



New South Wales

# Banana Industry Amendment (Polls and Elections) Regulation 1997

under the

Banana Industry Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Banana Industry Act 1987*.

R. S. Amery  
Minister for Agriculture

## Explanatory note

The *Banana Industry Amendment Act 1996* made various changes to the *Banana Industry Act 1987* including the following:

- (a) reconstituting the membership of the Banana Industry Committee (the “Committee”) so that some of the members of the Committee are elected by banana growers to represent particular regions of the banana industry and providing for the election of those regional members,
- (b) changing the voting entitlements of banana growers in polls and providing for similar entitlements in elections for regional members of the Committee so that banana growers are able to cast up to 3 votes each depending on the size of the plantation on which bananas are grown by or on behalf of the grower,
- (c) providing that banana growers are not entitled to vote in a poll or election unless they are fully paid up as regards charges, fees or other amounts due and payable to the Committee in respect of the previous financial year.

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#### Explanatory note

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The object of this Regulation is to update the *Banana Industry Regulation 1993* to reflect those changes. This Regulation provides for the following:

- (a) the conduct of elections for the regional members of the Committee, for example, the procedures for the calling of elections, the nomination of candidates for elections and the preparation of the list of banana growers entitled to vote in an election (Schedule 1 [29]),
- (b) certain matters in relation to the conduct of polls to be consistent with those for elections, that is, the information to be contained in the list of banana growers entitled to vote in a poll (Schedule 1 [6]), procedures relating to the calling of polls (Schedule 1 [7] and [8]), applications for a court order to include the name of a person, or a particular voting entitlement for the person, in the list of banana growers entitled to vote in a poll (Schedule 1 [10]), applications for, and objections to, enrolment for a poll (Schedule 1 [11]–[14]) and the casting of multiple votes in a poll if a banana grower is entitled to do so (Schedule 1 [15]–[27]),
- (c) other minor, consequential and ancillary matters (Schedule 1 [1]–[5], [9], [28], [30] and [31]).

This Regulation is made under the *Banana Industry Act 1987*, including sections 12, 16A, 16G and section 31 (the general regulation making power).

## **Banana Industry Amendment (Polls and Elections) Regulation 1997**

### **1 Name of Regulation**

This Regulation is the *Banana Industry Amendment (Polls and Elections) Regulation 1997*.

### **2 Commencement**

This Regulation commences on 18 April 1997\*.

### **3 Amendment of Banana Industry Regulation 1993**

The *Banana Industry Regulation 1993* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

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\* The regulation (statutory rule) appointed 18 April 1997 as the date of its commencement. Pursuant to section 39 (2A) of the Interpretation Act 1987, the regulation is not invalid merely because the regulation was published in the Gazette after the day on which one or more of its provisions is or are expressed to take effect, but provides, in that case, for that or those provisions to take effect from the day on which it is published in the Gazette, instead of from the earlier day.

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**Schedule 1 Amendments**

(Clause 3)

**[1] Clause 1 Citation**

Insert “(Polls and Elections)” after “Industry”.

**[2] Clause 3 Definitions**

Omit clause 3 (1). Insert instead:

(1) In this Regulation:

*Committee* means the Banana Industry Committee constituted by the Act.

*Executive Officer* means the Executive Officer of the Committee.

*returning officer* for a poll or election means the person appointed by the Committee as the returning officer for the poll or election.

*the Act* means the *Banana Industry Act 1987*.

**[3] Clause 4 Returning officer**

Insert “election,” before “poll” in clause 4 (1).

**[4] Part 2, Division 1 A**

Insert before Division I:

**Division 1A Preliminary**

**4A Definitions**

In this Part:

*calling of the poll* for a poll means the date on which a notice is first published under clause 6 for the poll.

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

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

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

*final list* for a poll means the list prepared for the poll under Division 2.

*preliminary list* for a poll means the list for the poll provided to the returning officer under clause 5.

**[5] Clause 5 Committee to notify returning officer of proposed poll**

Omit “qualified” from clause 5 (2) (a).  
Insert instead “entitled”.

