

# VICTORIA GOVERNMENT GAZETTE.

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THURSDAY, JANUARY 22.

[1925.]

*Dried Fruits Act 1924 (No. 3380).*

## PROCLAMATION

By His Excellency Colonel the Right Honorable George Edward John Mowbray, Earl of Stradbroke, K.C.M.G., C.B., C.V.O., C.B.E., Aide-de-Camp to His Majesty the King; Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

**W**HEREAS by section 1, sub-section (2), of the *Dried Fruits Act 1924* (No. 3380) it is provided that the Act shall come into operation on a date to be fixed by Proclamation of the Governor in Council; Now therefore I, the Governor of the State of Victoria in the Commonwealth of Australia, by and with the advice of the Executive Council of the said State, do by this my Proclamation fix Thursday, the 22nd day of January, 1925, as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the State of Victoria, aforesaid, at Melbourne, this twenty-first day of January, in the year of our Lord One thousand nine hundred and twenty-five, and in the fifteenth year of the reign of His Majesty King George V.

(L.S.)

STRADBROKE.

By His Excellency's Command,

M. W. J. BOURCHIER,  
Minister for Agriculture.

GOD SAVE THE KING!

## STATE OF VICTORIA.

*Dried Fruits Act 1924.*

## REGULATIONS.

*At the Executive Council Chamber, Melbourne, the twenty-first day of January, 1925.*

## PRESENT :

His Excellency the Governor of Victoria.

Sir A. J. Peacock  
Dr. Argyle  
Mr. Downward

Mr. Richardson  
Colonel Bouchier  
Mr. Crockett.

WHEREAS the Governor in Council is empowered by the *Dried Fruits Act 1924* to make regulations for all matters and things necessary or convenient to be prescribed for carrying the said Act into effect : Now therefore His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby make the following Regulations :—

## STATE OF VICTORIA.

DRIED FRUITS ACT 1924 (ELECTION OF BOARD)  
REGULATIONS.

## PART I.—PRELIMINARY.

- Short title.** 1. These Regulations may be cited as the *Dried Fruits Act 1924* (Election of Board) Regulations.
- Parts.** 2. These Regulations are divided into Parts as follows :—
- PART I.—Preliminary.  
PART II.—Enrolment.  
PART III.—Nominations.  
PART IV.—Voting.  
PART V.—Scrutiny.  
PART VI.—Disputed Elections.  
PART VII.—Offences.
- Definitions.** 3. In these Regulations unless the contrary intention appears—
- “Candidate” means any person nominated for election as a member on the Board ;
- “Election” means the election of members in pursuance of subsections (1), (2), (3), and (4) of section 6 of the Act ;
- “Grower” means any person who in any one year produces more than ten hundredweight of dried currants, dried sultanas, or dried lexias from fruit grown by him.
- “the Act” means the *Dried Fruits Act 1924*.

## PART II.—ENROLMENT.

4. (1) The Governor in Council may appoint an officer to be the Returning Officer for the purpose of carrying out the election, and the Returning Officer shall make all necessary arrangements for the conduct of the election.

Appointment  
of Returning  
Officer and  
Deputy  
Returning  
Officers.

(2) The Governor in Council may, if considered desirable, in order to expedite the holding of the election, appoint Deputy Returning Officers to act under the direction of the Returning Officer.

5. (1) The Returning Officer shall arrange for the preparation of a roll of growers in the State of Victoria entitled to vote at the election, and shall certify by writing under his hand that the same is correct.

List of voters  
to be prepared.

(2) The rolls shall be conclusive evidence of the right of the persons named therein to vote at the election.

6. Every voter whose name appears on the roll shall be entitled to one vote only.

Growers  
entitled to one  
vote only.

## PART III.—NOMINATIONS.

7. No person shall be capable of being elected as a member on the Board unless duly nominated.

Candidates must  
be nominated.

8. A nomination shall be in the following form, shall be signed by not less than twenty persons entitled to vote at the election for which the candidate is nominated, and shall be lodged with the Returning Officer before or not later than 12 noon on the day fixed in that behalf by the Governor in Council by regulation:—

Mode of  
nomination.

## STATE OF VICTORIA.

## Dried Fruits Act 1924.

## VICTORIAN DRIED FRUITS BOARD.

## NOMINATION OF MEMBER.

To the Returning Officer—

We, the undersigned growers entitled to vote at the election of members on the Board, do hereby nominate  
(here insert the christian name or names in full, surname, place of residence, and occupation of person nominated) as a member on the VICTORIAN DRIED FRUITS BOARD.

Dated this                      day of                      192 .

Signatures of nominators\*

Places of living

\* Signatures of  
not less than 20  
persons entitled  
to vote at the  
election.

I\*  
above nomination and to act if elected.

of

consent to the

\* Christian  
name or names  
to be stated  
first; surname  
to be  
underlined.

Signature of candidate

Address

Witness

Address

N.B.—The candidate's consent to the nomination may be on a separate paper and in any form, but if given on the nomination paper in the above form its sufficiency is not to be questioned.

A nomination must be signed by not less than twenty persons entitled to vote at the election for which the candidate is nominated.

Requisites for nomination.

9. No nomination shall be valid unless—

- (a) the person nominated consents to act if elected ; and
- (b) the nomination paper is received by the Returning Officer before or not later than 12 noon on the day fixed in that behalf by the Governor in Council.

Form of consent to act.

10. The consent of the person nominated to act if elected shall be sufficient if he signs the form of consent at the foot of the nomination paper but the Returning Officer may accept any other form of consent, whether accompanying the nomination paper or not, that he deems satisfactory and such acceptance shall be final.

Declaration of nominations.

