

Local Land Services Regulation 2014

[2014-1]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Forestry Legislation Amendment Act 2018 No 40](#), Sch 3.7 [1] (not commenced)
- **Staged repeal status**
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

Authorisation

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Local Land Services Regulation 2014



New South Wales

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Local Land Services Regulation 2014



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Local Land Services Regulation 2014*.

2 Commencement

This Regulation commences on 1 January 2014.

3 Interpretation

(1) In this Regulation—

district has the meaning it had in the repealed Act immediately before its repeal on 1 January 2014.

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).

notional carrying capacity, in relation to land, means the number of stock that Local Land Services has assessed in accordance with Division 4 of Part 2 could be maintained on the land.

occupier of land means the person entitled to immediate possession of the land but, if the person so entitled does not reside on the land, does not include the resident manager or other person in charge of the land.

repealed Act means the *Rural Lands Protection Act 1998*.

required travelling rate means the rate of travel required by clause 74 (1).

small stock means stock other than large stock.

Note—

Large stock is defined in the Dictionary to the Act.

stock warning sign has the same meaning as it has in Part 5.

the Act means the *Local Land Services Act 2013*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) **Stock units** For the purposes of this Regulation (other than clause 17 (Assessment of notional carrying capacity))—
- (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) **Treatment of certain holdings as single holdings** Local Land Services must, if requested to do so by a person who is the occupier of 2 or more holdings within a district that are not contiguous, treat the holdings as a single holding for the purposes of determining liability to pay a rate under Part 2 of this Regulation.
- (4) Notes included in this Regulation do not form part of this Regulation.

Part 2 Rates

Division 1 Preliminary

4 Rateable land

For the purposes of section 56 (b) of the Act, land within a region is rateable land if, immediately before the commencement of this Regulation, it was land within a district that was rateable land for the purposes of the repealed Act.

Note—

To determine what is rateable land under this clause, see clause 6 of, and Schedule 3 to, the *Rural Lands Protection Regulation 2010* as in force immediately before the repeal of that Regulation on 1 January 2014.

To determine whether a holding is within a region, see section 55 of the Act.

5 What are the types of rate?

For the purposes of section 57 of the Act, the following types of rate can be made by Local Land Services—

- (a) a general rate,
- (b) an animal health rate,
- (c) special purpose rates.

Division 2 Making and levying rates

6 Making of rates

(1) Local Land Services is to make and levy the following rates for each year—

- (a) a general rate on all rateable land,
- (b) an animal health rate.

The rates may be made in the previous year but must be made by 31 March of the year to which they relate.

Note—

Under clause 25, the Minister may extend the time within which the rates may be made.

- (2) Local Land Services may make and levy one or more special purpose rates for any year on any land within a district if Local Land Services considers it is necessary to do so.
- (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 Local Land Services), 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 repealed Act as in force immediately before its repeal) 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 Local Land

Services), 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 repealed Act as in force immediately before its repeal) 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—

$$R = B + (A \times C)$$

where—

R represents the amount payable under the rate.

B represents the base amount determined by Local Land Services for the purposes of the rate.

A represents the amount, determined by Local Land Services, payable for each stock unit in accordance with this clause.

C represents the notional carrying capacity of rateable land determined in accordance with clause 17.

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

(7) An animal health rate may be levied in respect of rateable land comprising a holding for which an annual return has not been lodged in accordance with section 58 of the Act.

(8) Money that has been received by imposition of a special purpose rate may not be used otherwise than for the purpose for which the rate was levied. However, any such money received that is surplus to the purpose for which the special purpose rate was imposed may be used by Local Land Services for any other purpose approved by the Minister.

7 Special purpose pest management 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 Local Land Services in contributing, under section 200A of the Act, to the costs of managing pests under the [Biosecurity Act 2015](#).

- (2) Local Land Services must calculate a special purpose rate in accordance with clause 6 (3) or the following formula—

$$R = B + (A \times C)$$

where—

R represents the special purpose rate payable.

X represents the base amount determined by Local Land Services for the purposes of the rate.

A represents an amount, determined by Local Land Services, 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 17.

8 How is a rate levied?

- (1) A rate is levied on the land specified in a rate notice by giving the notice to any occupier of the land liable to pay the rate.

Note—

Section 210 (Service of documents) of the Act sets out the ways in which notice may be given.

- (2) A rate notice is to be in the approved form and is to specify the amount of each rate levied.
- (3) A rate is due and payable on the day (being a day not less than 28 days and not more than 42 days after notice of the rate is given) specified in the notice.
- (4) Local Land Services may accept payment of a rate by instalments or in accordance with an agreement made with the person liable to pay the rate.
- (5) For the purposes of subclause (1), if there are 2 or more occupiers of land, a rate notice duly given to any one of the occupiers is taken to have been given to the other occupiers of the land.
- (6) An occupier (other than the owner) of land who is given a rate notice must give any owner (other than the Crown) of the land oral or written advice of the rate levied within 14 days after being given the rate notice.

Maximum penalty—10 penalty units.

Division 3 Liability for rates

9 Occupiers are liable to pay rates

- (1) The occupier of land on which a rate is levied by Local Land Services is liable to pay

the rate to Local Land Services, except as provided by the Act or this Part.

- (2) If there are 2 or more occupiers of the land, they are jointly and severally liable to pay the rate. However, as between themselves they are liable only for that part of the rate that is proportionate to the occupier's interest in the land.
- (3) An occupier who pays to Local Land Services more than the occupier's proportionate part of the rate may recover the excess by way of contribution from the other occupier or occupiers.

10 Liability of owner (other than Crown) to pay rates not paid by occupier

- (1) An owner (other than the Crown) of the land in respect of which any rate is levied by Local Land Services is liable for payment to Local Land Services of the whole or any part of the rate that is unpaid 12 months after the day on which it became due and payable by an occupier and any interest or any other charges payable in respect of the rate.
- (2) Local Land Services cannot recover any unpaid rate, interest or charges from an owner under subclause (1) unless it gives the owner 28 days' notice of the amount of the rate that is unpaid and of any interest or charges payable in respect of the rate.
- (3) An owner who pays the whole or part of an unpaid rate or any interest or charges payable in respect of the rate may recover the amount paid from the occupier who was given the rate notice.
- (4) Nothing in subclause (2) affects any occupier's liability for payment of a rate.
- (5) If there are 2 or more owners of land, they are jointly and severally liable to pay the unpaid rate. However, as between themselves they are liable only for that part of the rate that is proportionate to the owner's interest in the land.
- (6) An owner who pays to Local Land Services more than the owner's proportionate part of the unpaid rate may recover the excess by way of contribution from the other owner or owners.

11 Liability when occupier or owner of land changes

- (1) The liability of a person to pay to Local Land Services a rate in respect of land that is unpaid on the day the person ceases to be the occupier or owner of the land continues until the day on which notice of the change in occupancy or ownership is given by the person in accordance with clause 24.

Note—

The liability of a person who ceased to be the occupier or owner of the land (***the former occupier or former owner***) to pay any owner or subsequent occupier who has paid to Local Land Services any unpaid rate that should have been paid by the former occupier or former owner does not cease on the giving of the notice, and the owner or subsequent occupier who paid the unpaid rate to Local Land Services may recover the amount from the former occupier or former owner (see clause 13).

- (2) The giving of a notice as referred to in subclause (1) does not affect any liability of the owner of the land other than the Crown (if the notice is of change of occupancy) or the new owner of the land other than the Crown (if the notice is of change of ownership) for the whole or any part of a rate that is unpaid or for any interest or any other charges in respect of the rate under clause 10.

Note—

If any unpaid rate, interest or charge is paid to Local Land Services by the owner or new owner, he or she may recover the amount from the former occupier or former owner (see clause 13).

- (3) A person who pays to Local Land Services any rate levied in respect of land after the person ceases to occupy or own the land and before the person gives notice of the change in occupancy or ownership of the land may recover the amount from any successive occupier or owner of the land who is liable to pay that rate.
- (4) A person who becomes the occupier of land that is the subject of a lease, licence or purchase from the Crown is not liable for any rate levied in respect of the land that is unpaid on the day the person becomes the occupier of the land.

12 Apportionment of rates

- (1) This clause applies to a rate levied in respect of land for a year if the occupancy or ownership of the land (whether in whole or in part) is subsequently changed during that year to a different occupier or owner.
- (2) The rate is payable as between the former and subsequent occupier or owner of land proportionately to the part of the year during which the occupier or owner occupied the land and to the part of the land occupied or owned.

13 Recovery of rates paid when not occupier or owner

An occupier or owner of land who pays to Local Land Services any rate that accrued during the occupancy or ownership of the land by some other person is entitled to recover from that other person as a debt such proportion of the rate as accrued while that other person was the occupier or owner of the land.

14 Exemption from liability for animal health rate

- (1) 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.

15 Land exempt from operation of Part 5 (Rates, levies and contributions) of the Act

- (1) For the purposes of section 208 of the Act, the following are exempt from the operation of the provisions of Part 5 of the Act—
 - (a) any part of a holding used as a motel or caravan park,
 - (b) any part of a holding occupied by Local Land Services,
 - (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 208 of the Act, the following land is exempt from the operation of the provisions of Part 5 of the Act (other than section 58 (Annual returns of land and stock))—
 - (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.

Division 4 Assessment of notional carrying capacity of land

16 Timing and notice of assessment of notional carrying capacity

- (1) Local Land Services may assess the notional carrying capacity of a holding at any time but must assess it within 5 years of its last assessment.
- (2) Local Land Services is to give any occupier of the holding notice of its assessment as soon as practicable after it is made (but not later than on the first occasion following the assessment on which a rate notice with respect to the land is given).
- (3) For the purposes of subclause (2), if there are 2 or more occupiers of a holding, a notice of assessment duly given to any one of the occupiers is taken to have been given to the other occupiers of the holding.
- (4) An occupier (other than the owner) of a holding who is given a notice of assessment must give each other occupier and each owner oral or written advice of the assessment within 14 days after being given the notice of assessment.

Maximum penalty—10 penalty units.

17 Assessment of notional carrying capacity

- (1) Local Land Services must assess the notional carrying capacity of each holding of land.

- (2) 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.
- (3) Local Land Services 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 opinion of Local Land Services, are usual for the district.
- (4) The assessment is to be made whether or not the land is, at the date of assessment, used for any purpose.
- (5) Without limiting matters that Local Land Services may have regard to in assessing the notional carrying capacity of particular rateable land, Local Land Services—
 - (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.
- (6) In assessing the notional carrying capacity of rateable land used for intensive livestock production, Local Land Services 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.

18 Application for review of assessment

- (1) An owner or occupier of a holding who is dissatisfied with Local Land Services' assessment of the notional carrying capacity of the holding may apply in writing to Local Land Services for a review of the assessment.
- (2) An application for review of an assessment must be made not later than 28 days after notice of the assessment is given to the occupier.

- (3) Local Land Services may, within 28 days of receipt of an application for review of an assessment, require the applicant to provide Local Land Services with such additional information as Local Land Services may reasonably require to review the assessment.
- (4) Local Land Services is not required to deal with an application for review of an assessment if the applicant fails to provide additional information to Local Land Services when required to do so.

