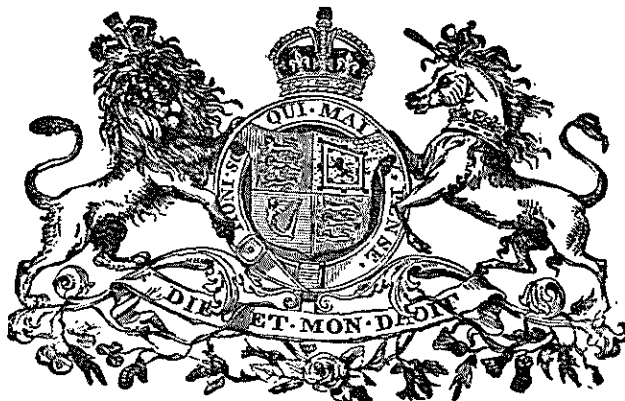


WESTERN AUSTRALIA.



ANNO NONO

EDWARDI SEPTIMI REGIS,

VI.

No. 10 of 1909.

AN ACT relating to Vermin Fencing and the Destruction of Vermin and for other purposes incidental thereto.

[Assented to 6th February, 1909.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Vermin Boards Act*, 1909. Short title.
2. In this Act, unless the context or subject matter otherwise indicates or requires,— Interpretation.
 - “Board” means the Board of a Vermin District;
 - “District” means a Vermin District constituted under this Act;
 - “Holding” means any land or collection of lands constituting and worked as one property, whether held or occupied under pastoral lease, or in fee simple, or under conditional purchase lease or otherwise, and whether under the same title or different titles, or under titles of different kinds;

“Manager” means the resident manager of a holding of which the owner does not reside in the District;

“Member” means a member of a Board of a Vermin District;

“Minister” means the Minister for the time being charged with the administration of this Act ;

“Owner” means the person for the time being entitled to possession of a holding;

“Resident” means a resident in the District;

“Vermin” means rabbits and wild dogs and any other animals which the Governor may declare to be vermin for the purposes of this Act.

PART II.—CENTRAL ADMINISTRATION.

The Minister. 3. This Act shall be administered by the Minister for Agriculture, or such other responsible Minister of the Crown as the Governor may from time to time appoint.

Officers. 4. The Governor may from time to time appoint and dismiss a Chief Inspector, inspectors, and other officers for carrying this Act into effect.

Application of funds. 5. All moneys appropriated by Parliament for the purposes of this Act shall be paid into a fund called the Central Vermin Fund, and shall be applied for the following purposes, that is to say,—

(a.) For defraying the necessary expenses of the administration of this Act;

(b.) For paying to the Board of any District any part of the amount of the cost and expenses incurred by such Board during such year in repairing or maintaining any fencing originally erected at the public expense ;

(c.) For making advances by way of loan to any Board under the provisions of this Act ;

(d.) And generally in such manner as the Minister may from time to time direct for defraying or contributing towards the cost of any measures taken for the prevention of the incursion or migration or for the destruction of vermin, or for repaying to the Board of any District any costs or expenses incurred by such Board in carrying out the provisions of this Act.

PART III.—VERMIN DISTRICTS.

Vermin districts. 6. (1.) The Governor may, by Order-in-Council,—

(a.) Constitute any road district a Vermin District for the purposes of this Act ;

- (b.) Unite two or more Districts into one District;
- (c.) Divide a District into two or more Districts;
- (d.) Alter the boundaries of a District; and
- (e.) Abolish a District.

(2.) When a District is divided into two or more Districts, or a portion is severed from one District and included in another District, and in every other case in which it may in consequence of the alteration of the boundaries of the Districts or otherwise be necessary so to do, the Governor may in like manner declare and apportion the assets and liabilities of the respective Boards between them.

(3.) In any of the cases aforesaid if the Boards affected are indebted to the Crown in respect of money advanced by way of loan, the Governor may in like manner declare and apportion the liabilities of the respective Boards in respect of such loan.

(4.) Every such Order-in-Council shall have the same effect as if it were a part of this Act, so that the rights and liabilities of the respective Boards and their respective powers, rights, and authorities in respect of their assets shall be as declared by the Order-in-Council.

PART IV.—BOARDS OF VERMIN DISTRICTS.

7. For every District there shall be a Board, which shall consist of so many members as may, from time to time, be prescribed by the Governor, and such members shall be elected or appointed as hereinafter provided. Boards.

8. Every Board shall be a body corporate under such title as the Governor shall from time to time determine, and shall have perpetual succession and a common seal, and by such name shall be capable of suing and being sued and of doing and suffering, subject to this Act, all other acts and things as bodies corporate may by law do and suffer. Board to be a corporate body.

