

Ports and Maritime Administration Regulation 2007

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New South Wales

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Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Does not include amendments by**

Cl 30 (2) and 36 (4) of this Regulation (not commenced — cl 30 (2) and 34 (4) to commence on the commencement of Sch 15 to the [Parliamentary Electorates and Elections Amendment Act 2006 No 68](#))
Cl 2 (2) of this Regulation (cl 30 (2) and 36 (4) to be repealed on the day following the day on which those subclauses commence)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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Ports and Maritime Administration Regulation 2007



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Ports and Maritime Administration Regulation 2007*.

2 Commencement

- (1) This Regulation commences on 1 September 2007, except as provided by subclause (2).
- (2) Clauses 30 (2) and 36 (4) commence on the later of:
 - (a) the day on which Schedule 15 to the *Parliamentary Electorates and Elections Amendment Act 2006* commences, or
 - (b) 1 September 2007,

and are repealed on the day following the day on which those subclauses commence.

Note—

This Regulation replaces the *Ports Corporatisation and Waterways Management Regulation 2002* and the *Ports Corporatisation (Staff Director Elections) Regulation 2002* which are repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

the Act means the *Ports and Maritime Administration Act 1995*.

4 Notes

Notes included in this Regulation (other than Schedule 2) do not form part of this Regulation.

Part 2 Port charges

Division 1 Preliminary

5 Definitions

(1) In this Part:

charge means a charge under Part 5 of the Act.

container means an article of transport equipment (other than a vessel) that:

- (a) is of a permanent character and accordingly is strong enough to be suitable for repeated use, and
- (b) is specially designed or adapted to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading.

officer of a relevant port authority means:

- (a) if the relevant port authority is the Minister—a delegate of the Minister, or an officer of such a delegate, appointed by the Minister or the delegate (as the case requires) as an officer for the purposes of this Part, or
- (b) if the relevant port authority is a Port Corporation—an officer of the Port Corporation appointed by the Port Corporation as an officer for the purposes of this Part.

owner has the same meaning as in section 48 of the Act.

voyage number, in relation to a vessel, means the number allocated to the vessel in respect of a particular sailing.

working day, in relation to a port, means that part of the day (not being a Saturday, Sunday or public holiday) during which work is normally carried on in the port.

(2) Other words and expressions in this Part have the same meanings as they have in Part 5 of the Act.

6 Exemption from navigation service charges for certain vessels

(1) A vessel that:

- (a) leaves the port of Sydney Harbour and, without leaving the territorial sea of Australia or entering another port, enters the port of Botany Bay, or
- (b) leaves the port of Botany Bay and, without leaving the territorial sea of Australia or entering another port, enters the port of Sydney Harbour,

is exempt from Division 2 (Navigation service charges) of Part 5 (Port charges) of the

Act in respect of the second port entered.

(2) In this clause:

territorial sea of Australia means the territorial sea of Australia within the limits referred to in section 4 (1) of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth.

Division 2 General principles for calculation of charges

7 Rates per tonne

If the amount of any charge is to be calculated at a rate per tonne, that calculation may, at the discretion of the relevant port authority, be made on the basis that 1 tonne is equivalent to:

- (a) a mass of 1,000 kilograms, or
- (b) a volume of 1 cubic metre or 1 kilolitre.

8 Goods in bulk

If, in the terms by which any charge is fixed, reference is made to goods of any specified description being in bulk, the reference is to be construed (unless provision is made to the contrary) as a reference to goods of that description that have been loaded on to or discharged from a vessel at a designated port by means of a pipeline, conveyor, mechanical shovel or bucket.

9 Rounding off

For the purpose of calculating a charge that is to be determined by reference to stated units of measurement (whether of weight or volume) of any goods, the measurement of those goods is the lowest whole number of those units that the actual weight or volume of those goods does not exceed.

