

Queensland



# RURAL LANDS PROTECTION ACT 1985

**Reprinted as in force on 17 December 1996  
(includes amendments up to Act No. 54 of 1996)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 1A**

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# Information about this reprint

This Act is reprinted as at 17 December 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprint.**

# Queensland



## RURAL LANDS PROTECTION ACT 1985

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## **RURAL LANDS PROTECTION ACT 1985**

[as amended by all amendments that commenced on or before 17 December 1996]

**An Act to consolidate, amend and provide laws for the management and control of certain plants and animals, for the prohibition and regulation of the introduction and spread of certain plants and of the introduction, spread and keeping of certain animals, for the establishment of sufficient fences for the purposes of preventing the ingress into the pastoral and agricultural areas of the State of certain animals, to amend and provide laws for the management and control of stock routes and reserves for travelling stock and for incidental and other purposes**

### **PART 1—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Rural Lands Protection Act 1985*.

#### **Relationship to other Acts**

**5.(1)** This Act shall be read subject to the *Agricultural Chemicals Distribution Control Act 1966* and the *Nature Conservation Act 1992*.

**(2)** Where a person does an act or thing required or permitted to be done by a person under this Act and as a consequence thereof the person would, but for this subsection, be guilty of an offence against the *Nature Conservation Act 1992*, then that person shall not by reason only of the doing of that act or thing be guilty of any such offence.

**Definitions**

6. In this Act—

**“animal”** means any living thing that is not a human being or a plant.

**“approved form”** see section 247.<sup>1</sup>

**“assistant executive director”** means the person for the time being appointed as assistant executive director for the purposes of this Act, and includes any person for the time being performing the functions of the assistant executive director.

**“authorised person”** means a person appointed by a local government under section 68.

**“category”** means a category mentioned in section 70(3) or (4).

**“class”**, in relation to plants or animals, means any group or grouping of plants or animals.

**“control”**—

- (a) in relation to declared plants of a class assigned to category P2 or declared animals of a class assigned to category A2—means to destroy those plants or animals;
- (b) in relation to declared plants of a class assigned to category P3—means—
  - (i) to destroy those plants; or
  - (ii) to take such measures as are approved in writing by an authorised person or inspector to reduce the numbers or distribution of those plants;
- (c) in relation to declared plants of a class assigned to category P4—means—
  - (i) to destroy those plants; or
  - (ii) to take such measures as are approved in writing by an authorised person or inspector to prevent the spread of those plants;
- (d) in relation to declared plants of category P5—means to take such

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<sup>1</sup> Section 247 (Approval of forms)

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action in respect of those plants as is prescribed;

- (e) in relation to declared animals of category A5—means—
  - (i) to destroy those animals; or
  - (ii) to take such measures as are approved in writing by an authorised person or inspector to reduce and restrict the number of those animals;
- (f) in relation to declared animals of category A7—means to do such acts, matters and things for the management and regulation of the movement, numbers and distribution of those animals as are set out in a management program having effect in the area in which those animals are situated and applying to animals of that class;
- (g) in relation to declared animals of category A8—means—
  - (i) to destroy those animals; or
  - (ii) to take such measures as are approved in writing by an authorised person or inspector to reduce and restrict the number and distribution of those animals.

**“declared animal”** means an animal belonging to a class of animals declared under section 69 to be declared animals, and includes—

- (a) such an animal of any kind or sex; and
- (b) the egg or semen of such an animal; and
- (c) such an animal when in the larval stage or any other immature stage;

and unless otherwise declared under a regulation, includes any hybrid or cross derived from such an animal.

**“declared plant”** means a plant belonging to a class of plants declared under section 69 to be declared plants.

**“executive director”** means the person for the time being appointed as executive director for the purposes of this Act, and includes any person for the time being performing the functions of the executive director.

**“fund”** means the rural lands protection fund created and kept under this Act.

**“government entity”** see *Government Owned Corporations Act 1993*.

**“have in possession for sale”** includes have in possession for any purpose that constitutes a selling within the meaning of this Act.

**“inspector”** means an inspector appointed under section 10.

**“land under the control of a local government”** means land—

- (a) vested in or leased from a person by a local government;
- (b) within a public place, including a road, under the care, control and management of a local government or vested in a local government as trustee or of which a local government has been appointed the trustee;
- (c) within a reserve;
- (d) comprising a stock route or reserve for travelling stock which is not regarded under section 7 as being owned or occupied by some other person;

but does not include land leased to any person by a local government.

**“management program”** means a program approved and published by the Minister under section 86.

**“occupier”**, in relation to land, means the person by whom or on whose behalf land is actually occupied or, if there is no occupier, the person entitled to possession thereof.

**“owner”**, of land, has the meaning given by the *Local Government Act 1993*, section 5(1), but does not include the State or a government entity.

**“plant”** means vegetation of any kind, and includes—

- (a) any part thereof;
- (b) the product thereof.

**“primary producer organisation”** means an organisation, association, body or group of persons (whether incorporated or unincorporated) representing persons who are actively engaged in a primary producing industry other than mining.

**“private land”** means land for which there is an owner, but does not include a protected area.

**“protected area”** means an area dedicated under the *Nature Conservation*



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*Act 1992* as—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (Aboriginal land); or
- (d) a national park (Torres Strait Islander land); or
- (e) a conservation park.

**“protection board”** means the Rural Lands Protection Board constituted under this Act.

**“rabbit board”** means the Darling Downs–Moreton Rabbit Board preserved, continued in existence and constituted under this Act.

**“rabbit-check fence”** means all fencing on or abutting the part of the boundary of the rabbit district specified in schedule 2 which immediately prior to the commencement of this Act was being maintained rabbit-proof by the rabbit board, and includes any rabbit-proof fencing erected by the rabbit board on or abutting such part of the boundary of the rabbit district.

**“rabbit-control officer”** means a rabbit-control officer appointed under this Act.

**“rabbit district”** means the part of Queensland which constitutes the Darling Downs–Moreton rabbit district.

**“rabbit-proof”**, with reference to any fence, means of such character as to prevent the passage of rabbits.

**“reserve”** means any land (except a reserve for travelling stock) which, for the time being, is declared, reserved or set apart under any Act or law for any purpose and which is under the control of a local government.

**“reserve for travelling stock”** means a reserve under the *Land Act 1994* or another Act that may be used for travelling stock.

**“road”** see *Land Act 1994*.

**“rural land”** means land other than land situated in any city or town or, in the case of a shire, in any township therein.

**“sell”** includes barter, or agree to sell, or offer or expose or keep or have in possession for sale, or receive, send, forward or deliver for or on sale,

or authorising, causing, permitting, or suffering any such acts or things.

**“stock”** means cattle, sheep, horses, mules, goats, pigs and any other animal declared under a regulation to be stock for the purposes of this Act.

**“stock-proof”** with reference to any fence, means of such character as to prevent the passage of stock.

**“stock route”** see *Land Act 1994*.

**“travelling stock”** means stock which are being travelled or driven by land other than in the private land where they are ordinarily depastured.

**“travelling-stock rate”** see section 16.<sup>2</sup>

**“unallocated State land”** see *Land Act 1994*.

**“watercourse”** means a river, creek or stream in which water flows either permanently, intermittently or occasionally in a natural channel or in a natural channel artificially improved or in an artificial channel that has changed the course of the watercourse.

### **Class of plants or animals of category identified by letter and numeral etc.**

**6A.** For the purposes of this Act—

- (a) a reference to a class of declared plants or class of declared animals of or assigned to a category identified by a letter and a numeral refers to a class of declared plants or class of declared animals assigned by declaration under section 69 to the category so identified in section 70(3) or (4);
- (b) a reference to a declared plant or declared animal of a category identified by a letter and a numeral refers to a declared plant or declared animal of a class of declared plants or declared animals, as the case may be, assigned by declaration under section 69 to the category so identified in section 70(3) or (4).

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<sup>2</sup> Section 16 (Travelling-stock rate)

**Meaning of plant or animal on land**

**6B.** A plant or animal shall be deemed to be on land for the purposes of this Act notwithstanding that it is in a receptacle on that land or is on or in any watercourse on that land or is in the air above that land.

**Meaning of fence on boundary of land etc.**

**6C.** For the purposes of this Act—

- (a) a fence shall be taken to be on the boundary of any land, or on the common boundary of any lands, if it follows the line which is such actual, reputed or accepted boundary or, where the boundary is inaccessible or incapable of being fenced, if the fence follows such boundary as nearly as practicable having regard to the physical features of the country or if in any case such fence follows any line which is reasonably approximate to such boundary; and
- (b) the intervention of a road, railway, watercourse or reserve shall not prevent lands being taken to be adjoining or prevent a fence along either side of any such road, railway, watercourse or reserve being taken to be on the common boundary of the lands on either side of such road, railway, watercourse or reserve.

**Application of declarations to plants or animals on land**

**6D.** A provision of this Act relating to declared plants or declared animals on land or to the control of declared plants or declared animals on land applies to plants or animals, as the case may be, that are, for the time being, declared in respect of the part of the State in which that land is situated.

**Application to certain roads and reserves for travelling stock**

**7.(1)** For the purposes of part 5, division 2, subdivision 4 and part 8, division 3, an owner or occupier of private land shall be regarded, subject to subsection (2), as owning or occupying, as the case may be, in addition to that land—

- (a) the land comprising any road or reserve for travelling stock that—

- (i) intersects the private land; or
  - (ii) bounds the private land and is fenced only on the side further from the common boundary of the road or reserve for travelling stock and the private land;
- (b) the land comprising half of the width of any road or reserve for travelling stock that separates the private land from other private land being the half that is nearer the common boundary of the road or reserve for travelling stock and the firstmentioned private land;

and such land shall be deemed to be included in and to form part of such private land.

(2) Subsection (1) does not apply to or in relation to a road or reserve for travelling stock dedicated, declared or notified and open to public use and fenced on both sides.

### **Application to certain watercourses**

**8.(1)** For the purposes of part 5, division 2, subdivision 4 and part 8, division 3, the bed and banks to the centre line of and the water to the centre-line of any nontidal watercourse or, as the case may be, that part of a nontidal watercourse as comprises any part of the boundaries of private land shall be deemed to be included in and to form part of such private land and shall be regarded as being owned or occupied, as the case may be, by the owner or occupier of the private land.

(2) Notwithstanding that the level of the water of a watercourse may occasionally alter in sympathy with the tides or that the waters of the watercourse may be rendered brackish by extraordinary tides, the watercourse shall be deemed to be nontidal if the average level of the water of the watercourse is higher than the level of ordinary spring tides at the nearest locality on the same stream where the water rises and falls with all tides.

(3) In subsection (2)—

“**ordinary spring tides**” means tides which rise to a height equal to the mean height of the superior tides at spring throughout the year.

## **PART 2—ADMINISTRATION**

### **Appointment of executive director and other officers**

**10.(1)** The Governor in Council may, subject to this Act, appoint an executive director, an assistant executive director and such inspectors and other officers and employ such employees as the Governor in Council shall think necessary for the administration of this Act.

**(2)** Every such appointment shall be made under and in accordance with the *Public Service Management and Employment Act 1988*.

**(3)** Notwithstanding the provisions of subsection (2), the Governor in Council, on the recommendation of the Minister, may, pursuant to the provisions of the *Public Service Management and Employment Act 1988*, exclude any appointee or all appointees included in any class of appointees under subsection (1) from the operation of the whole or any specified provisions of the *Public Service Management and Employment Act 1988* and either for a specified time or without limit of time and, to the extent to which any appointee or any class of appointees under this Act is for the time being, or has been at any time, so excluded, the *Public Service Management and Employment Act 1988* does not apply with respect to the office of such appointee or, as the case may be, the office of any appointee included in such class of appointees.

**(4)** In addition to any person appointed an inspector pursuant to subsection (1) the Governor in Council may appoint a person who is an officer of the public service to be an inspector.

**(5)** Save to the extent to which an appointee under this section is for the time being excluded from the operation of the *Public Service Management and Employment Act 1988* every such appointee shall, in respect of the office to which the appointee is appointed under this Act, be deemed to be an officer of the Department of Lands.

### **Powers of Minister**

**11.** In addition to the powers of the Minister otherwise prescribed by this Act, the Minister may, for the purposes of the due and proper administration of this Act—

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- (a) require a local government to account to the Minister for all moneys payable by the local government under this Act;
- (b) require a local government to report to the Minister in respect of any powers exercised or required to be exercised by it under this Act or in respect of any functions performed or required to be performed by it under this Act;
- (c) require a local government or any person or body of persons to satisfy the Minister that the local government, person or body of persons, as the case may be, has expended in a proper and economical manner all moneys made available from the fund to the local government, person or body of persons;
- (d) authorise the payment from the fund of the costs, charges and expenses of the administration of this Act incurred by the Minister or, with the Minister's approval, by the executive director;
- (e) authorise the payment from the fund to any government department, local government, person or body of persons of such sums as are approved by the Minister for payment to such government department, local government, person or body of persons for the purpose of defraying the costs, charges and expenses incurred or to be incurred by such government department, local government, person or body of persons in respect of any of its powers or functions under this Act;
- (f) contract or authorise the executive director to contract with persons for the execution of any work, matter or thing required for a purpose of this Act and authorise payments from the fund to such persons in terms of their respective contracts;
- (g) upon the recommendation of the protection board, vest the management and control of any facility for watering travelling stock or any other facility or improvement provided under this Act for the improvement of stock routes or reserves for travelling stock in the local government for the area in which the facility or improvement is situated;
- (h) acquire by agreement or take by resumption land for the purposes of this Act and for that purpose the Minister shall be a constructing authority within the meaning of the *Acquisition of*

*Rural Lands Protection Act 1985*

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*Land Act 1967;*

- (i) upon the recommendation of the protection board, acquire any machinery, equipment or materials for a purpose of this Act;
- (j) sell any machinery, equipment or materials acquired for a purpose of this Act at cost price plus an added amount determined by the Minister to cover the costs of and incidental to the acquisition and sale;
- (k) hire out any machinery or equipment acquired for a purpose of this Act on such terms and conditions as to the Minister seem desirable;
- (l) upon the recommendation of the protection board, dispose of any machinery, equipment or materials, whether by sale or otherwise, when it is or they are no longer required or suitable for the purpose for which it was or they were acquired;
- (m) employ or authorise the executive director to employ such number of persons as the Minister considers necessary for any purpose of this Act and authorise the payment from the fund of the wages of such persons.

**Powers and functions of executive director**

**12.** In addition to the powers and functions of the executive director otherwise prescribed by this Act, the executive director—

- (a) shall, with the approval of the Minister, carry out the policies and decisions of the protection board;
- (b) may liaise with Commonwealth, State and Territory quarantine authorities for the purpose of regulating or preventing the introduction into Queensland of declared plants and declared animals;
- (d) when authorised by the Minister so to do, may employ such number of persons as the Minister considers necessary for a purpose of this Act;
- (e) shall perform such functions relative to the administration of this Act as the Minister from time to time directs.

### **Committees**

**13.(1)** The Minister may from time to time appoint committees for the purpose of advising the Minister in relation to any matter connected with the administration of this Act.

**(2)** Each member of a committee shall be paid such allowances (if any) as the Governor in Council approves from time to time.

**(3)** Each member of a committee shall be paid such expenses as are necessarily incurred by the member in the discharge of his or her duties as a member and as the Minister approves.

### **Delegation**

**14.(1)** The Minister may delegate the Minister's powers under this Act to the protection board or to any person.

**(2)** The executive director may delegate the executive director's powers under this Act to any person.

### **Declaration of stock routes**

**15.** The Governor in Council may by a notice published in the gazette declare any road to be a stock route under and for the purposes of this Act.

### **Travelling-stock rate**

**16.** A regulation may authorise funds to be raised by a rate (a "**travelling-stock rate**") of a prescribed amount on stock travelled on a stock route or part of a stock route.



## **PART 3—BOARDS**

### *Division 1—Rural Lands Protection Board*

#### **Constitution of board**

**17.(1)** There shall be constituted from time to time as prescribed a board under the name and style ‘Rural Lands Protection Board’.

**(2)** In addition to any other powers or functions conferred on it by or under this Act the protection board shall have such powers and functions as are delegated to it by the Minister under section 14.

#### **Members of board**

**19.(1)** The protection board consists of not less than 13 nor more than 14 members.

**(2)** The following persons shall be members of the protection board—

- (a) 2 persons, each of whom is either an owner or occupier of rural land, nominated by the United Graziers’ Association of Queensland (Union of Employers);
- (b) a person, who is either an owner or occupier of rural land, nominated by the Queensland Graingrowers’ Association;
- (c) a person, who is either an owner or occupier of rural land, nominated by the Queensland Cane Growers’ Council;
- (d) a person, who is either an owner or occupier of rural land, nominated by the Council of Agriculture;
- (e) a person, who is either an owner or occupier of rural land, nominated by the Queensland Dairymen’s State Council;
- (f) a person, who is either an owner or occupier of rural land, nominated by the Committee of Direction of Fruit Marketing;
- (g) a person, who is either an owner or occupier of rural land, nominated by the Cattlemen’s Union;
- (h) 2 persons, each of whom is either a mayor or a councillor of a

local government, nominated by the Local Government Association of Queensland (Incorporated);

- (i) the executive director, who shall be a member ex officio;
- (j) the chief executive of the department or the chief executive's nominee;
- (k) the chief executive of the department in which the *Primary Industries Corporation Act 1992* is administered or that chief executive's nominee.

(3) The members of the protection board mentioned in subsection (2)(a) to (h) are to be appointed by the Governor in Council.

(4) If a primary producer organisation which is entitled to do so or the Local Government Association of Queensland (Incorporated) fails or refuses to nominate a person to be a member of the protection board or to nominate a qualified person, the Governor in Council may appoint any qualified person as a member of the protection board in lieu of that person and where the Governor in Council does so that person shall be deemed to have been nominated by the primary producer organisation in question or, as the case may be, the Local Government Association of Queensland (Incorporated).

### **Appointment of chairperson**

**20.(1)** The Governor in Council shall appoint a person as chairperson of the protection board and where at the time of such appointment that person is not a member of the protection board the person shall by force of the appointment as chairperson and for so long as the person continues as chairperson be a member of the protection board.

(2) Before a person is appointed as the chairperson, the Minister must consult the protection board about the appointment.

### **Term of appointment**

**21.(1)** The chairperson or another member of the protection board is to be appointed for a term of not longer than 3 years.

(2) Subsection (1) does not apply to a member mentioned in section 19(2)(i) to (k).<sup>3</sup>

### **Vacating chairperson's office**

**22.(1)** The chairperson of the protection board may, by writing furnished to the Minister, resign office as chairperson at any time.

(2) The Governor in Council may remove from office the chairperson of the protection board if—

- (a) the chairperson is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy; or
- (b) the chairperson becomes incapable, in the opinion of the Governor in Council, of discharging the duties of office; or
- (c) the chairperson is, in the opinion of the Governor in Council, incompetent or unfit to hold office.

(3) The chairperson shall be deemed to have vacated office—

- (a) in the event of the chairperson's resignation—upon the receipt by the Minister of the notice of resignation;
- (b) in the event of the chairperson's removal—upon the issue by the Minister of notice of the removal;
- (c) where the chairperson is a member of the protection board otherwise than by virtue of his or her appointment as chairperson—upon the chairperson being deemed to have vacated office as a member.

(4) A person appointed to fill a vacancy in the office of a member who was chairperson of the protection board shall not by reason only of the person's appointment as a member be chairperson.

### **Vacating member's office**

**23.(1)** A member of the protection board, other than a member ex officio, may by writing furnished to the Minister resign office at any

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<sup>3</sup> Section 19 (Members of board)

*Rural Lands Protection Act 1985*

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time.

(2) The Governor in Council may remove from office a member, other than a member ex officio, if—

- (a) the member is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy;
- (b) the member becomes incapable, in the opinion of the Governor in Council, of discharging the duties of the office;
- (c) the member is, in the opinion of the Governor in Council, incompetent or unfit to hold office.

(3) A member shall be deemed to have vacated office—

- (a) in the event of the member's resignation—upon the receipt by the Minister of the notice of resignation;
- (b) in the event of the member's removal—upon the issue by the Minister of notice of the removal;
- (c) if the member declines to act or to act further as a member;
- (e) if the member, in relation to the office of member held by him or her, ceases to be qualified as prescribed by section 19(2);
- (f) if the member is absent without the board's leave first obtained from 3 consecutive ordinary meetings of the board of which notice has been duly given to the member.

(4) For the purposes of subsection (3)(f)—

- (a) the nonattendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the board at which a quorum is present is actually held on that day;
- (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the members who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book.

(5) This section does not apply to a person who is a member of the protection board only by virtue of the person's appointment as chairperson thereof.

### **Quorum**

**25.(1)** The quorum of the protection board shall consist of 8 members of the board.

(2) No business shall be transacted at a meeting of the protection board unless a quorum is present.

### **Meetings**

**26.(1)** The protection board shall hold its meetings at such times and places as the protection board by resolution appoints and at such other times and places as the Minister or the chairperson of the protection board directs.

(2) The protection board shall hold meetings at least 3 times each year.

(3) Subject to this Act, the protection board shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

### **Presiding at meetings**

**27.(1)** The chairperson of the protection board shall preside at every meeting of the protection board at which the chairperson is present and in the chairperson's absence or until the appointment of a chairperson another member of the protection board chosen by the members present at the meeting shall preside.

(2) The member of the protection board who presides at a meeting of the protection board in the absence of the chairperson or pending the appointment of the chairperson shall, while the member is so acting, have all the powers of the chairperson.

### **Regulations for conduct of board**

**28.** A regulation may provide for the conduct of the business of the protection board and, without limiting the generality of this provision, the regulation may prescribe the procedure at meetings either generally or as to

a particular matter, the method of voting, the records to be kept and any other matters necessary to ensure the good order and conduct of the business and proceedings of the protection board.

### **Change of name of primary producer organisation**

**29.** Where a primary producer organisation specified in section 19(2)(a) to (g) changes its name the Minister may, by gazette notice, notify that section 19(2) is to be construed as providing for the membership of the protection board next constituted and of each protection board thereafter constituted as though the organisation new name were specified in that subsection in lieu of the name actually specified therein and subsection (2) shall be construed accordingly.

### **Substitution of other organisation**

**30.** Where any of the members of a primary producer organisation specified in section 19(2)(a) to (g) form into another primary producer organisation and the Minister is satisfied that that organisation is more representative of the persons engaged in the industry concerned than the firstmentioned organisation the Minister may, by gazette notice, notify that section 19(2) is to be construed as providing for the membership of the protection board next constituted and of each protection board thereafter constituted as though the other organisation were specified in that subsection in lieu of the organisation actually specified therein and subsection (2) shall be construed accordingly.

