



New South Wales

# Agricultural Industry Services Regulation 2024

under the

Agricultural Industry Services Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Agricultural Industry Services Act 1998*.

TARA MORIARTY, MLC  
Minister for Agriculture

## Explanatory note

The object of this regulation is to remake, with amendments, the *Agricultural Industry Services Regulation 2015*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation—

- (a) establishes Riverina Winegrape Growers as an agricultural industry services committee that is a continuation of the Wine Grapes Marketing Board, and
- (b) provides for the conduct of polls and elections for agricultural industry services committees, and
- (c) provides for other minor matters.

This regulation is made under the *Agricultural Industry Services Act 1998*, including sections 5(1)(a), 6, 32D and 51, the general regulation-making power.

This regulation, Parts 1, 3 and 4 comprise or relate to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters of a machinery nature, and
- (b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory, and
- (c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Agricultural Industry Services Regulation 2024

under the

Agricultural Industry Services Act 1998

### Part 1 Preliminary

#### 1 Name of regulation

This regulation is the *Agricultural Industry Services Regulation 2024*.

#### 2 Commencement

This regulation commences on 1 September 2024.

**Note—** This regulation replaces the *Agricultural Industry Services Regulation 2015*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

In this regulation—

*appropriate officer*, for Part 3—see section 15.

*approved form*, for Part 3—see section 15.

*close of enrolments*, for Part 3—see section 15.

*close of exhibition of the preliminary roll*, for Part 3—see section 15.

*close of nominations*, for Part 3—see section 15.

*close of the ballot*, for Part 3—see section 15.

*close of the poll*, for Part 3—see section 15.

*Committee*, for Part 2—see section 4.

*election*, for Part 3—see section 15.

*final roll*, for Part 3—see section 15.

*grower*, for Part 2—see section 4.

*inner envelope*, for Part 3—see section 15.

*MIA wine grapes*, for Part 2—see section 4.

*nominee*, for Part 3—see section 15.

*official mark*, for Part 3—see section 15.

*outer envelope*, for Part 3—see section 15.

*poll*, for Part 3—see section 15.

*preliminary roll*, for Part 3—see section 15.

*returning officer*, for Part 3—see section 15.

*the Act* means the *Agricultural Industry Services Act 1998*.

*winery*, for Part 2—see section 4.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

## Part 2 Riverina Winegrape Growers—the Act, ss 5(1)(a) and 6

### 4 Definitions

In this part—

**Committee**—see section 5.

**grower** means a grower belonging to the class of primary producers specified in section 7.

**MIA wine grapes** means a variety of grapes grown within the Committee's area of operations for processing into wine, must, juice or wine spirit.

**winery** means a processor that processes MIA wine grapes within the Committee's area of operations.

### 5 Establishment and continuation of Committee

- (1) There is established an agricultural industry services committee with the corporate name of Riverina Winegrape Growers (the **Committee**).
- (2) The Committee is a continuation of the committee constituted under the *Agricultural Industry Services (Wine Grapes Marketing Board) Regulation 2003* and continued under the *Agricultural Industry Services Regulation 2015*.
- (3) For the Act, this part is the foundation regulation for the Committee.

### 6 Area of operations of Committee

The area of operations for which the Committee is constituted is comprised of the local government areas of Carrathool, City of Griffith, Leeton and Murrumbidgee.

### 7 Class of primary producers for which Committee is constituted

- (1) For a calendar year, the class of primary producers for which the Committee is constituted is all growers within the Committee's area of operations who, during the previous calendar year, harvested more than 20t of MIA wine grapes.
- (2) This section does not apply to the following—
  - (a) a grower that is also a winery,
  - (b) a grower that is a corporation in which a winery has a controlling interest,
  - (c) a grower who—
    - (i) is an individual, and
    - (ii) is a director of a corporation that is a winery, and
    - (iii) supplies the winery with all of the MIA wine grapes the grower harvests.

### 8 Commodity for which Committee is constituted

The commodity for which the Committee is constituted is MIA wine grapes.

### 9 Agricultural industry services of Committee

The agricultural industry services for which the Committee is constituted are as follows—

- (a) the development of a code of conduct for contract negotiations between growers and wineries,
- (b) the development of draft contract provisions for the sale of MIA wine grapes to wineries, including provisions about the prices to be paid by wineries and the terms and conditions of payment,

- (c) the promotion of private contracts for the sale of MIA wine grapes to wineries by growers,
- (d) the collection and dissemination of market and industry information, including the production and publication of indicator prices for MIA wine grapes grown in the Committee's area of operations,
- (e) the conduct of research and development into plant health in relation to wine grapes,
- (f) the provision of education and training in relation to wine grape production and marketing,
- (g) the promotion, in association with organisations representing wineries, of wine made from MIA wine grapes,
- (h) the promotion of regional industry, including regional wine-making, within the Committee's area of operations,
- (i) the representation of the wine grape industry in relation to the matters referred to in paragraphs (a)–(h).

**10 Membership of Committee**

- (1) The Committee must consist of 7 members comprising—
  - (a) 5 persons elected by the Committee's constituents, and
  - (b) 2 persons appointed by the elected members.
- (2) If an insufficient number of persons are nominated for election to the Committee, the elected members must appoint the additional members.

