



New South Wales

Aboriginal Land Rights Regulation 2002

under the

Aboriginal Land Rights Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Aboriginal Land Rights Act 1983*.

ANDREW REFSHAUGE, M.P.,
Minister for Aboriginal Affairs

Explanatory note

The object of this Regulation is to repeal and remake the *Aboriginal Land Rights Regulation 1996*.

This Regulation deals principally with the following matters:

- (a) the exemption of certain land vested in Aboriginal Land Councils from the payment of specified rates and charges,
- (b) the investment and disbursement of money in the Mining Royalties Account established under that Act,
- (c) the form of application for access permits to land under the *Aboriginal Land Rights Act 1983* for the purposes of hunting, fishing or gathering,
- (d) the constitution of Local and Regional Aboriginal Land Councils,
- (e) the alteration of the boundaries or names of Local or Regional Aboriginal Land Council areas and the amalgamation of such areas,
- (f) elections to be held for the purposes of that Act,
- (g) the filling of casual vacancies for various positions relating to Aboriginal Land Councils,
- (h) procedures relating to the calling of meetings of Aboriginal Land Councils,

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Explanatory note

- (i) prescribing model rules and codes of conduct for Aboriginal Land Councils,
- (j) finance matters relating to Aboriginal Land Councils, including the investment of money by those Councils and the auditing of the financial statements of Local and Regional Aboriginal Land Councils,
- (k) arbitrations undertaken under that Act,
- (l) matters relating to the keeping of registers under that Act and access to registers and other information relating to Aboriginal Land Councils.

This Regulation is made under the *Aboriginal Land Rights Act 1983*, including section 252 (the general regulation-making power) and various other sections of that Act specified in the Regulation.

This Regulation is made in connection with the enactment of the *Aboriginal Land Rights Amendment Act 2001*.

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Aboriginal Land Rights Regulation 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Aboriginal Land Rights Regulation 2002*.

2 Commencement

This Regulation commences on 25 October 2002.

3 Definitions

(1) In this Regulation:

rules, in relation to an Aboriginal Land Council, means rules for the time being in force under the Act and applying to that Council.

the Act means the *Aboriginal Land Rights Act 1983*.

the rules of the Court means rules made under the *Land and Environment Court Act 1979* in relation to proceedings brought before the Court under the Act or this Regulation.

(2) Expressions used in this Regulation that are defined in the Act have the meanings set out in the Act.

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

5 Repeal

(1) The *Aboriginal Land Rights Regulation 1996* is repealed.

(2) Any act, matter or thing that, immediately before that repeal, had effect under the *Aboriginal Land Rights Regulation 1996* continues to have effect under this Regulation.

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Clause 6 Aboriginal Land Rights Regulation 2002

Part 2 Provisions relating to land

Part 2 Provisions relating to land

6 Certificate relating to disposal of land

For the purposes of section 40D (2) of the Act, a certificate referred to in that subsection is to be in a form that:

- (a) specifies the land that is to be disposed of, and
- (b) is signed by the Secretary of the Local Aboriginal Land Council in which the land is vested, and
- (c) is signed and sealed by the New South Wales Aboriginal Land Council, and
- (d) includes a copy of the resolution of the New South Wales Aboriginal Land Council that was passed approving the disposal of the land.

7 Exemption of Aboriginal lands from the payment of rates

- (1) For the purposes of section 43 of the Act, the land specified in subclause (2) is declared to be exempt from:
 - (a) the payment of rates and charges under the *Local Government Act 1993*, and
 - (b) the payment of rates, levies and charges under the *Hunter Water Act 1991*, and
 - (c) the payment of service charges under the following Acts:
 - (i) the *Sydney Water Act 1994*,
 - (ii) the *Water Management Act 2000*.
- (2) Subclause (1) applies to the following land if it is vested in an Aboriginal Land Council:
 - (a) land specified in Schedule 1,
 - (b) land that is not being used for a commercial or residential purpose,
 - (c) land in respect of which a resolution has been passed in accordance with subclauses (3) and (4) declaring it to be land of spiritual or cultural significance to Aboriginal people.
- (3) An Aboriginal Land Council may pass a resolution for the purposes of subclause (2) (c) declaring that specified land vested in it is land of spiritual or cultural significance to Aboriginal people.

- (4) A resolution under subclause (3) has no effect unless:
- (a) it is passed at a meeting of the Aboriginal Land Council, being a meeting at which a quorum is present and which has been specifically called for the purpose in accordance with this Regulation, and
 - (b) it is passed by not less than 80 per cent of the members present and voting at the meeting, and
 - (c) the Secretary of the Council has advised the Minister in writing that a resolution has been passed in accordance with this clause in relation to the land concerned.

8 Disposition of mining royalties (section 46)

- (1) Money to the credit of the Mining Royalties Account established under section 46 of the Act may be invested, pending its disbursement, in any manner for the time being authorised by law for the investment of trust funds.
- (2) Money so credited must, unless the New South Wales Aboriginal Land Council by resolution otherwise determines in respect of any particular royalty in any year, be disbursed as soon as practicable after the end of each financial year of that Council.

9 Form of application for access permit (hunting, fishing or gathering)

An application under section 48 (1) of the Act must:

- (a) specify the land in respect of which the permit is sought and the purpose for which access to the land is desired, and
- (b) be in a form approved by the Registrar.

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Clause 10 Aboriginal Land Rights Regulation 2002

Part 3 Local Aboriginal Land Councils

Division 1 Manner of constitution

Part 3 Local Aboriginal Land Councils

Division 1 Manner of constitution

10 Application for constitution of an area as a Local Aboriginal Land Council area

- (1) An application for the constitution of an area as a Local Aboriginal Land Council area may be made by any 10 or more adult Aboriginal persons each of whom resides within the area or has an association with the area.
- (2) An application must:
 - (a) be made in writing, and
 - (b) be lodged with the Registrar, and
 - (c) be supported by a map showing, or a description specifying, to the satisfaction of the Registrar, the boundaries of the area proposed to be constituted in the application, and
 - (d) include a proposed name for the area, and
 - (e) specify an address for service of notices on the applicants.
- (3) An application may be withdrawn at any time by notice to the Registrar or, if the application has been referred to the Court, in accordance with the rules of the Court.

11 Notification of application for constitution of an area as a Local Aboriginal Land Council area

- (1) On receipt of an application under this Division, the Registrar must cause notice of it to be:
 - (a) published in the Gazette, and
 - (b) sent to:
 - (i) the Regional Aboriginal Land Council for the area in which the Local Aboriginal Land Council area would be situated if the application were granted, and
 - (ii) the New South Wales Aboriginal Land Council.
- (2) A notice must give particulars of the proposal contained in the application.

- (3) A notice published in the Gazette must specify the requirements for making objections to the application.

12 Objections to proposal to constitute an area as a Local Aboriginal Land Council area

- (1) Ten or more adult Aboriginal persons, each of whom resides in or has an association with the area in respect of which an application under this Division is made, may object to the proposal or any part of the proposal contained in the application.
- (2) An objection must:
 - (a) be made in writing, and
 - (b) be lodged with the Registrar not later than 30 clear days after publication of notice of the application in the Gazette, and
 - (c) set out the grounds of the objection, and
 - (d) specify an address for service of notices on the objectors.
- (3) An objection may be withdrawn at any time by notice to the Registrar or, if the objection has been referred to the Court, in accordance with the rules of the Court.

13 Consideration of objections by Regional Aboriginal Land Council

- (1) The Registrar must, immediately on the lodgment of an objection to an application under this Division, refer the objection to the Regional Aboriginal Land Council for the area in which the Local Aboriginal Land Council area would be situated if the application were granted.
- (2) If, after such inquiry as it thinks fit, a Regional Aboriginal Land Council is of the opinion that a dispute between parties to an application and parties who have lodged objections to the application may be resolved by conciliation, it is the function of the Council to endeavour to resolve the dispute.
- (3) A Regional Aboriginal Land Council must report to the Registrar in respect of an objection not later than 60 clear days after the objection has been referred to it.

14 Registrar's recommendation

- (1) This clause applies if:
 - (a) 30 clear days after publication of notice of an application under this Division in the Gazette, no objection has been lodged, or

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Part 3 Local Aboriginal Land Councils

Division 1 Manner of constitution

- (b) at any time later than 30 clear days after that publication, all objections lodged have been withdrawn.
- (2) The Registrar must send a recommendation concerning an application to the Minister after:
 - (a) allowing such period as seems to the Registrar to be reasonable for submissions to be made by a Regional Aboriginal Land Council and the New South Wales Aboriginal Land Council in relation to the application, and
 - (b) considering any such submissions.
- (3) The Registrar may recommend:
 - (a) that an area be constituted as a Local Aboriginal Land Council area in accordance with the application, or
 - (b) with the consent of the applicants:
 - (i) that part only of the area proposed in the application be so constituted, or
 - (ii) that the whole or part of the area so proposed be so constituted under a name other than the name proposed in the application, or
 - (c) that the application not be granted.
- (4) A recommendation under subclause (3) (b) must specify the area or the name to which the applicants have consented.
- (5) The Registrar must serve notice on the applicants of particulars of a recommendation.

15 Court's recommendation

- (1) If an objection to an application under this Division has not been withdrawn within 90 clear days after the lodging of the application, the Registrar must refer the application and the objection to the Court.
- (2) The following have the right to be heard on the hearing by the Court of an application and objection:
 - (a) the applicants,
 - (b) the objectors,
 - (c) by its representative, the Regional Aboriginal Land Council for the area in which the Local Aboriginal Land Council area would be situated if the application were granted,

- (d) by its representative, the New South Wales Aboriginal Land Council.
- (3) The Court must determine the application and notify the Minister of the determination.
- (4) The Court may make any determination which the Registrar might have recommended in respect of the application (but need not get the consent of the applicants when making a recommendation referred to in clause 14 (3) (b)).

16 Court may review recommendation of the Registrar

- (1) Applicants may appeal to the Court within 14 clear days after notice of a recommendation in respect of the application has been given under clause 14 (5).
- (2) The applicants and the Registrar have a right to be heard on the appeal.
- (3) The Court must determine the application and notify the Minister of its determination.
- (4) The Court may make any determination that the Registrar might have recommended in respect of the application.

17 Limitations on areas that may be constituted as Local Aboriginal Land Council areas

- (1) An area must not be constituted as a Local Aboriginal Land Council area:
 - (a) if it is wholly or partly within another area already so constituted, or
 - (b) if it is partly within one area constituted as a Regional Aboriginal Land Council area and partly within another area so constituted.
- (2) Subclause (1) (a) does not apply to an amalgamation of areas.

18 Determination of applications for constitution of an area as a Local Aboriginal Land Council area

- (1) The Minister:
 - (a) may, on the recommendation of the Registrar, or

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Division 1 Manner of constitution

- (b) must, in accordance with a determination of the Court, by order published in the Gazette, constitute an area as a Local Aboriginal Land Council area having such boundaries, and to be known by such name, as is specified in the order.
- (2) The boundaries of an area may be specified by reference to a map deposited in the office of the Registrar.
- (3) The Registrar must serve notice of the constitution of the area on the applicants.

Division 2 Alterations of boundaries or names and amalgamations

19 Alteration of boundaries of Local Aboriginal Land Council area

- (1) A Local Aboriginal Land Council may apply to the Registrar for the alteration of the boundaries of its area.
- (2) An application must:
 - (a) be made in writing, and
 - (b) specify, to the satisfaction of the Registrar, the boundaries of the area as proposed to be altered.
- (3) An application may be withdrawn at any time by notice to the Registrar or, if the application has been referred to the Court, in accordance with the rules of the Court.
- (4) The provisions of Division 1 apply to and in respect of an application under this clause in the same way as they apply to and in respect of an application under Division 1.
- (5) In the application of those provisions:
 - (a) a reference to an area proposed in an application under Division 1 is taken to be a reference to an area as proposed to be altered in accordance with an application under this clause, and
 - (b) a reference to the constitution of an area as a Local Aboriginal Land Council area is taken to be a reference to the alteration of the boundaries of a Local Aboriginal Land Council area.

20 Change of name of Local Aboriginal Land Council area

- (1) A Local Aboriginal Land Council may apply to the Registrar for the change of its name.
- (2) An application must be made in writing and specify the proposed new name.
- (3) On receipt of an application, the Registrar must cause a notice containing particulars of the proposal to be sent to:
 - (a) the Regional Aboriginal Land Council for the area in which the Local Aboriginal Land Council area is situated, and
 - (b) the New South Wales Aboriginal Land Council.
- (4) The Registrar must make a recommendation to the Minister concerning an application after:
 - (a) allowing such period as seems to the Registrar to be reasonable for submissions to be made in relation to the matter by the Regional Aboriginal Land Council and the New South Wales Aboriginal Land Council, and
 - (b) considering any such submissions and any other matter the Registrar thinks fit.
- (5) The Minister may:
 - (a) on the recommendation of the Registrar, and by order published in the Gazette, alter the name of a Local Aboriginal Land Council area in accordance with the application, or
 - (b) for such reasons as may to the Minister appear sufficient, refuse to grant the application.
- (6) The Registrar must serve notice of the Minister's determination on the applicant.

21 Amalgamation of Local Aboriginal Land Council areas

- (1) Two or more Local Aboriginal Land Councils may apply in writing to the Registrar for amalgamation of their areas as one Local Aboriginal Land Council area.
- (2) The decision by each Local Aboriginal Land Council to apply for amalgamation under this clause must:
 - (a) be made at a meeting of the Local Aboriginal Land Council specifically called for the purpose in accordance with this Regulation and the rules, and

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Clause 21 Aboriginal Land Rights Regulation 2002

Part 3 Local Aboriginal Land Councils

Division 2 Alterations of boundaries or names and amalgamations

- (b) recommend a name as the name of the area of the proposed Local Aboriginal Land Council.
- (3) The Registrar is to send the application to the Minister and a copy to the New South Wales Aboriginal Land Council.
- (4) The New South Wales Aboriginal Land Council must make a recommendation to the Minister as to whether or not the Minister should approve:
 - (a) the amalgamation, and
 - (b) the name of the proposed Local Aboriginal Land Council, within 14 clear working days after it receives the copy of the application.
- (5) On receiving the recommendation of the New South Wales Aboriginal Land Council, the Minister may approve the amalgamation of the Local Aboriginal Land Council areas by order published in the Gazette constituting the areas as one Local Aboriginal Land Council area, to be known by the name specified in the order.
- (6) The constitution of the new area is to take effect from a day (later than the day of publication) appointed in the order.