### **Powers of protection board**

**31.(1)** In addition to the powers of the protection board otherwise prescribed by this Act, the protection board may make recommendations to the Minister with respect to each of the following—

- (a) as to whether any class of plants or animals should be declared under section 69 and if so the category or categories to which that class should be assigned;
- (b) as to whether any class of plants should be declared to be extraordinarily noxious plants;

- (c) the promotion of the control of declared plants and declared animals;
- (d) the setting up of programs for the purpose of controlling declared plants and declared animals;
- (e) the setting up of research programs for the purpose of studying the habits and distribution throughout the State or any part thereof of declared plants and declared animals with a view to controlling the same by biological, chemical or other means;
- (f) the educating of persons in methods of controlling declared plants and declared animals;
- (g) the purchase of machinery, equipment and materials and the distribution of the same for the purpose of controlling declared plants and declared animals;
- (h) the establishment, maintenance and improvement of stock routes and the facilities connected therewith;
- (i) the imposition of travelling-stock rates in any area and the stock routes or parts of stock routes in such area in respect of which such rates should be imposed;
- (j) the formation, regulation and operation of declared plant syndicates, declared animal syndicates and declared plant and declared animal syndicates to which part 9 applies;
- (k) amounts to be prescribed under section 211(2);
- (l) such other matters as the Minister from time to time directs.

## **Reports**

**32.(1)** The protection board shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister a report on the board's operations for the 12 months preceding that date.

**(2)** The Minister shall, as soon as practicable after the receipt by the Minister of a report under subsection (1), lay the report before the Legislative Assembly.

***Division 2—The Darling Downs–Moreton Rabbit Board*****Darling Downs–Moreton rabbit district**

**33.** The part of Queensland described in schedule 3 is hereby constituted the Darling Downs–Moreton rabbit district.

**Constitution of rabbit board**

**34.** The board constituted under the *Rabbit Act 1964* is hereby preserved, continued in existence and constituted under this Act under the name and style the ‘Darling Downs–Moreton Rabbit Board’.

**Membership of rabbit board**

**35.(2)** The rabbit board shall consist of 6 members being—

- (a) an officer of the department nominated by the Minister from time to time, who shall be a member ex officio;
- (b) 2 members (respectively qualified as prescribed) appointed by the Governor in Council;
- (c) 2 members (respectively qualified as prescribed) nominated in accordance with the directions given by the Minister under subsection (5) by the local governments prescribed for the purpose of this paragraph, the areas of parts of the areas of which are situated in the Darling Downs division;
- (d) 1 member (qualified as prescribed) nominated in accordance with the directions given by the Minister under subsection (5) by the local governments prescribed for the purpose of this paragraph, the areas or parts of the areas of which are situated in the Moreton division.

**(3)** For the purposes of the nomination of the members mentioned in subsection (2)(b), (c) and (d), the Governor in Council under a regulation shall divide the rabbit district into 2 divisions called the Darling Downs division and the Moreton division.

**(4)** The Governor in Council under a regulation may alter such divisions by excluding part of one therefrom and including it in the other or by



abolishing both and redividing the rabbit district.

(5) The Minister may from time to time give all such directions as the Minister thinks necessary or desirable for providing for and regulating the nomination of the members referred to in subsection (2)(c) and (d).

### **Appointment and term of office of members**

**36.(1)** The members, other than the member ex officio, by whom the rabbit board is to be constituted, shall be appointed by the Governor in Council.

(2) Appointments under subsection (1)—

- (a) are triennial appointments; and
- (b) for a year in which the appointments are to be made—must be made before 1 July.

(3) If, in respect of any triennial appointment, a nomination referred to in section 35(2)(c) or (d) is not made as directed by the Minister the Governor in Council may appoint a sufficient number of persons to complete the full membership of the rabbit board.

(4) Persons appointed pursuant to subsection (3) shall be qualified as prescribed for appointment to the office of member to which they are appointed and shall be deemed to have been nominated as directed by the Minister.

(5) Every member appointed by a triennial appointment shall, subject to this division, hold office as member of the rabbit board for 3 years from and including 1 July in the year in which the member is appointed.

### **Qualifications of members**

**37.(1)** The members, other than the member ex officio, of the rabbit board shall be qualified as follows—

(a) in respect of the members referred to in section 35(2)(b)—

- (i) 1 shall reside in the Darling Downs division; and
- (ii) 1 shall reside in the Moreton division;

and each shall be either an owner or occupier of rural land situated

in the member's respective division;

- (b) the 2 members referred to in section 35(2)(c) shall each reside in the Darling Downs division and be either an owner or occupier of rural land situated in that division;
- (c) the member referred to in section 35(2)(d) shall reside in the Moreton division and be an owner or occupier of rural land situated in that division.

(2) A person shall not be capable of being appointed a member of the rabbit board unless, in relation to the office of member to which the person is appointed, the person is qualified as prescribed by subsection (1).

### **Vacating member's office**

**38.(1)** A member, other than the member ex officio, of the rabbit board may, by writing furnished to the clerk to the rabbit board, resign office at any time.

(2) The Governor in Council may remove from office a member of the rabbit board, other than the member ex officio, if—

- (a) the member is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy; or
- (b) the member becomes incapable, in the opinion of the Governor in Council, of discharging the duties of the office; or
- (c) the member is, in the opinion of the Governor in Council, incompetent or unfit to hold office.

(3) A member shall be deemed to have vacated office—

- (a) in the event of the member's resignation—upon the receipt by the clerk to the rabbit board of the notice of resignation;
- (b) in the event of the member's removal—upon the issue by the Minister of notice of the removal;
- (c) if the member declines to act or to act further as a member;
- (e) if the member, in relation to the office of member held by the member, ceases to be qualified as prescribed by section 37(1);
- (f) if the member is absent without the rabbit board's leave first

obtained from 3 consecutive ordinary meetings of the board of which notice has been duly given to the member.

(4) For the purposes of subsection (3)(f)—

- (a) the nonattendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the rabbit board at which a quorum is present is actually held on that day;
- (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the members who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book.

### **Casual vacancy in member's office**

**39.(1)** A casual vacancy shall be taken to arise in the office of a member of the rabbit board—

- (a) if the member dies;
- (b) if the member's office becomes vacant as prescribed by section 38.

(2) If a casual vacancy occurs in the office of a member, other than the member *ex officio*, during the currency of the member's term of appointment another person who, in relation to the office in question, is qualified under section 37(1),<sup>4</sup> may be appointed by the Governor in Council as a member to fill the vacancy.

(3) The appointment of a person to fill a casual vacancy shall continue and be deemed to continue for as long as the appointment of the person's predecessor had the casual vacancy not occurred.

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<sup>4</sup> Section 37 (Qualification of members)

**Chairperson**

**40.(1)** The chairperson of the rabbit board is the member of the board chosen at the first meeting held after each triennial appointment of members.

**(2)** If there is a casual vacancy in the office of chairperson, the members present at the first meeting held after the vacancy happens must choose another member to be chairperson.

**Conduct of business**

**41.** Subject to this Act, the rabbit board shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

**Presiding at meetings**

**42.(1)** The chairperson of the rabbit board shall preside at every meeting of the board at which the chairperson is present and in the chairperson's absence another member of the board chosen by the members present at the meeting shall preside.

**(2)** The member of the rabbit board who presides at a meeting of the board in the absence of the chairperson shall, while the member is so acting, have all the powers of the chairperson.

**Quorum**

**43.(1)** The quorum of the rabbit board shall consist of 4 members of the board.

**(2)** No business shall be transacted at a meeting of the rabbit board unless a quorum is present.

**Functions**

**44.(1)** The rabbit board shall at all times ensure that land situated in the rabbit district is maintained free from rabbits and shall at all times maintain the rabbit-check fence so that the fence is rabbit-proof.

**(2)** For the purpose of carrying out its functions the rabbit board, subject

to any general or special directions given by the Minister, shall—

- (a) plan and coordinate the work of maintaining the rabbit-check fence in such a manner that the fence is rabbit-proof;
- (b) carry out the work as so planned and coordinated;
- (c) estimate in respect of each financial year the amount of revenue required to defray the cost of carrying out the functions of the board which estimate shall be in addition to the cost of administering, in respect of the rabbit district, the provisions of this Act that relate to the board;
- (d) carry out such functions and works for effecting in relation to the rabbit district the functions of the board as the Minister directs.

(3) The estimate prescribed by subsection (2)(c) shall, in respect of each and every financial year, be made and furnished to the Minister not later than the last preceding 30 April and shall be accompanied by a statement of the works and other functions of the rabbit board for defraying the costs and expenses of the carrying out and performance whereof the estimated revenue is required.

(4) Such statement shall specify the works and other functions to which it relates and shall set out in relation to each work or other function so specified an estimate of the cost or expenses of the carrying out or performance thereof.

(5) The Minister shall, in respect of each financial year, approve of such works and other functions to be carried out by the rabbit board as the Minister deems fit having regard to the objects of this Act that relate to the rabbit board and of the costs or expenses to be incurred by the rabbit board in carrying out each work or other function approved by the Minister.

### **Rabbit board may acquire land**

**45.(1)** The rabbit board may, with the approval of the Minister, for any purpose connected with the performance of its functions, acquire either freehold land or land that is held under a lease under the *Land Act 1994*.

(2) Expenditure incurred by the board in acquiring land shall be taken to be incurred by it in the performance of its functions.

(3) The rabbit board, with the approval of the Minister, may exchange

land acquired by it for other land of a type mentioned in subsection (1), that is more suitable for the performance of its functions.

(4) The rabbit board, with the approval of the Minister, may sell land acquired by it that is no longer required for the performance of its functions.

(5) Moneys received from the sale of land shall, after deduction of any expenses incurred in offering the land for sale, be paid into the board's general fund.

### **Rabbit board may acquire machinery etc.**

46.(1) The rabbit board may, if the Minister approves that the expenditure be incurred, acquire such machinery, equipment or material as is necessary for the performance of its functions.

(2) The board may dispose of any machinery, equipment or material acquired by it.

(3) The proceeds from any such disposal shall be paid into the board's general fund.

### **Rabbit control and other officers**

47.(1) There are to be rabbit-control officers.

(2) Rabbit-control officers and other officers required to assist the board are to be employed under the *Public Service Act 1996*.

### **Rabbit board staff**

48.(1) The rabbit board may engage the employees it considers necessary to perform its functions.

(2) The rabbit board may decide its employees' conditions of employment.

(3) However, subsection (2) has effect subject to any relevant award or industrial agreement.

(4) The employees are to be employed under this Act, and not under the *Public Service Act 1996*.

**Control of money and property**

**51.(1)** Whenever it appears to or comes to the knowledge of the rabbit board that, arising from a cause which could constitute an offence under the Criminal Code or any other Act or law, there is—

- (a) a loss of or deficiency in any moneys of or under the control of the board; or
- (b) a loss of, destruction of or damage to property of or under the control of the board;

the rabbit board shall forthwith give notice thereof to the auditor-general and to a police officer appointed to be in charge of the police station established at, or nearest to, the locality where the money or property was lost, deficient, destroyed or, as the case may be, damaged.

**(2)** The rabbit board shall not—

- (a) abstain from, discontinue or delay a prosecution for an offence under the laws of the State in relation to any money or property of or under the control of the board which is or appears to be stolen or wilfully destroyed or damaged; or
- (b) withhold or promise to withhold or delay any evidence for the purposes of such a prosecution.

***Division 3—General*****Interpretation**

**52.** In this division—

**“board”** means the Rural Lands Protection Board or the Darling Downs–Moreton Rabbit Board.

**Restrictive employment provisions inapplicable to membership of board**

**53.** A provision of any enactment requiring the holder of an office to devote the whole of the person’s time to the duties of the office or prohibiting the person from engaging in employment outside the duties of

the office shall not operate to hinder the person holding that office and the office of a member or chairperson of the board.

### **Allowances**

**54.(1)** A member of the board is entitled to be paid the fees and allowances decided by the Governor in Council.

**(2)** Each member of the board shall be paid such expenses as are necessarily incurred by the member in the discharge of the member's duties as a member and as the Minister approves.

### **Voting**

**55.(1)** A duly convened meeting of the board at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise all the powers and functions by this Act conferred or imposed upon the board.

**(2)** Every decision of the board and of its members shall be taken by majority vote of the members present at a meeting of the board at which a quorum is present.

**(3)** The chairperson of the board shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

**(4)** A member of the board who, being present at a meeting of the board, abstains from voting shall be taken to have voted in the negative.



## **PART 4—POWERS AND FUNCTIONS OF LOCAL GOVERNMENTS**

### *Division 1—Stock routes etc.*

#### **Local governments to improve and maintain stock routes and reserves for travelling stock**

**57.(1)** A local government shall, as a function of local government, control, improve and maintain stock routes and reserves for travelling stock within its area to such extent as is necessary to ensure that they are at all times in a reasonably fit and proper condition for use by travelling stock.

**(2)** For the purpose of performing the duty imposed by this section a local government shall have the powers prescribed by this division.

#### **Powers and functions of local governments**

**58.** Every local government shall with respect to its area—

- (a) conserve the natural fodder for stock on any stock route or reserve for travelling stock, whether fenced or unfenced;
- (b) determine, subject to the approval of the Minister, whether any stock route or reserve for travelling stock shall be fenced in with or fenced out of any private land;
- (c) if thereunto required by the Minister, provide supplies of water for or facilities for watering travelling stock;
- (d) at all times maintain in good and substantial repair all facilities for watering travelling stock and all other facilities for the improvement of stock routes existing at the commencement of this Act or provided under this Act;
- (e) if thereunto required by the Minister, control declared plants and declared animals on unallocated State land: the costs incurred by a local government under this paragraph shall be paid out of the fund;
- (f) subject to this Act and any other Act or law affecting travelling

stock, control and regulate the movements of travelling stock on any stock route, reserve for travelling stock, reserve or unallocated State land;

- (g) collect all fees and other charges made under or in pursuance of this Act in respect of stock routes or reserves for travelling stock;
- (h) transmit to the Treasury for payment into the fund the amount of all fees and other charges collected by it pursuant to paragraph (g);
- (i) administer all regulations made under this Act in respect of stock routes or reserves for travelling stock which it is expressly or impliedly required to administer.

### **Water facility agreement**

**59.(1)** A local government may, with the prior approval of the Minister, and shall, if so directed by the Minister, enter into an agreement with an owner in its area whose private land is intersected by, adjoins or is adjacent to a stock route or a reserve for travelling stock to provide for—

- (a) a supply of water to the private land from a water facility under the control and management of the local government and situated on such stock route or reserve for travelling stock; or
- (b) a supply of water to such stock route or reserve for travelling stock from a water facility situated on the private land; or
- (c) the watering of travelling stock at a water facility situated on the private land; or
- (d) the maintenance in good order and condition of a water facility under the control and management of the local government and situated on such stock route or reserve for travelling stock; or
- (e) the construction, conjointly by the local government and the owner, of a water facility for the use of travelling stock and stock depastured on the private land.

**(2)** An agreement referred to in subsection (1) shall not be executed by the parties unless and until the Minister has approved of the terms and conditions thereof.

(3) The ownership of a water facility constructed, pursuant to an agreement entered into under subsection (1)(e), shall, if either party to the agreement pays the cost thereof, be vested in such party but if such cost is apportioned between them it shall be vested, unless the agreement otherwise provides, in each party in the proportion that the party contributed to the cost of construction.

(4) The Minister shall not direct a local government to enter into an agreement under subsection (1) unless the Minister is satisfied that the owner is willing to enter into the agreement and the terms and conditions thereof are equitable as between the local government and the owner.

### **Notification in register**

**60.(1)** A local government shall produce any agreement entered into by it pursuant to section 59 to and lodge a duplicate original or true copy thereof with the authority charged with registering the instrument of title to the private land to which the agreement relates and such authority shall note such agreement by endorsement in its register and on every such instrument.

(2) Upon an agreement referred to in subsection (1) being noted in a register pursuant to that subsection, the agreement shall be binding on every subsequent owner of the private land to which it relates.

(3) A local government which enters into an agreement referred to in subsection (1) may, by notice in writing served upon a person who is in possession of an instrument of title to the private land to which the agreement relates, require that person to produce the instrument, within such time as is specified in the notice, to the authority charged with registering that instrument.

(4) A person who fails to comply with the requirements of a notice served on the person pursuant to subsection (3) commits an offence against this Act.

Maximum penalty—5 penalty units.

### **Straying stock may be seized**

**61.(1)** Subject to subsection (2), stock found on any part of a stock route

or reserve for travelling stock may be seized and taken possession of by an inspector or officer of the department or, on behalf of the local government for the area in which that part is situated, by a person authorised in that behalf (either generally or in the particular case) by the local government.

(2) Subsection (1) does not apply to—

- (a) bona fide travelling stock authorised to be on the part of the stock route or reserve for travelling stock in question by the local government for the area in which that part is situated;
- (b) stock on any part of a stock route or reserve for travelling stock that is situated within private land or abuts upon the boundary of private land and which is not fenced off from the private land or otherwise protected from the straying thereon of stock from the private land.

(3) Upon payment within the prescribed time of the prescribed charges any stock seized shall be released to their owner.

(4) If the prescribed charges are not paid within the prescribed time any stock seized shall be sold at auction and the proceeds of the sale paid to the Treasury for payment into the fund.

(5) Where cattle or horses are offered at auction pursuant to subsection (4) and due notice of the sale has been given in a newspaper circulating generally in the area in which they were seized, and the amount offered for any beast or horse does not reach \$30, the beast or horse may be forthwith destroyed by order of the mayor of the local government for the area or the executive director.

### **Overstocking**

**62.** Where a stock route or part thereof is fenced in or enclosed with private land or part thereof thereby making a stock-route paddock, an owner or, if the owner is not the occupier, an occupier of the private land who deliberately overstocks that paddock in contrast with other paddocks of the private land commits an offence against this Act.

Maximum penalty—10 penalty units.

**Stock may be mustered**

**63.(1)** For the purpose of ascertaining whether or not a stock-route paddock is overstocked—

- (a) an authorised person may; or
- (b) the local government for the area in which the paddock is situated may and shall if so directed by the executive director;

by notice in writing served on the owner or, if the owner is not the occupier, the occupier of the private land on which the paddock is situated direct that the stock on the private land be mustered within the time specified in the notice.

**(2)** Where the owner or occupier fails to comply with a direction contained in a notice served on him or her under subsection (1) any person empowered in writing by the local government for the area in which the paddock is situated so to do (either generally or in the particular case) may enter the land and muster the stock.

**(3)** The expenses incurred by a local government under subsection (2) shall be a debt due by the owner or occupier served with the notice under subsection (1) to the local government and may be sued for and recovered in a court of competent jurisdiction.

**(4)** Subsection (3) shall be operative whether proceedings are brought against the owner or occupier concerned for a breach of section 62(1) or not.

***Division 2—General*****Local government to enforce provisions of this Act**

**64.(1)** Subject to this Act, each local government is hereby charged with responsibility—

- (a) to ensure that declared plants and declared animals are controlled within its area;
- (b) to prevent the introduction into and the spread within its area of declared plants and declared animals;

as a function of local government and for the purposes of discharging that

responsibility a local government—

- (c) shall enforce and make use of the provisions of this Act in so far as it is competent to it to do so;
- (d) may pay bonuses, approved by the Minister upon the recommendation of the protection board, for the destruction of declared animals of a class specified in the approval;
- (e) may, subject to its obtaining the approval of the Minister so to do, distribute poison and weedicides to the owners of private land.

(2) So far as it is competent to a local government to enforce a provision of this Act in relation to a matter referred to in subsection (1)(a) or (b) the responsibility prescribed by subsection (1) is primarily that of each local government, notwithstanding any other provision of this Act.

### **Minister may direct local government to exercise power or discharge function**

**65.** If a local government—

- (a) refuses or fails to exercise or discharge any power or function conferred or imposed on it under or in pursuance of this Act; or
- (b) refuses or fails to carry out any work or activity which it is empowered or required under this Act to carry out; or
- (c) in the opinion of the Minister, is not exercising or discharging such power or function or carrying out such work or activity in a manner calculated to effect within its area the objects of this Act;

the Minister may, by notice in writing served on the local government, direct it—

- (d) to exercise or discharge such power or function or to carry out such work or activity; or
- (e) to exercise or discharge such power or function or carry out such work or activity in such manner as the Minister thinks fit;

within the time specified in the notice.

**When powers etc. of local government to be performed by executive director**

**66.(1)** If the local government does not comply with a notice served on it under section 65, a regulation may—

- (a) declare that it shall cease to exercise or discharge such power or function or carry out such work or activity as is specified in the regulation; and
- (b) direct the executive director to exercise or discharge or carry out, as the case may be, such power, function, work or activity.

**(2)** In carrying out a direction given to the executive director pursuant to subsection (1), the executive director shall have all the powers of the local government and the local government shall pay the costs, charges, fees and expenses of the executive director incurred in carrying out the direction.

**(4)** Within 21 days after complying with a direction given to the executive director pursuant to subsection (1), the executive director shall give to the local government written notification that the executive director has complied with the direction and shall inform it with reasonable particularity of the amount of the costs, charges, fees and expenses incurred by the executive director in so complying.

**(5)** The local government shall pay to the executive director for payment into the fund the amount notified to it pursuant to subsection (4) within 21 days of being notified or within such extended time (not exceeding 35 days from the date of giving notification) as the Minister may allow.

**(6)** If a local government fails to comply with subsection (5) the executive director shall certify to the Minister the amount owing by the local government.

**(7)** Notwithstanding the provisions of any other Act the Minister, with the prior approval of the Governor in Council first had and obtained, may issue to the local government a precept signed by the Minister and in the approved form stating therein the total amount of the costs, charges, fees and expenses notified to it pursuant to subsection (4) and not since paid and upon the issue of the precept the local government shall meet the precept and pay out of its operating fund in accordance with the direction contained in the precept for payment into the fund the amount of the precept.

**(8)** Where a local government fails to pay the amount of a precept issued

under subsection (7) that amount shall be a debt due by the local government to the Minister and may be sued for and recovered by the Minister in a court of competent jurisdiction.

### **Local government may sue for and recover certain expenses**

#### **67.(1) Where—**

- (a) consequent upon the executive director carrying out a direction given to the executive director pursuant to section 66(1) a notice in writing is served upon an owner or occupier of private land or on both of them pursuant to section 81(1); and
- (b) neither the owner nor the occupier complies with a direction contained in the notice; and
- (c) the executive director incurs expenses under section 83(2) consequent upon the requirements of the direction contained in the notice not having been complied with; and
- (d) those expenses are paid by a local government pursuant to section 66;

the expenses shall be a debt due by the owner or occupier served with the notice and if both are served by them jointly and each of them severally to the local government and may be sued for and recovered in a court of competent jurisdiction.

