



Australian Capital Territory

# **Rabbit Destruction Act 1919**

**A1919-6**

**Republication No 1B**

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## **About this republication**

### **The republished law**

This is a republication of the *Rabbit Destruction Act 1919* effective 29 November 1994 to 14 December 1994.

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Australian Capital Territory

**RABBIT DESTRUCTION ACT 1919**

*As at 29 November 1994*

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Australian Capital Territory

## RABBIT DESTRUCTION ACT 1919

An Act relating to the Destruction of Rabbits and Noxious Animals in the Australian Capital Territory

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Rabbit Destruction Act 1919*.<sup>1</sup>

#### Commencement

2. This Act shall commence on a day to be fixed by the Minister by notice in the *Gazette*.<sup>1</sup>

#### Interpretation

4. In this Act, unless the contrary intention appears—

“The Act” means the *Pastures Protection Act 1912* of the State of New South Wales.

“Crown Land” means any land vested in Australia whether by acquisition or by virtue of the Commonwealth Seat of Government Acceptance Act and not held under lease for a longer period than twelve months.

“Holding” means land held by any person for any estate of freehold or any less estate under the Crown Lands Act of New South Wales, but does not include any land held under lease from Australia under the *Lands Acquisition Act 1906-1916* of the Commonwealth or under the *Leases Act 1918*.

“Noxious Animal” means any animal or bird declared by the Minister by notice in the *Gazette* to be a noxious animal.

“Occupier” means the person who is for the time being entitled to possession of any holding or land, and includes the resident manager of the occupier where the occupier is not resident.

## **PART II—DESTRUCTION OF RABBITS AND NOXIOUS ANIMALS**

### *Division 1—Application and Interpretation*

#### **Rabbit-infested areas**

**8. (1)** The Minister may, by notice in the *Gazette*, declare any part of the Territory to be rabbit-infested, and may revoke or vary any such notice.

**(2)** Except where otherwise in this Part expressly provided, and except so far as it relates to the destruction of noxious animals, this Part shall apply only to the parts so declared to be rabbit-infested.

#### **Exemption from fencing boundary in certain cases**

**9.** If any holding, or portion of a holding, or group of holdings is bounded in part by a natural feature along which, in the opinion of the Minister, it is unnecessary to erect a rabbit-proof fence, such holding, or portion of a holding, or group shall be deemed to be enclosed by a rabbit-proof fence, provided that the remaining boundaries are sufficiently so fenced.

### *Division 2—Expenditure of Money Voted for Wire Netting*

#### **Sale of wire netting etc. by Minister**

**10. (1)** The Minister may upon such conditions as he thinks desirable sell hire or rent any netting, material, machinery, plant, or substance, to any owner or occupier of land within the Territory.

**(2)** The prescribed conditions may include the repayment by owners or occupiers in instalments, spread over such period as the Minister directs, with interest at such rate as is prescribed.

#### **Penalty for default in payment of annual instalments**

**11.** If any owner of a holding makes default in respect of the payment of any instalment payable to the Minister in respect of wire netting or other material, machinery, plant, or substances, interest shall be charged by the Minister on such instalment at a rate not exceeding 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 such instalment.

**Payment to Minister by adjoining owner of cost of netting supplied by Minister**

**12. (1)** Where the owner of a holding owes money to the Minister for wire netting or other materials, whether the money is or is not then payable, and is entitled to any contribution from an adjoining owner towards the cost of any fencing in respect of which the netting or materials were supplied, the adjoining owner may, and if directed in pursuance of this section shall, pay to the Minister, instead of to the first-mentioned owner, so much of the said contribution as is due and payable in respect of the said netting and materials:

Provided that the amount to be so paid shall not exceed the amount owing by the first-mentioned owner to the Minister as aforesaid.

**(2)** The Minister may cause the said contribution to be assessed, and the Minister's decision upon any matter connected with the contribution shall be final.

**(3)** Where an assessment of a contribution is made in accordance with this section, payment of the amount of the contribution shall be made to the Minister.

**Maintenance of wire netting and material in respect of which moneys are payable to the Minister**

**13. (1)** If it appears to the Minister that the occupier or owner for the time being of any holding in respect of which any wire netting or other material has been purchased from the Minister, but not fully paid for, has neglected to maintain or repair the netting or material, or any part thereof, the Minister may give notice to the occupier or owner to execute the works necessary to maintain or repair the same. If the works are not forthwith executed to the satisfaction of the Minister, the Minister may cause the works to be executed, and may recover the cost thereof from the occupier or owner.

**(2)** A certificate, signed by the Minister, of the amount claimed by him to be due for the cost, shall be *prima facie* evidence that the amount stated in the certificate is actually due.

