

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 6 of 1919.

AN ORDINANCE

Relating to the Destruction of Rabbits and
Noxious Animals in the Territory for the
Seat of Government.

BE it ordained by the Governor-General of the Commonwealth of
Australia, with the advice of the Federal Executive Council,
in pursuance of the powers conferred by the *Seat of Government
Acceptance Act* 1909 and the *Seat of Government (Administration) Act*
1910, as follows :—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Rabbit Destruction* Short title.
Ordinance 1919.
2. This Ordinance shall commence on a day to be fixed by the Commencement.
Minister by notice in the *Gazette*.
3. This Ordinance is divided into Parts, as follows :— Parts.
 - Part I.—Preliminary.
 - Part II.—Destruction of Rabbits and Noxious Animals.
 - Division 1.—Application and Interpretation.
 - Division 2.—Expenditure of Money Voted for Wire
Netting.
 - Division 3.—Barrier Fences.
 - Division 4.—Private Fences.
 - Division 5.—Grouping of Holdings.
 - Division 6.—Destruction of Rabbits and Noxious
Animals by Owners and Occupiers.
 - Division 7.—Destruction of Rabbits and Noxious
Animals by the Minister.

Part III.—Offences.

Part IV.—Miscellaneous.

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Definitions.

4. In this Ordinance, unless the contrary intention appears—

“The Act” means the *Pastures Protection Act* 1912 of the State of New South Wales.

“Crown Land” means any land vested in the Commonwealth whether by acquisition or by virtue of the Seat of Government Acceptance Act and not held under lease for a longer period than twelve months.

“Holding” means land held by any person for any estate of freehold or any less estate under the Crown Lands Act of New South Wales, but does not include any land held under lease from the Commonwealth under the *Lands Acquisition Act* 1906–1916 or under the *Leases Ordinance* 1918.

“Native Dog” includes any dingo or native dog or any dog whatever which has become wild.

“Noxious Animal” means any animal or bird declared by the Minister by notice in the *Gazette* to be a noxious animal.

“Occupier” means the person who is for the time being entitled to possession of any holding or land, and includes the resident manager of the occupier where the occupier is not resident.

“The Minister” means the Minister for Home and Territories.

Delegation by Minister.

5.—(1.) Subject to this Ordinance, the Minister may by writing under his hand delegate to any officer or authority all or any of his powers under this Ordinance.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Minister.

Continuance of previous actions.

6.—(1.) Any notification by the Governor of the State of New South Wales declaring that any fence within the Territory is a barrier fence shall, if the notification is in force at the commencement of this Ordinance, continue in force until cancelled or amended by the Governor-General in Council.

(2.) Any Proclamation made by the Governor of the State of New South Wales under section sixty of the *Pastures Protection Act* 1902 and in force in the Territory at the commencement of this Ordinance, shall continue in force until altered or revoked by the Governor-General in Council.

Certain State Acts to cease to apply.

7. Upon the commencement of this Ordinance the State Acts referred to in the First Schedule, to the extent therein expressed, shall cease to apply to the Territory, save as to any right, privileges, obligation or liability acquired, accrued, or incurred thereunder.

PART II.—DESTRUCTION OF RABBITS AND NOXIOUS ANIMALS.

*Division 1.—Application and Interpretation.*Rabbit-infested areas.
N.S.W., No. 35,
1912, s. 27.

8.—(1.) The Minister may, by notice in the *Gazette*, declare any part of the Territory to be rabbit infested, and may revoke or vary any such notice.

(2.) Except where otherwise in this Part expressly provided, and except so far as it relates to the destruction of noxious animals, this Part shall apply only to the parts so declared to be rabbit infested.

9. If any holding, or portion of a holding, or group of holdings is bounded in part by a natural feature along which, in the opinion of the Minister, it is unnecessary to erect a rabbit-proof fence, such holding, or portion of a holding, or group shall be deemed to be enclosed by a rabbit-proof fence, provided that the remaining boundaries are sufficiently so fenced.

Exemption from fencing boundary in certain cases. N.S.W., No. 35, 1912, s. 28.

Division 2.—Expenditure of Money Voted for Wire Netting.

10.—(1.) The Minister may upon such conditions as he thinks desirable sell hire or rent any netting, material, machinery, plant, or substance, to any owner or occupier of land within the Territory.

Sale of wire netting, &c., by Minister.

