

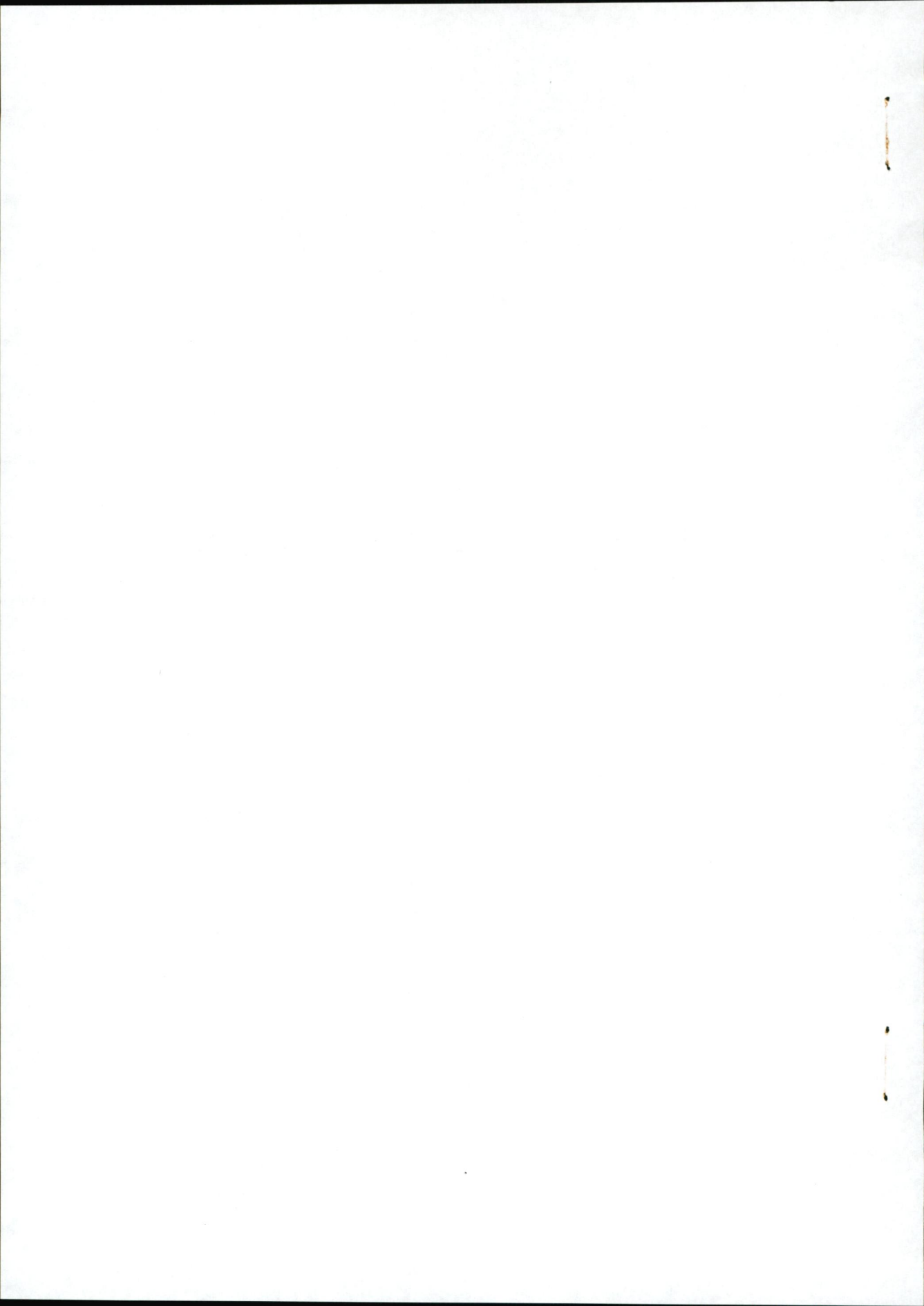


New South Wales

Rural Lands Protection Amendment Act 1997 No 38

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New South Wales

Rural Lands Protection Amendment Act 1997 No 38

Act No 38, 1997

An Act to amend the *Rural Lands Protection Act 1989* to make further provision with respect to rural lands protection districts and the constitution of rural lands protection boards; and for other purposes. [Assented to 30 June 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Rural Lands Protection Amendment Act 1997*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Rural Lands Protection Act 1989 No 197

