



ANNO SECUNDO

# GEORGII V REGIS.

A.D. 1911.

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No. 1066.

An Act to further amend "The Vermin Act, 1905," and for other purposes.

[Assented to, December 23rd, 1911.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**1.** (1) This Act may be cited alone as "The Vermin Act Amendment Act, 1911." Short titles.

(2) "The Vermin Act, 1905" (hereinafter called "the principal Act"), "The Vermin Act Amendment Act, 1907," and this Act may be cited together as "The Vermin Acts, 1905 to 1911." No. 905 of 1905. No. 940 of 1907.

**2.** This Act is incorporated with the other Acts mentioned in section 1, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

**3.** In this Act "occupier" has the same meaning as in Part VI. of the principal Act. Interpretation. Vermin Act, 1905, s. 4, definition of "occupier."

### *Loans for Supplying Vermin-proof Fencing Materials to Occupiers.*

**4.** (1) A Vermin Board may borrow money from the Government for the purpose of purchasing materials for vermin-proof fencing and supplying the same to occupiers of land in a special area within the district of such Board, but not within any Municipality or District Council District. Loans for vermin-proof fencing may be made to Vermin Boards. Cf. principal Act, s. 165.

(2) The Governor may, on the application of a Vermin Board, grant a loan to such Board for such purpose.

(3) Such loan shall be made out of moneys voted by Parliament for the purposes of this section.

**5.** The

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Division I. of Part VI. of principal Act to apply to Vermin Boards.

**5.** The provisions of Division I. of Part VI. of the principal Act shall apply to Vermin Boards and their respective districts, as well as to District Councils and their respective districts; and the said provisions shall be read and construed as if every reference therein—

- (a) To a Council included a reference to a Board:
- (b) To the clerk of a Council included a reference to the secretary of a Board:
- (c) To a district road included a reference to any public road in the district of the Board;

and a Board may make by-laws under Division XI. of Part III. of the principal Act for the purposes mentioned in section 186 of that Act.

Notice to debtor preliminary to exercise of special remedies given by this Act.

Cf. principal Act, s. 32.

**6.** (1) When any sum due to a Board under Division I. of Part VI. of the principal Act (read as provided by section 5 of this Act) is unpaid, the Board may send to the occupier by whom the same is due (hereinafter called the "debtor") a notice in the form of the Schedule to this Act, or in a form to the like effect.

(2) Such notice shall also be published three times in the *Gazette*.

Notices, how sent.

Ibid., s. 33.

**7.** The notice under section 6 shall be sent by post to the debtor, or to his agent or attorney in case there is any such agent or attorney resident in the said State known to the Board.

Land may be let for payment of sums due.

Ibid., s. 34.

**8.** If after one month from the third publication as aforesaid of such notice the sums mentioned therein as being due and payable by the debtor, or any portion thereof, remains unpaid, the Board may let the land mentioned in such notice, or any part thereof, for a year, and so on from year to year, until such sum and all other sums payable to the Board under Division I. of Part VI. of the principal Act (read as provided by section 5 of this Act) due at the time of the letting are fully paid and discharged, and may receive and retain the rents, and apply the same in payment—

- (a) In the first place, of all costs of and attending the notice, the publication thereof, and letting, and
- (b) In the next place, in and towards the payment of the said sums and all other such sums as aforesaid,

and shall hold any surplus of rent for the debtor.

Land may be sold for payment of sums due.

Ibid., s. 35.

**9.** (1) Instead of letting the land under section 8 of this Act, the Board may apply by petition to the Supreme Court for a sale of all or any part of the land.

(2) Such petition shall not, where the debtor is unknown, be presented until after one month from the third publication of the notice as mentioned in section 6.

(3) Such

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(3) Such petition shall not, where the debtor is known, be presented until after the expiration of six months from the third publication of such notice and service of a copy thereof or to the like effect upon the debtor or his authorised or generally recognised agent or attorney in the said State by delivering the same at or posting it directed to such debtor or agent, or attorney, at his last known place of abode in the said State.