(2.) The prescribed conditions may include the repayment by owners or occupiers in instalments, spread over such period as the Minister directs, with interest at such rate as is prescribed.

11. If any owner of a holding makes default in respect of the payment of any instalment payable to the Minister in respect of wire netting or other material, machinery, plant, or substances, interest shall be charged by the Minister on such instalment at a rate not exceeding ten per centum per annum from the date appointed for the payment thereof until the same is paid, and such interest shall be added to and be deemed to form part of such instalment.

Penalty for default in payment of annual instalments. Ib. s. 31.

12.—(1.) Where the owner of a holding owes money to the Minister for wire netting or other materials, whether the money is or is not then payable, and is entitled to any contribution from an adjoining owner towards the cost of any fencing in respect of which the netting or materials were supplied, the adjoining owner may, and if directed in pursuance of this section shall, pay to the Minister, instead of to the first-mentioned owner, so much of the said contribution as is due and payable in respect of the said netting and materials: Provided that the amount to be so paid shall not exceed the amount owing by the first-mentioned owner to the Minister as aforesaid.

Payment to Minister by adjoining owner of cost of netting supplied by Minister. Ib. s. 32.

(2.) The Minister may cause the said contribution to be assessed, and the Minister's decision upon any matter connected with the contribution shall be final.

(3.) Where an assessment of a contribution is made in accordance with this section, payment of the amount of the contribution shall be made to the Minister

13.—(1.) If it appears to the Minister that the occupier or owner for the time being of any holding in respect of which any wire netting or other material has been purchased from the Minister, but not fully paid for, has neglected to maintain or repair the netting or material, or any part thereof, the Minister may give notice to the occupier or owner to execute the works necessary to maintain or repair the same. If the

Maintenance of wire netting and material in respect of which moneys are payable to the Minister. Ib. s. 33.

works are not forthwith executed to the satisfaction of the Minister, the Minister may cause the works to be executed, and may recover the cost thereof from the occupier or owner.

(2.) A certificate in the prescribed form, signed by the Minister, of the amount claimed by him to be due for the cost, shall be *prima facie* evidence that the amount stated in the certificate is actually due.

Where holding forfeited, netting to vest in Minister.
N.S.W., No. 35, 1912, s. 35.

14. Where the owner of a holding owes money to the Minister for wire netting or other materials, and the holding is forfeited to the Crown, the property of the owner in the netting and materials, and any right which the owner may have to recover contribution in respect of the same, shall pass to and vest in the Minister.

Penalty for misuse of wire netting, &c.
Ib. s. 36.

15. If any person wilfully uses or disposes of any wire netting, materials, machinery, plant, or substances supplied by the Minister under this Ordinance, or by any Pastures Protection Board under any of the State Acts referred to in the First Schedule to this Ordinance, for any purpose or in any way other than that for which they were so supplied, he shall, on conviction, be liable to a penalty not exceeding fifty pounds.

Division 3.—Barrier Fences.

Powers of Minister to erect fences.
Ib. s. 37.

16.—(1.) The Minister may—

- (a) erect a rabbit-proof fence, or make rabbit-proof any existing fence, on any land, whether Crown lands or private, within the Territory, or across any road or travelling stock route, making gates in the fence for the passage of the public and their stock; and
- (b) co-operate with the board of any district outside the Territory in any such work.

(2.) Any fence, whether erected or made rabbit-proof by the Minister or by the Crown, or by any board or person before or after the commencement of this Ordinance, may be declared by the Governor-General by notification in the *Gazette* to be a "barrier fence," and shall be deemed to be a barrier fence within the meaning and for the purposes of this Ordinance so long as such notification remains in force: Provided that any such notification may be cancelled or amended by the Governor-General.

Case where compensation given.
Ib. s. 38.

17.—(1.) The Minister 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.

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

Division 4.—Private Fences.

18. For the purposes of this division, a rabbit-proof fence means one of the three kinds of fence herein described, namely, either—

Description of
a rabbit-proof
fence.
N.S.W., No. 35,
1912, s. 44.

- (a) A substantial fence to which is attached galvanized wire netting not less than forty-two inches wide, not less than eighteen gauge, and with a mesh not greater than one and a quarter inches, 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 the 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 connexion therewith shall be in accordance with specifications to be published in the *Gazette* by the Minister; or
- (b) a fence erected in accordance with the requirements of the *Rabbit Act* of 1890 or the *Rabbit Act* 1901 of the State of New South Wales, while those Acts were in force, and being in a proper state of repair; or
- (c) a fence reasonably sufficient, in the opinion of the Minister, for the purpose of excluding rabbits.

