

FIRST PRINT

RURAL LANDS PROTECTION BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to consolidate and update as a single measure the provisions of the Pastures Protection Act 1934, the Registration of Stock Brands Act 1921 and the Noxious Insects Act 1934.

The Bill provides for the constitution of rural lands protection districts (formerly pastures protection districts). It also provides for the establishment of rural lands protection boards and for existing pastures protection boards to become rural lands protection boards. The election and, in exceptional circumstances, appointment of directors of boards is provided for and provision is made for the appointment of district veterinarians. The statutory responsibilities of the Council of Advice, the peak body for rural lands protection boards, are set out in the Bill. The Bill makes provision for land within a rural lands protection district to be assessed for rates and for the levying and collection of rates. The proceeds from the collection of rates will continue to provide finance to enable a board to carry out its functions.

The Bill makes provision for animal health matters (which the existing legislation does not do) and introduces a new system for regulating the use of travelling stock reserves (a term which under the Bill will continue to embrace stock camping reserves). Provision is made for impounding abandoned and trespassing stock and for the control and use of stock watering places (which are currently known as public watering-places). The Bill also provides for the suppression and destruction of noxious animals and noxious insects and for the erection and maintenance of rabbit proof, dog proof and marsupial proof fences.

At present, the registration of brands for horses and cattle is governed by the Registration of Stock Brands Act 1921 while the registration of brands and earmarks for sheep and goats is dealt with in Part 8 of the Pastures Protection Act 1934. These registration systems are to be unified and the registration of all stock brands, earmarks and other forms of stock identification is to be administered by boards.

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The Bill also includes measures for its enforcement and other matters of an ancillary nature.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

Clause 3 defines certain expressions for the purposes of the proposed Act. Among the expressions defined are "noxious animal" which means a rabbit, wild dog or feral pig or any animal or bird of any other species declared by order made by the Minister to be a species of noxious animal and "noxious insect" which means an Australian plague locust or an insect of any other species of insect declared by such an order to be a species of noxious insect.

PART 2 - RURAL LANDS PROTECTION BOARDS

Division 1 - Rural lands protection districts

Clause 4 will empower the Governor-in-Council to constitute rural lands protection districts.

Clause 5 will require the Minister to divide each rural lands protection district into 4 divisions, unless the district is exempted under the clause.

Division 2 - Constitution of rural lands protection boards

Clause 6 provides for the establishment of a rural lands protection board ("board") for each rural lands protection district constituted under the proposed Act. Each board is to be a corporation.

Clause 7 provides for the appointment of an administrator to manage the affairs of a board, pending the election of directors of the board.

Clause 8 provides, in certain circumstances, for the dissolution of a board established for an existing district and the vesting of its property in and assignment of rights and obligations to another board.

Division 3 - Functions of boards

Clause 9 will confer on a board certain general functions. These include the levying and collection of a general rate and an animal health rate, the care, control and management of travelling stock reserves (including camping reserves and stock watering places), the supervision of the suppression and destruction of noxious animals and noxious insects, the erection and maintenance of certain fences and the registering of brand and earmark designs and other means of stock identification.

Clause 10 will enable a board to purchase, or sell to an occupier of ratable land, certain devices, substances, signs and articles to enable requirements under the proposed Act to be fulfilled.

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Clause 11 will confer on a board certain functions with respect to natural disasters.

Clause 12 will authorise a board to act as agent for the Meat Industry Authority by issuing notices in respect of, and then collecting, meat industry levies.

Clause 13 sets out the borrowing powers of boards. Borrowings may be by way of limited overdraft on current account or the Minister may authorise a board to borrow in some other way.

Division 4 - Election of directors

Clause 14 will require the Minister to fix a date in every fourth year for the general election of directors of a board. Directors elected at a general election will take office on 1 November following the election. The clause also provides for what is to happen if an election fails and fixes the time when directors will cease to hold office.

Clause 15 provides that, except where the vacancy arises within the 6 months preceding a general election, a board must, within 3 months after a casual vacancy arises in the office of a director of the board, hold a special election of electors to fill the vacancy. If the vacancy is not filled, the Minister is to be empowered to appoint a person to fill the vacancy.

Clause 16 contains provisions that are to apply to both general elections and elections to fill a casual vacancy. Elections are to be conducted by post in accordance with procedures prescribed by the regulations.

Division 5 - Enrolment and voting qualifications and qualifications for election etc.

Clause 17 defines a holding for the purposes of the Division. The clause provides that, if a holding of land is located within 2 or more districts, or 2 or more divisions, it is to be regarded as being located wholly within the district or division in which the larger part lies. If the parts are equal, the part on which the principal residence is situated is to be regarded as the larger part.

Clause 18 will require a board to establish and maintain an electors' roll containing the name and address of every person entitled to be enrolled in respect of a holding that is located within the board's district.

Clause 19 specifies the persons who will be eligible to be enrolled as voters in respect of holdings.

Clause 20 specifies the persons who will be qualified to vote at an election of directors of a board.

Clause 21 specifies the persons who will be qualified for election or appointment as directors of a board.

Division 6 - Staff

Clause 22 provides for the appointment, by a board, of a district veterinarian. Such an appointment will be subject to the prior approval of the Chief of the Division of Animal Health in the Department of Agriculture and Fisheries. A district veterinarian is to be subject to the control and direction of the Chief of that Division

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but will be required to account to the board with respect to time spent on animal health matters. The clause also deals with the terms of employment of district veterinarians.

Clause 23 will empower the Minister to appoint a suitable person to perform the functions of a district veterinarian during the veterinarian's illness, suspension from duty or absence or, if a vacancy occurs in the office of a veterinarian, until the vacancy can be filled.

Clause 24 will empower a board to appoint a secretary, rangers, noxious animal inspectors and other employees of classes prescribed by the regulations or approved by the Minister to enable the board to perform its functions. The clause also provides for the terms of employment of such employees. An appointment as a ranger is to be subject to the approval of the Regional Director of Veterinary Services.

Clause 25 will authorise a board, with the approval of the Regional Director of Veterinary Services, to appoint temporary employees for a period of no longer than 3 months if there is no person available for permanent appointment to fill a vacancy in an office referred to in proposed section 24. However, appointments under the clause can be renewed.

Clause 26 will authorise a board to second any of its employees to a board of another district. The clause will also allow the secondment of a district veterinarian with the consent of the Regional Director of Veterinary Services.

Clause 27 provides for the apportionment of certain long service leave payments between 2 or more boards in such manner as the Minister directs in respect of persons appointed under proposed section 22 or 24.

Division 7 - Financial provisions

Clause 28 provides for the financial year of a board.

Clause 29 provides for a board to keep such accounting records as will correctly record and explain the board's financial transactions and in such manner as will facilitate the preparation and auditing of the board's income and expenditure account and annual balance sheet.

Clause 30 will require a board, within 3 months after the end of its financial year, to prepare an income and expenditure account and a balance sheet for its last financial year. A board will, within 4 months after the end of its financial year, be required to send to the Minister and, on request, to the Auditor-General, copies of its accounts and the auditor's report. A board will also be required to publish a summary of the accounts and report in at least one local newspaper.

Clause 31 will require a board to establish and maintain a rural lands protection fund and pay into it certain money paid to or recovered by the board. A board will be authorised to pay out of its fund certain expenses, including expenses incurred in the exercise of its functions.

Clause 32 will require a board for a district that is located in the Eastern and Central Division to open a wild dog fund to be used for the suppression and destruction of wild dogs if the Minister so directs.

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Clause 33 will require a board for a district that is located within the Eastern and Central Division to maintain a reserves improvement fund. The fund will enable the board to exercise its functions in relation to the reserves and stock watering places under its control.

Clause 34 will require a board for a district located within the Western Division to maintain a stock watering places fund. The fund will enable the board to exercise its functions in relation to the reserves and stock watering places under its control.

Clause 35 will require a board (unless otherwise approved by the Minister) to establish a noxious insects fund into which there is to be paid levies paid or recovered under Part 10 of the proposed Act which are to be held in the fund until such time as they are remitted to the Minister.

Clause 36 will authorise a board, with the Minister's consent, to open a special fund for purposes not covered by any other fund. It will be unlawful for a special fund to be applied for any other purpose than that for which it was established.

Clause 37 will require a board to appoint at least one qualified auditor to audit its accounts within 1 month of the board being established, or 1 month after the commencement of the clause if it is a board continued in existence by the proposed Act and has no such auditor.

Clause 38 will allow the Auditor-General at any time, or require the Auditor-General if requested by the Minister, to conduct a special audit of a board's accounts. If the audit is conducted at the Minister's request, the cost of the audit will be payable from the board's rural lands protection fund.

Clause 39 sets out the powers and duties of auditors with respect to reporting on the accounts prepared by the board and on the board's accounting records and other records relating to those accounts. If a board's auditor becomes aware of a failure to comply with a provision under proposed Division 7 or of a contravention of any provision of the proposed Act, the auditor will be required to report the matter immediately to the Minister by notice in writing.

Clause 40 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000) or imprisonment for a term not exceeding 12 months, for a director or employee of a board to hinder, obstruct or delay an auditor of the board in any way when the Auditor is exercising his or her functions.

Clause 41 will enable the Auditor-General to disallow any expenditure that has been improperly incurred by or on behalf of a board or any improper entry or transfer appearing in the board's accounting records. The Auditor-General will be required to surcharge directors or employees who have incurred or authorised the expenditure with the amount of the improper expenditure, entry or transfer. If surcharged, a director or employee will have a right of appeal against the surcharge to the Local Court nearest to the board's principal place of administration.

Division 8 - Administration of affairs of board

Clause 42 will authorise the Governor-in-Council to appoint an administrator to manage the affairs of a board if:

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- * the board has insufficient directors to form a quorum;
- * the board continues to exercise a function that is not conferred or imposed on it; or
- * a board has failed to carry out any required duty or responsibility.

Proposed Schedule 3 applies to an administrator so appointed. If there are insufficient directors to form a quorum of a board, the Governor-in-Council will, instead of appointing an administrator, be empowered to appoint the necessary number of persons to hold office as directors until the vacancies can be filled as provided by the proposed Act.

Clause 43 will require an administrator appointed under proposed section 42 to hold a general election of directors of a board when directed by the Minister to do so.

Division 9 - Other administrative matters

Clause 44 will require a board to designate a place within its district as its principal place of administration and to notify the Minister of that place.

Clause 45 will require a board to prepare an annual report of its activities and submit a copy of it to the Council of Advice within 2 months after the end of each financial year. Such a report will be required to be prepared in accordance with the Council's requirements.

Clause 46 will require a board to keep signed minutes of all proceedings of meetings of the board.

Clause 47 will entitle a rural lands protection board to be represented by a legal practitioner or other agent at any proceedings before a local land board concerning the rural lands protection board.

Clause 48 will empower the Minister, the Auditor-General or a person authorised in writing to require a board or a director or employee of a board to produce for inspection any of the board's accounting or other records. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a board, director or employee to fail to comply with such a requirement.

Clause 49 will enable a board to charge interest at a prescribed rate on amounts that are unpaid and owing to it at the end of a period to be prescribed by the regulations, but this provision will not apply to unpaid rates (which are dealt with in proposed Part 4).

PART 3 - COUNCIL OF ADVICE

Clause 50 relates to the Council of Advice. The clause specifies the Council's functions under the proposed Act and, in particular, provides for the Council:

- * to be a medium of communication between boards and the Government;
- * to hold inquiries and report on matters relating to primary industry or rural land when requested by the Minister; and
- * to represent boards on committees that the Minister has established in relation to primary industry or rural land.

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When the Minister receives a report from the Council with respect to a matter that the Minister has referred to the Council for advice, the Minister will be empowered to give a direction to boards generally or to a particular board with respect to that matter.

Clause 51 will enable the Council of Advice to negotiate on behalf of the Rural Lands Protection Boards' Association an agreement or arrangement with the Meat Industry Authority with respect to the collection and recovery of meat industry levies. The Council may enter into such an agreement or arrangement on behalf of that Association.

Clause 52 will require the Council of Advice to prepare a written annual report concerning the activities of all boards and submit a copy of it to the Minister by 30 June in each year. If a board fails to submit to the Council a report of its activities in time for inclusion in the annual report, the Council will be required to include a statement in that report concerning the non-inclusion.

PART 4 - RATES

Division 1 - General and animal health rates

Clause 53 will require a board, for each year beginning on 1 January, to levy a general rate on the occupiers of all ratable land within its district and also an animal health rate on occupiers who keep not fewer than 50 stock, or some other number prescribed by the regulations. (For the purposes of the clause, stock under the age of 6 months and the first 5 horses kept on a holding are not to be counted.) With the approval of the Minister, a board will be permitted to fix minimum rates in respect of the general rate and animal health rate and to vary those rates.

Clause 54 will require a board to calculate the amount of the general rate and animal health rate according to the carrying capacity of the ratable land. This clause prescribes methods for calculating the general rate payable if the relevant ratable land does not have a carrying capacity or if the amount of the general rate or the animal health rate is less than the minimum general rate or minimum animal health rate that has been fixed by the board.

Division 2 - Boards to assess carrying capacity of land

Clause 55 will require a board to assess stock unit equivalents (other than for pigs) by reference to dry stock units determined by the board and calculated as set out in the clause. The clause provides that, if a board has assessed the carrying capacity of particular land, a reference to the carrying capacity will be a reference to the number of stock unit equivalents that, as last assessed by the board, could be maintained on that land in an average season under usual local management practices. The clause sets out the matters to be taken into account when assessing the carrying capacity of particular land.

Clause 56 provides that, if a board decides that any particular land is a feedlot or an intensive piggery on which there were on 30 June of the last preceding year not fewer than 50 stock unit equivalents, or some other number prescribed by the regulations, the occupier of the land will be liable to pay to the board an animal

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health rate in respect of the land for the following year. The clause sets out the matters to be taken into account when assessing the carrying capacity of a feedlot or an intensive piggery.

Clause 57 will require an occupier of land within, and an owner of stock kept within, a district, and a proprietor of each brand or earmark design registered by the district registrar, to lodge with the board an annual return giving details of prescribed matters. This clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for such a person to fail to lodge the return by the prescribed date. A board will be expected to levy both a general rate and an animal health rate even if the person concerned has not lodged an annual return, and will be able to issue a rate notice in respect of rates unpaid for not more than 5 years.

Clause 58 will require a person to whom clause 57 applies to provide a board with information relating to a matter referred to in clause 57 in respect of land or stock so that the board may verify or update its records or the accuracy of information contained in the person's annual return. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for the person to fail to comply with the requirement.

Clause 59 specifies the purposes for which information provided under clause 57 or 58 may be used. Those purposes include the verification of the carrying capacity of land, the efficient administration of animal health and production services by the board or the Minister and the preparation of statistical data concerning animal health or the protection of rural land.

Clause 60 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to take land on a short tenure (being a lease from the Crown not exceeding 3 years) without lodging a surety with the board concerned. The amount of such a surety may be equal to the total amount of rates payable if that land had not been Crown land. The clause sets out a method of calculating what amount is to be forfeited at the end of the tenure.

Clause 61 provides that, if an occupier or owner of land is dissatisfied with a board's assessment of the carrying capacity of the land, the occupier or owner will, within 60 days after the service of the relevant rate notice based on the assessment, be entitled to apply in writing to the board for a review. If the occupier or owner is dissatisfied with the decision of the board following the review, he or she will, within 30 days after the service of the board's decision, be entitled to appeal to the local land board. The local land board's decision on the hearing of an appeal is to be final.

Division 3 - Liability for rates

Clause 62 provides that the occupier of ratable land will be primarily liable for the payment of a rate in respect of the land, being payable 31 days from service of the rate notice. Two or more occupiers who hold the land jointly or in common will be jointly and severally liable for a rate payment but as between themselves will be liable for such part of the rate as is proportionate to the occupier's interest in the land. The owner of the land (not being land the subject of a lease, licence or purchase from the Crown) will be liable for the payment of the unpaid rate and will be able to recover the amount from the occupier.

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Clause 63 sets out a formula to be used to calculate the rate liability of an occupier of previously unoccupied Crown land.

Clause 64 provides that, if a person ceases to be the occupier or owner of any land in respect of which a rate is payable, the person will continue to be liable for the rate where the rate is levied before the person ceases to be the occupier or owner or before the board has received the prescribed notice under proposed section 65. If the person pays any rate which is levied after the person ceases to be an occupier or owner and before the board has received the prescribed notice, the person will be entitled to recover the amount from any person who later becomes the occupier or owner.

Clause 65 will make it an offence, punishable by a fine not exceeding 10 penalty units (\$1,000), for a person to fail to give the prescribed notice to a board within 1 month after ceasing to be or becoming the occupier or owner of ratable land. The limitation period for commencing proceedings for such an offence will be 2 years after the commission of the alleged offence.

Clause 66 provides that a person who becomes the occupier or owner of ratable land (not being land the subject of a lease, licence or purchase from the Crown) will be liable to the board for any current unpaid rates and all arrears of rates that any previous occupier or owner failed to pay and will be so liable whether or not the change in occupation or ownership occurs after the rate is fixed or levied. The clause will also entitle any person to apply for a certificate certifying:

- * the rates, charges or other sums due or payable to the board by the occupier or owner of the land;
- * the particulars of any orders applicable to the land;
- * particulars of annual returns lodged or the years for which annual returns have not been lodged; and
- * particulars of any other matter prescribed by the regulations.

Division 4 - Recovery of rates

Clause 67 makes it clear that, in legal proceedings for the recovery of a rate by a board, an objection to the validity of the rate will not preclude the recovery of the rate.

Clause 68 provides that, if a rate is unpaid 60 days from the date it becomes due and payable, the amount due is to be increased by a sum calculated at the prescribed rate per cent per year and this increase is to be regarded as part of the rate that is levied. The clause will apply to an unpaid rate even though a judgment may have been obtained from a court for payment of the rate.

Clause 69 will enable a board to recover an overdue rate by instituting proceedings in the appropriate Local Court. It will be possible to recover in the same proceedings all rates payable by a person, whether as occupier or owner of the same or different land.

Clause 70 provides that a board will be able to sell land in accordance with proposed Schedule 4 if any rates levied in respect of the land (whether before or after the commencement of the clause) are overdue for more than 5 years.

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Division 5 - Supplementary provisions

Clause 71 will empower the Minister to extend the period for the rate to be fixed, or for the service of rate notices, if for any reason a board has not fixed the rate or has not served the rate notices within the required period. The clause will also enable the Minister to authorise the board to do such things as are necessary to cure and validate any irregularity in the fixing or levying of a rate that has affected or might be considered to have affected the validity of the rate.

Clause 72 will empower a board to grant a rebate of general rates of not more than half of the general rate levied in respect of any holding that has on its external boundaries a rabbit proof fence if the holding has been kept reasonably free from rabbits during the past financial year. It will be possible for a similar rebate to be granted in respect of each holding in an area which is designated by the board as a rabbit eradication area and has been kept reasonably free from rabbits as a result of approved measures having been taken by occupiers of holdings in the area during the past financial year.

Clause 73 will authorise a board to waive payment of, or to refund to an occupier or owner of land, any rate with the approval or at the direction of the Minister. A board will be required to write off any rate waived or refunded under this clause.

Clause 74 will require a board to keep a rate record of every rate that the board levies and will authorise the board to make, in the manner prescribed by the regulations, amendments to, and to rectify omissions in, its rate record.

Clause 75 will empower a board to exempt any land used for the purposes of a cemetery, golf course, racecourse, showground or industrial area from the operation of proposed Part 4 and proposed sections 137 and 168. The regulations will also authorise the exemption of any specified land or any person or class of persons. It will be possible for a board to give any such exemption unconditionally or subject to conditions.

Clause 76 provides that, if a holding of land is located within 2 or more districts, it is to be regarded as being located wholly within the district in which the larger part lies. If the parts are equal, the part on which the principal residence is situated is to be regarded as the larger part.

PART 5 - ANIMAL HEALTH

Clause 77 will enable a board to exercise and to perform such powers or functions of the Minister under certain animal health legislation as the Minister approves in writing. The clause will not prevent the Minister from continuing to exercise those powers and functions.

Clause 78 sets out the responsibilities of district veterinarians which will include the implementing of any applicable animal health program and supervising the use of poisonous substances in relation to noxious animals and any other fauna or flora of a species prescribed by the regulations.

Clause 79 provides that a ranger, an inspector appointed under the Stock Diseases Act 1923 or some other person as prescribed will, in relation to the provision of animal health services, be responsible for exercising such functions as are designated

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or approved in writing by the Minister. Such a person will be required to assist the district veterinarian and will be subject to the direction of that veterinarian with respect to the performance of those functions.

PART 6 - TRAVELLING STOCK AND TRAVELLING STOCK RESERVES

Division 1 - Management of travelling stock reserves

Clause 80 will authorise the Minister administering the Crown Lands Acts ("the Minister for Crown Lands") to vest in a specified board the control of a specified travelling stock reserve (other than one within a State forest or the Western Division) by a notice published in the Gazette. The clause will also empower that Minister to revoke such a notice.

Clause 81 sets out the specific responsibilities of a board which has control of a travelling stock reserve. Those responsibilities include:

- * taking appropriate measures to prevent unauthorised persons, animals and vehicles from trespassing;
- * suppressing and destroying noxious animals and noxious insects;
- * taking measures to remove or destroy certain trees and to control and eradicate noxious plants; and
- * conserving soil.

Clause 82 provides that, although the board concerned must obtain the consent of the Forestry Commission before felling and destroying trees, the Commission is not to withhold its consent to the felling or destruction if the trees might prevent the free passage of travelling stock. The sale of the felled trees, or other manner of dealing with them, by a board, and other associated matters, are also dealt with under this clause.

Clause 83 will enable the Minister to require a board that has control of a travelling stock reserve to take specified measures to protect or improve the reserve. The Minister will be able to recover from the board the cost of taking any appropriate measures which the board has failed to carry out.

Clause 84 will empower the Minister, after consulting the rural lands protection board concerned (and possibly seeking a report from a local land board), to make a recommendation to the Minister for Crown Lands that a travelling stock reserve be withdrawn from the control of that rural lands protection board. On receiving such a recommendation, the Minister for Crown Lands will be empowered to withdraw that control. That Minister will also be empowered to withdraw from a reserve any land that is required as a site for a town or village or for certain public purposes. A board will be entitled to compensation from the Crown for improvements made to land that is so withdrawn. A local land board will be empowered to determine the amount of compensation if there is a disagreement between the Minister and the rural lands protection board about the amount.

Clause 85 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to enter or remain on or occupy or make use of a travelling stock reserve under the control of a board unless the person is the holder

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of an appropriate transported stock statement, permit, licence or other authority authorising the use of the reserve for the purpose in question or unless the use of the reserve for that purpose is otherwise authorised by the proposed Act.

Clause 86 will entitle a person to engage in prescribed recreational activities on a travelling stock reserve without the prior approval of the controlling board. The clause will also enable a board to authorise a person or group to use a travelling stock reserve for other activities. The Crown will be required to indemnify a board where the board becomes liable due to the death of or injury to a person or damage to property arising out of the use of the reserve for prescribed recreational activities.

Clause 87 sets out the circumstances in which a board will be able (or, if the Minister so directs, will be required) to make an order closing a travelling stock reserve (or part of it). While a closure order has effect, the operation of any transported stock statements, permits, licences or authorities relating to the reserve will be suspended. The board will also be able to make an order suspending an authority under proposed section 86 to use a reserve for a prescribed recreational activity or other activity authorised by the board.

Division 2 - Stock transported by vehicle

Clause 88 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to convey stock by vehicular transport unless the person conveying the stock holds a transported stock statement or stock licence or an order made or permit issued under the Stock Diseases Act 1923 and ensures that the conditions or restrictions attached to the document are not contravened.

Clause 89 will enable a person to apply for a transported stock statement to the board concerned or to a person authorised by that board. Such a statement will remain in force for specified journeys or periods and in respect of specified stock, but may be revoked by the board if a condition or restriction of the statement is contravened.

Division 3 - Walking and grazing stock

Clause 90 will make it an offence for a person to move or graze walking stock on a public road or travelling stock reserve, except under the authority of a walking stock permit or a stock licence or an order made or permit issued under the Stock Diseases Act 1923. The clause will also make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to fail to comply with the conditions or restrictions (if any) attached to any such document. A board will be able to recover from any person who moves or grazes stock without the requisite document an amount equal to the fee that would have otherwise been payable for it, together with any prescribed penalty fee.

Clause 91 will enable a board to appoint permit officers for the purpose of issuing walking stock permits.

Clause 92 provides for the issue of walking stock permits by a board to which, or a prescribed officer to whom, an application is made. The grounds on which an application can be refused are listed in the clause. A walking stock permit will remain in force for specified journeys or periods and in respect of specified stock. It will be

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possible to attach specified conditions and restrictions to such a permit and to revoke the permit if those conditions or restrictions are contravened.

Clause 93 will enable a board which has control of a travelling stock reserve, on receiving an application, to issue a grazing permit authorising the holder to take stock onto the reserve for grazing. Such a permit will be able to be issued subject to conditions or restrictions and to be revoked by the issuing board if the conditions or restrictions are contravened or by the Minister if he or she is satisfied it was improperly issued. The clause will make it an offence, punishable by a fine not exceeding 10 penalty units (\$1,000), for the holder of a permit to fail to remove all stock under the holder's control when served with a notice to the effect that travelling stock will be moving through the reserve on a particular date.

Clause 94 will enable a board to issue a temporary grazing permit authorising the holder to graze stock on those parts of a road not normally used by road vehicles. It will not be possible to issue such a permit without the consent of the appropriate local authority (for a public road) or the Minister for Crown Lands (for a Crown road). Such a permit will be able to be issued subject to specified conditions or restrictions and is liable to be revoked by the issuing board, or by a prescribed officer of that board, if those conditions or restrictions are contravened. A temporary grazing permit will remain in force for such period, not exceeding 30 days, as is specified in the permit.

Clause 95 will enable a board that has control of a travelling stock reserve (or a person authorised by the board) to issue to a person a stock holding authority that will authorise the holder to take stock onto, and keep them on, a specified reserve for a specified period and purpose. Such an authority will be subject to specified conditions and restrictions and is liable to be revoked if the conditions or restrictions are contravened.

Clause 96 provides that when stock are being walked or are grazing along or within 300 metres of a public road, the person in charge of the stock will (except where a stock proof fence separates them from the road) be required to display prescribed signs warning road users of the presence of stock. The clause will also require such a sign to be removed when the stock are no longer within 300 metres of the road. Failure to do either of those things will be an offence punishable by a fine not exceeding 10 penalty units (\$1,000). The clause will also make it an offence for a driver of a motor vehicle to fail to give way to all stock to which a prescribed sign relates.

Clause 97 will make it an offence for a person to fail, while in charge of stock that are being walked or are grazing along or on a public road or a travelling stock reserve, to ensure that any made-up road surface is kept free of stock.

Clause 98 will enable a board to establish an enclosure (including a portable holding structure) within a travelling stock reserve as a stock holding area. The board will be required to take all reasonable steps to ensure that the area is maintained in a condition that will prevent the stock from escaping. The clause will make it an offence, punishable by a fine not exceeding 10 penalty units (\$1,000), for a person in charge of stock to leave stock unattended in specified circumstances.

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Division 4 - Stock licences

Clause 99 specifies the purposes for which a stock licence may be used. The holder of a stock licence will be authorised to move small or large stock on foot or by vehicle over any public road or travelling stock reserve. A stock licence will not authorise the movement of walking stock between sunset and sunrise or the movement of stock by vehicle beyond a distance prescribed by the regulations.

Clause 100 provides for the application for and issue of stock licences. A stock licence will remain in force for up to 3 years and will have effect only within the district of the board that issued it or of a district that has endorsed it. Such a licence may be subject to certain conditions and restrictions which, if contravened, could result in the licence being revoked.

Division 5 - Apiary sites etc.

Clause 101 will enable a board which has control of a travelling stock reserve to issue apiary site permits. An apiary site permit will authorise the permit holder to establish and maintain an apiary on a specified site within the reserve. The permit will remain in force for up to 12 months and may be subject to certain conditions or restrictions which, if contravened, could result in its being revoked.

Clause 102 will empower the relevant board or a prescribed officer of that board to impound bees or beehives. Bees or hives are liable to be impounded if the bees or hives have been placed, or are being kept, on a travelling stock reserve otherwise than in accordance with an apiary site permit, or if the holder of such a permit has contravened a condition or restriction of the permit. An owner of bees or hives that have been impounded will not be allowed to obtain the release of the bees or hives until the prescribed impounding fee is paid.

Division 6 - Supplementary matters

Clause 103 provides that a board will not be liable to pay damages in respect of the deaths of, or the injuries, illnesses or diseases suffered by persons or stock or bees that are attributable to the application by the board of a pesticide to a travelling stock reserve if the board has given notice of the application of the pesticide as prescribed by the regulations.

Clause 104 provides that certain occupiers of land are to be entitled to have a right of access over a travelling stock reserve if no other access to and from that land by means of an established road or track is available.

Clause 105 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person, without written authority, to erect or place a structure on a travelling stock reserve. The board will be empowered to dismantle and remove the structure from the reserve and bring legal proceedings to recover the cost of the dismantling and removal. If the board is unable to identify the person responsible, the board will be able to sell or otherwise dispose of the structure.

Clause 106 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to leave or abandon rubbish, carcasses, vehicles, equipment and other things on a travelling stock reserve. The board will be able to

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recover in legal proceedings from any person guilty of any offence the cost of removing and disposing of any thing left or abandoned on such a reserve.

Clause 107 will enable a board to recover in legal proceedings the cost of rectifying damage to a structure or work, or replacing a destroyed structure or work, on a travelling stock reserve.

Clause 108 will make it an offence, punishable by a penalty not exceeding 20 penalty units (\$2,000), for a person to make a false or misleading statement in an application for a transported stock statement, permit, licence or other authority authorising the use of a travelling stock reserve or on a transported stock statement issued to the person.

PART 7 - ABANDONED AND TRESPASSING STOCK

Clause 109 defines expressions used in the proposed Part and sets out the circumstances in which stock are to be taken to have been abandoned on a public road, a reserve or public land. The clause also specifies the circumstances in which stock are to be taken to be trespassing on a public road or a reserve.

Clause 110 will enable a board to establish one or more public pounds within its district. The clause also provides for the appointment of poundkeepers.

Clause 111 will enable a prescribed officer to muster and take abandoned, trespassing or certain straying stock to the nearest available pound. A caretaker of the controlling authority of a stock watering place or any other authorised person will be empowered to impound stock trespassing at the watering place. A board will, at the request of the occupier, be required to impound stock that have been abandoned on occupied land, or on a public road, a reserve or public land that bisects or adjoins certain occupied land. The occupier will not be liable for any loss that the owner of stock may sustain in consequence of the impounding.

Clause 112 will make it an offence, punishable by a fine not exceeding 50 penalty units (\$5,000), for a person to abandon stock on a public road, a reserve or public land. The relevant local authority or board or any other person who suffers loss will be entitled to bring legal proceedings to recover compensation for any damage or destruction resulting from stock being abandoned on a public road, a reserve or public land.

Clause 113 will make the owner of stock and the person in charge of the stock (if not the owner) guilty of an offence if the stock trespass on a public road or a reserve. A person found guilty of an offence against the clause will be liable to a fine not exceeding 20 penalty units (\$2,000). The relevant local authority or board or any other person who has suffered loss will be entitled to bring legal proceedings to recover compensation for any damage or destruction resulting from the trespass of stock on a public road or a reserve.

Clause 114 provides that, in addition to any other penalty that a court may impose for an offence against proposed section 112 or 113, it will be required to order the person guilty of the offence to pay to the board concerned certain specified agistment fees.

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Clause 115 will empower a prescribed officer (with the board's approval) to destroy abandoned or trespassing stock if they are worth less than the cost of impounding them or are in a distressed state. Neither the board nor the officer concerned will be liable to the stock's owner for any loss sustained as a result of the destruction.

Clause 116 will enable a board to decline to release impounded stock until the owner pays the prescribed impounding, agistment, sustenance and other fees prescribed by the regulations. The clause will also make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person, without authority, to release (or incite or assist in releasing) any animal lawfully impounded (or about to be impounded). The court will be able to make an order directing the guilty person to pay to the board the amount that would have been payable to it in respect of the impounding.

PART 8 - STOCK WATERING PLACES

Clause 117 will empower the Governor-in-Council, with the agreement of the Minister for Crown Lands, to declare certain Crown land and certain land acquired by local authorities to be stock watering places. The Minister administering the proposed Act will be empowered to declare a stock watering place to be a town water supply.

Clause 118 specifies the bodies that are to be the controlling authorities of stock watering places. The local authority will be the controlling authority if the stock watering place is declared to be a town water supply. The board established for the district will normally be the controlling authority if no such declaration is in force.

Clause 119 will enable the controlling authority of a stock watering place to construct, carry out improvements to and maintain and repair tanks, dams and other works for storing or providing water at that place. If the stock watering place is located in the Western Division, the Minister's prior approval to undertake construction or such other works will be required if the cost of the work exceeds the amount to be specified by the regulations. The Minister for Crown Lands will be liable to pay compensation to any controlling board which has effected improvements to land that has ceased to be a stock watering place. The local land board will be empowered to determine the amount of compensation if there is a disagreement between the Minister and the controlling authority as to the amount.

Clause 120 will enable a controlling authority of a stock watering place to appoint a caretaker of that place. The controlling authority will be authorised to fix the caretaker's remuneration and to allow the caretaker to retain the whole or a specified part of money paid to him or her as charges.

Clause 121 will enable the controlling authority of a stock watering place, by auction or other means, to grant with the Minister's approval a lease of the watering place for not more than 10 years and, with a similar approval, to grant a single extension of the lease for not more than 5 years. The lessee will be required to pay rent to the controlling authority and will be entitled to the watering charges collected.

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Clause 122 will require the controlling authority (or lessee) of a stock watering place to supply water to specified persons or stock at such fees and during such periods as are prescribed by the regulations and to allow the stock to depasture at that place.

Clause 123 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to obstruct persons or stock in their lawful use of a stock watering place, or of water or pasture at that place, to which they are entitled under the proposed Act.

Clause 124 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to fail to produce for inspection at a stock watering place, if requested by the person in charge of the place, the relevant transported stock statement, permit, stock licence or other authority authorising the stock to use the place.

Clause 125 will make it an offence, punishable by a fine not exceeding 50 penalty units (\$5,000), for a person intentionally or recklessly to pollute or interfere with any water that flows into or is used as the source of supply for any stock watering place. The controlling authority will be empowered to bring separate legal proceedings to recover from the person concerned the cost of cleaning up or removing the pollution or interference.

PART 9 - NOXIOUS ANIMALS

Clause 126 will require an occupier of land to fully and continuously suppress and destroy by any lawful method all noxious animals on the land and on any road, travelling stock reserve, watercourse or inland water adjoining the land.

Clause 127 will empower a board to order any occupier or owner of land to fully and continuously suppress and destroy all noxious animals by one or more prescribed methods specified in the order. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for an occupier or owner to fail to comply with any of the order's requirements. A prescribed officer will be authorised to enter and remain on land (but not on residential premises) and take necessary steps to ascertain whether the requirements of the order are being fulfilled. After serving notice on an occupier or owner of land, a board will be empowered to enter the land and take measures for the suppression and destruction of noxious animals and the eradication of their habitats.

Clause 128 provides that, if an occupier or owner fails to pay a charge imposed under proposed section 127, the board concerned will be able to recover that charge by legal proceedings. If the amount ordered to be paid in those proceedings is not paid, it will become a charge on the land concerned and the board will be authorised to sell the land if that amount is not paid or recovered within 5 years after the date of judgment. Schedule 4 (which empowers a board to sell land for non-payment of an amount owing to it) applies in such a case.

Clause 129 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for the driver of a vehicle to fail to stop his or her vehicle for search when required by an authorised officer who believes on reasonable grounds that the

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vehicle contains a live feral pig. If the vehicle is found to contain such a pig, the officer will be empowered to seize and destroy the pig.

Clause 130 will enable a board to enter into contracts with occupiers or owners of land for the suppression and destruction by the board of noxious animals and the eradication of their habitats.

Clause 131 will enable the Minister to grant written permission for a person to keep noxious animals of a specified kind for a specified period. The clause will make it an offence for a person to administer to a noxious animal specified in the permission any substance prescribed declared by the regulations to be a prohibited substance. It will also be an offence, punishable by a fine not exceeding 100 penalty units (\$10,000), for a person to keep a noxious animal in captivity otherwise than under the authority of such a permission and in accordance with the conditions (if any) subject to which the permission was granted. The Minister will be empowered to revoke such a permission and order the destruction of the animals concerned if the person has failed to comply with any such condition.

Clause 132 will make it an offence for a person to shoot, poison or trap or otherwise engage in any activity for the purpose of suppressing or destroying noxious animals in an area specified in a Ministerial order as being a prohibited area.

Clause 133 sets out a number of offences relating to noxious animals. Offences include carrying a noxious animal through or over a fence designed to prevent noxious animals from gaining access to land beyond the fence and liberating a noxious animal in respect of which permission has been granted under proposed section 131. Any person who unlawfully conveys a live feral pig from one place to another will be guilty of an offence under the clause and will be liable to a fine not exceeding 100 penalty units (\$10,000). Other offenders against the clause will be liable to fines not exceeding 20 penalty units (\$2,000) and 10 penalty units (\$1,000) respectively.

Clause 134 provides that certificates signed by a board's noxious animals inspector or some other prescribed officer, stating that certain animals are noxious animals, are to be admissible as evidence in proceedings for an offence under proposed Part 9.

Clause 135 will require a board established for a district in the Western Division to issue to any person who delivers to it the scalp of a wild dog destroyed in the district a certificate in the prescribed form, and to pay the person a bonus determined under the Wild Dog Destruction Act 1921. The board will be required to cause the scalps to be destroyed by fire. The clause will make it an offence for the person responsible for destroying the scalps to issue a certificate of destruction that is to that person's knowledge false or misleading.

Clause 136 will make it an offence for a person to claim from a board a bonus for the destruction of a wild dog knowing that the bonus has already been paid or that the dog was not destroyed in the board's district.

Clause 137 will empower a board to levy a special rate on the occupiers of land to defray the costs of suppressing and destroying noxious animals. The rate will be required to be fixed by resolution of the board, levied by service of a rate notice and calculated according to the carrying capacity of the land. The board will be required

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to pay the proceeds of the special rate into a specially designated fund and not to spend those proceeds for any other purpose.

Clause 138 will enable a board to make arrangements, on its own account, or with other boards, or with the occupiers or owners of land, for the conduct of campaigns for the suppression and destruction of noxious animals.

PART 10 - CONTROL OF NOXIOUS INSECTS

Clause 139 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for an occupier of land to fail to give to the board concerned immediate notice of the fact that noxious insects have appeared on the land, together with details of the particular location and such other particulars as are specified by the regulations.

Clause 140 will empower a board to publish a notification requiring all occupiers of land within the district to give notice to it when noxious insects appear on their land, and to suppress and destroy the insect nymphs on their land, and on any unfenced road or travelling stock reserve adjoining that land. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for an occupier to fail to comply with a requirement contained in the board's notification.

Clause 141 will enable a board, by order, to require an occupier of land to suppress and destroy all noxious insect nymphs on the land, or on any unfenced road or travelling stock reserve adjoining the land, by using the materials that the board has supplied to the occupier. If a road is vested in or under the control of a local authority or a reserve is under the control of a board, the authority or the board will have a duty to suppress and destroy the insects on the road or reserve. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for an occupier to fail to comply with a requirement contained in the board's order.

Clause 142 will enable the Minister to give notice in writing of a predicted outbreak of noxious insects to the board concerned. Whenever such a notice is given, the board will be required to publish a notification informing occupiers of land that an outbreak is predicted to occur. In the notification, the board is to require occupiers to give notice to it when the insects appear on their land, and to suppress and destroy any insect nymphs on their land, or on any adjoining unfenced road or travelling stock reserve, by using the materials that the board has supplied. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for an occupier to fail to comply with a requirement contained in the board's notification.

Clause 143 will empower an authorised officer or a person authorised by the Minister to enter land for the purpose of finding out whether noxious insects are on the land and to take, and carry out, such measures and work considered necessary by the Minister or the relevant board for the suppression and destruction of those insects. An occupier or owner of the land concerned will be required to pay to the Minister or board the cost of exercising those functions undertaken by such an officer or person. If the occupier or owner fails to pay the required amount, the board may recover the amount by bringing legal proceedings against the occupier or owner concerned.

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Clause 144 will empower an authorised officer or a person authorised by the Minister to enter Crown land or land owned by a statutory body and, with assistance, to adopt prescribed methods to suppress and destroy noxious insects on the land.

Clause 145 provides that neither the Crown, nor the Minister, a board or an authorised officer, will be liable to pay compensation or damages for acts or omissions arising under proposed Part 10.

Clause 146 will enable the Minister, by order, to require a board to impose a levy on occupiers of ratable land within the board's district at such rate as is specified in the order for the purpose of meeting the costs incurred by the Minister in suppressing noxious insects. The board will be required to calculate the levy according to the assessed carrying capacity of the land concerned and to impose the levy by serving a notice on the occupier of that land. Proposed Divisions 3 and 4 of Part 4 and Schedule 4 (which relate to the liability for recovery of rates and the sale of land for overdue rates) will apply to the levy imposed under proposed section 146 in the same way as they apply to a rate levied under proposed section 53.

