



New South Wales

Rural Lands Protection (General) Amendment Regulation 2008

under the

Rural Lands Protection Act 1998

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

IAN MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to amend the *Rural Lands Protection (General) Regulation 2001* as a consequence of the commencement on 1 January 2009 of certain amendments to the *Rural Lands Protection Act 1998* made by the *Rural Lands Protection Amendment Act 2008*.

Specifically, this Regulation makes amendments as follows:

- (a) to specify that certain functions of the new State Management Council of Livestock Health and Pest Authorities must be carried out at least 3 months before the commencement of each financial year,
- (b) to set out a new method for calculating general, animal health and special purpose rates that are levied under the *Rural Lands Protection Act 1998*,
- (c) to prescribe new minimum areas of rateable land for the new livestock health and pest districts created on 1 January 2009,
- (d) to remove obsolete provisions relating to elections of members of the former State Council of Rural Lands Protection Boards,
- (e) to alter references to “rural lands protections boards” in the *Rural Lands Protection (General) Regulation 2001* to “livestock health and pest authorities” (which replace them).

This Regulation is made under the *Rural Lands Protection Act 1998*, including sections 25 (1), 31 (2) (a), 62 (4) and 243 (the general regulation-making power) and clause 1 of Schedule 7.

Clause 1 Rural Lands Protection (General) Amendment Regulation 2008

Rural Lands Protection (General) Amendment Regulation 2008

under the

Rural Lands Protection Act 1998

1 Name of Regulation

This Regulation is the *Rural Lands Protection (General) Amendment Regulation 2008*.

2 Commencement

This Regulation commences on 1 January 2009.

3 Amendment of Rural Lands Protection (General) Regulation 2001

The *Rural Lands Protection (General) Regulation 2001* is amended as set out in Schedule 1.

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Schedule 1 Amendments

(Clause 3)

[1] **Parts 2 and 2A**

Omit the Part. Insert instead:

Part 2 State Council

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

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

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

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

Part 2A Livestock health and pest authorities

5B Elections of elected directors of boards of authorities

Schedule 2 has effect.

[2] **Clause 7**

Omit clauses 7 and 8. Insert instead:

7 Making of rates

- (1) A general rate and an animal health rate for each year are to be made by an authority by a resolution of the board of the authority. The resolutions may be made in the previous year but must be made by 31 March of the year to which they relate.

Note. Under section 79 of the Act, the State Council (with the approval of the Minister) may extend the time within which the rates may be made.

- (2) A special purpose rate (if any) is to be made by an authority by resolution of the board of the authority.

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- (3) A general rate, or a special purpose rate (if any), for rateable land is to consist of:
- (a) a base amount for each holding of rateable land (determined by the State Council), and
 - (b) an amount payable for each stock unit based on the total notional carrying capacity of rateable land in the district or for each constituent part (within the meaning of clause 44 of Schedule 7 to the Act) of the district.
- (4) An animal health rate for rateable land is to consist of:
- (a) a base amount for each holding of rateable land (determined by the State Council), and
 - (b) an amount payable for each stock unit based on the total notional carrying capacity of rateable land in the district, or for each constituent part (within the meaning of clause 44 of Schedule 7 to the Act) of the district, for which the annual returns lodged in the year preceding the year in which the rate is payable indicate that at least 50 stock units were kept on the land as at 30 June in the year.
- (5) The amount payable under a rate in respect of rateable land is calculated in accordance with the following formula:
- $$R = B + (A \times C)$$
- where:
- R** represents the amount payable under the rate.
- B** represents the base amount determined by the State Council in respect of the authority for the purposes of the rate.
- A** represents the amount, determined by the authority, payable for each stock unit in accordance with this clause.
- C** represents the notional carrying capacity of rateable land determined in accordance with clause 11.
- (6) In calculating the general rate or animal health rate payable in respect of land, the authority must disregard any part of the land used for intensive livestock production in respect of which an animal health rate is payable.