10 Gross tonnage

- (1) For the purposes of calculating any charge, the gross tonnage of a vessel is the gross tonnage of the vessel as stated on the International Tonnage Certificate (1969) for the vessel issued in accordance with the *International Convention on Tonnage Measurement of Ships 1969*.
- (2) If no such certificate has been issued in respect of the vessel, the gross tonnage of the vessel is to be calculated by the relevant port authority in accordance with the formula set out in the document known as MSC Circular 653 (entitled *MSC/Circ. 653*) issued by the International Maritime Organization.

Note—

Copies of MSC Circular 653 are available from the Australian Maritime Safety Authority.

Division 3 Furnishing of particulars

11 Navigation service charge—particulars to be furnished

The owner of a vessel in respect of which a navigation service charge is payable must, at such time as the relevant port authority requires, furnish the relevant port authority with the following particulars:

- (a) the owner's name and address,
- (b) the name, identifying particulars and relevant voyage number of the vessel,
- (c) the gross tonnage of the vessel,
- (d) the port in respect of which the navigation service charge is payable,
- (e) the date on which, the time at which, and the purpose for which, the vessel entered the port,
- (f) such other information with respect to payment of the navigation service charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

12 Pilotage charge—particulars to be furnished

The owner of a vessel in respect of which a pilotage charge is payable must, at such time as the relevant port authority requires, furnish the relevant port authority with the following particulars:

- (a) the owner's name and address,
- (b) the name, identifying particulars and relevant voyage number of the vessel,
- (c) the gross tonnage of the vessel,
- (d) the pilotage port in respect of which the pilotage charge is payable,
- (e) the time, date and nature of the pilotage of the vessel in respect of which the pilotage charge is payable,
- (f) such other information with respect to payment of the pilotage charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

13 Port cargo access charge—particulars to be furnished

A person liable to pay a port cargo access charge must, at such time as the relevant port authority requires, furnish to the relevant port authority the following particulars:

- (a) the name and address of the person making the payment,
- (b) the name of the vessel from or on to which the cargo has been or is to be discharged or loaded, and the site at which the discharge or loading took place or is to take place,
- (c) a description of the cargo,
- (d) the nature and number of the packages, cases or other receptacles in which the cargo is enclosed (whether or not those receptacles are carried in a container), and the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the cargo,
- (e) if the cargo is carried in a container, the identifying marks and number on the container,
- (f) the mass and volume (expressed in cubic metres or in kilolitres) of the cargo,
- (g) the number of each bill of lading that is to be or has been issued in respect of the cargo,
- (h) such other information with respect to payment of the port cargo access charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

14 Site occupation charges—particulars to be furnished

- (1) The occupier of the site in respect of which a site occupation charge is payable must, at such time as the relevant port authority requires, furnish to the relevant port authority the following particulars:
 - (a) the type of site sought,
 - (b) the name of the vessel,
 - (c) the name and address of the owner of the vessel,
 - (d) the date and time the site will be required,
 - (e) the general nature of any cargo to be transferred,
 - (f) the expected duration for which the site will be required,
 - (g) the intended daily hours of work.

Maximum penalty: 20 penalty units.

- (2) The occupier of the site in respect of which a site occupation charge is payable must, within 24 hours of vacating the site, furnish to the relevant port authority details of the times when the occupation of the site commenced and finished.

Maximum penalty: 20 penalty units.

- (3) The site occupation charge is to be calculated by reference to the amount of time for which the site was occupied.
- (4) For the purposes of subclause (2):
 - (a) occupation of a site commences at the time when:
 - (i) the first cargo arrives at the site for loading onto the vessel, or
 - (ii) the vessel arrives at the site,whichever first occurs, and
 - (b) occupation of a site finishes at the time when:
 - (i) the last cargo discharged by the vessel is removed from the site, or
 - (ii) the vessel leaves the site,whichever last occurs.

