

(Reprint No. 2)

SOUTH AUSTRALIA

DOG FENCE ACT 1946

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 July 1995.

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DOG FENCE ACT 1946

being

Dog Fence Act 1946 No. 34 of 1946
[Assented to 19 December 1946]¹

as amended by

Dog Fence Act Amendment Act 1949 No. 43 of 1949 [Assented to 1 December 1949]
Dog Fence Act Amendment Act 1953 No. 9 of 1953 [Assented to 8 October 1953]
Dog Fence Act Amendment Act 1959 No. 29 of 1959 [Assented to 3 December 1959]
Dog Fence Act Amendment Act 1960 No. 32 of 1960 [Assented to 3 November 1960]
Dog Fence Act Amendment Act 1961 No. 14 of 1961 [Assented to 2 November 1961]
Dog Fence Act Amendment Act 1962 No. 48 of 1962 [Assented to 15 November 1962]
Statutes Amendment (Dog Fence and Vermin) Act 1964 No. 18 of 1964 [Assented to 24 September 1964]
Dog Fence Act Amendment Act 1969 No. 43 of 1969 [Assented to 20 November 1969]
Dog Fence Act Amendment Act 1975 No. 42 of 1975 [Assented to 10 April 1975]²
Dog Fence Act Amendment Act 1978 No. 105 of 1978 [Assented to 7 December 1978]³
Dog Fence Act Amendment Act 1982 No. 99 of 1982 [Assented to 23 December 1982]⁴
Dog Fence Act Amendment Act 1984 No. 63 of 1984 [Assented to 27 September 1984]
Dog Fence Act Amendment Act 1986 No. 22 of 1986 [Assented to 20 March 1986]⁵
Dog Fence Act Amendment Act 1989 No. 63 of 1989 [Assented to 29 October 1989]⁶
Dog Fence (Miscellaneous) Amendment Act 1995 No. 2 of 1995 [Assented to 2 March 1995]⁷

- ¹ Came into operation 17 June 1947: *Gaz.* 12 June 1947, p. 1637.
- ² Came into operation 2 October 1975: *Gaz.* 2 October 1975, p. 1822.
- ³ Came into operation 15 February 1979: *Gaz.* 15 February 1979, p. 348.
- ⁴ Came into operation 3 February 1983: *Gaz.* 3 February 1983, p. 284.
- ⁵ Came into operation 3 July 1986: *Gaz.* 3 July 1986, p. 2.
- ⁶ Came into operation 1 January 1990: *Gaz.* 21 December 1989, p. 1844.
- ⁷ Came into operation 1 July 1995: *Gaz.* 25 May 1995, p. 2198.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

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 entry of wild dogs into the pastoral areas of the State, and for incidental purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Dog Fence Act 1946*.

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Interpretation

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

"board" means The Dog Fence Board constituted under this Act;

"Crown lands" means Crown lands as defined in the *Crown Lands Act 1929*;

"financial year" means the period of 12 months ending on 30 June;

"inside the dog fence" in relation to land means land that is within that portion of the State bounded by the dog fence, the eastern border of the State and the coast of the State; and "outside the dog fence" in relation to land means land that is outside that portion of the State;

"land" includes, according to the context, any interest or right under a lease or licence of Crown lands or an agreement to purchase Crown lands;

"local board" means a local dog fence board established under Part 4A;

"member" means a member of the board;

"occupier" in relation to land means a person who has, or is entitled to, possession or control of the land and includes—

- (a) where the land is alienated from the Crown by grant in fee simple, the owner of the estate in fee simple; and
- (b) where the land is held of the Crown by lease or licence, the lessee or licensee; and
- (c) where the land is held of the Crown under an agreement to purchase, the person on whom the right of purchase is conferred by the agreement;

"owner" in relation to land means—

- (a) where the land is alienated from the Crown by grant in fee simple, the owner of the estate in fee simple;
- (b) where the land is held of the Crown by lease or licence, the lessee or licensee;

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- (c) where the land is held of the Crown under an agreement to purchase, the person on whom the right of purchase is conferred by the agreement;
- (d) in any other case, the Crown;

"wild dog" means a dingo or a dog that is any cross of a dingo.

