

AG303**HORTICULTURAL PRODUCE COMMISSION ACT 1988
GROWERS COMMITTEES (POLLING) REGULATIONS 1990**

Made by His Excellency the Governor in Executive Council.

Citation

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

Commencement

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

Interpretation

3. In these regulations, unless the context otherwise requires—

“eligible grower” means a grower whose name is listed on the list of growers compiled by the Commission in relation to the relevant growers committee;

“list of growers” means the list of eligible growers compiled by the Commission under section 16 of the Act in relation to the relevant growers committee;

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

“relevant area” means the area in relation to which the relevant growers 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.

Determination of grower

4. Subject to these regulations the Commission may determine that a person is a grower in relation to a relevant growers committee—
- (a) on the basis of information supplied by the grower to the Commission under section 13 of the Act; or
 - (b) on the basis of such other information as the Commission considers is relevant.

Prescribed statistical information

5. (1) The following information is prescribed statistical information for the purposes of section 13 of the Act in relation to the relevant growers committee or the relevant growers committee that is proposed to be established—
- (a) the quantity of specified horticultural produce produced for sale by a person;
 - (b) the area of land cultivated by a person for the purposes of the cultivation of the specified horticultural produce.
- (2) In subregulation (1) "specified" means specified by the Commission by notice in writing addressed to the person who grows the kind of horticultural produce in question.

Commission may direct method of taking a poll

6. (1) Subject to these regulations the Commission may direct that any poll taken in relation to a relevant growers committee or a relevant growers committee that is proposed to be established 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 growers, 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.

Appointment of returning officer

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

Notice of conduct of poll

8. (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) shall specify in simple terms the objects sought to be attained by the proposal;
 - (d) shall specify the kind of horticultural produce the subject of the proposal and the relevant area;
 - (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.

Commission to furnish list of growers

9. The Commission shall furnish to the returning officer a list of growers who are eligible to vote at a poll in relation to a relevant growers committee.

List of growers

10. (1) Where 2 or more persons carry on business as growers 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 grower on the list of growers in relation to that enterprise.

(2) Where a grower 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 grower on the list of growers in relation to that body corporate.

(3) A person is not eligible to be listed as an eligible grower 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 growers.

List of eligible growers

11. A list of growers provided by the Commission to the returning officer—
- (a) shall specify the relevant growers committee in relation to which the list applies;
 - (b) shall contain the full names and addresses of eligible growers who on the day 14 days before the date fixed for the poll were determined by the Commission to be eligible growers 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 growers; and
 - (d) shall have the names on the list numbered consecutively.

Absent voting

12. (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 grower who is entitled to do so under subregulation (2) to lodge an absent vote by post.

(2) An eligible grower 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.

(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.

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

13. 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.

Meeting of eligible persons

14. (1) Subject to these regulations, where a poll is to be conducted at a meeting only eligible growers, 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.

Chairman to be appointed by Commission

15. (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.

Proceedings of the meeting

16. (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 establishment of a growers committee or the extension of the functions of a growers committee as the case requires shall be moved by motion of an eligible grower at the meeting.

(4) A motion under subregulation (3) shall include in its terms the purposes for which the growers committee is established or the additional functions to be conferred on a growers 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 (4) shall be taken in the manner directed by the Commission.

(7) The chairperson shall declare the meeting closed—

- (a) when the vote on the motion the subject of the proposal has been taken; or
- (b) if after 30 minutes of the time fixed for the meeting to commence the chairman is satisfied that the requirements of section 10 (8) of the Act will not be complied with, before the vote is taken.

Procedure where a postal ballot is held

17. (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 or notice of such period of not less than 21 days as the Commission approves in the particular case of the postal ballot by notice published in a newspaper circulating in the area in which the growers committee is to be established or in which the growers 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 growers is submitted to the Commission; or
- (b) an argument against the question to be submitted to the growers 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.

Postal ballot papers

18. (1) The returning officer shall by prepaid post forward to an eligible grower whose name is listed on the list of growers 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 growers committee or proposed growers committee and the number printed in the list of eligible growers against the name of the grower or the nominated person to whom the ballot paper is posted; and
 - (ii) which makes provision on the reverse thereof for the full name of the grower and signature, as the case requires;

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.

Spoilt ballot papers

19. 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.

Voting by postal ballot

20. Where voting in a poll under these regulations is by postal ballot each eligible grower 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.

Appointment of scrutineers

21. (1) The returning officer shall appoint a scrutineer to represent the persons who have submitted the arguments in a postal ballot poll.

(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.

Scrutiny and count of votes

22. (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 growers;
- (c) each counterfoil envelope shall be checked to ensure it contains the full name and signature of the eligible grower;
- (d) the name of each eligible grower who has forwarded an envelope addressed to the returning officer as indicated by the counterfoil envelope shall be marked on the list of eligible growers;
- (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.

Recount

23. 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 grower or a scrutineer, order a recount of the votes cast in any poll conducted under these regulations.

Declaration of poll

24. 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.

Approved by His Excellency the Governor in Executive Council.

G. PEARCE, Clerk of the Council.
