

PRICKLY-PEAR ACT.

Act No. 31, 1924.

An Act to make provision for the eradication of prickly-pear and for that purpose to constitute a Prickly-pear Destruction Board; to provide for the supply of poison and other destructive agencies; to authorise certain advances out of the Consolidated Revenue Fund for the purpose of prickly-pear destruction; to authorise the setting apart, leasing, or grant of prickly-pear infested areas of Crown lands upon terms and conditions providing for the eradication of prickly-pear; to impose obligations to eradicate prickly-pear upon the occupiers of land and local authorities; to repeal the Prickly-pear Destruction Act of 1901; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith. [Assented to, 3rd December, 1924.]

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BE

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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,
application
of Act,
and division
into Parts.

1. (1) This Act may be cited as the "Prickly-pear Act, 1924," and shall come into operation on a day to be fixed by the Governor and notified by proclamation published in the Gazette.

(2) This Act applies to the Eastern and Central Divisions of the State as established under the Crown Lands Act Consolidation Act, 1913.

(3) The Governor may extend and apply any of the provisions of Division 1 of Part III and the provisions of Part V to the Western Division of the State by proclamation published in the Gazette.

(4) This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY—*ss.* 1-3.

PART II.—PRICKLY-PEAR DESTRUCTION BOARD—*ss.* 4-8.

PART III.—ERADICATION OF PRICKLY-PEAR—*ss.* 9-24.

DIVISION 1.—*Private lands generally—ss.* 9-13.

DIVISION 2.—*Private lands within a prickly-pear zone—ss.* 14, 15.

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PART IV.—FINANCIAL—*ss.* 25-27.

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Repeals and
saving.

2. (1) The Prickly-pear Destruction Act of 1901 is hereby repealed.

(2) All varieties of the cactus tribe declared by the Governor or deemed to be prickly-pear for the purposes of the Act hereby repealed shall be deemed to have been declared to be prickly-pear for the purposes of this Act.

(3)

(3) All regulations made under the authority of George V, the Act hereby repealed and being in force at the time No. 31. of the passing of this Act shall continue in force until repealed under the provisions of this Act.

3. In this Act, unless the context or subject-matter Definitions. otherwise indicates or requires—

“Authorised person” means any person acting under the authority of the board for the purposes of this Act.

“Board” means the Prickly-pear Destruction Board constituted under this Act, or where the Western Division of the State is concerned, the Western Land Board of New South Wales.

“Chairman” means chairman of the board, and includes the member of the board for the time being performing the functions of the chairman thereof.

“Council” means council of a municipality or shire.

“Crown land” means any land other than private land.

“Eradicate” means entirely destroy by fire or in the manner prescribed.

“Local land board” and “land district” have the same meanings as in the Crown Lands Consolidation Act, 1913.

“Member” means member of the board.

“Minerals” means minerals as defined in the Mining Act, 1906.

“Occupier” includes any person holding any lease, agreement for or promise of a lease of land, or a license to occupy land, or any person in actual possession or occupation of land, and includes the resident manager of land upon which the occupier does not reside.

“Owner” includes the person in whom the right to obtain the fee-simple of land is vested, or the mortgagee of any such land, and includes the trustees of any land reserved temporarily or permanently, or permanently dedicated for any public purpose.

“Prescribed”

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“ Prescribed ” means prescribed by this Act or the regulations.

“ Prickly-pear ” or “ pear ” means the plant known by the botanical name of *Opuntia*, and any varieties of the cactus tribe which the Governor may declare to be prickly-pear; and includes all varieties of the cactus tribe declared by the Governor to be prickly-pear for the purposes of the Act hereby repealed.

“ Private land ” means land alienated by the Crown, or land which the holder is in course of purchasing or has the right to purchase from the Crown, or land held under lease or license from the Crown for any period, or reserved or dedicated for any public purpose and vested in trustees or in respect of which trustees have been appointed.

“ Regulations ” means regulations made in pursuance of this Act.

PART II.

PRICKLY-PEAR DESTRUCTION BOARD.

Constitution of the board.

Appointment
and con-
stitution of
board.

4. (1) For the purposes of this Act there shall be constituted a board to be called the Prickly-pear Destruction Board, which board shall, subject to the direction and control of the Minister, be the authority charged with the administration of this Act.

(2) The board shall consist of three members, who shall be appointed by the Governor. The provisions of the Public Service Act, 1902, shall not apply to the appointment nor to the members during their tenure of office.

