

# Agricultural Industry Services (Polls and Elections) Regulation 2005

[2005-226]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Parliamentary Electorates and Elections Amendment Act 2006 No 68](#) (not commenced)
- **Repeal**  
The Regulation was repealed by cl 75 of the [Agricultural Industry Services Regulation 2009 \(424\)](#) (LW 28.8.2009) with effect from 1.9.2009.

### 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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# Agricultural Industry Services (Polls and Elections) Regulation 2005



New South Wales

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# Agricultural Industry Services (Polls and Elections) Regulation 2005



New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Agricultural Industry Services Act 1998*.

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

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Agricultural Industry Services (Polls and Elections) Regulation 2005*.

### 2 Commencement

This Regulation commences on 1 September 2005.

**Note—**

This Regulation replaces the *Agricultural Industry Services (Polls and Elections) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**appropriate officer** means:

- (a) in relation to a poll under section 4 (2) (b) of the Act—the Director-General, and
- (b) in relation to a poll under section 17 (1) of the Act—the chairperson of the committee in respect of which the poll is to be taken, and
- (c) in relation to an election to fill a vacancy as required by clause 5 of Schedule 1 to the Act—the chairperson of the committee in respect of which the election is to be held, and
- (d) in relation to any other election—the Director-General.

**calling of the ballot** for an election means the date on which a notice that a ballot is

to be held is published under clause 33.

**calling of the poll** for a poll means the date on which a notice that a poll is to be held is published under clause 5.

**close of enrolments** for a poll or an election means the final time and date fixed by the returning officer for inclusion on the final roll for the poll or the election.

**close of exhibition of the preliminary roll** for a poll or an election means the final time and date fixed by the returning officer for the close of exhibition of the preliminary roll for the poll or the election.

**close of nominations** for an election means the final time and date fixed by the returning officer for the close of nominations for the election.

**close of the ballot** for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

**close of the poll** for a poll means the final time and date fixed by the returning officer for the close of the poll.

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

**enrolled**, in relation to a poll or election, means inclusion of a person's name on the final roll for that poll or election.

**final roll** means:

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

**nominee** means an individual nominated in accordance with clause 9 or 37 by a primary producer to be enrolled on a final roll for a poll or an election and vote on behalf of the primary producer at the poll or election.

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

**preliminary roll** means:

- (a) for a poll—the roll provided to the returning officer under clause 4, and
- (b) for an election—the roll provided to the returning officer under clause 32.

**returning officer** means:

- (a) the Electoral Commissioner for New South Wales, or

- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

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

- (2) In this Regulation a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Polls

### Division 1 Calling of poll

#### 4 Preparation of preliminary roll

- (1) As soon as practicable after the Minister has directed that a poll be taken on any question, the returning officer must notify the appropriate officer:
  - (a) that a poll is to be held on that question, and
  - (b) that the appropriate officer is required to give the returning officer:
    - (i) a preliminary roll, and
    - (ii) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in the roll, or an electronic data file that would allow such labels or envelopes to be generated.
- (2) In subclause (1), **preliminary roll** means:
  - (a) in relation to a poll under section 4 (2) (b) of the Act—a list of persons who, in the appropriate officer’s opinion, are the proposed constituents of the committee, and
  - (b) in relation to a poll under section 17 (1) of the Act—a list of persons whose names are included in the committee’s register of constituents.
- (3) The preliminary roll:
  - (a) must contain:
    - (i) the full names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll, and
    - (ii) if any primary producers have nominated individuals to be their nominees, the full names and addresses of the nominees (listed against the names of their nominating primary producers), and
    - (iii) if, in relation to a poll under section 17 (1) of the Act, the committee’s foundation regulation has provided for differing voting entitlements for the committee’s constituents, the voting entitlements of those constituents, and

(b) must be certified by the appropriate officer in accordance with Form 1.

## **5 Notice of poll**

(1) As soon as practicable after the Minister has directed that a poll be taken on any question, the returning officer:

(a) must cause notice that a poll is to be held to be published:

- (i) in at least one newspaper circulating generally throughout New South Wales, or
- (ii) in one or more local newspapers that, individually or collectively, circulate generally throughout the committee's, or proposed committee's, area of operations, and

(b) may cause that notice to be sent by post to each person whose name is included in the preliminary roll for the poll at the address shown on the roll.

(2) The notice must:

(a) state the question on which the poll is being conducted, and

(b) state a time and date fixed by the returning officer for the close of exhibition of the preliminary roll, and

(c) advise where copies of the preliminary roll will be exhibited, and

(d) state a time and date fixed by the returning officer for the close of enrolments, and

(e) specify the class of primary producers for which the committee is constituted, or proposed committee is to be constituted, and

(f) specify the qualifications for voting in accordance with clause 8, and

(g) advise where applications for enrolment and objections against enrolment may be lodged, and

(h) state a time and date fixed by the returning officer for the close of the poll, and

(i) state that it is compulsory for persons who are qualified to vote in the poll to be enrolled, or to apply for enrolment, in the final roll for the poll.