19 Review of assessment

- (1) Local Land Services is to review the assessment within the period of 40 days after—
 - (a) it receives the application, or
 - (b) if it has required the applicant to provide additional information, receipt of the information.
- (2) On reviewing an assessment, Local Land Services may—
 - (a) confirm the assessment, or
 - (b) vary the assessment.
- (3) Local Land Services is to give the applicant for review of the assessment notice of its decision on review of the assessment as soon as practicable after the review.
- (4) An applicant who is given notice of the decision of Local Land Services on review of an assessment must give each other occupier or owner of the land oral or written advice of the decision within 14 days after being given notice of it.

Maximum penalty—10 penalty units.

- (5) Local Land Services is taken (for the purposes only of an appeal) to have decided to confirm the assessment if Local Land Services has not reviewed the assessment within the period of 40 days after—
 - (a) the making of the application for review, or
 - (b) if it has required the applicant to provide additional information, receipt of the information.

Division 5 Appeals against assessment of notional carrying capacity and rates

20 Appeals against assessment

- (1) If an occupier or owner of a holding is dissatisfied with the decision of Local Land Services on review of an assessment of the notional carrying capacity of a holding, the occupier or owner may, not later than 30 days after being given notice of the decision,

appeal against the assessment to the Civil and Administrative Tribunal.

- (2) An appeal is to be determined on the information provided or available to Local Land Services in making the assessment and any additional information provided under clause 18. However, the Tribunal may also take into account any relevant information contained in an annual return under section 58 of the Act that has been duly lodged by the appellant.
- (3) Before hearing an appeal against an assessment of the notional carrying capacity of a holding, the Tribunal must be satisfied that the appellant has paid all rates that the appellant is liable to pay under the Act, other than any rates based on the assessment of the notional carrying capacity that is the subject of the appeal.

21 Appeals against rates

- (1) An occupier or owner of land may appeal against the validity of any rate levied on land to the Civil and Administrative Tribunal.

Note—

An appeal to the Civil and Administrative Tribunal under this clause is an external appeal to the Tribunal for the purposes of the [Civil and Administrative Tribunal Act 2013](#). A decision of the Tribunal on such an external appeal may be appealed to the Land and Environment Court under Schedule 1 to that Act.

- (2) An appeal may be made on the ground that the land or part of it is not rateable or is not subject to a particular rate.
- (3) An appeal is to be lodged within 30 days after the occupier of the land is given the rate notice.
- (4) The Tribunal is not to hear an appeal under this clause in respect of a rate levied in respect of a year unless the appellant has produced to the Tribunal a certificate issued by Local Land Services (or such other evidence as is acceptable to the Tribunal) confirming that all rates due and payable in any preceding year in relation to the land have been paid.

Note—

Section 210 (Service of documents) of the Act sets out various ways in which a rate notice may be given.

22 Hearing of appeals

- (1) After hearing the appeal against an assessment of the notional carrying capacity of a holding, the Civil and Administrative Tribunal must decide the appeal by—
 - (a) confirming the assessment, or
 - (b) varying the assessment by altering the assessment.
- (2) After hearing the appeal against a rate levied on land, the Civil and Administrative Tribunal must decide the appeal either—

(a) by confirming the rate as levied, or

(b) by varying the rate.

(3) (Repealed)

Division 6 Miscellaneous

23 Measures to facilitate the recovery of rates

- (1) The lodgment of an appeal against the validity of the rate under clause 21 does not prevent proceedings being taken for the recovery of the rate.
- (2) The fact that an appeal has been lodged against the validity of a rate under clause 21 does not prevent the Minister from exercising a power conferred by clause 25.

24 Notice to be given of changes in occupancy or ownership of rateable land

- (1) A person must, within one month after ceasing to be or becoming the occupier or owner of rateable land, give notice in the approved form to Local Land Services.

Maximum penalty—10 penalty units.

- (2) A person is taken to have satisfied the requirements of this clause in relation to a change of ownership if notice of the change is lodged with the Registrar-General in accordance with section 39 of the *Real Property Act 1900* or section 184E of the *Conveyancing Act 1919* within one month after the change of ownership.

25 Irregularities concerning rates

- (1) The Minister may extend the period for a rate to be fixed or rate notice to be given if for any reason the rate is not fixed, or rate notice is not given, within the period prescribed by or under the Act.
- (2) The Minister may authorise Local Land Services to do any things that are necessary to cure an irregularity and to validate a rate if any irregularity in fixing or levying a rate affects, or may be considered to affect, the validity of any rate.

26 Notification of change of address

- (1) The occupier of rateable land must notify Local Land Services of any change in the occupier's postal address within one month after the change occurs.

Maximum penalty—10 penalty units.

- (2) The owner of stock kept on rateable land must notify Local Land Services of any change in the owner's postal address within one month after the change occurs.

Maximum penalty—10 penalty units.

- (3) A person who becomes the occupier of rateable land must notify Local Land Services of the occupier's postal address within one month after becoming the occupier of the land.

Maximum penalty—10 penalty units.

27 Tenure bond to be paid by certain holders of Crown land

- (1) The government agency or other public authority that grants a person short tenure of Crown land is to notify Local Land Services as soon as practicable after the grant.
- (2) A person who takes Crown land on a short tenure must provide to Local Land Services a tenure bond within 14 days of taking the land on short tenure.

Maximum penalty—20 penalty units.

- (3) The tenure bond is to be in the form approved, and for such reasonable amount as is determined, by Local Land Services.
- (4) At the end of the short tenure of land, an amount equal to any unpaid rates, charges, interest or any other amount owed to Local Land Services in respect of the land by the holder of the short tenure is forfeited to Local Land Services from any tenure bond provided under this clause.
- (5) Local Land Services must refund the balance (if any) of the tenure bond to the person who provided it.
- (6) Except as provided by subclause (4), nothing in this clause—
 - (a) affects the liability of any person to pay rates under the Act, or
 - (b) affects Local Land Services' right to recover rates under the Act.
- (7) In this clause—

short tenure, in relation to land, means a lease of the land from the Crown for a term not exceeding 3 years or a licence of the land from the Crown.

tenure bond means a bond deposited or paid in such a way as to secure Local Land Services against any failure of the person depositing or paying the bond to pay rates, charges or any other amount in respect of the land payable by the person to Local Land Services under the Act.

Part 3 Annual returns

28 Annual returns—persons who are required to lodge returns

- (1) For the purposes of section 58 (1) of the Act, the following are prescribed persons—
 - (a) the occupier of a holding 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 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 that is non-rateable land who is the registered proprietor of a brand or earmark under a stock identification scheme established under Part 12 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 58 (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.

29 Annual returns

- (1) This clause applies to annual returns for holdings.
- (2) An annual return for a holding is to be lodged with Local Land Services not later than 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 58 (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 12 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 28(1)(a)—the landholding reference number shown on the rate notice for the land.

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

- (1) Without limiting the purposes for which information obtained by Local Land Services under Division 3 of Part 5 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 Local Land Services,
 - (c) to prepare statistical data concerning animal health or the protection of rural lands,
 - (d) to prepare an annual report under the Act or annual reporting information under the *Government Sector Finance Act 2018*,
 - (e) for the purposes of electoral rolls,
 - (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 or adjacent water,
 - (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 Local Land Services may disclose information it has obtained under Division 3 of Part 5 of the Act, Local Land Services may disclose such information to the Department for the purposes set out in subclause (1) (f)-(i).

Part 4 Catchment contributions

31 Definitions

In this Part—

Authority means the Hunter-Central Rivers Catchment Management Authority (within the meaning of the *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010* immediately before its repeal by the Act).

catchment contribution means a catchment contribution under this Part.

catchment contribution area means the following—

- (a) an area that was a catchment contribution area, within the meaning of Schedule 4 to the *Catchment Management Authorities Act 2003* as in force immediately before its repeal by the Act, within the area of operations of the Authority immediately before that repeal,
- (b) an area declared by an order in force under clause 32 to be a catchment contribution area.

charging year means—

- (a) the period declared to be the charging year for the Authority immediately before the repeal of the *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010* by the Act, or
- (b) the period declared to be the charging year under clause 34, or
- (c) if the charging year is changed by a further order under clause 34—the period between the end of one charging year and the beginning of the next.

owner has the same meaning as in the *Water Management Act 2000*.

32 Orders for purposes of levying catchment contributions

The Minister may, by order published in the Gazette, declare any land described in the

order to be a catchment contribution area for the purposes of this Part.

33 Local Land Services may levy catchment contributions

- (1) Local Land Services may, in accordance with this Part, levy a catchment contribution on any land that is within a catchment contribution area.
- (2) A catchment contribution may only be levied to fund a shortfall in available funding for the catchment activities of Local Land Services.
- (3) Local Land Services is to maintain a map that depicts all land that is within a catchment contribution area.
- (4) The map is to be available in the office of Local Land Services and may be inspected by any person free of charge at any time the office is open.

34 Orders for purposes of levying catchment contributions

The Minister may, by order published in the Gazette, declare a period of 12 months to be the charging year for the purpose of this Part.

35 Estimates of income and expenditure to be prepared

- (1) Local Land Services is to prepare and submit to the Minister at least 2 months before the beginning of each charging year estimates in respect of—
 - (a) the income of Local Land Services for the charging year from all sources, including the total amount to be obtained by way of catchment contributions, and
 - (b) the expenditure to be incurred during the charging year in relation to Local Land Services functions relating to natural resource management.
- (2) The estimates are to be in such form as the Minister requires and are to contain particulars in respect of each item of expenditure and the catchment contributions proposed to be levied.

36 Basis of levying catchment contributions

A contribution is to be levied according to the land value (within the meaning of the [Valuation of Land Act 1916](#)) of all land within the catchment contribution area that has a land value greater than \$300 and that is rateable for the time being under the [Local Government Act 1993](#).

37 Determinations relating to catchment contributions

- (1) Not later than one month before the beginning of a charging year in which Local Land Services proposes to levy a catchment contribution, it is to determine—
 - (a) the amount of money that it proposes to raise by way of catchment contributions, and

- (b) the land within the catchment contribution area that is to be levied, and
 - (c) the rate of the catchment contribution,
- for the next charging year.
- (2) Local Land Services may make separate determinations under subclause (1) in respect of rates for different lands within the catchment contribution area.
 - (3) A determination under this clause—
 - (a) is subject to clause 33, and
 - (b) is required to be approved by the Minister and does not have effect unless it is so approved, and
 - (c) is to be published in the Gazette before the commencement of the charging year to which it relates, and
 - (d) is to take effect on the commencement of the charging year to which it relates.
 - (4) A determination does not fail merely because it is not published in the Gazette before the commencement of the charging year to which it relates but, in that event, a person is not liable for payment of the catchment contribution to which the determination relates until the determination is published in the Gazette.
 - (5) A catchment contribution determined under this clause is levied on publication of the determination in the Gazette.
 - (6) If, for any reason—
 - (a) a determination under this clause is not made before the charging year to which it relates, or
 - (b) there is any irregularity or alleged irregularity in the making of any such determination,

the Minister may extend the time for making the determination (whether or not that time has expired) and may authorise Local Land Services to do anything necessary to cure any irregularity and to make a valid determination.

38 Assessment of catchment contributions

- (1) After making a determination under clause 37 Local Land Services must, in accordance with the determination—
 - (a) classify each parcel of land within the catchment contribution area in respect of which a catchment contribution is to be levied, and
 - (b) assess the catchment contribution payable for each such parcel of land.

