



Western Australia

Agricultural Produce Commission Act 1998

**Producers Committees (Polling) Regulations
1990**

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Producers Committees (Polling) Regulations 1990

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Defined terms

Producers Committees (Polling) Regulations 1990

1. Citation

These regulations may be cited as the *Producers Committees (Polling) Regulations 1990*¹.

[Regulation 1 amended: Gazette 13 Feb 2001 p. 867.]

2. Commencement

These regulations shall come into operation on the day on which they are published in the *Government Gazette*¹.

3. Interpretation

In these regulations, unless the context otherwise requires —

eligible producer means a producer whose name is listed on the list of producers compiled by the Commission in relation to the relevant producers' committee;

list of producers means the list of eligible producers compiled by the Commission under section 16 of the Act in relation to the relevant producers' committee;

meeting means a meeting held pursuant to a direction given by the Commission under regulation 6(1)(a);

poll means a poll which the Commission is required or authorised to conduct or which is conducted on behalf of a producers' committee;

relevant area means the area in relation to which the relevant producers' committee is established or is proposed to be established;

returning officer means the person holding or acting in the office of returning officer under regulation 7.

[Regulation 3 amended: Gazette 13 Feb 2001 p. 867-8.]

4. Determination of producer

Subject to these regulations the Commission may determine that a person is a producer in relation to a producers' committee or proposed producers' committee —

- (a) on the basis of information supplied by the producer to the Commission under section 13 of the Act; or
- (b) on the basis of such other information as the Commission considers is relevant.

[Regulation 4 amended: Gazette 13 Feb 2001 p. 868.]

[5. Deleted: Gazette 13 Feb 2001 p. 868.]

6. Commission may direct method of taking a poll

- (1) Subject to these regulations the Commission may direct that any poll taken in relation to a producers' committee or a proposed producers' committee for the purposes of the Act shall be taken —
 - (a) at a meeting or meetings convened for that purpose; or
 - (b) by a postal ballot held for that purpose.
- (2) Notwithstanding that a poll has been conducted under subregulation (1)(a) if it considers that the meeting held under that provision is not representative of the views of eligible producers, the Commission may direct that a poll be taken by postal ballot and the direction shall have effect accordingly.

- (3) Where under subregulation (1)(a) the Commission directs that a poll be taken at a meeting the Commission shall provide postal ballot facilities for the purposes of regulation 12.

[Regulation 6 amended: Gazette 13 Feb 2001 p. 868.]

7. Appointment of returning officer

The Commission shall appoint a person to be returning officer for the purposes of conducting a poll.

8. Notice of conduct of poll

- (1) The commission shall give notice of the conduct of a poll in the relevant area.
- (2) A notice under subregulation (1) —
- (a) shall be published in the manner approved by the Commission;
 - (b) shall be published not less than 21 days or such period of not less than 21 days as the Commission approves in the particular case before the conduct of the poll;
 - (c) in the case of a poll under section 10 of the Act, shall specify in simple terms the objects sought to be attained by the proposal;
 - (d) in the case of a poll under section 10 of the Act, shall specify the agricultural produce the subject of the proposal and the relevant area;
 - (da) in the case of a poll under section 11(1a) of the Act, shall specify the names of the candidates for election as members of a producers' committee;
 - (db) in the case of any other poll, shall specify the question to be submitted to the persons voting in the poll;
 - (e) shall specify the date or dates on which the poll is to be conducted;

- (f) shall specify whether the poll is to be conducted by convening a meeting or meetings for the purpose or by holding a postal ballot for that purpose; and
- (g) shall specify the name and address of the returning officer, and, if the poll is to be conducted at a meeting or meetings called for that purpose, the time and place or places at which the meeting or meetings will be held.

[Regulation 8 amended: Gazette 13 Feb 2001 p. 868-9.]

9. Commission to furnish list of producers

The Commission shall furnish to the returning officer a list of producers who are eligible to vote at a poll in relation to a producers' or proposed producers' committee.

[Regulation 9 amended: Gazette 13 Feb 2001 p. 869.]

10. List of producers

- (1) Where 2 or more persons carry on business as producers together in a single enterprise they shall by notice in writing addressed to the Commission nominate one of their number to be the person whose name is to be listed as the eligible producer on the list of producers in relation to that enterprise.
- (2) Where a producer is a body corporate the body corporate shall by notice in writing addressed to the Commission nominate a person whose name shall be listed as the eligible producer on the list of producers in relation to that body corporate.
- (3) A person is not eligible to be listed as an eligible producer on a list in relation to more than one enterprise or body corporate.
- (4) A person is not eligible to have his or her name listed more than once on the same list of producers.

