

PASTURES PROTECTION (AMENDMENT) ACT.

Act No. 18, 1949.

An Act to repeal the provision requiring the branding (other than earmarking) of sheep; to increase the maximum pastures protection rates which may be levied by pastures protection boards; to make certain provisions as to the removal of directors of boards from office and the appointment of administrators in their stead; for these and other purposes to amend the Pastures Protection

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Protection Act, 1934-1948, and the Trustees Audit Act, 1912, in certain respects; and for purposes connected therewith. [Assented to, 30th June, 1949.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows.—

Short title and citation.

1. (1) This Act may be cited as the "Pastures Protection (Amendment) Act, 1949."

(2) The Pastures Protection Act, 1934, as amended by subsequent Acts and by this Act, may be cited as the Pastures Protection Act, 1934-1949.

Amendment of Act No. 35, 1934.

2. The Pastures Protection Act, 1934-1948, as amended by subsequent Acts, is amended—

New sec. 8A.

(a) by inserting next after section eight the following new section:—

Removal of board from office and appointment of administrator.
cf. Act No. 41, 1919, ss. 86, 219.

8A. (1) The Governor may, by proclamation published in the Gazette, remove all the directors of a board from office—

- (a) if there are not sufficient directors of the board to form a quorum; or
- (b) if the board has failed or neglected to make or levy rates as required by this Act or otherwise to exercise or discharge its powers, authorities, duties and functions under this Act in any material respect:

Provided that in the circumstances referred to in paragraph (a) hereof the Governor may, instead of removing the directors from office, by proclamation published in the Gazette, appoint the necessary number of persons eligible to be elected to be directors until elections are held or appointments made to fill the vacancies as provided in this Act.

(2) ;

(2) Where the Governor has pursuant to subsection one of this section removed the directors of a board from office, he may, by proclamation at the same or any subsequent time, appoint an administrator for the district who shall have the powers, authorities, duties, functions and liabilities of the board and who shall be paid out of the funds of the district such salary as the Governor may determine. The Governor may in like manner at any time remove an administrator.

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(3) Where the directors of a board have been removed from office pursuant to subsection one of this section, the Minister may, and if the board's term of office has more than twelve months to run, shall, order that an election of directors be held on a day appointed by him and notified in the Gazette. The date so appointed shall be a date not more than six months after the date of removal of the directors from office and not less than four weeks after the date upon which the notification is published in the Gazette. The provisions of this Act with respect to the holding of general elections shall, mutatis mutandis, apply to such election. Any director elected at such election shall hold office until the time when the term of office of the board the directors of which have been removed from office would but for such removal have expired and no longer but shall be eligible for re-election if otherwise qualified.

(4) Upon sufficient directors, by election or appointment under this Act, taking office to form a quorum, the powers and duties of the administrator shall cease.

(5) Where the directors of a board have been removed from office because of the board's failure or neglect as referred to in paragraph (b) of subsection one of this section each director of the board shall be ineligible for election at a general election ordered under subsection three of this section or, if no such election

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election is so ordered, at the next general election of directors of the board, unless such failure or neglect took place without his knowledge or consent.

Sec. 19.
(Pastures
Protection
Fund.)

(b) by omitting subsection five of section nineteen and by inserting in lieu thereof the following subsection:—

(5) The Auditor-General may, at any time, and where so requested by the Minister shall, audit the accounts of a board. Such audit may be made by any person duly authorised in that behalf by the Auditor-General. The expenses of any such audit shall, where such audit has been requested by the Minister, be paid out of the Pastures Protection Fund.

New sec.
19A.

(c) by inserting next after section nineteen the following new section:—

**Surcharge
of directors
and servants
of a board.
cf. Act No.
41, 1919, s.
213, and Act
No. 21,
1912, s. 6.**

19A. (1) (a) The Auditor-General may disallow any expenditure, transfer or entry in the books or accounts of a board which has been improperly or wrongly incurred or made or which has been incurred or made in contravention of any Act or any ordinance, regulation or by-law.

(b) The Auditor-General shall surcharge the amount of any such disallowance upon the directors or servants of the board by whom the expenditure, transfer or entry was incurred or made or ordered to be incurred or made.

(c) The Auditor-General may surcharge on any director or servant of the board the amount of any deficiency or loss incurred by the culpable negligence or misconduct of such director or servant or of any sum which ought to have been but is not brought into account by such director or servant.

(2) The Auditor-General shall furnish particulars of any surcharge and of the person or persons on whom the surcharge is made to the

the Colonial Treasurer who may call upon such person or persons to pay into the appropriate fund of the board the amount of the surcharge. No. 18, 1949

(3) The person so called upon may appeal to the court of petty sessions or district court nearest in either case to the office of the board, and the decision of such court to confirm, reduce or annul the surcharge shall be final.