- (2) After it makes an assessment under this clause Local Land Services is to cause a notice to be served on the owner of each parcel of land in respect of which a catchment contribution has been levied.
- (3) The notice may be served—
 - (a) personally or by post, and
 - (b) may be served separately or, if Local Land Services so decides, together with or so as to form part of a council rate notice or other statutory notice served on the owner of the parcel of land in respect of which a catchment contribution has been levied.
- (4) On the service of such a notice, the owner of the land to which the notice relates becomes liable for payment of the catchment contribution specified in the notice.

39 Reassessment of catchment contributions

- (1) Local Land Services may reassess a catchment contribution if the value of the land for any charging year differs from the value used to assess the contribution.
- (2) A catchment contribution may only be reassessed as from the date the revised value of the land has effect.
- (3) The owner of the land to which the reassessment relates becomes liable for payment of the revised catchment contribution on the service of a notice notifying the reassessment.

40 Collection etc of catchment contributions on behalf of Local Land Services

- (1) In this clause—

appropriate local agency means—

 - (a) the council of a local government area within which any part of the catchment contribution area is situated, or
 - (b) the Sydney Water Corporation, the Hunter Water Corporation, Water NSW or any water supply authority within whose area of operations any part of the catchment contribution area is situated, or
 - (c) a statutory authority approved by the Minister for the purposes of this clause.
- (2) Local Land Services may, with the approval of the Minister, enter into an arrangement with an appropriate local agency for the following functions of Local Land Services under this Part to be exercised by that agency on behalf of Local Land Services—
 - (a) the assessment or reassessment of catchment contributions levied by Local Land Services,

- (b) the collection of those catchment contributions,
 - (c) the recovery of those catchment contributions,
 - (d) the issue of certificates as to any catchment contributions due to Local Land Services.
- (3) Any such arrangement may provide for the payment of commission to the appropriate local agency.
- (4) For the purposes of any such arrangement, the appropriate local agency may deal with Local Land Services' catchment contributions in connection with its rates and charges, so long as the catchment contribution is separately identified.
- (5) For the purposes of subclause (4), an appropriate local agency may issue joint assessments and notices, take joint action for collection and recovery and issue joint certificates.
- (6) The appropriate local agency must remit to Local Land Services, as soon as practicable after the expiration of each calendar month (but in all cases within 30 days after the collection of such contributions), the money collected by it in payment of the contribution during that month, less any amount the local agency is entitled to retain as a commission in accordance with the agreement.

41 Catchment contributions a charge on land

- (1) A catchment contribution for payment of which a person is liable is a charge on the land to which the catchment contribution relates.
- (2) The provisions of this clause have effect despite anything contained in section 42 of the [Real Property Act 1900](#).

42 Interest on overdue catchment contributions

- (1) Local Land Services may charge interest on overdue catchment contributions at the rate of interest set under section 566 (3) of the [Local Government Act 1993](#) by the local council for the local government area in which the land is located.
- (2) The interest charged forms a part of the catchment contribution for the purposes of this Part.

43 Recovery of catchment contributions

- (1) A catchment contribution due to Local Land Services under this Part may be recovered in any court of competent jurisdiction as a debt due to the Crown.
- (2) An unsatisfied judgment or order of any court for the recovery of a catchment contribution from any person is not a bar to the recovery of the contribution from any

other person who is liable under the Act for the payment of the contribution.

44 Waiver or deferral of payment

Local Land Services may, in the case of hardship—

- (a) defer payment of a catchment contribution, or
- (b) waive payment of a catchment contribution or any part of it.

45 Expenses of tracing persons

- (1) Local Land Services may add to the amount of catchment contribution any reasonable expenses incurred in tracing the person liable to pay the catchment contribution.
- (2) Those expenses may be recovered as catchment contributions at the same time as any catchment contributions and without the need to give notice concerning them.

46 Liability of joint owners

- (1) If land within the catchment contribution area is owned or held jointly by 2 or more persons—
 - (a) they are jointly and severally liable for payment of the catchment contribution in respect of the land, and
 - (b) as between themselves, each is liable only for such part of the contribution as is proportionate to the interest owned or held by the person in the land.
- (2) If one of those persons pays more than that person's proportionate part of a catchment contribution, he or she may recover the excess by way of contribution from the other persons.

47 Liability on disposing of land

- (1) The liability of a person to pay a catchment contribution in respect of any land does not cease on disposal of the land if notice of the contribution, in a form approved by Local Land Services—
 - (a) was given before disposal of the land, or
 - (b) is given after the disposal of the land, but before notice of the disposal is given to Local Land Services.
- (2) If a person—
 - (a) disposes of any land, and
 - (b) pays a contribution levied on the land that became payable to Local Land Services after disposal of the land and before the notice of the disposal is given to Local

Land Services,

the person may recover the amount of the catchment contribution from the person who acquired the land.

- (3) Without limiting subclause (1), a person is taken to have given notice of the disposal of the land if notice of the disposal is lodged with the Registrar-General in accordance with the *Conveyancing Act 1919* or the *Real Property Act 1900* (as the case may be).

48 Daily basis of apportionment of catchment contribution

As between a person liable to pay a catchment contribution in respect of land, and—

- (a) a person who acquires the land, or
- (b) the persons from whom the land was acquired,

the catchment contribution is to be apportioned on a daily basis.

49 Liability of new owner

- (1) A person who, by becoming the owner of land, becomes liable to pay a catchment contribution levied on the land is liable for payment of all current catchment contributions, and all arrears of contributions, levied on the land even if notice of them was not given to the person until after the person became the owner of the land.

- (2) A person who—

- (a) becomes the owner of land, and
- (b) pays to Local Land Services a catchment contribution in respect of the land that was payable before the person became the owner,

may recover the whole or a proper proportion of the catchment contribution from the persons liable for the payment at the time the notice was served.

50 Proportionate liability for catchment contributions

- (1) A catchment contribution is proportionate to the portion of the year for which the land is leviable and to the portion of the land that is leviable.
- (2) If an amount of catchment contribution is paid in excess of the liability for a catchment contribution because of the operation of this clause, Local Land Services—
- (a) must refund the amount of the excess, or
 - (b) must credit it towards payment of any amount then payable to Local Land Services by the person who would otherwise be entitled to a refund.

Part 5 Travelling stock reserves and public roads

Division 1 Preliminary

51 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 52.

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 52.

temporary stock zone sign means a stock warning sign—

- (a) displaying particulars approved by Local Land Services in the manner approved for the purposes of this definition, or
- (b) of a type approved by Local Land Services.

(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.

52 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 2014](#) 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.

Note—

For example, rule 327 of the [Road Rules 2014](#) 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

53 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.

54 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.

55 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.

56 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.

57 Directions to remove temporary stock zone signs

- (1) If Local Land Services considers that a temporary stock zone sign erected on a public road does not relate to stock on or near the road it 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

58 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.

59 Unauthorised use of public roads

For the purposes of section 73 (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 73 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 Land Management Act 2016](#) or any other Act or regulation,

- (g) if the stock are camels that are being ridden or led in daylight,
and the stock are travelling at the applicable required travelling rate.

60 Control of activities on travelling stock reserves

- (1) Local Land Services may prohibit, or regulate, the carrying on of any activity on a travelling stock 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.

61 Removal of signs

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

Maximum penalty—10 penalty units.

62 Authorised use of travelling stock reserves for recreational activities

- (1) For the purposes of section 74 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) camel riding,
 - (d) picnicking,
 - (e) fishing,
 - (f) swimming,
 - (g) 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 Local Land Services has made a closure order in respect of the reserve or part of any such reserve under section 70 (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.

63 Offences on travelling stock reserves

- (1) A person must not, except in accordance with a permit issued by Local Land Services 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 Local Land Services by signs displayed on or near the reserve or at any other time except in a fireplace designated by Local Land Services by the display of such a sign.

Maximum penalty—10 penalty units.

- (2) A person must not, without the authority in writing of Local Land Services 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.

64 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.

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

- (1) This clause applies to an occupier of any land in a region 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.

66 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.

67 Local Land Services not liable for use of pesticides or chemicals on reserves

- (1) For the purposes of section 100 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 100 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 Local Land Services 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.

68 Local Land Services not liable for injury attributable to diseased travelling stock

For the purposes of section 101 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 region if—

- (a) notice is published, in a manner that Local Land Services is satisfied is likely to bring the notice to the attention of members of the public in the region, 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 Local Land Services authorising a person to walk or graze stock on the reserve or public road that Local Land Services 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.

69 When may Local Land Services impound bees or beehives placed or kept on controlled travelling stock reserve?

- (1) For the purposes of section 102 (2) of the Act, an authorised officer 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 Local Land Services 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, Local Land Services 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) Local Land Services 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) Local Land Services is to release the bees or beehives if a person whom Local Land Services 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 102 (3) of the Act.

Note—

Local Land Services may decline to release impounded bees or beehives if the prescribed impounding fee is not paid.

- (7) For the purposes of section 102 (3) of the Act, the prescribed impounding fee is \$200.
- (8) In this clause—

impounding notice means a notice given under subclause (4).

70 Compliance with directions

- (1) An authorised officer 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

71 Applications for permits

- (1) An application for a permit is to be made to Local Land Services—
- (a) orally, or

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

(2) If an application is made orally, Local Land Services may request the applicant to confirm the application in writing.

Note—

If Local Land Services has delegated its functions relating to applications to a member of the Board, a member of the staff of Local Land Services 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 a region (unless Local Land Services agrees to accept the application although it is not made in that period).

Note—

Section 79 of the Act requires an application to be made in accordance with the regulations. Local Land Services 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 79 (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.

(4A) If Local Land Services decides that the fee for a permit that solely authorises a person to graze stock on a controlled travelling stock reserve will be determined through an acquisition process—

(a) an application for the permit is taken to have been made only by a person who is successful in the acquisition process, and

(b) a person is not an applicant for the permit merely because the person participates in the acquisition process.

(4B) The acquisition process must be fair and reasonable in the opinion of Local Land Services.

(5) For the purposes of section 79 (2) (e) of the Act, the fee of \$20 per year is prescribed.

(6) In this clause—

acquisition process means an auction, a public tender or another means approved by Local Land Services to determine the fee for a permit.

72 Refund of fees

Local Land Services may refund all or any part of a fee paid in respect of a permit if the permit is cancelled or suspended.

73 Conditions of stock permits and reserve use permits

(1) 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.

(2) For the Act, section 83(1), a condition may be imposed on a permit requiring the holder of the permit to obtain and maintain one or more of the following—

- (a) public liability insurance providing cover of—
 - (i) \$20,000,000, or
 - (ii) an alternative amount determined by Local Land Services,
- (b) another form of insurance determined by Local Land Services.

74 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 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 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 71 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 Local Land Services.

Maximum penalty—10 penalty units.

Division 5 Miscellaneous

75 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.

76 Interest rate

For the purposes of section 97 (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.

77 Notice of exemption or cancellation of exemption

- (1) For the purposes of section 105 (4) of the Act, the prescribed notice to be given by Local Land Services is—
 - (a) if a person is exempted from the operation of Part 6 (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 6 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 the Gazette and in such other manner as Local Land Services is satisfied is likely to bring the notice to the attention of members of the public in the region.
- (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 6 Stock watering places

78 Leases of stock watering places

For the purposes of section 111 (2) of the Act, the prescribed period is 15 years.

