

T A S M A N I A.

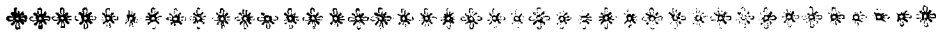


1882.

ANNO QUADRAGESIMO-SEXTO

VICTORIÆ REGINÆ,

No. 35.



AN ACT to provide for the Destruction of A.D. 1882.  
Rabbits in *Tasmania*. [23 October, 1882.] —

**B**E it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

**1** This Act may be cited as “The Rabbits Destruction Act, 1882.” Short title.

**2** This Act shall come into force and take effect on the First day of Commencement  
*November, 1882.* of Act.

**3** In this Act, unless the context otherwise determines— Interpretation.

“Crown Land” shall mean Waste Lands of the Crown :

“Occupier” shall include the owner of any unoccupied land ; and every person in possession of any Crown Land under any contract for the purchase thereof, or occupying any Crown Land for pastoral purposes, shall be deemed to be the occupier of such land for the purposes of this Act :

“Inspector” means the Chief Inspector or any Inspector of Sheep appointed under “The Scab Act, 1875,” and as to all notices, 39 Vict. No. 20. penalties, and other matters with reference to any District, shall mean the Inspector usually acting in or for such District ; and if there shall not be any such Inspector, then an Inspector appointed for such District by the Chief Inspector :

*Rabbits Destruction.*

A.D. 1882.

“ District ” shall mean a Municipal District, whether a Rural Municipality or not.

Districts may be declared “ Infested ” or “ Clear. ”

**4** The Governor in Council may, upon the report of the Chief Inspector, by Notice in the *Gazette*, declare any District to be an “ Infested District, ” and may upon the like report declare in manner aforesaid any other District to be a “ Clear District. ”

Chief Inspector of Sheep to take measures for destruction of rabbits.

**5** The Chief Inspector shall take such measures as he deems necessary to ensure the destruction within any Infested District of all rabbits then being in or upon any part of such District, and generally to enforce the provisions of this Act.

Occupier of land to destroy rabbits, under a penalty.

**6** Every occupier of land within any Infested District shall, within Four months after such District has been declared infested, take means to destroy all rabbits found on the land occupied by him ; and if after the expiration of the time herein limited any rabbits shall be found upon such land such occupier shall be liable to a penalty not exceeding Twenty Pounds, unless such occupier shall prove to the satisfaction of the adjudicating Justices that he has used due diligence to comply with the provisions of this Section. In any prosecution under this Section the occupier shall be competent to give evidence on his own behalf.

Persons authorised may enter upon lands to search for rabbits.

**7** It shall be lawful for an Inspector or any person authorised by an Inspector by writing under his hand in that behalf, without notice, to enter upon any lands within any Infested District, whether enclosed or not, at any reasonable hour in the day-time, for the purpose of ascertaining if any rabbits are thereupon ; and no such person shall be deemed a trespasser by reason of such entry, or be liable for any damage thereby occasioned, unless the same was occasioned by such person wilfully and without necessity : Provided that any person so authorised shall exhibit such written authority if required to do so by the occupier of such land, or his servant or agent ; and if, being so required, he shall fail to exhibit such authority, then he shall be liable to be deemed and dealt with as a trespasser.

If rabbits found on land and occupier fail to take steps to destroy same, Inspector may employ persons for that purpose.

**8** If at any time after the expiration of the time hereinbefore limited any rabbits shall be found upon any land, an Inspector shall cause a notice signed by him, in the form in the Schedule or to the like effect, to be served upon the occupier thereof requiring him within a certain time to be specified in such notice, not exceeding One month, to destroy all rabbits upon such land ; and if within such time such occupier shall fail to take steps to the satisfaction of the Inspector for the destruction of such rabbits, such Inspector may authorise any person in writing to enter upon the said land and to use all such lawful means as he may deem necessary for taking and destroying such rabbits and removing the carcases or any portion thereof, and for that purpose such person may stop up any rabbit-burrows or holes on such land.

It shall not be lawful for an Inspector or any person authorised by him to use dogs for the purpose of hunting or destroying rabbits upon any land.

Where in any case any rabbits shall be found upon any land the owner or occupier whereof is unknown or cannot be found, an Inspector shall, without serving any notice, forthwith take the steps hereinbefore mentioned for destroying the rabbits found upon such land.

*Rabbits Destruction.*

**9** Where by this Act any Notice is authorised or required to be given by any Inspector or other person, the same may be given either by delivering the same personally, or by leaving the same at, or posting the same addressed to the usual or last known place of abode in *Tasmania* of the person to whom the same is addressed.