(3) The time and date fixed by the returning officer for the close of exhibition of the preliminary roll must not be earlier than 14 days after the calling of the poll.

(4) The time and date fixed by the returning officer for the close of enrolments must not be earlier than the close of exhibition of the preliminary roll or later than 14 days before the close of the poll.



- (5) The time and date fixed by the returning officer for the close of the poll must not be earlier than 28 days, or later than 90 days, after the calling of the poll.

## **6 Postponement of poll**

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of exhibition of the preliminary roll, the close of enrolments or the close of the poll by a notice published in the same way as the notice stating that a poll is to be held.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of a poll.

## **Division 2 Preparation of final roll**

### **7 Exhibition of preliminary roll**

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days ending at the close of exhibition of the preliminary roll.

### **8 Qualifications for voting**

- (1) A person is qualified to vote in a poll if:
  - (a) in relation to a poll under section 4 (2) (b) of the Act—the person is a proposed constituent of the proposed committee, or
  - (b) in relation to a poll under section 17 (1) of the Act—the person belongs to the class of primary producers for which the relevant committee is constituted, as set out in the committee's foundation regulation.
- (2) This clause does not entitle a person (whether in their own capacity or in their capacity as nominee) to vote in any poll more times than that person's voting entitlement allows.

### **9 Enrolment of nominees**

- (1) A primary producer that is a corporation, partnership, trustee or legal personal representative (whether agent, administrator, executor or otherwise) for a person or an estate of a person must nominate, by notice in writing, an individual to be enrolled and vote on behalf of the primary producer at any poll.
- (2) A person is entitled to vote in a poll as a nominee of a primary producer, if the returning officer is satisfied that:

- (a) the person is an individual who has been duly nominated by the primary producer to be enrolled and vote on behalf of the primary producer at any poll, and
  - (b) the individual is not already enrolled in the final roll for the poll concerned in some other capacity.
- (3) Only one person may be nominated in accordance with this clause to vote in a poll as a nominee of a primary producer. A later nomination revokes and replaces an earlier nomination.
- (4) In this clause, a reference to a partnership includes a reference to the parties to a share-farming agreement and to any group of persons who, in the opinion of the returning officer, are engaged in a single enterprise in the growing, raising or production for sale of a primary product.
- (5) In forming such an opinion in respect of a group of persons, the returning officer may ignore the existence of any legal entity that consists of or includes persons who form part of the group.

## **10 Enrolment compulsory**

It is compulsory for every person who is qualified to vote in a poll to be enrolled, or to apply for enrolment, in the final roll for the poll.

## **11 Applications for enrolment by persons not already enrolled**

- (1) A person whose name does not appear on the preliminary roll for a poll may apply for enrolment in the final roll for the poll.
- (2) The application must be in Form 2 and must be lodged with the returning officer before the close of enrolments.
- (3) On receipt of the application, the returning officer:
- (a) if satisfied that the applicant is qualified to vote, must accept the application and enter in the final roll for the poll:
    - (i) the full name and address of the applicant, and
    - (ii) if, in relation to a poll under section 17 (1) of the Act, the committee's foundation regulation has provided for differing voting entitlements for the committee's constituents, the voting entitlement of the applicant, or
  - (b) if not so satisfied, must reject the application and inform the applicant in writing of the rejection of the application and the reason for that rejection, or
  - (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

## **12 Objections to enrolment**

- (1) Before the close of enrolments, the returning officer and any person who is entitled to vote in a poll may object to the inclusion of the name of any person in the final roll.
- (2) An objection made by a person other than the returning officer:
  - (a) must be in:
    - (i) Form 3, if the objection relates to the inclusion of the name of any person in the final roll for the poll, or
    - (ii) Form 4, if the objection relates to the inclusion of a particular voting entitlement for any person in the final roll for the poll, and
  - (b) must state the grounds on which it is made, and
  - (c) must be signed by the objector, and
  - (d) must be lodged with the returning officer.
- (3) The returning officer must send particulars of an objection (whether made by the returning officer or another person) to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 7 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 7 day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or reject an objection.
- (7) If the returning officer accepts an objection relating to the inclusion of the person's name in the final roll for the poll, the returning officer must:
  - (a) exclude the person's name from the final roll for the poll, and
  - (b) inform that person and the objector (where the objection is made by a person other than the returning officer), in writing, that the person's name has been so excluded.
- (8) If the returning officer accepts an objection relating to the inclusion of a particular voting entitlement for a person in the final roll for the poll, the returning officer must:
  - (a) amend the final roll for the poll so as to ensure that it reflects the person's true voting entitlement, and
  - (b) inform that person and the objector (where the objection is made by a person other than the returning officer), in writing, that the person's voting entitlement

has been so amended.

