

Queensland



ANNO VICESIMO NONO

ELIZABETHAE SECUNDAE REGINAE

No. 31 of 1980

**An Act to provide for the accommodation of workers
employed in pastoral work and for matters incidental
thereto**

[ASSENTED TO 12TH MAY, 1980]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. This Act may be cited as the *Pastoral Workers' Accommodation Act 1980*.

2. Commencement. This Act shall come into operation on a date to be fixed by Proclamation.

3. Savings. (1) The person who at the commencement of this Act holds the appointment of Chief Inspector of Workers' Accommodation under the *Workers' Accommodation Act 1952-1972* shall on and from such commencement hold the appointment of Chief Inspector of Workers' Accommodation for the purposes of this Act until he duly vacates it or is duly removed therefrom.

(2) Every person who at the commencement of this Act holds an office or position to which he was appointed for the purposes of the *Workers' Accommodation Act 1952-1972* shall continue to hold that office or position or the corresponding office or position under and for the purposes of this Act until he duly vacates or is duly removed from that office or position and where such office or position has been held immediately before the commencement of this Act under, subject to and in accordance with the *Public Service Act 1922-1978*, that office or position or the corresponding office or position shall be and continue to be held under, subject to and in accordance with such lastmentioned Act.

(3) Every certificate, permit, order, requisition, notice or other act of authority made, granted, issued, given or done under the *Workers' Accommodation Act 1952-1972* and in force at the commencement of this Act shall continue in force as if it were made, granted, issued, given or done under this Act until it expires by effluxion of time or is revoked, cancelled or surrendered under this Act.

4. Crown bound. This Act, other than section 14, binds the Crown.

5. Interpretation. In this Act, save where a contrary intention appears—

“accommodation” includes buildings, tents, structures, rooms, fittings, furnishings, equipment, facilities and amenities;

“award” means an award or an industrial agreement within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1976*;

“Chief Inspector” means the Chief Inspector of Workers' Accommodation and includes any person who performs the duties of Chief Inspector;

“group accommodation” means accommodation provided pursuant to section 9;

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- “inspector” means the Chief Inspector and any person who holds the appointment of inspector for the purposes of this Act and includes any person who performs the whole or any part of the duties of an inspector;
- “Minister” means the Minister for Labour Relations and any other Minister of the Crown who at the material time is charged with the administration of this Act and includes any person who performs the duties of the Minister;
- “occupier” means—
- (a) the person in actual occupation of land on which premises are situated or, if no person is in actual occupation, the owner of the land;
 - (b) any person authorized by the occupier to act on his behalf in the general management or control of the land or premises;
- “pastoral work” means work in connexion with—
- (a) the management, rearing or grazing of horses, cattle or sheep on premises other than dairy farms;
 - (b) the shearing or crutching of sheep;
 - (c) the scouring, sorting or pressing of wool;
 - (d) work declared to be pastoral work pursuant to section 6 (1), or any work performed by a worker in connexion with such pastoral work;
- “premises” means any land, building or other place (whether open or enclosed), including its appurtenances, on, in, about or in connexion with which any worker is employed;
- “resident worker” means a worker who eats and sleeps in accommodation provided by an occupier on the premises or in a group accommodation;
- “worker” means a person performing, under a contract of service, pastoral work.

6. Application of Act. (1) The Governor in Council may, at any time by Order in Council declare any particular work or class of work to be pastoral work for the purposes of this Act.

(2) The Governor in Council may at any time by Order in Council declare that all or any of the provisions of this Act shall not apply, according to such declaration, in respect of a particular occupier or class of occupiers either generally or in respect of a particular part of the State or in the circumstances specified in the Order and may subject such exemption to such conditions as he thinks fit.

7. Administration. (1) This Act shall be administered by the Minister and, subject to the Minister by the Chief Inspector, the inspectors and other officers appointed for the purposes of this Act.

(2) The Chief Inspector shall furnish annually to the Minister a report upon the operation of this Act throughout the year to which the report relates.

8. Accommodation for resident workers. (1) Where a worker is a resident worker the occupier on whose behalf the worker is employed shall provide him with such accommodation as is prescribed.

(2) Subsection (1) does not apply to a resident worker who is provided with accommodation in the residence in which the occupier on whose behalf the worker is employed usually resides provided that such accommodation is, in the opinion of an inspector, at least equal to the accommodation prescribed pursuant to subsection (1).

9. Group accommodation. (1) Any two or more persons may agree that they will, in respect of resident workers employed to do work on their behalf, jointly provide a building to provide accommodation for their respective such workers either on the land of one of the persons or at any other place.

Such agreement shall be in writing a copy of which shall, within 7 days after completion thereof, be forwarded to the Chief Inspector by the person last in time to execute the same.

(2) Accommodation provided pursuant to subsection (1) shall be such as is prescribed.

