

## SAND DRIFT.

10° GEO. V., No. XXXIX.

No. 51 of 1919.

### AN ACT to abate and deal with Sand Drifts and other similar Nuisances.

[Assented to 17th December, 1919.]

**B**E 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:—

1. This Act may be cited as the *Sand Drift Act*, 1919. Short title.
2. The Sand Drift Act, 1889, is hereby repealed. Repeal.
3. In this Act, subject to the context— Interpretation.
  - “District” means a municipal or road district;
  - “Local Authority” means a municipal council or road board.
  - “Local Government Act” includes the Municipal Corporations Act, 1906, and the Roads Act, 1911, and any Acts amending the same respectively or substituted therefor;
  - “Owner” or “Occupier,” as applied to land in any district, has the same meaning as it has in the Local Government Act applicable to the district.

4. (1.) Whenever it shall appear to any local authority that there exists on any land in its district (not being unrateable land which has not been alienated from the Crown) any sand drift that is or is likely to become injurious or detrimental to any other land, whether within or outside the district, the local authority may, by notice to the owner of the Abatement of sand drifts.

land and also to the occupier (if the owner is not the occupier) require him or them within a reasonable time to be limited in the notice, to take such of the following measures as the local authority shall think fit, that is to say, to plant the land with marram or other grass; to bush the said land or cover the same with seaweed or any other substance; or to do such other things for the abatement of the nuisance as may be specified in the notice.

(2.) If the requisitions of any notice given hereunder are not complied with to the satisfaction of the local authority within the time limited for compliance, then every owner or occupier on whom such notice has been served shall be guilty of an offence against this Act.

Penalty: Twenty pounds.

Abatement of  
nuisance by  
local authority  
in default of  
compliance  
with notice.

5. (1.) In case of non-compliance with such requisitions as aforesaid, any person authorised in that behalf by the local authority may enter upon the land, with or without assistance, and may do and cause to be done the work and things which should have been done in accordance with the notice, but nothing herein shall relieve the owner or occupier from any penalty incurred.

(2.) The amount of the expense incurred by such authorised person shall be ascertained and fixed by the local authority, and may be defrayed out of its ordinary revenue. The certificate of the mayor or chairman of the local authority shall be conclusive evidence of the amount, and such amount so certified together with interest thereon, or on so much thereof as shall for the time being remain unpaid, at the rate of five per centum per annum, shall be a debt due to the local authority recoverable as hereinafter provided; but such debt shall not in any case exceed the value of the land as at the time of the publication of the notice regarding the land in accordance with this Act.

Amounts re-  
coverable from  
owners and  
occupiers to be  
charged on  
land.

6. Such debt as aforesaid shall be deemed to be rates imposed by the local authority on such land for its financial year current when the expense was incurred, or, in the case of interest, when the interest accrued due; and the provisions of the relative local government Act dealing with the liability for and recovery of rates, and to the sale or lease of land for rates, shall apply to and in respect of such debt, and the amount of such debt and all costs, charges, and expenses attending the recovery or attempted recovery thereof

shall be recoverable and shall be charged on the land, and the burden thereof shall be borne and apportionable as if it were the amount of such rates accordingly.

7. (1.) An owner or occupier shall have full power to do all that is necessary to comply with the requisitions of any notice binding on him under this Act.

Provision in case occupier hinders owner or vice versa.

(2.) If any occupier of any land prevents any owner from obeying or carrying into effect any such requisition, any justice to whom application is made in that behalf shall by order in writing require such occupier to permit the doing of anything necessary to be done in order to comply with any such requisition, and such occupier shall comply with such order in all respects.

Penalty: Twenty pounds.

(3.) Every such owner whilst so prevented shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in complying with any such requisition unless he has failed to make application for an order under subsection two hereof within a reasonable time.

(4.) If in the performance or attempted performance of any duty imposed on him by any such notice, the occupier of any land is in any way obstructed or hindered by the owner, or if the occupier is so obstructed or hindered by the owner, the one who obstructs or hinders the other shall be guilty of an offence against this Act.

Penalty: Twenty pounds.

8. Any trustee being owner of any land may apply any of the funds under his control in defraying any charges, costs, and expenses necessarily or properly incurred by him or by virtue of this Act as such owner.

Powers of Trustees.

9. (1.) Any notice under this Act may be served—

- (a) by delivering it to the person upon whom the same is to be served personally;
- (b) by leaving it for him at his usual or last known place of abode or business with some person of the apparent age of not less than fourteen years;
- (c) by forwarding it by post in a prepaid letter addressed to him at his last known place of abode or business,

Manner in which notices may be served.

and such service shall be sufficient whether the notice shall come to the hands or knowledge of the person for whom it is intended or not.

(2.) When any person on whom it is desired to serve any notice relating to any land is not within Western Australia, then such notice shall be deemed to have been well and sufficiently served on him if it has been affixed or displayed on or over a conspicuous part of the land, and left so affixed or displayed for at least seven days.

(3.) Any occupier of land who is not the owner thereof, on whom any notice is served under this Act, shall inform the owner of the fact as soon as practicable.

Penalty: Ten pounds.

(4.) Any notice by this Act required to be given to the owner or occupier of any land may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the land (describing it), in respect of which the notice is given without further name and description, and may be served in manner set out in subsection *two*.

Power to make  
by laws.

10. A local authority may, in manner provided in its local government Act, make such by-laws as may be necessary or convenient for giving effect to this Act as regards land within its district, and by any such laws may make provision for preserving the effect of any measures taken under this Act for the abatement of any nuisance, and may impose a penalty not exceeding twenty pounds for the breach of any such law.

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