



ANNO DECIMO

GEORGI VI REGIS.

A.D. 1946.

No. 34 of 1946.

An Act to provide for the establishment and maintenance of a dog-proof fence in the northern part of the State in order to prevent the ingress of wild dogs into the pastoral areas of the State, and for purposes incidental thereto.

[Assented to 19th December, 1946.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the " Dog Fence Act, 1946 ". Short title.
2. This Act shall come into force on a day to be fixed by proclamation. Commencement of Act.
3. The provisions of this Act are arranged as follows :— Arrangement of Act.
 - PART I.—Preliminary.
 - PART II.—Constitution of the Board.
 - PART III.—Provisions as to the Dog Fence.
 - PART IV.—Financial Provisions.
 - PART V.—Miscellaneous.

PART I.**Interpretation.**

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

“board” means The Dog Fence Board constituted pursuant to this Act :

“chairman” means chairman of the board :

“Crown lands” means Crown lands as defined in the Crown Lands Act, 1929-1944 :

“dog-proof fence” means a dog-proof fence as defined in the Vermin Act, 1931-1945, or any other substantial dog-proof fence approved of in writing by the Minister on the recommendation of the board :

“financial year” means the period of twelve months ending on the thirtieth day of June :

“member” means a member of the board and includes the chairman :

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor :

“occupier” means—

(a) the owner or tenant of any freehold land :

(b) the holder of any land held under agreement, lease or licence made or granted by or on behalf of the Crown, or by or on behalf of any person or authority holding lands belonging to the Crown or in whom or which lands belonging to the Crown are vested :

(c) a mortgagee in possession :

“owner” with relation to any fence, includes a vermin board within the meaning of the Vermin Act, 1931-1945 :

“rabbit-proof fence” means a rabbit-proof fence as defined in the Vermin Act, 1931-1945 :

“suburban land” means suburban lands as defined in the Crown Lands Act, 1929-1944 :

“town” means town as defined in the Vermin Act, 1931-1945 :

“vermin-proof fence” means vermin-proof fence as defined in the Vermin Act, 1931-1945 :

“wild dog” includes a dingo and any cross of a dingo.

PART II.

PART II.

CONSTITUTION OF THE BOARD.

5. (1) There shall be established a board to be called "The Dog Fence Board". Constitution of board.

(2) The board shall be a body corporate with perpetual succession and a common seal and, subject to this Act, shall have power in its corporate name to take, hold, and dispose of real and personal property of every kind and be a party to any legal proceedings.

(3) Every court and every person acting judicially shall take judicial notice of the seal of the board and when the seal appears on any document shall presume that it was properly affixed thereto.

6. (1) The board shall consist of four members to be appointed by the Governor as follows:— Members of the board.

- I. One member, who shall be chairman, shall at the time of the appointment, be the chairman or a member of the Pastoral Board :
- II. Two members shall be appointed on the nomination of the Stockowners' Association of South Australia :
- III. One member shall be appointed on the nomination of the Vermin Districts Association.

(2) Except in the case of members first appointed to the board, one of the members appointed as provided by paragraph II. of subsection (1) shall, at the time of being appointed, be an occupier of ratable land adjoining the dog fence or shall be a shareholder of a company which is an occupier of ratable land adjoining the dog fence, and the other member appointed as provided by paragraph II. of subsection (1) and the member appointed pursuant to paragraph III. of subsection (1) shall, at the time of being appointed, in each case be an occupier of ratable land or be a shareholder of a company which is the occupier of ratable land.

(3) If either of the said associations is dissolved, the Minister may, by notice published in the *Gazette*, declare that, for the purposes of this Act, some other association specified by the Minister which has similar objects to the dissolved association, shall be deemed to be substituted for the dissolved association. The provisions of this Act shall be construed so as to give effect to any such notice.

7. (1) Except as otherwise provided by this Act, a member shall, subject to this Act, hold office for four years. Term of office

PART II.

(2) A member appointed to fill an extraordinary vacancy shall, subject to this Act, hold office only for the unexpired portion of the term of the member in whose place he is appointed.

(3) Any retiring member shall hold office until his successor is appointed.

