

Act No. 6, 1902.

An Act to deal with the Rabbit Pest; to authorise certain advances in connection therewith; and for other purposes incidental thereto. [15th January, 1902.]

RABBIT.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act shall take effect on the first day of May, one thousand nine hundred and two (hereinafter in this Act referred to as the commencement of this Act), and may be cited as the "Rabbit Act, 1901." Short title.

2. This Act is divided into Parts, as follows :—

Division of Act.

PART I.—PRELIMINARY—ss. 1-6.

PART II.—RABBIT BOARDS, DISTRICTS, AND RATES—ss. 7-21.

PART III.—BARRIER FENCES—ss. 22-27.

PART IV.—PRIVATE FENCES—ss. 28-39.

PART V.—DESTRUCTION OF RABBITS—ss. 40-50.

PART VI.—GENERAL AND SUPPLEMENTAL—ss. 51-64.

3. The Rabbit Act of 1890 and all regulations made thereunder, and the Pastures and Stock Protection (Rabbit) Act, 1900, are hereby repealed : Repeal.

Provided that the repeal of such enactments and regulations shall not— Proviso

- (a) abate, prejudice, or affect any proceeding now pending in any Court or before any local land board or other authority; or
- (b) prejudice or affect any proceeding, matter, or thing lawfully done or commenced or contracted to be done under the authority of the said enactments or regulations ;•

and that notwithstanding such repeal—

- (c) all offences committed or penalties incurred against or under the said enactments or regulations may be respectively tried, punished, enforced, and dealt with as if this Act had not been passed ; and
- (d)

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- (d) all rights accrued and obligations incurred under or by virtue of the said enactments or regulations shall, subject to any express provision of this Act in relation thereto, remain unaffected by such repeal.

Interpretation.

4. In this Act, unless the context otherwise requires,—

- “Crown Lands Acts” means the Crown Lands Act of 1884 and all amending Acts.
- “Holding” means any land or collection of lands constituting and worked as one property, whether held under the same title or different titles or under titles of different kinds.
- “Large stock” includes, bulls, cows, oxen, steers, heifers, calves, horses, mares, geldings, fillies, foals, asses, and mules.
- “Local land board” means local land board as constituted and defined under the Crown Lands Act.
- “Notification” means notification published in the Gazette.
- “Occupier” means the person for the time being entitled to possession of a holding or land, and includes the resident manager of the occupier where the occupier does not reside on the holding or land in relation to which the word is used.
- “Owner” means—
- (a) the person registered as the holder of any lease or license, or promise of any lease or license from the Crown; or
 - (b) the person registered as the holder of any purchase, whether conditional or otherwise, from the Crown; or
 - (c) the applicant for a homestead selection whose application has been confirmed; or
 - (d) the person entitled at law to an estate of freehold in possession in any land granted by the Crown for other than public purposes; or
 - (e) the person in whom is vested any land taken or appropriated under authority of any statute authorising land to be taken or appropriated for the purposes of any private undertaking.
- “Prescribed” means prescribed by this Act or any regulation made thereunder.
- “Private holding” and “private land” mean respectively a holding and land not including or being public land.
- “Public land” means and includes land which is not the subject of any lease or license, or promise of, or agreement for, any lease or license under the Crown Lands Acts or under any other Act authorising the occupation or use of land vested in the Crown; but which—
- (a) is vested in the Crown, and is not the subject of any contract for the sale or grant thereof; or
 - (b)

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(b) is the subject of any dedication or permanent reservation for public uses or purposes, not being for a road (whether the land has or has not been granted or contracted to be granted for the said uses or purposes).

“Sheep” includes rams, ewes, wethers, and lambs.

“Stock board” means board of directors constituted pursuant to the Pastures and Stock Protection Act, 1898.

5. For the purposes of this Act --

Definition of
“boundary” and
“adjoining.”

(a) a fence shall be taken to be on the boundary of any district, holding, or land, or on the common boundary of any districts, holdings, or lands, if it follows the line which is such actual, reputed, or accepted boundary, or where the boundary is inaccessible or incapable of being fenced, if the fence follows such boundary as nearly as possible, having regard to the physical features of the country, or if in any case such fence follows any line which, in the opinion of the person, board, or court by whom or which any matter or proceeding under this Act may be determined, is sufficiently approximate to such boundary; and

(b) the intervention of a road or watercourse (not being a permanent river) shall not prevent holdings or lands being taken to be adjoining, or prevent a fence along either side of any such road or watercourse being taken to be on the common boundary of the holdings or lands on either side of such road or watercourse.

6. (1) The Governor, by proclamation in the Gazette, may declare the whole or any part of New South Wales to be rabbit infested, and may revoke or vary any such proclamation.

Application of
Act to rabbit-
infested areas.

Except where otherwise in this Act expressly provided, this Act shall only apply to the area so declared to be rabbit infested.

(2) In applying Parts IV and V of this Act to any municipality, the council of the municipality shall be deemed to be the occupier of all land vested in or held by such municipality, and, in respect of commons, the trustees thereof shall be deemed to be the occupiers.

Application to
municipalities.

The provisions of this Act shall not apply to any lands held under any form of lease from the Crown in the Western Division, as defined by the Crown Lands Acts.

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PART II.

RABBIT BOARDS, DISTRICTS, AND RATES.

*Rabbit districts and boards.*Constitution of
rabbit districts.

7. The Minister may by notification in the Gazette constitute rabbit districts and by like notice amend or revoke such notification.

Constitution of
rabbit board.

8. (1) There shall be a rabbit board for each district. Such board shall consist of five members, four to be elected under this Act and one, who shall be the chairman, appointed by the Governor. Three members shall form a quorum.

