

DROVING ACT, 1902-1954

No. 30 of 1902.

(Affected by Acts No. 26 of 1932 and No. 15 of 1945.)

(As amended by Acts—

No. 41 of 1919, assented to 17th December, 1919; No. 14 of 1935¹, assented to 12th November, 1935; No. 16 of 1954, assented to 22nd September, 1954, and reprinted pursuant to the Amendments Incorporation Act, 1938.)

AN ACT to regulate the Droving of Travelling Stock.

[Assented to 20th December, 1902.]

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 :—

1. This Act may be cited as the Droving Act, 1902-1954, and shall come into operation on the first day of January, one thousand nine hundred and three.

Short title and commencement.
No. 16 of 1954, s. 1.

2. The Droving Act, 1894, is hereby repealed.

Repeal.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively :—

Interpretation.
S. 3 amended by No. 16 of 1954, s. 2.

“ Drover ”—The proprietor or any other person driving or in possession or charge of any travelling stock.

“ Inspector ”—Any person appointed as an inspector under any Act for the time being regulating the branding of stock.

“ Manager ”—The person for the time being in principal charge of any run.

¹ Came into operation on 1st February, 1936 (see Gazette of 7th February, 1936).

“Motor vehicle” includes every description of vehicle or locomotive engine or machine, whether used for carriage traction or otherwise, drawn by animal traction, or propelled or drawn by any mechanical power, and used or intended to be used on roads; the term does not include a railway locomotive, railway carriage or railway waggon.

“Constable”—Any officer or member of the police force.

“Proprietor”—The owner or proprietor, jointly or in severalty, of any stock.

“Run”—Any run, station, farm, freehold, or leasehold, or place where stock are kept, held or depastured.

“Stock”—Any horse, mare, gelding, colt, filly, ass, mule, camel, bull, cow, ox, heifer, steer, calf, ram, ewe, wether, lamb, or goat.

“Travelling stock”—Any stock driven or conveyed by a motor vehicle to any place more than fifteen miles from the run upon which such stock were depastured previous to starting.

Proprietor of travelling stock to provide himself with way bill.

4. Whenever the actual proprietor of any stock, or the manager of any such proprietor, intends to act as the drover thereof, he shall—

Amended by No. 14 of 1935, s. 4.

(a) Provide himself with a way bill in triplicate in the form contained in the First Schedule, signed by such proprietor or manager in the presence of a subscribing witness; and

and post duplicate to Chief Inspector of Stock.

(b) Send one of such triplicates to the Chief Inspector of Stock in Perth, by posting the same in a letter.

First Schedule.

(c) Before commencing to move the stock send one of such triplicates to the nearest officer of police, together with particulars of the route intended to be taken in the droving of such stock and also the approximate time of arrival as the intended destination.

- (d) Provided that, where an owner desires to travel stock from one place to another for the purpose of temporary grazing, the way bill may be in the prescribed form and may cover the outward and return movement of the stock.

5. (1) Whenever any person, other than the actual proprietor or the manager of any such proprietor of any stock, acts as the drover thereof on behalf of such proprietor or manager, the proprietor or manager shall make out in triplicate and sign, in the presence of a subscribing witness, a delivery note in the form contained in the Second Schedule.

Proprietor to provide drover with delivery note.
S. 5 substituted by No. 41 of 1919, s. 2—amended by 14 of 1935, s. 5.

Second Schedule.

(2) Whenever the drover acts for himself or as the agent of some other party, the proprietor or manager shall make out in triplicate and sign, in like manner as aforesaid, a delivery note in the form contained in the Third Schedule. Such form shall be signed by both parties in the presence of a subscribing witness.

Third Schedule.

(3) One of such triplicate delivery notes shall be delivered to the drover, and another shall, at the same time, be sent by the proprietor or manager to the Chief Inspector of Stock in Perth, by posting the same as a letter.

Duplicate to be sent to Chief Inspector of Stock.

(4) Before commencing to move the stock the proprietor or manager or agent shall send one of such triplicate delivery notes to the nearest officer of police, together with a notification in the prescribed form stating the route intended to be taken in the droving of the stock and the approximate time of arrival at the intended destination: Provided that, where an owner desires to travel stock from one place to another for the purpose of temporary grazing, the delivery note may be in the prescribed form and may cover the outward and return movement of the stock.

6. If the way bill or delivery note of any such travelling stock is accidentally lost or destroyed, the drover in charge thereof shall forthwith apply, in writing, to the nearest Justice of the Peace, or inspector, or to the officer in charge of the nearest police station, for an interim way bill or delivery note, as the case may be.

