

[Act 1998 No 143]



New South Wales

Rural Lands Protection Bill 1998

Explanatory note

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

Overview of Bill

This Bill repeals and re-enacts in a simplified and modified form the *Rural Lands Protection Act 1989* ("the 1989 Act").

The objects of this Bill are as follows:

- (a) to provide for the protection of rural lands,
- (b) to provide for the continued operation of rural lands protection boards.
- (c) to constitute a State Council of Rural Lands Protection Boards.
- (d) to give the State Council general oversight of the exercise by the boards of their functions in accordance with determinations of representatives of the boards at Annual State Conferences of the boards.
- (e) to confer on rural lands protection boards greater autonomy in the exercise of their functions while imposing on them the responsibility to be accountable for their actions.

* Amended in committee—see table at end of volume.

- (f) to provide for the imposition and collection of rates, charges and fees,
- (g) to regulate the provision of animal health services,
- (h) to provide a framework for the identification and control of animals, birds, insects and other members of the animal kingdom that are pests,
- (i) to make provision with respect to the identification of stock,
- (i) to regulate the use of, and the movement and gazing of stock on, travelling stock reserves and public roads.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed.

Clause 3 provides that the words and expressions used in the Dictionary at the end of the proposed Act have the meanings given in the Dictionary.

Clause 4 provides that notes do not form part of the proposed Act.

Part 2 Rural lands protection districts and regions

Clause 5 provides for the constitution by the Governor of rural lands protection districts and for the subsequent alteration of the boundaries, and dissolution and amalgamation of such districts.

Clause 6 requires the Minister to divide a district into divisions unless the district is exempted from this requirement under proposed section 7.

Clause 7 provides for districts in the Western Division to be exempted from the requirement to be divided into divisions in certain circumstances.

Clause 8 provides for the ascertainment of the district in which a holding located in 2 or more districts is to be regarded as being situated for the purposes of the proposed Act.

Clause 9 provides for the declaration of rural lands protection regions. A region will comprise land within 2 or more districts.

Part 3 Functional responsibilities

Clause 10 makes it clear that the State Council is subject to the control and direction of the Minister in the exercise of its functions.

Clause 11 makes it clear that the State Council is responsible for ensuring that the boards implement the general policies determined by representatives of the boards at annual State Conferences of the boards.

Clause 12 makes it clear that each board is responsible for its day-to-day operations but must carry these out in accordance with guidelines issued by, and directions of, the State Council.

Clause 13 requires the State Council to enter into a memorandum of understanding with the Director-General of the Department of Agriculture regarding the exercise of the functions of the Director-General, the State Council and the boards under the Act. Failure of the State Council to enter into or to comply with the memorandum may be a ground for the appointment of an administrator to exercise some or all of the functions of the State Council under proposed Part 14.

Part 4 Annual State Conference of boards

Clause 14 requires a conference of the boards to be held annually.

Clause 15 provides for the determination of the persons who are to represent each board at the first and subsequent annual conferences.

Clause 16 provides for resolutions at annual conferences to be determined by majority vote.

Clause 17 specifies the matters that must be determined at the annual conferences. These include the general policies to be implemented by boards and the setting of the budget for the State Council.

Clause 18 provides for the conduct of business at annual conferences to be determined (subject to the proposed Act and the regulations) by the participants at the conferences.

Part 5 State Council

Division 1 Constitution of State Council

Clause 19 constitutes the State Council of Rural Lands Protection Boards (the *State Council*).

Clause 20 provides for the members of the State Council to consist of persons representing each rural lands protection region.

Clause 21 provides for the election of the persons to represent the regions.

Clause 22 provides for the State Council to determine its constitution and procedure (subject to the proposed Act and the regulations).

Clause 23 enables the State Council to employ such staff as it considers necessary.

Division 2 Functions of State Council

Clause 24 provides for the State Council to exercise functions conferred on it by or under the proposed, or any other, Act.

Clause 25 provides for the State Council to issue guidelines about the functions of boards.

Clause 26 enables the State Council to delegate its functions.

Division 3 Boards to comply with State Council's directions

Clause 27 enables the State Council to give a board a notice directing it to take specified action when the board has failed to comply with certain requirements imposed on it by or under the proposed Act.

Clause 28 requires a notice under proposed section 27 to warn the board to whom it is given of the consequences of a failure to comply with the direction given by the notice.

Clause 29 enables the State Council to take action to give effect to a direction if a board fails to comply with the direction.

Division 4 Finance

Clause 30 requires the State Council to establish and maintain a fund into which money received by it is to be paid.

Clause 31 provides for the salaries of staff and other costs and expenses of the State Council to be funded by the rural lands protection boards (the boards).

