

VERMIN.

No. 2 of 1919.

(Affected by Acts No. 26 of 1932, Sections 2 and 6, No. 76 of 1950, Sections 4 and 5, and No. 77 of 1950, Section 5.)

[As amended by Acts—

- No. 39 of 1919, assented to 17th December, 1919;
- No. 29 of 1925, assented to 16th December, 1925;
- No. 10 of 1926, assented to 7th October, 1926;
- No. 29 of 1929, assented to 23rd December, 1929;
- No. 33 of 1930,¹ assented to 24th December, 1930;
- No. 33 of 1931, assented to 28th November, 1931;
- No. 13 of 1936, assented to 3rd December, 1936;
- No. 41 of 1938, assented to 31st January, 1939;
- No. 5 of 1943, assented to 6th May, 1943;
- No. 49 of 1946, assented to 24th January, 1947;
- No. 61 of 1950, assented to 18th December, 1950;
- No. 44 of 1951, assented to 20th December, 1951;
- No. 5 of 1953, assented to 3rd November, 1953;
- No. 44 of 1954, assented to 8th December, 1954;
- No. 57 of 1956, assented to 27th December, 1956;
- No. 82 of 1956,² assented to 17th January, 1957;
- No. 15 of 1958, assented to 6th October, 1958;
- No. 8 of 1960, assented to 6th October, 1960;
- No. 61 of 1962,³ assented to 30th November, 1962;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT relating to Vermin Fencing, and the Control, Prevention and Eradication of Vermin, and for other purposes incidental thereto.

[Long title amended by No. 61 of 1950, s. 3.]

[Assented to 3rd January, 1919.]

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 Act, 1918-1962*. It is divided into parts, as follows:—

PART I.—PRELIMINARY, ss. 1-7.

PART II.—CENTRAL ADMINISTRATION, ss. 8-13.

PART III.—VERMIN DISTRICTS, s. 14.

Short title and divisions.
No. 2 of 1919, s. 1;
Amended by No. 61 of 1962, s. 1.

¹ Came into operation on 16th February, 1931. See *Gazette* of 13/2/31, p. 649.

² By section 3 of No. 82 of 1956 it is provided "This Act shall continue in operation until 30th June, 1958, and no longer."

³ Came into operation on 29th March, 1963. See *Gazette* 29/3/63.

△ Note.—The numbering of parts, sections, etc., as adopted in the 1943 reprint (in Vol. 2 of the Reprinted Acts) is retained.

PART IV.—BOARDS OF VERMIN DISTRICTS, ss. 15-52.

PART V.—FUNDS OF BOARDS, ss. 53-74.

PART VI.—FENCING, ss. 75-93.

PART VII.—DESTRUCTION OF VERMIN, ss. 94-103.

PART VIII.—MISCELLANEOUS, ss. 104-137.

Construction. S. 1A
added by
No. 61 of
1950, s. 4.

1A. This Act shall be construed in conjunction with the Agriculture Protection Board Act, 1950, as if the provisions of that Act were incorporated with and formed part of this Act, but where the provisions of this Act are in conflict or inconsistent with those of that Act, the provisions of that Act shall prevail to the extent to which they are so in conflict or inconsistent and, in this section, reference to the provisions of those Acts includes reference to the provisions of any regulation, by-law, Order in Council, proclamation, declaration and notice, made, given or promulgated under the provisions of those Acts.

Application
of Act.
No. 29 of
1925, s. 2.

2. This Act shall apply throughout the State.

Repeal.
First
Schedule.
No. 2 of
1919, s. 3.
Amended by
No. 29 of
1925, s. 3.

3. The Acts mentioned in the First Schedule to this Act are hereby repealed: Provided that—

- (a) all districts; and
- (b) all boards and all elections and appointments of members thereof; and
- (c) all proclamations, orders, by-laws, regulations, resolutions, certificates, and documents; and
- (d) all offices and appointments of officers; and
- (e) all other matters and things,

which at the commencement of this Act are in existence, force, or operation under or for the purposes of the said Acts shall, except in so far as is inconsistent with this Act, subsist and enure for the purposes of this Act, and shall continue as if this Act had been in force when they respectively originated and they had originated thereunder.

4. In this Act unless the context otherwise requires—

Interpretation.

No. 2 of 1919, s. 4, amended by No. 29 of 1925, s. 4; No. 33 of 1930, s. 2; No. 41 of 1938, s. 2; No. 5 of 1943, s. 2; No. 49 of 1946, s. 2; No. 61 of 1950, s. 5; No. 44 of 1954, s. 2; No. 61 of 1962, s. 3.

“Appointed day” means the day of the coming into operation of the Vermin Act Amendment Act, 1950;

“Board” means the board of a district;

“Chairman” means the chairman of a board, and includes the member acting as chairman for the time being, or presiding at any meeting of the board;

“Crown land” includes all land of the Crown not within the definition of holding;

“Declaration” means a declaration made by the Protection Board and published in the *Gazette*, and the verb “to declare” and inflexions and derivatives have correlative meanings;

“District” means a Vermin District;

“District of a shire” means the municipal district of a shire constituted under the Local Government Act 1960;

Inserted by No. 61 of 1962, s. 3.

“Eggs” means the eggs of any insects which are vermin within the meaning of this Act and also includes such insects while they are in the larval or other immature stage;

“Financial year” means the financial year as prescribed;

“Government fence” means the barrier fence No. 1, erected from Starvation Boat Harbour to Ninety-mile Beach, the fence No. 2, from Point Ann to a point North-West of Yalgoo, thence running East and joining fence No. 1 at Gum Creek; the fence No. 3, running West from fence No. 2, eleven miles and sixty chains North-West of Yalgoo to Bluff Point, and any other vermin fences or rabbit-proof fences erected out of public moneys;

Inserted by
No. 5 of
1943, s. 3,
amended by
No. 49 of
1946, s. 2.

“Holding” means any parcel of land as defined and identified by metes and bounds and by a number or other particulars in the certificate of title, Crown lease or other instrument of title by which the ownership of such parcel is evidenced. The term includes any parcel of land aforesaid whether held or used or occupied—

- (a) in fee simple;
- (b) under pastoral lease, conditional purchase lease or other lease granted by the Crown, or as a homestead farm;
- (c) as a public reserve;
- (d) as a timber lease or timber concession;
- (e) as land under a sawmill or other permit under the Land Act, 1898, or any amendment of that Act, or under the Forests Act, 1918;
- (f) under the Mining Act, 1904-1937,¹ as a lease or tenement for agricultural or pastoral purposes.

“Inspector” means an inspector appointed by the Governor or a board, and includes Chief Vermin Control Officer and a Vermin Control Officer;

“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;

“Minister” means the Minister for Agriculture or such other responsible Minister of the Crown as is for the time being charged with the administration of this Act;

“Occupier” means the person in actual occupation of a holding (including a manager), or if there is no person in actual occupation, the person entitled to possession thereof;

¹ Now the Mining Act, 1904-1961.

"Owner" as applied to a holding means the person in possession thereof as—

- (a) the holder of a legal or equitable estate of freehold; or
- (b) the holder of an estate legal or equitable under a lease or conditional purchase or other agreement granted or made by or with the Crown; or
- (c) the holder of a homestead farm or any other holding as hereby defined; or
- (d) a mortgagee of the land.

If there is no such person in possession the term means the person who is entitled to possession in any of the aforesaid capacities except that of mortgagee.

Receipt of the rents and profits is equivalent to possession for the purposes of this definition.

"Rabbit-proof fence" means—

- (a) a substantial fence such as is described in Part II. of the Second Schedule to this Act; or
- (b) any other substantial rabbit-proof fence approved of in writing by the Protection Board or the Chief Vermin Control Officer.

"Prescribed" means prescribed by this Act or any regulation thereunder;

"Protection Board" means the Agriculture Protection Board constituted under the provisions of the Agriculture Protection Board Act, 1950;

"Public reserve" means any land excepted from sale by the Governor under Part III. of the Land Act, 1898,¹ or any land regulation, and vested in, held by, or placed under the control of any person or body corporate or unincorporate (not being an official or agency of the Crown);

¹ Repealed by Land Act, 1933 (No. 37 of 1933, s. 4).

"to destroy" includes to control, prevent and eradicate, and inflexions and derivatives have corresponding meanings;

Substituted
by No. 61 of
1962, s. 3.

"Vermin" means any animal, bird or insect declared to be vermin, under and by virtue of section one hundred and forty of this Act;

[*Provisos to the interpretation "Vermin" repealed by No. 61 of 1962, s. 3.*]

"Vermin fence" means—

- (a) a substantial fence such as is described in Part I. of the Second Schedule to this Act; or
- (b) any other substantial vermin fence approved of in writing by the Protection Board or Chief Vermin Control Officer.

Definition of
"boundary"
and
"adjoining."
No. 2 of
1919, s. 5.

5. For the purposes of this Act—

- (a) a fence shall be taken to be on the boundary of any land, or on the common boundary of any lands, if it follows the line which is such actual, reputed, or accepted boundary, or where the boundary is inaccessible or incapable of being fenced, if the fence follows such boundary as nearly as practicable, having regard to the physical features of the country, or if in any case such fence follows any line which is reasonably approximate to such boundary; and
- (b) the intervention of a road or watercourse shall not prevent lands being taken to be adjoining, or prevent a fence along either side of any such road or watercourse being taken to be on the common boundary of the lands on either side of such road or watercourse.

6. The council of any municipality, and the trustees of any public reserve shall be deemed to be the owners of all lands vested in them or placed under their control.

Application of Act to local authorities. No. 2 of 1919, s. 6. Amended by No. 61 of 1950, s. 4.

7. The powers conferred by this Act on the Minister or by this or any other Act on the Protection Board may be exercised throughout the State, but the powers conferred on a board can only be exercised within its district.

Exercise of powers by Minister and Boards. No. 3 of 1919, s. 7, amended by No. 61 of 1950, s. 6.

PART II.—CENTRAL ADMINISTRATION.

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

The Minister. No. 2 of 1919, s. 8, amended by No. 61 of 1950, s. 7.

9. The Governor may from time to time appoint a Chief Vermin Control Officer, vermin control officers, inspectors, and other officers for carrying this Act into effect.

Officers. No. 2 of 1919, s. 9, amended by No. 61 of 1950, s. 8.

10. All moneys appropriated by Parliament for the purposes of this Act may be applied to the following purposes, that is to say—

Application of funds. No. 2 of 1919, s. 10, amended by No. 61 of 1950, s. 9.

- (a) for defraying the necessary expenses of the central administration of this Act;
- (b) for paying to the board of any district the whole or any part of the amount of the cost and expenses incurred by such board in repairing or maintaining any Government fence, or portion thereof, within its district;
- (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 Protection Board may from time to time direct for defraying or contributing towards the cost of any measures taken on Crown lands, public reserves, vacant areas adjacent to private holdings, and generally on all lands, whether held privately or otherwise, for the

prevention of the incursion or migration or for the destruction of vermin in any part of the State.

Inspectors may hold office with other offices.

No. 2 of 1919, s. 11, amended by No. 61 of 1950, s. 10.

11. Any inspector or other officer may hold his office in conjunction with any other office or employment which the Minister or the Protection Board deems not incompatible with his duties under this Act.

Certificate of appointment.

No. 2 of 1919, s. 12.

12. Every inspector and officer shall be furnished with a certificate of his appointment, and shall, if required so to do, produce such certificate to the owner or occupier of any holding he may enter.

Delegation of powers to Chief Vermin Control Officer.

S. 13 repealed and new section substituted by No. 61 of 1950, s. 11.

13. (1) The Minister or the Protection Board, as the case may be, may, in relation to any matters or class of matters, or in relation to the whole or any particular part of the State, by writing signed by him or authenticated by the Protection Board, as the case may be, delegate all or any of his or its powers and functions under this Act, or any by-law or regulation in force by virtue of this Act, except this power of delegation, so that the delegated powers or functions may be exercised by the Chief Vermin Control Officer with respect to the matters or class of matters, or the whole or that part of the State specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Minister or the Protection Board, as the case may be.

(3) Where, by any of the provisions of this Act, the exercise of any power or function by the Minister or the Protection Board, or the operation of any provisions of this Act is dependent upon the opinion, belief, satisfaction or state of mind of the Minister or the Protection Board in relation to any matter, that power or function may be exercised by the Chief Vermin Control Officer or that provision may operate, as the case may be, upon the opinion, belief, satisfaction or state of mind of the Chief Vermin Control Officer.

PART III.—VERMIN DISTRICTS.

14. (1) The Protection Board may by declaration—

Vermin districts.
No. 2 of
1919, s. 14,
amended by
No. 61 of
1950, s. 12.

- (a) constitute any defined portion of the State a Vermin District for the purposes of this Act, and specify the boundaries of any such district;
- (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 or ward;
- (e) abolish a district, and dissolve the board thereof;
- (f) assign a name to and alter the name of any district;
- (g) divide and re-divide a district into wards and define the boundaries of and assign names to wards;
- (h) abolish all or any of the wards of a district:

Provided that a district shall be or continue divided into wards only whilst it has an elected board or for the purpose of the election of a board.

(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 Protection Board 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 through the Protection Board or otherwise in respect of money advanced by way of loan, the Protection Board may in like manner declare and apportion the liabilities of the respective boards in respect of such loan.

(4) Every such declaration shall have the same effect as if it were 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 declaration.

PART IV.—BOARDS OF VERMIN DISTRICTS.

Boards.
No. 2 of
1919, s. 15,
amended by
No. 61 of
1950, s. 13.

15. (1) Subject to the provisions of section forty-seven of this Act for every district there shall be a board, which shall consist of so many members as may, from time to time, be declared, and such members shall be elected or appointed as hereinafter provided.

(2) When a district has been divided into wards the Protection Board shall, from time to time, declare the number of members for each ward.

Board to be
a corporate
body.
No. 2 of
1919, s. 16,
amended by
No. 61 of
1950, s. 14.

16. Every board shall be a body corporate under such name as the Protection Board by declaration 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 of being sued and of doing and suffering, subject to this Act, all such other acts and things as bodies corporate may by law do and suffer.

Appointed
Boards.
No. 2 of
1919, s. 17,
amended by
No. 61 of
1950, s. 15.

17. (1) The first members of a board shall be appointed by the Protection Board by declaration.

(2) The members of a board appointed by the Protection Board by declaration shall go out of office on the second Wednesday in April in the year following the year of their appointment, when an election shall be held to fill the vacancies.

Elected
boards and
periodical
retirements.
No. 2 of
1919, s. 18,
amended by
No. 61 of
1950, s. 16.