(3) Each member of the board shall, subject to this Act, hold office for a term of five years, but shall from time to time, upon the expiration of his term of office, be eligible for reappointment for a further period not exceeding five years.

(4)

(4) Each member of the board shall receive such remuneration and allowances as the Governor shall fix, and shall not, save with the sanction of the Governor, engage in any business or employment other than the duties of his office as a member of the board.

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(5) The Governor may appoint one of the members to be the chairman of the board.

(6) Any two members of the board shall form a quorum, and may, subject to the provisions of this Act, as a majority, exercise all or any powers of the board.

(7) No act or proceeding of the board shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one member.

(8) The Governor may remove or suspend any member for misbehaviour or incompetence, and appoint another person in his stead or in the place of any deceased member. Such an appointment shall only be made for the balance of the term of the member whose office is vacated.

(9) A member may be removed from office—

- (a) if he shall engage during his term of office in any employment outside the duties of his office, except with the previous sanction of the Governor;
- (b) if he becomes bankrupt, compounds with his creditors, or assigns his estate for the benefit of his creditors;
- (c) if he becomes an insane person, an insane patient, or an incapable person within the meaning of the Lunacy Act, 1898;
- (d) if he is convicted of any felony or misdemeanour;
- (e) if he shall absent himself from duty for a period of fourteen consecutive days, except on leave granted by the Minister (which leave he is hereby authorised to grant);
- (f) if he shall become in any way concerned or interested in any contract or agreement made by or on behalf of the board or the Minister under

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under the provisions of this Act, or shall in any wise participate or claim to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

(10) Any member of the board who at the date of his appointment is an officer of the Public Service shall, in the event of his office on the board being discontinued, or in the event of the dissolution of the board, be eligible on the recommendation of the Public Service Board to be appointed to some office in the Public Service corresponding in classification and salary to that which he held at the date of his appointment to the board.

Officers.

5. (1) There shall also be appointed by the Governor, on the recommendation of the Public Service Board, such officers as the Governor thinks necessary, who shall hold office during the pleasure of the Governor. Such officers shall receive such remuneration and allowances as shall be fixed by the Public Service Board and shall be subject to the provisions of the Public Service Acts during their tenure of office.

(2) For the purpose of carrying out the powers, duties, authorities, and obligations conferred or imposed upon the board by this Act the board, with the approval of the Minister of the department concerned, may make use of the services of any of the officers and employees of the Public Service.

Prickly-pear zones—Classification of lands.

Prickly-pear
zones.

6. (1) The Governor may, upon the recommendation of the board, from time to time by notification published in the Gazette declare that any area of land specified therein shall be a prickly-pear zone for the purpose of this Act.

(2) The board shall as soon as practicable after any such notification is published in the Gazette, and from time to time thereafter as prescribed, cause surveys and investigations to be made for the purpose of classifying the lands situated within the zone.

(3) Lands shall be classified as follows :—

Class I.—Lands which are not infested.

Class

Class II.—Lands which are lightly infested ; that is to say, lands which, in the opinion of the board, can reasonably in the circumstances of the case be entirely freed from prickly-pear within five years.

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Class III.—Lands which are heavily infested ; that is to say, lands which, in the opinion of the board, can reasonably in the circumstances of the case be entirely freed from prickly-pear within a period of ten years.

Class IV.—Lands which are very heavily infested ; that is to say, lands which, in the opinion of the board, cannot in the circumstances of the case be profitably cleared.

(4) In classifying lands, the board may classify into the different classes specified in the last preceding subsection different parts of a holding owned or occupied by the same person ; and in arriving at an opinion as to the time within which the land can be freed from prickly-pear, regard shall be had to all the circumstances of the case, to the cost of eradicating the pear, and to the situation and value of the lands affected.

(5) The board shall cause to be prepared maps showing—

- (a) the boundaries of all parcels of private lands within the zone ;
- (b) the internal subdivision fences upon such lands ;
- (c) the position and boundaries of all roads, reserves, and vacant Crown lands within the zone.

The maps shall also, so far as practicable, indicate the tenure upon which any private lands are held, and shall by colour show the approximate position, area, and boundaries of the lands classified into the classes mentioned in subsection three of this section.

The maps shall be added to and revised from time to time, and so far as possible shall be charted with the most recent information available.

(6) The board shall in the month of July in each year forward to the Minister a report setting out such of the details of every such classification as may be prescribed.

