

1995—No. 516

PRIVATE IRRIGATION DISTRICTS ACT 1973—REGULATION

(Private Irrigation Districts (First Elections) Regulation 1995)

NEW SOUTH WALES



[Published in Gazette No. 105 of 1 September 1995]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Private Irrigation Districts Act 1973, has been pleased to make the Regulation set forth hereunder.

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

PART I—PRELIMINARY

Citation

1. This Regulation may be cited as the Private Irrigation Districts (First Elections) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**election**” means the first election of the members of a Board referred to in section 7 (2) (d) of the Act;

“**the Act**” means the Private Irrigation Districts Act 1973;

“**zone**” means:

(a) a zone of a provisional private district divided into zones under clause 4 (1); or

(b) if a provisional private district is not divided into zones, the provisional private district.

Division of provisional private districts into zones

4. (1) For the purposes of an election, the Ministerial Corporation may divide a provisional private district into zones.

(2) If a provisional private district is divided into zones, the Ministerial Corporation must:

- (a) (subject to section 15 (3) (a) of the Act) determine the number of members to be elected by the voters of each zone; and
- (b) show the zones on the plan of the provisional private district exhibited as referred to in section 7 (2) (c) of the Act.

Repeal

5. (1) The Private Irrigation Districts (First Election of Members of Boards of Management) Regulation is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Private Irrigation Districts (First Election of Members of Boards of Management) Regulation, had effect under that Regulation is taken to have effect under this Regulation.

PART 2—ELECTIONS**Appointment of Returning Officer**

6. The Ministerial Corporation must appoint a Returning Officer for an election.

Roll

7. (1) The Returning Officer must keep a roll for each zone in respect of which the Returning Officer is to hold an election.

(2) A roll must contain the names and last known addresses of:

- (a) each sole owner of land which is being worked as a separate property within the zone; and
- (b) if there is more than one owner of any such land, such one of them as may, by notice in writing given to the Returning Officer, have been last nominated for the purposes of this paragraph by all the owners of the land.

Nomination day

8. (1) Nominations of candidates for an election 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.

Persons entitled to vote

9. The persons entitled to vote in a ballot to determine the members to be elected are the persons whose names appear on the relevant roll at the time fixed for the election.

Nominations

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

Uncontested elections

11. 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

12. (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 voting papers to the persons entitled to vote at the election.

(2) The voting 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 the ballot-papers and for their transmission to the Returning Officer.

Voting

13. (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

14. (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 spoilt by mistake or accident may, on returning it, be issued with a new ballot-paper.

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

Counting of votes

15. At the place and time fixed for an election, the Returning Officer must:

- (a) open the outer envelopes received before that time; and
- (b) if the declaration is signed by a qualified voter, ascertain the zone to which the vote relates (where applicable) and place the envelope marked “ballot-paper” with other such envelopes for that zone; 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

- 16. (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 for the zone; 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 result of ballot

17. The result of a ballot for an election must be ascertained (zone by zone, where applicable) by the Returning Officer as follows:

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

Declaration of persons elected where district divided into zones

18. If there are a number of zones in a provisional private district, the Returning Officer must declare the persons elected for each of the zones on the same day.

Notification of election result

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

Disposal of election papers

20. (1) After the declaration of a ballot, the Returning Officer must send all papers connected with the election to the Ministerial Corporation.

1995—No. 516

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

NOTES**TABLE OF PROVISIONS****PART 1—PRELIMINARY**

1. Citation
2. Commencement
3. Definitions
4. Division of provisional private districts into zones
5. Repeal

PART 2—ELECTIONS

6. Appointment of Returning Officer
7. Roll
8. Nomination day
9. Persons entitled to vote
10. Nominations
11. Uncontested elections
12. Contested elections
13. Voting
14. Duplicate ballot-papers
15. Counting of votes
16. Informal votes
17. Declaration of result of ballot
18. Declaration of persons elected where district divided into zones
19. Notification of election result
20. Disposal of election papers

EXPLANATORY NOTE

The object of this Regulation is to remake, without any major changes in substance, the provisions of the Private Irrigation Districts (First Election of Members of Boards of Management) Regulation. The new Regulation deals with the following matters:

- (a) the division of provisional private water supply or irrigation districts into zones for the purposes of the first elections of boards of management (clause 4);
- (b) the conduct of those elections (including the appointment of a returning officer, the keeping of rolls, the nomination of candidates, voting, counting of votes and declaration of results) (Part 2);
- (c) other minor, consequential or ancillary matters (clauses 1–3 and 5).

This Regulation is made under the Private Irrigation Districts Act 1973, including section 20 (conduct of elections) and section 93 (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.