15 Wharfage charge—particulars to be furnished

- (1) A person liable to pay a wharfage charge must, at such time as the relevant port authority requires, furnish to the relevant port authority the following particulars:
 - (a) the name and address of the person making the payment,
 - (b) the name of the vessel from or on to which the cargo has been or is to be discharged or loaded, and the site at which the discharge or loading took place or is to take place,
 - (c) a description of the cargo,
 - (d) the nature and number of the packages, cases or other receptacles in which the cargo is enclosed (whether or not those receptacles are carried in a container), and the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the cargo,
 - (e) if the cargo is carried in a container, the identifying marks and number on the container,
 - (f) the mass and volume (expressed in cubic metres or in kilolitres) of the cargo,
 - (g) the number of each bill of lading that is to be or has been issued in respect of the cargo,
 - (h) such other information with respect to payment of the wharfage charge as the

relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

(2) An officer of a relevant port authority may require the owner of any goods in respect of which a wharfage charge is payable:

(a) to produce to that officer any document in respect of a matter relevant to the payment of that charge, or

(b) to make those goods available for inspection by the officer.

(3) The owner of any goods who does not comply with any such requirement is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) Subclause (3) does not apply if the documents or goods, at the time their production or availability was required, were not in the owner's possession or under the owner's control.

16 Manifest for goods discharged from vessel

(1) This clause applies to a vessel only if a wharfage charge or port cargo access charge is payable in respect of the vessel.

(2) If a vessel to which this clause applies is to discharge goods in a designated port, a manifest of all the goods concerned must be given to the relevant port authority within the time specified in subclause (4).

(3) If a manifest is not given as required by subclause (2), the owner of the vessel is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) The manifest must be given:

(a) for the designated ports of Sydney Harbour and Botany Bay—by the end of the third working day after the vessel enters the port, and

(b) for the designated ports of Newcastle, Port Kembla, Yamba and Eden—by the end of the first working day after the vessel leaves the port.

(5) The particulars required to be included in the manifest are as follows:

(a) the name of the vessel, the relevant voyage number and the berth at which the goods are to be, or were, discharged,

(b) the place (or places) at which the goods (or respective goods) were first loaded for carriage by sea to the designated port,

- (c) the description of the goods, the nature and number of the packages, cases or other receptacles in which they were enclosed (whether or not those receptacles were carried in a container), the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the goods and the name and address of the consignee of the goods,
 - (d) the number of each bill of lading issued in respect of the goods,
 - (e) the mass and volume (expressed in cubic metres or in kilolitres) of the goods,
 - (f) if the goods were carried in a container, the identifying marks and number of the container,
 - (g) such other information with respect to the goods as the relevant port authority reasonably requests.
- (6) If the vessel is a cargo vessel and no such goods are discharged from the vessel in the designated port, the owner of the vessel must ensure that the relevant port authority is given notice of that fact by the end of the first working day after the vessel leaves the designated port.

Maximum penalty: 20 penalty units.

17 Manifest for goods loaded on vessel

- (1) This clause applies to a vessel only if a wharfage charge or port cargo access charge is payable in respect of the vessel.
- (2) If a vessel to which this clause applies loads goods in a designated port, a manifest of all the goods so loaded must be given to the relevant port authority within the time specified in subclause (4).
- (3) If a manifest is not given as required by subclause (2), the owner of the vessel is guilty of an offence.

Maximum penalty: 20 penalty units.

- (4) The manifest must be given:
 - (a) for the designated ports of Sydney Harbour and Botany Bay—by the end of the eighth working day after the vessel leaves the port, and
 - (b) for the designated ports of Newcastle, Port Kembla, Yamba and Eden—by the end of the first working day after the vessel leaves the port.
- (5) The particulars required to be included in the manifest are as follows:
 - (a) the name of the vessel, the relevant voyage number and the berth at which the goods were loaded,

- (b) the destination (or destinations) to which the goods (or respective goods) are ultimately to be carried by sea,
 - (c) the description of the goods, the nature and number of the packages, cases or other receptacles in which they are enclosed (whether or not those receptacles are carried in a container), the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the goods and the name and address of the consignor of the goods,
 - (d) the number of each bill of lading issued in respect of the goods,
 - (e) the mass and volume (expressed in cubic metres or in kilolitres) of the goods,
 - (f) if the goods are carried in a container, the identifying marks and number of the container,
 - (g) such other information with respect to the goods as the relevant port authority reasonably requests.
- (6) If the vessel is a cargo vessel and no such goods have been loaded in the designated port, the owner of the vessel must ensure that notice is given to the relevant port authority of that fact by the end of the first working day after the vessel leaves the designated port.