**11 Voting entitlements of constituents**

Each of the Committee's constituents is entitled to 1 vote in a poll or election.

**12 Quorum for meeting of Committee**

The quorum for a meeting of the Committee is 4 of the Committee's members.

**13 Quorum for meeting of constituents**

The quorum for a meeting of the Committee's constituents is 5% of the number of the Committee's constituents as at the end of the previous calendar year.

**14 Financial year of Committee**

The financial year of the Committee is a calendar year.

## Part 3 Polls and elections—the Act, s 51

### Division 1 Preliminary

#### 15 Definitions

In this part—

**appropriate officer** means the following—

- (a) for a poll under the Act, section 4(2)(b)—the Secretary,
- (b) for a poll under the Act, section 17(1)—the chairperson of the committee for which the poll is to be taken,
- (c) for an election, other than an election referred to in paragraph (d)—the Secretary,
- (d) for an election to fill a vacancy in a committee as required under the Act, Schedule 1, clause 5—the chairperson of the committee.

**approved form** means the form approved by the returning officer.

**close of enrolments**, for a poll or election, means the time and date, set by the returning officer, until which persons may be included in the final roll.

**close of exhibition of the preliminary roll**, for a poll or election, means the time and date, set by the returning officer, until which the preliminary roll must be exhibited.

**close of nominations**, for an election, means the time and date, set by the returning officer, until which nominations may be made.

**close of the ballot**, for an election, means the time and date, set by the returning officer, until which a person may vote in the election.

**close of the poll** means the time and date, set by the returning officer, until which a person may vote in a poll.

**election** means an election for members of a committee under the Act.

**final roll** means—

- (a) for a poll—the roll prepared by the returning officer under Division 2, Subdivision 2, or
- (b) for an election—the roll prepared by the returning officer under Division 3, Subdivision 4.

**inner envelope**, for a poll or election, means a blank unsealed envelope.

**nominee** means an individual nominated in accordance with section 50 by a primary producer to—

- (a) be enrolled on the final roll for a poll or election, and
- (b) vote on behalf of the primary producer in the poll or election.

**official mark** means a mark prescribed as an official mark in accordance with the *Electoral Act 2017*, section 165(3)(c).

**outer envelope**, for a poll or election, means a large unsealed envelope that—

- (a) is addressed to the returning officer, and
- (b) includes spaces on the back of the envelope for the voter's name, address and signature.

**poll** means a poll under the Act, section 4(2)(b) or 17(1).

**preliminary roll** means—

- (a) for a poll—the roll provided to the returning officer under section 18, or
- (b) for an election—the roll provided to the returning officer under section 45.

**returning officer** means—

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner to exercise the functions of a returning officer under this part.

#### **16 Poll or election is agricultural industry service**

For the Act, section 3, definition of *agricultural industry service*, paragraph (c), the conduct of a poll or election by a committee is declared to be an agricultural industry service.

#### **17 Relationship with foundation regulation**

A committee's foundation regulation prevails over this part to the extent of an inconsistency.

### **Division 2 Polls**

#### **Subdivision 1 Calling of poll**

##### **18 Preparation of preliminary roll**

- (1) As soon as practicable after the Minister directs that a poll be taken on a question, the returning officer must notify the appropriate officer that a poll is to be held on the question.
- (2) As soon as practicable after being notified of the poll, the appropriate officer must give the returning officer—
  - (a) a preliminary roll, and
  - (b) for each person included in the roll—an appropriately addressed label or envelope or an electronic version of the label or envelope.
- (3) The preliminary roll must contain the following—
  - (a) the full names, in alphabetical order and consecutively numbered, of—
    - (i) for a poll under the Act, section 4(2)(b)—the persons who, in the appropriate officer's opinion, are the proposed constituents of the committee, or
    - (ii) for a poll under the Act, section 17(1)—the committee's constituents,
  - (b) the addresses of the persons included in the roll under paragraph (a),
  - (c) if a primary producer has nominated a nominee—the full name and address of the nominee listed next to the primary producer,
  - (d) if, for a poll under the Act, section 17(1), the committee's foundation regulation provides for different voting entitlements for the committee's constituents—the voting entitlements of the constituents.
- (4) The preliminary roll must be certified by the appropriate officer as having been prepared in accordance with this section.

##### **19 Notice of poll**

- (1) As soon as practicable after the Minister directs that a poll be taken on a question, the returning officer must publish notice of the poll in a way the returning officer is satisfied is likely to bring the poll to the attention of—
  - (a) for a poll under the Act, section 4(2)(b)—the proposed constituents of the committee, or
  - (b) for a poll under the Act, section 17(1)—the committee's constituents.