(2) For the purposes of this Act, a fence is dog-proof if, in the opinion of the board, it is so constructed and maintained as to provide an effective barrier against the movement of wild dogs.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

**PART 2
CONSTITUTION OF THE BOARD**

Constitution of board

5. (1) The *Dog Fence Board* is established.

(2) The board is a body corporate with perpetual succession and a common seal and, subject to this Act, has 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) A court or person acting judicially will take judicial notice of the seal of the board and when the seal appears on any document will presume that it was properly affixed.

Members of board

6. (1) The board is to consist of five members of whom—

(a) one (who will chair the meetings of the board) will be a person nominated by the Minister; and

(b) two (each of whom is an occupier of ratable land and at least one of whom is an occupier of ratable land adjoining the dog fence) will be appointed by the Governor on the nomination of the South Australian Farmers Federation Inc.; and

(c) one (who is an occupier of ratable land but not a Public Service employee) will be appointed by the Governor on the nomination of the Animal and Plant Control Commission; and

(d) one will be appointed by the Governor on the nomination of the Far West Dog Fence Boards Association Incorporated.

(2) Where a nominating body referred to in subsection (1) fails to make a nomination within 60 days of being requested by the Minister to make the nomination, the Minister may nominate such person as the Minister thinks fit.

(3) A person nominated by the Minister under subsection (2) may be appointed to the board by the Governor and, on appointment, will be taken to have been duly nominated and appointed in accordance with subsection (1).

(4) In this section—

"occupier of ratable land" means—

(a) an occupier of land that is ratable land under section 25; or

(b) an occupier of land in relation to which a contribution has been declared under section 27A to be payable for the current financial year,

and includes a shareholder of a company that is an occupier of land referred to in paragraph (a) or (b).

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Term of office

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

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

(3) A retiring member will hold office until his or her successor is appointed.

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

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Method of filling vacancies

10. On the office of a member of the board becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

Casual vacancies

11. (1) In addition to the retirement of a member by the expiration of his or her term of office, the office of a member is vacated on—

- (a) the death or bankruptcy of the member, or the execution by the member of a statutory deed of assignment for the benefit of his or her creditors, or his or her compounding with his or her creditors for less than 100 cents in the dollar, or the conviction of the member of any indictable offence; or
- (b) the absence of the member from three consecutive ordinary meetings of the board, without leave of the Minister; or
- (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) A body on the nomination of which a 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 or her term of office. If satisfied that the appointment should be determined, the Governor may determine the appointment of the member.

Dismissal of member

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

- (a) if in the opinion of the Governor the member is, owing to mental or physical incapacity, incapable of discharging the duties of his or her office; or
- (b) if the member has been guilty of serious misconduct which, in the opinion of the Governor, makes it undesirable that he or she should remain a member of the board.

Notification of appointment

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

Meetings and quorum of board

14. (1) Meetings of the board will 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 must be held not less than once in every three months.

(2) A quorum of the board consists of three members.

Member presiding at meetings of the board

15. (1) The member appointed to chair the board will preside at meetings of the board or, in the absence of that member, a member chosen by those present.

(2) The member presiding at a meeting will have a casting vote as well as a deliberative vote.

Appointment of officers and employees

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

(2) An employee of the board is not a Public Service employee.

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Members' remuneration

17. (1) Each member is to be paid from the funds of the board such remuneration as is from time to time fixed by the Minister.

(2) Each member is to be paid from the funds of the board travelling or other expenses necessarily incurred by him or her on the business of the board at a rate from time to time fixed by the Minister.

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**PART 3
PROVISIONS AS TO THE DOG FENCE**

Establishment of dog fence

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

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

Declaration of dog fence

19.

(2) The Governor may, by proclamation made on the recommendation of the board, declare that the site of the dog fence is the site described in the proclamation.

Construction of fence to complete dog fence

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.

(2) The occupier or, as the case may be, the owner must 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.

Replacement of parts of dog fence

21. (1) The board may carry out work, or approve the carrying out of work, for the construction of a dog-proof fence, or for the alteration of a fence to make it dog-proof, to replace an existing part of the dog fence.

(2) The board may enter into an agreement for contributions to be made to the board, or by the board, towards the cost of work carried out under subsection (1).