(4) Any person ceasing to be a member by reason of the expiration of his term of office shall be eligible for re-appointment if otherwise eligible under this Act.

Retirement of
first members
of the board.

8. (1) The members first appointed to the board shall retire as follows :—

- I. One of the members first appointed on the nomination of the Stockowners' Association of South Australia, shall retire on the thirtieth day of June next after the expiration of two years from the time of his appointment to the first board. The member to so retire shall be designated by the Governor at the time of his appointment :
- II. The member first appointed on the nomination of the Vermin Districts Association shall retire on the thirtieth day of June next after the expiration of two years from the time of his appointment to the first board :
- III. The chairman and the other member first appointed on the nomination of the Stockowners' Association of South Australia shall retire on the thirtieth day of June next after the expiration of four years from the time of his respective appointment to the first board.

(2) Thereafter members shall hold office for the term provided by and subject to this Act.

Power of
Minister in
default of
nomination.

9. (1) In any case where, in the opinion of the Minister, there has been unreasonable delay in the nomination of a member by any association entitled to nominate a member, the Minister may, on behalf of that association, nominate a member for appointment by the Governor.

(2) The member so appointed shall be deemed to have been duly nominated by that association and to have been appointed at the time he would have been appointed if so nominated.

(3) The Minister shall give notice of the appointment in the *Gazette*, stating on whose behalf the member was nominated, and the notice in the *Gazette* of the appointment shall be conclusive evidence of the appointment and that the same was duly made.

10. When any vacancy occurs on the board, whether by expiration of a member's term of office or otherwise, it shall be filled in manner provided by this Act by appointment on nomination by the person or association which nominated the member whose place it is desired to fill.

Method of
filling
vacancies.

11. (1) In addition to the retirement of members by the expiration of their terms of office, the office of a member shall be vacated on—

Casual
vacancies.

(a) the death, lunacy, or bankruptcy of the member, or the execution by the member of a statutory deed of assignment for the benefit of his creditors, or his compounding with his creditors for less than twenty shillings in the pound, or the conviction of the member of any indictable offence :

(b) the absence of the member from three consecutive ordinary meetings of the board, without leave of the Minister :

(c) the absence of the member from the State for three consecutive months without leave of the Minister ;
or

(d) the resignation of the member by notice in writing, posted or delivered to the Minister.

(2) Any association on the nomination of which any member has been appointed by the Governor may, by notice in writing given to the Minister, request that the appointment of that member be determined before the expiration of his term of office. If satisfied that the appointment should be determined, the Governor may determine the appointment of the member.

12. The Governor may dismiss a member from his office—

Dismissal of
member.

(a) if in the opinion of the Governor he is, owing to mental or physical infirmity, incapable of discharging the duties of his office ; or

(b) if he has been guilty of serious misconduct which, in the opinion of the Governor, makes it undesirable that he should remain a member of the board.

13. Every appointment of a member shall be notified in the *Gazette* and shall take effect as from the date specified in the notification.

Notification of
appointment.

PART II.

Meetings and
quorum of
board.

14. (1) Meetings of the board shall be held at such times and at such place as is from time to time determined by the board but a meeting of the board shall be held not less than once in every three months.

(2) A quorum of the board shall consist of three members.

Chairman.

15. (1) The chairman shall preside at all meetings of the board at which he is present.

(2) In the absence of the chairman from any meeting a member to be selected by the members present, shall preside at the meeting.

(3) The chairman when presiding at a meeting shall have a casting vote as well as a deliberative vote.

Appointment
of officers.

16. (1) The board may appoint a secretary and such other officers and servants as are necessary for the purposes of the board at such remuneration as the board from time to time fixes.

(2) A member or any officer or servant of the board shall not be subject, as such, to the Public Service Act, 1936-1945.

(3) With the approval of the Minister administering any department of the public service, the board may employ or make use of the services of any person employed in that department upon any terms and conditions which are agreed upon between the Minister and the board. Notwithstanding subsection (2), any such person shall continue for all purposes to be a member of the public service.

Members'
remuneration.