Clause 147 will enable the Auditor-General to surcharge a director or employee of a board with any loss that the board has incurred in the amount of the levy that should have been collected or recovered had it not been for the culpable negligence or misconduct of the director or employee.

Clause 148 will require the Minister to pay the proceeds received from the levy into the Noxious Insects Destruction Account. The purposes for which that Account is to be used include the cost of purchasing materials for, and meeting the cost of, suppressing and destroying noxious insects.

PART 11 - RABBIT, DOG AND MARSUPIAL PROOF FENCES

Division 1 - Definition

Clause 149 defines "owner" for the purposes of proposed Part 11. "Owner", in relation to Crown land, means the occupier (if not the Crown) and, for non-Crown land, includes an executor, administrator or trustee of the estate of an owner of the land.

Division 2 - Fences generally

Clause 150 will enable the Minister, by order published in the Gazette, to specify classes of fencing that are to be regarded as rabbit, dog or marsupial proof.

Clause 151 will require a board, on being requested in writing and on being paid an inspection fee by an owner of land, to carry out an inspection to determine whether a fence is rabbit, dog or marsupial proof. If so satisfied, the board will be required to issue a certificate to that effect, and the certificate will be admissible as evidence of the matters stated.

Clause 152 will allow a local land board to give permission to the owner of land to erect a rabbit, dog or marsupial proof fence across a road, travelling stock reserve or public land if the owner's land is divided or bounded by the road, reserve or public land. The erection of a gate may be required under certain circumstances.

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Clause 153 provides that if, in the opinion of the Minister for Crown Lands, a fence (but not a barrier fence) makes any Crown land rabbit, dog or marsupial proof, then the fence is to be regarded as an improvement the value of which is distributed equally over that land.

Clause 154 provides that, if any land is bounded in part by a natural feature and partly by a rabbit, dog or marsupial proof fence and the local land board or the relevant rural lands protection board has indicated that it is unnecessary to erect a rabbit, dog or marsupial proof fence along that feature, then the land is to be taken to be enclosed by such a fence.

Division 3 - Contributions towards fencing costs

Clause 155 provides that, where a rabbit, dog or marsupial proof fence is erected on the boundary of a holding, or a fence on that boundary has been made rabbit, dog or marsupial proof, at the expense of the owner of the holding, the owner of any land adjacent to that holding will be liable, under certain circumstances, to pay to that owner a contribution towards the cost of the work and materials involved.

Clause 156 provides that the holder of a lease or licence from the Crown will be liable to pay an annual rental for a rabbit, dog or marsupial proof fence instead of a contribution.

Clause 157 determines the period within which a person who is demanding a contribution under proposed section 155 will be required to serve a notice of demand.

Clause 158 sets out the criteria to be used by a local land board for determining contributions payable under proposed section 155.

Clause 159 will require the owner of an adjoining holding to contribute half of the cost of maintaining and repairing a dividing fence that is rabbit, dog or marsupial proof.

Clause 160 provides that, where a rabbit, dog or marsupial proof fence is erected on a common boundary between public and private land, or a fence on such a boundary is made rabbit proof, dog proof or marsupial proof, the Crown will be liable to pay the same contribution as a private owner would be liable to pay under similar circumstances.

Clause 161 provides for a contribution to be made by a private owner where the Crown erects a rabbit, dog or marsupial proof fence on a common boundary between public and private land or makes a fence on such a boundary rabbit, dog or marsupial proof.

Clause 162 will enable a board to require the owner of any land adjoining a travelling stock reserve or separated from the reserve only by a road:

- * to erect on the common boundary a fence sufficient for the purpose of preventing the passage of any specified stock; or
- * to alter or repair any fence already erected; or
- * to erect a fence that is rabbit, dog or marsupial proof or to make a fence rabbit, dog or marsupial proof.

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A board will be entitled to recover from the owner half the cost it has incurred in doing the work if the owner fails to comply with the notice. Proposed Schedule 4 (which relates to the sale of land for the non-payment of money owing to a board) will apply to an amount that remains unpaid under the clause for more than 5 years.

Clause 163 provides that the intervention of roads or watercourses does not prevent them from being regarded as adjoining holdings for the purposes of the proposed Part or prevent a claim for a contribution being brought in respect of a fence on either side of the road or watercourse.

Clause 164 will entitle an owner of a holding who incurs expense in maintaining or repairing a rabbit, dog or marsupial proof fence that serves as a boundary between 2 holdings to recover a contribution from the person who owns an adjoining holding. A local land board will have jurisdiction to assess the amount of contribution if the owners are unable to agree on that amount.

Division 4 - Barrier fences

Clause 165 will enable a board:

- * to erect a barrier fence (i.e. a rabbit proof fence) on any land or across a road or travelling stock reserve, or make any fence rabbit proof;
- * to make gates in any such fence for the passage of persons and stock; and
- * if such a fence is erected across a road, to erect a by-pass for vehicles.

If the Minister, by notice, declares that the fence is no longer a barrier fence, then the owner of any land that derives benefit from the fence will be required to pay to the Minister or to the board concerned an amount equal to the value of so much of the fence as is located within, or on, the boundary of that land.

Clause 166 provides that a board will not be liable to pay, or make compensation for, anything lawfully done in exercising its functions under proposed section 165, other than for damage arising in consequence of the erection on private land of a barrier fence. A local land board will be empowered to determine a claim for such damage.

Clause 167 provides that, if a board erects a barrier on the common boundary of its district and an adjoining district or converts an existing fence into a barrier fence, the board will be entitled to recover from the board for the adjoining district half of the cost of erecting, maintaining and repairing the fence.

Clause 168 provides that the purchaser or lessee of Crown land will be liable to pay the value of the part of a barrier fence that is located within or on the boundary of the Crown land and which is an improvement owned wholly or partly by the Crown or a board. Payment will be required to be made to the Crown, the board or any other owner of the fence according to their respective interests in the fence.

Clause 169 will require a board that has erected a barrier fence or converted a fence into a barrier fence, or has participated in the erection or conversion, to keep it in a good state of repair.

Clause 170 provides for disputes between 2 or more boards concerning the payment of any money, the doing of any act required to be done or the carrying out

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of any agreement made between those boards under proposed Part 11 to be arbitrated by the Minister, or if the dispute is referred to a local land board or the Land and Environment Court, by that board or that Court.

Division 5 - Procedural matters

Clause 171 provides that, with certain exceptions, in any legal proceedings under proposed Part 11, the jurisdiction of a local land board before which the proceedings are brought is not to be ousted on the ground that the defendant or respondent does not reside within the boundaries of that board's jurisdiction.

Clause 172 provides that, in legal proceedings under proposed Part 11 before a local land board, that board may allow time for payment of any contribution, value or other sum of money. A local land board will be authorised to determine that the money be paid in instalments and to order that interest be paid on the money.

Clause 173 confers a right of appeal to the Land and Environment Court from a decision or determination of a local land board. The Minister and a local land board will be empowered to refer matters to that Court.

Clause 174 provides that whenever, under the proposed Act, a sum of money is expressed to be charged on private land and an instrument is registered under either the Real Property Act 1900 or the Conveyancing Act 1919, any person who later becomes the owner is to be regarded as having notice of the charge and is to be liable to pay any of the money that is then outstanding.

Clause 175 will entitle a mortgagee to recover money spent on the erection, maintenance or repair of a rabbit, dog or marsupial proof fence, or making of a fence rabbit, dog or marsupial proof, if the fence is on or close to the land that is subject to the mortgage.

Clause 176 will enable a trustee to use capital money of the trust for the erection of a rabbit, dog or marsupial proof fence, or for making a fence rabbit, dog or marsupial proof, if the fence is on or close to the land that is subject to the trust, or for paying contributions in respect of such a fence.

Clause 177 will empower the Minister to refer to a local land board any question with respect to matters arising under proposed Part 11. The local land board will be required to inquire into the question referred and report its findings to the Minister in writing.

Division 6 - Offences under Part 11

Clause 178 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to damage or interfere with a rabbit, dog or marsupial proof fence, a fence erected on the boundary of a travelling stock reserve or a fence erected on the boundary of a holding adjacent to such a reserve. It will also be an offence to erect breaks against such a fence.

Clause 179 will make it an offence for a person to obstruct a by-pass for vehicles in a fence.

PART 12 - IDENTIFICATION OF STOCK

Division 1 - Definitions

Clause 180 defines certain expressions used for the purposes of proposed Part 12. The expressions defined are "board brand design", "district registrar", "stock" and "symbol brand design".

Division 2 - Large stock

Clause 181 provides for the registration of a board brand design for use in connection with large stock. A board brand design will be allocated to an applicant by the district registrar concerned.

Clause 182 will continue in force the registration of a symbol brand design that at present is registered under the Registration of Stock Brands Act 1921. However, if the design is not re-registered before a date to be proclaimed under the clause, the registration of the design will lapse. A district registrar is not to re-register a symbol brand design that is identical with or likely to be confused with a symbol brand design that is already registered. If the registrar finds that two registered symbol brands are identical or may be confused, the registrar will be empowered to require one of the registered proprietors to apply for the registration of another symbol brand design and cancel the registration of that proprietor's existing design.

Clause 183 provides for the registration of earmark designs for use in relation to cattle or deer. A district registrar is not to register an earmark design that is identical with or may be confused with any other registered design. If a district registrar finds that two registered earmark designs are identical or may be confused, the registrar will be empowered to require one of the registered proprietors to modify the design concerned.

Clause 184 will require the Minister, or if required to do so by the Minister, the Council of Advice, to publish periodically a directory containing the particulars specified in the regulations of registered symbol brand designs.

Clause 185 sets out the requirements and procedures necessary to effect transfers of ownership of registered brand and earmark designs used for large stock and provides for the registration of such transfers.

Clause 186 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to apply to any large stock animals brands or tattoos of a size or in a position not specified in the regulations. It will also be an offence, similarly punishable, to apply to cattle or deer a registered earmark of a dimension or shape not specified in the regulations, or except on the ear so specified.

Clause 187 will enable the proprietor of a registered brand or earmark design to apply a distinctive brand or brands or distinctive earmark to that proprietor's large stock, or a distinctive earmark to that proprietor's cattle and deer, to denote their age or class. The clause will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to apply a distinctive earmark to cattle or deer except on the ear specified in the regulations.

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Division 3 - Small stock

Clause 188 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for the owner of small stock which are more than 6 months old to fail to ensure that the stock are earmarked as prescribed by the regulations. Small stock of a class declared by the regulations may be exempt from the operation of the clause.

Clause 189 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for an owner of small stock to fail to ensure that no brand or earmark is applied to the stock, unless the brand or earmark of a registered design for use in connection with small stock or its use is otherwise authorised by proposed Part 12 or the regulations.

Clause 190 provides for the registration of brand and earmark designs for use in relation to small stock. A district registrar is not to register a brand or earmark design that is identical with or may be confused with any other registered brand or earmark design. If a brand or earmark design is identical with, or is likely to be confused with, any other registered brand or earmark design, a district registrar will be entitled to require the proprietor to modify the design.

Clause 191 sets out the requirements and procedures necessary to effect a transfer of ownership of a registered brand or earmark design used for small stock and provides for the registration of such transfers.

Clause 192 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to apply to any small stock animal registered brands of a size or in a position not specified in the regulations, or to apply to a small stock animal a registered earmark of a dimension or shape not specified in the regulations, or except on the ear so specified.

Clause 193 will enable the proprietor of a registered earmark design to apply a distinctive earmark to the proprietor's small stock. The clause will make it an offence for a person to apply a distinctive earmark to small stock except on the ear specified in the regulations.

Division 4 - Supplementary provisions

Clause 194 will require each district registrar to keep a register of brand and earmark designs registered for use on large and small stock kept within the district. The clause also specifies other functions of a district registrar.

Clause 195 sets out the consequences that flow from the death of the registered proprietor of a brand or earmark design. The executor or administrator concerned will be entitled to use the design for 6 months after the person's death but must apply within that period for that executor or administrator or a person beneficially entitled to the design to be registered as its proprietor.

Clause 196 will require the registered proprietor of a brand or earmark design to pay a prescribed annual fee for the continuance of the registration, unless the person is a ratepayer for the district concerned.

Clause 197 provides for the cancellation of the registration of a brand or earmark design by the district registrar in specified circumstances.

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Clause 198 provides for the resolution of disputes arising out of decisions of district registrars under proposed Part 12. A person dissatisfied with a decision of a district registrar will be able to apply to have the matter determined by the Minister who may either deal with the matter personally or may refer it for determination by the Chief of the Division of Animal Health in the Department of Agriculture and Fisheries, or some other specified officer.

Clause 199 lists a number of offences punishable under the proposed Act relating to brands and earmarks. It will, for example, be an offence to destroy or deface a brand, or to alter an earmark, that has already been applied to stock. An offender against the clause will be liable to a fine not exceeding 20 penalty units (\$2,000).

Clause 200 will empower prescribed officers to enter premises for the purposes of inspecting animals, branding and earmarking instruments, animal skins and documents relating to dealings in stock and animal skins. The clause also confers other powers on prescribed officer, such as the power to ask questions. For the purposes of the clause, "prescribed officer" includes a ranger and a member of the Police Force.

Clause 201 will make it an offence, punishable by a fine not exceeding 5 penalty units (\$500), for a person to mark the fleece or skin of a sheep or goat with any substance, whether for the purpose of branding or not.

PART 13 - MUSTERING STOCK

Clause 202 provides that, where a person who keeps not fewer than the prescribed number of stock on a holding proposes to muster those stock, the person is to give at least 48 hours' (but not more than 5 days') notice of the proposed muster to occupiers of adjoining holdings. A person will not be required to give notice if the adjoining occupier has agreed to dispense with the notice. The clause will make it an offence, punishable by a fine not exceeding 10 penalty units (\$1,000), for a person to fail to give the required notice.

Clause 203 provides that, with the approval of the Minister or a board, a ranger will be able to order an owner of stock to muster the stock on the person's holding for a specified purpose. The clause will make it an offence, punishable by a fine not exceeding 10 penalty units (\$1,000), for the person to fail to comply with such an order. The Minister or board concerned will be empowered to recover from the person the expense of carrying out the muster if the person has failed to comply with the order.

PART 14 - MISCELLANEOUS PROVISIONS

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Clause 204 provides that proceedings for offences against the proposed Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Clause 205 will enable an authorised officer to issue a penalty notice where it appears to the officer that a person has committed an offence against the proposed Act that is prescribed by the regulations. The clause makes it clear that a person

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served with such a notice will not be obliged to pay the specified penalty and will be entitled to have the matter determined before the appropriate court. The clause also sets out the procedure to be followed in respect of the service of penalty notices.

Clause 206 provides that the registrar of the Local Court which has imposed a monetary penalty for an offence against the proposed Act is to pay the amount of the penalty to the board in whose district the offence occurred.

Clause 207 provides that, if a board omits to do any act required of it under the proposed Act or any other Act, or does an act which contravenes the proposed Act or any other Act, each director of the board will be guilty of an offence, punishable by a fine not exceeding 20 penalty units (\$2,000). The clause also specifies certain defences to a charge for such an offence.

Clause 208 specifies offences relating to the provision of information required under the proposed Act. It will be an offence, punishable by a fine not exceeding 10 penalty units (\$1,000), to fail to provide information required under the proposed Act or to provide false or misleading information in any return or other document required for the purposes of the proposed Act. It will also be an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), to forge or alter a transported stock statement, permit, licence, authority or other document issued or purporting to be issued for those purposes.

Clause 209 will make it an offence, punishable by a fine not exceeding 20 penalty units (\$2,000), for a person to obstruct, hinder, delay, threaten or assault an authorised or prescribed officer in the exercise of a function conferred by the proposed Act. Failure to comply with a lawful requirement under the proposed Act will also be an offence which will be punishable by a similar fine.

Clause 210 provides that, for the purposes of legal proceedings under the proposed Act, a general description of the land will be sufficient.

Clause 211 will allow legal proceedings to be pursued even if the name of the occupier or owner of a particular holding is unknown.

Clause 212 provides that documents prepared for the purposes of the proposed Act or the Pastures Protection Act 1934, the Registration of Stock Brands Act 1921 or the Noxious Insects Act 1934 are to be admissible in evidence in legal proceedings. The clause also provides that in legal proceedings under the proposed Act, proof is not to be required of certain matters, such as the incorporation of a rural lands protection board. Provision is made for the admissibility in evidence of certain certificates.

Clause 213 provides that the jurisdiction of a court or a local land board is not to be ousted because legal proceedings under the proposed Act involve a question as to title to land, future rights or a general right or duty.

Division 2 - Other miscellaneous matters

Clause 214 provides that documents required to be issued or served by a board are sufficiently authenticated if signed by the chairperson or secretary of the board.

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Clause 215 sets out the requirements for the service of a notice or other document for the purposes of the proposed Act.

Clause 216 will enable the Minister to delegate the exercise of his or her functions, except the power of delegation.

Clause 217 will empower the Governor-in-Council to make regulations for the purposes of the proposed Act. The regulations will enable offences to be created with a maximum penalty of 10 penalty units (\$1,000).

Clause 218 will give effect to Schedule 5, which contains savings and transitional provisions.

Clause 219 will give effect to Schedule 6, which specifies the Acts to be repealed by the clause. The clause will also repeal the regulations in force under those Acts.

Schedule 1 sets out provisions applicable to the directors of a rural lands protection board. The Schedule deals with the election of a chairperson and deputy chairperson of the board, what happens when there is a casual vacancy in the office of a director, the term of office of a person filling a casual vacancy, the liability of directors and other persons for acts of the board, the disclosure of directors' pecuniary interests in a proposed contract with the board, the invitation for tenders if a director has a direct or indirect pecuniary interest in the matter, the establishment by the board of committees, and the fees, expenses and insurance of directors.

Schedule 2 sets out provisions relating to proceedings of a board and covers such matters as the meetings of a board, including the number of directors required for a quorum, providing for the person presiding to have a casting vote, and the general procedure at meetings (including voting).

Schedule 3 deals with administrators appointed under the proposed Act. The Schedule covers such matters as the appointment of an acting administrator, the vacation of office of an administrator and the expenses of an administrator. It also provides for an administrator not to be liable for losses incurred during his or her administration.

Schedule 4 provides for the sale of land for non-payment of money owing to a board (including the non-payment of rates and levies imposed under the proposed Act on occupiers of ratable land). The Schedule includes provisions dealing with the procedure for the sale of land and the distribution, payment and application of the balance of money by a board from such a sale.

Schedule 5 contains savings and transitional provisions.

Schedule 6 specifies the enactments to be repealed by proposed section 219. The Acts to be repealed are the Registration of Stock Brands Act 1921, the Noxious Insects Act 1934, the Pastures Protection Act 1934 and certain amending Acts.

FIRST PRINT

RURAL LANDS PROTECTION BILL 1989

NEW SOUTH WALES



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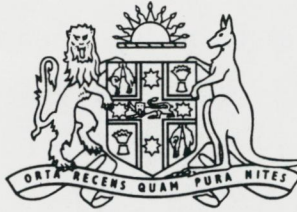
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RURAL LANDS PROTECTION BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to provide for the protection of rural lands; to provide for the constitution and functions of rural lands protection boards; to make fresh provision for the establishment and management of travelling stock reserves and stock watering places; to regulate the identification of stock; to make provision with respect to animal health services; to provide for the suppression and destruction of noxious animals and noxious insects; to repeal the Pastures Protection Act 1934, the Registration of Stock Brands Act 1921 and the Noxious Insects Act 1934 and certain other enactments.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Rural Lands Protection Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**animal health rate**" means a rate levied by a board under section 53 as an animal health rate;

"**annual return**" means a return lodged or required to be lodged with a board under section 57;

"**apiary site permit**" means a permit issued and in force under section 101;

"**authorised officer**", in relation to a board, means an employee of the board whom the board has authorised to exercise the function in relation to which the reference to that expression occurs;

"**barrier fence**" means a fence declared under section 165 to be a barrier fence;

"**board**" means the rural lands protection board established for a district by or under this Act;

"**brand**" means a colour brand, ear tattoo, fire brand or freeze brand;

"**carrier**" means a person engaged in transporting goods by public road for reward;

"**cattle**" means a bull, cow, ox, heifer, steer or calf;

"**Chief of the Division of Animal Health**" means the Chief, Division of Animal Health, Department of Agriculture and Fisheries;

"**colour brand**", in relation to sheep, means a brand design that is applied to or designed for application to sheep by means of a prescribed substance that is of a prescribed colour;

"Council of Advice" means the Council of Advice elected by the conference of the Rural Lands Protection Boards' Association of New South Wales in accordance with the constitution of that organisation;

"Crown land" means land that is vested in the Crown or was acquired under the Closer Settlement Acts as in force before their repeal, not in either case being:

- (a) land dedicated for a public purpose; or
- (b) land that has been sold or lawfully contracted to be sold and in respect of which the purchase price or other consideration for the sale has been received by the Crown;

"Crown Lands Acts" means the following:

- (a) the Acts repealed by section 2 of the Crown Lands Act of 1884 (except Act 22 Victoria No. 17 and Act 23 Victoria No. 4);
- (b) the Acts repealed by the Crown Lands Consolidation Act 1913;
- (c) the Acts repealed by the Crown Lands Act 1989;
- (d) the provisions of the Prickly-pear Act 1924 referred to in clause 5 (1) of Schedule 1 to the Prickly Pear Act 1987;
- (e) the provisions of the Crown Lands (Amendment) Act 1932 repealed by the Miscellaneous Acts (Crown Lands) Amendment Act 1989;
- (f) the Crown Lands (Continued Tenures) Act 1989;
- (g) the Crown Lands Act 1989;

"Director-General" means the Director-General of the Department of Agriculture and Fisheries;

"distinctive brand" means a brand used to denote the age or class of horses or cattle;

"distinctive earmark" means an earmark used to denote the age or class of sheep or goats;

"district" means a rural lands protection district established by or under this Act;

"district veterinarian" means a person holding office under section 22, or acting under section 23, as a district veterinarian;

"earmark" means a mark made by cutting through and removing a portion of an ear of the animal concerned;

- "ear tattoo"** means a brand design applied to or designed for application to an ear of the animal concerned by tattooing;
- "Eastern and Central Division"** means the Eastern and Central Division of New South Wales as defined by section 4 of the Crown Lands Act 1989;
- "enrolled"** means enrolled in accordance with section 18 as an elector in respect of a district or a division of a district;
- "fire brand"** means a brand design made or designed to be made by heat;
- "former Act"** means the Pastures Protection Act 1934;
- "freeze brand"** means a brand design made or designed to be made by freezing;
- "general election"**, in relation to a board, means a general election for the election of directors of the board;
- "general rate"** means a rate levied by a board under section 53 as a general rate;
- "goat"** includes a buck, doe, wether and kid, but does not include a feral goat not used in commercial farming;
- "grazing permit"** means a permit issued and in force under section 93 or a temporary grazing permit issued and in force under section 94;
- "holding"** means:
- (a) a parcel of land; or
 - (b) several parcels of land which:
 - (i) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse; and
 - (ii) constitute or are worked as a single property, irrespective of whether those parcels are held under the same title or different titles or titles of different kinds or whether they are in the same district;
- "horse"** means a horse, mare, gelding, colt, filly, foal, hinny or mule;
- "Land Register"** means the Register kept under the Real Property Act 1900;
- "large stock"** means horses, cattle or deer;

"local authority" means a council within the meaning of the Local Government Act 1919;

"local land board" means, in relation to a matter arising in connection with land located in a land district situated in the Eastern and Central Division or the Western Division, the local land board constituted for the district;

"marsupial" includes kangaroo, wallaroo, wallaby and pademelon;

"Meat Industry Authority" means the New South Wales Meat Industry Authority constituted under the Meat Industry Act 1978;

"Minister for Crown Lands" means the Minister administering the Crown Lands Act 1989;

"noxious animal" means:

- (a) a rabbit, wild dog or feral pig; or
- (b) any animal or bird of any other species declared by order made under subsection (2) to be a species of noxious animal for the purposes of this Act;

"noxious insect" means:

- (a) an Australian plague locust (*Chortoicetes terminifera*); or
- (b) an insect of any other species declared by order made under subsection (2) to be a species of noxious insect for the purposes of this Act;

"noxious plant" means a plant declared to be a noxious plant under section 467 of the Local Government Act 1919;

"obligation" includes liability;

"occupier":

- (a) in relation to land:
 - (i) means the person entitled to immediate possession of the land; and
 - (ii) if that person is not residing on the land - includes the resident manager or other person in charge of the land (except for the purpose of any provision of this Act relating to the obligation to pay any rate, expenses or contribution); and
- (b) for the purposes of Part 9, includes:
 - (i) the State Bank of New South Wales Limited; and
 - (ii) the occupier or caretaker of any stock watering place; and

(iii) a local authority;

"owner", in relation to land, means:

- (a) the holder, or the holder subject to mortgage, of any lease or licence or promise of any lease or licence from the Crown; or
- (b) the holder, or the holder subject to mortgage, of any incomplete purchase or perpetual lease from the Crown; or
- (c) the person entitled at law or in equity to an estate of freehold in possession in any land granted or transferred to that person by the Crown for other than public purposes; or
- (d) the person in whom is vested any land taken or appropriated under the authority of any statute authorising land to be taken or appropriated for the purpose of any private undertaking;

"permit officer" means any person appointed under section 91 as a permit officer;

"pig" includes boar, sow, barrow, piglet and sucker;

"private holding" and **"private land"** mean respectively a holding and land not including or being public land;

"property" means property of all kinds, whether real or personal and whether tangible or intangible and, in particular, includes choses in action;

"proprietor", in relation to a brand, means the person in whose name the brand is for the time being registered;

"public land" means:

- (a) Crown land that is not the subject of a contract for sale; or
- (b) land, not being a road, that is the subject of a dedication or permanent reservation for public uses or purposes,

being land that is not the subject of any lease or licence under the Crown Lands Acts or under any other Act authorising the occupation or use of land vested in the Crown;

"public road" means any land proclaimed, dedicated, notified, resumed, or otherwise established, whether before or after the commencement of this section, as a public thoroughfare or public way and, for the purposes of Parts 6 and 7, also includes a Crown road;

"ranger" means a person holding office or acting as a ranger under section 24;

"ratable land", in relation to a district, means an area of land within a district that is the whole or a part of a holding and:

- (a) has an area that is not less than the area prescribed by the regulations in relation to that district for the purposes of this definition; or
- (b) in any other case, has a carrying capacity of not less than 50 stock unit equivalents;

"rate" includes a general rate, an animal health rate and any other rate levied under this Act;

"record" includes a book, account, deed, writing, document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;

"Regional Director of Veterinary Services" means the person who, in relation to a particular region of New South Wales, is for the time being holding or acting in that position in the Department of Agriculture and Fisheries;

"registered" means registered under this Act;

"scalp" means:

- (a) a portion of the skin of a wild dog from the point of the nose to the tip of the tail including both ears; or
- (b) such other portion of the skin as may, from time to time, be determined by the Wild Dog Destruction Board for the purposes of the definition of "Scalp" in section 3 of the Wild Dog Destruction Act 1921;

"sheep" includes ram, ewe, wether and lamb;

"skin" includes hide;

"small stock" means sheep or goats;

"stock" means cattle, horses, sheep or goats or, in relation to any specified provision or provisions of this Act, any other kind of animal declared by the regulations to be stock for the purposes of that provision or those provisions;

"stock holding area" means an enclosed area or structure that is established under section 98 as a stock holding area for the purposes of this Act;

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"stock holding authority" means an authority issued and in force under section 95;

"stock licence" means a licence issued and in force under section 100;

"stock unit equivalent", in relation to any particular land, means:

- (a) any unit of stock (other than a horse) that is aged 6 months or more kept on the land; or
- (b) any horse, that is aged 6 months or more, kept on the land, exceeding 5 in number; or
- (c) any pig of any age kept on the land;

"stock watering place" means any land declared or taken to be a stock watering place under this Act;

"this Act" includes the regulations;

"transported stock statement" means a transported stock statement issued and in force under section 89;

"travelling stock" means stock being conveyed by vehicle, moved or walked;

"travelling stock reserve" or "reserve" means:

- (a) any travelling stock route or reserve for a camping place; or
- (b) any reserve for travelling stock, water reserve, reserve for access or crossing (where the reserve is for the purpose of providing travelling stock with access to or a crossing of water, whether expressly notified for that purpose or not); or
- (c) any stock watering place;

"vehicle" includes any means of road, rail, waterborne or airborne transport;

"walking stock permit" means a permit issued and in force under section 92;

"Western Division" has the same meaning as in section 4 of the Crown Lands Act 1989;

"Western Lands Commissioner" means the person holding office under the Western Lands Act 1901 as the Western Lands Commissioner;

"wild dog" means:

- (a) any dog that is or has become wild; or
- (b) any dingo whether or not it is held in captivity.

(2) The Minister may, by order published in the Gazette, declare:

- (a) a species of animals or birds to be a species of noxious animal;
or
- (b) a species of insects to be a species of noxious insects,

for the purposes of this Act.

(3) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2 - RURAL LANDS PROTECTION BOARDS

Division 1 - Rural lands protection districts

Constitution of districts (cf. Act No. 35, 1934, s. 5)

4. (1) The Governor may, by proclamation, constitute rural lands protection districts.

(2) The Governor may, by proclamation, vary or revoke any proclamation made under subsection (1) or under the corresponding provision of the former Act.

(3) If the boundaries of a rural lands protection district are altered, a reference to the district is to be taken to be a reference to the district as altered.

(4) Subject to this section, a pastures protection district constituted under section 5 of the former Act continues in existence as a rural lands protection district.

Division of districts (cf. Act No. 35, 1934, s. 11)

5. (1) The Minister must, by notice published in the Gazette, divide each district which is not exempt from this subsection into 4 divisions.

(2) The Minister may, by notice published in the Gazette, alter the boundaries of a division of a district.

(3) An alteration under subsection (2) does not take effect for the purposes of an election or an appointment to fill a casual vacancy occurring before the next general election for the district.

(4) On the application of a board established for a district located in the Western Division, the Minister may, by a notice published in the Gazette, exempt the district from the operation of subsection (1).

(5) On the application of a board to which subsection (4) applies, the Minister may, by similar notice, cancel the exemption.

(6) If a district has been divided into divisions, the Minister may, on the application of the board for the district, cancel the division by notice published in the Gazette.

(7) If a district is divided into divisions, 2 directors must be elected or appointed for each division.

(8) Subject to this section, a pastures protection district which existed under the former Act immediately before the commencement of this section continues in existence as a rural lands protection district constituted under this Act with the same boundaries and divisions as those applicable to that pastures protection district.

Division 2 - Constitution of rural lands protection boards

Board to be established in respect of each district (cf. Act No. 35, 1934, ss. 6, 14 (1))

6. (1) There is established by this Act a rural lands protection board for each district constituted under section 4 (1).

(2) A board so established is a corporation with the corporate name of the district concerned, but with the word "board" substituted for the word "district".

(3) The Governor may, by proclamation, alter the corporate name of a board.

(4) The fact that all or any of the positions of directors on the board are vacant does not of itself operate to dissolve the corporation.

(5) If, by virtue of section 5 (8) of this Act, a pastures protection district constituted under the former Act continues in existence as a

rural lands protection district, the rural lands protection board established for the district is a continuation of, and is the same legal entity as, the pastures protection board established for the district under the former Act.

(6) A board is properly constituted for the purposes of this Act if it has 8 directors.

(7) Schedule 1 has effect with respect to the directors of a board.

(8) Schedule 2 has effect with respect to the proceedings of a board.

Appointment of an initial administrator

7. (1) As soon as practicable after a district is constituted under section 4 (1), the Minister must, by notice published in the Gazette:

- (a) appoint an administrator to manage the affairs of the board established for the district, pending the election of directors of the board; and
- (b) fix a period within which the administrator must hold a general election to elect the directors of the board.

(2) As soon as practicable within the period fixed in accordance with subsection (1) (b), or within such extended period as the Minister allows, the administrator must:

- (a) establish an electors' roll for the district and enter on the roll the names, residential addresses and other prescribed particulars (if any) of those persons who, having the required qualifications, apply to have their names entered on the roll; and
- (b) then hold a general election of directors in accordance with section 14.

(3) If the office of an administrator appointed under this section becomes vacant before the holding of the general election referred to in subsection (2) (b), the Minister must, by notice published in the Gazette, appoint another person to fill the vacancy.

(4) If at the general election the requisite number of directors are elected to constitute the board, then, at the end of the period prescribed by the regulations after the election is concluded:

- (a) the appointment of the administrator ends; and
- (b) the persons elected assume office as directors of the board.

(5) Unless for any reason they vacate their offices earlier, directors who are elected at a general election held under this section cease to hold office immediately before their successors take office in accordance with section 14 (4).

(6) Schedule 3 has effect with respect to an administrator appointed under this section.

Dissolution of boards etc. (cf. Act No. 35, 1934, s. 18)

8. (1) If:

- (a) an existing district becomes wholly comprised within another district; or
- (b) the parts of an existing district are wholly distributed among other districts; or
- (c) 2 or more existing districts are amalgamated into one or more other districts; or
- (d) one or more existing districts are divided into 2 or more other districts,

the board or boards established for the existing district or districts are dissolved.

(2) If:

- (a) an alteration is made to the boundaries of a district; or
- (b) a new district is created from existing districts,

the Governor may, by proclamation published in the Gazette, vest such of the property, and assign such of the rights and obligations, of any board concerned in such other board as the Minister considers appropriate, having regard to the alteration of boundaries or the creation of the new district.

Division 3 - Functions of boards

Functions generally

9. (1) A board has the functions conferred or imposed on it by or under this or any other Act.

- (2) In particular, a board is responsible for:
- (a) the levying and collection of general and animal health rates in respect of ratable land within its district; and
 - (b) the provision of animal health services; and
 - (c) the care, control and management of travelling stock reserves and camping reserves within its district; and
 - (d) subject to section 118, the care, control and management of stock watering places within its district; and
 - (e) supervising the suppression and destruction of noxious animals and noxious insects that are within its district; and
 - (f) where appropriate, supervising the erection and maintenance of rabbit proof, dog proof and marsupial proof fences within the district; and
 - (g) maintaining barrier fences that it has erected; and
 - (h) registering stock brand designs, earmark designs, ear tattoo designs, tail tag designs and other means prescribed by the regulations for identifying stock kept on holdings within its district.

(3) Any work or activity that a board is required or authorised to carry out under this Act may be carried out by the board through its employees or agents.

Purchase and sale of certain articles by a board (cf. Act No. 35, 1934, s. 14A)

10. (1) A board may purchase, and may sell to an occupier of ratable land in the district for which the board is established:

- (a) any device or substance that can lawfully be used to suppress and destroy noxious animals or noxious insects; and
- (b) any veterinary substance that may be supplied by the district veterinarian to such an occupier in the course of his or her functions; and
- (c) if approved by the Minister, any device or substance capable of eradicating or controlling specified pests which, although not noxious animals or noxious insects, are adversely affecting the output of farming produce; and
- (d) signs containing a warning to the effect that stock are present on a particular road or travelling stock reserve; and

(e) any other article or substance approved by the Minister.

(2) When selling an item referred to in subsection (1), a board is not empowered to recover from the buyer an amount exceeding the actual expense that the board has incurred in purchasing, preparing, storing and selling the item.

Board's functions with respect to natural disasters

11. The functions of a board include:

- (a) the administration within its district of any drought or other disaster relief scheme initiated or approved by the Minister to assist occupiers of land within an area that comprises or includes that district or part of that district; and
- (b) where the promulgation of any such scheme is dependent on the district, or an area which is part of the district, being declared to be an area stricken by drought or other natural disaster - the making to the Minister of a recommendation that the district or area be so declared.

Collection of meat industry levies (cf. Act No. 35, 1934, s. 14B (1))

12. The board for a district may:

- (a) if requested to do so by the Meat Industry Authority; or
- (b) in accordance with an agreement or arrangement made between the Council of Advice on behalf of the Rural Lands Protection Boards' Association of New South Wales and that Authority,

act as that Authority's agent for the purposes of:

- (c) issuing notices specifying the amount of meat industry levies; and
- (d) undertaking responsibility for collecting and recovering levies that occupiers or owners of ratable land within the district owe to that Authority.

Borrowing powers of boards (cf. Act No. 35, 1934, s. 14 (2))

13. (1) A board may borrow by way of limited overdraft on current account in any bank on the security of the board's assets within such limits, for such periods and for such purposes as the Minister authorises from time to time.

(2) If the Minister is satisfied that it is not practicable for a board to obtain an overdraft as provided by subsection (1), the Minister may authorise the board to borrow money otherwise than in accordance with that subsection.

- (3) An authorisation under this section is not required if:
- (a) the amount proposed to be borrowed does not exceed 25 per cent of the board's income from general, animal health and other rates during the board's immediately preceding financial year; and
 - (b) the borrowing is for a period of not more than 6 months.

Division 4 - Election of directors

General election of directors to be held every fourth year (cf. Act No. 35, 1934, s. 6 (2)-(6A))

14. (1) The Minister must:

- (a) by notice published in the Gazette, fix a date on or after 10 October 1993 and on or after 10 October in every fourth year after that year for the holding of a general election of the directors of each board; and
- (b) direct each board to hold a general election of directors on that date.

(2) The date fixed under subsection (1) (a) must be a date that is not less than 4 weeks after the date on which notice of the general election is published in the Gazette, otherwise the notice is invalid.

(3) A board must comply with a direction under subsection (1) (b).

(4) A director who is elected at a general election referred to in subsection (1) takes office on 1 November in the year in which the general election is held, and a director elected at a general election held in accordance with subsection (5) (c) or appointed under subsection (5) (d) takes office on the first day of the month after the month in which the election was held or in which he or she was appointed.

(5) If:

(a) at a general election held under this section:

- (i) no directors are elected; or
- (ii) fewer than 8 directors are elected; or

(b) no proper election of directors, or of any director, takes place on the date fixed for the holding of such an election,

the Minister must either:

(c) by notice published in the Gazette, fix a date for the holding of an election and direct the board to hold such an election on that date; or

(d) appoint as directors of the board concerned the required number of persons qualified to hold office as directors of that board.

(6) Unless for any reason they vacate their offices earlier, directors elected at a general election referred to in subsection (1) or (5) (c), or appointed under subsection (5) (d), cease to hold office on the day preceding the day on which their successors take office in accordance with subsection (4).

(7) If the directors of a board were elected at a general election of directors held within the period of 6 months immediately preceding a date fixed under subsection (1) (a), the board is not required to comply with a direction under subsection (1) (b) and subsection (3) does not apply to the board with respect to the holding of an election on that date.

Election to be held to fill a casual vacancy in the office of director (cf. Act No. 35, 1934, s. 8 (3)-(5))

15. (1) Within 3 months after a casual vacancy arises in the office of director of a board, the board must hold a special election of directors to fill the vacancy.

(2) However, if such a vacancy occurs within the period of 6 months immediately preceding the date on which a general election is required to be held, an election to fill the vacancy must not be held, unless there are insufficient directors for the board to have a quorum at its meetings.

(3) If:

- (a) no director is elected to fill a casual vacancy in the office of director of a board; or
 - (b) no proper election to fill the vacancy is held,
- within 3 months after the vacancy occurred, the Minister may appoint a person who is qualified to be appointed as a director of the board to fill the vacancy.

General provisions applicable to elections of directors of boards (cf. Act No. 35, 1934, s. 13)

16. (1) An election of directors of a board, whether at a general election or an election to fill a vacancy in the office of director, must be conducted by post in accordance with the procedure prescribed by the regulations.

(2) Without limiting subsection (1), the regulations:

- (a) must, in respect of such an election, provide:
 - (i) for the fixing of a closing day for the nomination of candidates at the election; and
 - (ii) if, at the closing day, the number of persons nominated exceeds the number of vacancies to be filled - for the fixing of a closing day for the lodging of completed special enrolment applications; and
- (b) may, in respect of such an election:
 - (i) specify days none of which may be fixed as the closing day for the nomination of candidates at the election; and
 - (ii) specify days none of which may be fixed as the closing day for the lodgment of special enrolment applications; and
- (c) may differ according to whether the election is a general election or an election to fill a vacancy in the office of director.

Division 5 - Enrolment and voting qualifications and qualifications for election etc.

Holding defined (cf. Act No. 35, 1934, s. 13C)

17. (1) For the purposes of this Division:

- (a) if a holding is located partly in 2 or more districts, it is to be regarded as being wholly within the district in which the greater part lies; and
- (b) if a holding is located partly in 2 or more divisions, it is to be regarded as being wholly within the division in which the greater part lies.

(2) For the purposes of subsection (1), if the parts of a holding are equal in size, the part on which the principal residence (if any) is located is to be regarded as being the greater part.

Board to establish and maintain an electors' roll (cf. Act No. 35, 1934, s. 11A)

18. (1) A board established for a district that is divided into divisions must establish and maintain a roll for each division containing the name and residential address of each person entitled to be enrolled in respect of a holding that is within the division.

(2) A board established for a district that is not divided into divisions must establish and maintain a roll for the district containing:

- (a) the name and residential address of each person entitled to be enrolled in respect of a holding that is within the district; and
- (b) particulars identifying the holding.

