

VERMIN.

No. 2 of 1919.

Reprinted pursuant to the Amendments Incorporation Act, 1938, as amended by No. 39 of 1919*, No. 29 of 1925†, No. 10 of 1926‡, No. 29 of 1929§, No. 33 of 1930||, No. 33 of 1931¶, No. 13 of 1936**, No. 41 of 1938††, and No. 5 of 1943‡‡.

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

[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*, 1918-1942. 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.

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.

2. This Act shall apply throughout the State.

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 The Acts mentioned in the First Schedule to this Act are hereby repealed: Provided that—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

Short title and divisions. No. 2 of 1919, s. 1; No. 41 of 1938, s. 12. No. 5 of 1943, s. 7.

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

First Schedule. No. 2 of 1919, s. 3.

Amended by No. 29 of 1925, s. 3.

* Assented to 17th December, 1919; † assented to 16th December, 1925; ‡ assented to 7th October, 1926; § assented to 23rd December, 1929; || assented to 24th December, 1930; ¶ assented to 28th November, 1931; ** assented to 3rd December, 1936; †† assented to 31st January, 1939; ‡‡ assented to 6th May, 1943.

- (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.

Interpretation.

No. 2 of 1919,
s. 4, amended
by No. 33 of
1930, s. 2;
No. 41 of
1938, s. 2.
No. 5 of 1943,
s. 2.

4. In this Act unless the context otherwise requires—

“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;

“District” means a Vermin District;

“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;

“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—

Inserted by
No. 5 of 1943,
s. 2.

- (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.

The term does not include any parcel of land held for any tenure under the Mining Act, 1904.

“Inspector” means an inspector appointed by the Governor or a board, and includes chief inspector;

“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;

“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 Minister, or the chief inspector.

“Prescribed” means prescribed by this Act or any regulation thereunder;

“Public reserve” means any land excepted from sale by the Governor under Part III. of the Land Act, 1898, 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);

“Vermin” means and includes any animal, bird or insect mentioned in the Third Schedule to this Act, and such other animals, birds or insects the names of which the Governor may by proclamation add to the said schedule:

Provided that the Governor may in like manner remove the name of any animal, bird or insect from the said schedule, and any such proclamation shall have effect as fully as if the addition or removal therein referred to had been expressed in the Third Schedule to this Act

Provided also that the operation of this Act in relation to any insect mentioned in the Third Schedule may be restricted by proclamation to any district or defined portion of the State, and any proclamation whereby the names of other animals, birds, or insects are added to the Third Schedule may be restricted in its operation to any portion of the State to be defined by the proclamation.

“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 Minister, or the chief inspector.

5. For the purposes of this Act—

- (a) a fence shall be taken to be on the boundary of

Inserted by
No. 29 of
1925, s. 4
(3).

Definition of
“boundary”
and “ad-
joining.”
No. 2 of
1919, s. 5.

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, the board of any road district, 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.

7. The powers conferred by this Act on the Minister 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. 2 of
1919, s. 7.

PART II.—CENTRAL ADMINISTRATION.

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

The Minister.
No. 2 of
1919, s. 8.

9. The Governor may from time to time appoint a chief inspector, inspectors, and other officers for carrying this Act into effect.

Officers.
No. 2 of
1919, s. 9.

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.

- (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 Minister 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.

11. Any inspector or other officer may hold his office in conjunction with any other office or employment which the Minister 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.

Minister may delegate powers. No. 2 of 1919, s. 13.

13. The Minister may, in his discretion, delegate to the chief inspector any of the powers conferred by this Act on the Minister.

PART III.—VERMIN DISTRICTS.

Vermin districts. No. 2 of 1919, s. 14.

14. (1) The Governor may, by Order in Council—
- (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 Governor may in like manner declare and apportion the assets and liabilities of the respective boards between them.

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

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

PART IV.—BOARDS OF VERMIN DISTRICTS.

15. (1) For every district there shall be a board, which shall consist of so many members as may, from time to time, be prescribed by the Governor, and such members shall be elected or appointed as hereinafter provided:

Boards.
No. 2 of
1919, s. 15.

Provided that the Governor may appoint the Minister to act as the board of any district for such time as may be thought expedient.

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

16. Every board shall be a body corporate under such name as the Governor shall from time to time determine, and shall have perpetual succession and a common seal, and by such name shall be capable of suing and 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.

