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Wool Services Privatisation (Wool Levy Poll) Regulations 2003

Statutory Rules 2003 No. 1

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Wool Services Privatisation Act 2000*.

Dated - 7 APR 2003 2003

PETER HOLLINGWORTH

Governor-General

By His Excellency's Command

WARREN TRUSS
Minister for Agriculture, Fisheries and Forestry

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1 Name of Regulations

These Regulations are the *Wool Services Privatisation (Wool Levy Poll) Regulations 2003*.

2 Commencement

These Regulations commence on gazettal.

3 Object

The object of these Regulations is to set out the requirements for the conduct of a poll under section 32 of the Act in relation to the rate of wool levy.

Note Under subsections 32 (2) and (3) of the Act, the research body is required to recommend revised levy rates before 1 January 2004, and then not later than the third anniversary of each previous recommendation.

4 Definitions

In these Regulations:

Act means the *Wool Services Privatisation Act 2000*.

cut-off date means the cut-off date determined by the research body under regulation 7.

entity means:

- (a) an individual; or
- (b) a corporation; or
- (c) a partnership; or
- (d) a trustee, in relation to a particular trust.

funding contract means the contract between the Commonwealth and the research body under section 31 of the Act.

information memorandum means the information memorandum mentioned in regulation 13.

intermediary means:

- (a) a person who pays wool tax as an intermediary within the meaning of the *Wool Services Privatisation (Eligible Woolgrowers) Regulations 2000*; or
- (b) a person who pays an amount of wool levy under subsection 7 (1), (2), (3) or (3A) of the *Primary Industries Levies and Charges Collection Act 1991* on behalf of a producer (within the meaning of that Act).

poll means a poll mentioned in section 32 of the Act.

poll year means a financial year in which a poll is conducted under these Regulations.

research body means the body declared to be the research body under section 30 of the Act.

return date means the return date determined by the research body under regulation 7.

voting instructions means the voting instructions mentioned in regulation 12.

wool levy includes wool tax.

5 Eligibility to vote

- (1) An entity is eligible to vote in a poll if the entity has paid, other than as an intermediary, wool levy totalling at least \$100 during the last 3 financial years before the poll year.
- (2) A trustee of the estate of an individual who dies before the cut-off date for a poll is eligible to vote in the poll if:
 - (a) the individual has paid, other than as an intermediary, wool levy totalling at least \$100 during the last 3 financial years before the poll year; or
 - (b) the individual and the estate have collectively paid, other than as intermediaries, wool levy totalling at least \$100 during the last 3 financial years before the poll year.

6 Voting entitlement

- (1) An entity who is eligible to vote in a poll is entitled to 1 vote for each whole \$100 of wool levy the entity has paid, other than as an intermediary, during the last 3 financial years before the poll year.
- (2) A trustee of the estate of an individual who dies before the cut-off date for a poll is entitled to 1 vote for each whole \$100 of wool levy paid by the individual or the estate, other than as an intermediary, during the last 3 financial years before the poll year.

7 Cut-off and return dates

- (1) Before conducting a poll, the research body must determine a cut-off date, and a return date, for the poll.
- (2) The cut-off date must be at least 8 weeks before the return date.
- (3) If it becomes apparent that 1 or more eligible entities will be unable to return their ballot papers to the research body by the return date for a poll, because of circumstances that:
 - (a) were not foreseen when the return date was determined under subregulation (1); and
 - (b) are outside the control of the entity or entities;the research body may vary the return date to allow a reasonable amount of time for all eligible entities to return their ballot-papers to the research body before the return date.
- (4) If the research body varies the return date for a poll under subregulation (3), the research body must:
 - (a) tell every eligible entity who has not already returned its ballot-paper, in writing, the new return date for the poll; or
 - (b) publish a notice, stating the new return date for the poll, in 1 or more newspapers that have circulation generally in areas where there are eligible entities.

