



STATUTORY INSTRUMENTS.

S.I. No. 358 of 2023

ELECTION OF MEMBERS FOR APPOINTMENT TO THE
OCCUPATIONAL THERAPISTS REGISTRATION BOARD BYE-LAW
2023

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The Occupational Therapists Registration Board, in exercise of the powers conferred on it by section 31 of the Health and Social Care Professionals Act 2005, with the approval of the Health and Social Care Professionals Council, hereby makes the following bye-law:

1. (1) This bye-law may be cited as the Election of Members for Appointment to the Occupational Therapists Registration Board Bye-law 2023.
- (2) This bye-law comes into operation on 12 July 2023.

Interpretation

2. (1) In this bye-law -

“Act” means the Health and Social Care Professionals Act 2005 (Number 27 of 2005) (as amended from time to time);

“Candidate” means a registrant who has been formally declared as a candidate by the Returning Officer in accordance with paragraph 10(3) of this bye-law;

“County of practice” means the county listed beside the name of a registrant on the Register;

“Council” means the Health and Social Care Professionals Council established under section 6 of the Act;

“Election” means the election of Candidates for appointment to the Registration Board pursuant to and in accordance with this bye-law;

“Electoral category” means the categories of membership of Registration Boards set out in section 28(1)(a) of the Act;

“Electoral register” means the register established under paragraph 14(1) of this bye-law;

“first election” means the first Election conducted in accordance with this bye-law;

“Minister” means the Minister for Health;

“Nominee” means a registrant who satisfies the criteria set out in paragraph 8 and who has been nominated as a candidate in accordance with paragraph 9;

“Register” means the register established and maintained by the Occupational Therapists Registration Board under section 36 of the Act;

“Registrant” means a person whose name is on the Register;

“Registration Board” means the Occupational Therapists Registration Board established under section 26 of the Act;

“Relative”, for the purpose of this bye-law includes spouse, civil partner, parent, brother, sister, grandparent, uncle or aunt and includes a person related by marriage or civil partnership;

“Returning Officer” means the person appointed under paragraph 4 to be the returning officer for the purposes of this bye-law; and

“Voter” means a registrant whose name is entered in the Electoral register.

(2) In this bye-law—

- (a) reference to a paragraph is to a paragraph of this bye-law, unless it is indicated that some other reference is indicated;
- (b) a reference to a paragraph, subparagraph or clause is a reference to a paragraph, subparagraph or clause of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended;
- (c) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- (d) any reference to a “day” shall mean a calendar day;
- (e) references to the singular include the plural and vice versa; and
- (f) references to the masculine include the feminine and vice versa.

System for election

3. An Election shall be conducted in accordance with this bye-law.

Appointment of Returning Officer

4. (1) The Council shall appoint persons of competence and integrity to act as a Returning Officer and a substitute returning officer, who shall act in the event that the Returning Officer is unable or unavailable to act, for the purpose of each Election.

(2) In this bye-law, any reference to the Returning Officer in relation to any act, matter or function for which a Returning Officer is appointed by or under this bye-law shall, unless the context otherwise requires, be interpreted as including a reference to the substitute returning officer.

(3) The Returning Officer will ensure, insofar as it is possible, that neither he or she, nor any person employed by him or her, has any conflict of interest, and will avoid any perceived conflict of interest, in relation to the running of the Election. Should a conflict of interest arise, in relation to the Returning Officer, he or she will immediately notify the Council and the substitute Returning Officer will take over the running of the Election. In the case of a conflict arising with an employee, the Returning Officer will discontinue that employee's involvement in the Election.

(4) The Council and/or the Registration Board shall provide the Returning Officer with all information which the Returning Officer deems necessary for the purposes of conducting the Election.

(5) The Returning Officer may, if he or she considers it necessary for the performance of his or her duties, and with the consent of the Council, appoint such person or persons as he or she considers fit and proper to assist him or her.

(6) The Returning Officer or any person appointed by him or her for any purpose relating to the Election shall not be a Candidate or a Relative of a Candidate at that Election or associated in furthering the candidature of any Candidate at that Election.

(7) The Returning Officer shall not appoint for any purpose relating to the Election a person who to the knowledge of the Returning Officer –

- (a) is or has been a Candidate,
- (b) has been associated in furthering the candidature of a Candidate, or
- (c) is a Relative of a Candidate at that Election.