- (9) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector (where the objection is made by a person other than the returning officer), in writing, that the returning officer has rejected the objection.
- (10) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.

### **13 Postponement of poll not to affect final roll**

The validity of the final roll for a poll is not affected by the postponement of the close of the poll by a notice published after the close of exhibition of the preliminary roll, and the roll remains the final roll for the poll.

## **Division 3 The ballot**

### **14 Voting optional**

Voting at a poll is not compulsory.

### **15 Printing of ballot-papers**

- (1) As soon as practicable after the close of enrolments in a poll, the returning officer must cause sufficient ballot-papers to be printed to enable ballot-papers to be sent to each person whose name is included in the final roll for the poll.
- (2) A ballot-paper for a poll must contain:
  - (a) the question to be voted on in the poll with the words “YES” and “NO”, together with appropriate spaces for the voter to indicate the voter’s intention with respect to the question, and
  - (b) the date by which ballot-papers are to be returned and such other 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.

### **16 Distribution of ballot-papers**

As soon as practicable after the printing of the ballot-papers for a poll, the returning officer must send to each person included in the final roll for the poll:

- (a) for each vote to which the person is entitled, 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](#) together with a blank unsealed envelope (the **inner envelope**), and

- (b) a large 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 (the **outer envelope**).

#### **17 Distribution of arguments for and against the question to be voted on**

- (1) The returning officer may, at the same time as sending ballot-papers, send to each person included on the final roll for the poll a document that fairly presents the arguments for and against the question to be voted on in the poll.
- (2) The content of the document is to be determined by the returning officer.

#### **18 Duplicate ballot-papers**

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

#### **19 Recording of votes**

In order to vote in a poll, a person must:

- (a) for each vote to which the person is entitled:
  - (i) record a vote on the ballot-paper in accordance with directions shown on it, and
  - (ii) place the completed ballot-paper in the inner envelope, and
  - (iii) seal the inner envelope, and
- (b) place each inner envelope in the outer envelope, and
- (c) seal the outer envelope, and
- (d) complete the person’s full name and address on, and must sign, the back of the outer envelope, and
- (e) return the outer envelope to the returning officer so as to be received before the close of the poll.

## **Division 4 The scrutiny**

### **20 Ascertaining result of poll**

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

### **21 Scrutineers**

- (1) Any person who has an interest in the outcome of a poll may apply in writing to the returning officer to be a scrutineer.
- (2) The returning officer may appoint such an applicant as a scrutineer.
- (3) The returning officer may appoint as many persons as scrutineers as the returning officer believes are necessary to ensure the proper scrutiny of the poll.

### **22 Receipt of ballot-papers**

- (1) The returning officer must reject (without opening it) any outer envelope purporting to contain a ballot-paper or ballot-papers if the envelope is not received by the returning officer before the close of the poll or is received unsealed.
- (2) The returning officer must examine the name on the back of each remaining outer envelope and, without opening the outer envelope:
  - (a) must provisionally accept the outer envelope and draw a line through the name on the final roll for the poll that corresponds to the name on the back of the outer envelope, if satisfied that a person of that name is included in the roll, or
  - (b) must reject the outer envelope, if not so satisfied or if a name, address or signature does not appear on the back of the outer envelope.
- (3) The returning officer may reject (without opening it) any outer envelope if, after making such inquiries as the returning officer thinks fit, it appears to the returning officer that the signature on the back of the outer envelope is not the signature of the person whose name and address appear on the back of the outer envelope.

### **23 Scrutiny of votes**

- (1) The scrutiny of votes in a poll is to be conducted as follows:
  - (a) the returning officer is to produce, unopened, the outer envelopes containing the ballot-papers accepted for scrutiny,
  - (b) the returning officer is then to open each such outer envelope and extract any inner envelopes contained in it,
  - (c) the returning officer is then to note on the final roll for the poll, against the name

appearing on the back of the outer envelope, the number of inner envelopes contained in the outer envelope,

- (d) the returning officer is then to place each such inner envelope in a locked ballot-box.
- (2) However, if there are more inner envelopes in the outer envelope than the number of votes to which the person is entitled, the returning officer must reject all the inner envelopes contained in the outer envelope.
- (3) The scrutiny of votes in the poll is then to continue as follows:
- (a) the returning officer is to unlock the ballot-box, remove the inner envelopes and then remove the ballot-papers from the inner envelopes,
  - (b) the returning officer is then to reject all ballot-papers in an inner envelope if the inner envelope contains more than one ballot-paper,
  - (c) the returning officer is then to examine each remaining ballot-paper and reject those that are informal,
  - (d) the returning officer is then to proceed to count the votes and ascertain the result of the poll.
- (4) At the scrutiny of votes in a poll, a ballot-paper must be rejected as informal if:
- (a) it is neither initialled by the returning officer (or by a person authorised by the returning officer to do so) 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) 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) it has not been completed in accordance with the directions shown on it.
- (5) However, a ballot-paper is not to be rejected as informal merely because of any mark or writing on it that is not authorised or required by this Regulation (unless it is a mark or writing referred to in subclause (4) (b)) if the returning officer considers that the voter's intention is clearly indicated on the ballot-paper.
- (6) The result of the poll is to be ascertained by determining 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 that question,

(d) the number of votes rejected as informal.