- (2) The returning officer must send notice of the poll to the address of each person included in the preliminary roll for the poll.
- (3) The notice must include the following—
  - (a) the question on which the poll is being taken,
  - (b) the close of exhibition of the preliminary roll,
  - (c) the close of enrolments,
  - (d) the close of the poll,
  - (e) where copies of the preliminary roll will be exhibited,
  - (f) the class of primary producers for which the committee is, or is proposed to be, constituted,
  - (g) the qualifications for voting,
  - (h) how an application for enrolment or objection against enrolment may be lodged,
  - (i) a statement that it is compulsory for persons qualified to vote in the poll to be enrolled in the final roll for the poll.
- (4) The close of exhibition of the preliminary roll must be at least 14 days after notice of the poll is published.
- (5) The close of enrolments must—
  - (a) not be earlier than the close of exhibition of the preliminary roll, and
  - (b) be at least 14 days before the close of the poll.
- (6) The close of the poll must be at least 28 days, but no more than 90 days, after notice of the poll is published.

## **20 Postponements**

- (1) The returning officer may, by publication of a notice, postpone the following for no more than 14 days—
  - (a) the close of exhibition of the preliminary roll,
  - (b) the close of enrolments,
  - (c) the close of the poll.
- (2) The notice must be published in the same way as the notice for the poll must be published under section 19.

## **Subdivision 2 Preparation of final roll**

### **21 Exhibition of preliminary roll**

The returning officer must exhibit the preliminary roll in accordance with section 19(3)(e) for at least 14 days ending at the close of exhibition of the preliminary roll.

### **22 Qualifications for voting**

- (1) A person is qualified to vote in a poll under the Act, section 4(2)(b) if the person is included in the preliminary roll as a proposed constituent of the committee.
- (2) A person is qualified to vote in a poll under the Act, section 17(1) if the person belongs to the class of primary producers for which the relevant committee is constituted.

### 23 Nomination of nominees

- (1) A primary producer that is 1 of the following must, by written notice, nominate an individual to be enrolled in the final roll for, and vote on behalf of the primary producer in, a poll—
  - (a) a corporation, partnership or trustee,
  - (b) a legal representative for a person or a person's estate.
- (2) The individual is entitled to vote in a poll as the nominee of the primary producer if the returning officer is satisfied that—
  - (a) the individual has been nominated by the primary producer to vote on behalf of the primary producer, and
  - (b) the individual is not enrolled in the final roll for the poll in another capacity.
- (3) The primary producer may nominate only 1 nominee under this section.
- (4) A nomination under this section is revoked and replaced by a later nomination.
- (5) In this section—

*partnership* includes—

  - (a) a party to a share-farming agreement, and
  - (b) a group of persons who, in the returning officer's opinion, are engaged in a single enterprise for the growing, raising or production for sale of a primary product, regardless of whether one or more of the persons form a legal entity.

### 24 Enrolment in final roll compulsory

Each person who is qualified to vote in a poll, including an individual nominated to vote under section 23, must be enrolled in the final roll for the poll.

### 25 Applications for enrolment

- (1) A person qualified to vote in a poll who is not included in the preliminary roll must apply for enrolment in the final roll for the poll.
- (2) The application for enrolment must be—
  - (a) in the approved form, and
  - (b) given to the returning officer before the close of enrolments.
- (3) If the returning officer is satisfied that the applicant is qualified to vote, the returning officer must enter the following in the final roll for the poll—
  - (a) the full name and address of the applicant,
  - (b) if, for a poll under the Act, section 17(1), the committee's foundation regulation provides for different voting entitlements for the committee's constituents—the voting entitlement of the applicant.
- (4) If the returning officer is not satisfied that the applicant is qualified to vote, the returning officer must—
  - (a) reject the application, and
  - (b) give the applicant written notice of the rejection, including reasons for the rejection.
- (5) If the returning officer receives an incomplete application and is satisfied there is sufficient time for the applicant to return a completed application, the returning officer must—
  - (a) return the application to the applicant for completion, and

- (b) consider a completed application returned by the applicant in accordance with this section.

## **26 Objections about enrolment**

- (1) The returning officer or a person entitled to vote in a poll may, before the close of enrolments, object to—
  - (a) the inclusion of a person in the final roll, or
  - (b) for a poll under the Act, section 17(1)—the inclusion of a particular voting entitlement for a person in the final roll.
- (2) An objection made by a person other than the returning officer (an *objector*) must be—
  - (a) in the approved form, and
  - (b) given to the returning officer.
- (3) The returning officer must give particulars of an objection made under this section to the person to whom the objection relates.
- (4) The person to whom the objection relates may lodge a written reply with the returning officer within 7 days after receiving particulars of the objection.
- (5) The returning officer must consider—
  - (a) objections made under this section, and
  - (b) replies lodged under subsection (4).
- (6) The returning officer may require an objector, or a person who lodges a reply, to give the returning officer further information required to determine an objection.
- (7) The returning officer must accept or reject an objection.
- (8) If the returning officer accepts an objection relating to the inclusion of a person in the final roll, the returning officer must—
  - (a) not include the person's name in the final roll, and
  - (b) give the person and the objector written notice that the person's name will not be included in the final roll.
- (9) If the returning officer accepts an objection relating to the inclusion of a particular voting entitlement for a person in the final roll, the returning officer must—
  - (a) amend the final roll to show the correct voting entitlement, and
  - (b) give the person and the objector written notice that the person's voting entitlement has been amended.
- (10) If the returning officer rejects an objection, the returning officer must give the objector and the person to whom the objection relates written notice of the rejection.

