

South Australia

Barley Marketing Regulations 1993

under the *Barley Marketing Act 1993*

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Legislative history

1—Short title

These regulations may be cited as the *Barley Marketing Regulations 1993*.

2—Commencement

These regulations will come into operation on the day on which the Act comes into operation.

3—Revocation

All regulations previously made under the *Barley Marketing Act 1947* are revoked.

4—Interpretation

In these regulations, unless the contrary intention appears—

the Act means the *Barley Marketing Act 1993*;

Electoral Commissioner means the Electoral Commissioner as defined in the *Electoral Act 1985*;

South Australian grower means a grower by whom or on whose behalf barley is grown or produced in South Australia for sale.

5—Poll to elect grower (section 11(1)(c))

For the purposes of section 11(1)(c) of the Act, a poll for the election of growers for appointment to the Board must be held in accordance with these regulations.

6—Voters' roll (section 58)

- (1) Pursuant to section 58(3) of the Act, the Board must, before a poll is held, prepare a voters' roll.
- (2) The persons entitled to vote at the poll will be those South Australian growers whose names are entered on the voters' roll in accordance with these regulations.
- (3) Each South Australian grower who has delivered to the Board 15 tonnes of barley grown or produced for sale in one of the three years ending on 31 March last preceding the poll—
 - (a) who is a natural person of or above the age of 18 years; or
 - (b) that is a body corporate,is entitled to have the person's name entered by the Board on the voters' roll in accordance with these regulations.
- (4) A grower that is a body corporate entitled to have its name entered on the voters' roll under subregulation (3) may, by notice in writing to the Board (in a form approved by the Board)—
 - (a) nominate a natural person to vote on its behalf; or
 - (b) cancel any such nomination previously made and make a fresh nomination in its place.
- (5) A person may not be nominated to vote in a poll on behalf of a body corporate under subregulation (4) unless—
 - (a) the person is of or above the age of 18 years and is an officer of the body corporate; and
 - (b) the notice of nomination is delivered to the Board not less than seven days prior to the final day of voting.
- (6) A nomination in force under this regulation must be recorded in the voters' roll alongside the name of the body corporate by which the nomination was made.
- (7) Where the name of a person nominated to vote on behalf of a body corporate is recorded in the voters' roll under subregulation (6), these regulations apply as if the person were a South Australian grower whose name is entered on the voter's roll in accordance with these regulations.
- (8) Where a grower whose name has been entered on the voters' roll has died, the representative of the estate of the deceased grower may vote at the poll on behalf of the deceased grower.

- (9) Subject to subregulation (11), where barley is grown or produced in South Australia for sale by a partnership or under a share-farming agreement, an individual member of the partnership or party to the share-farming agreement is entitled to have his or her name entered on the voters' roll for each 15 tonnes of barley grown by the partnership or under the share-farming agreement and delivered to the Board as referred to in subregulation (3).
- (10) The Board must invite members of partnerships and parties to share-farming agreements to seek the additional voting rights referred to in subregulation (9) by notice in writing not less than 28 days prior to the final day of voting.
- (11) A person may only have his or her name entered on the voters' roll once and is entitled to only one vote in any poll.

7—Grower may claim right to vote at poll

- (1) A grower whose name is not entered on the voters' roll and who wishes to claim the right to vote in a poll may do so by notice in writing to the Board not less than seven days prior to the final day of voting.
- (2) If the Board is satisfied that a grower who has claimed the right to vote under subregulation (1) is entitled to have his or her name entered on the voters' roll in accordance with these regulations, the Board must enter the grower's name on the roll and inform the Electoral Commissioner accordingly.

8—Publication of notice of poll

- (1) Where a poll is to be held pursuant to section 58 of the Act (whether for the election of a grower for appointment to the Board or for some other reason), the Electoral Commissioner—
 - (a) must cause to be prominently published in a daily newspaper circulating throughout the State; and
 - (b) may cause to be published in any other newspaper that, in the Electoral Commissioner's opinion, may circulate widely amongst South Australian growers,a notice informing growers that a poll is to be held and the reasons for that poll.
- (2) The notice must include the following information:
 - (a) the date on or before which the Electoral Commissioner will post ballot papers to growers; and
 - (b) in the case of a poll for the election of a grower for appointment to the Board—
 - (i) the number of growers required to be elected; and
 - (ii) the places where nomination forms may be obtained; and
 - (iii) the date (not being less than 14 days after the date of publication of the notice) and the hour by which nominations must be received by the Electoral Commissioner; and
 - (c) the date by which completed ballot papers must be returned to the Electoral Commissioner.

- (3) In the case of a poll for the election of a grower, the date by which completed ballot papers must be returned to the Electoral Commissioner must be not less than 14 days nor more than 35 days after the date fixed under subregulation (2)(b)(iii).

9—Eligibility of grower to be candidate for election

A South Australian grower is not eligible to nominate as a candidate in a poll for an election of growers for appointment to the Board unless his or her name is entered on the voters' roll for that poll.

10—Form of nominations

- (1) A nomination of a grower as a candidate for election must be—
 - (a) in writing; and
 - (b) signed by the candidate; and
 - (c) signed by 10 other South Australian growers (whose names are entered on the voters' roll for that poll); and
 - (d) received by the Electoral Commissioner not later than the hour fixed in the notice for the closure of nominations.
- (2) A nomination that does not comply with this regulation is invalid.

11—Method of election—with or without poll

- (1) If the number of candidates nominated is the same or less than the number of vacancies to be filled by election, the Electoral Commissioner must immediately inform the Minister by writing of the successful candidates.
- (2) If the number of candidates nominated is greater than the number of vacancies to be filled, the regulations following will apply.