#### **24 Notification of result of poll**

As soon as practicable after the result of a poll has been ascertained, the returning officer is to notify the Minister and the appropriate officer in writing of the result of the poll.

### **Part 3 Elections**

#### **Division 1 Calling of election**

##### **25 Notice of election**

- (1) As soon as practicable after it has been determined in accordance with the Act and a committee's foundation regulation (if applicable) that an election is required to be held in any area of operations or electoral district, the following person must cause notice of that fact to be sent to the returning officer:
  - (a) in the case of an election to fill a vacancy as required by clause 5 of Schedule 1 to the Act—the chairperson of the committee in respect of which the election is to be held, and
  - (b) in any other election—the Director-General.
- (2) The returning officer:
  - (a) must cause notice that an election is to be held to be published:
    - (i) in at least one newspaper circulating generally throughout New South Wales, or
    - (ii) in one or more local newspapers that, individually or collectively, circulate generally throughout the area of operations or electoral district for which the election is required to be held, and
  - (b) may cause that notice to be sent by post to each person whose name is included in the preliminary roll for the election at the address shown on that roll.
- (3) The notice:
  - (a) must state that an election is to be held for the committee concerned and must state the area of operations or electoral district concerned, and
  - (b) must call for nominations of candidates, and
  - (c) must state the time and date fixed by the returning officer for the close of nominations, and
  - (d) must state where nomination forms may be obtained and where nominations may be lodged, and



(e) must state the qualifications which entitle a primary producer to nominate a candidate or be nominated as a candidate.

(4) The close of nominations must not be earlier than 21 days, or later than 28 days, after the date on which the notice is published.

## **26 Postponement of close of nominations**

(1) The returning officer may postpone the close of nominations for a period not exceeding 14 days by a notice published in the same manner as the notice of election.

(2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

## **Division 2 Nominations**

### **27 Eligibility for nomination**

Any person who belongs to the class of primary producers for which the committee concerned is constituted, as set out in the committee's foundation regulation, is eligible for nomination as a candidate for election to that committee.

### **28 Nomination of candidates**

(1) A nomination of a candidate:

(a) must be in Form 5, and

(b) must be made by at least 6 persons (other than the candidate) who are entitled to vote in the election, and

(c) must contain a statement, signed by the candidate, stating that the candidate consents to the nomination, and

(d) must be lodged with the returning officer before the close of nominations.

(2) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are entitled to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.

(3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is entitled to nominate a candidate, the returning officer may require the appropriate officer to furnish the returning officer with such information regarding the person as the returning officer may specify.

(4) The appropriate officer must comply with such a requirement as soon as practicable.

- (5) A candidate who has been nominated in an election may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the returning officer.

### **29 Uncontested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to have been elected.

### **30 Contested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

### **31 Candidate information sheets**

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in Form 6, containing information intended for inclusion in a candidate information sheet.
- (2) If a ballot is to be held, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.
- (3) In drawing up a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) 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.
- (4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words "NO INFORMATION RECEIVED".
- (5) 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.

## **Division 3 Calling of ballot**

### **32 Preparation of preliminary roll**

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held in respect of an election, the returning officer must cause notice

of that fact to be sent to the appropriate officer.

(2) The appropriate officer must provide the returning officer with:

- (a) a preliminary roll, and
- (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that roll, or an electronic data file that would allow such labels or envelopes to be generated.

(3) In subclause (2), **preliminary roll** means:

- (a) in relation to an election for a committee where the committee's area of operations has not been divided into electoral districts:
  - (i) for the first election for a committee after a poll referred to in section 4 (2) (b) of the Act—a list of persons whose names were included on the final roll prepared for that poll, and
  - (ii) for any other election for a committee—a list of persons whose names are included on the committee's register of constituents, and
- (b) in relation to an election for an electoral district:
  - (i) for the first election for that electoral district—a list of persons who, in the Director-General's opinion, are entitled in accordance with the Act and the committee's foundation regulation to vote in an election for that electoral district, and
  - (ii) for any other election for that electoral district—a list of persons whose names are included on the committee's register of constituents as persons who are entitled in accordance with the Act and the committee's foundation regulation to vote in an election for that electoral district.

(4) The preliminary roll:

- (a) must contain:
  - (i) the full names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll, and
  - (ii) if a primary producer has nominated a person to be its nominee, the full name and address of the nominee, and
  - (iii) if the committee's foundation regulation has provided for differing voting entitlements for the committee's constituents, the voting entitlements of those constituents, and
- (b) must be certified by the appropriate officer in accordance with Form 1.

