



Western Australia

## **The Wild Cattle Nuisance Act 1871**

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## **The Wild Cattle Nuisance Act 1871**

**An Act for more effectually abating the wild horses and cattle nuisance.**

### **Preamble**

Whereas it is expedient to make provision for the more effectual abating the nuisance caused by wild horses and cattle; Be it therefore enacted, by His Excellency The Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows: —

**1. What are “Wild Cattle” within the meaning of this Act**

That all horses and horned stock, of whatever age, not branded with a registered brand, shall be deemed Wild Cattle for the purposes of this Act, subject to the provisions hereinafter contained.

**2. Issue of licences for destruction of Wild Cattle**

That licences for the destruction of Wild Cattle may be issued in any district by the Board for licensing Public Houses within such district at the usual quarterly licensing meetings. Provided, that no person shall claim to have a licence granted to him or renewed as a matter of right. Provided, also, that no licence shall be issued to any person under the provisions of this Act for any longer period than one year, and every such licence shall

continue in force until 31 December next following its date, and no longer.

*[Section 2 amended by 47 Vict., No. 23, s. 1.]*

**3. Licences to destroy Wild Cattle upon occupied lands**

That it shall not be lawful to grant licences to destroy Wild Cattle upon occupied lands, except to the owner or occupier of such lands, or to any person or persons whom such owner or occupier may approve in writing under his hand.

**4. Punishment for wilful destruction of Wild Cattle branded**

That any licensed person who shall wilfully, maliciously, or knowingly destroy any horse stock or horned stock, branded with a registered brand, shall be guilty of felony. Provided that if any person shall unknowingly destroy any horse or horned stock branded as aforesaid, in mistake for Wild Cattle, he shall pay to the owner the full value of such animal so destroyed.

**5. Persons wishing to destroy branded stock running off its owner's run must advertise**

That any licensed person wishing to destroy any horse or horned stock branded with a registered brand running off its owner's run, the owner of which is unknown to him, such licensed person shall advertise in 2 newspapers of the Colony the existence of such animal, accurately describing the animal and its brand, as well as the locality it frequents, together with his desire to destroy the same under this Act; and if the owner, within one month after such advertisements have appeared, does not make himself known to and grant permission to such licensed person as aforesaid to destroy such animal, it shall be lawful, upon the application of such person, for the licensing Justices of the district to grant permission to the applicant to destroy such animal.

**6. Licensing body, upon complaint, empowered to grant permission**

That if the owner refuses to give his permission in writing, upon application made to him by any licensed person for his authority to destroy any animal branded as aforesaid and running wild off the owner's run, the licensing body, upon complaint being made, is hereby authorised and empowered, and it shall be lawful for such licensing body, to grant permission in writing to such licensed person to destroy such animal as aforesaid.

**7. Persons destroying any branded stock to take skin to nearest policeman**

That every licensed person who shall destroy any branded animal, whether the brand be registered or not, shall forthwith take that portion of the skin of such animal having the brand or brands on to the nearest policeman for safe custody, and shall at the same time leave with the said policeman a written statement of the fact of his having done so, and such statement shall also contain an accurate description of the animal, and of the locality where such animal was destroyed. Any omission to comply with the requirements of this section shall render the person so omitting to perform the duties hereby imposed guilty of an offence, and upon conviction thereof shall forfeit and pay a penalty not exceeding \$1 000.

*[Section 7 amended by 42 Vict., No. 14 s. 4; No. 20 of 1989 s. 3.]*

**8. Licensed person destroying young unbranded horse stock under 2 years old or horned stock under one year old without permission, to forfeit to the owner the value of such animal so destroyed**

That any person so licensed as aforesaid, who shall destroy any unbranded horse stock under 2 years old unweaned, or any unbranded horned stock under one year old unweaned, such stock running with or being the progeny of dams duly branded

with a registered brand, or who shall destroy any such stock which in the opinion of the Justice or Justices before whom the case may be tried he ought reasonably to have supposed to be quiet stock such as it did not serve public interest to destroy, except with the written permission of the owner of such stock as aforesaid, or by permission of the licensing Justices of his district, shall forfeit to the owner the value of such animal or animals so destroyed, to be recovered summarily before one or more Justices of the Peace. Provided, also, that the consent of the owner or permission of the licensing Justices for such destruction shall be obtainable in the same manner as is provided in sections 5 and 6, with respect to branded stock.