## **27 Effect of postponements**

The validity of the final roll for a poll is not affected by the postponement of the close of the poll.

## **Subdivision 3 Ballot**

### **28 Voting optional**

Voting in a poll is not compulsory.

## **29 Content and distribution of ballot papers**

- (1) As soon as practicable after the close of enrolments for a poll, the returning officer must send to each person included in the final roll—
  - (a) for each vote to which the person is entitled—
    - (i) a ballot paper, and
    - (ii) an inner envelope, and
  - (b) an outer envelope.
- (2) The ballot paper must include the following—
  - (a) the question to be voted on in the poll with the words “YES” and “NO” and appropriate spaces for the voter’s answer,
  - (b) the date by which the ballot paper must be returned,
  - (c) either of the following—
    - (i) the initials of the returning officer or a person authorised by the returning officer to prepare the ballot paper,
    - (ii) an official mark.
- (3) The ballot paper may include directions for recording a vote or returning the ballot paper to the returning officer that the returning officer considers appropriate.

## **30 Information sheets**

A ballot paper may be accompanied by a document prepared by the returning officer that, in the returning officer’s opinion, fairly presents the arguments for and against the question to be voted on in the poll.

## **31 Duplicate ballot papers**

- (1) A person who receives a ballot paper may request a duplicate ballot paper from the returning officer if the original ballot paper is lost or damaged.
- (2) The request must be—
  - (a) made before the close of the poll, and
  - (b) accompanied by a statutory declaration verifying that—
    - (i) the original ballot paper is lost or damaged, and
    - (ii) the person has not voted in the poll.
- (3) The returning officer may, before the close of the poll, send a duplicate ballot paper and inner and outer envelopes to the person.
- (4) The returning officer must keep a record of all duplicate ballot papers sent under this section.

## **32 Recording votes**

To vote in a poll, a person must do the following—

- (a) record a vote on each ballot paper in accordance with the directions on the ballot paper,
- (b) place each completed ballot paper in a separate inner envelope,
- (c) seal each inner envelope,
- (d) place each inner envelope in the outer envelope,
- (e) seal the outer envelope,
- (f) record the person’s full name and address on the back of the outer envelope,

- (g) sign the back of the outer envelope,
- (h) return the outer envelope to the returning officer so it is received before the close of the poll.

#### **Subdivision 4 Result of poll**

##### **33 Determining result of poll**

The result of a poll must be determined by the returning officer as soon as practicable after the close of the poll.

##### **34 Scrutineers**

- (1) The returning officer may, on the written application of a person who has an interest in the outcome of a poll, appoint the person as a scrutineer for the poll.
- (2) The returning officer may appoint as many scrutineers for a poll as the returning officer believes are necessary to ensure the proper scrutiny of the poll.

##### **35 Rejection of ballot papers**

- (1) The returning officer must reject an outer envelope if—
  - (a) the envelope is received—
    - (i) unsealed, or
    - (ii) after the close of the poll, or
  - (b) a name, address or signature is missing from the back of the envelope, or
  - (c) the person named on the back of the envelope is not included in the final roll for the poll.
- (2) The returning officer may reject an outer envelope if it appears to the returning officer that the signature on the back of the envelope is not the signature of the person named on the back of the envelope.
- (3) For all other outer envelopes, the returning officer must draw a line through the name on the final roll for the poll that corresponds to the name on the back of the envelope.
- (4) The returning officer must not open an outer envelope in determining whether to reject the envelope.

##### **36 Scrutiny of votes**

- (1) As soon as practicable after the close of the ballot, the returning officer must, in the presence of the appointed scrutineers, scrutinise the votes in the poll in accordance with this section.
- (2) The returning officer must—
  - (a) open each outer envelope accepted for scrutiny, and
  - (b) remove the inner envelopes from the outer envelope, and
  - (c) record the number of inner envelopes beside the name on the final roll for the poll that corresponds to the name on the back of the outer envelope, and
  - (d) remove the ballot papers from the inner envelopes, and
  - (e) examine each ballot paper, and
  - (f) count the votes and determine the result of the poll.
- (3) If there are more inner envelopes in the outer envelope than the number of votes to which the person is entitled in accordance with the committee's foundation regulation, the returning officer must reject all the inner envelopes.

- (4) The returning officer must reject the following—
  - (a) all ballot papers in an inner envelope if the envelope contains more than one ballot paper,
  - (b) ballot papers that do not include—
    - (i) the initials of the returning officer, or a person authorised by the returning officer to prepare the ballot paper, or
    - (ii) an official mark,
  - (c) ballot papers containing writing or another mark that the returning officer considers could enable the voter to be identified,
  - (d) ballot papers that have not been completed in accordance with the directions shown on the ballot paper.
- (5) The returning officer must not reject a ballot paper for containing writing or another mark that is not authorised or required by this part, other than in the circumstance specified in subsection (4)(c), if the intention of the voter may be ascertained by the returning officer.
- (6) The result of the poll is determined based on the following—
  - (a) the number of votes accepted in the poll,
  - (b) the number of votes in favour of the question on which the poll is being taken,
  - (c) the number of votes against the question,
  - (d) the number of ballot papers rejected.