**[6] Clause 5 (3) (a)**

Omit the paragraph. Insert instead:

- (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 list, and
  - (ii) the voting entitlement of each of those persons, and
  - (iii) sufficient details to identify the plantations in respect of which those persons are entitled to vote in the poll, and

**[7] Clause 6 Notice of poll**

Omit clause 6 (1) (a). Insert instead:

- (a) to be published in at least one newspaper circulating generally throughout New South Wales or in an official publication of the Committee, or

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**[8] Clause 6 (5)**

Omit the subclause. Insert instead:

- (5) The close of the poll is not to be earlier than 35 days after the calling of the poll.

**[9] Clause 9 Applications for enrolment by persons not already enrolled**

Omit “name and address” from clause 9 (3) (a).

Insert instead “name, address and voting entitlement”.

**[10] Clause 9 (4)**

Omit the subclause. Insert instead:

- (4) An application to a Local Court for an order referred to in section 12 (2) of the Act is to be in:
  - (a) Form 3 if the application relates to the inclusion of the name of any person in the final list for the poll, or
  - (b) Form 4 if the application relates to the inclusion of a particular voting entitlement for any person in the final list for the poll.

**[11] Clause 10 Objections to enrolment**

Omit clause 10 (1). Insert instead:

- (1) Before the close of enrolments, the returning officer or any person who is entitled to vote in a poll may object to the inclusion in the final list of
  - (a) the name of any person, or
  - (b) the particular voting entitlement for any person.

**[12] Clause 10 (2) (a)**

Omit the paragraph. Insert instead:

- (a) must be in:
  - (i) Form 5 if the objection relates to the inclusion of the name of any person in the final list for the poll, or

- (ii) Form 6 if the objection relates to the inclusion of a particular voting entitlement for any person in the final list for the poll, and

**[13] Clause 10 (2) (d)**

Omit “before the close of enrolments”.

**[14] Clause 10 (7)**

Omit the subclause. Insert instead:

- (7) If the returning officer accepts an objection relating to the inclusion of a person’s name in the final list for the poll, the returning officer must exclude from the final list the person’s name and must inform the person and the objector, in writing, that the person’s name is so excluded.
- (7A) If the returning officer accepts an objection relating to the inclusion of a particular voting entitlement for a person in the final list for the poll, the returning officer must amend the final list so as to ensure that it reflects the person’s true voting entitlement and must inform the person and the objector, in writing, that the person’s voting entitlement is so amended.

**[15] Clause 12 Printing of ballot-papers**

Omit “a ballot-paper” from clause 12 (1).  
Insert instead “ballot-papers”.

**[16] Clause 13 Distribution of ballot-papers**

Omit the clause 13 (a) and (b). Insert instead:

- (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 for the

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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] Clause 14 Duplicate ballot-papers**

Omit “a duplicate ballot-paper and envelope” from clause 14 (1).  
Insert instead “duplicate ballot-papers and duplicate envelopes”.

**[18] Clause 14 (1) (a)**

Omit “ballot-paper has been”.  
Insert instead “ballot-paper or ballot-papers has or have been”.

**[19] Clause 14 (1) (b)**

Omit the paragraph. Insert instead:

- (b) that the voter has not already voted in the poll concerned.

**[20] Clause 15 Recording of votes**

Omit clause 15 (a)–(c). Insert instead:

- (a) for each vote to which the person is entitled:
  - (i) must record a vote on a ballot-paper in accordance with the directions shown on it, and



- (ii) must place the completed ballot-paper in an inner envelope, and
- (iii) must seal the inner envelope, and
- (b) must place each inner envelope in the outer envelope, and
- (c) must seal the outer envelope, and

**[21] Clause 15 (d) and (e)**

Insert “outer” before “envelope” wherever occurring.

**[22] Clause 15A**

Insert before clause 16:

**15A 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.

**[23] Clause 16 Scrutiny of outer envelopes**

Insert “outer” before “envelope” wherever occurring.

**[24] Clause 16 (2) (a)**

Omit “accept the”.

Insert instead “provisionally accept any”.

**[25] Clause 16 (2) (b)**

Omit “the ballot-paper”.

Insert instead “any ballot-paper”.