(3) Where—

(a) the board carries out work to replace an existing part of the dog fence with another fence that would, as part of the dog fence, be under the same ownership; and

(b) the fence to be replaced is in disrepair and, in the opinion of the board, in such a condition, or on such land, that it is not reasonably practicable to make it good as dog-proof fencing,

the board may recover the cost of the work from the owner of the existing part of the dog fence as a debt due to the board by the owner.

(4) On the recommendation of the board, the Governor may, by proclamation, declare a specified dog-proof fence to be part of the dog fence in place of an existing part of the dog fence specified in the proclamation.

Duty of owner to maintain dog fence and destroy wild dogs

22. (1) The owner of any part of the dog fence—

- (a) must at all times keep it in a dog-proof condition and properly maintained as a dog-proof fence; and
- (b) must, for the purpose of keeping it in that condition and so maintained, cause it to be inspected at intervals of not more than 14 days; and
- (c) must take all reasonable steps to destroy all wild dogs in the vicinity of the dog fence by shooting or trapping the dogs or by laying poisoned baits for them.

(2) An owner of any part of the dog fence who fails to comply with subsection (1) is, in addition to any liability that may be incurred under section 23(2), guilty of an offence.

Penalty: Division 8 fine.

Powers and duties of board as to dog fence

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

- (a) the board must ensure that the dog fence is properly maintained and that it is at all times dog-proof;

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- (b) the board must ensure that the dog fence is properly inspected;
- (c) the board must ensure 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 an owner of any part of the dog fence has failed to maintain or inspect any part of the dog fence owned by him or her or to keep the fence dog-proof or to destroy wild dogs in the vicinity of the fence, 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 of the fence, and may recover the cost of so doing from the owner as a debt due to the board by the owner.

Dog fence on Crown land

23A. (1) The board may—

- (a) for the purpose of completing or replacing a portion of the dog fence, erect a fence on any Crown land;
- (b) make dog-proof any fence on Crown land;
- (c) maintain any such fence.

(2) Without limitation of the powers conferred by this section, the board may, for the purpose of carrying out any work authorised by subsection (1), enter into any arrangement with the occupier of any land.

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Payments to owners of dog fence

24. (1) The board must, in each financial year, pay to each owner of part of the dog fence an amount (not exceeding \$225 for each kilometre of fence owned by him or her) to enable the owner to maintain and inspect that part of the fence and to destroy wild dogs in the vicinity of that part of the fence.

(1aa) For the purpose of determining the amount to be paid under subsection (1), the board may fix differential rates of payment in respect of different parts of the fence.

(1a) If any part of the dog fence is owned jointly by two or more owners, the board must pay the amount referred to in subsection (1) to such of the owners as the board is satisfied will undertake the liability of carrying out the work referred to in subsection (2), and the board may require the joint owners to enter into an agreement relating to that liability.

(1b) Subsection (1a) does not derogate from section 22 or 23.

(2) An amount paid to an owner must 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.

(2a) With the consent in writing of the board, the owner may apply any such amount or any part of it for the payment of any interest payable in respect of any capital liability incurred by the owner in respect of the fence.

(2b) A consent may be given under subsection (2a) for a period and on conditions fixed by the board.

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

(4) An amount paid to an owner under this section must be applied 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.

(5) If under this Act an amount is payable to the board by an owner, that amount must be set off against any amount payable to the owner under this section.

(5a) If satisfied that an owner will not properly carry out the duties imposed on him or her by this Act the board may refuse to pay to the owner the balance of the 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 an owner to whom an amount is paid under this section, 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 the period specified in the notice and during the financial year in which the notice is given or during the preceding financial year.

Provisions as to ownership of dog fence

24A. (1) Subject to subsection (2), where part of the dog fence stands or is erected or constructed on land comprised in a Crown lease as defined in section 147 of the *Crown Lands Act 1929*, the lessee of the land under the lease will, for the purposes of this Part, be taken to be the owner of such part of the fence on that land as is not vested in a local board.

(2) Where the dog fence divides contiguous land of adjoining owners, the owner of the land inside the dog fence will, for the purposes of this Part, be taken to be—

- (a) the owner of the land on which that part of the fence is situated; and
- (b) the owner of so much of that part of the fence as is not vested in a local board.