[Regulation 10 amended: Gazette 13 Feb 2001 p. 869.]

11. List of eligible producers

A list of producers provided by the Commission to the returning officer —

- (a) shall specify the producers' or proposed producers' committee in relation to which the list applies;
- (b) shall contain the names and addresses of eligible producers who on the day 14 days before the date fixed for the poll were determined by the Commission to be eligible producers for the purposes of the poll;
- (c) shall be listed in alphabetical order of the names under which business is carried on by the eligible producers; and
- (d) shall have the names on the list numbered consecutively.

[Regulation 11 amended: Gazette 13 Feb 2001 p. 870.]

12. Absent voting

- (1) Where pursuant to a direction of the Commission a poll is to be conducted at a meeting the returning officer shall allow an eligible producer who is entitled to do so under subregulation (2) to lodge an absent vote by post.
- (2) An eligible producer who applies to the returning officer not less than 7 days before the date fixed for the meeting at which a poll is to be taken and satisfies the returning officer —
 - (a) that he or she resides more than 30 km from the place at which the meeting is to be convened; or
 - (b) that because —
 - (i) of his or her ill health;
 - (ii) of his or her absence from the State on the day of the meeting; or
 - (iii) he or she will be travelling at the time of the meeting,he or she will not be able to attend the meeting,is entitled to lodge an absent vote by post.

r. 13

- (3) Regulations 17 to 23 with such modifications as are necessary for that purpose apply to and in relation to absent voting by post as though the votes were taken by postal ballot.

[Regulation 12 amended: Gazette 13 Feb 2001 p. 870.]

13. Returning officer to provide facilities for receipt of absent votes and postal votes

For the purposes of any poll conducted under these regulations the returning officer shall use a private box at a post office or such other address as he or she thinks fit for the purposes of the receipt of absent votes or postal ballot papers.

14. Meeting of eligible persons

- (1) Subject to these regulations, where a poll is to be conducted at a meeting only eligible producers, members of the Commission and persons permitted to do so by the returning officer are entitled to be present at the meeting.
- (2) The returning officer shall be present at a meeting.

[Regulation 14 amended: Gazette 13 Feb 2001 p. 870.]

15. Chairman to be appointed by Commission

- (1) A meeting shall be presided over by a chairperson appointed by the Commission.
- (2) The Commission shall not appoint a person who is entitled to vote at a meeting to be chairperson of the meeting.
- (3) The chairperson at a meeting shall appoint 2 persons to be tellers.

16. Proceedings of the meeting

- (1) The chairperson shall open the meeting and explain in simple terms the purposes of the meeting.
- (2) The chairperson or a person appointed by the chairperson shall read to the meeting the notice calling the meeting.

- (3) The motion to be voted on shall be moved by motion of an eligible producer at the meeting.
- (4) If a motion involves the establishment of a producers' committee or the provision of additional services by a producers' committee, the motion shall include in its terms the purposes for which the producers' committee is established or the additional services that may be provided by a committee, as the case requires.
- (5) Subject to these regulations the debate on a motion moved under subregulation (3) shall be in accordance with the usual rules of debate and where there is any doubt as to a particular matter the rules of debate in the Standing Orders of the Legislative Assembly apply.
- (6) The count on a vote on a motion referred to in subregulation (3) shall be taken in the manner directed by the Commission.
- (7) The chairperson shall declare the meeting closed when the vote on the motion has been taken.

[Regulation 16 amended: Gazette 13 Feb 2001 p. 870-1.]

17. Procedure where a postal ballot is held

- (1) Where the Commission does not convene a meeting for the purposes of conducting a poll the Commission shall conduct a postal ballot.
- (2) The question or questions to be submitted to the persons voting in the ballot shall be approved by the Commission.
- (3) The Commission shall give not less than 21 days' notice of the postal ballot by notice published in a newspaper circulating in the area in which the producers' committee is to be established or in which the producers' committee is operating at the date of the poll.

- (4) If not later than 18 days before the day that a postal ballot is to be held —
- (a) an argument in favour of the question to be submitted to the producers is submitted to the Commission; or
 - (b) an argument against the question to be submitted to the producers is submitted to the Commission,

the Commission shall cause the argument to be printed for circulation under regulation 18 but only one such argument for and one such argument against the question shall be printed by the Commission.

[Regulation 17 amended: Gazette 13 Feb 2001 p. 871.]