(4) If the person so called upon does not within one month appeal, or if on appeal the surcharge is not annulled, the Colonial Treasurer, the board or any ratepayer may recover in a court of competent jurisdiction the amount to be surcharged against such person (or any deficiency which may remain after the appropriation of any moneys in the possession of the board the property of such person); and the money so recovered shall be paid into the appropriate so much of them as may be any moneys in the possession of the board the property of such person, the board may appropriate fund of the board. If there are necessary to satisfy the amount surcharged.

(5) If any amount to be surcharged on any person in accordance with this section be not, within six months of his being called upon to make payment as hereinbefore provided, or of the decision of the court confirming or reducing such surcharge, as the case may be, satisfied by payment, such person shall if he be a director cease to hold office as such and shall be ineligible for election as a director of the board concerned during such further time as the amount of the surcharge remains unpaid.

- (d) (i) by inserting in section twenty-six after the words "any rate is not made" the words "or rate notices are not issued";
- (ii) by inserting in the same section after the words "the making of the rate" the words "or the issue of rate notices, as the case may be";
- Sec. 26.
(Irregularity in making or levying rate.)

(c)

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(Amount of
rate.)**

- (e) by omitting subsection four of section thirty and by inserting in lieu thereof the following subsection:—

(4) The rate shall not exceed sixpence per head in the case of large stock and three farthings per head in the case of sheep;

**Sec. 41.
(Control of
travelling
stock and
camping
reserves.)**

- (f) by inserting next after subsection three of section forty-one the following new subsections:—

(3A) In the general management, maintenance and control of any reserves or parts thereof which are under its control, a board shall take proper measures for the conservation of soil and the prevention or mitigation of soil erosion therein.

(3B) For the purpose of subsection (3A) of this section or of maintaining or improving any reserve or part thereof under its control a board may and where directed by the Minister shall close such reserve or part thereof to stock, including travelling stock, for such period as the Minister may approve. The board shall cause the area so closed to be adequately fenced to prevent the movement of stock on to the area and any stock, pigs or goats thereafter found on such reserve or part shall be deemed to be trespassing stock and the provisions of section sixty-six of this Act shall apply, mutatis mutandis, to such trespassing stock and the owner or person ordinarily in charge thereof.

**Sec. 43.
(Rate on
travelling
stock.)**

- (g) by omitting from subsection seven of section forty-three the words "not exceeding one shilling may" and by inserting in lieu thereof the words "of one shilling shall";

**Sec. 51.
(Travelling
stock to be
branded
with
letter T.)**

- (h) by omitting from section fifty-one the words "an owner's registered brand and";

(i)

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- (i) by inserting in section fifty-six after the word “rubbish” the words “or the carcase of any animal”;
- No. 18, 1949.
Sec. 56.
(Stock un-attended on reserves: depositing rubbish.)
- (j) (i) by omitting from subsection two of section fifty-eight the words “If stock travelling on a permit, renewed permit, travelling statement, or license for working large stock” and by inserting in lieu thereof the words “If travelling stock”;
- Sec. 58.
(Rate of travel.)
- (ii) by inserting in the same subsection after the word “starting” the words “their journey”;
- (k) by inserting in paragraph (e) of subsection one of section sixty-six after the words “working large stock” the words “on the reserve under a working large stock license”;
- Sec. 66.
(Stock unlawfully on a travelling stock reserve.)
- (l) by inserting at the end of section ninety-two the words:—“The Governor may, by proclamation published in the Gazette, apply this Division to other pastures protection districts and he may on the application of a board in like manner exclude the pastures protection district for which such board is constituted from the application of this Division.”
- Sec. 92.
(Application of Division.)
- (m) by omitting subsection one of section one hundred and forty-four and by inserting in lieu thereof the following subsection:—
- Sec. 144.
(Earmarking of sheep.)
- (1) All sheep above the age of six months shall if not already earmarked be earmarked by the owner.
- (n) by inserting next after section one hundred and sixty the following new section:—
- New sec. 160A.
- 160A. (1) If any board neglects or fails to do any act or thing which by or under this Act it is directed or required to do or does any act or thing which is in contravention of the provisions of this Act, the board shall be guilty of a breach of the provisions of this Act and shall be liable
- Official defaults of a board.
cf. Local Government Act, 1919, s. 634.
- on

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on summary conviction for every such offence to a penalty not exceeding one hundred pounds.

(2) Where a board is convicted of an offence under this Act every person who at the time of the commission of the offence was a director of the board shall be deemed to have committed the like offence and be liable to the like penalty as the board unless he proves that the offence was committed without his knowledge or consent or that he used all due diligence to prevent the commission of the offence.

**Amendment
of Act No.
21, 1912.
Sch. 2.**

3. The Trustees Audit Act, 1912, as amended by subsequent Acts, is amended by omitting from Schedule Two the words "The accounts of Pastures Protection Boards."
