

SUMMARY OF PROVISIONS

PART I

PRELIMINARY

Section

- 1 Short title.
- 2 Commencement of Act.
- 3 Arrangement of Act.
- 4 Interpretation.

PART II

CONSTITUTION OF THE BOARD

- 5 Constitution of board.
- 6 Members of the board.
- 7 Term of office.
- 8 Retirement of first members of the board.
- 9 Power of Minister in default of nomination.
- 10 Method of filling vacancies.
- 11 Casual vacancies.
- 12 Dismissal of member.
- 13 Notification of appointment.
- 14 Meetings and quorum of board.
- 15 Chairman.
- 16 Appointment of officers.
- 17 Members' remuneration.

PART III

PROVISIONS AS TO THE DOG FENCE

- 18 Establishment of dog fence.
- 19 Declaration of dog fence.
- 20 Construction of fence to complete dog fence.
- 20a Construction of fence to vary site of dog fence.
- 21 Variation of site of dog fence.
- 22 Duty of owner to maintain dog fence and destroy wild dogs.
- 23 Powers and duties of board as to dog fence.
- 23a Dog fence on Crown lands.
- 24 Payments to owners of dog fence.
- 24a When Crown lessee deemed owner of dog fence.

PART IV

FINANCIAL PROVISIONS

- 25 Imposition of rates on ratable land.
- 26 Special rate in respect of local board area.
- 27, 28 (Repealed.)
- 29 Recovery of rates.
- 30 Interest on unpaid rates.
- 31 Subsidy.
- 32 Advance to board by Treasurer.
- 32a Borrowing powers of board.
- 33 Dog Fence Fund.
- 34 Annual report
- 35 Audit.

PART IVa

LOCAL DOG FENCE BOARDS

- 35a Local dog fence boards.
- 35b Liability of certain local boards.
- 35c Variation and abolition of local boards.
- 35d Effect of proclamations.

SUMMARY OF PROVISIONS—*continued*

PART V

MISCELLANEOUS

Section	
36	Administrative arrangements.
37	Inspection of dog fence by Government employees.
38	Provision as to improvements under pastoral lease.
39	Effect of notice.
40	Service of notice.
41	Recovery of amounts payable to board.
42	Penalty for failure to supply statement and supplying false statement.
43	Penalty for damaging or removing dog fence.
44	Employer liable for damage done by employee.
44a	Gate or ramp to be deemed part of the fence.
45	Penalty for leaving gate open.
46	Penalty for failing to apply amounts paid for maintenance of dog fence.
47	Regulations.
48	Summary disposal of offences.

THE SCHEDULE (Repealed)

DOG FENCE ACT, 1946-1975

being

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

as amended by

Dog Fence Act Amendment Act, 1949, No. 43 of 1949 [Assented to 1st December, 1949];
 Dog Fence Act Amendment Act, 1953, No. 9 of 1953 [Assented to 8th October, 1953];
 Dog Fence Act Amendment Act, 1959, No. 29 of 1959 [Assented to 3rd December, 1959];
 Dog Fence Act Amendment Act, 1960, No. 32 of 1960 [Assented to 3rd November, 1960];
 Dog Fence Act Amendment Act, 1961, No. 14 of 1961 [Assented to 2nd November, 1961];
 Dog Fence Act Amendment Act, 1962, No. 48 of 1962 [Assented to 15th November, 1962];
 Statutes Amendment (Dog Fence and Vermin) Act, 1964, No. 18 of 1964 [Assented to 24th September, 1964];
 Dog Fence Act Amendment Act, 1969, No. 43 of 1969 [Assented to 20th November, 1969];

and

Dog Fence Act Amendment Act, 1975, No. 42 of 1975 [Assented to 10th April, 1975]².

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.

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, 1946-1975".

Short title.
 Citation
 amended by 42,
 1975, s. 1 (3).

2. This Act shall come into force on a day to be fixed by proclamation¹.

Commence-
 ment of Act.

3. The provisions of this Act are arranged as follows:—

Arrangement of
 Act.
 S. 3 amended by
 42, 1975, s. 3.

PART I—Preliminary.

PART II—Constitution of the Board.

PART III—Provisions as to the Dog Fence.

PART IV—Financial Provisions.

PART IVa—Local Dog Fence Boards.

PART V—Miscellaneous.

¹ Came into operation 17th June, 1947: *Gaz.* 12th June, 1947, p. 1637.

² Came into operation 2nd October, 1975: *Gaz.* 2nd October, 1975, p. 1822.