(2) Where an owner of private land is indebted to a local government pursuant to subsection (1) the debt shall, until paid, be and remain a charge upon the private land (notwithstanding that the indebtedness arose consequent upon expenses having been incurred in respect of a part only of the private land) and be payable by the owner thereof for the time being.

(3) Whenever the amount of any such indebtedness has become a charge as aforesaid upon any private land, such charge shall be deemed to be a charge made under the *Local Government Act 1993*, section 663 (Cost of work a charge over land) and all the applicable provisions of that Act shall apply and extend accordingly.

### **Authorised persons**

**68.(1)** A local government may, by writing under its seal, appoint any of



its officers as authorised persons.

(2) Every authorised person shall, if required to do so by that owner or occupier, produce the authorised person's written appointment to the owner or occupier of any land or premises the authorised person may enter pursuant to the powers conferred on the authorised person by this Act.

(3) A provision of this Act that empowers or requires an authorised person to do any act, matter or thing shall be construed as empowering or requiring that person to do the act, matter or thing only within the area of the local government by which the authorised person is appointed pursuant to this section.

## **PART 5—DECLARED PLANTS AND DECLARED ANIMALS**

### *Division 1—Declaration of plants and animals*

#### **Classes of plants and animals may be declared**

**69.(1)** A regulation may—

- (a) declare animals of a class specified in the regulation (other than protected animals within the meaning of the *Nature Conservation Act 1992*) to be declared animals; and
- (b) declare plants of a class specified in the regulation (other than protected plants within the meaning of the *Nature Conservation Act 1992*) to be declared plants.

(2) A regulation under subsection (1) in relation to a class of plants or animals shall specify—

- (a) whether those plants or animals are declared plants or declared animals, as the case may be, in respect of the whole of the State or only in respect of a part or parts of the State specified in the regulation; and
- (b) whether those plants or animals are declared generally or only in

- particular circumstances specified in the regulation; and
- (c) the category or categories to which that class of declared plants or declared animals is assigned for the purposes of this Act.

### **Categories of declared plants and animals**

**70.(1)** Subject to and in accordance with subsections (3) and (4), a class of declared plants or class of declared animals may, under a regulation mentioned in section 69, be assigned to 1 or more categories for the purposes of this Act according to the measures to be taken in relation to declared plants or declared animals of that class in order to protect primary industries and the resources related to primary industries.

**(2)** A class of declared plants or class of declared animals may, under a regulation mentioned in section 69, be assigned to different categories in respect of different parts of the State.

**(3)** For the purposes of this Act a class of declared plants may be assigned to—

- (a) category P1 in respect of an area if the introduction into that area of those plants is to be prohibited;
- (b) category P2 in respect of an area if those plants are to be destroyed in that area;
- (c) category P3 in respect of an area if the numbers or distribution, or both, of those plants are to be reduced in that area;
- (d) category P4 in respect of an area if those plants are to be prevented from spreading beyond the places in which they occur in that area for the time being;
- (e) category P5 in respect of an area if particular action is to be taken in relation to those plants on land in that area that is land under the control of a government department or a local government.

**(4)** For the purposes of this Act a class of declared animals may be assigned to—

- (a) category A1 in respect of an area if the introduction of those animals into that area is to be prohibited;
- (b) category A2 in respect of an area if those animals—

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- (i) are not vertebrate animals native to that area; and
- (ii) are to be destroyed in that area;
- (c) category A3 in respect of an area if the keeping and selling of those animals in that area is to be prohibited;
- (d) category A4 in respect of an area if the introduction of those animals into that area is to be subject to prescribed conditions and restrictions;
- (e) category A5 in respect of an area if the numbers of those animals in that area is to be reduced and kept under restriction;
- (f) category A6 in respect of an area if the keeping and selling of those animals in that area is to be subject to prescribed conditions and restrictions;
- (g) category A7 in respect of an area if those animals are native to that area and are animals for which a management program should, in the opinion of the Minister, be approved and published by the Minister and implemented in that area;
- (h) category A8 for an area if, in the area, the animals are to be treated on the basis that—
  - (i) they are pests; and
  - (ii) a plague of them would quickly inflict severe damage to crops and pastures.

(5) In subsections (3) and (4)—

“**area**” means the whole of the State or a part of the State.

*Division 2—Control of declared plants and declared animals*

*Subdivision 1—Interpretation*

**Interpretation**

72. In this division—

“**declared animal**” means a declared animal of category A2, A5, A7 or A8.

**“declared plant”** means a declared plant of category P2, P3 or P4 and, in relation to land under the control of a local government, includes a declared plant of category P5.

### *Subdivision 2—Public land*

#### **Department to control declared plants and animals**

**73.** A government department shall control declared plants and declared animals on land under its control.

#### **Inspection and advice**

**74.(1)** An authorised person or inspector who finds declared plants or declared animals or signs or marks of declared animals on or in the vicinity of land that is under the control of a government department shall notify the department of that fact.

**(2)** An authorised person or inspector may advise a government department as to the measures that should be taken by it to control declared plants and declared animals on land under its control.

#### **Agreements**

**75.(1)** The executive director and a government department may enter into agreements for the supply by the executive director to the government department of materials, appliances and services for the control of declared plants and declared animals at such costs as shall be agreed.

**(2)** Subject to such limitations as may be prescribed the executive director and a government department, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

***Subdivision 3—Municipal land*****Local government to control declared plants and animals**

**76.** A local government shall control declared plants and declared animals on land under its control.

**Notice to comply may be served on local government**

**77.(1)** Where the Minister is satisfied that a local government is not making all reasonable endeavours to comply with section 76 the Minister may, by notice in writing served on that local government, direct that declared plants or declared animals specified in the notice be controlled on land specified in the notice and specify a completion date on or before which the local government shall fully comply with the direction.

**(2)** A notice served under subsection (1) may specify the method to be used in controlling the declared plants or declared animals to which the notice relates.

**(3)** The Minister may, by notice served under subsection (1), direct 2 or more local governments to act in conjunction in controlling declared plants or declared animals on land under the control of each of them respectively and may fix the proportion of the expenses of so doing to be paid by each of them.

**Powers of executive director etc. on failure to comply with direction**

**78.(1)** If a local government has not complied with a direction contained in a notice served on it under section 77 a person authorised in writing so to do by the executive director may enter the land to which the notice relates and endeavour to carry out all or any of the requirements of the direction and the expenses of doing so, together with interest at the prescribed rate, shall be a debt due by the local government to the executive director and may be sued for and recovered in a court of competent jurisdiction.

**(2)** For the purposes of subsection (1), if a notice under section 77 has been served on 2 or more local governments the expenses incurred under subsection (1) in carrying out the requirements of the direction contained in the notice shall be recoverable from those local governments in the

proportions fixed by the notice.

(3) For the purposes of this section a local government on which a notice has been served under section 77 shall not be regarded as having failed to comply with the direction contained in the notice by reason only that it has not controlled declared plants or declared animals in the manner specified in the notice so long as it has controlled the plants or animals in some other manner approved by the executive director.

### **Agreements**

79.(1) Subject to the provisions of the *Local Government Act 1993*, the executive director and a local government may enter into agreements for the supply by the executive director to the local government of materials, appliances and services for the control of declared plants and declared animals at such cost as shall be agreed.

(2) Subject to such limitations as may be prescribed and to the provisions of the *Local Government Act 1993*, the executive director and a local government, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

### *Subdivision 4—Private land*

#### **Occupiers of private land to control declared plants and animals**

80. The occupier of any private land who fails to control declared plants and declared animals on that land commits an offence against this Act.

Maximum penalty—

- (a) for a first offence—5 penalty units; and
- (b) for a subsequent offence—20 penalty units.

#### **Notice to owner and occupier to control declared plants or animals**

81.(1) Without affecting any proceeding against or liability of an occupier under section 80—

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- (a) if the local government for the area in which the land is situated is satisfied that an occupier of private land is not making all reasonable endeavours to comply with that section it may;
- (b) if an authorised person or inspector is satisfied that an occupier of private land is not making all reasonable endeavours to comply with that section he or she may—
  - (i) in the case of an authorised person—if authorised in writing by the local government for the area in which the land is situated (either generally or in the particular case) so to do;
  - (ii) in the case of an inspector—if authorised in writing by the executive director (either generally or in the particular case) so to do;

by notice in writing served on that occupier, or on the owner of the land, or on both the occupier and the owner, direct that declared plants or declared animals specified in the notice be controlled on, or on any specified part of, the land and specify a completion date on or before which the person on whom the notice is served shall fully comply with that direction.

(2) A notice served under subsection (1) may specify the method to be used in controlling the declared plants or declared animals to which the notice relates.

**Failure to comply with direction**

**82.(1)** An owner or occupier of private land who has been served with a notice under section 81 who fails to fully comply with the direction contained in the notice on or before the completion date specified in the notice commits an offence against this Act.

Maximum penalty—

- (a) for a first offence—20 penalty units; and
- (b) for a subsequent offence—50 penalty units.

(2) Where the owner and the occupier of private land are both served with a notice under section 81 it is a defence in any proceeding against either of them under subsection (1) for the defendant to show that the other has complied with the provisions of that subsection.

(3) For the purposes of this section and section 83, an owner or occupier of private land who has been served with a notice under section 81 shall not be regarded as having failed to comply or fully comply with the direction contained in the notice by reason only that the owner or occupier has not controlled declared plants or declared animals in the manner (if any) specified in the notice so long as he or she has controlled the plants or animals in some other manner approved by the executive director.

### **Local government or executive director may carry out work and recover cost**

**83.(1)** Without affecting any proceeding against or liability of any owner or occupier under section 82, where neither the owner nor the occupier of private land has complied with a direction contained in a notice served on either or both of them under section 81—

- (a) where the direction was given by a local government or by an authorised person—the local government for the area in which the land is situated may in writing;
- (b) where the direction was given by an inspector—the executive director may by signed notice;

authorise any person to enter the land to which the notice relates and endeavour to carry out all or any requirements of the direction.

(2) A person authorised pursuant to subsection (1) may enter the land and endeavour to carry out all or any requirements of the direction.

(3) The expenses incurred by a local government or the executive director under subsection (2) and the administrative expenses incurred consequent upon the requirements of the direction not having been complied with, together with interest at the prescribed rate, shall be a debt due by the owner or occupier served with the notice referred to in subsection (1) and if both are served by them jointly and each of them severally to the local government or, as the case may be, the executive director and may be sued for and recovered in a court of competent jurisdiction.

(4) Where an owner of private land is liable to a local government for the expenses and interest referred to in subsection (3) they shall, until paid, be and remain a charge upon the private land (notwithstanding that the expenses have been incurred in respect of a part only of the land) and be



payable by the owner thereof for the time being.

(4A) Whenever any such expenses and interest have become a charge as aforesaid upon any private land, such charge shall be deemed to be a charge made under the *Local Government Act 1993*, section 663 (Cost of work a charge over land) and all the applicable provisions of that Act shall apply and extend accordingly.

(5) Where an owner of private land is liable to the executive director for the expenses and interest referred to in subsection (3) they shall, until paid, be and remain a charge upon the private land (notwithstanding that the expenses have been incurred in respect of a part only of the private land) in priority to all other encumbrances whatsoever other than land tax due under the *Land Tax Act 1915* but including rates due to a local government and be payable by the owner thereof for the time being.

### **Powers of owner and occupier to control declared plants and animals**

84. An owner or occupier of private land shall have full power to do all that is necessary to control declared plants and declared animals on that land and to comply with a direction contained in a notice served on the owner or occupier under section 81.

### **Agreements**

85.(1) The executive director or, subject to the provisions of the *Local Government Act 1993*, a local government and an owner or occupier or both the owner and the occupier of private land may enter into agreements for the supply by the executive director or, as the case may be, local government to the owner or occupier or both the owner and the occupier of materials, appliances and services for the control of declared plants and declared animals at such cost as shall be agreed.

(2) Subject to such limitations as may be prescribed and, in the case of a local government, subject to the provisions of the *Local Government Act 1993*, the executive director or a local government and the owner or occupier or both the owner and the occupier of land, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

***Subdivision 5—Control of declared animals category A8 if plague exists or is likely***

**Powers of executive director if plague exists or is likely**

**85A.(1)** Without affecting any proceeding against or liability of an occupier under section 80 and in addition to any of the powers conferred on the executive director by this Act in respect of declared animals, if the executive director is satisfied that a plague of declared animals of category A8 exists or is likely to occur in any part of the State and it is essential that immediate action be taken in order to protect crops and pastures, the executive director may by notice in writing direct any person to enter any land (other than land situated in a protected area) and carry out such work in such manner as the executive director considers necessary to control those animals.

(2) A person directed to carry out work under subsection (1) is authorised to enter the land to which the direction relates and endeavour to carry out all or any requirements of the direction.

***Subdivision 6—Management programs***

**Minister may approve programs**

**86.(1)** The Minister may approve a management program with respect to declared animals of a class assigned to category A7 being a program designed to ensure that the movement, numbers and distribution of animals of that class are managed and regulated so as to protect primary industries and the resources related to primary industries whilst also ensuring that the continued existence of that class of animals in the area or areas of the State in which the program has effect is not endangered.

(2) A program approved under subsection (1) shall specify the area or areas of the State in which the program shall have effect.

(3) The Minister shall publish every program approved under subsection (1) in the gazette and in a newspaper circulating in the area or areas in which the program shall have effect.

(4) A program published under subsection (3)—

- (a) shall take and have effect on and from the day specified in the program as the day on which it takes effect or, if a day is not so specified—on the date on which it is so published;
- (b) may amend or vary any previous program so published and may cancel any previous program so published for the purpose of substituting its provisions for the provisions of the program so cancelled;
- (c) may be cancelled wholly or in part by the Minister by notice published in the gazette and in a newspaper circulating in the area or areas in which the program has effect.

### *Subdivision 7—Miscellaneous*

#### **Successors in title bound**

**87.** A notice authorised under this division to be served on any owner shall, if service has been made on any owner, be binding on every subsequent owner to the same extent as if such notice has been served on each subsequent owner.

#### **Natural enemies of declared plants and animals**

**88.(1)** A regulation may declare anything to be a natural enemy of a declared plant or declared animal and prohibit the destruction, injuring and capturing of that thing in any area specified in the regulation.

**(2)** Any person who without lawful excuse—

- (a) destroys, injures or captures anything contrary to a regulation made under subsection (1);
- (b) is in possession of anything that has been captured contrary to a regulation made under subsection (1);

commits an offence against this Act.

Maximum penalty—5 penalty units.

***Division 3—Prevention of introduction and spread of declared plants and declared animals***

**Prohibition of introduction of category P1 plants**

**89.(1)** Any person who—

- (a) brings into the State a plant that is a declared plant of category P1 in respect of the whole of the State; or
- (b) brings into the State any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a plant referred to in paragraph (a) is or has been packed or associated; or
- (c) brings into a part of the State a plant that is a declared plant of category P1 in respect of that part of the State; or
- (d) brings into a part of the State any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a plant that is a declared plant of category P1 in respect of that part of the State is packed or associated;

commits an offence against this Act.

Maximum penalty—100 penalty units.

**(2)** A person who wishes—

- (a) to bring into the State a plant that is a declared plant of category P1 in respect of the whole of the State; or
- (b) to bring into a part of the State a plant that is a declared plant of category P1 in respect of that part of the State;

for scientific or educational purposes may apply to the Minister for permission to bring that plant into the State or that part of the State, as the case may be, and the Minister may grant such permission subject to such conditions and restrictions as the Minister considers necessary or may refuse such permission.

**(3)** Permission under subsection (2) may be applied for and granted in conjunction with permission under section 90(1).

**(4)** In proceedings for an offence against subsection (1)(a) or (c) it is a defence for the defendant to show that the declared plant was brought into the State or part of the State, as the case may be, pursuant to permission

granted by the Minister under subsection (2) and in accordance with the conditions and restrictions imposed by the Minister under subsection (2).

### **Keeping of declared plants**

**90.(1)** A person who wishes to keep a declared plant of category P2, P3 or P4 for scientific or educational purposes may apply to the Minister for permission to keep that plant and the Minister may grant such permission subject to such conditions and restrictions as the Minister considers necessary or may refuse such permission.

**(2)** Permission under subsection (1) may be applied for and granted in conjunction with permission under section 89(2).

**(3)** In proceedings for an offence against section 80 or 82 it is a defence for the defendant to show that the declared plant was being kept pursuant to permission granted by the Minister under subsection (1) and in accordance with the conditions and restrictions imposed by the Minister under subsection (1).

### **Person not to sell declared plant**

**91.** A person who sells a declared plant commits an offence against this Act.

### **Sale of declared plants in certain circumstances**

**91A.(1)** A person does not commit an offence under section 91 if the person sells a declared plant with the Minister's permission.

**(2)** However, subsection (1) applies to a person only if the person complies with all conditions of the permission.

**(3)** A person may apply to the Minister for a permission under this section.

**(4)** The Minister may—

- (a) give the permission subject to the conditions the Minister considers appropriate; or
- (b) refuse to give the permission.

(5) Without limiting the issues the Minister may consider in deciding whether to give the permission, the Minister may consider whether giving the permission will—

- (a) promote reduction of the declared plant; or
- (b) help to contain the spread of the declared plant.

(6) Without limiting the conditions the Minister may impose under subsection (4)(a), the permission may—

- (a) state how the declared plant must be harvested, transported, kept before sale and presented for sale; and
- (b) identify the persons or classes of persons to whom the declared plant—
  - (i) may be sold; or
  - (ii) must not be sold; and
- (c) specify conditions that must form part of a contract for selling the declared plant.

(7) Sections 92 and 93 do not apply to a declared plant being dealt with—

- (a) by a person under a permission given under this section; or
- (b) by a purchaser of the declared plant under a contract mentioned in subsection (6)(c).

### **Power to detain and deal with contaminated animals or things**

**92.** An authorised person or inspector may—

- (a) seize, detain and deal with in accordance with the regulations any animal or thing which in his or her opinion formed on reasonable grounds is carrying or contains—
  - (i) a plant that is a declared plant in respect of the whole of the State; or
  - (ii) any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a plant referred to in subparagraph (i) is or has been packed or associated;
- (b) in any part of the State seize, detain and deal with in accordance

with the regulations any animal or thing which in his or her opinion formed on reasonable grounds is carrying or contains—

- (i) a plant that is a declared plant in respect of that part of the State; or
- (ii) any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a plant that is a declared plant in respect of that part of the State is or has been packed or associated.

### **Destruction or disposal of declared plants etc.**

**93.(1)** An authorised person or inspector who discovers—

- (a) a plant that is a declared plant in respect of the whole of the State;
- (b) any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a plant referred to in paragraph (a) is or has been packed or associated;
- (c) in any part of the State a plant that is a declared plant in respect of that part of the State;
- (d) in any part of the State any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a plant that is a declared plant in respect of that part of the State is or has been packed or associated;

may seize and detain that plant or other material and, where an authorised person or inspector does so, shall notify the executive director of that fact.

**(2)** On being notified of the seizure of a plant or other material pursuant to subsection (1) the executive director may require that it be destroyed or otherwise dealt with by the owner, consignor, consignee or person in possession or control of it within such time as is specified by the executive director.

**(3)** Where a person fails to comply with the requirement of the executive director made under subsection (2) the executive director may direct an authorised person or inspector to destroy the plant or other material and where the executive director does so the authorised person or inspector may destroy the plant or other material.

**Prohibition of introduction of category A1 animals**

**94.(1)** Any person who—

- (a) brings into the State an animal that is a declared animal of category A1 in respect of the whole of the State; or
- (b) brings into a part of the State an animal that is a declared animal of category A1 in respect of that part of the State;

commits an offence against this Act.

Maximum penalty—100 penalty units.

**(2)** A person who wishes—

- (a) to bring into the State an animal that is a declared animal of category A1 in respect of the whole of the State;
- (b) to bring into a part of the State an animal that is a declared animal of category A1 in respect of that part of the State;

for scientific or educational purposes or for the purpose of exhibiting the same or of providing an entertainment may apply to the Minister for permission to bring that animal into the State or that part of the State, as the case may be, and the Minister may grant such permission subject to such conditions and restrictions as the Minister considers necessary or may refuse such permission.

**(3)** Permission under subsection (2) may be applied for and granted in conjunction with permission under section 97(2).

**(4)** In proceedings for an offence against subsection (1)(a) or (b) it is a defence for the defendant to show that the declared animal was brought into the State or part of the State, as the case may be, pursuant to permission granted by the Minister under subsection (2) and in accordance with the conditions and restrictions imposed by the Minister under subsection (2).

**Restrictions on introduction of category A4 animals**

**95.(1)** A person shall not—

- (a) bring into the State any animal that is a declared animal of category A4 in respect of the whole of the State; or
- (b) bring into a part of the State an animal that is a declared animal of



category A4 in respect of that part of the State;

unless that animal is brought into the State or that part of the State, as the case may be, subject to and in accordance with the conditions and restrictions prescribed in relation to the introduction of animals of that class.

(2) A person who contravenes or fails to comply with subsection (1) commits an offence against this Act.

Maximum penalty—100 penalty units.

### **Delivery of declared animals into custody**

**96.(1)** Where a person—

- (a) brings into the State an animal that is a declared animal in respect of the whole of the State; or
- (b) brings into a part of the State an animal that is a declared animal in respect of that part of the State;

that person shall, if required by an authorised person or inspector so to do, deliver that animal into the custody of an authorised person or inspector at any place nominated by an authorised person or inspector.

(2) Where a declared animal has been delivered to a place pursuant to subsection (1) a person shall not remove the animal from that place without the prior written authority of an authorised person or inspector.

(3) A person who contravenes or fails to comply with a provision of subsection (1) or (2) commits an offence against this Act.

Maximum penalty—50 penalty units.

### **Prohibition on keeping and selling category A3 animals**

**97.(1)** Any person who—

- (a) keeps; or
- (b) sells;

in any part of the State an animal that is a declared animal of category A3 in respect of that part of the State commits an offence against this Act.

Maximum penalty—50 penalty units.

(2) A person who wishes to keep a declared animal of category A3 for scientific or educational purposes or for the purpose of exhibiting the same or of providing an entertainment, may apply to the Minister for permission to keep that animal and the Minister may grant such permission subject to such conditions and restrictions as the Minister considers necessary or may refuse such permission.

