

1996—No. 96

AGRICULTURAL TENANCIES ACT 1990—REGULATION

(Agricultural Tenancies Regulation 1996)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Agricultural Tenancies Act 1990, has been pleased to make the Regulation set forth hereunder.

R. S. Amery
Minister for Agriculture.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Agricultural Regulation 1996.

Commencement

2. This Regulation commences on 1 June 1996.

Definitions

3. In this Regulation:

“**Chairperson**” means the presiding member of a committee;

“**committee**” means an arbitration committee appointed under Division 2 of Part 2;

“**Director-General**” means the Director-General of the Department of Agriculture;

“**panel**” means a list referred to in clause 6;

“**the Act**” means the Agricultural Tenancies Act 1990.

PART 2—ARBITRATION**Division 1—General procedure****Application for arbitration**

4 (1) An application for arbitration is to be addressed to the Director-General and lodged at (or sent by post to) the head office of the Department of Agriculture.

(2) The application must be made in a form approved by the Director-General.

(3) The form must provide for the applicant to indicate whether he or she desires the application to be treated as an urgent application for the purposes of section 21 (3) of the Act.

Service of application for arbitration

5. As soon as practicable after receiving an application for arbitration, the Director-General must cause a copy of the application to be served on the other party (or each other party) to the dispute.

Panels of Chairpersons, owners and tenants

6. (1) The Director-General must cause to be drawn up:

- (a) a list of legal practitioners who may be appointed as Chairpersons of a committee; and
- (b) a list of owners who may be appointed as members of a committee; and
- (c) a list of tenants who may be appointed as members of a committee.

(2) Each list (referred to in this Regulation as a “panel”) is to be kept up to date.

Division 2—Arbitration by committee**Membership of committee**

7. A committee is to consist of the following members:

- (a) a Chairperson appointed by the Director-General from the panel of Chairpersons;

- (b) an owner member appointed by the Director-General on the nomination of the owner concerned from an available members list (being a list containing at least 3 names selected by the Director-General from the panel of owners and given to the owner concerned);
- (c) a tenant member appointed by the Director-General on the nomination of the tenant concerned from an available members list (being a list containing at least 3 names selected by the Director-General from the panel of tenants and given to the tenant concerned).

Nomination of committee members

8. (1) The applicant for arbitration and the respondent must each nominate a member of the arbitration committee within 21 days after receiving the relevant list referred to in clause 7 (b) or (c).

(2) If the person nominated by either party is for any reason not available to be a member of the committee, the Director-General must notify the party to that effect. In that event, the party concerned has a further 21 days to make another nomination.

(3) The process indicated in subclause (2) may be repeated as often as is necessary, unless the Director-General is satisfied that the party concerned is abusing the process. In that event, the Director-General may treat the party as having failed to make a nomination in due time.

Default nominations

9. (1) If either or both of the parties fail to make a nomination in due time, the Director-General is to make a nomination or nominations from the appropriate panel or panels.

(2) A nomination made by the Director-General on the default of a party is taken, for the purposes of this Regulation, to have been made by the defaulting party.

Appointment of committee

10. (1) As soon as practicable after nominations for a committee have been made, the Director-General must appoint the committee and ascertain when its members will be available to conduct the arbitration.

(2) Having regard to the availability of the members of the Committee, the Director-General:

- (a) must fix a date for the hearing of the arbitration; and
- (b) must notify the parties and the members of the committee of the date so fixed.

Division 3—Arbitration by single arbitrator**Single arbitrator**

11. (1) If the Director-General decides to treat a dispute concerned as a dispute to which section 21 (3) of the Act applies, the Director-General must appoint a single arbitrator to conduct the arbitration and ascertain when the arbitrator will be available to conduct the arbitration.

(2) Having regard to the availability of the arbitrator, the Director-General:

- (a) must fix a date for the hearing of the arbitration; and
- (b) must notify the parties and the arbitrator of the date so fixed.

PART 3—MISCELLANEOUS**Disputes that cannot be referred to arbitration**

12. For the purposes of section 20 (2) (b) of the Act, any dispute involving a claim for an amount of money that exceeds the maximum amount that can be claimed in an action that a Local Court sitting in its General Division would have jurisdiction to hear and determine is a prescribed dispute to which section 20 (1) of the Act does not apply.

Awards

13. (1) As soon as practicable after an award has been made, a copy of the award must be served on:

- (a) each of the parties to the arbitration; and
- (b) in the case of an arbitration conducted by a committee, each of the members of the committee.

(2) Each copy of the award must be signed by the Chairperson of the committee, or by the single arbitrator, as the case requires.

(3) An award need not include a statement of the reasons for making the award.

Remuneration

14. (1) The rate of remuneration of a member of a committee, including the Chairperson, is the rate for the time being fixed by the Minister.

(2) The remuneration of a member of a committee, other than the Chairperson, is to be paid by the party by whom the member was nominated.

Recovery of remuneration

15. (1) Any remuneration payable to a member of a committee by a party to an arbitration may be recovered from the party by the member as a debt in a court of competent jurisdiction.

(2) Alternatively, the Director-General:

- (a) may pay the remuneration to the member on behalf of the party concerned; and
- (b) may recover from that party, as a debt in a court of competent jurisdiction, the amount of remuneration so paid.

Repeal

16. (1) The Agricultural Tenancies Regulation 1991 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Agricultural Tenancies Regulation 1991, had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the Agricultural Tenancies Regulation 1991 under the Agricultural Tenancies Act 1990. The new Regulation deals with the following matters:

- (a) the procedures for applying for arbitration of a dispute arising under the Act (Division 1 of Part 2);
- (b) arbitration by a committee (Division 2 of Part 2);
- (c) arbitration by a single arbitrator (Division 3 of Part 2);
- (d) other matters of a minor, consequential or ancillary nature (parts 1 and 3).

This Regulation relates to matters of a machinery nature.

This Regulation is made under the Agricultural Tenancies Act 1990, including section 29 (the general regulation making power) and sections 20 and 21.

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