A.D: 1882.  
Delivery of  
Notices.

**10** If it appears to an Inspector that any unoccupied Crown Lands within any District are infested with rabbits, and that there is reason to apprehend that such rabbits may spread to the occupied pastoral Crown Lands or private lands in such District, then the said Inspector shall forthwith take all such measures as he deems necessary for the purpose of destroying the rabbits thereon, and may appoint and employ such and so many persons as he sees fit to destroy the rabbits on such unoccupied Crown Lands, and every such person shall make use of such vehicles, instruments, and appliances on such land as shall be necessary for the purpose of destroying the rabbits thereon; and all expenses incurred by the Inspector as aforesaid shall be defrayed out of the Consolidated Revenue Fund.

Inspector to  
destroy rabbits on  
Crown Lands.

**11** Where an Inspector shall have incurred any expenses in taking or destroying the rabbits found upon the lands of any person, the amount of all such expenses shall be recoverable from such person by such Inspector, with costs, by action or plaint in any Court of competent jurisdiction, or by complaint under *The Magistrates Summary Procedure Act*.

Recovery of  
expenses  
incurred by  
Inspector.

19 Vict. No. 8.

The amount of all such expenses shall be ascertained by any two Justices, who shall sign the same in token of their allowance thereof; and in any proceeding to recover the amount of such expenses it shall be sufficient to produce the allowance of such expenses purporting to be signed by two or more Justices, and such allowance shall be *prima facie* evidence that the expenses so allowed were actually and lawfully incurred by such Inspector as aforesaid, and the onus of proving the contrary shall be upon the defendant.

**12** Where an Inspector shall have incurred any expenses in taking or destroying rabbits upon any land (not being Crown Land) the owner or occupier whereof is unknown or cannot be found, such Inspector shall proceed *ex parte*, in manner hereinbefore directed, to recover the amount of such expenses, and the amount so recovered shall be and remain a charge upon the property in respect of which such amount has been recovered, and payment of such amount may be enforced at any future time as if the then occupier had himself been liable to pay such amount in the first instance; and the production of the receipt for such amount paid by or recovered from any such occupier for any amount due before the commencement of his occupancy shall be a discharge for the amount so paid or recovered in payment of rent to the owner, and such owner shall be entitled to recover from the person who was occupier when such amount became payable the proportion of the amount to which such occupier was liable as money paid to his use.

Recovery of  
expenses where  
owner or occupier  
unknown.

**13** All expenses incurred by the Chief or any Inspector under this Act which are not recoverable, or which cannot be recovered from any other person, or which are not made chargeable upon the Consolidated Revenue Fund, shall be defrayed out of the Scab Act Fund.

Where expenses  
not recoverable,  
same to be  
defrayed out of  
Scab Act Fund.

*Rabbits Destruction.*

A.D. 1882.

Occupier, if  
tenant, may  
recover proportion  
of expenses from  
owner.

**14** Where the occupier of any land being the tenant thereof—

Shall have incurred any expenses in destroying the rabbits on such land; or

Shall have paid under this Act any sum of money on account of any expenses incurred by an Inspector under this Act, or any sum of money on account of any expenses incurred as aforesaid shall have been recovered from such tenant,

he shall be entitled to recover from his landlord the proportion of such expenses or sum of money hereinafter specified; that is to say—

In the case of a tenancy from year to year, or where the unexpired term of lease shall not exceed One year, Four-fifths of any such expenses or sum of money :

Where such unexpired term exceeds One year but shall not exceed Three years, Three-fifths of any such expenses or sum of money :

Where such unexpired term exceeds Three years but shall not exceed Five years, Two-fifths of any such expenses or sum of money :

And where such unexpired term exceeds Five years, One-fifth of any such expenses or sum of money :

And such occupier shall be entitled to recover from his landlord an amount not exceeding the proportion hereinbefore mentioned of the sum paid by or recovered from him as money paid to the use of the landlord, or the same may be deducted from or set off against the rent then due or thereafter to become due; and if any dispute shall arise as to the amount which such occupier shall be entitled to recover, such amount shall be ascertained by Two Justices in the mode hereinbefore prescribed in respect of expenses incurred by an Inspector; Provided that nothing herein contained shall affect the liability of a tenant to his landlord under any agreement for the payment of any sum of money under this Act by the tenant.

Half expenses in-  
curred by pastoral  
Crown tenant to  
be defrayed out of  
Consolidated  
Revenue Fund.