(7)

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(7) A copy of the report shall be lodged in the office of the Crown lands agent of the land district affected, in the Department of Lands, Sydney, and also in the office of the Registrar-General.

Administra-
tive
functions.

7. The board shall for all purposes of this Act, subject to the direction and control of the Minister, also have and be charged with the following powers and duties, that is to say:—

- (a) The control of all expenditure under this Act.
- (b) The power of appointing workmen for the purposes of this Act, and the power to discontinue the employment of such workmen and to disrate or suspend any of them.
- (c) Such powers, authorities, duties, and obligations as may from time to time be prescribed by the regulations with respect to any land within a prickly-pear zone which is held in fee-simple, or which is held under any lease, license, or any other form of tenure whatsoever from the Crown under the Act hereby repealed, or this Act, or any other Act.
- (d) The enforcement of the conditions and covenants contained in any lease, license, or other tenure under the Crown Lands Consolidation Act, 1913, the Closer Settlements Acts, the Forestry Act, 1916, or the Returned Soldiers Settlement Act, 1916, for the destruction of noxious plants, so far as relates to prickly-pear. For this purpose wherever in the Act hereby repealed, or in any of the said Acts, the Minister is empowered or required to exercise or discharge any power, authority or duty with respect to or in relation to land held under lease or license or other tenure, the same shall be exercised or discharged by him with respect to land within a prickly-pear zone upon the recommendation of the board, and the said provisions of the Act hereby repealed and of the said Acts shall be construed accordingly.

(e)

- (e) The manufacture, purchase, or other provision of poisons, specifics, destroyers, apparatus and appliances for the destruction or prevention of prickly-pear, and the sale, supply, distribution, or disposal of same to any persons for the purposes of this Act. George V,
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- (f) The adoption and carrying out of all or any means and methods, whether mechanical, biological or otherwise, for the destruction or prevention of prickly-pear, and the acquirement and dissemination of information and the giving of directions relating to the purposes and use of the same, and the enforcement of all such directions by prescribed means and remedies.
- (g) The administration of the regulations.
- (h) The carrying out of prickly-pear clearing operations.
- (i) Generally the power and responsibility of carrying the provisions of this Act into execution, and of effecting all matters and things necessary for the proper administration of this Act.

8. (1) The Minister may, upon the recommendation of the board, arrange with the council of any area or any pastures protection board to exercise and perform any function or duty in aid of the board in the exercise of its administrative functions under this Act. And every such council or board shall have authority to and shall exercise and perform such function or duty accordingly. Local
authority to
assist.

(2) The expenses incurred by a council or pastures protection board, acting in accordance with the arrangement, may be defrayed out of the Prickly-pear Destruction Fund.

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PART III.

ERADICATION OF PRICKLY-PEAR.

DIVISION 1.—*Private lands generally.*

Duty of all
owners and
occupiers of
land free
from pear.

9. It shall be the duty of every owner and occupier of land, without any notice in that behalf, to keep and maintain entirely free from prickly-pear any land of which he is the owner or occupier and which is at the date of the commencement of this Act or which at any time thereafter becomes free from prickly-pear, and if he fails to do so without reasonable excuse such owner or occupier shall be liable to a penalty not exceeding twenty pounds for the first offence and not exceeding fifty pounds for any subsequent offence.

Return to be
furnished by
owner or
occupier of
land on
which pear
is growing.

10. (1) Within six months of the commencement of this Act and thereafter during the month of February in each year the owner or occupier of private land on which there is growing any prickly-pear shall furnish, or cause to be furnished as prescribed, to the board a return in the prescribed form stating—

- (a) the area on which prickly-pear is growing; and
- (b) what steps he has taken, is taking, or intends taking to destroy the prickly-pear; and
- (c) any other prescribed particulars.

(2) If a return is not furnished in pursuance of this section in respect of any land, the owner or occupier of the land shall be liable to a penalty not exceeding twenty pounds.

Infested
lands.

11. (1) Where it is found by the board that prickly-pear is growing on any area of private land and the board is not satisfied that the owner or occupier is taking reasonable and effective measures to free the land from prickly-pear, the board may give notice to the owner or occupier of the land to free the land from prickly-pear.

(2) The notice shall be in or to the effect of the form prescribed in that behalf, and may state different periods of time within which particular parts of the land to be described in the notice or indicated on a sketch accompanying the notice shall be freed from prickly-pear to the satisfaction of the board.