17. (1) The members shall be paid from the funds of the board such remuneration as is from time to time fixed by the Minister. Without limiting the discretion of the Minister given by this section, the Minister may fix as remuneration as aforesaid to be paid during such period after the commencement of this Act as the Minister thinks fit, a greater amount than is to be payable after the expiration of that period.

(2) There shall be paid to any member from the funds of the board, in payment of travelling or other expenses necessarily incurred by him on the business of the board, expenses at a rate from time to time fixed by the Minister..

PART III.

PART III.

PROVISIONS AS TO THE DOG FENCE.

18. (1) For the purpose of preventing the ingress of wild dogs into the pastoral and agricultural areas of the State, a dog-proof fence shall be established and maintained in the northern areas of the State.

Establishment
of dog fence.

(2) The fence so established is in this Act referred to as the "dog fence".

19. (1) The board shall, as soon as may be, recommend to the Minister the site of the dog fence. So far as practicable the dog fence shall consist of dog-proof fences already in existence or of fences which are capable of being made dog-proof fences.

Declaration of
dog fence.

(2) The Governor may, upon the recommendation of the board made as aforesaid, declare that the site of the dog fence shall be the site described in the proclamation.

20. (1) If, in order to complete any portion of the dog fence, it is necessary to construct a new fence on any land or if in order to make dog-proof any part of the dog fence situated on any land, it is necessary that the fence be altered for that purpose, the board may, by notice in writing given to the occupier of the land, or, as the case may be, the owner of the fence require the occupier to construct the new fence or, as the case may be, the owner to alter the fence, within the time and in accordance with the directions specified in the notice.

Construction
of fence to
complete dog
fence.

(2) The occupier or, as the case may be, the owner shall thereupon comply with the requirements of the notice, and in default of such compliance, the board may erect the fence or, as the case may be, carry out the alterations, and may recover the cost of so doing from the occupier or, as the case may be, the owner as a debt due to the board by the occupier or owner.

21. Upon the recommendation of the board the Governor may by proclamation declare that any part of the dog fence shall cease to be part of the dog fence and that in lieu thereof any other fence (being a dog-proof fence or a fence which is capable of being made a dog-proof fence) shall be substituted as part of the dog fence in lieu thereof. The board shall not make any recommendation as aforesaid unless the board is satisfied that proper arrangements have been made between the board, the owner of the fence ceasing to be part of the dog fence and the owner of the fence substituted therefor,

Variation of
site of dog
fence.

PART III.

for the payment to the owner of the first mentioned fence by the owner of the second mentioned fence of a reasonable part of any expenditure incurred by the first mentioned owner on the fence owned by him.

Duty of owner to maintain dog fence and destroy wild dogs.

22. It shall be the duty of the owner of any part of the dog fence to cause the fence to be inspected at proper intervals, to maintain the fence in a proper condition and so that the fence is at all times a dog-proof fence, and to take all reasonable means to destroy all wild dogs in the vicinity of the dog fence.

Powers and duties of board as to dog fence.

23. (1) The board shall have the following powers and duties with respect to the dog fence :—

- I. The board shall see that the dog fence is properly maintained and that it is at all times dog-proof :
- II. If at the time of becoming a part of the dog fence, any fence is a rabbit-proof fence or a vermin-proof fence, the board may see that the fence is maintained as a rabbit-proof fence or vermin-proof fence, as the case may be :
- III. The board shall see that the dog fence is properly inspected :
- IV. The board shall see that wild dogs are destroyed in the vicinity of the dog fence by the owners of the dog fence.

(2) If the board is satisfied that any owner of any part of the dog fence has failed to maintain or inspect any part of the dog fence owned by him or to keep the fence dog-proof or to destroy wild dogs in the vicinity thereof, the board may carry out any necessary work for the purpose of maintaining or inspecting the fence or making it dog-proof or of destroying wild dogs in the vicinity thereof, and may recover the cost of so doing from the said owner as a debt due to the board by the owner.

Payments to owners of dog fence.

24. (1) In every financial year the board shall pay to the owner of any part of the dog fence, such amount per mile of fence as is determined by the board for that year. The amount to be so payable shall be a uniform amount payable to all such owners but shall not exceed the amount of eight pounds for every mile of fence.