19.—(1.) The Minister shall, if so required in writing by the owner of a fence alleged to be rabbit-proof, cause the fence to be inspected; and if the Minister is satisfied that the fence is rabbit-proof, he shall grant a certificate to that effect.

Certificate by
Minister that
fence is
rabbit-proof.
Ib. s. 45.

(2.) In any proceeding before a court to recover money by way of contribution in respect of any such fence, the certificate given in pursuance of sub-section (1.) of this section shall be *prima facie* evidence of the fact; and evidence in contradiction shall not be adduced unless the prescribed notice has been given.

20. (1.) Where any lands are divided or bounded by a road or travelling stock reserve or route or Crown lands, the Minister 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 Crown lands: Provided that rabbit-proof gates shall be erected at places where the fence crosses such road or route, unless the Minister dispenses with the erection of the same.

Rabbit-proof
fence may cross
road.
Ib. s. 46.

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

21.—(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 the holding, or of the occupier or the owner of any land included in the holding, a contribution towards the cost of the work

Contribution
to the cost of
rabbit-proof
fence.
Ib. s. 49.

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 the expense :

Provided that a contribution shall not be payable where the Minister is of opinion—

- (a) that the rabbit-proof fence has been erected, or the fence has been made rabbit-proof, otherwise than *bonâ fide* for the purpose of excluding or destroying rabbits ; or
- (b) that no benefit is derived from the fence by the holding from the owner of which a contribution is demanded ; or
- (c) that the nature of the holding is such that it cannot be kept rabbit-proof by the erection and reasonable maintenance and repair of a rabbit-proof fence as described by this Ordinance :

Provided, however, that should the owner of the holding at any time make use of the fence as part of a rabbit-proof enclosure, or should the holding or any part thereof adjoining the fence be included in any group formed under this Ordinance, the owner shall be liable for payment of a contribution as aforesaid in respect of so much of the fence as forms the boundary of the enclosure or group :

Provided also that, notwithstanding that the Minister may in any case have decided that no benefit was derived from the fence by the holding from the owner of which a contribution may have been demanded, if the Minister at any time subsequently decides that a benefit is then being derived from the fence by the holding, a contribution as aforesaid shall thereupon become payable in respect thereof.

(2.) The right to receive a contribution as aforesaid shall vest, and the liability to pay the same shall arise, when the then occupier or owner of the holding gives to the then owner of the land outside the holding the prescribed notice of demand ; and after the date when the 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.

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

- (a) Any fence which, in the opinion of the Minister, is sufficiently approximate to any boundary shall be deemed to be on the boundary for the purposes of this section.
- (b) The Minister shall determine the amount of the contribution payable, and, subject to the provisions of this section, shall assess the amount of the contribution at half the value of the fence, or half the value of the work of making the fence rabbit-proof, as the case may be ; and such value shall be the value at the date when the aforesaid notice of demand was given.
- (c) Any determination by the Minister under this sub-section shall be final.

(4.) No holder of an occupation licence or preferential occupation licence, or of any State lease from the Crown, granted under any law of the State of New South Wales, having less than five years to run at the date of completion of a rabbit-proof fence on the boundary of an adjoining holding, and no owner who uses as a boundary a fence which is outside the boundaries of his holding, shall be liable for payment of a contribution under this or the next succeeding section, but in lieu thereof such holder or owner shall be liable to pay an annual rental in respect of the fence from the date when a claim in writing is made in that behalf by the person entitled thereto. The amount of such annual rental, and the dates for payment thereof, shall, on application, be determined by the Minister. Such amount shall be assessed at an amount not exceeding six per centum upon half the value of the fence, or half the value of the work of making the fence rabbit-proof, as the case may be, together with such further amount towards the average cost of the maintenance and repair of the fence as may be agreed upon between the parties, or, failing agreement, as may be determined by the Minister.

(5.) Nothing in the Crown Lands Acts or the Dividing Fences Act of the State of New South Wales shall relieve any person from liability to make any payment under this Ordinance.