Board to be a
corporate
body.
No. 2 of
1919, s. 16.

Appointed
Boards.
No. 2 of
1919, s. 17.

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

(2) The members of a board appointed by the Governor 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 re-
tirements.
No. 2 of
1919, s. 18.

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 number 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 Minister may make such determination.

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

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 there-

of: 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.

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 chose or as the chairman shall, in the absence of such choice, determine.

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:—

Number of votes. No. 2 of 1919, s. 21.

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 road board under the Roads Act, 1911*, if the holding were rateable under that Act.

* Now Road Districts Act, 1919-1941.

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.

Election of
members.
No. 2 of
1919, s. 23.

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.

(2) Such regulations may, subject to this Act, adopt or adapt any of the provisions of Divisions six, seven, eight, and nine of Part III. of the Roads Act, 1911.

(3) Division eleven of Part III. of the Roads Act, 1911, 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.

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

24. The office of a member shall be vacated—

- (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.

Extraordin-
ary 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 con-
stitution 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.

27. When no members, or an insufficient number of members, have been elected to a board, the Governor may at any time, if he thinks fit, 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.

Appointment of members by Governor in certain cases.
No. 2 of 1919, s. 27.

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.

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

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

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

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.

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

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,

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

Appointment
of clerk and
inspectors.
No. 2 of
1919, s. 33.

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

(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 appoint-

ment 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.

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.

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

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

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

(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

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

shall elect for that purpose, shall preside, and shall have a deliberative vote, and, in case of equality of votes, a casting vote.

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

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.

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

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.

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.

Road board or nominees of road boards may be appointed. No. 2 of 1919, s. 45.

45. Notwithstanding anything hereinbefore contained—

Amended by No. 39 of 1919, s. 3 (1).

(1) The Governor may appoint the board of any road district to be the board of any vermin district the boundaries whereof are the same as those of the road district, or which is com-

No. 38 of 1930, s. 3.

prised within the road district; and such road board shall exercise the powers conferred by this Act as if they were conferred by the Roads Act, 1911, and Part IV. of that Act shall apply to its proceedings. The preceding sections of this Part of this Act, except section thirty-three, shall not apply to a road board acting as a vermin board under this Act.

Amended by
No. 39 of
1919, s. 3 (2).

- (2) Where two or more road districts or portions thereof are included within the boundaries of a vermin district, the Governor may, from time to time, on the nomination of the respective road boards, appoint the members of the board for such vermin district.

Amended by
No. 39 of
1919, s. 3
(1).

The number of members to be nominated by each road board shall be determined by the Governor.

Every person so nominated may be either a member of the road board, or a person qualified to be elected a member of a vermin board for the district.

Every member so appointed shall remain in office for three years from the date of his appointment, subject, in the case of a member of a road board, to section twenty-four, paragraphs (b) and (c), and in the case of any other persons to section twenty-four, paragraphs (a), (b), and (c).

Every vacancy in such board shall be filled by the appointment by the Governor of a person nominated by the board in whose nominee's place the vacancy has occurred: Provided that in the case of an extraordinary vacancy, the member appointed shall retire when the member in whose place he has been appointed would have retired by effluxion of time.

- (3) Whenever the boundaries of any road district which are the same as those of a vermin district are altered, the boundaries of the vermin district shall, by force of this Act, but subject to any order or direction of the Governor at any time made under this Act, be correspond-

Inserted by
No. 39 of
1919, s. 3
(iii).

Amended by
No. 29 of
1925, s. 5.

ingly altered to the intent, that the vermin district shall continue to be co-terminous with the road district.

Inserted by
No. 33 of
1930, s. 3.

- (4) Whenever the name of a road district, the boundaries whereof are the same as those of a vermin district which bears the same name as the road district, is altered, the name of the vermin district shall, by force of this Act, but subject to any order or direction of the Governor at any time made under this Act, be correspondingly altered, to the intent that the name of the vermin district shall continue to be the same as that of the road district; and in any such case, if at the time of such alteration of name the board of the road district is the board of the vermin district appointed under this section, the board of the road district under its new name shall, by force of this Act, but subject to any order or direction of the Governor at any time given under this Act, continue to be the board of the vermin district.

