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MARKETING OF POTATOES ACT 1946

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MARKETING OF POTATOES  
REGULATIONS 1987



WESTERN AUSTRALIA

MARKETING OF POTATOES ACT 1946

**MARKETING OF POTATOES REGULATIONS  
1987**

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WESTERN AUSTRALIA

MARKETING OF POTATOES ACT 1946

**MARKETING OF POTATOES REGULATIONS  
1987**

MADE by His Excellency the Governor in Executive Council.

PART I—PRELIMINARY

**Citation**

1. These regulations may be cited as the *Marketing of Potatoes Regulations 1987*.

**Commencement**

2. These regulations shall come into operation on the day fixed for the coming into operation of the provisions, other than section 6 (b), of the *Acts Amendment (Potato Industry) Act 1985*.

**Interpretation**

3. In these regulations unless the contrary intention appears—  
“licence” means a licence issued by the Authority to a grower to plant and produce potatoes for sale under section 22B of the Act.

PART II—ELECTION OF ELECTIVE MEMBERS OF AUTHORITY

**Interpretation**

4. In this Part—  
“elective member of the Authority” means a member appointed to the Authority under section 7 (3) (c) of the Act.

**The elections**

5. The Authority shall appoint a person to be the returning officer for the purpose of elections of elective members of the Authority.

**Vacancies**

6. Where any extraordinary vacancy arises or any vacancy is about to arise by effluxion of time in relation to the membership of an elective member of the Authority, the following provisions shall apply—

- (a) in the case of an extraordinary vacancy, the returning officer shall notify the Chairman of the Authority in writing as soon as possible after the extraordinary vacancy has arisen;
- (b) in the case of vacancies occurring by effluxion of time, the returning officer shall, at least three months before the term of office of an elective member will expire by effluxion of time, inform the Chairman of the Authority in writing of the name of the elective member whose term of office is about to expire, and of the day upon which the term of office will expire;
- (c) as soon as possible after a notification from the returning officer under paragraph (a) or paragraph (b) has been received, the Authority shall fix the day for the holding of the election to fill the vacancy or vacancies and shall forthwith notify the returning officer of the day;
- (d) the Authority shall ensure that the day fixed under paragraph (c) enables the returning officer to comply with paragraph (e);
- (e) upon receipt of the notice from the Authority fixing the day for the holding of the election, the returning officer shall by public notice, published not less than two months and not more than three months before the day fixed for the election, inform the commercial producers—
  - (i) of the intention to hold the election;
  - (ii) of the day fixed for the election;
  - (iii) of the nomination day; and
  - (iv) of the address of the returning officer;
- (f) the nomination day shall be not less than 14 days nor more than six weeks prior to the day fixed for the election.

**Electoral roll**

7. (1) For the purposes of elections to be held for the election of elective members of the Authority, the returning officer shall, on or as soon as possible after 30 September in each year, prepare an electoral roll from the register of commercial producers, for use at all elections whether to fill extraordinary vacancies or ordinary vacancies.

(2) The electoral roll shall be signed on each page by the returning officer, and shall continue in force until the next electoral roll has been prepared in accordance with these regulations.

(3) Where an extraordinary vacancy arises during the currency of any electoral roll, the returning officer may amend the roll by—

- (a) including persons who have become eligible for enrolment; and
- (b) by the removal of the names of persons who have ceased to be eligible for enrolment.

**Corporate bodies and partnerships**

8. (1) Where any commercial producer eligible for enrolment on the electoral roll is a corporate body, the board of directors may authorize any director, secretary or other officer (being a person not already enrolled or entitled to be on the electoral roll) to represent the corporate body as an elector, and upon receipt of an application for enrolment from a representative, together with a certificate of authority in writing from the director of the corporate body, the returning officer may enrol the representative on the electoral roll.



(2) In the case of a partnership, either one of the partners, but not more than one, at any one time may apply for enrolment and be enrolled on the electoral roll upon which the partnership is entitled to be enrolled.

(3) No person shall be entitled to be enrolled on the electoral roll more than once, whether as an elector in his own right or as the representative of a corporate body, or as a partner in a partnership, or otherwise.

(4) Every certificate of authority given under subregulation (1) shall remain effective for all subsequent elections and electoral rolls until written notice of revocation is sent or delivered to the returning officer.

(5) Any corporate body may cancel or revoke any certificate of authority given by it under this regulation by notice in writing from the board of directors, sent or delivered to the returning officer.

(6) Any cancellation or revocation referred to in subregulation (5) shall not invalidate any vote given by the representative enrolled and voting by virtue of a certificate of authority at an election held prior to the cancellation or revocation.

(7) Upon receipt of notice of cancellation or revocation of authority, the returning officer shall forthwith remove from the electoral roll the name of the representative certificate whose authority has been cancelled or revoked.

#### **Nominations**

9. (1) A person who is a commercial producer and is not—

- (a) an undischarged bankrupt; or
- (b) a person who has been convicted of an indictable offence for which a sentence of imprisonment for 12 months or longer may be imposed,

may nominate for election for appointment as an elective member of the Authority.