(3) Permission under subsection (2) may be applied for and granted in conjunction with permission under section 94(2).

(4) In proceedings for an offence against subsection (1)(a) it is a defence for the defendant to show that the declared animal was being kept pursuant to permission granted by the Minister under subsection (2) and in accordance with the conditions and restrictions imposed by the Minister under subsection (2).

### **Restrictions on keeping and selling category A6 animals**

**98.(1)** A person shall not keep in any part of the State an animal that is a declared animal of category A6 in respect of that part of the State unless that animal is kept subject to and in accordance with the conditions and restrictions prescribed in relation to the keeping of animals of that class.

(2) A person shall not sell in any part of the State an animal that is a declared animal of category A6 in respect of that part of the State unless that animal is sold subject to and in accordance with the conditions and restrictions prescribed in relation to the selling of animals of that class.

(3) A person who contravenes subsection (1) or (2) commits an offence against this Act.

Maximum penalty—50 penalty units.

### **Authorised person or inspector may order destruction of declared animals**

**99.(1)** Where a person has in his or her possession or under his or her control in any part of the State, whether on land or not and whether as owner or not, a declared animal that—

- (a) is being or has been introduced into the State or into that part of the State contrary to section 94 or 95; or

(b) is being kept or that has been sold contrary to section 97 or 98; an authorised person or inspector may, if authorised by the executive director (either generally or in the particular case) so to do—

(c) by notice in writing served on that person require the person forthwith to destroy that animal; or

(d) seize that animal and—

(i) destroy it; or

(ii) dispose of it in some other manner.

(2) Where a person fails to comply with a notice served under subsection (1)(c) an authorised person or inspector may seize and destroy the declared animal referred to in the notice.

### **Liberating declared animals**

**100.(1)** Any person who, without the written permission of the executive director (given either generally or in the particular case) so to do, liberates in any part of the State an animal that is a declared animal of any category other than category A7 in respect of that part of the State commits an offence against this Act.

Maximum penalty—100 penalty units.

(2) For the purposes of this section, a person in charge of any vehicle, vessel, train or aircraft is deemed to have liberated any animal that escapes or is free to escape from that vehicle, vessel, train or aircraft unless the person shows that he or she might not reasonably have prevented its escape or freedom to escape.

### ***Division 4—Powers of authorised persons and inspectors***

#### **Power of entry**

**101.(1)** An authorised person or inspector may at any reasonable time, by virtue of and without other warrant than the provisions of this Act, enter upon any land and into any premises on land in order to ascertain—

(a) whether declared plants or declared animals are in or upon the

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land or premises and, if so, whether those declared plants or declared animals are being controlled as required by this part;

- (b) whether the direction contained in a notice served under division 2 is being or has been complied with;
- (c) whether there is any declared plant or other thing in or upon the land or premises that has been introduced contrary to this part;
- (d) whether there is any declared animal in or upon the land or premises that has been introduced or is being kept contrary to this part;
- (e) whether there is any declared plant or declared animal in or upon the land or premises that is for sale or that has been sold contrary to this part.

(2) Before an authorised person or inspector enters a part of any premises which part is used exclusively as a dwelling house an authorised person or inspector shall, save where he or she has the permission of the occupier of that part to the entry, obtain from a justice a warrant to enter.

(3) A justice who is satisfied upon the complaint of an authorised person or inspector that there is reasonable cause to suspect that there is in any premises—

- (a) any declared plant or declared animal that is required by this part to be controlled;
- (b) any declared plant or other thing that has been introduced contrary to this part;
- (c) any declared animal that has been introduced or is being kept contrary to this part;
- (d) any declared plant or declared animal that is for sale or that has been sold contrary to this part;

may issue a warrant directed to the authorised person or inspector to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, for the purpose of searching the premises.

(4) A warrant shall be, for the period of 1 month from the date of its issue, sufficient authority for the authorised person or, as the case may be, inspector—

- (a) to enter and search the premises specified in the warrant at the time specified therein; and
- (b) to exercise therein the powers conferred upon an authorised person or as the case may be, an inspector under this part.

(5) In this section premises that are used as a dwelling house do not include the curtilage of those premises.

### **Power to search conveyances etc.**

**102.(1)** An authorised person or inspector may at any time search and inspect any vehicle, vessel, aircraft, train or implement in order to ascertain if any declared plant or declared animal or any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a declared plant is or has been packed or associated is on or in that vehicle, vessel, aircraft, train or implement.

(2) For the purpose of exercising his or her powers under this section an authorised person or inspector—

- (a) may stop any vehicle or vessel;
- (b) may, with or without assistants, enter into or upon any vehicle, vessel, aircraft, train or implement and search and inspect every part of it and everything on or in it.

(3) A person who, being in charge of a vehicle or vessel, fails to stop the vehicle or vessel when so required by a person who makes himself or herself known as being an authorised person or inspector, commits an offence against this Act.

Maximum penalty—50 penalty units.

### **Power to require spraying etc.**

**103.(1)** Where an authorised person or inspector finds on any land, premises, vehicle, vessel, aircraft, train or implement any declared plant or declared animal or any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which a declared plant is or has been packed or associated the authorised person or inspector may require any person who, in the opinion of the authorised person or inspector, is apparently in control of the land, premises, vehicle, vessel,

aircraft, train or implement, as the case may be, to spray, wash or sterilise the same or any part thereof together with anything found upon the same within such time and in such manner as to the authorised person or inspector seems desirable.

(2) A person who fails to comply with a requirement made under subsection (1) commits an offence against this Act.

## **PART 6—EXTRAORDINARILY NOXIOUS PLANTS**

### **Definitions**

**104.** In this part—

“**extraordinarily noxious plant**” means each of the following—

- (a) *Mimosa invisa* (giant sensitive plant);
- (b) a plant prescribed under a regulation as an extraordinarily noxious plant.

### **State bound**

**104A.** This part binds the State.

### **Occupiers of land to destroy extraordinarily noxious plants**

**105.** The occupier of any land who fails to destroy all extraordinary noxious plants on that land commits an offence against this Act.

Maximum penalty—

- (a) for a first offence—10 penalty units; and
- (b) for a subsequent offence—20 penalty units.

### **Notice to owner and occupier to destroy extraordinarily noxious plants**

**106.(1)** Without affecting any proceeding against or liability of any

occupier under section 105, if an inspector is satisfied that an occupier of land is not making all reasonable endeavours to comply with that section the inspector may, by notice in writing served on that occupier, or on the owner of the land, or on both the occupier and the owner, direct that extraordinarily noxious plants specified in the notice be destroyed on the land and specify a completion date on or before which the person on whom the notice is served shall fully comply with that direction.

(2) A notice served under subsection (1) may specify the method to be used in destroying the extraordinarily noxious plants to which the notice relates.

### **Failure to comply with direction**

**107.(1)** An owner or occupier of land who has been served with a notice under section 106 and who fails to fully comply with the direction contained in the notice on or before the completion date specified in the notice commits an offence against this Act.

Maximum penalty—

- (a) for a first offence—20 penalty units; and
- (b) for a subsequent offence—50 penalty units.

(2) Where the owner and the occupier of land are both served with a notice under section 106 it is a defence in any proceeding against either of them under subsection (1) for the defendant to show that the other has complied with the provisions of that subsection.

### **Executive director may carry out work and recover cost**

**108.(1)** Without affecting any proceeding against or liability of any owner or occupier under section 107 where neither the owner nor the occupier of any land has complied with the direction contained in a notice served on either or both of them under section 106 the executive director may by signed writing authorise any person to enter the land to which the notice relates and endeavour to carry out all or any of the requirements of the direction.

(2) A person authorised pursuant to subsection (1) may enter the land and endeavour to carry out all or any requirements of the direction.

(3) The expenses incurred by the executive director under subsection (2) and the administrative expenses incurred consequent upon the requirements of the direction not having been complied with, together with interest at the prescribed rate, shall be a debt due by the owner or occupier served with the notice referred to in subsection (1) and, if both are served, by them jointly and each of them severally, to the executive director and may be sued for and recovered in a court of competent jurisdiction.

(4) Where an owner of private land is liable for the expenses and interest referred to in subsection (3) they shall, until paid, be and remain a charge upon the private land (notwithstanding that the expenses have been incurred in respect of a part only of the private land) in priority to all other encumbrances whatsoever other than land tax due under the *Land Tax Act 1915* but including rates due to a local government and be payable by the owner thereof for the time being.

### **Powers of owner and occupier to destroy extraordinarily noxious plants**

**109.** An owner or occupier of land shall have full power to do all that is necessary to destroy extraordinarily noxious plants on that land and to comply with a direction contained in a notice served on the owner or occupier under section 106.

### **Successors in title bound**

**110.** A notice authorised under section 106 to be served on any owner shall, if service has been made on any owner, be binding on every subsequent owner to the same extent as if such notice has been served on each subsequent owner.

### **Agreements**

**111.(1)** The executive director and an owner or occupier or both the owner and the occupier of land may enter into agreements for the supply by the executive director to the owner or occupier or both the owner and the occupier of materials, appliances and services for the destruction of extraordinarily noxious plants at such cost as shall be agreed.

(2) Subject to such limitations as may be prescribed the executive



director and the owner or occupier or both the owner and the occupier of land, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

### **Power of Minister in respect of land infested by any extraordinarily noxious plant**

**112.(1)** Where the Minister has reason to believe that any land is infested by any extraordinarily noxious plant the Minister may, upon the recommendation of the protection board, by notice published in a newspaper circulating in the area in which the land is situated, prohibit the removal from that land of any earth, soil, clay, sand, gravel, stone, plant or other material whatsoever.

**(2)** The Minister may, upon the recommendation of the protection board, by a like notice revoke a notification referred to in subsection (1).

**(3)** Where a prohibition referred to in subsection (1) relates to private land the Minister shall cause a copy of the notification to be served on the person who is the owner thereof at the date on which the notification is published under subsection (1) and, where at that date the land is occupied by a person other than the owner, on the person who is the occupier thereof at that date.

### **Notification in register**

**113.(1)** Upon the publication of a notice pursuant to section 112 the executive director shall lodge a copy thereof, certified by the executive director to be a true copy, with the authority charged with registering the instrument of title to the land to which the notice relates and such authority shall note such notice by endorsement in its register and on every such instrument.

**(2)** The executive director may, by notice in writing served upon a person who is in possession of an instrument of title to land to which a notice referred to in subsection (1) relates, require that person to produce the instrument, within such time as is specified in the notice, to the authority charged with registering that instrument.

**(3)** A person who fails to comply with the requirements of a notice

served on the person pursuant to subsection (2) commits an offence against this Act.

Maximum penalty—5 penalty units.

### **Person not to remove earth etc.**

**114.** Unless he or she has received the written permission of the Minister so to do and unless he or she does so in accordance with any terms, conditions or stipulations specified therein, a person who—

- (a) removes; or
- (b) permits or allows or suffers to be removed;

any earth, soil, clay, sand, gravel, stone, plant or other material whatsoever from any land contrary to a prohibition imposed by the Minister under section 112 commits an offence against this Act.

Maximum penalty—100 penalty units.

### **Provisions of this part paramount**

**115.(1)** To the extent necessary to give operation and effect to this part and to any prohibition imposed pursuant to a notification referred to in section 112, the provisions of every other Act, whether passed before or after the commencement of this Act, shall be read subject to this part.

**(2)** No licence, permission or other authority whatsoever granted, given or issued under any other Act shall authorise, justify or excuse any act that is an offence against section 114.

### **Destruction or disposal of extraordinarily noxious plants etc.**

**116.(1)** An inspector who discovers any earth, soil, clay, sand, gravel, stone, plant or other material whatsoever that, in the inspector's opinion formed on reasonable grounds, has been removed from land contrary to this part may seize and detain that earth, soil, clay, sand, gravel, stone, plant or other material or may require the person in possession or control of it to return it to the land from which it was removed.

**(2)** An inspector who discovers any plant that, in the inspector's opinion

formed on reasonable grounds, has been removed from land contrary to this part or any extraordinarily noxious plant may seize, detain and destroy the same or may require the person in possession or control of it to destroy it.

### **Power of inspectors to enter land**

**117.** An inspector may at any reasonable time by virtue of and without other warrant than the provisions of this Act enter upon any land in order to ascertain—

- (a) whether extraordinarily noxious plants are in or on the land and, if so, whether those plants are being destroyed as required by this part;
- (b) whether any earth, soil, clay, sand, gravel, stone, plant or other material whatsoever has been removed from land contrary to this part;
- (c) whether the direction contained in a notice served under this part is being or has been complied with.

### **Power of inspector to search conveyances etc.**

**118.(1)** An inspector may at any time search and inspect any vehicle, vessel, aircraft, train or implement in order to ascertain if any earth, soil, clay, sand, gravel, stone, plant or other material whatsoever the removal of which is prohibited under this part or any extraordinarily noxious plant is on or in that vehicle, vessel, aircraft, train or implement.

**(2)** For the purpose of exercising an inspector's powers under this section an inspector—

- (a) may stop any vehicle or vessel;
- (b) may, with or without assistants, enter into or upon any vehicle, vessel, aircraft, train or implement and search and inspect every part of it and everything on or in it.

**(3)** A person who, being in charge of a vehicle or vessel, fails to stop the vehicle or vessel when so required by a person who makes himself or

herself known as being an inspector commits an offence against this Act.

Maximum penalty—50 penalty units.

### **Power of inspector to require washing etc.**

**119.(1)** Where an inspector finds on any land, premises, vehicle, vessel, aircraft, train or implement any earth, soil, clay, sand, gravel, stone, plant or other material whatsoever that, in the inspector's opinion formed on reasonable grounds, has been removed from land contrary to this part or any extraordinarily noxious plant the inspector may require any person who in the opinion of the inspector is apparently in control of the land, premises, vehicle, vessel, aircraft, train or implement, as the case may be, to spray, wash or sterilise the same or any part thereof together with anything found upon the same within such time and in such manner as to the inspector seems desirable.

**(2)** A person who fails to comply with a requirement made under subsection (1) commits an offence against this Act.

## **PART 8—RABBITS**

### *Division 1—Public land*

#### **Department to maintain land under its control free from rabbits**

**142.** A government department shall maintain land under its control that is situated in the rabbit district free from rabbits.

#### **Inspection and advice**

**143.(1)** A rabbit-control officer who finds rabbits or signs or marks of rabbits on or in the vicinity of land situated in the rabbit district that is under the control of a government department shall notify the department of that fact.

**(2)** The rabbit board or a rabbit-control officer may advise a government

department as to the measures that should be taken by it to maintain land under its control free from rabbits.

### **Agreements**

**144.(1)** The rabbit board and a government department may enter into agreements for the supply by the rabbit board to the government department of materials, appliances and services for the purpose of maintaining land under its control situated in the rabbit district free from rabbits at such costs as shall be agreed.

**(2)** Subject to such limitations as may be prescribed the rabbit board and a government department, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

## ***Division 2—Municipal land***

### **Local government to maintain land free from rabbits**

**145.** A local government shall maintain free from rabbits land under its control that is situated in the rabbit district.

### **Notice to comply may be served on local government**

**146.** Where the rabbit board is satisfied that a local government is not making all reasonable endeavours to comply with section 145 it may, by notice in writing served on that local government, direct that the action specified in the notice be taken on the land specified in the notice and specify a completion date on or before which the local government shall fully comply with the direction.

### **Power of rabbit board on failure to comply with direction**

**147.** If a local government does not comply with a direction contained in a notice served on it under section 146 any person authorised in writing in that behalf by the rabbit board may enter the land to which the notice relates and carry out all or any of the requirements of the direction and the expense

of doing so, together with interest at the prescribed rate, shall be a debt due by the local government to the rabbit board and may be sued for and recovered in a court of competent jurisdiction.

### **Agreements**

**148.(1)** The rabbit board and a local government may enter into agreements for the supply by the rabbit board to the local government of materials, appliances and services for the purpose of maintaining land under the control of the local government that is situated within the rabbit district free from rabbits at such costs as shall be agreed.

**(2)** Subject to such limitations as may be prescribed, and to the provisions of the *Local Government Act 1993*, the rabbit board and a local government, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

### ***Division 3—Private land***

#### **Duty of occupier**

**149.** The occupier of any private land situated within the rabbit district who fails at all times to maintain the private land free from rabbits commits an offence against this Act.

Maximum penalty—

- (a) for a first offence—5 penalty units; and
- (b) for a subsequent offence—20 penalty units.

#### **Notice to owner and occupier**

**150.** Without affecting any proceeding against or liability of any occupier under section 149, if the rabbit board is satisfied that an occupier of land is not making all reasonable endeavours to comply with that section it may, by notice in writing served on that occupier or on the owner of the land or on both the occupier and the owner, direct that the action specified in the notice be taken on or on any specified part of the land and specify a completion

date on or before which the person on whom the notice is served shall fully comply with that direction.

### **Failure to comply with direction**

**151.(1)** An owner or occupier of private land who has been served with a notice under section 150 who fails to fully comply with the direction contained in the notice on or before the completion date specified in the notice commits an offence against this Act.

Maximum penalty—

- (a) for a first offence—20 penalty units; and
- (b) for a subsequent offence—50 penalty units.

**(2)** Where the owner and the occupier of private land are both served with a notice under section 150 it is a defence in any proceeding against either of them under subsection (1) for the defendant to show that the other has complied with the provisions of that subsection.

### **Rabbit board may carry out work and recover costs**

**152.(1)** Without affecting any proceeding against or liability of any owner or occupier under section 151, where neither the owner nor the occupier of private land has complied with the direction contained in a notice served on either or both of them under section 150 the rabbit board may authorise in writing any person to enter the private land to which the notice relates and endeavour to carry out all or any of the requirements of the direction.

**(2)** A person authorised pursuant to subsection (1) may enter the land and endeavour to carry out all or any requirements of the direction.

**(3)** The expenses incurred by the rabbit board under subsection (2) and the administrative expenses incurred consequent upon the requirements of the direction not having been complied with, together with interest at the prescribed rate, shall be a debt due by the owner or occupier served with the notice referred to in subsection (1), and if both are served by them jointly and each of them severally, to the rabbit board and may be sued for and recovered in a court of competent jurisdiction.

**(4)** Where an owner of private land is liable for the expenses and interest

referred to in subsection (3) they shall, until paid, be and remain a charge upon the private land (notwithstanding that the expenses have been incurred in respect of a part only of the private land) in priority to all other encumbrances whatsoever other than land tax due under the *Land Tax Act 1915* and rates due to a local government and be payable by the owner thereof for the time being.

### **Powers of owner and occupier to maintain private land free from rabbits**

**153.** An owner or occupier of private land situated within the rabbit district shall have full power to do all that is necessary to maintain the land free from rabbits and to comply with a direction contained in a notice served on the owner or occupier under section 150.

### **Agreements**

**154.(1)** The rabbit board and an owner or occupier or both the owner and the occupier of private land situated within the rabbit district may enter into agreements for the supply by the rabbit board to the owner or occupier or both the owner and the occupier of materials, appliances and services for the destruction of rabbits at such cost as shall be agreed.

**(2)** Subject to such limitations as may be prescribed, the rabbit board and the owner or occupier or both the owner and the occupier of private land, as parties to an agreement referred to in subsection (1), may agree to extend or vary the agreement from time to time or to discharge the agreement.

### **Successors in title bound**

**155.** A notice authorised under this division to be served on any owner shall, if service has been made on any owner, be binding on every subsequent owner to the same extent as if such notice has been served on each subsequent owner.



***Division 4—Miscellaneous*****Offences concerning rabbit-check fence**

**156.(1)** Except where he or she is acting pursuant to the terms of an order made under section 180(1), a person who, without the permission of the rabbit board, destroys, cuts, breaks or damages any part of the rabbit-check fence or any part of the wire netting attached to the fence commits an offence against this Act.

**(2)** A person who—

- (a) leaves open a gate in the rabbit-check fence; or
- (b) causes any stock to be confined, encamped or shut in against the fence so as to be in close proximity thereto; or
- (c) removes, opens or tampers with a floodgate or barrier of any description that forms part of the fence;

commits an offence against this Act.

**Structures adjacent to or abutting on rabbit-check fence**

**157.(1)** Except with the permission of the rabbit board and in compliance in every respect with the terms and conditions of the permit, the owner or occupier of private land situated within or without the rabbit district shall not erect or cause or allow to be erected or permit to remain erected on or on the boundary of such private land a structure of any kind abutting on or within 3 m of the rabbit-check fence.

**(2)** The rabbit board may subject any permission given under subsection (1) to such terms and conditions as it thinks fit including conditions requiring the permittee to erect and maintain in respect of the structure such and so many gates as are specified in the permit, and so situated as is therein specified, for the use of the rabbit board, its officers and other employees.

**(3)** Permission under this section shall be given by way of a permit in writing wherein shall be set out the terms and conditions to which the permission is subject.

**(4)** A person who fails to comply with the provisions of subsection (1)

or fails to comply with the terms and conditions of a permit commits an offence against this Act.

### **Evidentiary provisions**

**158.** In any proceedings under or for the purposes of this part—

- (a) it shall not be necessary to prove—
  - (i) the limits of the rabbit district or the location of the rabbit-check fence or any part of the same;
  - (ii) the signature of the chairperson of the rabbit board;
  - (iii) the appointment of any rabbit-control officer;
- (b) an averment in any complaint or other document made for the purposes of such proceedings that—
  - (i) any private land is within or outside of the rabbit district;
  - (ii) any fencing or other thing is in or forms part of the rabbit-check fence;

shall be prima-facie evidence of the fact averred and, in the absence of evidence to the contrary, shall be conclusive evidence of that fact.

### **Powers of rabbit-control officers**

**159.(1)** A rabbit-control officer may at any reasonable time, by virtue of and without other warrant than the provisions of this Act, enter upon any land to which this part applies and into any premises on land, other than a part of any premises which part is used exclusively as a dwelling house, in order to—

- (a) ascertain—
  - (i) whether there are rabbits in or on the land;
  - (ii) whether the direction contained in a notice served under this part is being or has been complied with;
- (b) patrol and inspect the rabbit-check fence.

(2) In this section premises that are used as a dwelling house do not include the curtilage of those premises.

## **PART 9—SYNDICATES**

### **Application etc. may be signed by agent**

**160.** For the purposes of this part, an application or a request which is signed by a person as agent for an owner of private land shall, where that person has been authorised in writing by the owner so to do, be deemed to have been signed by the owner.

### **Syndicates and areas**

**161.** Any 4 or more owners of adjoining parcels of private land may apply to the Minister for registration as—

- (a) a declared plant control syndicate; or
- (b) a declared animal control syndicate; or
- (c) a declared plant and declared animal control syndicate;

and for the registration of their parcels of private land as a syndicate area.

