

1991 - No. 193

AGRICULTURAL TENANCIES ACT 1990 - REGULATION
(Agricultural Tenancies Regulation 1991)

NEW SOUTH WALES



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His Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Agricultural Tenancies Act 1990, has been pleased to make the Regulation set forth hereunder.

IAN ARMSTRONG
Minister for Agriculture and Rural Affairs.

PART 1 - PRELIMINARY

Citation

1. This Regulation may be cited as the Agricultural Tenancies Regulation 1991.

Commencement

2. This Regulation commences on 1 May 1991.

Definitions

3. In this Regulation:

"**Chairperson**" means the Chairperson of a committee;

"**committee**" means an agricultural arbitration committee appointed under Division 2;

"**the Act**" means the Agricultural Tenancies Act 1990.

PART 2 - ARBITRATION

Division 1 - General procedure

Application for arbitration

4. (1) An application for arbitration is to be addressed to the Director-General and lodged at (or sent by post to) the head office of the Department of Agriculture and Fisheries.

(2) The application is required to be made in a form approved by the Director-General.

Service of application for arbitration

5. The Director-General must, as soon as practicable after receiving an application for arbitration, cause a copy of the application to be served on the other party (or each other party) to the dispute.

Panel of Chairpersons, owners and tenants

6. (1) The Director-General must draw up:

- (a) a list of owners, and a list of tenants, who may be appointed to a committee; and
- (b) a list of persons, being solicitors or barristers employed in the Department of Agriculture and Fisheries, who may be appointed as Chairpersons.

(2) Each list (referred to in this Regulation as a "panel") is to be kept up to date.

Division 2 - Arbitration by committee

Membership of committee

7. A committee is to consist of:

- (a) a Chairperson appointed by the Director-General from the panel of Chairpersons; and
- (b) an owner nominated by the owner concerned in the arbitration from an available members list (containing not fewer than 3 names) selected by the Director-General from the panel of owners and furnished to the owner concerned; and

- (c) a tenant nominated by the tenant concerned in the arbitration from an available members list (containing not fewer than 3 names) selected by the Director-General from the panel of tenants and furnished to the tenant concerned.

Nomination of committee members

8. (1) An applicant for arbitration must nominate a member of the arbitration committee within 21 days after receiving from the Director-General the list referred to in clause 7 (b) or (c).

(2) The respondent must nominate a member within 21 days after receiving notice from the Director-General of the application and the list referred to in clause 7 (b) or (c).

(3) If the person nominated by either party is for any reason not available to be a member of the committee, the Director-General may notify the party to that effect. The party concerned then has a further 21 days to make another nomination.

(4) The process indicated in subclause (3) may be repeated as often as may be necessary, unless the Director-General is satisfied that the party concerned is abusing the process (in which case the Director-General may treat the party as having failed to make a nomination in due time).

Default nominations

9. (1) If either or both parties fail to make a nomination in due time, the Director-General is to make a nomination or nominations from the appropriate panel or panels.

(2) A nomination made by the Director-General on the default of a party is to be taken, for the purposes of this Regulation, to have been made by the defaulting party.

Appointment of committee

10. (1) When nominations have been made in accordance with this Part to constitute a committee for the purposes of a particular arbitration, the Director-General is to notify the nominees concerned to ascertain their availability.

(2) Having regard to their availability and the availability of a Chairperson, the Director-General must fix a date for hearing of the arbitration and notify the parties and the members of the committee accordingly.

Division 3 - Arbitration by single arbitrator

Single arbitrator

11. (1) The form approved for the purposes of clause 4 must provide for the applicant to indicate whether he or she desires the application to be treated as an urgent application for the purposes of section 21 (3) of the Act.

(2) If the Director-General decides to treat the dispute concerned as a dispute to which section 21 (3) of the Act applies, the Director-General is to appoint a single arbitrator and with due expedition fix a date for hearing of the arbitration and notify the parties and the arbitrator accordingly.

PART 3 - MISCELLANEOUS

Awards

12. (1) The Chairperson or single arbitrator must:

- (a) serve a signed copy of the award on each of the parties; and
- (b) in the case of a committee, serve a signed copy of the award on the other members of the committee.

(2) An award does not have to include a statement of the reasons for making the award.

Remuneration

13. (1) The remuneration of a member of a committee, other than the Chairperson, is to be paid by the party to the arbitration by whom the member was appointed.

(2) The rate of remuneration is the rate for the time being fixed by the Minister.

Recovery of remuneration

14. Any remuneration due to a member of a committee may be recovered by the member as a debt in a court of competent jurisdiction.

1991 - No. 193

NOTE

TABLE OF PROVISIONS

PART 1 - PRELIMINARY

1. Citation
2. Commencement
3. Definitions

PART 2 - ARBITRATION

Division 1 - General procedure

4. Application for arbitration
5. Service of application for arbitration
6. Panel of Chairpersons, owners and tenants

Division 2 - Arbitration by committee

7. Membership of committee
8. Nomination of committee members
9. Default nominations
10. Appointment of committee

Division 3 - Arbitration by single arbitrator

11. Single arbitrator

PART 3 - MISCELLANEOUS

12. Awards
13. Remuneration
14. Recovery of remuneration

EXPLANATORY NOTE

The object of this Regulation is to provide for the constitution of agricultural arbitration committees, the awards to be made by such committees and the remuneration for certain members of such committees.