9. (1.) Until the first election of the members of a Board the members shall be appointed by the Governor. Appointment and election of Boards.

(2.) The members of a Board appointed by the Governor under this section shall go out of office on the third Thursday in March in the year next following the constitution of the District.

(3.) The first election of members of a Board shall be held in every District on the third Thursday in the year next following

the constitution of the District, and thereafter an election shall be held annually on the third Thursday in March in every year.

Date of retirement of members.

10. Every elected member of a Board shall go out of office on the third Thursday in March in the year next following his election.

Qualification of members.

11. Every owner, part owner, or manager of a holding within the District, if such holding is rateable under this Act, shall be qualified to be elected a member of the Board.

Qualification of electors.

12. Every person being an elector under the Roads Act, 1902, in respect of land within the district shall, if such land is rateable under this Act, be qualified to vote at an election of members of the Board.

Number of votes.

13. Every person qualified to vote at an election of members of a Board shall have a number of votes according to the following scale:—

Acreage of Holding.	No of Votes.
Under 10,000 acres	One vote.
Exceeding 10,000 acres and not exceeding 100,000 acres	Two votes.
Exceeding 100,000 acres	Three votes.

Election of members.

14. (1.) The proceedings in relation to elections held under this Act, and the rules, forms, and directions incidental thereto, shall be in accordance with regulations made under this Act.

(2.) Such regulations may, *mutatis mutandis*, adopt the provisions of the Roads Act, 1902, relating to elections under that Act.

When office vacated.

15. The office of a member shall be vacated—

- (a) if he is disqualified, or ceases to be qualified under this Act; or
- (b) if he is absent from two or more consecutive ordinary meetings of the Board without leave obtained from the Board in that behalf; or
- (c) if he resigns by notice in writing addressed to the clerk of the Board.

Extraordinary vacancies.

16. (1.) Any extraordinary vacancy in a Board shall be filled by the appointment by the Board of a member in place of a member whose seat has become vacant.

(2.) The member so appointed shall hold office until the first annual election after his appointment.

17. A Board shall be deemed to be duly constituted and may transact business immediately upon its election or appointment, but a notification of an election or appointment of members shall be published in the "Government Gazette" as soon as conveniently may be after such election or appointment.

Time of constitution of Board

18. When no members, or an insufficient number of members, have been elected to a Board, the Governor may appoint a sufficient number of persons to be members of the Board in the place of the members who ought to have been elected.

Appointment of members by Governor in certain cases.

19. Every inspector appointed under this Act by the Governor shall be *ex officio* a member of every Board in addition to the elected or appointed members. But not more than one such inspector shall act at any meeting of a Board.

Inspectors *ex officio* members of Boards.

20. The Board may, from time to time, fix the place where meetings shall be held, and may adjourn any meeting to any other place.

Meetings of Board.

21. At the first meeting of every Board after its election or appointment the Board shall elect one of its members to be chairman.

Appointment of chairman.

22. (1.) The Board shall appoint a clerk to the Board.

Appointment of clerk.

(2.) Any member of the Board may perform the duties of the clerk in the absence or during a vacancy in the office of the clerk.

23. Ordinary meetings of the Board shall be held at such times, not being less than once in each quarter, as the Board shall determine.

Ordinary meetings.

24. (1.) Special meetings may be held at any time—

Special meetings.

(2.) The chairman may call a special meeting at any time, and on the request in writing of three members of the Board he shall call such meeting.

(3.) If the chairman refuses or for seven days fails to call such meeting upon such request, any three members may call such meeting by notice in writing signed by them stating the object of such meeting and the time and place of holding the same.

Fourteen days' notice of meetings.

25. The clerk shall, unless and until otherwise provided by by-law, send by post to every member of the Board fourteen days' notice of every meeting, specifying the time and place of meeting, and, in the case of a special meeting, the business to be done thereat.

Quorum.

26. (1.) At all meetings of the Board a majority of the members for the time being shall form a quorum.

(2.) The clerk, in the absence of all the members, or any member present alone, or the majority of members present at a meeting at which there shall be no quorum, may, at the expiration of half an hour from the time fixed for such meeting, adjourn the same.

(3.) Any business which could have been transacted at such meeting may be transacted at the adjourned meeting.

Who to preside, and his right to vote.

27. At every meeting of the Board the chairman, or in his absence such member as the members assembled shall elect for that purpose, shall preside, and shall have a deliberative vote, and, in case of equality of votes, a casting-vote.

Business of Board to be carried on notwithstanding vacancy.