8 Determination of eligibility

- (1) The research body must determine, as at the cut-off date, the eligibility to vote, and voting entitlement, of each entity who is to participate in the poll.
- (2) To make a determination under subregulation (1), the research body may use any information available to it, including:
 - (a) any register it maintains, including its register of shareholders; and
 - (b) information provided by any entity who claims to be eligible to vote.
- (3) The research body may invite entities who may be eligible to vote to provide information to the research body, or to another person on behalf of the research body, about the amount of wool levy they have paid in the last 3 financial years before the poll year.
- (4) The research body may issue an invitation under subregulation (3) in any manner that it chooses, including by publishing a notice in 1 or more newspapers.
- (5) If the research body invites entities to provide information under subregulation (3):
 - (a) there must be a sufficient period between the issuing of the invitation and the cut-off date to allow a reasonable time for the provision of that information; and
 - (b) the research body must take into account any information received before the cut-off date.
- (6) If the research body does not have enough information about the amount of wool levy paid by an entity in a financial year to determine the entity's eligibility to vote, or voting entitlement, the research body may determine the entity's eligibility or entitlement by reference to the amount of wool levy paid by the entity in another financial year.

9 The poll

- (1) The research body must propose 3 to 5 different rates of wool levy at the poll, including a zero rate.
- (2) Each proposed rate, other than the zero rate, must be a whole multiple of 0.5.

10 Conduct of poll

Not later than 6 weeks before the return date, but after the cut-off date, for a poll, the research body must send to each eligible entity:

- (a) a ballot-paper; and
- (b) a copy of the voting instructions; and
- (c) a copy of the information memorandum; and
- (d) a reply-paid envelope, addressed to the research body, for the return of the ballot-paper.

11 Ballot-paper

The ballot-paper sent to each entity must set out:

- (a) the name of the entity; and
- (b) the entity's voting entitlement; and
- (c) the rates proposed by the research body.

12 Voting instructions

- (1) The voting instructions must state that, to vote, an entity must:
 - (a) mark the ballot-paper by:
 - (i) writing the number '1' in the square next to the rate that the entity most prefers from among the rates listed on the ballot-paper; and
 - (ii) if the entity wishes, writing the numbers '2', '3' and so on in the squares next to as many of the other rates listed on the ballot-paper as the entity wishes to indicate a preference for, in the order of the entity's preference for them; and
 - (b) place the completed ballot-paper inside the reply-paid envelope; and

- (c) seal the envelope; and
 - (d) return the envelope to the research body, so that it is received not later than the return date.
- (2) The voting instructions must specify the return date.

13 Information memorandum

The information memorandum must set out:

- (a) for each of the rates listed on the ballot-paper:
 - (i) the amount of funds the research body estimates it will receive under the funding contract if that rate is adopted; and
 - (ii) how the research body proposes to expend those funds; and
- (b) the research body's recommended rate from among the rates listed on the ballot-paper; and
- (c) the reasons for the research body's recommendation; and
- (d) any other information the research body considers appropriate.

14 Minister to approve forms

- (1) The ballot-paper, voting instructions and information memorandum must be in a form approved by the Minister.
- (2) The research body must submit a draft of the ballot-paper, voting instructions and information memorandum that are to be used at a poll to the Minister for approval at least 8 weeks before the cut-off date for the poll.
- (3) The Minister may approve the forms of the ballot-paper, voting instructions and information memorandum only if he or she is satisfied that the research body has:
 - (a) consulted, in the preparation of the draft forms, with a representative, or representatives, of the entities that will be, or are likely to be, eligible to vote in the poll; and
 - (b) confirmed that the draft forms and the process for conducting the ballot have been examined and assessed as appropriate by a panel formed for the poll.

- (4) For paragraph (3) (b):
 - (a) the composition of the panel is to be agreed between the research body and a representative, or representatives, of the entities that will be, or are likely to be, eligible to vote in the poll; and
 - (b) the panel must include a representative, or representatives, of those entities.

15 Voting

- (1) To record a valid vote, an entity must:
 - (a) mark the ballot-paper received by the entity in accordance with subregulations (2), (3) and (4); and
 - (b) return the ballot-paper to the research body, so that it is received not later than the return date.
- (2) The entity must write the number '1' in the square next to the rate that the entity selects as the entity's first preference.
- (3) The entity may also write the numbers '2', '3' and so on in the squares next to as many of the remaining rates as the entity wishes to indicate a preference for, in the order of the entity's preference for them.
- (4) The numbers referred to in subregulation (3) must be consecutive whole numbers, without the repetition of any number.

