

Rural Lands Protection Regulation 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Rural Lands Protection Act 1998*.

Minister for Primary Industries

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Rural Lands Protection (General) Regulation 2001* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following:

- (a) matters relating to the making and levying of rates and the filing of annual returns (Part 3), including the prescription of a minimum area that makes land rateable land for the purposes of the Act (Schedule 3),
- (b) the use of travelling stock reserves and public roads (Part 4),
- (c) the use of stock watering places (Part 5),
- (d) the circumstances in which stock will be treated as not unattended for the purposes of impounding (Part 6),
- (e) the transport of stock by vehicle (Part 7),
- (f) the prescription of the NSW Pest Animal Council as the body that must be consulted before making certain pest control orders under the Act (Part 8),
- (g) the establishment and administration of schemes for the identification of stock (Part 10),
- (h) matters relating to the election of directors of livestock health and pest authorities (Schedule 1),
- (i) other miscellaneous matters (Parts 1, 2, 9 and 11 and Schedules 2 and 4).

This Regulation is made under the *Rural Lands Protection Act 1998*, including sections 25 (1), 31, 60, 62 (4) and (5), 69 (1) and (2), 76, 78, 96 (2), 97 (1), 102 (1), (2) and (2A), 105-107, 120 (2) (c), 123 (1), 124 (1), 125 (2) and (3), 128 (4), 134 (2), 135, 138 (b), 140A-140C, 144 (2), 187 (3) (f), 206, 223 (2), 236 and 244 and 243 (the general regulation-making power) and clause 19 of Schedule 2 and Part 1 of Schedule 7.

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Rural Lands Protection Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

This Regulation replaces the *Rural Lands Protection (General) Regulation 2001* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

- (1) Definitions In this Regulation: "**appropriate authority**", in relation to an annual return, means the authority for the district in which the holding for which an annual

return is required to be lodged is located. "**intensive livestock production**" means the keeping or nurturing of stock for commercial purposes wholly or substantially by routinely feeding them prepared or manufactured feed (except temporary feeding during, and as a result of, drought, fire, flood or similar emergency). "**required travelling rate**" means the rate of travel required by clause 41 (1). "**small stock**" means stock other than large stock. "**large stock**" is defined in the Dictionary to the Act. "**stock unit**" --see subclause (2). "**stock warning sign**" has the same meaning as it has in Part 4. "**the Act**" means the *Rural Lands Protection Act 1998*.

(2) Stock units For the purposes of this Regulation (other than clause 10):

- (a) a sheep that is at least 6 months old represents 1 stock unit, and
- (b) a goat that is at least 6 months old represents 1 stock unit, and
- (c) a deer that is at least 6 months old represents 1 stock unit, and
- (d) a bull, cow, ox, heifer, steer, calf or buffalo that is at least 6 months old represents 10 stock units, and
- (e) a horse that is at least 6 months old represents 10 stock units, and
- (f) a camel that is at least 6 months old represents 10 stock units, and
- (g) an alpaca that is at least 6 months old represents 1 stock unit, and
- (h) a llama that is at least 6 months old represents 1 stock unit, and
- (i) a pig of any age represents 1 stock unit, and
- (j) an ostrich that is at least 6 months old represents 1 stock unit, and
- (k) an emu that is at least 6 months old represents 1 stock unit.

(3) Forms In this Regulation, a reference to a form is a reference to a form contained in Schedule 2.

(4) Notes in the text of this Regulation do not form part of this Regulation.

Part 2 – State Council

4 Operating plans, budgets and reports: section 25 (1)

For the purposes of section 25 (1) of the Act, the State Council must, at least 3 months before the commencement of each financial year, provide an annual operating plan and budget for the operations of the State Council for that following financial year to the Minister and the Policy Council.

5 Authorities to contribute to State Council's fund: section 31

For the purposes of section 31 (2) (a) of the Act, the State Council must, at least 3 months before the commencement of each financial year, determine the amount of money that it requires authorities to contribute to the State Council's fund to enable it to carry out its functions during that following financial year.

Part 3 – Rates

6 What is rateable land?

(1) For the purposes of section 60 (a) of the Act, the area prescribed in relation to a district is the area set out in relation to that district in Schedule 3.

(2) For the purposes of section 60 (b) of the Act, the following land within a district is rateable land:

- (a) land used for intensive livestock production if, as at 30 June in the preceding year, the number of stock kept on the land represented not less than 50 stock units,
- (b) land owned by the Crown that is the subject of a tenure from the Crown and has an area that is not less than the area prescribed in relation to the district under subclause (1).

7 Making of rates

- (1) A general rate and an animal health rate for each year are to be made by an authority by a resolution of the board of the authority. The resolutions may be made in the previous year but must be made by 31 March of the year to which they relate. Under section 79 of the Act, the State Council (with the approval of the Minister) may extend the time within which the rates may be made.
- (2) A special purpose rate (if any) is to be made by an authority by resolution of the board of the authority.
- (3) A general rate, or a special purpose rate (if any), for rateable land is to consist of:
 - (a) a base amount for each holding of rateable land (determined by the State Council), and
 - (b) an amount payable for each stock unit based on the total notional carrying capacity of rateable land in the district or for each constituent part (within the meaning of clause 49 of Schedule 7 to the Act) of the district.
- (4) An animal health rate for rateable land is to consist of:
 - (a) a base amount for each holding of rateable land (determined by the State Council), and
 - (b) an amount payable for each stock unit based on the total notional carrying capacity of rateable land in the district, or for each constituent part (within the meaning of clause 49 of Schedule 7 to the Act) of the district, for which the annual returns lodged in the year preceding the year in which the rate is payable indicate that at least 50 stock units were kept on the land as at 30 June in the year.
- (5) The amount payable under a rate in respect of rateable land is calculated in accordance with the following formula:
graphic

[Note: This is a graphic. It has not been processed by the Point in Time system and may not be accurate at the selected working date.]

"R" represents the amount payable under the rate. "B" represents the base amount determined by the State Council in respect of the authority for the purposes of the rate. "A" represents the amount, determined by the authority, payable for each stock unit in accordance with this clause. "C" represents the notional carrying capacity of rateable land determined in accordance with clause 10.

- (6) In calculating the general rate or animal health rate payable in respect of land, the authority must disregard any part of the land used for intensive livestock production in respect of which an animal health rate is payable.

8 Special purpose pest insect eradication rates

- (1) Without limiting the purposes for which a special purpose rate may be levied, a special purpose rate may be levied to fund estimated expenditure by the authority in contributing to the costs of eradicating pests that are insects under section 172 of the Act.
- (2) Despite clause 7 (3), an authority is to make a special purpose rate for the purposes specified in subclause (1):
 - (a) in the case of an authority specified by the State Council for the purposes of this clause, in accordance with subclause (3), or
 - (b) in any other case, in accordance with clause 7 (3).
- (3) An authority referred to in subclause (2) (a) must calculate the special purpose rate in accordance with the following formula:
graphic

[Note: This is a graphic. It has not been processed by the Point in Time system and may not be accurate at the selected working date.]

"R" represents the special purpose rate payable."X" represents the base amount determined by the State Council in respect of the authority for the purposes of the rate."A" represents an amount, determined by the authority, payable for each stock unit based on the total notional carrying capacity of rateable land in the district."C" represents the notional carrying capacity of rateable land determined in accordance with clause 10.

9 Exemption from liability for animal health rate

- (1) For the purposes of section 62 (5) (d) of the Act, rateable land is exempt from any animal health rate for a year if the annual return lodged by the due date in respect of the land for the preceding year indicates that the total number of stock kept on the land was less than the number of stock represented by 50 stock units.
- (2) For the purposes of subclause (1), in calculating the total number of stock kept on land, if any horses are kept on the land only so many horses as exceed 5 in number are to be taken into account.