11. On the day following the day fixed by the Governor in Council as the last day for receiving nominations the Returning Officer shall announce the name, place of residence and occupation of each person nominated and cause notice thereof to be published in the *Government Gazette*.

Withdrawal of consent to nomination.

12. Any Candidate may withdraw his consent to his nomination at any time before or not later than 12 noon on the date fixed for the close of nominations by lodging with the Returning Officer a notice of withdrawal bearing his personal signature and witnessed by a Justice of the Peace.

Proceedings on nomination day.

13. (1) If the number of candidates nominated is not greater than the number of candidates required to be elected the Minister shall declare the candidate or candidates nominated duly elected and cause notice thereof to be published in the *Government Gazette*.

(2) If the number of candidates nominated is greater than the number required to be elected a vote of growers shall be taken to decide the election.

PART IV.—VOTING.

Voting to be by post or otherwise.

14. Voting at the election shall be carried out by post or otherwise.

Date of close of election.

15. The date fixed for the close of the election shall be the date fixed in that behalf by the Governor in Council by regulation.

Voting papers, and form of declaration.

16. As soon as practicable after the date for the close of the election has been fixed, the Returning Officer or Deputy Returning Officer shall initial and transmit by post to each grower set out in the roll a ballot-paper together with an envelope having printed thereon a form of declaration as follows :—

STATE OF VICTORIA.

*Dried Fruits Act 1924.*

DECLARATION TO BE MADE BY VOTER.

I of declare that I am a grower of fruit from which dried currants, dried sultanas, or dried lexias are produced, and that I am entitled to vote at the election which closes on the day of 192 , under the provisions of the *Dried Fruits Act 1924*, and I also declare that I have not previously voted in connexion with the said election.

Signature of voter (in his own handwriting)

Signed before me the day of 192

Signature of authorized witness

Address of authorized witness

Title under which witness acts as authorized witness

## AUTHORIZED WITNESSES.

The following persons are authorized witnesses, namely:—The Returning Officer and all Deputy Returning Officers appointed in connexion with the election; all Managers, Directors, and Proprietors of dried fruit packing establishments; ALL PERSONS ENTITLED TO VOTE AT THE ELECTION; all Ministers of Religion; all Postmasters, Postmistresses, and Postal Officials, and all other permanent officers of the Public Service of the Commonwealth or of a State; 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; all legal Practitioners; all Bank Managers; and all Railway Stationmasters.

17. The envelopes containing the ballot-papers posted by the Returning Officer to the voters shall be endorsed with the words "Victorian Dried Fruits Board Election Ballot-paper". Envelopes to be endorsed.

18. Before posting the ballot-paper and envelope bearing the voter's form of declaration, the Returning Officer or a Deputy Returning Officer, as the case may be, shall insert in the ballot-paper in the space provided for the purpose the date fixed for the close of the election, and shall initial the ballot-paper in the space provided for the Deputy Returning Officer's initials, and, in the form of declaration on each envelope, he shall insert— Particulars to be inserted in voting paper and declaration.

- (a) the christian name in full (if known) or the initials, and surname of the person entitled to vote;
- (b) the place of residence or place of business of the person entitled to vote; and
- (c) the date fixed for the close of the election.

19. The voter shall complete and sign in his own handwriting the prescribed declaration 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 address and the date. Voter to make declaration.

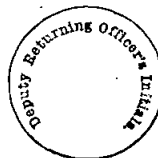
20. The following persons are authorized witnesses within the meaning of these Regulations:—The Returning Officer and all Deputy Returning Officers appointed in connexion with the election; all Managers, Directors and Proprietors of dried fruit packing establishments; ALL PERSONS ENTITLED TO VOTE AT THE ELECTION; all Ministers of Religion; all Postmasters, Postmistresses and Postal Officials and all other permanent officers of the Public Service of the Commonwealth or of a State; 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; all legal Practitioners, all Bank Managers and all Railway Stationmasters. Authorized witnesses.

21. The ballot-paper to be used at the election by growers shall be in accordance with the following form and the voter shall record his vote in accordance with the directions thereon— Form of voting paper.

STATE OF VICTORIA.

Dried Fruits Act 1924.

BALLOT-PAPER.



*Directions.*—In marking his vote on this ballot-paper the voter must place in the squares respectively opposite the names of at least (here insert  
 the number which represents twice the number of members to be elected plus one, or, if the number of candidates is less than that number, the total number of candidates) candidates  
 the numbers 1, 2, 3, 4, and so on up to and inclusive of the number (here insert  
 the number which represents twice the number of members to be elected plus one, or, if

the number of members is less than that number, the total number of candidates), so as to indicate the order of his preference for such candidates, and if there are any more candidates, may in addition indicate the order of his preference for as many of them as he pleases by placing in the squares respectively opposite their names other numbers next in numerical order after those already used by him.

## CANDIDATES.

- ☐ BROWN, Charles William Henry.
- ☐ BROWN, Samuel Wilson.
- ☐ JOHNS, Roy William.
- ☐ KING, Henry
- ☐ LOVELL, Edward Thomas.
- ☐ MAHON, James Robert.
- ☐ PEARCE, Charles.
- ☐ QUICK, Richard James.
- ☐ RUSSELL, Percy John.
- ☐ SMITH, John Edward.
- ☐ THOMAS, Ian Alexander Johnson.

*Further Directions to Voter.*—After marking his vote the voter should fold the ballot-paper and place it in the envelope bearing his declaration (duly signed and witnessed), securely fasten the envelope, and forthwith send the envelope *by prepaid post* or otherwise to the Returning Officer to whom the envelope is addressed.