**Where holding forfeited, netting to vest in Minister**

**14.** Where the owner of a holding owes money to the Minister for wire netting or other materials, and the holding is forfeited to the Territory, the

property of the owner in the netting and materials, and any right which the owner may have to recover contribution in respect of the same, shall pass to and vest in the Minister.

**Penalty for misuse of wire netting etc.**

**15.** If any person wilfully uses or disposes of any wire netting, materials, machinery, plant, or substances supplied by the Minister under this Act for any purpose or in any way other than that for which they were so supplied, he shall, on conviction, be liable to a penalty not exceeding 50 penalty units.

***Division 3—Barrier Fences***

**Powers of Minister to erect fences**

**16. (1)** The Minister may—

- (a) erect a rabbit-proof fence, or make rabbit-proof any existing fence, on any land, whether Crown lands or private, within the Territory, or across any road or travelling stock route, making gates in the fence for the passage of the public and their stock; and
- (b) co-operate with the board of any district outside the Territory in any such work.

**(2)** Any fence, whether erected or made rabbit-proof by the Minister or by the Crown, or by any board or person before or after the commencement of this Act, may be declared by the Minister by notification in the *Gazette* to be a “barrier fence,” and shall be deemed to be a barrier fence within the meaning and for the purposes of this Act so long as such notification remains in force:

Provided that any such notification may be cancelled or amended by the Minister.

**Case where compensation given**

**17. (1)** The Minister shall not be liable to pay or make compensation for anything lawfully done in exercise of the powers conferred by the next preceding section except damage by severance caused by the erection upon private land of a barrier fence.

**(2)** The amount of compensation payable under this section to any person shall, upon application by him, be determined by the Magistrates Court, and in determining the compensation the court shall take into consideration and set off any benefit accruing to the person’s property by the construction of the fence, and may award costs to or against any party appearing before it.

**Division 4—Private Fences**

**Description of a rabbit-proof fence**

**18.** For the purposes of this division, “rabbit-proof fence” means—

- (a) a substantial fence to which is attached galvanized wire netting not less than 1.05 metres wide, not less than 1.50 millimetres thick, and with a mesh not greater than 50 millimetres, such fence being furnished with suitable rabbit-proof gates or other appliances at every necessary break in the fence:

Provided that all other dimensions of the fence, including the height above ground, the depth below ground of the posts thereof, and of the wire netting thereon, and all other details in connexion therewith shall be in accordance with specifications to be published in the *Gazette* by the Minister; or

- (c) a fence reasonably sufficient, in the opinion of the Minister, for the purpose of excluding rabbits.

**Certificate by Minister that fence is rabbit-proof**

**19. (1)** The Minister shall, if so required in writing by the owner of a fence alleged to be rabbit-proof, cause the fence to be inspected; and if the Minister is satisfied that the fence is rabbit-proof, he shall grant a certificate to that effect.

**(2)** In any proceeding before a court to recover money by way of contribution in respect of any such fence, the certificate given in pursuance of subsection (1) of this section shall be *prima facie* evidence of the fact; and evidence in contradiction shall not be adduced unless the prescribed notice has been given.

**Rabbit-proof fence may cross road**

**20. (1)** Where any lands are divided or bounded by a road or travelling stock reserve or route or Crown lands, the Minister may grant to the occupiers or owners of such lands, or any of such owners or occupiers, permission to carry a rabbit-proof fence across such road, reserve, route, or Crown lands:

Provided that rabbit-proof gates shall be erected at places where the fence crosses such road or route, unless the Minister dispenses with the erection of the same.

(2) Any dispensation granted under this section may be granted for a limited time and subject to conditions, and may be revoked by the Minister upon application by any person interested.

### **Contributions to the cost of rabbit-proof fence**

21. (1) Where a boundary, or any part thereof, of any holding is fenced with a rabbit-proof fence, or a fence on such boundary, or part thereof, has been made rabbit-proof at the expense of the occupier or owner of the holding, or of the occupier or the owner of any land included in the holding, a contribution towards the cost of the work shall, subject to the provisions of this section, be payable by the owner of any land outside the holding and adjoining the rabbit-proof fence to the occupier or owner who has incurred the expense:

Provided that a contribution shall not be payable where the Minister is of opinion—

- (a) that the rabbit-proof fence has been erected, or the fence has been made rabbit-proof, otherwise than *bona fide* for the purpose of excluding or destroying rabbits; or
- (b) that no benefit is derived from the fence by the holding from the owner of which a contribution is demanded; or
- (c) that the nature of the holding is such that it cannot be kept rabbit-proof by the erection and reasonable maintenance and repair of a rabbit-proof fence as described by this Act:

Provided, however, that should the owner of the holding at any time make use of the fence as part of a rabbit-proof enclosure, or should the holding or any part thereof adjoining the fence be included in any group formed under this Act, the owner shall be liable for payment of a contribution as aforesaid in respect of so much of the fence as forms the boundary of the enclosure or group:

Provided also that, notwithstanding that the Minister may in any case have decided that no benefit was derived from the fence by the holding from the owner of which a contribution may have been demanded, if the Minister at any time subsequently decides that a benefit is then being derived from the fence by the holding, a contribution as aforesaid shall thereupon become payable in respect thereof.