Clause 32 describes the ways in which the State Council may invest its funds.

Clause 33 describes the financial year of the State Council as the year commencing 1 January.

Clause 34 requires the State Council to give the Minister a copy of certain financial statements and opinions of the Auditor-General.

Clause 35 enables the Minister to request the Auditor-General to conduct a special audit of the State Council's accounts under the *Public Finance and Audit Act 1983*.

Division 5 Miscellaneous

Clause 36 provides for the making of annual reports by boards and the State Council.

Part 6 Rural lands protection boards

Division 1 Constitution of rural lands protection boards

Clause 37 constitutes a rural lands protection board for each district. Clause 4 of Schedule 7 to the proposed Act provides for these to be the same as those constituted under the 1989 Act.

Clause 38 provides for a board to be a body corporate.

Clause 39 provides for the corporate name of each board.

Clause 40 provides for boards to consist of 8 directors (unless in a particular case the Minister determines that a board should consist of a different number of directors). Clause 6 of Schedule 7 to the proposed Act provides for the existing directors under the 1989 Act to continue in office under the proposed Act.

Clause 41 provides for the dissolution of a board that is amalgamated with another board or that otherwise ceases to exist.

Division 2 Functions of boards

Clause 42 provides for a board to exercise functions conferred on it by or under the proposed, or any other, Act.

Clause 43 enables a board to employ such staff as it considers necessary for the exercise of its functions.

Division 3 Function management plans

Clause 44 requires a board to prepare a draft function management plan with respect to all travelling stock reserves under its care, control and management and to prepare a draft plan with respect to any of its other functions if required to do so by the State Council.

Clause 45 specifies the matters that must be covered by function management plans for travelling stock reserves.

Clause 46 sets out the public exhibition and consultation requirements for the making of function management plans with respect to travelling stock reserves.

Clause 47 requires a board to submit a draft function management plan to the State Council for approval (and alteration if considered necessary by the State Council). It also requires the State Council to consult certain public authorities before approving such a plan.

Clause 48 provides for the procedure for the amendment and revocation of function management plans to be generally the same as for their making.

Clause 49 requires a board to exercise any function for which there is a function management plan in accordance with the plan. Failure of a board to do so (or to comply with any subsequent directions given by the State Council) may be a ground for the appointment of an administrator to exercise some or all of the functions of the board under proposed Part 14.

Division 4 Financial provisions

Clause 50 requires a board to establish and maintain a fund into which money received by the board is to be paid. Money in the fund can in general be used for any purpose allowed by law. However, money received as a result, for example, of the levying of a special purpose rate may be used only for the purpose for which it was levied.

Clause 51 permits money received by imposition of a special purpose rate that is surplus to the purpose for which the rate was levied to be used for another purpose with the approval of the Minister.

Clause 52 describes the ways in which a board may invest money in its funds.

Clause 53 describes the financial year of the board as the year commencing 1 January

Clause 54 requires a board to give the Minister a copy of certain financial statements and opinions of the Auditor-General.

Clause 55 enables the Minister to request the Auditor-General to conduct a special audit of a board's accounts under the *Public Finance and Audit Act 1983*.

Division 5 Miscellaneous

Clause 56 confers an entitlement on any person to inspect certain records of a board.

Clause 57 enables a board to recover fees for services it provides.

Part 7 Rates

Division 1 Preliminary

Clause 58 contains definitions for the purposes of the proposed Part.

Clause 59 enables a board to treat multiple holdings of an occupier as one holding for rating purposes at the request of the occupier.

Division 2 Rates

Clause 60 describes what land in a district is rateable land for the purposes of the proposed Act.

Clause 61 describes the types of rate (general rates, animal health rates and special purpose rates) that may be made by boards.

Clause 62 requires a board to make and levy a general rate and an animal health rate in each year in accordance with the regulations. A special purpose rate may be levied whenever the board considers it necessary to do so.

Clause 63 provides for rates to be levied on land by a rate notice given to any occupier of the land.

Division 3 Liability for rates

Clause 64 specifies the occupier of land as the person who is primarily liable to pay rates.

Clause 65 makes it clear that (with the exception of land that is the subject of a lease, licence or purchase from the Crown), the owner of land is liable for rates that are unpaid for 12 months after they become due and payable.

Clause 66 provides for liability for rates to continue following a change in occupation or ownership of land until the requisite notice of the change is given under proposed section 81.

Clause 67 describes the effect of a change in occupation or ownership of land on the respective liabilities for rates of the former and subsequent occupier or owner.

Clause 68 provides for the recovery of contributions to rates between persons involved in a change of occupancy or ownership.