*NOTE.*—Unless the vote is marked on this ballot-paper and is received by the Returning Officer before or at four o'clock in the afternoon of the day fixed for the close of the election (namely, the day of 192 ), it will not be admitted to the scrutiny.

*N.B.*—If this ballot-paper is sent to the Returning Officer by post the postage thereon (1½d.) must be fully prepaid, otherwise the voting paper will not be accepted by the Returning Officer.

Ballot-papers  
not received,  
miscarried or  
destroyed.

22. Upon a grower making and transmitting 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 ballot-paper, or that the ballot-paper received by him has miscarried or has been destroyed and that he has not already voted, the Returning Officer or Deputy Returning Officer may issue a ballot-paper to any grower who has not received a ballot-paper or whose original ballot-paper has miscarried or has been destroyed. Unless, however, such ballot-paper duly completed is received by the Returning Officer before or at four o'clock in the afternoon of the day fixed for the close of the election it shall not be admitted to the scrutiny.

Voting papers  
to be kept in  
ballot-box until  
scrutiny.

23. The Returning Officer shall keep a locked and sealed ballot-box with the words "*Dried Fruits Act 1924 (Election of Board) Ballot-box, Ballot-papers received from Voters*" marked thereon and shall place and keep therein until the scrutiny all envelopes containing ballot-papers received by him before or at four o'clock in the afternoon of the day fixed for the close of the election.

Voting papers  
received after  
close of poll  
or on which  
postage not  
fully prepaid.

24. (1) No ballot-paper received by the Returning Officer after four o'clock in the afternoon of the day fixed for the close of the election shall be admitted to the scrutiny.

(2) No ballot-paper sent by post to the Returning Officer shall be accepted by the Returning Officer unless the postage on the ballot-paper has been fully prepaid.

## PART V.—SCRUTINY.

25. Each candidate may by notice in writing or by telegram addressed to the Returning Officer appoint one scrutineer to represent him at the scrutiny and such notice or telegram shall be signed by the candidate and shall give the name and address of the scrutineer. Scrutineers at the scrutiny.

26. The Returning Officer, and any Deputy Returning Officer directed in that behalf by the Returning Officer, shall, at four o'clock in the afternoon of the day fixed for the close of the election :— Scrutiny of votes and declarations.

- (a) open the ballot-box and produce unopened all envelopes containing ballot-papers received by the Returning Officer up to the said hour ;
- (b) examine each envelope and if the declaration is, in the opinion of the Returning Officer or Deputy Returning Officer, signed by the voter and is duly attested, accept the vote for further scrutiny but if not so signed and attested disallow the ballot-paper without opening the envelope ;
- (c) place the envelopes containing the disallowed ballot-papers in a parcel, seal the parcel, and endorse it "*Dried Fruits Act 1924*. (Election of Board) Votes rejected at Preliminary Scrutiny" and add his signature and the date ;
- (d) number consecutively from one upwards, and initial each envelope accepted for further scrutiny on the address side thereof, and place it on a table before him so that the address side only shall be visible ;
- (e) withdraw from each envelope each ballot-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 envelopes in a parcel, seal the parcel and endorse it "*Dried Fruits Act 1924* (Election of Board). Envelopes from which ballot-papers have been withdrawn" and add his signature and the date.

27. At the further scrutiny the Returning Officer or a Deputy Returning Officer shall open the ballot-box referred to in paragraph (e) of the last preceding regulation and the scrutiny shall be conducted in accordance with the provisions of the next two succeeding regulations. The further scrutiny.

28. The scrutiny shall be conducted in the following manner :—

- (1) The Returning Officer shall in the presence of such authorized scrutineers as may attend— Counting the votes.
  - (a) arrange the voting papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate ;
  - (b) set aside all ballot-papers which require to be rejected ; and
  - (c) count the first preference votes given for each candidate on all unrejected ballot-papers.
- (2) The first vacancy shall be filled in the following manner :—
  - (a) The Returning Officer shall ascertain the total number of first preference votes given for each candidate.

- (b) the candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (c) If no candidate has received an absolute majority of first preference votes, a second count shall be made by the Returning Officer.
- (d) On the second count, the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference.
- (e) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated by the Returning Officer until one candidate has received an absolute majority of votes.
- (f) The candidate who has received an absolute majority of votes shall be elected.

(3) The second vacancy shall be filled in the following manner :—

- (a) The Returning Officer shall re-arrange all the ballot-papers under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated, shall, if unexhausted, be placed in the parcel of the candidate next in order of the voter's preference.
- (b) The Returning Officer shall ascertain the total number of votes given for each candidate.
- (c) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the scrutiny shall proceed as provided in paragraphs (c), (d) and (e) of the last preceding sub-regulation until one candidate has received an absolute majority of votes :

Provided that, in the application of paragraphs (c) and (d) of the last preceding sub-regulation, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this sub-regulation.

- (d) The candidate who has received an absolute majority of votes shall be elected.

- (4) The third vacancy shall be filled in the manner provided in the last preceding sub-section as regards the filling of the second vacancy :

Provided that a ballot-paper on which a first preference for any elected candidate is marked shall, if unexhausted, be placed in the parcel of the continuing candidate next in order of the voter's preference.

- (5) In the process of filling any vacancy, exhausted ballot-papers shall be set aside as finally dealt with, and shall thenceforth not be taken into account in the filling of that vacancy.

- (6) (a) When a candidate is elected or excluded, each ballot-paper counted to him shall be deemed to be exhausted if there is not indicated upon it a next preference for one continuing candidate.

- (b) "Next preference" in the last preceding sub-paragraph includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate :

Provided that where there is a break in the consecutive numbering of preferences marked on a ballot-paper (other than a break necessitating the rejection of the ballot-paper as informal), only those preferences preceding the break shall be taken into account.