22 Transition to amalgamation

- (1) In this clause:

amalgamation order means an order published in the Gazette amalgamating Local Aboriginal Land Council areas.

appointed day means the day appointed for the constitution of a new Local Aboriginal Land Council area in an amalgamation order.

new Council, in relation to an amalgamation order, means the Local Aboriginal Land Council of the Local Aboriginal Land Council area constituted under that order.

old Councils, in relation to an amalgamation order, means the Local Aboriginal Land Councils of the areas amalgamated under that order.

- (2) On the appointed day, the old Councils cease to exist and the office holders cease to hold office.
- (3) Any property that, immediately before the appointed day, was vested in the old Councils is on and from that day vested in the new Council.

- (4) On and from the appointed day, the assets, liabilities, rights and obligations of the old Councils become the assets, liabilities, rights and obligations of the new Council.
- (5) The members of the old Councils immediately before the appointed day are taken to be members of the new Council and are to be listed on its roll by the Registrar.
- (6) The Registrar is to convene the first meeting of the new Council within 7 clear days of the appointed day at a place nominated by the Registrar.

Division 3 Elections and casual vacancies

23 Election of officers of Local Aboriginal Land Councils

- (1) An election for an officer of the Council must be conducted by a returning officer, being either a member of the Council (not being an intended candidate for election) present at the meeting at which the election is held and appointed by the members present, or a non-member invited and appointed by the meeting.
- (2) The returning officer must not vote in the election.
- (3) A person may be nominated for an elected position:
 - (a) by any member present at the meeting at which the election is held, or
 - (b) by notification made in writing by a member and received by the Chairperson at or before the time when nominations are called for at the meeting.
- (4) For a nomination to be valid, the person nominated must be a voting member of the Council and give his or her consent to the nomination before the election is held and the consent must be recorded in the minutes of the meeting.
- (5) If only one nomination is received for an elected position the nominated candidate must be declared elected. In any other case, a ballot must be held for each elected position.
- (6) A ballot held under this clause must:
 - (a) be a secret ballot, and
 - (b) subject to this clause, be conducted in such a manner as the meeting thinks fit.

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Clause 23 Aboriginal Land Rights Regulation 2002

Part 3 Local Aboriginal Land Councils

Division 3 Elections and casual vacancies

- (7) In a ballot held under this clause:
 - (a) voting is not to be preferential, and
 - (b) the candidate with the highest number of votes must be declared elected.
- (8) If 2 or more candidates each obtain the highest number of votes, a second ballot must be held, in which those candidates are the only contenders.
- (9) If the second ballot is inconclusive, the returning officer may determine the successful candidate by lot or by such other means as the meeting may approve.

24 Election of Regional and Alternate Representatives

- (1) The 2 Regional Representatives and the First and Second Alternate Representatives are to be elected by the members of the Council in the following manner.
- (2) Subject to the provisions of this clause, the elections for Regional Representatives and Alternate Representatives must be conducted according to clause 23.
- (3) If:
 - (a) only 2 nominations are received for the positions of Regional Representative, the nominated candidates must be declared elected, or
 - (b) only 2 nominations are received for the positions of First and Second Alternate Representatives, there must be an election in which the candidate with the highest number of votes is appointed First Alternate Representative, and the other is appointed Second Alternate Representative.
- (4) Subject to subclause (6), in the election of Regional Representatives, the candidates having the highest and second highest numbers of votes must be declared elected as the representatives.
- (5) Subject to subclause (6), at an election of Alternate Representatives, the candidates having the highest and second highest numbers of votes must be declared elected as First Alternate and Second Alternate Representative, respectively.
- (6) If an election is inconclusive due to 2 or more candidates each obtaining the second highest number of votes:

- (a) the candidate having the highest number of votes must be declared elected, and
- (b) a second election must then be held for the remaining position in which the candidates who obtained the second highest number of votes are to be the only contenders.

25 Elections to fill vacancies for officers of Local Aboriginal Land Councils

- (1) For the purposes of section 62 (2) of the Act, an election to fill a vacancy in the office of a Chairperson, Secretary or Treasurer of a Local Aboriginal Land Council must be held in accordance with this clause.
- (2) The election must be conducted by a returning officer, being either a member of the Council (not being an intended candidate for election) present at the meeting at which the election is held and appointed by the members present, or a non-member invited and appointed by the meeting.
- (3) The returning officer must not vote in the election.
- (4) A person may be nominated for an elected position:
 - (a) by any member present at the meeting at which the election is held, or
 - (b) by written notification received by the Chairperson at or before the time when nominations are called for at the meeting.
- (5) For a nomination to be valid, the person nominated must be a member of the Council and give his or her consent to the nomination before the election is held and the consent must be recorded in the minutes of the meeting.
- (6) If only one nomination is received for an elected position the nominated candidate must be declared elected. In any other case, a ballot must be held for each elected position.
- (7) A ballot held under this clause must:
 - (a) be a secret ballot, and
 - (b) subject to this clause, be conducted in such manner as the meeting thinks fit.
- (8) In a ballot held under this clause:
 - (a) voting is not to be preferential, and

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Clause 25 Aboriginal Land Rights Regulation 2002

Part 3 Local Aboriginal Land Councils

Division 3 Elections and casual vacancies

- (b) the candidate with the highest number of votes must be declared elected.
- (9) If 2 or more candidates each obtain the highest number of votes, a second ballot must be held, in which those candidates are the only contenders.
- (10) If the second ballot is inconclusive, the returning officer may determine the successful candidate by lot or by such other means as the meeting may approve.

Division 4 Meetings

26 Meetings of Local Aboriginal Land Councils (section 73)

- (1) A Local Aboriginal Land Council must hold an annual meeting at some time between 1 July and 30 September in each year.
- (2) However, a Local Aboriginal Land Council need not hold an annual meeting within 6 months of its first meeting.
- (3) The procedure for the calling of meetings of a Local Aboriginal Land Council is to be as set out in the rules.

27 Notice of meetings

- (1) Notice of a meeting of a Local Aboriginal Land Council must:
 - (a) be published in a newspaper, magazine or periodical circulating in the Council's area, or
 - (b) be given to all the members of the Council by such other means as may appear to the Council to be efficient and practicable and are approved by the Council.
- (2) Notice under subclause (1) must specify a time and place for the meeting and the date on which it is to be held, not being a date earlier than 7 clear days after the notice is given.

Division 5 Miscellaneous

28 Local Aboriginal Land Council membership rolls (section 60)

The following particulars are to be recorded on each Local Aboriginal Land Council membership roll:

- (a) the name, residential address and date of birth of each person who is a member of the Council,
- (b) the date of entry of the person's name on the membership roll,
- (c) whether the person is a voting or non-voting member of the Council,
- (d) whether the person's membership is based on residence in the Council's area or association with that area,
- (e) whether the person is suspended from the Council,
- (f) whether the person is a member of any other Local Aboriginal Land Council and, if so, the names of those other Councils.

29 Model rules

The rules set out in Schedule 2 are prescribed, for the purposes of section 84 (2) of the Act, as model rules for each Local Aboriginal Land Council.

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Clause 30 Aboriginal Land Rights Regulation 2002

Part 4 Regional Aboriginal Land Councils

Division 1 Alterations of boundaries or names and amalgamations

Part 4 Regional Aboriginal Land Councils

Division 1 Alterations of boundaries or names and amalgamations

30 Alteration of boundaries of Regional Aboriginal Land Council area

- (1) A Regional Aboriginal Land Council may apply to the Registrar for the alteration of the boundaries of its area.
- (2) An application must:
 - (a) be made in writing, and
 - (b) specify, to the satisfaction of the Registrar, the boundaries of the area as proposed to be altered.
- (3) An application may be withdrawn at any time.

31 Notification of application for alteration of boundaries of Regional Aboriginal Land Council area

- (1) On receipt of an application for the alteration of the boundaries of a Regional Aboriginal Land Council area, the Registrar must cause notice of the application to be:
 - (a) published in the Gazette, and
 - (b) sent to the New South Wales Aboriginal Land Council and any affected Regional Aboriginal Land Council.
- (2) A notice must give particulars of the proposal contained in the application.
- (3) A notice published in the Gazette must specify the requirements for making objections to the application.

32 Objections to proposal to alter boundaries of Regional Aboriginal Land Council area

- (1) Ten or more adult Aboriginal persons each of whom resides in or has an association with a Local Aboriginal Land Council area:
 - (a) situated in the Regional Aboriginal Land Council area the subject of an application for the alteration of its boundaries, or

(b) that would be so situated if such an application were granted, may object to the proposal or any part of the proposal contained in the application.

(2) An objection must:

- (a) be made in writing, and
- (b) be lodged with the Registrar not later than 30 clear days after publication of notice of the application in the Gazette, and
- (c) set out the grounds of the objection, and
- (d) specify an address for service of notices on the objectors.

(3) An objection may be withdrawn at any time.

33 Registrar's recommendation

(1) The Registrar must make a recommendation to the Minister concerning an application for alteration of the boundaries of a Regional Aboriginal Land Council area after:

- (a) allowing such period as seems to the Registrar to be reasonable for submissions to be made by the New South Wales Aboriginal Land Council and any affected Regional Aboriginal Land Council in relation to the matter, and
- (b) considering the application, any objections, any such submissions and any other matter the Registrar thinks fit.

(2) The Registrar may recommend:

- (a) that the boundaries of a Regional Aboriginal Land Council area be altered in accordance with the application, or
- (b) with the consent of the applicant, that part only of the alteration proposed in the application be so made, or
- (c) that the application not be granted.

(3) A recommendation under subclause (2) (b) must specify the area to which the applicant has consented.

(4) The Registrar must serve notice on the applicant of particulars of a recommendation.

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Part 4 Regional Aboriginal Land Councils

Division 1 Alterations of boundaries or names and amalgamations

34 Determination of application for alteration of boundaries of Regional Aboriginal Land Council area

- (1) The Minister, after considering any recommendation made by the Registrar, may, by notice published in the Gazette, make such alteration to the boundaries of a Regional Aboriginal Land Council area as is specified in the notice.
- (2) The boundaries of an area may be specified by reference to a map deposited in the office of the Registrar.
- (3) The Registrar must serve notice of the determination of an application for alteration of boundaries on the applicant.

35 Change of name of Regional Aboriginal Land Council area

- (1) A Regional Aboriginal Land Council may apply to the Registrar for the change of its name.
- (2) An application must be made in writing and specify the proposed new name.
- (3) On receipt of an application, the Registrar must cause a notice containing particulars of the proposal to be sent to the New South Wales Aboriginal Land Council.
- (4) The Registrar must make a recommendation to the Minister concerning an application after:
 - (a) allowing such period as seems to the Registrar to be reasonable for a submission to be made in relation to the matter by the New South Wales Aboriginal Land Council, and
 - (b) considering any such submission and any other matter the Registrar thinks fit.
- (5) The Minister may:
 - (a) on the recommendation of the Registrar, and by order published in the Gazette, alter the name of a Regional Aboriginal Land Council area in accordance with its application, or
 - (b) for such reasons as may to the Minister appear sufficient, refuse to grant the application.
- (6) The Registrar must serve notice of the Minister's determination on the applicant.

Division 2 Elections and casual vacancies of Regional Aboriginal Land Councils

36 Election of officers of Regional Aboriginal Land Councils

- (1) An election for an officer of a Regional Aboriginal Land Council must be conducted by a returning officer, being either a member of the Council (not being an intended candidate for election) present at the meeting at which the election is held and appointed by the members present, or by a non-member invited and appointed by the meeting.
- (2) The returning officer must not vote in the election.
- (3) A person may be nominated for an elected position:
 - (a) by any member present at the meeting at which the election is held, or
 - (b) by written notification received by the Chairperson at or before the time when nominations are called for at the meeting.
- (4) For a nomination to be valid, the person nominated:
 - (a) must be a voting member of a Local Aboriginal Land Council within the region of the Regional Aboriginal Land Council, and
 - (b) must give his or her consent to the nomination before the election is held and the consent must be recorded in the minutes of the meeting.
- (5) If only one nomination is received for an elected position, the nominated candidate must be declared elected. In any other case, a ballot must be held for each elected position.
- (6) A ballot held under this clause must:
 - (a) be a secret ballot, and
 - (b) subject to this clause, be conducted in such manner as the meeting thinks fit.
- (7) In a ballot held under this clause:
 - (a) voting is not to be preferential, and
 - (b) the candidate with the highest number of votes must be declared elected.

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Part 4 Regional Aboriginal Land Councils

Division 2 Elections and casual vacancies of Regional Aboriginal Land Councils

- (8) If 2 or more candidates each obtain the highest number of votes, a second ballot must be held, in which those candidates are the only contenders.
- (9) If the second ballot is inconclusive, the returning officer may determine the successful candidate by lot or by such other means as the meeting may approve.

37 Elections to fill vacancies for officers of Regional Aboriginal Land Councils

- (1) For the purposes of section 91 (2) of the Act, an election to fill a vacancy in the office of a Chairperson, Secretary or Treasurer of a Regional Aboriginal Land Council must be held in accordance with this clause.

Note. A person who is elected to fill a casual vacancy is appointed as the Chairperson, Secretary or Treasurer (as the case may be) for the remainder of the term of office and has, therefore, all the functions of the Chairperson, Secretary or Treasurer.

- (2) The election must be conducted by a returning officer, being either a member of the Regional Aboriginal Land Council (not being an intended candidate for election) present at the meeting at which the election is held and appointed by the members present, or by a non-member invited and appointed by the meeting.
- (3) The returning officer must not vote in the election.
- (4) A person may be nominated for an elected position:
 - (a) by any member present at the meeting at which the election is held, or
 - (b) by written notification received by the Chairperson at or before the time when nominations are called for at the meeting.
- (5) For a nomination to be valid, the person nominated must be a member of the Regional Aboriginal Land Council and give his or her consent to the nomination before the election is held and the consent must be recorded in the minutes of the meeting.
- (6) If only one nomination is received for an elected position, the nominated candidate must be declared elected.
- (7) Except as provided by subclause (6), a ballot must be held for each elected position.