(8) The Council shall defray the reasonable expenses of a Returning Officer in conducting an Election.

Powers and functions of Returning Officer

5. (1) Subject to the provisions of this bye-law, the Returning Officer shall be responsible for determining all questions of procedure, form, or manner in which the Election shall take place and shall have the duty to ensure the validity and integrity of the nomination and Election processes. He or she shall have all powers necessary to carry out such functions, responsibility and duty, and without prejudice to the generality thereof, shall have the power to make decisions with regard to the qualification or disqualification of candidates, the making of decisions in respect of valid or invalid votes, the conduct of the count, and all other matters which might arise during the course of the Election.

(2) The Returning Officer shall determine the form and content of all nomination papers, ballots, declarations, instructions, advertisements and notices required to be issued in accordance with this bye-law.

(3) The Returning Officer will set the date for establishing the Electoral register, the closing date for receipt of nominations, the date for the opening of the poll and the closing date for receipt of ballots and shall have power to adjust or revise such dates, should the Returning Officer deem fit in any particular circumstances.

(4) The Returning Officer shall keep or cause to be kept appropriate records in connection with the Election.

(5) The decision of the Returning Officer on any matters arising in respect of the conduct of the Election or otherwise in connection with any Election is final.

Scrutineers

6. (1) For the purposes of each Election the Council may, at the request of the Registration Board, appoint 2 persons to act as scrutineers and such alternate scrutineers (if any) as the Council deems appropriate whose duty shall be to monitor the process of determining the validity of nominations under paragraph 10 and that the counting of votes is carried out in accordance with this bye-law and in an honest, fair and accurate manner. Any alternate scrutineer shall only act when a scrutineer is unavailable or unable to act for whatever reason.

(2) The Council will ensure, insofar as it is possible, that no scrutineer or alternate scrutineer has any conflict of interest in relation to the running of the Election and is not and has not been a Candidate, or a Relative of a Candidate, or otherwise associated in furthering the candidature of any Candidate at an Election. Any scrutineer or alternate scrutineer shall avoid any conflict of interest and any perceived conflict of interest. Should a conflict of interest arise, the scrutineer will notify the Council immediately and discontinue their involvement in the Election.

Notice of Election

7. (1) Within the period specified in paragraph 7(2), the Returning Officer shall cause to be published on www.coru.ie and in one national daily newspaper published and circulating in the State or otherwise as he or she deems appropriate notice of:

- (a) The holding of an Election;
- (b) The Electoral categories and numbers of vacancies arising in each Electoral category at that Election;
- (c) A request for nomination of candidates;
- (d) The closing date for receipt of nominations; and
- (e) If a poll is to be held, the day and hour on and at which the period during which the returning officer may receive votes will expire.

(2) Subject to paragraph 24, the notice described in paragraph 7(1) shall be given, in the case of the first election, no later than 56 days before the date of Election fixed by the Returning Officer pursuant to paragraph 15; and in respect of all Elections other than the first election, no later than 56 days before the expiration of the term of office of members of the Registration Board appointed under either section 28(1)(a) or section 28(4) of the Act (as applicable).

Nominations

8. (1) Any person nominated for Election shall be a registrant.

(2) No registrant may be nominated, and no registrant may be a Candidate for Election, in respect of more than one electoral category.

9. (1) To be nominated for Election, a registrant must submit to the Returning Officer:

- (a) a nomination form containing:

- (i) his or her full name and registration number;
 - (ii) the signatures and registration numbers of the person (who must also be a registrant) proposing the Nominee and 4 further registrants who also support the nomination of the Nominee; and
 - (iii) the relevant Electoral category in respect of which he or she wishes to stand;
- (b) an appropriate passport size photo of the Nominee for inclusion on the ballot (if the Nominee wants to have a photograph included on the ballot);
 - (c) a completed declaration confirming his or her eligibility to be nominated in the chosen Electoral category; and
 - (d) a completed declaration confirming that if he or she is elected:
 - (i) there is no reason, having regard to the provisions of paragraph 5 of Schedule 2 of the Act, for the Minister to remove that person as a member of a Registration Board; and
 - (ii) he or she will serve the interests of the Registration Board and abide by the Code of Conduct for members of the Registration Board.