(3) The secretary of a board is responsible for updating the roll required to be established and maintained by the board under this section.

Which persons are entitled to be enrolled (cf. Act No. 35, 1934, s. 11B)

19. (1) Only one person is eligible to be enrolled in respect of a holding.

(2) A person is eligible to be enrolled for a district or, if the district is divided, a division of the district if:

- (a) the person is the occupier or one of the occupiers of a holding that is situated within the district or, as the case may be, the division; and
 - (b) the person makes an application or is nominated for enrolment on a duly completed enrolment application lodged with the board.
- (3) An application for enrolment may be made:
- (a) by providing the required particulars in the return prescribed for the purposes of section 57; or
 - (b) by lodging a special enrolment application with the appropriate board.
- (4) A special enrolment application must be in the form approved by the Minister.
- (5) Whenever a secretary of a board:
- (a) receives an enrolment application in accordance with this section; and
 - (b) is satisfied that the applicant is entitled to be enrolled in respect of the holding concerned,
- the secretary must record the applicant as the person enrolled in respect of that holding and, where appropriate, strike out the name of the person previously enrolled in respect of that holding.
- (6) A person is not eligible to be enrolled in respect of a holding under this section unless:
- (a) the holding consists wholly or partly of ratable land; and
 - (b) the person is a natural person.
- (7) If:
- (a) the only person or persons entitled to possession of a holding in a district or, if the district is divided, in a division of the district, is or are also the only person or persons entitled to possession of one or more other holdings within the district or division, as the case may be; and
 - (b) a person is enrolled in respect of the first-mentioned holding,
- no person is eligible to be enrolled in respect of any of those other holdings.

(8) Whenever the board for a district becomes aware that:

- (a) 2 or more enrolment applications have been lodged with it in respect of a single holding within the district or, if the district is divided, within a division of the district; and
- (b) different applicants are named in those applications,

the board must decide which of the applicants should be enrolled in respect of the holding.

(9) As soon as practicable after arriving at a decision under subsection (8), the board must notify the persons concerned in writing of its decision and of the grounds on which it was based.

(10) Whenever the board for a district becomes aware that an applicant for enrolment is not eligible to be enrolled in respect of a holding, it must:

- (a) treat the application as if it had never been lodged with it; and
- (b) make any consequential alterations to the roll for the district or division concerned; and
- (c) take reasonable steps to notify in writing the occupier or, if there is more than one occupier, each of the occupiers of the holding that it has done the things referred to in paragraphs (a) and (b).

(11) A person who lodges, or is concerned in the lodgment of, an enrolment application that purports to be duly completed is guilty of an offence if the application is, to the knowledge of that person, false or misleading in a material respect.

Maximum penalty: 50 penalty units.

Who is qualified to vote at an election (cf. Act No. 35, 1934, s. 13B)

20. Whenever an election is held to elect a director or directors of a board:

- (a) for a district that is not divided into divisions; or
- (b) for a division of a district that is so divided,

a person is entitled to vote at the election if, immediately after the closing day for lodging enrolment applications:

- (c) the person is enrolled for the district or division, as the case may be; and
- (d) the person is the occupier, or one of the occupiers, of the holding in respect of which the person is so enrolled; and

- (e) the person has, by the date prescribed by the regulations, lodged any return required under section 57 to be lodged in respect of that holding as at 30 June immediately preceding the election; and
 - (f) the holding consists wholly or partly of ratable land,
- and the person continues to be entitled to be enrolled at the date of the election.

Who is qualified for election or appointment as a director (cf. Act No. 35, 1934, s. 13A)

21. (1) A person is qualified for election or appointment as a director of a board if, in the case of an election, on the closing day for the nomination of candidates for the election or, in the case of an appointment, on the day on which the appointment is to take effect:

- (a) the person resides in the district for which the board is established; and
- (b) the person is the occupier, or one of the occupiers, of a holding which consists wholly or partly of ratable land within the district; and
- (c) the person has, by the date prescribed by the regulations, lodged any return required under section 57 to be lodged in respect of that holding:
 - (i) in the case of an election - as at 30 June immediately preceding the closing day for nominations of candidates for the election; or
 - (ii) 30 June immediately preceding the day on which the appointment takes effect; and
- (d) there are no rate payments outstanding in respect of the holding and the person does not otherwise owe money to the board; and
- (e) the person is not otherwise ineligible for election or appointment as a director.

(2) In the case of a district divided into divisions, a person is not eligible to be elected or appointed as the director for any of the divisions unless the person is the occupier, or one of the occupiers, of a holding which consists wholly or partly of ratable land within that division.

(3) A director is, if otherwise qualified, eligible for re-election or re-appointment for a further term at the conclusion of his or her current term of office.

Division 6 - Staff

District veterinarians (cf. Act No. 35, 1934, s. 21)

22. (1) For the purposes of this Act, a board must, unless the Minister has directed it not to do so, appoint as the district veterinarian for the board's district a person who has the qualifications prescribed by the regulations for the purposes of this section.

(2) An appointment under subsection (1) is subject to the prior approval of the Chief of the Division of Animal Health.

(3) A district veterinarian may be appointed in respect of 2 or more districts.

(4) A district veterinarian is subject to the control and direction of the Chief of the Division of Animal Health and is required to account to the board for the time that the veterinarian spends on activities involved in carrying out any animal health program that is under the direction of the Chief of the Division of Animal Health.

(5) The Chief of the Division of Animal Health must consult with the board concerned before carrying out in that board's area a program referred to in subsection (4).

(6) A district veterinarian:

- (a) may be appointed on a full-time basis or, with the approval of the Minister, on a part-time basis; and
- (b) is entitled to such remuneration and other conditions of employment as may be determined by or in accordance with any relevant award, agreement or law or, if there is no such award, agreement or law, as may be determined by the Minister.

(7) The remuneration of a district veterinarian (including allowances and employer superannuation contributions) is payable:

- (a) by the board which employs the veterinarian; or
- (b) if the veterinarian is employed in respect of 2 or more districts - by the boards established for those districts in such proportions as the Minister decides.

(8) Remuneration payable under subsection (7) is payable from a board's rural lands protection fund unless the Minister has approved payment of part of that remuneration from another of the board's funds.

(9) A board that is employing a district veterinarian may not, without the prior consent of the Chief of the Division of Animal Health, dismiss the veterinarian from its employment.

(10) The Chief of the Division of Animal Health, or the board that is employing the veterinarian, may, for such reason as the Chief of the Division of Animal Health or board considers to be sufficient, suspend a veterinarian from duty, either on full or half pay or without pay.

(11) If, following the suspension of a district veterinarian, the veterinarian is later dismissed, then, unless the Minister otherwise directs, the veterinarian forfeits all salary except that which was due to the veterinarian before the suspension took effect.

(12) If a district veterinarian's remuneration is paid by the boards of 2 or more districts, the veterinarian is, for the purposes of the Workers Compensation Act 1987, the Industrial Arbitration Act 1940 and any other Act specified in the regulations for the purpose of this section, to be regarded as the employee of such of those boards as the Minister directs, but in that case the remaining board or boards must contribute towards the premiums payable under the Workers Compensation Act 1987 in such proportions as the Minister directs.

Power to appoint temporary district veterinarians in certain cases (cf. Act No. 35, 1934, s. 22)

23. (1) If:

(a) due to illness, suspension from duty or absence, a district veterinarian is unable to perform his or her functions; or

(b) a vacancy occurs in the office of district veterinarian,

the Minister may appoint a suitable person who has the qualification prescribed by the regulations to perform those functions during the illness, suspension or absence of the veterinarian or, as the case may be, until the vacancy can be filled.

(2) An appointment under this section may not be made for a period longer than 3 months, but such an appointment may be renewed from time to time for a further period of 3 months.

(3) A person appointed under this section is entitled to such remuneration and to be employed subject to such conditions of employment as the Minister may determine.

(4) The provisions of section 22 (7), (8) and (12) apply to a person appointed under this section in the same way as they apply to a district veterinarian.

Power of a board to appoint other employees (cf. Act No. 35, 1934, s. 24)

24. (1) For the purpose of enabling it to exercise its functions, a board may appoint a secretary, rangers, noxious animal inspectors and other employees of such classes as may be prescribed for the purposes of this section by the regulations or, if there are no such regulations, as the Minister approves.

(2) The appointment of a ranger made under this section does not take effect until the appropriate Regional Director of Veterinary Services has approved it.

(3) A person appointed to a position under this section:

- (a) may be appointed on a full-time or part-time basis; and
- (b) is entitled to such remuneration and other conditions of employment as may be determined by or in accordance with any relevant award, industrial agreement or law or, if there is no such award, agreement or law that is applicable to the person, as may be determined by the board concerned, with the approval of the Minister; and
- (c) may hold the position in conjunction with any other position to which he or she may have been appointed under this section.

(4) The remuneration of such an employee is payable from the rural lands protection fund of the board that employs the employee, but with the approval of the Minister that board may pay a part of that remuneration from one of its other funds.

(5) A board must:

- (a) if the Minister so directs, employ at least one noxious animal inspector; and
- (b) unless the Minister otherwise directs, employ at least one ranger.

(6) An employee appointed under this section is subject to the control and direction of the board that made the appointment, except as provided by subsection (7) and Part 5.

(7) A ranger or noxious animal inspector employed by a board is, if the board and the Chief of the Division of Animal Health agree, subject to the control and direction of the district veterinarian employed by the board with respect to the exercise of functions other than those relating to animal health.

(8) A board may, as provided by law, dismiss any of the employees that it has appointed under this section, but may so dismiss a ranger only with the consent of the Regional Director of Veterinary Services.

(9) A board or the Regional Director of Veterinary Services may, for any reason that the board or that Director considers appropriate, suspend from duty any ranger that the board has appointed under this section.

(10) A board may, for any reason that the board considers appropriate, suspend from duty any other employee that it has appointed under this section.

(11) If, following suspension from duty, an employee of the board is later dismissed, then, unless the board otherwise directs, the employee forfeits all salary except that which was due to the employee before the suspension took effect.

Power to appoint temporary employees (cf. Act No. 35, 1934, s. 24 (3))

25. (1) If no suitable person is available for permanent appointment to fill a vacancy in an office referred to in section 24, the board concerned may appoint a person to act temporarily in the vacant office until an appointment can be made under that section.

(2) An appointment under this section may not be made for a period longer than 3 months, but such an appointment may be renewed from time to time for a further period of 3 months.

(3) The provisions of section 24 (2)-(6) apply to the appointment of a person under this section in the same way as they apply to a person appointed under section 24.

Power to second employees to another board etc.

26. (1) A board established for a district may second any of its employees to a board of another district to assist the board of that other district in the exercise of its functions.

(2) A secondment under subsection (1) is subject to such terms and conditions as the boards concerned agree.

(3) Subsection (1) extends to a district veterinarian employed in relation to a district as if the veterinarian were an employee appointed under section 24 by the board established for the district.

(4) However, a district veterinarian may be seconded from one district to another only with the consent of the Regional Director of Veterinary Services.

Apportionment of certain long service leave payments between boards
(cf. Act No. 35, 1934, s. 24A)

27. (1) If:

- (a) a person appointed under section 22 or 24 is entitled to receive a payment in respect of long service leave; and
- (b) that entitlement has arisen as a result of service with 2 or more boards,

each board concerned must contribute to that payment in such proportions and in such manner as the Minister directs.

(2) Subsection (1) has effect in respect of service with 2 or more boards whether the service with those boards was:

- (a) concurrent; or
- (b) not concurrent; or
- (c) partly concurrent and partly not concurrent.

(3) For the purpose of this section, a person appointed as a district veterinarian for a district is to be regarded as being in the service of the board established for the district.

Division 7 - Financial provisions

Financial year of boards

28. (1) The financial year of a board is:

- (a) the period of 12 months beginning on 1 January in each year; or
- (b) if, in accordance with subsection (2), the Minister determines a different period, the period so determined.

(2) The Minister may, by notice published in the Gazette, determine the period for the financial year of a particular board or for boards generally.

Board to keep accounting records (cf. Act No. 35, 1934, s. 15 (b))

29. (1) A board must:

- (a) keep such accounting records as correctly record and explain the transactions of the board and its financial position; and
- (b) keep its accounting records in such a manner as will enable:
 - (i) the preparation from time to time of true and fair accounts of the board; and
 - (ii) the accounts of the board to be conveniently and properly audited in accordance with this Act.

(2) A board must retain the accounting records kept under this section for a period of 7 years after the completion of the transactions to which they relate.

(3) A board must keep its accounting records in writing in the English language or so as to enable those records to be readily accessible and readily convertible into writing in the English language.

(4) A board which fails to comply with a requirement of this section is guilty of an offence.

Maximum penalty: 10 penalty units.

Board to prepare an income and expenditure account and balance sheet (cf. Act No. 35, 1934, s. 16)

30. (1) A board must, within 3 months after the end of its financial year, cause to be made out:

- (a) an income and expenditure account for the last financial year of the board, being an income and expenditure account that gives a true and fair view of the income and expenditure of the board for that financial year; and
- (b) a balance sheet as at the end of that financial year, being a balance sheet that gives a true and fair view of the state of affairs of the board as at the end of that financial year.

(2) A board must ensure that its accounts are audited as required by section 39 not later than 1 month after the end of the period of 3 months referred to in subsection (1) or within such extended period as the Minister may in any special circumstances approve.

(3) A board must cause to be attached to, or endorsed on, its accounts the auditor's report relating to those accounts provided to the board in accordance with section 39.

(4) A board must ensure that its accounts comply with such of the requirements prescribed by the regulations as are relevant to those accounts, but, if accounts prepared in accordance with those requirements would not otherwise give a true and fair view of the matters required to be dealt with in the accounts, the board must add such information and explanations as will give a true and fair view of those matters.

(5) A board must cause to be attached to its accounts, before the auditor reports on the accounts under this Division, a statement made in accordance with a resolution of the board, and signed by not less than 2 of its directors, stating whether, in the opinion of the board:

- (a) the income and expenditure account is drawn up so as to give a true and fair view of the income and expenditure of the board for the financial year concerned; and
- (b) the balance sheet is drawn up to give a true and fair view of the state of affairs of the board as at the end of that financial year; and
- (c) there are reasonable grounds to believe that the board will be able to pay its debts as and when they fall due.

(6) A board must, within 4 months after the end of its financial year:

- (a) transmit to the Minister and, on request, to the Auditor-General a copy of the board's accounts for that year, together with a copy of the auditor's report on those accounts; and

- (b) publish a summary of those accounts and that auditor's report in at least one newspaper that circulates within the board's district.

(7) A board which fails to comply with a requirement of this section is guilty of an offence.

Maximum penalty: 20 penalty units.

Board to maintain rural lands protection fund

31. (1) A board established for a district must establish and maintain a fund to be known as the rural lands protection fund of the district.

(2) A board must, except as otherwise provided by this Division, pay into its rural lands protection fund all subsidies, commissions, rates and other money paid to or recovered by the board.

(3) A board may pay out of its rural lands protection fund:

- (a) any expenses relating to the election of the directors of the board; and
- (b) any expenses incurred in the exercise of its functions; and
- (c) the payment of refunds under section 73; and
- (d) the payment of expenses that the board incurs under this or any other Act; and
- (e) any amount payable for any other lawful purpose:
 - (i) being an amount not exceeding the amount prescribed by the regulations for the purposes of this section; or
 - (ii) if the amount would exceed that prescribed amount - being a purpose that the Minister has approved or is specified in the regulations.

(4) The application of money forming part of a board's rural lands protection fund to a purpose approved by the Minister or specified in the regulations is subject to any terms and conditions that the Minister decides to impose or are specified in the regulations, as the case requires.

Board to maintain a wild dog fund if directed to do so by the Minister (cf. Act No. 35, 1934, s. 19AA)

32. (1) If the Minister so directs, a board established for a district that is located in the Eastern and Central Division must open a wild dog fund in the board's name.

(2) A board that maintains a wild dog fund must transfer to that fund from its rural lands protection fund such amounts as it considers might be required for the purposes specified in subsection (4).

(3) A board's wild dog fund consists of:

- (a) any amounts transferred in accordance with subsection (2); and
- (b) all money that the board receives specifically for the suppression and destruction of wild dogs in its district.

(4) A board may use money in its wild dog fund only for the following purposes:

- (a) the suppression and destruction of wild dogs in its district;
- (b) campaigns for the suppression and destruction of wild dogs in accordance with arrangements made under section 138.

(5) If the Minister so directs, a board that has a wild dog fund must close the fund and transfer any money remaining in the fund to its rural lands protection fund.

Board in Eastern and Central Division to maintain a reserves improvement fund (cf. Act No. 35, 1934, s. 47)

33. (1) A board established for a district that is located within the Eastern and Central Division must maintain in the board's name a fund to be known as the reserves improvement fund.

(2) Such a board must, except in circumstances specified in the regulations, pay into its reserves improvement fund all money that the board receives under a provision of Part 6 and all money that the board receives in respect of fines imposed for offences committed against such a provision.

(3) Such a board may, after deducting the cost of collecting or recovering money referred to in subsection (2) and the cost of supervising the fund, use the money in its reserves improvement fund:

- (a) in exercising its functions in relation to the reserves and stock watering places under its control; and
- (b) the remuneration payable to any caretaker whom the board has engaged to look after a stock watering place within the board's district; and
- (c) for any other purpose that the Minister has approved or that is prescribed by the regulations.

- (4) Such a board must ensure that:
- (a) the amount of money transferred from its reserves improvement fund to its rural lands protection fund; and
 - (b) the cost of supervising its reserves improvement fund,
- do not in any one financial year of the board exceed the amount (if any) specified in the regulations for the purposes of this section.

(5) If the Minister imposes, or the regulations prescribe, conditions with respect to the use of money forming part of a board's reserves improvement fund for a purpose referred to in subsection (3) (c), the board must ensure that those conditions are complied with.

Board in Western Division to maintain a stock watering places fund
(cf. Act No. 35, 1934, s. 78 (2), (2A))

34. (1) A board established for a district that is located within the Western Division must maintain in the board's name a fund to be known as the stock watering places fund.

(2) Such a board must, except in circumstances specified in the regulations, pay into its stock watering places fund all money that the board receives under a provision of Part 6 or 8 and all money that the board receives in respect of fines imposed for offences committed against such a provision.

(3) Such a board may, after deducting the cost of collecting or recovering money referred to in subsection (2) and the cost of supervising the fund, use the money in its stock watering places fund:

- (a) in exercising its functions in relation to the reserves and stock watering places under its control; and
- (b) in paying the remuneration payable to any caretaker whom the board has engaged to look after a stock watering place within the board's district; and
- (c) in carrying out any of the works specified in section 119; and
- (d) for any other purpose that the Minister has approved or that is prescribed by the regulations.

- (4) Such a board must ensure that:
- (a) the amount of money deducted from its stock watering places fund or transferred from that fund to its rural lands protection fund; and

(b) the cost of supervising its stock watering places fund, do not in any one financial year of the board exceed the amount (if any) specified in the regulations for the purposes of this section.

(5) If the Minister imposes, or the regulations prescribe, conditions with respect to the use of money forming part of a board's stock watering places fund for a purpose referred to in subsection (3) (d), the board must ensure that those conditions are complied with.

Board to maintain a noxious insects fund

35. A board must, unless otherwise approved by the Minister, establish a noxious insects fund into which there are to be paid all levies paid or recovered under Part 10 which are to be held in the fund until such time as they are remitted to the Minister in accordance with that Part.

Board to be empowered to establish other funds (cf. Act No. 35, 1934, s. 19 (3))

36. (1) A board may, with the consent of the Minister, open a special fund in the board's name for a purpose other than one specified in section 31, 32, 33, 34 or 35.

(2) If a board has a special fund, the board must ensure that the fund is not applied for any purpose other than the purpose for which the fund was established.

(3) If:

(a) a board certifies to the Minister that the purpose has been completely fulfilled; and

(b) the Minister has authorised the balance of the special fund to be transferred to the board's rural lands protection fund,

the board may transfer that balance accordingly.

Board to have qualified auditor to audit its accounts (cf. Act No. 35, 1934, s. 19 (4))

37. (1) Within 1 month after the date on which a board is established in accordance with section 6 (1), the board must appoint at least one qualified person to be the auditor of the board.

(2) Within 1 month after the commencement of this section, a board which is continued in existence by section 5 (8) must, if it has no auditor

at the time of that commencement, appoint at least one qualified person to be the auditor of the board.

(3) An auditor of a board holds office subject to such terms and conditions, and ceases to hold office in such circumstances, as the regulations prescribe.

(4) The regulations may make provision:

- (a) for the appointment of at least one qualified person to be the auditor of a board when his or her predecessor ceases to hold that office; and
- (b) for filling any vacancy in the office of auditor of a board.

(5) If an auditor is not appointed as required by or under this section, the Minister may, on the application in writing of an elector of the district concerned, appoint at least one qualified person to be the auditor of the board.

(6) A person may not be appointed as an auditor of a board without his or her consent.

(7) A person is not qualified to be appointed as an auditor under this section unless the person is a registered company auditor within the meaning of the Companies (New South Wales) Code.

(8) The reasonable expenses of an auditor of a board are payable by the board out of its rural lands protection fund.

Auditor-General to audit a board's accounts in certain circumstances
(cf. Act No. 35, 1934, s. 19 (5))

38. (1) The Auditor-General:

- (a) may, at any time; and
- (b) must, if requested to do so by the Minister,

conduct a special audit of a board's accounts.

(2) A special audit referred to in subsection (1) may be conducted by the Auditor-General personally or on behalf of the Auditor-General by a person appointed or designated by the Auditor-General.

(3) If the Minister requests a special audit of a board's accounts, the cost of conducting the audit is payable from the board's rural lands protection fund.

Powers and duties of auditors to report on accounts

39. (1) An auditor of a board must report on the accounts prepared by the board in accordance with section 30 and on the board's accounting records and other records relating to those accounts.

(2) An auditor of a board must provide the report under subsection (1) in sufficient time to enable the board to comply with the requirements of section 30 (6) in relation to that report.

(3) An auditor of a board must, in a report under this section:

- (a)** state whether the accounts are in the auditor's opinion properly drawn up:
 - (i)** so as to give a true and fair view of the matters required by section 30 to be dealt with in the accounts; and
 - (ii)** in accordance with the provisions of this Act; and
- (b)** state whether the accounting records and other records and the electoral roll required by this Act to be kept by the board have been, in the auditor's opinion, properly kept in accordance with this Act; and
- (c)** specify any defect or irregularity in the accounts and any matter not set out in the accounts without regard to which a true and fair view of the matters dealt with by the accounts would not be obtained; and
- (d)** if the auditor is not satisfied as to any matter referred to in paragraph (a) or (b), state the auditor's reasons for not being so satisfied.

(4) It is the duty of an auditor of a board to form an opinion as to each of the following matters:

- (a)** whether the auditor has obtained all the information and explanations that the auditor has required;
- (b)** whether proper accounting records and other records have been kept by the board as required by this Act.

(5) An auditor of a board must state in the auditor's report particulars of any deficiency, failure or shortcoming in respect of either of the matters referred to in subsection (4).

(6) An auditor of a board has a right of access at all reasonable times to the accounting records and other records of the board and is entitled to require from any director or employee of the board such

information and explanations as the auditor desires for the purposes of conducting an audit.

(7) The report of an auditor of a board must:

- (a) be attached to or endorsed on the accounts; and
- (b) be kept available for inspection at any reasonable time by an elector of the district concerned.

(8) An auditor of a board or the auditor's agent authorised by the auditor in writing for the purpose is entitled:

- (a) to attend any meeting of the board; and
- (b) to receive all notices and other communications that any elector of the district concerned is entitled to receive; and
- (c) to be heard at any board meeting that he or she attends on any part of the business of the meeting that concerns the auditor in that capacity.

(9) If an auditor of a board becomes aware that the board has failed to comply with a provision of this Division, the auditor must:

- (a) immediately inform the Minister by notice in writing; and
- (b) if accounts have been prepared and audited, send to the Minister a copy of the accounts and of the auditor's report on those accounts.

(10) Except in a case to which subsection (9) applies, if an auditor, in the course of the exercise of the auditor's functions as auditor of a board, is satisfied that:

- (a) there has been a contravention of any of the provisions of this Act; and
- (b) the circumstances are such that in the auditor's opinion the matter has not been or will not be adequately dealt with by comment in the auditor's report on the accounts or by bringing the matter to the notice of the board,

the auditor must immediately report the matter to the Minister by notice in writing.

Obstruction of an auditor

40. If a director of a board, or an employee of a board:

- (a) refuses or fails without lawful excuse:

- (i) to allow an auditor of the board access, in accordance with the provisions of this Act, to any accounting or other records of the board in the custody or control of the director or employee; or
 - (ii) to give any information or explanation as and when required under those provisions; or
 - (b) otherwise hinders, obstructs or delays an auditor in the exercise of the auditor's functions,
- that director or employee is guilty of an offence.

Maximum penalty: 20 penalty units or imprisonment for 12 months, or both.

Auditor-General may surcharge directors and employees of a board for improper expenditure (cf. Act No. 35, 1934, s. 19A)

41. (1) The Auditor-General may disallow any expenditure that has been improperly incurred by or on behalf of a board or any improper entry or transfer appearing in the board's accounting records.

(2) The Auditor-General must surcharge the directors or employees of the board who incurred or authorised the expenditure or who made or authorised the entry or transfer with the amount of the expenditure, entry or transfer disallowed under subsection (1).

(3) The Auditor-General may surcharge a director or employee of a board with the amount of:

- (a) any deficiency that is attributable to the culpable negligence or misconduct of the director or employee; or
- (b) any money which the director or employee ought to have accounted for.

(4) If the Auditor-General surcharges a director or officer of a board under subsection (2) or (3), the Auditor-General must give particulars of the surcharge to the Minister who may require the director or employee to pay into the appropriate fund of the board the amount of the surcharge.

(5) Whenever a surcharge is imposed on a director or an employee of a board under this section, the director or employee may, within the period and in the manner prescribed by the regulations, appeal against the surcharge to the Local Court nearest to the board's principal place of administration.

(6) If an appeal is made in accordance with subsection (5), the court concerned must hear and determine the appeal.

(7) If on hearing such an appeal the court finds that the surcharge was properly imposed, it must disallow the appeal, but if it finds that the surcharge was not properly imposed or was excessive, it must annul or reduce the surcharge.

(8) A finding under subsection (7) is final.

(9) If a director or an employee of a board on whom a surcharge is imposed under this section:

(a) does not appeal under subsection (5) within the period prescribed by the regulations; or

(b) appeals under that subsection but the surcharge is not annulled, the Minister, the board or any ratepayer may, by proceedings brought in a court of competent jurisdiction, recover from the director or employee as a debt:

(c) the amount of the surcharge; or

(d) any deficiency that may remain after the appropriation of any money in the possession of the board that is the property of the director or employee,

as the case requires.

(10) If a board has possession of money as referred to in subsection (9) (d), it may appropriate that money in satisfaction or partial satisfaction of the surcharge imposed on the director or employee of the board concerned.

(11) If a surcharge imposed on a director of a board is not paid within the period prescribed by the regulations, the director:

(a) ceases to hold office as such; and

(b) is ineligible for election or appointment as a director of a board while the amount of the surcharge is unpaid.

Division 8 - Administration of affairs of board

Governor may appoint an administrator to manage the affairs of a board (cf. Act No. 35, 1934, s. 8A)

42. (1) The Governor may, by notice published in the Gazette, appoint an administrator to manage the affairs of a board if:

(a) the board has insufficient directors to form a quorum; or

- (b) after notice from the Minister, the board continues to exercise a function that is not conferred or imposed on the board by or under this or any other Act; or
- (c) the board has failed to carry out any duty or responsibility that it is required to carry out by or under this or any other Act.

(2) If at any time there are insufficient directors of a board to form a quorum, the Governor may, instead of removing the remaining directors from office, appoint the necessary number of persons qualified to hold office as directors of the board until the vacancies can be filled as provided by this Act.

(3) The powers conferred by subsections (1) and (2) are exercisable by order published in the Gazette.

(4) On the appointment of an administrator under this section:

- (a) the affairs of the board concerned are to be managed by the administrator; and
- (b) the administrator has all the functions of that board; and
- (c) the directors of that board (if any) cease to hold office; and
- (d) any delegation or authority made or conferred by that board ceases to have effect.

(5) An administrator appointed under this section:

- (a) must, as soon as practicable after being appointed, take into custody all of the property of the board concerned; and
- (b) must, subject to and in accordance with any direction given by the Minister, conduct the board's affairs in such manner as appears to the administrator to be in the best interests of the ratepayers of the district for which the board is established.

(6) If the office of an administrator becomes vacant before the holding of the election referred to in section 43, the Governor must, by order published in the Gazette, appoint another person to fill the vacancy.

(7) Schedule 3 has effect with respect to an administrator appointed under this section.

(8) If an administrator has been appointed under this section because of a board's failure to carry out a duty or responsibility referred to in subsection (1) (c), each of the directors of the board is ineligible for election at the next general election following the appointment of the administrator.

Administrator to hold a general election of directors when directed to do so

43. (1) The Minister may, at any time while an administrator of the affairs of a board is holding office under section 42, give to the administrator a direction requiring the administrator to hold a general election of directors of the board.

(2) If such a direction has been given, the administrator of the affairs of the board concerned must:

- (a) by notice published in the Gazette, fix a date for the holding of a general election of the directors of that board; and
- (b) hold a general election of directors on that date.

(3) If, as a result of a general election held under this section, the requisite number of directors is elected to constitute the board, then, at the end of the prescribed period after the election is concluded:

- (a) the appointment of the administrator ends; and
- (b) the persons elected at the election assume office as directors of the board.

(4) Unless for any reason they vacate office earlier, directors who are elected at a general election held under this section cease to hold office immediately before their successors take office in accordance with section 14 (4).

Division 9 - Other administrative matters

Board to have a principal place of administration within its district
(cf. Act No. 35, 1934, s. 6 (9))

44. (1) Within 1 month:

- (a) after the first members of a board are elected to office at an election held in accordance with section 7 (2); or
- (b) in the case of a board whose existence is continued by this Act, after the commencement of this section,

the board must designate a place within its district as its principal place of administration and notify the Minister in writing of that place.

(2) If a board fails to comply with subsection (1), the Minister may designate the place at which the board is required to establish and maintain its principal place of administration.

(3) If the Minister has designated a place under subsection (2), the board concerned must establish and maintain its principal place of administration at that place.

(4) If a board decides to change its principal place of administration, the board must, within 14 days of making the decision, notify the Minister in writing of the address of the proposed new principal place of administration.

(5) A decision referred to in subsection (4) does not take effect until the Minister has approved it.

Board to prepare an annual report of its activities

45. (1) A board must, within 2 months after the end of each financial year of the board or within such extended period as the Minister allows in any special case:

- (a) prepare a report in writing concerning the board's activities for that year; and
- (b) submit a copy of the report to the Council of Advice.

(2) Such a report must be prepared in accordance with such requirements of the Council of Advice as are notified to the board.

Board to keep minutes of its proceedings (cf. Act No. 35, 1934, s. 15 (a))

46. A board must:

- (a) record minutes of all proceedings of meetings of the board; and
- (b) ensure that those minutes are signed by the person presiding at the meeting at which the proceedings took place or by the person presiding at the next succeeding meeting of the board.

Board entitled to be represented by an agent at proceedings before a local land board (cf. Act No. 35, 1934, s. 17)

47. At any proceedings before a local land board concerning a rural lands protection board, the rural lands protection board is entitled to be represented by a legal practitioner or other agent.

Board etc. to produce accounting and other records for inspection (cf. Act No. 35, 1934, s. 15 (c))

48. (1) The Minister, the Auditor-General or any person authorised in writing by either of them may require a board, or any director or employee of the board, to produce for inspection all or any of the board's accounting or other records.

(2) If a person other than the Minister or Auditor-General makes a requirement under subsection (1), the board, director or employee to which or to whom the requirement is made may decline to comply with the requirement unless the person produces written evidence of the person's authority under that subsection.

(3) If a board, or a director or employee of a board, fails to comply with a requirement made under subsection (1), the board, director or employee is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) In proceedings for an offence under subsection (3) relating to a requirement made to a director or employee of a board, it is a defence if the defendant satisfies the court that the defendant did not have the capacity to comply with the requirement.

(5) A person is not guilty of an offence under subsection (3) unless the prosecution establishes that the person who made the requirement warned the defendant that a failure or refusal to comply with the requirement would be an offence.

Interest on outstanding payments

49. (1) A board may charge interest at the rate prescribed by the regulations on amounts that are unpaid and owing to it at the end of the period so prescribed.

(2) The exercise of the power conferred by subsection (1) is subject to any conditions prescribed by the regulations for the purposes of this section.

(3) This section does not apply to unpaid rates.

PART 3 - COUNCIL OF ADVICE

Functions of the Council of Advice (cf. Act No. 35, 1934, s. 14C)

50. (1) The Council of Advice has such functions as are conferred or imposed on it by or under this or any other Act.

(2) Without limiting subsection (1), the functions of the Council of Advice include:

- (a)** being a medium of communication between boards and the Government; and
- (b)** when requested to do so by the Minister, holding an inquiry into any matter within the scope of or relating to enactments that the Minister administers relating to primary industry or rural lands; and
- (c)** representing boards on committees that the Minister has established in relation to primary industry or rural lands; and
- (d)** making recommendations to the Minister to enable different gradings of boards to be determined for industrial relations purposes.

(3) As soon as practicable after inquiring into a matter in accordance with subsection (2) (b), the Council of Advice must prepare a report of its findings and deliver the report to the Minister within such period as is specified in the Minister's request.

(4) At any time after a report is delivered to the Minister in accordance with subsection (3) or, if no report is delivered to the Minister within the period specified in the Minister's request, at any time after that period has expired, the Minister may give a direction to a board, or to boards generally, in respect of any of the matters into which the Council of Advice has been requested to inquire.

(5) A board to which a direction under subsection (4) is given must comply with the direction within such period as is specified in the direction.

(6) Nothing in subsection (4) or (5) empowers the Minister to give a direction, or requires a board, to do anything that would otherwise be unlawful.

Function of the Council of Advice with respect to the collection of meat industry levies (cf. Act No. 35, 1934, s. 14B (2), (3))

51. (1) The Council of Advice may:

- (a) negotiate on behalf of the Rural Lands Protection Boards' Association of New South Wales an agreement or arrangement with the Meat Industry Authority with respect to the issue of notices specifying the amount of a meat industry levy and the undertaking by boards on behalf of the Authority of the collection and recovery of meat industry levies, including the deduction of commission by boards; and
- (b) on behalf of that Association, enter into such an agreement or arrangement.

(2) An agreement or arrangement entered into by the Council of Advice on behalf of the Rural Lands Protection Boards' Association of New South Wales under subsection (1) is binding on that Association and on each board affected by the agreement or arrangement, including a board that is not a member of the Association.

Council of Advice to prepare an annual report relating to the activities of boards

52. (1) Not later than 30 June in each year, the Council of Advice must:

- (a) prepare a report in writing concerning the activities of all boards during their immediately preceding financial years; and
- (b) submit a copy of the report to the Minister.

(2) If a board has failed to submit to the Council of Advice a report of its activities as required by section 45 in sufficient time for the Council to include in its report details of the board's activities, the Council:

- (a) must include a statement to the effect that such details could not be included because the board's report was not received in time; and
- (b) must not delay its report so as to include such details.

(3) However, details derived from a report of a board submitted late may be included in a subsequent report prepared in accordance with subsection (1).

(4) A report referred to in subsection (1) must contain or deal with such matters, and comply with such requirements, as the regulations may specify.

(5) Where the Minister has received a report submitted under subsection (1), the Minister is required to lay, or cause to be laid, before each House of Parliament a copy of the report within 14 sitting days of the House after receipt.

(6) If a House of Parliament is not sitting when a Minister seeks to comply with any of the requirements of subsection (5), a Minister is required to present a copy of the material to the Clerk of the House.

(7) Material presented to the Clerk of a House of Parliament under this section is:

- (a) on presentation and for all purposes, to be taken to have been laid before the House of Parliament; and
- (b) required to be printed by authority of that Clerk; and
- (c) for all purposes to be taken to be a document published by order or under the authority of the House; and
- (d) to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the material by the Clerk.

(8) The Council of Advice must, as soon as practicable after its report has been laid before both Houses of Parliament in accordance with this section, make copies of the report available for public sale or distribution.

PART 4 - RATES

Division 1 - General and animal health rates

Board may levy general and animal health rates (cf. Act No. 35, 1934, s. 25)

53. (1) The board established for a district must for each year beginning on 1 January levy in accordance with subsection (2):

- (a) a general rate on the occupiers of all ratable land within the district; and

- (b) an animal health rate on the occupiers of all ratable land within the district on which were kept on 30 June in the last preceding year:
 - (i) not fewer than 50 stock unit equivalents; or
 - (ii) if some other number of stock units is prescribed for the district by the regulations - not fewer than the number of prescribed stock unit equivalents.

(2) A rate to be levied under subsection (1) must be fixed by resolution of the board concerned not later than the date prescribed by the regulations.

(3) A board:

- (a) may fix a minimum rate in respect of the general rate applicable within its district; and
- (b) may fix a minimum rate in respect of the animal health rate so applicable; and
- (c) may vary either of those rates,

but only with the prior approval of the Minister.

(4) A board must, if requested to do so by a person who is the occupier of 2 or more holdings within its district that are not contiguous, treat the holdings as a single holding for the purposes of this Part.

(5) Within the period prescribed by the regulations after fixing its general rate and animal health rate, a board must serve a rate notice on each ratepayer who occupies a holding within its district.

Amount of general and animal health rates (cf. Act No. 35, 1934, s. 26)

54. (1) A board must calculate the amount of its general rate and its animal health rate according to the carrying capacity of the ratable land concerned as last assessed by the board.

(2) If particular ratable land does not have a carrying capacity, the amount of the general rate payable in respect of the land is:

- (a) the minimum general rate that the board concerned has fixed under section 53 (3) (a); or
- (b) if no such minimum general rate is fixed, the general rate payable in respect of ratable land which has a carrying capacity of 50 stock unit equivalents.

(3) If the amount of the general rate payable in respect of particular land calculated in accordance with subsection (1) is less than the minimum general rate that the board has fixed for the district in accordance with section 53 (3) (a), the amount of the general rate payable is the minimum general rate.

(4) If the amount of the animal health rate payable in respect of particular land calculated in accordance with subsection (1) is less than the minimum animal health rate that the board has fixed for the district in accordance with section 53 (3) (b), the amount of the animal health rate payable is the minimum animal health rate.

Division 2 - Boards to assess carrying capacity of land

Assessment of carrying capacity (cf. Act No. 35, 1934, s. 27)

55. (1) A board must, for the purposes of this Act, assess stock unit equivalents (other than for pigs) by reference to dry stock units determined by the board and calculated as follows:

- (a) 1 dry sheep equivalent represents 1 stock unit equivalent;
- (b) 1 dry goat equivalent represents 1 stock unit equivalent;
- (c) 1 dry deer equivalent represents 1 stock unit equivalent;
- (d) 1 dry large stock equivalent (not being a dry deer equivalent) represents 10 stock unit equivalents;
- (e) 1 pig represents 1 stock unit equivalent.

(2) If the board established for a district has assessed the carrying capacity of particular land located within the district, then, for the purposes of this Act, a reference to the carrying capacity of that land is a reference to the number of stock unit equivalents that, as last assessed by the board, could be maintained on that land in an average season under management practices that, in the board's opinion, are usual for the district.

- (3) In assessing the carrying capacity of particular land, a board:
- (a) must disregard the presence of noxious plants or noxious animals on the land; and
 - (b) must make its assessment whether or not the land is, at the date of assessment, used for any purpose; and
 - (c) must make its assessment as if the raising of stock were the only productive use of the land; and

- (d) in the case of land that remains in or is reverting to its original undeveloped state - must base its assessment on the condition of the land as at the date of assessment; and
- (e) may have regard to any other matter that it considers relevant to its assessment.

(4) A board may assess the carrying capacity of land at any time but must assess its carrying capacity within 5 years after its last assessment.

(5) For the purpose of enabling a board to assess the carrying capacity of land located within the district for which it is established, any person authorised by the board may:

- (a) enter and remain on the land; and
- (b) do anything reasonably necessary to assess that carrying capacity.

Intensive animal production - special provisions (cf. Act No. 35, 1934, s. 28)

56. (1) In this section:

"**feedlot**" means an area of land that is determined by the board for a district to be a feedlot for the purposes of this section;

"**intensive piggery**" means an area of land that is determined by the board for a district to be an intensive piggery for the purposes of this section.

(2) If the board established for a district decides that particular land within the district is a feedlot or an intensive piggery on which there were on 30 June of the last preceding year:

- (a) not fewer than 50 stock unit equivalents; or
- (b) if some other number of stock unit equivalents is prescribed for the district by the regulations - the prescribed number of stock unit equivalents,

the occupier of the land is liable to pay to the board an animal health rate in respect of the land for the following year.