(2) The right to receive a contribution as aforesaid shall vest, and the liability to pay the same shall arise, when the then occupier or owner of the holding gives to the then owner of the land outside the holding notice of demand.

(3) The following provisions as to contributions shall apply:

- (a) Any fence which, in the opinion of the Minister, is sufficiently approximate to any boundary shall be deemed to be on the boundary for the purposes of this section.
- (b) The Minister shall determine the amount of the contribution payable, and, subject to the provisions of this section, shall assess the amount of the contribution at half the value of the fence, or half the value of the work of making the fence rabbit-proof, as the case may be; and such value shall be the value at the date when the aforesaid notice of demand was given.
- (c) Any determination by the Minister under this subsection shall be final.

(4) An owner who uses as a boundary a fence which is outside the boundaries of his holding shall not be liable for payment of a contribution under this section or section 22, but the owner shall be liable to pay an annual rental in respect of the fence from the date when a claim in writing is made in that behalf by the person entitled thereto. The amount of such annual rental, and the dates for payment thereof, shall, on application, be determined by the Minister. Such amount shall be assessed at an amount not exceeding six per centum upon half the value of the fence, or half the value of the work of making the fence rabbit-proof, as the case may be, together with such further amount towards the average cost of the maintenance and repair of the fence as may be agreed upon between the parties, or, failing agreement, as may be determined by the Minister.

(5) Nothing in the Crown Lands Acts or the Dividing Fences Act of the State of New South Wales shall relieve any person from liability to make any payment under this Act.

#### **Adjoining holding to contribute half cost of maintenance**

22. (1) In any case where a contribution towards the cost of a rabbit-proof fence is payable under any of the provisions of the last preceding section, an annual contribution towards the expenses incurred in the maintenance and repair of the fence shall also be paid; and for the purposes of such annual contribution the years shall be taken to run from the date or recurring date of the notice of demand required by the said section.

(2) The right to receive such annual contribution, and a corresponding duty to maintain and repair the rabbit-proof fence, shall run with the holding whereof the occupier or owner was entitled to receive payment of the contribution

towards the cost of the fence; and the liability to pay such annual contributions shall run with the land whereof the owner was liable to pay the aforesaid contribution towards the cost of the fence.

(3) The amount of such annual contribution shall be one-half the expenses of, or incidental to, the maintenance and repair of the fence, as determined by the Minister.

### *Division 5—Grouping of Holdings*

#### **Erection of ring fence**

24. (1) Where it is considered expedient by the Minister that any area of land should be enclosed by a rabbit-proof ring fence, or where a petition is received by the Minister from a majority in number of the owners of the holdings or portions of holdings within any areas which it is desired by such majority should be so enclosed, the Minister shall obtain a report and determine whether the ring fence should be required to be erected as hereinafter provided.

(2) Any Crown lands may, with the consent of the Minister, be included in the area proposed to be enclosed by the ring fence, in which case the Territory shall, with respect to the payment for the fence, have the same rights and liabilities as an owner of private land.

(3) If the Minister consents to the erection of the ring fence, and to the supplying of the wire netting required for the erection thereof, he may give notice in the prescribed form to the owner of any holding or portion of a holding within the area proposed to be included within the ring fence, stating that he is prepared to sell wire netting to such owner for the purpose of the fence, and requiring him to erect a rabbit-proof fence upon the outside boundaries of so much of the area as is included within his holding, or to make rabbit-proof any existing fence on those boundaries. Such owner shall thereupon forthwith erect or make rabbit-proof such fence accordingly, and shall thereafter maintain and repair it to the satisfaction of the Minister. Where a rabbit-proof fence already exists on any such boundaries, it shall, for the purposes of this section, be deemed to have been made rabbit-proof in pursuance of the provisions thereof.

(4) If any such owner does not forthwith so erect or make rabbit-proof such fence, or if, after it has been erected or made rabbit-proof, he fails to maintain or repair it to the satisfaction of the Minister, the Minister may erect or make rabbit-proof or maintain or repair the fence, and may recover the cost thereof from the owner of the holding, and, until payment, such cost shall be and remain a charge upon such holding.

(5) Upon completion of the rabbit-proof ring fence as aforesaid, the lands (including all roads) enclosed thereby shall form a group of holdings, and the provisions of this Act, except subsection one and paragraph (a) of subsection two of section twenty-seven, shall, except so far as modified by this section, apply to such group.

