

No. , 1911.

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## A BILL

To amend the Pastures Protection Act, 1902, and the Pastures Protection (Amendment) Act, 1906; and for other purposes.

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**B**E 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:—

*Preliminary.*

**1.** This Act may be cited as the “Pastures Protection (Amend- Short title.  
ment) Act, 1911,” and shall be read with and form part of the Pastures Protection Act, 1902 (hereinafter referred to as the Principal Act), the Pastures Protection Amendment Act, 1904, and the Pastures Protection (Amendment) Act, 1906.

**2.** In this Act, unless the context otherwise requires, the expression "maintenance" includes the removal of mud, sand, or other matter, the presence of which destroys or impairs the efficiency of a fence as a rabbit-proof fence.

Expressions defined in the Pastures Protection Act, 1902, and the Pastures Protection (Amendment) Act, 1906, shall bear the same meaning in this Act.

*Roads or watercourses.*

**3.** The intervention of a road or watercourse between two holdings shall not prevent holdings or lands being taken to be adjoining, or prevent a claim for contribution for erection, netting, or maintenance being brought in respect of a fence on either side of such road or watercourse—

- (a) if such fence has been used as a common boundary fence by the owners or occupiers of the holdings on either side thereof ;  
or
- (b) if in the opinion of the board such fence can be reasonably used as a common boundary fence by the owners or occupiers of the holdings on either side thereof.

*Claims for maintenance of fencing.*

**4.** In any case where a rabbit-proof fence has been or is used as a boundary or part of a boundary between two holdings, and before or after the commencement of this Act expense has been or is incurred by the owner or occupier of either of such holdings in the work of maintenance and repair of such fence, the owner or occupier who has incurred such expense shall be entitled to serve the prescribed notice of demand, and thereafter to recover from the owner or occupier of the holding on the other side of such fence a contribution towards the cost of such work.

The amount of such contribution shall be assessed by the local land board, and shall be one-half the reasonable cost of the work.

The owner or occupier liable to pay the contribution shall be the owner or occupier at the time the work was done, and no claim shall be made hereunder in respect of work performed more than six years prior to the date of the notice of demand : Provided that such notice of demand in respect of any claim for work done prior to the thirty-first day of December, one thousand nine hundred and eleven, shall be served within twelve months after that date, and in respect of any such work done after that date the notice of demand shall be served within two years after the completion of the work for which contribution is claimed.

If any boundary fence is not being maintained as an effective rabbit-proof fence, and such maintenance of the fence is necessary,  
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the owner or occupier of the holding on either side of such fence may, for the purpose of the effective maintenance of such fence, by himself or his agents or servants, enter on the land of the adjoining owner or occupier.

This section shall apply only to work effected on fences in respect of which fences no award has been made by a local land board for the original cost of making the same rabbit-proof, and nothing herein contained shall affect the rights to contribution for maintenance conferred by the Pastures Protection Act, 1902, and the Pastures Protection (Amendment) Act, 1906.

No claim under this section shall be defeated by reason of the fact that the work claimed for has been the subject of an unsuccessful claim for contribution under the Pastures Protection Act, 1902, or the Pastures Protection (Amendment) Act, 1906.

**5.** Section thirty-nine of the Principal Act is amended by the insertion of the words "upon application in the prescribed manner, and upon payment of the prescribed fee" after the words "the local land board may," also by the insertion of the words "permission or" immediately preceding the word "dispensation," and also by the insertion of the word "said" between the words "the" and "board"

**6.** Section forty-one of the Principal Act is amended as follows:—

- (a) The words "and the local land board's consent to the erection of the fence or the making of it rabbit-proof has been obtained" are inserted after the words "and where such notice has been given."
- (b) The words "from the date of such consent" are substituted for the words "from the date of such notice" wherever appearing in the section.

**7.** Section forty-three of the Principal Act is amended—

- (a) by inserting the words "or in any other work necessary to keep the fence effective" after the words "maintenance and repair of the fence" in the first paragraph.
- (b) by inserting "If any boundary fence is not being maintained as an effective rabbit-proof fence, and such maintenance of the fence is necessary, the owner or occupier of the holding on either side of such fence may, for the purpose of the effective maintenance of such fence, by himself or his agents or servants, enter on the land of the adjoining owner or occupier" after the expression "as determined by the local land board."

**8.** Section sixty-six of the Principal Act is amended by inserting the words "not exceeding five years" after the words "may allow time."

**9.** Section twenty-eight of the Pastures Protection (Amendment) Act, 1906, is amended as follows:—

- (a) The words “upon application in the prescribed manner and upon payment of the prescribed fee” are inserted next after the expression “The local land board shall” in paragraph (b) of subsection three.
- (b) The word “at” next after the word “contribution” in paragraph (b) of subsection three is omitted, and in substitution therefor the words “according to the benefit derived and to be derived from the fence, and in no case shall such contribution exceed” are inserted.
- (c) The words “and no owner who uses as a boundary a fence which is outside the boundaries of his holding” and the words “or owner,” in subsection four, are omitted.

**10.** Subsection two of section twenty-eight of the Pastures Protection (Amendment) Act, 1906, is amended by adding at the end thereof the following proviso:—

Provided, however, that such notice of demand in respect of any fence erected or made rabbit-proof prior to the thirty-first day of December, one thousand nine hundred and nine, shall be served within twelve months after that date; and in respect of any fence erected or made rabbit-proof after the aforesaid date, the notice of demand shall be served within two years after the completion of the work for which contribution is claimed.

In every case a copy of such notice of demand shall be forwarded by the claimant to the chairman of the board for the district within which the land in respect of which such contribution is payable is situated within fourteen days after the date of the notice. And, with any application to assess the amount of contribution payable, a copy of such notice of demand shall also be forwarded to the district surveyor for the land board district within which the land is situated or to the commissioners of the Western Land Board when the land is situated within the Western Division.

*Barrier fences.*

**11.** Section thirty-four of the Principal Act is amended by inserting at the end of subsection three, added thereto by section twenty-five of the Pastures Protection (Amendment) Act, 1906, the words “or may cause the continuity of the fence to be broken where it or they is or are satisfied that it should be done in the public interests, and that the effectiveness of the fence will not thereby be endangered.”

**12.** Section thirty-five of the Principal Act is hereby repealed.

*Purchase*

*Purchase of netting or material.*

**13.** Subsection three of section thirty of the Principal Act is amended by inserting the words "the amount in arrear shall bear interest at the rate of ten per centum per annum from the date appointed for the payment thereof until the same is paid, and such interest shall be added to and be deemed to form part of the amount to be paid and" after the words "is in arrear."

*Regulations.*

**14.** The Governor may exercise for the purposes of this Act the powers of making regulations conferred upon him by section one hundred and sixty-nine of the Principal Act.

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