(2) Every nomination of a candidate for election as an elective member of the Authority—

- (a) shall be made in writing, in the form of Form 1 in Schedule 1;
- (b) shall be signed by the candidate and by a proposer and seconder, both of whom shall be persons enrolled on the electoral roll to be used at the election; and
- (c) shall be sent or delivered to the returning officer so as to be in his hands not later than 12 o'clock noon of the nomination day for the election.

(3) Every nomination form received by the returning officer after the time specified in subregulation (2) (c) shall be rejected by him.

(4) Forthwith, after 12 o'clock noon of the nomination day, the returning officer shall examine all the nominations received by him and satisfy himself that the candidates whose names appear on the nomination forms are eligible for election, and that the persons who have signed the forms as proposer and seconder are entitled to do so.

(5) The returning officer shall reject any nomination form which, in his opinion, is not in order as required by these regulations, and any such rejection shall be final and conclusive.

(6) Where the number of candidates nominated does not exceed the number of candidates to be elected, the returning officer shall forthwith certify that fact to the Authority, together with the names, addresses and occupations of the candidates nominated in accordance with Form 2 in Schedule 1 and such certificate, when received by the Authority, shall be final and conclusive evidence of the election of the candidates as members of the Authority.

(7) Where the Chairman of the Authority receives the certificate specified in subregulation (6) he shall cause a copy to be published in the *Government Gazette* and in a newspaper published in Perth.

(8) Where the number of candidates nominated exceeds the number to be elected, the returning officer shall hold an election in accordance with these regulations.

#### **Polling**

10. (1) Where an election is necessary to elect an elective member or elective members of the Authority, the returning officer shall, as soon as practicable after the closing time for the receipt of such nominations, but within seven days, cause ballot papers to be printed in accordance with Form 3 in Schedule 1 containing the names of all the candidates in alphabetical order.

(2) The ballot paper shall set forth in a space provided for the purpose notice of the day fixed for the closing of the poll.

#### **Ballot papers sent to electors**

11. (1) The returning officer shall send by prepaid post to each person, whose name appears as an elector on the electoral roll, to his postal address as shown on his application for enrolment, one ballot paper, with the initials of the returning officer, or of some other person authorized in that behalf by the returning officer, endorsed on the back, together with an envelope marked "Ballot Paper Envelope", and another envelope addressed to the returning officer and a form of statement in Form 4 in Schedule 1, to be completed and signed by the elector.

(2) The returning officer may, before sending Form 4 to an elector, fill in the particulars to be furnished so that it will be ready for signature and completion by the elector when marking his ballot paper.

(3) A person whose name is not on the electoral roll is not entitled to receive a ballot paper or to vote at the election.

#### **Ballot papers returned to returning officer**

12. (1) For the purpose of casting his vote at the election, the elector shall mark his vote on the ballot paper, and shall then place it in the envelope marked "Ballot Paper Envelope", and seal the envelope.

(2) He shall then sign and complete the statement in accordance with the directions and then place the sealed envelope, with the ballot paper enclosed and the statement signed and completed in the envelope addressed to the returning officer, and seal the envelope.

(3) The elector may then send by prepaid post or may deliver the envelope addressed to the returning officer, with its said enclosures, to the returning officer at his address shown on the envelope, but so that such envelope shall be in the hands of the returning officer not later than 4.00 pm on the day fixed for the closing of the poll.

#### **Lost ballot papers**

13. If, prior to the closing of the poll, an elector satisfies the returning officer that he has not received a ballot paper and is entitled to vote at the election, or that the ballot paper or envelopes received by him have been lost or destroyed, and that he has not already voted at the poll, the returning officer may post or give personally to the elector a ballot paper and envelopes or a further ballot paper and envelopes, as the case may be.

#### **Preferential voting**

14. (1) Voting shall be by means of a preferential ballot.

(2) When only one candidate is to be elected and there are not more than two candidates, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes.

(3) When only one candidate is to be elected and there are more than two candidates, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference, and he shall give contingent votes for all the remaining candidates by placing the numerals 2, 3 and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of his preference.

(4) When two candidates are to be elected, the elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference and the numeral 2 opposite the name of the candidate for whom he votes as his second preference, and he shall give contingent votes for all the remaining candidates by placing the numerals 3, 4 and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of his preference.

#### **Ballot papers**

15. (1) The returning officer shall keep a locked and sealed ballot box, marked with the words "Potato Marketing Authority Ballot Box", and, when the envelope containing the ballot paper and the statement is received by him from an elector, he shall open the outer envelope and extract the statement and the sealed envelope containing the ballot paper.

(2) He shall examine the statement and satisfy himself that it is in order and that the elector who signed the statement is enrolled on the electoral roll and entitled to vote.

(3) Where he is so satisfied, he shall place the statement in some place of security for safe keeping and shall immediately place the envelope containing the ballot paper unopened in the ballot box until the close of the poll.

(4) If, upon examining the statement, the returning officer is not satisfied that the statement is in order, or that the person who signed it is enrolled on the electoral roll and entitled to vote, he shall retain the statement and the envelope containing the ballot paper unopened in a safe place and at once notify that person in writing that his ballot paper has not been accepted for the reasons to be stated in the notice.