(4) The Court, on being satisfied by affidavit or otherwise that the moneys mentioned in such notice are lawfully due, and were owing at the time of the first publication of such notice, and that all things required by this Act to be done have been done, may make an absolute order in the first instance, or may grant a rule, calling upon the debtor, if known, or to all whom it may concern, if the debtor is unknown, to show cause why an order should not be made for the sale by public auction of the land comprised in such petition, or so much thereof as may be sufficient to pay—

(a) The said moneys :

(b) Any further moneys due to the Board by the debtor under Division I. of Part VI. of the principal Act (read as provided by section 5 of this Act) up to the time of the application for sale :

(c) All costs and expenses of and attending the notice, the publication thereof, the application, and the sale :

(d) All other costs, charges, and expenses of any act done or performed by the petitioners, or by their authority, for carrying out the provisions of this Act.

(5) Unless good cause is shown to the contrary within the time fixed by such rule, the Court shall order—

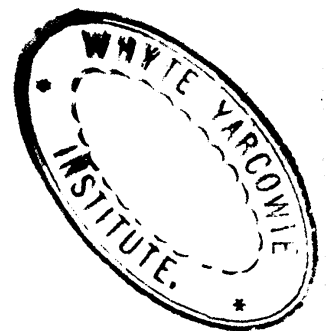
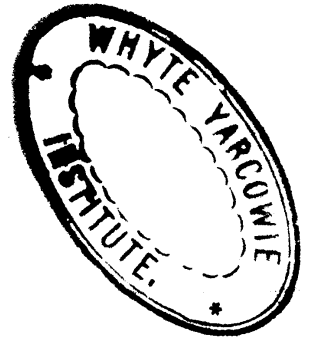
(a) The sale of the land in manner aforesaid ;

(b) Payment out of the proceeds of such sale of the said moneys, costs, charges, and expenses in preference to any mortgage or other security on such land ; and

(c) That a conveyance, or if the property is under the provisions of the Real Property Act, 1886, a memorandum of transfer (which the Registrar-General is hereby directed to register), be executed by the Master of the Court in a form to be approved by a Judge.

(6) Such conveyance, or the registration of such memorandum of transfer, as the case may be, shall vest an indefeasible estate in fee simple in the said land in the purchaser, his heirs, and assigns, free from all encumbrances.

(7) The balance arising from the proceeds of such sale shall remain and be subject to any future or other order of the Court for the behoof of the persons interested therein.



No. 380 of 1886.

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Different lands may be included in one petition.

Ibid., s. 36.

**10.** Lands belonging to different debtors may be included in one petition for sale, and the Court may make such orders as to the apportionment of the costs and expenses of and attending the sale of such lands, or any part thereof, as may be deemed just.

Distress may be levied.

Ibid., s. 37.

**11.** (1) Where any such sum as mentioned in section 6 is payable by any occupier to a Board, and remains due and unpaid for the space of one month after notice in writing to pay the same has been given to such occupier, any person by such Board thereunto authorised may, at any time thereafter, so long as any sum remains so unpaid, without any warrant, enter upon any land of such occupier, and distrain the goods, chattels, and effects found thereon for the amount remaining due and unpaid.

(2) If the amount for which distraint is levied, together with all reasonable costs of such notice, entry, and distraint, is not paid within five days after such levy, then the said distress, or so much thereof as is sufficient to pay the amount remaining unpaid and costs, may be sold.

(3) Any surplus remaining after payment of such amount and costs, and costs of and incidental to the sale, shall be returned to the owners of the goods, chattels, and effects distrained.

Commissioner's receiver to have same remedies as the Board.