### **37 Notice of result**

As soon as practicable after the result of a poll is determined, the returning officer must give the Minister and the appropriate officer written notice of the result.

## **Division 3 Elections**

### **Subdivision 1 Calling of election**

#### **38 Notice of election**

- (1) As soon as practicable after it is determined an election must be held, the appropriate officer must give notice of the election to the returning officer.
- (2) The returning officer must publish notice of the election in a way the returning officer is satisfied is likely to bring the election to the attention of the relevant constituents.
- (3) The returning officer must send notice of the election to the address of each person included in the preliminary roll for the election.
- (4) The notice must include the following—
  - (a) the committee and area of operations or electoral district to which the election relates,
  - (b) the number of candidates required to be elected,
  - (c) how an application for nomination of a candidate may be lodged,
  - (d) qualifications for nominating, or being nominated as, a candidate,
  - (e) the close of nominations.
- (5) The close of nominations must be at least 21 days, but no more than 28 days, after notice of the election is given.

### **39 Postponement of close of nominations**

- (1) The returning officer may, by publication of a notice, postpone the close of nominations for no more than 14 days.
- (2) The notice must be published in the same way as the notice of the election must be published under section 38.

## **Subdivision 2 Nomination of candidates**

### **40 Qualification for nomination**

A person belonging to the class of primary producers for which a committee is constituted is qualified to be nominated as a candidate for election to the committee.

### **41 Nomination of candidates**

- (1) A nomination for a candidate must be—
  - (a) in the approved form, and
  - (b) made on behalf of at least 6 other persons entitled to vote in the election, and
  - (c) given to the returning officer before the close of nominations.
- (2) A nomination must not be made without the consent of the candidate.
- (3) If the returning officer determines that an insufficient number of persons have nominated the candidate under subsection (1)(b), the returning officer must, as soon as practicable, give notice of the determination to the candidate.
- (4) In determining whether at least 6 persons entitled to vote in the election have nominated the candidate, the returning officer may ask the appropriate officer for information relating to the persons.
- (5) The appropriate officer must comply with a request made under subsection (4) as soon as practicable.
- (6) A person nominated as a candidate may, by written notice given to the returning officer before the close of nominations, withdraw the nomination.

### **42 Uncontested elections**

If the number of candidates after the close of nominations does not exceed the number of persons required to be elected, each of the candidates is taken to be elected.

### **43 Contested elections**

A ballot must be held if the number of candidates after the close of nominations exceeds the number of persons required to be elected.

### **44 Candidate information sheets**

- (1) A candidate may, before the close of nominations, give the returning officer information to be included in a candidate information sheet.
- (2) The information must be given in the approved form.
- (3) If a ballot must be held, the returning officer must prepare a candidate information sheet that includes the information given by candidates.
- (4) The returning officer may decide not to include information given by a candidate if the returning officer considers—
  - (a) the information is false or misleading, or

- (b) the information is inappropriate to include, or
  - (c) there is too much information to include.
- (5) If the returning officer decides not to include a candidate's information in the candidate information sheet, the returning officer must—
  - (a) give the candidate notice of the decision, including reasons for the decision, and
  - (b) give the candidate 7 days to give additional information.
- (6) If the candidate does not give the returning officer additional information under subsection (5) that the returning officer considers suitable to include, no information about the candidate may be included in the candidate information sheet.
- (7) If a candidate does not give information to the returning officer under subsection (1), the returning officer may include in the candidate information sheet the words “NO INFORMATION RECEIVED” for the candidate.
- (8) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot paper for the election.

### **Subdivision 3 Calling of ballot**

#### **45 Preparation of preliminary roll**

- (1) As soon as practicable after it is determined a ballot must be held for an election, the returning officer must give notice of the ballot to the appropriate officer.
- (2) The appropriate officer must give the returning officer—
  - (a) a preliminary roll, and
  - (b) for each person included in the roll—an appropriately addressed label or envelope or an electronic version of the label or envelope.
- (3) The preliminary roll must include the full names, in alphabetical order and consecutively numbered, and addresses of—
  - (a) for the first election for a committee with an area of operations that is not divided into electoral districts—the persons included in the final roll for the relevant poll held under the Act, section 4(2)(b), or
  - (b) for other elections for a committee with an area of operations that is not divided into electoral districts—the committee's constituents, or
  - (c) for the first election for an electoral district—the persons who, in the Secretary's opinion, are entitled to vote in the election, or
  - (d) for other elections for an electoral district—the committee's constituents who are entitled to vote in elections for the district.
- (4) The preliminary roll must also include—
  - (a) if a primary producer has nominated a nominee—the full name and address of the nominee listed next to the primary producer, and
  - (b) if the committee's foundation regulation provides for different voting entitlements for the committee's constituents—the voting entitlements of the constituents.
- (5) The preliminary roll must be certified by the appropriate officer as having been prepared in accordance with this section.