(6) Every owner of a holding who has, in pursuance of this section, erected a rabbit-proof fence, or made rabbit-proof any existing fence on the boundary of his holding, or at whose cost the Minister has erected or made rabbit-proof such fence, shall be entitled to an annual contribution in respect thereof from the owners of all other holdings, or portions of holdings, included within the ring fence, in the proportion which such respective holdings, or portions of holdings, bear to the aggregate area of the holdings, or portions of holdings, included within the fence. The respective amounts of the annual contributions shall be determined by the Minister, and shall be assessed at six per centum of the value of the respective owners' interests in the fence, together with such allowance towards the average cost of the maintenance and repair of the fence as may be agreed upon between the parties, or, failing such agreement, as may be determined by the Minister.

But the owner of a holding which is enclosed within a rabbit-proof fence erected before or after the formation of the group shall not be liable to pay any contribution under this subsection.

(7) The yearly contributions payable by the various owners within the group shall be paid to the secretary of the group appointed under section twenty-seven, or in any case where the group is not known to have a duly appointed secretary, or the duly appointed secretary cannot be found, to the owner of any holding, or portion of a holding, included within the group whom the Minister designates as secretary. The secretary may, in either case, recover any such contribution, and shall annually distribute all such contributions received by him amongst the owners entitled thereto.

### **Formation of group**

**25. (1)** When a ring fence enclosing two or more holdings, or any portion thereof, is a rabbit-proof fence, made rabbit-proof by or by agreement between the occupiers or owners of those holdings, the lands (including all roads) so enclosed shall, if the consent of the Minister has been obtained before or after the making of the ring fence, form a group of holdings within the meaning and for the purposes of this Act.

(2) Any existing fence or portion thereof may form part of the ring fence of any group, but not without the consent of the owner of the fence or portion thereof whose holding thereby forms part of the group.

(3) The Minister may agree that any Crown lands shall be included within a group, and the Territory shall thereupon have the same rights and liabilities as regards the receipt or payment of contributions under the provisions of section twenty-seven of this Act as the occupier or owner of any holding of private lands within the group.

(4) The Minister may agree that any rabbit-proof fence erected by him, or any barrier fence, may be used for the purpose of the grouping of holdings.

### **Owner not liable for fencing land within rabbit-proof group**

26. When any group of holdings has been made rabbit-proof, the occupiers or owners thereof shall not be liable to contribute towards the cost of erecting or maintaining and repairing a rabbit-proof fence or making rabbit-proof any existing fence around any holding within the group; and it shall be immaterial whether the group has been made rabbit-proof before or after the commencement of this Act.

### **Grouped holdings**

27. (1) A group of holdings shall be deemed to be a single holding so far as regards any contribution towards the cost of the erection, maintenance, or repair of rabbit-proof fencing as payable by or to the occupiers or owners of adjoining holdings or lands outside the group.

(2) The following provisions shall apply to the holdings forming part of a group, and to the occupiers thereof:

- (a) The liabilities of the occupiers as between themselves, in respect of sums expended or to be expended for the erection, maintenance, or repair of the ring fence, or of amounts paid, or to be paid, as contributions towards the cost, maintenance, or repair of any portion of such fence, shall be proportionate to the respective areas of their holdings, and in any case of dispute shall be such as are declared by the Minister; and the amount declared by the Minister to be payable by any such occupier shall be a charge upon all land forming part of his holding.
- (b) The majority in number of the occupiers whose holdings for the time being constitute a group may, from time to time, appoint any person to be the secretary of the group; and proceedings may be taken under this



Act by or against the secretary for the time being of a group, as nominal plaintiff or defendant representing all the occupiers of holdings constituting, or which at the time when the liability arose constituted, the group.

- (c) In any case where a group of holdings is not known to have a duly appointed secretary, or the duly appointed secretary cannot be found, the Minister may designate the occupier of any holding included within the group to be the nominal defendant representing all the occupiers of all the holdings constituting the group for the purposes of any proceedings under this Act proposed to be taken against such group or such occupiers; and proceedings may thereupon be taken against that occupier as nominal defendant in the same way as if he were the duly appointed secretary of the group.
- (d) Where judgment has been recovered against the secretary of a group or other nominal defendant as aforesaid, and has not been satisfied, or where an order for the payment of money has been made against such secretary or nominal defendant, and has not been complied with, the person entitled under the judgment or order may apply to the Minister to settle the respective amounts to be contributed by the occupiers of the holdings within the group for satisfaction of such judgment or compliance with such order; and the Minister shall thereupon have jurisdiction to settle the said respective amounts in proportion to the respective areas of the holdings; and the person entitled under such judgment or order may take proceedings against each or any of such occupiers for the amount settled by the Minister.
- (e) A holding shall not cease to form part of a group by reason only of any change of ownership of the holding, or of any other holding; but any occupier may, with the permission of the Minister, and subject to any condition which he may impose, detach his holding from the group of which it formed part if the boundaries of the holding have been made rabbit-proof.
- (f) If at any time it appears to the Minister that a group of holdings is too large for the effective destruction of rabbits, and that the occupiers of not less than one-half of the grouped lands desires that the group may be subdivided, it shall be lawful for the Minister to authorize the subdivision of the group, and to determine the lines of subdivision. And the subdivision rabbit-proof fence between any two of the groups into which the original group has been subdivided shall in all respects,

be dealt with as if the same formed part of the ring fence of each such group.

