

1996—No. 27

**MURRAY VALLEY CITRUS MARKETING ACT 1989—
REGULATION**

(Murray Valley Citrus Marketing (Polls) Regulation 1996)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, on the recommendation of the New South Wales Minister after consultation with the Victorian Minister, and in pursuance of the Murray Valley Citrus Marketing Act 1989, has been pleased to make the Regulation set forth hereunder.

RICHARD S. AMERY, M.P.,
Minister for Agriculture.

Citation

1. This Regulation may be cited as the Murray Valley Citrus Marketing (Polls) Regulation 1996.

Object

2 The object of this Regulation is to prescribe the procedures to be followed in the conduct of polls under Parts 6 and 7 of the Act.

Commencement

3. This Regulation commences on 2 February 1996.

Definitions

4 In this Regulation:

“close of enrolments” means the time and date, fixed by the notice of the poll, that are taken as the reference point for the compilation of the roll;

“close of the poll” means the time and date, fixed by the notice of the poll, on or before which a vote must be received by the returning officer if it is to be included in the scrutiny;

“roll” means, in relation to a poll, the roll of producers entitled to vote in the poll;

“the Act” means the Murray Valley Citrus Marketing Act 1989.

Need for registration or enrolment

5. (1) A producer is not entitled to vote in a poll under a provision of Part 6 or 7 of the Act unless:

- (a) if the provision provides for a class of registered producers to be polled—the producer is a member of the class at the close of enrolments for the poll; or
- (b) if the provision provides for producers other than registered producers to be polled—the returning officer has received an application for enrolment in accordance with this clause from the producer at or before the close of enrolments for the poll.

(2) An application for enrolment must be in writing and must include the full name and address of the applicant, the applicant’s signature and the ground on which the applicant seeks enrolment.

Notice of poll

6. (1) The returning officer must cause notice of a poll to be published as soon as practicable after the Minister has directed that the poll be held. This requirement may, but need not, be satisfied by making an arrangement for such publication with the returning officer acting under the legislation of Victoria that corresponds to the Act.

(2) The notice must (whatever the arrangement for its publication) be published in:

- (a) a newspaper circulating generally in New South Wales; and
- (b) one or more other newspapers that circulate in the area, or a substantial part of the area, where the poll is to be taken (if such newspapers exist).

(3) The notice must fix and state:

- (a) the time and date for the close of enrolments for the poll; and
- (b) the time and date for the close of the poll.

(4) The notice must also state:

- (a) the poll question (that is, the question on which the poll is to be held); and
- (b) how enrolments may be made (if the persons to be polled are or include persons who are not registered producers); and
- (c) where and at what times the preliminary roll (if any) and final roll may be inspected; and
- (d) that it is not compulsory to vote at the poll.

(5) The notice may also state any other details or directions that relate to the conduct of the poll and that the returning officer considers appropriate for inclusion in the notice.

(6) The date fixed:

- (a) for the close of enrolments must be not less than 14 days nor more than 28 days after the notice is first published; and
- (b) for the close of the poll must be at least 28 days after the date fixed for the close of enrolments.

Materials to be sent to returning officer by Board

7. (1) Within 7 days after the Minister directs that a poll be held, the Board must supply the returning officer with:

- (a) a copy of the proposed order that is the subject of the poll; and
- (b) a statement that sets out both a case for the proposed order and a case against the proposed order, being a statement edited by the Board and based on any material (for or against) supplied to the Board by one or more producers as well as any other material that the Board considers relevant.

(2) Within 7 days after the Minister directs that a poll of a class of registered producers be held, the Board must also supply the returning officer with:

- (a) a roll containing the full names and addresses of the registered producers in that class; and
- (b) for each producer, an address label, an addressed envelope or an electronic record enabling an address label to be generated.

(3) Immediately after the close of enrolments, the Board must supply the returning officer with an update (to the close of enrolments) of the material (if any) that it provided under subclause (2).

