

1995—No. 532

WATER ACT 1912—REGULATION

(Water (Part 3—Elections) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Water Act 1912, has been pleased to make the Regulation set forth hereunder.

KIM YEADON, M.P.,
Minister for Land and Water Conservation.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Water (Part 3—Elections) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definition

3. In this Regulation:

“the Act” means the Water Act 1912.

Application of Regulation

4. This Regulation applies to the second and subsequent elections of trustees to trusts constituted under Part 3 of the Act.

PART 2—REVISION OF ROLLS OF VOTERS**Appointment of place and date of revision**

5. (1) On the preparation by trustees of a roll of voters for an election in accordance with section 45 of the Act, the trustees must refer it to a Magistrate (having jurisdiction in any part of the district) for revision.

(2) The Magistrate is to appoint a place and date for the revision.

(3) Not later than 14 days before the revision, the trustees must give public notice of it by publishing an advertisement in a newspaper circulating in the district.

(4) The advertisement must contain:

- (a)** details of the place at which and the time within which a copy of the roll will be available for inspection; and
- (b)** information regarding the right under section 45 of the Act to make claims in respect of the omission of names from, or objections against the addition of names to, the roll.

Revision of roll

6. (1) For the purposes of section 45 of the Act, a Magistrate must revise a roll by:

- (a)** inserting on the roll the name of any person, on proof that the person is qualified to be on the roll; and
- (b)** removing from the roll the name of any person, on proof that the person is not qualified to be on the roll; and
- (c)** removing or correcting enrolments, as may be necessary by reason of error, change of name, death or other sufficient reason.

(2) The Magistrate must, at the end of the roll, certify that it has been revised as correct as at the date of the certificate.

PART 3—CONDUCT OF ELECTIONS**Nomination day**

7. (1) Nominations of candidates for an election of trustees close at a day and hour fixed by the Returning Officer.

(2) Not less than 7 days before nomination day, the Returning Officer must issue nomination papers to the persons entitled to vote at the election.

Nominations

8. Nominations must be signed by 2 persons entitled to vote at the election and must include the consent of the nominee.

Uncontested elections

9. If, after the time for close of nominations, the number of accepted nominations does not exceed the number of persons to be elected, the Returning Officer must declare the persons nominated to be elected.

Contested elections

10. (1) If, after the time for close of nominations, the number of accepted nominations exceeds the number of persons to be elected, the Returning Officer must issue ballot-papers to the persons entitled to vote at the election.

(2) The ballot-papers must be issued not later than 7 days before the election.

(3) The Returning Officer may prescribe a shorter interval if considered necessary in order for the election to be conducted at the time fixed for it.

(4) Each voter must be issued with one ballot-paper for each vote to which the voter is entitled.

(5) Each ballot-paper must contain the names of the candidates in alphabetical order and be signed or initialled by the Returning Officer.

(6) Each ballot-paper (or, if the voter is entitled to more than one vote, each set of ballot-papers) must be accompanied by:

- (a)** a form of declaration of identity and of entitlement to vote at the election; and
- (b)** 2 envelopes, one marked “ballot-paper” and the other addressed to the Returning Officer; and
- (c)** a notice which:
 - (i)** specifies the time by which the completed ballot-papers must reach the Returning Officer (being the time fixed for the election); and
 - (ii)** contains instructions for the completion of ballot-papers and for their transmission to the Returning Officer.

Voting

11. (1) A voter must record his or her vote on a ballot-paper by placing a cross opposite the name of each candidate for whom he or she votes.

(2) A voter must post or deliver to the Returning Officer the completed ballot-paper or papers enclosed and sealed in the envelope marked “ballot-paper” which, together with the completed declaration, must be enclosed and sealed in the envelope addressed to the Returning Officer.

Duplicate ballot-papers

12. (1) The Returning Officer may, on receipt of a declaration by a person that a ballot-paper has been lost or destroyed, issue a duplicate ballot-paper to the person.

(2) A voter who satisfies the Returning Officer that a ballot-paper has been spoiled by mistake or accident may, on returning it, be issued with a new ballot-paper.

(3) The Returning Officer must cancel and preserve the spoiled ballot-paper.

Poll clerks and scrutineers

13. (1) The Returning Officer may appoint poll clerks if required.

(2) Each candidate may nominate one scrutineer who is entitled to be present during the counting of votes.

(3) A candidate must not be a poll clerk or scrutineer.

Counting of votes

14. As soon as practicable after the time for closing of the poll, the Returning Officer must:

- (a) open the outer envelopes received before that time; and
- (b) if the declaration is signed by a qualified voter, place the envelope marked “ballot-paper” with other such envelopes; and
- (c) following the opening of all the outer envelopes, open the envelopes marked “ballot-paper” and take out the ballot-papers; and
- (d) reject such ballot-papers as are found to be informal; and
- (e) count the number of votes given to each candidate.

Informal votes

15. (1) The Returning Officer must reject as informal a ballot-paper:

- (a) which is not signed or initialled by the Returning Officer; or
- (b) on which votes are marked for more candidates than the number of persons to be elected; or
- (c) from which the intention of the voter cannot be clearly ascertained; or
- (d) in the marking of which the voter has not complied with this Regulation or the instructions of the Returning Officer.

(2) A ballot-paper is not informal by reason only that the voter has not recorded his or her vote exactly as prescribed if, in the opinion of the Returning Officer, the intention of the voter can be clearly ascertained.

Declaration of poll

16. The result of a poll for an election must be ascertained by the Returning Officer as follows:

- (a) the candidates, not exceeding in number the number of persons to be elected, who received the highest numbers of votes are to be declared to be elected;
- (b) if there is an equality of votes, the Returning Officer is to determine by lot the candidate to be elected.

Notification of election result

17. As soon as practicable after declaration of a poll, the Returning Officer must issue to each person elected a notice in writing of the result of the election.

Disposal of election papers

18. (1) After the declaration of a poll the Returning Officer must send all papers connected with the election to the Trust.

(2) The Trust must keep the papers for at least 12 months after the election.

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EXPLANATORY NOTE

The object of this Regulation is to remake, without any major changes in substance, the provisions of the Water (Part 3) Regulations dealing with elections of trustees (of trusts formed under Part 3 of the Water Act 1912 for flood prevention or control works in the Murray Basin or for water conservation, water supply or irrigation works). The remainder of the Water (Part 3) Regulations are being remade as the Water (Part 3—General) Regulation 1995. The new Regulation deals with the following matters:

- (a) the revision of rolls of voters (part 2);
- (b) the conduct of elections (including the nomination of candidates, voting, counting of votes and declaration of poll) (Part 3);
- (c) other minor, consequential or ancillary matters (part 1).

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This Regulation is made under Part 3 of the Water Act 1912, including section 50 (mode of election) and section 74 (the general regulation making power).

This Regulation comprises or relates to matters of a machinery nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