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, 1929-1944¹;
- “dog-proof fence” means a dog-proof fence within the meaning of the Vertebrate Pests Act, 1975;
- “financial year” means the period of twelve months ending on the thirtieth day of 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;
- “local board” means a local dog fence board established under Part IVa of this Act;
- “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:

Def. of “owner” struck out by 42, 1975, s. 4 (c).

* * * * *

Def. of “rabbit-proof fence” struck out by 42, 1975, s. 4 (d).

* * * * *

Def. substituted by 42, 1975, s. 4 (e).

- “suburban land” means suburban lands as defined in the Crown Lands Act, 1929-1944¹;
- “town” means a township within the meaning of the Local Government Act, 1934-1974²;

Def. of “vermin-proof fence” struck out by 42, 1975, s. 4 (f).

* * * * *

Def. substituted by 42, 1975, s. 4 (g).

- “wild dog” means a dingo or a dog that is any cross of a dingo.

PART II

PART II

CONSTITUTION OF THE BOARD

Constitution of board.

5. (1) There shall be established a board to be called “The Dog Fence Board”.

¹ Now Crown Lands Act, 1929-1975.² Now Local Government Act, 1934-1975.

(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.

(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.

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

Retirement of first members of the board.

- 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.

Method of
filling
vacancies.

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.

Casual
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—

Para. (a)
amended by 43,
1969, s. 2.

(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 one hundred cents in the dollar, 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.

Dismissal of
member.

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

(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.

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.

Meetings and quorum of board.

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

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

Chairman.

(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.

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.

Appointment of officers.

(2) A member or any officer or servant of the board shall not be subject, as such, to the Public Service Act, 1967¹.

(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.

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.

Members' remuneration.

(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

Declaration of dog fence.

¹ The reference to the Public Service Act, 1967, (now Public Service Act, 1967-1975) has been substituted for the reference to Public Service Act, 1936-1945, pursuant to s. 7 (1) (b) of the Acts Republication Act, 1967, as amended. See also Act No. 77 of 1967, ss. 5, 6.

dog-proof fences already in existence or of fences which are capable of being made dog-proof fences.

(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.

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 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.

Construction of
fence to vary
site of dog
fence.
S. 20a enacted
by 42, 1975,
s. 5.

20a. (1) Subject to subsection (2) of this section, where the board proposes that a fence be substituted as part of the dog fence in lieu of an existing part of the dog fence, the board may for that purpose construct a dog-proof fence or alter a fence in order to make it dog-proof.

(2) The board may carry out works referred to in subsection (1) of this section if arrangements for the repayment of the cost of the works to the board—

(a) by the owner of the land on which the proposed part of the dog fence is to be situated;

or

(b) where the proposed part of the dog fence is to adjoin the area in relation to which a local board is established, by that local board,

are approved by the Treasurer.

(3) Ownership of any fence constructed or altered by the board pursuant to this section shall, upon the completion of such works, vest—

(a) in the owner of the land on which the fence is situated;

or

(b) where the fence adjoins the area in relation to which a local board is established, in that local board.

Variation of site
of dog fence.
S. 21 substituted
by 18, 1964,
s. 3.

21. (1) 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 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.

(2) The board shall not make any such recommendation unless—

(a) the owner of that part of the fence that will cease to be part of the dog fence (in this section referred to as the first-mentioned owner) and the owner of the fence to be substituted therefor (in this section referred to as the second-mentioned owner) have made

satisfactory arrangements for the payment to the first-mentioned owner by the second-mentioned owner—

- (i) of a reasonable part of the expenditure incurred by the first-mentioned owner in respect of that part of the fence that will cease to be part of the dog fence; and
- (ii) of such amount (if any) as is payable in pursuance of any agreement or order of a court to the first-mentioned owner by the second-mentioned owner by way of contribution under the Fences Act, 1975, towards the cost of erecting that part of the fence that will cease to be part of the dog fence; or

Subpara. (ii) amended by 42, 1975, s. 6.

- (b) upon failure of the owners to make such arrangements, the matter has been referred to arbitration as provided by subsection (3) of this section.

(3) Where the owners fail to make the arrangements referred to in paragraph (a) of subsection (2) of this section, the Minister may at the request of the owners or any of them refer the matter to arbitration by one or more arbitrators appointed by the Minister.

(4) In any such arbitration the Arbitration Act, 1891-1934¹, shall apply and have effect as if the reference to arbitration were made pursuant to a submission as defined in that Act entered into between the first-mentioned owner and the second-mentioned owner and the determination of the arbitrator or arbitrators shall have the same effect as an award under that Act.

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

- (a) shall at all times keep it in a dog-proof condition and properly maintained as a dog-proof fence;
- (b) shall, for the purpose of keeping it in such condition and so maintained, cause it to be inspected at proper intervals; and
- (c) shall take all reasonable steps to destroy all wild dogs in the vicinity of the dog fence.