28. Notwithstanding any vacancies in the office of member of a Board, the business of the Board shall be carried on by the member or members actually in office, who shall have all the powers of the Board.

Proceedings of Board valid notwithstanding defect of appointment, etc.

29. All proceedings of the Board, or of any person acting as a member of the Board, shall, notwithstanding any defect in the election or appointment of the members of such Board, or any of them, or of any person acting as aforesaid, or that they or any of them were incapable of being members of the Board, be as valid as if such members or member, or such person, had been duly elected or appointed, and was capable of being a member.

Minutes of meetings.

30. The Board shall cause minute books to be kept of all the meetings of the Board, and of the proceedings thereat.

Inspection of minute-books.

31. (1.) Such minute-books shall, at all reasonable times, be open to the inspection of—

(a.) A member of the Board:

(b.) A creditor of the Board:

(c.) A ratepayer of the District.

(2.) Creditors and ratepayers shall pay one shilling for each such inspection, and may take copies of a minute.

32. Every minute purporting to be such minute as aforesaid and to be so signed, or a copy of or extract from any such minute purporting to be attested by the seal of the Board, shall be received as evidence in all Courts, and before all persons, without proof that the meeting to which the same refers was duly convened or held, or that the persons attending thereat were members of the Board, or of the signature of the chairman, or of the fact of his having been such chairman, or of the affixing of the seal; but all such matters shall be presumed until the contrary is proved.

Minute-books and certified extracts therefrom evidence.

33. The Governor may suspend the powers and functions of a Board for such time as he may think proper, or may abolish a Board if it shall appear to him that such Board—

Suspension or abolition of Boards.

- (a.) Refuses or neglects to perform the duties and functions imposed and conferred upon such Board by this Act; or
- (b.) Refuses or neglects to declare or levy any rates which such Board should declare or levy; or
- (c.) Makes default in the due payment of an instalment of principal and interest due on a loan; or
- (d.) Has misappropriated or has appropriated for any purpose not contemplated by this Act any of the moneys at the disposal of the Board, or any part of the revenue of the Board.

34. When the powers and functions of a Board are suspended or the Board is abolished, the Governor may authorise the Minister to exercise all the powers, authorities, functions, and duties of the Board so suspended or abolished during the suspension of the Board, or until a new Board is appointed or elected.

Effect of abolition and suspension.

35. All property, real and personal, and all powers, authorities, immunities, rights, privileges, functions, obligations, and duties vested in or imposed on the Board by any means whatsoever shall, by force of this Act, be transferred to and vested in the Minister while the powers and functions of the Board are suspended, or upon the abolition of the Board.

Property, etc., to vest in Minister.

PART V.—POWERS OF BOARD.

(1.) *In relation to fences.*

36. (1.) The Board may—

Powers of Board.

- (a.) Erect fences or improve existing fences;
- (b.) Alter, maintain, repair, or renew fences;
- (c.) Affix wire netting or other appliances to fences;

(d.) Search for and destroy vermin and take such means as may appear to be expedient for the destruction of vermin.

(2.) The Board, for the purposes aforesaid, and its officers, servants, and agents—

(a.) May enter upon any lands within the District;

(b.) May cut timber thereon;

(c.) May clear the land on each side of any fencing erected or to be maintained by the Board; and

(d.) May do all other acts and things necessary or expedient

without being liable to any owner or occupier upon any claim or demand whatsoever in respect thereof.

Power of Board to affix wire netting, etc., to fences.

37. The Board may cause to be affixed and kept affixed to any fence within the District, whether it was erected by the Board or not, wire netting or any other appliance which the Board think desirable for the purpose of preventing the incursion or migration of vermin.

Control of Board over fences.

38. The Governor may place under the control of the Board any fence heretofore or hereafter erected at the public expense.

Contributions by owners.

39. (1.) If any fence erected by or under the control of the Board is, with the consent of the Board, made use of by the owner of any holding in fencing his holding, such owner shall become liable to pay to the Board an annual sum equal to interest at the rate of five pounds per centum per annum upon the value to such owner of the fence so made use of.

(2.) If any such fence is, with the consent of the Board, made use of by the owners of adjoining holdings as a dividing fence in fencing their holdings, each owner shall become liable to pay to the Board an annual sum equal to interest at the rate of five pounds per centum per annum on a moiety of the value to such owner of the fence so made use of.

(3.) If any fence belonging to the owner of any holding is altered, repaired, improved, or renewed by the Board, such owner shall become liable to pay to the Board an annual sum equal to interest at the rate of five pounds per centum per annum on the cost of such alteration, repair, improvement, or renewal.

Enforcement of contribution.