The *Rural Lands Protection Act 1989* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4

Omit the section. Insert instead:

4 Rural lands protection districts (cf Act No 35, 1934, s 5)

- (1) The Governor may, by proclamation, constitute rural lands protection districts having boundaries and names determined by the Governor.
- (2) The Governor may, by proclamation:
 - (a) alter the boundaries or name of any district, or
 - (b) dissolve the whole or any part of a district, or
 - (c) amalgamate part or all of one district with part or all of one or more other districts to constitute a single district.
- (3) The Governor may, by proclamation, vest any property, and assign any rights and obligations, of a board for a district referred to in subsection (2) in another board or boards.
- (4) A proclamation under this section takes effect on the date of the publication in the Gazette or on a later date specified in the proclamation.

[2] Section 5 Division of Districts (cf Act No 35, 1934, s 11)

Omit "4 divisions" from section 5 (1).

Insert instead "such number of divisions as is determined by the Minister".

[3] Section 5 (7)

Omit the subsection. Insert instead:

- (7) If a district is divided into divisions, such number of directors as is specified by the Minister by notice published in the Gazette must be elected or appointed for each division.

[4] Section 5 (8)

Omit "section" where firstly occurring. Insert instead "Division".

- [5] **Section 6 Board to be established for each district** (cf Act No 35, 1934, ss 6, 14 (1))

Insert "or, in relation to a specified board, such other number as the Minister specifies for that board by notice published in the Gazette" after "8 directors" in section 6 (6).

- [6] **Section 8 Dissolution of boards etc** (cf Act No 35, 1934, s 18)

Omit section 8 (2).

- [7] **Section 14 General election of directors to be held every fourth year** (cf Act No 35, 1934, s 6 (2)-(6A))

Insert "(or, if the Minister has specified under section 6 that a board consist of a different number of directors, fewer than that number of directors)" after "8 directors" in section 14 (5) (a) (ii).

- [8] **Schedule 2 Proceedings of a board**

Insert at the end of clause 2:

- (2) If the Minister has specified the number of directors in a notice under section 6 (6), the Minister is to determine the number of directors that is sufficient for the board to have a quorum for the purposes of this clause.

- [9] **Schedule 5 Savings and transitional provisions**

Insert at the end of clause 1A (1):

- the *Rural Lands Protection Amendment Act 1997*

- [10] **Schedule 5, Part 4**

Insert after Part 3:

Part 4 Provisions consequent on enactment of Rural Lands Protection Amendment Act 1997

47 Definitions

In this Part:

1997 Act means the *Rural Lands Protection Amendment Act 1997*.

amalgamated district means a district constituted by or as a consequence of an amalgamation by a proclamation under section 4 taking effect on 1 November 1997.

amalgamation facilitator means a person appointed as an amalgamation facilitator under clause 49.

amalgamation proclamation means a proclamation constituting an amalgamated district.

constituent parts of an amalgamated district mean the divisions of districts and parts of divisions of districts that are to be amalgamated by a proclamation under section 4 to constitute the amalgamated district.

48 Rural lands protection districts

A rural lands protection district constituted under section 4 immediately before the commencement of the amendment to that section made by the 1997 Act is taken to be a rural lands protection district constituted under that section as amended by that Act.

49 Amalgamation facilitator and other staff

- (1) The Minister may appoint an amalgamation facilitator and such other persons as the Minister considers necessary to assist in the conduct of the first election for the directors of an amalgamated district under this Part.
- (2) The amalgamation facilitator:
 - (a) has all the functions in respect of the first election of directors for an amalgamated district under this Part that a board for a district has in respect of a general election of directors for the district, and
 - (b) is to be the returning officer for the first election for the amalgamated district, and
 - (c) is to carry out such other functions as may be determined by the Minister to facilitate the amalgamation of the district pending the election of the directors of the board for the district.

- (3) The Minister may, at any time, remove a person from office to which the person has been appointed under this clause.
- (4) A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) A person who ceases to hold office by virtue of subclause (3) is not entitled to any remuneration or compensation because of the loss of office.

