

New Zealand.



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1890, No 17.

Title.

AN ACT to amend the Rabbit Nuisance Acts.

[3rd September, 1890.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Rabbit Nuisance Act, 1890." It shall be read and construed together with the Rabbit Nuisance Acts, as the same are hereinafter defined.

Interpretation.

2. In this Act—

"The principal Act" means "The Rabbit Nuisance Act, 1882:"

"The Amendment Act" means "The Rabbit Nuisance Act, 1882 Amendment Act, 1886:"

"The Rabbit Nuisance Acts" means the principal Act together with the Amendment Act and this Act, and all enactments in amendment of such Acts or either of them:

"Rabbit-proof fence" means any fence or portion of a fence which is or may be erected or converted for the purpose of preventing the passage of rabbits, of any of the descriptions following, that is to say,—

(1.) In respect of rabbit-fences purely,—

(a.) A substantial upright paling-fence, not less than three feet in height from the surface of the ground, and the palings sunken into the ground not less than six inches from the surface, with no greater distance between the palings than one inch;

(b.) A post-and-two-rail fence, having split or sawn timber placed perpendicularly thereon, to a height not less than three feet in height from the surface of the ground, and sunken into the ground not less than six inches from the surface and well nailed to both rails, there being not more than one inch of opening between each perpendicular piece of timber; or

(c.) A post-and-rail fence of substantial material, firmly erected, not less than three feet in height from the ground; or a substantial wire fence, not less than three feet from the ground, having four wires tightly stretched, or three wires and a top rail, in either case with posts of durable wood or iron, not more than nine feet apart, and having galvanised-wire netting not larger than one and five-eighths inches in the mesh, firmly attached or affixed thereto throughout its entire length and height, and pegged to the ground, or sunken into the ground not less than six inches from the surface:

(2.) In respect of combination or converted cattle-fences, means,—

(d.) Any post-and-rail, or paling, or wire fence or portion of a fence of the descriptions Nos. 1, 2, 3, or 4 mentioned in Schedule A to "The Fencing Act, 1881," to which is firmly attached or affixed galvanised wire netting not larger than one and five-eighths inches in the mesh, nor of a wire lighter than number seventeen gauge, to a height of not less than three feet from the ground, and pegged to the ground, or sunken not less than six inches into the ground; or, if a paling-fence, where the palings or upright timber are sunken not less than six inches into the ground, and the distance between the palings or upright pieces of timber thereon is reduced to not more than one inch:

And includes any paling, netting, or other material forming part of such fence, and any nail, staple, wire, or other fastening or peg attaching such paling, netting, or other material either to the fence or to the ground:

"Stockowners" means any stockowners who are qualified to be placed on any stockowners' list mentioned in section ten of the Amendment Act.

3. Every Board of Trustees constituted under the Amendment Act shall be and be deemed to have been a body corporate by the name of "The Rabbit Trustees," with perpetual succession and a common seal, and shall be capable in law to hold real and personal property, and to do and suffer all things which bodies corporate may do and suffer.

Board of Trustees
incorporated.

4. Every rabbit-proof fence heretofore erected by the Minister, or any Board of Trustees, or any person, either on Crown lands or lands belonging to any local authority or public body, or private lands, and every rabbit-proof fence hereafter to be erected as aforesaid by the Minister, or any Board of Trustees, shall respectively, for the purposes of this Act, be deemed to be a sufficient

Rabbit-proof fence
to come under
Fencing Acts.

fence within the meaning of any Fencing Act for the time being in force within the district wherein such fence is situate, and all the provisions of such Act shall apply in all respects in relation to the erection of such fence and to the maintenance thereof, and to the present or future liability of all persons to contribute towards the cost of such erection or maintenance.

Maintenance of a rabbit-proof fence shall be deemed to include all repairs thereof, including repairs of any damage done to such fence by animals of any kind whether wild or not.

Rabbit-proof fence may be erected across roads, &c., with swing-gates.

5. The Minister, or any Board of Trustees, or any person who has erected or may erect any rabbit-proof fence on Crown lands, or lands belonging to any local authority or public body, or private lands, for the purpose of preventing the spread of rabbits, shall be deemed to have, and always to have had, authority to enter upon any district or county roads traversing the line of any such fence or bounding any such lands, and to continue the construction of such fence across any such road, or any bridge on such road, with swing-gates, but so as not to unnecessarily interfere with public traffic; subject, however, that a board with the words "Public Road," and the penalties herein provided for leaving open any swing-gate, legibly painted thereon shall be fixed to each side of such gate, and shall at all times be maintained thereon by the persons erecting such gate.

Proviso.

But no private person shall hereafter erect any such swing-gate without first obtaining the sanction of the local authority having the control of the road over which it is to be erected.

Every person who, whether using the road or bridge as a highway or not, leaves open any swing-gate in a rabbit-proof fence, or, after passing through such gate, does not close it, shall be liable on summary conviction to a penalty not exceeding five pounds for every such offence.

Erection of rabbit-proof fences in future.

6. Any private person or company who may choose hereafter to erect any rabbit-proof fence on the boundary between his or their land and any adjoining land, or to convert any existing fence on such boundary into a rabbit-proof fence, shall be at liberty to do so; and every such fence where erected or converted shall, subject to the provisions of section seven, be deemed to be included within the provisions of section four of this Act.