#### **46 Notice of ballot**

- (1) As soon as practicable after the returning officer receives the preliminary roll for an election, the returning officer must publish notice of the ballot in a way the returning officer is satisfied is likely to bring the ballot to the attention of the persons included in the roll.
- (2) The returning officer must send notice of the ballot to the address of each person included in the preliminary roll for the election.
- (3) The notice must include the following—
  - (a) the area of operations or electoral district to which the election relates,
  - (b) the class of primary producers for which the relevant committee is constituted,
  - (c) the close of exhibition of the preliminary roll,
  - (d) the close of enrolments,
  - (e) the close of the ballot,
  - (f) where copies of the preliminary roll will be exhibited,
  - (g) the qualifications for voting,
  - (h) how an application for enrolment or objection against enrolment may be lodged,
  - (i) a statement that it is compulsory for persons qualified to vote in the election to be enrolled in the final roll for the election.
- (4) The close of exhibition of the preliminary roll must be at least 14 days after notice of the ballot is published.
- (5) The close of enrolments must—
  - (a) not be earlier than the close of exhibition of the preliminary roll, and
  - (b) be at least 14 days before the close of the ballot.
- (6) The close of the ballot must be at least 28 days after notice of the ballot is published.

#### **47 Postponements**

- (1) The returning officer may, by publication of a notice, postpone the following for no more than 14 days—
  - (a) the close of exhibition of the preliminary roll,
  - (b) the close of enrolments,
  - (c) the close of the ballot.
- (2) The notice must be published in the same way as the notice of the ballot must be published under section 46.

### **Subdivision 4 Preparation of final roll**

#### **48 Exhibition of preliminary roll**

The returning officer must exhibit the preliminary roll in accordance with section 46(3)(f) for at least 14 days ending at the close of exhibition of the preliminary roll.

#### **49 Qualifications for voting**

A person is qualified to vote in an election if the person belongs to the class of primary producers for which the relevant committee is constituted.

## 50 Nomination of nominees

- (1) A primary producer that is 1 of the following must, by written notice, nominate an individual to be enrolled in the final roll for, and vote on behalf of the primary producer in, an election—
  - (a) a corporation, partnership or trustee,
  - (b) a legal representative for a person or a person's estate.
- (2) The individual is entitled to vote in the election as the nominee of the primary producer if the returning officer is satisfied that—
  - (a) the individual has been nominated by the primary producer to vote on behalf of the primary producer, and
  - (b) the individual is not enrolled in the final roll for the election in another capacity.
- (3) The primary producer may nominate only 1 nominee under this section.
- (4) A nomination under this section is revoked and replaced by a later nomination.
- (5) In this section—

*partnership* includes—

  - (a) a party to a share-farming agreement, and
  - (b) a group of persons who, in the returning officer's opinion, are engaged in a single enterprise for the growing, raising or production for sale of a primary product, regardless of whether one or more of the persons form a legal entity.

## 51 Enrolment in final roll compulsory

Each person who is qualified to vote in an election, including an individual nominated to vote under section 50, must be enrolled in the final roll for the election.

## 52 Applications for enrolment

- (1) A person qualified to vote in an election who is not included in the preliminary roll must apply for enrolment in the final roll for the election.
- (2) The application for enrolment must be—
  - (a) in the approved form, and
  - (b) given to the returning officer before the close of enrolments.
- (3) If the returning officer is satisfied that the applicant is qualified to vote, the returning officer must enter the following in the final roll for the election—
  - (a) the full name and address of the applicant,
  - (b) if the committee's foundation regulation provides for different voting entitlements for the committee's constituents—the voting entitlement of the applicant.
- (4) If the returning officer is not satisfied that the applicant is qualified to vote, the returning officer must—
  - (a) reject the application, and
  - (b) give the applicant written notice of the rejection, including reasons for the rejection.
- (5) If the returning officer receives an incomplete application and is satisfied there is sufficient time for the applicant to return a completed application, the returning officer must—
  - (a) return the application to the applicant for completion, and

- (b) consider a completed application returned by the applicant in accordance with this section.

### **53 Objections about enrolment**

- (1) The returning officer or a person entitled to vote in an election may, before the close of enrolments, object to—
  - (a) the inclusion of a person in the final roll, or
  - (b) the inclusion of a particular voting entitlement for a person in the final roll.
- (2) An objection made by a person other than the returning officer (an *objector*) must be—
  - (a) in the approved form, and
  - (b) given to the returning officer.
- (3) The returning officer must give particulars of an objection made under this section to the person to whom the objection relates.
- (4) The person to whom the objection relates may lodge a written reply with the returning officer within 14 days after receiving particulars of the objection.
- (5) The returning officer must consider—
  - (a) objections made under this section, and
  - (b) replies lodged under subsection (4).
- (6) The returning officer may require an objector, or a person who lodges a reply, to give the returning officer further information required to determine an objection.
- (7) The returning officer must accept or reject an objection.
- (8) If the returning officer accepts an objection relating to the inclusion of a person in the final roll, the returning officer must—
  - (a) not include the person's name in the final roll, and
  - (b) give the person and the objector written notice that the person's name will not be included in the final roll.
- (9) If the returning officer accepts an objection relating to the inclusion of a particular voting entitlement for a person in the final roll, the returning officer must—
  - (a) amend the final roll to show the correct voting entitlement, and
  - (b) give the person and the objector written notice that the person's voting entitlement has been amended.
- (10) If the returning officer rejects an objection, the returning officer must give the objector and the person to whom the objection relates written notice of the rejection.