**12.** Upon the appointment of a receiver or receivers under the provisions of section 181 of the principal Act (read as provided by section 5 of this Act), the remedies, rights, and powers by sections 6 to 11 inclusive of this Act conferred upon a Board shall vest in such receiver or receivers, and he or they may thereafter use and exercise the same, in addition to any other remedies, rights, and powers vested in him or them: Provided that the remedies, rights, and powers conferred by section 11 may be used and exercised by such receiver or receivers personally or in manner set forth in that section.

Commissioner may retain instalments of loan out of rates of the Board.

Cf. principal Act, s. 128 (7) and s. 134 (b).

**13.** When any instalment of, or interest on, an amount lent to a Board under this Act is due and has not been fully paid to the Commissioner, the Commissioner may from time to time apply the proceeds of any rate or rates of the Board received by him, or passing through his hands, towards the payment of such instalment or interest until the same is fully paid.

Other remedies preserved.

**14.** The remedies, rights, and powers provided by sections 6 to 13 of this Act are in addition to the remedies, rights, and powers provided by Division I. of Part VI. of the principal Act (read as provided by section 5 of this Act), and to all other remedies, rights, and powers provided by the principal Act or otherwise existing.

Interpretation of section 46 of the principal Act.

Suspension or abolition of Board.

**15.** The word "loan" in section 46 of the principal Act shall be read as applying to loans under Division I. of Part VI. of the principal Act, whether under that Division as passed or under that Division read as provided by section 5 of this Act, as well as to loans under Division IX. of Part III. of the principal Act.

**16.** The

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**16.** The exemptions from rates provided by subsection (3) of section 126 and section 127 of the principal Act shall not apply in respect of any land which is, for the time being, subject to any charge under Division I. of Part VI. of the principal Act, whether under that Division as passed or under that Division read as provided by section 5 of this Act.

Lands subject to charge for loan not to be exempt from rates.

**17.** (1) If a Council, having received a petition under section 167 of the principal Act to obtain a loan, does not apply under section 171 thereof for such loan, the Council shall transmit the petition to the Commissioner, together with any information they desire to convey in reference thereto or which the Commissioner may require, and also with a statement of the reasons why the loan is not applied for.

If Council unreasonably fails to apply for loan Governor may make advances on account of the Council.

(2) If upon considering such petition, information, and statement the Commissioner is not satisfied that sufficient reason exists for not applying for the loan, the Commissioner may give notice to the Council that he will recommend the Governor to make advances to the petitioners on account of the Council unless, within a time specified by such notice, the Council applies for the loan.

(3) If the Council does not within the time so specified apply for the loan the Commissioner may recommend to the Governor that advances be made to the petitioners, and the Governor may, subject to such terms and conditions as he thinks fit, make an order granting advances to the petitioners, or any of them, of the whole or any part of the amount of the estimate given in the petition, and advances shall be made accordingly.

(4) Such advances shall be deemed to be made by the Governor on account of the Council, and all the provisions of the principal Act as amended by any other Act shall apply, *mutatis mutandis*, as if—

- i. The order granting the advances were an order under section 172 of the principal Act granting a loan applied for by the Council;
- ii. The total amount of the advances were a loan applied for and obtained by the Council, and were the value of wire netting obtained by the Council by means of such loan; and
- iii. The amounts of the several advances were respectively the values of wire netting furnished by the Council under section 174 of the principal Act to the persons to whom the advances are made by the Governor.

*Various Amendments of the Principal Act.*

**18.** Section 42 of the principal Act is amended by the addition thereto of the following subsection, namely:—

Amendment of section 42 of principal Act.

(4) Notwithstanding anything in this section, no area shall be declared a Vermin-fenced District as aforesaid unless there are, at the

Proclamation of Vermin-fenced Districts.

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the time of the Proclamation, at least three ratepayers holding ratable property (other than ratable property belonging to the Crown) situated within such area.

Amendment of section 45 of principal Act.

**19.** Section 45, subsection (2), of the principal Act is hereby amended by inserting after the word "property" in the third line thereof the words "in whole or in part," and after the word "of" in the fourth line the words "his interest in"; and by inserting at the end thereof the following proviso:—"Provided that where any lessee of land included in such Vermin District shall have contributed towards the value of such fence, the amount of such contribution may be set off by the Board against the amount which the Board is liable to pay."

