



Western Australia

DRIED FRUITS ACT 1947

Dried Fruits Board (Election of Members) Regulations

These regulations were repealed as a result of the repeal of the *Dried Fruits Act 1947* by the *Statutes (Repeals and Minor Amendments) Act 2000* s. 3(2) (No. 24 of 2000) as at 4 Jul 2000.

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Dried Fruits Board (Election of Members) Regulations

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Western Australia

DRIED FRUITS ACT 1947

Dried Fruits Board (Election of Members) Regulations

Preliminary

1. Citation

These regulations may be cited as the *Dried Fruits Board (Election of Members) Regulations*.

2. Interpretation

In these regulations, unless the contrary intention appears —
“**the Board**” means the Dried Fruits Board constituted under the Act;

“**the Act**” means the *Dried Fruits Act 1947*.

Elections

3. Returning Officer

- (1) The Returning Officer for the purposes of any election conducted under section 9 of the Act shall be the Chief Electoral Officer or such other person nominated by him and approved by the Minister.
- (2) The Returning Officer may appoint such officers as he considers necessary to assist in the conduct of an election and the scrutiny thereof.

- (3) The Returning Officer shall be paid twenty per centum (20%) of the fee prescribed for a Returning Officer for State parliamentary elections in the regulations made under the *Electoral Act 1907*, that are in force at the time of the conduct of the poll, and the officers employed by him shall, while engaged on the scrutiny and count of votes, be paid for their services the fees prescribed for similar duties by those regulations for presiding officers at State parliamentary elections.
- (4) Officers employed by the Returning Officer in the preparation and distribution of voting material shall be paid at the rate prescribed by regulations made under the *Electoral Act 1907* for presiding officers engaged on the scrutiny and count of votes.
[Regulation 3 amended by Gazette 22 July 1971 p.2707.]

4. Notice of election and nomination

- (1) At least three months prior to the lapse by effluxion of time of any appointment of an elective member of the Board, and within fourteen days of being notified by the Chairman of the Board of any extraordinary vacancy, the Returning Officer shall by notice published in the *Government Gazette* and in a daily newspaper circulating in the State inform growers of —
 - (a) the intention to hold an election;
 - (b) the date and time for lodging nominations; and
 - (c) the date and time for the closing of the poll to be taken at such election.
- (2) A notice published in accordance with this regulation shall specify the address of the Returning Officer to which all applications and other documents under these regulations are required to be sent or delivered.

5. Date of election

In a notice published by the Returning Officer in accordance with regulation 4 of these regulations —

- (a) the date fixed for the closing of the poll shall be not less than six weeks nor more than three months after the date of the publication of the notice;
- (b) the date appointed for the lodging of nominations shall be not less than twenty-one days nor more than thirty-five days prior to the day fixed for the closing of the poll.

[Regulation 5 inserted in Gazette 1 December 1978 p.4561.]

5A. Deferral of election if no nomination

- (1) Where, as at the date and time fixed for the lodging of nominations for an election, no candidate has been nominated, the Returning Officer shall by notice published in the *Government Gazette* and in a daily newspaper circulating in the State —
 - (a) re-open nominations for the election;
 - (b) fix a new date and time for lodging nominations; and
 - (c) if necessary in order to comply with subregulation (3) of this regulation, fix a new date and time for the closing of the poll to be taken at the election.
- (2) Where, as at the date and time fixed for the lodging of nominations for an election, less than the required number of candidates have been nominated, the Returning Officer, after furnishing a certificate under subregulation (4) of regulation 8 of these regulations in respect of the candidate or candidates who has or have been nominated, shall by notice published in the *Government Gazette* and in a daily newspaper circulating in the State —
 - (a) re-open nominations for the election in respect of the remaining vacancy or vacancies;
 - (b) fix a new date and time for lodging nominations; and

- (c) if necessary in order to comply with subregulation (3) of this regulation, fix a new date and time for the closing of the poll to be taken at the election.
- (3) Where a notice re-opening nominations for an election has been published by the Returning Officer in accordance with this regulation —
 - (a) the new date appointed for the lodging of nominations shall be not less than seven days after the date of the publication of the notice;
 - (b) the date for the closing of the poll shall be not less than twenty-one days after the new date appointed for the lodging of nominations.

[Regulation 5A inserted in Gazette 1 December 1978 p.4562.]

