

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to make various amendments to the Rural Lands Protection Act 1998 (the Principal Act) relating to the accounting, auditing and annual reporting obligations of:

- (a) rural lands protection boards (RLP Boards), and
- (b) the State Council of Rural Lands Protection Boards (the State Council).

The various amendments are detailed in the Outline of provisions below.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Rural Lands Protection Act 1998 set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the other legislation set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Amendments relating to accounting, auditing and reporting obligations of rural lands protection boards

Currently, RLP Boards are “statutory bodies” within the meaning of the Public Finance and Audit Act 1983. As such, RLP Boards are subject to the requirements of that Act relating, among other things, to accounting, auditing and financial reporting. Such statutory bodies are also subject to the Annual Reports (Statutory Bodies) Act 1984.

Schedule 2.2 amends Schedule 2 to the Public Finance and Audit Act 1983 to remove RLP Boards from the operation of that Act.

Schedule 1 [10] inserts proposed Divisions 4A and 4B into Part 6 of the Principal Act to make specific provision for RLP Boards in relation to the keeping of accounting records, the preparation of financial reports and the auditing of those records and reports.

Proposed Division 4A (Accounting records, financial reports and auditing) contains proposed sections 55A to 55F.

Proposed section 55A provides that a RLP Board must keep accounting records to correctly record and explain its financial transactions and its financial position.

Proposed section 55B provides that a RLP Board must prepare an annual financial report. The proposed section also sets out what must be included in RLP Board financial reports.

Proposed section 55C provides that a RLP Board’s auditor must audit the RLP Board’s financial report as soon as practicable after the report is referred for audit.

The proposed section also deals with how the audit is to be undertaken.

Proposed section 55D sets out the times within which a RLP Board’s financial reports must be prepared and audited.

Proposed section 55E deals with the reports that must be prepared by a RLP Board’s auditor and what must be contained in those reports.

Proposed section 55F provides that a RLP Board’s auditor may, at any time during an audit, prepare an interim report to the State Council on any matter relating to the RLP Board’s report or to the conduct of the audit. The auditor must give the RLP Board a copy of any report made to the State Council under the proposed section.

Proposed Division 4B (Auditors) contains proposed sections 55G to 55L and deals

with auditors for RLP Boards.

Proposed section 55G provides that a RLP Board must appoint an auditor and sets out who is qualified to be an auditor. Such an appointment (or a reappointment) must be approved by the State Council.

Proposed section 55H provides that certain persons may not be appointed as an auditor for a RLP Board. For example, a person may not be appointed as a RLP Board's auditor, in the case of an individual, if he or she is a disqualified person, being a person:

(a) who is a director of the RLP Board, or

(b) who is a member of staff of the Rural Lands Protection Boards Division of the Government Service, or

(c) who is in debt to the RLP Board otherwise than for rates or charges owed by the person as a ratepayer, or

(d) who has a contractual arrangement with the RLP Board that (if the person were the RLP Board's auditor) might reasonably be seen to give rise to a conflict between the person's duties as an auditor and the person's interests under the arrangement.

Proposed section 55I sets out an auditor's term of office and the circumstances under which that office falls vacant.

Proposed section 55J gives a RLP Board's auditor power to inspect the RLP Board's accounting and other records.

Proposed section 55K deals with other powers granted to auditors to enable them to carry out their functions.

Proposed section 55L provides that the Auditor-General is authorised to audit a RLP Board's annual financial report if the RLP Board fails to appoint an auditor or during any vacancy in the office of auditor. The proposed section also provides that the Auditor-General may, at any time, and must, if requested to do so by the Minister for Primary Industries on the recommendation of the State Council, conduct a special audit of a RLP Board's accounts.

Section 53 (Financial year of board) of the Principal Act provides that the financial year of a RLP Board is the year commencing on 1 January. The Public Finance and Audit Act 1983 empowers the Treasurer to determine a different financial year for statutory bodies. Schedule 1 [8] inserts proposed section 53 (2) into the Principal Act to provide that the Minister for Primary Industries, on the recommendation of the State Council, may, by order published in the Gazette, determine a different financial year for all RLP Boards. Schedule 1 [7] removes a note to section 53 of the Principal Act as a consequential amendment.

Schedule 1 [1] makes a consequential amendment to section 25 of the Principal Act.

Schedule 1 [9] omits section 54 (Audit of financial statements) as a consequential amendment.

Schedule 1 [12] inserts proposed section 57A into the Principal Act to provide that a RLP Board must prepare an annual report (in accordance with the guidelines issued by the State Council) in each financial year concerning its activities during the previous year and submit it to the State Council. Schedule 1 [2] and [3] make consequential amendments to section 36 of the Principal Act.

Schedule 1 [11] makes a consequential amendment to the definition of publicly available document in section 56 (1) of the Principal Act to take account of the insertion of proposed section 57A and proposed Division 4A of Part 6 into that Act.

The Public Authorities (Financial Arrangements) Act 1987 (the PAFA Act) gives certain powers in relation to financial arrangements (including investments) to public authorities specified in that Act or in the regulations made under that Act, including "statutory bodies" within the meaning of the Public Finance and Audit Act 1983.

Schedule 2.1 [1] and [2] amend the Public Authorities (Financial Arrangements) Regulation 2005 as a consequence of the amendment to the Public Finance and Audit

Act 1983 removing RLP Boards from the definition of “statutory bodies”. The amendments preserve the application of the PAFA Act to RLP Boards in the same way as it applied before the amendments made by the proposed Act. The amendments also remove the exclusion of Forbes Rural Lands Protection Board from the application of the PAFA Act.

Amendments relating to State Council

Under the Annual Reports (Statutory Bodies) Act 1984, the annual reports of bodies such as the State Council are required to be prepared and submitted to the appropriate Minister (and, if required, the Treasurer), within the period of 4 months after the end of the financial year. Schedule 1 [4] inserts proposed section 36 (4) into the Principal Act to provide that, despite the Annual Reports (Statutory Bodies) Act 1984, the State Council is to prepare its annual report and submit it to the Minister for Primary Industries and the Treasurer, within the period of 8 months after the end of the financial year.

Schedule 1 [5] inserts proposed section 36A into the Principal Act to provide that the State Council is to prepare a report as to whether the auditing of RLP Boards’ financial reports for each financial year has been satisfactorily carried out, and is to submit the report to the Minister for Primary Industries and the Treasurer, within the period of 8 months after the end of the financial year.

Miscellaneous amendments

Section 52 (Investment) of the Principal Act currently provides that if the Public Authorities (Financial Arrangements) Act 1987 does not confer power on a RLP Board to invest the money in its fund in an authorised manner, the RLP Board may invest money in accordance with the Trustee Act 1925 or in any other manner approved by the Minister for Primary Industries with the concurrence of the Treasurer.

Schedule 1 [6] substitutes section 52 (b) of the Principal Act to remove the power of such RLP Boards to invest in accordance with the Trustee Act 1925. Consequently, such RLP Boards will only be able to invest in the manner approved by the Minister for Primary Industries with the concurrence of the Treasurer.

Schedule 1 [13] amends clause 1 of Schedule 7 to the Principal Act to enable regulations of a savings or transitional nature consequent on the enactment of the proposed Act to be made.

Schedule 1 [14] inserts proposed Part 5 (proposed clause 37) into Schedule 7 to the Principal Act to make it clear that the amendments made by the proposed Act apply to the preparation of RLP Boards’ financial reports, and the auditing of those reports, for the 2006 financial year and the following years.