA website the results of the poll as soon as practicable, but no later than 7 days after the declaration of the poll.
- (5) The Chief Executive Officer of the ATA must advise all candidates, in writing, of the results of the poll as soon as practicable, but no later than 7 days after the declaration of the poll.