(3) For the purposes of this Act, each person referred to in subsection (1) shall, during the time workers employed to do work on his behalf are accommodated in the building referred to in subsection (1) be deemed to be the occupier of the building and shall during that time be guilty of an offence against this Act if the accommodation prescribed pursuant to subsection (2) is not provided.

10. Accommodation for non-resident workers, etc. (1) Accommodation shall be provided by an occupier for non-resident workers and for resident workers provided with group accommodation employed to do work on his behalf on the premises, which accommodation shall be such as is prescribed.

(2) Subsection (1) does not apply to a non-resident worker or to a resident worker provided with group accommodation who is provided with accommodation in the residence in which the occupier usually resides provided that such accommodation is, in the opinion of an inspector, at least equal to the accommodation prescribed pursuant to subsection (1).

11. Accommodation for workers employed on other lands. Notwithstanding the provisions of sections 8 and 10, where pastoral work is performed for a person on land other than land occupied, managed or controlled by him he shall be responsible for the provision of accommodation prescribed pursuant to those sections.

12. Temporary accommodation. (1) Where—

- (a) accommodation provided for workers on premises has been rendered unfit for habitation by reason of destruction or damage by fire or other unforeseen cause, or by reason of an outbreak of disease or similar cause;

(b) premises are newly established;

(c) workers are employed on, in, about or in connexion with premises for work of a temporary nature (not being work of a seasonal or periodic nature);

(d) with respect to premises any other circumstance justifies in his opinion the exercise of his powers under this section,

the Chief Inspector may in writing permit the provision of temporary accommodation for workers upon the premises in question.

(2) The nature and extent of the temporary accommodation and things pertaining to the temporary accommodation, that may be permitted under this section on premises (or premises included in a prescribed class of premises) shall be such as are prescribed.

In so far as not so prescribed a permit issued under this section may require the temporary accommodation, and things pertaining to the temporary accommodation, referred to in the permit to be of the nature and extent specified in the permit.

(3) The duty of providing temporary accommodation permitted under this section in compliance in every respect with requirements of the regulations or, in so far as not prescribed by the regulations, the permit in question is hereby imposed upon the occupier of the premises in respect of which the permit has been issued.

(4) A person guilty in any respect of a breach of his duty under this section shall be guilty of an offence against this Act.

(5) A permit under this section may be issued for such limited period as is specified therein, but the Chief Inspector may, at his discretion, extend that period from time to time.

It is hereby declared that accommodation for workers provided in compliance with a permit issued under this section is deemed to be proper and sufficient accommodation for the purposes of this Act in respect of the period specified in the permit or any extension of that period granted under this section.

13. Construction of awards. Any award that requires that workers be provided with accommodation shall be read and construed so as not to prejudice the operation of sections 8, 9, 10, 11 and 12.

14. Accommodation to be free of cost. Accommodation provided for workers pursuant to this Act shall, unless the award applicable to those workers otherwise provides, be provided free of cost.

15. Occupier to clean accommodation. During the period of 14 days immediately before workers commence to use accommodation the occupier on whose behalf they are to be employed shall cause the accommodation to be brought to a clean and sanitary condition.

16. Duties of workers accommodated. (1) Accommodation provided for workers shall, unless the award applicable to those workers otherwise provides be kept clean by the workers.

If those workers fail to keep such accommodation clean the occupier may restore it to a clean condition at the expense of those workers.

(2) Where workers damage or cause or suffer any damage to be done to or remove any part of accommodation referred to in subsection (1) the occupier may have such damage repaired or such part replaced at the expense of the workers.

(3) The workers referred to in subsections (1) and (2) shall be jointly and severally liable to the occupier for the cost of any cleaning referred to in subsection (1) or of any repairing or replacing referred to in subsection (2).

Where the occupier is the employer of the worker he may, or where the worker is employed by a person other than the occupier that person shall (if requested so to do by the occupier), deduct such cost from the wages due or accruing due to the offending worker, or if there is more than one worker in equal parts from the wages due or accruing due to such workers, but so that the amount deducted from the wages of any one worker does not exceed \$40.

Where a person other than the occupier makes a deduction from the wages due or accruing due to the offending worker he shall pay the amount deducted to the occupier.

The provisions of this subsection are in addition to the occupier's rights to recover such cost or the balance of such cost as a debt in a court of competent jurisdiction.

(4) Any worker who wilfully damages or wilfully removes any part of a building, tent, structure or room referred to in subsection (1) shall be guilty of an offence against this Act.

17. Plans to be approved. (1) No person shall commence or cause to be commenced the construction of, or the carrying out of structural alterations or additions to, any building intended for use or used as accommodation for workers without the prior approval in writing of an inspector.