(3) Where a part of the dog fence adjoins the area in relation to which a local board is established, the ownership of that part of the dog fence is vested in that local board.

**PART 4
FINANCIAL PROVISIONS**

Imposition of rates on ratable land

25. (1) The board may, by notice published in the *Gazette*, declare that any holding of more than 10 square kilometres of land that is situated within an area inside the dog fence specified in the notice is ratable land and, by further notice, amend or vary that notice.

(2) With the approval of the Minister, the board may, by notice published in the *Gazette*, declare in respect of each financial year a rate on ratable land and a minimum amount payable by way of rates.

(3) The rate must be expressed as an amount per square kilometre of ratable land, not exceeding \$1 per square kilometre.

(4) Where the amount of rate payable by a person would be less than the minimum amount for the time being declared under this section, the amount payable by that person is that minimum amount.

Special rate in respect of local board areas

26. (1) The board may, by notice published in the *Gazette*, in respect of each financial year, declare a special rate on holdings of more than 100 hectares that are situated within the area in relation to which a local board is established.

(2) The special rate must be expressed as an amount per square kilometre of the land on which it is declared, not exceeding \$3 per square kilometre.

(3) The amount collected or recovered by the board in consequence of the declaration of a special rate on land within the area in relation to which a local board is established, less the cost to the board of collection and recovery of that amount, is to be paid to the local board.

Payment and recovery of rates and special rates

27. (1) The board must as soon as practicable after the declaration of a rate or special rate under this Part serve on the occupier of ratable land or on the occupier of land on which the special rate is declared, as the case may be, a notice stating the amount the occupier is liable to pay by way of rates or special rates, as the case may be.

(2) The amount of the rate or special rate imposed under this Part is due and payable on the expiration of 28 days from the day on which the notice is served under subsection (1).

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(5) Any rate or special rate imposed under this Part is, when it becomes due and payable, a debt due to the board and may be recovered in any court of competent jurisdiction.

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Contribution by councils as alternative to rating by board

27A. (1) The board may, with the approval of the Minister and after consultation with the Local Government Association of South Australia, by notice published in the *Gazette*—

(a) declare a council (other than a council whose area is comprised of or includes ratable land under section 25) to be a participating council for the purposes of this section; and

(b) before 31 December in any year, declare that a contribution for the next financial year is to be paid to the board by each participating council consisting of—

(i) in respect of the portion of the council area that is rural land—a specified percentage, not exceeding one per cent, of the general rate revenue to be derived by the council for that next financial year in respect of that rural land; and

(ii) in respect of the portion of the council area that is urban land—a specified percentage, not exceeding 0.25 per cent, of the general rate revenue to be derived by the council for that next financial year in respect of that urban land.

(2) The board may, by notice published in the *Gazette*, amend or vary a notice under subsection (1).

(3) The board must cause notice in writing of a declaration under subsection (1)(b) to be served on each council to which it applies not later than 31 December of the year in which the declaration is made.

(4) A council to which a declaration under subsection (1)(b) applies must pay the contribution specified in the declaration to the board for the credit of the Dog Fence Fund not later than 31 May in the financial year next following the making of the declaration.

(5) In this section—

"council" means a council constituted under the *Local Government Act 1934*;

"rural land" means land that is ratable land under the *Local Government Act 1934* and does not lie within a municipality or township within the meaning of that Act;

"urban land" means land that is ratable land under the *Local Government Act 1934* and lies within a municipality or township within the meaning of that Act.

Charge to be payable by occupiers of land outside dog fence

28. (1) The board may, in respect of a financial year, levy a charge on the occupier of land to which this section applies.

(2) The amount of a charge levied against an occupier under this section is to be calculated by multiplying the length of that part of the dog fence that is adjacent to his or her land (expressed in kilometres) by the prescribed rate.

(3) Subject to subsection (4), a charge under this section becomes due and payable on the expiration of 28 days from the day on which notice of the charge is served on the occupier.

(4) The board may, in such cases as it thinks fit, extend the time for payment of the charge by such period as it considers the circumstances warrant.

(5) A charge under this section is, when it becomes due and payable, a debt due to the board and may be recovered in any court of competent jurisdiction.