- (7) In this regulation "continuing candidate" means a candidate not already elected or excluded from the count.

- (8) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the Returning Officer shall decide which shall be excluded ; and if, in the final count for filling any vacancy, two candidates have an equal number of votes, the Returning Officer shall decide which shall be elected.

- (9) In this regulation "an absolute majority of votes" means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers. The decision of the Returning Officer, given in pursuance of the last preceding sub-regulation, shall, in reckoning an absolute majority of votes, be included as if it were a vote.

- (10) Notwithstanding anything contained in the preceding provisions of this regulation two or more candidates lowest on the poll may be excluded in any count in the one operation, provided—

- (a) that the total number of votes of those lowest candidates does not in the aggregate exceed in number the votes of the candidate next higher on the poll ;
- (b) that the number of continuing candidates is not thereby reduced below the number to be elected ; and
- (c) that in the filling of a second or any subsequent vacancy the votes of the elected candidate or candidates have been first dealt with as provided in this section.

Re-count of  
votes.

29. (1) At any time before the declaration of the result of the election the Returning Officer may, if he thinks fit, on the written request of any candidate setting forth the reasons for the request, or of his own motion, make a re-count of the ballot-papers.

(2) If the Returning Officer refuses, on the request of a candidate, to make a re-count of any ballot-papers, the candidate may, in writing, appeal to the Minister to direct a re-count of those ballot-papers, and the Minister may, as he thinks fit, either direct a re-count of the ballot-papers or refuse to direct a re-count.

Powers of  
officer  
conducting  
re-count.

30. (1) The officer conducting a re-count shall have the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

Informal  
voting papers.

31. A ballot-paper shall be informal 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 less than the prescribed number of votes marked on it; or
- (d) it is so imperfectly marked that the intention of the voter is uncertain.

Declaration  
of election.

32. (1) The Returning Officer shall make out a statement showing the result of the election and the names of the candidates elected and transmit the statement to the Minister, who shall announce the result of the election and cause notice of the result to be published in the *Government Gazette*.

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

Voting papers  
to be placed  
in parcels.

33. The Returning Officer or a Deputy Returning Officer shall—

- (a) place in a separate parcel all the ballot-papers received by the Returning Officer 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 ballot-papers received by the Returning Officer together with the envelopes from which they were withdrawn and the copy of the roll used for the election, and endorse on each parcel a description of the contents thereof, add his signature and the date and shall retain the parcels until the authority of the Minister has been obtained for the destruction of the contents thereof.

Destruction of  
papers.

34. At the expiration of six months from the date of publication of the result of the election, the Minister shall cause the ballot-papers and the voters' declarations to be destroyed.

Intruders.

35. Every person, not being authorized pursuant to these Regulations to be present at the scrutiny, who wilfully intrudes into the room appointed for the examination of the voting papers, shall be guilty of an offence.

#### PART VI.—DISPUTED ELECTIONS.

Disputing  
validity of  
election  
statement.

36. The validity of the election or of any statement or notice showing the voting at the election may be disputed by petition addressed to the Supreme Court.

**37. The petition disputing the election statement or notice shall—**Requisites of  
petition.

- (a) set out the facts relied on to invalidate the election, statement or notice;
- (b) contain a prayer asking for the relief to which the petitioner claims to be entitled;
- (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote thereat;
- (d) be attested by two witnesses whose occupations and addresses are stated; and
- (e) be filed in the office of the Prothonotary of the Supreme Court within thirty days after the publication in the *Government Gazette* of the notice of the result of the election.

**38. The Supreme Court shall have jurisdiction to entertain and hear and determine the petition.**Jurisdiction  
of Supreme  
Court.**39. The petitioner shall, within seven days after the filing of the petition, notify the petition in the *Government Gazette*.**Notice of  
petition.**40. The Supreme Court may on the application of any grower order him to be joined as a party petitioning or responding as the case may be.**Joinder of  
parties.**41. (1) The Supreme Court when hearing a petition shall sit as an open court and its powers shall include the following:—**Powers of  
Court.

- (i) To adjourn;
- (ii) To compel the attendance of witnesses and the production of documents;
- (iii) To grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot-papers) used at or in connexion with any election and to take, in the presence of the prescribed officer, extracts from those rolls and documents;
- (iv) To examine witnesses on oath;
- (v) To declare that any person who was returned as elected was not duly elected;
- (vi) To declare any candidate duly elected who was not returned as elected;
- (vii) To declare any election absolutely void;
- (viii) To dismiss or uphold the petition in whole or in part; and
- (ix) To award costs.

**(2) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.****(3) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connexion with the election****42. The Supreme Court shall, on the hearing of a petition, inquire whether or not the petition is duly signed, and so far as rolls and voting are concerned, may inquire into the identity of persons, and whether their votes were improperly admitted or rejected, assuming the roll to be correct, but the Court shall not inquire into the correctness of any roll.**Inquiries by  
Court.

Real justice  
to be observed.

43. The Supreme Court shall, on the hearing of a petition, be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

Evidence that  
person not  
permitted to  
vote.

44. On the trial of any petition the Supreme Court shall not admit the evidence of any witness that he was not permitted to vote in any election unless the witness satisfies the Court:—

(a) that he claimed to vote, in the election, pursuant to these Regulations; and

(b) that he complied with the requirements of these Regulations relative to voting by growers in so far as he was permitted so to do.

Decisions to  
be final.

45. All decisions of the Supreme Court under this Part shall be final and conclusive and without appeal, and shall not be questioned in any way.

Counsel or  
solicitor.

46. (1) No party to the petition shall except by consent of all parties, or by leave of the Court, be represented by counsel or solicitor.