(6.) Any claim for contribution in respect of a rabbit-proof fence erected or any fence made rabbit-proof before the thirtieth day of November, one thousand nine hundred and six, shall be determined under the provisions of section forty-two of the *Pastures Protection Act* 1902 of the State of New South Wales, a copy of which section is set forth in the Second Schedule to this Ordinance: Provided that any reference in that section to the local Land Board shall be read as a reference to the Minister.

22.—(1.) In any case where a contribution towards the cost of a rabbit-proof fence is payable under any of 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.

Adjoining holding to contribute half cost of maintenance.
N.S.W., No. 35,
1912, s. 50.

(2.) 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 contributions shall run with the land whereof the owner was liable to pay the aforesaid contribution towards the cost of the fence.

(3.) 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 Minister.

(4.) Nothing in this section shall affect any right to an annual contribution towards the cost of the maintenance and repair of a rabbit-proof fence accrued under or by virtue of the provisions of the *Rabbit Act* of 1890, or the *Rabbit Act* 1901, of the State of New South Wales, and the Minister shall have power to assess and determine the amount of any such contribution.

The Crown to contribute in certain cases.
N.S.W., No. 35-1912, s. 51.

23. Where a private rabbit-proof fence, erected before or after the commencement of this Ordinance (not being a barrier fence erected or made rabbit-proof by or principally by the Crown or a Pastures Protection Board or a Rabbit Board under any Act of the State of New South Wales, or by the Minister under this Ordinance), forms a common boundary fence between private and Crown lands, and before or after the commencement of this Ordinance 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 Minister in respect of the erection of 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 Minister in the same manner as if the said Crown lands were private lands.

Division 5.—Grouping of Holdings.

Erection of ring fence.
Ib. s. 53.

24.—(1.) Where it is considered expedient by the Minister that any area of land should be enclosed by a rabbit-proof ring fence, or where a petition is received by the Minister from a majority in number of the owners of the holdings or portions of holdings within any area which it is desired by such majority should be so enclosed, the Minister shall obtain a report and determine whether the ring fence should be required to be erected as hereinafter provided.

(2.) Any Crown lands may, with the consent of the Minister, be included in the area proposed to be enclosed by the ring fence, in which case the Commonwealth shall, with respect to the payment for the fence, have the same rights and liabilities as an owner of private land.

(3.) If the Minister consents to the erection of the ring fence, and to the supplying of the wire netting required for the erection thereof, he may give notice in the prescribed form to the owner of any holding or portion of a holding within the area proposed to be included within the ring fence, stating that he is prepared to sell wire netting to such owner for the purpose of the fence, and requiring him to erect a rabbit-proof fence upon the outside boundaries of so much of the area as is included within his holding, or to make rabbit-proof any existing fence on those boundaries. Such owner shall thereupon forthwith erect or make rabbit-proof such fence accordingly, and shall thereafter maintain and repair it to the satisfaction of the Minister. Where a rabbit-proof fence already exists on any such boundaries, it shall, for the purposes of this section, be deemed to have been made rabbit-proof in pursuance of the provisions thereof.

(4.) If any such owner does not forthwith so erect or make rabbit-proof such fence, or if, after it has been erected or made rabbit-proof, he fails to maintain or repair it to the satisfaction of the Minister, the Minister may erect or make rabbit-proof or maintain or repair the fence, and may recover the cost thereof from the owner of the holding, and, until payment, such cost shall be and remain a charge upon such holding.

(5.) Upon completion of the rabbit-proof ring fence as aforesaid, the lands (including all roads) enclosed thereby shall form a group of holdings, and the provisions of this Ordinance, except sub section one and paragraph (a) of sub-section two of section twenty-seven, shall, except so far as modified by this section, apply to such group.

(6.) Every owner of a holding who has, in pursuance of this section, erected a rabbit-proof fence, or made rabbit-proof any existing fence on the boundary of his holding, or at whose cost the Minister has erected or made rabbit-proof such fence, shall be entitled to an annual contribution in respect thereof from the owners of all other holdings, or portions of holdings, included within the ring fence, in the proportion which such respective holdings, or portions of holdings, bear to the aggregate area of the holdings, or portions of holdings, included within the fence. The respective amounts of the annual contributions shall be determined by the Minister, and shall be assessed at six per centum of the value of the respective owners' interests in the fence, together with such allowance towards the average cost of the maintenance and repair of the fence as may be agreed upon between the parties, or, failing such agreement, as may be determined by the Minister.

