



New South Wales

Rural Lands Protection Amendment Bill 2002

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Rural Lands Protection Act 1998* so as:

- (a) to enable rural lands protection boards to deal with urgent matters arising in between annual State Conferences, and
- (b) to clarify the liabilities of former and incoming occupiers, and of owners of land, for rates levied by rural lands protection boards, and
- (c) to enable certain penalties paid under penalty notices to be paid to the State Council, and
- (d) to make changes to the procedures relating to the election or appointment of directors of rural lands protection boards.

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 giving effect to the amendments to the *Rural Lands Protection Act 1998* set out in Schedule 1.

Schedule 1 Amendments

Section 17 of the *Rural Lands Protection Act 1998* specifies matters that must be determined at annual State Conferences of rural lands protection boards. These matters include general policies to be implemented by the boards for the protection of rural lands and primary policies to guide the State Council in carrying out its functions.

Schedule 1 [3] and [5] enable rural lands protection boards, through the State Council, to deal with urgent matters without waiting for the next annual State Conference. **Schedule 1 [1], [2] and [4]** are amendments consequential on the new power of the boards to deal with urgent matters that arise in between annual State Conferences.

Schedule 1 [6]–[8] and [10] make it clear that it is only the liability of a person to pay to the rural lands protection board a rate (being a rate in respect of land that is unpaid on the day the person ceases to be the occupier or owner of the land) that is extinguished when the person gives notice to the board of the change in occupancy or ownership. The person's liability to pay a person who may have paid the unpaid rate to the board continues and is not extinguished by the notice.

Schedule 1 [9] makes it clear that the liability of a person other than the Crown who is the owner or new owner of land for payment to the appropriate rural lands protection board of any rate, interest or charges in respect of the land that was not paid by the former occupier or former owner continues despite the giving by the former occupier or former owner of a notice of change of occupancy or ownership.

Schedule 1 [11] provides that the occupier or owner of land may recover as a debt any amount paid for accrued rates referred to in the section.

Schedule 1 [12] enables rural lands protection boards to issue stock permits for less than the amount prescribed by the regulations in respect of the permit.

Schedule 1 [13] is a minor amendment to clarify the contributions of rural lands protection boards to the cost of eradicating certain pests.

Schedule 1 [14] specifies the persons to whom penalties for penalty notice offences must be paid.

Schedule 1 [15]–[17] provide for the ownership and disposition of penalties paid for penalty notice offences.

By an order under clause 7 of Schedule 2 to the Act published in the Gazette on 28 September 2001, the general elections of directors of the rural lands protection boards on 1 October 2001 were postponed to 1 October 2002. **Schedule 1 [18]** is an amendment consequential on that postponement.

Schedule 1 [19] enables the Minister to appoint directors in case of vacancies arising after the postponement of general elections of directors. This removes the obligation to hold special elections to fill those vacancies.

Schedule 1 [20] allows the use of a person's postal address (instead of the current residential address) for purposes of the electoral roll.

Schedule 1 [21] removes the discretion of an authorised officer relating to which of the persons eligible to be enrolled for purposes of the election of directors of rural lands protection boards is to be enrolled where there are 2 or more occupiers of land who are eligible for enrolment. By removing the discretion, the burden is shifted to the eligible occupiers of the land to nominate for enrolment.

Schedule 1 [22] amends Schedule 7 to the Act to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [23] inserts a new Part 3 in Schedule 7 which contains a savings provision relating to existing electoral rolls.

First print



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New South Wales

Rural Lands Protection Amendment Bill 2002

No. , 2002

A Bill for

An Act to amend the *Rural Lands Protection Act 1998* to make provision for dealing with urgent matters arising in between annual State Conferences; to simplify the procedures for the election or appointment of directors of rural lands protection boards; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Rural Lands Protection Amendment Act 2002</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Rural Lands Protection Act 1998 No 143	7
The <i>Rural Lands Protection Act 1998</i> is amended as set out in Schedule 1.	8 9

Schedule 1 Amendments

(Clause 3)

[1] Section 11 State Council accountable to State Conferences for implementation of general policies

Insert “or by postal ballot in accordance with section 26B” after “Conferences” in section 11 (1).

[2] Section 24 Functions of State Council

Insert “or matters determined by postal ballot in accordance with section 26B” after “Conferences” in section 24 (2) (a).

[3] Sections 26A and 26B

Insert after section 26:

26A Matters arising in between State Conferences

- (1) The State Council may, on its own initiative or at the request of any board under section 43A, direct the Chief Executive Officer to conduct a postal ballot of all or some of the boards to determine any matter to which this section applies.
- (2) The State Council must not give a direction under this section unless it is satisfied that the matter is so urgent that it cannot wait for the next State Conference.
- (3) This section applies to the following matters:
 - (a) a matter relating to a resolution of a State Conference on which the State Council needs guidance or clarification,
 - (b) any matter that may be determined by resolution at a State Conference,
 - (c) any other matter that the State Council considers is of such importance that the matter should be referred to all or some of the boards.

26B Postal ballot

- (1) The decision of the boards on a matter to which section 26A applies is to be determined by a postal ballot conducted in accordance with this section and the regulations.