12—Ballot papers

- (1) The Electoral Commissioner must provide each South Australian grower who is entitled to vote with—
 - (a) a ballot paper and an unmarked envelope; and
 - (b) a second envelope addressed to the Electoral Commissioner in which to return the completed ballot paper.
- (2) Every ballot paper must be initialled by the Electoral Commissioner.
- (3) In the case of a poll for the election of a grower for appointment to the Board, the names of the candidates must appear on the ballot paper in the order determined by the Electoral Commissioner by the drawing of lots.
- (4) The Electoral Commissioner may provide a grower with a ballot paper and envelopes by posting them to the grower at his or her last known address.

13—Electoral material

- (1) Subject to this regulation, the Electoral Commissioner must, at the request of a grower who has nominated as a candidate for election for appointment to the Board, include with ballot papers provided to growers, material provided by the candidate promoting the candidate's election for appointment to the Board.

- (2) Such material must be provided to the Electoral Commissioner on or before the date of closure of nominations.
- (3) The material must not include more than 200 words nor more than one photograph, and may be printed by the Electoral Commissioner in such form as he or she thinks fit.

14—Voting

- (1) A grower who wishes to vote in a poll must—
 - (a) —
 - (i) in the case of an election—indicate on the ballot paper the candidate to whom the grower gives his or her first preference and the order of his or her preference for the other candidates;
 - (ii) in any other case—write "YES" or "NO" on the ballot paper in the appropriate place on the paper; and
 - (b) place the ballot paper in the unmarked envelope provided, place the envelope inside the second envelope addressed to the Electoral Commissioner, seal the second envelope and sign it; and
 - (c) print his or her full name in block letters next to the signature; and
 - (d) return the envelope to the Electoral Commissioner not later than the date fixed in the notice for the closure of the poll.
- (2) In a poll for an election, a grower must—
 - (a) indicate his or her first preference for a candidate by placing a number 1 in the square opposite the name of the candidate on the ballot paper; and
 - (b) indicate his or her preference for other candidates by placing consecutive numbers (commencing with the number 2) in the squares opposite the names of the candidates on the ballot paper.
- (3) In any other poll, where a grower places a tick on a ballot paper, the tick will be taken to be equivalent to a "YES", and where a grower places a cross on a ballot paper, the cross will be taken to be equivalent to a "NO".

15—Duplication and late return of ballot papers

- (1) If more than one ballot paper is returned under the name of the same grower, all, except the first to be returned, must be rejected or, if the Electoral Commissioner does not know which was returned first, all, except the first to be recorded against the name of the grower in the voters' roll, must be rejected.
- (2) If more than one ballot paper is returned in an envelope, the ballot papers returned in that envelope must not be counted.
- (3) A ballot paper received by the Electoral Commissioner after the time fixed for the close of voting must not be counted.

16—Informal ballot papers

- (1) Subject to this regulation, a ballot paper is informal if—
 - (a) it is not authenticated by the initials of the Electoral Commissioner; or

- (b) the name recorded on the envelope in which it is contained is not entered on the voters' roll for that poll; or
 - (c) it has on it any mark or writing by which the grower can be identified; or
 - (d) in the case of a poll for an election—it does not indicate the grower's first preference for one candidate and his or her subsequent preference votes for all the remaining candidates; or
 - (e) in any other case—it has no vote indicated on it.
- (2) A ballot paper that is not duly authenticated by initials is not informal by reason of subsection (1)(a) if the Electoral Commissioner is satisfied that it is an authentic ballot paper on which a grower has marked his or her vote.
- (3) In the case of a poll for an election, where a grower indicates by consecutive numbers commencing with the number 1 the order of his or her preference for all candidates on a ballot paper except one—
- (a) the ballot paper is not informal; and
 - (b) it will be presumed that the candidate for whom no preference is expressed is the one least preferred by the grower and that the grower has accordingly indicated the order of his preference for all candidates.

17—Counting of votes

The Electoral Commissioner must—

- (a) reject all informal ballot papers;
- (b) when counting votes in a poll for an election—
 - (i) after counting first preferences, exclude the candidate with the fewest first preferences;
 - (ii) if more candidates remain than the number of vacancies to be filled, count each ballot paper counted to the excluded candidate to the candidate next in order of the grower's preference;
 - (iii) continue this process until the number of candidates remaining equals the number of vacancies to be filled;
 - (iv) in the event that two or more candidates have an equal number of votes and one or more of them must be excluded, determine the matter by the drawing of lots;
- (c) when counting votes in a poll in which a question was put to the growers—determine that the question put to the growers is approved by the majority of the growers voting if the total number of votes counted for the question exceeds the total number of votes counted against the question.

18—Publication of results of poll

- (1) When the counting of votes in any poll held in accordance with these regulations has been completed, the Electoral Commissioner must immediately inform the Minister by writing of the results of the poll.

- (2) After being informed of the results of a poll, the Minister—
- (a) must cause to be published in a daily newspaper circulating throughout the State; and
 - (b) may cause to be published in any other newspaper that, in the Minister's opinion, may circulate widely amongst South Australian growers,
- the results of the poll.

19—Informalities

Subject to any direction of the Minister, where a provision of these regulations is not observed in a poll, the poll is not void unless the informality is such as to affect the result of the poll.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Revocation of regulations

The *Barley Marketing Regulations 1993* were revoked by Sch 2 of the *Subordinate Legislation (Postponement of Expiry) Regulations 2004* on 1.9.2004.

Principal regulations

Year	No	Reference	Commencement
1993	89	<i>Gazette 27.5.1993 p1769</i>	11.10.1993: r 2