

STATUTORY RULES

1934. No. 52.

REGULATIONS UNDER THE DAIRY PRODUCE ACT 1933.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Dairy Produce Act 1933*.

Dated this second day of May, 1934.

ISAAC A. ISAACS

Governor-General.

By His Excellency's Command,

FRED. H. STEWART

Minister of State for Commerce.

DAIRY PRODUCE (POLL) REGULATIONS.

1. These Regulations may be cited as the Dairy Produce (Poll) Regulations. Short title.

2.—(1.) In these Regulations, unless the contrary intention appears— Definitions.

“Deputy Returning Officer” means a Deputy Returning Officer appointed in pursuance of regulation 4 of these Regulations;

“officer” means an officer of the Department of Commerce;

“Returning Officer” means the Returning Officer appointed in pursuance of regulation 4 of these Regulations;

“roll” means the roll of producers prepared in pursuance of regulation 5 of these Regulations;

“the High Court” means the High Court of Australia and includes any Justice thereof;

“the Minister” means the Minister of State for Commerce;

“the poll” means the poll of producers to be taken in pursuance of these Regulations;

“voter” means a producer whose name has been placed on the roll.

(2.) In these Regulations any reference to a Form shall be read as a reference to a Form in the Schedule to these Regulations.

3. For the purposes of section three of the *Dairy Produce Act 1933* a poll of producers shall be taken in accordance with these Regulations. Poll to be taken.

4.—(1.) The Minister shall appoint an officer to be the Returning Officer for the purpose of taking the poll and the Returning Officer shall make all necessary arrangements for the conduct of the poll. Appointment of Returning Officer and Deputy Returning Officers.

(2.) The Minister may appoint Deputy Returning Officers who shall act under the direction of the Returning Officer.

5. The Returning Officer shall prepare, or cause to be prepared, a roll of producers who are entitled to vote at the poll. Roll of voters to be prepared.

Claims for enrolment.

6.—(1.) A producer shall not be entitled to have his name placed on the roll unless he lodges with the Returning Officer, on or before the date, or later date (if any), fixed in pursuance of this regulation, a claim for enrolment in accordance with Form A, completed and attested in accordance with the directions on the claim for enrolment.

(2.) The Minister shall fix a date on or before which claims for enrolment shall be lodged with the Returning Officer, and, if at any time after fixing that date, the Minister is satisfied that circumstances exist which render it necessary or desirable to alter the date so fixed, the Minister may fix a later date on or before which claims for enrolment shall be lodged with the Returning Officer, and that later date shall be substituted for the date originally fixed.

(3.) The Minister shall notify in the *Gazette*—

- (a) the address at which claims for enrolment are to be lodged;
- (b) the date, and the later date (if any), fixed in pursuance of the last preceding sub-regulation.

(4.) Where any claim for enrolment is posted to the Returning Officer but the postage thereon is wholly unpaid or insufficiently prepaid, the Returning Officer shall refuse to accept that claim for enrolment, and that claim for enrolment shall be deemed not to have been lodged with the Returning Officer within the meaning of this regulation.

Roll to be used at poll.

7. The roll shall be certified by the Returning Officer or a Deputy Returning Officer, by writing under his hand, to be correct, and shall thereupon be conclusive evidence of the right of the persons named therein to vote at the poll.

Persons entitled to vote.

8.—(1.) A person shall not be entitled to vote at the poll unless his name appears on the roll.

(2.) Each voter shall be entitled to one vote only.

Voting to be by post.

9. The poll shall be taken by post.

Date of close of poll.

10.—(1.) The Minister shall fix a date at Four o'clock in the afternoon on which the poll shall close, and if, at any time after fixing that date, the Minister is satisfied that circumstances exist which render it necessary or desirable to alter the date so fixed, the Minister may fix a later date at Four o'clock in the afternoon on which the poll shall close, and that later date shall be substituted for the date originally fixed.

(2.) The Minister shall give notice in the *Gazette* of the date, and of the later date (if any), fixed in pursuance of the last preceding sub-regulation.

Voting papers and declarations.

11. As soon as practicable after the date for the close of the poll has been notified in the *Gazette*, the Returning Officer, or a Deputy Returning Officer, shall initial and transmit by post to each voter, at the postal address of the voter set out in his claim for enrolment, a voting paper, in accordance with Form B, together with an envelope addressed to the Returning Officer or a Deputy Returning Officer, and having printed thereon a form of declaration in accordance with Form C.