Suspension
or abolition
of boards.
No. 2 of
1919, s. 46.

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

- (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.

Minister may
be authorised
to act when
there is no
board acting.
No. 2 of
1919, s. 47.

47. 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 Governor may authorise the Minister 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.

48. The Governor 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.

49. Whenever and so long as the Minister 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 the Minister under the name or style aforesaid.

Powers of Minister acting as board.
No. 2 of 1919, s. 49.

50. The Governor may, whenever he 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.

Appointment of Road Board in lieu of Vermin Board.
No. 2 of 1919, s. 50, amended by No. 39 of 1919, s. 4.

51. (1) The Governor 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 Order in Council—

Adjustment of rights on alterations being made in boards, etc.
No. 2 of 1919, s. 51.

- (a) transfer, vest, or apportion any property, assets, or liabilities affected in such way as he 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 order in council shall have effect as if it were part of this Act.

Returns to be furnished by board.
No. 2 of 1919, s. 52.

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

- (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.

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

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

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

Rate book.
No. 2 of 1919, s. 54.

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—

- (a) all rateable holdings within the district, and in the appropriate column: in the case of a pastoral holding the area, and in other cases the unimproved capital value;
- (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.

55. Any person authorised by the chairman of a board, or by the Minister, 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.

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, and all persons authorised by the chairman, or the Minister, free access to the same.

Penalty: Five pounds.

Access to be given.
No. 2 of 1919, s. 56.

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.

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

(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.

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.

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

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. 33 of 1930, s. 4.
No. 5 of 1943, s. 3.

(2) Such rate shall not exceed for a pastoral holding one shilling for every one hundred acres of the holding, and for any other holding the maximum amount of half the rate which might be levied on the unimproved capital value of the holding by the board of the road district in which it is situated, but a minimum rate of two shillings and sixpence may be levied on any rateable holding the annual rate in respect of which (whether on the area or on the unimproved capital value) would not amount to two shillings and sixpence:

Amended by No. 39 of 1919, s. 5.

Provided that whenever and so long as a holding is and remains enclosed with a rabbit-proof fence, and such

Amended by No. 29 of 1925, s. 6.

fence is maintained in good repair, the holding shall not be liable to be rated under this part of this Act.

Inserted by
No. 33 of
1930, s. 4.

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, or any amendment thereof, for two years from the commencement of the lease.

Inserted by
No. 5 of 1943,
s. 3.

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

(3) If the board in any year levies on holdings of either of such classes less than the maximum rate, then the rate which the board shall levy on holdings of the other class for that year shall be less in the same proportion than the maximum which might be levied thereon.

(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.

Manner of
making rate.
No. 2 of
1919, s. 6^c,
amended by
No. 33 of
1930, s. 5.

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.

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.

(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.

61. The provisions of sections two hundred and twenty-four to two hundred and twenty-nine (both inclusive) of the Roads Act, 1911, and section thirty-three of the Roads Act Amendment Act, 1912, are hereby adopted as portion of this Act and shall be deemed to be here repeated, and construed as part of this Act: Provided that no appeal shall lie against any entry in the rate book on the ground that any holding is valued above its full and fair rateable value in any case in which 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 the rate book of the road board in whose district the land is situated: Provided also that where the assessment is on the area an appeal shall lie on the ground that the area set out in the rate book is in excess of the actual area of the holding.

Adoption of rating appeal provisions of the Roads Act, 1911.

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—

Recovery of rates. No. 2 of 1919, s. 62.

- (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,

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.

Apportionment 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, now
renumbered
s. 64 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 pro-

visions 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.

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.

66. (1) Subject to this Act and without prejudice to the powers conferred thereby, all the provisions of the Roads Act, 1911, relating to the payment and recovery of general rates shall apply to, and in respect of every rate made under this Act by a road board acting as a vermin board, and shall be deemed to be incorporated with this Act.

Application of provisions of Roads Act to rates struck by a road board under this Act. No. 2 of 1919, s. 65.

(2) A road board 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 Roads Act, 1911, 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 Governor may direct that the owners in the district shall be exempt from the payment of any rates under this Act for such period as he may think fit.

Exemption from assessment in certain cases. No. 2 of 1919, s. 66.

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

Power to write off arrears. No. 2 of 1919, s. 67.