(5) If, before the closing of the poll, a voter who has received notice as provided for in subregulation (4) satisfies the returning officer that he is an elector and entitled to vote at the election, the returning officer shall forthwith place the sealed envelope containing the voter's ballot paper unopened in the ballot box until the closing of the poll.

(6) If a voter who has received notice as provided for in subregulation (4) fails to satisfy the returning officer in the manner required by subregulation (5), the returning officer shall reject the ballot paper received from the voter.

(7) Upon such rejection he shall endorse on the envelope containing the ballot paper the word "Rejected", and sign it, and then place the envelope unopened in some place of security for safe keeping until after the election.

#### **Scrutineers**

16. (1) Each candidate at an election shall be entitled to appoint, in writing, one scrutineer to be present when the envelopes containing ballot papers relating to the election are being opened at the commencement of the scrutiny and to remain during the scrutiny.

(2) Every scrutineer shall, before he acts, make and sign, before the returning officer a declaration in accordance with Form 5 in Schedule 1.

#### **The scrutiny**

17. (1) The counting of the votes cast at an election shall be carried out by the returning officer, in the presence of the scrutineers, at the office of the returning officer, and shall not commence until after 4.00 pm on the election day.

(2) The returning officer may from time to time adjourn the scrutiny to a day and hour fixed by him and notified to the scrutineers.

(3) The returning officer may appoint any officers he considers necessary to assist in the conduct and count of an election.

(4) Subject to this regulation the method of conducting the count shall be the same as that prescribed under the *Electoral Act 1907*, for the counting of the votes taken at an election of members of the Legislative Assembly except that—

- (a) where two candidates are to be elected the count of the votes will proceed until one candidate has received an absolute majority, when he shall be declared elected;
- (b) the first elected candidate shall then be eliminated from the count, and to proceed with the election of the second candidate, all the ballot papers, including those which have been set aside as exhausted, shall be brought into operation and again sorted into first preference votes;
- (c) the first preference votes of the eliminated successful candidate shall be distributed according to the second preference markings to the remainder of the candidates, and when added to their respective first preference votes shall constitute the first count for the second candidate; and
- (d) the procedure from then on shall be the same as in the counting of votes for the election of one candidate.

(5) Votes shall not be informal except where specified in these regulations.

(6) As soon as practicable after the closing of the poll, the returning officer shall, in the presence of the scrutineers—

- (a) open the ballot box and remove the envelopes containing the ballot papers;
- (b) open the envelopes containing the ballot papers and extract the ballot papers;
- (c) examine every ballot paper and satisfy himself that each ballot paper is endorsed with the authorized officer's initials and decide whether the ballot paper is formal or informal; and
- (d) count all formal ballot papers and reject all informal ballot papers.

(7) The returning officer shall be the sole and final judge as to whether a ballot paper is informal.

(8) Any candidate may attend and be present at the counting of the votes.

#### **Informal ballot papers**

18. (1) A ballot paper shall be informal—

- (a) if it is not initialed by the returning officer or the other officer authorised in that behalf;
- (b) if, subject to this regulation, it is marked in any other manner than prescribed in regulation 14; or
- (c) if it has upon it any mark or writing not authorized by these regulations, which in the opinion of the returning officer will enable any person to identify the elector; or
- (d) if it does not indicate the elector's vote, or, if when there are more than two candidates it is not marked so as to effectively indicate the elector's preference as regards all candidates; or
- (e) if no mark is indicated on it.

A ballot paper shall not be informal for any reason other than the reasons stated in subregulation (1), but shall be given effect to according to the elector's intention so far as his intention is clear, and, in particular when only one candidate is to be elected and there are only two candidates, a ballot paper shall not be informal by reason only of the elector having indicated his vote or first preference by a mark instead of the numeral 1.

#### **Returning officer to declare election result**

19. When the returning officer has completed the counting of the votes, he shall declare the result of the election in the presence of the scrutineers and of any candidates who may be present at the time.

#### **Returning officer to issue certificate**

20. (1) When the result of an election has been ascertained and declared, the returning officer shall forthwith furnish to the Authority a certificate of the result in accordance with Form 6 in Schedule 1, and state the names, addresses, and occupations of the candidates who have been elected, and the certificate, when received by the Authority, shall be final and conclusive evidence of the election of the candidates as members of the Authority.

(2) After the receipt by the Authority from the returning officer of the certificate mentioned in subregulation (1), the Authority shall cause a copy to be published in the *Government Gazette*, and a newspaper published in Perth.

#### **Electors shall be commercial producers**

21. Where any person whose name appears on the electoral roll to be used at any election has since enrolment ceased to be a commercial producer that person shall not be entitled to vote at any election held subsequently to his ceasing to be a commercial producer merely because his name appears as an elector on the electoral roll, and in any case the returning officer, upon it coming to his knowledge that the person is no longer a commercial producer shall cause his name to be struck off the roll.

#### **Ballot papers retained for three months**

22. The returning officer shall retain all ballot papers and statements received by him in connection with any election held under these regulations until the expiration of three months after the declaration of the result of the election, and may then cause the ballot papers to be destroyed.