79 Supply of water

- (1) For the purposes of section 112 (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 Local Land Services from time to time) determined by the controlling authority to be payable for the purposes of this subclause.

(2) For the purposes of section 112 (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, biosecurity direction or permit under the *Biosecurity Act 2015*,
- (d) horses that are accompanied by riders,

being stock in respect of which the fee (if any, and not exceeding the maximum determined by Local Land Services 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.

80 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 7 Impounding of unattended and trespassing stock and abandoned articles

81 Unattended stock

For the purposes of section 115 (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 wellbeing of the stock or required by law.

Part 8 Transportation of stock by vehicle

82 Stock

For the purposes of Part 9 of the Act, the following animals are declared to be **stock**—

- (a) goats,
- (b) horses,
- (c) *Bison bison* (commonly known as American Bison, Plains Bison, Wood Bison, Woodland Bison or Buffalo),
- (d) *Bubalus bubalis* (commonly known as Domestic Water Buffalo, Water Buffalo or Asian Water Buffalo),
- (e) *Camelus dromedarius* (commonly known as Dromedary Camel, Dromedary, One-humped Camel or Arabian Camel),
- (f) *Antilope cervicapra* (commonly known as Blackbuck),
- (g) *Bos javanicus* (commonly known as Banteng, Tembadau or Tsaine),
- (h) *Lama guanicoe* (commonly known as Guanaco),
- (i) farmed deer of the following species—
 - (i) *Axis axis* (commonly known as Chital Deer),
 - (ii) *Axis porcinus* (commonly known as Hog Deer),
 - (iii) *Cervus elaphus* (commonly known as Red Deer),
 - (iv) *Dama dama* (commonly known as Fallow Deer),
 - (v) *Rusa timorensis* (commonly known as Rusa Deer),
 - (vi) *Rusa unicolor* (commonly known as Sambar Deer).

83 Stock transportation particulars

For the purposes of section 119 (1) (h) of the Act, the following particulars are prescribed—

- (a) the name 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.

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

For the purposes of section 120 (5) (d) of the Act, the following are prescribed as circumstances in which section 120 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 9

85, 86 (Repealed)

Part 10 Powers of authorised officers

87 Identification

For the purposes of section 169 (4) (f) of the Act, the prescribed person is the following—

- (a) if the authorising authority is Local Land Services—the Chair of the Board of Chairs or a delegate of the Chair,
- (b) if the authorising authority is the Minister—the Minister or a delegate of the Minister,
- (c) if the authorising authority is the Director-General—the Director-General or a delegate of the Director-General.

88 Penalty notices for certain offences

- (1) For the purposes of section 189 of the Act—
 - (a) each offence created by a provision specified in Column 1 of Schedule 2 is prescribed as a penalty notice offence, and
 - (b) the prescribed penalty for each such offence is the corresponding amount specified in Column 2 of Schedule 2.
- (2) If the reference to a provision in Column 1 of Schedule 2 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 11 Eligibility for election or appointment of members of local

boards

89 Definition

In this Part—

relevant day means the following—

- (a) for an election—the closing day for the nomination of candidates for the election,
- (b) for an appointment—the day on which the appointment takes effect.

90 Required expertise, knowledge or skills of members of local boards: section 27 (4)

An appointed member of a local board must possess, in the opinion of the Minister, expertise, knowledge or skills (as demonstrated by relevant qualifications or experience) in one or more of the following areas—

- (a) leadership, strategic planning and management,
- (b) community participation, regional service delivery and working with industry, government and other partners,
- (c) audit, financial control and reporting and risk management,
- (d) primary industries or providing services to support this sector,
- (e) contemporary biosecurity programs in animal and plant health, pest and weed management,
- (f) emergency management, especially biosecurity and natural disaster emergencies,
- (g) natural resource management and biodiversity conservation,
- (h) working with Aboriginal groups and communities,
- (i) local government.

91 Eligibility for election as a member of a local board—section 27(5)

A person is eligible for election as a member of a local board for a region if the person's principal place of residence is in the region.

92 Ineligibility for election as a member of a local board: section 27 (5)

A person is not eligible for election as a member of a local board for a region if, on the relevant day—

- (a) the person is a member of any other local board, or
- (b) the person has nominated as a candidate for an election as member of a local board

for another region, being an election that has not yet been determined, or

- (c) the person has served the maximum term of office as a member as specified under clause 2 of Schedule 2 to the Act.

93 Eligibility for election or appointment as a member of a local board: section 27 (5)

A person is eligible for election or appointment as a member of a local board if, on the relevant day, the person—

- (a) is 18 or more years of age, and
- (b) is not ineligible for election by operation of section 27 (5) of the Act, and
- (c) is not a member of staff of Local Land Services.

94 Ineligibility for election or appointment as a member of a local board— section 27(5)

A person is not eligible for election or appointment as a member of a local board for a region if—

- (a) within the previous 15 years, the person has been bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with the person's creditors or made an assignment of the person's remuneration for their benefit, or
- (b) the person has been convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or has been convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

95 Matter for consideration for appointment of members of local boards: section 27 (6) (b)

In appointing a member of a local board, the Minister is to have regard to the principle that a person appointed as a member of a local board should, if possible, reside in the local board's region.

Note—

See Schedule 1 for provisions governing elections for members of local boards.

Part 12 Stock identification

96 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 97 (2).

stock identification scheme means a scheme established under clause 97 (1).

97 Stock identification scheme

- (1) Local Land Services may establish a scheme or schemes for identification of stock (whether on a compulsory or voluntary basis).
- (2) Local Land Services 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 Local Land Services, and
 - (e) require approval to be obtained from Local Land Services 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.

98 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 Local Land Services 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 13 Miscellaneous (other than native vegetation land management)

99 Certificate as to rates, charges and other matters

- (1) For the purposes of section 203 of the Act, the following are prescribed as matters in respect of land in a region as to which a person may apply to Local Land Services for a certificate—
 - (a) whether or not any orders have been issued by Local Land Services under the Act or by an authority under the repealed Acts in respect of the land,
 - (b) whether the annual returns in respect of the land required to be lodged under the Act or the repealed Acts in the current and previous year have been lodged,
 - (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* (Acts repealed by the *Biosecurity Act 2015*) are in force and, if any order is in force, details of the order.
- (2) For the purposes of section 203 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—\$60,
 - (b) for an application relating to any catchment contribution in respect of land, the amount equal to the approved fee charged for a certificate under section 603 of the *Local Government Act 1993* by the local council for the local government area in which the land is located,
 - (c) in any other case—\$60.
- (3) In this clause, **repealed Acts** means the *Rural Lands Protection Act 1998* and the *Catchment Management Authorities Act 2003*, as in force immediately before the repeal of those Acts by the Act.

100 Nuisance animals

Local Land Services, at the request of the owner or occupier of a holding, may carry out any activity it considers necessary to control any animal causing a nuisance on the holding.

Note—

Mandatory measures under the *Biosecurity Act 2015* may apply with respect to the control of certain nuisance animals.

101 Emergency management

- (1) Without limiting section 14 (3) of the Act, Local Land Services may carry out such activities as it considers appropriate to protect land and animals, and to provide assistance to protect land and animals, from harm caused by drought or other natural disaster.
- (2) The Minister may from time to time request Local Land Services to provide the Minister with seasonal and pastoral condition information concerning land in the State or specified land.

102 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 2010*, 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.

103 Writing off of charges

- (1) Local Land Services may waive payment of, and write off, the whole or any part of any charge payable to it under the Act or this Regulation.
- (2) Action under this clause may be taken in a particular case or class of cases.

104 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.

Part 14 Land management (native vegetation)

Division 1 Preliminary

105 Definitions

- (1) Words and expressions used in this Part have the same meanings they have in Part 5A of the Act.
- (2) A reference in this Part to Part 5A of the Act includes a reference to Schedule 5A to the Act.
- (3) For the purposes of this Part, **private native forestry plan** has the same meaning as in Part 5B of the Act.

106 Meaning of “native vegetation”—species native to New South Wales (s 60B (2))

- (1) For the purposes of Part 5A of the Act, a species of plant may be conclusively presumed to be native to New South Wales if it is listed on the official database, unless it is identified on that database as an introduced species only.
- (2) In this clause—

the official database means the database of flora known as “New South Wales Flora Online”, maintained by the Royal Botanic Gardens and Domain Trust and published on the website of the Trust.

Division 2 Native vegetation regulatory map

107 Preparation and publication of draft native vegetation regulatory maps during transition period (s 60F (6))

- (1) The Environment Agency Head is, during the transition period referred to in section 60F of the Act, to prepare a draft native vegetation regulatory map and publish the draft map on a government website.
- (2) The draft map is (subject to this Division) to be prepared in accordance with the provisions of Part 5A of the Act relating to the preparation of the native vegetation regulatory map.

- (3) Sections 60K (except subsection (7)), 60L and 60M of the Act apply, during the transition period, to the draft map in the same way as they apply to the native vegetation regulatory map.

108 Additional sub-category of regulated land: category 2-sensitive regulated land (s 60G (3) (c))

- (1) A native vegetation regulatory map may also designate category 2-sensitive regulated land as a sub-category of category 2-regulated land.
- (2) Land is to be designated as category 2-sensitive regulated land if the Environment Agency Head reasonably believes that—
- (a) the land is required to be designated as category 2-regulated land by section 60I (2) (f) of the Act (that is, because the land is in an area that is or was subject to a requirement to take remedial action to restore or protect the biodiversity values of the land under Part 5A of the *Local Land Services Act 2013*, the *Biodiversity Conservation Act 2016*, the *National Parks and Wildlife Act 1974* or the *Native Vegetation Act 2003* before its repeal) but only for the period during which that requirement is in effect, or
 - (b) the land is required to be designated as category 2-regulated land by section 60I (2) (c), (d) or (g)–(m) of the Act, or
 - (c) the land is required to be designated as category 2-regulated land by clause 113 (except subclause (1) (a), (c), (g) or (l)), or
 - (d) (Repealed)
 - (e) the land continues to be subject to a property vegetation plan under the *Native Vegetation Act 2003* that is described as a conservation property vegetation plan or an incentive property vegetation plan (being land that is required to be conserved or in respect of which public funding was provided to improve biodiversity), or
 - (f) the land contains high conservation value grasslands or other groundcover—
 - (i) as determined under the “*Interim Grasslands and other Groundcover Assessment Method*” published by the Minister for the Environment in the Gazette on 25 August 2017, or
 - (ii) as determined by an independent field assessment undertaken before the commencement of Part 5A of the Act, or
 - (g) the land has been recommended by the Environment Agency Head under section 3.3 (1) (a) of the *Biodiversity Conservation Act 2016* for declaration as an area of outstanding biodiversity value (unless a determination has been made not to proceed with or adopt the recommendation).

- (3) Sections 60K, 60L and 60M of the Act extend to the categorisation of land as category 2-sensitive regulated land.
- (4) An area of the State to which Part 5A of the Act applies is, during the period from the commencement of that Part until the area has been designated on a native vegetation regulatory map, taken to be category 2-sensitive regulated land if the land is so designated on a transitional native vegetation regulatory map published by the Environment Agency Head.
- (5) Despite subclause (2) (b), land that is identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” by *State Environmental Planning Policy (Coastal Management) 2018* is to be designated category 2-regulated land (and not category 2-sensitive regulated land) if that land is required to be designated as category 2-regulated land only by section 60I (2) (i) of the Act.

