



New South Wales

# Aboriginal Land Rights Amendment (Board Elections) Regulation 2007

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*.

PAUL LYNCH, M.P.,  
Minister for Aboriginal Affairs

## Explanatory note

The object of this Regulation is to amend the *Aboriginal Land Rights Regulation 2002* as follows:

- (a) to require a certified copy of the membership roll of a Local Aboriginal Land Council to be provided to the returning officer at least 48 hours before an election for the Board of the Council is held,
- (b) to provide that only a voting member of a Local Aboriginal Land Council (that is, a member of such a Council who has voting rights in relation to the Council) is eligible to nominate a person as a candidate for election as a Board member of the Council,
- (c) to enable the returning officer for an election to provide assistance to persons unable to vote without assistance,
- (d) to change the voting system for Boards of Local Aboriginal Land Councils from optional preferential to first past the post and to make other provision in relation to procedures for voting and counting of votes,
- (e) to require electoral material to be retained by the Registrar for 3 months, if the Registrar is not the returning officer for an election for a Board or for the Chairperson or Deputy Chairperson of a Board,
- (f) to require notices of meetings at which an election is to be held to specify that the election is to be held and the classes of persons who are eligible to vote.

This Regulation is made under the *Aboriginal Land Rights Act 1983*, including sections 63 (7) and 252 (the general regulation-making power).

## **2007 No 384**

Clause 1            Aboriginal Land Rights Amendment (Board Elections) Regulation 2007

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# **Aboriginal Land Rights Amendment (Board Elections) Regulation 2007**

under the

Aboriginal Land Rights Act 1983

### **1 Name of Regulation**

This Regulation is the *Aboriginal Land Rights Amendment (Board Elections) Regulation 2007*.

### **2 Amendment of Aboriginal Land Rights Regulation 2002**

The *Aboriginal Land Rights Regulation 2002* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 2)

**[1] Clause 25 Election of Board members**

Insert after clause 25 (1):

- (1A) The chief executive officer of the Local Aboriginal Land Council must, not later than 48 hours before a meeting at which an election for one or more Board members is to take place, send a current copy of the Council's membership roll, certified in a manner approved by the Registrar, to the returning officer for the election.
- (1B) If a copy of a membership roll is not provided in accordance with subclause (1A) and the Registrar is not the returning officer, the Registrar must, at the request of the returning officer, supply a current copy of the Council's membership roll, certified in a manner approved by the Registrar, to the returning officer before the election.

**[2] Clause 25 (3) (a) and (b)**

Insert "voting" before "member" wherever occurring.

**[3] Clause 25 (4)**

Omit the subclause. Insert instead:

- (4) For a nomination to be valid:
  - (a) the person who nominates another person must be a voting member of the Council at the time the nomination is made, and
  - (b) 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.

**[4] Clause 25 (6) (b)**

Omit the paragraph. Insert instead:

- (b) subject to this Division, be conducted in the manner determined by the Registrar.

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Schedule 1 Amendments

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**[5] Clause 25 (6A)**

Insert after clause 25 (6):

- (6A) The returning officer is to make all necessary arrangements for a ballot and may nominate a person (other than a voting member of the Local Aboriginal Land Council) to assist in those arrangements.

**[6] Clause 25A Conduct of ballot for Board members**

Insert “by the returning officer or” after “be determined” in clause 25A (2).

**[7] Clause 25A (4)**

Omit the subclause. Insert instead:

- (4) The returning officer is to direct the voting members present at the election meeting that each member must record a vote on the ballot-paper for one candidate by placing the number “1” (or a tick or cross) in the square opposite the name of the candidate.

**[8] Clause 25A (6)**

Insert after clause 25A (5):

- (6) Without limiting subclause (5), the returning officer may require a person who wishes to vote in the election to state any particulars necessary for the purpose of identifying the name on the membership roll under which the vote is claimed.

**[9] Clause 25AA**

Insert after clause 25A:

**25AA Assistance to certain electors**

- (1) If an elector satisfies the returning officer that:
- (a) his or her sight is so impaired, or
  - (b) he or she is so physically incapacitated, or
  - (c) he or she is so illiterate,
- that the elector is unable to vote without assistance, the returning officer is to permit a person appointed by the elector to mark the ballot-paper of the elector according to the instruction of the elector.
- (2) If any such elector fails to appoint a person under subclause (1), the returning officer must, in the presence of:
- (a) such scrutineers as choose to be present, or

- (b) if there are no scrutineers present, in the presence of such person as the elector may appoint, mark the ballot-paper according to the instruction of the elector.
- (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 candidate for whom the elector desires to vote.

**[10] Clause 25B**

Omit the clause. Insert instead:

**25B Counting of votes**

- (1) The returning officer must as soon as practicable after voting takes place in a ballot under this Division:
  - (a) examine each ballot-paper and reject those which are informal, and
  - (b) proceed to count the votes in accordance with this clause.
- (2) The returning officer is to examine the ballot-papers and count the votes in the presence of any scrutineers and such other persons as the returning officer thinks fit.
- (3) Each candidate may nominate a person present at the meeting to act as a scrutineer for the candidate.
- (4) A ballot-paper must be rejected as informal if the elector has failed to record his or her vote in the manner directed by the returning officer.
- (5) A ballot-paper is not to be rejected as informal merely because of any mark or writing that is not authorised or required by this Regulation if, in the opinion of the returning officer, the elector’s intention is clearly indicated on the ballot-paper.
- (6) In any election for Board members, the method of counting votes is to be the “first past the post” method, that is, the candidate or candidates with the most votes is or are taken to be elected.
- (7) If the number of candidates to be elected cannot be determined because of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn by lot from a receptacle containing the names of each of the candidates having equal votes.

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### [11] Clause 25F Retention of electoral papers

Insert at the end of clause 25F:

- (2) Despite subclause (1), if the returning officer is not the Registrar, the returning officer must send all electoral material to the Registrar immediately after the declaration of the result of an election under this Division.
- (3) The Registrar must retain all nomination papers, ballot-papers and other papers in connection with an election under this Division for a period of not less than 3 months after the election takes place.

### [12] Clause 27 Notice of meetings

Insert after clause 27 (2):

- (3) Notice under subclause (1) of a meeting at which an election under Division 3 of this Part is to be held must also specify:
  - (a) that the election is to be held, and
  - (b) the classes of persons who are eligible to vote.

BY AUTHORITY

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