50 Notification of divisions of and number of directors of boards for amalgamated districts

- (1) The Minister must, on publication of an amalgamation proclamation in the Gazette, publish a notice in the Gazette:
 - (a) dividing the amalgamated district into such divisions as the Minister considers appropriate, and
 - (b) specifying the number of directors to be elected or appointed for each division.
- (2) A notice under this clause takes effect:
 - (a) for the purposes of the first election under this Part of the directors for the board for the amalgamated district—on the date of publication of the notice in the Gazette, and
 - (b) for all other purposes—on 1 November 1997.
- (3) A notice under this clause is taken to be a notice under section 5.

51 No appointment of initial administrator

Section 7 does not apply to or in respect of an amalgamated district.

52 Existing directors

- (1) Nothing in this Part affects the term of office of a person holding office as the director of a constituent part of an amalgamated district immediately before the commencement of this clause and the director is to continue to exercise functions as such a director until 1 November 1997 unless he or she sooner vacates office.
- (2) Despite subclause (1), the Minister may nominate a director of a constituent part of an amalgamated district to exercise such functions as are specified by the Minister in respect of any or all constituent parts of the district on a transitional basis in order to facilitate the amalgamation of the district.

53 Employees, property and expenditure of affected boards in transitional period

- (1) In this clause:

affected board means a board for any of the following districts:

Albury	Inverell
Bathurst	Jerilderie
Bega	Merriwa
Braidwood	Moulamein
Carcoar	Mudgee
Corowa	Scone
Deniliquin	Tenterfield
Denman-Singleton	Urana
Glen Innes	Warialda
Holbrook	

relevant date means the date of the introduction into Parliament of the Bill for the 1997 Act (whether or not the Act was enacted in the form of the Bill as introduced).

- (2) An affected board must not in the period between the relevant date and 1 November 1997:
 - (a) sell or otherwise dispose of any property of the board, or

- (b) incur any expenses under this or any other Act or engage any employee otherwise than in accordance with a contract, agreement or arrangement entered into before the relevant date, or
 - (c) remunerate any person on terms more advantageous than those on which the person was remunerated by the board immediately before the relevant date, or
 - (d) dismiss, or terminate the employment on the ground of redundancy, any employee other than an employee against whom action for dismissal or redundancy had commenced before the relevant date, or
 - (e) transfer any employee from the place in the district in which, immediately before the relevant date, the employee is based to another place in the district.
- (3) Despite subclause (2), an affected board may take any action described in that subclause with the approval of the Minister given in a particular case or class of cases or if the action is taken in accordance with such terms and conditions as may be specified by order for the purposes of this subclause by the Minister.
- (4) For the purposes of section 41, any expenditure incurred by or on behalf of a board in breach of this clause is improperly incurred.
- (5) The Auditor-General may surcharge a person who was a director or employee of an affected board at the time the expenditure was improperly incurred with an amount under section 41 (3) whether or not the person is a director or employee at the time the surcharge is imposed.
- (6) Nothing in this clause makes a director of a board guilty of an offence under section 207 in respect of anything done in breach of this clause before the date of assent to the 1997 Act.

54 First election for amalgamated districts

- (1) The Minister must, as soon as practicable after publication of an amalgamation proclamation:
 - (a) by notice published in the Gazette, fix a date on or after 10 October 1997 and before 1 November 1997 for the holding of the first election of the directors of the board for each amalgamated district who are to take office on amalgamation, and
 - (b) direct the amalgamation facilitator for the amalgamated district to hold the first election of directors on that date.
- (2) The date must be a date that is not less than 4 weeks after the date on which the notice is published in the Gazette, otherwise the notice is invalid.
- (3) The Minister must appoint as directors of the board concerned the required number of persons qualified to hold office as directors of that board if:
 - (a) at a first election held under this clause:
 - (i) no directors are elected, or
 - (ii) fewer directors than the number specified in the relevant notice under clause 50 are elected, or
 - (b) no proper election of directors, or of any director, takes place on the date fixed for the holding of such an election.

55 Directors of board for amalgamated district

- (1) A director who is elected at an election held under clause 54 takes office on 1 November 1997.
- (2) A director appointed under clause 54 takes office on a day appointed by the Minister.
- (3) Directors elected, or appointed, under clause 54 are taken to have been elected or appointed under section 14.

- (4) Unless for any reason they vacate their offices earlier, the directors cease to hold office on the day preceding the day on which their successors take office in accordance with section 14 (4).