Note—

Category 2-sensitive regulated land (including land taken to be so categorised under subclause (4)) is not authorised to be cleared under a land management (native vegetation) code—see clause 124.

109 Categorisation of low or high conservation value groundcover that is not grasslands (ss 60H (2) (c) and 60I (2) (n))

- (1) For the purposes of section 60H (2) (c) of the Act, land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that the land contains only low conservation value groundcover (not being grasslands).
- (2) For the purposes of section 60I (2) (n) of the Act, land is to be designated as category 2-regulated land if the Environment Agency Head reasonably believes that the land contains groundcover that is not grasslands or low conservation value groundcover.

110 Determining conservation value of grasslands or other groundcover (s 60H (5))

- (1) For the purposes of section 60H (5) of the Act, land contains low conservation value grasslands for the purposes of Division 2 of Part 5A of the Act if the land is determined to contain low conservation value grasslands under the “*Interim Grasslands and other Groundcover Assessment Method*” published by the Minister for the Environment in the Gazette on 25 August 2017.
- (2) For the purposes of clause 109, land contains low conservation value groundcover (not being grasslands) if the land is determined to contain low conservation value groundcover (other than grasslands) under the “*Interim Grasslands and other Groundcover Assessment Method*” published by the Minister for the Environment in the Gazette on 25 August 2017.
- (3) A determination referred to in this clause is not required under the published methods if the Environment Agency Head reasonably believes that an independent field assessment undertaken before the commencement of Part 5A of the Act has

determined that the land contains high conservation value grasslands or other groundcover.

111 Core koala habitat to be designated as category 2-regulated land (s 60I (2) (j))

Koala habitat that is to be designated as category 2-regulated land is land identified as koala habitat under a plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection*, being land that in the opinion of the Environment Agency Head is core koala habitat.

112 Land mapped as containing critically endangered species of plants to be designated as category 2-regulated land (s 60I (2) (l))

Land may be mapped by the Environment Agency Head as category 2-regulated land because it contains critically endangered species of plants under the *Biodiversity Conservation Act 2016* only if it is land around the location of particular plants of that species (being a location identified in the records of the Environment Agency Head).

113 Additional land to be designated as category 2-regulated land (s 60I (2) (n))

- (1) Land is also to be designated as category 2-regulated land if the Environment Agency Head reasonably believes that—
 - (a) the land is (or was previously) subject to a private native forestry plan approved under Part 5B of the *Local Land Services Act 2013*, to a private native forestry plan that was approved under Part 5C of the *Forestry Act 2012* before its repeal or to a property vegetation plan that was approved under the *Native Vegetation Act 2003* before its repeal and that authorised the clearing of native vegetation for the purposes of forestry operations, or
 - (b) the land is subject to a conservation agreement under the *National Parks and Wildlife Act 1974*, or
 - (c) the land was, immediately before the repeal of the *Native Vegetation Act 2003*, subject to a property vegetation plan under that Act that was described as a conservation property vegetation plan or an incentive property vegetation plan (being land that was required to be conserved or in respect of which public funding was provided to improve biodiversity), or
 - (d) the land was, immediately before the repeal of the *Native Vegetation Conservation Act 1997*, subject to a property agreement under that Act (being an agreement that has been registered), or
 - (e) the land was, immediately before the repeal of the *Nature Conservation Trust Act 2001*, subject to a Trust agreement under that Act, or
 - (f) the land contains native vegetation that is required to be retained under a condition of an authorisation that approves establishment operations for a

plantation or proposed plantation under the *Plantations and Reafforestation Act 1999*, or

- (g) the land contains low conservation grasslands beneath the canopy or drip line of woody vegetation (being woody vegetation that satisfies the criteria for classification of the land as category 2-regulated land), or
- (h) the land is in the Southern Mallee Planning Group Region and is subject to a lease under the *Western Lands Act 1901* whose conditions require the conservation of the land through the prohibition of grazing and active conservation management, or
- (i) the land is, by a condition of a development consent or approval under the *Environmental Planning and Assessment Act 1979* that has been notified to the Environment Agency Head, required to be set aside for nature conservation, for re-vegetation of native vegetation or as a native vegetation offset, or
- (j) the land is identified by the Environment Agency Head as containing old-growth forests, on the basis of—
 - (i) the mapping of old-growth forests for the purposes of the Comprehensive Regional Assessment under the *National Forest Policy Statement* (being the agreement between the Commonwealth, State and Territory governments made in 1992 and so described), but
 - (ii) excluding any land containing native vegetation that does not meet the criteria for old-growth forests published jointly from time to time by the Minister for Primary Industries and the Minister for the Environment (as determined in accordance with the procedure so published), or
- (k) the land is identified by the Environment Agency Head as containing rainforests, on the basis of—
 - (i) the mapping of rainforests for the purposes of the Comprehensive Regional Assessment under the *National Forest Policy Statement* (being the agreement between the Commonwealth, State and Territory governments made in 1992 and so described), but
 - (ii) excluding any land containing native vegetation that does not meet the criteria for rainforests published jointly from time to time by the Minister for Primary Industries and the Minister for the Environment (as determined in accordance with the procedure so published), or
- (l) the land is a travelling stock reserve (unless the land is located in the Western Division of the State).

(2) Land that is designated as category 2-regulated land on the basis of its identification

as containing old-growth forests or rainforests and the Environment Agency Head has determined under subclause (1) (j) (ii) or (k) (ii) that the land meets the relevant criteria at that time as old-growth forests or rainforests, the land is not subject to re-categorisation as a result only of a change in the relevant criteria published under subclause (1) (j) (ii) or (k) (ii). This subclause extends to the application of subclause (1) (j) or (k) under clause 108 and a designation of the land as category 2-sensitive regulated land.

- (3) Land is not subject to re-categorisation as a result only of a change in the relevant criteria published under subclause (1) (j) (ii) or (k) (ii) if the land was determined to contain old-growth forests or rainforests in accordance with either of the following—
- (a) *Private Native Forestry Code of Practice Guideline No 2: Protocol for re-evaluating old-growth forest on private property* (published in August 2007 by the Department of Environment and Climate Change),
 - (b) *Private Native Forestry Code of Practice Guideline No 3: Protocol for re-evaluating rainforest on private property* (published in August 2007 by the Department of Environment and Climate Change).

This subclause extends to the application of subclause (1) (j) or (k) under clause 108 and a designation of the land as category 2-sensitive regulated land.

114 Determining whether native vegetation has been significantly disturbed or modified (s 60J (2))

- (1) Native vegetation that comprises grasslands or other non-woody vegetation is taken to have been significantly disturbed or modified (and therefore cleared) only if—
- (a) there has been a detectable variation (from information obtained from aerial or satellite imagery) in the structure or composition, or both, of non-woody vegetation, and
 - (b) that variation is consistent with management of pasture or crops for agricultural purposes, and
 - (c) that variation has been sustained for at least 12 months on more than one occasion before the commencement of Part 5A of the Act, and
 - (d) that variation has not been caused only by grazing on the land, and
 - (e) that variation occurred (from information obtained from aerial or satellite imagery) between 1 January 1990 and the date of commencement of Part 5A of the Act.
- (2) During the transitional period referred to in section 60F of the Act, the information that may be used for the purposes of this clause includes information obtained from a source other than from aerial or satellite imagery, but only if the landholder has prepared a record of the information and a map showing the areas to which it applies.

The landholder is required to retain the record and map for at least 5 years after any clearing that is carried out in reliance on that information.

115 Compliance or enforcement action required for determination that land was unlawfully cleared (s 60J (3))

(1) For the purposes of section 60J (3) of the Act, any of the following compliance or enforcement action is required to have been taken for a determination that land was unlawfully cleared—

- (a) the conviction of a person for a relevant offence in relation to the clearing (or a finding of guilt in respect of the offence),
- (b) an order of a court in civil proceedings instituted by any person to remedy or restrain a contravention of a provision that is a relevant offence in relation to the clearing.

(2) In this clause—

relevant offence means an offence under any of the following provisions—

- (a) section 2.2, 2.3 or 2.4 of the *Biodiversity Conservation Act 2016*,
- (b) section 125 of the *Environmental Planning and Assessment Act 1979*, but only in respect of the carrying out of clearing that required development consent under *State Environmental Planning Policy No 46—Protection and Management of Native Vegetation*,
- (c) section 60N, 60X, 60ZC (6) or 60ZZA of the *Local Land Services Act 2013*,
- (c1) section 69SA of the *Forestry Act 2012*,
- (d) section 118A (2), 118C (1) or 118D (1) of the *National Parks and Wildlife Act 1974*,
- (e) section 12 of the *Native Vegetation Act 2003*,
- (f) section 17 of the *Native Vegetation Conservation Act 1997*.

116 Additional grounds on which land is authorised to be re-categorised to category 1-exempt land (s 60K (3) (f))

(1) An additional ground on which the Environment Agency Head may re-categorise land from category 2-regulated land to category 1-exempt land is if—

- (a) the land was unlawfully cleared between 1 January 1990 and the date of commencement of Part 5A of the Act, and
- (b) the land was subsequently lawfully cleared, after the vegetation had regrown, between 1 January 1990 and the date of commencement of Part 5A of the Act, and

- (c) the landholder has requested re-categorisation of the land on the basis of that lawful clearing.
- (2) A further additional ground on which the Environment Agency Head may re-categorise land from category 2-regulated land to category 1-exempt land is if—
 - (a) the land—
 - (i) was subject to a private native forestry plan approved under Part 5B of the Act or under Part 5C of the *Forestry Act 2012* before its repeal (or a property vegetation plan that was approved under the *Native Vegetation Act 2003* before its repeal and that is or was taken to be such a private native forestry plan), but
 - (ii) has been subsequently excised from that plan by a variation of that plan or that plan has ceased to have effect, and
 - (b) the land had been cleared of native vegetation when the plan was made, and
 - (c) the land would otherwise be required to be categorised as category 1-exempt land, and
 - (d) the landholder requests the land to be categorised as category 1-exempt land.

117 Consultation with landholders affected by proposed re-categorisation (s 60K (7))

- (1) Consultation with the landholders concerned on a proposed re-categorisation under section 60K (7) of the Act is to be undertaken by individual notification to all those landholders, except as provided by this clause.
- (2) Consultation with landholders of the relevant land who do not have a registered freehold or leasehold interest in the land may be by public notification (in substitution for or in addition to individual notification).
- (3) Consultation may be by public notification (in substitution for or in addition to individual notification) if—
 - (a) the relevant land is proposed to be re-categorised as a result of the annual review of published maps under section 60K (2) of the Act, or
 - (b) the relevant land is otherwise proposed to be re-categorised from category 2-regulated land to category 1-exempt land, or
 - (c) all landholders of the relevant land who have a registered freehold or leasehold interest in the land were—
 - (i) directly notified of the event that triggered the proposed re-categorisation, or
 - (ii) otherwise directly involved in the event that triggered the proposed re-

categorisation (for instance, as an applicant or by making submissions during a public consultation process).

(4) The following applies to a public notification—

(a) a notice must be published in a manner that the Environment Agency Head is satisfied is likely to bring the notice to the attention of—

(i) members of the public generally, or

(ii) if the re-categorisation relates only to one local government area—members of the public in that local government area,

(b) the notice must—

(i) identify the area to which the proposed re-categorisation relates and indicate where the draft map may be viewed by the public, and

(ii) state that any person may make submissions to the Environment Agency Head within the period specified in the notice (being a period of not less than 30 days), and

(iii) specify the process for making such submissions.