Maximum penalty: 20 penalty units.

18 Berthing charge—particulars to be furnished

- (1) The owner of a vessel in respect of which berthing charges are payable must, within 24 hours of those charges first becoming payable due to the berthing of the vessel at a wharf, dolphin or buoy, furnish to the relevant port authority in triplicate the following particulars:
- (a) the owner's name and address,
 - (b) the name of the vessel,
 - (c) the wharf, dolphin or buoy at which the charges first became payable,
 - (d) the gross tonnage of the vessel,
 - (e) in the case of a fishing vessel, the length of the vessel,
 - (f) in the case of a ferry, the number of passengers the vessel is authorised by law to carry or, if that ferry is a vehicular ferry, a statement of that fact,
 - (g) the time and date of the berthing of the vessel at the wharf, dolphin or buoy.

Maximum penalty: 10 penalty units.

- (2) The owner of such a vessel must, within 24 hours after berthing charges have ceased to be payable in respect of that vessel, inform the relevant port authority in writing of that fact.

Maximum penalty: 10 penalty units.

Part 2A Mandatory access standards for Newcastle coal terminals

18A Definitions

In this Part:

approved access rules means access rules approved by the Minister under this Part.

mandatory access standards means standards set and notified by the Minister under this Part.

Newcastle coal terminals means land-based port facilities at Newcastle operated by Port Waratah Coal Services Limited and known as the Kooragang Coal Terminal and the Carrington Coal Terminal.

the operator of the Newcastle coal terminals means Port Waratah Coal Services Limited.

18B Minister may set mandatory access standards for Newcastle coal terminals

- (1) The Minister may set standards in connection with the operation of the Newcastle coal terminals in relation to access to those terminals during the period from 1 January 2009 to the end of 10 January 2010, for the purpose of ensuring equitable access to those terminals during that period for all coal producers who seek it.
- (2) In setting those standards, the Minister is to have regard to the following:
 - (a) past usage of allocated access by applicants for access,
 - (b) the capacity of the terminals,
 - (c) the capacity of the port-related supply chain that connects to the terminals,
 - (d) the number and capacity of vessels available to use the terminals to load coal.
- (3) The Minister must notify the operator in writing of any standard set by the Minister under this clause.

18C Access rules

- (1) The operator must provide the Minister with proposed rules (**access rules**) that will regulate the allocation of access by the operator to the Newcastle coal terminals, for the purpose of ensuring compliance by the operator with the mandatory access standards.

- (2) The Minister may direct the operator to review proposed access rules having regard to any matters directed by the Minister.
- (3) The Minister may approve proposed access rules either without modification or with such modifications as the Minister considers appropriate for ensuring compliance by the operator with the mandatory access standards.
- (4) The operator must ensure that the approved access rules are complied with by the operator during the period from 1 January 2009 to the end of 10 January 2010.

Maximum penalty: 500 penalty units.

18D Records and information

- (1) The operator must keep such records and provide such information (including reports) to the Minister in connection with the operation of the approved access rules as the Minister may direct by notice in writing to the operator to facilitate the monitoring of compliance by the operator with the mandatory access standards.

Maximum penalty: 250 penalty units.

- (2) The Minister may publish information provided to the Minister under this clause in such manner as the Minister thinks fit.