Finalising the roll

8. (1) The returning officer must display, as a preliminary roll, the roll (if any) supplied by the Board at the places and times specified in the notice of the poll.

(2) After the close of enrolments, the returning officer must finalise the roll of producers entitled to vote in the poll (taking into account the information, if any, supplied by the Board, any objection that the returning officer considers valid and the enrolments, if any, received by the returning officer at or before the close of enrolments).

(3) The returning officer must display a final roll (whether or not it was preceded by a preliminary roll) at the places and times specified in the notice of the poll.

Objections to rolls

9. (1) A person may object to the presence or absence of an entry in a preliminary roll during the period when the roll is available for public scrutiny.

(2) The returning officer must consider the objection and, if he or she considers it to be valid, amend the preliminary roll before finalising it.

(3) A person may object to the absence of an entry in a final roll during the period when the roll is available for public scrutiny.

(4) The returning officer must consider the objection and, if he or she considers it to be valid, must not amend the final roll, but treat the person whose name has been wrongly omitted from the final roll as being entitled to vote.

Issue of ballot-papers and voting information

10. (1) The returning officer must, at least 21 days before the close of the poll, send or deliver to each producer entitled to vote:

- (a) a ballot-paper in Form 1 of Schedule 1; and
- (b) a ballot-paper envelope to enclose the ballot-paper; and
- (c) a reply-paid return envelope (to enclose the ballot-paper envelope) addressed to the returning officer and having provision on the back requiring the voter's signature and name and address; and
- (d) a copy of the proposed order; and
- (e) a copy of the statement under clause 7 that sets out both a case for and a case against the proposed order.

(2) Those things are to be sent to the address shown on the roll for the producer (or, in the case of a producer to whom clause 9 (4) applies, to the address indicated to the returning officer by the producer).

Duplicate ballot-paper

11. (1) If a producer who has been issued with a ballot-paper satisfies the returning officer that the ballot-paper has been spoilt, lost or destroyed and that the producer has not already voted in the poll, the returning officer may issue to the producer a new ballot-paper, a new ballot-paper envelope and a new return envelope.

(2) The returning officer must maintain a record of duplicate ballot-papers issued under this clause.

Manner of voting

12. (1) The manner of voting is by:

- (a) marking a vote on the ballot-paper in accordance with the directions shown on the ballot-paper; and
- (b) enclosing the ballot-paper in the ballot-paper envelope; and
- (c) placing the ballot-paper envelope with its enclosed ballot-paper in the return envelope; and
- (d) inserting the voter's full name and address on the back of the return envelope, and signing the envelope, in the space provided; and
- (e) sending or delivering the return envelope to the returning officer so that it is received by the returning officer before the close of the poll.

(2) Nothing in this clause prevents the return envelope (including its contents) being sent or delivered to the returning officer inside another envelope.

Scrutineers

13. (1) Any organisation or body of persons, on the written authorisation of not less than 20 persons entitled to vote at the poll, may appoint a scrutineer by notice in writing served on the returning officer.

(2) A scrutineer appointed under this clause is entitled to be present during the examination and opening of envelopes and at the scrutiny and counting of votes.

Examination and opening of envelopes

14. (1) As soon as practicable after the close of the poll, the returning officer must:

- (a) produce unopened the return envelopes received up to the close of the poll; and
- (b) examine each envelope and, if satisfied that it shows the signature, name and address of a producer entitled to vote, accept it unopened for further scrutiny, or if not so satisfied, reject it unopened.

(2) The returning officer must then:

- (a) open each return envelope accepted for further scrutiny;
- (b) withdraw from it the ballot-paper envelope; and
- (c) deposit the unopened ballot-paper envelope in a ballot-box.

(3) If a ballot-paper inside a return envelope accepted under this clause has not been enclosed in a ballot-paper envelope, the returning officer must not read it at this stage, but place it in the same ballot-box as the ballot-paper envelopes.