(2) In no case shall more than one counsel or one solicitor appear on behalf of any party.

Costs.

47. The Supreme Court may award costs against an unsuccessful party to the petition.

Recovery  
of costs.

48. All costs awarded by the Supreme Court under this Part shall be recoverable as if the order of the Supreme Court on the petition were a judgment of the Supreme Court and such order, certified by the Court, may be entered as a judgment of the Supreme Court and enforced accordingly.

Effect of  
decision.

49. Effect shall be given to any decision of the Court as follows:—

(1) If any person returned is declared not to have been duly elected, he shall cease to be a member of the Board.

(2) If any person not returned is declared to have been duly elected, he shall become a member of the Board.

(3) If any election is declared absolutely void a new election shall be held.

Procedure on  
petition.

50. The procedure in relation to a petition shall, subject to these Regulations, be as prescribed by Rules of Court, or, in default of Rules of Court, as directed by the Supreme Court or a Justice thereof.

Ministerial  
errors not to  
vitate election.

51. (1) The election or any statement or notice showing the voting at the election shall not be avoided on account of any delay in relation to the taking of the votes of the growers, or in relation to the making of any statement or notice, or on account of the absence or error of, or omission by, any officer which did not affect the result of the election.

(2) The election shall not be disputed by reason of any defect in the title or any want of title of any Returning Officer or Deputy Returning Officer, if that person really acted at the election, or by reason of any formal error or defect in any statement, notice, instrument, or publication made under 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.

## PART VII—OFFENCES.

52. Every person acting as Returning Officer or Deputy Returning Officer <sup>Misfeasance.</sup> at the election, 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

53. (1) Whenever an election wholly or partially fails a supplementary <sup>Failure of election.</sup> election shall be held.

(2) An election shall be deemed to have wholly failed if no candidate is nominated or returned as elected.

(3) An election shall be deemed to have partially failed whenever one or more candidates is returned as elected, but not the full number required to be elected.

54. A person shall not make any untrue statement in any declaration, <sup>Untrue statements in</sup> or in answer to any question under these Regulations, or in any information <sup>declarations,</sup> supplied to the Returning Officer or any Deputy Returning Officer for the <sup>&c.</sup> purpose of obtaining a ballot-paper.

55. An authorized witness shall not witness the signature of a grower to <sup>Duty of authorized witnesses.</sup> any declaration under these Regulations unless—

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

56. Except where expressly authorized by these Regulations, a person <sup>Making marks on voting papers.</sup> (other than the grower to whom the ballot-paper has been issued) shall not make any mark or writing on the voting paper of a grower.

57. Any person who—

- (a) falsely impersonates any person to secure a voting paper to which <sup>Offences in connexion with polling.</sup> the personator is not entitled ; or
- (b) personates any other person for the purpose of voting ; or
- (c) fraudulently destroys or defaces any voting paper ; or
- (d) votes more than once at the poll

shall be guilty of an offence.

58. Every person who does not do anything directed to be done or does anything forbidden to be done by or under these regulations shall be guilty of an offence, and shall be liable to a penalty of not more than one hundred pounds.

And Colonel the Honorable Murray William James Bouchier, His Majesty's Minister of Agriculture for the State of Victoria, shall give the necessary directions herein accordingly.

F. W. MABBOTT,  
Clerk of the Executive Council.

State of Victoria.

*Dried Fruits Act 1924 (No. 3380).*

## REGULATIONS.

VICTORIAN DRIED FRUITS BOARD ELECTION.—APPOINTMENT OF RETURNING OFFICER AND DEPUTY RETURNING OFFICER.

*At the Executive Council Chamber, Melbourne, the twenty-first day of January, 1925.*

## PRESENT:

His Excellency the Governor of Victoria.	
Sir A. J. Peacock	Mr. Richardson
Dr. Argyle	Colonel Bouchier
Mr. Downward	Mr. Crockett.

WHEREAS by the *Dried Fruits Act 1924 (No. 3380)* the Governor in Council is empowered to appoint Returning Officers in connexion with the election of members of the Victorian Dried Fruits Board: Now therefore His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby appoint

JOHN GILDER, Chief Electoral Officer for the State of Victoria,

to be Returning Officer for such election.

And whereas the Governor in Council is further empowered by Regulation under the *Dried Fruits Act 1924 (No. 3380)* to appoint a Deputy Returning Officer to act under the direction of the Returning Officer: Now therefore His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby appoint

WILLIAM LESLIE ROWE, an officer of the Chief Secretary's Department,

to be Deputy Returning Officer for such election.

And Colonel the Honorable Murray William James Bouchier, His Majesty's Minister of Agriculture for the State of Victoria, shall give the necessary directions herein accordingly.

F. W. MABBOTT,  
Clerk of the Executive Council.

State of Victoria.

*Dried Fruits Act 1924 (No. 3380).*

## REGULATIONS.

VICTORIAN DRIED FRUITS BOARD ELECTION.—TIMES AND DATES OF NOMINATIONS AND ELECTION.

*At the Executive Council Chamber, Melbourne, the twenty-first day of January, 1925.*

## PRESENT:

His Excellency the Governor of Victoria.	
Sir A. J. Peacock	Mr. Richardson
Dr. Argyle	Colonel Bouchier
Mr. Downward	Mr. Crockett.

WHEREAS by Regulation under the *Dried Fruits Act 1924 (No. 3380)*, the Governor in Council is empowered to accept nominations from candidates for election to the Victorian Dried Fruits Board, and also to fix a date before or on which such nominations must be lodged with the Returning Officer appointed under the said Act: Now therefore His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby fix Twelve noon on Tuesday, 3rd February, 1925, as the time and date before or on which nominations must be lodged with the Returning Officer.