Part 3 Port boundaries

19 Boundaries of ports

For the purposes of section 105 of the Act, the boundaries of a port named in Schedule 1 are as described in that Schedule beneath the name of the port concerned.

Note—

Section 105 of the Act enables the regulations to describe the boundaries of any port or area of water. If the regulations do so, a reference in the marine legislation to that port or area of water is a reference to that port or area of water with boundaries as so described.

Part 4 Staff director elections

Division 1 Preliminary

20 Definitions

- (1) In this Part:

Chief Executive Officer means the Chief Executive Officer of a Port Corporation or a person acting in that capacity.

close of nominations, in relation to an election, means the final time and date fixed by the returning officer for the close of nominations in the election.

close of the ballot, in relation to an election, means the final time and date fixed by the returning officer for the close of the ballot in the election.

election means an election of a person to hold office as a staff director referred to in section 18 of the Act.

employee of a Port Corporation has the same meaning as in section 18 (9) of the Act.

Port Corporation means Newcastle Port Corporation, Port Kembla Port Corporation or Sydney Ports Corporation.

(2) In this Part, a reference to a Form is a reference to a Form set out in Schedule 2.

Division 2 Calling of election

21 Notice of election

- (1) As soon as practicable after being notified by the Minister that an election is required to be held, the returning officer:
 - (a) must cause a notice of the election to be published in at least one newspaper circulating generally in New South Wales, and
 - (b) must notify the Chief Executive Officer in writing that an election is to be held and of the times and dates for the close of nominations and the close of the ballot, as stated in the notice published under paragraph (a).
- (2) The notice referred to in subclause (1) (a):
 - (a) must state that an election is to be held, and
 - (b) must call for the nomination of candidates, and
 - (c) must fix the times and dates for the close of nominations and the close of the ballot, and
 - (d) must state the places where nominations may be lodged.
- (3) The close of nominations is to be not earlier than 21 days, and not later than 28 days, after the date on which the notice is first published.
- (4) The close of the ballot is to be not earlier than 28 days after the close of nominations.

22 Extension of time

- (1) The returning officer may, by a notice in a form similar to, and published in the same manner as, the notice calling for the nomination of candidates, postpone (for a period not exceeding 14 days) the close of nominations or the close of the ballot.
- (2) The power conferred by this clause on the returning officer may be exercised more

than once in respect of an election.

Division 3 Nominations

23 Nomination of candidates

- (1) A nomination of a candidate:
 - (a) must be in Form 1, and
 - (b) must contain a statement, signed by the candidate, consenting to the nomination, and
 - (c) must be lodged with the returning officer before the close of nominations.
- (2) A nomination must contain the full name, residential address and signature of each person by whom the nomination is made.
- (3) The returning officer must reject any nomination received by the returning officer after the close of nominations.

24 Withdrawal of nomination

A candidate who has been nominated in an election may, by notice in writing given to the returning officer, withdraw the nomination at any time before the close of nominations.

25 Uncontested election

If, by the close of nominations, 1 person only has been duly nominated as a candidate, that person is elected.

26 Contested election

If, by the close of nominations, 2 or more persons have been duly nominated as candidates, a ballot is to be held.

27 Candidate information sheet

- (1) A candidate may, at any time before the close of nominations, submit to the returning officer a statutory declaration in Form 2 containing information intended for inclusion in a candidate information sheet.
- (2) If a ballot is to be held, the returning officer is to draw up a candidate information sheet consisting of the information in the statutory declarations submitted by candidates.
- (3) The returning officer may, in drawing up a candidate information sheet, omit so much of the information contained in a candidate's statutory declaration as the returning officer considers:

- (a) to be false or misleading, or
- (b) to be inappropriate for inclusion in the candidate information sheet, or
- (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.