Electoral Roll

6. Electoral roll

- (1) The Secretary of the Board shall within seven days of the publication in the *Government Gazette* of the date fixed for the election, supply to the Returning Officer a true and correct list of the names and addresses of the growers who for the time being are registered under the Act, and the list shall constitute the electoral roll for use at that election.
- (2) The Secretary shall endorse and sign on every roll so prepared a certificate as to the correctness thereof and every roll prepared for a poll in accordance with these regulations shall be conclusive evidence of the right of each person enrolled thereon to vote at the poll.

7. Persons entitled to be on electoral roll

- (1) Where any grower on the electoral roll is a limited liability company or other corporate body, the board of directors or other management authority thereof may authorise any director, trustee, or other member of the board or management authority or its manager, secretary, or other officer (being a person not

already enrolled or entitled to be enrolled on the electoral roll) to represent the company or other body as an elector, and, upon receipt of an application for enrolment from such a representative, together with a certificate in writing evidencing the representative's authority in that behalf under the hand of the managing director of the company or the president or chairman of the management authority of such other corporate body, as the case may be, the Returning Officer may, subject to all other requirements of these regulations being satisfied, enrol that representative person on the electoral roll in accordance with his application.

- (2) In the case of a partnership, any one of the partners, but not more than one, at any one time may apply for enrolment and be enrolled on the electoral roll upon which the partnership is enrolled.
- (3) No person shall be entitled to be enrolled on the electoral roll more than once, whether as an elector in his own right or as the representative of a limited liability company or other corporate body, or as a partner in a partnership, or otherwise.
- (4) Every authority given under subregulation (1) of this regulation shall remain effective for all subsequent elections and electoral rolls until written notice of revocation is sent or delivered to the Returning Officer.
- (5) Any company or other corporate body may cancel or revoke any authority given by it under this regulation by notice in writing under the hand of the said Board of Directors or other management authority, as the case may be, sent or delivered to the Returning Officer but such a cancellation or revocation shall not invalidate any vote given by the representative person enrolled and voting by virtue of such authority at an election held previously to such cancellation or revocation.
- (6) Upon receipt of notice of cancellation or revocation of authority as aforesaid, the Returning Officer shall forthwith remove from

the electoral roll the name of the representative person whose authority has been so cancelled or revoked.

Nominations

8. Nominations

- (1) Nominations of candidates shall be lodged with the Returning Officer in the form of Form No. 1 in the Appendix to these regulations, not later than the day and time appointed for the receipt of nominations by the notice published under regulation 4 of these regulations.
- (2) A nomination shall be signed by the candidate himself and by a proposer and a seconder both of whom shall be enrolled on the electoral roll to be used at the election.
- (3) The Returning Officer shall reject any nomination form which, in his opinion, is not in order as required by this regulation, and any such rejection shall be final and conclusive as against the candidate.
- (4) Where the number of candidates nominated does not exceed the number of candidates to be elected, the Returning Officer shall forthwith certify that fact, together with the names, addresses and occupations of the candidates nominated to the Minister, and such certificate, when received by the Minister, shall be the final and conclusive evidence of the election of those candidates as members of the Board.
- (5) When the number of candidates nominated exceeds the number to be elected, the Returning Officer shall hold an election in accordance with these regulations, as hereinafter provided.
- (6) Any candidate may by notice in writing signed by him and witnessed by a grower, addressed to the Returning Officer and lodged with him not later than the hour of 12 o'clock noon on the day fixed for the close of nominations withdraw his consent to his nomination and thereupon that candidate shall be considered as not having been nominated and the Returning

Officer shall omit the name of that candidate from the ballot paper.

Polling

9. Ballot papers to be prepared

When after the receipt of nominations of candidates an election is necessary to elect an elective member or elective members of the Board, the returning Officer shall, as soon as practicable after the closing time for the receipt of such nominations, but within fourteen days thereafter, cause ballot papers to be printed in accordance with Form No. 2 in the Appendix to these regulations containing the full names of all the candidates arranged in alphabetical order of their surnames.

10. Voting

- (1) When the ballot papers have been printed, the Returning Officer shall send by prepaid letter post to each person, whose name appears as an elector on the electoral, roll to his postal address as shown on the roll —
 - (a) one ballot paper, with the initials of the Returning Officer, or of some other person authorised in that behalf by the Returning Officer, indorsed on the front thereof;
 - (b) one envelope marked “Ballot Paper”;
 - (c) one envelope addressed to the Returning Officer; and
 - (d) one statement in the form of Form No. 3 in the Appendix to these regulations, to be completed and signed by the elector,

and the Returning Officer may, before sending the statement to an elector, fill in the particulars to be furnished therein so that it will be ready for signature and completion by the elector when marking his ballot paper.