And whereas the Governor in Council is further empowered by Regulation under the said Act to fix a time and date for the close of such election: Now therefore His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby fix Four o'clock in the afternoon of Tuesday, 17th February, 1925, as the time and date for the close of such election.

And Colonel the Honorable Murray William James Bouchier, His Majesty's Minister of Agriculture for the State of Victoria, shall give the necessary directions herein accordingly.

F. W. MABBOTT,  
Clerk of the Executive Council.

## APPOINTMENTS.

HIS Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, has, by Order made on the twenty-first day of January, 1925, been pleased to make the undermentioned appointments, viz.:—

*Motor Omnibus Act 1924, No. 3378.*

## APPOINTMENT OF MEMBERS OF ADVISORY COMMITTEE.

Under the powers conferred by section 12 of the *Motor Omnibus Act 1924, No. 3378*, the undermentioned persons to be members of the Advisory Committee constituted under the said Act for a period of twelve months from the twenty-first day of January, 1925.

GEORGE KERMODE (representing the Public Works Department).  
WILLIAM DAVID BRACHER (representing the Victorian Railways Commissioners).  
ARTHUR DOUGLAS MURDOCH (representing the Melbourne and Metropolitan Tramways Board).  
Councillor R. N. CORNEY (representing the Councils of the Municipalities within the metropolitan area).  
FRED. KNIGHT (representing the interests of owners of motor omnibuses).

And further, His Excellency has by the same Order appointed GEORGE KERMODE, Esquire, to be Chairman of the said Committee.

F. W. MABBOTT,  
Clerk of the Executive Council.

*At the Executive Council Chamber,  
Melbourne, the 21st January, 1925.*

## REGULATIONS UNDER THE MOTOR OMNIBUS ACT 1924, No. 3378.

*At the Executive Council Chamber, Melbourne, the twenty-first day of January, 1925.*

## PRESENT:

His Excellency the Governor of Victoria.	
Sir A. J. Peacock	Mr. Richardson
Dr. Argyle	Colonel Bouchier
Mr. Downward	Mr. Crockett.

WHEREAS by section 9 of the *Motor Omnibus Act 1924, No. 3378*, it is enacted that the Governor in Council may make regulations for or with respect to the matters specifically referred to in the said section of the said Act, and generally in respect of all such matters and things as are authorized or permitted to be prescribed or are necessary or convenient to be prescribed for carrying the said Act into operation: Now therefore His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth, for the purpose of giving effect to the purposes of the said Act, make the regulations following (that is to say):—

## Interpretation.

In these Regulations, unless inconsistent with the context or subject-matter—

"Licence" means a licence granted and issued in accordance with this Act for a motor omnibus as a hackney carriage and in force and includes a "regular service" licence or a "special service" licence herein-after provided for; and "licensed" has a corresponding interpretation.

"Licensing Authority" means the Council of the City of Melbourne, being the authority empowered under Part 1 of the *Carriages Act 1915* to licence hackney carriages plying for hire within the said City and the vicinity within the distance of 8 miles from the corporate limits of the said City, and includes the officer appointed by the said Council to represent it in connexion with the administration of these Regulations.

"Metropolitan Area" means the City of Melbourne and the vicinity within the distance of 8 miles from the corporate limits of the said City.

"Motor Omnibus" means any motor car within the meaning of the *Motor Car Act 1915* which is required under Part 1 of the *Carriages Act 1915* to be licensed as a hackney carriage, and has seating capacity for not less than eight passengers, and plies within the metropolitan area for hire at separate and distinct fares of not more than One shilling and sixpence for each passenger.

"Owner" of a motor omnibus includes every person who is the owner, joint owner, or part owner of the motor omnibus, and any person who has the use of the motor omnibus under a hiring or hire purchase agreement.

"Passenger" does not include driver or conductor.  
"Pneumatic Tire" means a tire composed of flexible material, and when in use kept inflated at an air pressure greater than atmospheric pressure.

(a) *The Maximum Height, Length, and Breadth of Motor Omnibuses.*

**Height of Motor Omnibuses.**—The height inside measured in the centre line of each omnibus from the top of the floor battens to the lower edge of the hoop sticks or other such projections must not be less than 6 feet. From the ground to the spring of the roof or edge of drip boards the height must not be greater than 10 feet, nor must the height of the outside centre of roof be more than 10 feet. No motor omnibus the roof of which is supported otherwise than from the sides and ends thereof shall be licensed as a motor omnibus.

**Length of Motor Omnibuses.**—The length must in no case exceed 28 feet.

**Breadth of Motor Omnibuses.**—The breadth at the widest part must in no case exceed 8 feet.

(b) *The Maximum Weight and the Maximum Load for Motor Omnibuses.*

The maximum weight of any motor omnibus unladen shall not exceed 5 tons, and the maximum weight of any motor omnibus fully laden (including the fuel tank when full), and in every respect ready for service, shall in no case exceed 8 tons, nor shall the weight on any one axle exceed two-thirds of the weight of the motor omnibus when fully laden, provided that this provision shall not apply to any motor omnibus licensed as a hackney carriage under Part I of the Carriages Act 1915, and in force immediately before the coming into operation of these Regulations.

In calculating the total laden weight, 140 lb. shall be allowed for each passenger, and for the driver and the conductor.

(c) *Prohibiting the use of Tires other than Rubber Tires, on Motor Omnibuses, and Regulating the Thickness and the Condition of Tires used on Motor Omnibuses.*

The use of any tires other than rubber tires on motor omnibuses is prohibited.

When pneumatic tires are used, they must always be maintained in a safe and satisfactory condition.