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**[26] Clause 17**

Omit the clause. Insert instead:

**17 Scrutiny of inner envelopes**

The scrutiny of inner envelopes in a poll is to be conducted as follows:

- (a) the returning officer is to open the outer envelopes containing the ballot-papers that have not been rejected,
- (b) the returning officer is then to extract any inner envelope contained in any such outer envelope,
- (c) the returning officer is then to note the number of inner envelopes contained in the outer envelope against the voting entitlement in the final list for the poll for the person whose name corresponds to the name on the back of the outer envelope,
- (d) the returning officer is then to place any such inner envelope in a locked ballot-box unless there are more inner envelopes in the outer envelope than the person concerned is entitled to, in which case the returning officer is to reject all the inner envelopes contained in the outer envelope.

**[27] Clause 18 Scrutiny of votes**

Omit clause 18 (1) (a)–(e). Insert instead:

- (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 to reject any ballot-paper 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.

**[28] Part 2, Division 5**

Omit the Division.

**[29] Part 2A**

Insert after Part 2:

**Part 2A Conduct of elections**

**Division 1 Preliminary**

**20 Definitions**

In this Part:

*calling of the ballot* for an election means the date on which a notice is first published under clause 21 for the election.

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

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

*final list* for an election means the list prepared for the election under Division 5.

*preliminary list* for an election means the list for the election provided to the returning officer under clause 22F.

## **Division 2 Calling of elections**

### **21 Notice of election**

- (1) As soon as practicable after having been notified in writing by or on behalf of the Minister that an election is required to be held for a region, the returning officer:
  - (a) must cause to be published, in at least one newspaper circulating generally throughout the region or in an official publication of the Committee, a notice calling for the nomination of candidates for the election, and
  - (b) must notify the Executive Officer in writing that an election is to be held for the region and of the time and date for the close of nominations, as stated in the notice published under paragraph (a).
- (2) The notice:
  - (a) must state that an election is to be held for the region concerned, and
  - (b) must call for the nomination of candidates, and
  - (c) must fix the time and date for the close of nominations, and
  - (d) must state the places where nomination forms may be obtained and where nominations may be lodged, and
  - (e) must state the qualifications that entitle a person to nominate, or be nominated as, a candidate.
- (3) The close of nominations is not to be earlier than 21 days after the date on which the notice is first published.

### **22 Postponement of close of nominations**

- (1) The returning officer may, by a notice in a form similar to, and published in the same manner as, the notice calling for the nomination of candidates, postpone (for a period not exceeding 14 days) the close of nominations for an election.

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

### **Division 3 Nominations**

#### **22A Qualifications for candidates and for nominating candidates**

A person is qualified to nominate, or to be nominated as, a candidate for an election if, and only if

- (a) the person has paid all charges, fees and other amounts due and payable to the Committee under the Act in respect of the financial year last preceding the election, and
- (b) the person is entitled to vote in the election or the person would be so entitled but for the operation of section 16B (2) or 16E (1) (a) of the Act.

#### **22B Nomination of candidates**

- (1) A nomination of a candidate:
- (a) must be in Form 7, and
  - (b) must be made by at least 2 persons (other than the candidate) who are qualified to nominate a candidate, and
  - (c) must contain a statement, signed by the candidate, stating that the candidate:
    - (i) is entitled to vote in the election or would be so entitled but for the operation of section 16B (2) or 16E (1) (a) of the Act, and
    - (ii) consents to the nomination and will act as a member of the Committee if elected, and
  - (d) must be lodged with the returning officer before the close of nominations.

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- (2) If the returning officer considers that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate the candidate, the returning officer must, as soon as practicable after receiving the nomination, cause notice of that fact to be given to the candidate.
- (3) The returning officer may, in order to decide whether a person who nominates a candidate in an election is qualified to do so, require the Executive Officer to provide the returning officer with such information regarding the person as the returning officer specifies.
- (4) The Executive Officer is to comply with such a requirement as soon as practicable.

### **22C Withdrawal of nomination**

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 given to the returning officer.

### **22D Uncontested elections**

If, by the close of nominations, only one person has been duly nominated as a candidate for the region concerned, that person is taken to have been elected.

### **22E Contested elections**

If, by the close of nominations, 2 or more persons have been duly nominated as candidates for the region concerned, a ballot must be held.

## **Division 4 Preparation of the preliminary list and calling of the ballot**

### **22F Preparation of preliminary list**

- (1) As soon as practicable after it becomes apparent that a ballot must be held for an election, the returning officer must notify the Executive Officer:
  - (a) that a ballot is to be held for the election, and
  - (b) that a preliminary list for the election is required.