(3) In making an assessment of the carrying capacity of a feedlot or an intensive piggery, a board must have regard:

- (a) to the nature of the holding concerned; and
- (b) to any improvements and equipment used for the purpose of the feedlot or intensive piggery, as the case may be; and

- (c) to the manner in which the holding has been worked; and
- (d) to any other matter which it considers to be relevant to its assessment.

(4) If a board decides that a part of a holding of ratable land is a feedlot or an intensive piggery in respect of which an animal health rate is payable, the board must disregard the land comprising the feedlot or piggery in calculating whether the general rate or another animal health rate is payable, or the amount of any rate payable, in respect of the remainder of the holding.

Occupiers to lodge with board annual returns of land and stock (cf. Act No. 35, 1934, s. 29)

57. (1) This section applies to the following persons:

- (a) a person who occupies land within a district;
- (b) if a person does not occupy land within a district but owns stock kept within the district - that person;
- (c) if a person is neither the occupier of land within a district nor the owner of stock kept within the district but is the proprietor of a brand or earmark design or other prescribed means of identifying stock registered by the district registrar - that person.

(2) Not later than the prescribed date in each year, a person to whom this section applies must, except in the circumstances prescribed, lodge with the board concerned an annual return in the prescribed form giving details of the matters prescribed by the regulations.

(3) Any return purporting to be an annual return under this section and to be made or signed by or on behalf of any person is to be taken to be a return under this section duly made and signed by that person until the contrary is proved.

(4) Any person who, being liable to lodge an annual return under this section, fails to do so on or before the date prescribed by the regulations, is guilty of an offence.

Maximum penalty: 20 penalty units.

(5) Proceedings in respect of any offence under this section may be commenced at any time within a period of 2 years after the time when the offence was alleged to have been committed.

(6) If an occupier of land or owner of stock fails to lodge an annual return in accordance with this section, the board concerned:

- (a) must, despite the absence of the return, levy on the occupier or owner both the general rate and the animal health rate; and
- (b) may issue a rate notice in respect of those rates in respect of any period that is not more than 5 years before the date of issue of the notice.

(7) For the purposes of subsection (6), the amount of the general rate and the animal health rate is such amount as the board assesses as being appropriate.

(8) A person's liability to pay rates is not affected by the fact that a rate notice issued under this section has not been served on the person within the year in which the rate is made or levied.

(9) If:

- (a) during a year a person becomes the occupier of land within a district; and
- (b) the previous occupier (if any) has in accordance with this section lodged with the board concerned an annual return for the land in respect of that year or, if the date prescribed by the regulations for lodging returns for the year had not passed when the person became the occupier of the land, has lodged with that board an annual return for the land in respect of the immediately preceding year,

the person is bound by the contents of the return.

(10) If:

- (a) during a year a person becomes the occupier of land within a district; and
- (b) the previous occupier (if any) has in accordance with this section failed to lodge with the board concerned an annual return for the land in respect of the year or, if the date prescribed by the regulations for lodging annual returns for that year had not passed when the person became the occupier of the land, has failed to lodge an annual return for the land in respect of the immediately preceding year,

the person is to be treated as not having lodged the return for that year or immediately preceding year.

(11) In this section, "stock" includes pigs.

Duty to supply information in respect of land or stock (cf. Act No. 35, 1934, s. 40C)

58. (1) A board may, in the manner prescribed by the regulations, require any person to whom section 57 applies to provide, within the period and in the manner prescribed by the regulations, any information relating to a matter referred to in subsection (2) of that section for the purpose of:

- (a) verifying or updating the board's records; or
- (b) inquiring into the accuracy of information contained in any return lodged by the person under that section.

(2) Any person who, having been required to provide information in accordance with subsection (1), fails to comply with the requirement within the period or in the manner prescribed by the regulations, is guilty of an offence.

Maximum penalty: 20 penalty units.

(3) In this section, "stock" includes pigs.

Purposes for which information provided under section 57 or 58 may be used

59. Information provided to a board under section 57 or 58 may be used for the following purposes:

- (a) to verify the carrying capacity of land within the board's district;
- (b) to facilitate the administration of animal health services or animal production services by the board or by the Minister;
- (c) to prepare statistical data concerning animal health or the protection of rural lands;
- (d) to fulfil or contribute to the fulfilment of any other purpose prescribed by the regulations.

Sureties to be paid by certain holders of Crown land (cf. Act No. 35, 1934, s. 30)

60. (1) In this section:

"**short tenure**", in relation to land, means a lease of the land from the Crown for a term not exceeding 3 years or a licence of the land from the Crown.

(2) A person must not take land on a short tenure unless the person has lodged a surety, in such amount and form as the board considers appropriate, with the board for the district within which the land is situated.

Maximum penalty: 20 penalty units.

(3) Subsection (2) applies irrespective of the provisions of any other Act.

(4) A board must issue a receipt to a person who lodges a surety with the board in accordance with subsection (2).

(5) The amount of such a surety may be equal to the total amount of rates which were payable or would have been payable in respect of the land concerned if that land had not been Crown land in the rating year last preceding the year in which the surety is payable.

(6) At the end of the term of a short tenure of land:

- (a) an amount equal to any unpaid rates, charges, interest or any other amount owed to a board under this Act is forfeited to the board concerned from the surety lodged in respect of the short tenure under this section; and
- (b) an amount equal to the proportion of the total of any rates which, had the land not been Crown land, would have accrued in the year in which the short tenure commenced in respect of the period from that commencement to:
 - (i) the end of that year; or
 - (ii) the end of the term of the short tenure,whichever first occurred, is payable and forfeited to the board from the surety; and
- (c) the board must refund the balance (if any) of the surety to the person who lodged the surety.

(7) In calculating the amount to be forfeited under subsection (6), a board must deduct an amount equal to the proportion of the total of any rates payable in the year in which the short tenure of land ends in respect of the period from the end of that term to the end of the year.

(8) If the amount owed to a board at the end of the term of a short tenure of land exceeds the amount of the surety, the whole of the surety is forfeited to the board.

(9) Except as provided by subsections (6) and (7), nothing in this section:

- (a) affects the liability of any person to pay rates under this Act; or
- (b) affects a board's right to recover rates under this Act.

Appeal against assessment of carrying capacity of land may be heard and determined by the local land board (cf. Act No. 35, 1934, s. 36)

61. (1) If:

- (a) the board established for a district has assessed the carrying capacity of land in accordance with section 55; and
- (b) the occupier or owner of the land is dissatisfied with the board's assessment,

the occupier or owner may, not later than 60 days after service of a general rate notice or animal health rate notice based on the assessment, apply in writing to the board for a review of the assessment.

(2) On reviewing such an assessment, the board concerned may:

- (a) confirm the assessment of the carrying capacity of the relevant land; or
- (b) vary that assessment by reducing the board's assessment of that carrying capacity.

(3) If an occupier or owner of land is dissatisfied with the decision of a board under subsection (2), the occupier or owner may, not later than 30 days after being served with notice of the board's decision, appeal against the board's assessment to the local land board of the land district in which the land is located.

(4) If a board has, within 90 days after an application has been made to the board under subsection (1), failed to make a decision in respect of the application, the occupier or owner of the land concerned may appeal against the board's assessment to the local land board concerned.

(5) An appeal under subsection (3) or (4) must:

- (a) be made in the manner; and
- (b) be accompanied by the fee,

prescribed by the regulations.

(6) After hearing an appeal made under subsection (3) or (4), the local land board concerned must decide the appeal either:

- (a) by confirming the assessment that is the subject of the appeal;
or
 - (b) by varying that assessment by reducing the assessment of the carrying capacity of the land concerned.
- (7) The decision of a local land board on the hearing of an appeal under subsection (3) or (4) is final.
- (8) An appeal under subsection (3) or (4) must not be heard unless the appellant has produced to the local land board a certificate to the effect that all rates outstanding in respect of the land concerned have been paid.

Division 3 - Liability for rates

Liability generally (cf. Act No. 35, 1934, s. 32)

62. (1) A rate payment is due and payable to, and recoverable by, a board 31 days from the day on which the board has served the relevant rate notice.

(2) The occupier of ratable land is primarily liable for the payment of a rate payable in respect of that land.

(3) Two or more occupiers of ratable land within a district who hold the land jointly or in common are jointly and severally liable to the board for the district for a rate payment payable in respect of the land, but as between themselves each is liable only for such part of the rate as is proportionate to the occupier's interest in the land.

(4) An occupier referred to in subsection (3) who pays to the board more than the occupier's proportionate part of a rate may recover the amount of the excess by way of contribution from the other occupier or occupiers.

(5) If the name of an occupier liable to pay a rate is not known to a board, it is sufficient to rate the occupier by the designation of "occupier" without stating the occupier's name.

(6) If the whole or part of a rate is unpaid 12 months after the date on which it became due and payable to and recoverable by a board, the owner of the land in respect of which the rate is payable is liable for payment of the unpaid rate and any interest or any other charges payable in respect of the rate.

(7) An owner referred to in subsection (6) who pays the whole or part of an unpaid rate or any interest or charges payable in respect of the rate may recover the amount paid from the occupier of the land concerned.

(8) Nothing in subsection (6) affects an occupier's liability for payment of a rate.

(9) Subsection (6) does not apply to land that is the subject of a lease, licence or purchase from the Crown.

(10) Subsections (3) and (4) apply to 2 or more owners of ratable land liable for payment of an unpaid rate under subsection (6) as if a reference in subsections (3) and (4) to an occupier or occupiers were a reference to those owners.

Liability for rates of a person who becomes the occupier of Crown land during a year

63. If in any year previously unoccupied Crown land becomes occupied on any day other than 1 January and, by virtue of that occupation, the land becomes subject to the payment of a rate, the occupier of the land is for that year liable to pay a rate calculated in accordance with the following formula:

$$A = R \times \frac{P}{Y}$$

where:

A represents the amount to be calculated;

R represents the amount of the rate that would be payable in respect of the land if it had been occupied for the whole of the year;

P represents the number of days in the year during which the land was occupied;

Y represents the number of days in the year.

Liability of a person whose estate or interest in land is transferred to continue in certain circumstances (cf. Act No. 35, 1934, s. 33)

64. (1) If a person ceases to be the occupier or owner of any land in respect of which a rate is payable to a board, the person continues to be liable to the board for the rate as if the person had continued to be the occupier or owner of the land, where the rate is levied either:

- (a) before the person ceases to be the occupier or owner of the land; or
- (b) before the board has received from the person the prescribed notice under section 65 (1) of the person ceasing to be the occupier or owner of the land.

(2) If a person who ceases to be the occupier or owner of land pays to a board any rate which is levied after the person has ceased to be the occupier or owner of the land and before the prescribed notice under section 65 (1) has been received by the board, the person may recover the amount from any person who later becomes the occupier or owner, as the case may be, of the land.

(3) As between successive occupiers or owners of ratable land, the liability to pay a rate accrues from day to day and is apportionable as to time and, where a person becomes the occupier or owner of only part of the land, is also apportionable as to area.

(4) If land is ratable on 1 January in any year and the land or any part of the land ceases to be ratable during that year, then, as between successive occupiers or owners of the land or part, the liability to pay a rate in respect of the land or part accrues from day to day and is apportionable both as to time and area.

Notice to be given of changes in occupancy or ownership of ratable land (cf. Act No. 35, 1934, s. 34)

65. (1) A person must, within 1 month after ceasing to be or becoming the occupier or owner of ratable land within a district, give the notice to the board for the district as prescribed by the regulations.

(2) A person who fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: 10 penalty units.

(3) Proceedings in respect of an offence under this section may be commenced at any time within the period of 2 years after the time when the offence is alleged to have been committed.

Liability of a person who becomes the occupier or owner of ratable land (cf. Act No. 35, 1934, s. 35)

66. (1) A person who in any year becomes the occupier or owner of any ratable land within a district is liable to the board established for the district for:

- (a) any current rates that have not been paid; and
- (b) all arrears of rates that any previous occupier or owner has failed to pay,

in respect of the land, whether or not the change in occupation or ownership occurs after the rate is fixed or levied.

(2) Subsection (1) does not affect or extend to an occupier of land that is the subject of a lease, licence or purchase from the Crown where the lease or licence is granted, or the purchase is made, after the rate referred to in that subsection is levied, whether the land has been previously held under a lease, licence or purchase from the Crown or not.

(3) Any person may apply to a board for a certificate:

- (a) as to the amount (if any) due or payable to the board by the occupier or owner of the land, whether for rates, charges or other sums; or
- (b) as to particulars of any orders that are applicable to the land; or
- (c) as to whether all annual returns required to be lodged in respect of the land have been lodged with the board and, if not, the years for which annual returns have not been lodged; or
- (d) with respect to any other matter prescribed by the regulations for the purpose of this subsection.

(4) An application for a certificate referred to in subsection (3) must:

- (a) be in the form; and
- (b) be accompanied by the fee,

prescribed by the regulations.

(5) A board to which an application has been made under subsection (3) must, if the application complies with subsection (4), issue to the applicant a certificate in a form approved by the Minister containing the information sought.

(6) The production of a certificate issued under subsection (5) is conclusive proof in favour of a person who becomes an occupier or owner of the land to which the certificate relates as to the matters stated in the certificate.

(7) For the purposes of this section, rates, charges or other sums of money are to be regarded as being due or payable even though the requisite period after service of any relevant rate or other notice may not have expired.

(8) If the occupier or owner of land pays to a board any rate that accrued during the occupancy or ownership of the land by some other person, the occupier or owner is entitled to recover from that other person such proportion of the rate as accrued while that other person was the occupier or owner of the land.

Division 4 - Recovery of rates

Measures to facilitate the recovery of rates (cf. Act No. 35, 1934, s. 37)

67. (1) In legal proceedings for the recovery by a board for a district of a rate an objection to its validity does not prevent the recovery of the rate.

(2) An occupier or owner of land who wishes to object to the validity of a rate may object to the validity of the rate before a prescribed court in the manner prescribed by the regulations, subject to compliance with such conditions and the payment of such fees as may be so prescribed.

(3) The fact that an objection is made under subsection (2) does not prevent the Minister from exercising a power conferred by section 71.

Extra charges to be paid in respect of overdue rates (cf. Act No. 35, 1934, s. 38)

68. (1) If a rate or part of a rate is unpaid 60 days from the date on which the rate first became due and payable to the board concerned, the amount due is, by virtue of this subsection, increased by a sum calculated at the rate per cent per year prescribed by the regulations.

(2) Such an increase is to be regarded as part of the rate levied on the ratepayer concerned.

(3) The calculation under subsection (1) may be made only in respect of as many completed months as have elapsed between the date on which the rate became due for payment and the date of actual payment.

(4) If the calculation under subsection (1) produces a sum less than the amount prescribed by the regulations, the sum calculated is to be taken to be the prescribed amount.

(5) This section applies to an unpaid rate even though a judgment may have been obtained from a court for payment of the rate.

Legal proceedings for the recovery of rates (cf. Act No. 35, 1934, s. 39)

69. (1) All rates payable by a person, whether in respect of occupation or ownership of the same or different land, may be recovered in the same legal proceedings.

(2) A board may recover an overdue rate by instituting proceedings:

- (a) in a Local Court situated within the district where any of the relevant land is located; or
- (b) in the Local Court nearest to the board's principal place of administration; or
- (c) in the Local Court nearest to the residence of the defendant.

(3) Subsection (2) applies irrespective of whether the rate sought to be recovered is in respect of land occupied within the same or different districts.

Board may sell land in respect of which the payment of rates is overdue (cf. Act No. 35, 1934, s. 39A)

70. Schedule 4 has effect with respect to the sale of land for overdue rates.

Division 5 - Supplementary provisions

Irregularities in rate notices etc. (cf. Act No. 35, 1934, s. 31)

71. If:

- (a) for any reason a rate is not fixed, or rate notices are not served, within the period prescribed under this Act; or
- (b) any irregularity in fixing or levying a rate affects, or may be considered to affect, the validity of any rate,

the Minister:

- (c) may extend the period for the rate to be fixed or rate notices to be served; and

- (d) may authorise the board concerned to do such things as are necessary to cure the irregularity and to validate the rate.

Board may grant a rebate of general rates in certain cases (cf. Act No. 35, 1934, s. 40)

72. (1) In any year the board established for a district may, by resolution, decide to grant a rebate of:

- (a) not more than half of the amount of the general rate levied in respect of any holding or portion of a holding within the district that:
 - (i) has on its external boundaries a fence that is, in the board's opinion, rabbit proof; and
 - (ii) has, in the board's opinion, been kept reasonably free from rabbits during the financial year of the board immediately preceding the year for which the rate is made; or
- (b) not more than half of the amount of the general rate levied in respect of each holding in an area within the district that:
 - (i) is designated by the board as a rabbit eradication area; and
 - (ii) has, in the opinion of the board, been kept reasonably free from rabbits during the financial year of the board immediately preceding the year for which the rate is made, because of measures, approved by the board, having been taken by the occupiers of holdings in the area.

(2) If in any year a board passes a resolution granting a rebate of a general rate, the occupier of any holding to which the rebate applies may apply in writing to the board for the rebate.

(3) A board must grant such a rebate to the occupier of an eligible holding who applies for it within the period fixed by the board and notified as prescribed by the regulations.

(4) Any fence that, in the board's opinion, is sufficiently near to a boundary of a holding or a part of a holding to keep the holding or part free from rabbits is to be taken to be on the boundary for the purposes of subsection (1) (a).

(5) A rebate granted under this section is not to be regarded as a waiver or refund of the whole or part of a rate for the purposes of section 73.

Waiver or refund of rate (cf. Act No. 35, 1934, s. 40A)

73. (1) In the circumstances (if any) prescribed by the regulations, a board may, with the approval of the Minister, and must at the direction of the Minister, but not otherwise:

- (a) waive payment of a rate or part of a rate; or
- (b) refund to an occupier or owner a rate or part of a rate, or both.

(2) In the circumstances (if any) prescribed by the regulations, the Minister may, at his or her discretion, direct a board:

- (a) to waive payment of any rate or part of any rate; or
- (b) to refund to an occupier or owner any rate or part of any rate, or both.

(3) A board must write off any amount of rates waived or refunded under subsection (1) or (2).

(4) The Minister may authorise a board to write off any amount owing to it whether for rates or other costs or charges if the Minister is satisfied that the amount is not recoverable.

Board to keep record of rates (cf. Act No. 35, 1934, s. 40B)

74. (1) A board must keep in the manner prescribed by the regulations a rate record in the prescribed form of every rate that the board levies.

(2) A board may, in the prescribed manner, make such amendments to and may rectify such omissions in its rate record as may be appropriate.

(3) An amendment of a board's rate record made in respect of the occupier of a holding within the board's district is to be taken to be a determination by the board of the amount levied on and payable by that occupier in respect of the holding.

(4) Subsection (3) does not apply to an amendment made necessary as a result of an appeal under this Act or formal amendments.

- (5) In any legal proceedings for the recovery of a rate:
- (a) an entry in the relevant rate record is evidence of the matters contained in the record; and
 - (b) a copy of an entry in the relevant rate record is evidence of the entry and of the matters contained in the record.

Exemptions from this Part and certain other provisions (cf. Act No. 35, 1934, s. 40D)

75. (1) Whenever land located within a district is used for the purposes of a cemetery, golf course, racecourse, showground or industrial area, the board established for the district may, by resolution, exempt that land from the operation of the provisions of this Part and of sections 137 and 168.

(2) The regulations may exempt from the operation of all or any of the provisions of this Part and sections 137 and 168 any specified land or any specified person or class of persons.

(3) An exemption under subsection (1) or (2) may be given unconditionally or may be made subject to such conditions as the board concerned may specify or as may be prescribed by the regulations, as the case requires.

(4) If an exemption under subsection (1) or (2) is subject to conditions, the exemption does not have effect during any period when the conditions are not complied with.

Holdings in 2 or more districts (cf. Act No. 35, 1934, s. 40E)

76. (1) A holding that is located within 2 or more districts is, for the purposes of the definition of "ratable land" in section 3 and the provisions of this Part and of Parts 9 and 12, to be regarded as being located wholly within the district in which the larger part lies.

(2) If the parts of the holding located within more than one district are equal, the part on which the principal residence is situated is to be regarded as the larger part.

PART 5 - ANIMAL HEALTH

Functions of a board with respect to animal health

77. (1) In connection with the exercise of its functions with respect to animal health, a board is, within its district, responsible for exercising and performing such powers or functions of the Minister under the Stock Diseases Act 1923, the Stock (Chemical Residues) Act 1975 and any other Act prescribed by the regulations for the purposes of this section, as the Minister approves in writing.

(2) Nothing in this section prevents the Minister from continuing to exercise the functions conferred or imposed on the Minister by or under those Acts but, in the event of a conflict between the Minister and a board with respect to the exercise of those functions, the exercise of those functions by the board are to be subordinated to the exercise of those functions by the Minister.

(3) For the purpose of this section, a board (other than a board established for a district within the Western Division) is required to employ a district veterinarian.

(4) For the purpose of enabling it to exercise its responsibilities under this section, a board must:

- (a) make available the services of each of its rangers for animal health duties for such periods as are agreed to by the board and the Chief of the Division of Animal Health and, in the absence of agreement, for such periods as the Minister determines; and
- (b) provide working accommodation and equipment for that ranger as directed by the Minister; and
- (c) in relation to the exercise of animal health functions, place the ranger under the supervision of the district veterinarian; and
- (d) participate at least once a year in meetings convened by the Regional Director of Veterinary Services for the purpose of planning the provision of animal health services in New South Wales or any part of New South Wales.

(5) At least once each year the Regional Director of Veterinary Services must convene a meeting for the purpose referred to in subsection (4) (d).

Responsibilities of district veterinarians

78. The responsibilities of a district veterinarian are as follows:

- (a) to exercise the functions of an inspector under the Stock Diseases Act 1923, the Stock (Chemical Residues) Act 1975 and any other Act prescribed by the regulations for the purposes of this section;
- (b) to implement any animal health program applicable to the district or districts in respect of which the district veterinarian is appointed;
- (c) to supervise the use of poisonous substances in relation to noxious animals and prescribed species of fauna or flora within that district or those districts;
- (d) to exercise such other functions as are prescribed by the regulations or, if there are no such regulations, as the Chief of the Division of Animal Health directs.

Responsibilities of certain officers with respect to animal health

79. (1) For the purposes of this section, "prescribed officer" means a ranger, an inspector appointed under the Stock Diseases Act 1923 or any other person appointed under an Act specified in the regulations.

(2) A prescribed officer is, in relation to the provision of animal health services within a district, responsible for exercising such functions as are designated or approved in writing by the Chief of the Division of Animal Health and, with respect to the exercise of those functions:

- (a) must assist the district veterinarian in providing those services; and
- (b) is subject to the direction of that veterinarian or, in the absence of that veterinarian, the appropriate Regional Director of Veterinary Services.

(3) The secretary of a board is, in relation to the provision of animal health services within a district, responsible for exercising and performing:

- (a) such powers and functions of a deputy registrar under the Stock Diseases Act 1923 as the Minister determines; and
- (b) such powers, functions or duties as the holder of a specified office has under a specified Act as the Minister determines.

(4) The responsibilities of a prescribed officer under this section are additional to those imposed by any other provision of this Act.

PART 6 - TRAVELLING STOCK AND TRAVELLING STOCK RESERVES

Division 1 - Management of travelling stock reserves

Board to be responsible for the care, management and control of certain travelling stock reserves (cf. Act No. 35, 1934, s. 41 (1), (2))

80. (1) The Minister for Crown Lands may, by notice in writing published in the Gazette, vest in a specified board the control of a specified travelling stock reserve.

(2) Subsection (1) does not apply to a travelling stock reserve that is within a State forest or the Western Division.

(3) If a travelling stock reserve is subject to a lease (other than a yearly lease) or a licence granted under the Crown Lands Acts, a notice under subsection (1) relating to the reserve does not have effect until the lease is terminated.

(4) The Minister for Crown Lands may, by notice published in the Gazette, revoke a vesting in a board of the control of a travelling stock reserve.

(5) If, immediately before the commencement of this section, a board whose existence is continued by this Act had control of a travelling stock reserve, the board continues to have control of the reserve as if that control had been vested in it under subsection (1).

Specific responsibilities of a board in respect of travelling stock reserves (cf. Act No. 35, 1934, s. 41 (3), (3A))

81. (1) A board that has control of a travelling stock reserve is responsible for the care and management of the reserve and, in particular, is responsible for:

- (a) taking appropriate measures to prevent unauthorised persons, animals and vehicles from trespassing on the reserve; and
- (b) suppressing and destroying noxious animals and noxious insects that are within the reserve; and

- (c) taking measures to remove or destroy trees that are likely to prevent the passage of travelling stock; and
- (d) taking measures to control and eradicate noxious plants; and
- (e) taking appropriate measures to conserve soil within the reserve and to prevent or mitigate the erosion of that soil; and
- (f) fencing such parts of the reserve as the board considers necessary to ensure its effective and efficient use as a travelling stock reserve; and
- (g) so far as practicable, providing sufficient water for the use of travelling stock.

(2) If, in relation to a travelling stock reserve, a board considers that it is necessary to exercise some other function in relation to the reserve, the board may exercise that function so long as the exercise of the function is otherwise lawful.

Trees growing in a travelling stock reserve not to be felled without the consent of the Forestry Commission (cf. Act No. 35, 1934, s. 41 (3))

82. (1) If trees are growing within a travelling stock reserve, the board concerned must not fell or destroy the trees without the consent of the Forestry Commission.

(2) The Forestry Commission must not withhold consent to the felling or destruction of trees referred to in subsection (1) if the trees prevent or are likely to prevent the free passage of travelling stock.

(3) If the Forestry Commission has consented to the felling of trees referred to in subsection (1), the board concerned may sell the timber from the trees, despite anything in the Forestry Act 1916 to the contrary.

(4) A board must pay all money that it receives from a sale of timber under subsection (3) into its reserves improvement fund.

(5) If a board does not sell timber that has been felled with the consent of the Forestry Commission as provided by this section, the board may use the timber only for the purpose of improving the reserve in which it was felled.

(6) A board is not liable to pay royalties in respect of trees felled within a travelling stock reserve that is under its control.

(7) The Forestry Commission is not precluded from issuing a licence under the Forestry Act 1916 to cut or remove trees that are located in

a travelling stock reserve so long as the Commission has previously obtained the consent of the board that has control of the reserve.

(8) Such a licence may include such conditions or restrictions as the Forestry Commission and the board concerned agree on.

(9) If the Forestry Commission and the board concerned are unable to reach agreement as to the conditions or restrictions to be included in such a licence, either of them may refer the matter to the Minister administering the Forestry Act 1916 who may determine the matter.

(10) A determination under subsection (9) is binding on the Forestry Commission and the board concerned.

Minister may require work to be undertaken on a travelling stock reserve (cf. Act No. 35, 1934, s. 41 (4))

83. (1) The Minister may, by notice in writing served on the board that has control of a travelling stock reserve, require the board to take specified measures to protect or improve the reserve within such period as may be specified in the notice.

(2) If, at the end of the period specified in a notice served in accordance with subsection (1), the board has failed to take the measures specified in the notice, the Minister may take those measures or such other measures to protect or improve the reserve as the Minister considers appropriate.

(3) The Minister may, by legal proceedings brought in a court of competent jurisdiction, recover from the board concerned as a debt due to the Crown the cost of taking the measures referred to in subsection (2).

Minister for Crown Lands may withdraw land from the control of a board (cf. Act No. 35, 1934, s. 42)

84. (1) The Minister administering this Act may, after consulting the board concerned, make a recommendation to the Minister for Crown Lands that a travelling stock reserve be withdrawn from the control of that board.

(2) Before making such a recommendation, the Minister administering this Act may, but is not obliged to, refer the matter to the local land board concerned.

(3) As soon as practicable after a matter is referred to it in accordance with subsection (2), the local land board must inquire into the matter and submit a report of its findings in writing to the Minister administering this Act.

(4) The Minister administering this Act is not bound to accept a report submitted to the Minister in accordance with subsection (3) and no person is entitled to appeal against such a report or have it referred to the Land and Environment Court.

(5) On receiving a recommendation made under subsection (1), the Minister for Crown Lands may, by notice published in the Gazette, withdraw a travelling stock reserve from the control of the board concerned.

(6) The Minister for Crown Lands may also withdraw from a travelling stock reserve any land that is required as a site for a town or village or for any public purpose, other than the purpose of settlement under the Crown Lands Acts.

(7) If a board has made improvements to land:

- (a) that formerly comprised or formed part of a travelling stock reserve withdrawn from the control of the board in accordance with subsection (5); or
- (b) that is withdrawn from such a reserve in accordance with subsection (6),

the board is entitled to receive from the Crown compensation of an amount not exceeding the current value to the board of the improvements.

(8) If the Minister and the board concerned are unable to agree on the amount of compensation under subsection (7), either of them may refer the matter to the local land board for determination.

(9) On a reference under subsection (8), the local land board must determine the amount of compensation for the purpose of subsection (7).

Person not to use a travelling stock reserve except under a permit, licence or other authority

85. (1) A person must not:

- (a) enter or remain on a travelling stock reserve that is under the control of a board; or

(b) occupy or make use of any such reserve for any purpose, except under, and in accordance with the conditions and restrictions of, a transported stock statement, a walking stock permit, a grazing permit, a stock licence, a stock holding authority or an apiary site permit or as otherwise authorised by this Part or by or under the Stock Diseases Act 1923.

Maximum penalty: 20 penalty units.

(2) Subsection (1) does not apply to a person who enters and remains on, or who occupies or uses, a travelling stock reserve for a purpose or activity prescribed by the regulations, so long as any conditions or restrictions attached to the entry, occupation or use of the reserve for that purpose or activity are observed.

(3) Subsection (1) (a) does not apply to a director or employee of a board who, in the course of exercising a function of his or her office, enters a travelling stock reserve that is under the board's control.

Use of travelling stock reserves for recreational and other activities (cf. Act No. 35, 1934, s. 46A)

86. (1) A person is entitled, without the approval of the board concerned, to use a travelling stock reserve on any day between sunrise and sunset for any recreational activity prescribed by the regulations.

(2) The use of a travelling stock reserve for a prescribed recreational activity referred to in subsection (1) is subject to the provisions of any regulations that regulate that use.

(3) A board which has control of a travelling stock reserve may, in writing, authorise a person or a group of persons to use the reserve or a specified part of the reserve for any activity specified and approved by the board (not being a prescribed recreational activity referred to in subsection (1) or any other activity prescribed by the regulations for the purpose of this subsection).

(4) Nothing in this section affects the functions that sections 81 and 87 impose or confer on a board.

(5) If a board becomes liable, as a consequence of a claim against the board to pay damages in respect of

- (a) the death of or injury to any person; or
- (b) in respect of damage to, or the destruction of, property other than that of the board,

arising out of the use of a travelling stock reserve under the control of the board for the purpose of a recreational activity to which subsection (1) applies, the Crown must indemnify the board in respect of that liability.

(6) Subsection (5) does not apply to a personal injury to or the death of a director or employee of a board if the injury or death arises in connection with the exercise by the board of its functions.

Board may close a travelling stock reserve in certain circumstances
(cf. Act No. 35, 1934, s. 46C)

87. (1) A board may, and must if the Minister so directs, make a closure order closing a travelling stock reserve under its control or a specified part of such a reserve:

- (a) for the purpose of taking appropriate measures for:
 - (i) the conservation of the soil; or
 - (ii) the prevention or mitigation of soil erosion; or
 - (iii) the regeneration or planting of trees; or
- (b) for the purpose of enabling the board to exercise any of its other functions in relation to the reserve.

(2) A board may, and must if the Minister so directs, make a closure order suspending an entitlement or authority under section 86 to use a travelling stock reserve under its control or a specified part of such a reserve for a prescribed recreational activity referred to in section 86 (1) or any other activity, if its use for the purpose of that activity could result in:

- (a) damage being caused to the reserve or part or to any structure or other thing located on the reserve or part; or
- (b) nuisance or annoyance being caused to any members of the public.

(3) A board that makes a closure order under this section must publish or notify the order in such manner as may be prescribed by the regulations or, if no manner is prescribed, such manner as the Minister directs.

(4) A closure order made under this section takes effect on the date on which it is so published or notified or, if a later date is specified in the order, on that later date.

(5) While a closure order is in force under subsection (1) in respect of a travelling stock reserve or a specified part of such a reserve, the operation of every transported stock statement, walking stock permit, grazing permit, stock licence, stock holding authority and apiary site permit and every permit issued under the Stock Diseases Act 1923 is, except to the extent specified in the order, suspended as regards that reserve or, as the case may be, that specified part of the reserve.

(6) While a closure order is in force under this section in respect of a travelling stock reserve or a specified part of such a reserve, the entitlement or authority under section 86 to use that reserve or part is suspended for the activity specified in the order.

(7) The Minister may direct a board not to exercise its power under subsection (1) or (2) in specified circumstances and, where such a direction is made, the board must comply with the direction.

Division 2 - Stock transported by vehicle

Restrictions on the movement of stock by vehicular transport

88. (1) In this section "prescribed officer" means a ranger, a permit officer, a member of the Police Force, an inspector holding office as such under the Stock Diseases Act 1923 or a person who holds an office specified in the regulations for the purposes of this section.

(2) A person must not:

- (a) cause stock to be conveyed by vehicle on a public road or a travelling stock reserve; or
- (b) consign stock for conveyance by any form of rail, water or air transport,

unless the person conveying the stock is the holder of a transported stock statement or a stock licence or an order made or a permit issued under the Stock Diseases Act 1923.

Maximum penalty: 20 penalty units.

(3) If stock are:

- (a) conveyed by vehicle on a public road or a travelling stock reserve; or
- (b) are consigned for conveyance by any form of rail, water or air transport,

under the authority of a transported stock statement or stock licence that is subject to conditions or restrictions governing that method of

conveying stock, the person who caused the stock to be conveyed or consigned must ensure that the conditions or restrictions are not contravened.

Maximum penalty: 20 penalty units.

(4) Whenever stock are conveyed under the authority of a transported stock statement, the person who is in charge of the stock:

- (a) must, while the stock are being so conveyed, be in possession of a transported stock statement; and
- (b) must ensure that the stock correspond with the description of the stock specified in the statement; and
- (c) must ensure that any relevant conditions or restrictions applying to the statement are not contravened.

(5) A person in charge of stock who fails to comply with a requirement of subsection (4) is guilty of an offence.

Maximum penalty: 10 penalty units.

(6) If stock are being conveyed:

- (a) by vehicle on a public road or a travelling stock reserve; or
 - (b) by a form of rail, water or air transport,
- the person in charge of the stock must, if requested to do so by a prescribed officer:

- (c) allow that officer to inspect and count the stock; and
- (d) provide that officer with such assistance as he or she may reasonably require; and
- (e) unless that person claims that the stock are being conveyed under the authority of a stock licence or an order made or a permit issued under the Stock Diseases Act 1923, produce in respect of the stock a transported stock statement for inspection by that officer.

(7) If:

- (a) stock are being conveyed as referred to in subsection (6) (a) or (b); and
- (b) a prescribed officer requests the person in charge of the stock to produce a transported stock statement in respect of the stock; and
- (c) the person in charge of the stock claims that the stock are being conveyed under the authority of a stock licence or an order made or a permit issued under the Stock Diseases Act 1923,

the person in charge of the stock must, if requested to do so by a prescribed officer, produce the licence, order or permit for inspection by the officer, or some other officer that he or she nominates, within 48 hours of the making of the request.

(8) If a person to whom a request is made under subsection (6) or (7) fails without reasonable excuse to comply with the request, the person is guilty of an offence.

Maximum penalty: 10 penalty units.

(9) In proceedings for an offence under subsection (8), the fact that the person who caused the stock to be conveyed, or who consigned the stock, did not offer the defendant the requisite transported stock statement is not to be regarded as an excuse for non-compliance with a request made under subsection (6) (e).

(10) If the regulations so provide, this section does not apply:

- (a) to a part of New South Wales specified in the regulations; or
- (b) in the circumstances so specified.

Issue of transported stock statements

89. (1) Any person who requires a transported stock statement may, orally or in writing, apply for such a statement to the board concerned or to a person authorised by that board.

(2) An application under this section must, except in the prescribed circumstances (if any), be accompanied by such fee as may be determined by the board concerned (being a fee not exceeding that prescribed by the regulations for the purposes of this section).

(3) A board to which, or a person to whom, an application is made in accordance with this section must, except in the circumstances (if any) prescribed by the regulations, issue to the applicant a transported stock statement in the form so prescribed.

(4) A transported stock statement remains in force for such journey or journeys, or for such period, and in relation to such stock as are specified in the statement.

(5) A transported stock statement is subject to such conditions and restrictions (if any) as are prescribed by the regulations.

(6) If a transported stock statement is subject to a condition or restriction, the board concerned or an authorised officer of that board

may revoke the statement on being satisfied that the condition or restriction is being or has been contravened.

(7) If a transported stock statement is surrendered or revoked, the person to whom the statement was issued is not, for the period for which the statement would have been in force but for the surrender or revocation of the statement, entitled to a refund of any part of the fee paid in respect of the statement under subsection (2).

Division 3 - Walking and grazing stock

Movement of walking stock prohibited except under the authority of a walking stock permit or stock licence etc.

90. (1) In this section, "prescribed officer" means a ranger, a permit officer, a member of the Police Force, an inspector holding office as such under the Stock Diseases Act 1923 or a person who holds an office specified in the regulations for the purposes of this section.

(2) A person who owns or has charge of stock must ensure that the stock do not walk over or graze on a public road or travelling stock reserve, unless the person is the holder of a walking stock permit or grazing permit.

Maximum penalty: 20 penalty units.

(3) Subsection (2) does not apply to walking stock that are moved under the authority of a stock licence or an order made or a permit issued under the Stock Diseases Act 1923.

(4) If a person is the holder of a walking stock permit or grazing permit that is subject to conditions or restrictions imposed under this Part, the person must ensure that those conditions and restrictions are not contravened whenever stock are walking over, or grazing on, a public road or travelling stock reserve under the authority of the permit.

Maximum penalty: 20 penalty units.

(5) If a person moves or grazes stock in contravention of subsection (2), the board established for the district in which the contravention occurs may, by proceedings brought in a court of competent jurisdiction, recover from the person as a debt an amount equal to the fee that would have been payable had the person obtained a walking stock permit or grazing permit authorising the movement or grazing of the stock, together with any penalty fee prescribed by the regulations.

(6) Proceedings may be brought against a person under subsection (5) irrespective of whether the person has been charged with, or convicted of, an offence under subsection (2) in connection with the same movement or grazing of stock.

(7) If stock are being moved over any part of a public road or a travelling stock reserve otherwise than by vehicle, the person in charge of the stock must, if requested to do so by a prescribed officer:

- (a) muster the stock at a specified place in the vicinity of that part of the road or reserve; and
- (b) allow that officer to inspect the stock; and
- (c) assist in counting the stock; and
- (d) provide that officer with such other assistance as he or she may reasonably require; and
- (e) unless that person claims that the stock are being conveyed under the authority of a stock licence or an order made or a permit issued under the Stock Diseases Act 1923, produce for inspection by that officer a walking stock permit or grazing permit in respect of the stock.

(8) If:

- (a) stock are being moved as referred to in subsection (7); and
- (b) a prescribed officer requests the person in charge of the stock to produce a walking stock permit or grazing permit in respect of the stock; and
- (c) the person in charge of the stock claims that the stock are being moved under the authority of a stock licence or an order made or a permit issued under the Stock Diseases Act 1923,

the person in charge of the stock must, if requested to do so by that officer, produce the licence, order or permit for inspection by the officer within 48 hours of the request being made.

(9) If walking stock are being moved over a road which forms the boundary of land which is occupied, the person in charge of the stock must, if requested to do so by the occupier of the land:

- (a) give to that occupier particulars sufficient to identify the person who caused the stock to be moved; and
- (b) allow that occupier to inspect the stock; and
- (c) produce for immediate inspection by that occupier the walking stock permit authorising the movement of the stock or, where

the stock are being moved under the authority of a stock licence or of an order made or a permit issued under the Stock Diseases Act 1923, produce the stock licence, order or permit for inspection by that occupier within 48 hours of that request.

(10) A person in charge of stock who fails to comply with a request made under subsection (7), (8) or (9) is guilty of an offence.

Maximum penalty: 10 penalty units.

(11) This section does not apply:

(a) to the movement of stock from one part of a holding to another part of the holding where the parts of the holding are separated by a public road or a travelling stock reserve; or

(b) in such other circumstances as are specified in the regulations.

(12) For the purposes of this section, a reference to stock does not include a reference to:

(a) horses each of which is accompanied by a rider; or

(b) large stock that are being used to carry goods or to draw a wagon, cart or other vehicle.

Appointment of permit officers for the purposes of this Division

91. (1) A board may appoint persons (including persons who are employees of the board) to be permit officers for the purpose of issuing walking stock permits under this Division.

(2) A permit officer who is not an employee of a board is entitled to such remuneration as is prescribed by the regulations.

(3) The remuneration to which a permit officer is entitled is payable from the board's reserves improvement fund or stock watering places fund, as the case requires.

Issue of walking stock permits

92. (1) In this section, "prescribed officer", in relation to a board, means a ranger or permit officer appointed by the board.

(2) Any person who requires a walking stock permit may, orally or in writing, apply for such a permit to the board concerned or to a prescribed officer of that board.