(6) Amounts received by the board under this section must be paid to the owners of those parts of the dog fence that are contiguous to land occupied by persons against whom the charges are levied.

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(7) Payments made under subsection (6) must be proportioned amongst the owners according to the length of dog fence that divides their land from the land occupied by the persons charged under this section, and are in addition to other payments that may be made by the board under other provisions of this Act.

(8) The board must, at the expiration of each successive period of five years after the commencement of the *Dog Fence Act Amendment Act 1984*, in consultation with the South Australian Farmers Federation Inc., review the prescribed rate and may, on the completion of the review, recommend to the Governor that the prescribed rate be increased or reduced.

(9) In this section—

"land to which this section applies" means land of one occupier (being land situated outside the dog fence) that is divided from land of another occupier by the dog fence;

"prescribed rate" means \$37.50 per kilometre or such other amount per kilometre as may be fixed by regulation on the recommendation of the board under subsection (8).

Subsidy

31. The Treasurer must, out of money to be provided by Parliament for the purpose—

(b) as soon as may be after the commencement of each financial year, pay to the board a subsidy at the rate of \$1 for every dollar of the rates and contributions by councils declared by the board for each such financial year and payable in respect of each such financial year.

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 Consolidated Account any amount considered necessary by the Treasurer at such interest and on such conditions as the Treasurer thinks fit and an amount so advanced may be set off against any future subsidy payable to the board under section 31.

Borrowing and investment powers of board

32A. (1) The board may, for the purposes of this Act, borrow money from the Treasurer or, with the consent of the Treasurer, from any other person.

(2) Liabilities incurred by the board under subsection (1) with the consent of the Treasurer are guaranteed by the Treasurer.

(3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) is to be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.

(4) Any money of the board that is not immediately required for the purposes of this Act may be invested in such manner as the Treasurer may approve.

Dog Fence Fund

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

(2) The fund will consist of—

- (a) money received by the board as rates or contributions by councils;
- (b) money paid to the board as a subsidy on rates or contributions by councils declared by the board;
- (c) any other money received by the board.

(3) The fund may, 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 must within three months after the close of each financial year, prepare and present to the Minister a statement of its receipts and payments and a report on its operations during that financial year and the report must as soon as practicable after it has been received be laid before both Houses of Parliament.

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(3) The board must, within 14 days after presenting its report and statement of receipts and payments to the Minister, publish in the *Gazette* a copy of the statement of receipts and payments.

Audit

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

(2) For each audit the board must pay to the Treasurer a reasonable fee of an amount approved by the Treasurer.

**PART 4A
LOCAL DOG FENCE BOARDS**

Local dog fence boards

35A. For the purpose of defraying the cost of erecting and maintaining part of the dog fence, or a fence that the board proposes to substitute as part of the dog fence in lieu of an existing part, the Governor may, on the recommendation of the board, by proclamation, establish in relation to such area inside the dog fence as is specified in the proclamation a local dog fence board constituted of the persons specified in the proclamation and confer and impose on the local board the powers and duties specified in the proclamation.

Borrowing and investment powers of local board

35AB. (1) A local board may, for the purposes of this Act, with the consent of the board—

- (a) borrow money from the Treasurer; or
- (b) borrow money, with the additional consent of the Treasurer, from any other person.

(2) Liabilities incurred by a local board under subsection (1) with the consent of the Treasurer are guaranteed by the Treasurer.

(3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) is to be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.

(4) Any money of a local board that is not immediately required for the purposes of this Act may be invested in such manner as the Treasurer may approve.

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Variation and abolition of local boards

35C. The Governor may, on the recommendation of the board, by proclamation—

- (a) amend or vary a proclamation made under section 35A of this Act; or
- (b) abolish a local board and make provision for incidental matters.

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**PART 5
MISCELLANEOUS**

Administrative arrangements

36. (1) The board may arrange with the Minister on such terms as are mutually agreed, for the carrying out by employees of the Government 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.

(2) Without limiting the generality of subsection (1), any such arrangements may provide that measures or proceedings for the recovery of rates under this Act may be taken on behalf of the board by employees of the Government and measures or proceedings so taken will be presumed to have been taken by the board.