118 Period category 1-exempt land is taken to be category 2-regulated land during process of dealing with proposed re-categorisation as category 2 (s 60K (9) (b))

For the purposes of section 60K (9) (b) of the Act, 60 days is prescribed as the period during which land is taken to be category 2-regulated land (unless the landholder is sooner notified of the re-categorisation decision by the Environment Agency Head).

119 Provision applying during process of re-categorisation to category 2-sensitive regulated land (s 60K (11))

If the Environment Agency Head notifies the landholder of category 2-regulated land (that is not category 2-sensitive regulated land), or of category 1-exempt land of a proposed re-categorisation of the land to category 2-sensitive regulated land, the land is taken to be category 2-sensitive regulated land until whichever of the following first occurs—

(a) the Environment Agency Head notifies the landholder that the land is not to be re-categorised or the land is re-categorised,

(b) the period of 60 days expires.

120 Request for review of categorisation or re-categorisation decisions (s 60L)

(1) A request for a review of a decision relating to the categorisation or re-categorisation of land on a native vegetation regulatory map must—

(a) be made in the form approved by the Environment Agency Head, and

- (b) specify the information that the applicant is relying on in seeking a particular categorisation of the land, including (but not limited to)—
 - (i) the provision of Part 5A of the Act, or of this Regulation, that authorises the categorisation, and
 - (ii) any information that is relevant to determining whether or not the land meets the requirements for categorisation specified in that provision, and
 - (c) include a description of the relevant land, including—
 - (i) if the request relates only to the whole of a lot or lots—by detailing the lot and deposited plan number for the land, or
 - (ii) if the request relates to part only of a lot or lots—by including a spatially accurate map for the land, which includes geographic co-ordinates for the land, and
 - (d) be accompanied by a fee of \$300 for dealing with a request for review.
- (2) The Environment Agency Head may waive or refund any fee for dealing with a request for review, in full or in part, at his or her discretion.

121 Environment Agency Head may request further information about requests for review of categorisation or re-categorisation decisions (s 60L)

- (1) The Environment Agency Head may request a relevant landholder who has requested a review of a decision relating to the categorisation or re-categorisation of land to provide the Environment Agency Head with such further information about the categorisation or re-categorisation as the Environment Agency Head considers necessary for his or her proper consideration of the request for review.
- (2) The request for further information—
 - (a) must be in writing, and
 - (b) may specify a reasonable period within which the information must be provided to the Environment Agency Head, and
 - (c) must include notice of the effect of a failure to provide the information on the determination of the request for review and on the relevant landholder's rights of appeal with respect to the categorisation or re-categorisation.
- (3) The Environment Agency Head may deal with the request for review if the relevant landholder notifies the Environment Agency Head in writing that the information will not be provided or if the information has not been provided within the period specified by the Environment Agency Head or within such further period as the Environment Agency Head may allow.

122 Time for dealing with requests for review of categorisation or re-categorisation decisions (s 60L)

- (1) The Environment Agency Head is to determine a request by the relevant landholder for a review of a decision relating to the categorisation or re-categorisation of land within 40 days after the date on which the request was duly made.
- (2) Any period after the relevant landholder is requested by the Environment Agency Head to provide further information to enable the request for review to be dealt with and until the information is provided (or the relevant landholder notifies the Environment Agency Head the information will not be provided) is not to be counted in calculating that 40-day period. This subclause applies only if the request for further information is made within 25 days of the request for review.
- (3) A request for review that has not been determined is taken to have been refused after the expiration of that 40-day period.
- (4) The Environment Agency Head may make a decision on a request for review even if the request is taken to have been refused under this clause.

123 Appeal period—categorisation and re-categorisation decisions (s 60M)

An appeal to the Land and Environment Court against a decision relating to the categorisation or re-categorisation of land on a native vegetation regulatory map is to be made within 90 days after—

- (a) the date on which the relevant landholder is notified of the decision made after a review under section 60L of the Act, or
- (b) the date the Environment Agency Head is taken to have refused the request for review,

whichever is the later.

Division 3 Clearing native vegetation under land management (native vegetation) code

124 Category 2-sensitive regulated land and certain other land excluded from application of codes (s 60S (2))

- (1) The following land is excluded from the regulated rural area in which clearing of native vegetation is authorised by a land management (native vegetation) code—
 - (a) category 2-sensitive regulated land,
 - (b) land that is required to be designated as category 2-regulated land by section 60I (2) (a) of the Act (that is, because the land contains native vegetation that was grown or preserved with the assistance of public funds other than funds for

forestry purposes), but only for the period during which any obligations attached to the receipt of funding are ongoing,

(c) land that is subject to a private native forestry plan that was approved under Part 5C of the *Forestry Act 2012* before the repeal of that Part,

(d) land that is subject to a private native forestry plan under Part 5B of the Act.

(2) Subclause (1) (a) does not apply to land that is category 2-sensitive regulated land only because it is subject to be set aside under a requirement made in accordance with a land management (native vegetation) code and any clearing of native vegetation on the set aside area is permitted by that code as referred to in section 60ZC (5) (b) of the Act.

125 Owner's consent required for clearing under codes (s 60S (4) (c))

A land management (native vegetation) code does not permit clearing or any other activity without the prior written consent of—

(a) in the case of land that is not Crown land—all the owners of the land, or

(b) in the case of Crown land—the Minister administering the *Crown Lands Act 1989*.

126 Additional content of codes (s 60W (3) (I))

A land management (native vegetation) code may make provision for or with respect to the following—

(a) the withdrawal by the landholder or Local Land Services of authority to clear native vegetation under the code by the revocation of a notice of clearing given by the landholder that is required by the code before clearing is carried out,

(b) the maximum period of clearing for which a notice of clearing may be given by the landholder under the code.

127 Certificates issued by Local Land Services under codes (s 60Y (12))

(1) An application for a certificate under section 60Y of the Act—

(a) is to be made in the form approved by Local Land Services for that type of certificate, and

(b) is to include any information or documents required by that form.

(2) A certificate under section 60Y of the Act is to set out the aspects of the clearing of native vegetation (by reference to relevant provisions of the relevant land management (native vegetation) code) that are subject to the conclusive presumption referred to in section 60Z (2) of the Act. This subclause does not operate to exclude compliance with any other aspects of the clearing that are regulated by the code.

- (3) The surrender of a certificate under section 60Y of the Act only has effect when the surrender is approved by Local Land Services. Local Land Services is not to approve the surrender of a certificate if—
- (a) the certificate requires the establishment of a set aside area for native vegetation, and
 - (b) the landholder has carried out some or all of the clearing authorised by the certificate.

128 Owner’s consent for set aside areas (s 60ZC)

Local Land Services is not to issue a mandatory code compliant certificate with respect to a set aside area for native vegetation unless—

- (a) in the case of a set aside area on land that is not Crown land—all owners of the land have given their written consent to the establishment of the set aside area, or
- (b) in the case of a set aside area on Crown land—the Minister administering the *Crown Lands Act 1989* has given the Minister’s written consent to the establishment of the set aside area.

129 Additional areas of land that cannot be established as set aside areas (s 60ZC (4) (c))

The following areas are excluded from being a set aside area—

- (a) an area that is already a set aside area under the Act or under a Ministerial order under Division 3 of Part 6 of the *Native Vegetation Regulation 2013*,
- (b) an area that is subject to—
 - (i) a private native forestry plan approved under Part 5B of the Act, or
 - (ii) a private native forestry plan that was approved under Part 5C of the *Forestry Act 2012* before its repeal, or
 - (iii) a property vegetation plan that was approved under the *Native Vegetation Act 2003* before its repeal and that authorised the clearing of native vegetation for the purposes of forestry operations,
- (c) an area that was, immediately before the repeal of the *Nature Conservation Trust Act 2001*, subject to a Trust agreement under that Act,
- (d) an area that is subject to a conservation agreement under the *National Parks and Wildlife Act 1974*,
- (e) an area that was, immediately before the repeal of the *Native Vegetation Conservation Act 1997*, subject to a registered property agreement under that Act,
- (f) an area that was, immediately before the repeal of the *Native Vegetation Act 2003*—

- (i) subject to an offset required by a property vegetation plan under that Act, or
 - (ii) a conservation area, or an area subject to incentive funding, under a property vegetation plan under that Act,
- (g) land that is required to be designated as category 2-regulated land by section 60I (2) (a) of the Act (that is, because the land contains native vegetation that was grown or preserved with the assistance of public funds other than funds for forestry purposes), but only for the period during which any obligations attached to the receipt of funding are ongoing,
- (h) an area that is subject to a requirement to take remedial action to restore or protect the biodiversity values of the land under—
- (i) the *Biodiversity Conservation Act 2016* (including a requirement that was made under the *Native Vegetation Act 2003* before its repeal and that is taken to be remedial action required under the *Biodiversity Conservation Act 2016*), or
 - (ii) the *National Parks and Wildlife Act 1974*,
- (i) an area that is subject to an approved conservation measure that was the basis for the biodiversity certification of land under Part 8 of the *Biodiversity Conservation Act 2016*, or under any Act repealed by that Act,
- (j) an area that, by a condition of a development consent or approval under the *Environmental Planning and Assessment Act 1979*, is required to be land set aside for nature conservation, for re-vegetation of native vegetation or as a native vegetation offset,
- (k) an area that contains native vegetation that is required to be retained under a condition of an authorisation that approves establishment operations for a plantation or proposed plantation under the *Plantations and Reafforestation Act 1999*,
- (l) an area in the Southern Mallee Planning Group Region that is subject to a lease under the *Western Lands Act 1901* whose conditions require the conservation of the area through the prohibition of grazing and active conservation management.

Note—

Section 60ZC (4) also excludes from set aside areas land covered by private land conservation agreements under the *Biodiversity Conservation Act 2016* and certain other land subject to obligations to set aside from clearing under agreements or statutory obligations.

130 Public register of set aside areas (s 60ZC (3))

- (1) This clause applies to the public register of set aside areas required to be maintained by Local Land Services under section 60ZC (3) of the Act.
- (2) The public register is to be kept in such electronic or other form as Local Land

Services determines.

- (3) The public register must include the following—
 - (a) the precise location of each set aside area,
 - (b) information about any variation to the set aside area, including the date the variation took effect.
- (4) Local Land Services may amend the public register—
 - (a) to remove any area (or part of an area) that has ceased to be a set aside area, or
 - (b) to update any particulars relating to obligations or other matters affecting set aside areas, or
 - (c) to correct any error or omission in the public register.
- (5) Local Land Services is to give public access to the public register in such manner as Local Land Services determines.

Division 4 Approval for clearing native vegetation not otherwise authorised

131 Application form (ss 60ZH and 60ZI)

An application to the Panel for approval to clear native vegetation or to modify an approval of the Panel—

- (a) is to be made in the form and manner required by the Panel, and
- (b) is to include any information or documentation required by that form.

132 Fees for applications for approval or modification of approval (ss 60ZF (11) and 60ZI)

- (1) The Native Vegetation Panel may charge a fee for an application to the Panel for approval to clear native vegetation or to modify an approval of the Panel.
- (2) The maximum charge for an application for approval to clear native vegetation in an area of the Coastal Zone is—
 - (a) if the area contains no threatened ecological community and is less than 10 hectares—\$3,000, or
 - (b) if the area contains no threatened ecological community and is between 10 hectares and 20 hectares—\$6,000, or
 - (c) if the area contains a threatened ecological community or is greater than 20 hectares—\$9,000.