(2) Application for approval under this section shall be in writing and shall be accompanied by a copy of the plan of the proposed building or structural alterations or additions, as the case may be.

(3) The inspector upon considering the application and plan may grant approval without conditions or subject to such conditions as he thinks fit or he may refuse the application.

(4) If a building is constructed or any structural alteration or addition to any building is carried out otherwise than in conformity with the approval of an inspector and the plans submitted to the inspector, the occupier of the land on which the building is situated shall be guilty of an offence against this Act.

18. Notice to comply with Act. (1) Where an inspector, after making an inspection, considers that any of the provisions of this Act have not

been complied with by an occupier he may give to the occupier a notice in writing directing him within the time specified in the notice (not exceeding 12 months) to comply with such provisions.

The notice shall specify in what respect the provisions have not been complied with.

(2) An occupier to whom a notice is given under this section shall, within the time specified in the notice, comply with the requirements of the notice.

(3) Upon the application of an occupier or employer to whom a notice has been given under this section, the Chief Inspector may extend the time specified in the notice within which the provisions must be complied with.

(4) A notice given under this section may be revoked by the Chief Inspector.

(5) The fact that a notice has not been given under this section in relation to any matter or thing shall not be a defence to a prosecution for an alleged offence against this Act.

19. Notice of commencement of shearing. (1) Every occupier of premises where shearing is carried out and in connexion with which it is proposed to employ workers not regularly and continuously employed on such premises shall, not less than 7 days before shearing is commenced, deliver to the nearest office of an inspector a notice in writing stating the proposed date of commencement.

(2) When, in an emergency, it becomes necessary to immediately commence shearing, notice that such shearing has commenced shall be given by the occupier to the nearest office of an inspector within 24 hours after such commencement.

20. Tenancies and trusts. (1) An occupier of premises, other than the owner thereof, who in order to comply with the provisions of this Act, erects upon those premises a building for the accommodation of workers shall be entitled to a charge upon those premises in such sum as at the termination of his occupancy represents the value of the building.

(2) Where the person who is required to comply with the provisions of this Act is a trustee he may resort to the capital moneys of the trust for the purpose of so complying and may apply the whole or any part of those moneys accordingly.

21. Appointment of inspectors. The Governor in Council may from time to time appoint a Chief Inspector of Workers' Accommodation and such other inspectors and other officers as he considers necessary for the effectual administration of this Act.

Every such appointment shall be made under and in accordance with the *Public Service Act 1922-1978* and every person so appointed shall hold his appointment subject to that Act.

22. Certificate of appointment. (1) Every inspector shall be furnished with a certificate of his appointment, signed by the Chief Inspector which shall be sufficient evidence thereof.

(2) An inspector shall carry his certificate of appointment with him at all times while in the execution of his duty and, if required so to do shall produce it to the occupier of any premises he seeks to enter.

23. Powers of inspectors. An inspector may at any time—

- (a) enter, inspect and examine any premises or any place wherein or whereon any worker is, or the inspector reasonably believes is, accommodated or employed;
- (b) call to his aid—
 - (i) any member of the police force where he has reasonable cause to apprehend any obstruction in the exercise of his powers or in the execution of his duties;
 - (ii) any health inspector or other person he may think competent to assist him in such inspection and examination;
- (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are being complied with in every respect;
- (d) question, with respect to matters under this Act, any occupier, any employer of workers, and every person he finds in or upon any premises, to ascertain whether this Act is being complied with; and
- (e) exercise such other powers and authorities as are prescribed.

24. Occupiers and employers to furnish assistance. Every occupier and every employer of workers shall furnish to an inspector all reasonable assistance and such information as he is capable of furnishing as is required by the inspector with respect to the exercise of his powers and the discharge of his duties under this Act.

25. Inspector to inform occupier of inspection. Upon entering land where he proposes to carry out an inspection, an inspector shall (where he is able to locate the occupier or his representative), as soon as practicable after doing so, inform the occupier or his representative that he is an inspector and that he intends to carry out an inspection.

Where an inspector is unable to locate the occupier or his representative, the inspector shall within 28 days after carrying out the inspection advise the occupier, in writing, that he carried out the inspection.

26. Obstruction of inspector. (1) A person shall not—

- (a) assault, resist or obstruct an inspector in the exercise of his powers or in the discharge of his duties under this Act, or attempt so to do;
- (b) fail to answer a question put to him by an inspector for the purposes of this Act, or make a false or misleading answer to any such question;

- (c) fail to comply with a requisition, or any part of a requisition, directed to him by an inspector pursuant to this Act;
- (d) furnish information that is false or misleading in a material particular in response to a requisition directed to him by an inspector pursuant to this Act;
- (e) fail to furnish assistance to an inspector when requested so to do for the purposes of this Act;
- (f) directly or indirectly prevent any person from appearing before and being questioned by an inspector, or attempt so to do; or
- (g) use any threat or abusive or insulting language to an inspector or to a worker with respect to any inspection, examination or inquiry being made pursuant to this Act.

