

PASTURES PROTECTION (AMENDMENT) ACT 1985 No. 141

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 141, 1985

An Act to amend the Pastures Protection Act, 1934, with respect to the use of travelling stock reserves; and for other purposes. [Assented to, 25th November, 1985.]

Pastures Protection (Amendment) 1985

BE it enacted by the Queen'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

1. This Act may be cited as the "Pastures Protection (Amendment) Act 1985".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 1, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Pastures Protection Act 1934 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE USE OF TRAVELLING STOCK
RESERVES

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

Amendment of Act No. 35, 1934

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

*Pastures Protection (Amendment) 1985***Savings and transitional provisions**

6. Schedule 3 has effect.

SCHEDULE 1

(Sec. 5)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE USE
OF TRAVELLING STOCK RESERVES**

- (1) Sections 46A–46C—

After section 46, insert:

Recreational, etc., activities on travelling stock reserves

46A. (1) A travelling stock reserve which is under the control of a board may, in so far as may be provided by or under the regulations, be used—

- (a) for the purpose of any recreational activity; or
- (b) for the purpose of any other activity, whether of a like or a different nature,

being a prescribed activity or any other activity authorised for the time being in relation to the reserve by the board in accordance with the regulations.

(2) Nothing in subsection (1) affects the duties imposed upon a board by section 41 (3), (3A) and (3B).

Liability for certain damages

46B. (1) Except as provided by subsection (2), the Crown shall indemnify a board in respect of any amount for which the board may become liable as a consequence of any claim—

- (a) for damages for personal injury, whether fatal or not; or
- (b) for damage to property, not being property of the board,

arising out of or in the course of the use of a travelling stock reserve for the purpose of a prescribed activity referred to in section 46A (1).

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE USE
OF TRAVELLING STOCK RESERVES—*continued*

(2) Subsection (1) does not apply in relation to a claim for damages for personal injury suffered—

- (a) by a director, servant or officer of a board; or
- (b) by a veterinary inspector, ranger, rabbit inspector, permit officer or special permit officer appointed by a board,

and arising out of or in the course of the undertaking or performing of any business of the board with the prior approval of the board.

Closing of travelling stock reserves

46C. (1) A board may and where directed by the Minister shall, in the prescribed manner, close a travelling stock reserve or part thereof to persons—

- (a) for the purpose of taking proper measures for the conservation of soil and the prevention or mitigation of soil erosion; or
- (b) for the purpose of the board's exercising any power or performing any other duty, whether of a like or a different nature, of the board.

(2) A board may and where directed by the Minister shall, in the prescribed manner, prohibit the use of a travelling stock reserve or part thereof—

- (a) for the purpose of a prescribed activity referred to in section 46A (1); or
- (b) for any other purpose, its use for which may result in—
 - (i) damage being caused to the reserve or to any structure, work, article or other thing situated thereon; or
 - (ii) nuisance or annoyance being caused to the public or any person.

(3) The Minister may direct a board not to exercise its power under subsection (1) or (2) in specified circumstances and the board shall comply with any such direction.

*Pastures Protection (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE USE
OF TRAVELLING STOCK RESERVES—*continued*

(4) Any function of a board under this section may, except where the board directs the chairman to the contrary, be exercised or performed by the chairman of the board and, where a function is so exercised or performed, it shall be deemed to have been exercised or performed by the board.

(5) Notwithstanding section 46A, any person who, without the authority of the board or other reasonable excuse—

- (a) is upon a travelling stock reserve or any part thereof which is closed to the person pursuant to subsection (1); or
- (b) uses a travelling stock reserve or any part thereof in contravention of a prohibition imposed pursuant to subsection (2),

shall be liable on conviction to a penalty not exceeding \$1,000.

(2) Section 47 (1)—

After “Part” where firstly occurring, insert “(including any fee or other amount paid to a board in connection with the use of a travelling stock reserve pursuant to section 46A)”.

(3) Section 56—

Omit “and any person who deposits any rubbish or the carcase of any animal on a travelling stock reserve”.

(4) Section 56A—

After section 56, insert:

Damage to reserves

56A. (1) Any person who, whether or not in the course of an activity referred to in section 46A (1), damages a travelling stock reserve which is under the control of a board or any structure or work situated on any such reserve is liable to pay to the board the reasonable cost of the damage.

(2) Subsection (1) does not affect the liability of any person for an offence under this or any other Act, the regulations or any other law.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE USE
OF TRAVELLING STOCK RESERVES—*continued*

(5) Section 65A—

After section 65, insert:

Depositing of rubbish, etc.