Division 4 The ballot

28 Electoral roll

- (1) As soon as practicable after it becomes apparent that a ballot must be held for an election, the returning officer must notify the Chief Executive Officer:
 - (a) that a ballot is to be held for the election, and
 - (b) that an electoral roll for the election is required.
- (2) The Chief Executive Officer must provide the returning officer with:
 - (a) a roll containing the full names (consecutively numbered and listed in alphabetical order) and residential addresses of all of the employees of the relevant Port Corporation, and
 - (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that roll.
- (3) The electoral roll must be certified by the Chief Executive Officer in accordance with Form 3.
- (4) This clause does not apply to an election to be held as a consequence of an earlier election which has failed if an electoral roll for the earlier election has already been provided to the returning officer.

29 Printing of ballot-papers

- (1) If a ballot is to be held, the returning officer:
 - (a) must determine the order in which the candidates' names are to be listed on the ballot-paper 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*, and
 - (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be sent to each employee of the relevant Port Corporation, and
 - (c) if a candidate information sheet has been drawn up, must cause sufficient copies of it to be printed so that a copy can be sent to each employee of the relevant Port Corporation.

- (2) The ballot-paper must contain:
- (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square opposite each name, and
 - (b) if the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
 - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as are required by subclause (3), and
 - (d) such further directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include the following:
- (a) that the voter must record a vote for at least 1 candidate by placing the number "1" in the square opposite the name of the candidate indicating the voter's first preference,
 - (b) that the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number "2") in the squares opposite the names of the additional candidates, indicating the voter's preferences for them.

30 Distribution of ballot-papers

- (1) The returning officer must, as soon as practicable after the printing of the ballot-papers, send to each employee of the relevant Port Corporation:
- (a) a ballot-paper that is initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, and
 - (b) an unsealed envelope addressed to the returning officer and bearing on the back the words "FULL NAME AND ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of a name, address and signature, and
 - (c) if applicable, a candidate information sheet.
- (2) Subclause (1) is amended by omitting "or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*" and by inserting instead "or that bears a mark authorised by the Electoral Commissioner".

31 Duplicate ballot-papers

- (1) The returning officer may, at any time before the close of the ballot, issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
 - (a) that the original ballot-paper has been spoiled, lost or destroyed, and
 - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

32 Recording of vote

In order to vote at an election, a voter:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer, and
- (c) must seal the envelope, and
- (d) must complete the person's full name and address on, and must sign, the back of the envelope, and
- (e) must return the envelope to the returning officer so as to be received before the close of the ballot.

Division 5 The scrutiny

33 Receipt of ballot-papers

- (1) The returning officer must reject (without opening it) any envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of each remaining envelope and:
 - (a) must accept the ballot-paper in the envelope, if satisfied that a person of that name is an employee of the relevant Port Corporation, or
 - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper without opening the envelope if, after

making such inquiries as the returning officer thinks fit:

- (a) the returning officer is unable to identify the signature on the back of the envelope, or
- (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

34 Ascertaining result of ballot

The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

35 Scrutineers

- (1) Each candidate is entitled to appoint a scrutineer to represent the candidate at all stages of the scrutiny.
- (2) A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

36 Scrutiny of votes

- (1) The scrutiny of votes is to be conducted as follows:
 - (a) the returning officer is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny,
 - (b) the returning officer is then to open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
 - (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers,
 - (d) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (e) the returning officer is then to proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes, a ballot-paper must be rejected as informal:
 - (a) if it is neither initialled by the returning officer (or a person authorised by the returning 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) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it, or

(c) if it has not been completed in accordance with the directions shown on it.

(3) However, a ballot-paper is not to be rejected as informal:

(a) merely because of any mark or writing on it which is not authorised or required by this Part (unless it is a mark or writing referred to in subclause (2) (b)) if the returning officer considers that the voter's intention is clearly indicated on the ballot-paper, or

(b) if the voter has recorded a vote by placing in a square the number "1":

(i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate, or

(ii) merely because there is a break in the order of preferences recorded on the ballot-paper, or

(c) merely because the voter has recorded a vote by placing a cross or a tick in a square and not placing any mark or writing in any other square, but the ballot-paper is to be treated as if the cross or tick were the number "1".