***Division 6—Destruction of Rabbits and Noxious Animals by Owners and Occupiers***

**Duty of owners and occupiers to destroy rabbits and noxious animals**

**28.** It shall be the duty of the owner or occupier respectively of any land from time to time to suppress and destroy, by all lawful means, at his own cost, and in accordance with the requirements of the Minister as specified under the provisions of section thirty-three of this Act, all rabbits and noxious animals which may from time to time be upon the land, or upon any roads bounding or intersecting the same, or any part thereof.

Any such owner or occupier who fails to fully and continuously perform the duty imposed by this section shall be guilty of an offence.

Penalty: 5 penalty units.

**Authorised person may enter holding**

**30. (1)** Any authorized person may, on the production of his authority (if the production is demanded by any owner or occupier), from time to time enter any land with or without assistants, horses, and vehicles, in order to search whether any rabbits or noxious animals are on the land, or to erect or repair barrier fences or gates or to examine and inspect land, or for any purpose whatsoever under this Act, and may remain thereon so long and do all such things as are necessary or reasonable.

**(2)** Any person who falsely represents himself to be, or personates, an authorized person under this Act, shall be guilty of a misdemeanour, and shall, on conviction, be liable to be imprisoned with or without hard labour for any period not exceeding six months, or to pay a penalty not exceeding Two hundred dollars.

**(3)** Any person who wilfully assaults, obstructs, hinders, or interrupts, or causes to be assaulted, obstructed, hindered, or interrupted, any authorized person in the exercise of any power or authority vested in him by this Act, shall for every such offence, if no other penalty is specially provided, be liable to a penalty not exceeding Forty dollars; but no proceeding for the recovery of such penalty nor the payment thereof shall be a bar to any action at law for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not been made.

(4) For the purposes of this section an “authorized person” means a person having authority from the Minister, and such authority may be a general authority.

### **Bonus for scalps**

31. The Minister may pay such sums by way of bonus for the scalps of noxious animals, at such rate as the Minister may from time to time determine, and the rates so determined by the Minister shall be published in the *Gazette* and in one or more newspaper circulating in the district.

### **Certificates for scalps**

#### **Scalps to be destroyed by fire**

#### **Rewards, how payable**

32. When the scalps of any noxious animals killed within the Australian Capital Territory are delivered to any person duly authorized by the Minister to receive the same, a certificate shall be granted by the authorized person to the person delivering such scalps, and all such scalps shall be forthwith destroyed by fire in the presence of the person granting such certificate, who shall deliver to the Minister a certificate in writing to that effect. The amount specified in any such certificate shall be payable on presentation of the certificate to such person as is specified by the Minister.

### ***Division 7—Destruction of Rabbits and Noxious Animals by the Minister***

#### **Minister may require rabbits and noxious animals to be destroyed**

33. (1) The Minister may, by notice in the *Gazette*, specify—

- (a) the date or dates (not being less than one month from the date of the notice) on or before which the owners or occupiers of all or any lands within the district shall respectively commence the work of suppressing and destroying rabbits and noxious animals on such lands, or upon any roads bounding or intersecting the same; and
- (b) the period or periods during which the said work shall be continued and systematically carried out; and
- (c) the means (being means previously sanctioned by the Minister) which shall be adopted for carrying out the said work.

(2) Any such notice, or an abstract thereof, shall also be published not less than one month before the date or dates specified in one or more newspapers published or circulating in the district.

(3) The Minister may also give to the owner or occupier of any land within any district a peremptory notice in writing to take all proper steps in order to suppress and destroy rabbits and noxious animals on the land, and to adopt such means for the purpose as may be specified in the notice. The expression “proper steps” in this section means such steps as may be declared by the Minister in the notice or by notification to be proper steps for suppressing or destroying rabbits and noxious animals.