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- [3] **Clauses 9, 11 (2), (4) and (5), 12 (1) (a), (3) and (6), 13, 14 (1) (b), 21 (1), 24 (1), 25, 26 (2), 27 (1) and (2), 31 (3) (b), 32 (b), 33 (1), (2), (4), (5) and (6), 34 (1), 44 (1), (2) and (3), 45, 47 (3), (6) and (10), 50 (1), 55 (a), 59 (2) (e) and (3), 60 (3), 62, 63, 65 (1), 68 (1) and 70 (2)**

Omit “the board”, “a board”, “A board”, “board’s”, “appropriate board”, “responsible board”, “the boards” and “any board” wherever occurring.

Insert instead “the authority”, “an authority”, “An authority”, “authority’s”, “appropriate authority”, “responsible authority” and “the authorities”, “any authority” respectively.

- [4] **Clause 9 Special purpose pest insect eradication rates**

Omit “clause 7 (4A)” from clause 9 (2) wherever occurring.

Insert instead “clause 7 (3)”.

- [5] **Clause 66 Filling of casual vacancy in office of member or director**

Omit the clause.

- [6] **Schedule 1 Forms**

Omit Forms 2 and 3. Insert instead:

Form 2 Ballot-paper for election of directors

(Sch 2, cl 13 (4))

.....
 (insert name of district)
 Election of
 (insert number of directors to be elected)
 Held on
 (insert election day)

Candidates

- VALADON, Susan
- BROWN, Denise
- SMITH, John
- (Tenterfield)
- SMITH, John
- (Blackacre)
- DAVIS, Ron

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

Directions for voting

(here insert the following direction if only one candidate is to be elected)

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

(here insert the following direction if 2 candidates are to be elected)

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

[7] Schedule 2

Omit Schedules 2 (as amended by Schedule 6.28 [4] and [5] to the *Rural Lands Protection Amendment Act 2008*) and 3.

Insert instead:

Schedule 2 Elections

(Clause 5B)

Part 1 Preliminary**1 Definitions**

In this Schedule:

candidate means a candidate for election as a director.

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

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

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

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

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

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

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

2 Functions of returning officer

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

Part 2 Calling of elections

3 Notice of elections

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

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- (c) call for nominations of candidates, and
 - (d) state the time and date fixed by the returning officer for the close of nominations, and
 - (e) state where nomination forms may be obtained and where nominations may be lodged, and
 - (f) state the date and time fixed for the close of enrolments for the election, and
 - (g) state the date and time fixed for the close of the ballot.
- (5) The close of nominations must not be less than 40 days before the close of the ballot.
- (6) In this clause:
close of enrolments means the date (being a date not less than 20 days before the close of the ballot for the election) and time fixed by the returning officer by which people must be included in the roll for the election.

Part 3 Nominations for elections

4 Eligibility for nomination

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

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

5 Nomination of candidates

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

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- (4) On receipt of the nomination, the returning officer must endorse on it the date and time of receipt.

6 Withdrawal of nomination proposals

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

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

7 Uncontested elections

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to be elected.

8 Contested elections

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

9 Candidate information sheets

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in or to the effect of Form 1, containing information intended for inclusion in a candidate information sheet.
- (2) If a ballot is to be held, the returning officer must compile a candidate information sheet consisting of the information submitted by the candidate.
- (3) In compiling a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information submitted by the candidate:
- (a) as the returning officer considers to be false or misleading, or

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- (b) as the returning officer considers to be inappropriate for inclusion in the candidate information sheet, or
 - (c) as exceeds 250 words.
- (4) If a candidate does not submit any information, the returning officer may, in compiling the candidate information sheet, include in respect of the candidate the words “NO INFORMATION RECEIVED”.
- (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

Part 4 Electoral roll

10 Electoral roll

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

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

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

Part 5 The ballot

11 Postal ballot

- (1) An election that is a contested election is to be determined by ballot by post.
- (2) The voting system in a contested election is to be the “first past the post” method, that is, the candidate or candidates with the most votes is or are taken to be elected. If the number of candidates to be elected cannot be determined because of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn from a lot containing the names of each of the candidates having equal votes.
- (3) A candidate nominated for election is, without a ballot being held, taken to be elected if the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected.