### **33 Notice of ballot**

- (1) As soon as practicable after receiving the preliminary roll for the election, the returning officer:
  - (a) must cause notice that a ballot is to be held to be published:
    - (i) in at least one newspaper circulating generally throughout New South Wales, or
    - (ii) in one or more local newspapers that, individually or collectively, circulate generally throughout the committee's area of operations or the electoral district concerned, and
  - (b) may cause that notice to be sent by post to each person whose name is included in the preliminary roll for the election at the address shown on the roll.
- (2) The notice must:
  - (a) state that a ballot is to be taken, and
  - (b) state the area of operations or electoral district for which the election is to be held, and
  - (c) specify the class of primary producers for which the committee concerned is constituted, as set out in the committee's foundation regulation, and
  - (d) state a time and date fixed by the returning officer for the close of exhibition of the preliminary roll, and
  - (e) state a time and date fixed by the returning officer for the close of enrolments, and
  - (f) state a time and date fixed by the returning officer for the close of the ballot, and
  - (g) advise where copies of the preliminary roll will be exhibited, and
  - (h) specify the qualifications for voting in accordance with clause 36, and
  - (i) advise where applications for enrolment and objections against enrolment may be lodged, and
  - (j) state that it is compulsory for persons who are qualified to vote in the election to be enrolled, or to apply for enrolment, in the final roll for the election.
- (3) The time and date fixed by the returning officer for the close of exhibition of the preliminary roll must not be earlier than 14 days after the calling of the ballot.
- (4) The time and date fixed by the returning officer for the close of enrolments must not be earlier than the close of exhibition of the preliminary roll or later than 14 days before the close of the ballot.

- (5) The time and date fixed by the returning officer for the close of the ballot must not be earlier than 28 days after the calling of the ballot.

### **34 Postponement of ballot**

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of exhibition of the preliminary roll, the close of enrolments or the close of the ballot by a notice published in the same way as the notice stating that a ballot is to be held.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

## **Division 4 Preparation of final roll**

### **35 Exhibition of preliminary roll**

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days ending at the close of exhibition of the preliminary roll.

### **36 Qualifications for voting**

- (1) A person is qualified to vote in an election if the person belongs to the class of primary producers for which the committee concerned is constituted, as set out in the committee's foundation regulation.
- (2) This clause does not entitle a person (whether in their own capacity or in their capacity as nominee) to vote in any election more times than that person's voting entitlement allows.

### **37 Enrolment of nominees**

- (1) A primary producer that is a corporation, partnership, trustee or legal personal representative (whether agent, administrator, executor or otherwise) for a person or an estate of a person must nominate, by notice in writing, an individual to be enrolled and vote on behalf of the primary producer at any election.
- (2) A person is entitled to vote in a poll as a nominee of a primary producer if the returning officer is satisfied that:
  - (a) the person is an individual who has been duly nominated by the primary producer to be enrolled and vote on behalf of the primary producer at any election, and
  - (b) the individual is not already enrolled in the final roll for the election in some other capacity.

- (3) Only one person may be nominated in accordance with this clause to vote in an election as a nominee of a primary producer. A later nomination revokes and replaces an earlier nomination.
- (4) In this clause, a reference to a partnership includes a reference to the parties to a share-farming agreement and to any group of persons who, in the opinion of the returning officer, are engaged in a single enterprise in the growing, raising or production for sale of a primary product.
- (5) In forming such an opinion in respect of a group of persons, the returning officer may ignore the existence of any legal entity that consists of or includes persons who form part of the group.

### **38 Enrolment compulsory**

It is compulsory for every person who is qualified to vote in an election to be enrolled, or to apply for enrolment, in the final roll for the election.

### **39 Applications for enrolment by persons not already enrolled**

- (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 2 and must be lodged with the returning officer before the close of enrolments.
- (3) On receipt of the application, the returning officer:
  - (a) if satisfied that the applicant is qualified to vote, must accept the application and enter in the final roll for the election:
    - (i) the full name and address of the applicant, and
    - (ii) if the committee's foundation regulation has provided for differing voting entitlements for the committee's constituents, the voting entitlement of the applicant, or
  - (b) if not so satisfied, must reject the application and inform the applicant in writing of the rejection of the application and the reason for that rejection, or
  - (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

### **40 Objections to enrolment**

- (1) Before the close of enrolments, the returning officer and any person who is entitled to vote in an election may object to the inclusion in the final roll of:

- (a) the name of any person, or
  - (b) the particular voting entitlement for any person.
- (2) An objection made by a person other than the returning officer:
- (a) must be in:
    - (i) Form 3, if the objection relates to the inclusion of the name of any person in the final roll for the election, or
    - (ii) Form 4, if the objection relates to the inclusion of a particular voting entitlement for any person in the final roll for the election, and
  - (b) must state the grounds on which it is made, and
  - (c) must be signed by the objector, and
  - (d) must be lodged with the returning officer.
- (3) The returning officer must send particulars of an objection (whether made by the returning officer or another person) to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 14 day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or reject an objection.
- (7) If the returning officer accepts an objection relating to the inclusion of a person's name in the final roll for the election, the returning officer must:
- (a) exclude the name of the person to whom the objection relates from the final roll for the election, and
  - (b) inform that person and the objector (where the objection is made by a person other than the returning officer), in writing, that the person's name has been so excluded.
- (8) If the returning officer accepts an objection relating to the inclusion of a particular voting entitlement for a person in the final roll for the election, the returning officer must:
- (a) amend the final roll for the election so as to ensure that it reflects the person's true voting entitlement, and
  - (b) inform that person and the objector (where the objection is made by a person

other than the returning officer), in writing, that the person's voting entitlement has been so amended.

- (9) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector (where the objection is made by a person other than the returning officer), in writing, that the returning officer has rejected the objection.
- (10) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.

#### **41 Postponement of ballot not to affect final roll**

The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of exhibition of the preliminary roll, and the roll remains the final roll for the election.

### **Division 5 The ballot**

#### **42 Voting optional**

Voting at an election is not compulsory.

#### **43 Printing of ballot-papers**

- (1) As soon as practicable after the close of enrolments in an election, the returning officer must:
- (a) determine the order in which the candidates' names are to be listed on a 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) cause sufficient ballot-papers to be printed to enable ballot-papers to be sent to each person included in the final roll for the election, and
  - (c) cause sufficient candidate information sheets to be printed to enable copies to be sent to each person included in that roll.
- (2) A ballot-paper for an election must contain:
- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
  - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) the date by which ballot papers are to be returned and such other 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 a direction that:
- (a) the voter must record a vote for at least the number of candidates to be elected by placing consecutive numbers (beginning with the number “1” and ending with the number equal to the number of candidates to be elected) in the squares set opposite the candidates’ names in the order of preference for them, and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number next higher than the number of candidates to be elected) in the squares set opposite the candidates’ names in the order of the voter’s preferences for them.

#### **44 Distribution of ballot-papers**

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the final roll for the election:

- (a) for each vote to which the person is entitled in accordance with the committee’s foundation regulation, 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* together with a blank unsealed envelope (the **inner envelope**), and
- (b) a large unsealed envelope addressed to the returning officer and bearing on the back the words “NAME AND ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of a name, address and signature (the **outer envelope**), and
- (c) if applicable, a candidate information sheet.

#### **45 Duplicate ballot-papers**

- (1) If, at any time before the close of the ballot, the returning officer is satisfied by statutory declaration that:
- (a) any original ballot-paper sent to the voter has been spoilt, lost or destroyed, and
  - (b) that the voter has not already voted in the election to which the ballot-paper or ballot-papers relate,

the returning officer may issue to the voter duplicate ballot-papers and duplicate envelopes.

- (2) The returning officer is to maintain a record of all duplicate ballot-papers issued under

this clause.

#### **46 Recording of votes**

In order to vote in an election, a person must:

- (a) for each vote to which the person is entitled in accordance with the committee's foundation regulation:
  - (i) record a vote on a ballot-paper in accordance with directions shown on it, and
  - (ii) place the completed ballot-paper in an inner envelope, and
  - (iii) seal the inner envelope, and
- (b) place each inner envelope in the outer envelope, and
- (c) complete the person's full name and address on, and must sign, the back of the outer envelope, and
- (d) return the outer envelope to the returning officer so as to be received before the close of the ballot.

### **Division 6 The scrutiny**

#### **47 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.

#### **48 Scrutineers**

Each candidate in a ballot is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at all stages of the scrutiny.

#### **49 Receipt of ballot-papers**

- (1) The returning officer must reject (without opening it) any outer envelope purporting to contain a ballot-paper or ballot papers if the outer envelope is not received by the returning officer before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of each remaining outer envelope and, without opening the outer envelope:
  - (a) must provisionally accept any outer envelope and draw a line through the name on the final roll for the election that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the roll, or
  - (b) must reject any outer 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 (without opening it) any outer envelope if, after making such inquiries as the returning officer thinks fit, it appears to the returning officer that the signature on the back of the outer envelope is not the signature of the person whose name and address appear on the back of the outer envelope.