### **54 Effect of postponements**

The validity of the final roll for an election is not affected by the postponement of the close of the ballot.

## **Subdivision 5 Ballot**

### **55 Voting optional**

Voting in an election is not compulsory.

## **56 Content and distribution of ballot papers**

- (1) As soon as practicable after the close of enrolments for an election, the returning officer must—
  - (a) determine, by random selection, the order in which the candidates' names will appear on the ballot paper, and
  - (b) send to each person included in the final roll—
    - (i) a ballot paper and inner envelope for each vote to which the person is entitled, and
    - (ii) an outer envelope, and
    - (iii) a candidate information sheet, if applicable.
- (2) The ballot paper must include the following—
  - (a) the names of the candidates with a square opposite each name,
  - (b) the number of candidates to be elected,
  - (c) the date by which the ballot paper must be returned,
  - (d) either of the following—
    - (i) the initials of the returning officer, or a person authorised by the returning officer to prepare the ballot paper,
    - (ii) an official mark.
- (3) If the returning officer considers that the names of 2 or more of the candidates are so similar that they are likely to be confused, the returning officer may include in the ballot paper information that the returning officer considers appropriate to distinguish the candidates.
- (4) The ballot paper must include a direction that—
  - (a) the voter must vote by recording consecutive numbers, from “1” up to at least the number of candidates to be elected, in the squares opposite the candidates' names in the order of the voter's preference, and
  - (b) the voter may vote for additional candidates by recording consecutive numbers, starting from the number after the number of candidates to be elected, in the squares opposite the candidates' names in the order of the voter's preference.
- (5) The ballot paper may include other directions for recording a vote or returning the ballot paper to the returning officer that the returning officer considers appropriate.

## **57 Duplicate ballot papers**

- (1) A person who receives a ballot paper may request a duplicate ballot paper from the returning officer if the original ballot paper is lost or damaged.
- (2) The request must be accompanied by a statutory declaration verifying that—
  - (a) the original ballot paper is lost or damaged, and
  - (b) the person has not voted in the election.
- (3) The returning officer may, before the close of the ballot, send a duplicate ballot paper and inner and outer envelopes to the person.
- (4) The returning officer must keep a record of all duplicate ballot papers sent under this section.

## **58 Recording votes**

To vote in an election, a person must do the following—

- (a) record a vote on each ballot paper in accordance with the directions on the ballot paper,
- (b) place each completed ballot paper in a separate inner envelope,
- (c) seal each inner envelope,
- (d) place each inner envelope in the outer envelope,
- (e) seal the outer envelope,
- (f) record the person's full name and address on the back of the outer envelope,
- (g) sign the back of the outer envelope,
- (h) return the outer envelope to the returning officer so it is received before the close of the ballot.

## **Subdivision 6 Result of election**

### **59 Determining result of election**

The result of an election must be determined by the returning officer as soon as practicable after the close of the ballot.

### **60 Scrutineers**

Each candidate in an election may, by written notice given to the returning officer, appoint 1 scrutineer to represent the candidate for the scrutiny of the election.

### **61 Rejection of ballot papers**

- (1) The returning officer must reject an outer envelope if—
  - (a) the envelope is received—
    - (i) unsealed, or
    - (ii) after the close of the ballot, or
  - (b) a name, address or signature is missing from the back of the envelope, or
  - (c) the person named on the back of the envelope is not included in the final roll for the election.
- (2) The returning officer may reject an outer envelope if it appears to the returning officer that the signature on the back of the envelope is not the signature of the person named on the back of the envelope.
- (3) For all other outer envelopes, the returning officer must draw a line through the name on the final roll for the election that corresponds to the name on the back of the envelope.
- (4) The returning officer must not open an outer envelope in determining whether to reject the envelope.

### **62 Scrutiny of votes**

- (1) As soon as practicable after the close of the ballot, the returning officer must, in the presence of the appointed scrutineers, scrutinise the votes in the election in accordance with this section.
- (2) The returning officer must—
  - (a) open each outer envelope accepted for scrutiny, and
  - (b) remove the inner envelopes from the outer envelope, and
  - (c) record the number of inner envelopes beside the name on the final roll for the election that corresponds to the name on the back of the outer envelope, and

- (d) remove the ballot papers from the inner envelopes, and
  - (e) examine each ballot paper, and
  - (f) count the votes and determine the result of the election.
- (3) If there are more inner envelopes in the outer envelope than the number of votes to which the person is entitled in accordance with the committee's foundation regulation, the returning officer must reject all the inner envelopes.
- (4) The returning officer must reject the following—
- (a) all ballot papers in an inner envelope if the envelope contains more than one ballot paper,
  - (b) ballot papers that do not include—
    - (i) the initials of the returning officer, or a person authorised by the returning officer to prepare the ballot paper, or
    - (ii) an official mark,
  - (c) ballot papers containing writing or another mark that the returning officer considers could enable the voter to be identified,
  - (d) ballot papers that have not been completed in accordance with the directions shown on the ballot paper.
- (5) The returning officer must not reject a ballot paper for containing writing or another mark that is not authorised or required by this part, other than in the circumstance specified in subsection (4)(c), if the intention of the voter can be ascertained by the returning officer.
- (6) Despite subsection (4)(d), a ballot paper must not be rejected if the voter recorded the number "1" in a square opposite a candidate's name and—
- (a) recorded the same number, other than "1", for more than one candidate on the ballot paper, or
  - (b) did not use consecutive numbers to record their vote.