- (3) The maximum charge for an application for approval to clear native vegetation in an area of the Central Zone is—
 - (a) if the area contains no threatened ecological community and is less than 50 hectares—\$3,000, or
 - (b) if the area contains no threatened ecological community and is between 50 hectares and 100 hectares—\$6,000, or
 - (c) if the area contains a threatened ecological community or is greater than 100 hectares—\$9,000.
- (4) The maximum charge for an application for approval to clear native vegetation in an area of the Western Zone is—
 - (a) if the area contains no threatened ecological community and is less than 150 hectares—\$3,000, or
 - (b) if the area contains no threatened ecological community and is between 150 hectares and 300 hectares—\$6,000, or
 - (c) if the area contains a threatened ecological community or is greater than 300 hectares—\$9,000.
- (5) The maximum charge for an application to modify an approval is—
 - (a) in the case of a minor application—\$850, or
 - (b) in any other case—
 - (i) 50% of the fee paid for the application for approval that is proposed to be modified, or
 - (ii) \$4,500,whichever is the greater.
- (6) For the purposes of this clause, a minor application to modify an approval of the Panel is—
 - (a) an application to correct a minor error, misdescription or miscalculation, or
 - (b) an application for a modification—
 - (i) that is of minimal environmental impact, and
 - (ii) that relates to substantial the same clearing as the clearing to which the approval sought to be modified relates.
- (7) The Native Vegetation Panel may refuse to consider an application if the fee charged

is not paid within 14 days after the application was made.

133 Information required in application for approval by Native Vegetation Panel or modification of approval (ss 60ZH and 60ZI)

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel) that seeks to vary like for like credit retirement obligations specified in the biodiversity development assessment report is to include information about the reasonable steps that the applicant has taken to secure the like for like biodiversity credits.

134 Panel may request further information about an application for approval or modification of approval (ss 60ZH and 60ZI)

- (1) The Native Vegetation Panel may request an applicant for approval to clear native vegetation, or for the modification of an approval of the Panel, to provide the Panel with such further information about the proposed clearing or the proposed modification as the Panel considers necessary for its proper consideration of the application (including information about previous clearing of native vegetation in the area or surrounding area).
- (2) The request—
 - (a) must be in writing, and
 - (b) may specify a reasonable period within which the information must be provided to the Panel, and
 - (c) must include notice of the effect of a failure to provide the information on the determination of the application and on the applicant's rights of appeal with respect to the application.
- (3) The Panel may deal with the application if the applicant notifies the Panel in writing that the information will not be provided or if the information has not been provided within the period specified by the Panel or within such further period as the Panel may allow.

135 Time for dealing with applications for approval or modification of approval (ss 60ZH and 60ZI)

- (1) The Native Vegetation Panel is to determine an application for approval to clear native vegetation (or to modify an approval of the Panel) within 90 days after the date on which the application was duly made.
- (2) Any period after the applicant is requested by the Panel to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the Panel the information will not be provided) is not to be counted in calculating that 90-day period.

- (3) An application for approval (or the modification of an approval) that has not been determined is taken to have been refused after the expiration of that 90-day period.
- (4) The Panel may grant or refuse to grant an application even if the application is taken to have been refused under this clause.

136 Appeal period—refusal of clearing approval (s 60ZJ (2))

An appeal to the Land and Environment Court against a decision of the Native Vegetation Panel to refuse an application for approval to clear native vegetation (or to modify an approval of the Panel) is to be made within 6 months after the date on which the applicant is notified of the decision or within 6 months after the Panel is taken to have refused the application (whichever is the later).

137 Date from which approval operates (s 60ZH)

- (1) An approval of the Native Vegetation Panel to clear native vegetation operates from the date the approval is granted or, if a later date is specified in the approval, from that later date.
- (2) If an application for approval is refused and the Land and Environment Court decides to grant approval on appeal, the decision is taken to be an approval granted by the Native Vegetation Panel and operates from the date of that decision.

138 Lapsing of approval (s 60ZH)

- (1) An approval of the Native Vegetation Panel to clear native vegetation lapses 5 years after the date from which it operates.
- (2) Any such approval does not lapse if the clearing is commenced before the date on which the approval would otherwise lapse.
- (3) The Native Vegetation Panel may set out, in any such approval, circumstances in which clearing is or is not taken to be commenced for the purposes of this clause.

Division 5 Miscellaneous

139 Offence of contravening certain requirements of approvals, certificates or codes

- (1) This clause applies to a requirement imposed on a person by a relevant instrument (whether or not described as a condition of the instrument) in connection with the clearing of native vegetation to which the relevant instrument applies (whether that requirement arises before, during or after the clearing).
- (2) A person to whom a relevant instrument applies and who contravenes any such requirement of the instrument is guilty of an offence.

Maximum penalty—100 penalty units.

- (3) It is a defence to a prosecution for an offence against this clause if the person charged is not a landholder of the land to which the clearing relates and establishes that the person was not aware of the relevant instrument.
- (4) If an act or omission constitutes an offence against this clause and an offence against section 60N of the Act, the person may not be convicted of both offences.
- (5) In this clause—
relevant instrument means—
 - (a) an approval to clear native vegetation granted by the Native Vegetation Panel, or
 - (b) a certificate issued by Local Land Services under section 60Y of the Act, or
 - (c) a provision of a land management (native vegetation) code.

140 Native Vegetation Panel may engage consultants

The Native Vegetation Panel may, with the approval of the Minister, engage such consultants as it requires to exercise its functions.

Schedule 1 Elections for members of local boards

Part 1 Preliminary

1 Definitions

In this Schedule—

candidate means a candidate for election as a member of a local board.

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

close of nominations date means the date and time fixed by the returning officer for the close of nominations for an election.

election means an election for a member or members of a local board in a region.

returning officer means the person appointed by Local Land Services to be the returning officer for an election.

2 Returning officer

- (1) Local Land Services is to appoint a person as a returning officer for each election under this Schedule.
- (2) A person may be appointed as a returning officer for an election for more than one region.

- (3) The returning officer is to conduct the election for which the returning officer was appointed.
- (4) For the purposes of conducting an election, the returning officer may determine any matter not provided for by the Act or this Regulation.
- (5) The returning officer may delegate any of the returning officer's functions under this Schedule (other than this power of delegation) to any person other than a candidate in an election.

3 Roll

- (1) The returning officer must prepare a roll for each election for a region.
- (2) The roll is to contain the full name and postal address of the occupier of each holding in the region that consists wholly or partly of rateable land and particulars identifying the holding.
- (3) If an occupier has consented to receiving notices and other documents under this Schedule by email, the roll is also to contain the email address of the occupier.
- (4) The returning officer must ensure that a copy of the roll is available for inspection for a period of 42 days before the close of ballot date.
- (5) A person may inspect the person's entry on the roll.
- (6) An inspection of the roll is to be free of charge.
- (7) A person must notify the returning officer of any administrative errors relating to the person's entry on the roll at least 14 days before the close of ballot date.

Part 2 Voting entitlements

4 Election for members

The members of a local board for a region are to be elected by the persons entitled to vote in an election for the region.

5 Voluntary voting

Voting at an election is voluntary.

6 Only individuals can vote

A person may only vote in an election for a region if the person is an individual who is 18 or more years old.

7 Occupier who may vote

The occupier of a holding that consists wholly or partly of rateable land may vote in an

election in the capacity of occupier of that holding, subject to clauses 6 and 8.

8 Authorised representative

- (1) If an occupier is not an individual, the occupier may nominate an individual to vote as the occupier's authorised representative.
- (2) An individual may vote more than once in the capacity of an authorised representative of occupiers of holdings.
- (3) An individual may be appointed as the authorised representative of the occupier of a holding whether or not the individual is an occupier of that or another holding.
- (4) The individual must confirm that the individual is the authorised representative of the occupier by completing the declaration form referred to in clause 23.

9 Two or more occupiers

If there are 2 or more occupiers of a holding, only one individual may vote as the authorised representative of all of the occupiers of the holding.

10 Multiple holdings

- (1) If an occupier, or a group of 2 or more occupiers, occupies 2 or more holdings, that occupier or group or an individual authorised by them, may only cast one vote in the election regardless of the number of holdings concerned.
- (2) Subclause (1) does not prevent an individual from also voting on one or more occasions as the authorised representative of occupiers of holdings of which the individual is not an occupier.

Part 3 Conduct of elections

Division 1 Elections

11 General election

A general election of elected members of local boards is to be held whenever the terms of office of the elected members expires.

12 Delayed election

- (1) If the Minister is of the opinion that it would be impractical or inconvenient to hold a general election in time for the elected members to take office when required by clause 11, the Minister may, by order published in the Gazette, appoint a later day by which a general election must be held.
- (2) If a later day is appointed, the retiring elected members continue in office until that day, and if an elected member resigns in the meantime, the office is vacant until that

day.

13 Notice of election

- (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 Local Land Services.
- (2) The returning officer must give notice that an election is to be held by—
 - (a) causing notice to be published on a website maintained by Local Land Services in a manner approved in writing by Local Land Services having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant region, and
 - (b) displaying a notice in a prominent place in the office of the local board concerned or on a community notice board at a public place within the region.
- (3) A notice under subclause (2) must—
 - (a) state that the election is to be held and specify the region involved, and
 - (b) state the number of members to be elected, and
 - (c) call for nominations of candidates, and
 - (d) state the close of nominations date, and
 - (e) state where the roll may be inspected, and
 - (f) state the close of ballot date, and
 - (g) state how and when a voting pack for the election may be obtained.
- (4) The returning officer may also, in addition, give notice of an election in any other manner the returning officer thinks fit.

Division 2 Candidates

14 Eligibility

A person eligible for election as a member of a local board under the Act or this Regulation is eligible for nomination as a candidate for an election.

15 Nomination

- (1) A person entitled to vote in an election for a region may nominate a candidate (including himself or herself) for the election.
- (2) A nomination must be in the manner and form approved by the returning officer and

lodged with the returning officer before the close of nominations date.

(3) The nomination must contain the following information—

(a) the candidate's name,

(b) that the candidate is an individual who is 18 or more years old,

(c) the candidate's residential address,

(d) a statement signed by the candidate that the candidate consents to—

(i) the nomination, and

(ii) the information provided being used by the returning officer for the purposes of compiling a candidate information sheet,

(e) any other relevant information required by the returning officer.

(4) Each candidate must be nominated by a separate nomination.

16 Assessment of nomination

(1) On receipt of a nomination, the returning officer must sign it with the date and time of receipt.

(2) The returning officer must notify candidates whether the nomination has been accepted or refused before the first voting pack for an election is provided under clause 22.

17 Withdrawal of nomination

(1) A candidate who has been nominated for an election may withdraw the nomination at any time before the close of nominations date.

(2) A withdrawal must be in writing, signed by the candidate and lodged with the returning officer.

18 Candidate information sheet

(1) The returning officer must compile a candidate information sheet consisting of information about each candidate.

(2) The candidate information sheet is to be based on information provided by the candidate in the candidate's nomination.

(3) In compiling the 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.

(4) 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.