#### **Costs of an election**

23. Subject to section 8 (2) of the Act all costs, charges, and expenses as incurred by the returning officer in connection with the publication of notices, the receipt of nominations of candidates for election, preparation of electoral rolls, and the conduct of elections, including any fee that may be allowed, or in connection with any other matters incidental thereto and as certified in writing by the returning officer, and communicated by the returning officer to the Authority, shall be paid by the Authority or reimbursed to the returning officer by the Authority out of moneys from time to time in its hands and the Authority may at its own expense have the accounts of the returning officer audited by the Auditor General, whose decision shall be final as between the parties concerned.

#### **Offences**

24. Any person who, not being entitled to be enrolled as an elector for the purpose of an election held under the Act makes a claim to be enrolled, and any person who makes any statement which is to his knowledge false in any application for enrolment, or in any statement accompanying a ballot paper verifying the voter's right to vote, shall be guilty of an offence.

Penalty: \$200.

**PART III—PRESCRIBED FORMS****Certificate of evidence of delivery**

25. A certificate of evidence of delivery referred to in section 5 of the Act shall be in the form of Form 1 in Schedule 2.

**Certificate of refusal**

26. A certificate of refusal referred to in section 23 (2) of the Act shall be in the form of Form 2 in Schedule 2.

**Notice of claim**

27. A notice of claim referred to in section 34 (3) of the Act shall be in the form of Form 3 in Schedule 2.

**Notice of security**

28. A notice referred to in section 35 (1) of the Act shall be—

- (a) in the form of Form 4 in Schedule 2 when given by the grower; or
- (b) in the form of Form 5 in Schedule 2 when given by the person entitled to the benefit of a security.

**PART IV—FUNCTION, AUTHORITIES AND DUTIES OF INSPECTORS****Inspector may enter upon land**

29. Any inspector appointed by the Authority may at all reasonable times enter upon any land or premises on which potatoes are produced, stored, graded, packed or otherwise treated and may—

- (a) measure and record the area planted with potatoes;
- (b) inspect any records or accounts in relation to the production or sale of potatoes;
- (c) inspect any stocks of potatoes or potato containers; and
- (d) where in the opinion of an inspector, these regulations are not being complied with, he may—
  - (i) take notes, copies, extracts or impound the records and accounts referred to in paragraph (b); and
  - (ii) take samples of or impound any stocks of potatoes or potato containers.

**Inspector may supervise grading and packing**

30. Where directed by the Authority an inspector may enter upon land or premises on which potatoes are produced, stored, graded, packed or otherwise treated for the purpose of supervising the grading and packing of potatoes.

**Persons to state name of consignor or supplier**

31. A person carrying on any business or employed on the land or premises in which potatoes are produced, held, stored, graded, packed or otherwise treated shall if requested so to do by a person so authorized, state in writing the name and address of the person from whom potatoes displayed for sale or held on the land or premises were purchased, consigned, or supplied.

**Inspector may inspect crops grown under contract**

32. Where directed by the Authority an inspector may inspect potatoes, the subject of a contract referred to in section 26A and 26B of the Act—

- (a) in the ground;
- (b) upon harvesting; and
- (c) upon delivery to the potato product manufacturer or the potato exporter as the case may be.

**Offences**

33. Any person who delays or obstructs an inspector or fails to comply with any requirement made by an inspector in the exercise of his powers under this Part or who being the occupier or owner of premises, refuses to permit an inspector to carry out his duties under this Part, commits an offence.

Penalty: \$200.

**PART V—CONTRACTS UNDER SECTIONS 26A AND 26B****Interpretation**

34. In this Part—

“a registered contract” means a contract registered by the Authority under section 26A or 26B of the Act.

**Provisions to be included in registered contracts**

35. (1) Contracts referred to in sections 26A and 26B of the Act shall include the following provisions—

- (a) the name of the grower;
- (b) the area to be planted with potatoes by variety under the registered contract;
- (c) the location of the area referred to in paragraph (b);
- (d) the variety or varieties of potatoes to be planted; and
- (e) the expected yield of potatoes by variety per hectare planted.

(2) A contract referred to in section 26A of the Act shall, in addition to the provisions referred to in subregulation (1), include the following provisions—

- (a) the name of the potato product manufacturer;
- (b) the tonnage which the grower agrees to sell and deliver to the potato product manufacturer referred to in paragraph (a); and
- (c) the manner in which the contract may be varied to allow the potato product manufacturer, or the grower, to sell any potatoes which are unsuitable for the manufacture of potato products to a potato exporter or to the Authority.

(3) A contract referred to in section 26B of the Act shall, in addition to the provisions referred to in subregulation (1), include the following provisions—

- (a) the name of the potato exporter; and
- (b) the tonnage which the grower agrees to sell and deliver to the potato exporter referred to in paragraph (a); and
- (c) the manner in which the contract may be varied to allow the potato exporter or the grower to sell any potatoes, which do not comply with or have been rejected under the *Export Control Act 1982* of the Commonwealth, to a potato product manufacturer or to the Authority.

**Fees for registration of a contract**

36. The prescribed fees for the registration of a contract under sections 26A or 26B of the Act shall be paid by the grower in accordance with Table 1 in Schedule 3.

