

South Australia

Dog Fence Act 1946

An Act to provide for the establishment and maintenance of dog-proof fences in the State in order to prevent the entry of wild dogs into pastoral areas, and for incidental purposes.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Dog Fence Act 1946*.

4—Interpretation

- (1) In this Act, unless the context or subject matter otherwise requires—

board means The Dog Fence Board constituted under this Act;

Crown lands means Crown lands as defined in the *Crown Lands Act 1929*;

dog fence means the primary dog fence, or a secondary dog fence, established under this Act;

financial year means the period of 12 months ending on 30 June;

inside a dog fence means—

- (a) in relation to the primary dog fence—land that is within the portion of the State bounded by the primary dog fence, the eastern border of the State and the coast of the State; or
- (b) in any other case—land within the State to which entry by wild dogs is further restricted by a secondary dog fence;

land includes, according to the context, any interest or right under a lease or licence of Crown lands or an agreement to purchase Crown lands;

local board means a local dog fence board established under Part 4A;

member means a member of the board;

occupier in relation to land means a person who has, or is entitled to, possession or control of the land and includes—

- (a) where the land is alienated from the Crown by grant in fee simple, the owner of the estate in fee simple; and
- (b) where the land is held of the Crown by lease or licence, the lessee or licensee; and
- (c) where the land is held of the Crown under an agreement to purchase, the person on whom the right of purchase is conferred by the agreement;

outside a dog fence means—

- (a) in relation to the primary dog fence—land that is outside the portion of the State bounded by the primary dog fence, the eastern border of the State and the coast of the State; or
- (b) in any other case—land within the State outside of an area to which entry by wild dogs is further restricted by a secondary dog fence;

owner in relation to land means—

- (a) where the land is alienated from the Crown by grant in fee simple, the owner of the estate in fee simple;
- (b) where the land is held of the Crown by lease or licence, the lessee or licensee;
- (c) where the land is held of the Crown under an agreement to purchase, the person on whom the right of purchase is conferred by the agreement;
- (d) in any other case, the Crown;

primary dog fence see section 18(2);

secondary dog fence means a dog fence other than the primary dog fence;

wild dog means—

- (a) a dingo or a dog that is any cross of a dingo; or
 - (b) a feral dog.
- (2) For the purposes of this Act, a fence is dog-proof if, in the opinion of the board, it is so constructed and maintained as to provide an effective barrier against the movement of wild dogs.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

Part 2—Constitution of the board

5—Constitution of board

- (1) The *Dog Fence Board* is established.
- (2) The board is a body corporate with perpetual succession and a common seal and, subject to this Act, has power in its corporate name to take, hold, and dispose of real and personal property of every kind and be a party to any legal proceedings.
- (3) A court or person acting judicially will take judicial notice of the seal of the board and when the seal appears on any document will presume that it was properly affixed.

6—Members of board

- (1) The board is to consist of five members of whom—
 - (a) one will be a person nominated by the Minister; and
 - (b) two (each of whom is an occupier of ratable land and at least one of whom is an occupier of ratable land adjoining the primary dog fence) will be appointed by the Governor on the nomination of the South Australian Farmers Federation Inc.; and
 - (c) one (who is an occupier of ratable land but not a Public Service employee) will be appointed by the Governor on the nomination of the NRM Council; and
 - (d) one will be appointed by the Governor on the nomination of the Far West Dog Fence Boards Association Incorporated.
- (1a) The Minister will appoint from amongst the members of the board a person to chair the meetings of the board.
- (2) Where a nominating body referred to in subsection (1) fails to make a nomination within 60 days of being requested by the Minister to make the nomination, the Minister may nominate such person as the Minister thinks fit.
- (3) A person nominated by the Minister under subsection (2) may be appointed to the board by the Governor and, on appointment, will be taken to have been duly nominated and appointed in accordance with subsection (1).
- (4) In this section—

occupier of ratable land means—

- (a) an occupier of land that is ratable land under section 25; or
- (b) an occupier of land in relation to which a contribution has been declared under section 27A to be payable for the current financial year,

and includes a shareholder of a company that is an occupier of land referred to in paragraph (a) or (b).