#### **Powers of Minister where owner or occupier makes default**

34. If any owner or occupier neglects or fails to comply with the terms of any notice, whether published in the *Gazette* or given to him in writing as aforesaid, he may be summoned to appear before the Minister or a Board created in pursuance of this Act, and unless he explains his neglect or failure to the satisfaction of the Minister, or receives an extension of time to comply with the notice, any person authorized by the Minister may enter upon the land and use such means and take such measures and do and perform such acts or things as to him appear proper or necessary to be done to insure the destruction of all or any of the rabbits or noxious animals upon the land, and shall have free right of ingress, egress, and regress into, over, and across the land for such period as may, in his opinion, be necessary for destroying such rabbits or noxious animals:

Provided that—

- (a) poison shall not be used unless notice has been given to the occupier of the land of the intention to use poison; and
- (b) nothing contained in this section shall prejudice any proceedings under this Act for the recovery of any penalty incurred by an owner or occupier of any land.

#### **Owner or occupier to pay expenses**

35. All reasonable costs, charges and expenses incurred under section 34 in destroying rabbits or noxious animals upon any land are recoverable as a debt due to the Territory by the owner or occupier of the land.

### **PART III—OFFENCES**

#### **Penalty for miscellaneous offences**

37. (1) Any person who—

- (a) wilfully carries, drives, or passes any live rabbit through, under, or over any rabbit-proof fence or gate; or

- (b) wilfully leaves open any gate in a rabbit-proof fence; or
- (c) without lawful authority (proof whereof shall lie upon him), wilfully destroys, injures, tears up, depresses, or removes any portion of a rabbit-proof fence or gate, or excavates under, or in any way tampers with any portion of such fence or gate, so as thereby to endanger its effectiveness as a rabbit-proof fence or gate; or
- (d) attempts to do any such act as is hereinbefore mentioned, or procures the same to be done,

shall be liable to imprisonment, with or without hard labour, for any term not exceeding six months, or to a penalty not exceeding 50 penalty units, or to both imprisonment and penalty.

(2) A rabbit-proof fence or gate, for the purposes of this section, shall mean a fence or gate apparently intended to protect any land from rabbits, and shall include a barrier fence, or gate therein, and it shall be immaterial whether or not such fence or gate is in accordance with the requirements of this Act.

**Penalty for keeping, liberating etc. live rabbits**

38. Any person who, without lawful authority (proof whereof shall lie upon him), wilfully liberates or attempts to liberate, or has in his possession any live rabbit (whether within a proclaimed rabbit-infected district or not), shall be liable to a penalty not exceeding 10 penalty units for every such offence; but nothing herein contained shall be construed to prohibit any person from keeping live rabbits or hares in any safe enclosure with the permission of the Minister first had and obtained.

**Penalty for interfering with traps etc.**

39. Any person who, without lawful authority (proof whereof shall lie upon him), wilfully destroys, injures, removes, or interferes with any trap, snare, poison, matter, or thing which is used or required for the purpose of capturing or destroying rabbits, and which is lawfully placed upon any land for such purpose, shall be liable to a penalty not exceeding 10 penalty units.

**Penalty for false certificate or statement**

40. (1) Any person who procures or obtains a certificate for scalps, knowing that a certificate has been previously granted for the same, or wilfully makes any false statement with respect to such scalps, shall be liable to a penalty not exceeding 50 penalty units, or to be imprisoned for any term not exceeding 6 months or both.

**Penalty for attempting to obtain payment for scalps from adjoining States**

(2) Any person destroying noxious animals in any State, and obtaining or attempting to obtain payment for scalps, or as bonuses for the same under this Act, shall, on conviction for any such offence, be liable to a penalty not exceeding 50 penalty units with or without imprisonment not exceeding 6 months.

**PART IV—MISCELLANEOUS****Expenditure of money on public lands**

41. Where money has been voted by the Legislative Assembly for the purpose of rabbit destruction on Crown lands, or for the erection or repair of barrier fences, the Minister may apply the money or any part thereof for that purpose, on such terms and conditions as he thinks fit.

**Jurisdiction of Minister not to be ousted**

42. In any proceedings under this Act, the jurisdiction of the Minister or of the court before which the proceedings are had shall not be ousted on the ground that the case raises any question of title to the land, or that the defendant does not reside within the boundaries of the jurisdiction of the Minister or court:

Provided that in such last-mentioned case the land in respect of which the proceedings are had is situated within the boundaries of the Australian Capital Territory.

**Minister may allow time for payment**

43. (1) In any proceedings under this Act before the Minister for the determination of any contribution, value, or other sum of money, the Minister may allow time for the payment of such contribution, value, or sum of money, and may determine the instalments by which the same may be paid, and appoint the dates on or before which the instalments shall be paid, and such contribution, value, or sum of money shall be payable by the instalments and on the dates so determined.

(2) Where time is so allowed, the Minister may order that interest at the rate of five per centum per annum be paid on the amount due in respect of such contribution, value, or sum of money.