(2).—*Loans.*

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

Loans to boards. No. 2 of 1919, s. 68.

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

Repayment of loans. No. 2 of 1919, s. 69.

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

Minister's powers in case of default.
No. 2 of 1919, s. 70.

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

Discharge of Minister in respect of sums advanced.
No. 2 of 1919, s. 71.

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

Overdraft.
No. 2 of 1919, s. 72.

73. A board, pending the collection of rates, may 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.

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 administration of this Act within the district, including the reasonable travelling expenses of the members of the board and its officers and servants;
- (2) For defraying the cost of the erection, alteration, improvement, maintenance, or renewal of fences for the purpose of preventing the incursion or migration of vermin;
- (3) In payment of the interest on and in repayment of the principal of any loan to the board;
- (4) For defraying the cost of the destruction of vermin within the district.

PART VI.—FENCING.

Powers of Minister and boards as to fencing. No. 2 of 1919, s. 74.

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

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

(2) The Minister or a board, and the officers, servants, and agents of the Minister 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.

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.

Control of board over Government fences. No. 2 of 1919, s. 75.

77. The Minister or a board may cause to be affixed 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 Minister or the board may think fit for the purpose of preventing the incursion or migration of vermin, at the sole cost of the Minister or board.

Power to affix wire netting, etc., to fences. No. 2 of 1919, s. 76.

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 Minister or the board controlling the same.

Public fence not to be used without consent. No. 2 of 1919, s. 77.

Contributions
by owners.
No. 2 of
1919, s. 78.

79. (1) If any Government fence or any fence erected by or under the control of a board is, with the consent of the Minister 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 Minister 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 Minister 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 Minister 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.

(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 Minister or a board, such owner shall become liable to pay to the Minister 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 Minister 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 Minister 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.

(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, and adjoining district, or any part thereof, shall be deemed a holding, and the board of such district shall be deemed the owner thereof.

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

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

Enforcement
of contribu-
tion.
No. 2 of
1919, s. 79.

- (1) The annual sum payable shall become a debt due to the Minister or the board, as the case may be, from the owner and his successors in title.
- (2) Such annual sum shall be payable on the same day in every year, and such day shall be fixed by the Minister 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 Minister 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 Minister or the board the capital amount in respect of which the annual sum is so payable as aforesaid, and upon such payment the Minister 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.

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.

Contribution
to vermin and
rabbit-proof
fences by ad-
joining
owners.
No. 2 of
1919, s. 80.

(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.

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

Provisions as to contributions.

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

(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.

Adjoining holdings to contribute to cost of maintenance.
No. 2 of
1919, s. 81.

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 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 Minister.

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.

Right of entry to erect, maintain, repair or renew fence.

Inserted by No. 10 of 1926, s. 3, as s. 81A, now renumbered s. 83.

84. Any dispute between the Minister or a board and the owner of any holding, or between the board and another board, or between a board and the Minister, 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.

Disputes to be determined by arbitration.

No. 2 of 1919, s. 82.

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.

(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 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.

Contribution
by adjoining
land-owners
and occu-
piers.
No. 2 of
1919, s. 84.

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 re-
quire water
supplies to be
fenced in
vermin-
infested dis-
tricts.
No. 2 of
1919, s. 85.

87. (1) The Governor may, for the purposes of this section, declare, by proclamation, that any area therein defined is vermin infested, and that all owners of holdings therein are required, within a time specified, to en-

close 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 Minister or a Board that any holding or group of holdings is or are enclosed with a rabbit-proof fence or other approved appliance the Minister 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 a board is prepared to supply wire-netting.

(2) If any owner makes default in compliance with the terms of such proclamation, 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.

Penalty for failing to fence or to repair fencing.

(3) If any such default is made or want of reparation exists, the Minister 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 Minister or the board may enter on the holding and erect or repair such fencing or other approved appliance and cut, remove, and use any timber required, subject to the proviso in section seventy-five hereof.

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

(4) Any expense incurred by the Minister or a board hereunder may be recovered by the Minister 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 proclamation 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

Occupier liable as well as owner.

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 to permit owner to enter and fence, etc.

(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 proclamation 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.

Respective rights of owner and occupier.

(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—

- (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 Commissioner of Railways 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.

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 board of the road district 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 Minister, and the cost shall be recoverable by the Minister from the board.