18. (1) On the second Wednesday in April in every year a certain number of the members of every elected board shall go out of office by rotation. Such number shall be determined as hereinafter provided, and an election shall be held on that day to fill every seat which shall then become vacant.

(2) If the number of members is a multiple of three, one-third of the members shall go out of office.

(3) If the numbers of members is not a multiple of three, the number to go out of office shall, subject as hereinafter provided, be determined by the board,

so that no member shall continue in office for more than three years, and that, as nearly as may be, one-third of the number of members shall retire in each year.

Provided that the retirements shall be apportioned amongst the respective representatives of the wards (if any) in proportion to their respective numbers or in accordance with the determination of the board in as nearly as may be such proportion.

(4) The members to go out of office shall (except as hereinafter provided) be the members who have been longest in office without re-election.

(5) As between two or more members who have been in office an equal time without re-election, the member who at his election received the least number of votes shall go out of office. If they received the same number of votes, or there was no ballot, it shall be determined by the board by lot or otherwise which of them shall go out of office.

(6) If the board does not by the twenty-third of March in any year make any determination, which it is hereby empowered to make, then the Protection Board may make such determination.

19. 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 appointed or elected a member of the board for the district or any ward thereof: Provided that ownership or part ownership of a holding shall not be a qualification when the manager is qualified in respect of such holding under this section.

Qualification
of members.
No. 2 of
1919, s. 19.

20. (1) Every person being, on the thirteenth day of January in any year, the owner of any holding within a district shall, during that year, if such holding is rateable under this Act, be qualified to vote, and may, if his name is entered on the electoral list, vote at an election of members of the board of such district.

Qualification
of electors
No. 2 of
1919, s. 20.

(2) When a corporate body is the owner of a holding, it may appoint any person to exercise its rights as an elector under this Act.

(3) When a district is divided into wards, every person entitled to vote—

(a) shall be so entitled for the ward only in which his qualifying holding is situated; and

(b) shall be so entitled for every ward wherein he has any qualifying holding:

Provided that where a person is the owner of a holding not situated wholly in one ward, the holding shall be deemed to be situated in such one of the wards in which it is partly situated as such person shall choose or as the chairman shall, in the absence of such choice, determine.

Number of
votes
No. 2 of
1919, s. 21,
amended by
No. 61 of
1950, s. 17.
No. 61 of
1962, s. 5.

21. Every person qualified to vote at an election for any district or ward or members of a board shall have a number of votes according to the following scale in respect of pastoral holdings:—

Acreage of Holding.	No. of Votes.
Not exceeding 10,000 acres	1
Exceeding 10,000 acres and not exceeding 100,000 acres	2
Exceeding 100,000 acres and not exceeding 500,000 acres	3
Exceeding 500,000 acres	4

and in respect of any other holding the same number of votes (calculated on the unimproved capital value) as he would have for such holding at an election of members of a council, under section eighty-two of the Local Government Act, 1960, if the holding were rateable under that Act.

Electoral list
to be kept.
No. 2 of
1919, s. 22.

22. (1) The clerk to the board of every district shall, not later than the month of February in every year, compile and keep a list of all persons qualified to vote as on the thirteenth day of January in that

year, with a statement of the number of votes to which each person is entitled. When a district is divided into wards a separate list shall be made out for each ward.

(2) The rate book of the board may be made use of for compiling and keeping such list in such manner as may be prescribed.

(3) When more persons than one are owners of a holding, such one only of them shall be entitled to be placed on the list as they may determine by agreement, or as the chairman of the board shall, in default of agreement, select.

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

Election of members.
No. 2 of 1919, s. 23.
Amended by No. 61 of 1950, s. 18.
No. 61 of 1962, s. 6.

(2) Such regulations may, subject to this Act, adopt or adapt any of the provisions of Divisions 3 and 4 of Part IV. of the Local Government Act, 1960.

(3) Division 5 of Part IV. of the Local Government Act, 1960, is incorporated with and shall apply in respect of elections under this Act, and Chapter XIV of the Criminal Code shall not apply in respect thereof.

24. The office of a member shall be vacated—

When office vacated.
No. 2 of 1919, s. 24.

(a) if he 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.

Extra-ordinary vacancies. No. 2 of 1919, s. 25.

25. (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 retire when the member in whose place he has been appointed would have retired under section eighteen.

Time of constitution of board. No. 2 of 1919, s. 26.

26. 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 *Gazette* as soon as conveniently may be after such election or appointment.

Appointment of members by Governor in certain cases. No. 2 of 1919, s. 27, amended by No. 61 of 1950, s. 19.

27. When no members, or an insufficient number of members, have been elected to a board, the Protection Board by declaration may at any time, in its discretion, appoint a sufficient number of persons to be members of the board in the place of the members who ought to have been elected, and shall fix the date of retirement of such persons, and subject thereto, the provisions of this Act relating to the retirement of members shall apply to and in respect of the members so appointed as if they had been elected as members of the board when the default or deficiency which occasioned their appointment occurred.

Meetings of board. No. 2 of 1919, s. 28.

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

Appointment of chairman. No. 2 of 1919, s. 29.

29. At the first meeting of every board after its election or appointment, and at the first meeting of every board after every annual election, the board shall elect one of its members to be chairman.

Provided that a meeting of a board for the purpose of this section shall not be duly constituted unless two-thirds at least of the members of the board are present.

30. (1) The chairman shall, subject to this Act and provided he continues a member of the board, hold office until the election of a board, or until the conclusion of the next annual election, as the case may require.

Tenure of
office by
chairman.
No. 2 of
1919, s. 30.

(2) The board at the meeting next preceding the election of a board, or an annual election, shall elect one of its continuing members to be chairman from the time when the existing chairman shall vacate his office until the first meeting of the board after such election or annual election.

31. In the absence of the chairman from the district or in case of his illness, the members present at any meeting may elect one of their number acting chairman during such absence or illness.

Absence of
chairman.
No. 2 of
1919, s. 31.

32. The chairman shall vacate his office if—

- (a) he ceases to be a member of the board; or
- (b) resigns his office by writing under his hand addressed to the board,

Vacation of
office by
chairman.
No. 2 of
1919, s. 32.

and the board shall thereupon appoint another person to be chairman in his stead.

33. (1) The board shall appoint a clerk to the board, and any such inspectors and other officers as may be necessary.

Appoint-
ment
of clerk and
inspectors.
No. 2 of
1919, s. 33.

(2) Any member of the board, may, without remuneration, perform the duties of the clerk in the absence or during a vacancy in the office of the clerk.

(3) Any member of the board may be appointed an inspector of the board, but any inspector who is a member of the board shall not receive payment for his services.

(4) Every inspector appointed by the board shall be furnished with a certificate of his appointment signed by the chairman, and shall, if required to do so, produce such certificate to the owner or occupier of any holding he may enter.

Ouster from
office,
No. 2 of
1919, s. 34.

34. (1) If the board or any ratepayer of any district desires to question the right of any person acting as a member or officer of the board to act in that capacity, or the validity of any return or appointment of any person as a member, such board or ratepayer shall apply to the magistrate of the local court held nearest to the office of the board for a rule directed to such person as respondent, and calling upon him to show cause why he should not be ousted from office:

Provided that no proceeding to question the validity of any such return or appointment (except on the ground of some personal incapacity of the respondent) shall be instituted except within three weeks of the date of the return or appointment.

(2) The magistrate, on being satisfied of the genuineness of the claim, shall grant the rule applied for, and if, upon the return thereof, the magistrate is satisfied that the respondent is not entitled to act in the capacity in which he has been acting, or that his return or appointment was invalid, he shall give judgment of ouster against him, but otherwise he shall discharge the rule.

(3) The costs of any proceedings hereunder shall be in the discretion of the magistrate.

(4) Judgment of ouster in the case of a person acting as a member shall be deemed to create an extraordinary vacancy.

Ordinary
meetings.
No. 2 of
1919, s. 35.

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

Special
meetings.
No. 2 of
1919, s. 36.

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

(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.

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

Fourteen days' notice of meetings.
No. 2 of 1919, s. 37.

38. (1) At all meetings of a board three members shall form a quorum.

Quorum.
No. 2 of 1919, s. 38.

(2) The clerk in the absence of all members, or the members present at a meeting at which there shall be no quorum, or any member present alone, 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.

39. 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.

Who to preside and his right to vote.
No. 2 of 1919, s. 39.

40. Notwithstanding any vacancy 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.

Business of board to be carried on notwithstanding vacancy.
No. 2 of 1919, s. 40.

41. 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 he were incapable of being members or a member of the board, be as valid as if such members or member, or such person, had been duly elected or appointed, and were under no incapacity.

Proceedings of board valid notwithstanding defect of appointment, etc.
No. 2 of 1919, s. 41.

Minutes of
meetings.
No. 2 of
1919, s. 42.

42. The board shall cause minutes to be kept of all the meetings of the board, and of proceedings thereat.

Inspection
of minute-
books.
No. 2 of
1919, s. 43.

43. Such minutes shall be entered in a minute book and signed by the chairman, and shall, at all reasonable times, be open to the inspection of a member of the board or any ratepayer of the district.

Minute-
books and
certified
extracts
therefrom
evidence.
No. 2 of
1919, s. 44.

44. 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.

Shire
Councils
may be
appointed
vermin
boards,
in certain
circum-
stances.
No. 2 of
1919, s. 45.
Amended by
No. 29 of
1925, s. 5;
No. 39 of
1919, s. 3;
No. 33 of
1930, s. 3;
No. 61 of
1950, s. 20.
Repealed
and Re-
enacted by
No. 61 of
1962, s. 7.

45. (1) Notwithstanding any other provisions of this Act, where the boundaries of a vermin district are coincident with, or the whole of a vermin district is included within, the boundaries of the district of a shire, the Protection Board may, by declaration, appoint the council of that shire to be the board of that vermin district.

(2) A council appointed a vermin board under this section shall exercise the powers conferred on a board by this Act, as if those powers were conferred by the Local Government Act, 1960, and the provisions of Part VII of that Act apply to the proceedings of a council when exercising those powers; but, with the exception of sections fourteen to thirty-two inclusive and sections thirty-four to forty-four inclusive, this Act applies to a council appointed a vermin board, under this section.

45A. (1) Where two or more, or portions of two or more, districts of a shire are included within the boundaries of a vermin district, the Protection Board may, notwithstanding any other provisions of this Act, by declaration, from time to time, appoint the members of the board for that vermin district from a panel of the names of persons, being persons who are members of a council of, or qualified to be members of a vermin board for, the district, submitted by the respective councils, in such numbers as the Protection Board shall determine.

Council nominees may be appointed in certain circumstances. Added by No. 61 of 1962, s. 7.

(2) Every member appointed under this section shall, subject, in the case of a member of a council, to paragraphs (b) and (c), and, in the case of any other person, to paragraphs (a), (b) and (c), of section twenty-four of this Act, hold office for three years from the date of his appointment.

(3) Every vacancy in the membership of a board established under this section shall be filled by the Protection Board appointing, by declaration, a person nominated by the council that submitted the name in respect of which the vacancy has occurred; but, in the case of an extraordinary vacancy, the person appointed shall retire when the member in whose place he is appointed would, by effluxion of time, have retired.

45B. (1) Notwithstanding any other provision of this Act, where the boundaries of any vermin district are coincident with those, or the name of any vermin district is identical with that, of the district of a shire and the boundaries of the district of the shire are altered or its name is changed, the Protection Board may, by declaration, order that the boundaries of the vermin district be altered or that its name be changed (as the case may be), correspondingly, to the intent that the boundaries of the vermin district shall continue to coincide with those, or that its name shall continue to be identical with that, of the district of the shire.

Boundaries and name of vermin districts may be altered or changed in conformity with alterations or changes in shires. Added by No. 61 of 1962, s. 7.

(2) Where the boundaries of a vermin district are altered or its name is changed under the provisions of this section, if, at the time of the alteration or

change, the council of the shire is, by virtue of a declaration made under section forty-five of this Act, the board of the vermin district, the council shall, subject to any order or direction of the Protection Board made by declaration, continue to be the board of the vermin district.

Suspension
or abolition
of boards.
No. 2 of
1919, s. 46,
amended by
No. 61 of
1950, s. 21;
No. 44 of
1951, s. 3;
No. 15 of
1958, s. 2.

46. (1) The Protection Board by declaration may suspend the powers and functions of a board for such time as the Protection Board may think proper, or may abolish a board if it shall appear to the Protection Board that such board—

- (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.

(2) (a) In order to resolve any doubt which, but for the enactment of this subsection might arise, it is hereby expressly enacted that the powers conferred by paragraph (b) and paragraph (c) of this subsection

Cf. Declara-
tion of 6th
February,
1957, pub-
lished in
Gazette of
26th July,
1957, p. 2346.

- (i) shall be deemed to have been conferred on, and to have been exercisable by, the Protection Board on and from the sixth day of February, one thousand nine hundred and fifty-seven; and
- (ii) are in addition to, and not in derogation of, any other powers conferred on the Protection Board by this Act in general or any of the powers so conferred by section fifty-one of this Act in particular.

(b) Where under section forty-five of this Act a board has been appointed for a district, if it appears to the Protection Board that for the more conveniently or for the better carrying out of the purposes of this Act the board so appointed should be abolished and replaced by a board constituted pursuant to section seventeen of this Act, the Protection Board by declaration may abolish the firstmentioned board without abolishing the district, and thereupon or as soon thereafter as is practicable a board shall be constituted pursuant to section seventeen of this Act for the district.

(c) The Protection Board by one and the same declaration

- (i) may abolish pursuant to paragraph (b) of this subsection a board appointed under section forty-five of this Act;
- (ii) may make appointments pursuant to subsection (1) of section seventeen of this Act; and
- (iii) may exercise any power conferred by section fifty-one of this Act.

47. (1) When the powers and functions of a board are suspended or the board is abolished or the district is, for any reason, without a board, the Protection Board by declaration may authorise a Commissioner nominated by the Protection Board to act as the board of the district during the suspension of the board or until a board for the district has been appointed or elected.

Minister may be authorised to act when there is no board acting.
No. 2 of 1919, s. 47, amended by No. 61 of 1950, s. 22; No. 5 of 1953, s. 2.

(2) The Commissioner may be paid such salary from the moneys of The Vermin Fund of the district as the Protection Board may determine from time to time.

Subs. (2) added by No. 5 of 1953, s. 2.

48. The Protection Board by declaration may, at any time, remove the suspension of a board and may, at any time after the abolition of a board, direct that there shall be a board for the district, and thereupon the provisions of this Part of this Act shall apply as in the case of a newly constituted district.