In event of loss of way bill or note, drover to apply for interim way bill or note.

Justice of the Peace, Inspector, or officer may grant interim way bill or note. Fourth Schedule. Amended by No. 41 of 1919, s. 4; No. 14 of 1935, s. 6.

7. (1) Such Justice of the Peace, inspector, or officer shall on satisfactory proof of such loss, and on payment by the applicant of a fee of Five shillings, grant an interim way bill or delivery note for such stock, in the form contained in the Fourth Schedule.

(2) The Justice of the Peace, inspector, or officer shall forthwith send a duplicate of such interim way bill or delivery note to the Chief Inspector of Stock, in Perth, and to the officer in charge of the nearest police station (where the original is not issued by such officer) in a registered letter.

Inspector to compare interim way bill or delivery note with original.

8. The Chief Inspector of Stock, on receipt of an interim way bill or delivery note, shall compare it with the original way bill or delivery note, and if he shall find any difference therein, may cause inquiry to be made, and such proceedings to be taken against the drover as he may think fit.

Way bill or delivery note and stock may be inspected. Amended by No. 41 of 1919, s. 5.

9. Any Justice of the Peace, constable, inspector, agent of an inspector authorised by an inspector in that behalf, or any manager of any run through or along which such stock is, or has been travelling, or any person acting on his behalf, may inspect any travelling stock, and compare the brands or marks thereof with the brands or marks set forth in any such way bill or delivery note, or interim way bill or delivery note.

Drover to submit stock to inspection. Amended by No. 41 of 1919, s. 6.

10. The drover of any such stock shall, on being requested so to do, yard to same when a yard is available within two miles when not travelling on a stock route, or at the leaseholder's last gate when travelling on a stock route, and shall submit the stock in his charge to such inspection accordingly, and shall, when required, produce his way bill or delivery note, or interim way bill or delivery note, as the case may be.

Provided that the yard shall be in the direction the stock are travelling, and in the case of stock travelling on a stock route the yard is provided by the lessee at the last gate on his run.

Any drover failing to comply with any provision of this section shall be guilty of an offence against this Act.

11. Any person inspecting travelling stock as aforesaid, and being satisfied with the correctness of the way bill or delivery note, or interim way bill or delivery note, thereof, shall indorse thereon his name, designation, and address.

Indorsement of way bill or delivery note.

12. Any Justice of the Peace, upon the complaint or information on oath by the Justice of the Peace, constable, inspector, or his agent or the manager or other person acting on his behalf inspecting such stock—

Drover may, in certain cases, be punished summarily. Amended by No. 41 of 1919, s. 7.

- (a) that the drover had in his charge or possession stock not fully and accurately described in such way bill or delivery note ; or
- (b) did not produce the way bill or delivery note or interim way bill or delivery note, relating to such stock, when required as aforesaid,

may issue a summons to such drover to appear at a time and place mentioned in such summons, before any two or more Justices of the Peace, and such drover, so offending, shall be guilty of an offence against this Act.

13. Any person purchasing or receiving from any drover any stock not described, or incorrectly described, in any such way bill or delivery note, or interim way bill or delivery note, or from any drover who has not produced a written authority from the proprietor of such stock, or his manager, to sell or otherwise dispose of the same, shall be guilty of an offence against this Act.

Purchasing stock incorrectly described in any way bill or delivery note an offence.

14. All travelling stock shall, if consisting of horses, mares, geldings, colts, fillies, asses, mules, or camels, or of bulls, cows, oxen, heifers, steers, or calves, be moved not less than eight miles a day, and if consisting of sheep, rams, ewes, wethers, lambs, or goats, not less than five miles a day, or when through enclosed lands, seven miles a day, towards their destination.

Travelling stock to be moved certain distances a day. Amended by No. 41 of 1919, s. 8.

Provided that if it is made to appear to the satisfaction of any Justice of the Peace, or inspector, or the manager of the run through or along which such

Proviso.

stock are travelling, that, owing to some unforeseen cause, the compliance with the foregoing provisions would entail unnecessary hardship, it shall be competent for any such person to give a written permission varying the requirements of this section, in such manner as he may deem expedient.

Drover to give notice before entering run, and of approach to homestead, etc.

Amended by No. 41 of 1919, s. 9.

15. (1) No drover shall allow any travelling stock to—

- (a) enter any enclosed run ; or
- (b) approach within ten miles of the homestead or head station on any run ; or
- (c) approach within ten miles of the headquarters of any person in charge of stock on any part of any run,

unless he first gives the occupier or manager of such run, or the person in charge as aforesaid, as the case may be, not less than eighteen hours, nor more than three days' written notice of his intention to cross or enter such run.