40. Upon any liability arising under the last preceding section, the following provisions shall apply:—

(1.) The annual sum or interest shall become a debt due to the Board from the owner and his successors in title.

- (2.) The annual sum or interest shall be payable on the same day in every year, and such day shall be fixed by the Board.
- (3.) If default is made in respect of any annual sum so payable by way of interest as aforesaid, such annual sum, together with one-tenth more by way of penalty, shall be recoverable, and payment thereof may be enforced by the Board in the same manner in which rates under this Act may be recovered, and payment thereof enforced by a Board.
- (4.) The owner of the holding may at any time pay to the Board the capital amount in respect of which the annual sum is so payable by way of interest as aforesaid, together with all such interest for the time being due or owing to the Board.

Upon such payment as aforesaid, the Board shall give to such owner a certificate stating that the annual sum so payable by way of interest as aforesaid is redeemed.

41. If any dispute shall arise between the Board and the owner of any holding as to the value of any fence, or the cost of the alteration, repair, improvement, or renewal of any fence, such dispute shall be determined by arbitration under the provisions of "The Arbitration Act, 1895."

Disputes to be determined by arbitration.

(2.) *In relation to the Destruction of Vermin.*

42. A Board may cause to be served upon the owner of any holding situated wholly or partly within the District, a notice in writing and requiring such owner to forthwith take effective measures for the destruction of vermin on such holding.

Notice requiring measures to be taken for destruction of vermin.

43. (1.) If the owner shall, for a period of thirty days after the service of such notice, neglect or fail to comply with the requirements thereof, the Board may authorise any person, with or without assistants, to enter upon the holding and take all such measures, and do all such things as to him may appear expedient, for the purpose of ensuring the destruction of vermin upon the holding.

Consequences of failure to comply with requirements of notice.

(2.) Any person so authorised may enter and remain upon the holding, with or without assistants, and may take any such measures, and do any such things during such period as may in his opinion be necessary for such purpose as aforesaid.

44. If the person so authorised is satisfied that such owner is doing all such acts, matters, and things as may be necessary for the destruction of vermin on the holding, such person may from time to time postpone entering upon the holding, or in the event of

Postponement of entry on and withdrawal therefrom.

his having entered, may withdraw therefrom upon the owner paying all costs, charges, and expenses incurred by such person up to the time of such withdrawal.

Recovery of costs, charges, and expenses.

45. Where any person so authorised has incurred any costs, charges, or expenses in taking or destroying vermin found upon the holding, the amount of such costs, charges, and expenses shall be recoverable from the owner, and payment thereof may be enforced by the Board in the same manner in which rates may be recovered, and payment thereof enforced under this Act.

Bonuses for destruction of vermin.

46. A Board may grant bonuses for the destruction of vermin within its District at such rates and subject to such conditions as may be prescribed by regulation.

PART VI.—FUNDS OF BOARDS.

(1.) *Rates.*

Funds of Boards, Rates.

47. For the purpose of creating a fund for carrying out the provisions of this Act, the Board of each District shall, in every year, make and levy a vermin rate on every holding within the district :

Provided that such rate shall not in any year exceed two shillings for every one hundred acres of a holding :

Provided also that no rate shall be made or levied on any holding of less than one hundred acres.

Notification of assessment.

48. A rate shall be deemed to have been duly made on an entry thereof being made in the minute book of the Board :

Provided that notice thereof shall be served on the owner or manager of every holding on which such rate is made and levied.

Second assessment in one year.

49. A Board may make and levy a second rate during any year : Provided that the amount of a second rate so made and levied within one year shall not, together with the first exceed two shillings for every one hundred acres.

Recovery of rates.

50. (1.) Rates shall be paid to the Board, and shall be payable forthwith after the making thereof, and may be levied and recovered by or under the authority of the Board by distress in like manner as rent under a lease is recoverable, or in a summary way before two or more Justices of the Peace.

(2.) Where any such rate is levied by distress, a warrant under the hand of the chairman of the Board shall be a sufficient warrant and authority.

Exemption from assessment in certain cases.

51. If the moneys actually raised by a rate within any District and remaining unexpended at the end of any year appear

to be sufficient for carrying out the provisions of this Act in such District for another year, the Governor may direct that the owners in the District shall be exempt from the payment of any rates under this Act for such period as he may think fit.

(2.) *Loans.*

52. The Minister may, from time to time, advance to any Board by way of loan, out of any moneys appropriated by Parliament for that purpose such sums as the Minister may think fit for carrying out the provisions of this Act. Loans to Boards.

53. All moneys so advanced to a Board, together with interest thereon, shall be repaid to the Minister as may be agreed upon at the time of granting the loan : Repayment of loans.