(2) Any amount paid as aforesaid to any owner shall be applied by the owner for the purpose of the maintenance and inspection of the fence and the destruction of wild dogs in the vicinity of the fence. With the consent in writing of the board,

the owner may apply any such amount or any part thereof for the payment of any interest payable in respect of any capital liability incurred by the owner in respect of the fence. Any such consent may be given for such period and upon such conditions as the board thinks fit.

(3) The board may, in any case it thinks fit, pay any amount payable pursuant to this section in instalments.

(4) Any amounts paid to any owner pursuant to this section shall be applied as aforesaid during the financial year in respect of which it is paid or during such other period as may be directed in writing by the board and in accordance with any other directions in writing given by the board at the time of payment to the owner; and the board may give any such directions as are referred to in this subsection.

(5) If pursuant to section 20 or section 23 any amount is payable to the board by any owner, that amount shall be set off against any amount payable to the owner pursuant to this section. If satisfied that any owner will not properly carry out the duties imposed upon him by this Act the board may refuse to pay to the owner any balance of any amount payable to the owner under this section or any other amount payable to the owner under this section.

(6) The board may, by notice in writing given to any owner to whom any amount is paid pursuant to this section, at any time require the owner to supply to the board within the time specified in the notice a statement in writing showing how any amounts so paid have been expended during any period specified in the notice and during the financial year in which the notice is given or during the preceding financial year.

PART IV.

PART IV.

FINANCIAL PROVISIONS.

25. (1) The board may, with respect to any financial year, declare a rate on all ratable lands. Annual rate.

(2) All lands situated in that part of the State between the dog fence and the southern boundaries of the State shall be ratable land except that the following shall not be ratable land :—

(a) Land situated within any of the areas specified in the schedule :

- (b) Land situated within a municipality or town :
- (c) Suburban land :
- (d) Land situated within any irrigation area within the meaning of the Irrigation Act, 1930-1945 :
- (e) Crown lands : Provided that any land which at the commencement of this Act is not Crown lands but which subsequently becomes Crown lands shall be ratable land if not otherwise excepted pursuant to this subsection :
- (f) Land reserved for or dedicated to any public purpose and not let for any purpose other than a public purpose.

(3) If, pursuant to paragraph (e) of subsection (2), any Crown lands are ratable land, the Director of Lands shall, for the purposes of this Act, be deemed to be the occupier thereof and the owner of any fence situated thereon.

Declaration of
and amount of
rate.

26. (1) The board may, by notice published in the *Gazette* in the month of June in every year, declare the amount of rates to be paid for the next ensuing financial year in respect of every square mile of ratable land.

(2) No such rate shall exceed an amount of one shilling and three pence per square mile of ratable land.

Additional
rate.

27. (1) The board may, by notice published in the *Gazette* in the month of June in every year, declare an additional amount of rates, to be paid for the next ensuing financial year in respect of every square mile of ratable land situated within ten miles of any part of the dog fence and which adjoins the dog fence or is separated therefrom only by a road, reserve, or travelling stock route. Every such additional amount shall be of the same amount as the rate declared under section 26 for that financial year.

(2) No such rate shall exceed an amount of one shilling and three pence per square mile of such ratable land and any such rate shall be in addition to any rate declared under section 26.

Minimum
rate.

28. (1) In any case where the sum payable by any person as rates would be less than five shillings, then the sum payable by that person shall be five shillings.

(2) In every case where the ratable land held by any occupier is less than four square miles in the aggregate, that occupier shall not be liable to pay any rate under this Act.

29. (1) The said rates—

Recovery of rates.

- (a) shall be paid by the occupiers for the time being of the lands whereon they are imposed, and shall be a charge on the said lands :
- (b) shall be due and payable when declared as provided by sections 26 and 27 in respect of the financial year in respect of which they are declared :
- (c) shall be paid to the board :
- (d) may be levied and recovered by or under the authority of the board in like manner as rent is recoverable under any lease ; and when any such rate is levied by distress, a warrant signed by the board shall be sufficient authority to distrain.