### **Requirements of application**

**162.(1)** Every such application shall be in writing, shall be signed by every owner who is a party thereto and shall contain the following information and particulars—

- (a) the full name and address of every owner who is a party to the application and, if the application is made pursuant to section 164, of every owner upon whom the request referred to in that section was served who is not a party to the application;
- (b) a description of the parcel or parcels of private land held by every such owner which is or are to be included in the syndicate area;
- (c) the usage to which every such parcel of private land is put;

- (d) the class or classes to which the declared plants or declared animals or declared plants and declared animals (which are intended to be controlled) belong;
- (e) the name by which it is desired to register the syndicate.

(2) Every such application shall be accompanied by—

- (a) a statement as to the manner in which the applicants have decided or agreed that the business and affairs of the syndicate will be conducted;
- (b) an estimate of the annual cost of the operations of the syndicate and a statement of the ways and means by which the applicants have decided or agreed that the moneys to meet such annual cost shall be raised;
- (c) a statement of the methods proposed to be employed in the syndicate area for controlling the declared plants or declared animals or declared plants and declared animals, as the case may be, which are intended to be controlled;
- (d) where the application is signed by a person as agent for an owner of private land—a copy of the document by which that person is authorised to sign the application.

(3) The Minister may require the applicants to furnish to the Minister all such further or additional information and particulars as the Minister deems fit, and such applicants shall furnish to the Minister within the time specified by the Minister the further or additional information and particulars.

### **Registration**

**163.(1)** Upon considering an application made as prescribed by section 162 and, where in respect of the application the Minister has required any further or additional information or particulars, upon the furnishing to the Minister of such further or additional information and particulars to the Minister's satisfaction, the Minister, by notification published in the gazette, may—

- (a) register the applicants as a syndicate of the type applied for under the name stated in the application;

- (b) register the parcels of private land to which the application relates as a syndicate area, under the same name as that of the syndicate.

(2) The Minister shall cause a copy of such notification to be served upon each and every member of the syndicate.

### **Majority may request formation of syndicate**

**164.(1)** Where not less than two-thirds of 5 or more owners of adjoining parcels of private land are of the opinion that it would be beneficial for all such owners to form themselves into a declared plant control syndicate, declared animal control syndicate or declared plant and declared animal control syndicate for the purpose of controlling declared plants or declared animals or declared plants and declared animals, as the case may be, of a specified class or of specified classes on their parcels of private land, they may request the remaining owner or owners to join with them in forming an appropriate syndicate and having their parcels of private land registered as a syndicate area.

(2) Every such request shall be in writing, shall be signed by every owner who is a party thereto and shall contain or be accompanied by, in relation to the syndicate to which the request relates, the statements and estimate prescribed by section 162(2).

(3) Notwithstanding that any owner thereunto requested as prescribed by subsection (1) does not join in the application, at any time after 30 days after the service of the request the owners by whom the request was made and any owner upon whom the request was made may apply as prescribed by section 162 for—

- (a) the registration as a syndicate of the appropriate type of all owners who signed the request and of all owners upon whom the request was served; and
- (b) the registration as a syndicate area of the parcels of private land of all owners who signed the request and of all owners upon whom the request was served.

(4) Every application to which this section relates shall be accompanied by a copy of the request served upon every owner by whom the application is not signed.

(5) The Minister may, pursuant to section 162(3), require additional

information and particulars in respect of an application to which this section applies.

(6) The Minister may, in the Minister's absolute discretion, refuse an application to which this section applies.

(6A) If the Minister does not refuse the application the Minister shall proceed as prescribed by subsection (7).

(7) Before the Minister grants registration pursuant to an application to which this section applies, the Minister shall serve upon every owner included in the application who did not sign the application a notice stating that if such owner desires to object to being registered as a member of the syndicate to which the application relates such owner should, after the receipt by the owner of such notice, lodge with the Minister a signed, written objection to being so registered and setting out the grounds of such objection.

(8) If any owner served with a notice by the Minister under subsection (7) lodges with the Minister the objection referred to in such notice within 30 days after the receipt by such owner of such notice, the Minister shall consider the objection and determine whether or not to uphold it.

(9) If there are more objections than 1 they shall be considered and determined together.

(10) The owner making the objection and all other owners included in the application shall be entitled to make representations to the Minister in the manner and within the time prescribed.

(11) The decision of the Minister shall be final and conclusive.

(12) The Minister shall cause a copy of the Minister's decision to be served upon every owner to whom the application relates.

(13) If the Minister upholds an objection or objections the Minister shall not grant registration pursuant to the application but the owners who signed the application may, in writing signed by each of them, request the Minister to deal with the application as if it had been made in the first instance for the registration as a syndicate of all owners named in the application, other than such of them as the Minister has determined upon objection duly made under subsection (8) should not be included in the syndicate and for registration of their private land as a syndicate area.

**(14)** The Minister may refuse such request or if all of the parcels of private land to which the request relates are adjoining the Minister may grant the same and thereupon, under and pursuant to section 163(1), shall—

- (a) register as a declared plant control syndicate, declared animal control syndicate or declared plant and declared animal control syndicate, as the case may be, all owners named in the application other than such of them as the Minister has duly determined should not be included in the syndicate; and
- (b) register the parcels of private land of the owners so registered and to which the application relates as a syndicate area.

**(15)** If the Minister dismisses every objection that has been duly made, the Minister may, under and pursuant to section 163(1)—

- (a) register as a declared plant control syndicate, declared animal control syndicate or declared plant and declared animal control syndicate, as the case may be, all owners named in the application; and
- (b) register the parcels of private land to which the application relates as a syndicate area.

### **Withdrawal from syndicate**

**165.(1)** Subject to this section, a member of a declared plant control syndicate, declared animal control syndicate or declared plant and declared animal control syndicate may apply to the syndicate—

- (a) to retire therefrom; or
- (b) in the case of a member who owns 2 or more parcels of private land included in the syndicate area registered in respect of the syndicate—to have 1 or more (but not all) of such parcels excluded from such area.

**(2)** Every such application shall be in writing signed by the owner concerned and shall state the grounds thereof.

**(3)** A member shall not be eligible to make a first application under this section until the expiration of a period of 12 months from and including the date of the publication in the gazette of the notification registering the syndicate in question.

(4) A member shall not be eligible to make a second or subsequent application under this section until the expiration of a period of 12 months from and including the date when the syndicate or, upon appeal from the syndicate, the Minister refused the next preceding such application made by the member.

(5) An application under this section shall be dealt with and decided by a special meeting of the members of the syndicate.

(6) The following members shall not take part in or vote at such special meeting, namely—

- (a) the applicant;
- (b) any member of the syndicate who is indebted to the syndicate in respect of any rates, charges or other moneys whatsoever which have become due and payable by the member to it.

(7) If the special meeting grants the application, the syndicate shall inform the Minister accordingly.

(8) If the special meeting refuses to grant the application, the applicant may request the syndicate in writing to refer the application to the Minister and the syndicate shall thereupon refer the application to the Minister.

(9) The syndicate may make to the Minister such representations as it deems fit regarding the application.

(10) Upon such a reference, the Minister may grant or refuse to grant the application.

(11) The decision of the Minister shall be final and shall be binding upon the syndicate and all members thereof, including the applicant.

(12) Where an application under this section is granted by the syndicate or, upon reference thereof to the Minister, by the Minister, the Minister shall, according to the tenor of the application, by notification published in the gazette notify that the applicant is retired from the syndicate or, as the case may be, that the parcel or parcels the subject of the application is or are excluded from the syndicate area registered in respect of the syndicate.

(13) Such retirement or exclusion shall be of effect on and from the date of publication of the notification in the gazette.

(14) Upon and by virtue of retirement as prescribed by this section, every



parcel of private land whereof the member retired is the owner shall be excluded from the syndicate area in question.

### **Admission of new members**

**166.(1)** An owner of a parcel of private land that adjoins the syndicate area registered in respect of a syndicate, may apply to the syndicate to become a member thereof and for the inclusion of such parcel in such area.

**(2)** If the syndicate accepts the applicant as a member, it shall request in writing the Minister to register the applicant as a member of the syndicate and to register the parcel of private land the subject of the application as being included in the syndicate area registered in respect of the syndicate.

**(3)** The request shall be countersigned by the applicant.

**(4)** Upon receipt of a request under subsection (2) duly countersigned under subsection (3), the Minister shall by notification published in the gazette notify that the person named in the request is a member of the syndicate which made the request and that the parcel of private land described in the request is included in the syndicate area registered in respect of such syndicate.

**(5)** Such membership and inclusion shall be of effect on and from the date of publication of the notification in the gazette.

**(6)** Section 165 applies to a member admitted under this section as if the syndicate had been registered on the date on and from which the member's membership took effect.

### **Syndicate may authorise entry upon land**

**167.(1)** A syndicate may authorise any person to enter upon any parcel of private land included in the syndicate area registered in respect of the syndicate for the purpose of controlling the declared plants or declared animals or declared plants and declared animals in respect of which the syndicate was formed.

**(2)** The person so authorised may enter upon the parcel of private land in question and may thereon adopt and use such methods as are mentioned in the statement referred to in section 162(2)(c) to control the declared plants or declared animals.

(3) The person so authorised, without entering upon the parcel of private land may, subject to the statement mentioned in subsection (2), distribute materials, chemicals, weedicides, poisons, poison baits, sprays and other substances by means of an aircraft.

### **Effect of retirement**

**168.** The reduction, by retirement, to less than 4 in number of membership shall not affect or prejudice in any way the registration of a syndicate or its continuity of registration.

### **Where 2 or more owners**

**169.** Two or more persons who own the one parcel of private land shall be deemed for the purposes of this part to be one and the same owner.

### **Successors in title bound**

**170.(1)** While a parcel of private land is included in the syndicate area registered in respect of a syndicate, every owner for the time being of such parcel shall, upon and by virtue of becoming such owner (and without any notification in the gazette) become and be a member of the syndicate.

(2) It is hereby declared that in such case, the person who was the next preceding owner ceased (and without any notification in the gazette) to be a member of the syndicate when the person ceased to be the owner.

(3) Cesser of membership of a syndicate as prescribed by subsection (2) shall not prejudice or affect in any way the liability of the person concerned for any rates, charges or other moneys due and unpaid by the person to the syndicate or the right of the syndicate to recover the same.

### **Termination of registration**

**171.(1)** The Minister—

- (a) shall, upon a request in writing in that behalf signed by more than one-half of the members of a syndicate each and every one of whom is, at the time when the request is made to the Minister, not indebted to the syndicate in respect of any rates, charges or

other moneys payable by the member to it; and

- (b) may, without such a request, if in the Minister's opinion the registration of a syndicate should be terminated;

terminate the registration of the syndicate and of the syndicate area registered in respect of such syndicate.

(2) Such termination shall be effected by the Minister by notification published in the gazette and shall be effective on and from the date of such publication.

### **Members to pay charges etc.**

172. Every member for the time being of a syndicate shall be liable to pay to the syndicate all such rates, charges or other moneys as the syndicate may from time to time determine.

### **Recovery by syndicate of unpaid rates, charges or other moneys**

173.(1) Any unpaid amount of any rates, charges or other moneys due and payable to a syndicate by any member or other person may be recovered on behalf of the syndicate by any person thereunto authorised by the syndicate by action as for a debt in his or her own name as if the same were due and payable and unpaid to such person.

(2) The syndicate shall indemnify such person against all costs and expenses properly incurred by the person in respect of the action and not recovered by the person.

### **Financial statement**

174. Not later than 31 July in each year a syndicate shall forward to the executive director a copy of the annual statement of the receipts and expenditure for the year ended on 30 June next preceding.

### **This part not to affect other liability etc.**

175. The provisions of this part shall apply so as not to prejudice, affect, or otherwise howsoever derogate from any duty, obligation or liability imposed or imposed upon a person under any other provision of this Act.

**Notification in register**

**176.(1)** Upon the publication in the gazette of a notice pursuant to section 163(1), 165(12), 166(4) or 171(2) the executive director shall lodge a copy of the notice with the authority charged with registering the instrument of title to the private land to which the notice relates and such authority shall note such notice by endorsement in its register and on every such instrument.

**(2)** The executive director may, by notice in writing served upon a person who is in possession of an instrument of title to land to which a notice referred to in subsection (1) relates, require that person to produce the instrument, within such time as is specified in the notice, to the authority charged with registering that instrument.

**(3)** A person who fails to comply with the requirements of a notice served on the person pursuant to subsection (2) commits an offence against this Act.

Maximum penalty—5 penalty units.

**PART 10—FENCES***Division 1—Barrier fences***Interpretation**

**177.** In this division—

**“barrier fence”** means a fence or any part thereof established for the purpose of section 179(1).

**“boundary land”** means any private land situated wholly or in part within any vermin protection district or any division of such a district which is intersected by or any part of which abuts upon the boundary of such a district or division or, not being intersected by or abutting upon such a boundary, any part of which is situated in the neighbourhood of the boundary.

“**district**” means a vermin protection district.

“**division**” means a division of a district.

“**vermin**” means dingoes, foxes, feral pigs and any declared animals declared under a regulation to be vermin for the purposes of this division.

### **Establishment of districts and divisions**

**178.(1)** A regulation may—

- (a) constitute any part of the State as a vermin protection district for the purposes of this division;
- (b) define the boundaries of and alter the boundaries of a district;
- (c) assign a name to and alter the name of a district;
- (d) abolish a district;
- (e) divide a district into divisions for the purposes of this division;
- (f) define the boundaries of and alter the boundaries of a division;
- (g) assign a name or number to and alter the name or number of a division;
- (h) abolish all or any of the divisions of a district.

**(2)** Subject to any provision to the contrary which is contained in the regulation, where a district is abolished such abolition shall have the effect of abolishing all the divisions of that district.

### **Establishment and maintenance of barrier fences**

**179.(1)** For the purpose of preventing the ingress into a district or division of any vermin or of any particular class of vermin sufficient fences shall be established and maintained on or as near as practicable to the boundary of the district or division.

**(2)** For the purposes of subsection (1) and in so far as it is practicable to do so, use shall be made at all times of fences (by whomsoever constructed or maintained) which are in existence on or near the boundary of a district

or division and which, in the opinion of the protection board, are sufficient or capable of being made sufficient for the purposes of this division.

### **Order by Minister**

**180.(1)** For the purposes of establishing and maintaining sufficient barrier fences in respect of a district or division the Minister, upon the recommendation of the protection board, may by order in writing served on the owner of boundary land direct that owner to do, in respect of that land, all or any of the following things—

- (a) construct a new barrier fence and thereafter at all times maintain that fence in such a condition that it is at all times proof against the passage of vermin or, as the case may be, vermin of a class specified in the order;
- (b) alter any fence specified in the order;
- (c) alter any fence specified in the order and thereafter at all times maintain that barrier fence in such a condition that it is at all times—proof against the passage of vermin or, as the case may be, vermin of a class specified in the order;
- (d) at all times maintain any fence specified in the order in such a condition that it is at all times—proof against the passage of vermin or, as the case may be, vermin of a class specified in the order.

**(2)** An order referred to in subsection (1) may specify the time within which a thing is required to be done and may contain directions in respect of the doing of the thing.

**(3)** A fence specified in an order made pursuant to subsection (1)(b), (c) or (d) in respect of any boundary land may be a fence that intersects the land or that is on or near to the boundaries or any part of the boundaries thereof or a combination of any of these.

**(4)** Where any boundary land is bounded by a road on the opposite side of which is a fence, whether extending for the whole length of the boundary between the boundary land and the road or not then an order may be made pursuant to subsection (1)(b), (c) or (d) with respect to that fence and the provisions of this division shall apply with respect to that fence as though it were situated on the boundary between the boundary land and the road and

for the purposes of this division, such fence shall be deemed to be on the boundary of or partly enclosing such boundary land.

### **Directions which may be specified in order**

**181.** Without limiting the generality of section 180(2) an order made pursuant to that section may contain all or any of the following directions—

- (a) in the case of a new barrier fence—a direction that the fence be constructed along the line specified in the order being a line that intersects the boundary land or that is on or near to the boundaries or any part of the boundaries thereof or a combination of any of these;
- (b) a direction that the fence be constructed or altered so as to be proof against the passage of vermin or, as the case may be, vermin of a class specified in the order;
- (c) a direction that the fence be constructed in accordance with the specifications contained in the order which specifications may, without limiting the generality of the foregoing, relate to materials, height and quality of work;
- (d) a direction that the fence when constructed or altered be maintained in a specified manner.

### **Clearing of fence line**

**182.** Every order made pursuant to section 180(1) shall (unless a provision to the contrary is contained in the order) be deemed to contain a valid requirement that the line of the fence the subject of the order shall—

- (a) in the case of an order made pursuant to section 180(1)(a)—within the time specified in the order for the carrying out of the construction; and
- (b) in the case of an order made pursuant to section 180(1)(b) or (c)—within the time specified in the order for the carrying out of the alteration; and
- (c) in the case of an order made pursuant to section 180(1)(d)—forthwith upon the service of the order;

be cleared and shall at all times thereafter be kept cleared for a distance of not less than 3 m and not more than 20 m on each side of the fence along the length of the fence of all plants, ant hills and ant beds and the provisions of this division shall apply as if that requirement were expressly specified in the order.

### **Adjoining holding**

**183.** An order may be made pursuant to section 180(1) in respect of any boundary land notwithstanding that the barrier fence separates or will separate that land from any adjoining or neighbouring land and every person who is, at the time of the making of the order, or thereafter becomes an owner or occupier of the adjoining or neighbouring land or any part thereof which is so separated or which is enclosed or partly enclosed by the barrier fence shall permit a person bound by the order to comply with the same, notwithstanding the provisions of any other Act or law or any agreement to the contrary.

### **Fences controlled by rabbit board**

**184.** Where an order is made pursuant to section 180(1) with respect to a fence that is under the control of or maintained by the rabbit board the executive director shall cause a copy of the order to be forwarded to the rabbit board.

### **Notation in register**

**185.(1)** Upon—

- (a) an order made pursuant to section 180(1) having been served as required by that subsection;
- (b) the making of an order pursuant to section 197(1);

the executive director shall lodge a copy thereof, certified by the executive director to be a true copy, with the authority charged with registering the instrument of title to the boundary land to which the order relates and such authority shall note such order by endorsement in its register and on every such instrument.

(2) Upon an order made pursuant to section 180(1) being noted in a



register pursuant to subsection (1), the order shall be binding on every subsequent owner of the boundary land to which it relates to the same extent as if it had been served on each subsequent owner.

(3) The executive director may, by notice in writing served upon a person who is in possession of an instrument of title to boundary land in respect of which an order referred to in subsection (1) has been made, require that person to produce the instrument, within such time as is specified in the notice, to the authority charged with registering that instrument.

(4) A person who fails to comply with the requirements of a notice served on the person pursuant to subsection (3) commits an offence against this Act.

Maximum penalty—5 penalty units.

(5) No stamp duty or fees shall be payable with respect to any endorsement under this section.

### **Person to notify Minister of establishment of fence**

**186.(1)** A person who establishes a barrier fence under an order made pursuant to section 180(1) shall forthwith notify the Minister in writing of that fact.

(2) Upon the Minister being notified pursuant to subsection (1), the executive director shall cause the barrier fence to be inspected by an inspector and the executive director shall report to the Minister the result of that inspection.

(3) Where the Minister, upon receiving the report of the executive director referred to in subsection (2), is satisfied that the barrier fence has been established in compliance in every respect with the order referred to in subsection (1) the Minister shall notify the person referred to in that subsection of that fact.

(4) Where the Minister, upon receiving the report of the executive director referred to in subsection (2), is satisfied that the barrier fence has not been established in compliance in every respect with the order referred to in subsection (1) the Minister may by notice in writing served on the person then required by this Act to carry out the work require that person to do the things still required to be done to establish the barrier fence in compliance with the order and that person shall, within the time and in

accordance with the directions specified in the notice, do the things specified therein.

### **Failure to comply with order or notice**

**187.(1)** Where—

- (a) a person who is required by this division to establish a barrier fence fails, in the opinion of the Minister, to establish the fence in compliance in every respect with the relevant order made pursuant to section 180(1) within the time specified in the order; or
- (b) a person who is required by a notice referred to in section 186(4) to do the things specified therein fails, in the opinion of the Minister, to do those things within the time specified in the notice;

the Minister may carry out all such work and do all such things as the Minister considers necessary to establish the fence or, as the case may be, to comply with the notice.

(2) All expenses incurred by the Minister under subsection (1), together with interest at the prescribed rate shall be a debt due by the person failing, in the opinion of the Minister, to establish the barrier fence or to do the things specified in the notice, as the case may be, to the Minister and may be sued for and recovered by the Minister in any court of competent jurisdiction.

(3) Where a person is liable for the expenses and interest referred to in subsection (2) they shall, until paid, be and remain a charge upon the boundary land (notwithstanding that the expenses have been incurred in respect of a part only of the boundary land) in priority to all other encumbrances whatsoever other than land tax due under the *Land Tax Act 1915* but including rates due to a local government and be payable by the owner thereof for the time being.

### **Assistance to persons ordered to establish a barrier fence**

**188.(1)** From time to time, the Minister, upon the recommendation of the protection board, may supply such materials, including wire and wire netting as the Minister thinks fit, to a person bound by this division to

establish a barrier fence so as to assist or enable the person to comply in every respect with so much of the order in question as does not relate to the maintenance of the barrier fence upon its establishment and may from time to time pay out of the fund the cost of all or any materials supplied pursuant to this section and the cost or any part of the cost of the conveyance of such materials to the boundary land where the materials are to be used for the purpose for which they are supplied.

(2) For the purposes of this section, but without limiting the powers of the Minister or the protection board hereunder, the Minister and the protection board in exercising their respective powers shall have due regard to any existing liability imposed by or under any other Act or any contract upon the person so bound to establish the barrier fence to construct or maintain any fence of a like description.

(3) A person who uses or causes or permits or suffers to be used any material supplied under this section for any purpose other than that for which it was supplied or who by his or her act or omission, whether wilful or negligent, causes any such material to become unfit for use for the purpose for which it was supplied is guilty of an offence against this Act.

Maximum penalty—50 penalty units.

(4) In addition to the penalty referred to in subsection (3) a person referred to in that subsection shall be liable for the expenses incurred by the Minister in supplying the material (including both the costs of the material and the cost (if any) of conveyance), and such expenses may be recovered by the Minister by action as for a debt in any court of competent jurisdiction.