Removal of suspension or constitution of new board after suspension or abolition of board.
No. 2 of 1919, s. 48, amended by No. 61 of 1950, s. 23.

Powers of
Minister
acting as
board.

No. 2 of
1919, s. 46,
amended by
No. 61 of
1950, s. 24.

49. Whenever and so long as a Commissioner nominated by the Protection Board is appointed or authorised to act as the board of a district he may sue and be sued and hold property, and do and transact all matters and things under the name or style of the Vermin Board of the district concerned as if he were such board, and all property real and personal, and all powers, authorities, immunities, rights, privileges, functions, obligations, and duties vested in or imposed on the board of the district or which would be so vested in or imposed on such board if it were in existence and were not under suspension, shall by force of this Act be vested in him under the name or style aforesaid.

Appoint-
ment
of Board
in lieu of
Vermin
Board.

No. 2 of
1919, s. 50,
amended by
No. 39 of
1919, s. 4;
No. 61 of
1950, s. 25.

50. The Protection Board by declaration may, whenever it shall think fit, abolish the board of any district, and appoint a board for such district under the provisions of section forty-five, which shall apply as if the board so appointed had been originally appointed the board of the district.

Adjustment
of rights on
alterations
being made
in boards,
etc.

No. 2 of
1919, s. 51,
amended by
No. 61 of
1950, s. 26.

51. (1) The Protection Board may, on the exercise of any power conferred by sections forty-six, forty-seven, forty-eight, and fifty of this Act, or on the constitution of a board for a district or on a district being divided or re-divided into wards, or the wards or any of them being abolished, or a change being made in the number of members of a board for any district or ward, by declaration—

- (a) transfer, vest, or apportion any property, assets, or liabilities affected in such way as it may deem just;
- (b) declare and direct whether and when a new election of members shall be held for any district or ward, and whether any and which existing members shall go out of office, and at what time;

- (c) order, settle, adjust and finally determine any rights, liabilities, questions, and matters which may arise in consequence of any such power being exercised or change made as aforesaid.

(2) Every such declaration shall have effect as if it were part of this Act.

52. The board shall, within a month after the expiration of every financial year, forward to the Protection Board a statement in writing, in the prescribed form, of—

Returns to be furnished by board.
No. 2 of 1919, s. 52, amended by No. 61 of 1950, s. 27.

- (a) the rates levied by the board;
- (b) the rates collected;
- (c) the rates not collected;
- (d) the manner in which the rates and other moneys received by the board have been expended.

PART V.—FUNDS OF BOARDS.

(1)—Rates.

53. Every holding within a district shall, except as herein provided, be rateable:

Holdings rateable.
No. 2 of 1919, s. 53.

Provided that public reserves and holdings within any municipal district or townsite shall not be rateable.

54. (1) The Board shall cause a book to be kept to be called the "rate book," according to the prescribed form, and shall enter therein—

Rate book.
No. 2 of 1919, s. 54. Amended by No. 44 of 1954, s. 3.

- (a) all rateable holdings within the district, and in the appropriate column the unimproved capital value of each holding;
- (b) the name of the owner and other particulars indicated in the form.

(2) The rate book shall be completed and signed by the chairman by the prescribed time in each year, and shall at all times be open to the inspection of any ratepayer.

Board may inspect rate books of local authorities. No. 2 of 1919, s. 55, amended by No. 61 of 1950, s. 28.

55. Any person authorised by the chairman of a board, or by the Minister or the Protection Board, in writing, may, as of right, at all reasonable times inspect, free of charge, all valuations, lists, and rate books of any local authority relating to any land situate in the district, and may take copies of or extracts from them.

Access to be given. No. 2 of 1919, s. 56, amended by No. 61 of 1950, s. 29.

56. All persons having the custody of such valuations, lists, or rate books shall, at all reasonable times and without any fee or charge, afford to the board, or the Minister or the Protection Board, and all persons authorised by the chairman, or the Minister or the Protection Board, free access to the same.

Penalty: Five pounds.

Rate book may be amended. No. 2 of 1919, s. 57.

57. (1) The board may from time to time amend the rate book by inserting the particulars of any rateable property omitted therefrom, or by substituting for the name of any person erroneously inserted as the owner of any land the name of the true owner, and by correcting any error that may need rectification.

(2) Notice of the amendment shall be given to any ratepayer affected thereby, and he or any other person affected shall have the same right of appeal against the amendment as he had against the original entries in the rate book, and for the purposes of such appeal the notice given hereunder shall be deemed a notice of assessment.

Board may use previous rate book. No. 2 of 1919, s. 58.

58. The board may, instead of causing a new rate book to be made up in any year or for any rate, use the rate book of the last or any previous year, or the rate book prepared for any previous rate, with such alterations and additions as may appear necessary.

59. (1) For the purpose of creating a fund for carrying out the provisions of this Act the board of each district shall in every year (subject as hereinafter provided) make and levy a vermin rate on every rateable holding within the district.

Power to levy rates.
No. 2 of 1919, s. 59, amended by No. 39 of 1919, s. 5; No. 29 of 1925, s. 6; No. 33 of 1930, s. 4; No. 5 of 1943, s. 3; No. 49 of 1946, s. 3; No. 61 of 1950, s. 30; No. 5 of 1953, s. 3; No. 44 of 1954, s. 4.

(2) The vermin rate shall—

(a) in the case of land held under pastoral lease issued under the Land Act, 1933-1948,¹ or any earlier Act or regulations for which that Act is deemed to be substituted, be not more than nine pence and not less than three-eighths of a penny for each pound of the unimproved capital value of the holding, any amount in excess of any multiple of but less than one pound to be regarded as one pound;

Subs. (2) substituted by No. 61 of 1950, s. 30, amended by No. 5 of 1953, s. 3.

(b) in the case of any other holding, be not more than twopence and not less than $\frac{1}{4}$ d. for each pound of the unimproved capital value of the holding, any amount in excess of any multiple of but less than one pound to be regarded as one pound.

(2a) (a) Where a holding is and remains enclosed with a rabbit-proof fence, and the fence is maintained in good repair, the holding shall be rated at one-half of the amount which, but for this paragraph, would be payable.

Subs. (2a) (a), (b), (c), added by No. 61 of 1950, s. 30.

(b) No rate shall be assessed or be deemed to be imposed or payable in respect of land held on conditional purchase lease granted, before or after the commencement of the Vermin Act Amendment Act, 1950, under the Land Act, 1933-1948,¹ or any earlier Act or regulations for which that Act is deemed to be substituted, for two years from the commencement of the lease.

(c) Where two or more holdings are situated within an area of land which is completely enclosed with a rabbit-proof fence, and the holdings and the area of land are owned by one and the same person, each and every one of the holdings shall, for the purposes of this section, be deemed to be enclosed with the rabbit-proof fence, notwithstanding that the fence is not erected upon all of the boundaries of the holding.

Subs. (3)
substituted
by No. 61 of
1950, s. 30.

(3) A minimum vermin rate of two shillings and sixpence in any financial year may be made and levied under this section on rateable land, or on each of the several lots into which the land is subdivided, when the rate, if made under subsection (2) of this section, would be less than two shillings and sixpence.

(4) Every rate shall be made and levied for the current financial year; but the board may make and levy a second rate during and for the balance of any such year: Provided that the amount of a second rate so made and levied within one such year shall not, together with the first, exceed the rating limits of the board as hereinbefore defined.

Subs. (5)
added by
No. 5 of
1953, s. 3.

(5) Where the total sum which may be obtained from a district by a Board when levying a rate at the maximum amounts mentioned in paragraphs (a) and (b) of subsection (2) of this section, is not sufficient to pay the cost of vermin destruction within the district, the Protection Board, subject to the approval of the Minister, may by declaration approve of a rate being levied in excess of the maximum amounts and sufficient to pay the cost.

(6) For the purposes of this section, the unimproved capital value of land—

- (a) held under a Crown lease or of which any profit may lawfully be taken by virtue of a Crown lease, including a pastoral lease issued under the Land Act, 1933-1954,¹ is a sum equal to twenty times the amount of the annual rent reserved by the lease,

¹ Now Land Act, 1933-1962.

notwithstanding that the rent in the case of a pastoral lease has been wholly or partially reduced in any year under the provisions of section one hundred and one A of that Act, but if the Crown lease including a pastoral lease issued under the Land Act, 1933-1954,¹ is sublet at a higher rent than that reserved by the Crown lease, the unimproved capital value of the land is a sum equal to twenty times the amount of the annual rent reserved by the sublease if the sublease so reserves or a sum equal to twenty times the aggregate amount of rent payable under the sublease for the current financial year;

- (b) held or used under lease, license or concession from the Crown for cutting and removing timber or with the right of taking any other profit from the land, excluding a pastoral lease issued under the Land Act, 1933-1954,¹ or a mining lease issued under the Mining Act, 1904-1952,² is a sum equal to five shillings for every acre of the land.

(7) Nothing in this Act shall make the holder of any permit issued pursuant to section thirty-two of the Forests Act, 1918, liable to be rated for any land comprised in any such permit in excess of the area of the defined coupe current at the date of the assessment.

60. (1) Whenever any rate has been imposed by the board, the chairman shall, on a vacant page of the rate book, to be left blank for the purpose, enter a memorandum thereof, and shall sign the same, and the rate shall thereupon be deemed to have been duly made and to be due and payable.

Manner of
making rate.
No. 2 of
1919, s. 60,
amended by
No. 33 of
1930, s. 5.

Provided that no proceedings to recover or enforce payment of the same shall be taken until after the thirtieth day of September next following the making of the rate.

¹ Now Land Act, 1933-1962.

² Now Mining Act, 1904-1961.

(2) Notice of assessment in the prescribed form setting forth the making of rate and the amount thereof and any other prescribed particulars shall be served on either the owner, the occupier, or the manager of every holding on which the rate is made.

Adoption of
rating
appeal
provisions
of Local
Government
Act, 1960.
No. 2 of
1919, s. 61,
amended by
No. 61 of
1950, s. 31.
Repealed
and Re-
enacted by
No. 61 of
1962, s. 8.

61. The provisions of Division 5 of Part XXV. of the Local Government Act, 1960, apply *mutatis mutandis* to appeals against entries made in a rate book under the provisions of this Part, as though re-enacted in this Part, except that—

- (a) an appeal shall not lie on the ground that the value of a holding recorded in the rate book is not the proper value that should have been so recorded, if the value complained of is not in excess of the amount at which the holding stands valued, for the time being, (on the capital unimproved system of valuation) in the books of the Commissioner of Taxation or in the rate book of the council of the district in which the holding is situated; and
- (b) where an assessment is made on the area of a holding, an appeal shall lie on the ground that the area set out in the rate book exceeds the true area of the holding.

Recovery of
rates.
No. 2 of
1919, s. 62,
amended by
No. 61 of
1950, s. 32.

62. (1) Rates heretofore or hereafter made in a Vermin District shall be a first charge on the holding rated (after rates and taxes due to the Crown or any public or local authority), and be recoverable by the board from—

- (a) the owner at the time when the rates were imposed;
- (b) any person who, whilst the rates are unpaid, becomes the owner of the holding rated or any part thereof;
- (c) the first mortgagee of the holding, where the rates remain unpaid for a period of six months after having become due and payable,

by all or any of the following means, that is to say—

- (i) by distress in like manner as rent under a lease is recoverable;
- (ii) by summary proceedings before two or more justices of the peace;
- (iii) by action in any court of competent jurisdiction.

(2) When 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.

(3) The chairman may include in any warrant any number of persons liable to pay rates.

(4) The fees prescribed in the Fourth Schedule shall be payable on every distress. Fourth
Schedule.

(5) No unsatisfied judgment or order against any person for the recovery of rates shall be a bar to the recovery thereof from any other person liable under the provisions of this Act for the payment thereof.

(6) In any proceeding to recover, or consequent on anything done for the recovery of the amount due in respect of any rate claimed by the board, the rate book, and all entries made or purporting to be made therein, or copies thereof or extracts therefrom, purporting to be certified under the hand of the chairman, acting chairman, or clerk of the board, shall be *prima facie* evidence of the contents of such book and of the due striking of the rate.

(7) In any proceeding by or on behalf of a board for the recovery of any amount due by any person in respect of any rate claimed by the board, or by any person against the board, in consequence of anything done for the recovery of any rate claimed to be due, such person shall not be permitted to raise as a defence or rely on any failure to comply in relation to such rate with any provision of this Act, if it shall appear that the board did, in fact, consent to the making or levying of such rate, and had power to make and levy the same.

Subs. (8)
added by
No. 61 of
1950, s. 32.

(8) In this section, "first mortgagee" includes The Rural and Industries Bank of Western Australia, except in cases in which that Bank is a first mortgagee by virtue of a mortgage executed pursuant to the provisions of subsection (2) of section eighty-nine of this Act, but does not include the Protection Board or a board in cases in which the board is a first mortgagee by virtue of such a mortgage.

Subs. (9)
added by
No. 61 of
1950, s. 32.

(9) On the eleventh day of December, one thousand and nine hundred and thirty-six and thereafter during the operation of the Distress for Rent Abolition Act, 1936, which came into operation on that day, the power to distrain referred to in subsections (1), (2) and (4) of this subsection is abolished.

Apportion-
ment of
rates.
No. 2 of
1919, s. 63.

63. Rates recoverable under this Act shall, for the purposes of this section, be apportionable between successive owners in respect of time as if they accrued due from day to day, and shall also be deemed to be apportionable between owners of several portions of the holding rated in ratio to the respective values or areas (according to the basis of assessment) of such portions, and every owner or late owner of any holding whose rates or the apportioned part of whose rates have or has directly or indirectly been wholly or partly paid by any other person in accordance with this Act (whether during or after the period for which the rates were imposed) shall be liable to reimburse such person the amount so paid.

Rates to
carry
interest.
Inserted by
No. 29 of
1925, s. 7, as
s. 63A,
renumbered
s. 64 in the
1943 reprint*
and
amended by
No. 33 of
1930, s. 6.

64. When any rates shall remain unpaid for a period of twelve months after the same have become due and payable, such rates may thereafter bear interest at the rate of five pounds per centum per annum, calculated at simple interest, and such interest shall be recoverable in the same manner as rates are recoverable under the provisions of this Act; but discount not exceeding five pounds per centum for payment of current rates made on or before the thirtieth day of September next following the making of the rate may be allowed by the board.

* See footnote Δ on p. 1 of this reprint.