Term of office.

(2) Such board shall hold office for three years: Provided that for sufficient cause the Governor may remove any member and appoint a person for the unexpired period. On the death or resignation of an elected member a new member shall be elected in his place. The board shall hold office until the appointment of its successors. In the event of no proper election taking place the Governor may appoint the necessary number to constitute the board.

Fees.

(3) Every member shall be entitled to receive, out of the rabbit fund of the district, the prescribed fees.

Roll of electors.

9. On the notification of a rabbit district, the Minister shall as soon as possible and as far as practicable prepare a roll showing the names of all persons entitled to vote at the election for members, and thereafter such roll shall be kept and revised as occasion may require by the rabbit board.

Election of rabbit
board.

10. The election of the rabbit board shall take place in the prescribed manner, and provision shall be made for voting by post. The cost of the election shall be paid out of the revenue of the board. And every person whose name is on the roll referred to in the last preceding section shall be entitled to a vote at such election, and the necessary qualification to entitle a person to have his name on the roll shall be that such person has been assessed, or is liable to be assessed, for payment of rates under section fourteen hereof: Provided that any person who is assessed in respect of not less than two thousand and not more than five thousand sheep, or not less than two hundred nor more than five hundred head of large stock, shall be entitled to two votes, and any such person who is assessed in respect of more than five thousand sheep or more than five hundred head of large stock shall be entitled to three votes.

Rabbit board to be
a corporate body.

11. The members of a rabbit board shall be a corporate body under the style or title of the notified name of the board, and under such style or title shall have perpetual succession and a common seal, and be capable in law of suing and being sued.

The validity of any acts of a rabbit board shall not be affected by any informality or irregularity in its constitution; and the fact that all or any of the seats on the board are vacant shall not of itself operate to dissolve the corporation.

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12. A rabbit board may employ a secretary and all other ^{Officers.} necessary officers, and pay them out of the rabbit fund. The number and salaries of such officers shall be approved by the Minister. Such officers shall be under the exclusive control of the board, and subject to dismissal at any time. In addition to such officers, the Governor may appoint an inspector. He shall be paid out of the rabbit fund, but be under the control of the Minister.

13. A rabbit board—

^{Duties of boards.}

- (a) shall cause proper minute books to be kept of all its proceedings;
- (b) shall cause true and regular accounts to be kept of all moneys received or paid by it under this Act, and shall give the owner of any land or the occupier of any private holding within the rabbit district access to such accounts at all reasonable hours;
- (c) shall produce for inspection to any person duly authorised in writing by the Minister or the Colonial Treasurer all its books, accounts, agreements, vouchers, letters, or other documents which may relate to any matter under this Act.

Rabbit rates.

14. (1) Every rabbit board shall in each year make or cause to ^{Rabbit rate.} be made an estimate of the probable sum which will be required (in addition to fines, penalties, and other revenues) for the effective administration of this Act in its district; and the said sum shall be raised by a rabbit rate upon sheep and large stock within the district.

Subject to the provisions hereinafter contained, the amounts levied under the rate shall be determined by the board in respect of the holdings within its district, and the board shall assess and rate every owner or occupier who has ten head or more of large stock and one hundred sheep or more. Such assessment shall not exceed in the annual aggregate three pence per head of large stock and one half-penny per head of sheep:

Provided that in the case of unstocked or partly stocked land, whatever may be the actual number of stock on such land, there shall, for the purpose of the said assessment and rate, be deemed to be one sheep on every three acres:

Provided also that only half rates shall be levied in respect of any holding enclosed by a fence, erected before or after the commencement of this Act, which, in the opinion of the board, is rabbit-proof.

(2) The rabbit board shall have access as prescribed to— ^{Inspection of returns.}

- (a) returns of sheep or large stock made under the Pastures and Stock Protection Act, 1898, or any other Acts; and
- (b) returns collected by the police or other authorised persons for statistical or other purposes.

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Notice of amount due
under rate to be
given.

15. When the amount payable under the rate in respect of any holding has been determined by the board, the prescribed notice of such amount shall be given to the person liable to pay the same.

The amount so determined shall, on such notice being given, be paid to such person or bank, and on or before such date as may be specified in the notice, or, in case of an appeal, within seven days after the determination of the appeal: Provided that the amount may be payable in instalments if the board so directs.

The person liable to pay such amount shall be the occupier of the holding.

Rate-book to be kept.

16. (1) Every rate and every determination by a rabbit board of the amount payable in respect of any holding under such rate shall be entered in a book (to be called the rabbit rate-book) which shall be kept in the prescribed form and manner; and all persons shall have access thereto at all reasonable times. The said book shall, on the production thereof, be prima facie evidence of the rate and of the amount determined as payable under the rate in respect of the holding.

(2) The rabbit board may make such amendments and supply such omissions in the entries in such book as may be necessary.

(3) Except in the case of an amendment rendered necessary by an appeal, and except in the case of formal amendments, an amendment of the rabbit rate-book in respect of any holding shall be deemed to be a determination by the board of the amount so payable under a rate in respect of the holding.

Appeal from rate
to petty sessions.

17. If any person is aggrieved by the amount determined by the board as payable by him under the rate, he may, within twenty-one days after the aforesaid notice has been given, appeal to a court of petty sessions having jurisdiction within the district in which his holding is situated, by a notice in the prescribed form, accompanied by the prescribed deposit; and the said court shall determine the amount payable under the rate, and may order interest to be paid thereon at the rate of five pounds per centum per annum, calculated from the date for payment specified in the notice.

Recovery of unpaid
rates, &c.

18. Any sum due as a rabbit rate in respect of any holding shall be, and until the payment thereof shall remain a charge upon the lands constituting the holding.