Inspection of dog fence by Government employees

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.

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Effect of notice

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

Service of notice

40. A notice required by this Act to be given by the board to a person may be given by post addressed to the place of business or residence of that person.

Recovery of amounts payable to board

41. (1) Where the board is empowered to recover the cost of any work from a person under this Act, the board must first serve notice on the person of the amount of the cost and the amount becomes due and payable on the expiration of 28 days from the day on which the notice is so served.

(1a) Where an amount is due and payable by a person to the board under this Act, the following provisions apply:

- (a) the person will, if the amount is not paid to the board within 28 days after the day on which the amount became due and payable, be liable to pay, in addition, a fine of 10 per cent on the amount unpaid by the person;
- (b) any such fine may be recovered (together with the amount to which the fine relates) as a debt due to the board by action in a court of competent jurisdiction;
- (c) the amount together with any such fine is until paid—
 - (i) in the case of an amount payable for the cost of work carried out in respect of a fence—a first charge in favour of the board on the land of which that person is owner adjoining the fence or on which the fence is situated; or
 - (ii) in any other case—a first charge in favour of the board on the land in respect of which the amount is payable.

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(1b) The board may, in its discretion, on grounds of hardship or otherwise, remit the whole or any part of an amount payable to the board under this Act, or postpone payment or allow payment by instalments.

(1c) In any legal proceedings, an apparently genuine document purporting to be executed by the board and certifying as to any amount payable to the board by a person under this Act is, in the absence of proof to the contrary, to be accepted as proof of the matters so certified.

(2) If under section 23 an amount is payable to the board by a local board, that amount is to be set off against any amount payable to the local board by way of rates collected or recovered for that local board by the board under Part 6.

Penalty for failure to supply statement

42. (1) A person who fails to supply to the board a statement in writing as and when required under section 24 is guilty of an offence.

Penalty: Division 8 fine.

(2) A person who supplies such a statement to the board which is false in any material part is guilty of an offence.

Penalty: Division 7 fine.

Penalty for damaging or removing dog fence

43. (1) A person who, without lawful excuse, the burden of proof of which lies on the person, damages or does any act or makes any omission of such a nature as to be likely to cause damage to, any part of the dog fence is, whether or not he or she is the owner of that part of the fence, guilty of an offence.

Penalty: Division 7 fine.

(2) A person who, without the consent in writing of the board, the burden of proof of which lies on the person—

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

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

is, whether or not he or she is the owner of that part of the fence, guilty of an offence.

Penalty: Division 7 fine.

(3) On the conviction of a person for an offence involving the removal of or any damage to any part of the dog fence, the court may, if the convicted person is not the person responsible for the maintenance of that part of the fence, in addition to or in lieu of any penalty imposable under this section, order the convicted person to pay to the person so responsible such sum as the court thinks proper by way of compensation for the removal or damage.

Employer liable for damage done by employee

44. (1) Where an act or omission constituting an offence involving damage to or the removal of any part of the dog fence is done or made by a person in the course and scope of his or her employment, the employer of that person is liable to pay to the person responsible for the maintenance of that part of the fence such expenses as are or may be necessarily incurred in restoring that part of the fence as a dog-proof fence: But this section is not to be construed as limiting any other liability of the employer under this or any other Act or otherwise.

(2) The expenses payable under subsection (1) may be recovered in any court of competent jurisdiction.

(3) Where an act or omission referred to in subsection (1) is done or made by the driver of a vehicle, the owner of the vehicle will for the purposes of this section be taken to be the employer of the driver unless the owner proves that at the time the act was done or omission was made the driver was not in the ordinary employment of the owner nor acting within the course and scope of that employment.

Gate or ramp is part of the fence

44A. For the purposes of sections 43 and 44, any gate or ramp pertaining to the dog fence will be taken to be part of the dog fence.

Penalty for leaving gate open

45. A person who—

- (a) passing through a gateway in the dog fence leaves the gate open; or
- (b) opens and leaves open a gate in the dog fence,

is guilty of an offence.

Penalty: Division 8 fine.

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

46. A person to whom an amount is paid under section 24 who fails to apply that amount as required by or under that section, is guilty of an offence.

Penalty: Division 8 fine.