65. If a mortgagee of a rateable holding pays any rates accrued thereon under this Act, the amount so paid by the mortgagee shall be deemed to be part of, or added to the principal moneys advanced by him under the mortgage, and shall be recoverable as such with interest accordingly.

Payment of rates by mortgagee. No. 2 of 1919, s. 64, renumbered as s. 65 in 1943 reprint*

66. (1) Subject to this Act and without prejudice to the powers conferred thereby, all the provisions of the Local Government Act, 1960, relating to the payment and recovery of general rates shall apply to, and in respect of every rate made under this Act by the council of a shire acting as a vermin board, and shall be deemed to be incorporated with this Act.

Application of provisions of Road Districts Act to rates struck by a road board under this Act.

No. 2 of 1919, s. 65, renumbered as s. 66 in 1943 reprint* and amended by No. 61 of 1950, s. 33. No. 61 of 1962, s. 9.

(2) The council of a shire may use the same rate book or notice of assessment or other notice or document for rates made under this Act and rates made under the Local Government Act, 1960, and may include all such rates in the same proceeding.

67. 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 Protection Board by declaration may direct that the owners in the district shall be exempt from the payment of any rates under this Act for such period as it may think fit.

Exemption from assessment in certain cases.

No. 2 of 1919, s. 66, renumbered as s. 67 in 1943 reprint* and amended by No. 61 of 1950, s. 34, No. 44 of 1954, s. 5.

68. A board may, with the approval of the Protection Board, write off arrears of rates due in respect of any holding.

Power to write off arrears.

No. 2 of 1919, s. 67, renumbered as s. 68 in 1943 reprint* and amended by No. 61 of 1950, s. 35.

(2)—Loans.

69. The Protection Board 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 Protection Board may think fit for carrying out the provisions of this Act.

Loans to boards.

No. 2 of 1919, s. 68, renumbered as s. 69 in 1943 reprint* and amended by No. 61 of 1950, s. 36.

* See footnote A on p. 1 of this reprint.

Repayment
of loans.
No. 2 of
1919, s. 69,
renumbered
as s. 70 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 37.

70. All moneys so advanced to a board, together with interest thereon, shall be repaid to the Protection Board as may be agreed upon at the time of granting the loan:

Provided that the Protection Board 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 Protection Board.

Minister's
powers in
case of
default.
No. 2 of
1919, s. 70,
renumbered
as s. 71 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 38.

71. If at any time the payments due by a board to the Protection Board are in arrear, the Protection Board 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.

Discharge of
Minister in
respect of
sums
advanced.
No. 2 of
1919, s. 71,
renumbered
as s. 72 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 39.

72. The Protection Board shall, from time to time, be allowed credit for any sum or sums of money advanced or paid by the Protection Board 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 Protection Board in respect of such sum or sums of money respectively.

Overdraft.
No. 2 of
1919, s. 72,
renumbered
as s. 73 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 40.

73. A board, pending the collection of rates, may with the consent in writing of the Protection Board obtain advances from any bank by way of overdraft of the board's current account.

(3)—Application of Funds.

Disposal of
moneys
received by
board.
No. 2 of
1919, s. 73,
renumbered
as s. 74 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 41.

74. 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:—

- (1) For defraying the necessary expenses of the board in 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;
- (5) With the approval of the Protection Board, for the purpose of assisting in defraying the cost of destruction of vermin in any other district.

Subs. (5)
added by
No. 61 of
1950, s. 41.

PART VI.—FENCING.

75. (1) The Minister or the Protection Board, or a board, may—

- (a) erect vermin fences and rabbit-proof fences, and improve existing fences; and
- (b) alter, maintain, repair, or renew fences.

Powers of
Minister and
boards as to
fencing.

No. 2 of
1919, s. 74,
renumbered
as s. 75 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 42.

(2) The Minister or the Protection Board or a board, and the officers, servants, and agents of the Minister or the Protection Board or a board, for the purposes aforesaid, may—

- (a) enter upon any lands;
- (b) cut timber thereon;
- (c) clear the land on each side of any fence to be erected, altered, maintained, repaired, or renewed; and
- (d) do all other acts and things necessary or expedient,

without being liable to any owner or occupier in respect thereof:

Provided that nothing herein contained shall give power to cut down fruit-trees or trees used for purposes of shade or wind-breaks or ornament, or to remove buildings.

* See footnote A on p. 1 of this reprint.

Control of
board over
Government
fences.

No. of 2
1919, s. 75,
renumbered
as s. 76 in
1943 reprint*

76. The Governor may, at the request or with the consent of a board, for such time in such manner as he may deem fit, place under the control of the board any Government fence or portion thereof within the district of the board, and in such case, for the purposes of this Part of this Act, the fence shall be deemed to have been erected and shall be maintained by the board.

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

No. 2 of
1919, s. 76,
renumbered
as s. 77 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 43.

77. The Protection Board or a board may cause to be fixed and kept affixed to any fence, whether erected as a Government fence or by the board or not, wire netting or any other appliance which the Protection Board or the board may think fit for the purpose of preventing the incursion or migration of vermin, at the sole cost of the Protection Board or board.

Public fence
not to be
used without
consent.

No. 2 of
1919, s. 77,
renumbered
as s. 78 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 44.

78. It shall be unlawful for any person to use or make use of any Government fence or any fence erected by or under the control of a board without first obtaining the consent in writing of the Protection Board or the board controlling the same.

Contributions
by
owners.

No. 2 of
1919, s. 78,
renumbered
as s. 79 in
1943 reprint*
and
amended by
No. 39 of
1919, s. 6;
No. 61 of
1950, s. 45.

79. (1) If any Government fence or any fence erected by or under the control of a board is, with the consent of the Protection Board or the board, as the case may be, made use of by the owner of any holding in fencing his holding, such owner shall become liable to pay to the Protection Board or the board, as the case may be, an annual sum equal to interest at the prescribed rate on the value to such owner of the fence so made use of.

(2) If any such fence is, with the consent of the Protection Board or 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 Protection Board or the board, as the case may be, an annual sum equal to interest at the prescribed rate per annum on a moiety of the value to such owner of the fence so made use of.

* See footnote Δ on p. 1 of this reprint.

(3) If any fence belonging to the owner of any holding is, after not less than seven days' notice to the owner, altered, repaired, improved, or renewed by the Protection Board or a board, such owner shall become liable to pay to the Protection Board or the board an annual sum equal to interest at the prescribed rate per annum on the cost of such alteration, repair, improvement, or renewal; but if any such fence is, with the consent of the Protection Board or the board, made use of by the owners of adjoining holdings as a dividing fence in fencing their holdings, each owner shall be liable to pay to the Protection Board or the board an annual sum equal to interest at the prescribed rate per annum on a moiety of the cost of such alteration, repair, improvement, or renewal.

(4) For the purposes of this section an owner shall be deemed to so make use of a fence as aforesaid if he receives the benefit thereof, or of any part thereof as a protection to his holding or any part thereof against vermin, or in the prevention of the straying of stock on to or from his holding.

Amended by
No. 39 of
1919, s. 6.

(5) The provisions of this and the next following section shall, in respect of any fence erected by or under the control of a board, extend and apply to the owner of a holding notwithstanding that such holding may be wholly or partly outside the boundaries of the district of the board if such owner shall have made use of the fence in making his holding vermin or rabbit proof.

(6) For the purposes of this and the next following section, an adjoining district, or any part thereof, shall be deemed a holding, and the board of such district shall be deemed the owner thereof.

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

- (1) The annual sum payable shall become a debt due to the Protection Board or the board, as the case may be, from the owner and his successors in title.

Enforcement
of con-
tribution.
No. 2 of
1919, s. 79,
renumbered
as s. 80 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 46.

* See footnote A on p. 1 of this reprint.

- (2) Such annual sum shall be payable on the same day in every year, and such day shall be fixed by the Protection Board or the board, as the case may be.
- (3) If default is made in respect of any annual sum so payable as aforesaid, such annual sum shall be recoverable, and payment thereof may be enforced by the Protection Board or 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 Protection Board or the board the capital amount in respect of which the annual sum is so payable as aforesaid, and upon such payment the Protection Board or the board shall give to such owner a certificate stating that the annual sum so payable by way of interest as aforesaid is redeemed.

Contribution to vermin and rabbit-proof fences by adjoining owners.
No. 2 of 1919, s. 80, renumbered as s. 81 in 1943 reprint.*

81. (1) Where a boundary, or any part thereof, of any holding has been fenced with a vermin fence or rabbit-proof fence, or a fence on such boundary or part thereof has been made vermin proof or rabbit proof at the expense of the owner or occupier of such holding, a contribution towards the cost of the work shall, subject as hereinafter provided, be payable by the owner and occupier of any land outside such holding and adjoining the vermin fence or rabbit-proof fence to the owner or occupier who has incurred such expense.

(2) The right to receive such contribution shall vest, and the liability to pay the same shall arise, when the prescribed notice of demand is given: Provided that in the case of unfenced land adjoining such vermin fence or rabbit-proof fence then such right shall not vest nor liability arise until such time as any fence thereon is erected to connect with or adjoin such vermin fence or rabbit-proof fence, and until such notice as aforesaid be given.

* See footnote A on p. 1 of this reprint.

(3) The amount payable by way of contribution shall be a charge upon the land in respect of which such contribution is payable.

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

Provision as to contributions.

- (a) A contribution shall be payable only in respect of so much of the fence as is on the common boundary.
- (b) The amount of the contribution shall be assessed according to the benefit derived and to be derived from the fence, and shall not exceed half the value of the fence, or in the case of a fence which does not belong or does not wholly belong to the person who makes the same vermin proof or rabbit proof shall not exceed half the value of the work of making such fence vermin proof or rabbit proof.
- (c) Such value shall be the value at the date when the notice of demand was given, but such value shall not exceed the actual cost of the fence or of making the fence vermin proof or rabbit proof, as the case may be.
- (d) The amount of contribution may be apportioned in accordance with the regulations between the occupier and the owner of the adjoining holding.
- (e) It shall be immaterial whether the fence was erected or made vermin proof or rabbit proof before or after the commencement of this Act.

82. (1) In any case where a contribution towards the cost of a vermin or rabbit-proof fence is payable, the person having the right to receive such contribution, and the person liable to pay such contribution, may agree, in writing, for the maintenance and repair of such fence on such terms and conditions as they think fit; and such agreement, on being registered in the prescribed manner, shall run with

Adjoining holdings to contribute to cost of maintenance.
No. 2 of 1919, s. 81, renumbered as s. 82 in 1943 reprint* and amended by No. 61 of 1950, s. 47.

* See footnote A on p. 1 of this reprint.

each holding, and be binding on all future owners and occupiers thereof, or of any part thereof, for the time being, according to its tenor.

(2) If such agreement is not made, or if made is not, in the opinion of the board, duly observed and performed, or does not adequately provide for the maintenance and repair of the fence, the board may, at any time and from time to time, authorise any person for the time being interested in either holding or any part thereof as owner or occupier to repair and maintain the fence or any part thereof during such time as the board may think fit, and may apportion the expense of and incidental to such maintenance and repair between the persons so interested as aforesaid, or any of them, in such manner as shall appear to the board to be just, and shall not be in conflict with the terms of the agreement (if any).

(3) Where the whole of the land comprised in the holdings affected is not in a district, or the same district, the functions by this section vested in the board may be discharged by the Protection Board.

83. Whenever a vermin fence or rabbit-proof fence is erected or about to be erected, or a fence is made or is about to be made vermin proof or rabbit proof, between the holdings of adjoining owners, the owner or occupier of the land fenced or intended to be fenced shall at all times have the right to enter upon the land of an adjoining owner or occupier for the purpose of erecting, maintaining, repairing, and renewing such fence.

84. Any dispute between the Minister or the Protection Board or a board and the owner of any holding, or between the board and another board, or between a board and the Minister, or the Protection Board, or between the owners or occupiers of adjoining or adjacent holdings, as to the value of any fence, or the cost of the construction, alteration, repair, improvement or renewal of any fence, or as to the obligation to contribute to such cost, or the amount of such contribution, shall be determined by arbitration under the provisions of the Arbitration Act, 1895.

Right of entry to erect, maintain, repair or renew fence. Inserted by No. 10 of 1926, s. 3, as s. 81A, renumbered s. 83 in 1943 reprint.*

Disputes to be determined by arbitration. No. 2 of 1919, s. 82, renumbered as s. 84 in 1943 reprint* and amended by No. 61 of 1950, s. 48.

* See footnote A on p. 1 of this reprint

85. (1) The owners and occupiers of adjoining or adjacent holdings may agree to enclose such holdings as a whole with a vermin fence or rabbit-proof fence as a ring fence.

Ring fences.
No. 2 of
1919, s. 83,
renumbered
as s. 85 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 49.

(2) It shall not be necessary that each such holding shall adjoin each other such property in order to make this section applicable.

(3) Such a ring fence may be constructed by the erection of new fencing or by using or improving and adapting any existing fencing, or partly in one way and partly in another way.

(4) Every such agreement shall be in writing, and shall provide for the equitable apportionment as between the parties of—

- (a) the cost of the ring fence;
- (b) the obligation to keep the ring fence in repair and to maintain the same;
- (c) the liability for the cost and interest payable to the Minister or the Protection Board or the board, as the case may be, for wire netting and appliances (if any) supplied; and
- (d) any contributions made by any adjoining owner or occupier outside the fence in respect of any portion thereof;

and it shall provide for the effect of such agreement as regards succeeding owners and occupiers of land within the ring fence, and for such other matters (if any) as may be prescribed, or as may be mutually agreed between the parties.

(5) Every such agreement shall be legally binding according to its tenor on such succeeding owners and occupiers as aforesaid.

(6) A copy of every such agreement shall be lodged at the Department of Agriculture in Perth, and an index shall be kept of all agreements so lodged, and the index and every such agreement shall be open to inspection.

* See footnote A on p. 1 of this reprint.

Contribution by adjoining land-owners and occupiers. No. 2 of 1919, s. 84, renumbered as s. 86 in 1943 reprint.*

86. For the purpose of claiming contribution under section eighty-one from any owner or occupier of land adjoining any portion of a ring fence, the person liable to maintain such portion under the said agreement shall be deemed to have erected such portion at his own expense, without prejudice, however, to any apportionment provided for in the said agreement.

Power to require water supplies to be fenced in vermin-infested districts. No. 2 of 1919, s. 85, renumbered as s. 87 in 1943 reprint* and amended by No. 61 of 1950, s. 50; No. 44 of 1951, s. 4; No. 44 of 1954, s. 6.