65A. (1) Any person who deposits any rubbish or the carcase of an animal on a travelling stock reserve shall be liable on conviction to a penalty not exceeding \$2,000.

(2) Any person who abandons—

(a) any vehicle, equipment, implement or movable structure;
or

(b) any other article or thing, not being rubbish or the carcase of an animal,

on a travelling stock reserve shall be liable on conviction to a penalty not exceeding \$1,000.

(6) Section 171 (1) (p)-(p2)—

Omit section 171 (1) (p), insert instead:

(p) prohibiting or regulating, or providing for the prohibition or regulation of, the use of travelling stock reserves or any part thereof (including the use of any structure, work, article or other thing thereon);

(p1) requiring the holding of permits authorising the use of a travelling stock reserve or any part thereof for a purpose referred to in section 46A and for and with respect to the issue, transfer, duration, revocation, suspension and renewal of any such permit and the terms and conditions thereof and the fees payable, insurance required to be effected and bonds required to be given or obtained in connection with any such use or permit;

(p2) the removal of trespassers on, or of persons causing nuisance or annoyance to the public or any person on or in the vicinity of, a travelling stock reserve;

SCHEDULE 2

(Sec. 5)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2—

Omit the section.

(2) Section 28A (3)—

Omit the subsection, insert instead:

(3) Proceedings in respect of any offence under this section may, notwithstanding any limit of time prescribed by any Act for instituting proceedings, be commenced at any time within the period of 2 years after the commission of the offence.

(3) (a) Section 34 (1)—

Omit “paid or payable”, insert instead “which is payable or has been paid”.

(b) Section 34 (1A), (1B)—

After section 34 (1), insert:

(1A) A board shall, if directed so to do by an order of the Minister served on the board, remit or refund, in accordance with the conditions set forth in the order, any rate or part of a rate which is payable or has been paid under this Part.

(1B) A board shall write off any amount of rates remitted or refunded under subsection (1) or (1A).

(4) Section 87 (2)—

Omit “conviction to a penalty not exceeding \$500.”, insert instead:

conviction—

(f) in the case of an offence of liberating or, without the permission of the Minister, having in possession any noxious animal—to a penalty not exceeding \$2,000; or

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(g) in the case of any other offence under this subsection—to a penalty not exceeding \$500.

(5) Part VI, Division 2—

Omit the Division.

(6) (a) Section 169 (2)—

After “instituted”, insert “on behalf of the Department of Agriculture or”.

(b) Section 169 (2) (h1)—

After section 169 (2) (h), insert:

(h1) the authority to prosecute of—

- (i) any officer of the Department of Agriculture;
- (ii) any veterinary inspector, ranger or rabbit inspector;
or
- (iii) any servant or officer of the board;

(c) Section 169 (3)—

After section 169 (2), insert:

(3) In any prosecution or other legal proceedings under this or any other Act—

(a) a certificate purporting to be signed—

- (i) by the Director-General or a Deputy Director-General of the Department of Agriculture; or
- (ii) by the holder of a prescribed office in that Department,

and certifying that an officer of that Department specified in the certificate is or, at a time or during a period so specified, was authorised either generally or in a particular case or class of cases to institute legal proceedings on behalf of the Department of Agriculture; and

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (b) a certificate purporting to have been signed by the chairman or secretary of a board and certifying that a person specified in the certificate is or, at a time or during a period so specified, was a duly appointed veterinary inspector, ranger, rabbit inspector, permit officer or special permit officer, or a servant or officer of the board,

shall be admissible and be prima facie evidence of the matters certified in the certificate.

SCHEDULE 3

(Sec. 6)

SAVINGS AND TRANSITIONAL PROVISIONS

Saving of certain regulations

1. Any regulation made under section 171 (1) (p) of the Principal Act and in force immediately before the commencement of Schedule 1 shall, on that commencement, be deemed to have been made under that paragraph of that Act, as amended by this Act.

Time for bringing certain proceedings

2. (1) Section 28A (3) of the Principal Act, as amended by this Act, applies to and in respect of proceedings for an offence under section 28A of that Act which was committed before the commencement of this Act if the time for commencing those proceedings had not expired before that date.

(2) Nothing in this Act affects any proceedings for an offence under section 28A of the Principal Act which were commenced in accordance with section 28A (3) of that Act as in force immediately before the date of assent to this Act.

Recovery of certain expenses

3. Section 95 (5) of the Principal Act, as in force immediately before the commencement of this Act, applies to and in respect of the recovery of expenses relating to the destruction of a dog if the dog was, before that commencement, destroyed pursuant to section 95 (4) of that Act.