Payments to boards by Government.

Contribution by
Government to
rabbit fund.

19. The Governor may cause to be paid out of the Consolidated Revenue Fund to the rabbit fund of every rabbit district a subsidy in respect of public land in the district.

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20. (1) Where money is voted by Parliament for the purchase of wire-netting or other materials used in the construction of rabbit-proof fences, or any machinery, plant, or substances for the destruction of rabbits, the Minister may—

- (a) apply the same to such purposes, and distribute the netting, material, machinery, plant, and substances or any of them among the rabbit boards; or
- (b) lend the money so voted or any part thereof to the rabbit boards for the purchase by such boards of such netting, material, machinery, plant, or substances for use within the respective districts of such boards.

(2) The said boards shall pay to the Colonial Treasurer the cost of such netting, material, machinery, plant, and substances, and any money so lent by instalments spread over a period of not greater than twenty years, with interest on the amount due at the rate of five per centum per annum.

(3) If at any time the payment by any such board of any such instalment or interest is in arrear, the Colonial Treasurer may forthwith take possession of any moneys or other property vested in the board, and may make assessments and levy rates under this Act, and for that purpose shall have, and may exercise, the powers of the board.

(4) The board may, with the money so lent, purchase any such netting, material, machinery, plant, and substances as aforesaid, and may sell or let the same, and any netting, material, machinery, plant, or substances distributed to them under this section to occupiers or owners of private land within their district on such terms as may be agreed upon:

Provided that the cost of any such netting, machinery, materials, plant, and substances so sold, and all expenses in connection with the same shall be repaid by such occupiers and owners to the board in instalments spread over not more than twenty years with interest on the amount due at the rate of five per centum per annum:

Provided also that—

- (a) such purchase money and interest shall be a charge on the holding of the owner or occupier within the district;
- (b) any such netting shall be erected within twelve months after delivery thereof;
- (c) the letting of machinery or other appliances for the destruction, of rabbits shall be subject to such terms and conditions as may be agreed upon between the Minister and the boards.

Rabbit funds.

21. All subsidies, fines, penalties, rates, and other moneys received by a rabbit board under this Act shall form part of a fund to be called the rabbit fund of the district.

The rabbit fund.

Moneys

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Moneys forming part of such fund may be applied by the rabbit board of the district to the payment of any expenses of, or incidental to, the administration of this Act by the board, or of any costs or expenses incurred in accordance with the provisions of this Act, and not otherwise.

The Governor may cause the accounts in connection with the rabbit fund of any district to be audited, and the expenses of the audit shall, if the Governor so requires, be paid out of such fund.

PART III.

BARRIER FENCES.

Rabbit board may erect and maintain barrier fences.

22. (1) A rabbit board shall have power to—

- (a) erect a barrier fence on any land, whether public or private within or without the rabbit district ; and
- (b) convert into a barrier fence any fence, whether rabbit-proof or not, on any land within or without such district ; and
- (c) erect a barrier fence across any road or travelling stock route, making gates in such fence for the passage of members of the public and their stock ; and
- (d) place a rabbit-proof gate in any barrier fence ; and
- (e) co-operate with the rabbit board of any neighbouring rabbit district in any such work.

Definition of barrier fence.

(2) A barrier fence shall be taken to mean a rabbit-proof fence which protects, or will protect, from the incursions of rabbits the rabbit district, or any part thereof, whether such fence is erected without or within the district.

Case where compensation given.

23. A rabbit board shall not be liable to pay or make compensation for anything lawfully done in exercise of the powers conferred by the next preceding section except damage by severance caused by the erection upon private land of a barrier fence.

The amount of compensation so payable to any person shall, upon application by him as prescribed, be determined by a court of petty sessions ; and in determining such compensation the court shall take into consideration and set off any benefit accruing to such person's property by the construction of such fence, and may award costs to or against any party appearing before it.

Contribution for boundary barrier fences.

24. Where a rabbit board erects a barrier fence or converts any fence into a barrier fence on the common boundary of its district and any adjoining rabbit district, the rabbit board of such adjoining district shall be liable to pay to such first-mentioned board half the cost of the erection, maintenance, and repair of the fence.

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25. (1) It shall be the duty of a rabbit board or boards erecting a barrier fence, or converting a fence into a barrier fence, to maintain it in an effective manner and keep it in good repair. Rabbit boards to repair and maintain barrier fences.

(2) Where, except as provided in the next section, before or after the commencement of this Act, and at the expense or principally at the expense of the Crown, a barrier fence has been erected, or a fence has been converted into a barrier fence, which is wholly or in part within or on the boundaries of a rabbit district, the rabbit board of such district shall maintain in an effective manner so much of the fence as is within or on the said boundaries and keep it in good repair :

Provided that with reference to so much of the fence as is on the common boundary of two rabbit districts, the rabbit boards of such districts may agree which board shall maintain and repair the fence, and, failing such agreement, the board named by the Minister shall maintain and repair the fence and may recover from the other board half the expense so incurred.

26. Where before or after the commencement of this Act, and at the expense of the Crown, a barrier fence has been erected, or a fence has been converted into a barrier fence, which is wholly or in part on the boundary of any lands vested in the Railway Commissioners, the Commissioners shall maintain in an effective manner so much of the fence as is on such boundary and keep it in good repair, but the costs of such maintenance and repair shall be paid out of the Consolidated Revenue Fund, and the said Commissioners shall permit any person authorised by the Minister or a rabbit board to enter upon any land vested in the Commissioners for the purpose of rabbit destruction. Railway Commissioners to repair and maintain barrier fences.