87. (1) The Protection Board by declaration may, for the purposes of this section, declare that any area therein defined is vermin-infested, and that all owners of holdings therein are required, within a time specified, to enclose with rabbit-proof fencing or other approved appliance, in the prescribed manner, all water supplies on their holdings:

Provided that, if it is proved to the satisfaction of the Protection Board or a board that any holding or group of holdings is or are enclosed with a rabbit-proof fence or other approved appliance the Protection Board or the board may, by a certificate in writing, exempt such holding or group of holdings from the operation of this section:

Provided also that the provisions for compulsory fencing of water supplies shall not be enforced until and unless the holders have been notified that the Government or the Protection Board or a board is prepared to supply wire-netting.

Penalty for failing to fence or to repair fencing.

(2) If any owner makes default in compliance with the terms of such declaration, or fails to repair and keep in thorough repair any such fencing or other approved appliance, then he shall be liable to a penalty not exceeding two pounds for every day during which the default or want of reparation continues.

Minister may fence or repair fencing on owner's default.

(3) If any such default is made or want of reparation exists, the Protection Board or a board may, after not less than seven days' notice thereof to the owner, cause the fencing or other approved appliance to be erected or repaired and any person acting with the authority of the Protection Board or the board may enter on the holding and erect or repair

* See footnote A on p. 1 of this reprint.

such fencing or other approved appliance and cut, remove, and use any timber required, subject to the proviso in section seventy-five hereof.

(4) Any expense incurred by the Protection Board or a board hereunder may be recovered by the Protection Board or the board from the owner of the holding by action in any court of competent jurisdiction, and shall be a charge on the land.

Recovery of expenses.

(5) Where the owner of the land is not the occupier, and such owner makes default in complying with the requirements of any declaration to enclose all water supplies as aforesaid, then the occupier may comply with such requirements and the cost of the work shall be a debt due by the owner to the occupier and be recoverable by action as aforesaid, and shall be a charge on the land subject to section one hundred and six hereof, but the preceding obligations of the owner, as to repairing and keeping in thorough repair the said fencing (including the liability to penalties) shall attach to the owner and occupier, who shall be jointly and severally liable in respect thereof.

Occupier liable as well as owner.

(6) Every occupier shall permit the owner, and any person acting with his authority, to enter on the land to comply with the terms of any such declaration as aforesaid, or to make any necessary repairs in the fencing or other approved appliance, and to cut, remove, and use any timber required, subject to the proviso in section seventy-five hereof.

Occupier to permit owner to enter and fence, etc.

(7) As between the owner and occupier the following covenants shall (subject to any agreement to the contrary) be implied in any existing or future lease or agreement to let the land, that is to say—

Respective rights of owner and occupier.

- (a) The owner shall indemnify the occupier against the capital cost of the fencing or other approved appliance.
- (b) The occupier shall during his occupancy pay the owner interest on such cost at the prescribed rate per annum, and such interest shall be recoverable by action or by distress as arrears of rent are recoverable.

- (c) The occupier shall, during his occupancy, repair the fencing or other approved appliance, and keep the same in thorough repair.

Obligations
to run with
land.

(8) All obligations arising under this section, and all rights and obligations thereunder, as between owner and occupier, shall be deemed to run with the land and be binding on or enure for the benefit of succeeding owners and occupiers accordingly.

Definition of
water
supply.

(9) For the purposes of this section "water supply" means any well, dam, or reservoir.

Application
to
Government
Railways.

(10) The Western Australian Government Railways Commission shall, for the purpose of this section, be deemed the owner of the land on which a Government railway is constructed, or which is held or used in connection therewith.

Application
to Midland
Railway.

(11) This section shall apply to the lands of the Midland Railway Company of Western Australia, Limited, on which its railway is constructed, and which are used in connection with the railway.

Maintenance
of certain
fences
erected by
Crown.
No. 2 of
1919, s. 86,
renumbered
as s. 88 in
1943 reprint*
and
amended by
No. 61 of
1950, s. 51.
No. 61 of
1962, s. 10.

88. (1) Any rabbit-proof fence which has heretofore been or shall hereafter be erected on behalf of the Crown round any well, dam, or reservoir shall be repaired and kept in good repair by and at the expense of the board of the district in which the well, dam, or reservoir is situated, or in case the well, dam, or reservoir is not within any district, at the expense of the council of the shire in which the well, dam, or reservoir is situated, and every such board shall have authority to apply its revenue for such purpose.

(2) If any board shall make default in the performance of its obligation under this section, the work may be undertaken by the Protection Board, and the cost shall be recoverable by the Protection Board from the board.

* See footnote Δ on p. 1 of this reprint.

89. (1) Any owner or occupier of a holding desirous of enclosing his holding with a vermin fence or a rabbit-proof fence, and any owners or occupiers who are desirous of enclosing their respective holdings with a vermin fence or rabbit-proof fence as a ring fence and have entered into an agreement under section eighty-five, may apply, in the prescribed manner, to the Protection Board or a board for wire netting and other appliances. On such application being made, the Protection Board or the board may provide such wire netting and other appliances, and defray the cost thereof out of moneys provided by Parliament for the purpose or the funds of the board or of the Protection Board, as the case may be.

Supply of wire netting by Minister or board.
No. 2 of 1919, s. 87, renumbered as s. 89 in 1943 reprint*: amended by No. 29 of 1925 s. 8; No. 61 of 1950, s. 52.

(2) Before any wire netting or other appliances are supplied, the applicant or applicants shall execute a mortgage of his or their holdings to The Rural and Industries Bank of Western Australia, which Bank for the purposes of the section shall in such case be deemed to be the mortgagee, or to the Protection Board or to the board, to secure the repayment of the cost with interest at the prescribed rate, by annual instalments, extending over a period not exceeding twenty years. Such mortgage shall without prejudice to the provisions of subsection (8) of section sixty-two of this Act be a first charge upon the land, in priority to every other then existing or future charge and incumbrance affecting the same, except rates and taxes: Provided that existing mortgagees (if any) shall have consented in writing to the application. Every covenant and agreement in the mortgage shall run with the land, and shall be observed and performed by and may be enforced against the applicant's successors in title.

Applicant to secure repayment of cost by mortgage.

Amended by No. 29 of 1925, s. 8; No. 61 of 1950, s. 52.

(3) The fence shall at all times be repaired, maintained, and kept vermin-proof or rabbit-proof (as the case may be) by the occupier for the time being of the holding on which the fence is erected.

Duty to repair and maintain fence.

Any occupier who fails to fully and continuously perform such duty when required to do so by an

* See footnote \ on p. 1 of this reprint.

inspector under this Act commits an offence against this Act, and is liable to a penalty not exceeding ten shillings per day.

Minister
may enter
and repair.

(4) The Protection Board or the board, as the case may be, may cause the fence to be repaired, and any person acting with the authority of the Protection Board or the board may enter on the land for that purpose and cut and remove any timber required.

Any expense incurred by the Protection Board or the board under this section shall be a charge upon the land, and may be recovered in any court of competent jurisdiction from any person who was liable to repair the fence.

Proceedings
in case of
default by
mortgagor.

(5) In default of punctual payment of any instalment of principal or interest within the time provided in the mortgage; or if on the report of an inspector, or otherwise, the Protection Board or the board, as the case may be, is of opinion that the wire netting or appliances are not properly applied and maintained for the purposes of this Act, or that the fence is not kept in repair, or that any covenant in the mortgage or any regulation under this Act relating thereto has not been observed or performed, the Rural and Industries Bank of Western Australia as mortgagee, or the Protection Board or the board may require the immediate payment of the principal and interest secured by the mortgage and then remaining unpaid, and may exercise the powers conferred by the mortgage for the recovery of the same.

Owner may
be required
to join the
mortgage on
application
by occupier.

(6) When the applicant is the occupier but not the owner of the land, he shall give notice of the application to the owner, who may show cause to the Protection Board or the Board (as the case may be) against the application.

If the Protection Board or the board is of opinion that the owner should join in the mortgage, he may be directed to do so, and in case of the neglect or refusal by the owner to execute the mortgage, the Protection Board or the board with the approval of the Protection Board may enter a caveat in the prescribed form against the land of the owner, and such caveat shall have the same effect as if the mortgage had been executed by the owner.

As between any occupier and owner for the time being, the annual instalments shall be payable by the occupier while his interest in the land continues, and if the owner is required to pay any moneys or perform any obligation under the mortgage which should have been paid or performed by the occupier, the owner may recover the moneys or the cost of performing the obligation by action against the occupier, or by distress, as arrears of rent may be recovered by law.

90. Where contribution towards the cost of a fence is payable by an adjoining owner or occupier, and the owner or occupier entitled to receive payment of contribution is a mortgagor to the Protection Board or the board in respect of the wire netting or appliances, the contributions shall be payable by such adjoining owner or occupier to, and may be claimed and recovered by the Protection Board or the board and applied in reduction of the debt due under the mortgage.

Contributions by adjoining owner where advance obtained.
No. 2 of 1919, s. 88, renumbered as s. 90 in 1943 reprint*; amended by No. 61 of 1950, s. 53.

91. (1) Any person to whom any land is mortgaged as mortgagee may add to his mortgage debt any sums expended or contributed by or recovered from him for or towards the erection of a vermin fence or rabbit-proof fence, or the converting of a fence into a vermin fence or rabbit-proof fence upon, near to, or for the benefit of such land, or for or towards the maintenance or repair of any such fence; and

Expenditure by mortgagees or trustees.
No. 2 of 1919, s. 89, renumbered as s. 91 in 1943 reprint*; amended by No. 61 of 1950, s. 54.

(2) Any person in whom any land is vested as a trustee may raise the sums required or recovered for any such purpose by mortgage of such land in the same way as if a power to mortgage for such purpose were contained in the instrument creating or declaring the trust.

92. In the event of any land, which is affected, or the owner and occupier whereof or either of them are or is affected as such, by any charge or obligation under this Act, being severed as regards ownership or occupation, or both, any party interested may apply to the local court held nearest to the land,

Provision for apportionment of obligations where land severed.
No. 2 of 1919, s. 90, renumbered as s. 92 in 1943 reprint*; amended by No. 61 of 1950, s. 55.

* See footnote A on p. 1 of this reprint.

by summons in the prescribed form served on the Protection Board, or the board, as the case may be, and on the other parties interested, for an order apportioning amongst the parties the liability in respect of the said charge or obligation, and settling the rights and obligations of the parties *inter se* in respect thereof, and such order shall bind all parties concerned, including the Protection Board and the board, without prejudice, however, to any order made, or to be made, by a board or the Protection Board under section eighty-two: Provided that the magistrate of the court may dispense with service on any party:

Provided also that by agreement of all parties interested such matters may be submitted to arbitration under the provisions of the Arbitration Act, 1895.

Wire netting not to be sold or disposed of otherwise than for the purpose for which it was supplied.
No. 2 of 1919, s. 91, renumbered as s. 93 in 1943 reprint*; and amended by No. 61 of 1950, s. 56.

93. (1) It shall be unlawful for any person who has been supplied with wire netting under this Act, or any Act hereby repealed, until paid for to dispose of or use it otherwise than for the purpose for which it was supplied without the consent in writing of the Protection Board, or if the wire netting has been supplied by a board, without the consent in writing of the board.

Penalty: Not exceeding one hundred pounds or imprisonment for not exceeding six months.

(2) If any wire netting supplied as aforesaid is not applied to the purpose for which it was supplied within such time as the Protection Board or the board may deem reasonable, or if such wire netting is not properly applied and maintained, the Protection Board or the board, as the case may be, may, if such wire netting has not been wholly paid for, annul the contract for the supply of such wire netting and resume possession thereof:

Provided that in such event any payment made by the person to whom the wire netting was supplied on account of the cost thereof, less the cost and

* See footnote A on p. 1 of this reprint.

expenses occasioned by such resumption, shall be repaid to him by the Protection Board or the board, as the case may be.

(3) The property in any wire netting supplied under this Act or any Act hereby repealed shall continue in the Protection Board or the board, as the case may be, until the cost thereof with interest as prescribed has been paid.

PART VII.—DESTRUCTION OF VERMIN.

94. (1) The Protection Board, and a board within its district, may, by inspectors and authorised persons, take all such means as may be deemed expedient for the suppression and destruction of vermin or for destroying the eggs of vermin.

Powers of the Minister and Boards.
No. 2 of 1919, s. 92 (amended by No. 41 of 1938, s. 3) renumbered as s. 94 in 1943 reprint* and amended by No. 49 of 1946, s. 4; No. 61 of 1950, s. 57.

(2) For the purpose of this Part of this Act an "authorised person" means a person having the authority in writing of the Protection Board or board or the Chief Vermin Control Officer.

(3) Any holding within more than one district shall for the purposes of this Part VII. of this Act be deemed to be within the district in which the greater part of the area of the holding lies.

Subs. (3) added by No. 49 of 1946, s. 4.

(4) In the case of a holding having equal parts thereof within more than one district, the holding shall for the purposes of this Part VII. of this Act, be deemed to be within the district determined by the Protection Board.

Subs. (4) added by No. 49 of 1946, s. 4, amended by No. 61 of 1950, s. 57.

95. Every occupier upon whose holding there are vermin, or signs or marks of vermin, or to his knowledge, eggs of vermin, shall forthwith give notice thereof to the inspector whose residence shall be nearest to the holding or the secretary to the local vermin board or the Protection Board.

Notice of vermin to be given by occupiers.
No. 2 of 1919, s. 93 (amended by No. 41 of 1938, s. 4) renumbered as s. 95 in 1943 reprint* and further amended by No. 61 of 1950, s. 58.

Penalty: Not exceeding Twenty pounds.

* See footnote A on p. 1 of this reprint.

Duty of owners and occupiers to destroy vermin.

No. 2 of 1919, s. 94 (amended by No. 39 of 1919, s. 7; No. 41 of 1938, s. 5; No. 5 of 1943, s. 4), renumbered as s. 96 in 1943 reprint* and further amended by No. 61 of 1950, s. 59.

96. Every owner and every occupier of a holding shall, at all times and at his own cost and expense, destroy all vermin or eggs upon such holding, or upon any roads bounding or intersecting the same, to the satisfaction of the inspector or authorised person to whom the Protection Board or Chief Vermin Control Officer or board has for the time being assigned, by either special or general authority, the duty of inspecting such holding.

Penalty: Not exceeding Ten pounds.