Division 4 Assessment of notional carrying capacity of land

Clause 69 requires a board to assess the notional carrying capacity of holdings in its district every 5 years.

Clause 70 enables an occupier or owner of a holding to seek a review of the assessment by the board of the notional carrying capacity of the holding.

Clause 71 sets out the procedure to be followed by a board in reviewing an assessment of the notional carrying capacity of a holding.

Division 5 Appeals against assessment of notional carrying capacity and rates

Clause 72 provides for an appeal to be made to the appropriate local land board by a person dissatisfied with a board's review of an assessment.

Clause 73 provides for an appeal to the appropriate local land board against the validity of a rate.

Clause 73 sets out the procedure to be followed by a local land board in deciding appeals under proposed Division 5.

Division 6 Recovery of rates

Clause 75 prevents lodgment of an appeal against the validity of a rate from preventing proceedings for recovery of the rate.

Division 7 Annual returns

Clause 76 requires annual returns to be lodged in relation to each holding in a district.

Clause 77 makes it clear that once an annual return for a holding is lodged for a year, it remains the annual return for the holding despite any changes in the ownership or occupancy of, or stock kept on, the land during the year.

Clause 78 imposes a duty on the person who lodges an annual return with a board and certain other persons to supply information relating to the return if required to do so by the board.

Division 8 Miscellaneous

Clause 79 enables the State Council (with Ministerial approval) to cure irregularities in the way rates are levied that would otherwise invalidate rates.

Clause 80 enables a board to grant rebates of, waive, refund or write off rates.

Clause 81 makes it an offence for certain persons to fail to notify a board within one month of a change in the occupancy or ownership of land in its district.

Clause 82 makes it an offence for an occupier of rateable land or owner of stock in a district to fail to notify the board within one month of a change of postal address or of becoming such an occupier or owner.

Clause 83 requires persons who take Crown land on short tenure to lodge bonds as security for the payment of rates and charges.

Part 8 Travelling stock reserves and public roads

Part 8 provides for the management, and regulation of the use by travelling stock and persons, of travelling stock reserves that are controlled by boards and for the regulation of the use by travelling stock and persons of travelling stock reserves that are not fully controlled (but are managed) by boards and of public roads.

Division 1 Preliminary

Clause 84 contains definitions used in the proposed Part. *Travelling stock* is defined as stock that are being moved by being walked and includes travelling stock that are grazing. *Controlled travelling stock reserves* are reserves under the care, control and management of boards under the proposed Part or stock watering places for which they are controlling authorities. *Managed travelling stock reserves* are travelling stock reserves other than controlled travelling stock reserves or certain reserves prescribed by the regulations.

Division 2 Controlled travelling stock reserves

Clause 85 enables the Minister for Land and Water Conservation to vest a board with the care, control and management of travelling stock reserves (other than stock watering places or travelling stock reserves comprising land within a State forest or on land within the Western Division that is subject to a lease from the Crown).

Clause 86 enables the Minister for Land and Water Conservation to withdraw the care, control and management of a travelling stock reserve from a board.

Clause 87 enables the Minister for Land and Water Conservation to withdraw part of a travelling stock reserve under the care, control and management of a board from the reserve if it is required for a site for a town or village or for any public purpose.

Clause 88 provides for the payment of compensation to a board for improvements made to land withdrawn from a travelling stock reserve under its care, control and management.

Division 3 Timber on controlled travelling stock reserves

Clause 89 requires a board to notify the Forestry Commission before removing, felling or destroying timber within an area of land of more than one hectare within a controlled travelling stock reserve. If the travelling stock reserve adjoins a national park or nature reserve, the Director-General of National Parks and Wildlife must be consulted before timber is felled or removed.

Clause 90 limits the use that can be made of timber felled on controlled travelling stock reserves.

Clause 91 requires boards and the Forestry Commission to consult before licences to cut or remove timber from controlled travelling stock reserves are issued.

Clause 92 makes it clear that a board cannot take action that is contrary to the *Native Vegetation Conservation Act 1997*.

Division 4 Closure of controlled travelling stock reserves

Clause 93 enables a board to close a controlled travelling stock reserve if closure is necessary to conserve the soil or vegetation, prevent or mitigate soil erosion, regenerate or plant trees or pasture or to carry out its functions in relation to the reserve. It also enables a board to suspend certain rights or entitlements to use a reserve if the activity concerned might damage the reserve or some thing on it or cause nuisance or annoyance to members of the public.

Clause 93 requires a board that makes a closure order to give public notice of the closure or suspension of rights or entitlements concerned and provides for the duration of closure orders.

Division 5 Use of travelling stock reserves and public roads

Clause 95 makes it an offence to enter or remain on a travelling stock reserve, occupy or use it or engage in activity that damages or is likely to damage it without lawful authority.