(4) Subclause (2) (a) is amended by omitting "nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*" and by inserting instead "nor bears a mark authorised by the Electoral Commissioner".

37 Counting the votes

(1) The method of counting the votes is to be as set out in Part 2 of the Seventh Schedule to the *Constitution Act 1902*.

(2) For the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is taken to be a reference to the returning officer under this Part.

38 Notification of result of election

As soon as practicable after the votes have been counted, the returning officer:

(a) must notify the Minister in writing of the name of the candidate elected, and

(b) must cause notice of the election of the candidate to be published in the Gazette.

Division 6 Miscellaneous

39 Returning officer's decision final

If the returning officer is by this Part permitted or required to make a decision on any matter relating to the taking of a ballot, the decision of the returning officer on that

matter is final.

40 Death of candidate

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and those proceedings must again be taken.

41 Offences relating to voting

A person must not:

- (a) vote, or attempt to vote, more than once in an election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote.

Maximum penalty: 10 penalty units.

Part 5 General

42 Definition of “marine legislation”

The following Acts are prescribed for the purposes of the definition of **marine legislation** in section 3 (1) of the Act:

- (a) *Commercial Vessels Act 1979*,
- (b) *Marine Pilotage Licensing Act 1971*,
- (c) *Maritime Services Act 1935*,
- (d) *Navigation Act 1901*.

43 Saving

Any act, matter or thing that, immediately before the repeal of the *Ports Corporatisation and Waterways Management Regulation 2002* or the *Ports Corporatisation (Staff Director Elections) Regulation 2002*, had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Description of port boundaries

(Clause 19)

1 Botany Bay

The waters of Botany Bay and of all bays, rivers and their tributaries connected or leading

to Botany Bay bounded by mean high water mark and by, as upstream boundaries, the eastern side of the Endeavour Bridge in Cooks River and the eastern side of the Captain Cook Bridge in Georges River together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Henry Head.

2 Clarence River (Yamba)

The waters of the main channel of the Clarence River, Iluka Bay and Yamba Channel bounded by mean high water mark and by, as upstream boundaries, the eastern side of Harwood Bridge in the main channel and, in Yamba Channel, a line drawn from the southernmost point of Freeburn Island to the easternmost point of Rabbit Island and from there produced south-westerly to the opposite shore and by, as seaward boundary, a line drawn between the eastern extremity of the northern breakwater at the entrance to the Clarence River and the eastern extremity of the southern breakwater at that entrance.

3 Eden

The waters of Twofold Bay bounded by mean high water mark (but excluding all rivers and their tributaries connected or leading to Twofold Bay) and by, as seaward boundary, a line drawn between the southernmost point of Worang Head and the northernmost point of Red Point.

4 Newcastle Harbour

The waters of Newcastle Harbour and of all bays, rivers and their tributaries connected or leading to Newcastle Harbour (but excluding Fullerton Cove) bounded by mean high water mark and by, as upstream boundary, the eastern side of the Hexham Bridge together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 3 nautical miles having as its centre the navigation light at Nobbys Head.

5 Port Kembla

The waters of Port Kembla Inner and Outer Harbours bounded by the mean high water mark together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 2.5 nautical miles having as its centre the navigation light on the northern extremity of the eastern breakwater at the entrance to the Outer Harbour.

6 Sydney Harbour

The waters of Sydney Harbour and of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by mean high water mark together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Hornby Lighthouse.

Note—

A candidate may include further information relating to the candidacy. The information should not exceed 4 lines of typescript.

Form 3 Roll of electors

(Ports and Maritime Administration Act 1995)

I certify that this roll contains the full names [*consecutively numbered and listed in alphabetical order*] and addresses of all of the employees of the relevant Port Corporation.

The first and last entries in the roll are as follows:

First entry No:

Name:

Address:

Last entry No:

Name:

Address:

Dated:

Signed:

Chief Executive Officer