(3)

(3) It shall be the duty of every owner and occupier of land upon whom such notice is served to take prompt and effective measures to free the land from prickly-pear in accordance with the requirements of the notice.

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(4) If an owner or occupier fails to comply in any particular with a notice served upon him under this section he shall be liable to a penalty not exceeding ten pounds for the first offence and not exceeding fifty pounds for a second offence.

12. (1) If the board is satisfied that an owner or occupier upon whom a notice under the last preceding section has been served is not taking prompt and effective measures to eradicate the prickly-pear, the board may, after notice in that behalf in the prescribed form, enter upon any such land and may by its authorised agents and workmen take such measures to eradicate the prickly-pear as to the board may seem right and proper in the circumstances of the case.

Board may
enter and
clear.

(2) Any costs and expenses incurred by the board in the exercise of its powers under the last preceding subsection shall on demand be repaid to the board by the owner or occupier thereof, and until so repaid shall upon registration be a charge upon the said land. Such charge shall rank *pari passu* with any charge under any other Act, may be evidenced by a certificate in the prescribed form under the hand of the chairman of the board, and may be registered in the office of the Registrar-General in manner prescribed by regulations made under the Conveyancing Act, 1919.

13. The Minister, on the recommendation of the board, may enter into an agreement with the owner or occupier of any land—

Assistance in
clearing.

- (a) for the supply of poison or appliances for destroying prickly-pear on the land, either free of cost or on such terms as may be prescribed or agreed upon ;
- (b) for the payment of such advances by way of loan to assist in destroying prickly-pear on the land, as may be agreed upon.

Any

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Any such advance may be repayable by instalments extending over a term not exceeding twenty years, and interest at a rate not exceeding six per centum per annum shall be charged thereon.

DIVISION 2.—*Private lands within a prickly-pear zone.*

Surrender of
very heavily
infested land.

14. Where an area of land is classified under section six of this Act as being within Class IV of the lands therein mentioned, the Minister, on the recommendation of the board and with the sanction of the Governor and notwithstanding anything to the contrary in the Crown Lands Consolidation Act, 1913, or any other Act, may enter into an agreement to accept the surrender of the land together with all improvements thereon without compensation on behalf of the Crown conditionally on the owner or holder—

- (a) surrendering such part of his holding as may be agreed upon;
- (b) paying in such instalments as may be prescribed the cost of survey;
- (c) erecting at his own cost a fence, to be approved by the board, to divide the land from the remainder of his holding;
- (d) clearing of prickly-pear a strip at least ten feet wide within and around the land to be surrendered;
- (e) keeping clear of prickly-pear the said strip for a period of at least five years;
- (f) complying with such other conditions as the Minister, on the recommendation of the board, may consider advisable.

Existing
holdings.

15. (1) At any time within six months after the commencement of this Act or such further time as the Minister on the recommendation of the board may allow the holder of a lease under the Act hereby repealed, or the holder of any purchase or lease from the Crown under the Crown Lands Consolidation Act, 1913, within a zone to which is attached any conditions relating to prickly-pear may give notice in writing under his hand or under the hand of his agent to the Minister that he desires

desires to have his holding considered by the board. Every such notice shall be in the prescribed form or to the like effect, and shall be referred by the Minister to the board.

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(2) Upon receipt of such notice the board shall take such holding into consideration, and in so doing shall be guided by the following provisions:—The board shall consider—

- (a) the conditions of the tenure of the holding and in particular the conditions relating to prickly-pear, taking into due consideration—
 - (i) the state of the land with respect to prickly-pear;
 - (ii) the compliance or non-compliance, as the case may be, by the holder with the subsisting conditions of his holding;
 - (iii) the expenditure incurred by him and that may be required to be incurred by him in compliance with such conditions or any modification thereof;
- (b) the extent to which the holding comprises land which is suitable for agriculture or mixed farming purposes;
- (c) the proximity or otherwise of the holding to an existing or proposed line of railway or main road or to existing or probable agricultural settlement;
- (d) the public interest,

and shall report to the Minister upon—

- (i) all the conditions that should be made applicable to the holding;
- (ii) what modifications of the subsisting conditions of the holding should be made;
- (iii) what reduction (if any) in rent, price, or capital value should be made in respect of the holding;
- (iv) what extension (if any) of lease, not in any case exceeding forty years from the date of the report, should in the opinion of the board be granted.