### **63 Counting of votes**

- (1) The result of an election must be determined by the returning officer—
- (a) for the election of 1 member—using the same method as in the *Constitution Act 1902*, Seventh Schedule, Part 2, and
  - (b) for the election of 2 or more members—using the same method as in the *Constitution Act 1902*, Sixth Schedule, Part 2.
- (2) A reference in the provisions referred to in subsection (1) to a returning officer or a Council returning officer is taken to be a reference to the returning officer under this part.
- (3) The quota referred to in the provisions referred to in subsection (1) must be determined by—
- (a) dividing the number of first preference votes for all candidates by 1 more than the number of candidates to be elected, and
  - (b) increasing that quotient, disregarding any remainder, by 1.

### **64 Notice of result**

As soon as practicable after the result of an election is determined, the returning officer must give the Minister and the appropriate officer written notice of the candidates elected.

## **Division 4      General**

### **65    Death of a candidate**

If a candidate dies after the close of nominations but before the close of the ballot—

- (a) the returning officer must publish notice of the death in a way the returning officer is satisfied is likely to bring the candidate's death to the attention of the relevant voters, and
- (b) the election is void and must be held again in accordance with Division 3.

### **66    Single roll for polls and elections**

- (1) If the same voting entitlements apply for a poll and an election, a single roll may be prepared and used for the poll and election.
- (2) If a single roll is used—
  - (a) an application for enrolment in the roll may be made under section 25 or 52, and
  - (b) an objection to the inclusion of a person, or a particular voting entitlement for a person, in the final roll may be made under section 26 or 53.

### **67    Offences**

A person must not—

- (a) vote, or attempt to vote, more times than the person's voting entitlement allows in a poll or election, or
- (b) vote, or attempt to vote, in a poll or election in which the person is not entitled to vote, or
- (c) apply for enrolment in a poll or election if the person is already enrolled in the final roll for the poll or election.

Maximum penalty—1 penalty unit.

### **68    Expenses for polls and elections**

- (1) A returning officer must, before conducting a poll or election, give the relevant committee an estimate of the expenses likely to be incurred by the returning officer in conducting the poll or election.
- (2) The committee must, before the poll or election, pay the returning officer an amount equal to the estimate.
- (3) The committee must, after the poll or election, pay the returning officer the amount, if any, by which the actual expenses incurred in conducting the poll or election exceed the estimate.
- (4) The returning officer must refund to the committee any amount by which the estimate exceeds the actual expenses incurred in conducting the poll or election.

## Part 4 Miscellaneous

### 69 Declaration of recognised foundation instrument

- (1) For the Act, section 32D(1), the *Murray Valley Wine Grape Industry Development (ExtraTerritorial) Order 2020* made under the *Agricultural Industry Development Act 1990* of Victoria, section 8 is declared to be a recognised foundation instrument.
- (2) For the Act, section 32D(3), the instrument referred to in subsection (1) is declared to apply in relation to—
  - (a) the local government areas of Balranald, Wakool and Wentworth, and
  - (b) all varieties of grapes grown in the areas for processing into wine, must, juice or wine spirit, and
  - (c) all primary producers of the commodity specified in paragraph (b).
- (3) The reference in subsection (2)(a) to the local government area of Wakool is a reference to the part of the local government area of Murray River that consists of the local government area of Wakool as constituted immediately before the commencement of the *Local Government (Council Amalgamations) Proclamation 2016*.

### 70 Content and publication of register of constituents

- (1) For the Act, section 51(1)(d), a committee's register of constituents must include the following—
  - (a) the full name and address of each constituent,
  - (b) for each nominee—
    - (i) the full name and address of the nominee, and
    - (ii) the constituent who made the nomination,
  - (c) if the committee's foundation regulation provides for different voting entitlements for the committee's constituents—the voting entitlement of each constituent,
  - (d) for a committee with an area of operations divided into electoral districts—the electoral district in which each constituent is entitled to vote.
- (2) A committee must publish the committee's register of constituents on the committee's website.
- (3) In this section—  
*nominee* has the same meaning as in Part 3.

### 71 Savings

- (1) An act, matter or thing that, immediately before the repeal of the repealed regulation, had effect under the repealed regulation continues to have effect under this regulation.
- (2) If notice of an election is given to the returning officer under the repealed regulation, clause 39(1) before 1 September 2024, the election must be carried out in accordance with the repealed regulation, as in force immediately before 1 September 2024, despite the repeal.
- (3) For the purposes of the election under subsection (2), the Wine Grapes Marketing Board, referred to in the repealed regulation, clause 5, may be referred to as Riverina Winegrape Growers.
- (4) A reference in a document to the Wine Grapes Marketing Board is taken to be a reference to Riverina Winegrape Growers.

- (5) In this section—  
*repealed regulation* means the *Agricultural Industry Services Regulation 2015*.