- (8) A ballot held under this clause must:
 - (a) be a secret ballot, and
 - (b) subject to this clause, be conducted in such manner as the meeting thinks fit.
- (9) In a ballot held under this clause:
 - (a) voting is not to be preferential, and
 - (b) the candidate with the highest number of votes must be declared elected.
- (10) If 2 or more candidates each obtain the highest number of votes, a second ballot must be held, in which those candidates are the only contenders.
- (11) If the second ballot is inconclusive, the returning officer may determine the successful candidate by lot or by such other means as the meeting may approve.

Division 3 Meetings

38 Meetings of Regional Aboriginal Land Councils (section 98)

- (1) A Regional Aboriginal Land Council must hold an annual meeting at some time between 1 July and 30 September in each year.
- (2) However, a Regional Aboriginal Land Council need not hold an annual meeting within 6 months of its first meeting.
- (3) The procedure for the calling of meetings of a Regional Aboriginal Land Council is to be as set out in the rules.

39 Notice of meetings

- (1) Notice of a meeting of a Regional Aboriginal Land Council must:
 - (a) be published in a newspaper, magazine or periodical circulating in the Council's area, or
 - (b) be given to all the members of the Council by such other means as may appear to the Council to be efficient and practicable and are approved by the Council.
- (2) Notice under subclause (1) must specify a time and place for the meeting and the date on which it is to be held, not being a date earlier than 7 clear days after the notice is given.

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Part 4 Regional Aboriginal Land Councils

Division 4 Miscellaneous

Division 4 Miscellaneous

40 Fees, allowances and expenses payable to members

Any fees, allowances and expenses determined by the Council to be payable to a member of a Regional Aboriginal Land Council under section 89 (3) of the Act must not exceed the amount of the fees, allowances or expenses for the time being determined by the Minister to be payable to persons in respect of attendance at meetings of bodies of a class or description that includes Regional Aboriginal Land Councils.

41 Model rules

The rules set out in Schedule 3 are prescribed, for the purposes of section 103 (2) of the Act, as model rules for Regional Aboriginal Land Councils.

Part 5 New South Wales Aboriginal Land Council

Division 1 Calling of election of councillors of New South Wales Aboriginal Land Council

42 Notice of election of New South Wales Aboriginal Land Council

- (1) The returning officer is to give notice of an election of all councillors as soon as practicable after being notified of the date of the election by or on behalf of the Minister under section 121 (2).
- (2) The returning officer is to give notice of the election in each Regional Aboriginal Land Council area. The notice is to be published in at least one newspaper circulating in the area and in such other manner as may be determined by the returning officer.
- (3) The notice must state the following:
 - (a) that an election is to be held for a councillor to represent the area,
 - (b) that a person is entitled to vote at the election if the person is a voting member of a Local Aboriginal Land Council within the area,
 - (c) that a person is, however, only entitled to cast his or her vote in respect of the Local Aboriginal Land Council area for which the person is a voting member,
 - (d) the places at which information is available concerning the procedure for being listed on such a roll,
 - (e) that the roll of a Local Aboriginal Land Council may be inspected at the office of the Council during normal office hours.
- (4) The date fixed for the closing date of the roll must be not earlier than 14 clear days and not later than 21 clear days after the date of giving notice of the election.

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Part 5 New South Wales Aboriginal Land Council

Division 1 Calling of election of councillors of New South Wales Aboriginal Land

43 Certification of roll

- (1) The Secretary of each Local Aboriginal Land Council must, not later than 7 clear days after the closing date specified in the relevant notice of election, send a current copy of the Council’s membership roll to the New South Wales Aboriginal Land Council that is certified in a manner approved by the New South Wales Aboriginal Land Council.
- (2) Within 7 clear days after the certified copies of the membership rolls for Local Aboriginal Land Councils have been sent to the New South Wales Aboriginal Land Council:
 - (a) the Secretary of the New South Wales Aboriginal Land Council must:
 - (i) ensure that the consolidated membership roll kept by the New South Wales Aboriginal Land Council is current, and
 - (ii) prepare an electoral roll for each Regional Aboriginal Council area that contains the names of each voting member of a Local Aboriginal Land Council in that area, and
 - (b) the Chairperson of the New South Wales Aboriginal Land Council must certify each such electoral roll in the manner specified in subclause (3) and send those rolls to the returning officer.
- (3) The certification of an electoral roll for a Regional Aboriginal Land Council area by the Chairperson of the New South Wales Aboriginal Land Council must be in the following form:

Certification of Regional Aboriginal Land Council Roll

I,....., Chairperson of the New South Wales Aboriginal Land Council, certify that the attached roll containing..... pages commencing with the name..... number..... and ending with the name..... number..... is a true and accurate record of all of the voting members of the Local Aboriginal Land Councils within the..... Regional Aboriginal Land Council area as at.....

Date:..... Signed:.....

- (4) If the Secretary of a Local Aboriginal Land Council fails for any reason to provide the New South Wales Aboriginal Land Council with a certified copy of the membership roll of the Local Aboriginal Land Council, the Chairperson or, failing the Chairperson, the Treasurer of the Local Aboriginal Land Council may certify and send to the New South Wales Aboriginal Land Council a copy of the membership roll for the Local Aboriginal Land Council.
- (5) If none of the officers of a Local Aboriginal Land Council provides the New South Wales Aboriginal Land Council with a certified copy of the membership roll of the Local Aboriginal Land Council, the member of the New South Wales Aboriginal Land Council representing the Regional Aboriginal Land Council area in which the Local Aboriginal Land Council is situated may compile a membership roll, certify a copy of the roll and provide the New South Wales Aboriginal Land Council with the certified copy.

44 Calling for nominations

- (1) The returning officer, after receiving the certified rolls for all the Local Aboriginal Land Council areas in a Regional Aboriginal Land Council area, is to give notice:
 - (a) stating that an election of a councillor for that area is to be held, and
 - (b) specifying the address of the office of the returning officer as the address where nominations are to be lodged, and
 - (c) inviting nominations, and
 - (d) fixing the close of nominations, and
 - (e) fixing the day for taking the poll, being a day not more than 28 clear days after the close of nominations.
- (2) The returning officer is to give the notice by causing it to be published in at least one newspaper circulating in the Regional Aboriginal Land Council area and in such other manner as may be determined by the returning officer.
- (3) The date fixed for the close of nominations must be not earlier than 21 clear days and not later than 28 clear days after the date of the notice inviting nominations.

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Part 5 New South Wales Aboriginal Land Council

Division 1 Calling of election of councillors of New South Wales Aboriginal Land

45 Extension of time

- (1) The returning officer may:
 - (a) fix a later day for the close of nominations, or
 - (b) fix a later day for the taking of the poll,than that fixed for an election by a previous notice.
- (2) The returning officer may fix a later day under this clause only if the returning officer is of the opinion that the election would otherwise fail.
- (3) The returning officer must give notice of the later day in the same manner as the previous notice of the election.
- (4) A notice published under this clause must not fix a day for the taking of the poll more than 14 clear days after the day fixed for that purpose by the previous notice.

46 Officers to assist returning officer

- (1) The returning officer may nominate a regional electoral officer for a Regional Aboriginal Land Council area to assist in taking the poll.
- (2) The regional electoral officer may appoint one or more deputy electoral officers and one or more poll clerks to assist in taking the poll.
- (3) The regional electoral officer, deputy electoral officers and poll clerks are to assist the returning officer to exercise such of his or her functions in conducting the poll as are specified by the returning officer.

47 Manner of nominating candidates

- (1) A nomination of a candidate for election as a councillor must:
 - (a) be made by no fewer than 6 persons (other than the candidate), each of whom is entitled to vote in the election, and
 - (b) be in a form approved by the returning officer, and
 - (c) be signed by the candidate stating that he or she consents to the nomination and is qualified to stand for election, and
 - (d) be accompanied by a deposit of \$50 in the form of cash, money order or bank cheque, and
 - (e) be lodged with the returning officer before the close of nominations in the election.

- (2) A person can only nominate one candidate in an election of a councillor for a Regional Aboriginal Land Council area.
- (3) A nomination paper is not open for public inspection.
- (4) A failure to comply with the requirements of subclause (1) in relation to the nomination of a candidate must be rectified by the candidate before the date fixed for the close of nominations.

48 Rejection of nomination

- (1) The returning officer is to reject the nomination of a person as a candidate at an election if:
 - (a) the person is not qualified to stand for election, or
 - (b) the person is not nominated in accordance with clause 47 and any failure to comply with the requirements of clause 47 (1) is not rectified as provided by that clause.
- (2) The deposit accompanying the nomination is to be retained pending the election.

49 Return of deposit

- (1) After the election the deposit accompanying a nomination is to be returned to the candidate (or to a person authorised by the candidate in writing to receive it) if:
 - (a) the nomination of the person as a candidate has been rejected, or
 - (b) the candidate is elected, or
 - (c) the total number of votes polled in the candidate's favour as first preferences is more than 4 per cent of the total number of first preference votes polled in the election.
- (2) In the case of the death of the candidate before the date of the election, the deposit is to be returned to the candidate's legal personal representative.
- (3) The deposit is to be returned to the candidate (or to a person authorised by the candidate in writing to receive it) if the candidate withdraws his or her nomination before the close of nominations.
- (4) Unless otherwise provided by this clause, the deposit is forfeited to the New South Wales Aboriginal Land Council if:
 - (a) the candidate is not elected, and

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Division 1 Calling of election of councillors of New South Wales Aboriginal Land

- (b) the total number of votes polled in the candidate's favour as first preferences is not more than 4 per cent of the total number of first preference votes polled in the election.

50 Withdrawal of nomination

A candidate at an election may withdraw his or her nomination by notice in writing delivered to the returning officer at any time before the close of nominations.

51 Uncontested election

A person duly nominated by the close of nominations is taken to be elected if no other person has been duly nominated by that time.

52 Contested election

- (1) A ballot is to be held if more than one person has been duly nominated by the close of nominations.
- (2) If a ballot is to be held, the returning officer is to publish in at least one newspaper circulating in the Regional Aboriginal Land Council area, and in such other manner as may be determined by the returning officer, a notice stating the following:
 - (a) that a poll will be taken,
 - (b) the names and addresses of the persons duly nominated as candidates,
 - (c) the addresses of the polling places and the day and the hours during that day that the polling places will be open for voting,
 - (d) that postal voting facilities will be available for electors unable to vote at a polling place.

Division 2 Ballot-papers

53 Order of candidates' names on ballot-papers

- (1) If a poll is to be taken in respect of an election, the returning officer must, as soon as practicable after the close of nominations, determine the order in which the candidates' names are to be listed on ballot-papers.

- (2) The order is to be determined by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*.

54 Printing of ballot-papers

The ballot-paper for an election must:

- (a) list the names of the candidates (together with the names of the Local Aboriginal Land Councils of which the respective candidates are members and on the basis of the membership of which the candidates are standing for election) in the order determined in accordance with this Division with a square opposite each name, and
- (b) include the surname of each candidate in more conspicuous type than that used for the given name of the candidate and the name of the relevant Local Aboriginal Land Council of which the candidate is a member, and
- (c) if, in the opinion of the returning officer, the names of 2 or more candidates are so similar as to cause confusion, include such other matter as will, in the opinion of the returning officer, distinguish between those candidates (but must not include the address of any candidate), and
- (d) include such directions as to the manner in which the vote is to be recorded as are referred to in clause 55 and as the returning officer considers appropriate.

55 Directions to electors

The directions to electors must include a direction that the elector is to record his or her vote on the ballot-paper by placing the number “1” in the square opposite the name of the candidate for whom he or she desires to give his or her first preference vote and placing consecutive numbers beginning with the number “2” in squares opposite the names of all the remaining candidates in the order of his or her preferences for them.

Division 3 Postal voting

56 Applications to vote by post

- (1) An elector may make an application to vote by post if the elector:

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- (a) will not, throughout the hours of polling on polling day, be within the Regional Aboriginal Land Council area in respect of which the elector is enrolled, or
 - (b) is seriously ill or infirm, and by reason of the illness or infirmity will be precluded from attending at the polling place to vote or, in the case of a woman, will, by approaching maternity, be precluded from attending at the polling place to vote, or
 - (c) is, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity or by reason of caring for the person will be precluded from attending at any polling place to vote, or
 - (d) is, by reason of his or her membership of a religious order or his or her religious beliefs:
 - (i) precluded from attending at the polling place to vote, or
 - (ii) precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours, or
 - (e) is, by reason of his or her being kept in a correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*), precluded from attending at the polling place to vote, or
 - (f) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling place to vote, or
 - (g) resides more than 8 kilometres from a polling place.
- (2) An application to vote by post under this clause must:
- (a) be in writing, and
 - (b) specify the ground on which it is made, and
 - (c) be signed by the elector, and
 - (d) be made after the publication of the election notice in respect of the election, and
 - (e) be received by the returning officer not later than 7 clear days before polling day.
- (3) The returning officer is to number in consecutive order all applications to vote by post made under this clause.

57 Distribution of postal ballot-papers

- (1) If the returning officer receives an application to vote by post that is made in accordance with clause 56, the returning officer is to deliver or post to the elector who made the application:
 - (a) a ballot-paper:
 - (i) initialled by or on behalf of the returning officer, and
 - (ii) if the particulars of the candidates are not already printed on it—on which the returning officer has entered the names of the candidates in the order determined in accordance with clause 53, and
 - (b) an unsealed envelope addressed to the returning officer and bearing on the back the words “Name and enrolled address of voter” and “Signature of voter”, together with appropriate spaces for the insertion of the name, address and signature.
- (2) The returning officer is to note on a certified copy of the roll the names of the electors to whom he or she has delivered or posted a ballot-paper under this clause.
- (3) An elector to whom a ballot-paper has been delivered or posted under this clause is not entitled to vote at the polling place unless the elector first delivers his or her ballot-paper to the deputy electoral officer for cancellation.

58 Duplicate postal ballot-papers

If any elector to whom a ballot-paper has been delivered or posted satisfies the returning officer that the elector has spoilt his or her ballot-paper by mistake or accident, the elector may, on giving it up, receive a new ballot-paper from the returning officer, who is to cancel and preserve the spoilt ballot-paper.