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- (2) The Executive Officer must provide the returning officer with:
- (a) a preliminary list of the persons who, in the opinion of the Executive Officer, are entitled to vote in the election, and
  - (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that list.
- (3) A preliminary list:
- (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 list, and
    - (ii) the voting entitlement of each of those persons, and
    - (iii) sufficient details to identify the plantations in respect of which those persons are entitled to vote in the election, and
  - (b) must be certified by the Executive Officer in accordance with Form 1.
- (4) This clause does not apply to an election to be held as a consequence of an earlier election that has failed if a preliminary list for the earlier election has already been provided to the returning officer.

### **22G Notice of ballot**

- (1) As soon as practicable after receiving the preliminary list for an election, the returning officer must cause notice that a ballot is to be held:
  - (a) to be published in at least one newspaper circulating generally throughout the region concerned or in an official publication of the Committee, or
  - (b) to be sent by post to each person whose name is included in the preliminary list for the election.

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- (2) The notice must state:
  - (a) that a ballot is to be held, and
  - (b) the time and date fixed for the close of exhibition of the preliminary list, and
  - (c) the places where copies of the preliminary list will be exhibited, and
  - (d) the time and date fixed for the close of enrolments, and
  - (e) the qualifications that entitle a person to vote, and
  - (f) the places where applications for enrolment and objections against enrolment may be lodged, and
  - (g) the time and date fixed for the close of the ballot.
- (3) The notice must also state:
  - (a) that it is compulsory for a banana grower to be enrolled, or to apply for enrolment, in the final list for the election unless the banana grower is prevented from enrolling in that final list because of the operation of section 16B (2) or 16E (1) (a) of the Act, and
  - (b) that it is compulsory for a banana grower who is enrolled in the final list for the election to vote in the election.
- (4) The close of exhibition of the list is not to be earlier than 14 days after the calling of the ballot.
- (5) The close of enrolments is not to be earlier than 7 days after the close of exhibition of the list or later than 14 days before the close of the ballot.
- (6) The close of the ballot is not to be earlier than 35 days after the calling of the ballot.

#### **22H Postponement of ballot**

- (1) The returning officer may, by notice published in the same way as the notice stating that a ballot is to be held, postpone (for a period not exceeding 14 days) the close of exhibition of the list, the close of enrolments or the close of the ballot.



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

## **Division 5 Preparation of the final list**

### **22I Exhibition of preliminary list**

The returning officer must cause copies of the preliminary list 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 list.

### **22J Enrolment compulsory**

It is compulsory for every banana grower to be enrolled, or to apply for enrolment, in the final list for the election unless the banana grower is prevented from enrolling in that final list because of the operation of section 16B (2) or 16E (1) (a) of the Act.

Maximum penalty: 0.1 penalty units.

### **22K Applications for enrolment by persons not already enrolled**

- (1) A person whose name does not appear on the preliminary list for an election may apply for enrolment in the final list for the election.
- (2) The application must be in Form 8 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 entitled to enrolment, must accept the application and enter the name, address and voting entitlement, of the applicant in the final list for the election, or
  - (b) if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected, or

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- (c) if the application is not in the proper form or is incomplete:
  - (i) must return the application for correction or completion, and
  - (ii) must consider the duly corrected or completed application in accordance with this clause.
- (4) An application to a Local Court for an order referred to in section 16G (3) of the Act is to be in:
  - (a) Form 3 if the application relates to the inclusion of the name of any person in the final list for the election, or
  - (b) Form 4 if the application relates to the inclusion of a particular voting entitlement for any person in the final list for the election.

### 22L Objections to enrolment

- (1) Before the close of enrolments, the returning officer or any person who is entitled to vote in an election may object to the inclusion in the final list of
  - (a) the name of any person, or
  - (b) the particular voting entitlement for any person.
- (2) An objection:
  - (a) must be in:
    - (i) Form 5 if the objection relates to the inclusion of the name of any person in the final list for the election, or
    - (ii) Form 6 if the objection relates to the inclusion of a particular voting entitlement for any person in the final list for the election, and
  - (b) must state the grounds on which the objection is made, and
  - (c) must be signed by the objector, and
  - (d) must be lodged with the returning officer (unless it is signed by the returning officer).