**15** Where any person in the lawful occupation of any pastoral Crown Land shall, after the commencement of this Act, expend any sum or sums of money in taking or destroying the rabbits being in or upon such land, or such person shall pay to an Inspector any expenses incurred by such Inspector for the like purpose, or such Inspector shall recover such expenses from such person, it shall be lawful for the Treasurer, out of the Consolidated Revenue Fund, upon the production to him of such proof of such payment or recovery as the Treasurer may require, to pay to such person one-half of all sums of money expended or paid or recovered from such person as hereinbefore mentioned: Provided that no such occupier shall be entitled to receive or recover any larger sum than he has already paid for rent of such Crown land during the current year.

Moneys in hands  
of Trustees of  
Districts and  
unpaid rates to  
be paid to Scab  
Act Fund.

**16** All moneys in the possession or control of the Trustees of any Rabbit District at the time of the commencement of this Act shall, within One month after the commencement hereof, be paid by such Trustees into the Treasury to the credit of the Scab Act Fund; and all Rates made by such Trustees and not paid or recovered at the time of the commencement of this Act shall be payable to and

*Rabbits Destruction.*

recoverable by the Chief Inspector or any Inspector, and may be recovered in the same manner as the Rural Police Rate is by law recoverable ; and all such moneys and rates when recovered shall form part of the Scab Act Fund. A.D. 1882.

**17** If any person wilfully obstructs, hinders, or interrupts, or causes or procures to be obstructed, hindered, or interrupted, any Inspector, or any person duly employed or authorised by an Inspector, or in the exercise of any power or authority vested in an Inspector or any of the persons aforesaid by this Act, or threatens, or assaults, or uses improper or abusive language to any of the persons aforesaid whilst in the performance or execution of his duty under this Act, every such person shall for any such offence, if not otherwise specially provided for, incur a penalty not exceeding Twenty Pounds : Provided, that no proceeding for the recovery of any such penalty, nor the payment thereof, shall be a bar to any action at Law by any of the persons aforesaid 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 passed, any Law or usage to the contrary notwithstanding. Obstructing Inspector, &c.

**18** If any person knowingly sets at large, or attempts to set at large, or is concerned in setting at large any live rabbits in any District, every person so offending shall for every rabbit so set at large, or attempted to be set at large, forfeit and pay a penalty not exceeding Twenty Pounds : Provided, that nothing in this Act contained shall apply to *Franklin* Island, or to any owner or occupier of land where rabbits are kept in secure enclosures. Penalty for setting rabbits at large.

**19** No person shall be liable to any penalty if such person shall set at large, or attempt to set at large, or be concerned in setting at large in any Infested District, any weasel, ferret, or domestic cat, anything contained in the Twenty-fourth Section of "The Game Protection Act, 1879," to the contrary notwithstanding. No person liable to penalty for setting weasel, &c. at large in Infested Districts. 42 Vict. No. 24.

**20** All offences against this Act, and all penalties and sums of money imposed or made payable by this Act, shall, where no other mode of proceeding is by law provided, be heard, determined, and recovered in a summary way by and before Two or more Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*. Offences to be dealt with summarily. 19 Vict. No. 8.

**21** Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*. Appeal from penalties. 19 Vict. No. 10.

**22** All expenses recovered by any Inspector, and all penalties imposed under this Act, shall be paid into the Treasury and shall form part of the Scab Act Fund. Appropriation of penalties.

**23** No action shall lie against any person for anything done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the defendant One month at least before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued ; and in any such action the defendant may plead the general issue, and give this Act and Persons acting under Act entitled to notice of action, &c.

*Rabbits Destruction.*

A.D. 1882.

the special matter in evidence; and no plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the defendant, or if the plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any defendant has by Law in other cases; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

Repeal of 41 Vict.  
No. 27.

**24** "The Rabbits Destruction Act, 1877," is hereby repealed:

Provided that such repeal shall not affect—

- (1.) Anything duly done before this Act commences and takes effect:
- (2.) Any liability accruing before this Act commences and takes effect:
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act commences and takes effect:
- (4.) The institution of any legal proceeding, or any other remedy for enforcing or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

Act to be in force  
until 31 *Decem-*  
*ber*, 1883.

**25** This Act shall continue in force until the Thirty-first day of *December*, 1883, and no longer.

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**SCHEDULE.**

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**NOTICE TO OCCUPIER TO DESTROY RABBITS.**

18

To

TAKE notice that you are hereby required, under "The Rabbits Destruction Act, 1882," within \_\_\_\_\_ days from the date of the service of this notice upon you, to take immediate measures to ensure the complete destruction of rabbits on the land of which you are the occupier; and that if you do not within such time comply with the same, I shall authorise some person in that behalf to enter upon the said land and take such other measures in accordance with the said Act as may be deemed necessary to ensure the complete destruction of such animals.

*A.B.,*  
*An Inspector under the said Act.*