When tires other than pneumatic tires are used, they must be elastic, and maintained so as to reduce vibration, and shall at all times be kept in good condition and have rubber at least 1 inch thick on the whole of the circumference of the wheel.

(d) *Design and Construction of Motor Omnibuses so as to Secure the Safety, Comfort, and Convenience of Passengers and the Public, and to Minimize the Damage to Roads.*

**Chassis.**—In no case shall more than one-third of the total length of a motor omnibus be allowed to overhang the centre of the rear wheels.

The rear end of the body of the motor omnibus shall not extend beyond 18 inches of the chassis.

**Springs.**—Springs must be properly hung, and be of sufficient strength and flexibility to the satisfaction of the licensing authority.

A licence shall not be granted for any motor omnibus fitted with cross springs, provided that this provision shall not apply to any motor omnibus licensed to carry not more than twelve (12) persons, and plying for hire on a route no part of which is within 3 miles of the Town Hall in the City of Melbourne.

The body of every motor omnibus shall be constructed in a sound and workmanlike manner, and in such manner as to afford proper protection to passengers under all conditions of weather to the satisfaction of the licensing authority.

**Doors.**—Where a motor omnibus is fitted with only one door, and where the door is situated in the forepart of the vehicle, suitable means other than such door shall be provided in that portion of the body of the omnibus which is situated at the rear of the centre line to allow passengers ready means of exit in case of emergency; such emergency provision shall be approved by the licensing authority.

Any doorway or entrance giving access to or exit from a motor omnibus shall have a width in the clear between the hand rails of not less than 22 inches.

**Seats.**—On every seat at least 16 inches measured in a straight line, with a depth of not less than 14 inches, must be allowed for each passenger, which seat must be fit and proper and convenient for use. When cross or garden seats are fitted, they shall be at least 26 inches clear from the inside back of one seat to the back of seat in front, so that there shall be room for the knees of the passengers. The passage-way between cross seats shall be at least 15 inches.

The width between seat backs when seats are placed lengthwise must not be less than 56 inches.

All seats shall be provided with closed backs.

No person except a learner, mechanic, or other official when specially authorized by the owner of any motor omnibus (such person to carry a special pass or badge), or a person authorized by the licensing authority, shall be allowed to ride beside the driver at any time.

Side screens to the driver's cabin are not permitted.

Steps must be safe and convenient; suitable and efficient means shall be provided to assist passengers entering or leaving, and the lowest step must not be more than 16 inches, and not less than 10 inches, above the ground. Steps must not project beyond the side of the omnibus.

Each motor omnibus shall be fitted with glass side windows, and one-half of total number of such windows shall be capable of being raised or lowered.

Sufficient ventilation must be provided by means other than the ordinary windows. Separate small ventilating windows are permitted, provided suitable provision is made for regulating the extent of the opening, so as to prevent unnecessary draughts.

Each motor omnibus must be suitably lighted by electricity and a step light provided, so located as to throw light on the steps at each entrance to the motor omnibus.

The machinery and all parts of the motor omnibus must be so constructed that no undue noise or vibration arises from its use.

Exhaust silencer "cut-outs" are not permitted.

At least two suitable and approved appliances for extinguishing fire must be carried in such a position as to be readily available for use, and always effectively maintained to the satisfaction of the licensing authority.

Tanks for petrol or other liquid fuel must be made of suitable material, properly constructed and of sufficient strength. They must be so placed that any overflow shall not fall upon woodwork or accumulate where it can be readily ignited. The filling nozzle or inlet for the petrol or other liquid fuel must be brought to the outside of body, and be properly guarded by gauze or other means to limit the effect of accidental ignition.

No petrol or other liquid fuel shall be placed in the tank while any passengers are in the omnibus.

No petrol or other volatile spirit shall be carried on any motor omnibus except in the operating tanks provided for the purpose.

The petrol supply must be provided with a cock with tap readily accessible from the outside to shut off the petrol supply.

The exhaust pipe must not be led inside the tray or under-shield, or be fixed in such a position that oil, or any vaporizable or inflammable material is likely to be dropped upon it.

All wires carrying electric current must be properly insulated and protected from injury, and so placed that they cannot be the cause of danger.

Effective means must be adopted for preventing the heat of the motor, generator, or of the exhaust pipe connexions from injuriously affecting any parts of the vehicle or the comfort of the passengers.

Each motor omnibus must be fitted with an approved means for enabling passengers to signal to the driver or the conductor when required.

A horn or other means of giving due warning of its approach shall be affixed in a convenient position on every motor omnibus to the satisfaction of the licensing authority.

(e) *Maintenance and Repair of Motor Omnibuses.*

Every motor omnibus must be maintained in a condition satisfactory to the licensing authority, and after a motor omnibus has been licensed under the provisions of the Act no alterations shall be made thereto or to the mechanical equipment thereof without the written approval of the licensing authority.

All parts connected by bolts, or studs, and nuts, which may be subject to severe vibration, must be fastened by lock nuts, castellated nuts, or by nuts and approved spring or lock nut washers, to prevent their working loose and causing noise.

(f) *Provision and Regulation of Efficient Brakes and Steering Gear on Motor Omnibuses.*

Each motor omnibus must be fitted with at least two independent brakes, one of which must be operated by a pedal. Each must be capable of stopping the vehicle and holding same under all conditions from forward or rearward motion. They must also be fitted, when considered necessary by the licensing authority, with an approved form of compensating device, so that the braking effect is the same on each road wheel. All brakes must be capable of easy adjustment. Brakes will not be deemed independent which operate by the same connexions, upon the same brake blocks, or upon the same brake drums. One at least must act directly upon the road wheels, and remain effective even if the driver quits his seat.