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- (3) The returning officer must send particulars of an objection 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 the 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 list for the election, the returning officer must exclude from the final list the person's name and must inform the person and the objector, in writing, that the person's name is 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 list for the election, the returning officer must amend the final list so as to ensure that it reflects the person's true voting entitlement and must inform the person and the objector, in writing, that the person's voting entitlement is 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, 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.

### **22M Postponement of ballot not to affect final list**

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

**Division 6 The ballot**

**22N Voting compulsory**

It is compulsory for every banana grower who is enrolled in the final list for an election to vote in the election.

Maximum penalty: 0.1 penalty units.

**22O Printing of ballot-papers**

- (1) As soon as practicable after the close of enrolments in an election, the returning officer:
  - (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
  - (b) must cause sufficient ballot-papers to be printed to enable ballot-papers to be sent to each person whose name is included in the final list for the election.
- (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 candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as are required by subclause (3), and
  - (d) such further directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.

- (3) The directions to voters must include a direction that:
- (a) the voter must record a vote for at least one candidate by placing the number “ 1 ” in the square opposite the name of the candidate for whom the voter desires to give his or her first preference vote, and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number “2”) in the squares opposite the names of those additional candidates in the order of the voter’s preferences for them.

#### **22P 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 list for the election:

- (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 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*).

#### **22Q Duplicate ballot-papers**

- (1) The returning officer may, at any time before the close of the ballot, issue to a voter sufficient duplicate ballot-papers and duplicate envelopes if the voter satisfies the returning officer by statutory declaration:

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- (a) that the original ballot-paper or ballot-papers has or have been spoilt, lost or destroyed, and
  - (b) that the voter has not already voted in the election concerned.
- (2) The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

### **22R Recording of votes**

In order to vote in an election, a person:

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

### **Division 7 The scrutiny**

#### **22S 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.

#### **22T Scrutineers**

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

- (2) A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

### **22U Scrutiny of outer envelopes**

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

### **22V Scrutiny of inner envelopes**

The scrutiny of inner envelopes in a ballot is to be conducted as follows:

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- (a) the returning officer is to open the outer envelopes containing the ballot-papers that have not been rejected,
- (b) the returning officer is then to extract any inner envelope contained in any such outer envelope,
- (c) the returning officer is then to note the number of inner envelopes contained in the outer envelope against the voting entitlement in the final list for the election for the person whose name corresponds to the name on the back of the outer envelope,
- (d) the returning officer is then to place any such inner envelope in a locked ballot-box unless there are more inner envelopes in the outer envelope than the person concerned is entitled to, in which case the returning officer is to reject all the inner envelopes contained in the outer envelope.

#### **22W Scrutiny of votes**

- (1) The scrutiny of votes in a ballot is to be conducted 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 to reject any ballot-paper 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 election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:



- 
- (a) if 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) if it has on it any mark or writing that the returning officer considers could enable any person to identify the voter who completed it, or
  - (c) if it has not been completed in accordance with the directions on it.
- (3) However, 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 (unless it is a mark or writing referred to in subclause (2) (b)) if the returning officer considers that the voter's intention is clearly indicated on the ballot-paper, or
  - (b) if the voter has recorded a vote by placing in a square the number " 1 " :
    - (i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate, or
    - (ii) merely because there is a break in the order of preferences recorded on the ballot-paper.

## **22X Counting of votes**

- (1) The method of counting the votes to ascertain the result of an election is as provided in Part 2 of the Seventh Schedule to the *Constitution Act 1902*.
- (2) For the purpose of applying the provisions of that Part to an election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.

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**22Y Notification of result of election**

- (1) As soon as practicable after a candidate in an election has been elected, the returning officer is to notify the Minister and the Executive Officer in writing of the name of the candidate elected.
- (2) The candidate takes office as an elected member on such day as the Minister may determine by notice in writing given to the Executive Officer.