(2)	The Chief Executive Officer is to give each board included in the postal ballot notice of the ballot so as to enable the board to consider the matter and any comments of other such boards regarding the matter. The notice must be given at least 40 days before the date fixed for the closing of the ballot and must include the motion to be voted on and the recommendation of the State Council on the matter.	1 2 3 4 5 6 7
(3)	Any comments that a board may wish to make regarding the matter must be received by the other boards included in the postal ballot at least 10 days before the date fixed for the closing of the ballot.	8 9 10 11
(4)	The Chief Executive Officer is to be the returning officer for the ballot.	12 13
(5)	A decision on a matter supported by a majority of votes cast by the boards is the determination of the boards polled on the matter.	14 15 16
[4]	Section 27 State Council may request a board to take specified action	17 18
	Insert “or determined by postal ballot in accordance with section 26B” after “Conference” in section 27 (2) (b).	19 20
[5]	Section 43A	21
	Insert after section 43:	22
	43A Matters arising in between State Conferences	23
	If a board is of the opinion that a matter should be referred to all or some of the boards before the next State Conference, the board may request the State Council to give a direction under section 26A.	24 25 26 27
[6]	Section 65 Liability of owner (other than Crown) to pay rates not paid by occupier	28 29
	Insert “by an occupier” after “payable” where firstly occurring in section 65 (1).	30 31
[7]	Section 66 Liability when occupier or owner of land changes	32
	Insert “to a board” after “pay” in section 66 (1).	33

[8] Section 66 (1)	1
Insert at the end of the subsection:	2
Note. The liability of a person who ceased to be the occupier or owner of the land (<i>the former occupier or former owner</i>) to pay any owner or subsequent occupier who has paid to a board any unpaid rate that should have been paid by the former occupier or former owner does not cease on the giving of the notice, and the owner or subsequent occupier who paid the unpaid rate to the board may recover the amount from the former occupier or former owner (see section 68).	3 4 5 6 7 8 9
[9] Section 66 (1A)	10
Insert after section 66 (1):	11
(1A) The giving of a notice as referred to in subsection (1) does not affect any liability of the owner of the land other than the Crown (if the notice is of change of occupancy) or the new owner of the land other than the Crown (if the notice is of change of ownership) for the whole or any part of a rate that is unpaid or for any interest or any other charges in respect of the rate under section 65.	12 13 14 15 16 17 18
Note. If any unpaid rate, interest or charge is paid to a board by the owner or new owner, he or she may recover the amount from the former occupier or former owner (see section 68).	19 20 21
[10] Section 66 (2)	22
Insert “to a board” after “pays”.	23
[11] Section 68 Recovery of rates paid when not occupier or owner	24
Insert “as a debt” after “that other person” where firstly occurring.	25
[12] Section 102 Applications for stock permits and reserve use permits	26
Omit “permit has been paid or arrangements have been made for payment of the fee” from section 102 (2).	27 28
Insert instead “permit, or such lesser amount determined by the board, has been paid or arrangements have been made for payment of the fee or the lesser amount”.	29 30 31
[13] Section 172 Contributions towards eradication of pests that are insects	32 33
Omit “in the district” from section 172 (1).	34

[14] Section 206 Penalty notices for certain offences	1
Insert after section 206 (2):	2
(2A) The person to be specified in a penalty notice as the person to whom the amount of penalty may be paid must be:	3
(a) the Chief Executive Officer or an authorised officer appointed by the State Council if the penalty is for a penalty notice served by a police officer, or	4
(b) a director of, or an authorised officer appointed by, the board concerned in any other case.	5
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[15] Section 207 Penalties belong to prosecuting boards or State Council	10
Omit “or, in the case of a penalty paid under section 206, the person to whom the penalty is paid” from section 207 (1).	11
	12
[16] Section 207 (2)	13
Insert “or paid under section 206 to a director of, or an authorised officer appointed by, a board” after “section”.	14
	15
[17] Section 207 (2A)–(2C)	16
Insert after section 207 (2):	17
(2A) An amount paid under section 206 to the Chief Executive Officer or an authorised officer appointed by the State Council belongs to the State Council.	18
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(2B) The total of the amounts paid as referred to in subsection (2A) in a relevant period must be distributed to the boards in the year following the relevant period by way of reduction of the contribution that each board is required to pay under section 31. The reduction must be in the same proportion as the amount of contribution payable by the board for the year following the relevant period bears to the total amount of contributions calculated in accordance with section 31 for that year.	21
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(2C) In this section:	30
<i>relevant period</i> means:	31
(a) the period beginning on the commencement of this subsection and ending on 31 December 2002, or	32
	33
(b) the year 2003, or	34

	(c) any subsequent year.	1
[18]	Schedule 2 Election or appointment of directors	2
	Omit “2001” wherever occurring in clause 6.	3
	Insert instead “2002”.	4
[19]	Schedule 2, clause 7 (3) (c)	5
	Insert after clause 7 (3) (b):	6
	, and	7
	(c) clause 7 of Schedule 1 and clause 9 cease to apply to any vacancy occurring in the office of a director after the order appointing a later day is published in the Gazette and the Minister may, if he or she thinks fit, appoint a person who would be qualified to be elected as a director to fill the office until the later day.	8 9 10 11 12 13
[20]	Schedule 2, clause 10	14
	Omit “residential” wherever occurring in clause 10 (1) (a) and (2) (a).	15
	Insert instead “postal”.	16
[21]	Schedule 2, clause 13	17
	Omit “If no nomination is made in accordance with clause 12, the authorised officer is to choose which of the persons eligible to be enrolled is to be enrolled and is to enrol those persons.” from clause 13 (3).	18 19 20
[22]	Schedule 7 Savings and transitional provisions	21
	Insert at the end of clause 1 (1):	22
	<i>Rural Lands Protection Amendment Act 2002</i>	23

[23] Schedule 7, Part 4	1
Insert after Part 3:	2
Part 4 Provisions consequential on enactment of Rural Lands Protection Amendment Act 2002	3 4 5
36 Electoral rolls	6
A roll established under clause 10 of Schedule 2 and in force immediately before the commencement of this clause continues to be an electors' roll for the purposes of that Schedule and may be amended for the purpose of complying with that clause as amended by Schedule 1 [20] to the <i>Rural Lands Protection Amendment Act 2002</i> .	7 8 9 10 11 12