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 Minister or a board for wire netting and other appliances. On such application being made, the Minister 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, as the case may be.

(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 Agricultural Bank, which Bank for the purposes of the section shall in such case be deemed to be the mortgagee, or to the Minister 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 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.

Maintenance of certain fences erected by Crown.
No. 2 of
1919, s. 86.

Supply of wire netting by Minister or board.
No. 2 of
1919, s. 87.

Applicant to secure repayment of cost by mortgage.

Amended by
No. 29 of
1925, s. 8.

Duty to repair
and maintain
fence.

(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.

Any occupier who fails to fully and continuously perform such duty when required to do so by an 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 Minister or the board, as the case may be, may cause the fence to be repaired, and any person acting with the authority of the Minister or the board may enter on the land for that purpose and cut and remove any timber required.

Any expense incurred by the Minister 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 de-
fault by mort-
gagor.

(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 Minister 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 Agricultural Bank as mortgagee, or the Minister 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.

Amended by
No. 29 of
1925, s. 8.

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 Minister or the Board (as the case may be) against the application.

If the Minister 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 Minister or the board with the approval of the Minister 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 Minister 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 Minister 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

91. (1) Any person in whom any land is vested 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.

(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, by summons in the prescribed form served on the Minister, 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

Provision for
apportionment of obligations where
land severed.

No. 2 of
1919, s. 89.

and obligations of the parties *inter se* in respect thereof, and such order shall bind all parties concerned, including the Minister and the board, without prejudice, however, to any order made, or to be made, by a board or the Minister 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.

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 Minister, 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 Minister or the board may deem reasonable, or if such wire netting is not properly applied and maintained, the Minister 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 expenses occasioned by such resumption, shall be repaid to him by the Minister 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 Crown or the board, as the case may be, until the cost thereof with interest as prescribed has been paid.

PART VII.—DESTRUCTION OF VERMIN.

Powers of the Minister and Boards.
No. 2 of 1919, s. 92, amended by No. 41 of 1938, s. 3.

94. (1) The Minister, 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.

(2) For the purpose of this Part of this Act an “authorised person” means a person having the authority in writing of the Minister or board or the chief inspector.

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 Minister.

Notice of vermin to be given by occupiers.
No. 2 of 1919, s. 93, amended by No. 41 of 1938, s. 4.

Penalty: Not exceeding Twenty pounds.

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 Minister or board has for the time being assigned, by either special or general authority, the duty of inspecting such holding.

Duty of owners and occupiers to destroy vermin.
No. 2 of 1919, s. 94, amended by No. 39 of 1919, s. 7, and No. 41 of 1938, s. 5.
No. 5 of 1943, s. 4.

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.

Inserted by No. 5 of 1943, s. 4.

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.

Inspectors and others may enter holdings.
No. 2 of 1919, s. 95, amended by No. 41 of 1938, s. 6.

(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.

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

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

(3) Every Government inspector shall furnish such report to the Minister, and every inspector appointed by a board shall furnish such report to the board.

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

(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 Inspector or any person authorised by him in that behalf.

Power for
Minister and
board to order
destruction
of vermin.
No. 2 of 1919,
s. 96, amended
by No. 41 of
1938, s. 7.

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

- (a) a date or dates on or before which the owners or occupiers of all or any holdings shall respectively commence the work of suppressing or destroying vermin or destroying eggs on such holdings, and upon the roads bounding or intersecting the same; and the period or periods during which the said work shall be continued and systematically carried out; and
- (b) the means which shall be adopted for carrying out the said work.

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 Minister or a board in respect of holdings situated wholly or partly within its district, may 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 as may be specified in such notice.

Owners and
occupiers not
commencing
and contin-
uing to
comply to be
in default.
No. 2 of
1919, s. 97.
No. 5 of 1943,
s. 5.

99. For the purposes of the last preceding section any owner or occupier who—

- (a) does not forthwith after the date specified in the notice in the *Gazette* or within seven days after the service upon him of the notice mentioned in that section, as the case may be, commence to comply therewith; or
- (b) having so commenced does not continue such compliance,

shall be deemed to have failed or neglected to comply with the notice, and shall be guilty of an offence against this Act.

Penalty: Not exceeding Fifty pounds.

All complaints made under this section shall be heard and determined by a police or residence 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.