**22Z Election proceedings have no effect in certain circumstances**

- (1) If, after the close of nominations and before the close of the ballot, a specified event occurs in respect of a candidate:
  - (a) the returning officer is to cause notice of the specified event to be published in a newspaper circulating generally throughout the region concerned or in an official publication of the Committee, and
  - (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and those proceedings must again be taken.
- (2) In this clause, a *specified event* occurs in respect of a candidate if the candidate:
  - (a) dies, or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (c) becomes a mentally incapacitated person, or
  - (d) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

**[30] Clauses 22AA–22AC**

Insert before clause 23:

**22AA 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 conduct of a ballot in a poll or election, the decision of the returning officer on the matter is final.

**22AB Offences**

A person must not:

- (a) apply for enrolment in the final list for any poll or election if the person is already included in the list, or
- (b) cast more votes, or attempt to cast more votes, than the person is entitled to in any poll or election, or
- (c) vote, or attempt to vote, in any poll or election in which the person is not entitled to vote.

Maximum penalty: 5 penalty units.

**22AC Costs and expenses of polls and elections**

The 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.

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**[31] Schedule 1 Forms**

Omit Forms 1-4. Insert instead:

**Form 1**

(Clauses 5 and 22F)

**CERTIFICATE**

(BANANA INDUSTRY ACT 1987)

I certify that this list of banana growers contains:

- (a) the full names (consecutively numbered and listed in alphabetical order) and addresses of those persons who in my opinion are entitled to vote in the poll\*/election for the region of ..... \* for which this list has been prepared, and
- (b) the voting entitlement of each of those persons, and
- (c) sufficient details to identify the plantations in respect of which those persons are entitled to vote in the poll\*/election\*.

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

First entry: No: ..... Name: .....

Address: .....

Last entry: No: ..... Name: .....

Address: .....

Dated: ..... Signed: .....

\* *Delete whichever is inapplicable.*

**Form 2**

(Clause 9 (2))

**APPLICATION FOR ENROLMENT FOR POLL**  
(BANANA INDUSTRY ACT 1987)

Surname: .....

Given names: .....

Postal address: .....

Postcode: \_\_\_\_\_ Telephone No: .....

Address of any plantation on which bananas are grown by or on behalf of the applicant:	Person who is entitled to vote in respect of the plantation:
--	--

.....

.....

.....

.....

.....

Local government area or areas in which any such plantation is situated:

.....

.....

Area of plantation\*/total area of plantations" on which bananas are grown by or on behalf of the applicant:

.....

.....

I apply for enrolment in the list of banana growers under the Banana Industry Act 1987 for the purposes of the following poll:

.....

.....

*(specify the poll to which the application relates)*

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

Dated: ..... Signed: .....

\* *Delete whichever is inapplicable.*

**Form 3**

(Clauses 9 (4) and 22K (4))

**APPLICATION FOR INCLUSION OF NAME IN FINAL LIST OF VOTERS**

(BANANA INDUSTRY ACT 1987)

To the Clerk of the Local Court

at .....

..... of..... ,  
(name of returning officer) (address of returning officer)

the returning officer for a poll\*/an election for the region of ..... \* to be held under the Banana Industry Act 1987, has refused to include my name in the final list of voters for the poll\*/election\*.

I, ..... ,  
(name in full)

claim to be entitled to have my name included in that list.

I therefore APPLY to the Local Court referred to above for an order that my name be included in that list.

.....  
(Signature of appellant)

Appellant's address for service:

.....  
.....

To ..... of ..... ,  
(name of returning officer) (address of returning officer)

There will be a hearing at the Local Court referred to above on the ..... day of ....., 19....., for the purpose of ascertaining the state of readiness of this matter and, if appropriate, for the purpose of fixing a date for hearing.

.....  
(Clerk of the Local Court)

\* Delete whichever is inapplicable.

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**Form 4**

(Clauses 9 (4) and 22K (4))

**APPLICATION FOR INCLUSION OF PARTICULAR  
VOTING ENTITLEMENT IN FINAL LIST OF VOTERS**

(BANANA INDUSTRY ACT 1987)

To the Clerk of the Local Court

at .....

..... of .....  
*(name of returning officer)* *(address of returning officer)*,  
the returning officer for a poll\*/an election for the region of  
.....\* to be held under the Banana Industry Act 1987,  
has refused to include the following voting entitlement for me in the final list  
of voters for the poll\*/election\*:

.....  
.....  
*(specify voting entitlement to be included in the final list)*

I, ..... ,  
*(name in full)*  
claim to be entitled to have that voting entitlement included for me in that  
list.