59 Recording of postal votes

An elector who wishes to vote by post is, on receipt of a ballot-paper, to do the following:

- (a) record his or her vote on the ballot-paper in accordance with the directions shown on it,
- (b) place the completed ballot-paper, folded so that the vote cannot be seen, in the envelope addressed to the returning officer and delivered or posted with the ballot-paper,
- (c) seal the envelope,

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- (d) complete on the back of the envelope his or her full name and address as shown on the roll and inscribe his or her signature,
- (e) post or deliver the envelope to the returning officer so as to be received by the returning officer not later than 6 pm on polling day.

60 Preliminary scrutiny of postal ballot-papers and transmission to regional electoral officer

On receipt of all envelopes purporting to contain postal ballot-papers, the returning officer must:

- (a) compare the signature of the elector on each such envelope with the signature of the same elector on the application to vote by post and allow any scrutineer present to inspect both signatures, and
- (b) if the returning officer is satisfied that the signature on the envelope is that of the elector who signed the application to vote by post—accept the ballot-paper for further scrutiny, but if not so satisfied, disallow the ballot-paper without opening the envelope, and
- (c) transmit to the regional electoral officer, in time to reach that officer before the close of the poll, all envelopes which have been accepted for further scrutiny, and
- (d) at the close of the poll, open all envelopes which have been accepted for further scrutiny and which have not been transmitted to the regional electoral officer, and:
 - (i) count the first preference votes which are recorded for each candidate on the ballot-papers within the envelopes and inform the regional electoral officer of the result of that count, and
 - (ii) if necessary, inform the regional electoral officer of the additional preference votes which are recorded on the ballot-papers within the envelopes.

Division 4 Voting at polling places

61 Appointment of polling place

The returning officer is to appoint polling places, which may include mobile polling places, within each Local Aboriginal Land Council area for the purposes of taking the poll at an election.

62 Arrangements at polling place

- (1) The returning officer is to make all the necessary arrangements for taking the poll at the polling places.
- (2) Immediately before proceeding to take the poll at each polling place, the deputy electoral officer must exhibit for the inspection of any candidate, scrutineer or other person present, the ballot-box open and empty and must immediately afterwards close and lock it and place it on the table at which the deputy electoral officer is to preside in full view of all persons present at the polling place.
- (3) The ballot-box must be kept unopened in the same place until the close of the poll.

63 Hours of polling

- (1) Each polling place, other than a mobile polling place, is to be open for voting on polling day between the hours of 8 am and 6 pm.
- (2) Each mobile polling place is to be open for voting on polling day during the hours specified by the returning officer.

64 Elector to give name and address

Each person claiming to vote at the polling place must:

- (a) state his or her surname and his or her given name or names, and
- (b) if required to do so by the deputy electoral officer, state any other particulars necessary for the purpose of identifying the name on the roll under which the vote is claimed, and
- (c) be handed a ballot-paper.

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Part 5 New South Wales Aboriginal Land Council
Division 4 Voting at polling places

65 Questions for challenged voters

- (1) The deputy electoral officer may, and at the request of any scrutineer must, put to any person claiming to vote all or any of the following questions:
 - (a) Are you the person whose name appears as [*here state name under which the person claims to vote*] on the roll for this election?
 - (b) Are you of or above the age of 18 years?
 - (c) Have you already voted at this election?
 - (d) Are you disqualified from voting in that you are not a voting member of the [*here state name of relevant Local Aboriginal Land Council*] within the [*here state name of relevant Regional Aboriginal Land Council*] area?
 - (e) Do you ordinarily reside in the [*here state name of relevant Local Aboriginal Land Council*] area?
 - (f) Are you currently suspended as a member of the [*here state name of relevant Local Aboriginal Land Council*] under its rules?
 - (g) Are you aware that such a suspension will disqualify you from voting in this election?
 - (h) Have you voted in any other Local Aboriginal Land Council area in this election?
 - (i) Are you aware that you may only vote once in this election?
- (2) If a person refuses to answer fully any question put to the person by the deputy electoral officer, or by his or her answer shows that he or she is not entitled to vote, the person's claim to vote must be rejected.
- (3) The voter's answers to the questions are to be conclusive, and the matter is not to be further inquired into during the polling.

66 Errors not to forfeit vote

- (1) An omission of any given name or names, or entry of a wrong given name or names or wrong address, or a mistake in the spelling of any surname, does not warrant the rejection at the polling of any claim to vote if the elector is sufficiently identified in the opinion of the deputy electoral officer.

- (2) A female elector is not disqualified from voting under the name appearing on the roll because her surname has been changed as a result of marriage but, in that case, a note of the fact is to be made by the deputy electoral officer.

67 Initialling of ballot-papers and marking of rolls

- (1) Before delivering a ballot-paper to an elector, the deputy electoral officer must initial the ballot-paper on the back.
- (2) The deputy electoral officer must keep an exact account of all initialled ballot-papers.
- (3) The deputy electoral officer must mark off the roll the name of any elector to whom the officer delivers a ballot-paper.

68 Recording of vote

On receipt of a ballot-paper an elector must, without delay:

- (a) retire alone to some unoccupied compartment of a booth at the polling place and there in private record his or her vote on the ballot-paper in accordance with the directions shown on it, and
- (b) fold the ballot-paper so as to conceal the names of the candidates and then immediately deposit it in the ballot-box, and
- (c) leave the polling place.

69 Spoilt ballot-papers

- (1) If an elector satisfies the deputy electoral officer, before his or her ballot-paper is deposited in the ballot-box, that the elector has spoilt the ballot-paper by mistake or accident, the elector may, on giving it up, receive a new ballot-paper from the deputy electoral officer.
- (2) The deputy electoral officer must cancel and preserve the spoilt ballot-paper.

70 Assistance to certain electors

- (1) If an elector satisfies the deputy electoral officer that:
 - (a) his or her sight is so impaired, or
 - (b) he or she is so physically incapacitated, or

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Division 4 Voting at polling places

(c) he or she is so illiterate,

that the elector is unable to vote without assistance, the deputy electoral officer is to permit a person appointed by the elector to enter an unoccupied compartment of a booth at the polling place with the elector and mark the ballot-paper according to the instruction of the elector and fold and deposit the ballot-paper in the ballot-box.

(2) If any such elector fails to appoint a person under subclause (1), the deputy electoral officer must, in the presence of:

(a) such scrutineers as choose to be present, or

(b) if there are no scrutineers present, then in the presence of such person as the elector may appoint,

mark the ballot-paper according to the instruction of the elector and fold and deposit the ballot-paper in the ballot-box.

(3) The instruction of a person under this clause may be given by handing to the person marking the ballot-paper a “how-to-vote” card or a printed or written statement indicating the candidates for whom the elector desires to vote and the order of his or her preferences for them.

71 Voting procedure—disputed votes

(1) A person claiming to vote at a polling place may vote under this clause even though:

(a) a mark on the roll indicates that the person has already voted at the polling place or before polling day if his or her answers to the questions put to the person by the deputy electoral officer show that the person is entitled to vote, or

(b) a mark on the roll indicates that a ballot-paper has been delivered or posted to the person if the person states that he or she has not applied to vote by post and his or her answers to the questions put to the person by the deputy electoral officer show that the person is entitled to vote, or

(c) the person’s name cannot be found on the roll, if the person claims to be entitled to be enrolled as an elector for the election.

(2) A person voting under this clause must, after recording his or her vote on the ballot-paper:

(a) place the completed ballot-paper, folded so that the vote cannot be seen, in an envelope which is addressed to the deputy electoral officer and on which he or she has made a written

- declaration specifying the ground on which the person claims to vote, and
- (b) sign the declaration in his or her own handwriting, and
 - (c) seal the envelope, and
 - (d) hand the envelope to the deputy electoral officer.
- (3) The deputy electoral officer must inform the regional electoral officer of the names of all persons who have voted under this clause and, at the completion of the count of first preference votes following the close of the poll, must transmit all envelopes purporting to contain ballot-papers of those persons to the regional electoral officer.
- (4) The regional electoral officer must examine the declarations on all envelopes purporting to contain ballot-papers of persons voting under this clause and must:
- (a) if, after making such inquiries as the officer considers necessary, the officer is satisfied that the person who signed the declaration on any such envelope is entitled to vote—accept the ballot-paper for further scrutiny but, if the officer is not so satisfied, disallow the ballot-paper without opening the envelope, and
 - (b) withdraw from the envelopes all ballot-papers accepted for further scrutiny and, without inspecting or unfolding the ballot-papers or allowing any other person to do so, place them in a locked ballot-box for further scrutiny under Division 5.
- (5) In order that the regional electoral officer may make inquiries of a kind referred to in subclause (4) (a), the Secretary of each Local Aboriginal Land Council must be available on polling day to advise the regional electoral officer for the Secretary's area on the eligibility of electors who claim a vote but whose names do not appear on the roll.

Division 5 The scrutiny

72 Scrutineers

Each candidate for election is entitled to appoint by notice in writing:

- (a) one scrutineer to act on his or her behalf at the taking of votes at each polling place, and

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Division 5 The scrutiny

- (b) one scrutineer to act on his or her behalf at the place where postal ballot-papers are received, and
- (c) one scrutineer to act on his or her behalf at the scrutiny.

73 Scrutiny of votes at close of poll

At the close of the poll, the deputy electoral officer must, in the presence of his or her assistants and such scrutineers as choose to be present but no others:

- (a) unlock the ballot-boxes containing ballot-papers of electors voting at the polling place, and
- (b) remove those ballot-papers from the ballot-boxes, and
- (c) examine each such ballot-paper and reject those which are informal, and
- (d) proceed to count the votes and ascertain the number of first preference votes recorded for each candidate.

74 Informal ballot-papers

- (1) At the scrutiny, a ballot-paper must be rejected as informal if:
 - (a) it is neither initialled by the deputy electoral officer nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or
 - (b) the elector has failed to record his or her vote in the manner directed on the ballot-paper, or
 - (c) it has on it any mark or writing which, in the opinion of the deputy electoral officer, will enable any person to identify the elector.
- (2) A ballot-paper is not to be rejected as informal merely because of any mark or writing which is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (1) (c)) if, in the opinion of the deputy electoral officer, the elector's intention is clearly indicated on the ballot-paper.
- (3) A ballot-paper on which the elector has recorded votes for all candidates is not to be rejected as informal merely because:
 - (a) the same preference (other than the elector's first preference) has been recorded on the ballot-paper for more than one candidate, but the ballot-paper must be treated as if those

preferences and any subsequent preferences had not been recorded on the ballot-paper, or

- (b) there is a break in the order of his or her preferences recorded on the ballot-paper, but the ballot-paper must be treated as if any subsequent preferences had not been recorded on the ballot-paper.

75 Transmission of ballot-papers by deputy electoral officers to regional electoral officers

Immediately after ascertaining the total number of first preference votes recorded for each candidate, each deputy electoral officer must make up:

- (a) in one parcel, the ballot-papers which have been used in voting at his or her polling place during the election, labelled according to first preferences for each candidate, and
- (b) in a second, separate parcel, the ballot-papers which have remained unused, and
- (c) in a third, separate parcel, the certified copies of rolls supplied to the deputy electoral officer, and all books, rolls and papers kept or used by him or her during the poll,

and must transmit these parcels to the regional electoral officer.

76 Counting of votes

- (1) The regional electoral officer must as soon as practicable after the close of the poll, count the total number of first preference votes given for each candidate and must include in the count all postal votes received from the returning officer.
- (2) The candidate who has received the largest number of first preference votes is, if that number constitutes an absolute majority of votes, elected.
- (3) If no candidate has received an absolute majority of first preference votes, the regional electoral officer must make a second count.
- (4) On the second count, the candidate who has received the fewest first preference votes must be excluded and each ballot-paper counted to him or her must be counted to the candidate next in the order of the elector's preference.

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Division 5 The scrutiny

- (5) If any candidate then has an absolute majority of votes as the result of the second count in accordance with subclause (4), he or she must be declared elected but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his or her ballot-papers to the continuing candidate next in the order of the elector's preference must be repeated until one candidate has received an absolute majority of votes.
- (6) The candidate who has received an absolute majority of votes in accordance with subclause (5) must be declared elected.
- (7) If on any count 2 or more candidates have an equal number of votes and one of them has to be excluded, that candidate among them who had the least number of votes at the last count at which they had not an equal number of votes, must be excluded.
- (8) If 2 or more candidates referred to in subclause (7) had an equal number of votes at all preceding counts, the regional electoral officer must determine between them by lot which of them must be excluded.
- (9) In this clause:

absolute majority of votes means, in relation to any count, a greater number than one-half of the number of ballot-papers counted.

continuing candidate means a candidate not already excluded at the count.

determine by lot means determine in accordance with the following direction:

The names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidate whose name is first drawn must be excluded.

77 Returning officer to be advised of result

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

Division 6 Miscellaneous electoral provisions

78 Signature to electoral paper

- (1) For the purposes of this Part, if a person who is unable to sign his or her name in writing makes his or her mark as his or her signature to an electoral paper, the mark is taken to be the person's personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness.
- (2) In this clause, *electoral paper* means a postal vote application or declaration or a disputed vote declaration but does not include a ballot-paper.

79 Death of candidate

If a candidate dies after the close of nominations and before polling day in respect of an election:

- (a) the election is taken to have failed, and
- (b) the returning officer is to conduct a new election.

80 Decisions of returning officer

Subject to the Act, a decision by the returning officer on any matter relating to the conduct of an election is final if the decision is required or permitted to be made by the returning officer by this Regulation.

81 Notification of result of election

As soon as practicable after a candidate has been elected, the returning officer must:

- (a) notify the Minister in writing of the candidate who has been elected, and
- (b) notify the Chief Executive Officer of the New South Wales Aboriginal Land Council in writing of the candidate who has been elected, and
- (c) cause to be published in the Gazette a notice that the candidate has been elected.

82 Retention of electoral papers

- (1) The regional electoral officer must send all electoral material to the returning officer immediately after the declaration of the poll.

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Division 6 Miscellaneous electoral provisions

- (2) The returning officer must retain all nomination papers, ballot-papers, applications to vote by post, rolls and other papers in connection with the election for a period of not less than 3 months after polling day.

83 Offences

A person must not:

- (a) vote or attempt to vote in an election in which the person is not entitled to vote, or
- (b) vote or attempt to vote more than once in an election, or
- (c) make a false or wilfully misleading statement:
 - (i) to the returning officer, a regional electoral officer or a deputy electoral officer in connection with an election, or
 - (ii) in any document that the person furnishes for the purposes of an election, or
- (d) obstruct the proceedings at a polling place or at the office of the returning officer, a regional electoral officer or a deputy electoral officer, or
- (e) enter any compartment of a booth at a polling place, otherwise than as authorised under this Regulation, while any other person is in the compartment recording his or her vote.