Regulations

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

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APPENDIX 1

LEGISLATIVE HISTORY

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The Public General Acts of South Australia 1837-1975 at page 487.
- Legislative history since 3 February 1976 (entries in bold type indicate amendments incorporated since the last reprint) is as follows:

Long title:	amended by 2, 1995, Sched.
Sections 2 and 3:	repealed by 2, 1995, Sched.
Section 4:	redesignated as s. 4(1) by 2, 1995, s. 3(e) definition of "board" amended by 2, 1995, Sched. definition of "chairman" repealed by 2, 1995, s. 3(a) definition of "dog-proof fence" repealed by 2, 1995, s. 3(a) definition of "financial year" amended by 2, 1995, Sched. definition of "inside the dog fence" amended by 63, 1984, s. 2 definition of "land" inserted by 2, 1995, s. 3(b) definition of "local board" amended by 2, 1995, Sched. definition of "member" amended by 2, 1995, s. 3(c) definition of "Minister" repealed by 2, 1995, Sched. definition of "occupier" substituted by 105, 1978, s. 3 definition of "owner" inserted by 2, 1995, s. 3(d) definition of "suburban land" repealed by 2, 1995, s. 3(d) definition of "town" repealed by 2, 1995, s. 3(d)
Section 4(2):	inserted by 2, 1995, s. 3(e)
Section 5(1):	substituted by 2, 1995, Sched.
Section 5(2) and (3):	amended by 2, 1995, Sched.
Section 6:	amended by 99, 1982, s. 3; substituted by 22, 1986, s. 3
Section 6(1):	substituted by 2, 1995, s. 4(a)
Section 6(2) and (3):	amended by 2, 1995, Sched.
Section 6(4):	definition of "occupier of ratable land" substituted by 2, 1995, s. 4(b)
Section 6(5):	repealed by 2, 1995, Sched.
Section 7(1) and (2):	amended by 2, 1995, Sched.
Section 7(3):	substituted by 2, 1995, Sched.
Section 7(4):	amended by 2, 1995, Sched.
Section 8:	repealed by 99, 1982, s. 4
Section 9:	repealed by 22, 1986, s. 4
Section 10:	amended by 22, 1986, s. 5; substituted by 2, 1995, Sched.
Section 11(1):	amended by 22, 1986, s. 6(a); 2, 1995, Sched.
Section 11(2):	amended by 22, 1986, s. 6(b); 2, 1995, Sched.
Sections 12 and 13:	amended by 2, 1995, Sched.
Section 14(1) and (2):	amended by 2, 1995, Sched.
Section 15:	substituted by 2, 1995, s. 5
Section 12:	amended by 22, 1986, s. 7
Section 16(1):	amended by 2, 1995, Sched.
Section 16(2):	substituted by 2, 1995, Sched.
Section 16(3):	repealed by 2, 1995, Sched.
Section 17(1):	amended by 22, 1986, s. 8; 2, 1995, Sched.
Section 17(2):	amended by 2, 1995, Sched.
Section 18(1):	amended by 2, 1995, Sched.
Section 19(1):	repealed by 2, 1995, Sched.
Section 19(2):	substituted by 2, 1995, Sched.
Section 20(2):	amended by 2, 1995, Sched.
Section 20A:	repealed by 2, 1995, s. 6
Section 21:	substituted by 2, 1995, s. 6
Section 22(1):	amended by 99, 1982, s. 5; 2, 1995, Sched.