Adjoining occupier using fence to pay interest where Board has contributed to cost.

**20.** In addition to the case mentioned in section 116 of the principal Act, that section shall also apply to an occupier of land abutting on a vermin fence not owned by the Board, but in respect of which fence the Board has contributed not less than half the cost of so much thereof as abuts on such occupier's land.

Amendment of section 196.

**21.** Section 196 of the principal Act is amended so as to read as follows:—

Occupiers of land outside District Councils and Municipalities to pay share of cost of fence erected by adjoining owner.

196. In case any occupier of land not within a District Council District or Municipality has heretofore erected or hereafter erects a vermin fence upon the boundary or any part of the boundary of such land, the occupier of the adjoining land shall, three months after demand upon him, be liable to contribute towards the cost of erecting such fence to the extent of one-half of the value thereof at the time when such demand is made: Provided, however, that if the land occupied by the person from whom contribution is sought is not by means of the erection of such fence or otherwise enclosed, either by itself or together with lands occupied by any other person or persons, by a vermin or rabbit proof fence, or partly by one and partly by the other, the amount which such person shall be liable to contribute shall be limited to one-fourth of the value of such fence at the time of such demand being made; and a further one-fourth of the value of such fence shall become payable by such person immediately upon the land occupied by him becoming so enclosed.

Amendment of section 209.

When land deemed to be enclosed.

**22.** Section 209 of the principal Act is amended by substituting the words "at least three-fourths of the total length" for the words "three-fourths" in the first line of subdivision I. thereof.

Repeal of section 121.

**23.** Section 121 of the principal Act is repealed.

*Laying of Poison.*

Laying of poison for destruction of vermin.

**24.** (1) Subject to subsection (3) hereof, it shall be lawful for any Vermin Board or Municipal or District Council, for the purpose of carrying

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carrying out its duties under "The Vermin Acts, 1905 to 1911," with regard to the destruction of vermin, to lay poison on any land within the District or Municipality of such Board or Council, or on any Crown lands adjoining such District or Municipality. Cf. Dog Act, 1884, s. 14.

(2) Subject as aforesaid, it shall be lawful for any occupier of land, for the purpose of carrying out his duties under the said Acts with regard to the destruction of vermin, to lay poison on such land.

(3) No poison shall be laid on any land under the provisions of this section unless notice of such poison being laid is conspicuously exhibited on the land, and no poison shall be so laid within one hundred yards of any public road or way.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.

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## THE SCHEDULE.

“The Vermin Act Amendment Act, 1911.”

## NOTICE OF MONEYS PAYABLE FOR WIRE NETTING.

Section 6.

Notice is hereby given that there is now due and payable in respect of wire netting furnished in respect of (*or* furnished and erected on) the land (*or* lands, *as the case may be*) mentioned in the schedule hereto the sum (*or* sums) set opposite to the description of such land (*or* lands); and the occupier (*or* occupiers) of such land (*or* lands) is (*or* are) required to take notice that unless the amount (*or* amounts) so due, together with the cost of and attending this notice, be paid to the [*set out name of Vermin Board*] on or before the            day of           , 19    [*one month from the last publication of the notice*], the said Board will let such of the said land (*or* lands) in respect of which any money shall be then unpaid, from year to year, in manner provided by “The Vermin Act Amendment Act, 1911,” or apply to the Supreme Court for an order for the sale of such land (*or* lands), or so much thereof as may be necessary to produce the amount (*or* amounts) remaining unpaid, and also the costs of and attending such application and sale.

Dated this            day of           , 19   .

[*Signature.*]Chairman of [*name of Board.*]*The Schedule referred to.*

Description of Land.	Name of Occupier, or if unknown, state so.	Amount Due.		
		£	s.	d.