10 Assessment of notional carrying capacity

- (1) In determining the notional carrying capacity of land for the purposes of this clause:
 - (a) a 40 kilogram wether sheep of any breed represents 1 stock unit, and
 - (b) a 400 kilogram steer of any breed represents 10 stock units.
- (2) For the purposes of section 69 of the Act, an authority is to assess the notional carrying capacity of land by reference to the number of stock units that could be maintained on the land in an average season under management practices that, in the authority's opinion, are usual for the district.
- (3) The assessment is to be made whether or not the land is, at the date of assessment, used for any purpose.
- (4) Without limiting matters that the authority may have regard to in assessing the notional carrying capacity of particular land, the authority:
 - (a) must disregard the presence of noxious weeds or pest animals on the land, and
 - (b) must not take into consideration the use of irrigation if the land is irrigated land used for permanent plantings of trees or vines, and
 - (c) must make its assessment as if the raising of stock were the only use of the land, and
 - (d) in the case of land that remains in or is reverting to its original undeveloped state--must base its assessment on the condition of the land as at the date of assessment.
- (5) In assessing the notional carrying capacity of land used for intensive livestock production, an authority must have regard to the following:
 - (a) the nature of the holding or structure concerned,
 - (b) any improvement and equipment used for the purposes of intensive livestock production on the land,
 - (c) the manner in which the holding has been worked,
 - (d) any other matter that it considers necessary.

11 Annual returns--persons who are required to lodge returns

- (1) For the purposes of section 76 (1) of the Act, the following are prescribed persons:
 - (a) the occupier of a holding in a district that is rateable land as at 30 June in the year in which the annual return concerned is due to be lodged,
 - (b) the occupier of a holding in a district that is non-rateable land that has had a property identification code allotted to the land under Part 3 of the *Stock Diseases Regulation 2009*,
 - (c) the owner or occupier of a holding in a district that is non-rateable land who is the registered proprietor of a brand or earmark under a stock identification scheme established under Part 10 of this Regulation at any time during the year for which

the annual return concerned is due to be lodged.

(2) For the purposes of section 76 (1) of the Act, if there are 2 or more occupiers of a holding referred to in subclause (1) (a), an annual return duly lodged by any one of the occupiers is taken to have been lodged by all the occupiers.

12 Annual returns--2 part returns

(1) This clause applies to annual returns for holdings in an "**approved district**" (being a district approved by the State Council for the purposes of this clause).

(2) An annual return to which this clause applies is to be lodged in 2 parts, being Part A and Part B of the return.

(3) Part A of an annual return for a holding is to be lodged with the appropriate authority not later than on 30 April in each year and is to be signed by, or on behalf of, the person lodging it.

(4) For the purposes of section 76 (2) of the Act, Part A of an annual return is to detail the following matters:

(a) the full name of the person,

(b) the postal address, email address (if any) and telephone number (if any) of the person,

(c) the address of the land, if different from the address referred to in paragraph (b),

(d) a description of the land, including the following:

(i) the portion number or lot and deposited plan number,

(ii) the names of the parish and county where the land is located,

(iii) the area of the land,

(iv) details of any part of the land that is a conservation area within the meaning of the *National Parks and Wildlife Act 1974*,

(e) whether or not any stock were or will be kept on the land at any time between 1 July of the previous year and 30 June of the year that the return is due,

(f) the total area of the land that is or will be planted with grapevines (if any) on 30 June in the year in which the return is due,

(g) the total area of the land that is or will be planted with sugar cane (if any) on 30 June in the year in which the return is due,

(h) details of any property identification code allotted to land occupied by the person under Part 3 of the *Stock Diseases Regulation 2009*,

(i) details of any stock identifier registered by the person under a stock identification scheme established under Part 10 of this Regulation in the year for which the return is due,

(j) in relation to an annual return lodged by a person referred to in clause 11 (1)

(a):

(i) the rate assessment number shown on the rate notice for the land, and

(ii) if one or two individuals are nominated as the person or persons entitled to be enrolled in respect of the holding under clause 12 of Schedule 2 to the Act--the full name of each individual.

(5) Part B of an annual return for a holding is to be lodged with the appropriate authority not later than on 31 August in each year and is to be signed by, or on behalf of, the person lodging it.

(6) For the purposes of section 76 (2) of the Act, Part B of an annual return is to give details of the following matters:

(a) the number of each category of stock other than pigs (if any) kept on the land that were 6 months of age or over on 30 June in the year in which the return is due,

(b) the number of pigs of any age (if any) kept on the land on 30 June in the year in which the return is due,

(c) whether or not intensive livestock production is carried out on the land and, if so, the area of land used for intensive livestock production, the capacity of the area used for intensive livestock production and the number of stock kept under intensive livestock production on the land.

(7) Part B of an annual return is not required to be lodged in respect of any holding on which no stock were kept on the land at any time between 1 July of the previous year and 30 June of the year that the return is required to be lodged, but only if the relevant Part A of the annual return for the holding has been lodged with the appropriate authority on or before 30 April.

13 Annual returns--one part returns

(1) This clause applies to annual returns for holdings in districts other than those approved for the purposes of clause 12.

(2) An annual return for a holding is to be lodged with the appropriate authority not later than on 31 August in each year and is to be signed by, or on behalf of, the person lodging it.

(3) For the purposes of section 76 (2) of the Act, an annual return is to give details of the following matters:

(a) the full name of the person,

(b) the postal address, email address (if any) and telephone number (if any) of the person,

(c) the address of the land, if different from the address referred to in paragraph (b),

(d) a description of the land, including the following:

(i) the portion number or lot and deposited plan number,

(ii) the names of the parish and county where the land is located,

(iii) the area of the land,

(iv) details of any part of the land that is a conservation area within the meaning of the *National Parks and Wildlife Act 1974*,

(e) the number of each category of stock other than pigs (if any) kept on the land that were 6 months of age or over on 30 June in the year in which the return is due,

(f) the number of pigs of any age (if any) kept on the land on 30 June in the year in which the return is due,

(g) whether or not intensive livestock production is carried out on the land and, if so, the area of land used for intensive livestock production, the capacity of the area used for intensive livestock production and the number of stock kept under intensive livestock production on the land,

(h) the total area of the land that is planted with grapevines (if any) on 30 June in the year in which the return is due,

(i) the total area of the land that is planted with sugar cane (if any) on 30 June in the year in which the return is due,

(j) details of any property identification code allotted to land occupied by the person under Part 3 of the *Stock Diseases Regulation 2009*,

(k) details of any stock identifier registered by the person under a stock identification scheme established under Part 10 of this Regulation in the year for which the return is due,

(l) in relation to an annual return lodged by a person referred to in clause 11 (1)

(a):

(i) the rate assessment number shown on the rate notice for the land, and

(ii) if one or two individuals are nominated as the person or persons entitled to be enrolled in respect of the holding under clause 12 of Schedule 2 to the Act--the full name of each individual.

14 Requirement to notify authority if stock on land contrary to Part A return

(1) This clause applies to a person if:

- (a) the person has lodged a Part A of an annual return (as referred to in clause 12), and
- (b) that Part A of that return stated that no stock were or will be kept on the holding concerned at any time between 1 July of the previous year and 30 June of the year that the return was required to be lodged, and
- (c) after the lodgement of the return but before that 30 June, stock were kept on that holding.

(2) A person to whom this clause applies must inform the appropriate authority of the presence of stock on the holding within 14 days of the stock's arrival on the holding.

Maximum penalty: 10 penalty units.

15 Requirement to notify authority if change in area of land planted with sugar cane

If, after a person has lodged a Part A of an annual return (as referred to in clause 12) but before 30 June of the year that the return was lodged, the person becomes aware that the total area of the land that is or will be planted with sugar cane (if any) on that 30 June is or will be different from the total area stated in the Part A of the return, the person must, within 14 days of becoming so aware, inform the appropriate authority of the actual total area of land that is or will be planted with sugar cane (if any).

Maximum penalty: 10 penalty units.

16 Purposes for which information in annual return may be used and disclosed

(1) Without limiting the purposes for which information obtained by an authority under Division 7 of Part 7 of the Act may be used, the information may be used for the following:

- (a) to verify the notional carrying capacity of land,
- (b) to facilitate the administration of animal health services or animal production services by the authority,
- (c) to prepare statistical data concerning animal health or the protection of rural lands,
- (d) to prepare an annual report under the Act or the *Annual Reports (Statutory Bodies) Act 1984*,
- (e) to prepare a roll of electors,
- (f) to protect public health and safety,
- (g) to assist in the preparation and implementation of emergency animal disease and plant pest and disease preparedness and response programs,
- (h) to assist in preventing, managing, controlling and eradicating disease, pests and residues:

- (i) in animals and animal products, and
- (ii) in plants and plant products, and
- (iii) on any land,

(i) to assist in the management of drought and the response to floods, fires and other emergencies.

