



# **Pastoral Workers' Accommodation Act 1980**

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Queensland

# Pastoral Workers' Accommodation Act 1980

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# Pastoral Workers' Accommodation Act 1980

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

### 1 Short title

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

### 4 Crown bound

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

### 5 Definitions

In this Act—

**accommodation** includes buildings, tents, structures, rooms, fittings, furnishings, equipment, facilities and amenities.

**award** means an award or other industrial instrument under the *Industrial Relations Act 2016*.

**group accommodation** means accommodation provided pursuant to section 9.

**inspector** means an inspector appointed under the *Industrial Relations Act 2016*, section 899.

**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; or
- (b) any person authorised by the occupier to act on the occupier's behalf in the general management or control of the land or premises.

***pastoral work*** means work in connection with—

- (a) the management, rearing or grazing of horses, cattle or sheep on premises other than dairy farms; or
- (b) the shearing or crutching of sheep; or
- (c) the scouring, sorting or pressing of wool; or
- (d) work declared under a regulation to be pastoral work.

***premises*** means any land, building or other place (whether open or enclosed), including its appurtenances, on, in, about or in connection 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.

***structure*** includes a transportable hut and a caravan.

***worker*** means a person performing pastoral work.

## **8 Accommodation for resident workers**

- (1) Where a worker is a resident worker the occupier on whose behalf the worker is employed shall provide the worker with such accommodation as is prescribed.

Maximum penalty—10 penalty units.

- (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 2 or more persons may agree in writing 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 1 of the persons or at any other place.

- (1A) The last person to sign the agreement must send a copy of the completed agreement to the chief executive within 7 days after it is completed.

Maximum penalty—10 penalty units.

- (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 or her 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.

Maximum penalty for subsection (3)—10 penalty units.

## **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 the occupier's behalf on the premises, which accommodation shall be such as is prescribed.

Maximum penalty—10 penalty units.

- (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**

- (1) Notwithstanding the provisions of sections 8 and 10, where pastoral work is performed for a person (the *initiator*) on land other than land occupied, managed or controlled by the initiator, the initiator shall be responsible for the provision of accommodation prescribed pursuant to those sections.

- (2) If accommodation is not provided as required by those sections, the initiator commits an offence.

Maximum penalty—10 penalty units.

## **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; or
- (b) premises are newly established; or
- (c) workers are employed on, in, about or in connection with premises for work of a temporary nature (not being work of a seasonal or periodic nature); or
- (d) for any premises generally, in other circumstances the chief executive considers appropriate;

the chief executive 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.
- (2A) 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.



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- (4) The occupier of the premises must not contravene a requirement under a regulation or permit mentioned in subsection (3).

Maximum penalty—10 penalty units.

- (5) A permit under this section may be issued for such limited period as is specified therein, but the chief executive may extend the period.
- (6) 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 to 12.

### **14 Accommodation to be free of cost**

- (1) If under this Act a person must provide accommodation for a worker, the person must provide the accommodation without cost to the worker.

Maximum penalty—10 penalty units.

- (2) However, the person does not contravene subsection (1) if an award applying to the worker provides otherwise.

### **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.

Maximum penalty—10 penalty units.

### **15A Accommodation to be free of vermin and clear of vegetation**

An occupier must ensure that—

- (a) accommodation the occupier provides for workers is kept free of vermin; and
- (b) when the accommodation is being used, vegetation or undergrowth in the area immediately surrounding the accommodation that is or may be a safety hazard is regularly cut and removed.

Maximum penalty—10 penalty units.

### **15B Unused accommodation to be kept closed**

When accommodation provided by an occupier for workers is not being used, the occupier must ensure the accommodation is kept securely closed.

*Example—*

A shearing team is engaged for a 2 week period in a year. The accommodation must be kept securely closed for the rest of the year.

Maximum penalty—10 penalty units.

## **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.
- (1A) 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

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cleaning referred to in subsection (1A) or of any repairing or replacing referred to in subsection (2).

- (3A) Where the occupier is the employer of the worker the occupier 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 1 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 1 worker does not exceed \$100.
- (3B) Where a person other than the occupier makes a deduction from the wages due or accruing due to the offending worker the person shall pay the amount deducted to the occupier.
- (3C) The provisions of subsections (3) to (3B) 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.

Maximum penalty for subsection (4)—10 penalty units.

## **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 the inspector may give to the occupier a notice in writing directing the occupier within the time specified in the notice (not exceeding 12 months) to comply with such provisions.
- (1A) 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.

Maximum penalty—10 penalty units.

- (3) Upon the application of an occupier or employer to whom a notice has been given under this section, the chief executive 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 executive.
- (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 beginning shearing

- (1) Every occupier of premises where shearing is carried out and in connection with which it is proposed to employ workers not regularly and continuously employed on such premises shall, not less than 7 days before the day on which it is proposed to start shearing, give to an inspector at the department's nearest office written notice of the proposed starting date.