(2) If there is no occupier of any such lands at the time when any such rates become payable, and at any subsequent time during the financial year for which the rates are declared any person becomes the occupier of the said lands, rates shall be payable in respect of the said lands, but the amount payable shall be such proportion of the total rates payable for the full financial year, as the unexpired portion of the said period commencing from the time the said person becomes the occupier as aforesaid bears to the said full financial year.

30. (1) If any such rate is not paid on or before the thirty-first day of October next after the rate is declared a penalty of five per centum of the amount of the rate shall thereupon be added thereto and be deemed for all purposes to be part of the rate, but if the rate is payable in respect of any land to which subsection (2) of section 29 applies, the said penalty shall not be added until the expiration of one month after a person becomes the occupier of the land as mentioned in the said section or until the said thirty-first day of October, whichever date shall last occur.

Interest on unpaid rates

(2) If the rate, as thus increased is not paid within one month after the date fixed under subsection (1) hereof, a further penalty of ten per centum of the amount of the rate as so increased shall at the end of such month be added thereto and be deemed for all purposes to be part of the rate.

(3) If the rate, as thus increased, is not paid within one month after the expiration of such first month mentioned in subsection (2) hereof, the same may be recovered in a summary way by the board or any person authorized by the board to recover rates under this Act.

(4) Notwithstanding anything herein contained, the board may, in its discretion, remit, in whole or in part, any amount added by way of penalty under this section.

PART IV.Government
subsidy.

31. (1) The Treasurer shall, out of moneys to be provided by Parliament for the purpose, as soon as may be after the commencement of any financial year, pay to the board a subsidy at the rate of one pound for every pound of the rates declared by the board for that financial year and payable in respect of that financial year.

(2) After the commencement of this Act the Treasurer may, without any further appropriation than this section, and in order to provide the board with sufficient funds with which to administer this Act prior to the collection of rates, pay to the board from the general revenue such amount as the Treasurer considers necessary but not exceeding one-half of the amount which the Treasurer estimates the said subsidy will amount to in the first financial year after the commencement of this Act. Any amount so paid shall be set off against any future subsidy payable pursuant to this section. The general revenue is hereby appropriated for the purpose of any payment pursuant to this subsection.

Advance to
board by
Treasurer.

32. For the temporary accommodation of the board, the Treasurer may, without any further appropriation than this section, from time to time advance to the board from the general revenue any amount deemed necessary by the Treasurer for the purpose aforesaid. Any such amount shall be advanced at such interest and on such conditions as the Treasurer thinks fit and may be set off against any future subsidy payable to the board pursuant to section 31. The general revenue is hereby appropriated for the purpose of any payment pursuant to this section.

Dog Fence
Fund.

33. (1) The moneys of the board shall be held by the Treasurer in a fund called "The Dog Fence Fund".

(2) The fund shall consist of—

- (a) any moneys received by the board as rates ;
- (b) any moneys paid to the board, as a subsidy upon rates declared by the board ;
- (c) any other moneys received by the board from whatever source arising.

(3) The said fund shall, without any further appropriation than this Act, be expended by the board for the purposes of the execution and administration of this Act.

Annual report.

34. (1) The board shall within three months after the close of each financial year, prepare and present to the Minister a balance-sheet and a report on its operations during that financial year and the report shall as soon as practicable after the receipt thereof be laid before both Houses of Parliament.

(2) The board shall, within fourteen days after presenting its report and balance-sheet to the Minister, file a copy thereof in the office of the Registrar of Companies, and the Registrar of Companies shall, without fee, permit any person to inspect the report and balance-sheet at any time during office hours.

(3) The board shall, within fourteen days after presenting its report and balance sheet to the Minister, publish in the *Gazette* a copy of the balance sheet.

35. (1) The Auditor-General shall make an annual audit of the board's accounts and for the purpose of any audit may exercise any of the powers which he could exercise for the purpose of auditing the accounts of a Government department. Audit

(2) For every such audit the board shall pay to the Treasurer a reasonable fee of an amount approved by the Treasurer.

PART V.

PART V.

MISCELLANEOUS.