Clause 96 makes it an offence to walk or graze stock on a public road without the authority conferred by a stock permit or order made or permit issued under the *Stock Diseases Act 1923*.

Clause 97 entitles a person to engage in recreational activities prescribed by the regulations on travelling stock reserves between sunrise and sunset and requires the Crown to indemnify the responsible board for injury or damage arising out of the activity.

Clause 98 gives an occupier of land a right of access over a travelling stock reserve if no other access to and from the land by means of an established road or track is available. The right of way is subject to such conditions as to its exercise (including conditions as to its position, construction and improvement at the cost of the occupier) that may be imposed by the board.

Clause 99 provides for an occupier of land who has a right of access under proposed section 98 to appeal against any decisions as to conditions of its exercise imposed by the responsible board.

Clause 100 enables a board to issue a reserve use permit authorising a person or group of persons to use a travelling stock reserve for apiaries and certain activities and purposes not otherwise authorised or able to be authorised under the proposed Act.

Clause 101 enables a board to issue a stock permit authorising use of a travelling stock reserve or public road by stock.

Clause 102 sets out the manner of applying for issue of a stock permit or reserve use permit.

Clause 103 provides for the duration of stock permits and reserve use permits.

Clause 104 enables a board to cancel or suspend a stock permit or reserve use permit by notice.

Clause 105 enables the regulations to prescribe different classes of permits and to describe the authority conferred on persons by their issue.

Clause 106 provides for a stock permit or reserve use permit to be subject to conditions and makes it an offence for the holder of a permit to breach the conditions.

Clause 107 requires the holder of a stock permit to ensure stock are moved or grazed in compliance with the Act and regulations.

Clause 108 extends the authority to walk or graze stock on a travelling stock reserve or road in a particular district to a reserve or road in an adjacent district.

Clause 109 provides for appeals to be made to the appropriate local land board against a board's refusal to issue, or decision to suspend or cancel, a stock permit or a reserve use permit.

Clause 110 enables a local land board that revokes a decision of a board in proceedings under proposed section 109 to order payment of compensation to the holder of the permit.

Division 6 Fencing of boundaries of controlled travelling stock reserves

Clause 111 contains definitions of expressions used in the proposed Division.

Clause 112 excepts the holders of certain leases and licences from the application of the proposed Division.

Clause 113 excludes the application of the *Dividing Fences Act* 1991 to certain land on the boundaries of a controlled travelling stock reserve.

Clause 114 enables a board to require the owner of certain land adjoining a controlled travelling stock reserve to carry out fencing work on the boundary of the land and the reserve by a notice given to the owner. If an owner fails to carry out the work the board may itself carry it out.

Clause 115 requires a notice under proposed section 114 to specify the proportion of the costs of the fencing work required by the notice that is to be borne by the owner of the land.

Clause 116 entitles the owner to recover any costs of the fencing that are greater than the proportion that the notice specified the owner should bear from the board.

Clause 117 enables a board to serve a compliance notice on an owner who has failed to carry out fencing work requiring the owner to cover the costs of the board in it instead carrying out the work.

Clause 118 provides for an owner of land or a board to apply to the appropriate local land board for settlement of any dispute arising between them about fencing work.

Clause 119 prevents the jurisdiction of a local land board from being ousted on the ground that a party does not reside in the land district for which the board is constituted.

Clause 120 sets out the action that a local land board may take with respect to payment of the money involved when an application is made to it under proposed section 118.

Clause 121 preserves the right of appeal to the Land and Environment Court against the local land board's decision.

Clause 122 enables the State Council to refer questions arising about its functions under the proposed Division to an appropriate local land board.

Division 7 Miscellaneous

Clause 123 provides that a board will not be liable to pay damages in respect of the deaths of, or the injuries, illnesses or diseases suffered by, persons or stock or bees that are attributable to the application by the board of pesticides or chemicals to a controlled travelling stock reserve if the board has given the requisite notice of the application or presence.

Clause 124 provides that a board will not be liable to pay damages in respect of the deaths of, or the injuries suffered by, persons or stock or bees that are attributable to the presence with the authority of the board of diseased stock on a travelling stock reserve or public road if the board has given the requisite notice of the presence.

Clause 125 empowers a board to impound bees or beehives on a controlled travelling stock reserve in certain circumstances.

Clause 126 requires the person in charge of stock on a public road or travelling stock reserve to muster the stock for inspection and provide proof of authority to walk or graze the stock if required to do so by a prescribed officer.

Clause 127 enables a board to take legal proceedings to recover the cost of rectifying damage to a structure or work, or replacing a destroyed structure or work, on a travelling stock reserve.