Maximum penalty: 5 penalty units.

Division 7 Casual vacancies

84 Casual vacancy to be filled (section 114)

- (1) A person is to be appointed in accordance with this clause to fill a casual vacancy in the office of a councillor representing a Regional Aboriginal Land Council area.

Note. A person who is appointed to fill a casual vacancy is appointed as a councillor for the remainder of the term of office and has, therefore, all the functions of a councillor.

- (2) The Minister is to appoint the person who was the last person to be excluded from the count of votes at the election for the councillor's position or, if that person is no longer available for appointment, the

last person who was excluded from the count before that person and who is available for appointment.

Note. Candidates are excluded during a counting of votes in the order provided by clause 76.

- (3) If no person is available for appointment in accordance with subclause (2), a person is to be appointed by the relevant Regional Aboriginal Land Council to fill the casual vacancy.
- (4) This clause does not apply to a casual vacancy in the office of a councillor caused by the operation of section 226 (2) of the Act (being a casual vacancy caused by the removal of all councillors from office after the appointment of an administrator to administer all of the functions of the New South Wales Aboriginal Land Council).

85 Casual vacancy

- (1) In the event of a vacancy occurring in the office of the Chairperson, Secretary or Treasurer, the notice given in accordance with this Regulation notifying the next meeting of the Council after the vacancy occurs must notify an election at that meeting to fill the vacancy.

Note. A person who is appointed to fill a casual vacancy is appointed as the Chairperson, Secretary or Treasurer (as the case may be) for the remainder of the term of office and has, therefore, all the functions of the Chairperson, Secretary or Treasurer.

- (2) An election to fill a vacancy referred to in subclause (1) is to be conducted in accordance with this clause.
- (3) An election is to be conducted by a returning officer, being either a councillor (not being an intended candidate for election) present at the meeting at which the election is held and appointed by the councillors present, or by a non-councillor invited and appointed by the meeting.
- (4) The returning officer must not vote in the election.
- (5) A person may be nominated for an elected position:
 - (a) by any councillor present at the meeting at which the election is held, or
 - (b) by notification in writing by a councillor received by the Chairperson at or before the time when nominations are called for at the meeting.
- (6) For a nomination to be valid, the person nominated must be a councillor and give his or her consent to the nomination and the consent must be recorded in the minutes of the meeting.

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Part 5 New South Wales Aboriginal Land Council
Division 7 Casual vacancies

- (7) If only one nomination is received for an elected position, the nominated candidate is to be declared elected.
- (8) A ballot held under this clause must:
 - (a) be a secret ballot, and
 - (b) subject to this clause, be conducted in such manner as the meeting thinks fit.
- (9) In a ballot held under this clause:
 - (a) voting is not to be preferential, and
 - (b) the candidate with the highest number of votes is to be declared elected.
- (10) If 2 or more candidates each obtain the highest number of votes, a second ballot is to be held, in which those candidates are the only contenders.
- (11) If the second ballot is inconclusive, the returning officer may determine the successful candidate by lot or by such other means as the meeting may approve.

Division 8 Meetings

86 Meetings of New South Wales Aboriginal Land Council

- (1) The New South Wales Aboriginal Land Council must hold an annual meeting at some time between 1 July and 30 September in each year.
- (2) The Chairperson of the New South Wales Aboriginal Land Council must convene at least one meeting in every quarter of a year.

87 Calling of ordinary meetings

- (1) Before the end of any meeting of the Council, the Council must set a time and place for the next meeting of the Council.
- (2) The Secretary must call a meeting for that time and place and must cause notice of the meeting to be given in accordance with this Division.

88 Calling of extraordinary meetings on request by councillors

- (1) If the Chairperson receives a written request under section 132 (4) of the Act signed by a majority of councillors for the time being, the Secretary must call an extraordinary meeting to be held as soon as practicable but in any event within 21 clear days after the receipt of the request.
- (2) The Secretary must cause notice of the extraordinary meeting to be given in accordance with this Division.
- (3) An extraordinary meeting of the Council called under this clause is to deal only with those matters contained in the request for the meeting.

89 Calling of extraordinary meetings by Secretary

- (1) The Secretary, with the concurrence of the Chairperson, may call an extraordinary meeting at any time.
- (2) The Secretary must cause notice of the extraordinary meeting to be given in accordance with this Division.

90 Meeting place

- (1) Any meeting of the Council must be held within New South Wales.
- (2) A meeting of the Council must not be held in a residence unless a decision at a previous Council meeting allows for the meeting to be held in a residence.

91 Notice of meetings

- (1) Notice of a meeting of the New South Wales Aboriginal Land Council must:
 - (a) be published in a newspaper, magazine or periodical circulating generally throughout the State, or
 - (b) be given to all the members of the Council by such other means as may appear to the Council to be efficient and practicable and are approved by the Council.
- (2) Notice under subclause (1) must specify a time and place for the meeting and the date on which it is to be held, not being a date earlier than 7 clear days after the notice is given.

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Clause 92 Aboriginal Land Rights Regulation 2002

Part 5 New South Wales Aboriginal Land Council

Division 9 Miscellaneous

Division 9 Miscellaneous**92 Model rules**

The rules set out in Schedule 4 are prescribed, for the purposes of section 137 (2) of the Act, as model rules for the New South Wales Aboriginal Land Council.

Part 6 Finance

93 Investment of money in New South Wales Aboriginal Land Council Account (section 149 (5))

- (1) Money to the credit of the New South Wales Aboriginal Land Council Account may be invested in any manner for the time being authorised by law for the investment of trust funds.
- (2) The whole of the proceeds of any investment (including the interest earned on any investment) made by the New South Wales Aboriginal Land Council, whether the investment was made before or after the commencement of this Regulation, must be invested in accordance with this clause, and must not be disbursed, except as provided by the Act.
- (3) The Minister may direct that any money that is the subject of a specified investment made by the New South Wales Aboriginal Land Council or of a specified class of investments so made, whether any such investment was made before or after the commencement of this clause, be realised immediately and that the proceeds be invested in accordance with this clause, and the Council must comply with the direction.
- (4) Money invested under this clause may be invested only in the name of the New South Wales Aboriginal Land Council, except to the extent that the Minister otherwise directs.
- (5) A direction under this clause may be given unconditionally or subject to such conditions as the Minister determines.
- (6) A reference in this clause to an investment made by the New South Wales Aboriginal Land Council extends to an investment made in trust for or otherwise made on behalf of the Council.
- (7) Any or all of the functions of the Minister under this clause may be exercised on behalf of the Minister by a person or persons:
 - (a) for the time being nominated by the Minister for the purpose, or
 - (b) holding or acting in a position or positions nominated by the Minister for the purpose.

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Clause 94 Aboriginal Land Rights Regulation 2002

Part 6 Finance

94 Investment of money in Regional and Local Aboriginal Land Council accounts (sections 151 and 152)

Money to the credit of an account established by a Regional or Local Aboriginal Land Council under section 151 or 152 of the Act may be invested in:

- (a) any public funds or Government stock or Government securities of the Commonwealth or any State of the Commonwealth, or
- (b) any debentures or securities guaranteed by the Government of New South Wales, or
- (c) any debentures or securities:
 - (i) issued by a public or local authority, or a statutory body representing the Crown, constituted by or under any law of the Commonwealth, of any State of the Commonwealth, of the Northern Territory or of the Australian Capital Territory, and
 - (ii) guaranteed by the Commonwealth, any State of the Commonwealth or the Northern Territory, or
- (d) interest bearing deposits in an authorised deposit-taking institution.

95 Auditors

- (1) For the purposes of section 153 (3) of the Act, the New South Wales Aboriginal Land Council is to appoint auditors in the manner provided by this clause.
- (2) The New South Wales Aboriginal Land Council must, after a process of public tendering, appoint an auditor for each Local and Regional Aboriginal Land Council.
- (3) The New South Wales Aboriginal Land Council must not appoint a person to be an auditor for the purposes of section 153 (3) of the Act unless the person is:
 - (a) a registered company auditor, or
 - (b) a member of the National Institute of Accountants, or
 - (c) a member of CPA Australia, or
 - (d) a member of the Institute of Chartered Accountants in Australia.

96 Documents to be furnished to New South Wales Aboriginal Land Council

For the purposes of section 153 (5), the following documents must be furnished in accordance with that subsection to the New South Wales Aboriginal Land Council by a Local or Regional Aboriginal Land Council:

- (a) copies of all insurance policies taken out by the Local or Regional Aboriginal Land Council,
- (b) any audit management letter given to the Local or Regional Aboriginal Land Council in respect of that Council's financial statements by the auditor who audited those statements.

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Clause 97 Aboriginal Land Rights Regulation 2002

Part 7 Honesty and disclosure of interests

Part 7 Honesty and disclosure of interests

97 Codes of conduct (section 177 (6))

- (1) The code of conduct set out in Schedule 5 is prescribed, for the purposes of section 177 (6), as a code of conduct for all Local Aboriginal Land Councils.
- (2) The code of conduct set out in Schedule 6 is prescribed, for the purposes of section 177 (6), as a code of conduct for all Regional Aboriginal Land Councils.
- (3) The code of conduct set out in Schedule 7 is prescribed, for the purposes of section 177 (6), as a code of conduct for the New South Wales Aboriginal Land Council.

Part 8 Investigation and administration of Aboriginal Land Councils

98 Election of officers of a Local or Regional Aboriginal Land Council following appointment of administrator

- (1) For the purposes of section 226 (1) of the Act, after the appointment of an administrator to administer all of the functions of a Local or Regional Aboriginal Land Council, the Minister must, after consulting with the administrator and the New South Wales Aboriginal Land Council, determine a date for a meeting of the Local or Regional Aboriginal Land Council at which the office holders of that Council are to be elected.
- (2) The date determined under subclause (1) must occur no later than 12 months after the appointment of the administrator.
- (3) The administrator must give notice, in accordance with subclause (4), of the calling of the meeting.
- (4) The administrator must specify in the notice that the meeting is being called for the purpose of the election of the office holders of the Council.
- (5) An election for the purposes of this clause must be conducted in accordance with this clause.
- (6) The election must be conducted by a returning officer, being either a member of the Council (not being an intended candidate for election) present at the meeting at which the election is held and appointed by the members present, or by a non-member invited and appointed by the meeting.
- (7) The returning officer must not vote in the election.
- (8) A person may be nominated for an elected position:
 - (a) by any voting member present at the meeting at which the election is held, or
 - (b) by instrument in writing received by the administrator at or before the time when nominations are called for at the meeting.
- (9) In order that a nomination be valid, the person nominated must be a voting member of the Council and give his or her consent to the nomination and the consent must be recorded in the minutes of the meeting.

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Clause 98 Aboriginal Land Rights Regulation 2002

Part 8 Investigation and administration of Aboriginal Land Councils

- (10) If only one nomination is received for an elected position, the nominated candidate must be declared elected. In any other case, a ballot must be held for each elected position.
- (11) A ballot held under this clause must:
 - (a) be a secret ballot, and
 - (b) subject to this clause, be conducted in such manner as the meeting thinks fit.
- (12) In a ballot held under this clause:
 - (a) voting must not be preferential, and
 - (b) the candidate with the highest number of votes is to be declared elected.
- (13) If 2 or more candidates each obtain the highest number of votes, a second ballot must be held, in which those candidates are the only contenders.
- (14) If the second ballot is inconclusive, the returning officer may determine the successful candidate by lot or by such other means as the meeting may approve.

99 Election of officers of New South Wales Aboriginal Land Council following appointment of administrator

- (1) For the purposes of section 226 (2) of the Act, after the appointment of an administrator to administer all of the functions of the New South Wales Aboriginal Land Council, the Minister must, after consulting with the administrator, determine a date for fresh elections for councillors to be held to fill the vacancies caused by the operation of that section.
- (2) The date determined under subclause (1) must occur no later than 12 months after the appointment of the administrator.
- (3) The elections referred to in subclause (1) are to be conducted in accordance with Divisions 3, 4 and 5 of Part 7 of the Act (sections 118 (1) and 121 excepted).

Part 9 Dispute resolution

100 Application of Commercial Arbitration Act 1984 to arbitrations under the Act

- (1) For the purposes of section 240 of the Act, the application of the *Commercial Arbitration Act 1984* is modified in accordance with this clause.
- (2) Section 6 of the *Commercial Arbitration Act 1984* is to be read as follows:

An arbitration agreement is to be taken to provide for the appointment of a single arbitrator only.
- (3) The following provisions of the *Commercial Arbitration Act 1984* do not apply to an arbitration undertaken under Part 13 of the Act:
 - (a) sections 4 (2), 8, 9, 10, 12, 15, 16, 41 and 63,
 - (b) any other provision to the extent to which it provides for the appointment of more than one arbitrator or of an umpire or enables arbitration to be undertaken by an umpire.

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Clause 101 Aboriginal Land Rights Regulation 2002

Part 10 Miscellaneous

Part 10 Miscellaneous

101 Certain information on land register and consolidated membership roll to be made available

For the purposes of section 106 (1) (s) of the Act, the New South Wales Aboriginal Land Council is to make available on request by the members of a Local Aboriginal Land Council:

- (a) all the information contained in the land register that relates to the Local Aboriginal Land Council, and
- (b) all the information on the consolidated membership roll that relates to the Local Aboriginal Land Council,

except the private addresses of members of that Council and other private contact information relating to members.

102 Copies of minutes to be made available in certain circumstances

- (1) Any Aboriginal Land Council may pass a resolution requesting another Aboriginal Land Council to provide copies of minutes for a particular meeting or meetings.
- (2) Despite subsection (1):
 - (a) a Local Aboriginal Land Council must not pass a resolution making such a request of another Local Aboriginal Land Council, and
 - (b) a Regional Aboriginal Land Council must not pass a resolution making such a request of another Regional Aboriginal Land Council.
- (3) An Aboriginal Land Council is to comply with any request made by resolution passed in accordance with this clause.

103 Savings, transitional and other provisions

Schedule 8 has effect.