12. The Returning Officer or Deputy Returning Officer shall endorse the envelopes containing the voting papers posted by him to the voters with the words "Dairy Produce Poll Ballot Papers". Envelopes to be endorsed

13. Before posting the voting papers and envelopes bearing the voters' forms of declaration, the Returning Officer or Deputy Returning Officer shall insert in each voting paper, in the space provided for the purpose, the date upon which the poll will close and shall initial the voting paper in the space provided for the purpose, and in the form of declaration on each envelope he shall insert— Particulars to be inserted in voting papers and declarations.

(a) the Christian names in full (if known), or the initials, and surname of the voter;

(b) the place of residence or place of business of the voter; and

(c) the date upon which the poll will close.

14. The voter shall complete and sign in his own handwriting the declaration on the envelope, in the presence of an authorized witness, who shall sign his name in his own handwriting in the place provided for the purpose, and add the title under which he acts as an authorized witness and the date. Voter to make declaration.

15. The following persons shall be authorized witnesses for the purposes of these Regulations:— Authorized witnesses.

The Returning Officer and all Deputy Returning Officers; all Managers, Directors or proprietors of butter or cheese factories; all persons entitled to vote at the poll; all Ministers of Religion; all Postmasters and Postmistresses and Postal Officials in charge of Post Offices; all Magistrates and Justices of the Peace; all Teachers in charge of a School; all Members of the Police Force; all Legally Qualified Medical Practitioners; and all Railway Stationmasters.

16. Each voter shall record his vote in accordance with the directions printed on the voting paper. Manner of voting.

17. If a voter makes and transmits to the Returning Officer or Deputy Returning Officer a statement in writing setting out his full name and address and that he has not received a voting paper or envelope, or that the voting paper or envelope received by him has been lost or destroyed, and that he has not already voted at the poll, the Returning Officer or Deputy Returning Officer may post to the voter a voting paper and envelope, or a further voting paper and envelope, as the case may be. Voting papers not received, or lost or destroyed.

18.—(1.) The Returning Officer shall keep a locked and sealed ballot-box with the words "Dairy Produce Poll Ballot-box—Voting papers received from Voters" marked thereon, and shall place and keep therein until the scrutiny all envelopes containing voting papers received by him before the time fixed for the close of the poll. Voting papers to be kept in ballot-box until scrutiny.

(2.) Where the envelope containing any voting paper is posted to the Returning Officer but the postage thereon is wholly unpaid or insufficiently prepaid, the Returning Officer shall refuse to accept that envelope and voting paper, and that envelope and voting paper shall be deemed not to have been received by the Returning Officer within the meaning of this regulation.

19. No voting paper received by the Returning Officer after Four o'clock in the afternoon of the day fixed for the close of the poll shall be admitted to the scrutiny. Voting papers received after close of poll.

Appointment of scrutineers.

20. The Minister may appoint, from persons nominated by associations of producers, not more than four scrutineers to represent the voters at the scrutiny or the further scrutiny.

Scrutiny of votes and declarations.

21. The Returning Officer, or such Deputy Returning Officers as are directed in that behalf by the Returning Officer, shall, at Four o'clock on the afternoon of the day fixed for the close of the poll—

- (a) open the ballot-box and produce unopened all envelopes containing voting papers contained therein;
- (b) examine each envelope, and, if the declaration is, in the opinion of the Returning Officer or Deputy Returning Officer, signed by a person whose name is on the roll and who has not previously voted at the poll, and is duly attested, accept the vote for further scrutiny, and place a mark opposite the name of that person on the roll, but if any declaration is not so signed or attested he shall disallow the voting paper without opening the envelope;
- (c) place the envelopes containing the disallowed voting papers in a parcel, seal the parcel, endorse it "Dairy Produce Poll—Votes rejected at Preliminary Scrutiny", and add his signature and the date;
- (d) initial, and number consecutively, on the address side of each envelope, the envelopes containing voting papers accepted for further scrutiny and place them on a table before him with the address side of each envelope uppermost;
- (e) withdraw from each envelope the voting paper contained therein and, without unfolding it, or inspecting the vote, or permitting any other person to do so, place thereon a number corresponding with that placed on the envelope from which it was withdrawn, initial the number, and forthwith deposit it in a locked and sealed ballot-box for further scrutiny; and
- (f) place the envelope in a parcel, seal the parcel, endorse it "Dairy Produce Poll—Envelopes from which voting papers have been withdrawn", and add his signature and the date.

Counting of votes.

