

**1995—No. 663**

**ABORIGINAL LAND RIGHTS ACT 1983—REGULATION**

(Relating to election of councillors of NSW Aboriginal Land Council)

NEW SOUTH WALES



*[Published in Gazette No. 138 of 10 November 1995]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Aboriginal Land Rights Act 1983, has been pleased to make the Regulation set forth hereunder.

ANDREW JOHN REFSHAUGE, M.P.,  
Deputy Premier and Minister for Aboriginal Affairs.

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**Commencement**

**1.** This Regulation commences on 10 November 1995.

**Amendments**

**2.** The Aboriginal Land Rights Regulation 1983 is amended:

- (a) by omitting clause 21 (4) (b) and by inserting instead the following paragraphs:
  - (b) that a person is entitled to vote at the election if the person is a member of a Local Aboriginal Land Council within the area;
  - (b1) that a person is not, however, entitled to vote more than once if the person is a member of more than one Local Aboriginal Land Council, and that such a person is only entitled to cast his or her vote in respect of the Local Aboriginal Land Council area in which the person ordinarily resides;
- (b) by omitting from clause 21 (4) (c) the word “such”;

(c) by omitting clause 22 and by inserting instead the following clause:

**Special meeting of Local Aboriginal Land Council to consider applications to be listed on roll**

22. (1) After notice of an election is given under clause 21, each Local Aboriginal Land Council must hold a meeting to consider any applications under section 7 (2) (b) of the Act by adult Aborigines who have an association with the Local Aboriginal Land Council area (but who do not reside within the area) to be listed in the roll for the area.

(2) The Council must hold the meeting within the period of 7 days immediately following the closing date specified in the notice of the election in accordance with clause 21 (4) (c).

(3) However, a Local Aboriginal Land Council is not required to hold such a meeting if there are no applications made after notice of the election and before the closing date under section 7 (2) (b) of the Act to be listed in the roll for the area.

(4) This clause and clause 21 (4) (c) apply to an election to which clause 21 applies despite Rule 10 of Schedule 3.

(d) by omitting clause 57 and by inserting instead the following clause:

**Returning officer to be advised of result**

57. The regional electoral officer must, immediately after the counting of the votes, advise the returning officer of the result.

(e) by omitting from clause 60 the word "A" and by inserting instead the words "Subject to the Act, a";

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**EXPLANATORY NOTE**

As a result of the Aboriginal Land Rights Amendment Act 1995, a person is not entitled to vote more than once in an election of councillors of the New South Wales Aboriginal Land Council, and if a person is a member of more than one Local Aboriginal Land Council, that person is required to cast his or vote in the election in respect of the Local Aboriginal Land Council area in which the person ordinarily lives. The amendments also provide that if the validity of the election of a councillor is disputed, the returning officer must nevertheless declare the candidate elected and the candidate holds office until the Land and Environment Court has settled the disputed return.

The object of this Regulation is to amend the Aboriginal Land Rights Regulation 1983 as a consequence of the changes described above. In particular, clause 2 (a) of this Regulation provides that the Electoral Commissioner's notice of an election of the councillors of the NSW Aboriginal Land Council must include information that a person is not entitled to vote more than once. Clause 2 (d) and (e) simply bring the Regulation into line with the Act.

Clause 2 (c) substitutes clause 22 of the Aboriginal Land Rights Regulation 1983 part of which was found to be invalid by the New South Wales Court of Appeal in *Burnum Burnum v Electoral Commissioner of NSW* (unreported, 15 September 1993).

This Regulation is made under the Aboriginal Land Rights Act 1983, including section 68 (the general regulation making power).

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