**Harvesting of potatoes**

37. A grower, producing potatoes under a registered contract shall notify the Authority—

- (a) not less than two days before commencing to harvest the potatoes the day on which he intends to do so; and
- (b) when harvesting is completed.

**Notice of delivery to be given to the Authority**

38. Where potatoes are delivered by a grower to a potato product manufacturer or a potato exporter, in accordance with a registered contract, the potato product manufacturer or the potato exporter shall notify the Authority in writing no later than two days after the day of delivery—

- (a) the name of the grower;
- (b) the variety or varieties delivered;
- (c) the day of delivery; and
- (d) the quantity of each variety delivered.

**Offences**

39. A person who—

- (a) knowingly makes a false statement in a contract submitted to the Authority; or
- (b) does not comply with any of the requirements of this Part,

commits an offence.

Penalty: \$200.

**PART VI—GRADING AND PACKING STANDARDS***Division 1—Preliminary***Interpretation**

40. In this Part unless the contrary intention appears the following terms when applied to potatoes have the meanings respectively set out—

- “abnormal external moisture” means distinctly wet (but does not include condensation following release from cold storage);
- “bright” means that the skin has a natural bloom and is not disfigured;
- “brushed” means potatoes which have been subjected to a dry brushing treatment removing most of the soil adhering to the potatoes;
- “class” means the quality grade into which potatoes are classified;
- “clean” means practically free from soil or other foreign matter either on the surface of the potato or present in the package;
- “disorder” means any abnormal physiological condition which effects the potatoes internally or externally;
- “firm” means the potatoes must have retained their turgescence with the skin tight and the flesh resistant to slight thumb pressure;



“mature” means that the skin covers the whole surface and during ordinary processes of handling does not loosen or feather readily (with the exception of new potatoes), “immature” has the contrary meaning;

“sound” means not soft or wilted, practically free from damage by pest and disease, free from rots, excessive bruising or physical injuries both internal or external likely to affect the keeping qualities of the potatoes;

“variety” means that the potatoes are distinguishable by visual characteristics;

“washed” means potatoes which have been subjected to washing treatment which removes practically all the soil from the potatoes;

“well shaped” means that the potato has the normal shape for the variety;

“whole” means that the potatoes are intact.

#### **Application**

41. This Part does not apply where potatoes are—
- (a) sold or intended to be sold for use as seed; or
  - (b) supplied in accordance with a contract under section 26A or 26B.

#### *Division 2—Delivery Standards*

##### **Minimum standards for potatoes delivered to the Authority**

42. Potatoes delivered to the Authority in accordance with the conditions of a licence issued by the Authority shall meet the following minimum standards—

- (a) whole;
- (b) sound;
- (c) firm;
- (d) free from second growth and practically free from greening and sprouting;
- (e) free from serious damage by pests and diseases;
- (f) free from serious deformities and serious cracks;
- (g) free from hollow hearts and other internal disorders;
- (h) free from frost damage;
- (i) free from abnormal external moisture; and
- (j) free from foreign smell and taste.

#### *Division 3—Pack Out Standards*

##### **Grade standards of potatoes**

43. Potatoes prepared by the Authority for wholesale or retail shall be graded according to their quality as—

- (a) Premium washed class;
- (b) Class 1;
- (c) Class 1 (new);
- (d) Class 2; or
- (e) Class 2 (new).

##### **Requirements for Premium washed class potatoes**

44. Potatoes graded as Premium washed class shall be—

- (a) mature;
- (b) well shaped, not abnormally elongated for the variety or dumbbell shaped;

- (c) in any package, similar in colour and general appearance;
- (d) practically free from disorders and disease detrimental to their appearance or to their quality;
- (e) free from cracks, cuts, bruises or other injury;
- (f) practically free from waste;
- (g) free from sunburn and greening;
- (h) washed, with a bright skin; and
- (i) clean.

**Requirements for Class 1 potatoes**

45. Potatoes graded as Class 1 shall meet the standards for Premium washed class and they may—

- (a) be untreated, brushed or washed; and
- (b) have superficial skin blemishes which are removable in the ordinary course of peeling.

**Requirements for Class 1 (new) potatoes**

46. Class 1 (new) potatoes shall have immature skins and otherwise satisfy the requirements specified for Class 1 potatoes.

**Requirements for Class 2 potatoes**

47. Class 2 potatoes shall satisfy the minimum delivery standards specified in regulation 42 and shall be—

- (a) mature;
- (b) reasonably clean;
- (c) in any package, similar in colour and general appearance; and
- (d) practically free from waste,

and may—

- (e) be less well shaped than Class 1 potatoes; and
- (f) have small injuries which are removable in the ordinary course of peeling without appreciable loss.

**Requirements for Class 2 (new) potatoes**

48. Class 2 (new) potatoes shall have immature skins and otherwise satisfy the requirement specified for Class 2 potatoes.