56 Conduct of first election

- (1) Sections 16–21 and the regulations (other than clause 6) apply, subject to this Part, to the first election for the directors of the board for an amalgamated district under this Part in the same way as they apply to a general election held under Division 4 of Part 2.
- (2) The costs or expenses of conducting an election of directors for the board of an amalgamated district under this Part (including any costs incurred under clause 49 (4)) are to be borne, in such proportions as are determined by the Minister, by the boards for the land comprising the constituent parts of the amalgamated district.

[Minister's second reading speech made in—
Legislative Assembly on 17 June 1997
Legislative Council on 19 June 1997]

BY AUTHORITY



New South Wales

Rural Lands Protection Amendment Bill 1997

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 1989* so as:

- (a) to facilitate the amalgamation of existing rural lands protection districts and to provide greater flexibility in constituting rural lands protection boards for districts by enabling the Minister to determine the number of divisions for each district and the number of directors for each rural lands protection board, and
 - (b) to make transitional provision to enable directors to be elected for the boards of districts that are proposed to be amalgamated on 1 November 1997 at the elections due to be held for directors of existing rural lands protection boards on or after 10 October 1997 and before that date.
-

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 the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Rural Lands Protection Act 1989* set out in Schedule 1.

Constitution of districts

Schedule 1 [1] replaces section 4 of the Principal Act with a new section 4 to make it clear that the Governor may, by proclamation published in the Gazette, alter the boundaries or name of any rural lands protection district, dissolve the whole or any part of a district or amalgamate part or all of one district with part or all of one or more other districts to constitute a single district. A proclamation under the new section is to take effect on the day the proclamation is published in the Gazette or on a later day specified in the proclamation.

Divisions of districts and directors for divisions

At present section 5 of the Principal Act requires the Minister to divide each rural lands protection district (other than certain excluded districts) into 4 divisions and requires 2 directors of the board for the district to be elected or appointed for each division. **Schedule 1 [2]** and **[3]** amend section 5 of the Principal Act to enable the Minister to divide a rural lands protection district into the number of divisions determined by the Minister and to specify the number of directors to be elected or appointed for each division. **Schedule 1 [4]–[8]** contain consequential amendments relating to matters such as quorums.

Savings and transitional provisions

Schedule 1 [9] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [10] inserts Part 4 into Schedule 5 to the Principal Act. Clause 48 of Part 4 contains a savings provision to ensure existing rural lands protection districts are not inadvertently affected by the replacement of section 4. The

Rural Lands Protection Amendment Bill 1997

Explanatory note

remaining provisions enable directors for the board of certain districts, proposed to be constituted by an amalgamation with effect on 1 November 1997, to be elected to take office on that day. The provisions will ensure that the first election for the amalgamated districts takes place at the same time as the general elections for directors of boards of rural lands protection districts (held every 4 years) due to take place on or after 10 October 1997 and before that date. The provisions will also enable the Minister to determine the number of divisions for the amalgamated districts and the number of directors for those districts in time for those elections to be consistent with the proposed amendments to section 5 of the Principal Act. Provision is also made to enable the Minister to appoint a person to act as returning officer for the election and to facilitate the amalgamation as determined by the Minister and to limit the action that can be taken by rural lands protection boards affected by the proposed amalgamations between introduction of the Bill into Parliament and 1 November 1997.

First print



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Rural Lands Protection Amendment Bill 1997

No , 1997

A Bill for

An Act to amend the *Rural Lands Protection Act 1989* to make further provision with respect to rural lands protection districts and the constitution of rural lands protection boards; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Rural Lands Protection Amendment Act 1997*.

2 Commencement

This Act commences on the date of assent.

5

3 Amendment of Rural Lands Protection Act 1989 No 197

The *Rural Lands Protection Act 1989* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4

Omit the section. Insert instead:

- 4 Rural lands protection districts** (cf Act No 35, 1934, s 5) 5
- (1) The Governor may, by proclamation, constitute rural lands protection districts having boundaries and names determined by the Governor.
 - (2) The Governor may, by proclamation:
 - (a) alter the boundaries or name of any district, or 10
 - (b) dissolve the whole or any part of a district, or
 - (c) amalgamate part or all of one district with part or all of one or more other districts to constitute a single district.
 - (3) The Governor may, by proclamation, vest any property, and assign any rights and obligations, of a board for a district referred to in subsection (2) in another board or boards. 15
 - (4) A proclamation under this section takes effect on the date of the publication in the Gazette or on a later date specified in the proclamation. 20

[2] Section 5 Division of Districts (cf Act No 35, 1934, s 11)

Omit "4 divisions" from section 5 (1).