(2) Without limiting to whom and for what purposes an authority may disclose information it has obtained under Division 7 of Part 7 of the Act, an authority may disclose such information to the Department for the purposes set out in subclause (1) (f)-(i).

17 Land exempt from operation of Part 7 (Rates) of Act

(1) For the purposes of section 244 of the Act, the following are exempt from the operation of the provisions of Part 7 of the Act:

- (a) any part of a holding used as a motel or caravan park,

- (b) any part of a holding occupied by an authority,
 - (c) any part of a holding occupied by a local authority and that is used for a purpose other than an agricultural enterprise,
 - (d) any part of a holding used for the purposes of a cemetery, golf course, racecourse, showground or industrial area.
- (2) For the purposes of section 244 of the Act, the following land is exempt from the operation of the provisions of Part 7 (other than section 76) of the Act:
- (a) any part of a holding on which a rifle range or buildings ancillary to the conduct of such a range are located,
 - (b) any part of a holding used for growing sugar cane.

Part 4 – Travelling stock reserves and public roads

Division 1 – Preliminary

18 Interpretation

- (1) In this Part: "**permanent stock zone**" means the whole or part of a public road set aside as a permanent stock zone in accordance with clause 19. "**permanent stock zone sign**" means a stock warning sign:
- (a) displaying particulars approved by the roads authority in the manner approved for the purposes of this definition, or
 - (b) of a type approved by the roads authority.
- "**public road**" includes the shoulder of a public road. "**roads authority**" means a roads authority within the meaning of the *Roads Act 1993*. "**shoulder**" of a public road includes any part of the road that is not designed to be used by motor vehicles in travelling along the road. "**stock warning sign**" means a sign warning road users of the presence of stock. "**stock zone**" means a permanent stock zone or a temporary stock zone. "**stock zone sign**" means a permanent stock zone sign or a temporary stock zone sign. "**temporary stock zone**" means the whole or part of a public road set aside as a temporary stock zone in accordance with clause 19. "**temporary stock zone sign**" means a stock warning sign:
- (a) displaying particulars approved by the State Council in the manner approved for the purposes of this definition, or
 - (b) of a type approved by the State Council.
- (2) For the purposes of this Part, a stock warning sign that depicts a particular kind of stock applies to every other kind of stock.

19 How are stock zones established?

- (1) Permanent stock zones A roads authority may set aside the whole or any part of a public road as a permanent stock zone.
- (2) A permanent stock zone is to be designated by a permanent stock zone sign exhibited at the entry to the zone to which it relates.
- (3) The permanent stock zone sign is to be positioned so that:
- (a) there is not less than 200 metres between the sign and the place where a vehicle being driven towards the stock would first encounter the stock, and
 - (b) the driver of a vehicle being driven towards the stock along the road is warned of the presence or likely presence of the stock a reasonable distance before the vehicle would first encounter the stock.
- (4) Temporary stock zones A person who owns or has charge of stock that are grazing or walking on a public road may set aside the whole or part of that public road as a temporary stock zone.
- (5) An occupier of land through which an unfenced public road passes must set aside that part of the road passing through the land as a temporary stock zone if the land is normally grazed by stock.
- (6) A temporary stock zone is to be designated by a temporary stock zone sign exhibited

at the entry point of the zone to which it relates.

(7) A temporary stock zone sign exhibited by a person referred to in subclause (4) is to be positioned so that there is not more than 5 kilometres, and not less than 200 metres, between the sign and the place where a vehicle being driven towards the stock would first encounter the stock.

(8) A temporary stock zone sign exhibited by a person referred to in subclause (5) is to be positioned so that the driver of a vehicle being driven towards the stock along the road is warned of the presence or likely presence of the stock a reasonable distance before the vehicle would first encounter the stock.

(9) The provisions of Part 20 of the *Road Rules 2008* apply to a permanent stock zone sign or temporary stock zone sign in the same way as they apply to a traffic sign within the meaning of those Rules. For example, rule 327 of the *Road Rules 2008* which provides that the length of road to which a traffic sign on a road applies is worked out in the direction driven by a driver on the road who faces the sign before passing it.

Division 2 – Stock zones

20 Offences relating to stock zones

(1) The owner or person in charge of stock that are on a public road must ensure, as far as practicable, that the stock do not pose a hazard to any person, animal or vehicle on the road.

(2) The owner or person in charge of stock that are on or near a public road must ensure that the stock are in a stock zone if it is reasonably foreseeable that they may be a hazard to any person, animal or vehicle on the road.

(3) The driver of a mechanically powered vehicle must give way to stock and to all other animals and any vehicle accompanying stock in a stock zone.

Maximum penalty: 20 penalty units.

21 When must temporary stock zone signs be displayed?

(1) A person moving or grazing stock on or near any part of a public road that is not a permanent stock zone must display a temporary stock zone sign in accordance with this Part.

(2) It is a defence to a prosecution for an offence under subclause (1) if it is proved that:

(a) compliance with the subclause was not necessary because the presence of the stock did not result in any reasonably foreseeable hazard to any person, animal or vehicle on the public road, or

(b) the failure to comply with the subclause was due to circumstances that were beyond the control of, and could not reasonably have been foreseen by, the person in charge of the stock.

(3) The person must remove the temporary stock zone sign when the stock are no longer on or near any part of a public road that is not a permanent stock zone.

Maximum penalty: 20 penalty units.

22 Interference with signs

A person must not, without lawful authority, remove, interfere with, damage, deface or affix advertising material or any other thing to any stock zone sign.

Maximum penalty: 20 penalty units.

23 Authority to exhibit stock zone signs

(1) A person has authority to exhibit a stock zone sign if:

(a) the person is the roads authority or is a person authorised by the roads authority, or

(b) the person exhibits the sign in accordance with the requirements of this Regulation.

(2) A person must not, without lawful authority, exhibit a stock zone sign. Maximum penalty: 20 penalty units.

24 Directions to remove temporary stock zone signs

(1) An authority that considers that a temporary stock zone sign erected on a public road in the district of the authority does not relate to stock on or near the road may:

(a) remove the sign, or

(b) direct any person exhibiting the sign to remove it within a specified time.

(2) A person to whom a direction is given under subclause (1) must comply with the direction. Maximum penalty: 10 penalty units.

Division 3 – Use of travelling stock reserves and public roads generally

25 Travelling stock on travelling stock reserves to be prevented from moving onto carriageways between sunset and sunrise

A person in charge of travelling stock on a travelling stock reserve through which an unfenced public road passes must ensure, so far as is reasonably practicable, that the stock are fenced or otherwise prevented from moving onto the carriageway of the public road between sunset and sunrise.

Maximum penalty: 20 penalty units.

26 Unauthorised use of public roads

For the purposes of section 96 (2) of the Act, the following are prescribed as circumstances in which a person who owns or has charge of stock that are walking or grazing on a public road is not guilty of an offence under section 96 of the Act:

(a) if the stock are horses that are being ridden or led in daylight,

(b) if the stock are drawing or being led by a vehicle in daylight,

(c) if the person is moving the stock in daylight from one part of a holding that is contiguous to another part of the holding from which it is separated only by a public road,

(d) if the person is moving the stock at any time along the road in an emergency,

(e) if the person is moving dairy cows from one part of a holding that is contiguous to another part of the holding from which it is separated only by a public road during the period between sunset and sunrise on the following day for the shortest practicable distance,

(f) if the person is authorised to walk or graze stock on the public road by or under the *Crown Lands Act 1989* or any other Act or regulation,

and the stock are travelling at the applicable required travelling rate.

27 Control of activities on travelling stock reserves

(1) The responsible authority for a travelling stock reserve may prohibit, or regulate, the carrying on of any activity on the reserve by erection of a sign at or near the entrance to the travelling stock reserve or in some prominent place within the reserve.

(2) A person who carries on an activity in contravention of a sign referred to in subclause

(1) is guilty of an offence. Maximum penalty: 10 penalty units.

28 Removal of signs

A person who, without lawful authority, removes, damages or interferes with a sign displayed by the responsible authority on a travelling stock reserve is guilty of an offence.

Maximum penalty: 10 penalty units.