*Division 4—Sizing of potatoes***Sizing of potatoes**

49. Potatoes shall be graded into sizes determined by the mass of the potato and shall comply with one of the following size grades—

- (a) chats—no less than 5 grams and not more than 30 grams;
- (b) small—not less than 30 grams and not more than 100 grams;
- (c) medium—not less than 100 grams and not more than 250 grams;
- (d) large—not less than 250 grams and not more than 450 grams;
- (e) extra large—not less than 450 grams; and
- (f) any combination of (a) to (e) provided that the mass range is marked on the package.

*Division 5—Tolerances***Permitted tolerances**

50. The condition on which tolerances apply are—
- (a) in relation to quality—
    - (i) Premium washed class—where a maximum of two per cent by net mass of potatoes not satisfying the requirements for the class, but meeting the requirements for class 1 is permitted, without the tolerances permitted for Class 1;
    - (ii) Class 1—where a maximum of five per cent by net mass of potatoes not satisfying the requirements for Class 1, but satisfying the requirements for Class 2 is permitted without the tolerances permitted for Class 2;
    - (iii) Class 2—where a maximum of five per cent by net mass of potatoes not satisfying the requirement for the class nor the minimum delivery requirements is permitted, with the exception of produce affected by rotting or any other defect rendering them unfit for human consumption; and
    - (iv) Minimum delivery standard—where a maximum of five per cent by net mass of potatoes not satisfying the requirements of the standard, is permitted, with the exception of produce affected by rotting or any other defect rendering them unfit for human consumption;
  - (b) in relation to size a maximum of five per cent by net mass of potatoes falling outside the size or size range stated on the trade description on the package, is permitted; and
  - (c) in relation to other varieties a maximum of two per cent by net mass is permitted.

*Division 6—Presentation, Packaging and Trade Description***Presentation of produce**

51. (1) Each package shall be filled and packed in a manner which will allow the potatoes to withstand handling and transport.
- (2) Each package or lot shall contain only potatoes of the same variety, quality and degree of maturity.
- (3) Any potatoes that are visible in the package shall be representative of the contents of that package.

**Packaging materials**

52. Packages into which potatoes are to be packed shall be—
- (a) new, except for bulk bins and returnable crates;
  - (b) clean;
  - (c) practically free from soil and other foreign matter;
  - (d) of a quality, design and construction suitable for protecting the potatoes from damage; and
  - (e) approved by the Authority.

**Trade description**

53. (1) The package in which potatoes are sold shall be labelled "POTATOES" and shall specify—

- (a) the name of the variety;
- (b) the class and size or size range;
- (c) the net mass of potatoes in the package; and
- (d) the name of the packer of the potatoes or the code of the packer as registered with the Authority.

(2) Trade description details shall be in characters not less than five millimetres high.

**Display for retail sale**

54. There shall be attached to each display of potatoes not packaged but exposed for sale by retail a readily visible sign or label, with characters not less than 25 millimetres in height, showing the class of the potatoes.

*Division 7—Offences***Potatoes to be graded, sized and packed in accordance with this Part**

55. (1) Except where the Authority purchases or takes delivery of potatoes from a grower a potato product manufacturer or a potato exporter, a person shall not sell potatoes unless—

- (a) the potatoes are graded, sized and packed in accordance with this Part; and
- (b) the potatoes are contained in a package in accordance with Division 6 or displayed for self selection in accordance with regulation 54.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence.

Penalty: \$200.

**PART VI—REPEALS****Regulations repealed**

56. The Marketing of Potatoes (Licensing of Growers) Regulations, the Marketing of Potatoes (Election of Elective Members) Regulations and the Marketing of Potatoes (Powers of Inspectors) Regulations are repealed.

**PART VII—TRANSITIONAL****Modification of other Parts**

57. The provisions of the other Parts of these regulations shall be read and construed with such modifications as are necessary by reason of the transitional provisions of Schedule 4.

**Interpretation Act 1984 not affected**

58. The transitional provisions of Schedule 4 do not affect the operation of the *Interpretation Act 1984*.

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Schedule 1

FORMS FOR ELECTIONS

Form 1

(Reg 9 (2) (a))

Marketing of Potatoes Act 1946

NOMINATION FORM

We, (a)....., of (b)....., in the State of Western Australia, (c)....., and (d)....., of (b)....., in the State of Western Australia (c)....., being electors duly enrolled upon the electoral roll of commercial producers, do hereby, as proposer and seconder respectively, nominate (e)....., of (f)....., in the State of Western Australia, (g)....., as a candidate for election under section 8 (1) of the Marketing of Potatoes Act 1946, as an elective member of the Western Australian Potato Marketing Authority, for the purpose of the election to be held on....., 19....., for the election of elective members of the Authority under the Act.

Dated....., 19.....

(h).....Proposer.

(i).....Seconder.

I, (e)....., consent to the above nomination, and state that I am a person eligible for nomination within the meaning of the Act for the following reasons, namely—

(j) .....

.....

Dated....., 19.....

(k).....Candidate.

(a) Full name of proposer; (b) address; (c) occupation; (d) full name of seconder; (e) full name of candidate; (f) his address; (g) his occupation; (h) signature of proposer; (i) signature of seconder; (j) here state grounds upon which the candidate claims to be eligible for nomination as a candidate; (k) signature of candidate.

