



New South Wales

# Rural Lands Protection Amendment Act 1997 No 38

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New South Wales

## **Rural Lands Protection Amendment Act 1997 No 38**

Act No 38, 1997

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

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

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

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Rural Lands Protection Act 1989 No 197**

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

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## Schedule 1 Amendments

(Section 3)

### [1] Section 4

Omit the section. Insert instead:

#### **4 Rural lands protection districts** (cf Act No 35, 1934, s5)

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

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

Omit “4 divisions” from section 5 (1).

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

### [3] Section 5 (7)

Omit the subsection. Insert instead:

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

### [4] Section 5 (8)

Omit “section” where firstly occurring. Insert instead “Division”.

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

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

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

Omit section 8 (2).

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

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

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

Insert at the end of clause 2:

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

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

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

- the *Rural Lands Protection Amendment Act 1997*

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

Insert after Part 3:

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

**47 Definitions**

In this Part:

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

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

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

*amalgamation proclamation* means a proclamation constituting an amalgamated district.

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

#### **48 Rural lands protection districts**

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

#### **49 Amalgamation facilitator and other staff**

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

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

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

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

**51 No appointment of initial administrator**

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

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## 52 Existing directors

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

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

- (1) In this clause:

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

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

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

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



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

#### **54 First election for amalgamated districts**

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

#### **55 Directors of board for amalgamated district**

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

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

#### **56 Conduct of first election**

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

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