29 Authorised use of travelling stock reserves for recreational activities

(1) For the purposes of section 97 of the Act, the following are prescribed as recreational activities for which a person is authorised (subject to the Act and subclause (2)) to use a travelling stock reserve (or part of a travelling stock reserve) other than an excluded

reserve:

- (a) walking, running and other kinds of individual physical exercise,
- (b) horse riding,
- (c) picnicking,
- (d) fishing,
- (e) swimming,
- (f) pedal cycling.

(2) Subclause (1) does not apply to use of a travelling stock reserve (or part of a travelling stock reserve) for a purpose referred to in that subclause if the responsible authority has made a closure order in respect of the reserve or part of any such reserve under section 93 (1) (b) of the Act.

(3) In this clause: "**excluded reserve**" means a travelling stock reserve (or part of a travelling stock reserve) in the Western Division or a stock watering place.

30 Offences on travelling stock reserves

(1) A person must not, except in accordance with a permit issued by the responsible authority for a travelling stock reserve:

- (a) waste any water provided on the reserve for stock, or
- (b) divert or in any other way interfere with the natural flow of water on the reserve, or
- (c) swim or bathe in a water tank or dam installed or constructed on the reserve, or
- (d) light a fire in the reserve at any time when the lighting of fires in the reserve is prohibited by the responsible authority by signs displayed on or near the reserve or at any other time except in a fireplace designated by the responsible authority by the display of such a sign.

Maximum penalty: 10 penalty units.

(2) A person must not, without the authority in writing of the responsible authority or other reasonable excuse, damage or interfere with a structure, appliance or other article that forms part of or is lawfully on a travelling stock reserve. Maximum penalty: 20 penalty units.

(3) A person must not, without reasonable excuse, interfere with stock or beehives that are lawfully on a travelling stock reserve. Maximum penalty: 20 penalty units.

31 Stock to be adequately controlled

(1) A person in charge of stock must keep the stock under control at all times while the stock are on a public road or travelling stock reserve.

(2) A person in charge of stock who, without reasonable excuse, fails to comply with this clause is guilty of an offence. Maximum penalty: 10 penalty units.

(3) In this clause: "**control**", in relation to stock, means action designed to ensure that the stock do not stray to a location, or do not behave in a manner, that would be hazardous to passing traffic or to the general public or would cause damage to property adjacent to the public road or travelling stock reserve concerned.

32 Obligations of occupiers of land adjoining public roads or travelling stock reserves

(1) This clause applies to an occupier of any land in a district that adjoins an unfenced public road or travelling stock reserve who is given oral or written notice by the owner or person in charge of travelling stock at least 24 hours before the stock travel or graze on that road or reserve that the stock will travel or graze on that road or reserve.

(2) An occupier of land to whom this clause applies must take all reasonably practicable steps to prevent the stock from causing any injury, damage or harm to the land or any thing on it. Maximum penalty: 10 penalty units.

33 Persons prohibited from depositing or leaving rubbish, carcasses and other things on reserves

A person must not, without lawful authority, deposit or leave on any travelling stock reserve any

rubbish, animal carcass, vehicle, equipment, implement or movable structure or other thing.

Maximum penalty:

(a) in the case of an animal carcass--50 penalty units for the first animal carcass deposited or left by the person and 5 penalty units for each additional carcass deposited or left at the same place and time by that person, and

(b) in the case of any other thing--50 penalty units.

34 Responsible authority not liable for use of pesticides or chemicals on reserves

(1) For the purposes of section 123 of the Act, notice is given that a pesticide or chemical is about to be applied to a controlled travelling stock reserve if a warning sign is displayed in a conspicuous place on the reserve in accordance with this clause before the pesticide or chemical is applied.

(2) For the purposes of section 123 of the Act, notice is given that a pesticide or chemical has been applied to a controlled travelling stock reserve if a warning sign is displayed in accordance with this clause immediately after the pesticide or chemical is applied.

(3) A warning sign referred to in subclause (2) must be displayed for not less than the following periods:

(a) in the case of a pesticide or chemical the use of which requires the display of warning signs under a pesticide control order in force under the *Pesticides Act 1999* or a permit in force under the *Agvet Code of New South Wales* --for the minimum period specified for the pesticide or chemical in the order or permit,

(b) in the case of any other kind of pesticide or chemical--for the period (if any) decided by the authority concerned after taking into account any withholding period specified in the label registered or approved under that Act or Code for the pesticide or chemical.

(4) In this clause: "**warning sign**" means a weather-proof sign containing a prominent warning that a pesticide or chemical is about to be, or has been, applied to a controlled travelling stock reserve.

35 Responsible authority not liable for injury attributable to diseased travelling stock

For the purposes of section 124 of the Act, notice is given that diseased travelling stock have been walked over or grazed on a travelling stock reserve or public road situated in a district if:

(a) notice is published in a newspaper circulating generally in the district stating that stock infected with a disease specified in the notice were walked over or grazed on the reserve or public road on a date or during a period specified, and

(b) any stock permit issued by the responsible authority for the district authorising a person to walk or graze stock on the reserve or public road that the authority knows, or ought reasonably to know, are susceptible to the disease concerned is endorsed with a prominent statement that stock infected with the disease were walked over or grazed on the reserve or public road on a date or during a period specified.

36 When may responsible authority impound bees or beehives placed or kept on controlled travelling stock reserve?

(1) For the purposes of section 125 (2) of the Act, an authorised officer of a responsible authority impounds bees or beehives placed or being kept on a controlled travelling stock reserve by taking possession of the bees or beehives. The bees or beehives continue to be impounded until released or disposed of in accordance with this clause.

(2) The authorised officer may detain bees or beehives that are impounded at the place where they were impounded or may remove them to any land under agistment or to some other place owned or under the control of the responsible authority and detain them at that place.

(3) As soon as practicable after an authorised officer impounds bees or beehives under this clause, the authorised officer is to make all reasonable inquiries to find the name and

address of the person who owns the bees or beehives.

(4) If the authorised officer knows or finds out the name and address of the owner, the responsible authority is to notify the owner in writing that the bees or beehives have been impounded and that unless they are claimed within a period stated in the notice (ending not less than 7 days after the notice is given) they will be sold or otherwise disposed of.

(5) A responsible authority may sell or otherwise dispose of bees or beehives that have been impounded:

(a) if the name and address of the owner is not known or cannot be found out--7 days after the bees or beehives were impounded, or

(b) if an impounding notice is given to the owner--if at the end of the period stated in the notice the bees or beehives have not been claimed.

(6) The responsible authority is to release the bees or beehives if a person whom the authority is satisfied on reasonable grounds is the owner (or is authorised to claim them on the owner's behalf) claims the bees or beehives within the period stated in the notice unless it declines to do so under section 125 (3) of the Act. A responsible authority may decline to release impounded bees or beehives if the prescribed impounding fee is not paid.

(7) For the purposes of section 125 (3) of the Act, the prescribed impounding fee is \$200.

(8) In this clause: "**impounding notice**" means a notice given under subclause (4).

37 Compliance with directions

(1) An authorised officer of a responsible authority who suspects, on reasonable grounds, that a person is committing or has committed an offence against the Act or this Regulation on a travelling stock reserve may direct the person to leave the reserve.

(2) A person who fails, without reasonable excuse, to comply with a direction given under this clause is guilty of an offence. Maximum penalty: 5 penalty units.

(3) If a person fails to comply with a direction given under this clause, the authorised officer may use force (but no more than is necessary in the circumstances) to remove the person from the reserve.

Division 4 – Permits

38 Applications for permits

(1) An application for a permit is to be made to the responsible authority:

(a) orally, or

(b) in the approved form (if any) for the permit concerned.

(2) If an application is made orally, the responsible authority may request the applicant to confirm the application in writing. If an authority has delegated its functions relating to applications to a director of the authority, a member of the staff of the authority or an authorised officer, the application may be made to that delegate.

(3) An application for a stock permit must be made at least 2 working days before the stock enter, remain on, walk or graze on, or are moved by vehicle over, a travelling stock reserve or public road in the district of the authority (unless the responsible authority agrees to accept the application although it is not made in that period). Section 102 of the Act requires an application to be made in accordance with the regulations. An authority need not process an application that is not received at least 2 working days before it is required.