(2) Nomination papers shall be lodged with the Returning Officer no later than 12 noon on the closing date for receipt of nomination papers.

10. (1) The Returning Officer shall review and rule upon the validity of the nomination papers and the eligibility of nominated persons no later than 2 working days following the closing date for the receipt of the nomination papers.

(2) Without prejudice to the generality of paragraph 5, the Returning Officer, may, for the purpose of determining the validity of a nomination for Election, require a Nominee to give him or her such relevant information relating to his or her nomination as the Returning Officer requires or to provide such other evidence as is required by the Returning Officer within such timeframe as is specified by the Returning Officer. Failure to provide such information or evidence may be regarded by the Returning Officer as grounds for invalidating a nomination.

(3) Where the Returning Officer deems any nominations to be valid and the nominated persons as aforesaid to be eligible to stand for Election, the Returning Officer shall formally declare the nominated persons as Candidates and the decision of the Returning Officer on the validity of a nomination shall be final.

(4) Without prejudice to the foregoing, a misnomer or an inaccurate description of any person named in the nomination papers shall not invalidate the nomination papers if, in the opinion of the Returning Officer, the description of such person is such as to be commonly understood.

(5) A Returning Officer shall rule a nomination invalid where he or she is of the opinion that any of the following apply:-

- (a) the nomination form has been completed incorrectly,
- (b) the Nominee has not been proposed and supported in accordance with the provisions of paragraph 9(1)(a)(ii),
- (c) where the declaration of eligibility required under paragraph 9(1)(c) has not been provided, or
- (d) where any of the other nomination requirements set out at paragraph 9 have not been met.

11. A Nominee may withdraw his or her nomination at any time prior to the declaration of Election of Candidates by the Returning Officer by providing the Returning Officer with written notice of his or her withdrawal signed by the Nominee.

12. The Returning Officer shall as soon as practicable after ruling on the validity of a nomination paper publish in the manner he or she considers appropriate notice of each Candidate validly nominated and the names of the registrants who proposed and supported the nomination.

Preparation of a poll for the election

- 13. (1) If the number of Candidates is equal to or less than the number of vacancies in an Electoral category, no poll shall be held. The Candidate or Candidates shall be deemed to be elected without a poll and his or her name or names shall be submitted to the Minister for appointment to the Registration Board as a member in respect of the relevant Electoral category.
- (2) If no person is nominated in an Electoral category, the provisions of the Act will apply.
- (3) If there are a greater number of Candidates than there are vacancies in an Electoral category, a poll shall be taken by the Returning Officer.
- (4) The poll shall take the form of an electronic ballot.
- (5) The Returning Officer shall cause to be prepared an electronic voting system for the purpose of undertaking the poll.
- (6) (a) The Returning Officer may, with the consent of the Council, contract the provision of services in relation to the undertaking of an electronic ballot to an independent person or organisation.
- (b) Any person or organisation contracted by the Returning Officer to provide services in relation to an electronic ballot must undertake the tasks assigned to them by the Returning Officer in a manner specified by the Returning Officer.

Electoral register

- 14. (1) No later than the date set by the Returning Officer as the closing date for receipt of nominations, the Returning Officer shall establish an Electoral

register which shall consist of a list of all registrants on that date and will include the name of the registrant as it appears in the Register, their registration number and the county of practice (if included on the Register). For the avoidance of doubt, the foregoing details in respect of any registrant whose name appears in one or more divisions of the Register shall be included only once in the Electoral register.

(2) The Electoral register shall be made available in printed (or electronic) format for inspection by a Candidate, or by a registrant, at the offices of the Council during normal office hours.

(3) The Returning Officer may determine a unique identifier for each person listed in the Electoral register to use when accessing the electronic voting system.

Date of Election

15. (1) Where a poll is to be held, the date of Election is the date fixed by the Returning Officer as the closing date for receipt of electronic ballots.

Voting procedure

16. (1) Each registrant on the Electoral Register is entitled to cast one vote in each of up to three polls that may be undertaken for the election of Board members.