### **Power of Minister to establish barrier fence**

**189.(1)** For a purpose of this division the Minister, upon the recommendation of the protection board, may cause—

- (a) any barrier fence to be constructed;
- (b) any fence to be altered;
- (c) any barrier fence to be repaired and otherwise maintained in a proper condition having regard to the purpose for which it was established;

- (d) the line of any barrier fence to be cleared and kept cleared for a distance of not less than 3 m and not more than 20 m on each side of the fence of all plants, ant hills and ant beds.

(2) Without limiting the generality of subsection (1) the Minister may, in the exercise of the Minister's powers thereunder, enter into arrangements with any person or authority.

(3) The provisions of this section are in addition to and not in substitution of any other provision of this division.

### **Minister may assist in maintaining barrier fence**

**190.(1)** The Minister, upon the recommendation of the protection board, may assist in the maintenance of any barrier fence which a person is bound by this division to maintain—

- (a) where the Minister is satisfied that the fence has been adequately maintained—by defraying portion of the cost of the maintenance by authorising the payment, either by a lump sum or by instalments, from the fund to that person of such amount per kilometre or part thereof of the fence as is determined by the Minister; and
- (b) by supplying to that person such materials, including wire and wire netting, as the Minister thinks fit and by defraying from the fund the cost of such materials and the cost of the conveyance of such materials to the land where those materials are to be used for the purpose for which they are supplied; and
- (c) by carrying out any work (the cost of which shall be paid from the fund) necessary for the repair and other maintenance of the barrier fence and which in the opinion of the Minister it is not reasonable for that person to carry out;

or by doing any of these things.

(2) For the purposes of this section but without limiting the powers of the Minister and the protection board hereunder, the Minister and the protection board in exercising their respective functions shall have due regard to any existing liability imposed by or under any other Act or any contract upon the person so bound to maintain the barrier fence to construct or maintain any fence of a like description.

**Failure to maintain barrier fences**

**191.(1)** An inspector may, by notice in writing served on any person who is bound by this division to maintain any barrier fence and who has failed to maintain that fence as required under this division, require that person within the time and in accordance with the directions contained in the notice to carry out any work specified in the notice necessary to place that fence in a proper condition and so that it is proof against the passage of the vermin required under this division to be excluded thereby.

(2) If any person served under this section with a notice fails, within the time specified in the notice, to comply in every respect with that notice, the inspector may carry out the work specified in the notice and the cost thereof, together with interest at the prescribed rate, shall be recoverable from the person failing to comply with the notice by the executive director by action as for a debt in any court of competent jurisdiction.

(3) A copy of every notice under this section shall be despatched to the executive director immediately upon the issue thereof and the Minister may at any time direct any such notice to be revoked or to be amended in such manner as the Minister may specify and the inspector shall revoke or, as directed, amend the notice accordingly and, where the notice is amended, shall serve a copy of the notice as amended on the person who was served with the notice amended and the provisions of subsection (2) shall apply to that amended notice as if that notice were the notice therein referred to.

(4) If at any time any person bound by this division to maintain any barrier fence fails in the opinion of the Minister to maintain that fence as required under this division and the Minister considers that the circumstances warrant the taking of action under this subsection, the Minister may, either with or without the giving to that person of an opportunity of carrying out the work, carry out all such work as the Minister considers necessary for the placing of the fence in a proper condition and so that it is proof against the passage of the vermin required under this division to be excluded thereby.

(5) All expenses incurred by the Minister under subsection (4), together with interest at the prescribed rate shall be a debt due by the person failing, in the opinion of the Minister, to maintain the fence to the Minister and may be sued for and recovered by the Minister in any court of competent jurisdiction.

(6) The provisions of subsections (4) and (5) shall be in addition to and not in derogation of the provisions of subsection (1).

(7) Where a person is liable for the costs and interest referred to in subsection (2) or (5) they shall, until paid, be and remain a charge upon the boundary land in respect of which the costs have been incurred in priority to all other encumbrances whatsoever other than land tax due under the *Land Tax Act 1915* but including rates due to a local government and be payable by the owner thereof for the time being.

### **Joining fences**

**192.(1)** In this section—

“**joining fence**” means any fence, whenever constructed, a part of which is situated within a distance of 3 m of a barrier fence.

(2) For the purpose of enabling the free passage of vehicles of any description along any barrier fence the Minister, upon the recommendation of the protection board, may, by an order in writing served on the owner or occupier of any private land on which or on any part of the boundaries of which any joining fence is situated, require the owner or occupier within the time and in accordance with the directions contained in the order to provide in that joining fence such and so many gates and at such places as may be specified in the order.

(3) Any person required by an order made under this section to provide in any joining fence any gate or gates who fails, within the time specified in the order, to comply in every respect with the requirements of the order shall be guilty of an offence against this Act.

(4) Where the Minister is satisfied that a person required by an order made under this section to provide in any joining fence any gate or gates has failed, within the time specified in the order, to comply in every respect with the requirements of the order the Minister may carry out the work of providing in the joining fence the gate or gates and the cost of carrying out such work together with interest at the prescribed rate shall be a debt due by that person to the Minister and may be sued for and recovered by the Minister in any court of competent jurisdiction.

(5) Subsections (3) and (4) shall not apply with respect to any place at which a gate is required under this section to be provided if the person

required by the order to provide that gate, within the time specified by the order, provides a grid or other means permitting the free passage of vehicles at that place and by signed notice notifies the Minister of having done so.

(6) Nothing in any other Act or law shall prejudice or otherwise affect any order under this section or the application of the provision of this section thereto.

### **Openings in barrier fences not permitted except with the approval of the Minister**

**193.(1)** Notwithstanding anything to the contrary in any other Act or law, no person shall make or attempt to make or permit or suffer to be made or to be continued any opening in any barrier fence, whether the opening is created by a gate or grid or otherwise howsoever and whether, in any appropriate case, the opening was created before or is created after the commencement of this Act, except under the authority of and in accordance in every respect with the approval in writing of the Minister first obtained.

(2) The Minister may from time to time approve of any such opening subject to such terms, conditions, and stipulations as the Minister deems fit.

(3) Any person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

(4) Without prejudice to the provisions of subsection (1), the Minister may, by notice in writing served on any person who fails to comply with any of the provisions of that subsection, require that person to do within the time therein specified anything which, in the opinion of the Minister, is necessary or desirable for the purpose of preventing the continuance of that failure.

(5) If the person served with such notice fails, within the time specified in the notice, to comply in every respect with the requirements of the notice, the Minister may do the thing required by the notice to be done and the cost of doing the same shall be recoverable by the Minister from that person by action as for a debt in any court of competent jurisdiction.

### **Offences**

**194.** Any person who—

- (a) damages any part of any barrier fence; or
- (b) without the consent of the Minister—
  - (i) removes any part of any barrier fence; or
  - (ii) does any act whereby any part of any barrier fence ceases to be proof against the passage of vermin required under this division to be excluded thereby; or
- (c) passing through any barrier fence at any place leaves any gate thereof at that place open; or
- (d) opens and leaves open any gate in any barrier fence;

shall be guilty of an offence against this Act.

### **Powers of inspectors**

**195.** An inspector may at any reasonable time, by virtue of and without other warrant than the provisions of this Act, enter upon any land in order to—

- (a) ascertain whether it is desirable that a barrier fence be established on that land;
- (b) ascertain whether all the requirements of an order or notice to which this division applies are being or have been complied with;
- (c) inspect any barrier fence.

### **Power to enter adjoining land**

**196.(1)** For the purpose of complying with any provision of this division or with any requirement of any order or notice made or given under this division in relation to any fence and for the purpose of enabling the Minister to carry out any work or do anything pursuant to section 187(1), 189(1), 191(4), 192(4) or 193(5) and for the purpose of enabling an inspector to carry out any work pursuant to section 191(2), without further or other authority, a person may enter, to the extent necessary for that purpose, upon private land adjoining or that will adjoin the fence and do thereon such things as are necessary or are reasonably required for that purpose.

**(2)** Unless circumstances do not permit of such notice, the occupier of



the adjoining private land shall at all times be given reasonable notice beforehand of the proposed entry thereon.

### **Revocation of order**

**197.(1)** The Minister, upon the recommendation of the protection board, may by order in writing revoke an order made pursuant to section 180(1).

**(2)** Where the Minister revokes an order pursuant to subsection (1) the Minister shall give notice of the revocation to the owner of the boundary land to which the order relates.

### *Division 2—Ring fences*

#### **Application etc. may be signed by agent**

**198.** For the purposes of this division, an application or a notice which is signed by a person as agent for an owner of private land shall, where that person has been authorised in writing so to do, be deemed to have been signed by the owner.

#### **Ring fences**

**199.(1)** The owners of any 4 or more adjoining parcels of private land may, for the purpose of more effectively controlling any class or classes of declared animals on that private land and for the purpose of preventing any class or classes of declared animals from entering upon that private land, apply to the Minister for the Minister's approval to their enclosing the whole of the private land with a ring fence.

**(2)** An application referred to in subsection (1) shall be in writing, be signed by each of the applicants and contain the following information—

- (a) the full name and address of each person who is a party to the application;
- (b) a description of each parcel of private land to which the application relates;
- (c) details of the use made or proposed to be made of each of the parcels of private land;

- (d) particulars of any agreement in respect of the construction and maintenance of the proposed ring fence;
- (e) particulars of any agreement in respect of the control of any class or classes of declared animals on any of the parcels of private land;
- (f) details of the estimated cost of—
  - (i) constructing the ring fence;
  - (ii) maintaining the ring fence;
  - (iii) controlling any class or classes of declared animals on the private land;together with particulars of how that cost is to be financed;
- (g) particulars of the design of the proposed ring fence including details of any gates or grids therein;
- (h) details of the proposed fence line;
- (i) the class or classes of declared animals against the passage of which the ring fence is intended to be proof.

(3) The Minister shall cause a copy of the application to be referred to the protection board for its consideration.

(4) The protection board shall consider an application referred to it pursuant to subsection (3) and shall make recommendations in respect thereof to the Minister.

### **Minister to consider board's recommendation**

**200.** Upon the Minister having considered the recommendations of the protection board and upon the Minister having considered such other information as to the Minister seems desirable the Minister may grant or refuse to grant an application made under section 199 or determine that the Minister is prepared to grant the application subject—

- (a) to any proposal contained in the application being modified in a particular manner; or
- (b) to certain terms and conditions; or
- (c) a combination of the matters mentioned in paragraphs (a) and (b).

**Applicants to be advised of Minister's decision**

**201.(1)** The Minister shall advise the applicants in writing of the Minister's decision with respect to the application.

(2) Where the Minister has determined that the Minister is prepared to grant the application subject to any of the matters mentioned in section 200(a), (b) or (c) each applicant shall within 60 days of receiving written notice of that determination notify the Minister in writing as to whether or not the applicant is prepared to accept that decision.

(3) If any applicant notifies the Minister in writing that the applicant is not prepared to accept the decision referred to in subsection (2) then the application shall be taken to have been withdrawn.

(4) If any applicant fails to notify the Minister as required by subsection (2) the application shall be taken to have been withdrawn.

(5) Where each of the applicants notifies the Minister in accordance with subsection (2) that the applicant is prepared to accept the decision therein referred to the Minister shall grant the application.

**Governor in Council may constitute owners a group**

**202.(1)** Where the Minister grants an application pursuant to this division, a regulation may constitute the persons who are the parties to the application a group for the establishment of the proposed ring fence and for the control within that fence of the class or classes of declared animals specified in the regulation.

(2) A regulation referred to in subsection (1) may prescribe all matters and things that shall be done to give effect to the proposals as submitted in the application or accepted by the persons who made the application.

**Effect of regulation**

**203.(1)** A regulation referred to in section 202 shall take effect upon its publication in the gazette and shall be binding upon all owners of private land within the proposed ring fence and their respective successors in title.

(2) An owner of private land situated within a proposed ring fence who does anything which the owner is prohibited by a regulation referred to in subsection (1) from doing or who omits to do anything which the owner is

required by the regulation to do is guilty of an offence against this Act.

Maximum penalty—30 penalty units.

(3) Where in the opinion of the Minister an owner of private land has omitted to do anything which the owner is required by a regulation referred to in subsection (1) to do then that thing may be done by any person authorised to do the same by the Minister (which person may enter the private land for that purpose) and the costs thereby incurred by the Minister may be recovered by the Minister from the owner by action as for a debt in any court of competent jurisdiction.

### **Notification in register**

**204.(1)** The executive director shall lodge a copy of a regulation referred to in section 202 with the authority charged with registering the instrument of title to any private land situated within a proposed ring fence and such authority shall note the regulation by endorsement in its register and on every such instrument.

(2) The executive director may, by notice in writing served upon the person who is in possession of an instrument of title to any private land to which a regulation referred to in subsection (1) relates, require that person to produce the instrument, within such time as is specified in the notice, to the authority charged with registering that instrument.

(3) A person who fails to comply with the requirements of a notice served on the person pursuant to subsection (2) commits an offence against this Act.

Maximum penalty—5 penalty units.

### **Contribution from fund**

**205.** The Minister, on the recommendation of the protection board, may pay to a group constituted by a regulation referred to in section 202 from the fund an amount towards the cost of erecting the proposed ring fence and controlling the class or classes of declared animals specified in the regulation.

***Division 3—Fencing of reserves and stock routes*****Establishment of stock-proof fence**

**206.(1)** Where a local government considers it necessary for the protection or improvement of a reserve for travelling stock or a stock route situated wholly or partly within its area that a stock-proof boundary fence should be erected, the local government may by notice in writing served on the owner of any private land which adjoins that reserve or stock route require that owner to establish such a fence within the time specified in the notice between the private land and the reserve for travelling stock or, as the case may be, stock route and thereafter to maintain it in a stock-proof condition.

**(2)** For the purpose of subsection (1) use may be made of any existing fence between the private land and the reserve for travelling stock or, as the case may be, stock route.

**(3)** Where an owner of private land fails to establish a stock-proof fence—

- (a)** in a case where the owner has not objected pursuant to section 208—within the time specified in a notice given to the owner under subsection (1);
- (b)** in a case where the owner has objected pursuant to section 208 and the Minister has determined not to uphold the owner's objection—within the time specified by the Minister pursuant to section 208(5);

the local government may establish or complete the establishment of the fence and for that purpose any person authorised in writing by the local government so to do may enter the private land.

**(4)** Where an owner of private land fails to maintain in a stock-proof condition a stock-proof fence which the owner has been required to establish under subsection (1) and which has been established either by the owner or the local government or partly by the owner and partly by the local government the local government may so maintain the fence and for that purpose any person authorised in writing by the local government so to do may enter the private land.

**(5)** All the costs incurred by a local government in doing any act under

subsection (3) or (4) may be recovered by it from the owner of private land who under subsection (1) was required to do that act by action as for a debt in any court of competent jurisdiction.

### **Establishment of declared animal-proof fence**

**207.(1)** Where a local government considers it necessary for the protection or improvement of a reserve for travelling stock or a stock route situated wholly or partly within its area that an existing fence on any boundary of the reserve or stock route should be made proof against the passage of any class or classes of declared animals, the local government may by notice in writing served on the owner of any private land adjoining the boundary require the owner to make such fence so proof within the time specified in the notice and upon completion of the work by the owner the local government shall pay to the owner one-half of the cost thereof.

**(2)** Where an owner of private land fails to comply with a notice served on the owner under subsection (1)—

- (a) in a case where the owner has not objected pursuant to section 208—within the time specified in the notice;
- (b) in a case where the owner has objected pursuant to section 208 and the Minister has determined not to uphold the objection—within the time specified by the Minister pursuant to section 208(5);

the local government may do any work necessary to make the fence proof against the passage of the class or classes of declared animals specified in the notice and may recover half of the cost thereof from the owner.

**(3)** For the purpose of enabling a local government to carry out any work pursuant to subsection (2) any person authorised in writing by the local government so to do may enter the private land concerned.

**(4)** Where pursuant to this section a fence is made proof against the passage of any class or classes of declared animals the owner of the private land to whom the notice was given under subsection (1) and the local government shall each pay half the cost of maintaining the fence in good and substantial repair.

**(5)** If the owner of private land and the local government can not agree in regard to the cost of the maintenance referred to in subsection (4) the

amount of the cost shall be determined by the Minister upon application in writing by either party.

(6) The costs payable by an owner of private land to a local government under this section may be recovered by it from the owner by action as for a debt in any court of competent jurisdiction.

### **Objection**

**208.(1)** An owner of private land who objects to a notice given to the owner pursuant to section 206 or 207 may lodge written notice of the owner's objection with the Minister within 14 days of the owner's receipt of the notice.

(2) The owner shall, within 7 days of the owner having lodged a notice of objection with the Minister pursuant to subsection (1), cause a copy of that notice to be given to the local government concerned.

(3) Where a notice of objection is lodged with the Minister pursuant to subsection (1) the owner and the local government concerned may make representations to the Minister in the manner and within the time prescribed.

(4) The Minister shall consider the objection and determine whether or not to uphold it.

(5) Where the Minister determines not to uphold the objection the Minister shall specify the time within which the fence is to be established or, as the case may be, made proof against the passage of the class or classes of declared animals concerned.

(6) The Minister shall cause written notice of the Minister's decision to be given to the owner of the private land who lodged the objection and the local government concerned.

(7) The decision of the Minister shall be final and conclusive.

### **Provisions of this division do not apply in certain cases**

**209.** Notwithstanding sections 206 or 207 a notice referred to in either of those sections shall not be given in respect of any private land which is held—

(a) under an occupation licence under the *Land Act 1994*; or

- (b) under a lease under the *Land Act 1994* with less than 5 years to run when the notice is given.

## **PART 11—FINANCIAL PROVISIONS**

### **Rural Lands Protection Fund**

**210.** There shall be created within the trust and special funds of the public accounts kept by the Treasurer a fund to be called the ‘Rural Lands Protection Fund’.

### **Precept**

**211.** Subject to subsection (2), the Minister may in respect of any year issue a precept signed by the Minister and in the approved form to any local government directing that the amount specified in the precept be paid by that local government to the Minister for payment into the fund and upon the issue by the Minister to the local government of the precept the local government is authorised and required to meet the precept and pay out of its operating fund, in accordance with the direction contained in the precept, the amount of the precept.

(2) A regulation may specify the maximum amount which may be specified in a precept issued under subsection (1) and the amount specified in any such precept shall not exceed that maximum amount.

(3) The amount specified in and the direction contained in a precept issued under subsection (1) may differ as regards different local governments.

(4) Where the Minister is of the opinion that by virtue of anything done under this Act a part of an area has benefited in a special way as regards the rest of the area the Minister may, in a precept issued under subsection (1), specify—

- (a) an amount, being a portion of the amount of the precept, which in the Minister’s opinion could properly be raised by the local government for the area by means of a rate levied upon all



rateable land in that part; and

- (b) the part (by such means as the Minister considers sufficient to identify it);

and where the Minister does so the local government shall have full power and authority to make and levy a rate upon or in respect of that rateable land to the extent of the amount necessary to recoup the amount so specified.

(5) For the purpose of enabling a local government to furnish and provide the necessary moneys to meet and pay out of its operating fund the amount of any precept issued under subsection (1) to the local government, the local government shall have full power and authority to increase the general rate in any year to be made and levied upon or in respect of all rateable land in its area to the extent of the amount necessary to recoup—

- (a) in a case to which subsection (4) does not apply—the amount of the precept;
- (b) in a case to which subsection (4) does apply—the amount of the precept less any amount specified pursuant to that subsection.

(6) Where a local government fails to pay the amount of a precept issued under subsection (1) that amount shall be a debt due by the local government to the Minister and may be sued for and recovered by the Minister in a court of competent jurisdiction.

## **Receipts**

**212.** There shall be paid into the fund—

- (b) all moneys paid by local governments pursuant to a precept issued under section 211;
- (c) all travelling-stock rates, charges, fees and other moneys paid to any local government under this Act;
- (d) all moneys transmitted to the Treasury for payment into the fund under section 214;
- (e) all penalties recovered in respect of offences committed against this Act;
- (f) except as provided by section 46, the proceeds of the sale of any machinery, equipment or materials under this Act;

- (g) the proceeds of the hiring out of any machinery or equipment under this Act;
- (h) the amount of any expenses incurred under this Act that are recovered by the Minister or the executive director;
- (i) all moneys otherwise required by this Act to be so paid;
- (j) such sums as may from time to time be appropriated by Parliament for a purpose of this Act;
- (k) such other moneys as may be prescribed.

### **Expenditure general**

**213.** There may be paid from the fund moneys required for all or any of the following purposes and for no other purpose—

- (a) defraying the expenses incurred in the execution of this Act;
- (b) defraying the expenses incurred by a local government in discharging its responsibilities under this Act;
- (c) the defrayment of expenditure approved by the Minister to be incurred by the rabbit board;
- (d) any payment authorised by the Minister pursuant to this Act to be made from the fund;
- (e) any other payment required or permitted by this Act to be made out of the fund.

### **Local governments to transmit certain moneys to the Treasury**

**214.** All travelling-stock rates, fees and other charges received by a local government shall be transmitted by such local government to the Treasury for payment into the fund and every such local government shall render to the Minister or to any person appointed by the Minister, such accounts and particulars as the Minister or such person shall deem necessary to ensure compliance by such local government with the provisions of this section.

**PART 12—GENERAL***Division 1—Use of poisons etc.***Protection of human health and life**

**216.(1)** In this section—

“**take**” an animal, means to trap, snare, shoot or catch the animal other than by poisoning it.

**(2)** Where—

- (a) the Minister proposes to specify in a notice under section 77; or
- (b) a local government or an authorised person or inspector proposes to specify in a notice under section 81;

the use of poison or other means likely to endanger or be detrimental to human health or life for the control of declared animals in any area he or she or, as the case may be, it shall notify the executive director accordingly and the executive director shall cause notice to be published in the gazette and in a newspaper circulating in the area and in such other manner as the executive director considers necessary in order to notify the public of the proposal.

**(3)** Where pursuant to section 217(1)(a) the executive director proposes to authorise a person to use poison or other means likely to endanger or be detrimental to human health or life for the control of declared animals in any area, the executive director shall cause notice to be published in the gazette and in a newspaper circulating in the area and in such other manner as the executive director considers necessary in order to notify the public of the proposal.

**(4)** Where the rabbit board proposes—

- (a) to specify in a notice under section 146 or 150 the use of; or
- (b) pursuant to section 217(1)(b), to authorise a person to use;

poison or other means likely to endanger or be detrimental to human health or life for the purpose of maintaining land free from rabbits it shall cause notice to be published in the gazette and in a newspaper circulating in the area in which the land is situated and in such other manner as the rabbit

board considers necessary in order to notify the public of the proposal.