In the case of petrol-driven motor omnibuses the operation of either brake must in no case disengage the engine from the transmission gear, provided that this provision shall not apply to motor omnibuses licensed to carry not more than twelve (12) persons, and plying for hire on a route no part of which is within 3 miles of the Town Hall in the City of Melbourne.

No motor omnibus having the steering apparatus fitted upon its left side shall be licensed.

The steering arms, and other connexions thereof, must be of ample strength, and as far as possible protected from damage by collision.

Ball and socket joints of steering connexions must not be pendent; but the longitudinal or transverse rods must be carried upon and above the ball.

All brake and steering connexions secured with bolts or pins must have such bolts threaded and fitted with nuts, which latter must be locked and pinned. The whole of the brake and steering parts must be maintained in proper order, and be subject to inspection and test at any time by the licensing authority.

**(g) Prohibition of Advertisements on the Outside of Motor Omnibuses.**

Advertising matter of any description on the outside of motor omnibuses, except that indicating the route and destination of the motor omnibus, is prohibited.

**Routes and Fares.**—Routes, sections, and fares must be exhibited inside each motor omnibus in a conspicuous place approved by the licensing authority.

**(h) Furnishing to the Minister of Public Works by Owners of Motor Omnibuses of Statistics.**

The following statistics shall be furnished to the Minister by the owner of every motor omnibus licensed by the licensing authority for the year ending 31st December in each year, such statistics to be furnished not later than the 31st January following the said 31st December:—

1. Number of buses owned.
2. Maximum number of buses in service daily.
3. Minimum number of buses in service daily.
4. Routes operated.
5. Length in miles of each route operated.
6. Number of bus miles per annum on each route operated.
7. Number of passengers carried per annum over each route operated.
8. Total revenue from passengers.
9. Schedule of fares and sections.
10. Copy of last annual balance-sheet.
11. Particulars of any accidents causing injury to any person, including the amount paid by the owner by way of compensation in each case.

**(i) Limit of Speed shall not be Exceeded by Motor Omnibuses.**

No motor omnibus shall travel upon any street or road within the metropolitan area at a rate of speed—

- (a) Greater than is reasonable and proper having regard to the traffic and use of the road, or
- (b) So as to endanger any person or the safety of any property, or
- (c) Greater in any event than—
  - (i) 20 miles per hour if it be a motor omnibus fitted with no tires other than pneumatic tires;
  - (ii) 15 miles per hour if it be a motor omnibus fitted with any tires other than pneumatic tires.

At the request of the Council of any Municipality the Minister may, for the preservation of any particular section of a street or road, or during street or road repairing operations, or for any other special reason, temporarily reduce the rate of speed aforesaid, and such reduced rate of speed must be observed by the driver of every motor omnibus.

(j) Any motor omnibus licensed as a hackney under Part I. of the *Carriages Act 1915*, the licence of which was in force immediately before the commencement of these Regulations, may be exempted from the provisions of these Regulations as regards its structural requirements, only as may be determined by the licensing authority, such exemption shall be entirely at the discretion of the licensing authority, and shall have no force or effect on from, and after the 31st December, 1925.

The body of each motor omnibus shall be painted and varnished both internally and externally so as to have a presentable appearance. No omnibus shall be licensed for public use unless in this respect it meets with the satisfaction of the licensing authority.

**Penalties.**—Any person plying for hire with any motor omnibus, and the owner of such motor omnibus permitted or concerned in plying for hire therewith, who contravenes or fails to comply with any of the provisions of these Regulations shall for every such breach be liable to a penalty of not more than Twenty pounds and not less than One pound.

**Regulations to Take Effect with Regard to Licensing of Motor Omnibuses.**—The foregoing Regulations shall apply with effect with regard to the licensing of motor omnibuses by the licensing authority as hackney carriages under Part I. of the *Carriages Act 1915* and the *Motor Omnibus Act 1924*.

**Power to Licensing Authority Carrying into Effect Forgoing Regulations.**—Pursuant to the provisions of section 11 (c) of the Act referred to, the Governor in Council by these Regulations confers upon the licensing authority full power and authority for the carrying into effect by the licensing authority all of the foregoing regulations, with power to take proceedings for the recovery of the penalties herein referred to.

And the Honorable George Louis Goudie, His Majesty's Commissioner of Public Works for the State of Victoria, shall give the necessary directions herein accordingly.

F. W. MABBOTT,  
Clerk of the Executive Council.

DEPARTMENT OF PUBLIC WORKS.

RECOMMENDATION OF MELBOURNE AND METROPOLITAN TRAMWAYS BOARD THAT PORTION OF ST. KILDA-ROAD BE SET APART AS A TRAMWAYS RESERVE REFUSED.

At the Executive Council Chamber, Melbourne, the twenty-first day of January, 1925.

PRESENT:

His Excellency the Governor of Victoria.

Sir A. J. Peacock  
Dr. Argyle  
Mr. Downward

Mr. Richardson  
Colonel Bouchier  
Mr. Crockett.

HIS Excellency the Governor in Council of the State of Victoria, by and with the advice of the Executive Council thereof, in exercise of the discretionary powers conferred by section 4 (4) of the *Melbourne and Metropolitan Tramways Act 1923* (No. 3308), doth by this Order refuse the recommendation made by the Melbourne and Metropolitan Tramways Board, made pursuant to section 4 of the said Act, that a portion of St. Kilda-road, between City-road, Melbourne, and Wellington-street, St. Kilda, be set apart as a tramway reserve.

And the Honorable George Louis Goudie, His Majesty's Commissioner of Public Works for the State of Victoria, shall give the necessary directions herein accordingly.

F. W. MABBOTT,  
Clerk of the Executive Council.