22. A further scrutiny shall be conducted at which the Returning Officer or Deputy Returning Officer shall open the ballot-box referred to in paragraph (e) of the last preceding regulation, examine and count the votes contained on the voting papers therein, and make out and sign a statement specifying the number (in words and in figures) of votes—

- (a) in favour of the continued operation of the *Dairy Produce Act 1933*;
- (b) net in favour of the continued operation of the *Dairy Produce Act 1933*;
- (c) rejected as informal.

Informal voting papers.

23. A voting paper shall be informal and rejected as such if—

- (a) it is not initialled by the Returning Officer or a Deputy Returning Officer;
- (b) it has no vote marked on it;
- (c) it has more than one vote marked on it; or
- (d) it is so imperfectly or incompletely marked that the intention of the voter is uncertain.

24.—(1.) The Returning Officer shall make out a statement showing, Result of poll to be published in Gazette. as regards the whole Commonwealth, the number of votes—

- (a) in favour of the continued operation of the *Dairy Produce Act 1933*;
- (b) not in favour of the continued operation of the *Dairy Produce Act 1933*;
- (c) rejected as informal,

and shall transmit the statement to the Minister, who shall cause notice of the result of the poll to be published in the *Gazette*.

(2.) The notice published in the *Gazette* shall, subject to these Regulations, be conclusive evidence of the result of the poll.

25. When the further scrutiny referred to in regulation 22 of these Regulations is complete, the Returning Officer or Deputy Returning Officer, as the case may be, shall— Voting papers to be placed in parcels.

- (a) place in a separate parcel all the voting papers which have been rejected as informal, together with the envelopes from which they were withdrawn; and
- (b) place in a separate parcel all the unrejected voting papers, together with the envelopes from which they were withdrawn and the copy of the roll used for the poll,

and shall endorse on each parcel a description of the contents thereof, add his signature and the date, and retain the parcels until the authority of the Minister has been obtained for the destruction of the contents thereof.

26. At the expiration of six months from the date of publication of the result of the poll, if no petition disputing the validity of the poll has been filed, the Minister shall cause the voting papers and the voters' declarations to be destroyed. If any such petition has been filed, the Minister shall cause the voting papers and voters' declarations to be destroyed at the expiration of three months after the petition has been finally determined. Destruction of papers.

27. Every person, not being authorized in pursuance of these Regulations to be present at the scrutiny or further scrutiny, who— Intruders.

- (a) wilfully intrudes into the room in which the scrutiny or further scrutiny is being conducted; or
- (b) refuses or fails to leave the room when so requested by the Returning Officer or a Deputy Returning Officer,

shall be guilty of an offence.

Penalty: Fifty pounds.

28. The validity of the poll, or of any statement or notice shewing the voting at, or the result of, the poll, may be disputed by any producer by petition addressed to the High Court in the prescribed manner and not otherwise. Disputing validity of poll or statement.

29. The petition disputing the poll, statement or notice shall—

- (a) set out the facts relied on to invalidate the poll, statement or notice;
- (b) contain a prayer asking for the relief to which the petitioner claims to be entitled;

Requisites of petition.

- (c) be signed by the petitioner;
- (d) be attested by two witnesses whose occupations and addresses shall be stated; and
- (e) be filed in the Principal Registry of the High Court, or in the District Registry of that Court in the capital city of the State in which the petitioner resides, within forty days after the publication in the *Gazette* of the notice of the result of the poll.

Jurisdiction of High Court. 30. The High Court shall have jurisdiction to entertain and hear and determine any petition which complies with the requirements of these Regulations.

Security for costs. 31. At the time of filing the petition, the petitioner shall deposit with the Principal Registrar or District Registrar, as the case may be, of the High Court the sum of Ten pounds as security for costs.

Notice of petition. 32. The petitioner shall, within seven days after filing the petition, notify the fact in the *Gazette*, and post a copy of the petition to the Secretary of the Department of Commerce.

Joinder of parties. 33. The High Court may, on the application of the Minister or of any producer, order the Minister or that producer, as the case may be, to be joined as a party petitioning or responding, as the case may be.

Procedure on petition. 34. Subject to these Regulations, the procedure in relation to a petition may be prescribed by Rules of Court, and, if not so prescribed, shall be as directed by the High Court.

Ministerial errors not to vitiate poll. 35.—(1.) The poll, or any statement or notice showing the voting at, or the result of, the poll, shall not be avoided by reason of any delay in relation to the taking of votes, or in relation to the making of any statement or notice, or by reason of the absence or error of, or omission by, any officer, if the Court is satisfied that such delay, absence, error or omission did not affect the result of the poll.