Schedule 1 Land exempt from certain rates and charges

(Clause 7)

Reserve name	Lot	Section	Deposited plan number
Angledool	34		754992
Armidale	11		247430
	21		247430
Armidale East	1040–1043		755808
Ashby	122		751356
Balranald	127		39863
Barwon 4	18–19		755035
Baryugil	152		752401
Bega	284		257329
Bermagui	8	6	758095
	22	6	758095
Bokal-Ynee	1		881617
Boorowa	30		754136
Bourke	4		751848
	76		751848
	5	88	758144
	15	93	758144
	6	95	758144
	1–2	96	758144
	9	96	758144
	11–12	96	758144
	17	96	758144
Box Ridge	316		755631
Brewarrina	1		252401
	22		755016
	16	14	758161

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Aboriginal Land Rights Regulation 2002

Schedule 1 Land exempt from certain rates and charges

Reserve name	Lot	Section	Deposited plan number
Brewarrina West	149		751553
Brungle	289		750976
Bulgandramine	81		754007
Buronga	876–877		756961
	880–882		756961
Burra Bee Dee	255		753378
Cabbage Tree Island	58		249311
Casino North	14	58	758236
Chindera	421–472		755701
Coffs Harbour	495		752817
	389		752817
	11	68	758258
	3	71	758258
	3		237666
	5		237662
Collarenebri	62		752263
	5–7	16	758262
	11–13	16	758262
	5	17	758262
	6	18	758262
	3–4	20	758262
	12	20	758262
Condobolin-Boona Road	280		752080
Condobolin	107		249072
	2–3	1	758271
	5–6	24	758271
	8–9	24	758271
Commaditchie	100		751299
Coonabarabran (Gunnedah Hill)	472		753378

Reserve name	Lot	Section	Deposited plan number
Coonabarabran	1-2	47	758281
	6-7	47	758281
	11-13	47	758281
	2-3	55	758281
	20-22	55	758281
Coonamble	1-11		758282
Cootamundra	230		753601
	351		753601
	502		753601
	544		753601
Cummeragunga	8-9		751140
	15		751140
	18		751140
	28		751140
	38		751140
	42-44		751140
	112		751140
	138		751140
Dandaloo	24		755133
Dareton	990		756961
Deniliquin	19	52	758782
	2	53	758782
	6	53	758782
	13	53	758782
	17	53	758782
	9	73	758782
	29-40		756325
	54		756325
	373		756325
	332		756325
	422		257030
	Dubbo	419	
Engonnia	41		751984
Erambie	1-2		841463
	123		752948
	187		752948

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Schedule 1 Land exempt from certain rates and charges

Reserve name	Lot	Section	Deposited plan number	
Forster	10	15	758422	
	430		753168	
Gilgandra	4	4	758439	
	5-6	7	758439	
Gingie	2		752697	
	34		752697	
Glen Innes	8-11	48	758447	
Glenreagh	25		752843	
Goodooga	76		755024	
Greenhill	238-240		752439	
	267-268		752439	
	281		752439	
Gundarimba Road	552		755718	
Gunnedah	1-2		247227	
Guyra	6	9	758497	
Hillcrest	412		751388	
Inglebar	134		756470	
Karuah	364		755237	
Kempsey	23		250490	
	34		252206	
	362-363		754396	
	17		252254	
	27		252255	
	31		252256	
	14		23	759080
	165			752417
	276			752439
	14-16		17	759080
	20		17	759080
	11		23	759080
	2		23	759080

Reserve name	Lot	Section	Deposited plan number
Kiah	73		750223
	86		750223
Kinchela	362–363		754396
La Perouse	5195		752015
Lake Cargelligo	7	52	758595
	15	52	758595
	1–2	54	758595
Llandilo	224		752037
Mallanganee	110		752395
	108		752395
Menindee	14865		63
	3		754343
Moama	9–11	65	758686
	6	30	758686
Moree	4		244567
	12		244567
	60		751780
	531		751780
Moulamein	107		756564
	1		42544
Mungindi	132		750518
Murrin Bridge	162		750662
Namoi River	43		752271
Narrabri	131		757093
	2	20	758756
	4	20	758756
	6	20	758756
	10–14	20	758756
Nymboida	55		752839
	59		752839

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Schedule 1 Land exempt from certain rates and charges

Reserve name	Lot	Section	Deposited plan number
Peak Hill	472		755113
	16	6	758832
	7	21	758832
	16-18	22	758832
	15-17	27	758832
Primbee	2		879275
Purfleet	9-10		261137
	251-252		753149
Roseby Park	51		755971
	96		44341
Summervale	547		756502
	552		756502
Tabulam	224		752398
Talbragar	307		754308
	423		754308
Telegraph Point	191		754404
	192		257247
Terry Hie Hie	35		257051
Tomago River	292-293		755902
Toomelah	25		756009
Ulgundahl Island	199		751373
Uralla	339		755846
	614		755846
	21	1	759022
Walgett	53		750313
	9	31	759036
	11	31	759036
	11-14	38	759036
	5-6	39	759036
	8	39	759036
	1	46	759036
	5	46	759036

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Land exempt from certain rates and charges

Schedule 1

Reserve name	Lot	Section	Deposited plan number
Wee Waa	275		757125
Weilmoringle	12		752007
Wilcannia	1	38	W.27-1937
	109-110		39794
	10		757028
	20		757028
Wirajarai	347		751780
Yamba	165		751395
Yass	4	34	759136
	15	34	759136
	18-19		759136
	22-24		759136

Schedule 2 Model rules for Local Aboriginal Land Councils

(Clause 29)

1 Application of Rules

These Rules apply to the
Local Aboriginal Land Council.

2 Definitions

(1) In these Rules:

area means the Local Aboriginal Land Council area constituted under the Act.

Council means the Local Aboriginal Land Council to which these Rules apply.

extraordinary meeting means:

- (a) a meeting called by the Secretary of the Council or the Chairperson of the New South Wales Aboriginal Land Council in response to a written request by a quorum of members, or
- (b) a meeting called by 2 officers otherwise than in the ordinary course of business.

ordinary meeting means a meeting scheduled by a previous meeting or called by the Secretary of the Council in the ordinary course of business.

the Act means the *Aboriginal Land Rights Act 1983*.

the Regulation means the *Aboriginal Land Rights Regulation 2002*.

(2) Expressions used in these Rules which are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation, respectively.

3 Council to which Rules apply

These Rules apply to a Local Aboriginal Land Council as incorporated under the *Aboriginal Land Rights Act 1983*.

4 Address

- (1) The official address of the Council is the address for the time being notified to the Registrar by the Secretary of the Council.
- (2) Any change to the address must be approved at a Council meeting before notification is given to the Registrar.

5 Procedure for suspension of members

The procedure for deciding on the suspension of a member in accordance with section 57 of the Act is to be as follows:

- (a) notice of the proposed suspension must be included in the notice given for the next meeting of the Council,
- (b) the member whose suspension is under consideration must be allowed to address the meeting or to submit a written explanation which must be read to the meeting,
- (c) voting on the question and the period of suspension is to be by secret ballot,
- (d) if at least a majority of the members attending the meeting vote in favour of suspension of the member for a certain period of time, that is the decision of the Council.

6 Calling of ordinary meetings

- (1) The Council, before the end of any meeting of the Council, must set a time and place for the next meeting of the Council.
- (2) The Secretary must call a meeting for that time and place and must cause notice of the meeting to be given in accordance with the Regulation.

7 Calling of extraordinary meetings on request by members

- (1) If the Secretary receives a request in writing signed by members whose number amounts to a quorum, the Secretary must as soon as practicable, but in any event within 21 clear days of the receipt of the request, call a meeting and cause notice of the meeting to be given in accordance with the Regulation.
- (2) If the Chairperson of the New South Wales Aboriginal Land Council is satisfied that a request has been made under subrule (1) and a meeting has not been called, the Chairperson of the New South Wales Aboriginal Land Council may call the meeting by notice given in accordance with the Regulation.

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Model rules for Local Aboriginal Land Councils

- (3) The Council must, at an extraordinary meeting, deal only with those matters contained in the request for the meeting.
- (4) The Chairperson of the Council must not open an extraordinary meeting unless 80 per cent of the members who signed the request (and a quorum) are present.
- (5) If, half an hour after the advertised time of the meeting, 80 per cent of the members who signed the request (and a quorum) are not present, the meeting lapses.

8 Calling of extraordinary meetings by officers

- (1) Any 2 of the Chairperson, Secretary and Treasurer may call an extraordinary meeting.
- (2) The 2 officers are to call the meeting by notice given in accordance with the Regulation.

9 Meeting place

- (1) Any meeting of the Council must be held within the boundaries of its area.
- (2) A meeting of the Council must not be held in a residence unless a decision at a previous Council meeting allows for the meeting to be held at such place.

10 Voting

- (1) Subject to Rule 5, voting at any Council meeting is to be by show of hands except that:
 - (a) any election is to be by secret ballot, and
 - (b) a meeting may, by show of hands, require any other vote to be by secret ballot.
- (2) No proxy votes are permitted (that is, voting members must be present at the meeting).

11 Minutes

- (1) The Secretary or, in the absence of the Secretary, another member elected as Secretary for the meeting by the members present must keep full and accurate minutes of the proceedings of a meeting of the Council.

- (2) The Secretary must record:
 - (a) all motions put to the meeting, and
 - (b) amendments to such motions, and
 - (c) the names of the movers and seconders of those motions and amendments, and
 - (d) the resolutions passed by the meeting, and
 - (e) details of all bills and accounts approved for payment in accordance with these Rules.
- (3) The Secretary must keep the minutes of the proceedings of all meetings in a suitable book and provide copies to members on request.
- (4) The Chairperson must sign the minutes when they have been accepted at the next meeting.

12 Business at annual meeting

The business of the annual meeting must include:

- (a) the receipt of an Annual Report of the activities of the Council, presented by either the Chairperson or the Secretary, and
- (b) the receipt of the audited financial statements for the previous financial year, and
- (c) if required by the Act, the election of all officers and Regional and Alternate Representatives, and
- (d) the conduct of any other business placed on the agenda before the commencement of the meeting.

13 Attendance record

- (1) The Secretary of the Council must keep a list of those members who attend each Council meeting.
- (2) The list must include the signature of each member present.

14 Sub-committees

- (1) A Council may appoint sub-committees for the purposes of investigating proposals and presenting their findings and suggestions to the Council members at a meeting.
- (2) A sub-committee must meet as directed by a Council or, in the absence of such direction, as often as it sees fit.

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- (3) A decision of a sub-committee is not a decision of the Council.

15 Financial management

- (1) The Treasurer must promptly:
- (a) deposit into the Council's account with an authorised deposit-taking institution all money received, and
 - (b) issue a receipt for all money received.
- (2) A payment in excess of \$50 made by the Council must be paid by cheque signed by any 2 of the members authorised by the Council to be signatories of the Council's accounts.
- (3) The Chairperson, Secretary, Treasurer and no more than 2 other members of the Council are to be authorised by the Council to be signatories of the Council's accounts.
- (4) If the Council decides to remove a person from acting as a signatory of the Council's accounts by a majority vote at a Council meeting, then that person must sign the appropriate authority from the authorised deposit-taking institution terminating that person's role as a signatory at the earliest possible opportunity.
- (5) The Treasurer or, in the absence of the Treasurer, the Chairperson must present to the Council:
- (a) all bills and accounts that have not been paid to be approved by the Council for payment, and
 - (b) details of all bills and accounts that have been paid and not previously approved by the Council for ratification by the Council.
- (6) Full details of all approvals and ratifications must be entered in the minutes of the meeting.

16 Access to books

- (1) The membership roll, minutes of each meeting, attendance lists of each meeting and all financial records (*the Council records*) are the property of the Council.
- (2) The Secretary must make available the Council records for inspection by any member at such times as the Council directs.
- (3) A member must not remove original documents or records from the place in which they are made available for inspection by the Secretary.

- (4) The property of the Council which is in the possession of or under the control of an officer whose term of office has expired must be handed over to a remaining officer or to the officer's successor, as the Council directs.
- (5) In subrule (4):
- expired* means expired by reason of resignation, removal from office or election of a successor.
- property* includes all books, records, accounts, motor vehicles, office equipment, keys and anything else owned by the Council.

17 Common Seal

- (1) The Council may provide for a Common Seal.
- (2) A person must not use the Common Seal without the authority of the Council. Every instrument and document on which the seal is placed must be signed by an officer (other than the Secretary) and must be countersigned by the Secretary or by some person appointed by the Council for the purpose.
- (3) A document which can be executed without a seal can be signed by any one of the officers if there is a direction by a Council meeting to do so and the direction is properly minuted.

Note. Section 245 of the Act provides for authentication of certain documents without the seal.

18 Amendment of Rules

- (1) The Council may amend these Rules by a resolution passed at a meeting of which notice under the Regulation, including notice of the proposed amendment, has been given.
- (2) The Registrar must be notified in writing of the amendment and the amendment is not effective unless the Registrar has given approval in writing to the amendment being made.

19 Duties of Chairperson

- (1) The primary duty of the Chairperson is to ensure the successful functioning of the Council and achievement of its objectives.
- (2) Accordingly the Chairperson must:
- (a) uphold the rules of the Council, and
 - (b) preside at Council meetings, and

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- (c) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings.
- (3) In particular, the Chairperson must:
 - (a) before each Council meeting:
 - (i) consult with the Secretary in the preparation of an agenda, and
 - (ii) ensure that the notice of the meeting conforms with these Rules, and
 - (iii) check the accuracy of any minutes of previous meetings being presented to the meeting for acceptance, and
 - (iv) read over any correspondence or other material to be brought forward at the meeting, and
 - (b) open the meeting when a quorum is present, ask for any apologies to be tabled, then welcome new members and guests, and
 - (c) sign minutes of previous meetings as correct when they have been accepted by the meeting, and
 - (d) in the case of elections, ensure the appointment of a returning officer by the meeting, and
 - (e) preserve order and warn any member who is causing a disturbance at a meeting that the member may be removed, and
 - (f) order the removal from the meeting of any member who, having been already warned, continues to cause a disturbance and may request assistance from the police to remove the member if it is considered necessary by the majority of members at the meeting, and
 - (g) ensure that debates are conducted in the correct manner and, in particular, that there is one speaker at a time, and
 - (h) rule “out of order” any motion which involves the Council acting outside its functions or powers under the Act or any other statute or rule of law, and
 - (i) close or adjourn the meeting when:
 - (i) a motion to that effect is carried, or
 - (ii) all business has been finished, or
 - (iii) the meeting is excessively disorderly and the Chairperson is unable to restore order, or
 - (iv) a quorum of members is no longer present.