Maximum penalty—10 penalty units.

- (2) If in an emergency it becomes necessary to immediately begin shearing, the occupier must give the inspector the written notice within 1 day after shearing starts.

Maximum penalty—10 penalty units.

- (3) However, the occupier does not contravene subsection (1) or (2) if—
  - (a) in extenuating circumstances, it is not possible for the occupier to give written notice; and
  - (b) the occupier gives the inspector the notice by telephone in the time mentioned in subsection (1) or (2).

- (4) In this section—

*shearing* includes crutching.

## 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 or her 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 the person 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 Evidence of authority

- (1) Before exercising a power under this Act in relation to a person, an inspector must—
  - (a) identify himself or herself as an inspector under this Act and the *Industrial Relations Act 2016*; and
  - (b) produce the inspector's identity card as an inspector under the *Industrial Relations Act 2016* for the person's inspection before exercising the power or have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the inspector must, at the first reasonable opportunity—
  - (a) identify himself or herself as required under subsection (1)(a); and
  - (b) produce the identity card for the person's inspection.

## 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; and
- (b) ask a health inspector or anyone else the inspector considers can help, to help the inspector perform the functions; and

- (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; and
- (d) question, with respect to matters under this Act, any occupier, any employer of workers, and every person the inspector 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 or she is capable of furnishing as is required by the inspector with respect to the exercise of the inspector's powers and the discharge of the inspector's duties under this Act.

Maximum penalty—10 penalty units.

## **25 Inspector to inform occupier of inspection**

- (1) Upon entering land where the inspector proposes to carry out an inspection, an inspector shall (where the inspector is able to locate the occupier or the occupier's representative), as soon as practicable after doing so, inform the occupier or the occupier's representative that he or she is an inspector and that he or she intends to carry out an inspection.
- (2) Where an inspector is unable to locate the occupier or the occupier's representative, the inspector shall within 28 days after carrying out the inspection advise the occupier, in writing, that the inspector carried out the inspection.

## **26 Obstruction of inspector**

- (1) A person shall not—
  - (a) assault, resist or obstruct an inspector in the exercise of the inspector's powers or in the discharge of the inspector's duties under this Act, or attempt so to do; or

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- (b) fail to answer a question put to the person by an inspector for the purposes of this Act, or make a false or misleading answer to any such question; or
  - (c) fail to comply with a requisition, or any part of a requisition, directed to the person by an inspector pursuant to this Act; or
  - (d) furnish information that is false or misleading in a material particular in response to a requisition directed to the person by an inspector pursuant to this Act; or
  - (e) fail to furnish assistance to an inspector when requested so to do for the purposes of this Act; or
  - (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.

Maximum penalty—10 penalty units.

- (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 or herself.

## **29 Time for commencing prosecution**

A prosecution for an offence against this Act must be commenced within the later of the following—

- (a) 1 year after the offence is committed;
- (b) 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### **30 Proceedings re offences**

- (1) A prosecution for an offence against this Act shall be by way of summary proceedings before an industrial magistrate.
- (1A) 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.
- (2A) Jurisdiction is hereby conferred on the Industrial Court to hear and determine such an appeal.
- (3) The provisions of the *Industrial Relations Act 2016* and of the rules of court made under that Act 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).

### **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 the person order that the person 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 the industrial magistrate 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 the offender has complied with the order by the expiration of the material time.
- (3) A person must not contravene an order made under subsection (1).

Maximum penalty—10 penalty units.



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- (4) An offence against subsection (3) is a continuing offence and may be charged in 1 or more complaints for periods the offence continues.

Maximum penalty for each day the offence continues after a conviction against subsection (3)—0.2 penalty units.

### **32 Evidentiary provision**

- (1) This section applies to a proceeding under this Act.
- (2) The appointment as an official of a person claiming to be, or stated to be, an official, and the authority of an official to take proceedings or do any act must be presumed unless a party, by reasonable written notice of not less than 7 days, requires proof of—
- (a) the appointment; or
  - (b) the power to do anything under this Act.
- (3) A signature purporting to be an official's signature is evidence of the signature it purports to be.
- (4) A document purporting to be a copy of a notice or permit issued under this Act by an official is evidence of the issue of the notice or permit and of the things in it.
- (5) In this section—
- official* means—
- (a) the chief executive; or
  - (b) an inspector.

### **33 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide for a maximum penalty of not more than 10 penalty units for a contravention of a regulation.

**34 Transitional provision for Pastoral Workers' Accommodation Amendment Act 2003**

Section 29, as in force immediately before the commencement of this section, continues to apply to a prosecution for an offence committed before the commencement.