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Form 2

(Reg 9 (6))

Marketing of Potatoes Act 1946

CERTIFICATE OF ELECTION OF CANDIDATE UNDER REGULATION 9 (6)

To: The Western Australian Potato Marketing Authority:

I, (a)....., being the Returning Officer duly appointed under and for the purposes of the regulations made under the Marketing of Potatoes Act 1946, do hereby certify—

(1) That in connection with the nomination of candidates for election as Members of the Western Australian Potato Marketing Authority received up to 12 o'clock noon on (b)....., 19..... being the last day for the nomination of candidates for the election to be held on....., 19....., under section 8 (1) of the Act the following candidate (or candidates) was (or were) nominated, namely—

(c) .....  
.....

(2) That the nomination form (or forms) of the candidate (or candidates) was (or were) in order as required by the regulations; that the candidate (or candidates) was (or were) eligible for nomination and election, and that the persons who signed the nomination form (or forms) as proposer and seconder were entitled so to sign the same.

(3) That the number of candidates nominated did not exceed the number of candidates to be elected as Members of the Western Australian Potato Marketing Authority; and

(4) That (d)..... is (or are) the person (or persons) now elected as elective members as required by the Act for appointment by the Governor as a member (or members) of the Authority.

Dated....., 19.....

.....  
Returning Officer.

(a) Full name of Returning Officer; (b) the last day for receiving nominations of candidates; (c) set out the full name, address and occupation of each candidate; (d) full name of each candidate.

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Form 3

(Reg 10 (1))

Marketing of Potatoes Act 1946

BALLOT PAPER

For use in an election of (a) ..... person (or persons) to be elected as the elective member (or members) of the Western Australian Potato Marketing Authority under section 8 (1) of the Act.

The Ballot Paper marked and completed in accordance with these directions must be received by the Returning Officer not later than 4 pm on (b) ..... 19.....

Names of Candidates (in alphabetical order).	Vote (in order of preference).
(c) .....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>

Directions for Voting

- (1) Voting shall be by means of a preferential ballot.
- (2) The elector shall mark his vote on the ballot paper by placing in the column headed "Vote" the numeral 1 opposite the name of the candidate for whom he votes as his first preference, by placing in the column the numeral 2 opposite the name of the candidate for whom he votes as his second preference and he shall give contingent votes for all the remaining candidates by placing the numerals 3, 4, and so on (as the case requires) opposite their names so as to indicate by the numerical sequence the order of his preference.
- (3) The elector shall then place the ballot paper in the envelope marked "Ballot Paper Envelope" and seal the envelope.
- (4) The elector shall then sign and complete Form 4.
- (5) The elector shall then place the ballot paper envelope sealed and Form 4 in the envelope addressed to the Returning Officer, and send the envelope by prepaid post or deliver the envelope to the Returning Officer.
- (6) The envelope, addressed to the Returning Officer, with its contents, must be received by the Returning Officer before the time fixed for the closing of the poll as notified above, otherwise the envelope and the ballot paper will be rejected.
  - (a) one or two as the case may be;
  - (b) the day fixed for the closing of the poll;
  - (c) insert full names of candidates in alphabetical order.

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Form 4

(Reg 11 (1))

Marketing of Potatoes Act 1946

STATEMENT BY ELECTOR TO ACCOMPANY BALLOT PAPER

I, (a)....., of (b) ....., in the State of Western Australia, (c) ..... hereby submit the following facts in verification of my right to vote, according to the accompanying ballot paper.

- (1) I am an elector duly enrolled on the electoral roll of commercial producers and am still a commercial producer within the meaning of the Act.
(2) That as an elector I am entitled to vote in the election now being held and closing at 4.00 pm on the (d) ....., 19....., for the election of (e) ..... person (or persons) as the elective member (or members) of the Western Australian Potato Marketing Authority.
(3) That I have not voted previously in this election.
(4) That I make this statement with the full knowledge of the fact that if it is wilfully false in any particular I am liable to a penalty under the regulations not exceeding the sum of \$200.

(Signature of Elector)

(a) Full name of elector; (b) address; (c) occupation; (d) date of election; (e) one or two, as the case may be.

Form 5

(Reg 16 (2))

Marketing of Potatoes Act 1946

DECLARATION BY SCRUTINEER

I, (full name) ....., of (address) ....., declare that I will faithfully and impartially, according to the best of my skill and judgment, carry out the duties required of me as a Scrutineer, in connection with the election of elective members to the Western Australian Potato Marketing Authority, and I further declare that I will not attempt to ascertain how any person shall vote or has voted, and that if in the discharge of my duties at or concerning the election I learn how any person has voted, I will not by word or act directly or indirectly divulge or discover or aid in divulging or discovering the information.

Signature.....

Declared before me at ..... this ..... day of ....., 19.....

Returning Officer.



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Form 6

Marketing of Potatoes Act 1946

(Reg 20 (1))

CERTIFICATE BY RETURNING OFFICER OF RESULT OF AN ELECTION

I, (a)....., Returning Officer duly appointed under the Marketing of Potatoes Act 1946, certify as follows—

(1) That in accordance with the Act I have held an election, which closed at 4 pm on (b)....., 19....., for the election of (c)..... person (or persons) as the elective member (or members) of the Western Australian Potato Marketing Authority under section 8 (1) of the Act.