(5) In a notice published under subsection (2), (3) or (4) the executive director or as the case may be, the rabbit board shall cause to be stated—

- (a) the proposal; and
- (b) the area to which the proposal relates; and
- (c) notification—
  - (i) that the taking of animals of a class specified in the notice is prohibited absolutely until such time as a further notice cancelling the prohibition is published by the executive director or, as the case may be, the rabbit board; or
  - (ii) that the taking, for human consumption, of animals of a class specified in the notice is prohibited until such time as a further notice cancelling the prohibition is published by the executive director or, as the case may be, the rabbit board; and
- (d) notification that the taking of animals of a class specified in the notice in breach of the prohibition is an offence against subsection (7); and
- (e) a warning that animals taken in breach of the prohibition are likely to endanger or be detrimental to human health or life if handled or consumed.

(6) Where the executive director has caused a notice to be published under subsection (2) or (3) or the rabbit board has caused a notice to be published under subsection (4), if the executive director or, as the case may be, the rabbit board is of the opinion that the prohibition mentioned in that notice may without danger or detriment to human health or life be cancelled, the executive director or, as the case may be, the rabbit board shall cause a further notice cancelling the prohibition to be published in the gazette and in a newspaper circulating in the area concerned.

(7) Where under this section the taking or the taking for human consumption of animals of any class is, for the time being, prohibited in an area, a person who takes or, as the case may be, takes for human consumption such an animal in that area in breach of that prohibition commits an offence against this Act.

**Authority to use poison, set traps etc.**

**217.(1)** Subject to this Act, it shall be lawful—

- (a) for any person acting with the authority of the executive director for the purpose of controlling declared animals to enter upon any land and to lay poison and set traps or snares on that land;
- (b) for any person acting with the authority of the rabbit board for the purpose of maintaining land situated in the rabbit district free from rabbits, to enter upon any land and to lay poison and set traps or snares on that land.

**(2)** A person authorised pursuant to subsection (1)(a) or (b) may without entry upon the land lay any poison thereon by means of an aircraft.

**(3)** Subject to this Act it shall be lawful for the owners and occupiers of land and all persons acting with their authority—

- (a) for the purpose of controlling declared animals, to lay poison and set traps or snares on the land;
- (b) where the land is situated within the rabbit district—for the purpose of maintaining the land free from rabbits, to lay poison or set traps or snares on the land.

**(4)** Unless notice has been given to the actual occupant (if any) of the land of the intention to use poison—

- (a) a person acting with the authority of the executive director shall not use poison for the control of declared animals on or in relation to any land;
- (b) a person acting with the authority of the rabbit board shall not use poison for the purpose of maintaining the land free from rabbits.

**(5)** Any person who, without lawful authority (proof whereof shall lie upon the person) destroys, removes or interferes with any trap, snare, poison, matter or thing which is used for the purpose of—

- (a) controlling declared animals and which is lawfully placed upon any land for that purpose;
- (b) maintaining any land situated in the rabbit district free from rabbits and which is lawfully placed on any such land for that

purpose;

commits an offence against this Act.

### **Cyanide of potassium not to be used**

**218.** Notwithstanding section 217, a person who uses cyanide of potassium to—

- (a) control any declared animal; or
- (b) maintain any land free from rabbits;

commits an offence against this Act.

Maximum penalty—50 penalty units.

## ***Division 2—Agents***

### **Attorneys and agents to represent principal**

**219.(1)** An attorney or agent of an owner who is absent from the State shall be deemed to represent the principal for the purposes of this Act so far as regards land which the attorney or agent is authorised to manage or of which the attorney or agent is authorised to hold possession or the rents and profits of which the attorney or agent is authorised to collect on behalf of the owner.

**(2)** Service on such a representative of the owner of land of—

- (a) a notice or other document required or authorised to be served on the owner by this Act;
- (b) a summons or legal process for the recovery of money payable by the owner in respect of the land pursuant to the provisions of this Act;

shall be regarded as effective service on the owner.

***Division 3—Procedure*****Manner in which documents may be served**

**220.(1)** For the purposes of this Act a document may be served on a person—

- (a) by delivering it personally to the person; or
- (b) by leaving it for the person at his or her usual or last-known place of abode or business; or
- (c) by sending it by post or transmitting it by telegram to—
  - (i) the person's last-known place of abode or business; or
  - (ii) the person's last-known postal address; or
  - (iii) the person's address shown in a land record kept by a local government under the *Local Government Act 1993*; or
- (d) where an address for service pursuant to paragraph (b) or (c) can not be discovered by the person desiring to serve the document—by advertising the document at least twice in a newspaper circulating in the area in which the land to which the document relates is situated, an interval of at least a week being allowed to elapse between the advertisements.

**(2)** For the purposes of this Act a document may be served on a body corporate by leaving it at or sending it by post or transmitting it by telegram to its principal place of business or any other place where it carries on business.

**(3)** Any document authorised or required by this Act to be served on the occupier or owner, as the case may be, of any land, shall in cases where several persons are the occupiers or owners thereof be duly served if served on 1 of such occupiers or owners provided that the names of all the occupiers or owners as the case may be, are shown on the document.

**(4)** Nonservice on the owner shall not affect the validity of service on the occupier, nor shall nonservice on the occupier affect the validity of service on the owner.

**(5)** A document by this Act authorised or required to be served on the owner or occupier of any land may, if the name of the owner or occupier is

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not known, be addressed to the owner or occupier by the description of ‘owner’ or ‘occupier’ of the land, describing it, in respect of which the document is given, without further name or description.

(6) In a document made for a purpose of this Act a description of the land affected by the document shall be sufficient if the description allows of no reasonable doubt as to the land affected, notwithstanding that the description does not particularly define the land.

(7) In the case of service by telegram, the service shall be presumed, unless the contrary is shown, to have been effected at the time when, in the ordinary course, the telegram would be delivered.

(8) The provisions of this section shall be in addition to and not in derogation of any other provision of this Act relating to the service of documents.

(9) In this section—

“**document**” means a document made for any of the purposes of this Act.

**Proof of ownership or occupancy**

**221.** The averment in a claim, complaint or other document in proceedings instituted for the purposes of this Act, that a person is or was at any time the owner or occupier of land shall be prima-facie evidence thereof and in the absence of evidence to the contrary conclusive evidence thereof.

**Evidentiary provisions**

**222.(1)** In any proceedings under this Act to recover the amount of any costs, charges or expenses recoverable by—

- (a) the Minister; or
- (b) the executive director; or
- (c) a local government; or
- (d) the rabbit board;

it shall be sufficient to produce—

- (f) in a case to which paragraph (a) refers—a certificate purporting to be signed by the Minister; or



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- (g) in a case to which paragraph (b) refers—a certificate purporting to be signed by the executive director; or
- (h) in a case to which paragraph (c) refers—a certificate purporting to be signed by the mayor of the local government concerned; or
- (i) in a case to which paragraph (d) refers—a certificate purporting to be signed by the chairperson of the rabbit board;

certifying the amount of those costs, charges or expenses and such certificate shall be prima-facie evidence that such costs, charges or expenses were actually and lawfully incurred and the onus of disapproving the amount thereof shall be upon the defendant.

(2) In any proceedings instituted by or on behalf of a local government under this Act it shall not be necessary to prove the corporate name of the local government, its constitution or the limits of its area but this subsection shall not prejudice the right of any defendant to prove such limits.

(3) In proceedings for an offence against this Act—

- (a) the authority of the complainant to institute those proceedings shall be presumed until the contrary is proved;
- (b) it shall not be necessary to prove the appointment of any inspector, authorised person or rabbit-control officer.

(4) Every notice, order or other document under this Act that requires authentication by the rabbit board shall be sufficiently authenticated if it purports to be signed by the chairperson of or the clerk to the board.

**Proof of plant or animal**

**223.** In any proceedings for an offence against this Act a certificate purporting to be signed by the executive director or by a person authorised by the executive director so to do stating that the plant or animal in relation to which the proceedings are brought is a plant or animal of the kind specified in the certificate shall be prima-facie evidence that the plant or animal is of the kind so specified and in the absence of evidence to the contrary conclusive evidence thereof.

**Proof of document etc.**

**224.(1)** In all proceedings in which a document is to be proved the document and its effective service may be sufficiently proved by or on behalf of the complainant by the production of what purports to be a copy, bearing what purports to be a certificate signed by a person authorised to issue the original, that the copy is a true copy of the original and that the original was served on the date specified in the certificate.

**(2)** In proceeding under or for the purposes of this Act—

- (a) evidence of a management program may be given by the production of the gazette purporting to contain it, evidence of its publication in a newspaper may be given by the production of what purports to be the newspaper containing the program and the newspaper shall be taken to have been published (until the contrary is proved) on the day on which it bears date;
- (b) evidence of a document authorised or required pursuant to this Act to be advertised or published in a newspaper may be given by the production of what purports to be a newspaper purporting to contain it and the newspaper shall be taken to have been published (until the contrary is proved) on the day on which it bears date;
- (c) evidence of a document authorised or required pursuant to this Act to be published in the gazette may be given by the production of the gazette purporting to contain it.

**(3)** The validity of any document or of the effective service of it shall not be affected by any error, misdescription or irregularity which does not mislead or which is not likely to mislead.

**(4)** In this section—

**“document”** means a document made for any of the purposes of this Act.

**General penalty**

**225.** Any person guilty of an offence against any provision of this Act shall be liable, if no specific penalty is provided for that offence, to a maximum penalty of 20 penalty units.

**Proceedings for offences**

**226.** A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886* on complaint by—

- (a) a person authorised in writing by the Minister;
- (b) where the offence is one referred to in part 6—
  - (i) an inspector; or
  - (ii) a person authorised in writing by the executive director;
- (d) where the offence is one referred to in part 8—the chairperson of the rabbit board;
- (e) where the offence is one referred to in a part of this Act other than a part referred to in paragraph (b) or (d)—
  - (i) an authorised person or inspector; or
  - (ii) a person authorised in writing by the executive director.

**Continuing offences**

**227.(1)** Where—

- (a) by or under this Act an act or thing is required or directed to be done within a particular period or at or before a particular time; and
- (b) failure to do that act or thing within the period or at or before the time referred to in paragraph (a) constitutes an offence; and
- (c) that act or thing is not done within the period or at or before the time referred to in paragraph (a);

the following provisions of this subsection have effect—

- (d) the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done and a failure to do that act or thing constitutes an offence;
- (e) where a person is convicted of an offence that, by virtue of paragraph (d), is constituted by failure to do that act or thing after the expiration of that period or after that time, as the case may

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be—that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues;

- (f) the penalty applicable to each such separate and further offence is 5 penalty units.

(2) Charges against the same person for any number of offences under subsection (1)(e) may be jointed in the same complaint if those offences relate to a failure to do the same act or thing.

(3) If a person is convicted of more than 1 offence under subsection (1)(e), the court may impose one penalty in respect of all the offences of which the person is so convicted under that paragraph but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

*Division 4—Regulations***Regulation making power**

228. The Governor in Council may make regulations under this Act.

**Regulations—general**

229. A regulation may be made for or about any of the following—

- (a) with respect to the manner of applying for any permit or other authority under this Act and any variation or renewal thereof;
- (c) prescribing rates of interest payable under this Act on debts due to the Minister, the executive director, the rabbit board or a local government;
- (d) prescribing fees and charges under or for the purposes of this Act and regulating and controlling the payment and collection of the same;
- (e) requiring the supply by local governments to the executive director of such information as is prescribed or as the executive director, either generally or in a particular case, may require;

- (g) prescribing the persons who may institute proceedings in respect of a breach of the regulations;
- (h) with respect to all matters required or permitted by this Act to be prescribed and in respect of which the manner of prescription is not specified.

**Regulations—stock routes etc.**

**231.** A regulation may be made for or about any of the following—

- (a) regulating and controlling the use by travelling stock of stock routes and reserves for travelling stock;
- (b) regulating and controlling the use by stock other than travelling stock of stock routes and reserves for travelling stock;
- (c) regulating and controlling the use by travelling stock or other stock of facilities for watering stock and other improvements upon or provided in respect of stock routes or reserves for travelling stock;
- (d) prescribing fees and charges payable for or in respect of the use of facilities for watering stock and other improvements on or provided in respect of stock routes or reserves for travelling stock and fees or charges payable for or in respect of the use by stock (other than travelling stock) of stock routes and reserves for travelling stock and regulating and controlling the payment and collection of such fees and charges;
- (e) with respect to the making, levying, collection and payment of all rates on travelling stock;
- (f) for securing the maintenance of fencing erected pursuant to part 10, division 3 or any corresponding previous law of the State.

**Regulations—rabbits**

**232.** A regulation may be made for or about any of the following—

- (a) regulating and controlling the business of the rabbit board;
- (b) providing for, regulating and controlling the procedure and

- conduct of meetings of the rabbit board;
- (c) providing for the funds (including a general fund) to be kept by the rabbit board and providing for, regulating and controlling the manner and form in which they shall be kept;
  - (d) prescribing the books of account to be kept by the rabbit board and the manner and form in which they shall be kept;
  - (e) in relation to the rabbit district, regulating and controlling the use of poisons and poison baits for destroying rabbits.

**Regulations—declared plants and declared animals**

**233.(1)** A regulation may be made for or about any of the following—

- (a) with respect to—
  - (i) the measures, whether mechanical, biological, chemical or otherwise, to be taken and things to be done with respect to the control of declared plants and declared animals;
  - (ii) the dissemination of information and the giving of directions relating to the measures, things and action referred to in subparagraph (i);
  - (iii) the time at which or the period within which those measures or that action shall be taken, those directions shall be complied with and those things shall be done;
  - (iv) the enforcement of the taking of those measures or that action, compliance with those directions or the doing of those things;
- (b) with respect to the use of appliances and materials for controlling declared plants and declared animals and the manner of mixing materials;
- (c) prohibiting or regulating the use of any particular chemical or spray in or for the control of declared plants or declared animals or for the destruction of other plants or animals whether that chemical or spray is applied by aircraft or by any other means, at any time or during particular periods or in relation to any area or boundary specified in the regulations;

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- (d) with respect to the disposal of declared plants by incineration and other methods;
- (e) controlling the movement of persons into, on and from land in or upon which declared plants are or are suspected to be present;
- (f) with respect to the movement of stock from land in or upon which declared plants are or are suspected to be present;
- (g) with respect to the keeping of stock on land in or upon which declared plants are or are suspected to be present;
- (h) with respect to the fencing of land in or upon which declared plants are or are suspected to be present;
- (i) prescribing the time, period or method of cultivating land in or upon which declared plants are or are suspected to be present;
- (j) with respect to the use, storage or carriage in any area of any vehicle, machine (including an aeroplane) or thing which harbours or is likely to harbour the propagules of any declared plant;
- (k) imposing conditions and restrictions on—
  - (i) the introduction into the State of animals that are declared animals of category A4 in respect of the whole of the State;
  - (ii) the introduction into a part of the State of animals that are declared animals of category A4 in respect of that part of the State;
  - (iii) the keeping, sale or disposal in a part of the State of animals that are declared animals of category A6 in respect of that part of the State;
- (l) prohibiting or regulating—
  - (i) the setting and use of traps, other than live-capture traps, for the purpose of capturing declared animals;
  - (ii) the laying of poison for the purpose of destroying declared animals;in any area specified in the regulations;
- (m) with respect to the movement of stock, vehicles, machinery or

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- any other thing on or from land in or upon which declared animals are or are suspected to be present;
- (n) preventing interference with experiments conducted by or on behalf of the protection board or the executive director on or in relation to declared plants or declared animals and, without limiting the generality of the foregoing—
    - (i) prohibiting or regulating entry to a location on which such experiments are being conducted;
    - (ii) prohibiting the trapping, catching or killing of all or any declared animals on any location on which such experiments are being conducted;
  - (o) with respect to the paying of bonuses, the circumstances and manner in which bonuses may be claimed and the prevention of fraudulent or other improper practices in connection therewith.

**Offences under regulations**

**235.** A regulation may prescribe offences for contraventions of a regulation, and fix a maximum penalty of a fine of not more than 20 penalty units for the contravention.

*Division 5—Miscellaneous***Destruction of straying dogs**

**236.(1)** Any—

- (a) police officer; or
- (b) officer of the department; or
- (c) officer of a local government for the area or part of the area in respect of which this section is in force; or
- (d) owner or occupier or any agent of the owner or occupier of rural land which is situated wholly or partly within an area or part of an area in respect of which this section is in force; or
- (e) person in charge of travelling stock in an area or part of an area in



respect of which this section is in force;

who at any time finds at large on rural land (other than rural land situated in a protected area) or on a stock route or reserve for travelling stock any dog, whether registered under any law or not, which is not then in the immediate custody, protection or control of some person may and is hereby authorised to destroy (and, for the purpose of so doing, to seize) such dog then and there.

(2) To the extent necessary to give operation and effect to this section the provisions of this Act and of every other Act or law shall be read and construed subject to this section.

(3) This section has effect only for an area specified under a regulation.

### **Registration of domestic dogs**

**237.(1)** A regulation may declare that every dog (other than a dingo) kept in or introduced into any area specified in the regulation shall be registered with the local government for such area.

(2) The local government shall charge such annual registration fee, not being less than \$1, as stated in the regulation.

(3) The local government shall supply to the owner of every dog so registered a disc showing some distinguishing mark or lettering which indicates that such dog is registered by the local government.

(4) A registration to which this section applies shall remain in force for a period of 12 months and may be renewed from time to time.

(5) A dog found in an area in respect of which a regulation mentioned in subsection (1) is in force and which is not registered pursuant to this section may be destroyed by an officer of the department, an officer of the local government for the area or by a police officer.

### **Dividing Fences Act not to apply**

**238.** The *Dividing Fences Act 1953* does not apply to fences erected under or pursuant to or deemed to be erected under or pursuant to this Act.

### **Certificate of appointment**

**239.** Each inspector and rabbit-control officer shall be provided with a certificate of his or her appointment as such and shall, if required to do so, produce that certificate to the owner or occupier of any land or premises the inspector or rabbit-control officer may enter pursuant to the powers conferred on him or her by this Act.

### **Indemnity**

**240.(1)** Liability at law shall not attach to the Crown or any person on account of any act or thing done or omitted to be done pursuant to this Act or done or omitted to be done bona fide for the purposes of this Act and done or omitted to be done without negligence.

**(2)** The seizure, detention, destruction, disposal, forfeiture or other dealing with of any plant, animal or other thing whatsoever under this Act shall not confer upon any person a right to compensation.

**(3)** Without limiting the generality of the foregoing provisions of this section, no action or other remedy shall lie against nor shall any sum by way of compensation, damages or otherwise be payable by the Crown, the Minister, a government department or any local government for any loss or injury sustained by any owner or person in possession of any livestock poisoned by eating on any public land or any road or land under the control of a local government any plant, grass or herbage which has been poisoned by the servant or agent or permittee of the Minister or such department or local government in the destruction of or in an endeavour to destroy any declared plant or extraordinarily noxious plant if the Minister or, as the case may be, such government department or local government has given notice twice in some newspaper circulating in the area where the work is to be carried out and caused public notice of the use of poison to be affixed in a conspicuous manner in all places where work is being carried out and has served such notice on each resident occupier of any land abutting on the place where the work is being carried out.

### **Civil liability**

**241.** Except where this Act expressly otherwise provides—

(a) a cause of action in civil proceedings shall not be constituted by a

breach of a duty that depends for its existence upon a provision of this Act; and

- (b) no provision of this Act shall be construed to derogate from any duty had by a person independently of this Act or to prejudice any right of action had by any person in respect of a breach of such a duty.

### **Name and address may be required**

**242.** An authorised person, inspector or a rabbit-control officer acting in the exercise or performance of his or her powers or functions under this Act may—

- (a) require any person to state his or her name and address;
- (b) require any occupier of land to state, to the best of the occupier's knowledge, information and belief, the name and address of the owner of that land.

### **Obstruction etc.**

**243.** Any person who—

- (a) without lawful excuse, wilfully obstructs, hinders or resists an inspector, authorised person, rabbit-control officer or other person in the exercise or performance of his or her powers or functions under this Act; or
- (b) without lawful excuse, refuses or wilfully fails to comply with any lawful requirement of an authorised person, inspector or a rabbit-control officer under this Act; or
- (c) wilfully makes any false statement to or misleads, or attempts to mislead an inspector, authorised person, rabbit-control officer or other person in the exercise or performance of his or her powers or functions under this Act;

commits an offence against this Act.

**Seizure of plants etc.**

**244.(1)** Where an authorised person or inspector seizes any plant, animal or other thing whatsoever pursuant to this Act that plant, animal or other thing may be left by the authorised person or inspector at the place where it was seized.

**(2)** Unless he or she is authorised by the executive director or an authorised person or inspector so to do, a person who removes or otherwise interferes with any plant, animal or other thing seized by an authorised person or inspector pursuant to this Act commits an offence against this Act.

**Personating officers**

**245.** Any person who falsely represents himself or herself to be or personates an authorised person, inspector or rabbit-control officer commits an offence against this Act.

**Authorised person etc. may be accompanied by assistants etc.**

**246.** Where, under the provisions of this Act or of a warrant granted under this Act, an authorised person, inspector, rabbit-control officer or other person is authorised to enter land, or premises on land, for any purpose—

- (a) he or she may, with or without assistants or contractors enter and remain on that land or in those premises for such period as is reasonable for carrying out that purpose;
- (b) he or she shall have for himself or herself and those assistants or contractors such rights of ingress, egress and regress into, over and across that land for that period with such vehicles, instruments, appliances and materials as are reasonable for carrying out that purpose.