(2) Such notice shall specify by what route and on what day and time the stock are to cross or enter the run, and may be served by being left at the homestead, head station, or headquarters respectively.

(3) No such notice shall be necessary in the case of stock *bona fide* used for saddle, packing, or draught, nor where stock, not exceeding in the whole seven in number, are in charge of a drover.

(4) The owner or lessee of a run into which any travelling stock enter shall keep the route clear of his own stock after receiving such notice as aforesaid while the travelling stock are crossing the run.

Statement to be furnished and carried in respect of sheep removed after sale.

S. 15A inserted by No. 14 of 1935, s. 7.

15A. (1) Subject as hereinafter provided, no sheep shall be removed from any place pursuant to any sale or contract of sale, unless the owner or agent selling the sheep on behalf of the owner—

- (i) first makes out and signs in duplicate a statement relating thereto in the prescribed form ;
- (ii) delivers one of such duplicates to the person into whose control or custody the sheep are to be given.

(2) Every such person, on taking control or custody whether as principal or agent of any sheep, shall be obliged to obtain the duplicate of the statement and retain it in his possession while the sheep are in course of removal and until they reach their intended destination.

(3) The owner or his agent giving possession of any such sheep shall retain the remaining duplicate statement in his possession for inspection for at least six months.

(4) Every person removing sheep as agent shall, after completion of the removal of the sheep to their destination, deliver up the duplicate statement to his principal, who shall keep it in his possession for inspection for at least six months.

(5) Every person having any such statement in his possession shall at all times on demand produce it for inspection to any justice of the peace, constable, inspector, or authorised agent of an inspector.

(6) This section shall not apply to any case coming within the provisions of section four or section five of this Act, or to any sheep which are removed pursuant to any sale or contract of sale from any place in the metropolitan area for consignment by rail, or from any approved saleyard for consignment by rail. For the purpose of this section—

(i) the Governor shall define the metropolitan area by proclamation, and may by any subsequent proclamation vary or amend such definition ;

(ii) the Minister may on payment of the prescribed fee approve of any specified saleyard as a saleyard for the purpose of this section, and may also cancel any such approval from time to time at his discretion.

(7) Every person who fails or neglects to comply with the provisions of this section shall be guilty of an offence against this Act.

Travelling stock to be Woolbranded. S. 16 substituted by No. 14 of 1935, s. 8.

16. Every proprietor of travelling sheep shall cause the same to be legibly branded with a woolbrand, in accordance with the provisions of any statutory law relating to branding, and for that purpose no proprietor of travelling sheep shall permit the same to be driven to any place, unless he is the registered proprietor of a woolbrand in accordance with such laws.

Sheep or cattle returning to same district to pay a travelling charge.

17. (1) If any travelling sheep or cattle are brought back to the run from which they started to travel, or to any other run of the same owner in the same district, the proprietor of such sheep or cattle shall pay to an inspector for such district, or to the Resident Magistrate thereof, a travelling charge at the rate of Twopence per one hundred sheep and Twopence per ten head of cattle per mile for the whole distance such sheep or cattle shall have travelled from the time they started as aforesaid until they were brought back to either of such runs.

Exemption.

(2) Provided this section and section sixteen shall not apply to any sheep or cattle being *bona fide* moved to another run of the same owner for change of pasture, or for purpose of shearing, nor to any sheep or cattle sent *bona fide* to and returning unsold from market.

Application and recovery of charges.

18. All moneys received by inspectors or Resident Magistrates for travelling charges shall be paid by them to the Treasury for the public uses of the State, and all such moneys payable by any proprietor may be recovered summarily before any Justice of the Peace in petty sessions, or by seizure and sale, under the written order of the Resident Magistrate, of the sheep or cattle so brought back as aforesaid.

Stock to be kept to stock routes. Inserted by No. 41 of 1919, s. 10, as s. 18a of No. 30 of 1902 and numbered s. 19 by virtue of s. 15 of 41 of 1919.

19. No stock shall be driven through or over any run on which is a lawfully reserved stock route, except along such route.

Provided that this section shall not apply—

- (a) where stock is being driven to a destination which cannot be reached by such stock route ;

- (b) where the drover has obtained the written permission of the owner or manager of the run to leave the stock route ;

but in every case the drover shall drive the stock on the stock route to the nearest point thereon to his ultimate destination.

Any drover committing a breach of this section shall be guilty of an offence against this Act ; and shall be liable, also, to be proceeded against by the owner of any run, in any court of competent jurisdiction, for recovery of any damages arising from such breach.