Provided that, upon a complaint being made against an owner or occupier of a holding under this section, the Court hearing the complaint shall have discretion to inquire whether there is any reasonable justification or excuse for such owner or occupier failing to destroy such vermin or eggs to the satisfaction of such inspector or authorised person, and if in the opinion of the Court such reasonable justification or excuse exists, the Court may dismiss the complaint or adjourn the hearing for the purpose of allowing the owner or occupier such further time to destroy such vermin or eggs, as the Court thinks fit. All complaints made under this section shall be heard and determined by a police or resident magistrate.†

Inspectors and others may enter holdings.

No. 2 of 1919 s. 95, amended by No. 29 of 1925, s. 9; No. 41 of 1938, s. 6, renumbered as s. 97 in 1943 reprint* and further amended by No. 61 of 1950, s. 60; No. 5 of 1953, s. 4; No. 61 of 1962, s. 11.

97. (1) Any inspector, and any authorised person (on production of his authority if demanded by any owner or occupier) may from time to time enter any holding, with or without assistants, to search whether any vermin or eggs are on such holding, and for any purposes whatsoever under this Act, and may remain thereon so long, and do all such things as may be reasonable or necessary.

(2) Any inspector or other person who has entered and searched any holding under the provisions of this section shall draw up and sign a report of the result of such entry and search.

* See footnote Δ on p. 1 of this reprint.

† See Stipendiary Magistrates Act, 1957, s. 6.

Inserted by No. 29 of 1925, s. 9.

(3) Every Government inspector or authorised person shall furnish such report to the Protection Board, and every authorised person or inspector appointed by a board shall furnish such report to the board.

Inserted by
No. 29 of
1925, s. 9,
amended by
No. 61 of
1950, s. 60;
No. 5 of
1953, s. 4.

(4) Such report shall be presumptive evidence of the truth of the matters therein stated, and may be inspected and made use of at any time by the Chief Vermin Control Officer or any person authorised by him in that behalf.

Inserted by
No. 29 of
1925, s. 9,
amended by
No. 61 of
1950, s. 60.

(5) Any inspector or any authorised person may at any time stop any conveyance or vessel and may, with or without assistants, enter into or upon the conveyance or board the vessel and search and inspect it, or any part of it, and everything on or in it, for the purpose of ascertaining whether any vermin or eggs of vermin are on or in the conveyance or vessel; and the inspector or authorised person may seize and carry away any vermin or eggs of vermin found in the conveyance or vessel.

Added by
No. 61 of
1962, s. 11.

(6) A person who, being in charge of a conveyance or vessel, fails to stop the conveyance or vessel when so required by a person who makes himself known as being an inspector or authorised person commits an offence.

Added by
No. 61 of
1962, s. 11.

Penalty: Fifty pounds.

98. (1) The Protection Board, or a board in respect of holdings wholly or partly within its district, may from time to time, by notice in the *Gazette*, specify all or any of the following—

Power for
Minister and
board to
order
destruction
of vermin.

(a) the steps to be taken and the means to be adopted by the owners or occupiers of all or any of the holdings to suppress or to destroy vermin or to destroy eggs on the holdings and upon the roads bounding or intersecting the same;

No. 2 of
1919, s. 96,
amended by
No. 41 of
1938, s. 7,
renumbered
as s. 98 in
1943 reprint*
and further
amended by
No. 49 of
1946, s. 5;
No. 61 of
1950, s. 61;
No. 5 of
1953, s. 5.
No. 44 of
1954, s. 7.
No. 61 of
1962, s. 12.

(b) the date or dates on or before which the owners or occupiers shall respectively commence the work of suppressing and destroying the vermin or eggs;

* See footnote Δ on p. 1 of this reprint.

- (c) that the owners or occupiers having commenced the work shall continue the work until the vermin or eggs are suppressed or destroyed;
- (d) the period or periods during which the work shall be continued and systematically carried out by the owners or occupiers.

Any such notice or an abstract thereof shall also be published in a newspaper not less than one month before the date or dates so specified.

(2) The Protection Board or a board in respect of holdings situated wholly or partly within its district, may by an inspector or authorised person cause to be served on the owner or occupier of any holding notice in writing to take such steps and adopt such means to suppress and destroy vermin or destroy eggs on his holding and upon the roads bounding or intersecting the same as may be specified in such notice.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, where a person has vermin in his possession or under his control, whether on a holding or not, and whether as owner or not, the Protection Board may, by notice in writing served on that person, require him forthwith to cause that vermin to be destroyed.

99. (1) For the purposes of section ninety-eight of this Act, any person who,—

- (a) being an owner or occupier of a holding, does not,—
 - (i) forthwith after the date specified in a notice published pursuant to subsection (1) of that section; or
 - (ii) within seven days after the service on him of a notice served pursuant to subsection (2) of that section; or

Added by
No. 61 of
1962, s. 12.

Persons not
complying or
continuing to
comply
with notices.

No. 2 of
1919, s. 97
(amended by
No. 5 of
1943, s. 5)
renumbered
as s. 99 in
1943 reprint*
and further
amended by
No. 5 of
1953, s. 6,
No. 44 of
1954, s. 8,
Repealed
and
Re-enacted
by 61 of
1962, s. 13.

* See footnote A on p. 1 of this reprint.

- (b) being a person having vermin in his possession or under his control, does not, forthwith after service on him of a notice served pursuant to subsection (3) of that section,

comply, or, where the notice requires continued compliance, continue thereafter to comply with the terms of the notice is guilty of an offence.

Penalty: For a first offence, not less than five, nor more than fifty, pounds; for any subsequent offence, not less than ten, nor more than fifty, pounds; and, where the offence is a continuing offence, a further penalty of not less, nor more, than one pound for each day the offence continues.

(2) Notwithstanding the provisions of any other Act, the penalties provided by this section are penalties irreducible in mitigation.

(3) Every complaint made under this section shall be heard and determined by a stipendiary magistrate.

100. If the owner or occupier of any holding fails or neglects to comply with any notice, whether published in the *Gazette* or served upon him under section ninety-eight, any inspector or authorised person, with or without assistants, may enter upon the holding, and use such means and take such measures, and do and perform such acts and things as to him may appear proper and necessary to be done to ensure the destruction of vermin or eggs upon such holding, and shall have free right of ingress, egress, and regress into, over, and across such holding for such period as may, in his opinion, be necessary for destroying such vermin or eggs.

Powers of Minister or board in case of default.
No. 2 of 1919, s. 98 (amended by No. 41 of 1938, s. 8) renumbered as s. 100 in 1943 reprint.*

Provided that—

- (a) poison shall not be used unless notice has been given to the actual occupant (if any) of the land of the intention to use poison; and

* See footnote Δ on p. 1 of this reprint.

- (b) nothing contained in this section shall prejudice any proceedings under this Act for the recovery of any penalty incurred by the owner or occupier of any holding.

Liability of owner or occupier for expenses incurred.
No. 2 of 1919, s. 99 (amended by No. 41 of 1938, s. 9) renumbered as s. 101 in 1943 reprint* and further amended by No. 61 of 1950, s. 62.

101. All costs, charges, and expenses incurred by the Protection Board or a board under the provisions of the last preceding section in destroying vermin or eggs on any holding shall be repaid, with interest at the prescribed rate, by the owner or occupier of the holding, who shall be jointly and severally liable, and may be recovered by action at the suit of the Protection Board or the board in any court of competent jurisdiction, and shall be a charge upon the land.

Board to secure enforcement of Act.
No. 2 of 1919, s. 100 (amended by No. 41 of 1938, s. 10) renumbered as s. 102 in 1943 reprint* and further amended by No. 61 of 1950, s. 63.

102. (1) It shall be the duty of the board to secure the enforcement against all owners and occupiers of holdings within its district of the provisions of this Act relating to the suppression and destruction of vermin or the destruction of eggs.

(2) If, in the opinion of the Protection Board, a board has neglected to exercise its powers or perform its duties in the suppression and destruction of vermin, or the destruction of eggs, the Protection Board may cause all such means to be taken as the Protection Board may deem necessary, and the cost incurred shall be a debt due to the Protection Board by the board in default.

Protection of human health and life.
Added by No. 57 of 1956, s. 2.

102A. (1) In this section—

“to take rabbits” means to trap, snare, shoot, or catch rabbits by any means except by poisoning.

(2) The object of this section is to protect human health and life from danger or detriment likely to result from consumption of poisoned rabbits as food.

* See footnote A on p. 1 of this reprint.

(3) Where the Protection Board or a board of a district proposes to use, or specify under section ninety-eight of this Act the use of, poison or other means likely to endanger or be detrimental to human health or life, for the destruction of vermin in any part of the State, the Protection Board or board, as the case may be, shall cause notice to be published in the *Gazette*, the local newspaper or newspapers circulating in the area, and in such other manner as the Protection Board, or board considers necessary in order to notify the public of the proposal.

(4) In the notice the Protection Board, or the board, shall cause to be stated—

- (a) the proposal,
- (b) the part of the State to which the proposal relates;
- (c) notification that taking of rabbits is prohibited in that part of the State until such time as a further notice, cancelling the prohibition, is advertised by the Protection Board, or board, as the case may be;
- (d) notification that taking rabbits in breach of the prohibition is punishable as mentioned in subsection (6) of this section; and
- (e) a warning that rabbits taken in breach of the prohibition, are likely to endanger or be detrimental to human health or life, if consumed as food.

(5) Where the Protection Board, or a board has caused a notice to be published under subsection (4) of this section, if the Protection Board or board is of opinion that the prohibition mentioned in that notice may without danger or detriment to human health or life be cancelled, the Protection Board or board, shall cause a further notice cancelling the prohibition to be advertised in the *Gazette*.

(6) A person who takes or attempts to take rabbits in the part of the State mentioned in a notice published under subsection (4) of this section, after

publication of the notice and before publication of a further notice cancelling the prohibition mentioned in the former notice, commits an offence against this Act.

Penalty: Maximum, one hundred pounds.

Special rate for destruction of vermin. Inserted by No. 29 of 1925, s. 10, as s. 100A, renumbered as s. 103 in 1943 reprint,* amended by No. 10 of 1926, s. 2; No. 29 of 1929, s. 2; No. 33 of 1930, s. 7; No. 33 of 1931, s. 2; No. 13 of 1936, s. 2; No. 49 of 1946, s. 6; No. 61 of 1950, s. 64; No. 44 of 1951, s. 6; No. 5 of 1953, s. 7; No. 44 of 1954, s. 9; No. 57 of 1956, s. 3; No. 82 of 1956, s. 2; No. 8 of 1960, s. 2; No. 61 of 1962, s. 14.

103. (1) Subject to the provisions of subsection (8) of this section¹, every owner of a holding shall pay to the Protection Board a rate of such amount as may be fixed by the Protection Board by notice in the *Gazette*, but not to exceed one penny in the pound of the unimproved capital value of land held under pastoral lease, or one half-penny in the pound of the unimproved capital value of other holdings, as determined by the Commissioner of Taxation.

The rate is imposed and shall be assessed for the financial year commencing on the first day of July, 1926, and for each succeeding financial year, until the financial year commencing on the first day of July, one thousand nine hundred and fifty-two in respect of which year and each succeeding financial year the rates shall be such amounts as may be so fixed but not exceeding three pence and one penny in the pound respectively instead of one penny and one half-penny in the pound and shall be payable (on demand) by the person who at noon on the last preceding thirtieth day of June was the owner of the holding.

Provided that the owner of any holding not exceeding an area of ten acres shall not be liable to the payment of such rate.

Provided also, that if a holding or group of holdings is and continues wholly enclosed with a vermin fence to the satisfaction of the Chief Vermin Control Officer the owner of such holding or of any holding within such group shall be liable for payment of one-half of such rate as would but for this proviso be payable in respect thereof.

* See footnote Δ on p. 1 of this reprint.

¹ The operation of subsection (8) ceased on the 30th June, 1958. See Act No. 82 of 1956, s. 3 and subsection (9) of this section.

Provided also, that any fence already erected as a rabbit-proof fence shall be deemed to be a vermin fence if the height thereof is increased to the same height as that required for a vermin fence, and if, when increasing such height, the additional wires are of the kind and are spaced as required in a vermin fence and the wire netting hung therein is of the mesh required for a vermin fence.

Inserted by
No. 33 of
1930, s. 7.

Provided also, that no rate shall be assessed or be deemed to be imposed or payable in respect of land held on conditional purchase lease granted before or after the commencement of this proviso, under the Land Act, 1898,¹ or any amendment thereof, for two years from the commencement of the lease.

Inserted by
No. 33 of
1930, s. 7.

Provided further that no rates shall be assessed or be deemed to be imposed or payable for the financial year commencing on the first day of July, one thousand nine hundred and fifty-one, or for any subsequent financial year in respect of the following lands and classes of lands—

Added by
No. 44 of
1951, s. 6.

- (a) land owned by or on behalf of Her Majesty;
- (b) public roads and thoroughfares; public reserves for health, recreation or enjoyment, public parks, university endowments, cemeteries and commons;
- (c) land owned by a person or society, and occupied or used exclusively for or in connection with any public hospital, whether supported wholly or partly by grants from the Consolidated Revenue Fund or not, benevolent institution, public charitable purpose, church, chapel for public worship or the site of a residence of a minister of religion ministering at some place of public worship, or the site of, or occupied for the purposes of, a school attached to or connected with any place of public worship, or as a mechanics' institute or school of art; all land the property of and belonging to any religious body, and occupied or held only for the purposes of that body; land on which is erected any

¹ Repealed by Land Act, 1933.

municipal or State market; town hall, or municipal council chamber; and all land owned by or vested in the council of any municipality, or other statutory public body: but the exemption from rates does not apply in respect of land which, not being the site of, or intended site of, or occupied for the purposes of a school or hall used or to be used for educational purposes the property of and belonging to a religious body, is a source of profit or gain to the users or owners thereof;

- (d) land held as a mining tenement, within the meaning of the Mining Act, 1904-1952¹,
- (e) land dedicated to, or vested in trustees and used for, zoological, agricultural, pastoral, or horticultural show purposes, or other public or scientific purposes;
- (f) land held by—

a person, who is in receipt of an age, invalid or widow's pension under Part III. or IV. of the Social Services Consolidation Act, 1947-1953², of the Parliament of the Commonwealth; or

a member of the Forces within the meaning of the Repatriation Act, 1920-1953³, of the Parliament of the Commonwealth, who is in receipt of a service pension under the provisions of Division 5 of Part III. of that Act.

(2) The amount of such rate shall, if required by the Protection Board, be collected by the Commissioner of Taxation, and in such case payment may be demanded by the Commissioner, and in default of payment shall be recoverable by him as if the rate were land tax in arrear.

