



New South Wales

Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Regulation 2005

under the

Poultry Meat Industry Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Poultry Meat Industry Act 1986*.

IAN MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to amend the *Poultry Meat Industry Regulation 2003* in connection with the commencement of the *Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005*. The Regulation makes provision with respect to the following matters:

- (a) the nomination of processors for appointment as processor members of the Poultry Meat Industry Advisory Group,
- (b) the election of growers for appointment as grower members of the Poultry Meat Industry Advisory Group,
- (c) the prescription of persons who may certify that a poultry growing agreement has been entered into,
- (d) the functions of the Poultry Meat Industry Committee with respect to the resolution of disputes between processors and growers.

This Regulation is made under the *Poultry Meat Industry Act 1986*, including section 23 (the general power to make regulations) and sections 6A and 19.

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Clause 1 Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Regulation 2005

Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Regulation 2005

under the

Poultry Meat Industry Act 1986

1 Name of Regulation

This Regulation is the *Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Regulation 2005*.

2 Commencement

This Regulation commences on 1 October 2005.

3 Amendment of Poultry Meat Industry Regulation 2003

The *Poultry Meat Industry Regulation 2003* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] The whole Regulation

Omit “close of exhibition of the rolls”.

Insert instead “close of exhibition of the roll”.

[2] Clause 3 Definitions

Omit the definitions of *Association grower*, *Association processor*, *independent grower* and *independent processor* from clause 3 (1).

[3] Clause 3 (1), definition of “final roll”

Omit the definition. Insert instead:

final roll for an election means the roll prepared by the returning officer under Division 5 of Part 3.

[4] Clause 3 (1), definition of “grower member”

Omit the definition. Insert instead:

grower member means a member of the Advisory Group referred to in section 6A (3) (c) of the Act.

[5] Clause 3 (1), definition of “preliminary roll”

Omit the definition. Insert instead:

preliminary roll for an election means the roll provided to the returning officer under clause 22.

[6] Clause 3 (1), definition of “processor member”

Omit the definition. Insert instead:

processor member means a member of the Advisory Group referred to in section 6A (3) (b) of the Act.

[7] Clause 5 Independent members and Association members

Omit the clause.

[8] Clause 6 Notice of proposed appointment

Omit “Association processor and independent” from clause 6 (1).

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Schedule 1 Amendments

[9] Clause 6 (2) (a)

Omit the paragraph. Insert instead:

- (a) must specify the number of members required to be appointed to represent processors, and

[10] Clause 8

Omit the clause. Insert instead:

8 Qualifications for nominating candidates

A person is qualified to nominate a candidate for appointment as a processor member if the person is a processor who has processed designated poultry during the calendar year in which the calling of nominations occurred or during the previous calendar year.

[11] Clause 10 Nomination of candidates

Omit clause 10 (1) (b). Insert instead:

- (b) must be made by at least one processor (other than the candidate) who is qualified to nominate a candidate, and

[12] Clause 10 (3)

Omit the subclause.

[13] Clause 11

Omit the clause. Insert instead:

11 Selection of members

The processor members must be selected from the persons duly nominated to represent processors.

[14] Clause 13 Independent members and Association members

Omit the clause.

[15] Clause 14 Notice of election

Omit clause 14 (3) (b). Insert instead:

- (b) must specify the number of members required to be appointed to represent growers, and

[16] Clause 16

Omit the clause. Insert instead:

16 Qualifications for nominating candidates

A person is qualified to nominate a candidate for election as a grower member if the person is a grower who has grown designated poultry, under an agreement with a processor, during the calendar year in which the calling of nominations occurred or during the previous calendar year.

[17] Clause 18 Nomination of candidates

Omit clause 18 (1) (b). Insert instead:

- (b) must be made by at least 5 growers (other than the candidate) who are each qualified to nominate a candidate, and

[18] Clause 18 (5)

Omit the subclause.

[19] Clause 22 Preparation of preliminary rolls

Omit clause 22 (2) (a) and (b). Insert instead:

- (a) a preliminary roll of the growers who, in the opinion of the secretary, are qualified to vote in the election, and

[20] Clause 22 (2) (c)

Omit “that or those rolls”. Insert instead “that roll”.

[21] Clause 23 Notice of ballot

Omit “or rolls” wherever occurring in clause 23 (1) and (3) (e).

[22] Clause 25

Omit the clause. Insert instead:

25 Qualifications for voting

A person is qualified to vote in an election for a grower member if the person is a grower who has grown designated poultry, under an agreement with a processor, during the calendar year in which the calling of nominations occurred or during the previous calendar year.

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Schedule 1 Amendments

[23] Clauses 26 (1) and (2), 27 (3) (a), 28 (1) and (7) and 34 (2) (a)

Omit “relevant” wherever occurring.

[24] Clause 30 Printing of ballot-papers

Omit “each of the rolls” from clause 30 (1) (b).

Insert instead “the final roll for the election”.

[25] Clause 31 Distribution of ballot-papers

Omit “a final”. Insert instead “the final”.

[26] Clauses 43 and 44

Omit the clauses. Insert instead:

43 Committee’s functions with respect to dispute resolution

- (1) The only functions that the Committee may exercise for the purpose of facilitating the resolution of disputes between processors and growers are as follows:
 - (a) it may assist in the mediation of disputes, whether by way of providing a mediator or otherwise,
 - (b) it may assist in the arbitration of disputes, whether by way of providing an arbitrator or otherwise.
- (2) The Committee may only assist in the mediation or arbitration of a dispute pursuant to a written application for assistance signed by each of the parties to the dispute.
- (3) The Committee may not assist in the arbitration of disputes unless the parties to the dispute have attempted to resolve the dispute by mediation.
- (4) The Committee may not assist in the mediation or arbitration of a dispute as to the amount of any fee payable under a poultry growing agreement in relation to the growing of poultry.
- (5) In this clause:

arbitration means arbitration under the *Commercial Arbitration Act 1984*.

mediation means a structured negotiation process in which the mediator, as a neutral and independent party, assists the parties to a dispute to achieve their own resolution of the dispute.

44 Certificate as to notification relating to poultry growing agreement: section 19 of the Act

For the purposes of section 19 of the Act, the following persons are prescribed:

Deputy Director-General, Agriculture and Fisheries
Director, Intensive Industries Development

[27] Schedule 1 Forms

Omit “Poultry Meat Industry Committee” wherever occurring in Forms 1 and 2.

Insert instead “Poultry Meat Industry Advisory Group”.

[28] Schedule 1, Forms 1, 2 and 5

Omit “as an independent*/Association*” wherever occurring.

Insert instead “as a”.

[29] Schedule 1, Forms 1 and 2

Omit “*(*strike out whichever does not apply*)” wherever occurring.