**The provisions of the Crown Lands Acts as to procedure to apply**

44. The provisions of the Crown Lands Acts of the State of New South Wales regulating proceedings before Land Boards, and upon appeals and references to the Land Appeal Court under those Acts shall, as far as practicable, be applied to proceedings, appeals, and references under this Act, and for the purposes of proceedings under this Act the Minister shall have the same authorities and powers as are conferred by the Crown Lands Acts of the said State for the purposes of proceedings under the said Acts.

**Power to raise money by mortgage**

45. It shall be lawful for any person in whom any land is vested as mortgagee to add to his mortgage debt any sums expended or contributed by or recovered from him for or towards the erection of a rabbit-proof fence, or the converting of a fence into a rabbit-proof fence upon, near, or for the benefit of such land, or for or towards the maintenance or repair of any such fence; and it shall be lawful for any person in whom any land is vested as a trustee to raise the sums required or recovered for any such purpose by mortgage of the land, in the same way as if a power to mortgage for any or all of those purposes had been contained in the instrument creating or declaring the trusts.

**Arrangement with Board of adjoining district for erection of barrier fences**

46. The Minister may enter into an arrangement with the Pastures Protection Board of any pastures protection district adjoining the Territory, for the erection of a barrier fence, or the conversion of a fence into a barrier fence, on the common boundary of the Territory and such district, and for the subsequent maintenance and repair of the fence.

**Fines and penalties to be paid into Consolidated Revenue Fund**

47. Fines and penalties recovered under this Act shall be paid into the Consolidated Revenue Fund.

**Determination of fees**

47A. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.

**Payment of fees**

47B. A fee determined under section 47A is payable to the Territory in relation to the relevant matter specified in the notice referred to in that section, being a matter in respect of which the Executive may make regulations.

### Power to make regulations

48. The Executive may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

### NOTE

1. The *Rabbit Destruction Act 1919 (a)* as shown in this reprint comprises Act No. 6, 1919 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

| Ordinance   | Number and year       | Date of notification in <i>Gazette</i> | Date of commencement  | Application, saving or transitional provisions |
|---|-----------------------|--|---|--|
| <i>Rabbit Destruction Ordinance 1919</i>                  | 6, 1919               | 2 Oct 1919                             | 1 Jan 1921 (see <i>Gazette</i> 1921, p. 2213)   | —  |
| <i>Federal Capital Commission's Powers Ordinance 1924</i> | 12, 1924              | 20 Dec 1924                            | 20 Dec 1924   | —  |
| <i>Seat of Government (Administration) Ordinance 1930</i> | 5, 1930               | 1 May 1930                             | 1 May 1930 (see s. 2 and <i>Gazette</i> 1930, p. 891)   | —  |
|   | as amended by 4, 1933 | 2 Mar 1933                             | S. 4: 1 May 1930 (see s. 2 and <i>Gazette</i> 1930, p. 891)<br>S. 8: 2 Mar 1933<br>Remainder: 12 Apr 1932 | —  |
| <i>Rabbit Destruction Ordinance 1937</i>                  | 21, 1937              | 16 Dec 1937                            | 16 Dec 1937   | S. 3   |
| <i>Rabbit Destruction Ordinance 1938</i>                  | 40, 1938              | 22 Dec 1938                            | 22 Dec 1938   | —  |
| <i>Rabbit Destruction Ordinance 1943</i>                  | 8, 1943               | 27 May 1943                            | 27 May 1943   | —  |
| <i>Ordinances Revision Ordinance 1959</i>                 | 21, 1959              | 23 Dec 1959                            | 31 Dec 1959   | —  |



## NOTE—continued

## Table of Ordinances—continued

| Ordinance  | Number and year | Date of notification in Gazette | Date of commencement   | Application, saving or transitional provisions |
|--|-----------------|---------------------------------|--|--|
| <i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>     | 19, 1966        | 23 Dec 1966                     | 23 Dec 1966  | —  |
| <i>Rabbit Destruction Ordinance 1975</i>                         | 26, 1975        | 10 Sept 1975                    | 10 Sept 1975   | —  |
| <i>Ordinances Revision (Metric Conversion) Ordinance 1977</i>    | 64, 1977        | 22 Dec 1977                     | 22 Dec 1977  | —  |
| <i>Rabbit Destruction (Amendment) Ordinance 1980</i>             | 23, 1980        | 15 July 1980                    | 5 June 1982 (see Gazette 1982, No. S110)   | —  |
| <i>Magistrates Court Ordinance 1985</i>                          | 67, 1985        | 19 Dec 1985                     | 1 Feb 1986 (see Gazette 1986, No. G3, p. 265)  | —  |
| <i>Rabbit Destruction (Amendment) Ordinance 1986</i>             | 43, 1986        | 20 Aug 1986                     | 20 Aug 1986  | —  |
| <i>Self-Government (Consequential Amendments) Ordinance 1989</i> | 38, 1989        | 10 May 1989                     | Ss. 1 and 2: 10 May 1989<br>Remainder: 11 May 1989 (see s. 2 (2) and Gazette 1989, No. S164) | —  |

- (a) The *Rabbit Destruction Act 1919* was also amended by the *Seat of Government (Designation) Ordinance 1938* (No. 25, 1938) as amended by the *Ordinances Revision Ordinances 1938 and 1959* (No. 35, 1938 and No. 21, 1959).