(4) Fee for issue of permit For the purposes of section 102 (2) (c) and (d) (ii) of the Act, the following fee (being a fee in respect of a stock permit that solely authorises a person to graze stock on a public road or a stock permit that solely authorises a person to graze stock on a controlled travelling stock reserve) is prescribed:

(a) for small stock--\$1 per day for each 10 or less small stock,

(b) for large stock (other than horses and camels)--\$1 per day for each animal,

(c) for horses and camels--\$2 per day for each animal.

(5) For the purposes of section 102 (2) (e) of the Act, the fee of \$20 per year is prescribed.

39 Refund of fees

The responsible authority may refund all or any part of a fee paid in respect of a permit if the

permit is cancelled or suspended.

40 Conditions of stock permits and reserve use permits

The holder of a permit must:

- (a) produce the permit for inspection on demand by an authorised officer, and
- (b) comply with any reasonable request made, or direction given, by an authorised officer.

Maximum penalty: 5 penalty units.

41 Rate of travel to be maintained

- (1) The holder of a permit who is in charge of travelling stock that are walking on a journey lasting more than 24 hours must ensure that the stock travel towards their destination a distance of not less than 10 kilometres on each day. Maximum penalty: 20 penalty units.
- (2) A person is not guilty of an offence under subclause (1) if:
 - (a) the stock are prevented from travelling at the required travelling rate due to bad weather, fire, flood or some other unforeseeable circumstance, or
 - (b) approval for the stock to travel at a slower rate has been given under subclause (3).
- (3) An authorised officer of an authority may give approval for stock to travel at a slower rate than the required travelling rate:
 - (a) if the stock are unfit to travel at the required travelling rate, or
 - (b) for any other reason the authorised officer considers appropriate.
- (4) The approval may be given subject to such conditions as are specified by the authorised officer.
- (5) The authorised officer is to write details of the approval on the permit concerned, together with any conditions subject to which the approval is given.
- (6) If part of a mob consists of stock fit to travel at the required travelling rate and other stock unfit to travel at that rate, an authorised officer of the authority concerned may:
 - (a) order the unfit stock to be culled from the mob, or
 - (b) give approval, subject to such conditions as are specified by the authorised officer, for those stock to travel at a slower rate.
- (7) The person in charge of stock ordered to be culled under this clause must ensure that the stock are immediately removed by vehicle or other appropriate means from the public road or travelling stock reserve on which they were travelling. Maximum penalty: 10 penalty units.
- (8) Fee for slower rate of travel The fee payable for an approval to travel at a slower rate under this clause is:
 - (a) for small stock--\$4 per 100 head or less for each day of travel, and
 - (b) for large stock--\$4 per 10 or less large stock for each day of travel.
- (9) Any fee payable under subclause (8) is in addition to the fee payable under clause 38 for the issue of a permit.
- (10) The owner or person in charge of stock which travel at a slower rate than the required travelling rate must ensure the appropriate fees are paid to the authority. Maximum penalty: 10 penalty units.

Division 5 – Miscellaneous

42 Removal of soil, gravel and other materials

- (1) A person must not remove any water, soil, sand, clay or gravel or other material from a travelling stock reserve. Maximum penalty: 20 penalty units.
- (2) This clause does not apply to any removal of water or any other material authorised by or under the Act, any other Act or this Regulation.

43 Interest rate

For the purposes of section 120 (2) (c) of the Act, the prescribed rate of interest is 2 per cent more than the Commonwealth Bank's overdraft index rate as at 1 January in each year.

44 Notice of exemption or cancellation of exemption

(1) For the purposes of section 128 (4) of the Act, the prescribed notice to be given by an authority for a district is:

- (a) if a person is exempted from the operation of Part 8 (Travelling stock reserves and public roads) of the Act or a specified provision of that Part (or if such an exemption is cancelled)--by giving notice in writing to the person of the exemption or cancellation, and
- (b) if a class of persons is exempted from the operation of Part 8 of the Act or a provision of that Part (or if such an exemption is cancelled)--by publishing notice of the exemption or cancellation in a newspaper circulating generally in the district.

(2) If an exemption is given to 2 or more occupiers of land or an exemption given to 2 or more occupiers of land is cancelled, notice duly given to any one of the occupiers under subclause (1) (a) is taken to have been given to the other occupiers of the land.

Part 5 – Stock watering places

45 Leases of stock watering places

For the purposes of section 134 (2) of the Act, the prescribed period is 15 years.

46 Supply of water

(1) For the purposes of section 135 (a) of the Act, the following classes of persons are prescribed:

- (a) persons requiring water for household purposes,
 - (b) a local authority or Government agency that has obtained the approval of the controlling authority to use water from the stock watering place in the construction, improvement or maintenance of public roads,
 - (c) persons requiring water for personal use related to a commercial purpose (such as supply of water to the patrons of a hotel, motel or other place providing accommodation to the public),
 - (d) drivers of vehicles who require water for the operation of their vehicles,
- being persons who have paid the fee (if any, and not exceeding the maximum determined by the State Council from time to time) determined by the controlling authority to be payable for the purposes of this subclause.

(2) For the purposes of section 135 (a) of the Act, the following classes of stock are prescribed:

- (a) stock that are being agisted by the lessee of a stock watering place in accordance with the terms of the lease,
 - (b) travelling stock that are subject to a stock permit,
 - (c) travelling stock that are subject to an order made or a permit issued under the *Stock Diseases Act 1923*,
 - (d) horses that are accompanied by riders,
- being stock in respect of which the fee (if any, and not exceeding the maximum determined by the State Council from time to time) determined by the controlling authority to be payable for the purpose of this subclause has been paid.

(3) In this clause: "**household purposes**" does not include gardening purposes or external household purposes (such as window cleaning or house washing) but includes protection from fire.

47 Offence to obtain water from stock watering place where depth below specified level

If a depth measuring gauge installed by the controlling authority in a tank or dam at a stock

watering place indicates the water level is below a mark indicated by the gauge a person must not:

- (a) take, or assist another person to take, water from the tank or dam, or
- (b) fail to take all reasonable steps to prevent any stock in the person's charge from drinking water from the tank or dam.

Maximum penalty: 10 penalty units.

Part 6 – Impounding of unattended and trespassing stock and abandoned articles

48 Unattended stock

For the purposes of section 138 (b) of the Act, stock are not unattended for the purposes of section 9 (2) (d) and 32 (3) (d) of the *Impounding Act 1993* in the following circumstances:

- (a) if stock are unattended because of an emergency preventing the person in charge of the stock from attending the stock,
- (b) if the stock are unattended while the person in charge of the stock is moving a stock warning sign or taking other action necessary for the well-being of the stock or required by law.

Part 7 – Transportation of stock by vehicle

49 Stock

For the purposes of Part 10A of the Act, the following animals are declared to be "**stock**":

- (a) goats,
- (b) horses.

50 Stock transportation particulars

For the purposes of section 140B (1) (h) of the Act, the following particulars are prescribed:

- (a) the name, address, driver licence number and telephone number of the person in charge of the stock while the stock are being transported,
- (b) the vehicle registration number of any vehicle transporting the stock.

51 Other circumstances when restrictions on transport of stock by vehicle on road do not apply

For the purposes of section 140C (5) (d) of the Act, the following are prescribed as circumstances in which section 140C of the Act does not apply to the transport of stock by vehicle on a road:

- (a) when horses are being transported to or from any agricultural show, exhibition, gymkhana, pony club meeting or similar function,
- (b) when racehorses or harness racing horses are being transported from one place to another,
- (c) when horses are moved to or from any place for use as working horses.

Part 8 – Pests

52 Minister to consult with NSW Pest Animal Council before making certain pest control orders

The NSW Pest Animal Council is prescribed for the purposes of section 144 (2) of the Act.

Part 9 – Powers of authorised officers

53 Identification

For the purposes of section 187 (3) (f) of the Act, the prescribed person is the following:

- (a) if the authorising authority is an authority--the Chairperson of the authority or a delegate of the Chairperson,
- (b) if the authorising authority is the Minister--the Minister or a delegate of the Minister,
- (c) if the authorising authority is the State Council--the Chief Executive Officer or a delegate of the Chief Executive Officer,
- (d) if the authorising authority is the Director-General--the Director-General or a delegate of the Director-General.