(3) An application under this section must, except in the prescribed circumstances (if any):

- (a) be accompanied by such fee as may be determined by the board concerned (being a fee not exceeding that prescribed by the regulations for the purposes of this section); and
- (b) be made before the proposed movement of stock takes place.

(4) However, if the proposed movement is likely to take 48 hours or more to complete, the application must be made not less than 24 hours before that movement takes place.

(5) A board to which, or a prescribed officer of the board to whom, an application is made in accordance with this section must, subject to subsections (6) and (7), issue to the applicant a walking stock permit in the form prescribed by the regulations.

(6) A board to which, or a prescribed officer of the board to whom, an application is made under this section may refuse the application on the ground that:

- (a) the condition of the route over which it is proposed to move the stock concerned is such that the route could not accommodate them; or
 - (b) the proposed route is already congested with other travelling walking stock; or
 - (c) the passage of the stock concerned would be likely to cause excessive erosion or would unduly deplete the available pasture or water along the proposed route; or
 - (d) the stock concerned are, in the opinion of the board or the officer, unfit to make the proposed journey,
- or on any other ground specified in the regulations.

(7) A board may also refuse an application under this section on any other specified ground that appears to it to be reasonable.

(8) A walking stock permit remains in force for such journey or journeys, or for such period, and in relation to such stock as are specified in the permit.

(9) A walking stock permit has effect only within the district of the board by which or on whose behalf it was issued.

(10) A walking stock permit is subject to:

- (a) such conditions and restrictions (if any) as are specified in the permit at the time of its issue; and

(b) such conditions and restrictions (if any) as may be prescribed by the regulations.

(11) If a walking stock permit is subject to a condition or restriction, the board or a prescribed officer of the board may revoke the permit on being satisfied that the condition or restriction is being or has been contravened.

(12) If a walking stock permit is surrendered or revoked, the person to whom the permit was issued is not, for the period for which the permit would have been in force but for the surrender or revocation of the permit, entitled to a refund of any part of the fee paid in respect of the permit under subsection (3).

(13) A ranger employed by a board under this section may revoke a decision of a permit officer employed by the board if the decision relates to the issue of a walking stock permit or the imposition of conditions or restrictions attached to the permit.

Board may issue grazing permits (cf. Act No. 35, 1934, s. 45)

93. (1) A board which has control of a travelling stock reserve may issue grazing permits authorising the holders of those permits to take their stock or stock under their control onto the reserve for grazing.

(2) A person who wishes to obtain a grazing permit must apply to the board concerned in accordance with subsection (3).

(3) Such an application must:

(a) be in writing; and

(b) be accompanied by such fee as may be determined by the board concerned (being a fee not exceeding that prescribed by the regulations for the purposes of this section).

(4) On receiving an application under subsection (2), a board may issue to the applicant a grazing permit.

(5) A grazing permit is subject to:

(a) such conditions and restrictions (if any) as may be specified in the permit at the time of its issue; and

(b) such conditions and restrictions (if any) as may be prescribed by the regulations.

(6) If a board has issued a grazing permit that is subject to a condition or restriction, the board may revoke the permit on being

satisfied that the condition or restriction is being or has been contravened.

(7) If the Minister, after inquiring into the circumstances under which a grazing permit was issued under this section, is satisfied that the permit was improperly issued, the Minister may revoke the permit.

(8) If the board that has issued a grazing permit serves a notice on the holder of the permit to the effect that on dates, or during a period, specified in the notice travelling stock will be making use of the reserve, or that part of the reserve to which the permit relates, for grazing purposes, the holder of the permit must ensure that all stock belonging to or under the control of that holder are removed from the reserve or, as the case may be, from that part of the reserve on those dates or during that period.

(9) A holder of a grazing permit who fails to comply with subsection (8) is guilty of an offence.

Maximum penalty: 10 penalty units.

(10) The functions of a board under this section may be exercised by a ranger or permit officer authorised by the board.

Issue of a temporary grazing permit

94. (1) A board established for a district may, on the application of a person made under subsection (4), issue to the person a temporary grazing permit authorising the person to graze stock on those parts of a road that are not normally traversed by road vehicles.

(2) A temporary grazing permit may not be issued without the approval of:

- (a) in the case of a public road - the local authority in which the road is vested; or
- (b) in the case of a Crown road - the Minister for Crown Lands.

(3) A temporary grazing permit may not be issued in respect of a classified road within the meaning of the State Roads Act 1986.

(4) An application for the purposes of subsection (1) may be made orally or in writing but must, except in the prescribed circumstances (if any), be accompanied by such fee as may be determined by the board concerned (being a fee that does not exceed that prescribed by the regulations for the purposes of this section).

(5) A temporary grazing permit remains in force for such period, not exceeding 30 days, as may be specified in the permit.

(6) A temporary grazing permit has effect only on the road specified in the permit during the period between sunrise and sunset.

(7) A temporary grazing permit is subject to:

(a) such conditions and restrictions (if any) as may be specified in the permit at the time of its issue; and

(b) such conditions (if any) as may be prescribed by the regulations.

(8) If a temporary grazing permit is subject to a condition or restriction, the board that issued the permit, or an authorised officer of that board, may revoke the permit on being satisfied that the condition or restriction is being or has been contravened.

(9) If a temporary grazing permit is surrendered or revoked, the person who was the holder of the permit is not, for the period for which the permit would have been in force but for the surrender or revocation of the permit, entitled to a refund of any part of the fee paid in respect of the fee under subsection (4).

(10) A local authority is not entitled to any part of a fee paid in respect of a temporary grazing permit, even though the road concerned is vested in that authority.

Board etc. may issue a stock holding authority authorising certain stock to be kept on a travelling stock reserve (cf. Act No 35, 1934, s. 62)

95. (1) In this section, "prescribed officer", in relation to a board, means a ranger employed by the board or an employee of the board authorised for the purpose of this section.

(2) A board that has control of a travelling stock reserve, or a director or prescribed officer of the board, may, on the application of a person made under this section, issue to the person a stock holding authority to hold stock on the reserve.

(3) A stock holding authority authorises its holder to take stock onto, and keep them on, a specified travelling stock reserve for such period as is specified in the authority for any purpose specified in the regulations.

(4) An application for the purposes of this section may be made orally or in writing but must, except in the prescribed circumstances (if any), be accompanied by such fee as may be determined by the board

concerned (being a fee not exceeding that prescribed by the regulations for the purposes of this section).

(5) A stock holding authority remains in force for such period as may be specified in the authority.

(6) A stock holding authority has effect only within the travelling stock reserve in respect of which it was issued.

(7) A stock holding authority is subject to:

- (a) such conditions and restrictions as are specified in the authority at the time of its issue; and
- (b) such conditions and restrictions as are prescribed by the regulations.

(8) If a stock holding authority is subject to a condition or restriction, the board that issued the authority, or a director or prescribed officer of the board, may revoke the authority on being satisfied that the condition or restriction is being or has been contravened.

(9) If a stock holding authority is surrendered or revoked, the person who was the holder of the authority is not, for the period for which the authority would have been in force but for the surrender or revocation of the authority, entitled to a refund of any part of the fee paid in respect of the authority under subsection (4).

Signs to be displayed when stock are walking or grazing on or near a road and drivers' responsibility

96. (1) When stock are being walked, or are grazing, along or within 300 metres of a public road, the person in charge of the stock must, except where a stock proof fence separates the stock from the road, display as prescribed by the regulations signs of the kind so prescribed warning road users of the presence of the stock.

(2) As soon as the stock are no longer within 300 metres of the road, the person in charge of the stock must remove the signs displayed under subsection (1).

(3) If a person in charge of stock in the circumstances specified in subsection (1) or (2) fails to comply with that subsection, the person is guilty of an offence.

Maximum penalty: 10 penalty units.

(4) If the driver of a motor vehicle passes a sign of the prescribed kind which is located at a prescribed position on a road on which stock are being walked or grazed, that driver must give way to all stock to which the sign relates.

(5) If a driver of a vehicle referred to in subclause (4) fails to comply with that subsection, the driver is guilty of an offence.

Maximum penalty: 10 penalty units.

Control of stock on roads and reserves

97. (1) When stock are being walked along or through, or are grazing on, a public road or a travelling stock reserve, the person in charge of the stock must ensure that, so far as it is reasonably practicable to do so, any bitumen or other made up road surface forming part of the road or reserve is kept free of stock.

(2) If a person in charge of stock referred to in subsection (1) fails to comply with that subsection, the person is guilty of an offence.

Maximum penalty: 2 penalty units.

Board may establish stock holding areas (cf. Act No. 35, 1934, s. 55A)

98. (1) In this section, "enclosure" means an enclosed area or a structure capable of holding stock so as to prevent them from straying.

(2) A board may, by resolution, establish as a stock holding area for the purposes of this Act any enclosure located within a travelling stock reserve that is under its control.

(3) A resolution under subsection (2) does not have effect until a sign or signs of the kind prescribed by the regulations are erected at or close to the entrance or an entrance to the enclosure concerned.

(4) A board may, by resolution, determine that an enclosure which it has established as a stock holding area be no longer such an area, but

the resolution does not have effect until the sign or signs erected at the enclosure are removed.

(5) An enclosure established as a stock holding area does not cease to be such an area merely because the sign or signs erected in respect of the area are removed from their position as a result of a storm or inclement weather or the act of a person not acting under the authority of a resolution made in accordance with subsection (4).

(6) A board that has established a stock holding area in accordance with subsection (2) must take all reasonable steps to ensure that the area is maintained in a condition that will prevent stock escaping from it.

(7) Subsection (6) does not apply to a stock holding area referred to in subsection (9).

(8) If in any legal proceedings a question arises as to whether a specified enclosure was or was not a stock holding area for the purposes of this Act, a certificate purporting to be signed on behalf of the board concerned by a director or an employee of that board and stating that the enclosure was or was not such an area on a specified date is admissible in those proceedings as evidence of that matter.

(9) If a board or a ranger of the board has authorised the use on a travelling stock reserve that is under the board's control, or on a road that is within its district, of a portable holding structure that complies with the requirements specified in the regulations, that structure is, while its use is so authorised, to be taken to be a stock holding area for the purposes of this Act.

(10) A person in charge of stock who leaves stock unattended:

- (a) at a place on a road or travelling stock reserve other than a stock holding area or a place specified in a walking stock permit; or

(b) in circumstances other than those prescribed by the regulations, is guilty of an offence.

Maximum penalty - subsection (10): 10 penalty units.

Division 4 - Stock licences

Use of stock licences

99. (1) A stock licence issued by a board authorises the holder of the licence:

- (a) to move walking small stock over any public road or travelling stock reserve for a distance of not more than 10 kilometres; or
- (b) to move walking large stock over a public road or travelling stock reserve for a distance of not more than 16 kilometres; or
- (c) to move any stock, whether large or small, by vehicle over any public road or travelling stock reserve for a distance or for distances not exceeding that or those specified in the regulations; or
- (d) to do within the board's district any other thing in relation to stock prescribed by the regulations.

(2) A stock licence does not authorise:

- (a) the movement of stock by vehicle if the journey would take more than 24 hours; or
- (b) the movement of walking stock between sunset and sunrise.

(3) Subsection (2) (b) does not extend to dairy cattle that are being moved to or from a dairy.

Issue of stock licences

100. (1) Any person who requires a stock licence may apply in writing for such a licence to the board concerned.

(2) An application under subsection (1) must, except in the circumstances (if any) prescribed by the regulations, be accompanied by such fee as may be determined by the board concerned (being a fee not exceeding that prescribed by the regulations for the purposes of this section).

(3) A board to which an application is made in accordance with subsection (1) may issue to the applicant a stock licence in a form approved by the Minister.

(4) A stock licence remains in force for such period not exceeding 3 years as may be specified in the licence.

(5) A stock licence has effect only within the district of the board that issued it, unless it is endorsed by the board established for another district, in which case it also has effect within that other district.

(6) A stock licence is subject to:

- (a) such conditions and restrictions (if any) as are specified in the licence at the time of its issue or are subsequently notified in writing by the board concerned to the holder of the licence; and
- (b) such conditions and restrictions (if any) as are prescribed by the regulations.

(7) If a stock licence is subject to a condition or restriction, the board concerned may revoke the licence on being satisfied that the condition or restriction is being or has been contravened.

(8) If a stock licence is surrendered or revoked, the person who was the holder of the licence is not, for the period for which the licence would have been in force but for the surrender or revocation of the licence, entitled to a refund of any part of the fee paid in respect of the licence under subsection (2).

Division 5 - Apiary sites etc.

Board may issue apiary site permits over a travelling stock reserve
(cf. Act No. 35, 1934, s. 46)

101. (1) A board that has control of a travelling stock reserve may issue and renew apiary site permits.

(2) An apiary site permit authorises the holder of the permit to establish and maintain within the travelling stock reserve concerned an apiary on a site specified in the permit.

(3) A person who wishes to obtain an apiary site permit or the renewal of such a permit must make an application in accordance with this section to the board concerned.

(4) An application under this section must:

- (a) be in writing; and
- (b) be accompanied by such fee as may be determined by the board concerned (being a fee not exceeding that prescribed by the regulations for the purposes of this section).

(5) On receiving an application under this section, a board may issue to the applicant an apiary site permit in a form approved by the Minister or, as the case may be, may renew the permit concerned.

(6) An apiary site permit remains in force for a period of 12 months or such shorter period as may be specified in the permit, but may be renewed from time to time for a further period not exceeding 12 months.

(7) An apiary site permit is subject to:

- (a) such conditions and restrictions (if any) as are specified in the permit at the time of its issue or on its renewal; and
- (b) such conditions and restrictions (if any) as may be prescribed by the regulations.

(8) If an apiary site permit is subject to a condition or restriction, the board may revoke the permit on being satisfied that the condition or restriction is being or has been contravened.

(9) Nothing in this section restricts the operation of any of the provisions of the Apiaries Act 1985 in relation to a part of a travelling stock reserve in respect of which an apiary site permit is issued under this section.

(10) If a person establishes an apiary in a travelling stock reserve otherwise than under the authority of an apiary site permit, the board which has control of the reserve may, by proceedings brought in a court of competent jurisdiction, recover from the person as a debt an amount equal to the fee that would have been payable had the person obtained such a permit, together with any penalty fee prescribed by the regulations.

Board may impound bees placed or kept on a travelling stock reserve in certain circumstances

102. (1) If:

- (a) bees or beehives have been placed, or are being kept, on a travelling stock reserve otherwise than in accordance with an apiary site permit issued by the board that has control of the reserve; or
- (b) the holder of such a permit is contravening or has contravened any condition or restriction to which the permit is subject with respect to the siting of beehives on such a reserve,

the board, or an authorised officer of the board, may impound the bees or beehives in such manner as may be prescribed by the regulations.

(2) If bees or beehives have been impounded under this section, the board concerned may decline to release the bees or hives to a person who claims to own them unless the person pays to the board the impounding fee prescribed by the regulations.

Division 6 - Supplementary matters

Board not to be liable for use of pesticides on reserves

103. (1) If:

- (a) any person dies or suffers injury or illness or any stock or bees die or suffer injury or disease; and
- (b) the death of, or the injury or illness suffered by, the person, or the deaths of, or the injuries or diseases suffered by, the stock or bees, are attributable to the application by the board of a pesticide to a travelling stock reserve that is under the control of the board,

the board is not liable to pay damages in respect of the death of, or the injury or illness suffered by, that person or, as the case may be, the deaths of, or the injuries or diseases suffered by, the stock or bees, if the board gave notice in the manner prescribed by the regulations that the pesticide was about to be applied or, as the case may be, had been applied to the reserve.

(2) Subsection (1) has effect in relation to a travelling stock reserve or part of such a reserve to which a pesticide has been applied even though a walking stock permit, grazing permit, stock licence, stock holding authority or apiary site permit may be in force which authorises its holder to use the reserve or part for a particular purpose.

Certain occupiers of land to have a right of access over a travelling stock reserve (cf. Act No. 35, 1934, s. 65 (3))

104. (1) An occupier of land is entitled to a right of way over a travelling stock reserve to and from the road nearest to that land if no other access to and from that land by means of an established road or track is available.

(2) Such an occupier may, with the approval of the board that has control of the reserve, make improvements to the occupier's right of

way over the reserve, provided that the improvements are made at the expense of the occupier.

Erection of unauthorised structures prohibited (cf. Act No. 35, 1934, s. 65 (1))

105. (1) A person must not, without the written authority of the board, erect or place a structure on a travelling stock reserve that is under the control of a board.

Maximum penalty: 20 penalty units.

(2) Subsection (1) does not apply to the erection or placing of a structure the erection or placing of which is authorised by or under another provision of this Act or another Act.

(3) If a structure is erected or placed on a reserve in contravention of this section, the board that controls the reserve:

- (a) may dismantle the structure and (if necessary) remove it from the reserve; and
- (b) may, by proceedings brought in a court of competent jurisdiction, recover as a debt from any person proved to the satisfaction of the court to have erected or placed, or to have participated in erecting or placing, the structure on the reserve an amount equal to the cost incurred by the board in dismantling the structure and removing it from the reserve.

(4) If a board:

- (a) has dismantled and removed a structure erected or placed on a reserve in contravention of this section; and
- (b) is able to identify a person who it believes erected or placed, or participated in erecting or placing, the structure on the reserve,

it may serve on the person a notice to the effect that, if the person does not claim the structure within a period specified in the notice (being a period of not less than 7 days from the service of the notice) the board will dispose of the structure in accordance with this section.

(5) If a board:

- (a) has dismantled and removed a structure erected or placed on a reserve in contravention of this section; but
- (b) is unable to identify a person who is believed to have been responsible for erecting or placing, or to have participated in erecting or placing, the structure on the reserve,

the board may publish in a newspaper circulating in the district where the reserve is situated a notice to the effect that, if the structure is not claimed within a period specified in the notice (being a period not less than 7 days from the publication of the notice), the board will dispose of the structure in accordance with this section.

(6) A notice served under subsection (4) or published under subsection (5) must identify the structure and the place from which it was removed.

(7) If, within the period specified in a notice served under subsection (4) or published under subsection (5), no person has claimed the structure, then:

- (a) if the structure has a commercial value, the board must sell the structure by public tender; but
- (b) if the structure has no commercial value, the board may dispose of the structure in such proper manner as the board thinks fit.

(8) If, having decided to serve a notice on a person under subsection (4), a board is able to identify one or more other persons as having erected or placed, or as having participated in erecting or placing, a structure on a reserve in contravention of this section, it must also serve a notice on each of those other persons.

(9) If subsection (8) applies, the reference in subsection (7) to the period specified in the notice is to be read as the period specified in the last of the notices served under that subsection.

(10) If a person claims a structure that a board has dismantled and removed from a reserve in accordance with subsection (3) (a), the board may nevertheless decline to deliver the structure to the claimant unless the claimant pays to the board the reasonable cost of the dismantling and removal.

(11) Proceedings under subsection (3)(b) may be brought irrespective of whether a person has been charged with, or convicted of, an offence under subsection (1) arising out of the same matter.

Persons prohibited from depositing or abandoning rubbish, carcasses and other things on reserves (cf. Act No. 35, 1934, s. 65A)

106. (1) A person must not:

- (a) leave on a travelling stock reserve any rubbish or animal carcass; or

- (b) abandon on any such reserve:
 - (i) any vehicle, equipment, implement or movable structure; or
 - (ii) any other thing (not being rubbish or an animal carcass).

Maximum penalty: 20 penalty units.

(2) If a court finds a person guilty of an offence under subsection (1), the court may, whether or not it imposes a penalty for the offence, make an order directing the person to pay to the board concerned an amount equal to the cost to that board of removing and disposing of the thing left or abandoned in contravention of that subsection.

(3) An order made under subsection (2) by a Local Court:

- (a) is to be taken to be a judgment of the Court, within the meaning of the Local Courts (Civil Claims) Act 1970; and
- (b) must be entered in the records of the Court as such a judgment.

(4) A board may, by proceedings brought in a court of competent jurisdiction, recover as a debt from any person who has contravened or has participated in contravening subsection (1) an amount equal to the cost to the board of removing and disposing of the thing left or abandoned in contravention of that subsection.

(5) Proceedings under subsection (4) may be brought irrespective of whether a person has been charged with, or convicted of, an offence under subsection (1) arising out of the same matter.

Power of board to recover compensation in respect of damage caused to a reserve etc. (cf. Act No. 35, 1934, s. 56A)

107. (1) If any person:

- (a) damages a travelling stock reserve that is under the control of a board; or
- (b) damages or destroys any structure or work located on any such reserve,

the board may, by proceedings brought in a court of competent jurisdiction, recover from the person a sum equal to the cost to it of rectifying the damage or, as the case may be, replacing the destroyed structure or work.

(2) Subsection (1) has effect irrespective of whether the damage or destruction was perpetrated without intention, recklessness or negligence.

(3) The recovery from a person of a sum under this section does not affect the liability of the person to be dealt with for an offence under this Act or under any other law arising out of the same matter.

Offence to make false or misleading statement etc. in certain documents

108. Any person who:

(a) in an application for a transported stock statement, walking stock permit, grazing permit, stock licence, stock holding authority, or apiary site permit or an authorisation under section 86; or

(b) on a transport stock statement issued to the person,

makes a statement that is, to the person's knowledge, materially false or misleading, is guilty of an offence.

Maximum penalty: 20 penalty units.

PART 7 - ABANDONED AND TRESPASSING STOCK

Definitions

109. (1) In this Part:

"abandoned", in relation to stock on a public road or public land, has the meaning set out in subsection (2);

"pound" means a public pound established under the Impounding Act 1898 or the Local Government Act 1919 or under section 110;

"prescribed officer", in relation to a board, means the board's ranger or any other of its officers authorised by it to exercise the functions of a prescribed officer under this Part;

"reserve" has the same meaning as in section 78 of the Crown Lands Act 1989;

"stock" includes pigs;

"trespassing", in relation to stock on a public road or a reserve, has the meaning set out in subsection (3).

(2) For the purposes of this Part, stock are to be taken to have been abandoned on a public road or public land if the stock are left unattended on the road or public land, except where:

- (a) the stock are owned by the occupier of land that adjoins or is bisected by the road or public land where:
 - (i) no boundary or dividing fence has ever existed between the land and the road or public land; and
 - (ii) the land is not separated from the road or public land by any other means of enclosure, whether natural or artificial; or
 - (b) the stock are owned by the occupier of land that adjoins or is bisected by the road or public land where:
 - (i) a boundary or dividing fence which exists or existed on the land and the road or public land has ceased to be stock proof because of fire, flood or other natural disaster beyond the control of the occupier; and
 - (ii) the occupier has not had a reasonable opportunity to restore or repair the fence effectively; or
 - (c) in the case of stock left unattended on public land that is a reserve:
 - (i) the stock are on the reserve in accordance with the conditions of a lease or licence from the Crown or under the authority of a grazing permit or stock holding authority; or
 - (ii) the stock are being moved under the authority of a walking stock permit and are within a stock holding area located in the reserve; or
 - (d) there exist any other circumstances prescribed by the regulations for the purposes of this section.
- (3) For the purposes of this Part, stock (other than pigs) are, except as provided by subsection (4), to be taken to be trespassing on a public road or a reserve if the stock are on the road or reserve with someone in charge of them but:
- (a) in the case of stock being conveyed by a vehicle:
 - (i) no transported stock statement or stock licence, or order made or permit issued under the Stock Diseases Act 1923, authorising the transport of the stock is in force; or
 - (ii) if such a document is in force in respect of the stock - the conditions or restrictions to which the document is subject are being or have been contravened; or
 - (b) in the case of stock that are walking, grazing or otherwise on the road or reserve:

- (i) no walking stock permit, temporary grazing permit or stock licence, or order made or permit issued under the Stock Diseases Act 1923, authorising the stock to walk, graze or otherwise be on the road or reserve is in force; or
 - (ii) if such a document is in force in respect of the stock - the conditions or restrictions to which the document is subject are being or have been contravened.
- (4) Stock which but for this subsection would be regarded as trespassing on a public road or a reserve are not to be so regarded if:
- (a) the stock are owned by the occupier of land that adjoins or is bisected by the road or reserve where:
 - (i) no boundary or dividing fence has ever existed between the land and the road or reserve; and
 - (ii) the land is not separated from the road or reserve by any other means of enclosure, whether natural or artificial; or
 - (b) the stock are owned by the occupier of land that adjoins or is bisected by the road or reserve where:
 - (i) a boundary or dividing fence which exists or existed on the land and the road or reserve has ceased to be stock proof because of fire, flood or other natural disaster beyond the control of the occupier; and
 - (ii) the occupier has not had a reasonable opportunity to restore or repair the fence effectively; or
 - (c) in the case of stock on a reserve with someone in charge of them - the stock are on the reserve in accordance with the conditions of a lease or licence from the Crown; or
 - (d) there exist any other circumstances prescribed by the regulations for the purposes of this section.
- (5) Stock may be taken to be abandoned for the purposes of this Part irrespective of whether their owner has intentionally relinquished the owner's interest in the stock.
- (6) Nothing in the Part limits the operation of the Impounding Act 1898 or Part 18 of the Local Government Act 1919 or any other law relating to abandoned or trespassing stock.

Board may establish pounds

110. (1) A board:

- (a) may, in the manner prescribed by the regulations, establish within its district one or more public pounds; and
- (b) may, in a similar manner, close any such pound.

(2) A board is responsible for the management and operation of a pound that it has established under this section.

(3) A board is required to appoint a poundkeeper in respect of each pound that it has established within its district.

(4) A poundkeeper has such functions as may be specified in the regulations.

(5) A poundkeeper must keep such records relating to the pound as are specified in the regulations.

(6) The board concerned is responsible:

- (a) for providing a poundkeeper whom it has appointed, with adequate forms and other materials to enable the poundkeeper to comply with subsection (5); and
- (b) for ensuring that the poundkeeper complies with that subsection.

(7) Whenever stock are taken to a pound established under this section, the poundkeeper must deal with them in the manner prescribed by the regulations.

Prescribed officer may take abandoned or trespassing stock to the nearest pound (cf. Act No. 35, 1934, ss. 66A, 75)

111. (1) If a prescribed officer of a board finds:

- (a) abandoned or trespassing stock on; or
- (b) stock which, in the opinion of the officer, have strayed onto, a public road or public land within the board's district, the officer may muster the stock and take them to the nearest available pound to be impounded.

(2) If the caretaker of the controlling authority of a stock watering place, or any other person whom that controlling authority has authorised to exercise the power conferred by this subsection, finds stock trespassing on the watering place, the caretaker or person may muster the stock and move them to the nearest available pound.

(3) For the purposes of this section, stock may be moved to a pound by conveying them by vehicle or by walking them and it is not necessary for a transported stock statement, walking stock permit, stock licence or other authority to be in force authorising the movement of the stock.

(4) If:

(a) a person abandons stock:

(i) on occupied land; or

(ii) on a public road or public land that bisects or adjoins occupied land that is not separated from the road or public land by a fence sufficient to keep out straying stock; and

(b) the occupier of the occupied land has not consented to the stock being so abandoned,

the board concerned is, on the request of that occupier, required to impound the stock.

(5) If stock are impounded on the request of such an occupier, the occupier is not liable to compensate the owner of the stock for any loss that that owner may sustain in consequence of the impounding.

Abandoning stock on a public road or public land

112. (1) A person must not abandon stock on a public road or public land.

Maximum penalty: 50 penalty units.

(2) If:

(a) stock are abandoned on a public road, a reserve or public land; and

(b) any pasture, water supply or other improvements on or within the road or reserve are damaged or destroyed in consequence of the abandonment of the stock may, by proceedings brought in a court of competent jurisdiction, recover compensation for that damage or destruction from the person who abandoned the stock.

(3) Proceedings under subsection (2) may be brought in respect of an abandonment of stock irrespective of whether the person who abandoned the stock has been charged with or convicted of an offence under subsection (1) in respect of stock.

Trespassing stock on a public road or a reserve (cf. Act No. 35, 1934, s. 66 (1))

113. (1) If stock trespass on a public road or a reserve, the owner of the stock and the person in charge of the stock (if not the owner) are each guilty of an offence.

Maximum penalty: 20 penalty units.

(2) If:

- (a) stock trespass on a public road or a reserve; and
- (b) any pasture, water supply works or other improvements on or within the road or reserve are damaged or destroyed in consequence of the trespass,

the relevant local authority or board or any other person who has suffered loss as a result of the trespass may, by proceedings brought in a court of competent jurisdiction, recover compensation for that damage or destruction from the owner of the stock.

(3) Proceedings under subsection (2) may be brought in respect of a trespass by stock irrespective of whether the owner, or the person in charge, of the stock has been charged with, or convicted of, an offence under subsection (1) in respect of the same trespass.

Court to order the payment of agistment fees in certain cases (cf. Act No. 35, 1934, s. 66 (2))

114. (1) If a court finds a person guilty of an offence under section 112 or 113 (whether or not it convicts the person of the offence), the court must, in addition to any other penalty that it may impose, order the person to pay to the board in whose district the offence was committed agistment fees at the rate specified in the regulations for the purpose of this subsection.

(2) If a court finds that such an offence was committed on a road or a reserve located in 2 or more districts, the court must apportion in an equitable manner the agistment fees ordered to be paid in accordance with subsection (1) between the boards concerned.

(3) An order under subsection (1) for the payment of agistment fees operates and is enforceable as a judgment made under the Local Courts (Civil Claims) Act 1970.

(4) Such an order may, for the purpose of subsection (3), be entered in the records of the court named in the order or, if no such court is

named, in the records of any court exercising jurisdiction under the Local Courts (Civil Claims) Act 1970.

Prescribed officer may destroy abandoned or trespassing stock in certain circumstances (cf. Act No. 35, 1934, s. 66 (3))

115. (1) If a prescribed officer of a board believes on reasonable grounds that stock have been abandoned on a public road or public land, or are trespassing on a public road or a reserve, and the stock are:

(a) in the opinion of the officer, worth less than the cost of moving them to the nearest pound; or

(b) in the opinion of the district veterinarian, in a distressed state, the officer may, with the prior approval of the board, decide to destroy the stock.

(2) If a decision is made to destroy any such stock, the prescribed officer must:

(a) destroy the stock at the nearest practicable site; and

(b) dispose of the carcass in the manner prescribed by the regulations.

(3) If stock are destroyed in accordance with this section, neither the board that approved the destruction of the stock nor the prescribed officer of the board who destroyed the stock is liable in damages for any loss that their owner has sustained as a result of the destruction.

Release of impounded stock (cf. Act No. 35, 1934, s. 66B)

116. (1) If stock have been impounded under this Part, the board concerned may decline to release the stock to a person who claims to own them unless the person pays to the board the impounding, agistment and sustenance fees and other charges (if any) that are prescribed by the regulations for the purposes of this section.

(2) Any person who, without the authority of the board or poundkeeper concerned:

(a) releases; or

(b) incites or assists any person in releasing,

any animal lawfully impounded, or seized or detained for the purpose of being impounded, in accordance with this Part is guilty of an offence.

Maximum penalty: 20 penalty units.

(3) If a court finds a person guilty of an offence under subsection (2), the court may, whether or not it imposes a penalty for the offence, make an order directing the person to pay to the board concerned an amount equal to the fees, charges and damages that would, but for the release of the animal concerned, have been payable to the board in respect of the impounding of that animal.

(4) An order made under subsection (3) for the payment of an amount equal to the fees, charges or damages operates and is enforceable as a judgment made under the Local Courts (Civil Claims) Act 1970.

(5) Such an order may, for the purpose of subsection (4), be entered in the records of the court named in the order or, if no such court is named, in the records of any court exercising jurisdiction under the Local Courts (Civil Claims) Act 1970.

PART 8 - STOCK WATERING PLACES

Proclamation of stock watering places (cf. Act No. 35, 1934, s. 68)

117. (1) The Governor:

- (a) may, by proclamation published in the Gazette, declare:
 - (i) any Crown land, or land acquired under section 135 of the Crown Lands Act 1989 for a stock watering place; or
 - (ii) any land acquired for the purpose by a local authority, to be a stock watering place; and
- (b) may in a similar way revoke or vary any such declaration.

(2) The power conferred by subsection (1) is exercisable only with the agreement of the Minister for Crown Lands.

(3) The Minister administering this Act:

- (a) may, by notice published in the Gazette, declare a stock watering place to be a town water supply; and

- (b) may, in a similar way, revoke or vary such a declaration.

Which bodies are to be controlling authorities of stock watering places

118. (1) The controlling authority of a stock watering place is:

- (a) if the stock watering place is one for which a declaration under section 117 (3) is in force - the local authority within whose local government area the place is located; or
- (b) if the stock watering place is one for which no such declaration is in force:
 - (i) such body as may be specified in the regulations in relation to that watering place; or
 - (ii) where no body is so specified - the board established for the district within which that watering place is located.

(2) Subsection (1) (b) applies even though the stock watering place is in a travelling stock reserve within the Western Division.

Controlling authority may construct works at stock watering places
(cf. Act No. 35, 1934, s. 70)

119. (1) The controlling authority of a stock watering place:

- (a) may construct tanks, dams, reservoirs and other works for storing water, or for providing water, at the watering place; and
- (b) may carry out improvements to any such works; and
- (c) is responsible for maintaining and, where necessary, repairing any such works.

(2) If a stock watering place is located in the Western Division and the cost of constructing a particular work, or of carrying out improvements, maintenance or repairs to it, exceeds an amount specified in the regulations for the purposes of this section, the controlling authority may undertake the construction, or carry out the improvements, maintenance or repairs only with the prior approval of the Minister.

(3) The cost of:

- (a) undertaking the construction of a work at a stock watering place that is not under the control of a local authority; or
- (b) carrying out improvements, maintenance or repairs to any such work,

is payable out of the reserves improvement fund of the relevant controlling authority or, if the stock watering place is in the Western Division, the stock watering places fund of the relevant controlling authority, unless Parliament has provided special funds for the purpose, in which case the cost is payable from those funds.

(4) If

- (a) the declaration of a stock watering place is revoked or varied; and
- (b) because of the revocation or variation, Crown land, or land acquired under section 135 of the Crown Lands Act 1989 for a stock watering place, ceases to be, or to form part of, the watering place; and
- (c) a local authority or board had, as the controlling authority of the watering place, effected improvements to that Crown land or land so acquired,

the Minister for Crown Lands is liable to pay compensation for those improvements to the local authority or board.

(5) Compensation payable under subsection (4) must not exceed the current value of the improvements concerned.

(6) If the cost of improvements referred to in subsection (4) has been met out of funds specially provided by Parliament for the purpose, no compensation is payable under that subsection.

(7) If the Minister for Crown Lands and the local authority or board concerned are unable to reach an agreement as to the amount of compensation payable under subsection (4), either of them may apply to the local land board to determine the matter.

(8) If an application is made under subsection (7), the local land board concerned must determine the amount of compensation payable under subsection (4).

Controlling authority may appoint a caretaker of a stock watering place (cf. Act No. 35, 1934, s. 71)

120. (1) The controlling authority of a stock watering place may appoint a caretaker of that place.

(2) If a caretaker of a stock watering place has been appointed under subsection (1), the controlling authority may:

- (a) fix the caretaker's remuneration; and
- (b) allow the caretaker to retain the whole or a specified part or proportion of money paid to the caretaker as charges under this Part.

Leases of stock watering places (cf. Act No. 35, 1934, ss. 72 (1), (2), 78 (1))

121. (1) The controlling authority of a stock watering place:

- (a) may, by auction, public tender or other means prescribed by the regulations, grant a lease of the watering place for a term not exceeding 10 years; and
- (b) may grant a single extension of such a lease for a term not exceeding 5 years at the same or an increased rental without public competition where the controlling authority thinks this would be justified, having regard to the improvements that the lessee has made to the watering place.

(2) The controlling authority of a stock watering place may grant a lease of the watering place, or determine or extend such a lease, only with the prior approval in writing of the Minister.

(3) If a stock watering place is leased, the lessee:

- (a) must pay the rent under the lease to the controlling authority of the watering place; and
- (b) where the controlling authority agrees in writing - is entitled to receive and retain the prescribed watering charges paid for the use of the watering place.

Controlling authority etc. to supply water to certain persons and stock (cf. Act No. 35, 1934, s. 72 (3))

122. (1) If a request is made to the controlling authority of a stock watering place for the supply of water to persons or stock of a class specified in the regulations or to allow stock of such a class to depasture at the watering place, the controlling authority of a stock watering place:

- (a) must supply water (if available) to those persons or stock at such fees and during such periods as may be prescribed by the regulations; and
- (b) must allow the stock to depasture at the watering place for such period and subject to:

- (i) such conditions as may be so prescribed; and
- (ii) so far as is not inconsistent with the regulations, such conditions as are determined by the controlling authority.

(2) If a stock watering place is leased in accordance with section 121, the reference in subsection (1) to the controlling authority is to be read as a reference to the lessee.

Offence to obstruct the use by stock of a stock watering place (cf. Act No. 35, 1934, s. 73)

123. Any person who, without lawful authority:

- (a) obstructs persons or stock in their lawful use of a stock watering place; or
- (b) obstructs a person or stock in their lawful use of water or pasture to which they are entitled under this Act,

is guilty of an offence.

Maximum penalty: 20 penalty units.

Person in charge of stock to produce permit etc. if required (cf. Act No. 35, 1934, s. 74)

124. (1) Whenever stock are taken to a stock watering place, the person in charge of the stock must, if required to do so by the person in charge of the watering place, produce for inspection the transported stock statement, walking stock permit or stock licence issued in respect of the stock, or the order made or a permit issued in respect of the stock under the Stock Diseases Act 1923.

(2) A person who fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

Offence to damage stock watering place etc. (cf. Act No. 35, 1934, s. 76)

125. (1) Any person who intentionally or recklessly pollutes or, without lawful authority, interferes with any water that flows into, or that is used as, the source of supply for any stock watering place is guilty of an offence.

Maximum penalty: 50 penalty units.

(2) If any person pollutes or, without lawful authority, interferes with any water that flows into, or that is used as, the source of supply for a stock watering place, the relevant controlling authority may, by proceedings brought in a court of competent jurisdiction, recover from the person an amount equal to the cost of cleaning up or removing the pollution or interference.

(3) Proceedings may be brought under subsection (2) irrespective of whether proceedings could be or have been brought for an offence under subsection (1) arising out of the same matter.

PART 9 - NOXIOUS ANIMALS

Duty of occupiers of land to suppress and destroy noxious animals (cf. Act No. 35, 1934, ss. 81, 86)

126. (1) Subject to subsection (3), the occupier of land within a district must fully and continuously suppress and destroy by any lawful method all noxious animals that are:

- (a) on the land; or
- (b) on any road that adjoins or intersects the land; or
- (c) on any travelling stock reserve that adjoins or intersects the land; or
- (d) if the opposite sides of a watercourse or inland water adjoin the land - in the watercourse or inland water; or
- (e) if any land, watercourse or inland water adjoins the land and is enclosed by a give and take fence - on the land, or in the watercourse or inland water, that is so enclosed; or
- (f) if a watercourse or inland water adjoins the land but the occupier owns or occupies the watercourse or the inland water only up to its middle line - that portion of the watercourse or inland water so owned or occupied.

(2) An occupier of land is not to be regarded as having complied with subsection (1) merely by erecting a fence or by making an existing fence rabbit proof, dog proof or marsupial proof.

(3) An occupier of land which is fenced with a fence sufficient to prevent the passage of a particular noxious animal is under no obligation to suppress and destroy that kind of noxious animal on a

travelling stock reserve or road that adjoins or intersects the land so fenced.

(4) An occupier of land who fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

Board may order the occupier or owner of land to suppress and destroy noxious animals on the land (cf. Act No. 35, 1934, s. 82 (2)-(5))

127. (1) In this section, "prescribed officer", in relation to a board, means a noxious animal inspector or ranger employed by the board or any other employee of the board specifically authorised to exercise the functions conferred on prescribed officers by this section.

(2) The board established for a district may, by notice served in the manner prescribed by the regulations, order any occupier or owner of land located within the district to suppress and destroy fully and continuously all noxious animals which are on the land by any one or more of the prescribed methods specified in the order.

(3) An order under subsection (2):

- (a) may specify that any prescribed method specified in the order must be used within a specified period to suppress and destroy noxious animals; and
- (b) may require the eradication within a specified period of any habitat or refuge of noxious animals that exists on the land concerned.

(4) Any occupier or owner who fails to comply with any of the provisions of an order served in accordance with subsection (2) is guilty of an offence.

Maximum penalty: 20 penalty units.

(5) A prescribed officer of a board may:

- (a) enter and remain on land at any time, either with or without a vehicle or equipment; and
- (b) take all such steps as are necessary for the purpose of ascertaining whether the provisions of this Part or any order under subsection (2) have been complied with.

(6) If a board has served on the occupier or owner of land an order under subsection (2), the board may, for the purpose of ascertaining whether the order has been complied with, serve on that owner or

occupier a further notice requiring that owner or occupier to pay to the board an inspection charge for the inspection of the land.

(7) An inspection charge required to be paid under subsection (6) must not exceed the amount prescribed by the regulations for the purposes of this subsection.

(8) The board established for a district may, after serving on the occupier or owner of any land within the district not less than 7 days previously a notice of its intention to do so:

- (a) enter the land; and
- (b) while on the land, take such measures and carry out such work there as the board considers necessary for the suppression and destruction of noxious animals on the land and the eradication of those animals' habitats and refuges.