## **50 Scrutiny of votes**

- (1) The scrutiny of votes in an election is to be conducted as follows:
  - (a) the returning officer is to produce, unopened, the outer envelopes containing ballot-papers accepted for scrutiny,
  - (b) the returning officer is then to open each such outer envelope and extract any inner envelopes contained in any such outer envelope,
  - (c) the returning officer is then to note on the final roll for the election, against the name of the person appearing on the back of the outer envelope, the number of inner envelopes contained in the outer envelope,
  - (d) the returning officer is then to place each such inner envelope in a locked ballot-box.
- (2) However, 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 contained in the outer envelope.
- (3) The scrutiny of votes in the election is to continue as follows:
  - (a) when the inner envelopes from all the outer envelopes have been placed in the ballot box, the returning officer is then to unlock the ballot-box, remove the inner envelopes and then extract the ballot-papers from the inner envelopes,
  - (b) the returning officer is then to reject all ballot-papers in an inner envelope if the inner envelope contains more than one ballot-paper,
  - (c) the returning officer is then to examine each remaining ballot-paper and reject those that are informal,
  - (d) the returning officer is then to proceed to count the votes and ascertain the result of the poll.
- (4) At the scrutiny of votes in an election, a ballot-paper must be rejected as informal if:
  - (a) it is neither initialled by the returning officer (or by a person authorised by the returning officer to do so) 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) 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) it has not been completed in accordance with the directions shown on it.
- (5) A ballot-paper is not to be rejected as informal:
- (a) merely because of any mark or writing on it that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (4) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper, or
  - (b) if the voter has recorded a vote by placing in one 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.

## **51 Counting of votes**

- (1) If there is 1 person to be elected in the election:
- (a) the method of counting the votes so as to ascertain the result of the election is to be as provided by Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and
  - (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.
- (2) If there are 2 or more persons to be elected in the election:
- (a) the method of counting the votes so as to ascertain the result of the election is to be as provided by Part 2 of the Sixth Schedule to the *Constitution Act 1902*, and
  - (b) for the purpose of applying the provisions of that Part to the election:
    - (i) a reference in those provisions to the Council returning officer is to be read as a reference to the returning officer under this Regulation, and
    - (ii) the quota referred to in those provisions is to be determined by dividing the number of first preference votes for all candidates by 1 more than the number of persons to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1.

## **52 Notice of result of election**

As soon as practicable after the result of the ballot is ascertained, the returning officer

must notify the Minister and the appropriate officer, in writing, of the name or names of the candidate or candidates elected.

## **Part 4 Register of constituents**

### **53 Form of register of constituents**

- (1) The register of constituents must be compiled and maintained by a committee in a form that is legible and readily accessible to the public.
- (2) If a committee's register of constituents is compiled and maintained in an electronic form, the committee must ensure that:
  - (a) the public is provided with an appropriate means, and reasonable assistance, to access the register, or
  - (b) a printout of the register, not more than 35 days old, is available for public inspection.

### **54 Content of register of constituents**

- (1) The register of constituents must contain the following:
  - (a) the name and address of each constituent,
  - (b) the name and address of each nominee for a constituent and the name of that nominee's nominating constituent (if applicable),
  - (c) if the committee's foundation regulation has provided for differing voting entitlements for the committee's constituents, the voting entitlements of each constituent,
  - (d) if the committee's foundation regulation has divided the committee's area of operation into electoral districts, the electoral district in which each constituent is entitled to vote.
- (2) A committee's register of constituents may also contain any other information that the committee considers appropriate.

## **Part 5 General**

### **55 Decisions of returning officer final**

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in any poll or election, the decision of the returning officer on that matter is final.

## **56 Death of a 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 one or more local newspapers that, individually or collectively, circulate generally throughout the area of operations or electoral district concerned, 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 must be taken again.

## **57 Concurrent polls and elections**

Where the same voting entitlements apply in respect of a poll and an election:

- (a) a single roll may be prepared and used for the purposes of both the poll and the election, and
- (b) an application for enrolment in that roll may be made under clause 11 or 39, and
- (c) an objection against the inclusion in that roll of the name of any person may be made under clause 12 or 40.

## **58 Offences**

A person must not:

- (a) vote, or attempt to vote, more times than the person's voting entitlement allows in any poll or election, or
- (b) vote, or attempt to vote, in any poll or election in which the person is not entitled to vote, or
- (c) make a false or wilfully misleading statement:
  - (i) to the returning officer in connection with any poll or election, or
  - (ii) in any document that the person furnishes for the purposes of any poll or election, or
- (d) apply for enrolment in respect of any poll or election in respect of which the person is already enrolled.

Maximum penalty: 1 penalty unit.

## **59 Costs and expenses of polls and elections**

- (1) A committee must ensure that provision is made in the following manner for payment of the costs and expenses of the returning officer in conducting a poll or an election:
  - (a) before the poll or election is conducted, the committee must pay to the returning

officer an amount equal to the returning officer's estimate of the costs and expenses of the poll or election likely to be incurred by the returning officer in conducting the poll or election,

(b) the committee must give an undertaking to the returning officer to pay to the returning officer, after the poll or election is conducted, any amount by which the actual costs and expenses incurred by the returning officer in conducting the poll or election exceed the amount of the estimate.

(2) After the poll or election has been conducted, the returning officer must refund to the committee any amount by which the estimated amount of the costs and expenses of the poll or election paid by the committee in accordance with subclause (1) (a) exceeded the actual costs and expenses of that poll or election.