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

Subsec. (1) amended by 29, 1959, s. 3; substituted by 48, 1962, s. 3.

(2) An owner of any part of the dog fence, who fails to comply with any of the provisions of subsection (1) of this section shall, in addition to any liability that may be incurred under subsection (2) of section 23 of this Act, be guilty of an offence and liable to a penalty of not less than one hundred dollars and not more than two hundred dollars.

Subsec. (2) inserted by 29, 1959, s. 3; amended by 43, 1969, s. 3 (a), (b).

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

Powers and duties of board as to dog fence.

- I. The board shall see that the dog fence is properly maintained and that it is at all times dog-proof:

* * * * *

Para. II struck out by 42, 1975, s. 7.

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

¹ Now Arbitration Act, 1891-1974.

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.

Dog fence on
Crown lands.
S. 23a enacted
by 43, 1949,
s. 2.

23a. (1) The board may—

- (a) for the purpose of completing any portion of the dog fence, erect any fence on any Crown land;
- (b) make dog-proof any fence upon any 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 authorized by subsection (1), enter into any arrangement with the occupier of any land.

Payments to
owners of dog
fence.

Subsec. (1)
amended by 9,
1953, s. 2; 14,
1961, s. 3; 43,
1969, s. 4; 42,
1975, s. 8 (a),
(b).

24. (1) In every financial year the board shall pay to the owner of any part of the dog fence such amount per kilometre 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 forty-five dollars for every kilometre of fence.

Subsec. (1a)
inserted by 43,
1949, s. 3.

(1a) If any part of the dog fence is owned jointly by two or more owners, the board shall pay the amount aforesaid 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 for the purposes aforesaid the board may require the joint owners to enter into such agreement with respect to such liability as the board considers proper.

Nothing in this subsection shall limit any duty imposed by section 22 upon the owner of any part of the dog fence nor limit any powers of the board under section 23.

(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.

Subsec. (5)
amended by 42,
1975, s. 8(c).

(5) If pursuant to section 20, or section 20a, 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.

24a. Where any 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, 1929-1960¹, the lessee of the land under the lease shall, for the purposes of this Part, be deemed to be the owner of such part of the fence on that land as is not vested in a local board.

When Crown lessee deemed owner of dog fence.
S. 24a enacted by 48, 1962, s. 4; amended by 42, 1975, s. 9.

PART IV

PART IV

FINANCIAL PROVISIONS

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

Imposition of rates on ratable land.
S. 25 substituted by 42, 1975, s. 10.

(2) The board may, by notice published in the *Gazette*, in respect of the financial year commencing on the first day of July, 1975, and each subsequent financial year, declare a rate upon ratable land and a minimum amount of rate payable by any person.

(3) The rate shall be expressed as an amount per square kilometre of ratable land, not exceeding twenty cents per square kilometre.

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

26. (1) The board may, by notice published in the *Gazette*, in respect of the financial year commencing on the first day of July, 1975, and any subsequent financial year, declare a special rate upon separate holdings of more than sixty-five hectares that are situated within the area in relation to which a local board is established.

Special rate in respect of local board area.
S. 26 amended by 9, 1953, s. 3; 14, 1961, s. 4; 43, 1969, s. 5; substituted by 42, 1975, s. 10.

(2) The special rate shall be expressed as an amount per square kilometre of the land upon which it is declared, not exceeding one dollar and fifty cents per square kilometre.

(3) The amount collected or recovered by the board in consequence of the declaration of a special rate upon 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, shall be paid to the local board.

* * * * *

S. 27 amended by 9, 1953, s. 4(a), (b); repealed by 14, 1961, s. 5.

* * * * *

S. 28 amended by 43, 1969, s. 6; repealed by 42, 1975, s. 10.

¹ Now Crown Lands Act, 1929-1975.

Recovery of
rates.

29. (1) The said 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 this Act 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.

Para. (b)
amended by 14,
1961, s. 6; 42,
1975, s. 11(a).

(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.

Subsec. (3)
inserted by 42,
1975, s. 11(b).

(3) In this section—

“rates” includes special rates.

Interest on
unpaid rates.

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.

(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.

Subsec. (5)
inserted by 42,
1975, s. 12.

(5) In this section—

“rates” includes special rates.

Subsidy.
S. 31 substituted
by 43, 1969,
s. 7.

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

- (a) as soon as may be after the day of commencement of the Dog Fence Act Amendment Act, 1969, pay to the board a subsidy which when aggregated with the subsidy, if any, paid pursuant to this section, as in force immediately before that day, in respect of the financial year commencing on the first day of July, 1969, is equivalent to a rate of one dollar for every dollar of the rates

declared by the board for that financial year and payable in respect of that financial year;

and

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

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.