27. In the case of any dispute between rabbit boards as to the payment of any money or the doing of any act required to be paid or done under the provisions of this Act, or as to the carrying out of any agreement between them made under this Act, the matter of the dispute shall be referred to and shall be determined by the Minister: Provided that the Minister before making his award may refer the matter in dispute to the local land board of any land district for investigation and report; and may thereupon either make such award himself or refer the whole matter, together with such report (if any), to the land appeal court to make an award. Every such award shall be final and conclusive for all purposes. Arbitration in case of dispute between boards.

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PART IV.

PRIVATE FENCES.

What are private rabbit-proof fences.

Description of a
rabbit-proof fence.

28. For the purposes of this Part, a rabbit-proof fence shall be some one of the three kinds of fence herein described, namely, either—

- (a) a substantial fence hung with galvanised-wire netting, at least forty-two inches in width, of a mesh and gauge to be approved of by the rabbit board, such fence being furnished with suitable rabbit-proof gates or other appliances at every necessary break in the fence: Provided that all other dimensions of such fence, including the height above ground, the depth below ground of the posts thereof, and of the wire-netting thereon, and all other details in connection therewith shall be in accordance with specifications to be published in the Gazette by the rabbit board; or
- (b) a fence erected in accordance with the requirements of the Rabbit Act of 1890 while such Act was in force, and being in a proper state of repair; or
- (c) a fence reasonably sufficient in the opinion of the rabbit board for the purpose of excluding rabbits.

Certificate by rabbit
board that fence
is rabbit-proof.

29. (1) The rabbit board of the district within which any fence alleged to be rabbit-proof is situated shall, if so required in writing by the owner of the fence, cause the said fence to be inspected; and when such board is satisfied that the fence is rabbit-proof, it shall grant a certificate to that effect.

Certificate prima
facie evidence.

(2) In any proceeding before a local land board in respect of a rabbit-proof fence, or in a court to recover money by way of contribution in respect of any such fence, such certificate shall be prima facie evidence of the fact; and evidence in contradiction shall not be adduced, unless the prescribed notice has been given.

Rabbit-proof fence
may cross road.

30. Where any lands are divided or bounded by a road or travelling stock reserve or route or public lands, the local land board may grant to the occupiers or owners of such lands, or any of such owners or occupiers, permission to carry a rabbit-proof fence across such road, reserve, route, or public lands: Provided that rabbit-proof gates shall be erected at places where the fence crosses such road or route, unless the local land board dispenses with the erection of the same.

Any dispensation granted under this section may be granted for a limited time and subject to conditions, and may be revoked by the board upon reference by the Minister or application by any person interested.

Rabbit-proof fence
to be an improve-
ment.

31. Where a rabbit-proof fence on Crown lands, erected or made rabbit-proof before or after the commencement of this Act (not being

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being a barrier fence erected or made rabbit-proof by or principally by the Crown or a rabbit board) in the opinion of the Minister makes rabbit-proof certain Crown lands, such fence shall, for the purposes of this section, be deemed to be an improvement distributed equally over all such lands, and the value thereof shall be the value of the improvement to an incoming tenant of such lands, and any purchaser or lessee thereof shall pay for the same in accordance with the provisions of the Crown Lands Acts.

32. The occupier of a holding consisting wholly or in part of Crown lands held under occupation license or annual lease, may give notice in the prescribed form to the chairman of the local land board that he intends to make such holding rabbit-proof by erecting a rabbit-proof fence, or converting a fence into a rabbit-proof fence; and where such notice has been given, and such holding has been made rabbit-proof in accordance with the terms thereof, such holding shall be deemed to have been made rabbit-proof by a rabbit-proof fence as from the date of such notice, so far as regards the payment under this Act for improvements in connection with any lands withdrawn from occupation license or annual lease by becoming the subject of any purchase or lease from the Crown after the date of such notice: Provided that the rabbit-proof fence shall be completed within one year from the date of such notice or within such further time as such board on application may allow.

Notice of intention to fence occupation license or annual lease, &c.

The provisions of this section shall apply in cases where the proposed fence is a ring fence intended to enclose a group of holdings, in which case the notice may be given by any occupier of a holding proposed to be included in the group.

33. (1) Where a boundary, or any part thereof, of any holding is fenced with a rabbit-proof fence, or a fence on such boundary, or part thereof, has been made rabbit-proof at the expense of the occupier or owner of such holding, or of the occupier or the owner of any land included in the holding, a contribution towards the cost of the work shall, subject to the provisions of this section, be payable by the owner of any land outside the holding and adjoining the rabbit-proof fence to the occupier or owner who has incurred such expense:

Adjoining holdings to contribute half value of rabbit-proof fence.

Provided that a contribution shall not be payable where the local land board is of opinion that the rabbit-proof fence has been erected, or the fence has been made rabbit-proof otherwise than bona fide for the purpose of excluding or destroying rabbits, or unless or until in the opinion of the said board the land from the owner whereof the contribution is demanded derives a benefit therefrom.

The right to receive such contribution shall vest, and the liability to pay the same shall arise, when the then occupier of the holding gives to the then owner of the land outside the holding the prescribed notice of demand; and from and after the date when such

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notice is given, the amount of the contribution, or so much thereof as may for the time being be unpaid, shall, until payment, be and remain a charge upon the land in respect of which such contribution is payable.