(3) The Minister may on receipt of the report refer the same back to the board for further information or modification.

(4)

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(4) If the Minister approves of the report whether as originally presented or as modified he shall submit the report so approved to the Governor for approval and for directions as to the manner in which the report is to be carried out.

(5) If the holder of the holding elects in the prescribed manner to accept the holding upon the terms and conditions indicated in the direction of the Governor then the Minister may, notwithstanding the provisions of any Act, proceed to take all such steps as are necessary to give effect to the report or as the Governor may direct.

(6) This section shall apply only to lands which are classified within Classes III and IV.

DIVISION 3.—*Crown lands within a prickly-pear zone.*

Agreement
for grant of
Crown land
when freed
from pear.

16. (1) It shall be lawful for the Minister on the recommendation of the board and with the approval of the Governor to enter into an agreement with any person providing for the grant to such person of any portion of Crown land situated within an area classified as being within Class IV referred to in section six of this Act in consideration of such person freeing such land from pear without cost to the Crown.

(2) The area of land to be included in any such grant under any one agreement shall not be less than two acres and shall not exceed five thousand acres, which need not be in one block. But more than one agreement may be made with the same person.

(3) Every such agreement shall be in writing, and shall be signed by the Minister and the other party to the agreement, and shall contain such provisions as, in the opinion of the Minister, are necessary and proper for securing the performance of the agreement and for effectively securing the eradication of pear, and shall provide, inter alia—

(a) that during each year of the period mentioned in the agreement a specified portion of land shall be freed from pear; and

(b)

(b) that land which has been freed from pear, and that part of the area which at the date of the agreement is not infested with pear, shall be kept free from pear; and

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(c) that the whole of the land required to be freed from pear under the agreement shall be so freed within a specified period, and no agreement shall be made for a term which shall exceed ten years.

(4) Any such agreement shall be binding upon, and may be enforced by, the Crown.

(5) When the land agreed to be freed from pear has been freed from pear, the person who made the agreement with the Minister, or his successor in title, shall be entitled, if the terms of the agreement have been complied with, upon payment of the survey fee, deed fee, and stamp duty, to a grant in fee-simple of the land, and the Governor shall issue such grant in the form prescribed.

The grant shall contain a reservation of any minerals which the land may contain.

(6) Where any part of the land is within a reserve under the Mining Act, 1906, the agreement shall, before being submitted to the Governor for approval, be referred to the Secretary for Mines for report as to what provisions (if any) should be incorporated therein relating to mining.

(7) Until the grant is issued the land for the purposes of the Mining Act, 1906, and Acts amending the same, shall be deemed to be Crown lands within the meaning of those Acts.

17. Any Crown land within a zone classified under section six of this Act as being within Class III or IV of the lands therein mentioned may, upon the recommendation of the board, be leased by the Minister by auction or tender, or upon application made as prescribed, for any term not exceeding fifty years, in such areas, at such rent (nominal or otherwise), and upon such conditions as he may upon the recommendation of the board determine, and the Minister may upon the

Leasing of
infested land.

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No. 31. the recommendation of the board clear and keep clear a strip of land ten feet wide where pear-infested Crown lands adjoin a holding which has been cleared and is kept free of pear.

Leasing of
commons and
reserves.

18. If there is prickly-pear on any land which is a common, or which has been reserved (temporarily or otherwise) or dedicated by the Crown for a public purpose ; and if—

- (a) the prickly-pear on such land is not eradicated within three months after service on the trustees of such land of a notice by the board requiring them to eradicate such prickly-pear, or within such further time as the board may allow ; or
- (b) the trustees of such land, within the time aforesaid, inform the board that they are unable to eradicate such prickly-pear ; or
- (c) there are no trustees of such land ; or
- (d) any lease granted under this section is forfeited,

the Minister, on the recommendation of the local land board, may lease such land by auction or tender, or upon application made as prescribed, for any term not exceeding fifty years, in such areas, at such rent, nominal or otherwise, and upon such conditions as he may determine. Any rent received in respect of any such lease shall be paid into the Consolidated Revenue Fund.

Any land so leased shall, during the currency of the lease, be free from all trusts and all rights of common.

Agreement
with council.

19. The Minister, upon the recommendation of the board, may enter into an agreement with any council for the eradication of prickly-pear on any Crown land within its area, upon such terms as may be agreed upon, and such agreement shall be binding upon and enforceable by the Crown.

Leases.