I therefore APPLY to the Local Court referred to above for an order that that  
voting entitlement be included for me in that list.

.....  
*(Signature of appellant)*

Appellant's address for service:

.....  
.....

To ..... of .....  
*(name of returning officer)* *(address of returning officer)*

There will be a hearing at the Local Court referred to above on the  
\_\_\_\_\_ day of \_\_\_\_\_, 19 ....., for the purpose of ascertaining  
the state of readiness of this matter and, if appropriate, for the purpose of  
fixing a date for hearing.

.....  
*(Clerk of the Local Court)*

\* Delete whichever is inapplicable.



**Form 5**

(Clauses 10 and 22L)

**OBJECTION TO ENROLMENT**  
(BANANA INDUSTRY ACT 1987)

I, .....  
*(name in full of objector)*

object to the inclusion in the final list for the following poll\*/election\*:

.....  
*(specify the poll\*/election\* to which the objection relates)*

of the name of .....  
*(name in full)*

of .....  
*(address)*

This objection is based on the following grounds:

.....  
.....  
.....  
.....  
*(specify the grounds of the objection)*

Postal address of objector: .....

Postcode: ..... Telephone No: .....

Dated: ..... Signed: .....

\* Delete whichever is inapplicable.

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**Form 6**

(Clauses 10 and 22L)

**OBJECTION TO DETERMINATION OF VOTING ENTITLEMENT**

(BANANA INDUSTRY ACT 1987)

I, ..... ,  
*(name in full of objector)*

object to the voting entitlement included in the final list for the following poll\*/election\*:

.....  
*(specify the poll\*/election\* to which the objection relates)*

for .....  
*(name in full)*

of .....  
*(address)*

The voting entitlement is stated in that list to be:

.....  
*(specify voting entitlement)*

This objection is based on the following grounds:

.....  
.....  
.....  
.....  
*(specify the grounds of the objection)*

Postal address of objector: .....

Postcode: ..... Telephone No: .....

Dated: ..... Signed: .....

\* Delete whichever is inapplicable.

**Form 7**

(Clause 228)

**NOMINATION OF CANDIDATE**  
(BANANA INDUSTRY ACT 1987)

We nominate .....  
(name in full)

of .....  
(postal address)

as a candidate for election (for the region of ..... ) to the Banana Industry Committee.

We declare that we are each qualified to make this nomination.

Name in full	Address	Signature
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

NOTE: This nomination must be completed by not less than 2 persons (other than the candidate), each of whom is qualified to nominate a candidate in accordance with clause 22B of the Banana Industry Regulation 1993.

I, .....

- (a) state that I am entitled to vote in the election or would be so entitled but for the operation of section 16B (2) or 16E (1) (a) of the Act, and
- (b) consent to being a candidate at the election to which this nomination relates, and
- (c) state that I will act as a member of the Banana Industry Committee if elected.

Postal address: .....

Postcode: ..... Telephone No: .....

Date of birth: .....

Dated: ..... Signed: .....

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**Form 8**

(Clause 22K (2))

**APPLICATION FOR ENROLMENT FOR ELECTION**  
(BANANA INDUSTRY ACT 1987)

Surname: .....

Given names: .....

Postal address: .....

Postcode: \_\_\_\_\_ Telephone No: .....

Region to which application refers:

.....

Address of any plantation on  
which bananas are grown by or  
on behalf of the applicant:

Person who is entitled to vote in  
respect of the plantation:

.....

.....

.....

.....

.....

Local government area or areas in which any such plantation is situated:

.....

.....

Area of plantation\*/total area of plantations\* on which bananas are grown  
by or on behalf of the applicant:

.....

.....

I apply for enrolment in the list of banana growers under the Banana  
Industry Act 1987 for the purposes of the following election:

.....

.....

*(specify the election to which the application relates)*

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

Dated: ..... Signed: .....

*\* Delete whichever is inapplicable.*

NOTE: If bananas are grown by or on behalf of a banana grower on plantations that are situated in different regions or on a plantation that is situated partly in one region and partly in another region, the banana grower is entitled to vote in an election in respect of one region only. That region is to be nominated by the banana grower or determined by the Chairperson of the Banana Industry Committee under section 16C of the Banana Industry Act 1987.