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12 Position on ballot-paper

- (1) The order of candidates' names on ballot-papers for an election that is a contested election is to be determined by a ballot held by the returning officer.
- (2) The ballot is to be conducted by the returning officer in the presence of at least 2 persons who are not candidates for election.
- (3) The ballot is to be conducted in the following manner:
 - (a) the returning officer must, at the place of nomination and before all persons present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated,
 - (b) the returning officer must then enclose the slips in separate identical containers, securely seal each container and deposit all the containers in a securely fastened ballot-box,
 - (c) the returning officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same,
 - (d) the returning officer must then unfasten the ballot-box and take out and open each container one by one,
 - (e) the returning officer must then announce to the persons present, and record, the name of the candidate whose name appears on the slip enclosed in the container first taken from the ballot-box and, in consecutive order, the name of the candidates whose names appear on the slip enclosed in the container next taken from the ballot-box and so on until the placing of all names has been determined,
 - (f) the returning officer must sign the record and allow any of the persons present to do the same.
- (4) Each candidate or an agent of the candidate is entitled to be present at a ballot in accordance with this clause.
- (5) In this clause:
place of nomination means the place determined by the returning officer.

13 Form of ballot-papers

- (1) The returning officer is to have ballot-papers printed for the election.
- (2) The names of the candidates are to be printed in one column (starting at the top) in the order determined as referred to in clause 12.

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

14 Supply of ballot

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

15 Ballot-paper

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

16 Duplicate ballot-papers

- (1) If an elector satisfies the returning officer that he or she has spoiled by reason of accident or mistake any ballot-paper handed or sent to him or her, the returning officer may, on receipt of the spoiled ballot-paper:
 - (a) hand or send to the elector a new ballot-paper, and
 - (b) cancel and preserve the spoiled paper.

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- (2) If an elector satisfies the returning officer that he or she has not received a ballot-paper sent to him or her, the returning officer may hand or send to the elector a new ballot-paper.
 - (3) The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

17 Recording of votes

In order to vote in an election, a person must:

- (a) for each vote to which the person is entitled:
 - (i) record a vote on the ballot-paper in accordance with the directions shown on it, and
 - (ii) place the completed ballot-paper in an inner envelope, and
 - (iii) seal the inner envelope, and
- (b) place each inner envelope in the outer envelope, and
- (c) write legibly the person's full name and address on, and sign, the back of the outer envelope, and
- (d) return the outer envelope to the returning officer before the close of the ballot.

Part 6 The scrutiny

18 Ascertaining result of ballot

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

19 Scrutineers

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

20 Informal ballot-papers

- (1) A ballot-paper of an elector at an election is informal if:
 - (a) the elector has failed to record a vote on it in the manner directed on it, or

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

21 Initial scrutiny and count

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

22 Recount

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

23 Declaring the election

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

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- (2) The enrolment officer is to cause notice of the candidate or candidates elected in the election to be published in:
- (a) at least one newspaper circulating generally throughout New South Wales, or
 - (b) one or more local newspapers that, individually or collectively, circulate generally throughout the district concerned.

Part 7 Offences

24 Misconduct in voting

A person must not:

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

Maximum penalty: 10 penalty units.

25 Obstruction of electoral officials

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

Maximum penalty: 10 penalty units.

26 Misconduct by scrutineers

- (1) A scrutineer must not:
 - (a) interfere with or influence an elector in an election, or
 - (b) at the counting of a ballot, communicate with any person except as necessary to carry out the scrutineer's functions.
- (2) A scrutineer must obey the lawful directions of the returning officer.

Maximum penalty: 10 penalty units.

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27 Breach of secrecy

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

Maximum penalty: 10 penalty units.

28 Stuffing ballot-boxes

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

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

Maximum penalty: 10 penalty units.

29 Bribery

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

Maximum penalty: 10 penalty units.

30 Treating

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

Maximum penalty: 10 penalty units.

31 Intimidation

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

Maximum penalty: 10 penalty units.

Part 8 Miscellaneous**32 Decisions of returning officer final**

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

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33 Death of candidate

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

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

34 Security of election materials

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

[8] Schedule 4

Omit the Schedule. Insert instead:

Schedule 4 Minimum areas of rateable land

(Clause 6 (1))

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

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Column 1	Column 2
District	Area in hectares
Darling	40
Hume	10
Lachlan	10
Mid-Coast	10
New England	10
North Coast	10
North West	10
Riverina	20
South East	10
Tablelands	10
Western	40