20. Any person who—

Penalty.

- (a) Commits an offence against this Act ; or
- (b) neglects to comply with any of the requirements thereof ; or
- (c) Obstructs or impedes, or attempts to obstruct or impede, any person acting under the authority thereof ; or
- (d) Being the proprietor, manager, or drover of any stock, fails to assist in the inspection of such stock,

Formerly s. 19 of 30 of 1902, now numbered s. 20 by virtue of s. 15 of 41 of 1919.

shall be liable, on summary conviction before any two or more Justices in petty sessions, to a penalty not exceeding Fifty pounds.

21. Sections D, F, G¹, and H¹ of the Second Schedule to the Interpretation Act, 1918, are incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Incorporation of Second Schedule of No. 30 of 1918. Formerly s. 20 of 30 of 1902, now re-numbered s. 21 by virtue of s. 15 of 41 of 1919. Amended by No. 41 of 1919, s. 11.

¹ Sections G and H of Interpretation Act, 1918, were amended by No. 73 of 1954, s. 5.

Application of Act to South-West Division. Inserted by No. 41 of 1919, s. 12. Amended by No. 14 of 1935, s. 9; No. 16 of 1954, s. 3.

22. (1) This Act, except section fifteen and section fifteen A thereof, shall not apply within the South-West division of the State as defined by the Land Act, 1898, except when travelling stock are required to cross land held under pastoral lease.

(2) In the application of section fifteen to the South-West division of the State, paragraphs (b) and (c) of subsection (1) thereof shall not apply, and the words "twelve hours" shall be read in lieu of "eighteen hours," and the section shall be subject to a proviso, as follows:—"Provided that it shall not be necessary for notice to be given if the stock are driven over a main road fenced on both sides thereof."

Ss. 10, 15, 17 and 19 do not apply to stock conveyed by a motor vehicle.

(3) The provisions of section ten, fifteen, seventeen and nineteen of this Act do not apply to travelling stock which is conveyed by a motor vehicle.

Section 4.

FIRST SCHEDULE.

The Droving Act, 1902.

Proprietor's Way Bill.

I, _____, of _____ declare that I am the actual proprietor (or the manager of A.B., of _____, the proprietor) of the stock named in the schedule below, consisting of [number in words] [description of stock], which are travelling from _____

to _____ by _____

Signed at _____ this _____ day of _____, 19 _____.

Before me, _____ (Signature)

(Witness.)

Proprietor (or Manager.)

SCHEDULE REFERRED TO ABOVE.

Number	Description of Stock.	Brands or Marks of Stock.

Proprietor (or Manager).

(Signature)

Droving.

SECOND SCHEDULE.

Section 5.

The Droving Act, 1902.

Delivery Note.

This is to certify that I have here this day delivered into the charge of _____ as my drover, the [state number in words] [description of stock] mentioned in the schedule below, for the purpose of their being _____ by him to at

Signed at _____ this _____ day of _____, 19 ____ .
(Signature)

Before me, _____ Proprietor (address).
(Witness.) _____ [or Manager for _____, of _____.]

SCHEDULE REFERRED TO ABOVE.

Number.	Description of Stock.	Brands or Marks.

(Signature)
Proprietor (or Manager).

THIRD SCHEDULE.

Section 5,
ss. (2).
Inserted by
No. 41 of
1919, s. 13.

The Droving Act, 1902.

Delivery Note.

This is to certify that I have here this day delivered into the charge of _____, as drover, the stock mentioned below, as (state whether as the purchaser or lessee thereof or as agent for of _____, or how otherwise).

And I the said (drover), _____, certify that I am about to drive such stock to (state place) _____, for (state whether for his own account or for delivery to _____).

Number.	Description of Stock.	Brands or Marks.

Signed at _____, this _____ day of _____, 19 ____ .

Signature (proprietor or manager)
(Address)

Signature (drover)

Before me—
(witness)

Section 7.
Formerly
Third Schedule
renumbered by
No. 41 of
1919, s. 14.

FOURTH SCHEDULE.

The Droving Act, 1902.

Interim Way Bill (or Delivery Note).

, 19 .

It having been represented to me that _____, the drover of the [state number in words] [description of stock] belonging to _____, mentioned in the schedule below, has accidentally lost his way bill (or delivery note) while travelling from _____ to _____, this interim way bill (or delivery note) is hereby granted to such drover for such stock.

(Signature)

J.P., Inspector (or Officer).

SCHEDULE ABOVE REFERRED TO.

Number.	Description of Stock.	Brands or Marks.

(Signature)

J.P., Inspector (or Officer).