20 Duties of Secretary

The Secretary must:

- (a) maintain a membership roll for the Council as required by the Act and the Regulation, and
- (b) maintain an accurate record of all meetings of the Council in an official minute book of the Council, and
- (c) maintain a file which contains all applications and letters asking for membership received by the Council, and
- (d) call meetings and give the proper notice for meetings in accordance with these Rules, and
- (e) maintain an attendance book showing the names of all the members who attend each meeting together with the signature of each member who is present, and
- (f) prepare an agenda, in consultation with the Chairperson, prior to each meeting, and
- (g) maintain any correspondence to and from the Council and inform the Council of such correspondence, and
- (h) send to the Secretary of the New South Wales Aboriginal Land Council the following:
 - (i) a copy of the current Council membership roll and changes to the roll as required by section 59 of the Act,
 - (ii) the address of the Council's office (if there is one),
 - (iii) the particulars of all land held by the Council, and
- (i) keep the Council's common seal in safe custody, and
- (j) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings.

21 Duties of Treasurer

The Treasurer must:

- (a) maintain proper accounts and records of all transactions in relation to the operations of the Council (in a manner approved by the New South Wales Aboriginal Land Council), and
- (b) ensure that all money received is deposited as soon as possible in the Council's account with an authorised deposit-taking institution, and

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- (c) ensure that financial statements, together with an auditor's certificate in relation to the statements, are submitted to each annual meeting and to the New South Wales Aboriginal Land Council in accordance with Division 2 of Part 8 of the Act, and
- (d) submit the Council's annual budget, after it has been passed by a Council meeting, to the New South Wales Aboriginal Land Council in accordance with section 158 of the Act, and
- (e) submit the Council's six monthly report (and, if required, the Council's quarterly report), after it has been passed by a Council meeting, to the New South Wales Aboriginal Land Council in accordance with section 159 of the Act, and
- (f) submit a brief financial statement at each Council meeting, known as the Treasurer's Report (this report must include all accounts and bills which have not been paid and which are to be approved by the Council for payment and details of all accounts and bills of the Council which have been paid by the Treasurer, and not previously approved, the payment of which is awaiting ratification by the Council), and
- (g) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings, and
- (h) submit to the Council, and advise the New South Wales Aboriginal Land Council of, details of any expenditure which in the Treasurer's opinion contravenes the Act or the wishes of the majority of the Council members, or both.

22 Duties of Regional Representatives

The Regional Representatives (including the Alternate Representatives when they act in place of the Regional Representatives) must:

- (a) represent the Local Council at each Regional Aboriginal Land Council meeting and put forward the views of the Council as expressed in any instructions given at a Council meeting, and
- (b) report to the next Council meeting after each meeting of the Regional Aboriginal Land Council the details of all decisions made and proposals put forward at the Regional meeting (the report may be given either in written form or orally to a Council meeting), and

- (c) submit all documents and correspondence which the Council wishes to be tabled at a Regional Aboriginal Land Council meeting, and ensure that copies of the Regional Council's minutes are tabled at the Council's next meeting.

23 Relationship between Rules and the Act and Regulation

To the extent (if any) that a Rule purports to make provision in respect of a matter provided for in the Act or the Regulation, the provision of the Act or the Regulation prevails over the Rule.

Schedule 3 Model rules for Regional Aboriginal Land Councils

(Clause 41)

1 Definitions

(1) In these Rules:

area, in relation to a Council, means the area in respect of which it is constituted.

Council means a Regional Aboriginal Land Council to which these Rules apply.

(2) Expressions used in these Rules which are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation respectively.

2 Council to which Rules apply

These Rules apply to a Regional Aboriginal Land Council as incorporated under the *Aboriginal Land Rights Act 1983*.

3 Calling of ordinary meetings

(1) The Council, before the end of any meeting of the Council, must set a time and place for the next meeting of the Council.

(2) The Secretary must call a meeting for that time and place and must cause notice of the meeting to be given in accordance with the Regulation.

4 Calling of extraordinary meetings on request by members

(1) If the Secretary receives a request in writing signed by members whose number amounts to a quorum, the Secretary must call an extraordinary meeting to be held as soon as practicable but in any event within 21 clear days after the receipt of the request.

(2) The Secretary must cause notice of the meeting to be given in accordance with the Regulation.

(3) The Council must, at an extraordinary meeting, deal only with those matters contained in the request for the meeting.

- (4) An extraordinary meeting called under this Rule must not commence unless there are present at least 80 per cent of the members who signed the letter of request that the meeting be held. If, one half hour after the advertised time for commencement of the meeting, at least 80 per cent of such members are not present, the meeting must be adjourned.

5 Calling of extraordinary meetings by Secretary

- (1) The Secretary, with the concurrence of the Chairperson, may call an extraordinary meeting at any time.
- (2) The Secretary must cause notice of the meeting to be given in accordance with the Regulation.

6 Meeting place

- (1) Any meeting of the Council must be held within the boundaries of its area.
- (2) A meeting of the Council must not be held in a residence unless a decision at a previous Council meeting allows for the meeting to be held in a residence.

7 Presiding member

The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

8 Voting

- (1) Voting at a meeting of the Council is to be by show of hands except that:
- (a) any election at an annual meeting or other meeting must be by secret ballot, and
 - (b) a meeting may, by show of hands, require any other vote to be by secret ballot.
- (2) No proxy votes are permitted (that is, voting members must be present at the meeting).

Note. Section 102 of the Act provides that at a meeting of the Council at which a quorum is present, a decision of a majority of the members of the Council present and voting is a decision of the Council.

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Model rules for Regional Aboriginal Land Councils

9 Minutes

- (1) The Secretary or, in the absence of the Secretary, another member elected as Secretary for the meeting by the members present is to keep full and accurate minutes of the proceedings of a meeting of the Council.
- (2) The Secretary must record:
 - (a) all motions put to the meeting, and
 - (b) amendments to such motions, and
 - (c) the names of the movers and seconders of those motions and amendments, and
 - (d) the resolutions passed by the meeting.
- (3) The Secretary must keep the minutes of the proceedings of all meetings in a suitable book and provide copies to members on request.
- (4) The Chairperson is to sign the minutes when they have been accepted at the next meeting.

10 Business at annual meeting

The business of the annual meeting is to include:

- (a) the receipt of an annual report of the activities of the Council, presented by either the Chairperson or the Secretary, and
- (b) the receipt of the audited financial statements for the previous financial year, and
- (c) the election of all officers, and
- (d) the conduct of any other business placed on the agenda before the commencement of the meeting.

11 Attendance record

- (1) The Secretary of the Council is to keep a list of those members who attend each Council meeting.
- (2) The list is to include the signature of each member present.

12 Sub-committees

- (1) A Council may appoint sub-committees for the purposes of investigating proposals and presenting their findings and suggestions to the Council members at a meeting.

- (2) A sub-committee is to meet as directed by a Council or, in the absence of such direction, as often as it sees fit.
- (3) A decision of a sub-committee is not a decision of the Council.

13 Financial management

- (1) The Treasurer must promptly:
 - (a) deposit into the Council's account with an authorised deposit-taking institution all money received, and
 - (b) issue a receipt for all money received.
- (2) A payment in excess of \$50 made by the Council must be paid by cheque signed by any 2 of the members authorised by the Council to be signatories of the Council's accounts.
- (3) The Chairperson, Secretary, Treasurer and no more than 2 other members of the Council are to be authorised by the Council to be signatories of the Council's accounts.
- (4) If the Council decides to remove a person from acting as a signatory of the Council's accounts by a majority vote at a Council meeting, then that person must sign the appropriate authority from an authorised deposit-taking institution terminating that person's role as a signatory at the earliest possible opportunity.
- (5) The Treasurer or, in the absence of the Treasurer, the Chairperson must present to the Council:
 - (a) all bills and accounts that have not been paid to be approved by the Council for payment, and
 - (b) details of all bills and accounts that have been paid and not previously approved by the Council for ratification by the Council.
- (6) Full details of all approvals and ratifications must be entered in the minutes of the meeting.

14 Access to books

- (1) The membership roll, minutes of each meeting, attendance lists of each meeting and all financial records (*the Council records*) are the property of the Council.
- (2) The Secretary is to make available the Council records for inspection by any member at such time as the Council directs.

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- (3) A member must not remove original documents or records from the place in which they are made available for inspection by the Secretary.
- (4) The property of the Council which is in the possession of or under the control of an officer whose term of office has expired is to be handed over to a remaining officer or to the officer's successor, as the Council directs.
- (5) In subrule (4):
expired means expired by reason of resignation, removal from office or election of a successor.
property includes all books, records, accounts, motor vehicles, office equipment, keys and anything else owned by the Council.

15 Common Seal

- (1) The Council may provide for a Common Seal.
- (2) The Secretary is to have the safe custody of the Common Seal.
- (3) A person must not use the Common Seal without the authority of the Council.
- (4) Every instrument and document on which the Common Seal is placed is to be signed by an officer-bearer (other than the Secretary) and is to be countersigned by the Secretary or by some person appointed by the Council for the purpose.

Note. Section 245 of the Act provides for authentication of certain documents without the seal.

16 Amendment of Rules

- (1) The Council may amend these Rules by a resolution passed at a meeting of which notice under the Regulation, including notice of the proposed amendment, has been given.
- (2) The Registrar must be notified in writing of the amendment and the amendment is not effective unless the Registrar has given approval in writing to the amendment being made.

17 Duties of Chairperson

- (1) The primary duty of the Chairperson is to ensure the successful functioning of the Council and the achievement of its objectives.
- (2) Accordingly the Chairperson must:
 - (a) uphold the rules of the Council, and

- (b) preside at Council meetings, and
 - (c) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings.
- (3) In particular, the Chairperson must:
- (a) before each Council meeting:
 - (i) consult with the Secretary in the preparation of an agenda, and
 - (ii) ensure that the notice of the meeting conforms with the Regulation, and
 - (iii) check the accuracy of any minutes of previous meetings being presented to the meeting for acceptance, and
 - (iv) read over any correspondence or other material to be brought forward at the meeting, and
 - (b) open the meeting when a quorum is present, ask for any apologies to be tabled, then welcome new members and guests, and
 - (c) sign minutes of previous meetings as correct when they have been accepted by the meeting, and
 - (d) in the case of elections, ensure the appointment of a returning officer by the meeting, and
 - (e) preserve order and warn any member who is causing a disturbance at a meeting that the member may be removed, and
 - (f) order the removal from the meeting of any member who, having been already warned, continues to cause a disturbance and may request assistance from the police to remove the member if it is considered necessary by the majority of members at the meeting, and
 - (g) ensure that debates are conducted in the correct manner and, in particular, that there is one speaker at a time, and
 - (h) rule “out of order” any motion which involves the Council acting outside its functions or powers under the Act or any other statute or rule of law, and
 - (i) close or adjourn the meeting when:
 - (i) a motion to that effect is carried, or
 - (ii) all business has been finished, or
 - (iii) the meeting is excessively disorderly and the Chairperson is unable to restore order, or
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- (iv) a quorum of members is no longer present.

18 Duties of Secretary

The Secretary must:

- (a) maintain an accurate record of all meetings of the Council in an official minute book of the Council, and
- (b) call meetings and give the proper notice for meetings in accordance with the Regulation, and
- (c) maintain an attendance book showing the names of all the members who attend each meeting together with the signature of each member who is present, and
- (d) prepare an agenda, in consultation with the Chairperson, prior to each meeting, and
- (e) maintain any correspondence to and from the Council and inform the Council of such correspondence, and
- (f) keep the Council's Common Seal in safe custody, and
- (g) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings.

19 Duties of Treasurer

The Treasurer must:

- (a) maintain proper accounts and records of all transactions in relation to the operations of the Council (in a manner approved by the New South Wales Aboriginal Land Council), and
- (b) ensure that all money received is deposited as soon as possible in the Council's account with an authorised deposit-taking institution, and
- (c) ensure that financial statements, together with an auditor's certificate in relation to the statements, are submitted to each annual meeting and to the New South Wales Aboriginal Land Council in accordance with Division 2 of Part 8 of the Act, and
- (d) submit the Council's annual budget, after it has been passed by a Council meeting, to the New South Wales Aboriginal Land Council in accordance with section 158 of the Act, and

- (e) submit the Council's six monthly report (and, if required, the Council's quarterly report), after it has been passed by a Council meeting, to the New South Wales Aboriginal Land Council in accordance with section 159 of the Act, and
- (f) submit a brief financial statement at each Council meeting, known as the Treasurer's Report (this report must include all accounts and bills which have not been paid and which are to be approved by the Council for payment and details of all accounts and bills of the Council which have been paid, and not previously approved, the payment of which is awaiting ratification by the Council), and
- (g) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings, and
- (h) submit to the Council, and advise the New South Wales Aboriginal Land Council of, details of any expenditure which in the Treasurer's opinion contravenes the Act or the wishes of the majority of the Council members, or both.

20 Relationship between Rules and the Act and Regulation

To the extent (if any) that a Rule purports to make provision in respect of a matter provided for in the Act or the Regulation, the provision of the Act or the Regulation prevails over the Rule.

Schedule 4 Model rules for the New South Wales Aboriginal Land Council

(Clause 92)

1 Definitions

- (1) In these Rules:
- area*, in relation to a Council, means the area in respect of which it is constituted.
- Council* means the New South Wales Aboriginal Land Council.
- councillor* means a member of the Council.
- (2) Expressions used in these Rules which are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation, respectively.

2 Voting

- (1) Each councillor present (including the Chairperson) is entitled to one vote at a Council meeting and voting is to be by show of hands except that:
- (a) any election at an annual meeting or other meeting must be by secret ballot, and
 - (b) a meeting may, by show of hands, require any other vote to be by secret ballot.
- (2) No proxy votes are permitted (that is, voting councillors must be present at the meeting).
- (3) This Rule is subject to section 133 (3) of the Act that provides that the person presiding at any meeting of the Council has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

3 Minutes

- (1) The Secretary or, in the absence of the Secretary, another councillor elected as secretary for the meeting by the councillors present must keep full and accurate minutes of the proceedings of a meeting of the Council.
- (2) The Secretary must record:
- (a) all motions put to the meeting, and

- (b) amendments to such motions, and
 - (c) the names of the movers and seconders of those motions and amendments, and
 - (d) the resolutions passed by the meeting.
- (3) The Secretary must keep the minutes of the proceedings of all meetings in a suitable book and provide copies to councillors on request.
- (4) The Chairperson is to sign the minutes when they have been accepted at the next meeting.