54 Penalty notices for certain offences

- (1) For the purposes of section 206 of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 4 is prescribed as a penalty notice offence, and
 - (b) the prescribed penalty for such an offence is the corresponding amount specified in Column 2 of Schedule 4.
- (2) If the reference to a provision in Column 1 of Schedule 4 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

Part 10 – Stock identification

55 Definitions

In this Part:

"authorised stock identifier" means a brand, mark or other means of identifying stock specified as the authorised stock identifier for particular stock or a class of stock by a stock identification order.

"stock identification order" means an order under clause 56 (2).

"stock identification scheme" means a scheme established under clause 56 (1).

56 Stock identification scheme

- (1) The State Council may establish a scheme or schemes for identification of stock (whether on a compulsory or voluntary basis).
- (2) The State Council may, by order published in the Gazette, for the purposes of a stock identification scheme:
 - (a) specify brands, marks or other means of identifying particular stock or a class of stock as the authorised stock identifiers for the specified stock or class of stock, and
 - (b) require devices for applying authorised stock identifiers to be constructed to specifications described in the order, and
 - (c) specify a distinctive manner of application of authorised stock identifiers, and
 - (d) require the compulsory identification of stock by the owner or person in charge of specified stock or a class of stock by authorised stock identifiers, applied in such a manner and in such circumstances as are specified by the State Council, and
 - (e) require approval to be obtained from an authority before stock are identified (whether on a compulsory or a voluntary basis) by application of authorised stock identifiers, and

(f) require the keeping of records and compilation of data relating to stock identified under the scheme, and

(g) make any other provision necessary to give effect to the scheme.

(3) Unless otherwise determined by the State Council, the authority for a district is to administer any stock identification scheme applying to stock in the district.

57 Offences relating to stock identification schemes

(1) A person required to identify stock by a stock identification order who fails, without reasonable excuse, to identify stock in accordance with any requirement of the order is guilty of an offence.

(2) A person who applies a brand, mark or other means of identifying stock to identify stock on a voluntary basis who fails without reasonable excuse:

(a) to use the authorised stock identifier for the stock or class of stock concerned, or

(b) to apply the means of identification in the manner specified by a stock identification order,

is guilty of an offence.

(3) A person given approval by an authority to apply authorised stock identifiers to stock or a class of stock in accordance with a stock identification order who applies a means of identifying stock other than the authorised stock identifier to stock is guilty of an offence unless the means of identification applied is authorised by another law.

(4) A person must not apply any brand, mark or other means of identifying stock to stock that the person does not own unless:

(a) the brand, mark or means of identifying the stock is applied with the consent of the owner of the stock, or

(b) the person is authorised under a stock identification scheme to apply the brand, mark or means of identifying the stock.

(5) A person who constructs a device for applying an authorised stock identifier otherwise than in accordance with the specifications described for the device in a stock identification order is guilty of an offence.

(6) A person who alters, destroys, defaces or otherwise interferes with an authorised stock identifier applied in accordance with the requirements of a stock identification scheme is guilty of an offence.

Maximum penalty: 50 penalty units.

Part 11 – Miscellaneous

58 Nuisance animals

An authority, at the request of the owner or occupier of a holding in its district, may carry out any activity it considers necessary to control any animal (other than a pest within the meaning of Part 11 of the Act) causing a nuisance on the holding.

59 Emergency management

(1) Without limiting section 42 (2) (d) of the Act, an authority may carry out such activities as it considers appropriate to protect land and animals within its district, and to provide assistance to protect land and animals in any other district, from harm caused by drought or other natural disaster.

(2) The Minister may from time to time request:

(a) the State Council to provide the Minister with seasonal and pastoral condition information concerning land in the districts of the authorities, or

(b) any authority to provide the Minister with seasonal and pastoral condition information concerning land in the district of the authority.

60 Appointment of initial administrator

For the purposes of section 223 (2) (a) of the Act, the prescribed particulars are particulars identifying the holding in respect of which the elector is entitled to be enrolled.

61 Certificate as to rates, charges and other matters

(1) For the purposes of section 236 of the Act, the following are prescribed as matters in respect of land in a district as to which a person may apply to the authority for the district for a certificate:

- (a) whether or not any orders have been issued by the authority under the Act or the *Rural Lands Protection Act 1989* in respect of the land,
- (b) whether the annual returns in respect of the land required to be lodged under the Act or the *Rural Lands Protection Act 1989* in the current and previous year have been lodged with the authority,
- (c) whether or not any rates or charges are owing in respect of the land,
- (d) whether or not any orders issued in respect of the land under the *Stock Diseases Act 1923* or the *Stock (Chemical Residues) Act 1975* are in force and, if any order is in force, details of the order.

(2) For the purposes of section 236 (2) of the Act, the prescribed fee is as follows:

- (a) for an application referred to in subclause (1) (a), (b) or (c), or two or more of those paragraphs, made on or before 31 December 2010--\$35,
- (b) for an application referred to in subclause (1) (a), (b) or (c), or two or more of those paragraphs, made on or after 1 January 2011--\$60,
- (c) for an application referred to in subclause (1) (d) made on or before 31 December 2010--\$30,
- (d) for an application referred to in subclause (1) (d) made on or after 1 January 2011--\$60.

62 Existing stock warning signs

Any stock warning sign displayed for the purposes of this Regulation that, if displayed (or if it had been displayed) immediately before the repeal of the *Rural Lands Protection Regulation 1995*, complied (or would have complied) with that Regulation is taken to be a stock warning sign approved by the roads authority, or person authorised by the roads authority, for the purposes of this Regulation.

63 Writing off of charges

(1) An authority may waive payment of, and write off, the whole or any part of any charge payable to it under the Act or this Regulation:

- (a) if the charge does not exceed \$1,000, or
- (b) if the charge exceeds \$1,000--with the approval of the State Council.

(2) Action under this clause may be taken in a particular case or class of cases.

64 Certificate relating to animal

(1) An authorised officer may sign a certificate stating that an animal to which the certificate relates is an animal of the kind specified in the certificate.

(2) In any proceedings for an offence under this Regulation, a certificate purporting to be signed by an authorised officer stating that an animal to which the proceedings relate is an animal of the kind specified in the certificate is admissible in those proceedings as evidence that the animal is of that kind.

65 Saving

Any act, matter or thing that, immediately before the repeal of the *Rural Lands Protection (General) Regulation 2001*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Elections for directors of boards of authorities

Part 1 – Preliminary

1 Definitions

In this Schedule:

"candidate" means a candidate for election as a director.

"close of nominations" for an election means the final time and date fixed under clause 3 for the close of nominations for the election.

"close of the ballot" for an election means the final date and time fixed by the returning officer for the close of the ballot for the election.

"election" means election (including a special election) of a person to hold office as a director of a board of an authority.

"enrolment officer" means the enrolment officer authorised by the State Council to act as the enrolment officer for an authority under Schedule 2 to the Act.

"returning officer" means the person determined to be the returning officer for the authority in accordance with guidelines given by the State Council.

"roll" for an election means the roll referred to in clause 11 of Schedule 2 to the Act.

"special election" means an election referred to in clause 7A of Schedule 1 to the Act.

2 Functions of returning officer

- (1) The returning officer is to conduct elections.
- (2) For the purposes of conducting an election, the returning officer may determine any matter not provided for by the Act or this Regulation.
- (3) The returning officer may delegate any of his or her functions under this Schedule (other than this power of delegation) to any other person other than a candidate in an election.

Part 2 – Calling of elections

3 Notice of elections

- (1) As soon as practicable after it has been determined in accordance with the Act or this Regulation that an election is required to be held, notice of that fact is to be given to the returning officer by the State Council.
- (2) The notice is to specify the date on which the ballot for the election is to be held and is to be given to the returning officer at least 80 days before that date.
- (3) The returning officer must give notice that an election is to be held by:
 - (a) causing notice to be published:
 - (i) in at least one newspaper circulating generally throughout New South Wales, or
 - (ii) in one or more local newspapers that, individually or collectively, circulate generally throughout the district concerned, and
 - (b) displaying a notice in a prominent place in the office of the authority concerned or on a community notice board at a public place within the district.
- (4) Notice under subclause (3) must:

- (a) state that the election is to be held and specify the district or division involved, and
 - (b) state the number of persons to be elected, and
 - (c) call for nominations of candidates, and
 - (d) state the time and date fixed by the returning officer for the close of nominations, and
 - (e) state where nomination forms may be obtained and where nominations may be lodged, and
 - (f) state the date and time fixed for the close of enrolments for the election, and
 - (g) state the date and time fixed for the close of the ballot.
- (5) The close of nominations must not be less than 40 days before the close of the ballot.
- (6) In this clause: "**close of enrolments**" means the date (being a date not less than 20 days before the close of the ballot for the election) and time fixed by the returning officer by which people must be included in the roll for the election.

