



New South Wales

# Aboriginal Land Rights Amendment (Elections) Regulation 2019

under the

Aboriginal Land Rights Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Aboriginal Land Rights Act 1983*.

DONALD HARWIN, MLC

Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

## Explanatory note

The object of this Regulation is to amend the *Aboriginal Land Rights Regulation 2014* with respect to the election of members to the New South Wales Aboriginal Land Council.

In particular, this Regulation makes provision with respect to:

- (a) the manner and form of notices of elections, and
- (b) the nomination of candidates for election, and
- (c) information to be published about nominated candidates, and
- (d) postal voting and voting before polling day.

This Regulation is made under the *Aboriginal Land Rights Act 1983*, including sections 121 and 252 (the general regulation-making power).

## **Aboriginal Land Rights Amendment (Elections) Regulation 2019**

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Aboriginal Land Rights Act 1983

### **1 Name of Regulation**

This Regulation is the *Aboriginal Land Rights Amendment (Elections) Regulation 2019*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## **Schedule 1      Amendment of Aboriginal Land Rights Regulation 2014**

**[1]    Clause 37 Notice of election of New South Wales Aboriginal Land Council**

Omit clause 37 (1) and (2). Insert instead:

- (1) The returning officer is, as soon as practicable after being notified of the date of an election of all councillors under section 122 (2) of the Act, to give notice of the election by causing it to be published in a manner that, in the opinion of the returning officer, is appropriate to cause the notice to come to the attention of persons eligible to vote in the election.

**[2]    Clause 39 Calling for nominations**

Omit clause 39 (2). Insert instead:

- (2) The returning officer is to give the notice by causing it to be published in a manner that, in the opinion of the returning officer, is appropriate to cause the notice to come to the attention of persons eligible to nominate a person, or be nominated, as a candidate for election.

**[3]    Clause 42 Manner of nominating candidates**

Omit “in the form of cash, money order or bank cheque” from clause 42 (1) (f).

Insert instead “paid in a manner approved by the returning officer”.

**[4]    Clause 47 Contested election**

Omit clause 47 (2) (b). Insert instead:

- (b) the following information relating to each candidate for election:
  - (i) the candidate’s name,
  - (ii) the town, suburb or locality in which the candidate resides,
  - (iii) the Local Aboriginal Land Council of which the candidate is a voting member,

**[5]    Clause 47 (3) (b)**

Omit the paragraph.

**[6]    Clause 51**

Omit the clause. Insert instead:

**51    Applications to vote by post**

- (1) An elector may, after the returning officer gives notice of an election, apply to vote by post.
- (2) An application to vote by post must be in the manner and form approved by the returning officer.
- (3) The returning officer is not required to accept an application received after 6 pm on the day that is 5 days before polling day.
- (4) The returning officer is to number, in consecutive order, each application to vote by post received.

**[7]    Clause 54 Postal voting procedure**

Omit clause 54 (4). Insert instead:

- (4) The elector must, before 6 pm on polling day:
  - (a) post the envelope, or
  - (b) deliver the envelope to the returning officer.

**[8] Clause 55 Preliminary scrutiny of postal ballot-papers and transmission to regional electoral officer**

Omit “On receipt of all envelopes purporting to contain postal ballot-papers, the returning officer must:”.

Insert instead “The returning officer must, in respect of each envelope to which this clause applies:”.

**[9] Clause 55 (2)**

Insert at the end of clause 55:

- (2) This clause applies to each envelope purporting to contain postal ballot-papers received by the returning officer before 6 pm on the fourth day immediately following the close of the poll.

**[10] Clause 56**

Omit the clause. Insert instead:

**56 Appointment of polling places**

- (1) The returning officer is to appoint polling places within the area of each Local Aboriginal Land Council for the purpose of taking a poll at an election.
- (2) The returning officer may designate one or more polling places to be a special polling place.

**[11] Clause 57 Arrangements at polling places**

Omit clause 57 (3). Insert instead:

- (3) The ballot-box must be kept, sealed and unopened, at the polling place until the close of the poll, except as provided by this clause.
- (4) The ballot-box at a special polling place must:
  - (a) be closed and sealed by the deputy electoral officer at the end of voting on any day on which votes have been cast at the special polling place, to prevent an additional ballot-paper being put into the ballot-box without breaking the seal, and
  - (b) be transported, or caused to be transported, by the deputy electoral officer to a polling place specified by the returning officer for scrutiny and counting in accordance with Division 5 at the close of the poll.
- (5) For the purposes of Division 5, a ballot-box transported to a polling place in accordance with subclause (4) (b) is taken to be a ballot-box containing ballot-papers of electors voting at that polling place.
- (6) Despite subclause (3), the ballot-box used at a special polling place may, with the approval of the returning officer, be re-used at another special polling place without being emptied.
- (7) If a ballot-box is to be re-used without being emptied, the deputy election officer must:

- (a) exhibit for the inspection of any candidate, scrutineer or other person present at the second or subsequent special polling place, the unbroken seal affixed to the ballot-box in accordance with subclause (4) (a), and
- (b) break the seal to allow ballot-papers to be added to the ballot-box, while the special polling place is open, and
- (c) place the ballot-box on the table at which the deputy electoral officer is to preside in full view of all persons present at the polling place.

**[12] Clause 58 Hours of polling**

Omit “mobile polling place” from clause 58 (1). Insert instead “special polling place”.

**[13] Clause 58 (2)**

Omit the subclause. Insert instead:

- (2) The returning officer may, in accordance with subclause (3), specify days and hours during which a specified special polling place is to be open to allow for the casting of votes.
- (3) A special polling place may be open for voting at any time between:
  - (a) 9 am on the day that is 12 days before polling day, and
  - (b) 6 pm on polling day.