(9) The notice referred to in subsection (8) is not required to be served where the board, in the exercise of its functions under that subsection, enters land to suppress or destroy any noxious animals that are kept in captivity on the land without the permission of the Minister granted under section 131.

(10) The powers conferred on the board by subsection (8) are exercisable by any employee or agent of the board.

(11) Neither subsection (5) nor subsection (8) authorises a prescribed officer or any other employee or agent of a board to enter the residential premises of a person.

(12) If a person authorised by a board for the purposes of this subsection complains on oath to a Magistrate that the board believes on reasonable grounds that noxious animals are being kept in captivity on residential premises without the permission of the Minister granted under section 131, a Magistrate may issue a warrant authorising the complainant or some other person authorised by the board to enter those premises for the purpose of searching for and destroying any such animals.

Recovery of charges and expenses by a board (cf. Act No. 35, 1934, s. 82 (6))

128. (1) If the occupier or owner of land required to pay a charge imposed under section 127 (6) fails to pay within such period as is specified in the notice containing the requirement, the board

concerned may, by proceedings brought in a court of competent jurisdiction, recover that charge as a debt from that occupier or owner.

(2) If a board has exercised the functions conferred on it by section 127 (8) in relation to any particular land, it may, by proceedings brought in a court of competent jurisdiction, recover as a debt from the occupier or owner of the land any expenses that the board has incurred in exercising those functions.

(3) If the occupier or owner of land:

- (a) on whom a board has served a notice under section 127 (6); or
- (b) in relation to whose land a board has taken measures or carried out work under section 127 (8),

fails to pay to the board within the period prescribed by the regulations the amount of the charge specified in the notice or, as the case may be, an amount equal to the board's expenses in taking those measures or carrying out that work, the charge or amount is increased by a sum calculated at the rate per year prescribed by the regulations, and the amount as so increased is accordingly recoverable under this section.

(4) The amount of any judgment that a board has recovered under this section and of any costs awarded to the board in respect of its claim are a charge on the land concerned.

(5) Such a charge is a charge on land which may be registered in the register of causes, writs and orders kept at the office of the Registrar-General.

(6) Schedule 4 applies to any part of the amount of a judgment recovered under this section (including costs) that remains unpaid after the expiration of 5 years from the date of the judgment of the court concerned.

Authorised officer of a board may destroy feral pigs found on vehicles

129. (1) An authorised officer of a board established for a district who believes on reasonable grounds that a vehicle within the district may contain a live feral pig:

- (a) may, if necessary, require the driver to stop the vehicle; and
- (b) may search the vehicle; and
- (c) may seize and destroy any live feral pig found on the vehicle.

(2) A driver of a vehicle referred to in subsection (1) who fails to comply with a requirement made under subsection (1) (a) is guilty of an offence.

Maximum penalty: 20 penalty units.

Board may enter into contracts under which it undertakes to suppress and destroy noxious animals

130. A board established for a district may:

- (a) enter into contracts with occupiers or owners of land within the district for the suppression and destruction by the board of noxious animals on that land and the eradication of their habitats; and
- (b) carry out the work agreed to be performed under those contracts.

Minister may permit the keeping of noxious animals (cf. Act No. 35, 1934, s. 85)

131. (1) The Minister may, on an application made under subsection (2), grant permission in writing for a person to keep one or more noxious animals of a specified kind.

(2) An application for the purposes of subsection (1) must:

- (a) be in writing; and
- (b) be accompanied by the fee (if any) prescribed by the regulations.

(3) Permission granted under subsection (1) remains in force for a period of 12 months or such shorter or longer period as the Minister specifies in the permission.

(4) Permission granted under subsection (1) is subject to:

- (a) such conditions (if any) as are prescribed by the regulations; or
- (b) if no such conditions are prescribed, such conditions as the Minister considers appropriate.

(5) If a person administers to a noxious animal a substance declared by the regulations to be a prohibited substance in relation to animals of that kind, the person is guilty of an offence.

Maximum penalty: 100 penalty units.

(6) For the purposes of proceedings for an offence under subsection (5), if it is proved that a prohibited substance was administered to a noxious animal of a kind prescribed for the purposes of that subsection, it is, until the contrary is proved, to be presumed that the owner (if any) of the animal administered the substance.

(7) If the Minister is satisfied on reasonable grounds that a person permitted to keep noxious animals has failed to comply with any condition subject to which the permission was granted, the Minister may:

- (a) revoke the permission; and
- (b) order the destruction of the animals to which the permission relates.

(8) If the Minister has made an order under subsection (7) (b), any person directed by the Minister to do so must take all necessary steps for the destruction of the animals concerned and for the disposal of their carcasses.

(9) No person to whom this subsection applies is liable for any loss sustained in consequence of reasonable steps taken for the purposes of subsection (7) or (8).

(10) Subsection (9) applies to the following persons:

- (a) the Crown;
- (b) the Minister;
- (c) any person directed by the Minister for the purposes of subsection (8).

(11) Any person who:

- (a) keeps a noxious animal in captivity otherwise than under the authority of a permission granted under this section; or
- (b) where any such permission has been granted subject to conditions, fails to comply with any of those conditions,

is guilty of an offence.

Maximum penalty: 20 penalty units.

Minister may prohibit the suppression and destruction of noxious animals in certain areas

132. (1) The Minister may, by order published in the Gazette, declare a specified area to be a prohibited area for the purposes of this section in relation to noxious animals of a specified kind.

(2) If an order under this section is in force, a person must not, while in or in the vicinity of the prohibited area declared by the order:

- (a) shoot, poison or trap; or
- (b) otherwise engage in any activity for the purpose of suppressing or destroying,

noxious animals to which the order relates that are within that area.

Maximum penalty: 20 penalty units.

Miscellaneous offences involving noxious animals (cf. Act No. 35, 1934, s. 87)

133. (1) Any person who intentionally or recklessly carries, drives or passes a noxious animal through, under or over a fence or gate that is designed to prevent noxious animals from entering particular land is guilty of an offence.

Maximum penalty: 10 penalty units.

(2) Any person who liberates a noxious animal that is being kept in captivity in accordance with permission granted under section 131 is guilty of an offence.

Maximum penalty: 20 penalty units.

(3) Any person who:

- (a) intentionally, recklessly or negligently leaves open a gate in a fence that is designed to prevent noxious animals from entering particular land; or
- (b) intentionally, recklessly or negligently:
 - (i) destroys or damages any such fence or gate; or
 - (ii) interferes with it or the soil under it in a manner likely to impair its effectiveness as a barrier to noxious animals; or

- (c) intentionally:
 - (i) destroys, damages or removes any thing that is being used or intended to be used for the suppression or destruction of noxious animals; or
 - (ii) interferes with any such thing in a manner that is likely to impair its effectiveness; or
- (d) attempts to do any of the things referred to in subsections (1) and (2) and paragraphs (a) - (c) of this subsection, is guilty of an offence.

Maximum penalty: 10 penalty units.

(4) Any person who, without the permission of the Minister, conveys a live feral pig from one place to another, whether by vehicle or otherwise, is guilty of an offence.

Maximum penalty: 100 penalty units.

Certificates signed by certain officers to be evidence that animals are noxious animals

134. (1) In any proceedings for an offence under this Part, a certificate purporting to be signed by a prescribed officer of a board stating that an animal to which the proceedings relate is an animal of the kind specified in the certificate is admissible in those proceedings as evidence that the animal is of that kind.

(2) In subsection (1), the reference to a prescribed officer of a board is a reference to the board's noxious animal inspector or to any other person whom the board has, either generally or in the particular case, authorised in writing to sign certificates of the kind referred to in that subsection.

Boards in the Western Division to pay bonuses for scalps of wild dogs destroyed in that Division (cf. Act No. 35, 1934, ss. 88, 89)

135. (1) If a person delivers the scalp of a wild dog to a board established for a district in the Western Division, the board, on being satisfied that the dog was destroyed within the district, must:

- (a) issue to the person a certificate in a form prescribed by the regulations; and
- (b) pay to the person a bonus at the rate determined under section 21 of the Wild Dog Destruction Act 1921.

(2) A board must cause scalps to be destroyed by fire as soon as practicable after certificates have been issued for them in accordance with subsection (1).

(3) The person responsible for destroying scalps in accordance with subsection (2) must provide the board with a certificate of destruction in the form prescribed by the regulations.

(4) If the person responsible for destroying the scalps issues a certificate under this section that is, to that person's knowledge, false or misleading in a material respect, that person is guilty of an offence.

Maximum penalty: 50 penalty units.

Offence to make a false claim for a bonus (cf. Act No. 35, 1934, s. 90)

136. Any person who:

- (a) claims from a board a bonus for the destruction of a wild dog knowing that a bonus has already been paid in respect of that dog's destruction; or
- (b) claims from a board a bonus for the destruction of a wild dog knowing that the dog was not destroyed in the board's district,

is guilty of an offence.

Maximum penalty: 10 penalty units.

Board may levy special rate for the suppression and destruction of noxious animals (cf. Act No. 35, 1934, s. 91)

137. (1) With the consent of the Minister, the board established for a district may, for the purpose of defraying any costs that it has incurred in connection with suppressing or destroying noxious animals, levy a special rate on the occupiers of land within the district or within any part of the district.

(2) A special rate under subsection (1) must be:

- (a) fixed by resolution of the board concerned; and
- (b) levied by service of a rate notice.

(3) In levying a special rate under this section, a board must calculate the rate according to the carrying capacity of the land concerned.

(4) A board:

- (a) must pay the proceeds of any such special rate into a specially designated fund; and

- (b) must not spend those proceeds for any purpose other than that for which the special rate was imposed.

Board may conduct campaigns for the suppression and destruction of noxious animals (cf. Act No. 35, 1934, s. 84A)

138. (1) A board may make arrangements for the conduct of campaigns for the suppression and destruction of noxious animals and may take all necessary steps for carrying out those arrangements.

(2) Arrangements under subsection (1) may be made with other boards or with the occupiers or owners of land within the board's district.

PART 10 - CONTROL OF NOXIOUS INSECTS

Occupier of land to give notice to the appropriate board of the presence of noxious insects (cf. Act No. 22, 1934, s. 6)

139. (1) Whenever noxious insects appear on land within a district, the occupier of the land must, immediately after becoming aware of their presence on the land, give to the board for the district notice of the fact, together with:

- (a) details of the particular location of the insects; and
- (b) such other particulars (if any) as are specified in the regulations.

(2) An occupier of land who fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

Board may publish notification requiring occupiers to suppress and destroy noxious insect nymphs (cf. Act No. 22, 1934, s. 7)

140. (1) The board established for a district may, in such manner and form as it thinks appropriate, publish a notification requiring all occupiers of land within the district or a specified part of the district:

- (a) to give notice to the board when noxious insects of a kind specified in the notice appear on their land; and
- (b) to fully and continuously suppress and destroy all noxious insect nymphs of that kind that are for the time being

- (i) on the land; or
- (ii) on a road or travelling stock reserve which intersects the land and is not separated from the land by a fence; and
- (c) to use, in accordance with the directions of the board, the materials that the board has supplied free of charge for the suppression or destruction of those nymphs.

(2) An occupier of land who, without lawful excuse, fails to comply with a requirement contained in a notification published in accordance with subsection (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

Board may, by order, require an occupier to suppress and destroy noxious insect nymphs (cf. Act No. 22, 1934, s. 7)

141. (1) The board established for a district, or any person authorised by that board to exercise the functions of that board under this section, may serve on an occupier of land in the district an order requiring the occupier:

- (a) to fully and continuously suppress and destroy all noxious insect nymphs of a specified kind that are for the time being:
 - (i) on the land; or
 - (ii) on a road or travelling stock reserve which intersects the land and is not separated from the land by a fence; and
- (b) to use, in accordance with the directions of the board, the materials that the board has supplied for the suppression and destruction of those nymphs.

(2) If a road is vested in or under the control of a local authority, then, except as provided in subsection (1) (a), it is the duty of that authority to fully and continuously suppress and destroy by any method prescribed by the regulations all noxious insect nymphs that are on the road.

(3) If a travelling stock reserve is under the control of a board, then, except as provided in subsection (1) (a), it is the duty of the board to fully and continuously suppress and destroy by any method prescribed by the regulations all noxious insect nymphs that are on the reserve.

(4) Any occupier of land who fails to comply with a requirement contained in an order served on the occupier in accordance with subsection (1) is guilty of an offence.

Maximum penalty - subsection (4): 20 penalty units.

Minister may give notice to board regarding destruction (cf. Act No. 22, 1934, s. 7A)

142. (1) The Minister may, on becoming aware that an outbreak of noxious insects of any kind is likely to occur in a district, give notice in writing of the predicted outbreak to the board concerned.

(2) Whenever notice is given in accordance with subsection (1), a board must, in such manner and at such times as may be specified in the notice, publish a notification informing occupiers of land within the district for which the board is established that an outbreak of noxious insects of a specified kind is predicted to occur in that district and that those occupiers are required:

- (a)** to give notice to the board when noxious insects of that kind appear on their land; and
- (b)** to fully and continuously suppress and destroy all noxious insect nymphs of that kind that are for the time being:
 - (i)** on their land; or
 - (ii)** on a road or travelling stock reserve which intersects their land and is not separated from their land by a fence; and
- (c)** to use, in accordance with the directions of the board, the materials that the board has supplied free of charge for the suppression and destruction of those noxious insects.

(3) In addition, a board is required:

- (a)** to receive and store materials supplied to it by the Minister for the suppression and destruction of the noxious insects of the kind specified in the notice and, if an outbreak of noxious insects occurs as predicted, to establish in its district depots from which occupiers of land within the district may obtain supplies of those materials free of charge; and
- (b)** to comply with any direction that the Minister has given to the board for the prevention of the predicted outbreak.

(4) An occupier of land who fails to comply with a requirement contained in a notification published in accordance with subsection (2) is guilty of an offence.

Maximum penalty - subsection (4): 20 penalty units.

Authorised officer or person may enter land to suppress noxious insects (cf. Act No. 22, 1934, s. 8 (1), (3), (4))

143. (1) Any authorised officer of a board and any person authorised by the Minister may, at any time:

- (a) enter land (other than land referred to in section 144 (1)) for the purpose of finding out whether or not there are noxious insects on the land; and
- (b) take such measures and carry out such work as the board or Minister considers to be necessary for the suppression and destruction of noxious insects located on that land.

(2) If such an authorised officer or person exercises the functions conferred by subsection (1) in relation to any particular land, the Minister or board concerned may serve on the occupier or owner of the land a notice requiring that occupier or owner to pay to the Minister or board by a time or within a period specified in the notice an amount not exceeding the cost to the Minister or board of exercising those functions in relation to that land.

(3) If an occupier or owner of land fails to pay an amount specified in a notice served on the occupier or owner in accordance with subsection (2) by the time or within the period specified in the notice, the Minister or the board concerned may, by proceedings brought in a court of competent jurisdiction, recover that amount as a debt from that occupier or owner.

(4) The amount of any judgment recovered in proceedings brought under subsection (3), and of any costs awarded to the Minister or the board in respect of the proceedings under that subsection, are a charge on the land concerned.

(5) Such a charge may be registered in the register of causes, writs and orders kept at the office of the Registrar-General.

Authorised officer or person may enter Crown land etc. (cf. Act No. 22, 1934, s. 9)

144. (1) Any authorised officer and any person authorised by the Minister may enter Crown land or land owned by a statutory body for the purpose of finding out whether or not there are noxious insects on the land.

(2) Any such authorised officer or person who enters land in accordance with this section:

- (a) may adopt any methods prescribed by the regulations to suppress and destroy noxious insects that are on the land; and
- (b) may, if necessary, use the services of assistants for that purpose.

Crown and others not liable to pay damages for acts or omissions arising under this Part (cf. Act No. 22, 1934, s. 9A)

145. Neither the Crown nor the Minister, a board or an authorised officer is liable to pay compensation or damages for any act necessarily done or omitted to be done in the course of exercising the functions conferred or imposed by this Part.

Boards may be required to impose a levy (cf. Act No. 22, 1934, s. 10)

146. (1) The Minister may, by order published in the Gazette, require any board established for a district to impose a levy on occupiers of ratable land within the district at such rate as is specified in the order for the purpose of meeting the cost incurred by the Minister in suppressing noxious insects.

(2) If in any year a board established for a district is required by an order under subsection (1) to impose a levy on occupiers of ratable land within the district, the board must take the necessary steps to recover the levy from each of those occupiers.

(3) A board required to impose a levy under this section must:

- (a) calculate the levy according to the assessed carrying capacity of the land concerned; and
- (b) impose the levy by serving a notice on the occupier of that land.

(4) The provisions of Divisions 3 and 4 of Part 4 (which relate to the liability for, and recovery of rates), Division 5 of Part 4 (which contains supplementary provisions relating to rates) and Schedule 4 (which relates to the sale of land for the non-payment of money owing to a board) apply with necessary modifications to a levy imposed under this section in the same way as they apply to a rate levied under section 53.

(5) A board that has recovered a levy in accordance with this section must, before such time or within such period, and in such manner, as may be prescribed by the regulations or, if there are no regulations prescribing those matters, as may be directed by the Minister, pay the proceeds of the levy to the Minister as a contribution to the cost of suppressing and destroying noxious insects.

(6) The Minister may, by proceedings brought in a court of competent jurisdiction, recover from a board as a debt due to the Crown any proceeds of a levy that the board has failed to pay by the time or within the period prescribed or directed for the purposes of subsection (5).

Directors and employees of boards may be surcharged in certain circumstances (cf. Act No. 22, 1934, s. 11A)

147. (1) If:

- (a) a board is required by section 146 to impose a levy, and
- (b) by the culpable negligence or misconduct of a director or an employee of the board, the board has incurred a loss in the amount of the levy that should have been collected or recovered,

the Auditor-General may surcharge the director or employee with the amount of the loss.

(2) If the Auditor-General surcharges a director or employee of a board under subsection (1), the Auditor-General must give particulars of the surcharge to the Treasurer who may require the director or employee to pay the amount of the surcharge to the Minister.

(3) Whenever a surcharge is imposed on a director or an employee of a board under this section, the director or employee may, within the period and in the manner prescribed by the regulations, appeal against the surcharge to the District Court, or to the Local Court nearest to the board's principal place of administration.

(4) If an appeal is made in accordance with subsection (3), the court concerned must hear and determine the appeal.

(5) If on hearing such an appeal the court finds the surcharge was properly imposed, it must disallow the appeal, but if it finds that the surcharge was not properly imposed or was excessive, it must quash or reduce the surcharge.

(6) A finding under subsection (5) is final.

(7) If a director or an employee of a board on whom a surcharge is imposed under this section:

- (a) does not appeal under subsection (3) within the period prescribed by the regulations; or

(b) appeals under that subsection but the surcharge is not quashed, the Treasurer may, by proceedings brought in a court of competent jurisdiction, recover from the director or employee:

- (c) the amount of the surcharge; or
- (d) any deficiency that may remain after the appropriation of any money in the possession of the board or the Crown that is the property of the director or employee,

as the case requires.

(8) If a board or the Crown has possession of money as referred to in subsection (7) (d), the board or the Treasurer may appropriate that money in satisfaction or partial satisfaction of the surcharge imposed on the director or employee of the board.

(9) If a surcharge imposed on a director of a board is not paid within the period prescribed by the regulations, the director:

- (a) ceases to hold office as such; and
- (b) is ineligible for election or appointment as a director of a board while the amount of the surcharge is unpaid.

Minister to pay certain money into Noxious Insects Destruction Account (cf. Act No. 22, 1934, s. 11)

148. (1) The Minister must pay into an account in the Special Deposits Account to be known as the "Noxious Insects Destruction Account":

- (a) any money that the Minister has received or recovered under section 143; and
- (b) all proceeds of a levy paid or recovered under section 146; and
- (c) any money received by the Minister under section 147; and
- (d) any advance paid to the Minister in accordance with subsection (2).

(2) The Treasurer may advance money required for the purposes specified in subsection (3) (a), (b) and (c) and pay any such money to the Minister.

(3) The Minister may apply money standing to the credit of the Noxious Insects Destruction Account only:

- (a) for the purchase of materials for the suppression or destruction of noxious insects; or

- (b) for meeting the cost of suppressing and destroying noxious insects as provided by section 143 or 144; or
- (c) for paying any contribution required to be made by the State to the Australian Plague Locust Commission; or
- (d) for repaying to the Treasurer money advanced in accordance with subsection (2); or
- (e) for any other purposes related to the suppression or destruction of noxious insects.

PART 11 - RABBIT, DOG AND MARSUPIAL PROOF FENCES

Division 1 - Definition

Definition

149. In this Part, "owner", in relation to Crown land that is occupied by a person other than the Crown, means that person, and in relation to land generally, includes an executor, administrator or trustee of the estate of an owner of the land who has died.

Division 2 - Fences generally

Proof fencing (cf. Act No. 35, 1934, s. 117)

150. The Minister may, by order published in the Gazette, specify classes of fencing that are to be regarded as rabbit proof, dog proof or marsupial proof for the purposes of this Act.

Board required to issue a certificate where satisfied that a fence is rabbit proof, dog proof or marsupial proof (cf. Act No. 35, 1934, s. 118)

151. (1) The owner of land on which a fence is erected may, in writing, require the board established for the district within which the land is situated to carry out an inspection of the fence to determine whether it is rabbit proof, dog proof or marsupial proof.

(2) The board must, on being paid an inspection fee, carry out an inspection of the fence concerned.

(3) An inspection fee must not exceed the amount specified in the regulations for the purposes of this section.

(4) If, after carrying out the inspection, the board is satisfied that the fence is rabbit proof, dog proof or marsupial proof, it must issue a certificate to that effect.

(5) In any proceedings:

- (a) before a local land board in respect of a rabbit proof, dog proof or marsupial proof fence; or
- (b) in a court to recover money as a contribution towards the erection of such a fence,

a certificate issued under subsection (4) is admissible as evidence of the matters stated in the certificate.

Rabbit proof, dog proof or marsupial proof fence may be erected across a road with the board's permission (cf. Act No. 35, 1934, s. 119)

152. (1) If land is divided or bounded by a road, travelling stock reserve or public land, the local land board may, on application by an owner of the land concerned, give that owner permission to erect a rabbit proof, dog proof or marsupial proof fence across the road, reserve or public land.

(2) An application referred to in subsection (1) must be accompanied by the fee (if any) prescribed under the Crown Lands Act 1989.

(3) The persons given permission under subsection (1) must ensure that a rabbit proof, dog proof or marsupial proof gate is erected at a place where the fence crosses the road, reserve or land concerned, unless the local land board has, when giving that permission, indicated that the erection of such a gate may be dispensed with.

(4) Permission or a dispensation under this section may be given for a specified period or subject to specified conditions.

(5) The local land board may revoke any such permission or dispensation:

- (a) on being satisfied that any condition to which the permission or dispensation is subject is being or has been contravened; or
- (b) on reference by the Minister or on the application of any interested person.

(6) A gate erected in accordance with permission given under this section is to be taken to be a public gate within the meaning of the Public Gates Act 1901.

(7) Section 251A of the Local Government Act 1919 (By-passes for motor vehicles) applies to such a gate and to any road across which a fence is erected in accordance with permission given under this section.

Rabbit proof, dog proof or marsupial proof fence to be regarded as an improvement (cf. Act No. 35, 1934, s. 120)

153. (1) A rabbit proof, dog proof or marsupial proof fence on Crown land which, in the opinion of the Minister for Crown Lands, makes the land rabbit proof, dog proof or marsupial proof is, for the purposes of this section, to be taken to be an improvement the value of which is distributed equally over that land.

(2) Subsection (1) applies to a fence erected or made rabbit proof, dog proof or marsupial proof before or after the commencement of this section, but does not apply to a barrier fence erected or made rabbit proof, dog proof or marsupial proof by, or principally by, the Crown or a pastures protection board under the former Act or any enactment repealed by that Act or repealed by any such enactment.

(3) The value of a fence to which this section applies is its value to an incoming tenant of the land on which it is erected, and any purchaser or lessee of that land is required to pay an amount equal to that value in accordance with the Crown Lands Act 1989 or the Western Lands Act 1901.

The boundary of certain land need not be fenced (cf. Act No. 35, 1934, s. 122)

154. If:

- (a) land or a part of any land is bounded in part by a natural feature (such as a river or stream); and
- (b) the local land board or the rural lands protection board in whose district the land is situated has indicated in writing that it is unnecessary to erect a rabbit proof, dog proof or marsupial proof fence along that feature,

the land or part is, for the purposes of this Act, to be taken to be enclosed by a rabbit proof, dog proof or marsupial proof fence provided the remaining boundaries are adequately fenced.

Division 3 - Contributions towards fencing costs

Payment of contribution towards the cost of a rabbit proof, dog proof or marsupial proof fence (cf. Act No. 35, 1934, s. 123 (1) - (4))

155. (1) In this section, a reference to a boundary of a holding includes a reference to a part of the boundary of the holding.

(2) If:

- (a)** a boundary of a holding is fenced with a rabbit proof, dog proof or marsupial proof fence; or
- (b)** a fence on a boundary of a holding has been made rabbit proof, dog proof or marsupial proof,

at the expense of the owner of the holding, or of the owner of any land included in the holding, the owner of any land adjacent to that boundary is liable to pay to the owner who incurred the expense a contribution towards the cost of the work and materials involved.

(3) A contribution is not payable under subsection (2) if the local land board is of the opinion:

- (a)** that the rabbit proof, dog proof or marsupial proof fence has been erected, or the fence has been made rabbit proof, dog proof or marsupial proof, otherwise than in good faith for the purpose of excluding or destroying rabbits, wild dogs or marsupials; or
- (b)** that no benefit is derived from the fence by the holding from the owner of which a contribution is demanded; or
- (c)** that the nature of the holding is such that it cannot be kept rabbit proof, dog proof or marsupial proof by the erection and reasonable maintenance and repair of a rabbit proof, dog proof or marsupial proof fence.

(4) If the owner of a holding referred to in subsection (3) (b) at any time makes use of the fence as part of a rabbit proof, dog proof or marsupial proof enclosure, that owner immediately becomes liable for payment of a contribution in respect of so much of the fence as forms the boundary of that enclosure.

(5) Although the local land board may have decided that a contribution under subsection (2) is not payable because the owner of the land concerned derives no benefit from the fence for which the contribution was demanded, it may nevertheless later decide that the

holding is then deriving benefit from the fence, and if it does so, that owner immediately becomes liable to pay such a contribution.

Special provisions to apply where the contributor is the holder of a lease or licence from the Crown (cf. Act No. 35, 1934, s. 123 (6))

156. (1) If

- (a) a rabbit proof, dog proof or marsupial proof fence is erected on the boundary of a holding; and
- (b) the land adjacent to that boundary is held under:
 - (i) a yearly lease; or
 - (ii) a lease (other than a yearly lease) from the Crown that has less than 5 years to run; or
 - (iii) a licence from the Crown,

instead of a contribution under section 155, the holder of the lease or licence is liable to pay an annual rental for the fence from the date on which a claim is made by the person who, but for this section, would be liable to such a contribution.

(2) The local land board must, on the application of the owner of a holding or the holder of a lease or licence referred to in subsection (1), determine the amount of an annual rental payable under that subsection and the dates on which the rent is to be paid.

(3) The amount of annual rental payable under subsection (1) is assessable on an amount not exceeding the prescribed percentage of:

- (a) half the value of the fence at the date of the claim; or
- (b) half the value of the work of making the fence rabbit proof, dog proof or marsupial proof,

together with such further amount towards the average cost of maintaining and repairing the fence:

- (c) as the parties may agree; or
- (d) failing agreement, as the local land board, on the application of either of them, determines.

Service of notices of claim (cf. Act No. 35, 1934, s. 123 (8), (9))

157. (1) A person demanding a contribution under section 155 must serve a notice of claim:

- (a) within 12 months after the completion of the work for which the contribution is claimed; or

- (b) where the adjoining land is public land and no contribution is payable in respect of that land - within 12 months after that land ceases to be public land; or
- (c) where the adjoining land is, at the date of completion of the work for which the contribution is claimed, held under:
 - (i) a yearly lease; or
 - (ii) a lease (other than a yearly lease) from the Crown having less than 5 years to run at the date of that completion; or
 - (iii) a licence from the Crown, within 12 months after the land ceases to be so held; or
- (d) where that land then becomes public land and no contribution is paid by the Crown - within 12 months after that land becomes private land in respect of which a contribution is payable.

(2) A person who makes an application to a local land board to assess the amount of contribution payable under section 155 or the annual rental payable under section 156 must forward with the application a copy of the notice of demand or of the claim in writing, as the case may be:

- (a) to the district surveyor for the land board district within which the land is situated; or
- (b) if the applicant's holding is situated within the Western Division - to the Western Lands Commissioner.

Criteria for determining contributions payable under s. 155 (cf. Act No. 35, 1934, s. 123 (5))

158. With respect to a contribution payable under section 155, the following provisions apply:

- (a) the right to receive, and the liability to pay, such a contribution arises when the owner who is seeking payment of the contribution gives to the owner of the land outside the holding in the manner prescribed by the regulations the prescribed notice of claim as provided by section 157;
- (b) any fence which, in the opinion of the local land board, is sufficiently close to a boundary is to be treated as being on the boundary for the purpose of that section;

- (c) the local land board must, on application made in the manner, and on payment of the fee (if any), prescribed by the regulations:
 - (i) hear and determine the application; and
 - (ii) assess the amount of the contribution according to the benefit derived and to be derived from the fence;
- (d) the contribution must not exceed:
 - (i) half the value of the fence; or
 - (ii) half the value of making the fence rabbit proof, dog proof or marsupial proof;
- (e) the value of the fence or of making the fence rabbit proof, dog proof or marsupial proof, as the case may be, is to be taken to be the value at the date when the prescribed notice of demand was given;
- (f) any determination of the local land board under this section is a charge which is registrable as a charge on land in the register of causes, writs and orders kept in the office of the Registrar-General.

Owner of adjoining holding to contribute half of the cost of maintaining and repairing a dividing fence (cf. Act. No. 35, 1934, s. 124)

159. (1) An owner of land who is liable to pay or has paid a contribution towards the cost of a rabbit proof, dog proof or marsupial proof fence in accordance with a provision of this Part is also liable to pay a yearly contribution to the owner of any holding, or land included in a holding, who incurs expense in maintaining and repairing the fence.

(2) For the purposes of paying the yearly contribution, a year runs from the date or recurring date on which the notice of claim for a contribution towards the cost of erecting the fence, or making it rabbit proof, dog proof or marsupial proof, was made.

(3) The right to receive a yearly contribution payable under this section and a corresponding duty to maintain and repair the fence runs with the holding in respect of which the owner of the holding or land concerned was entitled to receive payment of the contribution towards the cost of the fence or making it rabbit proof, dog proof or marsupial proof.

(4) The liability to pay yearly contributions under this section runs with the land in respect of which the owner was liable to pay the contribution towards the cost of erecting the fence or making it rabbit proof, dog proof or marsupial proof.

(5) The amount of a yearly contribution under this section is half of the expenses incurred in maintaining and repairing the fence as agreed between the owners concerned or, if there is no such agreement, as determined by the local land board.

Crown to contribute to the cost of certain fences (cf. Act No. 35, 1934, s. 125 (1), (3))

160. (1) If:

- (a) a private rabbit proof, dog proof or marsupial proof fence has been erected or a private fence has been made rabbit proof, dog proof or marsupial proof before or after the commencement of this section; and
- (b) the fence forms a common boundary fence between private and public land; and
- (c) before or after that commencement, particulars of the fence have been given to the Minister; and
- (d) the Minister consented to the erection of the fence or to the making of the fence rabbit proof, dog proof or marsupial proof,

the Crown is liable to pay the same contribution in respect of the erection of the fence or making it rabbit proof, dog proof or marsupial proof as any private owner would be liable to pay.

(2) Subsection (1) does not apply to a barrier fence erected or made rabbit proof, dog proof or marsupial proof by or principally by the Crown or a pastures protection board under the former Act or an enactment repealed by that Act or by such an enactment.

(3) The local land board must, on application made by the Crown or the owner of private land referred to in subsection (1), determine the amount of contributions payable under this section.

Contribution to be paid to the Crown in respect of certain fences erected by the Crown etc. (cf. Act No. 35, 1934, s. 125 (2) - (6))

161. (1) If the Crown:

- (a) erects a rabbit proof, dog proof or marsupial proof fence; or
- (b) makes rabbit proof, dog proof or marsupial proof a fence,

that forms a common boundary between public and private land, the owner of the private land is liable to pay to the Crown the same contributions towards the cost of erecting the fence or making it rabbit, dog or marsupial proof, and of maintaining and repairing it, as that owner would have been liable to pay had the public land been private land.

(2) The Treasurer, on behalf of the Crown, may serve a notice of demand on the owner liable to pay a contribution under subsection (1).

(3) The local land board must, on application made by the Crown or the owner of private land referred to in subsection (1), determine the amount of contributions payable under this section.

(4) If:

- (a) the Crown has, whether before or after the commencement of this section, erected, or made rabbit proof, dog proof or marsupial proof, a fence which forms a common boundary between public and private land; and
- (b) no notice of claim has been given within the period prescribed by section 157,

the board established for the district in which the fence or any part of it is located must maintain the fence or that part of it in a good state of repair.

(5) That board may, for the purpose of defraying any costs incurred in connection with the maintenance or repair of any such fence, fix a special rate and levy that rate on owners of land within the district or within any part of the district approved by the Minister.

(6) A board:

- (a) must not fix a special rate under subsection (5) that exceeds the rate prescribed by the regulations; and
- (b) must fix such a rate by resolution of the board and levy the rate by service of rate notices; and

- (c) must calculate the rate according to the carrying capacity of the land concerned.

Fencing of travelling stock reserves (cf. Act No. 35, 1934, s. 126)

162. (1) If the board established for a district considers it necessary to do so for the proper protection or improvement of a travelling stock reserve, it may, by notice in writing served on the owner of any land adjoining the reserve or separated from the reserve only by a road, require that owner within a period specified in the notice:

- (a) to erect on the common boundary of the land and the reserve or road a fence sufficient for the purpose of preventing the passage of any kind of stock specified in the notice; or
- (b) to alter or repair any fence already erected on the common boundary so as to make it sufficient for that purpose; or
- (c) to erect on the common boundary a rabbit proof, dog proof or marsupial proof fence, or to make rabbit proof, dog proof or marsupial proof any fence already erected on that boundary.

(2) If the owner of land referred to in subsection (1) is required in accordance with that subsection to erect, alter or repair a fence, or to make a fence rabbit proof, dog proof or marsupial proof, that owner is entitled to recover from the board concerned a contribution not exceeding:

- (a) half the reasonable cost of erecting, altering or repairing the fence or, as the case may be, making the fence rabbit proof, dog proof or marsupial proof; and
- (b) subsequently, half of the cost of maintaining the fence.

(3) Subsection (2) does not apply where:

- (a) the Minister has, by notice published in the Gazette, approved the service of a notice under subsection (1) requiring work of a kind referred to in that subsection to be carried out at the full expense of the owner of land referred to in that subsection; and
- (b) the notice served in accordance with subsection (1) states that the Minister has approved the service of the notice.

(4) If an owner on whom a notice is served in accordance with subsection (1) fails to comply with the notice within the period specified in it, the board concerned:

- (a) may cause the fence to be erected, altered or repaired or, as the case may be, made rabbit proof, dog proof or marsupial proof; and
- (b) may, by proceedings brought in a court of competent jurisdiction, recover from the owner an amount equal to:
 - (i) half of the cost so incurred; and
 - (ii) where that board maintains the fence - half of the cost of maintaining the fence in a good state of repair.

(5) If the service of a notice under subsection (1) has been approved by the Minister as referred to in subsection (3), the board concerned may, by proceedings brought in a court of competent jurisdiction, recover from the owner on whom the notice was served an amount equal to:

- (a) the full cost incurred by the board in erecting, altering or repairing the fence or, as the case may be, making it rabbit proof, dog proof or marsupial proof; and
- (b) where the board maintains the fence - the full cost of maintaining the fence in a good state of repair.

(6) Schedule 4 applies to an amount or any part of an amount recovered under subsection (4) or (5) that remains unpaid after the expiration of 5 years from the date of the judgment or order of the court concerned.

(7) If the owner of land referred to in subsection (1) and a board fail to reach an agreement with respect to a cost recoverable under this section, either of them may apply to the local land board to determine the matter.

(8) On receiving an application under subsection (7), the local land board must hear and determine the application.

(9) This section does not apply to:

- (a) the holder of a yearly lease; or
- (b) a lessee under a lease from the Crown (other than a yearly lease) where the lease has at the relevant date less than 5 years to run; or
- (c) a licensee under a licence from the Crown.

Roads or watercourses not to be regarded as intervening between holdings for the purposes of this Part (cf. Act No. 35, 1934, s. 127)

163. The intervention of a road or watercourse between 2 holdings does not prevent holdings or land being taken to be adjoining, or prevent a claim for a contribution under this Part being brought in respect of a fence on either side of the road or watercourse:

- (a) if the fence is used as a common boundary fence by the owners of the holdings on either side of it; or
- (b) if, in the opinion of the local land board, the fence can be reasonably used as a common boundary fence by the owners of the holdings on either side of it.

Recovery of contribution towards the cost of maintaining or repairing certain fences (cf. Act No. 35, 1934, s. 128)

164. (1) If:

- (a) a rabbit proof, dog proof or marsupial proof fence serves as a boundary between 2 holdings; and
- (b) the owner of either of those holdings incurs expense in respect of work required to maintain or repair the fence,

that owner:

- (c) may serve on the person who owns the other of those holdings the notice of demand prescribed by the regulations; and
- (d) on so doing, is entitled to a contribution from that person towards the cost of the work.

(2) If the owners of the holdings referred to in subsection (1) cannot reach agreement as to the amount of the contribution payable under that subsection, then either of them may apply to the local land board to assess that amount.

(3) On receiving an application under subsection (2), the local land board must hear and determine the application.

(4) For the purpose of this section, the amount of a contribution to which the owner of a holding is entitled under subsection (1) is half the reasonable cost of the work involved in maintaining or repairing the fence.

(5) If:

- (a) a boundary fence is not being maintained as an effective rabbit proof, dog proof or marsupial proof fence; and
- (b) it is necessary to carry out maintenance or repair work on the fence,

the owner of the holding on either side of the fence may, personally or through agents or employees, carry out that work and, for that purpose, any of them may enter the land of the owner of the adjoining holding.

(6) This section applies only to work carried out on fences for which the local land board has made a determination with respect to the original cost of erecting the fence or making that fence rabbit proof, dog proof or marsupial proof.

Division 4 - Barrier fences

Board may erect barrier fences (cf. Act No. 35, 1934, s. 129)

165. (1) The board established for a district may:

- (a) erect a rabbit proof fence on any land or across a road or travelling stock reserve, or make rabbit proof any fence then existing on any land or across a road or travelling stock reserve; and
- (b) make gates in any such fence for the passage of persons and their stock; and
- (c) if any such fence is erected across a road - erect a by-pass for vehicles at the place where the fence intersects the road; and
- (d) co-operate with the board established for any other district with respect to carrying out any work referred to in this subsection.

(2) In subsection (1), a reference to land includes:

- (a) private as well as public land; and
- (b) land both inside and outside the board's district.

(3) For the purposes of this Act, the Minister may, by notice published in the Gazette, declare to be a barrier fence any fence erected or made rabbit proof before or after the commencement of this section by a board, the Crown or any other person.

(4) The Minister may, by notice published in the Gazette, cancel or amend a declaration in force under subsection (3).

(5) If a declaration under subsection (3) relating to a fence erected or made rabbit proof by or at the expense of the Crown or a board is cancelled, the owner of any land that derives benefit from the fence must, in accordance with subsection (9), pay to the Minister on behalf of the Crown or, as the case may be, to the board an amount of money

equal to the value of so much of the fence as is located within, or on, the boundary of that land.

- (6) For the purposes of subsection (5):
- (a) the value of the fence in a case where an existing fence has been made rabbit proof by or at the expense of the Crown or a board is to be taken to be the value of the improvements to the fence that made it rabbit proof; and
 - (b) the value of any part of a fence within land referred to in that subsection is the value of the fence to the owner of that land; and
 - (c) the value of any part of the fence located on a boundary of that land is the value at the date of the cancellation of the declaration.

(7) The value of a fence referred to in subsection (5) is the value agreed on between the Minister or the board and the owner of the land concerned, but if agreement cannot be reached, either of them may apply to the local land board to determine that value.

(8) On receiving an application under subsection (7), the local land board must hear and determine the application.

(9) Payment under subsection (5) must be made as and when the Minister or the board or, as the case may be, the local land board directs.

Board liable to compensate owner of land with respect to the erection etc. of a barrier fence only in limited circumstances (cf. Act No. 35, 1934, s. 130)

166. (1) A board is not liable to pay, or make compensation for, anything lawfully done in the course of exercising its functions under section 165, other than for damage arising in consequence of the erection on private land of a barrier fence.

(2) A person claiming to be entitled to compensation for damage referred to in subsection (1) may apply to the local land board to determine the claim.