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
- (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.

101. All costs, charges, and expenses incurred by the Minister 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 Minister or the board in any court of competent jurisdiction, and shall be a charge upon the land.

Liability of owner or occupier for expenses incurred, No. 2 of 1919, s. 99, amended by No. 41 of 1938, s. 9.

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.

Board to secure enforcement of Act, No. 2 of 1919, s. 100, amended by No. 41 of 1938, s. 10.

(2) If, in the opinion of the Minister, 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 Minister may cause all such means to be taken as he may deem necessary, and the cost incurred shall be a debt due to the Minister by the board in default.

Special rate for destruction of vermin.

Inserted by No. 29 of 1925, s. 10, as s. 100A, now renumbered 103, 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.

Inserted by No. 10 of 1926, s. 2.

103. (1) Every owner of a holding shall pay to the Minister a rate of such amount as may be fixed by the Minister 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, 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 owners of holdings within any municipal district, or any townsite, or residential area under the Land Act, 1898, 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 Inspector, the owner of such holding or of any holding within such group shall not be liable to the payment of such rate.

Provided further, that no rate 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 thirty, or for any subsequent financial year in respect of any holding which is owned by or on behalf of any religious body or is exclusively used for the purposes of a public hospital, benevolent asylum, or orphanage, or for other charitable purposes.

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.

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, or any amendment thereof, for two years from the commencement of the lease.

Inserted by No. 29 of 1929, s. 2.

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

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

Provided further, that as from the third day of January, one thousand nine hundred and nineteen, any public reserve vested in, held by, or placed under the control of any municipality or road board shall be and be deemed to have been exempt from assessment of rates under this section.

Inserted by
No 13 of
1936, s. 2.

(2) The amount of such rate shall, if required by the Minister, 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.

(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 Minister in payment of—

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

- (a) expenses incurred by boards or government officers in connection with the transport to the Department of Agriculture of scalps or claws of vermin in respect of which a uniform bonus may be paid under paragraph (d) hereof;
- (b) travelling expenses and allowances of members of the Advisory Board hereinafter mentioned;
- (c) wages or salaries of trappers employed by the said Advisory Board, and expenses incurred in connection with measures taken by the board, as hereinafter authorised, for the destruction of vermin;
- (d) such uniform bonus for the destruction of wild dogs, foxes, wedge-tailed eagles, and other vermin as may be prescribed.

(4) The Minister shall appoint an honorary advisory board, consisting of three persons, to assist the Minister in the administration of this section. One member of the board shall be a representative of the pastoral industry, and one shall be a representative of the agricultural industry, and the third member, who shall be chairman, shall be an officer of the Department of Agriculture.

(5) The Advisory Board may, with the approval of the Minister, from time to time employ trappers, and take such measures as the board deems expedient for the destruction of wild dogs, foxes, wedge-tailed eagles, and other vermin, in respect of which a uniform bonus may be paid under subsection (3) of this section.

Inserted by
No. 33 of
1930, s. 7, as
s.s. (4a), now
renumbered
(5).

Formerly
ss. (5), now
renumbered
(6).

(6) This section shall not apply to any holding which does not exceed one hundred and sixty acres in area.

[Former subsection (6) repealed by No. 33 of 1931 s2]

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

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

PART VIII.—MISCELLANEOUS.

Minister to
represent
Crown.
No. 2 of
1919, s. 101.

104. The Crown shall, for the purposes of this Act, be represented by the Minister, who may enter into all contracts, execute all documents, exercise and enforce all rights and remedies, and take part in or be made a party to all proceedings in the name or style of his office as if he were a corporation sole.

Fences to
continue the
property of
Crown or
board.
No. 2 of
1919, s. 102.

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 board, as the case may be.

A fence may
cross roads
and stock
routes.

(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.

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, 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.

107. (1) The owner of any fence may by writing under his hand require the Chief Inspector 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 Inspector 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.

Certificate that fence is vermin or rabbit-proof.
No. 2 of 1919, s. 104.

Amended by No. 39 of 1919, s. 8.

(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 Minister 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.

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.

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.

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, now renumbered s. 111.

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

Penalty for destroying and injuring fences, etc.
No. 2 of 1919, s. 108.

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
 - (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.

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, along or over any Crown lands adjoining any Government fence, and set apart for the use of the Minister 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.