(2) That the candidates at the election were—

.....  
.....  
.....

(3) That the voting resulted as follows—

(1) On the first count:

(e).....  
.....  
.....

(2) On the second count:

(e).....  
.....  
.....

(3) On the third count:

(e).....  
.....  
.....

(4) On the final count:

(e).....  
.....  
.....

(4) That as the result of the voting (f)..... was (or were) duly elected as the person (or persons) to be the elective member (or members) of the Western Australian Potato Marketing Authority.

(5) That I declare (f)..... to have been duly elected as the elective member (or members) on the (g)....., 19.....

(6) As the result of the election (f)..... is (or are) now the elective member (or members) as required by the Act for appointment by the Governor as a member (or members) of the Authority.

(7) That the following is a statistical return of the voting at the election—

Total number of electors on roll

Number of electors who voted

Number of formal votes counted

Number of votes rejected—

(a) for informality of ballot paper

(b) received after close of poll

(c) insufficient postage

Dated....., 19.....

(h) .....  
Returning Officer.

(a) Full name of Returning Officer; (b) date fixed for closing of poll; (c) one or two, as the case may be; (d) set out the full names, addresses, and occupations of all the candidates in alphabetical order; (e) set out the names of the candidates, with the number of votes gained by them; (f) set out the name of one candidate, or if two required, the two candidates elected; (g) date of declaration of the result of the poll; (h) signature of Returning Officer.

SCHEDULE 2

PRESCRIBED FORMS

Form 1

(Regulation 25)

Marketing of Potatoes Act 1946

CERTIFICATE OF EVIDENCE OF DELIVERY

Details of consignment

Name of grower .....

Address of grower .....

Licence No. ....

Variety	Quantity

This consignment was delivered to .....  
(premises)  
on ..... and being of the prescribed quality  
(date)  
is accepted by the Potato Marketing Authority.

Signed by .....  
on behalf of the Potato Marketing Authority.

Name in block letters of person signing above  
....., 19.....

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Form 2

(Regulation 26)

Marketing of Potatoes Act 1946

CERTIFICATE OF REFUSAL

To .....  
(Name of grower)

of .....  
(address)

Details of consignment

Name of grower .....

Address of grower .....

Licence No. ....

This consignment was inspected at .....  
(premises)

on ..... and found to be below the  
(date)  
prescribed quality.

Under section 23 (2) of the Act, the Potato Marketing Authority refuses to accept delivery of these potatoes.

Signed by .....  
on behalf of the Potato Marketing Authority.

.....  
Name in block letters of person signing above

....., 19.....

22

Form 3

(Regulation 27)

Marketing of Potatoes Act 1946

NOTICE OF CLAIM

To: The Potato Marketing Authority.

1. I, ..... (name of claimant)
of ..... (address of claimant)

give notice that the consignment referred to in item 2 is subject to the claim referred to in item 3.

2. Details of consignment

Name of grower .....

Address of grower .....

Licence No. ....

Date of delivery .....

Place of receipt .....

Table with 2 columns: Variety, Quantity. Includes horizontal lines for data entry.

3. Particulars of claim

(a) Particulars of security .....

(b) Amount due and owing.....

(Signature of claimant)

23

Form 4

(Regulation 28 (a))

Marketing of Potatoes Act 1946

NOTICE OF SECURITY OVER CROP OR POTATOES  
GIVEN BY A GROWER

To: The Potato Marketing Authority.

The consignment referred to in item 1 is subject to the security referred to in item 2.

1. Details of consignment

Name of grower .....

Address of grower .....

Licence No. ....

Date of delivery .....

Place of receipt .....

Variety	Quantity

2. Particulars of security

.....  
(Signature of grower)

.....19.....

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Form 5

(Regulation 28 (b))

Marketing of Potatoes Act 1946

NOTICE OF SECURITY OVER CROP OR POTATOES  
GIVEN BY HOLDER OF SECURITY

To: The Potato Marketing Authority.

The consignment referred to in item 1 is subject to the security referred to in item 2.

1. Details of consignment

Name of grower .....

Address of grower .....

.....

Licence No. ....

Date of delivery .....

Place of receipt .....

Variety	Quantity

2. Particulars of security

.....  
(Signature of holder of security)

.....19.....

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SCHEDULE 3

FEES

Table 1

(Reg 36)

Fees for Registration of Contracts under sections 26A and 26B

Item	Tonnage Specified under Regulation 35 (2) (b) or (3) (b)	Fee \$
1.	250 tonnes and under.....	25
2.	251-500 tonnes.....	30
3.	501-1 000 tonnes.....	40
4.	1 001 and over.....	50

(Regs 57 & 58)

SCHEDULE 4

TRANSITIONAL

**Transitional—Matters pending before the commencement of these regulations**

1. Division 6 of Part VI does not apply to potatoes graded and marked in accordance with the *Ware Potato Grading and Packing Code 1985* before the commencement of these regulations.

By His Excellency's Command,  
L. E. SMITH,  
Clerk of the Council.