(3) On receiving an application under subsection (2), the local land board must hear and determine the claim to which the application relates and, in so doing, must take into account and set off any benefit that has accrued to the applicant's land in consequence of the construction of the fence concerned.

Contribution to be made for erection or improvement of a boundary fence (cf. Act No. 35, 1934, s. 131)

167. If a board:

- (a) erects a barrier on the common boundary of its district and any adjoining district; or
- (b) converts an existing fence on that boundary into a barrier fence,

the board may, by proceedings brought in a court of competent jurisdiction, recover from the board established for the adjoining district an amount of money equal to half the cost of erecting, maintaining and repairing the fence.

Purchaser or lessee of Crown land to make a payment for a barrier fence erected on the land (cf. Act No. 35, 1934, s. 132)

168. (1) If

- (a) a barrier fence is located within or on the boundary of Crown land; and
- (b) the fence is an improvement owned wholly or partly by the Crown or a board,

a person who becomes the purchaser or lessee of the land is liable to pay an amount of money equal to the value of the part of the fence that is located within or on the boundary of the land.

(2) A payment under subsection (1) must be made to the Crown, the board or any other owner of the barrier fence concerned according to their respective interests in the fence.

(3) For the purposes of subsection (1):

- (a) the value of a part of a barrier fence within the boundary of land referred to in that subsection is its value to the purchaser or lessee; and
- (b) the value of any part of that fence on a boundary of the land is the value at the date of the purchase or lease.

Duty of a board to maintain and repair barrier fences (cf. Act No. 35, 1934, s. 133)

169. (1) A board that:

- (a) has erected a barrier fence or converted a fence into a barrier fence; or

- (b) has participated in the erection of a barrier fence or in the conversion of a fence into a barrier fence,

must maintain it in a good state of repair.

(2) If:

- (a) a barrier fence has been erected, or a fence has been converted into a barrier fence (either before or after the commencement of this section); and
- (b) the fence is wholly or partly within the boundaries of a district; and
- (c) the erection or conversion was carried out at the expense or mainly at the expense of the Crown,

the board established for the district must maintain in an effective manner so much of the fence as is within or on those boundaries and keep it in good repair.

(3) If a fence of the kind referred to in subsection (2) is on the common boundary of 2 districts:

- (a) the boards of those districts may enter into an agreement as to which of the boards is required to maintain and repair the fence; and
- (b) where the boards are unable to reach agreement - the board named by the Minister must maintain the fence and keep it in good repair.

(4) A board required by subsection (3) (b) to maintain and repair a fence may, by proceedings brought in a court of competent jurisdiction, recover from the other board concerned an amount equal to half the cost incurred in maintaining and repairing the fence.

(5) A board:

- (a) may stop maintaining and repairing a barrier fence which it considers to be no longer necessary, or
- (b) may cause the continuity of the fence to be broken if it is satisfied:
 - (i) that it is in the public interest that the continuity of the fence should be broken; and
 - (ii) that the effectiveness of the fence will not be endangered as a result.

(6) If a board has entered into an agreement with another board with respect to the maintenance and repair of a fence, it may exercise a power conferred by subsection (5) only with the consent of the other board.

Arbitration of disputes between boards (cf. Act No. 35, 1934, s. 134)

170. (1) If a dispute between 2 or more boards arises as to:

- (a) the payment of any money required to be paid under a provision of this Part; or
- (b) the doing of any act required to be done under such a provision; or
- (c) the carrying out of any agreement made between those boards under this Part,

either or any of those boards may refer the dispute to the Minister for determination.

(2) As soon as practicable after a dispute is referred to under subsection (1), the Minister must determine the dispute.

(3) Before determining the dispute, the Minister may, but is not obliged to, refer the dispute to the local land board for investigation and report.

(4) If the Minister has referred a dispute to a local land board in accordance with subsection (3), that board must immediately carry out an investigation of the matters in dispute and, on completion of the investigation, report its findings to the Minister.

(5) On receiving a report in accordance with subsection (4), the Minister may, instead of proceeding to determine the dispute, refer the dispute, together with the report, to the Land and Environment Court for determination.

(6) If a dispute has been referred to the Land and Environment Court in accordance with subsection (5), the Court must make such award in respect of it as it considers fair.

(7) An award under subsection (6) is final.

Division 5 - Procedural matters

Jurisdiction of land board not to be ousted in certain cases (Act No. 35, 1934, s. 135)

171. (1) In any proceedings under this Part, the jurisdiction of the local land board before which the proceedings are brought is not capable of being ousted on the ground that the defendant or respondent in the proceedings does not reside within the boundaries of the jurisdiction of that board.

(2) However, if:

- (a) the defendant or respondent in proceedings before a local land board does not reside in the land district for which that board is constituted; and
- (b) the proceedings or a significant part of the proceedings relate to land,

the local land board does not have jurisdiction to hear or determine the proceedings, unless the land is situated within that land district.

Local land board may allow time for payment (cf. Act No. 35, 1934, s. 136)

172. (1) In proceedings under this Part brought before a local land board for the determination of any contribution, value or other sum of money, the board may allow time for payment of the money involved.

(2) If a local land board decides in accordance with subsection (1) to allow time for payment of money, it may:

- (a) determine that the money may be paid in instalments; and
- (b) where it does so, fix the amounts of the instalments and the dates by which they are payable; and
- (c) order interest at a rate not exceeding that prescribed by the regulations for the purposes of this subsection to be paid on that money.

(3) If a local land board exercises the power conferred by subsection (2), the money concerned becomes payable by instalments and on the dates fixed under that subsection.

Right of appeal to the Land and Environment Court against decisions of a local land board (cf. Act No. 35, 1934, s. 137)

173. (1) Nothing in this Act limits the right of any party who is dissatisfied with the decision or determination of a local land board under this Part to appeal to the Land and Environment Court against that decision or determination in accordance with section 26 of the Crown Lands Act 1989.

(2) A local land board and the Minister administering this Act have the same rights and powers to refer matters to the Land and Environment Court as the local land board and the Minister for Crown Lands have under sections 27 and 28 of the Crown Lands Act 1989.

Effect of money being charged on private land by a provision of this Act (cf. Act No. 35, 1934, s. 140)

174. (1) Whenever, by a provision of this Act, an amount of money is expressed to be charged on private land and:

- (a) in the case of land subject to the Real Property Act 1900 - an instrument securing the amount charged is registered under that Act; or
- (b) in the case of land not subject to that Act - such an instrument is registered in the register of causes, writs and orders kept in the office of the Registrar-General or in any other manner prescribed by regulations in force under the Conveyancing Act 1919,

any person who later becomes owner of the land:

- (c) is to be regarded as having had notice of the charge; and
- (d) is liable to pay the money so charged, or so much of it as remains outstanding, as if the person were the person originally liable.

(2) Subsection (1) does not have the effect of discharging the liability of a person who was originally or previously liable under a charge referred to in that subsection.

Mortgagee may recover money spent on the erection etc. of a rabbit proof, dog proof or marsupial proof fence (cf. Act No. 35, 1934, s. 141 (1))

175. A mortgagee may add to the debt secured by the mortgage any money spent or contributed by or recovered from the mortgagee:

- (a) for:
 - (i) erecting a rabbit proof, dog proof or marsupial proof fence; or
 - (ii) making a fence rabbit proof, dog proof or marsupial proof,
on or close to the land that is subject to the mortgage; or
- (b) for the maintenance or repair of any such fence.

Trustee may apply capital money for the erection etc. of a rabbit proof, dog proof or marsupial proof fence (cf. Act No. 35, 1934, s. 141 (2))

176. If the owner or the person entitled to immediate possession of land is a trustee, whether for a minor or persons in succession or otherwise, the trustee may use capital money of the trust for the purpose of:

- (a) erecting a rabbit proof, dog proof or marsupial proof fence; or
- (b) making a fence rabbit proof, dog proof or marsupial proof,
on or close to the land that is subject to the trust, or in paying contributions determined under this Act in respect of such a fence.

Powers of the Minister with respect to fences (cf. Act No. 35, 1934, s. 142)

177. (1) The Minister may refer to a local land board any question as to:

- (a) the giving of the Minister's consent to:
 - (i) erecting a rabbit proof, dog proof or marsupial proof fence on a boundary common to private land and public land; or
 - (ii) making a fence, already erected on such a boundary, rabbit proof, dog proof or marsupial proof; or
- (b) any matter requiring the Minister's approval under this Part; or
- (c) any other matter which the Minister considers necessary or appropriate to be inquired into for the purposes of this Part.

(2) On receiving a reference under subsection (1), the local land board concerned must:

- (a) inquire into the question referred; and
- (b) as soon as practicable after the inquiry is completed - report its findings to the Minister in writing.

Division 6 - Offences under Part 11

Offence to interfere with a rabbit proof, dog proof or marsupial proof fence (cf. Act No. 35, 1934, s. 143 (1))

178. Any person who:

- (a) intentionally, recklessly or negligently causes damage to, or in any way interferes with:
- (i) a rabbit proof, dog proof or marsupial proof fence; or
 - (ii) a fence erected on the boundary of a travelling stock reserve; or
 - (iii) a fence erected on the boundary of a holding separated from a travelling stock reserve only by a road; or
- (b) erects breaks against a fence referred to in paragraph (a),
is guilty of an offence.

Maximum penalty: 20 penalty units.

Obstructing by-pass in a fence (cf. Act No. 35, 1934, s. 143 (2))

179. If a board has created a by-pass for vehicles to pass through a fence, any person who obstructs or causes the by-pass to be obstructed is guilty of an offence.

Maximum penalty: 20 penalty units.

PART 12 - IDENTIFICATION OF STOCK

Division 1 - Definitions

Definitions

180. In this Part:

"board brand design" means a brand design registered under section 181;

"district registrar", in relation to a district means:

- (a) the secretary of the board established for the district; or
- (b) if the holder of some other office is designated by the regulations as the district registrar for that district, the holder of that office;

"stock" includes deer and any kind of animal declared by the regulations to be stock for the purposes of this Part;

"symbol brand design" means a brand design registered under section 182.

Division 2 - Large stock

Registration of brand designs for application to large stock (cf. Act No. 14, 1921, s. 7)

181. (1) Any person who owns large stock that are kept within a district may make an application to the district registrar for the allocation and registration of a brand design for use in connection with those stock.

(2) An application under this section must:

(a) be in writing and contain the particulars specified in the regulations; and

(b) be accompanied by the fee (if any) so specified.

(3) On receipt of an application made in accordance with this section, the district registrar concerned must:

(a) allocate to the applicant a board brand design in the form prescribed by the regulations; and

(b) register the applicant as the proprietor of that design; and

(c) issue to the applicant a certificate of registration in the form so prescribed.

(4) A registered board brand design is not transferable except as provided by this Part.

Symbol brand designs may be registered under certain conditions

182. (1) If a symbol brand design was registered under Part 4 of the Registration of Stock Brands Act 1921 immediately before 1 August 1989, the registration of the design continues in force under this section until the date fixed in accordance with subsection (8) and then expires unless the design is registered under this section before that date.

(2) Any person who owns large stock that are kept within a district and who claims to be the proprietor of a symbol brand design referred to in subsection (1) may make an application to the district registrar to be registered under this section as the proprietor of that design.

(3) An application under this section must:

- (a) be in writing and contain the particulars specified in the regulations;
- (b) subject to subsection (6), be accompanied by the fee (if any) so specified.

(4) An application under this section may not be entertained if made after the date fixed under subsection (8).

(5) If, on receipt of an application under this section, the district registrar concerned is satisfied that the symbol brand design referred to in the application is one to which subsection (1) applies and there are no grounds for refusing the application, the registrar must:

- (a) register the applicant as the registered proprietor of the design; and
- (b) issue to the applicant a certificate of registration in the form prescribed by the regulations.

(6) If a district registrar to whom an application is made under this section is satisfied that the applicant was, immediately before the repeal by this Act of the Registration of Stock Brands Act 1921, the registered proprietor of the symbol brand design referred to in the application, no fee is payable in respect of the application.

(7) If:

- (a) 2 or more persons make applications under this section for the registration of the same symbol brand design; and
- (b) either or any of those persons was registered as the proprietor of the design immediately before the repeal by this Act of the Registration of Stock Brands Act 1921,

the person who was so registered has a prior right to be registered under this section as the proprietor of the design.

(8) The Governor may, by proclamation, fix a date after which no applications under this section may be entertained.

(9) A district registrar must not register a symbol brand design under this section for use in connection with large stock if of the opinion that the design is identical with or likely to be confused with any other symbol brand design that is already registered under this section, whether by that district registrar or by another district registrar.

(10) If a symbol brand design is registered under this section, the district registrar concerned may require the registered proprietor of

the design to apply for the registration of another design on the ground that the first-mentioned design is identical with or likely to be confused with another symbol brand design that is already registered under this section, whether by that district registrar or by another district registrar.

(11) If a requirement under subsection (10) is not complied with within the period specified by the district registrar concerned, that registrar may cancel the registration of the symbol brand design to which the requirement relates.

Registration of earmark designs for application to cattle and deer

183. (1) Any person who owns cattle or deer that are kept within a district may make an application to the district registrar to be registered as the proprietor of an earmark design for use in relation to those cattle or deer.

(2) An application under this section must:

- (a) be in writing and contain the particulars specified in the regulations; and
- (b) be accompanied by the fee (if any) so specified.

(3) On receipt of an application made in accordance with this section, the district registrar concerned must, if satisfied that the applicant is the proprietor of the earmark design referred to in the application and there are no grounds for refusing the application:

- (a) register the applicant as the proprietor of the design; and
- (b) issue to the applicant a certificate of registration in the form prescribed by the regulations.

(4) A person who is the registered proprietor of an earmark design for use in connection with small stock is to be taken to be also the registered proprietor of that design for use in connection with cattle or deer owned by that person.

(5) An earmark design registered under this section is not transferable except as provided by this Part.

(6) A district registrar must not register an earmark design for use in connection with cattle or deer kept within the district if of the opinion that the design:

(a) is identical with or likely to be confused with; or
(b) could be cut out by or could cut out,
any other earmark of a design that is already registered in the register kept by that registrar.

(7) If:

- (a) an earmark design is registered under this section for use in connection with cattle or deer; or
- (b) an application has been made for the registration of such a design,

the district registrar concerned may require the registered proprietor or applicant to modify the design on the ground that it is identical with or likely to be confused with another design that is already registered in the register kept by that registrar.

(8) If a requirement under subsection (7) is not complied with within the period specified by the district registrar concerned, that registrar may cancel the registration of the earmark design or, as the case may be, may refuse the application.

Directory of symbol brand particulars to be published periodically (cf. Act No. 14, 1921, s. 9)

184. As soon as practicable after the end of each period prescribed by the regulations for the purposes of this section, the Minister or, if the Minister requires it to do so, the Council of Advice must publish a directory containing the particulars specified in the regulations of symbol brand designs registered under section 182 at the end of that period.

Transfer of ownership of brand and earmark designs used for large stock

185. (1) The proprietor of a registered board brand design or a registered earmark design may, in accordance with this section, transfer the design to any person who keeps large stock within the district where the design is registered.

(2) Any such transfer that purports to be to any other person has no effect.

(3) The proprietor of a registered symbol brand design may, in accordance with this section, transfer the design to any other person.

(4) A transfer of a registered board brand design, registered symbol brand design or a registered earmark design for use in connection with large stock does not take effect until it is registered under this section.

(5) An application for the registration of such a transfer must be lodged with the appropriate district registrar and must:

- (a) be in writing and contain the particulars specified in the regulations; and
- (b) be accompanied by:
 - (i) the transfer document; and
 - (ii) the current certificate of registration for the design to which the transfer relates; and
 - (iii) the transfer fee (if any) prescribed by the regulations.

(6) If an application for the registration of the transfer of a symbol brand design referred to in subsection (3) is lodged with the appropriate district registrar and it appears to that registrar that the transferee proposes to use the design on large stock kept in another district, that registrar must:

- (a) transmit the application to the registrar for that other district, together with all records pertaining to the registration of the design; and
- (b) make an appropriate entry in the district register to the effect that the registration of the design has been so transmitted.

(7) Whenever an application for the registration of the transfer of a registered board brand design or registered earmark design is lodged with a district registrar in accordance with this section, the registrar must, if satisfied that the transferee is entitled to be registered as proprietor of that design:

- (a) register the transfer; and
- (b) issue to the transferee a certificate of registration certifying the transferee as the registered proprietor of that design.

(8) Whenever:

- (a) an application for the registration of the transfer of a registered symbol brand design is lodged with the appropriate district registrar and subsection (6) does not apply; or
- (b) subsection (6) applies and such an application and the related records have been transmitted to another district registrar in accordance with that subsection,

the appropriate district registrar or, as the case may be, that other district registrar must, if satisfied that the transferee is entitled to be registered as the proprietor of the design:

- (c) register the transfer; and
- (d) issue to the transferee a certificate of registration certifying the transferee as the registered proprietor of that design; and
- (e) notify the Council of Advice of the registration of the transfer.

(9) For the purposes of this section, the appropriate district registrar, in relation to a registered board brand design, a registered symbol brand design or a registered earmark design, is the district registrar who keeps the register in which the design is registered.

Permitted sizes and positions of brands, earmarks and ear tattoos for use on large stock

186. (1) A person must not apply:

- (a) to a large stock animal a firebrand, freezebrand or ear tattoo containing a character or mark that is not in accordance with the dimensions specified in the regulations; or
- (b) a brand of a registered design to any part of such an animal other than a part specified in the regulations.

Maximum penalty: 20 penalty units.

(2) A person must not apply a registered earmark to cattle or deer:

- (a) unless the earmark is of the dimensions, and is one of the shapes, specified in the regulations; or
- (b) except on the ear specified in the regulations.

Maximum penalty: 20 penalty units.

Distinctive brands and earmarks may be applied to large stock

187. (1) The proprietor of a registered brand design may apply a distinctive brand or distinctive brands to that proprietor's large stock to denote their age or class.

(2) The proprietor of a registered earmark design may apply a distinctive earmark to that proprietor's cattle or deer to denote their age or class.

(3) A person must not apply a distinctive earmark to cattle or deer, except on the ear specified in the regulations.

Maximum penalty: 20 penalty units.

Division 3 - Small stock

Small stock to be earmarked (cf. Act No. 35, 1934, s. 144)

188. (1) The owner of all small stock that are more than 6 months old must ensure that the stock are earmarked as prescribed by the regulations.

Maximum penalty: 20 penalty units.

(2) Subsection (1) does not apply to small stock of a class declared by the regulations to be exempt from the operation of that subsection or to small stock in circumstances prescribed by the regulations.

(3) If the regulations prescribe conditions to be complied with in relation to small stock declared to be exempt from the operation of subsection (1), the exemption has effect only while the conditions are complied with.

Owners of small stock to register brand and earmark designs (cf. Act No. 35, 1934, s. 145 (1), (2))

189. (1) The owner of small stock must ensure that no brand or earmark is applied to the stock, unless the brand or earmark is of a design that is registered in accordance with this Part or its use in connection with small stock is otherwise authorised by this Part or the regulations.

(2) An owner of small stock who, without reasonable excuse, fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

Registration of brand and earmark designs for application to small stock (cf. Act No. 35, 1934, ss. 145 (3), 146)

190. (1) Any person who owns small stock that are kept within a district may make an application to the district registrar to be registered as the proprietor of a specified brand design or a specified earmark design, or both, for use in relation to those small stock.

(2) An application under this section must:

(a) be in writing and contain the particulars specified in the regulations; and

(b) be accompanied by the fee (if any) so specified.

(3) On receipt of an application made in accordance with this section, the district registrar concerned must, if satisfied that the applicant is the proprietor of the brand or earmark design referred to in the application and there are no grounds for refusing the application:

- (a) register the applicant as the proprietor of that design; and
- (b) issue to the applicant a certificate of registration in the form so prescribed.

(4) A brand or earmark design registered under this section is not transferable except as expressly provided by this Part.

(5) A district registrar must not register a brand design or an earmark design for use in connection with small stock kept within the district if of the opinion that the design is identical with or likely to be confused with any other brand or earmark of a design that is already registered in the register kept by that registrar.

(6) If:

- (a) a brand design or an earmark design is registered for use in connection with small stock kept within a district; or
- (b) an application has been made for the registration of such a design,

the district registrar concerned may require the registered proprietor or applicant to modify the design on the ground that the design is identical with or likely to be confused with another design that is already registered in the register kept by that registrar.

(7) If a requirement made under subsection (6) is not complied with within the period specified by the district registrar concerned, that registrar may cancel the registration of the brand design or earmark design or, as the case may be, may refuse the application.

(8) The capital letter T is not registrable as a colour brand design for small stock but such a design may be used as a firebrand on the horns of small stock.

Transfer of ownership of brand and earmark designs used for small stock (cf. Act No. 35, 1934, s. 145 (4))

191. (1) The proprietor of a brand design or an earmark design registered under section 190 may, in accordance with this section,

transfer the design to any person who keeps small stock within the district where the design is registered.

(2) Any such transfer that purports to be to any other person has no effect.

(3) A transfer under this section does not take effect until it is registered.

(4) An application for the registration of such a transfer must be lodged with the district registrar who keeps the register in which the design is registered and must:

- (a) be in writing and contain the particulars (if any) specified in the regulations; and
- (b) be accompanied by:
 - (i) the transfer document; and
 - (ii) the current certificate of registration for the design; and
 - (iii) the fee (if any) prescribed by the regulations.

(5) Whenever an application for the registration of the transfer is lodged with a district registrar in accordance with this section, the registrar must, if satisfied that the transferee is entitled to be registered as the proprietor of the brand or earmark design concerned:

- (a) register the transfer; and
- (b) issue to the transferee a certificate of registration certifying the transferee as the registered proprietor of that design.

Permitted sizes and positions of brands and earmarks for use on small stock (cf. Act No. 35, 1934, s. 155 (1) - (4))

192. (1) A person must not apply:

- (a) to any small stock animal a firebrand or colour brand containing a character or mark that is smaller than the dimensions specified in the regulations; or
- (b) a brand of a registered design to any part of the animal other than a part specified in the regulations.

Maximum penalty: 20 penalty units.

(2) A raddle mark may be applied to any part of a small stock animal so long as it does not obliterate or deface a brand of a registered design that has been applied to the animal.

(3) A person must not apply to a small stock animal an earmark of a registered design:

- (a) unless the earmark is of the dimensions, and is one of the shapes, specified in the regulations; or
- (b) except on the ear so specified.

Maximum penalty: 20 penalty units.

Distinctive earmarks may be applied to small stock (cf. Act No. 35, 1934, ss. 154, 155 (5))

193. (1) The proprietor of a registered earmark design may apply a distinctive earmark to that proprietor's small stock to denote their age or class.

(2) A person must not apply a distinctive earmark to small stock, except on the ear specified in the regulations.

Maximum penalty: 20 penalty units.

Division 4 - Supplementary provisions

District registrar to keep a register of brand and earmark designs (cf. Act No. 35, 1934, ss. 147, 150)

194. (1) Each district registrar must keep a register of brand and earmark designs registered for use on large and small stock kept within the district.

(2) A district registrar must enter in the register kept under this section such particulars of each registered brand design and each registered earmark design as are prescribed by the regulations.

(3) The Governor may, by order published in the Gazette, direct a district to be divided into subdistricts for the purposes of this Part.

(4) If a district is divided in accordance with subsection (3):

- (a) the district registrar must keep a separate register in respect of each subdistrict; and
- (b) for the purposes of this Part, each subdistrict is to be treated as a district.

(5) A certificate purporting to be issued by a district registrar:

- (a) to the effect that a specified brand or earmark design is or is not registered for use on a holding within the district; and

- (b) where the design is so registered, specifying particulars of the registration,

is evidence of the matters set out in the certificate.

(6) It is the responsibility of the appropriate district registrar to decide any question that arises as to:

- (a) whether or not a person should be registered as the proprietor of a brand design or earmark design; or
- (b) whether or not a transfer or transmission of such a design should be registered; or
- (c) whether or not the registration of a person as proprietor of such a design should be cancelled.

(7) The responsibility of a district registrar under subsection (6) is subject to the right to have a matter concerning the registration of a brand design or earmark design considered and determined under section 198.

Death of registered proprietor of a brand or earmark design (cf. Act No. 35, 1934, s. 152 (1), (2))

195. (1) If the person who is the registered proprietor of a brand or earmark design dies, the executor or administrator of that person's estate is entitled to use the design for a period of 6 months after the person's death.

(2) Within the period of 6 months referred to in subsection (1), the executor or administrator concerned may make an application to the appropriate district registrar:

- (a) to be personally registered as the proprietor of the brand or earmark design; or
- (b) for the person beneficially entitled to the design to be registered as the proprietor of the design.

(3) An application under this section must:

- (a) be in writing and contain the particulars specified by the regulations; and
- (b) be accompanied by:
 - (i) the current certificate of registration for the design; and
 - (ii) evidence of the death of the registered proprietor and that the applicant is entitled to be registered as proprietor of the design; and

(iii) the fee (if any) prescribed by the regulations.

(4) An application under this section may be refused on the ground that the applicant, or the person on whose behalf the application is made, does not propose to use the brand or earmark design concerned within the same district as that in which that design is currently registered.

(5) Subsection (4) does not apply to a registered symbol brand design.

Annual fee to be paid by the registered proprietor of a brand or earmark design

196. (1) A person who is registered as the proprietor of a brand or earmark design, but who is not a ratepayer for the district concerned, must, not later than the date in each year prescribed by the regulations, pay to the appropriate district registrar an annual fee for continuance of the registration.

(2) For the purposes of subsection (1), the annual fee is a fee of an amount prescribed by the regulations.

Cancellation of registration of brand or earmark design (cf. Act No. 14, 1921, s. 12; Act No. 35, 1934, s. 151)

197. (1) A district registrar may cancel the registration of a brand or earmark design registered in the register kept by the registrar if, on inquiry, the registrar is satisfied that:

- (a) the proprietor of the design no longer has any use for it; or
- (b) the proprietor of the design is a natural person who has died and the executor or administrator of that person's estate has not, within 6 months after the death of that person, applied to the registrar for that person's beneficiary or nominee to be registered as the proprietor of the design; or
- (c) the proprietor of the design is a corporation or partnership which has been dissolved; or
- (d) the proprietor of the design (not being a symbol brand design) no longer keeps stock within the district concerned and no application for the transfer of the design to another person who keeps stock within that district has been lodged with the registrar within the prescribed period after the proprietor has ceased to keep stock within that district.

(2) A district registrar may cancel the registration of a brand or earmark design at the request of its proprietor.

(3) A district registrar may cancel the registration of a brand or earmark design if the proprietor of the design has failed to comply with section 196 and the period prescribed by the regulations for the purposes of that section has elapsed without the failure being rectified.

Resolution of disputes arising out of the registration etc. of a brand or earmark design

198. (1) If a person who is or claims to be the proprietor of, or have some other interest in, a brand or earmark design is dissatisfied with a decision of a district registrar under this Part, the person may make an application to the Minister in writing under this section to consider and determine the matter.

(2) On receiving an application under this section, the Minister may either:

- (a) personally consider and determine the application; or
- (b) refer the application for consideration and determination by the Chief of the Division of Animal Health or some other specified officer.

(3) The Minister may decline to deal with an application under this section if of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

(4) As soon as practicable after an application is referred under subsection (2) (b), the Chief of the Division of Animal Health or other officer to whom the application is referred must consider and determine the application.

(5) A determination under this section may confirm, reverse or modify the decision of the district registrar concerned and is binding on the applicant and that district registrar.

Offences relating to the use of brands and earmarks (cf. Act No. 35, 1934, s. 157)

199. (1) Any person who:

- (a) being the proprietor of a registered brand or earmark design or acting with the authority of that proprietor, applies a brand or earmark of that design to stock that that proprietor does not own; or

- (b) applies a brand or earmark of a design of which the person is not the registered proprietor to stock without the consent of the proprietor of that design; or
- (c) except as otherwise authorised by this Part, applies to stock a brand or earmark of a design that is not registered under this Part; or
- (d) destroys or defaces a brand that has been applied to any stock; or
- (e) alters an earmark that has been applied to any cattle, deer, sheep or goat; or
- (f) applies an additional earmark on the same ear of any cattle, deer, sheep or goat to which an earmark of a registered design has been applied; or
- (g) alters a brand on any stock, either by the alteration of an existing brand on the animal or by the addition of some other brand, otherwise than authorised by the regulations; or
- (h) cuts off or cuts out more than one quarter of the ear of any cattle, deer, sheep or goat; or
- (i) applies a registered earmark to any cattle, deer, sheep or goat with an instrument other than ear pliers of a type and size specified in the regulations,

is guilty of an offence.

Maximum penalty: 20 penalty units.

(2) If, in proceedings against a person for an offence against subsection (1), it is proved:

- (a) that the act constituting the offence was committed; and
- (b) that the animal in relation to which the act was committed had, for not less than 2 months before the person was charged with the offence, been on a holding occupied by that person:
 - (i) without the person having given notice of the act to the rightful owner of the animal or to a member of the Police Force or the appropriate district registrar; or
 - (ii) if the animal is the person's own property, without having given notice of the act to a member of the Police Force or the appropriate district registrar,

the person is, in the absence of evidence to the contrary, to be presumed to be the person who committed the act.

(3) If a person has possession of stock in relation to which an act referred to in subsection (1) has been committed, that person must:

- (a) in the case of stock on the person's holding - within 2 months after the stock came into the person's possession or, where the act was committed while the stock were in the person's possession, within 2 months after the commission of the act; or
- (b) in the case of travelling stock - within 3 days after the stock came into the person's possession or, where the act was committed while the stock were in the person's possession, within 3 days after the commission of the act,

give to the appropriate district registrar or to a member of the Police Force notice of the act as prescribed by the regulations.

Maximum penalty: 20 penalty units.

Power to enter and inspect certain premises (cf. Act No. 35, 1934, s. 157A)

200. (1) In this section, "prescribed officer" means a ranger, member of the Police Force or any person authorised by a board to exercise the functions conferred by this section, and includes any person called on to provide assistance to any of those persons.

(2) If a prescribed officer believes on reasonable grounds that there are kept on any premises stock, stock branding or earmarking instruments, animal skins or any documents relating to dealings in stock or animal skins, the officer may:

- (a) enter the premises for the purpose of inspecting any animal, branding or earmarking instruments or animal skins, or any such documents, that are kept there; and
- (b) require any person apparently in occupation of the premises or employed there to produce any such animal, instruments, skins or documents for inspection; and
- (c) require any person on the premises to provide information concerning the ownership of any such animal, instruments, skins or documents.

(3) This section does not empower a prescribed officer to enter a part of premises that is used for residential purposes without the consent of the occupier of that part.

(4) If a prescribed officer, while exercising a function conferred by this section, forms the belief on reasonable grounds that an article on

the premises concerned has been involved in the commission of an offence under this Part or is required as evidence of such an offence, the officer may take possession of the article.

(5) If a prescribed officer has taken possession of an article under this section, the officer must return the article to the person entitled to it:

- (a) unless, within 30 days after taking possession of the article, the person is charged with an offence under this Part and:
 - (i) the article is alleged to have been involved in the commission of the offence; or
 - (ii) the article is required to be produced in evidence in the proceedings for the offence; or
- (b) where a person is charged with such an offence and the article is alleged to have been so involved or to be so required, if:
 - (i) the person is acquitted of the offence; or
 - (ii) the charge is not proceeded with; or
 - (iii) the court orders the article to be returned to the person or to some other person apparently entitled to it.

Person not to mark the fleece of a sheep or goat except in limited circumstances (cf. Act No. 35, 1934, s. 157B)

201. (1) A person who marks the fleece or skin of a sheep or goat with any substance, whether for the purpose of branding or not, is guilty of an offence.

Maximum penalty: 5 penalty units.

(2) Subsection (1) does not apply:

- (a) to the marking of the fleece or skin of a sheep or goat with raddle, grease, crayon or a substance registered as a stock medicine under the Stock Foods and Medicines Act 1940; or
- (b) so as to prevent the application to the fleece or skin of a sheep or goat of a colour brand; or
- (c) in such circumstances as may be prescribed by the regulations, provided that any conditions so prescribed that are applicable in those circumstances are complied with.

PART 13 - MUSTERING STOCK

Notice of muster to be given to certain adjoining occupiers (cf. Act No. 35, 1934, s. 158)

202. (1) If

- (a) a person who occupies a holding keeps on the holding not fewer than the prescribed number of stock proposes to muster those stock for a purpose specified in subsection (3); and
- (b) the occupier of an adjoining holding keeps on the holding not fewer than that number of stock,

that person must give to the occupier of that adjoining holding not less than 48 hours' nor more than 5 days' notice in writing of the proposed muster.

(2) For the purposes of subsection (1), the prescribed number of stock is:

- (a) in the case of sheep or goats, or sheep and goats - 50; or
- (b) in the case of cattle - 20; or
- (c) in the case of horses - 20.

(3) The following purposes are specified for the purpose of subsection (1):

- (a) shearing, crutching or weaning sheep or goats;
- (b) branding, marking, dipping or drafting sheep, goats, cattle or horses; or
- (c) removing sheep, goats, cattle or horses from the holding concerned or, except in the case of a holding of less than 1200 hectares, from one part of that holding to another part if either part is contiguous with a holding referred to in subsection (1) (b).

(4) A person referred to in subsection (1) (a) who holds a muster of stock for a purpose specified in subsection (3) must permit the occupier of a holding referred to in subsection (1) (b), or a person designated by that occupier, to attend the muster.

(5) A person is not required to give notice of a proposed muster under subsection (1) if the adjoining occupier concerned has agreed to dispense with the notice.

(6) If a notice has been given in accordance with subsection (1) and for any reason the muster cannot be held at the time specified in the

notice, the person proposing to hold the muster must, not less than 12 hours before the time fixed for holding the muster, give to the occupier of the adjoining holding notice of the altered time for the muster or, if the muster is to be abandoned, of the abandonment of the muster.

(7) If a person required to give a notice under this section fails to give the notice, the person is guilty of an offence.

Maximum penalty: 10 penalty units.

(8) If a person to whom subsection (4) applies contravenes that subsection, the person is guilty of an offence.

Maximum penalty: 10 penalty units.

(9) This section does not apply to a muster ordered to be held in accordance with the Stock Diseases Act 1923 or section 203 of this Act.

Owner of stock may be ordered to muster the stock (cf. Act No. 35, 1934, s. 159)

203. (1) A ranger may, with the approval of the Minister or of the board concerned, order a person who owns stock to muster the stock on the person's holding, or on a designated part of it, for a purpose and at a time specified in the order.

(2) A person who fails to comply with such an order at the time specified in it is guilty of an offence.

Maximum penalty: 10 penalty units.

(3) If a person fails to comply with such an order at the specified time:

- (a) the Minister or the board concerned may have the muster carried out at the person's expense; and
- (b) for that purpose, a ranger, and any persons designated by the ranger, may enter the person's holding with such vehicles, horses and dogs as the ranger considers necessary to carry out the muster.

(4) The Minister or the board concerned may, by proceedings brought in a court of competent jurisdiction, recover as a debt the expense of having a muster carried out as provided by subsection (3).

PART 14 - MISCELLANEOUS PROVISIONS

**Division 1 - General provisions concerning
offences and legal proceedings**

Proceedings for offences (cf. Act No. 35, 1934, s. 160 (1))

204. Proceedings for an offence against this Act may only be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Penalty notices for certain offences

205. (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act, being an offence prescribed by the regulations.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

(6) The regulations may:

- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
- (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
- (c) prescribe different amounts of penalties for different offences or classes of offences.

(7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.

Penalties to be paid to boards (cf. Act No. 35, 1934, s. 160 (2))

206. (1) Whenever any monetary penalty is imposed for an offence against this Act, the registrar of the Local Court which imposed the penalty or, in the case of a penalty paid under section 205, the person to whom the penalty is paid must pay the amount of the penalty to the board in whose district the offence occurred.

(2) An amount paid under subsection (1) belongs to the board concerned.

(3) This section applies irrespective of any other law to the contrary.

Defaults by directors to be an offence

207. (1) If a board:

- (a) does an act which is in contravention of this or any other Act;
or
- (b) omits to do any act which by this or any other Act the board is required to do,

each director of the board is guilty of an offence.

Maximum penalty: 20 penalty units.

(2) In proceedings against a director of a board for an offence under subsection (1), the director has a defence if the director proves that:

- (a) the director had no prior knowledge of the act or omission concerned; or
- (b) where the director did have prior knowledge of that act or omission, the director:
 - (i) did not consent to that act or omission; or
 - (ii) used all reasonable efforts to prevent that act or omission from occurring.

(3) A director of a board may be proceeded against and convicted under this section whether or not the board has been proceeded against or convicted in respect of the act or omission concerned.

Offences relating to the provision of information relating to certain matters (cf. Act No. 35, 1934, s. 163)

208. (1) A person who, having been required under a provision of this Act to provide information that the person has with respect to land, stock or pigs, fails to provide that information is guilty of an offence.

Maximum penalty: 10 penalty units.

(2) Subsection (1) does not apply to information required to be provided under section 58.

(3) A person who, in any return or other document prepared for the purposes of this Act, provides information that is, to the person's knowledge, false or misleading in a material respect is guilty of an offence.

Maximum penalty: 10 penalty units.

(4) Subsection (3) does not apply to:

- (a)** an enrolment application to which section 19 applies; or
- (b)** a document to which section 108 applies; or
- (c)** or a certificate to which section 135 applies.

(5) A person who forges, alters or makes improper use of any transported stock statement, permit, licence, authority or other document issued or purporting to be issued under this Act is guilty of an offence.

Maximum penalty: 20 penalty units.

Obstructing persons in the exercise of their functions to be an offence (cf. Act No. 35, 1934, s. 164)

209. (1) A person who:

- (a)** intentionally obstructs, hinders or delays; or
- (b)** threatens or assaults,

an authorised or prescribed officer, or person authorised by the board, who is exercising a function conferred or imposed on the officer or authorised person by or under this Act, or any person who is assisting that officer or authorised person, is guilty of an offence.

Maximum penalty: 20 penalty units.

(2) Any person who fails to comply with a requirement made by an authorised or prescribed officer, or an authorised person, in the course of exercising a function conferred or imposed by or under this Act is guilty of an offence.

Maximum penalty: 20 penalty units.

(3) The defendant in proceedings for an offence under subsection (1) or (2) is guilty of the offence only if the prosecutor establishes that, at the relevant time, the authorised or prescribed officer, or authorised person, identified himself or herself as such an officer or person or the defendant otherwise knew that the officer or person was an authorised or prescribed officer, or an authorised person, and:

- (a) in the case of an offence under subsection (1) - that at that time the defendant was informed or otherwise knew that the officer or person was authorised to exercise the function; or
- (b) in the case of an offence under subsection (2) - that at that time the officer or person warned the defendant that a failure or refusal to comply with the requirement was an offence.

(4) In proceedings for an offence under subsection (2), it is a defence to prove that, at the relevant time, the defendant was incapable of complying with the requirement to which the offence relates.

General description of land sufficient for the purposes of legal proceedings under this Act (cf. Act No. 35, 1934, s. 167)

210. For the purposes of any proceedings under this Act:

- (a) a holding or land need not be described by metes and bounds; and
- (b) it is sufficient if the holding or land is referred to by its name, location or boundaries or in any other way that adequately identifies it.

Legal proceedings against an occupier or owner whose name is unknown (cf. Act No. 35, 1934, s. 168)

211. If the name of the occupier or owner of a holding or land is unknown to a person who wishes to serve a notice or bring proceedings against that occupier or owner under this Act, the notice may be served on, or the proceedings may be brought against, the occupier or owner of the holding or land without specifying the name of that occupier or owner.

Notices etc. in Gazette to be received as evidence (cf. Act No. 35, 1934, s. 169)

212. (1) In any legal proceedings:

- (a) all documents prepared under or for the purposes of this Act or the former Act, the Registration of Stock Brands Act 1921 or the Noxious Animals Act 1934 and published in the Gazette; and
- (b) all entries contained in a rate record kept under this Act, are to be regarded as evidence of their contents.

(2) In any legal proceedings brought under this Act, proof is not, unless evidence is given to the contrary, required of any of the following:

- (a) the incorporation of a particular board or district;
- (b) the boundaries of a district or of a division or subdistrict of a district;
- (c) the fact that specified land or a specified place is or is not within a particular district or a particular division or subdistrict of a district;
- (d) the constitution of a board or the election or appointment of its directors or chairperson or secretary;
- (e) the appointment of any district veterinarian, or of any ranger, noxious animal inspector or other employee of a board (including a permit officer);
- (f) the fact that:
 - (i) any officer employed in the Department of Agriculture and Fisheries; or
 - (ii) any district veterinarian, ranger or noxious animal inspector; or
 - (iii) any employee of a board, was authorised to conduct a prosecution for an offence against this Act;
- (g) the fact that the defendant is, or at any relevant time was, the occupier, owner, manager or caretaker of a holding or land to which the proceedings relate if the defendant is so described in the process by which the proceedings were initiated;

- (h) the fact that a holding or land to which the proceedings relate is within the jurisdiction of a particular court or local land board;
- (i) the notification, dedication, reservation or declaration of a travelling stock reserve.
- (3) In any legal proceedings:
 - (a) a certificate purporting to be signed:
 - (i) by the Director-General or a Deputy Director-General of the Department of Agriculture and Fisheries; or
 - (ii) by the holder of a prescribed office in that Department, and certifying that an officer of that Department specified in the certificate is or, at a time or during a period so specified, was authorised either generally or in a particular case or class of cases to bring legal proceedings on behalf of the Minister; and
 - (b) a certificate purporting to have been signed by the chairperson or secretary of a board and certifying that a person specified in the certificate is or, at a time or during a period so specified, was a duly appointed district veterinarian, ranger, noxious animal inspector or permit officer, or an employee or agent of the board,

is admissible and is evidence of the matters certified in the certificate.