- (2) For the purpose of casting his vote at the election, the elector —

r. 11

- (a) shall mark his vote on the ballot paper in the manner set out in regulation 12 of these regulations, and shall then place the same in the envelope marked “Ballot Paper” and seal the envelope; and
 - (b) shall then sign and complete the statement in accordance with directions stated therein and then place the sealed envelope with the ballot paper enclosed therein and the statement signed and completed in the envelope addressed to the Returning Officer, and seal such last-mentioned envelope.
- (3) The elector may then send by post or may deliver the envelope addressed to the Returning Officer, with its enclosures, to the Returning Officer at his address shown on the envelope, but so that the envelope shall be in the hands of the Returning Officer not later than 12 o’clock noon on the day fixed for the closing of the poll.

11. Replacement ballot papers

If, prior to the closing of the poll, an elector satisfies the Returning Officer that he has not received a ballot paper and is entitled to vote at the election, or that the ballot paper or envelopes received by him have been lost or destroyed, and that he has not already voted at the poll, the Returning Officer may post or give personally to such elector a ballot paper and envelopes or a further ballot paper and envelopes, as the case may be.

Preferential voting

12. Preferential voting

- (1) Voting shall be by means of a preferential ballot.
- (2) When only one candidate is to be elected and there are not more than two candidates, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes.

- (3) When only one candidate is to be elected and there are more than two candidates, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference, and he shall give contingent votes for all the remaining candidates by placing the numerals 2, 3 and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of his preference.
- (4) When two or more candidates are to be elected, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference and the numeral 2 opposite the name of the candidate for whom he votes as his second preference, and he shall give contingent votes for all the remaining candidates by placing the numerals 3, 4 and so on (as the case requires) opposite their names so as to indicate by such numerical sequence the order of his preference.

Ballot Papers

13. Security of ballot papers

- (1) The Returning Officer shall place and keep in a locked and sealed ballot box, until the scrutiny, all envelopes purporting to contain ballot papers received by him up to the close of the poll.
- (2) An envelope containing a ballot paper received after the close of the poll shall not be admitted to the scrutiny.

Scrutineers

14. Scrutineers

- (1) Each candidate at an election shall be entitled to appoint, in writing, one scrutineer to be present when the envelopes containing ballot papers relating to the election are being opened at the commencement of the scrutiny and to remain during the scrutiny.

- (2) Every scrutineer shall, before he acts, make and sign, before the Returning Officer, a declaration in accordance with Form No. 4 in the Appendix to these regulations.

The Scrutiny

15. Counting of votes

- (1) As soon as practicable after the close of the poll, the Returning Officer, in the presence of any scrutineer permitted by him, shall —
- (a) produce and open all sealed and locked ballot boxes in which the envelopes containing ballot papers and statements have been placed; and
 - (b) open each outer envelope, compare the enclosed statement with the roll of growers, and if satisfied that the person named in the statement is entitled to vote and that the statement has been completed and signed by the grower, strike out the name on the roll of growers, and, without opening the envelope marked “Ballot Paper” deposit it in a locked and sealed ballot box and set aside the statement for safe keeping.
- (2) If the right of the person to vote is not established or if the statement is not signed by the grower, the ballot paper shall not be admitted to the scrutiny and the Returning Officer shall replace the statement and the envelope marked “Ballot Paper” in the outer envelope, and set the outer envelope and its contents aside for safe keeping.

16. Method of counting

The method of conducting the count shall be as follows: —

- (a) When one vacancy is to be filled and there are more candidates than one, the procedure at the count of votes shall be in the manner provided by the *Electoral Act 1907*;

- (b) when two candidates are to be elected the count of votes will proceed until one candidate has received an absolute majority, when he shall be declared elected. The first elected candidate shall then be eliminated from the count, and to proceed with the election of the second candidate, all the ballot papers shall be brought into operation and again sorted into first preference votes. The first preference votes of the eliminated successful candidate shall be distributed according to the second preference markings shown thereon to the remainder of the candidates, and when added to their respective first preference votes shall constitute the first count for the second candidate. The procedure from then on shall be the same as in the counting of votes for the election of one candidate;
- (c) further vacancies shall be filled one by one in the manner provided in paragraph (b) of this regulation as regards the filling of the second vacancy and for that purpose a ballot paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in order of the voter's preference.