(2) The following provisions as to contributions shall apply :—

- (a) A contribution shall be payable only in respect of so much of the fence as is on the common boundary.
- (b) The amount of the contribution shall in every case be assessed according to the benefit derived, and to be derived, from the fence, and shall in no case exceed half the value of the fence, or in the case of a fence which does not belong or does not wholly belong to the person who makes the same rabbit-proof, shall not exceed half the value of the work of making such fence rabbit-proof; and such value shall be the value at the date when the aforesaid notice of demand was given. The amount of the contribution shall be determined by the local land board.
- (c) Nothing in the Crown Lands Acts or in the Act ninth George the Fourth number twelve shall relieve any person from liability to pay a contribution under this Act.
- (d) It shall be immaterial whether the rabbit-proof fence was erected or the fence was made rabbit-proof before or after the commencement of this Act.

Adjoining holding
to contribute half
cost of maintenance.

34. In any case where a contribution towards the cost of a rabbit-proof fence is payable under the provisions of the last preceding section, an annual contribution towards the expenses incurred in the maintenance and repair of the fence shall also be paid; and for the purposes of such annual contribution the years shall be taken to run from the date or recurring date of the notice of demand required by the said section.

The right to receive such annual contribution, and a corresponding duty to maintain and repair the rabbit-proof fence, shall run with the holding whereof the occupier or owner was entitled to receive payment of the contribution towards the cost of the fence; and the liability to pay such annual contribution shall run with the land whereof the owner was liable to pay the aforesaid contribution towards the cost of the fence.

The amount of such annual contribution shall be one-half the expenses of, or incidental to, the maintenance and repair of the fence, as determined by the local land board.

Nothing in this section shall affect any right to an annual contribution towards the cost of the maintenance and repair of a
rabbit-proof

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rabbit-proof fence accrued under or by virtue of the provisions of the Rabbit Act of 1890, and the local land board shall have power to assess and determine the amount of any such contribution.

35. Where a private rabbit-proof fence, erected before or after the commencement of this Act (not being a barrier fence erected or made rabbit-proof by or principally by the Crown or a rabbit board), forms a common boundary fence between private and public lands, and before or after the commencement of this Act particulars of such fence have been furnished to the Minister, and he has consented to the erection of the fence, the same contribution shall be payable by the Crown in respect of the erecting the fence or making it rabbit-proof as would be payable by any private owner; and the amount of such contribution shall be determined by the local land board in the same manner as if the said public lands were private lands. The Crown to contribute in certain cases.

36. Where fences within a rabbit district have wholly or in part, before the commencement of this Act, been rendered rabbit-proof by the expenditure of moneys voluntarily contributed or paid for the purpose by any stock boards, or by any persons, the rabbit board of the district may apply any moneys raised by rabbit rates within the district in repaying to the said stock boards or persons the moneys so contributed or paid by them as aforesaid, or any part thereof, if, in the opinion of such board, the fences are barrier fences within the meaning of this Act. Barrier fences erected before the passing of this Act may be paid for.

Grouping of holdings.

37. When a ring fence enclosing two or more holdings or any portion thereof is a rabbit-proof fence, made rabbit-proof by or by agreement between the occupiers or owners of such holdings, the lands (including all roads) so enclosed shall, with the consent of the rabbit board of the district, form a group of holdings within the meaning and for the purposes of this Act. Formation of groups

Any existing fence or portion thereof may form part of the ring fence of any group, but not without the consent of the owner of such fence or portion thereof whose holding thereby forms part of the group.

The Minister may agree that any public lands shall be included within a group, and the Crown shall thereupon become liable in the same way as the occupier or owner of any holding of private lands within the group.

The rabbit board may agree that any rabbit-proof fence erected by it, or any barrier fence, may be used for the purpose of the grouping of holdings.

Where any holding is enclosed with a rabbit-proof fence, and any part of the holding becomes the subject of any homestead selection, purchase, or lease from the Crown, and is thereby withdrawn from such holding, the new holding created by such homestead selection, purchase,

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purchase, or lease, and the residue of the original holding shall be a group of holdings; and any portion subsequently so withdrawn from the residue shall also be a holding within the group.

Any group of holdings constituted under the Rabbit Act of 1890 shall be a group of holdings within the meaning and for the purposes of this Act.

Owner not liable for fencing land within rabbit-proof group.

38. When any group of holdings has been made rabbit-proof, the occupiers or owners thereof shall not be liable to contribute towards the cost of erecting or maintaining and repairing a rabbit-proof fence or making rabbit-proof any existing fence around any holding within the group; and it shall be immaterial whether the group has been made rabbit-proof before or after the commencement of this Act.

Grouped holdings.

39. (1) A group of holdings shall be deemed to be a single holding so far as regards any contribution towards the cost of the erection, maintenance, or repair of rabbit-proof fencing as payable by or to the occupiers or owners of adjoining holdings or lands outside the group.

Provisions applicable to.

(2) The following provisions shall apply to the holdings forming part of a group, and to the occupiers thereof:—

- (a) The liabilities of such occupiers as between themselves, in respect of sums expended or to be expended for the erection, maintenance, or repair of the ring fence, or of amounts paid, or to be paid, as contributions towards the cost, maintenance, or repair of any portion of such fence, shall be proportionate to the respective areas of their holdings, and in any case of dispute shall be such as may be declared by the local land board; and the amount declared by such board to be payable by any such occupier shall be a charge upon all land forming part of his holding.
- (b) The majority in number of the occupiers whose holdings for the time being constitute a group may, from time to time, by an instrument in the prescribed form, appoint any person to be the secretary of the group; and proceedings may be taken under this Act by or against the secretary for the time being of a group, as nominal plaintiff or defendant representing all the occupiers of holdings constituting, or which at the time when the liability arose constituted, the group.
- (c) In any case where a group of holdings is not known to have a duly appointed secretary, or the duly appointed secretary cannot be found, the rabbit board of the district in which such group or any portion thereof is situate may designate the occupier of any holding included within the group to be the

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the nominal defendant representing all the occupiers of all the holdings constituting the group for the purposes of any proceedings under this Act proposed to be taken against such group or such occupiers; and proceedings may thereupon be taken against such occupier as nominal defendant in the same way as if he were the duly appointed secretary of the group.