Governor to declare operation of section four.

7. Section four shall not take effect in any part of the colony, except by Order in Council which the Governor may from time to time issue, on petition in that behalf from a majority of the rate-payers in any county, road district, or other portion of the colony, praying him to bring the said section into force therein.

And the Governor, on petition, may at any time or from time to time alter, vary, or revoke any such Order in Council either in whole or in part.

Penalty for injuring rabbit-proof fence.

8. Every person who wilfully destroys or breaks down or who injures or removes any rabbit-proof fence or any portion thereof, or cuts, detaches, or removes any netting forming part thereof, whether set up on Crown lands or private lands, is liable, on summary conviction before any Resident Magistrate or two Justices of the Peace, to be imprisoned for any period not exceeding twelve months.

9. Every person who sets loose any rabbits, or permits any rabbits to be set loose, in any part of the colony, or removes any live rabbits from any place to another in the colony and then sets them loose or permits them to be set loose there, or who, for any of the purposes aforesaid, is found with live rabbits in his possession, is liable, on summary conviction before a Resident Magistrate or any two Justices of the Peace, to a fine not exceeding fifty pounds, or to be imprisoned for any period not exceeding twelve months.

Penalty for letting live rabbits loose.

10. Every person who enters upon any land not in his own legal possession or occupation without the authority of the legal owner or occupier thereof, and lays poison, or removes any rabbits that have been poisoned, or their skins, from such land, is liable, on summary conviction before a Resident Magistrate or any two Justices of the Peace, to a penalty not exceeding twenty-five pounds, or to be imprisoned for a period not exceeding six months.

Penalty for poisoning and removing rabbits from land without authority.

11. In the infliction of any penalty under sections nine or ten of the principal Act, or any mitigation of any such penalty, the convicting Justices shall take into consideration the area of land on which the defendant has failed to destroy the rabbits, and make the penalty to be inflicted proportionate to such area.

Mitigation of penalties.

It shall be competent to any person who may be fined under either sections nine or ten of the principal Act to bring evidence at the time when such penalty is inflicted in mitigation of the said penalty; and the Court or Justices shall hear such evidence, and may reduce the amount of any such penalty if they think fit, not being less than the minimum fixed in the aforesaid sections respectively.

12. The Chief Inspector having jurisdiction within any rabbit district wherein a Board of Trustees is constituted under the Amendment Act—

Inspector to have charge of administration of Act.

- (1.) Shall be an *ex officio* member of such Board, but shall not be capable of being the Chairman of any such Board; and
- (2.) Shall, on receipt of a copy of a resolution from the Board of Trustees, or after he has reported to the Governor as provided in section thirty-one of the Amendment Act, have the charge of the administration of the principal Act within such district, and shall sue for all penalties recoverable under the Rabbit Nuisance Acts.

13. Every Board of Trustees shall carry out the several functions imposed upon them under the Amendment Act as effectively as may be, and for such purpose may from time to time appoint and remove an overseer and such other persons as they think fit, and pay them such salaries or other emolument as they shall think fit.

Board may appoint overseer and other servants.

14. For the better protection of rabbit-proof fences, any Inspector, or any person authorised by an Inspector—

Inspector may require wild pigs to be destroyed.

May from time to time, at all reasonable hours, enter upon any private lands or Crown lands for the purpose of seeing whether there are wild pigs on such land, and shall have free right of ingress, egress, and regress into, over, and across any such lands for such purpose; and

May require the owner or occupier of any lands to destroy any wild pigs thereon in the same manner as under the Rabbit Nuisance Acts he may require any owner or

occupier of land to destroy rabbits thereon, and subject to the penalties in case of failing so to do.

For the purposes aforesaid all provisions of the Rabbit Nuisance Acts shall be read, *mutatis mutandis*, as if the words "wild pig" or "wild pigs" had been inserted in lieu of the word "rabbit" or "rabbits" wherever these words occur in any section of such Acts, or either of them.

Amendments of principal Act.

15. The principal Act is hereby amended as follows:—

- (1.) In section nine the words "or having so commenced" shall be substituted for the words "and having so commenced ;"
- (2.) In section fifteen the words "after the receipt of such certificate" shall be substituted for the words "after the receipt of such notice ;"
- (3.) Section thirty-three is hereby repealed.

Amendments of Amendment Act.

16. The Amendment Act is hereby amended as follows:—

- (1.) Section five is hereby repealed ;
- (2.) In section six all the words of the second paragraph commencing with the words "It shall be competent" are hereby repealed ;
- (3.) In section eight, after the word "stockowners therein," there shall be inserted the words "who are qualified to be placed on the stockowners' list mentioned in section ten ;"
- (4.) In section ten the words "thirtieth day of April" shall be substituted for "thirty-first day of May ;"
- (5.) Section twenty-two is hereby repealed ;
- (6.) In section twenty-one the word "lands" include private lands and Crown lands, as the same are respectively defined in the principal Act.

Repeal.

17. Section thirteen of "The Public Works Acts Amendment Act, 1889," is hereby repealed.