**Approval of forms**

**247.** The chief executive may approve forms for use under this Act.

**Transitionally approved forms**

**248.(1)** This section applies if—

- (a) immediately before its commencement, there was a prescribed form for a matter; and
- (b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

**(2)** Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.

**(3)** This section expires 6 months after it commences.

**SCHEDULE 2**

section 6

**RABBIT-CHECK FENCE**

The part of the boundary of the rabbit district commencing on the shore of the South Pacific Ocean at the south-east corner of the State, and thence by the southern boundary thereof westerly to the Shire of Rosenthal, at the south corner of portion 50v, parish of Rosenthal, by the south-western boundary of that shire, by the southern and south-western boundaries of the parish of Tummaville to the south corner of portion 131v, parish of Gore, by roads northerly to the north-east corner of portion 118v, north-westerly and westerly to the north-west corner of portion 54v, parish of Domville, south-westerly to the east corner of portion 95, north-westerly to the south corner of portion 85, westerly to the south-west corner of portion 4116 and northerly and north-westerly to the west corner of that portion, by the south-western boundary of the parish of Domville, by the south-western and western boundaries of the parish of Yandilla to the north-west corner of portion 699, by the road intersecting portion 33, parish of Wilkie northerly, by the western boundaries of the parishes of Yandilla and Cecil Plains to the Shire of Wambo, by the southern and western boundaries of that shire to portion 38, parish of Braemar, by the south-western boundary of that portion, by the eastern boundaries of portions 22, 21, 20 and 2 and portions 18, 17, 14 and 47 to 50 parish of Kogan, by the north-eastern boundaries of portions 51, 28 and 26, parish of Hunter, by the west boundaries of subdivision 2 of portion 1532 and subdivision 2 of portion 1254, R. 35 parish of Earle and portions 20v, 191, 37v, 19v, 17v, 18v and 28 to the western railway, by that railway north-westerly to Glasson Street, Chinchilla, by that street south-westerly, by the northern boundary of portion 1v, parish of Chinchilla, by the south and west boundaries of portion 285, by the south-western boundaries of portions 168, 1521, 67 and 159 parish of Colamba to the western railway; and by that railway westerly to the western boundary of the Shire of Chinchilla.

**SCHEDULE 3**

section 33

**DARLING DOWNS–MORETON RABBIT DISTRICT**

Commencing on the shore of the South Pacific Ocean at the south-east corner of the State, and bounded thence by the southern boundary thereof westerly to the Shire of Rosenthal at the south corner of portion 50v, parish of Rosenthal, by the south-western boundary of that shire, by the southern and south-western boundaries of the parish of Tummaville to the south corner of portion 131v, parish of Gore, by roads northerly to the north-east corner of portion 118v, north-westerly and westerly to the north-west corner of portion 54v, parish of Domville, south-westerly to the east corner of portion 95, north-westerly to the south corner of portion 85, westerly to the south-west corner of portion 4116 and northerly and north-westerly to the west corner of that portion, by the south-western boundary of the parish of Domville, by the south-western and western boundaries of the parish of Yandilla to the north-west corner of portion 699, by the road intersecting portion 33, parish of Wilkie northerly, by the western boundaries of the parishes of Yandilla and Cecil Plains to the Shire of Wambo, by the southern and western boundaries of that shire to portion 38, parish of Braemar, by the south-western boundary of that portion, by the eastern boundaries of portions 22, 21, 20 and 2 and portions 18, 17, 14 and 47 to 50 parish of Kogan, by the north-eastern boundaries of portions 51, 28 and 26, parish of Hunter, by the west boundaries of subdivision 2 of portion 1532 and subdivision 2 of portion 1254, R. 35 parish of Earle and portions 20v, 191, 37v, 19v, 17v, 18v and 28 to the western railway, by that railway north-westerly to Glasson Street, Chinchilla, by that street south westerly, by the northern boundary of portion 1v, parish of Chinchilla, by the south and west boundaries of portion 285, by the south-western boundaries of portions 168, 1521, 67 and 159 parish of Colamba to the western railway, by that railway westerly to the western boundary of the Shire of Chinchilla, by the western, northern and north-eastern boundaries of that shire, by the north-eastern boundaries of the Shire of Wambo and the parishes of Rosalie and Milton, by the north-eastern and northern

## SCHEDULE 3 (continued)

boundaries of the parish of Goombungee, by the northern and north-eastern boundaries of the parish of Douglas, by the eastern boundary of the parish of Geham to the Shire of Gatton, by the northern boundaries of the Shires of Gatton, Laidley, Moreton, Beaudesert and Albert easterly, southerly and again easterly to the South Pacific Ocean; and by the shore thereof southerly to the point of commencement.



**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 17 December 1996. Future amendments of the Rural Lands Protection Act 1985 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 58 of 1995	31 January 1996

### 5 Tables in earlier reprints

#### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundante provisions	1
Renumbered provisions	1

## **6 List of legislation**

### **Rural Lands Protection Act 1985 No. 70**

date of assent 16 October 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1986 (proc pubd gaz 28 June 1986 p 1736)

as amended by—

### **Public Service Management and Employment Act 1988 No. 52 s 44 sch 3**

date of assent 12 May 1988

commenced 18 July 1988 (proc pubd gaz 16 July 1988 p 2876)

### **Rural Lands Protection Act Amendment Act 1990 No. 67**

date of assent 19 September 1990

ss 1–2 commenced on date of assent

remaining provisions commenced 22 June 1992 (1992 SL No. 121)

### **Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2**

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

### **Lands Legislation Amendment Act 1992 No. 64 ss 1–3 sch 1**

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 31 January 1993 (1992 SL No. 448)

### **Local Government Act 1993 No. 70 ss 1–2, 804 sch**

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2(5))

### **Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch**

date of assent 22 November 1995

commenced on date of assent

### **Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

### **Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

s 147 sch 2 amdts 2–3 commenced 1 December 1996 (1996 SL No. 361)

remaining provisions not yet proclaimed into force

### **Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

## 7 List of annotations

### Commencement

s 2 om 1995 No. 58 s 4 sch 1

### Arrangement of Act

s 3 om 1990 No. 67 s 4

### Repeals

s 4 om R1 (see RA s 40)

### Relationship to other Acts

s 5 amd 1992 No. 20 s 59 sch 2

### Definitions

prov hdg sub 1995 No. 58 s 4 sch 1

s 6 def “**approved form**” ins 1995 No. 58 s 4 sch 1

def “**area**” om 1993 No. 70 s 804 sch

def “**chief executive (lands)**” ins 1992 No. 64 s 3 sch 1  
om 1995 No. 58 s 4 sch 1

def “**control**” amd 1990 No. 67 s 5(a)

def “**declared animal**” amd 1995 No. 58 s 4 sch 1

def “**functions**” om 1993 No. 70 s 804 sch

def “**Government department**” om 1992 No. 64 s 3 sch 1

def “**government entity**” ins 1995 No. 58 s 4 sch 1

def “**Joint Local Authority**” om 1993 No. 70 s 804 sch

def “**local authority**” om 1992 No. 64 s 3 sch 1

def “**Minister**” sub 1990 No. 67 s 5(b)

om 1992 No. 64 s 3 sch 1

def “**National Park**” om 1992 No. 20 s 59 sch 2

def “**owner**” sub 1995 No. 58 s 4 sch 1

def “**Plague Locust Destruction Committee**” om 1990 No. 67 s 5(c)

def “**power**” om R1 (see RA s 39)

def “**private land**” amd 1992 No. 20 s 59 sch 2

sub 1995 No. 58 s 4 sch 1

def “**protected area**” ins 1992 No. 20 s 59 sch 2

def “**reserve**” amd 1995 No. 58 s 4 sch 1

def “**reserve for travelling stock**” sub 1995 No. 58 s 4 sch 1

def “**road**” sub 1995 No. 58 s 4 sch 1

def “**stock**” amd 1995 No. 58 s 4 sch 1

def “**stock route**” sub 1995 No. 58 s 4 sch 1

def “**travelling-stock rate**” ins 1995 No. 58 s 4 sch 1

def “**unallocated State land**” ins 1995 No. 58 s 4 sch 1

def “**vacant Crown land**” om 1995 No. 58 s 4 sch 1

### Class of plants or animals of category identified by letter and numeral etc.

prov hdg ins 1995 No. 58 s 4 sch 1

s 6A prev s 6(2) renum 1995 No. 58 s 4 sch 1

### Meaning of plant or animal on land

prov hdg ins 1995 No. 58 s 4 sch 1

s 6B prev s 6(3) renum 1995 No. 58 s 4 sch 1

**Meaning of fence on boundary of land etc.**

**prov hdg** ins 1995 No. 58 s 4 sch 1  
**s 6C** prev s 6(4) renum 1995 No. 58 s 4 sch 1

**Application of declarations to plants or animals on land**

**prov hdg** ins 1995 No. 58 s 4 sch 1  
**s 6D** prev s 6(5) renum 1995 No. 58 s 4 sch 1

**Application to certain roads and reserves for travelling stock**

**s 7** amd 1990 No. 67 s 6

**Application to certain watercourses**

**s 8** amd 1990 No. 67 s 7

**Administration of Act**

**s 9** om 1995 No. 58 s 4 sch 1

**Appointment of executive director and other officers**

**s 10** amd 1988 No. 52 s 44 sch 3; 1995 No. 58 s 4 sch 1  
sub 1996 No. 37 s 147 sch 2

**Powers and functions of executive director**

**s 12** amd 1990 No. 67 s 8; 1995 No. 58 s 4 sch 1

**Committees**

**s 13** amd 1995 No. 58 s 4 sch 1

**Delegation**

**s 14** sub 1992 No. 64 s 3 sch 1

**Travelling-stock rate**

**s 16** sub 1995 No. 58 s 4 sch 1

**Membership of Board first constituted**

**s 18** om 1995 No. 58 s 4 sch 1

**Members of board**

**s 19** amd 1992 No. 64 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Appointment of chairperson**

**s 20** amd 1995 No. 58 s 4 sch 1

**Term of appointment**

**s 21** sub 1995 No. 58 s 4 sch 1

**Vacating member's office**

**s 23** amd 1995 No. 58 s 4 sch 1

**Casual vacancy in member's office**

**s 24** om 1995 No. 58 s 4 sch 1

**Meetings**

**s 26** amd 1995 No. 58 s 4 sch 1

**Regulations for conduct of board**

**s 28** amd 1995 No. 58 s 4 sch 1

**Change of name of primary producer organisation**

s 29            amd 1995 No. 58 s 4 sch 1

**Substitution of other organisation**

s 30            amd 1995 No. 58 s 4 sch 1

**Powers of protection board**

s 31            amd 1995 No. 58 s 4 sch 1

**Membership of rabbit board**

s 35            amd 1995 No. 58 s 4 sch 1

**Appointment and term of office of members**

s 36            amd 1995 No. 58 s 4 sch 1

**Vacating member's office**

s 38            amd 1995 No. 58 s 4 sch 1

**Casual vacancy in member's office**

s 39            amd 1995 No. 58 s 4 sch 1

**Chairperson**

s 40            sub 1995 No. 58 s 4 sch 1

**Functions**

s 44            amd R1 (see RA s 39)

**Rabbit board is statutory body**

s 44A          ins 1996 No. 54 s 9 sch

**Rabbit board may acquire land**

s 45            amd 1995 No. 58 s 4 sch 1

**Rabbit control and other officers**

s 47            sub 1995 No. 58 s 4 sch 1  
                  amd 1996 No. 37 s 147 sch 2

**Rabbit board staff**

s 48            sub 1995 No. 58 s 4 sch 1  
                  amd 1996 No. 37 s 147 sch 2

**Accounts and Audit**

s 49            om 1995 No. 58 s 4 sch 1

**Reports**

s 50            om 1995 No. 58 s 4 sch 1

**Restrictive employment provisions inapplicable to membership of board**

s 53            amd 1995 No. 58 s 4 sch 1

**Allowances**

s 54            amd 1995 No. 58 s 4 sch 1

**Validity of proceedings**

s 56            om 1995 No. 58 s 4 sch 1

**Powers and functions of local governments**

s 58            amd 1995 No. 58 s 4 sch 1

**Notification in register**

s 60 amd 1992 No. 64 s 3 sch 1

**Straying stock may be seized**

s 61 amd 1995 No. 58 s 4 sch 1

**Overstocking**

s 62 amd 1992 No. 64 s 3 sch 1

**When powers etc. of local government to be performed by executive director**

s 66 amd 1995 No. 58 s 4 sch 1

**Local authority may sue for and recover certain expenses**

s 67 amd 1993 No. 70 s 804 sch

**Classes of plants and animals may be declared**

s 69 amd 1992 No. 20 s 59 sch 2; 1995 No. 58 s 4 sch 1

**Categories of declared plants and animals**

s 70 amd 1990 No. 67 s 9; 1995 No. 58 s 4 sch 1

**List of declared plants and animals**

s 71 om 1995 No. 58 s 4 sch 1

**Interpretation**

s 72 amd 1990 No. 67 s 10

**Occupiers of private land to control declared plants and animals**

s 80 amd 1992 No. 64 s 3 sch 1

**Failure to comply with direction**

s 82 amd 1992 No. 64 s 3 sch 1

**Local government or executive director may carry out work and recover cost**

s 83 amd 1993 No. 70 s 804 sch

**Subdivision 5—Control of declared animals category A8 if plague exists or is likely**

Sdiv hdg ins 1990 No. 67 s 11

**Powers of executive director if plague exists or is likely**s 85A ins 1990 No. 67 s 11  
amd 1992 No. 20 s 59 sch 2**Natural enemies of declared plants and animals**

s 88 amd 1992 No. 64 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Prohibition of introduction of category P1 plants**

s 89 amd 1992 No. 64 s 3 sch 1

**Person not to sell declared plant**

s 91 sub 1990 No. 67 s 12

**Sale of declared plants in certain circumstances**

s 91A ins 1995 No. 51 s 4 sch

**Prohibition of introduction of category A1 animals**

s 94 amd 1992 No. 64 s 3 sch 1

**Restrictions on introduction of category A4 animals**

s 95      amd 1992 No. 64 s 3 sch 1

**Delivery of declared animals into custody**

s 96      amd 1992 No. 64 s 3 sch 1

**Prohibition on keeping and selling category A3 animals**

s 97      amd 1992 No. 64 s 3 sch 1

**Restrictions on keeping and selling category A6 animals**

s 98      amd 1992 No. 64 s 3 sch 1

**Liberating declared animals**

s 100     amd 1992 No. 64 s 3 sch 1

**Power to search conveyances etc.**

s 102     amd 1992 No. 64 s 3 sch 1

**Definitions**

s 104     sub 1995 No. 58 s 4 sch 1

**State bound**

s 104A    ins 1995 No. 58 s 4 sch 1

**Occupiers of land to destroy extraordinarily noxious plants**

s 105     amd 1992 No. 64 s 3 sch 1

**Failure to comply with direction**

s 107     amd 1992 No. 64 s 3 sch 1

**Notification in register**

s 113     amd 1992 No. 64 s 3 sch 1

**Person not to remove earth etc.**

s 114     amd 1992 No. 64 s 3 sch 1

**Power of inspector to search conveyances etc.**

s 118     amd 1992 No. 64 s 3 sch 1

**PART 7—PLAGUE LOCUSTS**

pt hdg    om 1990 No. 67 s 13(a)

**Division 1—Interpretation etc.**

div hdg   om 1990 No. 67 s 13(a)

**Interpretation**

s 120     om 1990 No. 67 s 13(b)

**Areas in which part operates**

s 121     om 1990 No. 67 s 13(b)

**Division 2—Committees**

div hdg   om 1990 No. 67 s 13(a)

**Committees**

s 122     om 1990 No. 67 s 13(b)



**Local authority to notify Executive Director**

s 123 om 1990 No. 67 s 13(b)

**Functions of Committee**

s 124 om 1990 No. 67 s 13(b)

**Validity of proceedings**

s 125 om 1990 No. 67 s 13(b)

**Division 3—Public Land**

div hdg om 1990 No. 67 s 13(a)

**Department to destroy plague locusts**

s 126 om 1990 No. 67 s 13(b)

**Inspection and advice**

s 127 om 1990 No. 67 s 13(b)

**Agreements**

s 128 om 1990 No. 67 s 13(b)

**Division 4—Municipal Land**

div hdg om 1990 No. 67 s 13(a)

**Local authority to destroy plague locusts**

s 129 om 1990 No. 67 s 13(b)

**Notice to comply may be served on local authority**

s 130 om 1990 No. 67 s 13(b)

**Powers of Committee on failure to comply with direction**

s 131 om 1990 No. 67 s 13(b)

**Division 5—Private Land**

div hdg om 1990 No. 67 s 13(a)

**Occupiers of private land to destroy plague locusts**

s 132 om 1990 No. 67 s 13(b)

**Notice to occupier or owner to destroy plague locusts**

s 133 om 1990 No. 67 s 13(b)

**Enforcement of notice**

s 134 om 1990 No. 67 s 13(b)

**Powers of owners and occupiers to destroy plague locusts**

s 135 om 1990 No. 67 s 13(b)

**Successors in title bound**

s 136 om 1990 No. 67 s 13(b)

**Division 6—Miscellaneous**

div hdg om 1990 No. 67 s 13(a)

**Minister may direct Committee to exercise power or discharge function**

s 137 om 1990 No. 67 s 13(b)

**When powers etc. of Committee to be performed by Executive Director**

**s 138** om 1990 No. 67 s 13(b)

**Local authority may sue for and recover certain expenses**

**s 139** om 1990 No. 67 s 13(b)

**Expenditure**

**s 140** om 1990 No. 67 s 13(b)

**Power of entry**

**s 141** om 1990 No. 67 s 13(b)

**Agreements**

**s 148** amd 1995 No. 58 s 4 sch 1

**Duty of occupier**

**s 149** amd 1992 No. 64 s 3 sch 1

**Failure to comply with direction**

**s 151** amd 1992 No. 64 s 3 sch 1

**Notification in register**

**s 176** amd 1992 No. 64 s 3 sch 1

**Interpretation**

**s 177** amd 1995 No. 58 s 4 sch 1

**Establishment of districts and divisions**

**s 178** amd 1995 No. 58 s 4 sch 1

**Notation in register**

**s 185** amd 1992 No. 64 s 3 sch 1

**Assistance to persons ordered to establish a barrier fence**

**s 188** amd 1992 No. 64 s 3 sch 1

**Governor in Council may constitute owners a group**

**s 202** amd 1995 No. 58 s 4 sch 1

**Effect of regulation**

**prov hdg** amd 1995 No. 58 s 4 sch 1

**s 203** amd 1992 No. 64 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Notification in register**

**s 204** amd 1992 No. 64 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Contribution from fund**

**s 205** amd 1995 No. 58 s 4 sch 1

**Provisions of this division do not apply in certain cases**

**s 209** amd 1995 No. 58 s 4 sch 1

**Precept**

**s 211** amd 1995 No. 58 s 4 sch 1

**Receipts**

**s 212** amd 1995 No. 58 s 4 sch 1

**Expenditure general**

s 213      amd 1990 No. 67 s 14

**Local governments to transmit certain moneys to the Treasury**

s 214      om 1995 No. 58 s 4 sch 1

**Cessation of Funds**

s 215      om 1995 No. 58 s 4 sch 1

**Protection of human health and life**

s 216      amd 1995 No. 58 s 4 sch 1

**Authority to use poison, set traps etc.**

s 217      amd 1990 No. 67 s 15

**Cyanide of potassium not to be used**

s 218      amd 1990 No. 67 s 16; 1992 No. 64 s 3 sch 1

**Manner in which documents may be served**

s 220      amd 1993 No. 70 s 804 sch

**Evidentiary provisions**

s 222      amd 1990 No. 67 s 17; 1993 No. 70 s 804 sch

**General penalty**

s 225      amd 1992 No. 64 s 3 sch 1

**Proceedings for offences**

s 226      amd 1990 No. 67 s 18

**Continuing offences**

s 227      amd 1992 No. 64 s 3 sch 1

**Regulation making power**

s 228      sub 1995 No. 58 s 4 sch 1

**Regulations—general**

s 229      amd 1990 No. 67 s 19; 1995 No. 58 s 4 sch 1

**Regulations—plague locusts**

s 230      om 1990 No. 67 s 20

**Regulations—stock routes etc.**

s 231      amd 1995 No. 58 s 4 sch 1

**Regulations—rabbits**

s 232      amd 1995 No. 58 s 4 sch 1

**Regulations—declared plants and declared animals**

s 233      amd 1995 No. 58 s 4 sch 1

**General provisions as to regulations**

s 234      om 1995 No. 58 s 4 sch 1

**Offences under regulations**

s 235      amd 1992 No. 64 s 3 sch 1  
            sub 1995 No. 58 s 4 sch 1

**Destruction of straying dogs**

s 236 amd 1992 No. 20 s 59 sch 2; 1995 No. 58 s 4 sch 1

**Registration of domestic dogs**

s 237 amd 1995 No. 58 s 4 sch 1

**Certificate of appointment**

s 239 amd 1995 No. 58 s 4 sch 1

**Name and address may be required**

s 242 amd 1990 No. 67 s 21

**Obstruction etc.**

s 243 amd 1990 No. 67 s 22

**PART 13—SAVINGS AND TRANSITIONAL PROVISIONS**

pt hdg om 1995 No. 58 s 4 sch 1

**Approval of forms**

s 247 prev s 247 om 1995 No. 58 s 4 sch 1

pres s 247 ins 1995 No. 58 s 4 sch 1

**Transitionally approved forms**

s 248 prev s 248 om 1995 No. 58 s 4 sch 1

pres s 248 ins 1995 No. 58 s 4 sch 1

exp 28 May 1996 see (s 248(3))

**Permits granted pursuant to Rabbit Act**

s 249 om 1995 No. 58 s 4 sch 1

**Rabbit Control Authority**

s 250 om 1995 No. 58 s 4 sch 1

**Notices, etc., under Stock Routes and Rural Lands Protection Act**

s 251 om 1995 No. 58 s 4 sch 1

**Permit granted pursuant to s. 28 of Stock Routes and Rural Lands Protection Act**

s 252 om 1995 No. 58 s 4 sch 1

**Syndicates registered under The Stock Routes and Rural Lands Protection Act**

s 253 om 1995 No. 58 s 4 sch 1

**Savings—general**

s 254 om 1995 No. 58 s 4 sch 1

**Saving of certain agreements**

s 255 amd 1992 No. 64 s 3 sch 1

om 1995 No. 58 s 4 sch 1

**Plague Grasshopper Destruction Committees**

s 256 om 1995 No. 58 s 4 sch 1

**Dissolution of Plague Locust Destruction Committees**

s 256A ins 1990 No. 67 s 23

om 1995 No. 58 s 4 sch 1

**Acts Interpretation Act**

s 257 om 1995 No. 58 s 4 sch 1

**SCHEDULE 1**

om R1 (see RA s 40)

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2 amdt 1 reads as follows—**

### **1. Section 10—**

*omit, insert—*

#### **‘Appointment of executive director and other officers and employees**

‘**10.(1)** An executive director, an assistant executive director, inspectors, other officers and employees necessary for this Act are to be employed.

‘**(2)** Unless the Minister otherwise decides, a person employed under subsection (1) is to be employed under the *Public Service Act 1996*.’

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch reads as follows—**

### **1. After section 44—**

*insert—*

#### **‘Rabbit board is statutory body**

‘**44A.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, the rabbit board is a statutory body.

‘**(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the rabbit board’s powers under this Act are

affected by the *Statutory Bodies Financial Arrangements Act 1982*, including, for example, sections 45 and 46 of this Act.’.