- (d) Where judgment has been recovered against the secretary of a group or other nominal defendant as aforesaid, and has not been satisfied, or where an order for the payment of money has been made against such secretary or nominal defendant, and has not been complied with, the person entitled under such judgment or order may apply to the local land board to settle the respective amounts to be contributed by the occupiers of the holdings within the group for satisfaction of such judgment or compliance with such order; and the local land board shall thereupon settle the said respective amounts in proportion to the respective areas of the holdings; and the person entitled under such judgment or order may take proceedings against each or any of such occupiers for the amount settled by the land board.
- (e) A holding shall not cease to form part of a group, by reason only of any change of ownership of such holding, or of any other holding; but any occupier may, with the permission of the rabbit board, and subject to any condition which it may impose, detach his holding from the group of which it formed part if the boundaries of such holding have been made rabbit-proof.
- (f) If at any time it appears to the rabbit board that a group of holdings is too large for the effective destruction of rabbits, and that the occupiers of not less than one-half of the grouped lands desire that such group may be subdivided, it shall be lawful for the board to authorise the subdivision of such group, and to determine the lines of subdivision. And the subdivision rabbit-proof fence between any two of the groups into which the original group has been subdivided shall, in all respects, be dealt with as if the same formed part of the ring fence of each such group.

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PART V.

DESTRUCTION OF RABBITS.

Destruction by owners and occupiers.

Duty of owners and occupiers to destroy rabbits.

40. It shall be the duty of the owner or occupier respectively of any land from time to time to suppress and destroy, by all lawful means, at his own cost, and to the satisfaction of the rabbit board, all rabbits which may from time to time be upon such land, or upon any roads bounding or intersecting the same, or any part thereof.

Penalty for default.

Any such owner or occupier who fails to fully and continuously perform such duty as aforesaid shall be liable to a penalty on the first conviction of not more than ten pounds, and on the second conviction of not more than twenty-five pounds, and on the third or any subsequent conviction of not more than fifty pounds.

Any owner or occupier may burn without notice.

41. For the purpose of destroying or suppressing rabbits, any owner or occupier may at any time, with the consent of the rabbit board first obtained, and notwithstanding anything in any Act contained, burn or ignite any straw, stubble, grass, herbage, scrub, wood, or other inflammable material on his land, subject only to conditions to be imposed by the board.

Authorised person may enter holding.

42. (1) Any authorised person may, on the production of his authority (if such production is demanded by any owner or occupier), from time to time enter any land with or without assistants, dogs, horses, and vehicles in order to search whether any rabbits are on such land, or to erect or repair barrier fences or gates, or to examine and inspect land, or for any purpose whatsoever under this Act, and may remain thereon so long, and do all such things as may be necessary or reasonable.

Penalty for personating or obstructing authorised person.

(2) Any person who falsely represents himself to be, or personates an authorised person under this Act, shall be guilty of a misdemeanour, and shall on conviction be liable to be imprisoned with or without hard labour for any period not exceeding six months, or to pay a penalty not exceeding one hundred pounds.

Any person who wilfully assaults, obstructs, hinders, or interrupts, or causes to be assaulted, obstructed, hindered, or interrupted, any authorised person in the exercise of any power or authority vested in him by this Act, shall for every such offence, if no other penalty is specially provided, be liable to a penalty not exceeding twenty pounds; but no proceeding for recovery of such penalty nor the payment thereof shall be a bar to any action at law for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not passed.

Meaning of "authorised person."

(3) For the purposes of this section an "authorised person" means a person having authority from the Minister or from a rabbit board, and such authority may be a general authority.

Destruction

*Rabbit.**Destruction by rabbit boards.*

- 43.** A rabbit board may, by notice in the Gazette, specify—
- (a) the date or dates (not being less than one month from the date of the notice) on or before which the owners or occupiers of all or any lands within the rabbit district shall respectively commence the work of suppressing and destroying rabbits on such lands, or upon any roads bounding or intersecting the same; and
 - (b) the period or periods during which the said work shall be continued and systematically carried out; and
 - (c) the means (being means previously sanctioned by the Minister) which shall be adopted for carrying out the said work.

Rabbit board may require rabbits to be destroyed.

Any such notice, or an abstract thereof, shall also be published not less than one month before the date or dates so specified in one or more newspapers published or circulating in the rabbit district.

The rabbit board may also give to the owner or occupier of any land within its district a peremptory notice in writing to take all proper steps in order to suppress and destroy rabbits on such land, and to adopt such means for the purpose as may be specified in the notice. The expression "proper steps" in this section means such steps as may be declared by the rabbit board in the notice or by notification to be proper steps for suppressing or destroying rabbits.

44. If any such owner or occupier neglects or fails to comply with the terms of any notice, whether published in the Gazette or given to him in writing as aforesaid, such person may be summoned to appear before the rabbit board, and unless he explains his neglect or failure to the satisfaction of the board, or receives an extension of time to comply with the notice, any person authorised by the board may enter upon the land and use such means and take such measures and do and perform such acts or things as to him may appear proper or necessary to be done to ensure the destruction of all or any of the rabbits upon such land, and shall have free right of ingress, egress, and regress into, over, and across such land for such period as may, in his opinion, be necessary for destroying such rabbits:

Powers of board if owner or occupier makes default.