Insert instead "such number of divisions as is determined by the Minister". 25

[3] Section 5 (7)

Omit the subsection. Insert instead:

- (7) If a district is divided into divisions, such number of directors as is specified by the Minister by notice published in the Gazette must be elected or appointed for each division. 30

[4] Section 5 (8)

Omit "section" where firstly occurring. Insert instead "Division".

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Schedule 1 Amendments

- [5] **Section 6 Board to be established for each district** (cf Act No 35, 1934, ss 6, 14 (1))
Insert “or, in relation to a specified board, such other number as the Minister specifies for that board by notice published in the Gazette” after “8 directors” in section 6 (6). 5
- [6] **Section 8 Dissolution of boards etc** (cf Act No 35, 1934, s 18)
Omit section 8 (2).
- [7] **Section 14 General election of directors to be held every fourth year** (cf Act No 35, 1934, s 6 (2)-(6A))
Insert “(or, if the Minister has specified under section 6 that a board consist of a different number of directors, fewer than that number of directors)” after “8 directors” in section 14 (5) (a) (ii). 10
- [8] **Schedule 2 Proceedings of a board**
Insert at the end of clause 2:
(2) If the Minister has specified the number of directors in a notice under section 6 (6), the Minister is to determine the number of directors that is sufficient for the board to have a quorum for the purposes of this clause. 15
- [9] **Schedule 5 Savings and transitional provisions**
Insert at the end of clause 1A (1): 20
• the *Rural Lands Protection Amendment Act 1997*
- [10] **Schedule 5, Part 4**
Insert after Part 3:
Part 4 Provisions consequent on enactment of Rural Lands Protection Amendment Act 1997 25
47 Definitions
In this Part:
1997 Act means the *Rural Lands Protection Amendment Act 1997*. 30
-

amalgamated district means a district constituted by or as a consequence of an amalgamation by a proclamation under section 4 taking effect on 1 November 1997.

amalgamation facilitator means a person appointed as an amalgamation facilitator under clause 49. 5

amalgamation proclamation means a proclamation constituting an amalgamated district.

constituent parts of an amalgamated district mean the divisions of districts and parts of divisions of districts that are to be amalgamated by a proclamation under section 4 to constitute the amalgamated district. 10

48 Rural lands protection districts

A rural lands protection district constituted under section 4 immediately before the commencement of the amendment to that section made by the 1997 Act is taken to be a rural lands protection district constituted under that section as amended by that Act. 15

49 Amalgamation facilitator and other staff

(1) The Minister may appoint an amalgamation facilitator and such other persons as the Minister considers necessary to assist in the conduct of the first election for the directors of an amalgamated district under this Part. 20

(2) The amalgamation facilitator:

(a) has all the functions in respect of the first election of directors for an amalgamated district under this Part that a board for a district has in respect of a general election of directors for the district, and 25

(b) is to be the returning officer for the first election for the amalgamated district, and

(c) is to carry out such other functions as may be determined by the Minister to facilitate the amalgamation of the district pending the election of the directors of the board for the district. 30

- (3) The Minister may, at any time, remove a person from office to which the person has been appointed under this clause.
- (4) A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person. 5
- (5) A person who ceases to hold office by virtue of subclause (3) is not entitled to any remuneration or compensation because of the loss of office. 10

50 Notification of divisions of and number of directors of boards for amalgamated districts

- (1) The Minister must, on publication of an amalgamation proclamation in the Gazette, publish a notice in the Gazette: 15
- (a) dividing the amalgamated district into such divisions as the Minister considers appropriate, and
- (b) specifying the number of directors to be elected or appointed for each division. 20
- (2) A notice under this clause takes effect:
- (a) for the purposes of the first election under this Part of the directors for the board for the amalgamated district—on the date of publication of the notice in the Gazette, and 25
- (b) for all other purposes—on 1 November 1997.
- (3) A notice under this clause is taken to be a notice under section 5.