But the owner of a holding which is enclosed within a rabbit-proof fence erected before or after the formation of the group shall not be liable to pay any contribution under this sub-section.

(7.) The yearly contributions payable by the various owners within the group shall be paid to the secretary of the group appointed under section twenty-seven, or in any case where the group is not known to have a duly appointed secretary, or the duly appointed secretary cannot be found, to the owner of any holding, or portion of a holding, included within the group whom the Minister designates as secretary. The secretary may, in either case, recover any such contribution, and shall annually distribute all such contributions received by him amongst the owners entitled thereto.

25.—(1.) 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 those holdings, the lands (including all roads) so enclosed shall, if the consent of the Minister has been obtained before or after the making of the ring fence, form a group of holdings within the meaning and for the purposes of this Ordinance.

Formation of
group.
N.S.W., No. 35,
1912, s. 54.

(2.) 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 the fence or portion thereof whose holding thereby forms part of the group.

(3.) The Minister may agree that any Crown lands shall be included within a group, and the Commonwealth shall thereupon have the same rights and liabilities as regards the receipt or payment of contributions under the provisions of section twenty-seven of this Ordinance as the occupier or owner of any holding of private lands within the group.

(4.) The Minister may agree that any rabbit-proof fence erected by him, or any barrier fence, may be used for the purpose of the grouping of holdings.

(5.) Any group of holdings constituted under the *Rabbit Act* of 1890, the *Rabbit Act* 1901, the *Pastures Protection Act* 1902, or the *Pastures Protection Act* 1906, of the State of New South Wales, shall be a group of holdings within the meaning and for the purposes of this Ordinance.

Owner not
liable for fencing
land within
rabbit-proof
group.
N.S.W., No. 35,
1912, s. 55.

26. 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 Ordinance.

Grouped
holdings.
Ib, s. 50.

27.—(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.

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

(a) The liabilities of the 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 are declared by the Minister; and the amount declared by the Minister 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 Ordinance 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 Minister may designate the occupier of any holding included within the group to be the nominal defendant representing all the occupiers of all the holdings constituting the group for the purposes of any proceedings under this Ordinance proposed to be taken against such group or such occupiers; and proceedings may thereupon be taken against that 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 the judgment or order may apply to the Minister 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 Minister shall thereupon have jurisdiction to 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 Minister.
- (e) A holding shall not cease to form part of a group by reason only of any change of ownership of the holding, or of any other holding; but any occupier may, with the permission of the Minister, and subject to any condition which he may impose, detach his holding from the group of which it formed part if the boundaries of the holding have been made rabbit-proof.
- (f) If at any time it appears to the Minister 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 the group may be subdivided, it shall be lawful for the Minister to authorize the subdivision of the 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.

Division 6.—Destruction of Rabbits and Noxious Animals by Owners and Occupiers.

Duty of owners and occupiers to destroy rabbits and noxious animals. N.S.W., No. 35. 1912, s. 58.

28. 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 in accordance with the requirements of the Minister as specified under the provisions of section thirty-one of this Ordinance, all rabbits and noxious animals which may from time to time be upon the land, or upon any roads bounding or intersecting the same, or any part thereof.

Any such owner or occupier who fails to fully and continuously perform the duty imposed by this section shall be guilty of an offence.

Penalty: Fifty pounds.

Any owner or occupier may burn without notice. *Ib.* s. 59.

29. For the purpose of destroying or suppressing rabbits and noxious animals, any owner or occupier may at any time, with the consent of the Minister first obtained, and notwithstanding anything in any State Act or in any Ordinance 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 Minister.

Authorized person may enter holding. *Ib.* s. 60.

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

(2.) Any person who falsely represents himself to be, or personates, an authorized person under this Ordinance, 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.

(3.) Any person who wilfully assaults, obstructs, hinders, or interrupts, or causes to be assaulted, obstructed, hindered, or interrupted, any authorized person in the exercise of any power or authority vested in him by this Ordinance, 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 the 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 Ordinance had not been made.

(4.) For the purposes of this section an "authorized person" means a person having authority from the Minister, and such authority may be a general authority.

31. The Minister may, out of the Stock Tax Fund or Rabbit Destruction Vote, pay such sums by way of bonus for the scalps of noxious animals, at such rate as the Minister may from time to time determine, and the rates so determined by the Minister shall be published in the *Gazette* and in one or more newspapers circulating in the district.