Provided that where a municipal council is such owner or occupier, the council clerk shall be the person to be summoned on behalf of such council:

Provided also that—

- (a) poison shall not be used unless notice has been given to the occupier of the land of the intention to use poison, and nothing shall be done in contravention of the Animals Infectious Diseases Act of 1888; and
- (b) nothing contained in this section shall prejudice any proceedings under this Act for the recovery of any penalty incurred by an owner or occupier of any land.

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Owner or occupier
to pay expenses
incurred by board.

45. All costs, charges, and expenses incurred by a rabbit board under the provisions of the next preceding section in destroying rabbits upon any land shall be repaid by the owner or occupier of the land, and until such repayment shall be and remain a charge upon such land, and shall have priority over all mortgages or other charges thereon, other than debts due to the Crown. In the case of land vested in or held by any municipality, such costs, charges, and expenses shall, until payment, be and remain a charge on the revenues of such municipality, as well as a charge on the land upon which the rabbits were destroyed.

Natural enemies of rabbits.

Natural enemies of
rabbits protected.

46. The Governor, by proclamation in the Gazette, may declare any animal, bird, or reptile to be a natural enemy of the rabbit, and prohibit within any area (whether within a proclaimed rabbit-infested district or not) to be specified in such proclamation the wilful wounding, killing, or capturing, selling, or disposing of any such animal, bird, or reptile, without a special permit in that behalf, and may alter or revoke any such proclamation, or any proclamation to the like effect made under the Rabbit Act of 1890.

Any proclamation issued under the Rabbit Act of 1890 whereby any animal, bird, or reptile has been declared to be a natural enemy of the rabbit, shall continue in force according to the tenor thereof, unless and until revoked under the provisions of this section.

Penalty for killing,
&c., natural enemy
of rabbit.

Any person who, within an area or district mentioned in any such proclamation, without lawful authority (the proof of which shall be on such person), wilfully wounds, kills, captures, or sells or disposes of any animal, bird, or reptile so declared to be a natural enemy of the rabbit, shall be liable to a penalty of not more than five pounds.

Offences.

Penalty for
miscellaneous
offences.

47. Any person who—

- (a) wilfully carries, drives, or passes any live rabbit through, under, or over any rabbit-proof fence or gate; or
- (b) wilfully leaves open any gate in a rabbit-proof fence; or
- (c) without lawful authority (the proof of which shall be on the person claiming to have the same) wilfully destroys, injures, tears-up, depresses, or removes any portion of a rabbit-proof fence or gate, or excavates under, or in any way tampers with, any portion of such fence or gate, so as thereby to endanger its effectiveness as a rabbit-proof fence or gate; or
- (d) attempts to do any such act as is hereinbefore mentioned, or procures the same to be done

shall

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shall be liable to imprisonment, with or without hard labour, for any term not exceeding six months, or to a penalty not exceeding one hundred pounds, or to both imprisonment and penalty.

A rabbit-proof fence or gate, for the purposes of this section, shall mean a fence or gate apparently intended to protect any land from rabbits, and shall include a barrier fence, or gate therein, and it shall be immaterial whether or not such fence or gate is in accordance with the requirements of this Act.

48. Any person who without lawful authority (the proof of which shall be on the person claiming to have the same) wilfully liberates or attempts to liberate, or has in his possession any live rabbit (whether within a proclaimed rabbit-infested district or not), shall be liable to a penalty not exceeding one hundred pounds for every such offence; but nothing herein contained shall be construed to prohibit any person from keeping live rabbits in any safe enclosure with the permission of the Minister first had and obtained.

Penalty for keeping, liberating, &c., rabbits.

Permission to keep rabbits.

49. Any person who, without lawful authority (the proof of which shall be on the person claiming to have the same), wilfully destroys, injures, removes, or interferes with any trap, snare, poison, matter, or thing which is used or required for the purpose of capturing or destroying rabbits, and which is lawfully placed upon any land for such purpose shall be liable to a penalty not exceeding twenty pounds.

Penalty for interfering with traps, &c.

Expenditure of public money.

50. Where money has been voted by Parliament for the purpose of rabbit destruction on public lands, or for the erection or repair of barrier fences, the Minister may authorise a rabbit board to apply such money or any part thereof for that purpose, on such terms and conditions as he may think fit.

Expenditure by boards of public money on public lands.

PART VI.

GENERAL AND SUPPLEMENTAL.

Procedure.

51. Any proceedings for—

- (a) the recovery of any sum of money, which any person is, in pursuance of this Act, required or made liable to pay; or
- (b) the recovery of penalties or punishment of offences under this Act or any regulation made thereunder

shall be heard and determined in a summary way before a court of petty sessions in accordance with the provisions of the Acts in force for the time being regulating summary proceedings before justices.

Petty sessions to adjudicate summarily on offences and money claims.

Any

Rabbit.

Any person may take proceedings for the punishment of any offence under this Act; but where the land upon which an offence was committed is situate within a rabbit district any penalty imposed for such offence shall belong and be paid to the rabbit board of the district, any law or statute to the contrary notwithstanding, and the Court imposing such penalty shall order accordingly.

Action in the Supreme or District Court in certain cases.

52. Where under this Act any sum of money is ordered by a court of petty sessions, or by a Court of Quarter Sessions on appeal therefrom to be paid, and the same is not paid within the period named in such order, it shall be lawful for the person entitled to receive payment of such sum to sue upon such order in a District Court or the Supreme Court.

Jurisdiction of land board or court not to be ousted.

53. In any proceedings under this Act, the jurisdiction of the local land board or of the Court before which the proceedings are had, shall not be ousted on the ground that the case raises any question of title to land, or that the defendant does not reside within the boundaries of the jurisdiction of the board or Court: Provided that in such last-mentioned case the land in respect of which the proceedings are had shall be situated within the boundaries of the jurisdiction of such board or Court.