16 Faxed ballot-papers

- (1) An entity satisfies paragraph 15 (1) (b) by returning a faxed copy of the ballot-paper to the research body if:
 - (a) every page of the ballot-paper clearly identifies the entity to which it is issued; and
 - (b) all pages of the faxed copy of the ballot-paper are received by the research body.
- (2) If the research body receives 2 or more faxed copies of the same ballot-paper, all copies except the copy that is first received must be disregarded.

- (3) However, if the research body receives a faxed copy of a ballot-paper, and also receives the original ballot-paper on or before the return date:
 - (a) the faxed copy must be disregarded; and
 - (b) the original ballot-paper must be included in the count.

17 Returning officer

- (1) The research body must appoint an individual with relevant expertise to be the returning officer.
- (2) The returning officer must not be:
 - (a) an employee of the research body; or
 - (b) an entity, or an associate of an entity, who is entitled to vote in the poll.
- (3) For paragraph (2) (b), an entity (the *first entity*) is an associate of another entity (the *second entity*) if the first entity is:
 - (a) a member of the second entity's family, if the second entity is an individual; or
 - (b) an employee of the second entity; or
 - (c) an entity connected with the second entity, or an associate of the second entity (within the meaning of the *Corporations Act 2001*), if the second entity is a corporation; or
 - (d) a beneficiary under a trust administered by the second entity.
- (4) The returning officer may appoint 1 or more assistant returning officers to assist with counting the votes.

18 Counting the votes

- (1) After the close of polling, the returning officer must, for each rate proposed in the poll, add the number of votes represented by the ballot-papers on which a first preference is indicated for the rate.

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- (2) If a rate has a majority of votes, based on the number of votes represented by ballot-papers on which a first preference is indicated for each rate, the returning officer must declare that rate to be elected as the rate that must, under subsection 32 (4) of the Act, be recommended by the research body.
- (3) If, after ascertaining the total number of first preference votes for each rate in accordance with subregulation (1), no rate has a majority of votes, the returning officer must take the following steps:
- (a) the rate with the fewest votes must be excluded, and each ballot-paper marked with a vote for that rate must be re-allocated to the rate (if any) indicated next in order of preference on the ballot-paper;
 - (b) the process of excluding the rate with the fewest votes, and re-allocating ballot-papers marked with a vote for that rate to the unexcluded rate (if any) indicated next in order of preference on the ballot-paper must be repeated (if necessary) until 1 rate has a majority of votes;
 - (c) the returning officer must declare the rate that has a majority of votes after the exclusion of other rates under this subregulation to be elected as the rate that must, under subsection 32 (4) of the Act, be recommended by the research body.
- (4) For subregulation (1), the number of votes represented by a ballot-paper is the same as the voting entitlement stated on the ballot-paper.
- (5) In paragraphs (3) (b) and (c), **majority** means a majority of the votes represented by formal ballot-papers other than any ballot-papers that do not indicate a preference for any unexcluded rate.
- (6) For paragraphs (3) (a) and (b), a ballot-paper is marked with a vote for a rate if:
- (a) the ballot-paper indicates a first preference vote for the rate; or
 - (b) all rates for which the ballot-paper indicates higher preferences have been excluded from the count by a previous operation of paragraph (3) (a).


- (7) If, on any count:
- (a) 2 or more rates (*lowest ranking rates*) have an equal number of votes; and
 - (b) one of them has to be excluded;
the rate to be excluded is the rate with fewer votes than any of the other lowest ranking rates at the last count at which one of those rates had fewer votes than any of the others, but, if there has been no such count, the returning officer must decide by lot which of them is to be excluded.

19 Report to accompany research body's recommendation

The research body's recommendation under subsection 32 (2) or (3) of the Act must be accompanied by:

- (a) a summary of the results of the poll; and
- (b) a statement as to how the recommendation is in accordance with the results of the poll.

Note

1. Notified in the *Commonwealth of Australia Gazette* on  2003.

14 April