Bonus for
scalps.
N.S.W., No. 35,
1912, s. 65.

32. When the scalps of any noxious animals killed within the Territory for the Seat of Government are delivered to the District Surveyor, Canberra, or to any person duly authorized by the Minister to receive the same, a certificate in the prescribed form shall be granted by the District Surveyor or authorized person to the person delivering such scalps, and all such scalps shall be forthwith destroyed by fire in the presence of the person granting such certificate, who shall deliver to the District Surveyor a certificate in writing to that effect. The amount specified in any such certificate shall be payable on presentation of the certificate to the Clerk in charge, Accounts Branch, Canberra, or other person authorized by the Minister.

Certificates for
scalps.
Ib. s. 66.

Scalps to be
destroyed by
fire.

Rewards, how
payable.

Division 7.—Destruction of Rabbits and Noxious Animals by the Minister.

33.—(1.) The Minister 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 district shall respectively commence the work of suppressing and destroying rabbits and noxious animals 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.

Minister may
require rabbits
and noxious
animals to be
destroyed.
Ib. s. 61.

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

(3.) The Minister may also give to the owner or occupier of any land within any district a peremptory notice in writing to take all proper steps in order to suppress and destroy rabbits and noxious animals on the 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 Minister in the notice or by notification to be proper steps for suppressing or destroying rabbits and noxious animals.

Powers of
Minister if
owner or
occupier makes
default.
N.S.W., No. 35,
1912, s. 62.

34. If any 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, he may be summoned to appear before the Minister or a Board created in pursuance of this Ordinance, and unless he explains his neglect or failure to the satisfaction of the Minister, or receives an extension of time to comply with the notice, any person authorized by the Minister may enter upon the land and use such means and take such measures and do and perform such acts or things as to him appear proper or necessary to be done to insure the destruction of all or any of the rabbits or noxious animals upon the land, and shall have free right of ingress, egress, and regress into, over, and across the land for such period as may, in his opinion, be necessary for destroying such rabbits or noxious animals :

Provided that where a local authority is the owner or occupier of the land, the clerk of the authority shall be the person to be summoned on behalf of the authority :

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 Noxious Microbes Act, No. 23, 1900, of the State of New South Wales ; and
- (b) nothing contained in this section shall prejudice any proceedings under this Ordinance for the recovery of any penalty incurred by an owner or occupier of any land.

Owner or
occupier to pay
expenses
incurred
by Minister.
Ib. s. 63.

35. All reasonable costs, charges, and expenses incurred by the Minister under the provisions of the next preceding section in destroying rabbits or noxious animals 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 or upon any other property of the owner or occupier, and shall have priority over all mortgages or other charges thereon, other than debts due to the Commonwealth. In the case of land vested in or held by any local authority, such costs, charges, and expenses shall, until payment, be and remain a charge on the revenues of the local authority, as well as a charge on the land upon which the rabbits or noxious animals were destroyed.

Natural enemies
of rabbits
protected.
Ib. s. 69.

36.—(1.) The Minister may, by notice in the *Gazette*, 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 the notice the wilful wounding, killing, or capturing, selling, or disposing of any such animal, bird, or reptile, without special permit in that behalf, and may alter or revoke any such notice, or any proclamation to the like effect made under the *Rabbit Act* 1901 of the State of New South Wales.

(2.) Any proclamation issued under the *Rabbit Act* 1901 of the State of New South Wales, 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.

(3.) Any person who, within an area or district mentioned in any such notice or proclamation, without lawful authority (the proof of which shall lie 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.

PART III.—OFFENCES.

37.—(1.) 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 (proof whereof shall lie upon him), 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,

Penalty for miscellaneous offences.
N.S.W., No. 35,
1912, s. 70.

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.

(2.) 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 Ordinance.

38. Any person who, without lawful authority (proof whereof shall lie upon him), 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 or hares in any safe enclosure with the permission of the Minister first had and obtained.

Penalty for keeping, liberating, &c., live rabbits.
Ib. s. 71.

39. Any person who, without lawful authority (proof whereof shall lie upon him), 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.
Ib. s. 72.

Penalty for false
certificate or
statement.
N.S.W., No. 35.
1912, s. 68.