20. (1) A lease granted under this Act shall contain such provisions as may be deemed advisable by the Minister upon the recommendation of the board for the eradication of pear, and for keeping the land free from pear, and such other conditions as may be prescribed.

(2)

(2) It shall be a condition of the lease that the Minister may by notification published in the Gazette, without paying any compensation other than for improvements effected in terms of the lease or with the approval of the Minister, withdraw from the lease any land, not exceeding in area one acre, required for any public purpose.

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(3) The lease shall not be transferred or assigned or sublet without the consent of the Minister upon the recommendation of the board. Application for such consent shall be made in the manner prescribed.

(4) The boundaries of the lease shall be defined by survey. The cost of survey shall be paid by the lessee, and may be paid in instalments extending over a period of ten years, with interest at the rate prescribed.

21. (1) The Minister, upon the recommendation of the board, may extend the term of any lease granted under this Act or the Act hereby repealed on such conditions as he may upon the recommendation of the board determine :

Extension of
term.

Provided that the term of the lease, including any such extension, shall not exceed fifty years from the commencement of the lease.

(2) The Minister, upon the recommendation of the board, may accept a surrender of any such lease as to the whole or any part of the land leased.

22. (1) The Minister, upon the recommendation of the board, by notice in the Gazette, may forfeit any lease granted under this Act or any Act hereby repealed if the terms and conditions of such lease are not complied with by the lessee, and all improvements thereon shall become the property of the Crown.

Forfeiture.

(2) The Minister may also, upon a like recommendation and by a like notice, forfeit any lease granted under the Crown Lands Acts where he is satisfied that the lessee has failed after notice in that behalf to eradicate pear, whether or not a condition of the lease requires pear to be destroyed ; and in any such case an inquiry by the local land board will not be necessary notwithstanding any provision in any Act or the conditions of any lease.

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(3) The lessee shall receive the prescribed notice of the intention to forfeit the lease and may in the prescribed manner appeal to the Land and Valuation Court, which may inquire into the case and make such order therein as may to the court seem just.

(4) Any such forfeiture shall take effect on the publication in the Gazette of the notice, and thereupon the land shall be reserved from sale or lease under any Act until otherwise notified by the Minister in the Gazette.

DIVISION 4.—*Lands controlled by public bodies.*

Eradication
by a
council.

23. (1) A council shall within the time specified in a notice in that behalf served on it by the Minister, or within such further time as the Minister may allow, eradicate prickly-pear on any road, street, or land under its control, and shall keep the same free from prickly-pear.

If any council fails to carry out the provisions of this section, it shall be liable to a penalty not exceeding ten pounds for the first offence and not exceeding fifty pounds for the second and any subsequent offence.

(2) An authorised person may also enter upon the said land and destroy any prickly-pear growing upon such land, or upon any road or street, and the Minister may recover the cost of such work from the council.

Rate to defray
council's
expenses.

(3) For the purpose of defraying the expenses incurred by it in the eradication of prickly-pear, a council may, under the Local Government Act, 1919, and any Act amending it, make and levy a special or a local rate on the unimproved or on the improved capital value of ratable land in its area, or in a portion of its area.

(4) No poll shall be taken on the question whether the rate shall be made.

(5) Such rate may be made and levied notwithstanding that the amount of rates levied in the area would exceed or exceeds that prescribed by the said Acts.

(6) A council shall not be liable to a penalty under subsection one of this section nor shall the Minister be entitled to recover from the council the costs of any work under subsection two of this section

if,

if, during the twelve months preceding the date of the prosecution, or the carrying out of the work, as the case may be, the council has incurred an expenditure of two hundred and fifty pounds under this section.

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(7) A council may defray any expense incurred by it under this section out of the general fund of the council.

24. (1) It shall be the duty of a Pastures Protection Board to take all necessary steps to eradicate all prickly-pear on any stock route or reserve under its control, and to keep the route or reserve free from prickly-pear.

Pastures
Protection
Boards.

(2) For the purpose of defraying the expenses incurred by it in the eradication of prickly-pear, a Pastures Protection Board may levy and assess, in manner set out in section eighteen of the Pastures Protection Act, 1912, a special rate in addition to the rate mentioned in that section, not exceeding in the annual aggregate one penny per head of large stock and one-eighth of a penny per head of sheep. The second proviso to subsection one of the said section shall not apply to such a special rate, but with that exception the provisions of the said Act shall be deemed to extend to such a special rate.