Clause 128 enables boards to exempt persons or classes of persons from the operation of all or some of the provisions of the proposed Part.

Part 9 Stock watering places

Clause 129 empowers the Minister for Land and Water Conservation by order to declare certain land to be a stock watering place.

Clause 130 empowers the Minister administering the proposed section by order to declare a stock watering place to be a town water supply.

Clause 131 specifies the authorities that are controlling authorities of stock watering places for the purposes of the proposed Part.

Clause 132 enables controlling authorities to construct, carry out improvements to and maintain works for storing or providing water at stock watering places.

Clause 133 requires the Minister for Land and Water Conservation to compensate controlling authorities for improvements to places that cease to be stock watering places as a consequence of the revocation or variation of the orders declaring them to be such places.

Clause 134 enables controlling authorities to grant leases of stock watering places.

Clause 135 requires the controlling authority (or lessee) of a stock watering place to supply water to specified persons or stock if required to do so by the regulations.

Clause 136 makes it an offence to intentionally or recklessly pollute or interfere with any water that flows into or is used as a source of supply for any stock watering place.

Part 10 Impounding of unattended and trespassing stock and abandoned articles

Schedule 6.11 to the proposed Act contains amendments to the *Impounding Act 1993* to make boards impounding authorities for the purposes of that Act and to empower persons appointed by them to impound and deal with animals (including pigs and deer) if they are unattended or trespassing in public places and places owned or under the control of boards and articles if they have been abandoned or left unattended in such places. That Act also provides for occupiers of private land to impound and deal with animals trespassing on their land, provides for the release of impounded animals and articles that are claimed by their owners and, if they are disposed of by sale, provides for the disposal of the proceeds of sale.

Proposed Part 10 includes some provisions to complement the *Impounding Act 1993*.

Clause 137 defines the expression *stuck* for the purposes of the proposed Part as including pigs and deer and adopts the definitions of various other expressions used in the Part as defined in the *Impounding Act 1993*.

Clause 138 specifies the circumstances in which stock will not be treated as being unattended for the purposes of the *Impounding Act 1993* because of their presence on land in accordance with authority conferred by or under the proposed Act.

Clause 139 makes it an offence to abandon stock, or permit them to trespass, on a public road, travelling stock reserve or other public land except as authorised by or under the proposed Act.

Clause 140 makes it an offence to release, or incite or assist a person to release, impounded stock or stock detained for the purpose of being impounded.

Part 11 Pests

Proposed Part 11 rationalises and simplifies the provisions of Parts 9, 9A and 10 of the 1989 Act. It enables an order to be made declaring an animal, bird, insect or other member of the animal kingdom to be a pest either in a particular locality or generally in the State and for that order to impose the appropriate obligations or powers necessary to control that pest on the land concerned.

Division 1 Preliminary

Clause 141 contains definitions of expressions used in the proposed Part.

Clause 142 provides for the proposed Part to bind the Crown.

Division 2 Pest control orders

Clause 143 enables the Minister, by order published in the Gazette (a *pest control order*), to declare a specified member of the animal kingdom to be a pest on land to which the order applies (*controlled land*) and impose or confer various obligations or powers in relation to control of that pest. The obligations that may be imposed range from an obligation for all occupiers of controlled land to eradicate any pest on the land by a specified method to an obligation to simply notify a board when pests are detected on the land. A pest control order may empower a board to make *eradication orders* that are appropriate in its district or a particular locality to deal with a pest and to modify aspects of a pest control order applying generally to take account of local conditions. A board may, for example, be authorised in appropriate circumstances to give approval for a different method to be used to eradicate a pest in a particular locality to that specified in a pest control order or to permit a pest to be kept in captivity instead of being eradicated.

Clause 144 enables a pest control order to be made on the Minister's own initiative after consultation with the State Council or at the request of a board.

Clause 145 describes the way in which a board may request the making of a pest control order.

Clause 146 requires public notice to be given of a proposal to make a pest control order and for the proposed order to be placed on public exhibition so that submissions may be made on the proposal.

Clause 147 requires the Minister to consult with a public authority before making a pest control order that applies to land occupied by the authority.

Clause 148 enables the Minister to waive the notice and consultation requirements in the public interest (for example, the Minister might waive the requirements if urgent action was required to eradicate a pest present on land in plague proportions).

Clause 149 provides for the making of orders in the same terms or substantially the same terms as those publicly exhibited.

Clause 150 requires the Minister to give notice of the making of a pest control order.

Clause 151 provides for a pest control order to take effect when it is published in the Gazette or on a later day specified in the order.