(2a) Notwithstanding anything contained in any other law, for the purposes of subsection (3) of this section the amount of rates which the Commissioner of Taxation shall treat as having been recovered under this section in each financial year commencing with the financial year that commenced on the

¹ Now Mining Act, 1904-1961.

² Now Social Services Act, 1947-1961.

³ Now Repatriation Act, 1920-1961.

first day of July, one thousand nine hundred and sixty, shall be the amount of the rates which becomes payable in that financial year.

(3) All rates recovered under this section shall be paid to the credit of an account to be kept at the Treasury, and shall, subject to regulation, be applied under the direction of the Protection Board in payment of—

Inserted by
No. 33 of
1930, s. 7,
amended by
No. 61 of
1950, s. 64.

(a) expenses incurred by boards or government officers in connection with the transport to the Department of Agriculture of scalps or claws or beaks of vermin in respect of which a uniform bonus may be paid under paragraph (d) hereof;

(b) [*Deleted by No. 61 of 1950, s. 64 (e).*]

(c) salaries and wages of officers and other employees of the Protection Board for destroying vermin and other expenses incurred in exercising the powers and duties conferred and imposed upon the Protection Board to do so by the provisions of the Agriculture Protection Board Act, 1950, and of this Act;

Substituted
by No. 61 of
1950, s. 64 (f).

(d) bonuses at such rates for such periods for destruction of such vermin in such districts as may, for the purposes of this subsection, from time to time be ordered by the Protection Board by declaration and until any such order shall be made to the contrary, this subsection shall apply to the destruction of dingoes, dogs run wild or at large, foxes, emus and wedge-tailed eagles.

Substituted
by No. 49 of
1946, s. 6 (c),
amended by
No. 61 of
1950, s. 64;
No. 44 of
1951, s. 6.

Provided that such rates shall be uniform in respect of any one district but may differ from those in respect of any other district.

(4) [*Subsection (4) deleted by No. 61 of 1950, s. 64 (h).*]

(5) The Protection Board may from time to time appoint and employ such officers and other employees, and take such measures as the Protection Board deems expedient for the destruction of vermin

Substituted
by No. 49 of
1946, s. 6 (e),
amended by
No. 61 of
1950, s. 64;
No. 5 of
1953, s. 7.

and for the purpose of carrying out the provisions of this Act, and for obtaining information for such purpose.

(5a) Without prejudice to the generality of the provisions of section twenty-three of the Agriculture Protection Board Act, 1950, it is, in order to avoid any doubt, hereby expressly enacted, that notwithstanding the provisions of any other Act, the protection from liability provided by that section

Cf. No. 76 of 1920, s. 23.

(a) applies to the taking of measures for obtaining information referred to in subsection (5) of this section; and

(b) extends to the taking of those measures in respect of vermin or in respect of any animal which although not running wild or at large when the measures are taken, would, if then running wild or at large, be vermin;

Cf. Third Schedule as to "running wild or at large."

but only to the extent that the Protection Board deems it expedient to the taking of those measures for the purposes of obtaining that information.

(6) [*Subsection (6) of the 1943 reprint* deleted by No. 49 of 1946, s. 6 (f).*]

(7) The Commissioner of Taxation may, with the approval of the Protection Board, write off arrears of rates assessed and due under this section.

Inserted by No. 33 of 1930, s. 7, amended by No. 61 of 1950, s. 64.

(8)¹ (a) In the financial year commencing on the first day of July, one thousand nine hundred and fifty-six, and in each financial year thereafter, the Treasurer shall cause to be paid to the credit of the account mentioned in subsection (3) of this section from land tax collected pursuant to the Land Tax Assessment Act, 1907-1956, a sum of one hundred thousand pounds or any greater amount approved by the Treasurer.

(b) Sums paid into that account under this subsection may be used in payment of the matters mentioned in subsection (3) of this section.

¹ This subsection is no longer in operation, see note 1 on page 54 of this reprint.

* See footnote Δ on p. 1 of this reprint.

(c) The provisions of this subsection do not prejudice the operation of subsection (2) of this section in relation to recovery of payment of rates imposed under subsection (1) of this section before the first day of July, one thousand nine hundred and fifty-six.

(9) In order to resolve any doubt which but for the enactment of this subsection might arise, it is hereby expressly enacted—

- (a) that the powers conferred on the Protection Board by subsection (1) of this section shall be deemed to have continued to be conferred from the thirtieth day of June, one thousand nine hundred and fifty-six and to have continued to be exercisable by the Protection Board from that date;
- (b) that any rate imposed and assessed by or under subsection (1) of this section for any financial year from that date to the date of the coming into operation of this subsection, shall be deemed to have been as validly and effectively imposed and assessed, in all respects, as if this subsection had in fact been in operation when the rate was so imposed and assessed; and
- (c) that the provisions of subsection (8) of this section shall be deemed not to have been in operation since the thirtieth day of June, one thousand nine hundred and fifty-eight.

PART VIII.—MISCELLANEOUS.

104. [*Repealed by No. 61 of 1950, s. 65.*]

Minister to represent Crown.
No. 2 of 1919, s. 101, renumbered as s. 104 in 1943 reprint*.

104A. In this Part—

“authorised person” has the same meaning as in section ninety-four of this Act.

S. 104A added by No. 57 of 1956, s. 4.

* See footnote Δ on p. 1 of this reprint.

Fences to continue the property of Crown or board.

No. 2 of 1919, s. 102; renumbered as s. 105 in 1943 reprint,* amended by No. 61 of 1950, s. 66.

A fence may cross roads and stock routes.

105. (1) Any Government fence and any fence erected by a board on Crown land or private land, not wholly paid for by the owner or occupier, shall be and continue the property of the Crown or the Protection Board or the board, as the case may be.

(2) Any such fence may be erected across roads or travelling stock routes, but gates shall be made therein for the passage of the public and their stock.

Effect of moneys being charged on land.

No. 2 of 1919, s. 103, renumbered as s. 106 in 1943 reprint,* amended by No. 61 of 1950, s. 67.

106. (1) Subject and without prejudice to the foregoing provisions of this Act in any case where—

(a) money payable under this Act is expressed to be a charge upon land; and

(b) notice of such charge is registered in the prescribed manner in the Office of Titles or Registry of Deeds, or in the Department of Lands, or of Mines, as the case may be,

any person thereafter becoming the owner of such land shall be taken to have notice of such charge, and shall be liable to pay the sum so charged or so much thereof as may, for the time being, be unpaid, as if he were the person originally liable; but nothing herein contained shall operate to discharge the liability of any person originally or previously liable.

(2) The Minister or the Protection Board, a board, or any person entitled to the charge, may exercise all such powers and remedies for the enforcement of the charge as are given to a mortgagee under the Transfer of Land Act, 1893, for the enforcement of a mortgage on land under that Act.

Certificate that fence is vermin or rabbit-proof.

No. 2 of 1919, s. 104 (amended by No. 39 of 1919, s. 8) renumbered as s. 107 in 1943 reprint* and amended further by No. 61 of 1950, s. 68.

107. (1) The owner of any fence may by writing under his hand require the Chief Vermin Control Officer or the board of any district in which the fence is situated to inspect the fence or cause it to be inspected, and the Chief Vermin Control Officer or board shall, on payment of the prescribed fee, inspect the fence or cause it to be inspected, and when satisfied that it is vermin-proof or rabbit-proof grant a certificate to that effect, and it shall not be essential that the fence shall in all respects comply with the descriptions contained in the Second Schedule.

* See footnote A on p. 1 of this reprint.

(2) In any proceeding in any court or before any arbitrator to recover money by way of contribution in respect of any fence, such certificate shall be *prima facie* evidence of the facts stated therein; and evidence in contradiction shall not be adduced, unless the prescribed notice has been given.

Certificate
prima facie
evidence.

108. Where any land is divided or bounded by a road, travelling stock route, reserve, or Crown land, the Protection Board by declaration may grant to the owner or occupier of such land permission to carry a vermin-proof or rabbit-proof fence across such road, route, reserve, or Crown land; but vermin-proof or rabbit-proof gates shall be erected where the fence crosses such road or route.

Private
fence
may cross
road.
No. 2 of
1919, s. 105,
renumbered
as s. 108 in
1943 reprint,*
amended by
No. 61 of
1950, s. 69.

109. Any inspector or other officer appointed under the Act may at all times enter upon any private land to patrol and inspect any fence thereon.

Inspectors
may enter
private land
to patrol
fences.
No. 2 of
1919, s. 106,
renumbered
as s. 109 in
1943 reprint.*

110. A board may grant bonuses for the destruction of vermin except rabbits within its district at such rates and subject to such conditions as may be prescribed by regulation.

Bonuses for
destruction
of vermin.
No. 2 of
1919, s. 107,
renumbered
as s. 110 in
1943 reprint.*

111. Any person who, by production of scalps obtained elsewhere than within the State, obtains or attempts to obtain payment of a bonus for the destruction of vermin, shall be guilty of an offence.

Penalty for
obtaining
bonus by
fraud.
Inserted by
No. 29 of
1925, s. 11,
as s. 107A,
renumbered
as s. 111 in
1943 reprint.*

Penalty: Two hundred and fifty pounds or twelve months' imprisonment.

112. (1) Any person who—

(a) destroys or injures any vermin fence or a rabbit-proof fence, or any part thereof, or any gate therein; or

Penalty for
destroying
and injuring
fences, etc.
No. 2 of
1919, s. 108,
renumbered
as s. 112 in
1943 reprint.*

* See footnote Δ on p. 1 of this reprint.

- (b) passing through a gateway in any such fence leaves the gate thereof open; or
- (c) opens and leaves open a gate in any such fence,

shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment for not exceeding six months.

(2) A vermin fence or rabbit-proof fence or gate in any such fence shall for the purposes of this section, mean a fence or gate apparently intended to protect any land from vermin, and it shall be immaterial whether or not such fence or gate is in accordance with the requirements of this Act.

Cattle
trespass
on reserve.
No. 2 of
1919, s. 109,
renumbered
as s. 113 in
1943 reprint*;
amended by
No. 61 of
1950, s. 70.

113. (1) Any person who drives or is the employer of any person who drives any cattle as defined by the Cattle Trespass, Fencing, and Impounding Act, 1882,¹ along or over any Crown lands adjoining any Government fence, and set apart for the use of the Minister or the Protection Board for the purposes of this Act, or partly for such purposes, excepting for transferring stock from one side of a Government fence to another, shall be liable to a penalty not exceeding one pound for every head of cattle so driven:

Provided that this subsection shall not apply when a Government fence, or any fence erected by or under the control of a board, as aforesaid is lawfully made use of by an owner or occupier in fencing his land, and the cattle or sheep are confined within the land so fenced.

(2) Any person who causes any cattle or sheep to be confined, encamped, or shut in against any Government fence or any fence erected by or under the control of a board so as necessarily to be or remain in close proximity thereto, shall be liable to a penalty not exceeding one hundred pounds.

* See footnote Δ on page 1 of this reprint.

¹ Repealed by No. 44 of 1961.

114. Any person who, without lawful authority (the proof of which shall be on the person claiming to have the same), destroys, injures, removes, or interferes with any trap, snare, poison, matter, or thing which is used or required for the purpose of capturing or destroying vermin, and which is lawfully placed upon any land for such purpose, shall be liable to a penalty not exceeding one hundred pounds.

Penalty for interfering with traps, etc.
No. 2 of 1919, s. 110, renumbered as s. 114 in 1943 reprint.*

115. (1) Every person who, without lawful excuse (the proof of which shall be on him),—

- (a) has in his possession any live vermin; or
- (b) liberates or attempts to liberate vermin; or
- (c) abandons, or permits, or fails to take reasonable precautions to prevent, the being at large of, any animal or bird that becomes vermin, by reason of being at large,

Keeping, liberating, etc. vermin and other animals.
No. 2 of 1919, s. 111, renumbered as s. 115 in 1943 reprint,* amended by No. 61 of 1950, s. 71; Repealed and Re-enacted by No. 61 of 1962, s. 15.

is guilty of an offence and is liable to a penalty of one hundred pounds; but, except as otherwise provided by subsection (3) of this section, nothing in this subsection prohibits a person from keeping live vermin in a safe enclosure with the prior written permission of, and subject to any conditions imposed by, the Protection Board.

(2) For the purposes of this section, a person in charge of any conveyance, vessel or aircraft is deemed to have liberated any vermin that escapes, or is free to escape, from that conveyance, vessel or aircraft, unless he shows that he might not reasonably have prevented its escape or freedom to escape.

(3) Notwithstanding the provisions of subsection (1) of this section, the Protection Board shall not, after the thirtieth day of June, one thousand nine hundred and sixty-six, issue a permit for the keeping of rabbits of any breed or variety, or any part breed or part variety, of the species *oryctolagus*

* See footnote Δ on p. 1 of this reprint.

cuniculus, unless the permit is for the keeping of that species of rabbit for laboratory, scientific, biological or zoological purposes only; and any permit for the keeping of that species of rabbit issued by the Protection Board, on or before that date, for a purpose other than any of those in this subsection mentioned, shall, by force of this subsection, cease to be of effect after that date.

Penalty for passing live vermin through fence.

No. 2 of 1919, s. 112, renumbered as s. 116 in 1943 reprint.*

116. Any person who carries, drives, or passes any live vermin through, under, or over any vermin fence or rabbit-proof fence or gate in any such fence shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for not exceeding six months.

Reward for destruction of rabbits prohibited.

No. 2 of 1919, s. 113, renumbered as s. 117 in 1943 reprint,* amended by No. 61 of 1950, s. 72.

117. Any person who, without the license in writing of the Protection Board, pays or offers to pay any bonus or scalp money as a reward for the destruction of rabbits shall be liable for every offence to a penalty not exceeding twenty pounds.

Sale of rabbits prohibited.

No. 2 of 1919, s. 114 (amended by No. 39 of 1919, s. 9) renumbered as s. 118 in 1943 reprint.*

118. [*Repealed by No. 49 of 1946, s. 7.*]

Natural enemies of rabbits protected.

No. 2 of 1919, s. 115, renumbered as s. 119 in 1943 reprint.*

119. (1) The Governor, by notice in the *Gazette*, may declare any animal, bird, or reptile to be a natural enemy of the rabbit, and prohibit, within any area to be specified in such notice, the wounding, killing, or capturing, selling, or disposing of any such animal, bird, or reptile, without a special permit in that behalf, and may alter or revoke any such notice.

Penalty for killing, etc., natural enemy of rabbit.