(3) When land is withdrawn from the control of a Pastures Protection Board, the Minister may, out of any funds available for the purpose, compensate the Pastures Protection Board in respect of their expenditure on prickly-pear destruction upon the land.

PART IV.

FINANCIAL.

Prickly-pear destruction fund.

25. There shall be kept in the Treasury, as a special deposits account, a fund to be called "The Prickly-pear Destruction Fund." All moneys expended or advanced under

Prickly-pear
destruction
fund.

**George V,
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26. During a period of five years from the first day of January, one thousand nine hundred and twenty-five, there shall be paid to the credit of the fund in each year out of the Consolidated Revenue (which is hereby appropriated for the purpose) the sum of thirty thousand pounds, and such additional sums as may from time to time be provided by Parliament for the purpose.

27. Out of the said fund the Minister may, on the recommendation of the board, make grants to assist councils, pastures protection boards, and trustees of commons, cemeteries, or reserves in carrying out their obligations under this Act.

PART V.

GENERAL.

Offences—Penalties.

28. Any person who scatters or causes to be scattered the leaves or seed of prickly-pear upon any land, or throws or places or causes to be thrown or placed the same into any river, stream, creek, or watercourse, whether containing water or not, or cuts and leaves any prickly-pear in such a position on the banks of any river, stream, creek, or watercourse, that by reason of floods or otherwise it is liable to be swept or floated into such river, stream, creek, or watercourse, shall be liable to a penalty not exceeding fifty pounds.

29.

29. Any person who commits a breach of this Act for which a penalty is not specially provided, shall for every such offence be liable to a penalty not exceeding ten pounds.

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Penalty where
not otherwise
provided.

30. (1) Any penalties imposed by this Act or by any regulation thereunder may be recovered before any stipendiary or police magistrate or any two justices in petty sessions.

Proceedings
for recovery.

(2) In any proceedings under this Act for the recovery of money or for the recovery of any penalty the jurisdiction of the court or justices before whom the proceedings are pending shall not be ousted on the ground that any question of title to land is involved or on the ground that the defendant does not reside within the boundaries of the jurisdiction of the court or justices where the action or proceeding was instituted if the land in respect of which the claim arose or in respect of which an offence is alleged to have been committed is situated within the boundaries of the jurisdiction of such court or justices.

Jurisdiction.

31. Whosoever—

- (a) falsely represents himself to be or personates a member of the board or an inspector; or
- (b) not being a member of the board or an inspector or a person authorised in writing by the board, or a person lawfully acting under the provisions of this Act, trespasses upon any private land for the apparent purpose of eradicating prickly-pear,

Penalty for
impersonat-
ing a member
of the board
or an
inspector, &c.

shall be liable to a penalty not exceeding twenty pounds.

32. Whosoever hinders or obstructs a member of the board or inspector, or any person acting under the authority of the Minister or the board, or of a member of the board or an inspector, in the discharge of any duty or the doing of any work imposed or authorised by this Act, or causes him to be so hindered or obstructed, shall be liable to a penalty not exceeding twenty pounds.

Penalty for
hindering
work, &c.

Notices.

33. (1) Notices under this Act or the regulations shall be in the form prescribed.

Notices.

(2)

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(2) Any such notice, unless otherwise prescribed, shall be deemed to be sufficiently given or served—

- (a) if left with the person to whom it is addressed, or left with some person at his usual or last known place of residence; or
- (b) if sent to him by a registered letter through the post; or
- (c) if inserted twice a week for two consecutive weeks in some newspaper published in Sydney, and once a week for two consecutive weeks in some newspaper published in or near to the locality in which the land to which it relates is situated.

In case of service under paragraphs (a) or (b) a statutory declaration of such service shall be sufficient proof thereof.

In case of service under paragraph (c) the production of the newspapers containing such insertions shall be proof of the due service of such notice.

(3) The description in a notice under this Act of any private land need not particularly define the land, but shall be sufficient if it allows no reasonable doubt as to what land is referred to.

Regulations.

34. (1) The Governor may make regulations prescribing the forms to be used under this Act, and providing for payment of fees, and generally as to all matters required or permitted to be prescribed or which may be considered necessary or convenient for giving effect to the objects and provisions of this Act.

(2) Such regulations may impose a penalty, not exceeding ten pounds, for any breach thereof.

(3) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and

(iii)

- (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall therefrom cease to have effect.