Clause 152 provides for the duration of pest control orders. Orders made after consultation and public notice requirements are waived may not have effect for longer than 3 months.

Clause 153 provides for the amendment and revocation of pest control orders.

Clause 154 preserves the effect of a pest control order despite any failure to comply with certain procedural requirements.

Clause 155 creates offences relating to obligations imposed by pest control orders on the owners and occupiers of private land.

Clause 156 sets out the obligations of occupiers of public land to which pest control orders apply.

Division 3 Eradication orders

Clause 157 describes the circumstances in which a board may make an eradication order against occupiers or owners of land (other than public authorities).

Clause 158 requires an eradication order to specify the period within which the terms of the order must be complied with.

Clause 159 requires a board to give notice of its intention to make an eradication order to the occupier of land to whom it is to be given.

Clause 160 enables a person to make representations concerning the proposed eradication order.

Clause 161 requires a board to hear and consider any representations made about a proposed eradication order.

Clause 162 describes the action that a board may take after hearing and considering representations about a proposed eradication order.

Clause 163 requires a board to give reasons for making an eradication order to the occupier or owner of land to whom it is given.

Clause 164 requires the board to notify the occupier or owner of land to whom an eradication order is given of their appeal rights.

Clause 165 provides for appeals to be made to the appropriate local land board against an eradication order given by a board on various grounds.

Clause 166 enables the Minister, on the recommendation of a board, to give an individual eradication order to a public authority.

Clause 167 creates offences in relation to failure of owners or occupiers of private land to comply with eradication orders and requires occupiers of public land to comply with eradication orders to the extent that is reasonably practicable.

Clause 168 states the effect of compliance with the procedural requirements of the proposed Division.

Division 4 Powers of authorised officers and others concerning eradication of pests

Clause 169 enables certain authorised officers to eradicate pests on land if a pest control order authorises the taking of that action or the owners or occupiers of the land fail to comply with pest control orders or eradication orders.

Clause 170 enables an authorised officer to give certain orders requiring the destruction or removal of pests and the search of vehicles being used to convey pests.

Clause 171 enables the Minister or a board to serve compliance notices requiring occupiers and owners of land to pay inspection charges and charges to cover costs incurred by authorised officers when the occupiers or owners fail to take action required by them under the proposed Part. A charge in respect of private land that is not paid will be able to be recovered by legal proceedings. If the amount ordered to be paid in those proceedings is not paid, it will become a charge on the land concerned and the land will be able to be sold if the amount is not paid or recovered within 5 years after the date of judgment.

Clause 172 enables the Minister to require a board to make a contribution towards the cost of eradicating pests in its district.

Clause 173 enables the Treasurer to advance money to the Minister for pest eradication purposes.

Division 5 Miscellaneous

Clause 174 provides for applications to be made for approval to keep pests in captivity.

Clause 175 provides for appeals to be made to the appropriate local land board against a decision to refuse an application for approval to keep a pest in captivity or to use an alternative eradication method.

Clause 176 makes it an offence to keep a pest in captivity without the requisite approval or to liberate such a pest without lawful authority.

Clause 177 makes it an offence to administer a substance declared by a pest control order to be a prohibited substance to a pest.

Clause 178 creates various offences involving the movement of pests through fences designed to keep them off land and the conveyance of pests without lawful excuse.

Clause 179 makes it an offence to damage, destroy, remove or interfere with devices being used or intended to be used to eradicate pests in accordance with the proposed Part.

Clause 180 enables boards to conduct or participate in campaigns for the eradication of pests.

Clause 181 provides for the Premier to settle disputes between public authorities and the Ministers responsible for them that arise under the proposed Part.

Part 12 Powers of authorised officers

Division 1 Preliminary

Clause 182 confers a power on an authorised officer to enter certain premises to enable the authorised officer to exercise specified functions. The authorised officer may enter alone or accompanied by other persons and with such vehicles, dogs or horses as are necessary to exercise the function concerned.

Clause 183 sets out the purposes for which a power of entry may be exercised under the proposed Part.

Clause 183 makes it clear that the proposed Part does not affect the exercise of other functions conferred by the proposed Act.

Division 2 Authorised officers

Clause 185 provides for the appointment by a board or the Minister (the *authorising authority*) of a person as an authorised officer.

Clause 186 outlines the scope of the authority of an authorised officer.

Clause 187 provides that every authorised officer must be given an identification card by the appointing authority.

Clause 188 limits the power to enter to entry at a reasonable time.

Clause 189 provides that residential premises may be entered only with the permission of the occupier or a search warrant.

Clause 190 outlines the actions that authorised officers may take after entering premises

Clause 191 requires notice to be given before a power of entry is exercised except in urgent, or other limited, cases.

