

Rural Lands Protection Amendment Act 2003

As at 5 August 2003

Long Title

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.

1 Name of Act

This Act is the *Rural Lands Protection Amendment Act 2003* .

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Rural Lands Protection Act 1998 No 143

The *Rural Lands Protection Act 1998* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 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.

(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.

(4) The Chief Executive Officer is to be the returning officer for the ballot.

(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.

[4] Section 27 State Council may request a board to take specified action

Insert "or determined by postal ballot in accordance with section 26B" after "Conference" in section 27 (2) (b).

[5] Section 43A

Insert after section 43:

43A Matters arising in between State Conferences 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.

[6] Section 65 Liability of owner (other than Crown) to pay rates not paid by occupier

Insert "by an occupier" after "payable" where firstly occurring in section 65 (1).

[7] Section 66 Liability when occupier or owner of land changes

Insert "to a board" after "pay" in section 66 (1).

[8] Section 66 (1), note

Insert at the end of the subsection:

Note: The liability of a person who ceased to be the occupier or owner of the land (**the former occupier or former owner**) 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).

[9] Section 66 (1A)

Insert after section 66 (1):

(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.

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).

[10] Section 66 (2)

Insert "to a board" after "pays".

[11] Section 68 Recovery of rates paid when not occupier or owner

Insert "as a debt" after "that other person" where firstly occurring.

[12] Section 102 Applications for stock permits and reserve use permits

Omit "permit has been paid or arrangements have been made for payment of the fee" from

section 102 (2). Insert instead "permit, or such lesser amount as is determined by the board in accordance with subsection (2A), has been paid or arrangements have been made for payment of the fee or the lesser amount".

[13] Section 102 (2A) and (2B)

Insert after section 102 (2):

(2A) For the purposes of subsection (2), any lesser amount determined by the board must be determined by reference to:

- (a) a class of persons, public roads, travelling stock reserves or activities, or
- (b) situations that come within circumstances described in the determination.

(2B) A board must display in a conspicuous place in its office the fees prescribed by the regulations or determined by the board as payable for applications for permits.

[14] Section 172 Contributions towards eradication of pests that are insects

Omit "in the district" from section 172 (1).

[15] Section 207

Omit the section. Insert instead:

207 Penalties belong to prosecuting boards or State Council

(1) In this section:

relevant period means:

- (a) the period beginning on the commencement of this subsection and ending on 31 December 2003, or
- (b) any subsequent year.

(2) Whenever any monetary penalty is imposed for an offence against this Act that is prosecuted by a board the proper officer of the court that imposed the penalty must pay the amount of the penalty to the board.

(3) An amount paid to a board under this section, or paid under section 206 for a penalty payable under a penalty notice served by an authorised officer appointed by a board who is not a police officer, belongs to the board concerned.

(4) An amount paid under section 206 for a penalty payable under a penalty notice served by an authorised officer who is a police officer belongs to the State Council.

(5) The total of the amounts paid as referred to in subsection (4) 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.

(6) This section applies irrespective of any other law to the contrary.

[16] Schedule 2 Election or appointment of directors

Omit "2001" wherever occurring in clause 6. Insert instead "2002".

[17] Schedule 2, clause 7 (3) (c)

Insert after clause 7 (3) (b):

, and

(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.

[18] Schedule 2, clause 10

Omit "residential" wherever occurring in clause 10 (1) (a) and (2) (a). Insert instead "postal".

[19] Schedule 2, clause 13

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).

[20] Schedule 7 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[21] Schedule 7, Part 4

Insert after Part 3:

Part 4 - Provisions consequential on enactment of Rural Lands Protection Amendment Act 2003

36 Electoral rolls 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 [18] to the *Rural Lands Protection Amendment Act 2003* .

Historical notes

Table of Acts *Rural Lands Protection Amendment Act 2003 No 6* . Second reading speech made: Legislative Assembly, 30.4.2003; Legislative Council, 20.5.2003. Assented to 28.5.2003. Date of commencement, 1.8.2003, sec 2 and GG No 121 of 1.8.2003, p 7529.