Advance to
board by
Treasurer.

32a. (1) The Treasurer may lend to the board and the board may borrow upon such terms and conditions as are agreed between the Treasurer and the board, such moneys as are necessary for the execution of any works authorized by this Act to be carried out by the board.

Borrowing
powers of
board.
S. 32a enacted
by 43, 1949,
s. 4.

(2) The Treasurer may arrange for the borrowing on behalf of the State and in accordance with the Financial Agreement of such sums of money as he requires for the purpose of making loans to the board under this section. This section without further appropriation shall be sufficient authority for lending any money so borrowed to the board.

(3) The board may out of the moneys of the board set aside such sums as it thinks proper as a sinking fund for the redemption of any moneys borrowed by the board and may invest any such sinking fund.

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

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.

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.

Annual report.

(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.

Audit.

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.

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

PART IVa
Part IVa and
Heading enacted
by 42, 1975,
s. 13.

PART IVa

LOCAL DOG FENCE BOARDS

Local dog fence
boards.
S. 35a enacted
by 42, 1975,
s. 13.

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, upon 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 upon the local board the powers and duties specified in the proclamation.

Liability of
certain local
boards.
S. 35b enacted
by 42, 1975,
s. 13.

35b. (1) Where a local board is established in relation to an area that immediately before the commencement of the Vertebrate Pests Act, 1975, was a vermin-fenced district within the meaning of the Vermin Act, 1931-1967¹, all property, rights, duties, obligations and liabilities vested at that time in the vermin board of that vermin-fenced district shall be hereby transferred to and vested in the local board.

(2) Payment of any annual instalment on a loan made to a vermin board under section 130 of the Vermin Act, 1931-1967¹, the liability for which is transferred to and vested in a local board by virtue of subsection (1) of this section, shall be a first charge on the rate imposed upon land situated within the area in relation to which the local board is established.

Variation and
abolition of
local boards.
S. 35c enacted
by 42, 1975,
s. 13.

35c. The Governor may, upon 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 in the proclamation make provision for any matters relating to such abolition.

Effect of
proclamations.
S. 35d enacted
by 42, 1975,
s. 13.

35d. A proclamation made under this Part shall have effect as if it were enacted in this Act.

¹ The Vermin Act, 1931-1967, has been repealed by the Vertebrate Pests Act, 1975.

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, 1936¹, 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.

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.

Effect 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.

Service of notice.

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.

Recovery of amounts payable to board.

(2) If pursuant to section 23 of this Act any amount is payable to the board by a local board, that amount shall 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 IVa of this Act.

Subsec. (2) substituted by 42, 1975, s. 14.

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 forty dollars.

Penalty for failure to supply statement.

Subsec. (1) amended by 43, 1969, s. 8(a).

(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 two hundred dollars.

Subsec. (2) amended by 43, 1969, s. 8(b).

¹ Now Pastoral Act, 1936-1974.

PART V

Penalty for
damaging or
removing dog
fence.

S. 43 substituted
by 32, 1960,
s. 3.

Subsec. (1)
amended by 43,
1969, s. 9(a).

Subsec. (2)
amended by 43,
1969, s. 9(b).

43. (1) A person who, without lawful excuse, the onus of proving which lies on him, 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 shall, whether or not he is the owner of that part of the fence, be guilty of an offence and liable on conviction to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months.

(2) A person who, without the consent in writing of the board, the onus of proving which lies on him—

(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 fence,

shall, whether or not he is the owner of that part of the fence, be guilty of an offence and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months.

(3) Upon the conviction of a person of any offence involving the removal of or any damage whatsoever 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.

S. 44 substituted
by 32, 1960,
s. 3.

44. (1) Where any 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 employment, the employer of that person shall be 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 shall not 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) of this section may be recovered in any court of competent jurisdiction.

(3) Where any act or omission referred to in subsection (1) of this section is done or made by the driver of a vehicle, the owner of the vehicle shall for the purposes of this section be deemed 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 thereof.

Gate or ramp to
be deemed part
of the fence.
S. 44a enacted
by 32, 1960,
s. 3.

44a. For the purposes of sections 43 and 44 of this Act, any gate or ramp pertaining to the dog fence shall be deemed to be part of the dog fence.

Penalty for
leaving gate
open.
S. 45 amended
by 43, 1969,
s. 10.

45. Any person who—

(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 two hundred dollars.

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 two hundred dollars.

Penalty for failing to apply amounts paid for maintenance of dog fence.
S. 46, amended by 43, 1969, s. 11.

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.

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Schedule repealed by 42, 1975, s. 15.