Local land board may allow time for payment.

54. In any proceedings under this Act before a local land board for the determination of any contribution, value, or other sum of money, the local land board may allow time for the payment of such contribution, value, or sum of money, and may determine the instalments by which the same may be paid, and appoint the dates on or before which such instalments shall be paid, and such contribution, value, or sum of money shall be payable by the instalments and on the dates so determined.

Appeal to land appeal court.

55. Where any proceedings under this Act are had before a local land board, an appeal shall lie to the Land Appeal Court; and the Minister or such board shall have the like powers of reference to such Court, so far as practicable, as he or it now has under the Crown Lands Acts; but if there be no appeal or reference, the determination or decision of the local land board shall be final and conclusive.

The provisions of the Crown Lands Acts as to procedure to apply.

56. The provisions of the Crown Lands Acts regulating proceedings before local land boards, and upon appeals and references to the Land Appeal Court under such Acts shall, as far as practicable, be applied to proceedings, appeals, and references under this Act; and for the purposes of proceedings under this Act, the Land Appeal Court and local land boards and the respective members and officers thereof shall have the same authorities and powers as are conferred by the Crown Lands Acts for the purposes of proceedings under the said Acts, and in addition thereto the Land Appeal Court (on appeal) and a local land board shall have power to make such orders as to the costs of any proceedings before the local land board as may appear just.

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57. Whenever any question of law arises in a case before the Land Appeal Court, such Court shall, if required in writing by any of the parties within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court thereon, which decision shall be conclusive. Case may be stated for Supreme Court.

Every such case shall purport to be stated under this section, and shall state the names of the persons who are parties to the appeal, reference, or other proceeding, and shall be transmitted to the Prothonotary of the Supreme Court to be dealt with as to the setting down of the case for argument, and the hearing of the same, and its return with the decision of the Supreme Court thereon, as the Judges of the said Court, or any two of them may direct. The Supreme Court for the purposes of this section may consist of two judges only, and shall have power to deal with the costs of, and incidental to, any case stated under this section as it may think fit.

58. Any notice, information, complaint, agreement, or other document, by or from a rabbit board, shall be sufficiently authenticated if it is signed by the chairman of the board, or under his direction by the secretary of the board, and authority in the chairman or secretary to so sign shall be presumed unless and until the contrary is shown. Authentication of documents, &c.

Any notice or other document to be given to or served upon a rabbit board may be given to or served upon the secretary or chairman of such board.

59. (1) Any notice given under or for the purposes of this Act, or any regulation made thereunder, may be given in any one of the following ways:— Service of notices.

- (a) personally to the person to whom the notice is addressed; or
- (b) by registered letter sent through the post and directed to the last known place of abode or of business in New South Wales of the person to whom the notice is addressed; or
- (c) by advertising the same twice at least in some newspaper published or circulating in the district in which the lands the subject of notice are situate, an interval of a week or more being such allowed to lapse between such advertisements: Provided that notice shall only be given as last aforesaid when the whereabouts, or the last place of abode or of business in New South Wales, of the person to whom such notice is addressed cannot be discovered by the person issuing such notice.

(2) Any notice required by this Act to be given to the occupier or the owner (as the case may be) of any holding or land, shall in cases where several persons are the occupiers or the owners thereof, be duly given if given to one of such occupiers or owners.

60. For the purposes of any proceeding under this Act the description of any holding or land need not be a description by metes and General description of lands sufficient.
and

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and bounds, but shall be sufficient if it makes such reference to the holding or land either by name, situation, boundaries, or otherwise, as allows of no reasonable doubt as to what holding or land is referred to.

Proceedings when occupier or owners unknown.

61. Where the name of the occupier or owner of any holding or land is unknown to any person giving notice or taking proceedings under this Act, any such notice may be addressed to the occupier or owner as such, and any such proceedings may be taken and any order or decision therein may be made or given against the aforesaid occupier or owner as such.

General powers.

Effect of moneys being charged.

62. Whenever by this Act, any sum of money is expressed to be charged upon any private land, any person thereafter becoming the owner of such land shall be taken to have notice of such charge, and shall be liable to pay the sum so charged or so much thereof as may for the time being be unpaid as if he were the person originally liable; but nothing herein contained shall operate to discharge the liability of any person originally or previously liable: Provided always such charge shall be entered in the rabbit rate-book as against such land at the date of transfer, and it shall be the duty of the board when and so often as any land within the rabbit district becomes chargeable with any sum under this Act to have an entry of the same made as aforesaid.

Power to raise money by mortgage

63. It shall be lawful for any person in whom any land is vested as mortgagee to add to his mortgage debt any sums expended or contributed by, or recovered from, him for or towards the erection of a rabbit-proof fence, or the converting of a fence into a rabbit-proof fence upon, near, or for the benefit of such land, or for or towards the maintenance or repair of any such fence; and it shall be lawful for any person in whom any land is vested as a trustee to raise the sums required or recovered for any such purpose by mortgage of such land, in the same way as if a power to mortgage for any or all of such purposes had been contained in the instrument creating or declaring the trusts.

Regulations by the Governor.

64. Whenever in this Act the expression "prescribed" is used in connection with any matter, and whenever in this Act "regulations" are referred to, the Governor may frame regulations for the purpose of giving effect to the matters which may be so prescribed or in relation to which the regulations are referred to.

The Governor may make regulations for the purpose of carrying this Act into effect, and may in those regulations provide for the enforcement thereof by penalties not exceeding in any case, ten pounds. Such regulations upon being published in the Gazette shall be valid in law. A copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.