(2) Any person who, within an area mentioned in any such notice, without lawful authority (the proof of which shall be on such person), wounds, kills, captures, or sells or disposes of any animal, bird, or reptile so declared to be a natural enemy of the rabbit, shall be liable to a penalty not exceeding five pounds.

* See footnote Δ on p. 1 of this reprint.

120. Water on any Crown lands or reserves set apart for the use of the Minister or the Protection Board for the purposes of this Act, or partly for such purposes, shall be deemed to be the property of the Minister or the Protection Board and to be capable of being stolen.

Stealing water from rabbit reserve.

No. 2 of 1919, s. 116, renumbered as s. 120 in 1943 reprint,* amended by No. 61 of 1950, s. 73.

121. (1) Any person who obstructs, or resists, or hinders any inspector or authorised person in the performance of his duties, the prosecution of his work, or in the exercise of any power vested in him under the provisions of this Act, shall be liable to a penalty not exceeding fifty pounds.

Obstruction of inspectors and others.

No. 2 of 1919, s. 117, renumbered as s. 121 in 1943 reprint.*

(2) Every owner of a holding shall permit any occupier and every occupier of a holding shall permit any owner to do and perform all such acts, matters, and things as he is required or authorised by this Act, or any regulation or agreement made thereunder to do or perform, and shall not obstruct him in the doing or performance thereof. Daily penalty: Two pounds.

122. Any person who falsely represents himself to be, or personates an inspector or authorised person under this Act, shall be guilty of an offence, and shall, on conviction, be liable to a penalty not exceeding fifty pounds.

Penalty for personating inspector or authorised person.

No. 2 of 1919, s. 118, renumbered as s. 122 in 1943 reprint.*

123. 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, or any regulation or agreement made thereunder, 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.

No. 2 of 1919, s. 119, renumbered as s. 123 in 1943 reprint.*

124. 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 holding in notice.

No. 2 of 1919, s. 120, renumbered as s. 124 in 1943 reprint.*

* See footnote A on p. 1 of this reprint.

Proof of
amount of
costs,
charges, or
expenses.
No. 2 of
1919, s. 121,
renumbered
as s. 123 in
1943 reprint,*
amended by
No. 61 of
1950, s. 74.

125. In any proceedings to recover the amount of any costs, charges, or expenses recoverable by the Minister or the Protection Board or a board, it shall be sufficient to produce the certificate of the Minister or the Protection Board or 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 Minister or the Protection Board or the board in that behalf, and the onus of disproving the amount shall be upon the defendant.

Service of
notices.
No. 2 of
1919, s. 122,
renumbered
as s. 126 in
1943 reprint.*

126. (1) Any notice in writing for the purposes of this Act, or any regulation made thereunder, may be given or served in any of the following ways:—

- (a) By delivering the notice to the person to whom it is addressed personally; or
- (b) By leaving it for him at his usual or last known place of abode in Western Australia, or, if he is in business, at his usual or last known place of business; or
- (c) By posting it to him as a letter or transmitting it to him as a telegram, addressed to him at his usual or last known place of abode in Western Australia, or, if he is in business, at his usual or last known place of business; or
- (d) By advertising the same twice at least in some newspaper published or circulating in the district in which the holding the subject of such notice is situate, an interval of a week or more being allowed to elapse between such advertisements: Provided that notice shall only be given by advertisement when the usual or last known place of abode in Western Australia or usual or last known place of business in Western Australia of the person to whom such notice is addressed cannot be discovered by the person issuing such notice.

* See footnote Δ on p. 1 of this reprint.

Provided that no place shall be deemed the place of business of any person unless he is a principal in the business.

(2) A notice may be served on a corporation by delivering it, leaving it, or posting it as a letter, the notice being addressed, in each case, to the corporation at its principal office in Western Australia, and a notice may be served on all the members of a partnership or unincorporated company by being delivered or left or posted as a letter, the notice being addressed in each case to the partnership or company at the principal place of business thereof in Western Australia.

(3) Any notice required by this Act to be given to the occupier or the owner (as the case may be) of any land shall, in cases where several persons are the occupiers or the owners thereof, be duly given if given to one of such occupiers or owners.

(4) All notices or orders required under this Act to be served on any owner, occupier, or manager of a holding shall, if the service thereof has been made on any owner, occupier, or manager, be binding on every subsequent owner, occupier, or manager of the same holding to the same extent as if such notice or order had been served on such subsequent owner, occupier, or manager.

(5) In the case of service by post or by telegram, the service shall be presumed, unless the contrary is shown, to have been effected at the time when, in the ordinary course, the letter or telegram would be delivered.

127. Where the name of the occupier or owner of any land is unknown to any person giving notice or taking proceedings under this Act, any such notice may be addressed to the occupier or owner as such, and any such proceedings may be taken, and any order or decision therein may be made or given, against the aforesaid occupier or owner as such.

Proceedings
when
occupier
or owners
unknown.
No. 2 of
1919, s. 123,
renumbered
as s. 127 in
1943 reprint.*

* See footnote A on p. 1 of this reprint.

Board may be represented in proceedings by chairman, etc.

No. 2 of 1919, s. 124, renumbered as s. 123 in 1943 reprint,* amended by No. 5 of 1953, s. 8.

128. In all proceedings in any court or before any justice—

- (a) the chairman or clerk, or
- (b) any other officer of a board appointed by the chairman in writing under his hand, or
- (c) an inspector, an authorised person as defined in section ninety-four of this Act, or a person appointed by the Chief Vermin Control Officer in writing under his hand,

may represent the board or the Agriculture Protection Board as the case may be in all respects as though he had been the party concerned.

Proof of ownership.

No. 2 of 1919, s. 125, renumbered as s. 129 in 1943 reprint.* Amended by No. 61 of 1962, s. 16.

129. In any legal proceedings under this Act, in addition to any other method of proof available,—

- (1) evidence that the person proceeded against is rated in a district of a shire as owner of any land; or
- (2) evidence by the certificate, in writing, of—
 - (a) the Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as proprietor of any land or as lessee of any land under a pastoral, conditional purchase or other lease or the holder of a homestead farm; or
 - (b) the Registrar of Deeds and Transfers or his substitute, or any assistant registrar of deeds and transfers, that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or
 - (c) the Under Secretary for Lands, or the Secretary for Mines, that any person is registered in the Department of Lands or Mines as the owner or

* See footnote A on p. 1 of this reprint.

lessee of, or the holder of a permit to occupy any land;

- (d) the Conservator of Forests, that any person is registered in the Forests Department as the holder of a timber lease, concession, or permit,

Inserted by
No. 29 of
1925, s. 12.

shall, until the contrary is proved, be evidence that such person is the owner of such land.

- (3) The averment in any claim, complaint, or other document in any proceedings instituted for the purposes of this Act that any person is or was at any time the owner or occupier of any holding shall be deemed to be proved in the absence of proof of the contrary.

130. (1) Subject to the provisions of this Act and the regulations it shall be lawful for the Protection Board, boards, and the owners and occupiers of holdings, and all persons acting with their authority, for the purpose of carrying out their duties under this Act, to lay poison and set traps on any land.

Poison and traps may be laid.
No. 2 of
1919, s. 126
(amended by
No. 5 of
1943, s. 6),
renumbered
as s. 130 in
1943 reprint,*
and further
amended by
No. 61 of
1950, s. 75.

(2) The Protection Board and any board may sell and supply poison for use in the destruction of vermin to the owner or occupier of any holding, notwithstanding anything contained in the Pharmacy and Poisons Act, 1910. Where an owner or occupier is in the opinion of the board in necessitous circumstances, such poison may be sold or supplied by the board to such owner or occupier at such price and upon such conditions as the board may determine, notwithstanding that by such sale or supply the board may incur loss. A record shall be kept in the books of the board of every such transaction.

131. The council of a shire may defray, out of its ordinary revenue, any expenses incurred in such capacity in the performance of its duties under this Act in respect of land of which the board is, or is deemed to be, the owner.

Expenses by road boards.
No. 2 of
1919, s. 127,
renumbered
as s. 131 in
1943 reprint*;
amended by
No. 61 of
1950, s. 17.

* See footnote Δ on p. 1 of this reprint.

Charge not to preclude Agricultural Bank advance.
No. 2 of 1919, s. 128, renumbered as s. 132 in 1943 reprint.*

132. Notwithstanding the provisions of section thirty-one of the Agricultural Bank Act, 1906,¹ a mortgage or charge created under this Act shall not preclude advances under the first mentioned Act on the security of the land so charged.

Appropriation of penalties.
No. 2 of 1919, s. 129, renumbered as s. 133 in 1943 reprint.*

133. All penalties under this Act or the regulations recovered at the instance of a board shall be paid to the board.

Judicial notice to be taken of proclamations.
No. 2 of 1919, s. 130, renumbered as s. 134 in 1943 reprint.*

134. All courts and magistrates shall take judicial notice of all Proclamations and Orders in Council under this Act.

Regulations.
No. 2 of 1919, s. 131, renumbered as s. 135 in 1943 reprint,* amended by No. 61 of 1950, s. 76; No. 61 of 1962, s. 18.

135. The Governor may make regulations prescribing all forms, fees and matters which by this Act are required or permitted to be prescribed, or which it may be necessary or convenient to prescribe for giving effect to this Act, and by such regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

Publication and effect of regulations.
No. 2 of 1919, s. 132, renumbered as s. 136 in 1943 reprint.*

136. [*Repealed by No. 61 of 1950, s. 77.*]

Reports.
No. 2 of 1919, s. 133, renumbered as s. 137 in 1943 reprint,* amended by No. 61 of 1950, s. 78.

137. The Chief Vermin Control Officer shall make quarterly reports to the Minister, and an annual report of the working of the Act during the preceding year shall be laid before both Houses of Parliament.

Evidence.
S. 138 added by No. 61 of 1950, s. 79.

138. (1) The production of—

- (a) a copy of the *Government Gazette* containing any regulation, declaration, order or notice purporting to have been made or given under any of the provisions of this Act; or

* See footnote 1 on page 1 of this reprint.

¹ Repealed by No. 45 of 1934 (repealed by 51 of 1944).

- (b) a copy purporting to be a true copy of any such regulation, declaration, order or notice, certified as such under the hand of the Chairman or an authorised officer of the Protection Board;

shall be evidence until the contrary is proved of the due making, existence, confirmation, approval and giving of such regulation, declaration, order or notice and of all preliminary steps necessary to give full force and effect to the same.

(2) The provisions of this section are in addition to and not in derogation of those of the Evidence Act, 1906.

139. Without prejudice to the operation of the other provisions of the Interpretation Act, 1918-1948,¹ those of section fifteen of that Act are expressly declared to apply in respect of all things done in the exercise of powers conferred upon the Governor, the Minister, the Chief Inspector of Vermin or other person pursuant to the provisions of the Vermin Act, 1918-1946, notwithstanding that the exercise of those powers is by the Vermin Act Amendment Act, 1950, conferred upon the Protection Board, the Chief Vermin Control Officer, a Commissioner or other person, as the case may be.

Saving of existing districts, appointments, etc. S. 139 added by No. 61 of 1950, s. 79. (No. 30 of 1918, s. 15.)

140. (1) The Protection Board may, from time to time, by declaration published in the *Government Gazette*, declare any class or classes of animal, bird or insect, whether at large or not, or by reason of being at large, to be vermin, for the purposes of this Act, in respect of the whole or any part of the State; and may, in like manner, vary or cancel any declaration so made.

Protection Board may declare animals, etc., to be vermin. Added by No. 61 of 1962, s. 19.

(2) Every proclamation and declaration of vermin made under and by virtue of section four of this Act is cancelled.

(3) The Protection Board shall, at least once in every year, after the first day of January, one thousand nine hundred and sixty-three, publish in

¹ Now Interpretation Act, 1918-1962.

the *Government Gazette* a declaration, setting out seriatim every animal, bird and insect at that time declared to be vermin, under the provisions of this section, together with the part or parts of the State in respect of which it is so declared.

FIRST SCHEDULE.

Date of Act.	Short Title of Act.
2 Edwd. VII., No. 34	The Rabbit Act, 1902.
1909, No. 10	The Vermin Boards Act, 1909.
1915, No. 51	The Vermin Boards Act Amendment Act, 1915.

SECOND SCHEDULE.

Part 1.

Description of a Vermin Fence.

No. 2 of
1919,
Second
Schedule,
amended by
No. 29 of
1925, s. 13,
and No. 33
of 1930, s. 8.

A substantial fence erected in a workmanlike manner with strainers not less than six inches in thickness at the smaller end, one hundred and fifty yards apart, three feet in the ground, and not less than seventy-eight inches out of the ground. Jam or mulga posts not less than three inches at the smaller end; other timber four inches, not more than twenty feet apart, twenty-four inches in the ground, and not less than seventy-eight inches out of the ground.

Iron standards not less than one and a quarter inches by quarter inch; not more than twenty feet apart, twenty inches in the ground, not less than seventy-eight inches out of the ground.

Wire netting, minimum seventeen gauge and with a minimum width of forty-two inches, and a maximum mesh of one and a half inches. Six inches of such netting to be fixed perpendicularly in the ground with thirty-six inches out of the ground. The netting to be securely fastened to plain wires and attached to the posts at nineteen and a half inches and thirty-six inches from the ground level.

Above such netting either—

Sheep or dog-proof netting not less than thirty-six inches wide, and not exceeding four inches mesh, is to be affixed to a height of not less than seventy-two inches, or in lieu of dog or sheep netting plain or barbed wires spaced not more than five inches apart to a height of at least seventy-two inches. These wires shall be tied together and to the top of the netting with lacing wire every three feet.

The fence to be topped with a barb wire not less than seventy-eight inches above the ground, and secured only to the posts and not in any way to the netting or other wires.

Part II.

Description of a Rabbit-proof Fence.

A substantial fence hung with galvanised wire netting, at least forty-two inches in width, of a maximum mesh of one and a half inches, and of seventeen minimum gauge, furnished with suitable rabbit-proof gates or other rabbit-proof appliances at every necessary break in the fence, and of such other dimensions, including the height above ground and the depth below ground, as may be prescribed, and in all other details in accordance with the regulations.

Amended by
No. 29 of
1925, s. 13.

[*Third Schedule repealed by No. 61 of 1962, s. 20.*]

FOURTH SCHEDULE.

Warrant (each person)	One shilling.	No. 2 of 1919, Fourth Schedule.
Levy	Five shillings.	
For man in possession	One shilling an hour for the first three hours, and if longer detained eight shillings a day.	
For inventory, sales, com- mission, and delivery of goods	One shilling in the pound on proceeds of sale.	
Mileage	One shilling per mile, after the first mile, one way only.	