18. Postal ballot papers

- (1) The returning officer shall by prepaid post forward to an eligible producer whose name is listed on the list of producers not less than 14 days before the day fixed for the holding of a ballot the following items —
- (a) a copy of the arguments printed under regulation 17(4);
 - (b) a ballot paper bearing the initials of the returning officer or a facsimile of that signature;
 - (c) an envelope marked “Ballot Paper” and a counterfoil envelope —
 - (i) on which is printed the name of the producers’ committee or proposed producers’ committee and the number printed in the list of eligible producers against the name of the producer or the nominated person to whom the ballot paper is posted; and
 - (ii) which makes provision on the reverse thereof for the name of the producer and signature;
- and
- (d) an envelope addressed to the returning officer.

- (2) Every ballot paper issued for the purpose of a postal vote shall be of the same colour and size.

[Regulation 18 amended: Gazette 13 Feb 2001 p. 871.]

19. Spoilt ballot papers

If on written application made before the day of the poll the returning officer is satisfied by a person entitled to a postal ballot paper that —

- (a) a ballot paper has not been received by that person; or
- (b) a ballot paper has been received by that person but the ballot paper has been spoilt, lost, damaged or destroyed, the returning officer shall forward to the applicant a fresh ballot paper together with the items referred to in regulation 18.

20. Voting by postal ballot

Where voting in a poll under these regulations is by postal ballot each eligible producer shall mark his or her vote on the ballot paper in the manner directed on the ballot paper that gives effect to his or her intention.

[Regulation 20 amended: Gazette 13 Feb 2001 p. 872.]

21. Appointment of scrutineers

- (1) The returning officer shall appoint a scrutineer to represent the persons who have submitted the arguments in a postal ballot poll or who are candidates for membership of a producers' committee.
- (2) The returning officer shall give to every person appointed scrutineer reasonable notice of the place and time at which the count of votes shall be undertaken.

[Regulation 21 amended: Gazette 13 Feb 2001 p. 872.]

22. Scrutiny and count of votes

- (1) The result of a poll by postal ballot shall be ascertained by scrutiny and count of the votes cast.
- (2) As soon as possible after the poll has closed and not before, in the presence of such scrutineers as may attend —
 - (a) each outside envelope addressed to the returning officer shall be opened;
 - (b) each counterfoil envelope shall be checked against the list of eligible producers;
 - (c) each counterfoil envelope shall be checked to ensure it contains the name and signature of the eligible producer;
 - (d) the name of each eligible producer who has forwarded an envelope addressed to the returning officer as indicated by the counterfoil envelope shall be marked on the list of eligible producers;
 - (e) if the counterfoil envelope addressed to the returning officer is in order, the ballot paper envelope enclosed therein shall be placed unopened into a sealed ballot box;
 - (f) if the counterfoil envelope addressed to the returning officer has been found not to be in order the envelope still containing the ballot paper envelope and ballot paper shall remain unopened and be marked “Not in Order”; and
 - (g) the ballot box containing the unopened ballot paper envelopes shall be opened and the ballot papers removed from the envelopes.
- (3) For the purposes of the count each ballot paper shall be sorted according to the answer given on the ballot paper but where a ballot paper —
 - (a) does not bear the initials of the returning officer or a facsimile thereof;

- (b) has a mark or anything else by means of which the voter can be identified; or
- (c) is not marked in accordance with the directions given on the ballot paper,

the ballot paper shall be rejected.

[Regulation 22 amended: Gazette 13 Feb 2001 p. 872.]

23. Recount

The returning officer may, at any time before the declaration of the poll, if he or she thinks fit, on his or her own motion, or, on the written request of any eligible producer or a scrutineer, order a recount of the votes cast in any poll conducted under these regulations.

[Regulation 23 amended: Gazette 13 Feb 2001 p. 872.]

24. Declaration of poll

The returning officer shall declare the result of a poll as soon as is practicable and publish the result in, a newspaper circulating in the relevant area.

¹ This reprint is a compilation as at 6 August 2004 of the *Producers Committees (Polling) Regulations 1990*. The following table contains information about these regulations. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Growers Committees (Polling) Regulations 1990</i> ²	23 Nov 1990 p. 5774-8	23 Nov 1990 (see r. 2)
<i>Growers Committees (Polling) Amendment Regulations 2001</i>	13 Feb 2001 p. 867-72	13 Feb 2001

Reprint 1: The Producers Committees (Polling) Regulations 1990 as at 6 Aug 2004
(includes amendments listed above)

² Now known as the *Producers Committees (Polling) Regulations 1990*; citation changed (see note under r. 1).

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
eligible producer	3
list of producers	3
meeting	3
poll	3
relevant area	3
returning officer	3