Section 22(2):	substituted by 2, 1995, s. 7
Section 23(1) and (2):	amended by 2, 1995, Sched.
Section 23A(1):	amended by 2, 1995, s. 8, Sched.
Section 24(1):	substituted by 99, 1982, s. 6; amended by 2, 1995, Sched.
Section 24(1aa):	inserted by 99, 1982, s. 6; amended by 2, 1995, Sched.
Section 24(1a):	amended by 2, 1995, Sched.
Section 24(1b):	inserted by 2, 1995, Sched.
Section 24(2):	amended by 2, 1995, Sched.
Section 24(2a):	inserted by 2, 1995, Sched.
Section 24(2b):	inserted by 2, 1995, Sched.
Section 24(3) and (4):	amended by 2, 1995, Sched.
Section 24(5):	amended by 2, 1995, s. 9, Sched.
Section 24(5a):	inserted by 2, 1995, Sched.
Section 24(6):	amended by 2, 1995, Sched.
Section 24A:	amended and redesignated as s. 24A(1) by 63, 1984, s. 3; amended by 2, 1995, Sched.
Section 24A(2):	inserted by 63, 1984, s. 3(b); amended by 2, 1995, Sched.
Section 24A(3):	inserted by 2, 1995, s. 10
Section 25(1):	amended by 2, 1995, s. 11, Sched.
Section 25(2):	substituted by 99, 1982, s. 7(a); amended by 2, 1995, Sched.
Section 25(3):	amended by 99, 1982, s. 7(b); 2, 1995, Sched.
Section 25(4):	amended by 2, 1995, Sched.
Section 26(1):	amended by 99, 1982, s. 8(a); 2, 1995, s. 12, Sched.
Section 26(2):	amended by 99, 1982, s. 8(b); 2, 1995, Sched.
Section 26(3):	amended by 2, 1995, Sched.
Section 27:	inserted by 105, 1978, s. 4
Section 27(1) and (2):	amended by 2, 1995, Sched.
Section 27(3) and (4):	repealed by 2, 1995, s. 13(a)
Section 27(5):	amended by 2, 1995, s. 13(b), Sched.
Section 27(6):	repealed by 2, 1995, s. 13(c)
Section 27A:	inserted by 2, 1995, s. 14
Section 28:	inserted by 63, 1984, s. 4
Section 28(2), (3), (5) - (7):	amended by 2, 1995, Sched.
Section 28(8):	amended by 2, 1995, s. 15, Sched.
Section 28(9):	amended by 2, 1995, Sched.
Section 28(10):	repealed by 2, 1995, Sched.
Sections 29 and 30:	repealed by 105, 1978, s. 5
Section 31:	amended by 2, 1995, s. 16, Sched.
Section 31(a):	repealed by 2, 1995, Sched.
Section 32:	amended by 2, 1995, Sched.
Section 32A:	substituted by 22, 1986, s. 9
Section 32A(3):	amended by 2, 1995, Sched.
Section 33(1):	amended by 2, 1995, Sched.
Section 33(2):	amended by 2, 1995, s. 17, Sched.
Section 33(3):	amended by 2, 1995, Sched.
Section 34(1):	amended by 105, 1978, s. 6(a); 2, 1995, Sched.
Section 34(2):	amended by 105, 1978, s. 6(b); repealed by 2, 1995, Sched.
Section 34(3):	amended by 105, 1978, s. 6(c); 2, 1995, Sched.
Section 35(1) and (2):	amended by 2, 1995, Sched.
Section 35A:	amended by 2, 1995, Sched.
Section 35AB:	inserted by 22, 1986, s. 10
Section 35AB(3):	amended by 2, 1995, Sched.
Section 35B:	repealed by 2, 1995, Sched.
Section 35C:	amended by 2, 1995, Sched.
Section 35D:	repealed by 2, 1995, Sched.
Section 36(1) and (2):	amended by 2, 1995, Sched.
Section 38:	repealed by 2, 1995, Sched.
Sections 39 and 40:	amended by 2, 1995, Sched.
Section 41(1):	substituted by 2, 1995, s. 18
Section 41(1a) - (1c):	inserted by 2, 1995, s. 18
Section 41(2):	amended by 2, 1995, Sched.

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Section 42(1):	amended by 99, 1982, s. 9(a); 2, 1995, s. 19(a), Sched.
Section 42(2):	amended by 99, 1982, s. 9(b); 2, 1995, s. 19(b), Sched.
Section 43(1):	amended by 2, 1995, s. 20(a), Sched.
Section 43(2):	amended by 2, 1995, s. 20(b), Sched.
Section 43(3):	amended by 2, 1995, Sched.
Section 44(1) - (3):	amended by 2, 1995, Sched.
Section 44A:	amended by 2, 1995, Sched.
Section 45:	amended by 2, 1995, s. 21, Sched.
Section 46:	amended by 2, 1995, s. 22, Sched.
Section 48:	repealed by 2, 1995, Sched.

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.