36. (1) The board may arrange with the Minister, on such terms as are mutually agreed upon, for the carrying out by officers of the Department of Lands of any administrative work on behalf of the board and of the compiling and keeping of any records necessary for the purposes of the board. Administrative arrangements.

(2) Without limiting the generality of the foregoing provisions of this section, any such arrangements may provide that any measures or proceedings for the recovery of any rates under this Act may be taken on behalf of the board by officers of the Department of Lands and any measures or proceedings so taken shall for all purposes be deemed to be taken by the board.

37. The Minister may arrange for the inspection of the dog fence by employees of the Government at such intervals as are determined by the Minister on the recommendation of the board. Inspection of dog fence by Government employees.

38. (1) If any fence, being an improvement within the meaning of Part VI. of the Pastoral Act, 1936, is included in the dog fence, the value of the fence at the time it is so included shall be ascertained by the Pastoral Board. Provision as to improvements under pastoral lease.

(2) If at any subsequent time, any lessee becomes entitled to payment under the said Part VI. for the said improvement, the fence shall, for that purpose, be valued at not more than the amount ascertained as aforesaid except that the value may include the value of any repairs or additions to the fence carried out with the approval of the Minister and carried out other than from moneys paid to the lessee for that purpose pursuant to this Act.

Effect of
notice.

39. If any notice required to be given under this Act by the board is given to any occupier or to the owner of any fence, that notice shall be deemed to have been given to any successor in occupation or ownership of that occupier or owner.

Service of
notice.

40. Any notice required by this Act to be given by the board to any person may be given by post addressed to the place of business or residence of such person.

Recovery of
amounts
payable to
board.

41. (1) Any amount which is payable to the board pursuant to section 20 or section 23, may be recovered by the board in any court of competent jurisdiction or in any manner in which rates are recoverable by the board under this Act and for that purpose any such amount shall be deemed to be a rate payable by the person by whom it is payable.

(2) If any such amount is payable to the board by a vermin board within the meaning of the Vermin Act, 1935-1945, and the vermin board makes default for a period of at least six months in the payment thereof or any part thereof to the board, the Governor may by proclamation declare that, for the purpose of recovering the amount payable to the board, the board shall have the like power of declaring, levying and collecting rates under the Vermin Act, 1931-1945, as the vermin board would have, and, if any such proclamation is made, the board shall have the power aforesaid to the extent and subject to any conditions set out in the proclamation.

Penalty for
failure to
supply
statement.

42. (1) Any person who fails to supply to the board a statement in writing such as is referred to in section 24 when required so to do pursuant to the said section and within the time required pursuant to the said section shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

(2) Any person who supplies any such statement to the board which is false in any material part thereof shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

43. Any person, whether the owner of the fence or not, who wilfully damages any part of the dog fence shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

Penalty for
damaging
dog fence.

44. Any person, whether the owner of the fence or not, who without the consent in writing of the board (the onus of proof of which shall lie on the defendant)—

Penalty for
rendering
dog fence
not dog-proof.

(a) removes any part of the dog fence ; or

(b) does any act whereby any part of the dog fence ceases to be a dog-proof fence,

shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

45. Any person who—

Penalty for
leaving gate
open.

(a) passing through a gateway in the dog fence leaves the gate thereof open ; or

(b) opens and leaves open a gate in the dog fence,

shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

46. Any person to whom any amount is paid pursuant to section 24 who fails to apply that amount as required by or pursuant to the said section, shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

Penalty for
failing to
apply amounts
paid for
maintenance
of dog
fence.

47. The Governor may make any regulations necessary or convenient for carrying this Act into effect.

Regulations.

48. All proceedings for offences against this Act shall be disposed of summarily.

Summary
disposal of
offences.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.

THE SCHEDULE.

The whole of the counties of—

Adelaide
Albert
Alfred
Buccleuch
Buckingham
Cardwell
Carnarvon
Chandos
Daly
Eyre
Fergusson

Gawler
Grey
Hindmarsh
Light
MacDonnell
Robe
Russell
Stanley
Sturt, and
Victoria

and the whole of the hundreds of—

Apoinga
Baldina
Bright
Hallett

Kingston
Kooringa
Mongolata, and
Terowie.