Provided that the Minister may permit a Board to pay off the whole or any portion of any moneys at any time before the same may become due ; and in such case the Board shall be entitled to a proportionate rebate of interest, to be adjusted by the Minister.

54. During the currency of a loan to a Board all moneys derived from rates levied by the Board in each year shall be applied for the purpose of paying the instalments payable to the Minister during that year, and the surplus only of such moneys shall be applicable for the other purposes prescribed by this Act. Application of assessments in repayment of loans.

55. If at any time the payments due by a Board to the Minister are in arrear, the Minister may forthwith take possession of any moneys and other property vested in the Board, and may make and levy rates under the provisions of this Act, and for that purpose shall have and may exercise all the powers of the Board. Minister's powers in case of default.

56. The Minister shall, from time to time, be allowed credit for any sum or sums of money advanced or paid by him to any Board in pursuance of the provisions of this Act ; and a receipt under the hand of the chairman or clerk of the Board shall be sufficient discharge of the Minister in respect of such sum or sums of money respectively. Discharge of Minister in respect of sums advanced.

(3.) *Application of Funds.*

57. All moneys received by a Board under this Act shall be paid into a fund called The Vermin Fund of the District, and shall be applied for all or any of the purposes following, that is to say— Disposal of moneys received by Board.

- (1.) For defraying the necessary expenses of the administration of this Act within the district, including the reasonable travelling expenses of the members of the Board and its officers and servants ;

- (2.) For defraying the cost of the erection, alteration, improvement, maintenance, or renewal of fences for the purpose of preventing the incursion or migration of vermin ;
- (3.) In payment of the interest on and in repayment of the principal of any loan to the Board ;
- (4.) For defraying the cost of the destruction of vermin within the District.

PART VII.—(OFFENCES AND PENALTIES.)

Continuing to act as member when disqualified.

58. If any member of a Board who is disqualified or whose office has become vacant continues to act as a member of the Board, he shall be liable to a penalty not exceeding fifty pounds.

Destruction of fences, etc.

59. Any person who in a Vermin District, without the sanction of the Board, cuts, breaks, injures, or destroys any fence to which wire netting or any other appliance for preventing the passage of vermin is affixed, or any wire netting or other such appliance affixed to a fence, shall be liable to a penalty not exceeding one hundred pounds and not less than twenty pounds.

Leaving open gates, etc.

60. Any person who in a Vermin District wilfully or negligently leaves open a gate in a fence erected for the purpose of preventing the passage of vermin, or causes any cattle or sheep to be confined, encamped, or shut in against any such fence so as necessarily to be or remain in close proximity thereto, or removes, opens, or in any way tampers with any flood-gate or other barrier, shall be liable to a penalty not exceeding one hundred pounds.

Obstruction of authorised persons.

61. Any person who obstructs, or resists, or hinders any authorised person in the prosecution of his work or in the execution of any power vested in him under or in pursuance of the provisions of this Act shall be liable to a penalty not exceeding fifty pounds.

Recovery of penalties.

62. All penalties incurred for any breach of this Act or any regulation thereunder may be recovered in a summary way before any two or more Justices of the Peace.

Proof of amount of costs, charges, or expenses.

63. In any proceedings to recover the amount of any costs, charges, or expenses recoverable by a Board, it shall be sufficient to produce the certificate of the Board signed by the chairman, and such certificate shall be *prima facie* evidence that such costs, charges, and expenses were actually and lawfully incurred by a person authorised by the Board in that behalf, and the onus of disproving the amount shall be upon the defendant.

64. The description of any holding inserted in any notice under this Act need not define the land referred to, but shall be sufficient if it make such reference to the land, either by name or boundaries or otherwise, as to allow of no reasonable doubt as to what land is referred to.

Description of
run in notice.

65. In any case where a notice is required to be served upon the owner or manager of a holding, such notice may be served upon such owner or manager either by delivering the same to him personally or to his agent, or by leaving the same at his usual or last known place of abode, or by posting the same as a letter addressed to him at his usual or last known place of abode.

Service of notice.

66. No person shall be deemed a trespasser or be liable for any damage occasioned by him by reason of the execution of any of the powers vested in him under or in pursuance of the provisions of this Act unless such damage is occasioned otherwise than in the reasonable exercise of such powers :

Indemnity to persons acting in execution of powers conferred by Act.

Provided that before any poison is laid upon any holding by any such person he shall give to the owner of such holding seven days' notice in writing stating when and where such poison is to be laid.

67. The Governor may make regulations for carrying this Act into effect, and may impose a penalty not exceeding twenty pounds for any breach thereof.

Power to make regulations.