51 No appointment of initial administrator

Section 7 does not apply to or in respect of an amalgamated district. 30

52 Existing directors

- (1) Nothing in this Part affects the term of office of a person holding office as the director of a constituent part of an amalgamated district immediately before the commencement of this clause and the director is to continue to exercise functions as such a director until 1 November 1997 unless he or she sooner vacates office. 5
- (2) Despite subclause (1), the Minister may nominate a director of a constituent part of an amalgamated district to exercise such functions as are specified by the Minister in respect of any or all constituent parts of the district on a transitional basis in order to facilitate the amalgamation of the district. 10

53 Employees, property and expenditure of affected boards in transitional period 15

- (1) In this clause:

affected board means a board for any of the following districts:

Albury	Inverell	
Bathurst	Jerilderie	20
Bega	Merriwa	
Braidwood	Moulamein	
Carcoar	Mudgee	
Corowa	Scone	
Deniliquin	Tenterfield	25
Denman-Singleton	Urana	
Glen Innes	Warialda	
Holbrook		

relevant date means the date of the introduction into Parliament of the Bill for the 1997 Act (whether or not the Act was enacted in the form of the Bill as introduced). 30

- (2) An affected board must not in the period between the relevant date and 1 November 1997:
 - (a) sell or otherwise dispose of any property of the board, or 35

Rural Lands Protection Amendment Bill 1997

Schedule 1 Amendments

- (b) incur any expenses under this or any other Act or engage any employee otherwise than in accordance with a contract, agreement or arrangement entered into before the relevant date, or 5
- (c) remunerate any person on terms more advantageous than those on which the person was remunerated by the board immediately before the relevant date, or
- (d) dismiss, or terminate the employment on the ground of redundancy, any employee other than an employee against whom action for dismissal or redundancy had commenced before the relevant date, or 10
- (e) transfer any employee from the place in the district in which, immediately before the relevant date, the employee is based to another place in the district. 15
- (3) Despite subclause (2), an affected board may take any action described in that subclause with the approval of the Minister given in a particular case or class of cases or if the action is taken in accordance with such terms and conditions as may be specified by order for the purposes of this subclause by the Minister. 20
- (4) For the purposes of section 41, any expenditure incurred by or on behalf of a board in breach of this clause is improperly incurred. 25
- (5) The Auditor-General may surcharge a person who was a director or employee of an affected board at the time the expenditure was improperly incurred with an amount under section 41 (3) whether or not the person is a director or employee at the time the surcharge is imposed. 30
- (6) Nothing in this clause makes a director of a board guilty of an offence under section 207 in respect of anything done in breach of this clause before the date of assent to the 1997 Act. 35

54 First election for amalgamated districts

- (1) The Minister must, as soon as practicable after publication of an amalgamation proclamation:
- (a) by notice published in the Gazette, fix a date on or after 10 October 1997 and before 1 November 1997 for the holding of the first election of the directors of the board for each amalgamated district who are to take office on amalgamation, and 5
 - (b) direct the amalgamation facilitator for the amalgamated district to hold the first election of directors on that date. 10
- (2) The date must be a date that is not less than 4 weeks after the date on which the notice is published in the Gazette, otherwise the notice is invalid. 15
- (3) The Minister must appoint as directors of the board concerned the required number of persons qualified to hold office as directors of that board if:
- (a) at a first election held under this clause:
 - (i) no directors are elected, or 20
 - (ii) fewer directors than the number specified in the relevant notice under clause 50 are elected, or
 - (b) no proper election of directors, or of any director, takes place on the date fixed for the holding of such an election. 25

55 Directors of board for amalgamated district

- (1) A director who is elected at an election held under clause 54 takes office on 1 November 1997.
- (2) A director appointed under clause 54 takes office on a day appointed by the Minister. 30
- (3) Directors elected, or appointed, under clause 54 are taken to have been elected or appointed under section 14.

- (4) Unless for any reason they vacate their offices earlier, the directors cease to hold office on the day preceding the day on which their successors take office in accordance with section 14 (4).

56 Conduct of first election

5

- (1) Sections 16–21 and the regulations (other than clause 6) apply, subject to this Part, to the first election for the directors of the board for an amalgamated district under this Part in the same way as they apply to a general election held under Division 4 of Part 2.

10

- (2) The costs or expenses of conducting an election of directors for the board of an amalgamated district under this Part (including any costs incurred under clause 49 (4)) are to be borne, in such proportions as are determined by the Minister, by the boards for the land comprising the constituent parts of the amalgamated district.

15