40.—(1) Any person who procures or obtains a certificate for scalps, knowing that a certificate has been previously granted for the same, or wilfully makes any false statement with respect to such scalps, shall be liable to a penalty not exceeding ten pounds, or to be imprisoned for any term not exceeding two months.

Penalty for
attempting to
obtain payment
for scalps from
adjoining States.

(2) Any person destroying noxious animals in any State, and obtaining or attempting to obtain payment for scalps, or as bonuses for the same under this Act, shall, on conviction for any such offence, be liable to a penalty not exceeding one hundred pounds with or without imprisonment not exceeding six months.

PART IV.—MISCELLANEOUS.

Expenditure of
money on public
lands.
Ib. s. 73.

41. Where money has been voted by Parliament for the purpose of rabbit destruction on Crown lands, or for the erection or repair of barrier fences, the Minister may apply the money or any part thereof for that purpose, on such terms and conditions as he thinks fit.

Jurisdiction of
Minister not to
be ousted.
Ib. s. 74.

42. In any proceedings under this Ordinance, the jurisdiction of the Minister 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 the land, or that the defendant does not reside within the boundaries of the jurisdiction of the Minister or court: Provided that in such last-mentioned case the land in respect of which the proceedings are had is situated within the boundaries of the Territory for the Seat of Government.

Minister may
allow time
for payment.
Ib. s. 75.

43.—(1.) In any proceedings under this Ordinance before the Minister for the determination of any contribution, value, or other sum of money, the Minister 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 the instalments shall be paid, and such contribution, value, or sum of money shall be payable by the instalments and on the dates so determined.

(2.) Where time is so allowed, the Minister may order that interest at the rate of five per centum per annum be paid on the amount due in respect of such contribution, value, or sum of money.

The provisions
of the Crown
Lands Acts as
to procedure to
apply.
Ib. s. 77.

44. The provisions of the Crown Lands Acts of the State of New South Wales regulating proceedings before Land Boards, and upon appeals and references to the Land Appeal Court under those Acts shall, as far as practicable, be applied to proceedings, appeals, and references under this Ordinance, and for the purposes of proceedings under this Ordinance the Minister shall have the same authorities and powers as are conferred by the Crown Lands Acts of the said State for the purposes of proceedings under the said Acts.

45. 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 the land, in the same way as if a power to mortgage for any or all of those purposes had been contained in the instrument creating or declaring the trusts.

Power to raise money by mortgage.
N.S.W., No. 35,
1912, s. 80.

46. The Minister may enter into an arrangement with the Pastures Protection Board of any pastures protection district adjoining the Territory, for the erection of a barrier fence, or the conversion of a fence into a barrier fence, on the common boundary of the Territory and such district, and for the subsequent maintenance and repair of the fence.

Arrangement with Board of adjoining district for erection of barrier fences.

47. Fines and penalties recovered under this Ordinance shall be paid into the Consolidated Revenue Fund of the Commonwealth.

Fines and penalties to be paid into Consolidated Revenue Fund.
Power to make regulations.

48.—(1.) The Minister may make regulations not inconsistent with this Ordinance prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Ordinance, and in particular—

- (a) for providing for the appointment of officers, and the creation of Boards, with power to take evidence on oath, to advise the Minister in respect of any dispute or matter arising under this Ordinance; and
- (b) for prescribing penalties not exceeding Ten pounds for breaches of the Regulations.

(2.) All Regulations made by the Minister under this Ordinance shall be notified in the *Gazette*, and shall come into operation on the day of the notification or on a later day to be specified in the notification.

*Ref.
no. 12/1924*

THE FIRST SCHEDULE.

No. of Act of the State of New South Wales.	Short Title.	Part to cease to apply in the Territory.
No. 111, 1902 .. No. 20, 1906 ..	<i>Pastures Protection Act 1902</i> .. <i>Pastures Protection (Amendment) Act 1906</i>	Parts II. and III. Sections 6 to 35 inclusive.

Section 21 (6).

Reprint of section 42 of the repealed Act No. 111, 1902, for the ascertainment of rights under section 30 (6).

THE SECOND SCHEDULE.

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:

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 *boni 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 or owner 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 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.

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 Dividing Fences Act, No. 63, 1902, 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 (24 December, 1902).

Dated the first day of October, 1919.

R. M. FERGUSON, Governor-General.

By His Excellency's Command.

P. McM. GLYNN, Minister of State for Home and Territories.

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