(2) Each voter shall electronically mark, in a manner to be specified by the Returning Officer, the name of one person only for whom the voter desires to vote in each of the electoral categories in which polls are to be undertaken and as provided by the electronic voting system.

(3) Each voter shall follow the explicit instructions which the Returning Officer may specify in order to complete the electronic ballot and the submissions of the completed electronic ballot for inclusion in the election.

(4) The electronic voting system shall close on the date and time specified by the Returning Officer.

Death or Withdrawal of Candidate

17. If a Candidate dies at any time between the Candidate's nomination for Election under this bye-law and the declaration of Election of Candidates by the Returning Officer, or if a Candidate withdraws at any time after the closing date for nominations and the declaration of Election of Candidates by the Returning Officer, the nomination of that Candidate and any votes cast for that Candidate shall be disregarded.

Counting of Votes

18. For the avoidance of doubt, a Candidate must be registered as a registrant on the date of the Election and the Returning Officer shall, at the commencement of the counting of the votes, confirm that each Candidate remains so registered.

Any Candidate who is no longer registered on the date of the Election shall be disqualified and any votes cast in favour of that Candidate shall be disregarded.

19. (1) The Returning Officer shall, at a time specified by the Returning Officer after the expiration of the time during which the Returning Officer may receive votes, access the results of the electronic ballot.

(2) It shall be the responsibility of the Returning Officer to determine what is considered appropriate activity in relation to the accessing of the results of the electronic ballot.

(3) The Returning Officer may deem the result of a poll null and void in circumstances where the results have been deemed to have been compromised.

20. (1) The Returning Officer shall ensure that the provisions of section 28(1)(a) of the Act are complied with and the requisite number of Candidates having the greatest number of votes shall be declared elected by the Returning Officer.

(2) If any equality of votes is found to exist between any Candidates and the addition of a vote would entitle any such Candidates to be declared elected, the Returning Officer shall determine by lot which of the Candidates whose votes are equal shall be declared elected.

Notice of persons elected

21. (1) The Returning Officer shall give to every person elected written notice of his or her election and give notice in writing to the Minister of the names of those registrants of the Registration Board that have been elected under this bye-law for the purposes of section 28(1)(a) of the Act.

(2) The Returning Officer shall publish by electronic means the results of the Election including details of the number of ballot papers issued, the total poll and the number of votes which each Candidate received.

Savers

22. No Election held under this bye-law shall be invalidated by reason of any misdescription or non-compliance with the provisions of this bye-law or by reason of any misconduct or of the non-delivery, loss or miscarriage in the course of post of any document or a failure of the electronic system to register a vote or a failure in the computing facilities of a voter, if it appears to the Returning Officer that the Election was conducted substantially in accordance with the provisions of this bye-law, and the result of such misdescription, non-compliance, misconduct, non-delivery, loss, miscarriage or information technology failure did not substantially affect the result of the Election.

23. (1) Notwithstanding any contrary provision in this bye-law, the Returning Officer may, in any case in which it appears to him or her that there

is an emergency or special difficulty, make such changes or modifications of any of the procedures set out herein for the conduct of the Election (including but not limited to rescheduling, postponing, or curtailing the applicable times and suspending the application of all or any part of the procedures) as may in his opinion be necessary or desirable to enable such Election to be duly held, subject to compliance with the principles laid down in this bye-law taken as a whole. Without prejudice to the generality of the foregoing, in the event of any error in the conduct of the Election which the Returning Officer regards as fundamental, the Returning Officer shall be entitled, in addition to the foregoing, to recommence the Election (or any part thereof) from the point prior to the point when the error arose and otherwise take such action as may be necessary or desirable to enable the declaration of persons elected.

(2) The Returning Officer shall, insofar as the circumstances permit, publish summary details of any such emergency, error or special difficulty and the changes or modifications to be made to any of the procedures set out herein for the conduct of the Election.



GIVEN under the seal of the Occupational Therapists Registration Board,
12 July, 2023.

ANN SHEEHAN,
Chairperson, Occupational Therapists
Registration Board.

JOHN HANILY,
Member, Occupational Therapists Registration Board.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

This bye-law sets out the procedures for the selection of members for appointment to the Occupational Therapists Registration Board for the purposes of section 28(1)(a) of the Health and Social Care Professionals Act 2005.

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