Part 3 – Nominations for elections

4 Eligibility for nomination

Any person qualified for election as a director is eligible for nomination as a candidate for an election.

Clauses 4 and 5 of Schedule 2 to the Act set out the persons who are qualified for election as a director.

5 Nomination of candidates

- (1) Any occupier of rateable land in a district, or, if the district is divided into divisions, any occupier of land in the division, may nominate a person (including himself or herself) as a candidate for an election for that district or division.
- (2) A nomination of a candidate:
- (a) must be in the form approved by the authority concerned, and
 - (b) must contain a statement, signed by the candidate, stating that the candidate consents to the nomination, and
 - (c) must be lodged with the returning officer before the close of nominations.
- (3) Each candidate must be nominated on a separate nomination paper.
- (4) On receipt of the nomination, the returning officer must endorse on it the date and time of receipt.

6 Withdrawal of nomination proposals

- (1) A candidate who has been nominated in an election may withdraw the nomination.
- (2) A withdrawal of nomination must:
- (a) be in writing, and
 - (b) contain a statement, signed by the candidate, stating that the candidate withdraws the nomination, and
 - (c) be lodged with the returning officer before the close of nominations.

Clause 33 of this Schedule makes provision for circumstances in which a candidate dies after close of nominations and before close of the ballot.

7 Uncontested elections

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is, without a ballot being held, taken to be elected.

8 Contested elections

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

9 Candidate information sheets

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in or to the effect of Form 1, containing information intended for inclusion in a candidate information sheet.
- (2) If a ballot is to be held, the returning officer must compile a candidate information sheet consisting of the information submitted by the candidate.
- (3) In compiling a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information submitted by the candidate:
 - (a) as the returning officer considers to be false or misleading, or
 - (b) as the returning officer considers to be inappropriate for inclusion in the candidate information sheet, or
 - (c) as exceeds 250 words.
- (4) If a candidate does not submit any information, the returning officer may, in compiling the candidate information sheet, include in respect of the candidate the words "NO INFORMATION RECEIVED".
- (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

Part 4 – Electoral roll

10 Electoral roll

As soon as practicable after it becomes apparent to the returning officer that a ballot must be held for an election for a board of an authority, the returning officer must notify the authority:

- (a) that a ballot is to be held for the election, and
- (b) that an electoral roll for the election is required.

Part 4 of Schedule 2 to the Act provides for the keeping of rolls.

Part 5 – The ballot

11 Postal ballot

- (1) An election that is a contested election is to be determined by ballot by post.
- (2) The voting system in a contested election is to be the "first past the post" method, that is, the candidate or candidates with the most votes is or are taken to be elected. If the number of candidates to be elected cannot be determined because of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn from a lot containing the names of each of the candidates having equal votes.

12 Position on ballot-paper

- (1) The order of candidates' names on ballot-papers for an election that is a contested election is to be determined by a ballot held by the returning officer.
- (2) The ballot is to be conducted by the returning officer in the presence of at least 2 persons who are not candidates for election.
- (3) The ballot is to be conducted in the following manner:
 - (a) the returning officer must, at the place of nomination and before all persons present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated,
 - (b) the returning officer must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a securely fastened ballot-box,
 - (c) the returning officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same,

- (d) the returning officer must then unfasten the ballot-box and take out and open each container one by one,
 - (e) the returning officer must then announce to the persons present, and record, the name of the candidate whose name appears on the slip enclosed in the container first taken from the ballot-box and, in consecutive order, the name of the candidates whose names appear on the slip enclosed in the container next taken from the ballot-box and so on until the placing of all names has been determined,
 - (f) the returning officer must sign the record and allow any of the persons present to do the same.
- (4) Each candidate or an agent of the candidate is entitled to be present at a ballot in accordance with this clause.
- (5) In this clause: "**place of nomination**" means the place determined by the returning officer.

13 Form of ballot-papers

- (1) The returning officer is to have ballot-papers printed for the election.
- (2) The names of the candidates are to be printed in one column (starting at the top) in the order determined as referred to in clause 12.
- (3) The ballot-papers must show as the names of the candidates the names under which they were nominated. The names may be accompanied by descriptions or additions to distinguish them from each other in any case where a similarity in the names of 2 or more candidates is, in the opinion of the returning officer, likely to cause confusion.
- (4) The ballot-papers for an election are to be in or to the effect of Form 2.

14 Supply of ballot

- (1) The returning officer is to provide sufficient ballot-papers for each person entitled to vote in an election.
- (2) Each elector entitled to vote at an election is to be sent:
 - (a) one ballot-paper on which to record his or her vote together with a blank unsealed envelope (the "**inner envelope**"), and
 - (b) a large unsealed envelope addressed to the returning officer and bearing on the back the words "full name and address of elector in legible writing" and "signature of elector", together with appropriate spaces for the insertion of a name, address and signature and, if relevant, the division of the district for which the elector is to be elected (the "**outer envelope**").
- (3) The returning officer is to make an appropriate notation on the roll to show that the elector has received or been sent the ballot-paper or ballot-papers.

15 Ballot-paper

A ballot-paper is to be initialled on the back by the returning officer (or by a person authorised by the returning officer) before the returning officer gives or sends it to an elector. The initials are to be placed so as to be easily seen when the ballot-paper is folded to conceal the elector's marks. The initials may be written or stamped.

16 Duplicate ballot-papers

- (1) If an elector satisfies the returning officer that he or she has spoiled by reason of accident or mistake any ballot-paper handed or sent to him or her, the returning officer may, on receipt of the spoiled ballot-paper:
 - (a) hand or send to the elector a new ballot-paper, and
 - (b) cancel and preserve the spoiled paper.
- (2) If an elector satisfies the returning officer that he or she has not received a ballot-paper sent to him or her, the returning officer may hand or send to the elector a new ballot-paper.
- (3) The returning officer is to maintain a record of all duplicate ballot-papers issued under

this clause.

17 Recording of votes

- (1) In order to vote in an election, a person must:
 - (a) record a vote on the ballot-paper in accordance with the directions shown on it, and
 - (b) place the completed ballot-paper in an inner envelope, and
 - (c) seal the inner envelope, and
 - (d) place the inner envelope in the outer envelope, and
 - (e) write legibly the person's full name and address on, and sign, the back of the outer envelope, and
 - (f) return the outer envelope to the returning officer before the close of the ballot.
- (2) Nothing in subclause (1) prevents a person placing the outer envelope in another envelope addressed to the returning officer for return to the returning officer.

Part 6 – The scrutiny

18 Ascertaining result of ballot

The result of a ballot for an election is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

19 Scrutineers

- (1) At least one scrutineer, whether nominated by the candidate or otherwise, is to be present during the ballot for an election.
- (2) Each candidate at an election may nominate one person to be a scrutineer at the election.
- (3) A candidate for election may not act as a scrutineer.

20 Informal ballot-papers

- (1) A ballot-paper of an elector at an election is informal if:
 - (a) the elector has failed to record a vote on it in the manner directed on it, or
 - (b) it has not been initialled on the back by the returning officer, or
 - (c) it contains a mark or writing which, in the returning officer's opinion, would enable the elector to be identified.
- (2) Despite subclause (1), a ballot-paper of an elector at an election in which only one candidate is to be elected is not informal merely because a tick or a cross has been placed in one square and the other square or squares has or have been left blank. In such a case, the tick or cross is to be treated as a vote for only one candidate.
- (3) Despite subclause (1), a ballot-paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.

21 Initial scrutiny and count

- (1) On the close of the ballot for an election the returning officer must, in the presence of any scrutineers who are present, open the ballot-box and have the ballot-papers scrutinised in his or her presence and must reject the informal ballot-papers.
- (2) After the scrutiny at an election, the returning officer must:
 - (a) count the votes recorded for each candidate and the informal votes, and
 - (b) ascertain the results of the count in accordance with clause 11 (2), and
 - (c) inform the persons present of the result of the count.