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

## 60 Foundation regulation prevails if inconsistency

If there is any inconsistency between a foundation regulation and this Regulation, the foundation regulation prevails.

## 61 Saving

Any act, matter or thing that had effect under the *Agricultural Industry Services (Polls and Elections) Regulation 2000* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

## Schedule 1 Forms

(Clause 3 (2))

### Form 1 Certificate

(Clauses 4 and 32)

*(Agricultural Industry Services (Polls and Elections) Regulation 2005)*

I certify that this roll contains the full names (consecutively numbered and listed in alphabetical order) and addresses of those primary producers and nominees who, in my opinion, are entitled to vote in the poll\*/election\* in relation to which this roll has been prepared.

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

First entry: No:

Name:

Address:

Last entry: No:

Name:

Address:

Dated:

Signed:

*\* Delete whichever is inapplicable.*

## **Form 2 Application for enrolment**

(Clauses 11 and 39)

*(Agricultural Industry Services (Polls and Elections) Regulation 2005)*

Surname:

Given names:

Postal Address:

Postcode:

Telephone No:

Address of property on which the primary product the subject of the poll\*/election\* is actually grown, raised, produced, packed, processed or marketed for sale:

Local government area in which the property is situated:

I apply to be enrolled in the final roll for the following poll\*/election\* and in any subsequent poll or election [specify the poll\*/election\* to which the application relates]:

I am applying for enrolment:

(a)\* as the sole producer of the primary product,

(b)\* as the nominee of a corporation on behalf of which the primary product is actually grown, raised, produced, packed, processed or marketed for sale,

(c)\* as the nominee of a partnership on behalf of which the primary product is actually grown, raised, produced, packed, processed or marketed for sale,

(d)\* as the nominee of the trustee or legal personal representative of a person or estate on behalf of whom or which the primary product is actually grown, raised, produced, packed, processed or marketed for sale.

Particulars of corporation\*/partnership\*/trustee\*/legal personal representative\* in respect of whom or which the applicant is the nominee (see paragraphs (b), (c) and (d) above)\*:

Name:

Postal address:

Postcode:

I declare that I am qualified to vote in the poll\*/election\* (as determined in accordance with the *Agricultural Industry Services (Polls and Elections) Regulation 2005*).

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated:

Signed:

*\* Delete whichever is inapplicable.*

## **Form 3 Objection to enrolment**

(Clauses 12 and 40)

*(Agricultural Industry Services (Polls and Elections) Regulation 2005)*

I object to the inclusion in the final roll for the following poll\*/election\* [specify the poll\*/election\* to which the objection relates]:

of the name of [name in full] of [postal address]

This objection is based on the following grounds [specify the grounds of the objection]:



Name of objector:

Postal address:

Postcode:

Telephone No:

Dated:

Signed:

\* Delete whichever is inapplicable.

#### **Form 4 Objection to determination of voting entitlement**

(Clauses 12 and 40)

*(Agricultural Industry Services (Polls and Elections) Regulation 2005)*

I object to the voting entitlement included in the final roll for the following poll\*/election\* [*specify the poll\*/election\* to which the objection relates*]:

for [*name in full*] of [*postal address*]

The voting entitlement is stated to be:

This objection is based on the following grounds [*specify the grounds of the objection*]:

Name of objector:

Postal address:

Postcode:

Telephone No:

Dated:

Signed:

\* Delete whichever is inapplicable.

#### **Form 5 Nomination of candidate**

(Clause 28)

*(Agricultural Industry Services (Polls and Elections) Regulation 2005)*

We nominate [*name in full*] of [*postal address*] as a candidate for the following election [*specify the election to which the nomination relates and the area or electoral district in which the election is to be held*]:

We declare that we are each entitled to vote in the election.

Name in full:

Address:

Signature:

#### **Note—**

This nomination must be completed by not less than 6 persons (other than the candidate), each of whom is qualified to vote (as determined in accordance with the *Agricultural Industry Services (Polls and Elections) Regulation 2005*) in respect of the election.

I [*name*] consent to being a candidate at the election to which this nomination relates.

Postal address:

Postcode:

Telephone No:

Date of birth:

Dated:

Signed:

#### **Form 6 Statutory declaration**

*(Agricultural Industry Services (Polls and Elections) Regulation 2005)*

I, *[name]* of *[address]* do solemnly and sincerely declare that:

1 My full name is

2 My residential address and postcode is

3 My date of birth is

4 I am self-employed\*/employed by *[employer name]*\* as *[specify nature of employment]*

5 I hold the following qualifications (academic/trade/professional):

6 I am a member of the following organisations:

7 I hold the following offices (other than employment):

8 *[See Note]*

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Before me:

Justice of the Peace

*[signature]*

**Note—**

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

\* *Delete whichever is inapplicable.*