Section 2 of the *Seat of Government (Designation) Ordinance 1938*, as amended, provides as follows:

“2. Where, in any Ordinance, not being an Ordinance specified in the Schedule to this Ordinance, or in any regulation or rule made under an Ordinance, the words ‘Territory for the Seat of Government’ or ‘Territory for the Seat of Government of the Commonwealth’ or ‘Territory for the Seat of Government of the Commonwealth of Australia’ or ‘Federal Capital Territory’ appear, the Ordinance, regulation or rule (as the case may be) is amended by omitting those words and inserting in their stead the words ‘Australian Capital Territory’.”

The amendments have been incorporated in this reprint but do not appear in the Table of Amendments.

**NOTE**—continued

Table 2

**Table of Acts**

| Act   | Number and year | Date of notification in <i>Gazette</i> | Date of commencement   | Application, saving or transitional provisions |
|---|-----------------|--|--|--|
| <i>Acts Revision (Position of Crown) Act 1993</i> | 44, 1993        | 27 Aug 1993                            | 27 Aug 1993<br>(see s. 2)  | —  |
| <i>Statute Law Revision (Penalties) Act 1994</i>  | 81, 1994        | 29 Nov 1994                            | Ss. 1 and 2: 29 Nov 1994<br>Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2) | —  |

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision      | How affected  |
|----------------|---|
| S. 3 .....     | rep. No. 26, 1975   |
| S. 4 .....     | am. No. 5, 1930 (as am. by No. 4, 1933); No. 40, 1938; No. 26, 1975; No. 23, 1980 |
| S. 5 .....     | rep. No. 21, 1959   |
| Ss. 6, 7 ..... | rep. No. 23, 1980   |
| S. 13 .....    | am. No. 21, 1959  |
| S. 14 .....    | am. No. 38, 1989  |
| S. 15 .....    | am. No. 19, 1966; No. 23, 1980; Act No. 81, 1994                                  |
| S. 16 .....    | am. No. 21, 1959  |
| S. 17 .....    | am. No. 21, 1959; No. 23, 1980; No. 67, 1985                                      |
| S. 18 .....    | am. No. 64, 1977; No. 23, 1980  |
| S. 21 .....    | am. No. 21, 1959; No. 23, 1980  |
| S. 22 .....    | am. No. 23, 1980  |
| S. 23 .....    | am. No. 23, 1980<br>rep. Act No. 44, 1993   |
| S. 24 .....    | am. No. 26, 1975; No. 38, 1989  |
| S. 25 .....    | am. No. 26, 1975; No. 23, 1980; No. 38, 1989                                      |
| S. 27 .....    | am. No. 21, 1959  |
| S. 28 .....    | am. No. 8, 1943; No. 19, 1966; Act No. 81, 1994                                   |
| S. 29 .....    | rep. No. 23, 1980   |
| S. 30 .....    | am. No. 19, 1966  |
| S. 31 .....    | am. No. 23, 1980  |
| S. 32 .....    | am. No. 5, 1930 (as am. by No. 4, 1933); No. 21, 1959                             |
| S. 34 .....    | am. No. 21, 1959; No. 26, 1975  |
| S. 35 .....    | am. No. 21, 1959; No. 26, 1975<br>rs. No. 23, 1980<br>am. No. 38, 1989            |

**NOTE**—continued**Table of Amendments**—continued

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision             | How affected  |
|-----------------------|---|
| S. 36 .....           | am. No. 19, 1966<br>rep. No. 23, 1980                     |
| Ss. 37-39 .....       | am. No. 19, 1966; Act No. 81, 1994                        |
| S. 40 .....           | am. No. 21, 1959; No. 19, 1966; Act No. 81, 1994          |
| S. 41 .....           | am. No. 38, 1989  |
| S. 47 .....           | am. No. 26, 1975  |
| S. 47A .....          | ad. No. 43, 1986  |
| S. 47B .....          | ad. No. 43, 1986<br>am. No. 38, 1989                      |
| S. 48 .....           | rep. No. 12, 1924<br>ad. No. 21, 1937<br>am. No. 38, 1989 |
| First Schedule .....  | am. No. 40, 1938<br>rep. No. 23, 1980                     |
| Second Schedule ..... | rep. No. 23, 1980   |

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