(2.) The poll shall not be avoided by reason of any defect in the title, or any want of title, of the Returning Officer or any Deputy Returning Officer, if that person in fact acted as such at the poll, or by reason of any formal error or defect in any statement, notice, instrument or publication made under or in pursuance of these Regulations, or intended to be so made, or by reason of any act or thing not being done at or within the prescribed time.

Costs. 36. The High Court may award costs against any party to the petition.

Deposit applicable for costs. 37. If costs are awarded to any party against the petitioner, the deposit referred to in regulation 31 of these Regulations shall be applicable in payment or part payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

Award of costs to have effect of a judgment. 38. All costs awarded by the High Court, including any balance above the deposit payable by the petitioner, shall be recoverable as if the order of the Court were a judgment of the Court and payment may be enforced accordingly.

39. Every person acting as Returning Officer or Deputy Returning Officer, who is guilty of any wilful misfeasance, or wilful or negligent act of commission or omission, contrary to any of the provisions of these Regulations, shall be guilty of an offence. Misfeasance.

Penalty: Fifty pounds.

40. A person shall not make any untrue statement in any declaration or claim for enrolment made under or in pursuance of these Regulations, or in any statement or information supplied to the Returning Officer, or any Deputy Returning Officer, for the purpose of obtaining a voting paper or a further voting paper. Untrue statements in declaration, &c.

Penalty: Fifty pounds.

41. A person shall not witness the signature of a producer to any claim for enrolment or declaration under these Regulations unless— Duty of witnesses.

- (a) he has satisfied himself as to the identity of the producer;
- (b) he has seen the producer sign the claim for enrolment or declaration in his own handwriting; and
- (c) he knows that the statements contained in the claim for enrolment or declaration are true, or has satisfied himself, by inquiry from the producer, or otherwise, that the statements contained in the claim for enrolment or declaration are true.

Penalty: Fifty pounds.

42. Except where expressly authorized by these Regulations, a person (other than the voter to whom a voting paper has been issued) shall not make any mark or writing on that voting paper. Making marks on voting papers.

Penalty: Twenty pounds.

43. Any person who—

- (a) falsely impersonates any person to secure a voting paper to which the personator is not entitled; or
- (b) personates any other person for the purpose of voting at the poll; or
- (c) fraudulently destroys or defaces any voting paper; or
- (d) votes more than once at the poll,

shall be guilty of an offence. Offences in connexion with polling.

Penalty: Fifty pounds.

THE SCHEDULE.

Form A.

COMMONWEALTH OF AUSTRALIA.
Dairy Produce Act 1933.
Dairy Produce (Poll) Regulations.
CLAIM FOR ENROLMENT.

Regulation 6(1).

DIRECTIONS TO PRODUCER.—This claim must be completely filled in by the producer and signed by him in the presence of an elector, or person qualified to be an elector, of the Commonwealth. The witness must complete the certificate headed "Certificate by Witness". The claim must be lodged with the Returning Officer at

day of

1934,

otherwise the producer will not be entitled to vote at the poll.

If this claim for enrolment is sent to the Returning Officer by post the postage thereon is 1d., if the envelope is left unsealed, or 2d. if the envelope is sealed. Postage must be fully prepaid, otherwise the Returning Officer will refuse to accept the claim for enrolment.

Surname of producer

(block letters)

Christian names of producer

(block letters)

Full postal address

I, the above-named producer, hereby claim to have my name placed on the roll of producers to enable me to vote at the poll which is to be taken under the provisions of section 3 of the *Dairy Produce Act 1933* and the *Dairy Produce (Poll) Regulations* and I declare—

- (a) that during the year ended on the thirty-first day of December, 1933; I was a producer of milk and that I either manufactured and sold at least Five hundred (500) pounds in weight of dairy produce*, or supplied to a manufacturer of dairy produce* sufficient milk or cream, or both, to produce at least Five hundred (500) pounds in weight of dairy produce*;
- (b) that the milk was produced on my farm situated at _____ in the State of _____
- (c) that the statements made in this claim are true and correct in every particular.

Dated this _____ day of _____, 1934.
(Signature of producer).

* "Dairy produce" means butter and cheese, but does not include processed cheese.

CERTIFICATE BY WITNESS.†

I, the undersigned, being an elector, or person qualified to be an elector, of the Commonwealth, certify—

- (a) that I have satisfied myself as to the identity of the above-named producer;
- (b) that I saw the above-named producer sign the foregoing declaration in his own handwriting; and
- (c) that I know the statements contained in the foregoing declaration to be true, or that I have satisfied myself, by inquiry from the above-named producer or otherwise, that the statements contained in the foregoing declaration are true.