Jurisdiction of court etc. not to be ousted because proceedings under this Act involve a question as to title to land etc. (cf. Act No. 35, 1934, s. 161 (2))

213. (1) The jurisdiction of a court or local land board is not affected merely because, in proceedings before the court or board under or for the purposes of this Act, a question arises concerning:

- (a) title to land; or
- (b) any matter in which rights in future may be bound; or
- (c) any general right or duty.

(2) A decision of a court or local land board relating to such a question is not evidence in any other court or in any other legal proceedings.

Division 2 - Other miscellaneous matters

Authentication of documents etc.

214. (1) Any document required or permitted to be issued or served under or for the purposes of this Act by a board is sufficiently authenticated if it is signed by the chairperson or secretary of the board.

(2) For the purposes of subsection (1), the authority of the chairperson or secretary of a board to sign a document on behalf of the board is to be presumed unless the contrary is established.

(3) A document to be served on a board may be served on the chairperson or secretary of the board.

Service of notices (cf. Act No. 35, 1934, s. 166)

215. (1) If by this Act a notice or other document is required to be given to or served on any person, the notice or other document may be given or served:

- (a) in the case of a person other than a corporation:
 - (i) by delivering it to the person; or
 - (ii) by posting it to the address, if any, specified by the person for the giving of notices or service of documents under either of those Acts or, if no such address is specified, to the person's usual or last known residential address or last known business address; or
- (b) in the case of a corporation:
 - (i) by leaving it at the registered office of the corporation with a person apparently not less than 16 years of age and apparently in the service of the corporation; or
 - (ii) by posting it to the address, if any, specified by the corporation for the giving of notices or service of documents under this Act or, if no such address is specified, to the last known place of business of the corporation.

(2) A notice or other document sent by post in accordance with subsection (1) is to be taken to have been given or served at the time at which it would be delivered in the ordinary course of post.

(3) Nothing in this section limits the operation of section 528, 529 or 530 of the Companies (New South Wales) Code (which relate to the service of documents on a company).

Minister's power of delegation (cf. Act No. 35, 1934, s. 170A)

216. (1) The Minister may delegate to a person the exercise of any of the Minister's functions, other than this power of delegation.

(2) If the exercise of a function is delegated under this section, the function may be exercised whether or not the delegator holds office at the time of the exercise.

(3) Nothing in this section prevents the Minister from authorising a person to exercise any of the Minister's functions on behalf of the Minister otherwise than by means of delegation.

Regulations (cf. Act No. 14, 1921, s. 13; Act No. 35, 1934, s. 171)

217. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) In particular, the regulations may do all or any of the following:
- (a) prescribe the date on or before which rates are required to be fixed and the form, manner of service and time of issue of rate notices;
 - (b) prescribe the manner in which general and animal health rates are to be calculated in respect of land for which minimum rates are payable;
 - (c) provide for appeals against determinations by boards assessing the carrying capacity of land;
 - (d) prescribe the form and manner in which rate records are required to be kept;
 - (e) prescribe the procedure for the conduct of meetings of boards;
 - (f) prescribe the manner in which boards are required to keep their accounts and provide for the auditing of the board's accounts;
 - (g) prescribe the qualifications required to be held by district veterinarians and provide for the holding of examinations for the obtaining of qualifications by persons seeking appointment as district veterinarians;

- (h) provide for the manner in which persons may be appointed as employees of boards;
- (i) prescribe the functions of district registrars in relation to the registration of brand and earmark designs and the functions of secretaries and other employees of boards;
- (j) regulate walking and grazing stock, including:
 - (i) the number of persons required to attend stock; and
 - (ii) the display and removal of warning signs; and
 - (iii) the rate of travel of walking stock;
- (k) prohibit or regulate the use of travelling stock reserves and the use of any structures or things constructed or kept on those reserves;
- (l) provide for the issue, transfer, duration, cancellation, suspension and renewal of transported stock statements, permits, licences, authorities and other documents for the purposes of this Act, prescribe conditions and restrictions subject to which they may be issued, and require insurance to be effected and bonds to be given or obtained in connection with the use of those documents;
- (m) provide for the removal of trespassers from travelling stock reserves or of persons causing nuisance or annoyance to persons permitted to be on those reserves;
- (n) prescribe fees for goods or services supplied by boards or officers of boards and for the issue of transported stock statements, permits, licences, authorities and other documents under this Act and provide for the waiver or refund of any such fees in specified circumstances;
- (o) prescribe conditions for the impounding of stock and bees and provide for the circumstances in which and conditions subject to which impounded stock and bees can be released;
- (p) regulate the use of stock watering places;
- (q) prescribe methods (including aerial methods) for the control of noxious animals and noxious insects and generally regulate the suppression and destruction of noxious animals and noxious insects;
- (r) prescribe the manner in which applications for the registration of brand designs and earmark designs, and the transfer and transmission of such designs, may be made and the manner in which the registration of such designs may be cancelled;

- (s) prescribe fees for the registration of brand designs and earmark designs and the transfer and transmission of those designs;
 - (t) provide for:
 - (i) the construction of branding and earmarking instruments; and
 - (ii) the use of brand and earmark designs and of instruments depicting those designs and the order and position in which those designs are to be applied to stock; and
 - (iii) the maximum and minimum sizes of brands and earmarks;
 - (u) provide for the compilation and publication of directories of brand and earmark designs;
 - (v) provide for the allotment to agricultural or similar societies or stock breeders' associations of brand and earmark designs to be used for specified purposes;
 - (w) prescribe the substances with which, and the colours in which, colour brands may be made;
 - (x) provide for the issue of notices and the undertaking by boards of the collection and recovery of meat industry levies on behalf of the Meat Industry Authority and the commission payable to boards in respect of the issue of notices and the collection and recovery of those levies.
- (3) A regulation may create an offence punishable by a maximum penalty not exceeding 10 penalty units.

Savings and transitional provisions

218. Schedule 5 has effect.

Repeals

219. (1) The Acts specified in Schedule 6 are repealed.

(2) All regulations in force under those Acts are repealed.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
DIRECTORS OF A RURAL LANDS PROTECTION BOARD**

(Sec. 6 (7))

Chairperson and deputy chairperson of a board (cf. Act No. 35, 1934, s. 6 (7), (11))

1. (1) At the first meeting of the directors of a board held after the general election at which they were elected or, as the case may be, held after their appointment and at the next meeting held after each anniversary of the holding of that first meeting, the board must elect one of its members to be chairperson, and another to be deputy chairperson, of the board.

(2) The chairperson and deputy chairperson of a board each hold office until he or she ceases to hold office as a director of the board or until the conclusion of the meeting of the board at which his or her successor in office is elected, whichever first occurs.

(3) If both the chairperson and deputy chairperson are absent from a meeting of a board, the directors present must elect one of their number to preside over the meeting.

(4) The deputy chairperson of a board may act in the office of chairperson during such period as the chairperson is prevented by absence, illness or other cause from carrying out any function of that office.

(5) While so acting, the deputy chairperson has the chairperson's functions.

Casual vacancy in office of director (cf. Act No. 35, 1934, s. 8 (1))

2. (1) The office of a director of a board becomes vacant if the director:

- (a) dies; or
- (b) completes a term of office and is not re-elected or reappointed for a further term; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Governor under this clause; or

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
OF A RURAL LANDS PROTECTION BOARD - *continued*

- (e) is, except on leave granted by the board, absent from 4 consecutive meetings of the board of which reasonable notice has been given to the director personally or in the ordinary course of post; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may, by notice published in the Gazette, remove the directors or a director of a board from office at any time for incapacity, incompetence or misbehaviour.

(3) A director of a board is entitled to be heard before a finding of incapacity, incompetence or misbehaviour is made in respect of the director under subclause (2).

(4) The Governor may, but is not obliged to, refer the hearing of an allegation of incapacity, incompetence or misbehaviour in respect of a director to a person or body whom or which the Governor has designated for the purpose.

(5) As soon as practicable after an allegation of incapacity, incompetence or misbehaviour is referred to a person or body in accordance with subclause (4), the person or body must hear the allegation and then report the findings to the Governor.

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
OF A RURAL LANDS PROTECTION BOARD - *continued***

**Term of office of person elected or appointed to fill a vacancy in office
of director (cf. Act No. 35, 1934, s. 8 (5))**

3. Subject to clause 2, if a person is elected or appointed to fill a vacancy in the office of director of a board, the person so elected or appointed holds office for the remainder of the term for which his or her predecessor was elected or appointed.

Directors etc. not to be liable for certain acts or omissions

4. No matter or thing done by a board, or by any director of a board or by any person acting under the direction or authority of, or with the concurrence or approval of, that board, subjects a director of that board or a person so acting to any action, liability, claim or demand, if the matter or thing was done in good faith for the purposes of this or any other Act.

Disclosure of pecuniary interests

5. (1) If:

- (a) a director of a board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the board; and
- (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the board.

(2) A disclosure by a director of a board at a meeting of the board that the director:

- (a) is a director, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
OF A RURAL LANDS PROTECTION BOARD - *continued***

may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) A board must ensure that:

- (a) particulars of any disclosure made under this clause are recorded in a book kept for the purpose; and
- (b) that book is kept open at all reasonable hours to inspection by any person on payment of a fee (not exceeding the amount prescribed by the regulations) determined by the board.

(4) After a director of a board has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the board otherwise determines:

- (a) be present during any deliberation of the board with respect to the matter; or
- (b) take part in any decision of the board with respect to that matter.

(5) For the purposes of the making of a determination by a board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the board for the purpose of making the determination; or
- (b) take part in the making by the board of the determination.

(6) A contravention of this clause does not invalidate any decision of the board concerned.

Invitations for tenders

6. (1) If it is disclosed to the directors of a board, or they have reason to believe, that a director has or may have a direct or indirect pecuniary interest in a proposed contract with the board:

- (a) the board must, by notice published in a newspaper circulating in its district, invite tenders for the proposed contract; and
- (b) must not enter into the proposed contract unless satisfied that, in all the circumstances of the case, none of the tenders submitted is more advantageous than the proposed contract.

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
OF A RURAL LANDS PROTECTION BOARD - *continued***

- (2) The notice inviting tenders must:
 - (a) set out the nature of the work or services to be performed or the goods to be supplied under the contract; and
 - (b) invite persons willing to perform the work or services or supply the goods to submit tenders to the board on or before a specified date at least 21 days after publication of the notice.
- (3) This clause does not apply in the case of an emergency.

Board may establish committees

7. (1) A board has power to establish such committees as it considers necessary for the purpose of enabling it to exercise its functions.

(2) A person may be appointed to be a member of such a committee irrespective of whether he or she is a director of the board concerned.

(3) The procedure for calling meetings of such a committee is, subject to the regulations, as determined by the board or, to the extent that a matter is not provided for by the regulations or a determination of the board, as determined by the committee.

Board may delegate to committee etc.

8. A board may, by instrument in writing, delegate to:

- (a) one or more of its directors; or
- (b) a committee established under clause 7; or
- (c) one or more of its employees designated by the board,

the exercise of any of its functions (other than this power of delegation).

Fees and expenses (cf. Act No. 35, 1934, s. 9)

9. (1) A board may pay to its directors in respect of the exercise of their functions such fees, allowances and expenses at rates not exceeding those fixed under subclause (2).

(2) The Minister must periodically fix maximum amounts of fees, allowances and expenses that may be paid under subclause (1).

(3) No amount, other than an amount authorised by subclause (1), may be paid to a director of a board in that capacity.

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
OF A RURAL LANDS PROTECTION BOARD - *continued***

Insurance of directors (cf. Act No. 35, 1934, s. 9A)

10. (1) A board must insure its directors against personal injury and death arising out of or in the course of:

- (a) their attendance at any meeting of the board or a committee of the board which they are authorised or required to attend; and
- (b) their performing any business of the board with the prior approval of the board; and
- (c) any journey in connection with any such business.

(2) A board is not to be regarded as having an insurable interest in respect of any such contract of insurance.

(3) As soon as practicable after receiving an amount of money under any such contract of insurance, a board must, after deducting any expenses incurred in recovering the amount, pay the balance to the director concerned or, if the director has died, to the director's executor or administrator.

SCHEDULE 2 - PROCEEDINGS OF A BOARD

(Sec. 6 (8))

Meetings of a board (cf. Act No. 35, 1934, s. 6 (7), (10))

1. (1) A board must hold its first meeting:

- (a) where all the vacant positions of directors are filled at a general election - within 1 month, or within such extended period as the Minister allows, after that election; or
- (b) in any other case - on or before such date as the Minister decides.

(2) The chairperson of a board must, unless the Minister otherwise approves, convene meetings of the board so that the board meets at least once every month.

Quorum (cf. Act No. 35, 1934, s. 6 (8))

2. At a meeting of the board, the presence of at least 4 of its directors is sufficient for the board to have a quorum.

SCHEDULE 2 - PROCEEDINGS OF A BOARD - *continued*

Presiding person to have a casting vote (cf. Act No. 35, 1934, s. 6 (7))

3. (1) The person presiding at a meeting of a board has a deliberative vote and, in the event of an equality of votes, has a casting vote.

(2) However, that person has only a deliberative vote when the board is holding an election for the position of chairperson or deputy chairperson.

Voting at board meetings

4. A decision supported by a majority of the votes cast at a meeting of a board at which a quorum is present is the decision of the board.

General procedure at meetings of a board (cf. Act No. 35, 1934, s. 6 (12))

5. Except as provided by this Act, a board may decide the procedure to be followed at its meetings.

**SCHEDULE 3 - PROVISIONS APPLICABLE TO
ADMINISTRATORS**

(Secs. 7, 42)

Administrators to whom this Schedule applies

1. This Schedule applies to an administrator appointed under section 7 or 42 or under this Schedule.

Acting administrator

2. (1) If, because of illness or absence, an administrator is unable to exercise the functions of his or her office, the Minister may, by notice published in the Gazette, appoint a person to act in that office during the administrator's illness or absence.

(2) The Minister may, at any time, remove from office a person appointed under subclause (1).

(3) A person appointed under this clause is to be taken to be an administrator appointed under section 7 or 42, as the case requires.

SCHEDULE 3 - PROVISIONS APPLICABLE TO
ADMINISTRATORS - *continued*

Vacation of office

3. (1) The office of administrator becomes vacant if the administrator:

- (a) dies; or
- (b) resigns the office by instrument in writing addressed to the Minister; or
- (c) is removed from office by the Minister under subclause (2); or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (f) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may at any time, by notice published in the Gazette, remove an administrator from office.

Effect of certain other Acts

4. (1) The Public Sector Management Act 1988 does not apply to the appointment of an administrator and an administrator is not as such subject to that Act.

(2) The office of administrator is not, for the purposes of any Act, an office or place of profit under the Crown.

Expenses of administrator

5. (1) An administrator is entitled to be paid such remuneration as the Minister directs.

**SCHEDULE 3 - PROVISIONS APPLICABLE TO
ADMINISTRATORS - *continued***

(2) If the affairs of a board are managed by an administrator, the board is liable to pay the expenses of the administrator in managing those affairs.

(3) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subclause (2).

(4) If an administrator appointed to manage a board's affairs is a servant of the Crown:

- (a) the expenses of the administrator referred to in subclause (2) include such amount as the Minister certifies to be the amount of remuneration payable to that servant in his or her capacity as administrator; and
- (b) the amount so certified is recoverable from the board in a court of competent jurisdiction as a debt due to the Crown.

Administrator not liable for losses incurred during administration

6. (1) An administrator appointed to manage a board's affairs is not liable for any loss incurred by the board during the administrator's term of office unless the loss is attributable to the administrator's intentional misconduct, gross negligence or failure to comply with any provision of this Act.

(2) Neither the Crown nor the Minister is liable for any loss incurred by a board during an administrator's term of office, whether or not the administrator is so liable.

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD**

(Secs. 70, 128, 146, 162)

Application

1. This Schedule applies to land in relation to which:

- (a) any amount has remained unpaid for a period of 5 years or more in respect of a rate levied on the land by a board under this Act or by a pastures protection board under the former Act or section 10 of the Noxious Insects Act 1934; or

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued***

- (b) any amount that has remained unpaid for a period of 5 years or more in respect of any judgment or costs awarded to a board for expenses incurred by the board in exercising its powers with respect to land under section 128 or 162 of this Act or section 82 or 126 of the former Act.

Definitions

2. In this Schedule:

- (a) a reference to an overdue amount is a reference to an amount referred to in clause 1 (a) or (b); and
- (b) a reference to the balance of the money derived from the sale of land by a board in accordance with this Schedule includes any investments representing that money and any interest on it and also includes a reference to any part of the balance of that money.

Sale of land for non-payment of rates etc.

3. (1) Whenever this Schedule applies to land, the board established for the district within which the land is located may sell in accordance with the provisions of this Schedule the land in respect of which the overdue amount is owing.

(2) A board must not sell any land in accordance with this Schedule unless it has first certified in writing what amounts are due or payable to the board in respect of the land, with particulars of:

- (a) the amounts; and
- (b) in the case of rates - when they were made and how they were levied; and
- (c) in the case of an amount outstanding under a judgment - when and by which court the judgment was made; and
- (d) when the amounts became due or payable.

(3) If a board has resolved to sell land for failure to pay an overdue amount, it must:

- (a) fix a convenient time (being not more than 6 months and not less than 3 months from the publication in a newspaper of the

SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued*

advertisement referred to in paragraph (b)) and a convenient place for the sale; and

- (b) give notice, in a form approved by the Minister or prescribed by the regulations, by advertisement in the Gazette and in a newspaper; and
 - (c) make a search against the land and give notice to any person who appears from the search to have an interest in the land.
- (4) If, before the time fixed for the sale:
- (a) an overdue amount, and all other amounts due and in arrears, are paid to the board; or
 - (b) an arrangement satisfactory to the board for payment of all overdue amounts is entered into by the ratable person,

the board must not proceed with the sale.

(5) Except as provided by subclause (7), a sale of land in accordance with this clause must be carried out by public auction.

(6) In exercising the power of sale conferred by this clause, a board may:

- (a) sell in one lot of adjoining parcels or in separate parcels the land under such conditions of sale as it considers appropriate; and
- (b) employ an auctioneer; and
- (c) do such other acts as it considers to be expedient for selling the land at its full value and for carrying out the sale.

(7) If the land is not sold by public auction at the time originally fixed, the board concerned:

- (a) may fix another time and place for the sale of the land by public auction; and
- (b) if it receives a satisfactory offer in the meantime, may sell the land by private contract.

(8) If the land is sold, the purchase money must be paid to the board, and a receipt for the money is an effective discharge to the purchaser.

Restriction on sale and purchase of land under clause 3

4. (1) A board must not sell land in accordance with clause 3 to a director or employee of the board or to a relation of such a director

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued***

or employee, and no director or employee of the board or relation of such a director or employee may purchase from the board land offered for sale in accordance with that clause.

(2) In this clause:

"relation", in relation to a director or an employee of a board means:

- (a) the spouse of the director or employee; or
- (b) the father or mother of the director or employee, or of the spouse of the director or employee; or
- (c) the grandfather or grandmother of the director or employee, or of the spouse of the director or employee; or
- (d) the son, daughter, grandson, granddaughter, brother, sister, half-brother, half-sister, nephew, niece, uncle or aunt of the director or employee, or of the spouse of the director or employee.

(3) A board must not effect a sale under clause 3 of land to which clause 6 applies without the agreement of the Minister for Crown Lands.

Conveyance or transfer of the land

5. (1) On being paid the purchase money derived from a sale under clause 3, a board may convey or transfer land to the purchaser by virtue of the authority conferred by this clause.

(2) Any conveyance or transfer executed by the board under this clause vests the land in the purchaser for an estate in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges and rates, but subject:

- (a) to any exceptions for the benefit of the Crown and reservations to the Crown in any Crown grant or recorded in respect of the land in any folio of the Land Register; and
- (b) to any easements, restrictive covenants and public rights of way affecting the land.

(3) If the land concerned has been brought under the Real Property Act 1900 for an estate less than the fee-simple, then an instrument of conveyance relating to the estate not under that Act and an instrument

SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued*

of transfer relating to the estate under that Act, both executed by the board under this clause, are necessary in order to vest the land, but:

- (a) those instruments do not operate to bring the fee-simple under the Real Property Act 1900; and
- (b) the transfer passes only the estate that is already under that Act.

(4) If the land or any estate in the land is subject to the Real Property Act 1900, the transfer:

- (a) is, by virtue of this subclause, registrable under the Real Property Act 1900; and
- (b) does not operate at law until it is registered under that Act.

(5) If the land or any estate in the land is subject to the Real Property Act 1900, the Registrar-General must, on the production of a transfer executed by the board under this clause, register the transferee as the proprietor of the land or estate.

(6) For the purposes of this clause:

- (a) the Registrar-General may make such recordings in the Land Register, create or cancel such folios of that Register and issue such certificates of title as, in the Registrar-General's opinion, are required to give effect to the provisions of this clause; and
- (b) except as regards any exceptions for the benefit of the Crown or reservations to the Crown or any easements, restrictive covenants and public rights of way affecting the land recorded in that Register:
 - (i) it is not necessary for the Registrar-General to make any recording with respect to any of those interests; and
 - (ii) it is sufficient to record in the relevant folio of that Register that the proprietor holds subject to the provisions of this clause; and
- (c) in any case where the duplicate Crown grant or certificate of title is not presented with the transfer:
 - (i) that duplicate is to be regarded as having been wrongfully retained within the meaning of section 136 (1) of the Real Property Act 1900; and

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued***

- (ii) the provisions of that Act applicable to a grant, certificate or instrument wrongfully retained apply in respect of that duplicate; and
- (d) the forms to be used for carrying this clause into effect, other than any transfer by the board which must be in the form approved under that Act by the Registrar-General, may be prescribed by the regulations; and
- (e) the fees payable to the Registrar-General for making any recording, or for doing any act under the authority of this clause, may be prescribed by regulations made under that Act.

(7) Neither the purchaser, nor the Registrar-General or any person employed in the office of the Registrar-General to whom a transfer made by a board and purporting to be made under this clause is produced for registration, is concerned to inquire whether the provisions of this Schedule with respect to the sale or transfer have been complied with or whether the sale or transfer is regular or valid.

(8) This clause does not apply to land to which clause 6 applies.

Sale of Crown land

6. (1) This clause applies to land that is in the course of purchase from the Crown or held under a lease or licence from the Crown.

(2) On being paid the purchase money derived from a sale under clause 3, a board may transfer the land to the purchaser by virtue of the authority conferred by this clause.

(3) For the purposes of this Schedule, a board may, in respect of any land, exercise any right, power or privilege which might be made or exercised by a holder or owner subject to mortgage of land of the same tenure but subject to any restriction, prohibition or condition on transfer that is applicable to the holder or owner.

(4) If land held under a tenure referred to in subclause (1) was, immediately before its sale under clause 3, subject to any conditions or provisions prescribed by or under any Act that created the tenure, the purchaser of the land holds it subject to those conditions or provisions but freed and discharged:

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued***

- (a) from any liability for any breach before the sale of any such conditions or provisions; and
- (b) from any rates, charges and other amounts due in respect of the land due to the board or any other rating authority.

(5) The transfer of land to which this clause applies is, by virtue of this clause, registrable under the provisions of the Act under which transfers of land of that kind are registrable.

(6) Such a transfer does not operate at law until it is registered under the Act concerned.

(7) Neither the purchaser, nor the Registrar-General or any person employed in the office of the Registrar-General to whom a transfer executed by a board under this clause is produced for registration, is concerned to inquire whether the provisions of this Schedule with respect to the sale or transfer have been complied with.

Balance to be held in trust

7. A board must hold any balance of money derived from a sale under clause 3 in trust for the persons having estates or interests in the land immediately before the sale according to their respective estates and interests.

Distribution of balance of money

8. (1) A board may distribute the balance of money derived from a sale under clause 3 or any part of it to the persons who are, in its opinion, entitled to it, and the receipt of the person to whom any distribution is made is an effective discharge to the board for that money.

(2) If a board has any doubt as to the title of any person to the balance or any part of it, it may pay, transfer or deposit the balance or part to or with the Supreme Court under Part 4 of the Trustee Act 1925.

Part 4 of the Trustee Act 1925

9. For the purposes of Part 4 of the Trustee Act 1925, the trust in the matter of which the balance of money derived from a sale under

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued***

clause 3 or any part of it that a board has paid, transferred or deposited to or with the Supreme Court may be described as a trust for the persons entitled to the balance of money of land (described so as to be distinguishable) sold for non-payment of money owing to that board.

Payment of balance of money

10. (1) If:

- (a) the balance of the money derived from a sale under clause 3 has been in the hands or under the control of a board for more than 5 years; and
- (b) the board has no knowledge of the existence of any person entitled or claiming to be entitled to that money,

the board may transfer that balance to such fund as it considers appropriate, but the board must, on application being made by any person entitled to it, pay that balance to that person.

(2) If:

- (a) the balance of the money has been paid or transferred to or deposited with the Supreme Court under Part 4 of the Trustee Act 1925; and
- (b) at the end of 20 years from the payment, transfer or deposit, the appropriate officer of the Supreme Court is not aware of the existence of any person entitled to that balance,

that officer must pay that balance to the Treasurer.

(3) Any sum paid to the Treasurer under subclause (2) must be held in a special trust account.

(4) On proof to the Supreme Court made at any time that any person is entitled to the sum referred to in subclause (3) or any part of it, the Court, on application by the person claiming to be entitled, may order the Treasurer to pay to that person the whole or any part of that sum (but without interest).

**SCHEDULE 4 - SALE OF LAND FOR NON-PAYMENT OF
MONEY OWING TO A BOARD - *continued***

How a board must apply money from a sale under this Schedule (cf. Act No. 35, 1934, s. 39B)

11. (1) A board must apply any money that it has received from the sale of land under this Schedule in or towards payment of:

- (a) firstly, the expenses of the board incurred in connection with the sale; and
- (b) secondly, any rate, charge or other amount payable in respect of the land due to the board, or any other rating authority referred to in subclause (1) (b), or the amount of any debt in respect of the land of which the board has notice, due to the Crown (including any meat industry levy under the Meat Industry Act 1978).

(2) If the amount available is insufficient to satisfy all rates, charges and other amounts referred to in subclause (1) (b), the amount available must be divided between those bodies according to the proportion of the amount owing to each of them.

(3) If the amount that a board has applied under subclause (1) is insufficient to satisfy the rates, charges and other amounts referred to in subclause (1) (b), the board or that other rating authority must:

- (a) treat the amount due to it in respect of the expenses and rates, charges and other payments as being satisfied; and
- (b) record the deficiency in its accounting records as being written off.

SCHEDULE 5 - SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 218)

Existing directors of pastures protection boards

1. The chairman and directors of a pastures protection board elected or appointed under the former Act who were holding office immediately before the commencement of section 6 of this Act continue, subject to this Act, to hold office for the remainder of the term for which they were so elected or appointed.

SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued*

Existing veterinary inspectors

2. Any person holding an appointment as a veterinary inspector or temporary veterinary inspector for a pastures protection district immediately before the commencement of section 22 or 23 of this Act is to be taken to have been appointed as the district veterinarian or the temporary district veterinarian by the rural lands protection board established for the corresponding rural lands protection district.

Existing members of staff of boards

3. Any persons employed by a pastures protection board under section 23 or 24 of the former Act immediately before the commencement of section 24, 25 or 91 of this Act are taken to have been appointed as employees of the corresponding rural lands protection board under the provision of this Act corresponding to the section of the former Act under which they were appointed.

Funds established by a pastures protection board under the former Act

4. (1) On the commencement of section 31 of this Act, the pastures protection fund of a pastures protection board becomes the rural lands protection fund of the corresponding rural lands protection board.

(2) If, immediately before the commencement of section 32 of this Act, a pastures protection board maintained a wild dog fund, then, on that commencement, that fund becomes the wild dog fund of the corresponding rural lands protection board.

(3) On the commencement of section 33 of this Act, the reserves improvement fund of a pastures protection board becomes the reserves improvement fund of the corresponding rural lands protection board.

(4) If, immediately before the commencement of section 34 of this Act, a pastures protection board maintained a public watering-places fund, then, on that commencement, that fund becomes the stock watering places fund of the corresponding rural lands protection board.

**SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued***

(5) If, immediately before the commencement of section 36 of this Act, a pastures protection board maintained a fund under section 19 (3) of the former Act, then, on that commencement, that fund becomes a special fund of the board under section 36 of this Act.

Electoral rolls established under the former Act

5. A roll prepared for the purposes of the former Act and in force immediately before the commencement of section 18 of this Act becomes an electors' roll for the purpose of that section until a fresh roll of electors is prepared for the purposes of this Act.

Appointment of administrator to continue

6. A person who was, immediately before the commencement of section 42 of this Act, holding office as an administrator under the former Act continues in office as if he or she were an administrator appointed under that section.

Policies of insurance effected in respect of directors of pastures protection boards

7. A policy of insurance effected under section 9A of the former Act is not affected by the repeal of that section.

Rates and other amounts outstanding under the former Act to remain payable

8. (1) If:

- (a) a rate, fee or other charge has been levied or imposed under a provision of the former Act; and
- (b) the amount of the rate, fee or charge has not been paid when that provision is repealed by this Act,

that amount is nevertheless payable and recoverable as if that provision had not been repealed.

(2) If:

- (a) an amount referred to in subclause (1) was, by virtue of a provision of the former Act, secured by a charge; and

SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued*

- (b) the amount could, if it had first become due and payable under this Act, have been secured by a charge by virtue of a provision of this Act,

the amount continues to be secured under the provision of this Act.

(3) For the purposes of this clause, "former Act" includes the Registration of Stock Brands Act 1921 and the Noxious Insects Act 1934.

Assessment of carrying capacity under the former Act to continue to have effect

9. The last assessment of the carrying capacity of land made under the former Act before the commencement of section 55 of this Act continues to have effect in respect of the land until superseded by an assessment of the carrying capacity of the land made under that section.

Returns of land and stock

10. Despite its repeal by this Act, section 29 of the former Act continues to apply to any occupier of land, or any owner of stock, who had not complied with that section with respect to any 30 June before that repeal took effect.

Notices of changes of occupancy or ownership of ratable land

11. Despite its repeal by this Act, section 34 of the former Act continues to apply to a person who had ceased to be or had become the occupier or owner of ratable land within a district but who had not complied with that section before that repeal.

Appeals against certain decisions of pastures protection boards under the former Act

12. (1) Despite its repeal by this Act, section 36 of the former Act continues to apply to an assessment of the carrying capacity of land that was made before that repeal took effect.

(2) Despite its repeal by this Act, section 137 of the former Act continues to apply in respect of proceedings that were brought under Part 7 of the former Act before that repeal took effect.

SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued*

Rate-book kept under the former Act

13. The rate-book kept by a pastures protection board under the former Act is, on the commencement of section 74 of this Act, to be taken to form part of the rate record required to be kept under that section by the corresponding rural lands protection board.

Exemptions from rates etc. under section 40D of the former Act

14. If an exemption under section 40D of the former Act is in force immediately before the commencement of section 75 of this Act and the land or person or class of persons to which the exemption relates could be exempted under the last-mentioned section, the exemption continues in force as an exemption under that section.

Closure of travelling stock reserves under section 46C of the former Act

15. (1) A travelling stock reserve or a part of such a reserve that, immediately before the commencement of section 87 of this Act, was closed under the former Act is to be taken to have been closed under that section.

(2) A direction given for the purpose of section 46C (1) of the former Act and not implemented before the commencement of section 87 of this Act is to be taken to be a direction given under section 87 (1) of this Act.

(3) If a pastures protection board has closed a travelling stock reserve or a part of a travelling stock reserve under section 46C of the former Act and the decision of that board closing the reserve or part of the reserve was in force immediately before the commencement of section 89 of this Act, that decision is to be taken to be a closure order made by the corresponding rural lands protection board under the last-mentioned section.

Travelling stock permits granted for the purpose of section 48 of the former Act

16. If, immediately before the commencement of section 89 of this Act, a travelling stock permit issued under the former Act was in force for the purpose of conveying stock by vehicle, the permit continues in

**SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued***

force as if it were a transported stock statement issued under that section and as if that section had been in force at the time of issue.

Permits granted for the purpose of section 48 of the former Act

17. If, immediately before the commencement of section 92 of this Act, a permit issued for the purposes of section 48 of the former Act (other than a travelling stock permit) was in force, the permit continues in force as if it were a walking stock permit issued under section 92 of this Act and as if that section had been in force at the time of issue.

Working large stock licences issued for the purposes of section 48 of the former Act

18. (1) If, immediately before the commencement of section 100 of this Act, a working large stock licence was in force under the former Act, then, on that commencement, the licence is taken to be a stock licence issued under that section, subject to any conditions imposed in respect of the licence under section 48 (3A) of the former Act.

(2) Unless sooner cancelled under this Act, such a licence remains in force for the unexpired part of the period for which it was originally issued.

Grazing permits

19. If, immediately before the commencement of section 93 of this Act, a grazing permit granted under the former Act was in force, then, on that commencement, the permit is to be taken to be a grazing permit issued under that section but subject to such rents, terms and conditions as were imposed under section 45 of the former Act.

Permits allowing stock to remain on travelling stock reserves

20. If, immediately before the commencement of section 95 of this Act, a permit granted under section 62 of the former Act was in force, then, on that commencement, the permit is to be taken to be a stock holding authority issued under section 95 of this Act.

**SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued***

Holding places under the former Act to continue as stock holding areas for the purposes of this Act

21. A place that was, immediately before the commencement of section 98 of this Act, a holding place for the purposes of the former Act becomes on that commencement a stock holding area for the purposes of this Act.

Permits for apiary sites

22. If, immediately before the commencement of section 101 of this Act, a permit to use a portion of a travelling stock reserve as an apiary granted under the former Act was in force, then, on that commencement, the permit is to be taken to be an apiary site permit issued under that section, subject to such fees, terms and conditions as were fixed under section 46 of the former Act.

Stock impounded under the former Act

23. Stock impounded under the former Act and not released before the commencement of section 111 of this Act are to be taken to have been impounded under that section.

Public watering places under the former Act

24. If, immediately before the commencement of section 117 of this Act, a place was a public-watering place within the meaning of the former Act, then, on that commencement, that place becomes a stock watering place for the purposes of this Act.

Caretaker of a public watering-place to continue as the caretaker of the corresponding stock watering place

25. A person holding an appointment as the caretaker of a public watering-place immediately before the commencement of section 120 of this Act is, on that commencement, to be taken to have been appointed by the relevant controlling authority as the caretaker of the corresponding stock watering place.

**SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued***

Leases of stock watering places to continue to have effect

26. (1) A lease of a public watering-place granted under the former Act and in force at the commencement of section 121 of this Act continues to have effect for the unexpired part of its term.

(2) The lessee under the lease has the same rights and is subject to the same obligations and liabilities as the lessee would have if the lease had been granted under section 121 of this Act.

Orders for the destruction of noxious animals made under the former Act

27. An order made under section 82 of the former Act that is in force immediately before the commencement of section 127 of this Act and not fully complied with before that commencement is to be taken to be an order made under the last-mentioned section.

Permission to keep noxious animals granted under the former Act

28. If permission granted under the former Act to keep a noxious animal is in force immediately before the commencement of section 131 of this Act, that permission is, on that commencement, to be taken to be permission granted under that section.

Certificate by board under the former Act that fence is rabbit proof etc.

29. (1) A certificate granted under section 118 of the former Act is to be treated as if it were a certificate issued under section 151 of this Act on and after the commencement of the last-mentioned section.

(2) A requirement made under section 118 (1) of the former Act is to be taken to be a requirement made under section 151 of this Act if not fully complied with before the commencement of the last-mentioned section.

Permission granted under section 119 of the former Act

30. (1) An application made under section 119 (1) of the former Act is to be taken to be an application made under section 152 (1) of this

**SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued***

Act if not dealt with before the commencement of section 152 of this Act.

(2) Any permission or dispensation granted under section 119 of the former Act and in force immediately before the commencement of section 152 of this Act is to be taken to be permission or a dispensation granted under the last-mentioned section.

Rights and liabilities under section 124 of the former Act

31. A right or liability existing under section 124 of the former Act immediately before the commencement of section 159 of this Act continues as a right or liability under the last-mentioned section.

Notifications declaring a barrier fence under section 129 of the former Act

32. A notification in force under section 129 (2) of the former Act immediately before the commencement of section 165 of this Act is to be taken to be a declaration in force under section 165 (3) of this Act.

Registration of brands and earmarks under Part 8 of the former Act

33. (1) A register of brands and earmarks kept for a pastures protection district before the commencement of section 194 of this Act becomes, on that commencement, a part of the register of brand and earmark designs required to be kept under that section for the corresponding rural lands protection district.

(2) A brand or earmark which was registered under the former Act immediately before the commencement of section 183 of this Act becomes, on that commencement, a brand or earmark design registered under this Act for application to small stock.

Registers kept for subdistricts under the former Act

34. A notification in force under section 150 (2) of the former Act immediately before the commencement of section 194 of this Act is to be taken to be an order in force under section 194 (3) of this Act.

SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued*

Delegations by the Minister under the former Act

35. If:

- (a) a delegation made by the Minister under the former Act has not been revoked before the commencement of section 216 of this Act; and
 - (b) that delegation could have been made under that section if that section had been in force when the delegation was made,
- the delegation continues in force as if it had been made under that section.

Continuation of the Noxious Insects Destruction Account

36. The Noxious Insects Destruction Account established for the purposes of section 11 of the Noxious Insects Act 1934 is to be taken to be the Noxious Insects Destruction Account referred to in section 148 of this Act.

Notices served under the former Act

37. (1) If:

- (a) a notice has been given or served under a provision of the former Act; and
 - (b) a similar notice could have been served under a corresponding provision of this Act had this Act been in force at the relevant time; and
 - (c) either the period within which the notice was due to take effect had not expired when that corresponding provision commenced or, if it had expired, the notice had not been complied with,
- the notice is to be treated as if it were a notice served under that corresponding provision.

(2) In this clause:

"former Act" includes the Registration of Stock Brands Act 1921 and the Noxious Insects Act 1934;

"notice" includes a notification.

SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued*

Documents prepared for the purposes of the former Act

38. (1) If:

- (a) a certificate or other document prepared or created under or for the purposes of a provision of a former Act was in force immediately before the repeal of that provision by this Act; and
- (b) a similar certificate or document could be prepared or created under or for the purposes of a corresponding provision of this Act,

that certificate or document continues to have effect as if it had been prepared or created under or for the purposes of that corresponding provision.

(2) In this clause, "former Act" includes the Registration of Stock Brands Act 1921 and the Noxious Insects Act 1934.

Superseded references

39. (1) In any other Act, or any statutory rule or any other document of any kind or in any sign:

- (a) a reference to a pastures protection board, a pastures protection district or a division or subdistrict of a pastures protection district is to be read as a reference to the corresponding rural lands protection board, rural lands protection district or division or subdistrict of a rural lands protection district, as the case may be; and
- (b) a reference to the chairman, secretary or a director of a pastures protection board is to be read as a reference to the chairperson, the secretary or a director of the corresponding rural lands protection board; and
- (c) a reference to a veterinary inspector, in relation to a pastures protection board district, is to be read as a reference to the district veterinarian of the corresponding rural land protection district; and
- (d) a reference to a rabbit inspector (appointed by a pastures protection board) is to be read as a reference to a noxious animal inspector appointed by the corresponding rural lands protection board; and

SCHEDULE 5 - SAVINGS AND TRANSITIONAL
PROVISIONS - *continued*

- (e) a reference to a former Act is to be read as a reference to this Act; and
- (f) a reference to a statutory rule repealed by this Act is, if the statutory rule is replaced by a corresponding statutory rule made under this Act, to be read as a reference to that corresponding statutory rule; and
- (g) a reference to a provision of a former Act or of a statutory rule made under a former Act is, if the provision is replaced by a corresponding provision of this Act or of a statutory rule made under this Act, to be read as a reference to that corresponding provision.

(2) In this clause, "former Act" includes the Registration of Stock Brands Act 1921 and the Noxious Insects Act 1934 as well as the Pastures Protection Act 1934 and also includes any Act repealed by a former Act.

Savings and transitional regulations

40. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 6 - REPEALS

(Sec. 219 (1))

Registration of Stock Brands Act 1921 No. 14
Noxious Insects Act 1934 No. 22
Pastures Protection Act 1934 No. 35
Pastures Protection (Amendment) Act 1976 No. 29
Pastures Protection (Amendment) Act 1981 No. 52
Pastures Protection (Amendment) Act 1985 No. 141
Pastures Protection (Rates) Amendment Act 1985 No. 170
Pastures Protection (Amendment) Act 1986 No. 147