17. Returning Officer to count votes

When all the outer envelopes have been opened in accordance with regulation 15 of these regulations, the Returning Officer shall proceed with the scrutiny and count of the votes.

18. Returning Officer's discretion as to informal votes

The Returning Officer shall be the sole and final judge as to whether a ballot paper is informal.

19 Candidate may attend at counting

Any candidate may attend and be present at the counting of the votes.

20. Informal votes

- (1) A ballot paper shall be informal —
 - (a) if it is not initialed by the Returning Officer or the other officer authorized in that behalf;
 - (b) if, subject to subregulation (2) of this regulation, it is marked in any other manner than prescribed in regulation 12 of these regulations;
 - (c) if it has upon it any mark or writing not authorised by these regulations, which in the opinion of the Returning Officer will enable any person to identify the elector;
 - (d) if it does not indicate the electors vote, or, if when there are more than two candidates it is not marked so as effectively to indicate the elector's preference as regards all candidates; or
 - (e) if no mark is indicated on it.
- (2) A ballot paper shall not be informal for any reason other than the reasons stated in subregulation (1) of this regulation but shall be given effect to according to the elector's intention so far as his intention is clear, and, in particular when only one candidate is to be elected and there are only two candidates, a ballot paper shall not be informal by reason only of the elector having indicated his vote or first preference by a cross instead of the numeral 1.

21. Declaration of results

When the Returning Officer has completed the counting of the votes, he shall declare the result of the election in the presence of the scrutineers and of any candidates who may be present at the time.

22. Retention of ballot papers

On completion of the scrutiny and count of votes, the Returning Officer shall —

- (a) enclose in one packet all the used and counted ballot papers; in another packet all statements of growers whose votes were admitted to the count; and in a third packet all outer envelopes and their contents referred to in subregulation (2) of regulation 15 of these regulations;
- (b) seal up the several packets and endorse on each packet a description and the number of the contents respectively, the date of the election and sign the endorsements; and
- (c) retain the sealed packets.

23. Certificate of results

When the result of an election has been ascertained and declared, the Returning Officer shall forthwith furnish to the Minister a certificate of the result and state therein the names, addresses and occupations of the candidates who have been elected, and such a certificate, when received by the Minister, shall be final and conclusive evidence of the election of those candidates as members of the Board.

24. Destruction of ballot papers

Upon the expiration of three months after the date of the certification to the Minister of the result of an election, the Returning Officer may authorise the destruction of the parcels referred to in regulation 22 of these regulations.

Miscellaneous

25. Untrue statements

A person shall not make an untrue statement in an application or statement made for the purposes of these regulations or in an application to a Returning Officer for the purpose of obtaining a ballot paper or a further ballot paper.

Penalty — forty dollars.

26. Application of *Electoral Act 1907*

The provisions of the *Electoral Act 1907*, and the regulations made thereunder apply so far as they can be made applicable to all matters not provided for in these regulations.

27. Costs, charges and expenses of Returning Officer

All costs, charges, and expenses as incurred by the Returning Officer in connection with the publication of notices, the receipt of nominations of candidates for election, and the conduct of elections or in connection with any other matters incidental thereto and as certified in writing by the Returning Officer under his hand, and communicated by the Returning Officer to the Board, shall be borne and paid by the Board or reimbursed to the Returning Officer by the Board out of moneys from time to time in its hands but the Board may at its own expense have the accounts of the Returning Officer audited by the Auditor General, whose decision thereon shall be final as between the parties concerned.

Appendix

Reg. 8

Form No. 1

Western Australia

Dried Fruits Act 1947

NOMINATION FORM FOR NOMINATION OF CANDIDATE FOR AN
ELECTION

WE (a) of (b) in the State of Western
Australia (c) and (d)
of (b) in the State of Western Australia
(c) being electors duly enrolled upon the
electoral roll of growers do hereby, as proposer and seconder respectively,
nominate (e) of (f)
in the State of Western Australia (g)
as a candidate for election under section 9 of the *Dried Fruits Act 1947*, as an
elective member of the Dried Fruits Board, for the purpose of and in connection
with the election to be held on the day of
19 for the election of elective members of that Board under that Act.