(2) Notwithstanding any provision of this Act a person shall not be required, in respect of any matter within the application of this Act, to answer any question, furnish any information or produce any evidence that tends to incriminate himself.

27. Offences. A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

28. Penalty. (1) A person guilty of an offence against this Act is liable to a penalty of \$500.

(2) A person who, being convicted of an offence against this Act that consists of a contravention or failure to comply of such a nature that it may be committed from day to day, thereafter continues that offence may be prosecuted from time to time for an offence against this Act that consists of the same contravention or failure to comply and is liable to a penalty of \$10 for each day during which it is continued as from the date on which he was last convicted thereof until the date on which he is convicted or on which the default is rectified whichever date is the earlier.

29. Time for commencement of prosecution. A prosecution for an offence against this Act shall be commenced at any time within one year after the matter of complaint arose or within six months after the matter of complaint comes to the knowledge of the Chief Inspector, whichever period is the later to expire.

30. Proceedings re offences. (1) A prosecution for an offence against this Act shall be by way of summary proceedings before an industrial magistrate within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1976*.

Jurisdiction is hereby conferred on such industrial magistrates to hear and determine such proceedings.

(2) A person aggrieved by a decision of an industrial magistrate in proceedings brought pursuant to subsection (1) who desires to appeal therefrom shall appeal therefrom to the Industrial Court constituted under the *Industrial Conciliation and Arbitration Act 1961-1976*.

Jurisdiction is hereby conferred on the Industrial Court to hear and determine such an appeal.

(3) The provisions of the *Industrial Conciliation and Arbitration Act 1961-1976* and of the Rules of Court made under those Acts shall, subject to this Act, apply, according to their tenor, in relation to proceedings before an industrial magistrate brought pursuant to subsection (1) and in relation to proceedings on appeal before the Industrial Court brought pursuant to subsection (2).

(4) A prosecution for an offence against this Act shall be commenced by complaint of an inspector or of any person authorized by the Minister or by the Chief Inspector.

31. Power to order remedying of offence. (1) Where any person is convicted of an offence against this Act the industrial magistrate may, in addition to imposing a penalty on him order that he take steps to rectify the contravention or failure to comply in question to the satisfaction of an inspector within the time specified in the order.

(2) When he is minded to make an order pursuant to subsection (1) an industrial magistrate may adjourn the matter of penalty to be imposed until the expiration of the time to be specified in the order or of that time as later enlarged or until the expiration of another time later fixed, as the case requires, but in that event the offender shall not be punished if he has complied with the order by the expiration of the material time.

(3) When an order is made under subsection (1) the offender shall not be liable in respect of the continuance of the contravention or failure to comply during the time allowed by the industrial magistrate but if at the expiration of the material time the order has not been complied with the offender shall be liable to be dealt with as prescribed by sections 27 and 28.

32. Service of documents. A notice, requisition or other writing authorized or required by or under this Act to be given to any person shall be duly given if—

- (a) it is served personally upon the person to whom it is directed;
- (b) it is sent by registered post or certified mail to the place of business or residence of the person to whom it is directed last known to the person who gives it.

33. Evidentiary provisions. In any proceedings under or for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the Chief Inspector or of any other inspector, or the authority of the Chief Inspector or of any other inspector to do any act or to give any notice, permit or order;
- (b) a signature purporting to be that of the Minister, the Chief Inspector or of any other inspector shall be taken to be the signature it purports to be until the contrary is proved;

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- (c) a document purporting to be a duplicate or copy of a notice, order, or permit given, made or issued under this Act by the Chief Inspector or by any other inspector shall, upon its production in evidence, be evidence of that notice, order or permit and in the absence of evidence to the contrary shall be conclusive evidence thereof;
 - (d) the burden of proof that any notice required by this Act to be given has been given lies on the person so required to give the notice.

34. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters required by this Act to be prescribed and all matters that, in the opinion of the Governor in Council, are necessary or expedient for the proper administration of this Act or to achieve the objects and purposes of this Act.

(2) The regulations may prescribe penalties not exceeding in each case \$500 for any contravention thereof or failure to comply therewith and, in the case of a continuing offence, a penalty not exceeding \$10 for each day after the date of conviction during which the contravention or failure to comply continues.

35. Regulations may adopt standards. The regulations may adopt, wholly or in part and either by way of reference or by way of express specification therein, any of the standard rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution or a like body identified in the regulations.

36. Orders in Council. Section 28A of the *Acts Interpretation Act 1954-1977* (Tabling of Regulations) shall apply with respect to Orders in Council made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references to regulations were references to Orders in Council made for the purposes of this Act.