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.

115. Any person who, without lawful authority (the proof of which shall be on the person claiming to have the same), liberates, or attempts to liberate, or has in his possession any live vermin, shall be liable to a penalty not exceeding one hundred pounds for every such offence; but nothing herein contained shall be construed to prohibit any person from keeping live vermin in any safe enclosure with the written permission of the Minister first had and obtained.

Penalty for keeping, liberating etc., vermin.
No. 2 of 1919, s. 111.

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.

Penalty for passing live vermin through fence.
No. 2 of 1919, s. 112.

117. Any person who, without the license in writing of the Minister, 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.

Reward for destruction of rabbits prohibited.
No. 2 of 1919, s. 113.

118. Any person who, in any part of the State situated westward of the Government fence from Starvation Boat Harbour to the Ninety-Mile Beach, without the license in writing of the Minister sells, or offers to sell, or exposes for sale any dead rabbit shall be liable to a penalty not exceeding fifty pounds.

Sale of rabbits prohibited.
No. 2 of 1919, s. 114.

Amended by No. 39 of 1919, s. 9.

It is a defence to a charge under this section to prove that the rabbit was imported from beyond the State or was killed eastward of the said Government fence.

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

Natural enemies of rabbits protected.
No. 2 of 1919, s. 115.

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.

Stealing water from rabbit reserve.
No. 2 of 1919, s. 116.

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

Obstruction of inspectors and others.
No. 2 of 1919, s. 117.

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.

(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.

Penalty for personating inspector or authorised person.
No. 2 of 1919, s. 118.

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.

Indemnity to persons acting in execution of powers conferred by Act.
No. 2 of 1919, s. 119.

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.

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.

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

Proof of
amount of
costs, charges,
or expenses.
No. 2 of
1919, s. 121.

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:—

Service of
notices.
No. 2 of
1919, s. 122.

- (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.

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.

Proceedings
when occu-
pier or owners
unknown.
No. 2 of
1919, s. 123.

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.

Board may
be represented
in proceed-
ings by chair-
men, etc.
No. 2 of
1919, s. 124.

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,

may represent the board in all respects as though he had been the party concerned.

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

Proof of
ownership.
No. 2 of
1919, s. 125.

(1) evidence that the person proceeded against is rated in a road district 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 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, shall, until the contrary is proved, be evidence that such person is the owner of such land.

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

(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 Minister, 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.
No. 5 of 1943,
s. 6.

(2) The Minister 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.

Expense: by road boards.
No. 2 of 1919, s. 127.

131. A road board 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.

Charge not to preclude Agricultural Bank advance.
No. 2 of 1919, s. 123.

132. Notwithstanding the provisions of section thirty-one of the Agricultural Bank Act, 1906,* 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.

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.

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.

135. The Governor may make regulations prescribing all 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 twenty-five pounds for any breach thereof.

Publication and effect of regulations.
No. 2 of 1919, s. 132.

136. (1) Any regulation made or purporting to be made under or by virtue of this Act shall—

- (a) be published in the *Gazette*;
- (b) take effect from the date of publication or from a later date to be specified therein; and
- (c) be judicially noticed, and unless and until disallowed as hereinafter provided, or except in so far as in conflict with any express provision of this or any other Act, be conclusively deemed to be valid and shall have the force of law.

(2) Such regulations shall be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

(3) If either House of Parliament pass a resolution at any time within one month after any such regulation has been laid before it disallowing such regulation, then the same shall thereupon cease to have effect, subject, however, to such and the like savings as apply in the case of the repeal of a statute.

Power of disallowance.

137. The chief inspector 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.

Reports.
No. 2 of
1919, s. 133.

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 I.

Description of a Vermin Fence.

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.

No. 2 of 1919,
2nd Schedule,
amended by
No. 29 of
1925, s. 13,
and No. 33 of
1930, s. 3.

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.

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

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.

THIRD SCHEDULE.

No. 2 of 1919,
Third
Schedule,
amended by
No. 41 of
1938, s. 11.

Rabbits, foxes, dingoes, dogs run wild or at large, sparrows, starlings, grasshoppers, and/or locusts.

FOURTH SCHEDULE.

No. 2 of 1919,
Fourth
Schedule.

Warrant (each person)	One shilling.
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, commission, 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.