Clause 192 sets out the circumstances under which reasonable force may be used to enter premises.

Clause 193 requires an authorised officer who does not give the requisite notice of entry or uses force to enter premises to notify the authorising authority.

Clause 194 provides that care must be taken in exercising a power of entry.

Clause 195 provides for compensation for damage caused in entering premises unless the entry is obstructed, hindered or resisted.

Clause 196 outlines the procedure for obtaining search warrants.

Clause 197 enables an authorised officer to seek assistance from police officers and other persons. where necessary.

Division 3 Offences in relation to authorised officers

Clause 198 creates offences relating to persons obstructing and hindering authorised officers in the carrying out of their functions.

Clause 199 makes it an offence to impersonate, or represent that a person other than an authorised officer is, an authorised officer.

Part 13 Enforcement provisions

Division 1 Recovery of outstanding rates, charges and other amounts

Clause 200 gives effect to Schedule 5.

Clause 201 makes any rate, charge or other money which is due under the proposed Act but remains unpaid recoverable as a debt in a court of competent jurisdiction.

Clause 202 provides for the accrual of interest on overdue rates, charges and other amounts.

Clause 203 enables proceedings for the recovery of a rate or charge to be commenced at any time within 20 years after it becomes payable.

Division 2 Proceedings for offences

Clause 204 provides for the manner of dealing with offences under the proposed Act or the regulations. In general these are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Clause 205 enables offences under the proposed Act or regulations that are prescribed for the purposes of the proposed section and that may be dealt with summarily to be commenced within 2 years after they are alleged to have been committed.

Clause 206 sets out the procedure for the issue of penalty notices under the proposed Act.

Clause 207 provides for certain penalties for offences to be paid to boards.

Clause 208 provides that a court may, in addition to any other penalty that it may impose for an offence under proposed section 107 or 139, order the person found guilty of the offence to pay to the board concerned an additional amount to cover the expenses (including costs of agistment) incurred by the board as a result of the offence.

Clause 209 makes a director of a corporation or a person concerned in the management of a corporation that contravenes the proposed Act or regulations liable for the contravention if the director or person knowingly authorised or permitted the contravention.

Clause 210 creates offences relating to the provision of information required to be provided under the proposed Act.

Clause 211 provides for the onus of proving that a person had a reasonable or lawful excuse to lie with the defendant in proceedings.

Division 3 Miscellaneous

Clause 212 provides that, for the purposes of legal proceedings or an order, notice or permit given under the proposed Act or the regulations relating to land, a general description of the land is sufficient.

Clause 213 permits legal proceedings to be pursued even if the name of the occupier or owner of a particular holding is unknown.

Clause 214 prevents the jurisdiction of a court or local land board from being ousted because legal proceedings under the proposed Act involve a question of title to land, future rights or a general right or duty.

Part 14 Administration of functions of State Council and boards

Division 1 Administration of State Council

Clause 215 enables the Minister to appoint an administrator to manage all the affairs of the State Council if the State Council fails to comply with Ministerial directions or to carry out its functions to the satisfaction of the Minister or to enter into a memorandum of understanding or carry out its functions in accordance with the memorandum.

Clause 216 enables the Minister to appoint an administrator to manage a particular aspect of the affairs of the State Council in similar circumstances as above relating to the specific function concerned.

Clause 217 provides for an administrator appointed under the proposed Division to exercise the relevant functions conferred by the appointment and for delegations of the State Council relating to those functions to cease to be operative.

Division 2 Administration of boards

Clause 218 enables the Minister to appoint an administrator to manage all the affairs of a board if the board fails to comply with directions of the State Council, to carry out its functions to the satisfaction of the Minister, to hold elections of directors in accordance with the Act or if certain other specified circumstances occur.

Clause 219 enables the Minister to appoint an administrator to manage a particular aspect of the affairs of a board if the board fails to comply with directions of the State Council, to carry out its functions to the satisfaction of the Minister or if other circumstances prescribed by the regulations occur.

Clause 220 provides for an administrator appointed under the proposed Division to exercise the relevant functions conferred by the appointment and for delegations of the board relating to those functions to cease to be operative.

Clause 221 requires an administrator to hold a special election of directors of a board if directed to do so by the Minister.

Division 3 Administration of boards pending election of directors

Clause 222 contains definitions of expressions used in the proposed Division.

Clause 223 enables the Minister to appoint an initial administrator to manage the affairs of a newly constituted board, pending the election of the directors of the board.

Clause 224 enables the Minister to make alternative arrangements where the board is constituted as a consequence of the amalgamation of existing boards. Directors of the boards to be amalgamated may act as directors of the new board pending the election of its directors.