4 Council Roll

The Secretary is to prepare and maintain a Council Roll on which is to be listed:

- (a) the name and address of each councillor, and
- (b) the Regional Aboriginal Land Council area which each councillor represents, and
- (c) the date of election of each councillor.

5 Attendance record

- (1) The Secretary of the Council is to keep a list of those councillors who attend each Council meeting.
- (2) The list is to include the signature of each councillor present.

6 Business at annual meeting

The business of the annual meeting is to include:

- (a) the receipt of an Annual Report of the activities of the Council, presented by either the Chairperson or the Secretary, and
- (b) the receipt of the audited financial statements for the previous financial year, and
- (c) the conduct of any other business placed on the agenda before the commencement of the meeting.

7 Sub-committees

- (1) The Council may appoint sub-committees for the purposes of investigating proposals and presenting their findings and suggestions to the councillors at a meeting.

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- (2) A sub-committee is to meet as directed by the Council or, in the absence of such direction, as often as it sees fit.
- (3) A decision of a sub-committee is not a decision of the Council.

8 Financial management

- (1) Any money received for the Council must be promptly deposited into the Council's account with an authorised deposit-taking institution and a receipt must be issued for the money.
- (2) A payment in excess of \$50 made by the Council is to be paid by cheque signed by any 2 of the persons authorised by the Council to be signatories of the Council's accounts.
- (3) The Chairperson, Secretary, Treasurer and those members of the staff of the Council as are approved by the Council for the purpose are to be authorised by the Council to be signatories of the Council's accounts.
- (4) The Chief Executive Officer is to pay all bills and accounts of the Council.
- (5) The Treasurer is to present to a meeting of the Council any bills and accounts that have not been paid before the meeting for approval and details of any bills and accounts that have been paid, and not previously approved, for ratification of the payments.
- (6) Full details of all approvals and ratifications of the Council are to be entered in the minutes of the meeting at which the approvals and ratifications are made.
- (7) Proper records are to be kept of all receipts, payments and other financial transactions in accordance with the requirements of the *Public Finance and Audit Act 1983*.
- (8) Financial budgets and statements are to be prepared and a report submitted on the finances to each Council meeting.

9 Access to books

- (1) The membership roll, minutes of each meeting, attendance lists of each meeting and all financial records (*the Council records*) are the property of the Council.
- (2) The Secretary is to make the Council records available for inspection by any councillor at such times as the Council directs.

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- (3) A councillor is not to remove original documents or records from the place in which they are made available for inspection by the Secretary.
 - (4) The property of the Council which is in the possession of or under the control of an office-bearer whose term of office has expired is to be handed over to a remaining office-bearer or to the office-bearer's successor, as the Council directs.
 - (5) In subrule (4):
 - expired* means expired by reason of resignation, removal from office or election of a successor.
 - property* includes all books, records, accounts, motor vehicles, office equipment, keys and anything else owned by the Council.

10 Common Seal

- (1) The Council may provide for a Common Seal.
- (2) The Secretary is to have the safe custody of the Common Seal.
- (3) A person must not use the Common Seal without the authority of the Council.
- (4) Every instrument and document on which the Common Seal is placed is to be signed by an officer (other than the Secretary) and is to be countersigned by the Secretary or by some person appointed by the Council for the purpose.

Note. Section 245 of the Act provides for authentication of certain documents without the seal.

11 Amendment of Rules

- (1) The Council may amend these Rules by a resolution passed at a meeting of which notice under the Regulation, including notice of the proposed amendment, has been given.
- (2) The Registrar must be notified in writing of the amendment and the amendment is not effective unless the Registrar has given approval in writing to the amendment being made.

12 Duties of Chairperson

- (1) The primary duty of the Chairperson is to ensure the successful functioning of the Council and the achievement of its objectives.
- (2) Accordingly, the Chairperson must:
 - (a) uphold the rules of the Council, and

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- (b) preside at Council meetings, and
 - (c) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings.
- (3) In particular, the Chairperson must:
- (a) before each Council meeting:
 - (i) consult with the Secretary in the preparation of an agenda, and
 - (ii) ensure that the notice of the meeting conforms with the Regulation, and
 - (iii) check the accuracy of any minutes of previous meetings being presented to the meeting for acceptance, and
 - (iv) read over any correspondence or other material to be brought forward at the meeting, and
 - (b) call meetings and give the proper notice for meetings in accordance with the Regulation, and
 - (c) open the meeting when a quorum is present and ask for any apologies to be tabled, and
 - (d) sign minutes of previous meetings as correct when they have been accepted by the meeting, and
 - (e) in the case of elections, ensure the appointment of a returning officer by the meeting, and
 - (f) preserve order and warn any councillor who is causing a disturbance at a meeting that the councillor may be removed, and
 - (g) order the removal from the meeting of any councillor who, having been already warned, continues to cause a disturbance, and
 - (h) ensure that debates are conducted in the correct manner and, in particular, that there is one speaker at a time, and
 - (i) rule “out of order” any motion which involves the Council acting outside its functions or powers under the Act or any other statute or rule of law, and
 - (j) close or adjourn the meeting when:
 - (i) a motion to that effect is carried, or
 - (ii) all business has been finished, or
 - (iii) the meeting is excessively disorderly and the Chairperson is unable to restore order, or

- (iv) a quorum of councillors is no longer present.

13 Duties of Secretary

The Secretary must:

- (a) maintain a Council Roll showing details of names, addresses, the Regional Aboriginal Land Council areas which councillors represent and the date of the election of councillors, and
- (b) maintain an accurate record of all meetings of the Council in an official minute book of the Council, and
- (c) maintain an attendance book showing the names of all the councillors who attend each meeting together with the signature of each councillor who is present, and
- (d) prepare an agenda, in consultation with the Chairperson, before each meeting, and
- (e) maintain any correspondence to and from the Council and inform the Council of such correspondence, and
- (f) send to the Minister an Annual Report, prepared in consultation with the Treasurer and approved by a meeting of the Council, of the Council's work and activities for the 12 months ending 30 June each year, and
- (g) send to the Auditor-General a copy of the report referred to in paragraph (f), and
- (h) keep the Council's Common Seal in safe custody, and
- (i) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings.

14 Duties of Treasurer

The Treasurer must:

- (a) ensure that financial statements, together with an auditor's certificate in relation to the statement, are submitted to each annual meeting, and
- (b) submit the Council's annual budget, after it has been passed by a Council meeting, to the Minister in accordance with section 157 of the Act, and

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- (c) submit a brief financial statement at each Council meeting, known as the Treasurer's Report (this report is to include details of all accounts and bills of the Council, the payment of which is awaiting approval or ratification by the Council meeting), and
- (d) represent and act, subject to the instructions of a Council meeting, on behalf of the Council in the interval between meetings, and
- (e) submit to the Council details of any expenditure which in the Treasurer's opinion contravenes the Act or the wishes of the majority of the councillors, or both, and
- (f) assist the Secretary with preparation of the Annual Report.

Schedule 5 Model code of conduct for Local Aboriginal Land Councils

(Clause 97 (1))

1. The [name] Local Aboriginal Land Council requires its officers to observe the highest standards of conduct and ethical behaviour in all of their activities. By maintaining such standards, officers enhance their own standing as representatives of the Aboriginal community and increase the public confidence in the management and administration of the [name] Local Aboriginal Land Council.
2. Officers must uphold the objectives of the [name] Local Aboriginal Land Council and abide by the *Aboriginal Land Rights Act 1983* and associated legislation, as well as policies and procedures established by the New South Wales Aboriginal Land Council.
3. As the conduct of an individual officer can reflect on the wider Aboriginal Land Council network as a whole, this Code sets out what are considered to be appropriate standards of conduct by officers.
4. Officers must refrain from conduct or action that detracts from the reputation of the [name] Local Aboriginal Land Council.
5. Officers are required to exercise complete probity, honesty and diligence in carrying out their duties and responsibilities.
6. Officers must at all times safeguard the interests of the [name] Local Aboriginal Land Council and its members, provided that officers must not knowingly be party to any illegal or unethical activity.
7. Officers must not enter into any agreement or undertake any activity that may be in conflict with the interests of the [name] Local Aboriginal Land Council, or that would prejudice the performance of their duties.
8. Officers must not use confidential information gained in the performance of their duties for any personal gain or in a manner that could be detrimental to the [name] Local Aboriginal Land Council.
9. Officers must exercise due care and diligence in performing their duties and ensure that their knowledge, skills and technical competencies suffice to discharge their responsibilities.

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Schedule 5

Model code of conduct for Local Aboriginal Land Councils

10. Officers are to acknowledge that this Code is to be adhered to both in spirit and to the letter, so that an officer's conduct is governed by the highest standards of personal and ethical behaviour.

Schedule 6 Model code of conduct for Regional Aboriginal Land Councils

(Clause 97 (2))

1. The [name] Regional Aboriginal Land Council requires its delegates to observe the highest standards of conduct and ethical behaviour in all of their activities. By maintaining such standards, delegates enhance their own standing as representatives of the Aboriginal community and increase the public confidence in the management and administration of the [name] Regional Aboriginal Land Council.
2. Delegates must uphold the objectives of the [name] Regional Aboriginal Land Council and abide by the *Aboriginal Land Rights Act 1983* and associated legislation, as well as policies and procedures established by the [name] Regional Aboriginal Land Council.
3. As the conduct of an individual delegate can reflect on the wider Aboriginal Land Council network as a whole, this Code sets out what are considered to be appropriate standards of conduct by delegates.
4. Delegates must refrain from conduct or action that detracts from the reputation of the [name] Aboriginal Land Council.
5. Delegates are required to exercise complete probity, honesty and diligence in carrying out their duties and responsibilities.
6. Delegates must at all times safeguard the interests of the [name] Regional Aboriginal Land Council and Local Aboriginal Land Councils located in their region, provided that delegates must not knowingly be party to any illegal or unethical activity.
7. Delegates must not enter into any agreement or undertake any activity that may be in conflict with the interests of the [name] Regional Aboriginal Land Council or Local Aboriginal Land Councils located in their region, or that would prejudice the performance of their duties.
8. Delegates must not use confidential information gained in the performance of their duties for any personal gain or in a manner that could be detrimental to the [name] Regional Aboriginal Land Council or Local Aboriginal Land Councils located in their region.
9. Delegates must exercise due care and diligence in performing their duties and ensure that their knowledge, skills and technical competencies suffice to discharge their responsibilities.

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Schedule 6

Model code of conduct for Regional Aboriginal Land Councils

10. Delegates are to acknowledge that this Code is to be adhered to both in spirit and to the letter, so that a delegate's conduct is governed by the highest standards of personal and ethical behaviour.

Schedule 7 Model code of conduct for New South Wales Aboriginal Land Council

(Clause 97 (3))

1. The New South Wales Aboriginal Land Council requires its councillors to observe the highest standards of conduct and ethical behaviour in all of their activities. By maintaining such standards, councillors enhance their own standing as representatives of the Aboriginal community and increase the public confidence in the management and administration of the New South Wales Aboriginal Land Council.
2. Councillors must uphold the objectives of the New South Wales Aboriginal Land Council and abide by the *Aboriginal Land Rights Act 1983* and associated legislation, as well as policies and procedures established by the New South Wales Aboriginal Land Council.
3. As the conduct of an individual councillor can reflect on the wider Aboriginal Land Council network as a whole, this Code sets out what are considered to be appropriate standards of conduct by councillors.
4. Councillors must refrain from conduct or action that detracts from the reputation of the New South Wales Aboriginal Land Council.
5. Councillors are required to exercise complete probity, honesty and diligence in carrying out their duties and responsibilities.
6. Councillors must at all times safeguard the interests of the New South Wales Aboriginal Land Council and Regional and Local Aboriginal Land Councils and their members, provided that councillors must not knowingly be party to any illegal or unethical activity.
7. Councillors must not enter into any agreement or undertake any activity that may be in conflict with the interests of the New South Wales Aboriginal Land Council or Regional or Local Aboriginal Land Councils, or that would prejudice the performance of their duties.
8. Councillors must not use confidential information gained in the performance of their duties for any personal gain or in a manner that could be detrimental to the New South Wales Aboriginal Land Council or Regional or Local Aboriginal Land Councils.
9. Councillors must exercise due care and diligence in performing their duties and ensure that their knowledge, skills and technical competencies suffice to discharge their responsibilities.

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Schedule 7

Model code of conduct for New South Wales Aboriginal Land Council

10. Councillors are to acknowledge that this Code is to be adhered to both in spirit and to the letter, so that a councillor's conduct is governed by the highest standards of personal and ethical behaviour.

Schedule 8 Savings, transitional and other provisions

(Clause 103)

1 Definition

In this Schedule, *amending Act* means the *Aboriginal Land Rights Amendment Act 2001*.

2 Existing rules

The rules of an Aboriginal Land Council as in force immediately before the commencement of this Regulation cease to have effect on that commencement.

3 Saving of rate exemptions

Land that was declared under section 43 of the Act, as in force immediately before the commencement of Schedule 1 [15] to the *Aboriginal Land Rights Amendment Act 2001*, to be exempt from the payment of rates, or specified rates, continues to be exempt from the payment of rates, or those specified rates.

4 Financial year

The financial year of an Aboriginal Land Council that commences on 1 October 2002 is taken to end on 30 June 2003.

5 Holding of annual meetings in 2002

- (1) Clauses 26 (1) and 38 (1), apply only on and from 1 July 2003.
- (2) A Local Aboriginal Land Council must hold an annual meeting at some time between 25 October 2002 and 31 December 2002 (inclusive).
- (3) A Local Aboriginal Land Council is taken to have complied with subclause (2) if it held an annual meeting at some time between 1 October 2002 and 24 October 2002 (inclusive).
- (4) A Regional Aboriginal Land Council must hold an annual meeting at some time between 1 January 2003 and 18 February 2003 (inclusive).

BY AUTHORITY