22 Recount

- (1) Any candidate present when the returning officer declares the result of the count at an election may request a recount of the ballot-papers.
- (2) If such a request is made, the returning officer must again have the papers scrutinised and counted and is to inform the persons present of the results of the recount.

23 Declaring the election

(1) As soon as practicable after counting the votes in an election, the returning officer is to notify the enrolment officer for the authority concerned, in writing, of the candidate or candidates elected.

(2) The enrolment officer is to cause notice of the candidate or candidates elected in the election to be published in:

- (a) at least one newspaper circulating generally throughout New South Wales, or
- (b) one or more local newspapers that, individually or collectively, circulate generally throughout the district concerned.

Part 7 – Offences

24 Misconduct in voting

A person must not:

- (a) vote, or attempt to vote, more times than a person's voting entitlement allows in an election, or
- (b) vote, or attempt to vote, in any election in which the person is not entitled to vote, or
- (c) make a false or misleading statement:
 - (i) to the returning officer in connection with any election, or
 - (ii) in any document that the person furnishes for the purposes of any election.

Maximum penalty: 10 penalty units.

25 Obstruction of electoral officials

A person must not abuse, hinder or obstruct the returning officer or a scrutineer in the exercise of his or her functions.

Maximum penalty: 10 penalty units.

26 Misconduct by scrutineers

(1) A scrutineer must not:

- (a) interfere with or influence an elector in an election, or
- (b) at the counting of a ballot, communicate with any person except as necessary to carry out the scrutineer's functions.

(2) A scrutineer must obey the lawful directions of the returning officer.

Maximum penalty: 10 penalty units.

27 Breach of secrecy

The returning officer or a scrutineer who knows how a particular elector has voted must not disclose that knowledge.

Maximum penalty: 10 penalty units.

28 Stuffing ballot-boxes

(1) A person must not place in a ballot-box a ballot-paper that the person knows has not been lawfully issued to an elector. Maximum penalty: 10 penalty units.

(2) An elector must not place in the ballot-box a paper or other thing other than the ballot-paper and envelope issued to him or her. Maximum penalty: 10 penalty units.

29 Bribery

A person must not, in relation to an election or an elector at such an election, do any of the things set out in section 147 of the *Parliamentary Electorates and Elections Act 1912*.

Maximum penalty: 10 penalty units.

30 Treating

A candidate at an election must not, in relation to the election, do any of the things set out in section 149 of the *Parliamentary Electorates and Elections Act 1912*.

Maximum penalty: 10 penalty units.

31 Intimidation

A person must not, in relation to an election or an elector at such an election, do any of the things set out in section 151 of the *Parliamentary Electorates and Elections Act 1912*.

Maximum penalty: 10 penalty units.

Part 8 – Miscellaneous

32 Decisions of returning officer final

If the returning officer is permitted or required by this Regulation to make a decision on any matter relating to the taking of a ballot in any election, the decision of the returning officer on that matter is final.

33 Death of candidate

If a candidate dies after the close of nominations and before the close of the ballot in an election:

- (a) the returning officer is to cause notice of the death to be published in one or more local newspapers that, individually or collectively, circulate generally throughout the district or division concerned, and
- (b) all proceedings after the returning officer was notified that an election was required to be held are of no effect and must be undertaken again.

34 Security of election materials

- (1) After the results of an election are declared, the returning officer is to parcel the marked and any unmarked ballot-papers, the roll and other papers or envelopes used in the election.
- (2) The returning officer is to seal, endorse and sign each parcel, and to allow any scrutineers entitled to be present to watch the returning officer carry out those actions and countersign the parcel.
- (3) The returning officer is to have the parcels kept securely for 12 months after the election, and then destroyed.
- (4) If a court so directs, or any legislation so requires or permits, the returning officer is to allow any person to inspect any of the election materials, except the sealed parcels of marked ballot-papers.

35 Duty to notify Minister of malapportioned divisions

- (1) The board of a district divided into divisions must keep the division boundaries under review.
- (2) If, after a general election or periodic election, the board becomes aware that the number of rateable holdings in one division in its district differs by more than 10 per cent from the number of rateable holdings in any other division in its district, the board must, as soon as practicable, notify the Minister of that fact and recommend that the Minister alter the division boundaries in a manner that will result in each division containing a number of rateable holdings that does not differ by more than 10 per cent from the number of rateable holdings in each other division in the district.
- (3) Nothing in subclause (2) prevents a board that has become aware of the discrepancy referred to in that subclause from notifying the Minister and making the recommendation referred to in that subclause before the end of the first year of the following term of office of the board.

Schedule 2 Forms

Form 1 – Statutory declaration

Statutory declaration

(*Rural Lands Protection Regulation 2010*)

(Schedule 1, clause 9)

I, [full name] of [residential address],

do solemnly and sincerely declare that:

1 My full name is:

2 My residential address is:

3 My date of birth is:

4 I am self-employed*/employed by* [name of employer] as [specify nature of employment]

5 I hold the following qualifications [academic/trade/professional]:

6 I am a member of the following organisations:

7 I hold the following offices (other than employment):

8 [see note]

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at [place]

this [day] of [month and year]

before me [name of Justice of the Peace]:

Justice of the Peace:

[signature of Justice of the Peace]

Declarant:

[signature of Declarant]

A candidate may include further information relating to the candidacy. The information should not exceed 250 words.

[* Delete whichever is inapplicable]

Form 2 – Ballot-paper for election of directors

(Schedule 1, clause 13 (4))

[Insert name of district]

Election of [insert number of directors to be elected]

Held on [insert election day]

Candidates	
VALADON, Susan	â i
BROWN, Denise	â i
SMITH, John (Tenterfield)	â i
SMITH, John (Blackacre)	â i
DAVIS, Ron	â i

(The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper, an appropriate reference to their appearance on the back must be made on the front of the ballot-paper.)

Ballot-paper for election of directors

Directions for voting

[here insert the following direction if only one candidate is to be elected]

In marking your vote on this ballot-paper, you must place a clearly legible tick or cross in the square opposite the name of the candidate to whom you desire to give your vote.

[here insert the following direction if 2 candidates are to be elected]

In marking your vote on this ballot-paper you must place a clearly legible tick or a cross in the squares opposite the names of 2 candidates.

Schedule 3 Minimum areas of rateable land

(Clause 6 (1))

Column 1	Column 2
District	Area in hectares
Central North	10
Central West	10
Cumberland	10
Darling	40

Hume	10
Lachlan	10
Mid-Coast	10
New England	10
North Coast	10
North West	10
Riverina	20
South East	10
Tablelands	10
Western	40

Schedule 4 Penalty notice offences

(Clause 54)

Part 1 – Prescribed offences under the Act

Column 1	Column 2
Section	Penalty (\$)
76 (1)	300
81 (1)	200
82 (1)	150
82 (2)	150
82 (3)	150
83 (2)	200
95	300
96 (1)	300
106 (3)	200
107	200
126 (1)	150
126 (3)	150
136 (1)	500
139 (1)	300
140	500
140C	440
140D	440
140E	440
140F (4)	1,100
140G (3)	220
155 (1)	200
155 (2)	200
155 (3)	150
167 (1)	500
167 (3)	300
170 (4)	500
176 (1)	200
176 (2)	500
177 (1)	500
178 (1) and (2)	200

178 (3)	500
179 (a) and (b)	500
210 (1)	200
210 (2)	200
210 (4)	500
237 (2)	200

Part 2 – Prescribed offences under this Regulation

Column 1	Column 2
Clause	Penalty (\$)
14 (2)	150
15	150
20 (1)	500
20 (2) and (3)	150
21 (1)	440
21 (3)	150
22	200
23 (2)	150
24 (2)	200
25	200
27 (2)	150
28	200
30 (1)	300
30 (2)	500
30 (3)	200
31 (2)	150
32	150
33	150 per carcass or 500 in any other case
37 (2)	150
41 (1)	200
41 (7)	150
41 (10)	300
42 (1)	500
47	150
57	500

Part 3 – Prescribed offences under Schedule 1 to this Regulation

Column 1	Column 2
Clause	Penalty (\$)
24	200
25	300
26	200
27	150
28	150
29	500
30	500
31	500

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivision s
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Rural Lands Protection Regulation 2010 (489)*. LW 27.8.2010. Date of commencement, 1.9.2010, cl 2.