Dated this _____ day of _____, 1934.
(Signature of witness)
(Occupation)
(Place of residence)

† Regulation 41 of the *Dairy Produce (Poll) Regulations* reads as follows:—

"41. A person shall not witness the signature of a producer to any claim for enrolment or declaration under these Regulations unless—

- (a) he has satisfied himself as to the identity of the producer;
- (b) he has seen the producer sign the claim for enrolment or declaration in his own handwriting; and
- (c) he knows that the statements contained in the claim for enrolment or declaration are true, or has satisfied himself, by inquiry from the producer or otherwise, that the statements contained in the claim for enrolment or declaration are true.

Penalty: Fifty pounds."

Form B.

Regulation 11.

COMMONWEALTH OF AUSTRALIA.
Dairy Produce Act 1933.
Dairy Produce (Poll) Regulations.
 VOTING PAPER.

Initials of Returning Officer or Deputy Returning Officer.

DIRECTIONS TO VOTER:

The voter should indicate his vote as follows:—

If he is in favour of the continued operation of the *Dairy Produce Act 1933*, he should make a cross in the square opposite the word "YES".

If he is NOT in favour of the continued operation of the *Dairy Produce Act 1933*, he should make a cross in the square opposite the word "NO".

QUESTION.—Are you in favour of the continued operation of the *Dairy Produce Act 1933*?

YES	<input type="checkbox"/>
NO	<input type="checkbox"/>

FURTHER DIRECTIONS TO VOTER:

After marking his vote the voter should fold the voting paper and place it in the envelope bearing his declaration (duly signed and witnessed), securely fasten the envelope, and forthwith send the envelope to the Returning Officer to whom the envelope is addressed.

NOTE.—Unless the vote is marked on this voting paper and is received by the Returning Officer before 4 o'clock in the afternoon of the day fixed for the close of the poll (namely, the _____ day of _____, 1934), it will not be admitted to the scrutiny. If this voting paper is sent to the Returning Officer by post the postage thereon is 2d. Postage must be fully prepaid, otherwise the Returning Officer will refuse to accept the voting paper.

Form C.

Regulation 11.

COMMONWEALTH OF AUSTRALIA.
Dairy Produce Act 1933.
Dairy Produce (Poll) Regulations.
 DECLARATION TO BE MADE BY VOTER.

I,
 do hereby declare:—

- (a) that during the year ended on the thirty-first day of December, 1933, I was a producer of milk and that I either manufactured and sold at least five hundred (500) pounds in weight of dairy produce*, or supplied to a manufacturer of dairy produce* sufficient milk or cream, or both, to produce at least five hundred (500) pounds in weight of dairy produce*;
- (b) that I am entitled to vote at the poll (which closes on the day of _____, 1934) now being taken under the provisions of section three of the *Dairy Produce Act 1933* and the *Dairy Produce (Poll) Regulations*; and

(c) that I have not previously voted at the said poll.

(1) Voter to sign here.

(2) Authorised witness to sign here and insert address and title under which he acts as authorized witness,

Declared at
in the State of
this

day of
1934,

Before me—
(s).

(1)

* "Dairy Produce" means butter and cheese, but does not include processed cheese.

AUTHORIZED WITNESSES.

The following persons are Authorized Witnesses namely:—The Returning Officer and all Deputy Returning Officers appointed in connexion with this poll; all Managers, Directors or proprietors of butter or cheese factories; ALL PERSONS ENTITLED TO VOTE AT THIS POLL; all Ministers of Religion; all Postmasters and Postmistresses and Postal Officials in charge of Post Offices; all Magistrates and Justices of the Peace; all Teachers in charge of a School; all members of the Police Force; all Legally Qualified Medical Practitioners; and all Railway Stationmasters.

Regulation 41 of the Dairy Produce (Poll) Regulations reads as follows:—

"41. A person shall not witness the signature of a producer to any claim for enrolment or declaration under these Regulations unless—

- (a) he has satisfied himself as to the identity of the producer;
- (b) he has seen the producer sign the claim for enrolment or declaration in his own handwriting; and
- (c) he knows that the statements contained in the claim for enrolment or declaration are true, or has satisfied himself, by inquiry from the producer, or otherwise, that the statements contained in the claim for enrolment or declaration are true.

Penalty: Fifty pounds."