Clause 225 enables the Minister to appoint an amalgamation facilitator and other persons to assist in the conduct of the first election for an amalgamated district.

Clause 226 requires the Minister to divide an amalgamated district (other than a district in the Western Division) into divisions and specify the number of directors of it.

Clause 227 makes provision for the employees, property and expenditure of boards to be amalgamated in the period immediately before amalgamation.

Division 4 Miscellaneous

Clause 228 enables regulations to be made with respect to administrators and contains a machinery provision that gives effect to Schedule 3.

Part 15 Surcharges

Clause 229 enables the Auditor-General to disallow improperly incurred expenditure of a board or the State Council and to surcharge any director, member or employee who incurred or authorised it.

Clause 230 sets out the procedure to be followed to surcharge a director, member or employee.

Clause 231 provides for the making of appeals to the District Court against the imposition of a surcharge.

Clause 232 provides for the recovery of amounts surcharged.

Clause 233 provides for a director or member who fails to pay a surcharge to cease to hold office as a director or member and for an employee who fails to pay a surcharge to be suspended from employment.

Part 16 Miscellaneous

Clause 234 provides for the State Council to resolve disputes between boards, directors or staff of boards or between boards and persons complaining about the actions of boards.

Clause 235 provides for the Director-General to resolve disputes between the State Council and a board.

Clause 236 provides for the board to give certificates that are conclusive evidence as to various matters.

Clause 237 enables an authorised officer to order the owner of stock to muster the stock at a particular place for a specified purpose.

Clause 238 protects persons from civil and criminal liability when exercising functions in good faith for the purpose of executing the proposed Act or in accordance with policy directions of the government.

Clause 239 requires notices and other documents required to be issued, made or given under the Act to be in writing unless specifically authorised to be in another form.

Clause 240 provides for the methods of service of documents for the purposes of the Act or the regulations.

Clause 241 enables the Minister, the Director-General, the State Council and boards to delegate functions.

Clause 242 sets out the procedure for making appeals to local land boards under the proposed Act.

Clause 243 is a regulation-making power.

Clause 244 enables the regulations to exempt land, persons and activities from certain provisions of the proposed Act.

Clause 245 provides for the repeal of the *Rural Lands Protection Act 1989* and the *Rural Lands Protection Regulation 1995*.

Clause 246 gives effect to Schedule 6 (which contains consequential and other amendments to various laws).

Clause 247 gives effect to Schedule 7 (which contains savings, transitional and other provisions).

Clause 248 requires the proposed Act to be reviewed 5 years after it is assented to.

Schedule 1 contains provisions relating to the members and procedure of the State Council and the directors and procedure of boards, including terms of office, vacation of office, disclosure of pecuniary interests, remuneration and insurance of members and directors.

Schedule 2 contains provisions relating to the election (both general and to fill casual vacancies) and appointment of directors of boards. It includes provisions setting out the qualifications for election or appointment as a director (clause 4) and for entitlement for enrolment as an elector (clause 11).

Schedule 3 contains provisions relating to administrators, including acting administrators, vacation of office and remuneration.

Schedule 4 provides for the creation of a charge on land for non-payment of amounts required to be paid under compliance notices issued under proposed sections 117 and 171.

Schedule 5 provides for the sale of land for non-payment of money owing to a board. The Schedule includes provisions dealing with the procedure for the sale of land and the distribution, payment and application of the balance of the money from such a sale.

Schedule 6 amends various Acts, regulations and other instruments as a consequence of the enactment of the proposed Act. It also includes the amendments described above (in relation to Part 10) to the *Impounding Act 1993*.

Schedule 7 contains savings and transitional provisions relating to various matters and provides for the making of savings and transitional regulations.

Explanatory note

The **Dictionary** defines the following words and expressions for the purposes of the proposed Act:

administrator	local authority
animal health rate	memorandum of understanding
annual return	Minister for Crown Lands
appropriate local land board	occupier
approved form	owner
authorised officer	pig
authorising authority	premises
board	private holding and private land
cattle	Property
Chief Executive Officer	protected fauna
Chief of the Division of Animal Industries	public authority
controlling authority	public land
critical habitat	public road
Crown land	rate
Crown Lands Acts	rateable land
Crown road	record
Director-General	region
district	reserve use permit
district veterinarian	sheep
Eastern and Central Division	special election
ecological community	State Conference
enrolled	State Council
exercise	State forest
fauna	stock
function	stock permit
function management plan	stock watering place
general election	threatened species
general rate	travelling stock
goat	travelling stock reserve
guidelines	tree
holding	vehicle
horse	Western Division
Land Register	Western Lands Commissioner
large stock	wildlife