**9. Every 3 months returns to be made to Resident Magistrates of animals destroyed**

That all licensed persons, under a penalty not exceeding \$1 000 or 3 months' imprisonment, to be imposed by 2 or more Justices of the Peace, shall every 3 months make a return to the Resident Magistrate of their respective districts, and to the policeman stationed nearest to the abode of such licensed persons, of all animals destroyed by them, any portion or portions of which may have been appropriated or used by the person destroying the same.

*[Section 9 amended by No. 20 of 1989 s. 3.]*

**10. Notice of application for licences to be given one month before meeting of Licensing Bench**

That a notice in writing, by persons intending to apply for licences under this Act, shall be given to the Resident Magistrate of the respective districts in which such persons shall reside, at least one month before any meeting of the Licensing Bench; and it shall be the duty of such Resident Magistrate forthwith to put up and to keep affixed to the Court House door a notice of such application, and also to insert such application in the *Government Gazette*.



**11. Licence may be revoked for misconduct**

That if any licensed person shall misconduct himself in respect of any of the powers given him under this Act, the Resident Magistrate of the district in which such person shall reside may entertain the complaint of any person aggrieved by the misconduct of the person so licensed as aforesaid; and such Resident Magistrate shall give notice to each and every Magistrate of the licensing body in his district of the time when such complaint is to be heard; and upon proof of such misconduct before the Justice or Justices assembled in pursuance of such notice, the license of the person so found guilty of misconduct may be revoked; and such Justice or Justices as aforesaid may in his or their discretion award costs to either party.

[12. *Repealed by 47 Vict., No. 23, s. 1.*]

**13. Portions of 28th Vic. No. 13 rendered inoperative**

That such portions of the Ordinance of the 28th Victoria No. 13<sup>2</sup> as are inconsistent with any of the provisions herein contained, shall be, for the purposes of this Act, rendered inoperative.

**14. Sections of Shortening Ordinance incorporated**

That sections A, E, F, G, H, and I of *The Shortening Ordinance 1853*<sup>3</sup>, shall be incorporated herewith and read as part of this Act. Provided always, that nothing contained in any of the said sections shall be deemed or taken to set aside any of the provisions of this Act.

**15. Definition of the word “owner”**

That the word “owner” in this Act shall mean any proprietor of horses or cattle, or any person having charge of such horses or cattle.

**16. Short title**

That this Act may be cited for all purposes as *The Wild Cattle Nuisance Act 1871*<sup>1</sup>.

**Notes**

<sup>1</sup> This reprint is a compilation as at 10 January 2003 of *The Wild Cattle Nuisance Act 1871* and includes the amendments made by the other written laws referred to in the following table<sup>4</sup>.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>The Wild Cattle Nuisance Act 1871</i>	34 Vict., No. 24	16 Jan 1871	16 Jan 1871
<i>The Wild Cattle Nuisance Act 1871, Amendment Act 1878</i>	42 Vict., No. 14	16 Jul 1878	16 Jul 1878
<i>The Wild Cattle Nuisance Act 1871, Amendment Act 1883</i>	47 Vict., No. 23	8 Sep 1883	8 Sep 1883
<i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)

<sup>2</sup> The *Branding Consolidation Ordinance 1864* (28 Vic. No. 13) was repealed by *The Brands Act 1881* (45 Vic. No. 7) which was repealed by the *Brands Act 1904* which was repealed by the *Stock (Identification and Movement) Act 1970*.

<sup>3</sup> See the *Interpretation Act 1918* s. 47(2) and Second Schedule and the *Interpretation Act 1984* s. 77(4).

<sup>4</sup> *The Wild Cattle Nuisance Act 1871* shall be read as one with *The Wild Cattle Nuisance Act 1871, Amendment Act 1878* (see s. 6 of that Act). Also see *The Wild Cattle Nuisance Act 1871, Amendment Act 1883* s. 2.