19 Death of candidate

If a candidate dies after the close of nominations date and before the close of ballot date for an election—

- (a) the returning officer is to cause notice of the death to be published on a website maintained by Local Land Services in a manner approved in writing by Local Land Services having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant region, and
- (b) if there are no other eligible candidates, 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.

20 Uncontested elections

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

21 Contested elections

- (1) If the number of persons who have been duly nominated as candidates by the close of nominations date, and whose nominations have been accepted, exceeds the number of persons to be elected, a ballot must be held.
- (2) An election is to be conducted by—
 - (a) notifying occupiers on the roll of how and when a voting pack for the election may be obtained, and
 - (b) by distributing voting packs to occupiers on the roll who request a voting pack and requiring those persons to vote by prepaid envelope or electronically.

Division 3 Voting pack

22 Voting pack

- (1) For each election, the returning officer must give notice to each occupier on the roll of how and when a voting pack for the election may be obtained.
- (2) Notice is taken to be given if a notice is provided under clause 13 containing the

information specified in clause 13(3)(g) but may also be given at an earlier time.

- (3) The returning officer is to ensure that an occupier requesting a voting pack is required to indicate whether the occupier wishes to be provided with a voting pack by post or electronically.
- (4) The returning officer is to provide a voting pack to an occupier if requested to do so.
- (5) If an occupier on the roll elects to obtain a voting pack by post, the returning officer must include the following in the voting pack—
 - (a) a declaration form,
 - (b) a ballot paper,
 - (c) a candidate information sheet,
 - (d) instructions for completing the declaration form and ballot paper by prepaid envelope,
 - (e) instructions for completing the declaration form and ballot paper electronically,
 - (f) one envelope marked “Ballot Paper”,
 - (g) one prepaid envelope addressed to the returning officer.
- (6) If an occupier on the roll elects to obtain a voting pack electronically or is provided with an electronic voting pack under subclause (7), the returning officer must include the following in the voting pack—
 - (a) a declaration form,
 - (b) a ballot paper,
 - (c) a candidate information sheet,
 - (d) instructions for completing the declaration form and ballot paper electronically.
- (7) The returning officer may provide an occupier on the roll with an electronic voting pack instead of giving notice under subclause (1) if the occupier has consented to receiving notices and other documents by email.

23 Declaration form

The declaration form must require the person voting to state the following information—

- (a) the person’s name,
- (b) that the person is an individual who is 18 or more years old,
- (c) that the person is an occupier, or the authorised representative of an occupier, of a

holding in the region,

- (d) that the holding consists wholly or partly of rateable land,
- (e) that the person has not yet voted in the election for the region in the person's capacity as an occupier.

24 Ballot paper

- (1) The ballot paper must contain the names of all candidates for the election arranged in an order determined by the returning officer by drawing lots.
- (2) The ballot paper must contain a box opposite and to the left of the name of each candidate.

25 Instructions for completing prepaid envelope

The instructions for completing the declaration form and ballot paper by prepaid envelope must include the following information—

- (a) the close of ballot date,
- (b) instructions on how to cast a valid vote,
- (c) that in order to vote in the election the person must—
 - (i) complete the declaration form, and
 - (ii) mark the ballot paper next to the name of the person's preferred candidates (not being more than the number of persons to be elected in the election), and
 - (iii) enclose and seal the ballot paper in the envelope marked "Ballot Paper", and
 - (iv) insert the declaration form and envelope marked "Ballot Paper" into the prepaid envelope addressed to the returning officer and seal it, and
 - (v) send the prepaid envelope by post, or deliver it to the returning officer, so that the returning officer receives it no later than the close of ballot date,
- (d) any other information that the returning officer considers appropriate to include.

26 Prepaid envelopes

The returning officer must ensure that all prepaid envelopes received before the close of ballot date are stored securely until the counting of votes begins.

27 Instructions for completing electronically

The instructions for completing the declaration form and ballot paper electronically must include the following information—

- (a) the date and time for the close of ballot date,
- (b) the internet address of the voting website,
- (c) the name of the person as it appears on the roll and the password required to enable the person to access the voting website,
- (d) instructions on how to cast a valid vote,
- (e) that in order to vote in the election the person must—
 - (i) complete and submit the electronic declaration form, and
 - (ii) mark the electronic ballot paper next to the name of the person's preferred candidates (not being more than the number of persons to be elected in the election) and submit the electronic ballot paper,
- (f) any other information that the returning officer considers appropriate to include.

28 Voting website

The voting website must provide a warning message to a person if there are errors on the person's declaration form or ballot paper.

29 Computer and internet facilities

- (1) The returning officer is to ensure that computer and internet facilities are made available free of charge at the office of the local board in order to provide each person with an opportunity to vote electronically.
- (2) The returning officer may make additional arrangements to ensure that each person has an opportunity to vote electronically.

Division 4 Election results

30 Ascertaining result

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

31 Scrutineers

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

32 Initial scrutiny—prepaid envelopes

- (1) On the close of ballot date for an election, the returning officer must, in the presence of any scrutineers who are present—
 - (a) examine the contents of the prepaid envelopes, and
 - (b) reject as informal those that, in the opinion of the returning officer, do not comply with the requirements of this Schedule, and
 - (c) initial the backs of the remaining ballot papers, and
 - (d) proceed to count the remaining ballot papers.
- (2) A ballot paper of a person at an election is informal if—
 - (a) the person has failed to record a vote in the manner directed on it, or
 - (b) it has not been initialled on the back by the returning officer.
- (3) Despite subclause (2), if, in the opinion of the returning officer, a person's intention is clearly indicated on a ballot paper, the ballot paper is not informal merely because—
 - (a) the ballot paper contains an unnecessary mark, or
 - (b) the number of candidates the person has recorded a vote for is less than the number to be elected in the election.

33 Initial scrutiny—electronic votes

- (1) On the close of ballot date for an election, the returning officer must, in the presence of any scrutineers who are present, review all electronic declaration forms and ballot papers for the electronic ballot.
- (2) An electronic vote is informal if the person has not indicated a clear preference for at least one candidate or if the vote does not, in the opinion of the returning officer, comply with the requirements of this Schedule.
- (3) Each informal electronic vote is to be recorded by the voting website as an informal vote and the voting website is to count the formal electronic votes.
- (4) An electronic vote is not informal merely because the number of candidates the person has recorded a vote for is less than the number to be elected in the election.

34 Count

- (1) After the initial scrutiny at an election, the returning officer must—
 - (a) count the prepaid envelope votes and electronic votes recorded for each candidate, and

- (b) count the informal votes, and
- (c) ascertain the results of the count, and
- (d) inform the persons present of the result of the count.

- (2) The candidate or candidates with the most votes is or are taken to be elected.
- (3) If 2 candidates receive an equal number of votes, the candidate taken to be elected is the candidate whose name is drawn from a lot containing the name of each of the 2 candidates.

35 More than one ballot paper

- (1) If the returning officer receives more than one ballot paper from an occupier, or more than one ballot paper in respect of a holding, the returning officer must compare the ballot papers.
- (2) If the ballot papers are—
 - (a) consistent—the returning officer must count one ballot paper only, or
 - (b) inconsistent—the returning officer must reject the ballot papers.

36 Recount

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

37 Declaration of result

- (1) As soon as practicable after counting the votes in an election, the returning officer is to notify Local Land Services, in writing, of the candidate or candidates elected.
- (2) The returning officer is to cause notice of the candidate or candidates elected in the election to be published in one or both of the following ways—
 - (a) on the Local Land Services website,
 - (b) in a manner approved in writing by Local Land Services having regard to the object of bringing notices of that kind to the attention of members of the public in the relevant region.

Division 5 Disputes

38 Disputing elections

- (1) A person who is dissatisfied with the following may dispute the validity of an election by an application made to the Land and Environment Court, and not otherwise—
 - (a) the conduct of the election,
 - (b) any decision of a returning officer under this Schedule (except a decision relating to clause 3 (Roll) or clause 35 (More than one ballot paper) of this Schedule).
- (2) An application to the Land and Environment Court under subclause (1) must set out the facts relied on to invalidate the election.
- (3) Any person may make an application to the Court under this clause within 28 days after the returning officer has publicly declared the result of the election that is the subject of the application.

39 Powers of Land and Environment Court

In determining an application under clause 38, the Land and Environment Court has the same powers as are conferred by section 225 of the *Electoral Act 2017* on the Court of Disputed Returns.

39A Right of returning officer to be represented

The returning officer is entitled to be represented at the hearing of an application under clause 38.

39B Procedure

- (1) The procedure of the Land and Environment Court on an application under clause 38 is to be determined by rules of court, or in the absence of rules of court, by the Court or a judge of the Court.
- (2) The Land and Environment Court is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it considers appropriate.

Division 6 Offences

40 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.

41 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.

42 Misconduct by scrutineers

- (1) A scrutineer must not—
 - (a) interfere with or influence a person 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.

43 Breach of secrecy

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

Maximum penalty—10 penalty units.

44 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 a person.

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.

45 Bribery

A person must not, in relation to an election or a person at an election, do any of the things set out in section 209 of the [Electoral Act 2017](#).

Maximum penalty—10 penalty units.

46 (Repealed)

47 Intimidation

A person must not, in relation to an election or a person at an election, do any of the things set out in section 210 of the [Electoral Act 2017](#).

Maximum penalty—10 penalty units.

Part 4 Miscellaneous

48 Decisions of returning officer final

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

49 Election materials

- (1) After the results of an election are declared, the returning officer is to—
 - (a) parcel the marked and unmarked ballot papers, the roll and other papers or envelopes used in the election, and
 - (b) seal, endorse and sign each parcel and allow any scrutineers present to watch the returning officer carry out those actions and countersign the parcel, and
 - (c) keep the parcels, and any electronic files, safe and secure for 12 months after the election.
- (2) 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.

Schedule 2 Penalty notice offences

(Clause 88)

Part 1 Prescribed offences under the Act

Column 1	Column 2
Section	Penalty (\$)
58 (1)	300
72	300
73 (1)	300
83 (3)	200

84	200
103 (1)	150
103 (3)	150
113 (1)	500
116 (1)	300
117	500
120	440
121	440
122	440
123 (4)	1,100
124 (3)	220
142 (1)	200
142 (2)	200
142 (3)	150
150 (1)	500
150 (3)	300
152 (4)	500
158 (1)	200
158 (2)	500
159 (1)	500
160 (1) and (2)	200
160 (3)	500
161 (a) and (b)	500
192 (1)	200
192 (2)	200
192 (4)	500
204 (2)	200

Part 2 Prescribed offences under this Regulation

Column 1	Column 2
Clause	Penalty (\$)

24 (1)	200
26 (1)	150
26 (2)	150
26 (3)	150
27 (2)	200
53 (1)	500
53 (2) and (3)	150
54 (1)	440
54 (3)	150
55	200
56 (2)	150
57 (2)	200
58	200
60 (2)	150
61	200
63 (1)	300
63 (2)	500
63 (3)	200
64 (2)	150
65	150
66	150 per carcass or 500 in any other case
70 (2)	150
74 (1)	200
74 (7)	150
74 (10)	300
75 (1)	500
80	150
98	500

Part 3 Prescribed offences under Schedule 1 to this Regulation

Column 1

Column 2

Clause	Penalty (\$)
40	200
41	300
42	200
43	150
44	150
45	500
47	500