Scrutiny and counting of votes

15. (1) After completing that operation, the returning officer must:

- (a) remove the ballot-paper envelopes (and any unenclosed ballot-papers) from the ballot-box; and
- (b) open each ballot-paper envelope and withdraw the enclosed ballot-paper; and
- (c) examine each ballot-paper (whether previously enclosed or unenclosed) and reject any that are informal.

(2) A ballot-paper that does not contain the word “YES” or the word “NO” written by the voter in accordance with the instructions shown on the ballot-paper, or contains both the word “YES” and the word “NO”, is informal and must not be counted.

(3) A ballot-paper must not be rejected as informal merely because it contains marks or words other than the word “YES” or the word “NO”, as long as the voter’s intention as regards the poll question is clear.

Adjournment of scrutiny

16. The returning officer may at any time adjourn the scrutiny and count to a time and date fixed by the returning officer. The returning officer must inform the scrutineers of the time and date.

Notice of result of poll

17. (1) As soon as practicable after the result of the poll has been ascertained, the returning officer must give written notice of the result of the poll to the Minister.

(2) The returning officer must also cause public notice of a poll to be published. This requirement may, but need not, be satisfied by making an arrangement for such publication with the returning officer acting under the legislation of Victoria that corresponds to the Act.

(3) The public notice must (whatever the arrangement for its publication) be published in:

- (a) a newspaper circulating generally in New South Wales; and
- (b) one or more other newspapers that circulate in the area, or a substantial part of the area, where the poll is to be taken (if such newspapers exist).

Penalty

18. A person who wilfully provides false or misleading information to the returning officer in connection with the issue of a duplicate ballot-paper, or who inserts false details on a return envelope, is guilty of an offence.

Maximum penalty: 5 penalty units.

SCHEDULE I—FORMS**Form 1**

(Cl. 10)

Murray Valley Citrus Marketing (Polls) Regulation 1996**BALLOT—PAPER**

*[Initials of
returning
officer]*

Order for *[here the ballot-paper must state the purpose of the order]*

Are you in favour of the order?

☐

DIRECTIONS TO VOTER

1. To mark a vote in favour of the order, write the word “YES” in the square opposite the question.
To mark a vote against the order, write the word “NO” in the square opposite the question.
 2. After marking your vote, insert the ballot-paper in the envelope marked “Ballot-paper envelope” and seal the envelope. Put the sealed ballot-paper envelope in the reply-paid return envelope addressed to the returning officer. Seal the return envelope.
 3. Put your name, address (as it appears on the roll) and signature in the spaces provided on the back of the return envelope.
 4. Send or deliver the return envelope to the returning officer. It must reach the returning officer not later than the close of the poll (that is, *[here the ballot-paper must specify the time and date fixed for the close of the poll]*) if it is to be counted.
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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The Murray Valley Citrus Marketing Act 1989 provides for polls of New South Wales producers on whether to dissolve the Board set up by the Act, whether to exclude or include fruit in relation to the operation of the Act, and whether to exclude or include geographical areas in relation to the operation of the Act.

The object of this Regulation is to set out certain procedural requirements for the polls, including procedures for the following:

- (a) the enrolment of non-registered producers when these are to be polled;
- (b) notices in relation to enrolments and polls;
- (c) statements of cases for and against the order that is the subject of a poll;
- (d) ballot-papers and duplicate ballot-papers;
- (e) the method of voting;
- (f) scrutiny.

The Regulation complements various provisions of Parts 6 and 7 of the Act. It therefore does not define the electorates (i.e. classes of persons and areas that are to be polled) as these are implicit in those provisions themselves. It is substantially uniform with a Regulation prepared under the Murray Valley Citrus Marketing Act 1989 of Victoria.

The Regulation is made under Parts 6 and 7 of the Act as well as under section 81 (the general regulation-making power).

The Regulation relates to matters of a machinery nature.