Dated the day of 19

(h) Proposer.

(i) Seconder.

I, the abovenamed (e) of (f)
in the State of Western Australia (g) do
hereby consent to the above nomination.

Dated the day of 19

(j) Candidate.

(a) Full name of proposer; (b) address; (c) occupation; (d) full name of
seconder; (e) full name of candidate; (f) his address; (g) his occupation; (h)
signature of proposer; (i) signature of seconder; (j) signature of candidate.

Form No. 2

Reg. 9

Western Australia
Dried Fruits Act 1947
BALLOT PAPER

Authorised Officer's
Initials.

FOR use in an election of (a) person (or persons) to be elected as the elective member (or members) of the Dried Fruits Board under section 9 of the abovementioned Act.

The Ballot Paper marked and completed in accordance with the directions hereunder must be received by the Returning Officer not later than 12 o'clock noon on (b) the day of 19

	Name of Candidates	Vote
(c)	
	
	

Directions for Voting

- (1) Voting shall be by means of a preferential ballot.
- (2) When only one candidate is to be elected and there are not more than two candidates, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes.
- (3) When only one candidate is to be elected and there are more than two candidates, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference, and he shall give contingent votes for all the remaining candidates by placing the numerals 2, 3 and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of his preference.
- (4) When two or more candidates are to be elected, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference and the numeral 2 opposite the name of the candidate for whom he votes as his second preference, and he shall give contingent votes for all the remaining candidates by placing the numerals 3, 4 and so on (as the case requires)

opposite their names so as to indicate by such numerical sequence the order of his preference.

- (5) The elector shall then place the ballot paper in the envelope marked "Ballot Paper" and seal the envelope.
 - (6) The elector shall then complete and sign the statement Form No. 3 received by him with the ballot paper.
 - (7) The elector shall then place the ballot paper envelope sealed and the completed statement in the envelope addressed to the Returning Officer, and send the same by post or deliver the same to the Returning Officer.
 - (8) The envelope, addressed to the Returning Officer, with its contents, must be received by the Returning Officer before the time fixed for the closing of the poll as notified above, otherwise the envelope and its contents will be rejected.
- (a) one, two or more as the case may be; (b) the day fixed for the closing of the poll; (c) insert full names of candidates in alphabetical order or surnames.

Form No. 3

Reg. 10

Dried Fruits Act 1947

STATEMENT BY ELECTOR TO ACCOMPANY BALLOT PAPER

I (a) of (b) in the State of Western Australia (c) hereby submit the following facts in verification of my right to vote, according to the accompanying ballot paper.

- (1) I am an elector duly enrolled on the roll of growers and am still a grower within the meaning of the Act.
- (2) That as such an elector I am entitled to vote in the election now being held and closing at 12 o'clock noon on (d) day of 19.... for the election of (e) person (or persons) as the elective member (or members) of the Dried Fruits Board.
- (3) That I have not voted previously in the said election.
- (4) That I make this statement with the full knowledge of the fact that if it is wilfully false in any particular I am liable to a penalty under the regulations not exceeding the sum of forty dollars.

(f)

(a) Full name of elector; (b) address; (c) occupation; (d) date of election; (e) one or two, as the case may be; (f) signature of elector.

Form No. 4

Reg. 14

Dried Fruits Act 1947

DECLARATION BY SCRUTINEER

I, (full name)of (address)

do hereby declare that I will faithfully and impartially, according to the best of my skill and judgment, carry out the duties required of me as a Scrutineer, in connection with the election of elective members of the Dried Fruits Board, and I do further declare that I will not at such election attempt to ascertain how any person shall vote or has voted, and that if in the discharge of such duties at or concerning the said election I learn how any person has voted, I will not by word or act directly or indirectly divulge or discover or aid in divulging or discovering the same.

Signature

Declared before me at this day of 19

.....
Returning Officer

Notes

- ^{1.} This is a compilation of the *Dried Fruits (Election of Members) Regulations* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Dried Fruits (Election of Members) Regulations</i>	24 Jul 1968 pp.2127-33	24 Jul 1968
	22 Jul 1971 p.2707	22 Jul 1971
	1 Dec 1978 pp.4561-2	1 Dec 1978

These regulations were repealed as a result of the repeal of the *Dried Fruits Act 1947* by the *Statutes (Repeals and Minor Amendments) Act 2000* s. 3(2) (No. 24 of 2000) as at 4 Jul 2000