7—Term of office

- (1) Except as otherwise provided by this Act, a member will, subject to this Act, hold office for a term, not exceeding 4 years, specified in the instrument of appointment.
- (3) A retiring member will hold office until his or her successor is appointed.
- (4) A person ceasing to be a member by reason of the expiration of his or her term of office is eligible for re-appointment if otherwise eligible under this Act.

10—Method of filling vacancies

On the office of a member of the board becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

11—Casual vacancies

- (1) In addition to the retirement of a member by the expiration of his or her term of office, the office of a member is vacated on—
 - (a) the death or bankruptcy of the member, or the execution by the member of a statutory deed of assignment for the benefit of his or her creditors, or his or her compounding with his or her creditors for less than 100 cents in the dollar, or the conviction of the member of any indictable offence; or
 - (b) the absence of the member from three consecutive ordinary meetings of the board, without leave of the Minister; or
 - (c) the absence of the member from the State for three consecutive months without leave of the Minister; or
 - (d) the resignation of the member by notice in writing, posted or delivered to the Minister.
- (2) A body on the nomination of which a member has been appointed by the Governor may, by notice in writing given to the Minister, request that the appointment of that member be determined before the expiration of his or her term of office. If satisfied that the appointment should be determined, the Governor may determine the appointment of the member.

12—Dismissal of member

The Governor may dismiss a member from his or her office—

- (a) if in the opinion of the Governor the member is, owing to mental or physical incapacity, incapable of discharging the duties of his or her office; or
- (b) if the member has been guilty of serious misconduct which, in the opinion of the Governor, makes it undesirable that he or she should remain a member of the board.

13—Notification of appointment

The appointment of a member must be notified in the Gazette and will take effect as from the date specified in the notification.

14—Meetings and quorum of board

- (1) Meetings of the board will be held at such times and at such place as is from time to time determined by the board but a meeting of the board must be held not less than once in every three months.
- (2) A quorum of the board consists of three members.

15—Member presiding at meetings of the board

- (1) The member appointed to chair the board will preside at meetings of the board or, in the absence of that member, a member chosen by those present.
- (2) The member presiding at a meeting will have a casting vote as well as a deliberative vote.

15A—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter shared in common with those engaged in or associated with animal or plant control generally or primary industry generally, or a substantial section of those engaged in or associated with animal or plant control or primary industry.

16—Appointment of officers and employees

- (1) The board may appoint a secretary and such other employees as are necessary for the purposes of the board at such remuneration as the board from time to time fixes.
- (2) An employee of the board is not a Public Service employee.

17—Members' remuneration

- (1) Each member is to be paid from the funds of the board such remuneration as is from time to time fixed by the Minister.
- (2) Each member is to be paid from the funds of the board travelling or other expenses necessarily incurred by him or her on the business of the board at a rate from time to time fixed by the Minister.

Part 3—Provisions as to dog fences

18—Establishment of the primary dog fence

- (1) For the purpose of preventing the entry of wild dogs into the pastoral and agricultural areas of the State, a dog-proof fence (the *primary dog fence*) is to be established and maintained in the northern areas of the State.
- (2) The Governor may, by proclamation made on the recommendation of the board, declare that the site of the primary dog fence is the site described in the proclamation.

19—Establishment of secondary dog fences

- (1) For the purpose of further restricting the movement of wild dogs within the pastoral and agricultural areas of the State, further dog-proof fences (*secondary dog fences*) may be established and maintained in the area inside the primary dog fence.

- (2) The Governor may, by proclamation made on the recommendation of the board, declare that the site of a secondary dog fence is the site described in the proclamation.
- (3) The Governor may, by subsequent proclamation made on the recommendation of the board, vary or revoke a proclamation made under this section.

20—Construction of fence to complete dog fences

- (1) If, in order to complete any portion of a dog fence, it is necessary to construct a new fence on any land or if in order to make dog-proof any part of a dog fence situated on any land, it is necessary that the fence be altered for that purpose, the board may, by notice in writing given to the occupier of the land, or, as the case may be, the owner of the fence require the occupier to construct the new fence or, as the case may be, the owner to alter the fence, within the time and in accordance with the directions specified in the notice.
- (2) The occupier or, as the case may be, the owner must comply with the requirements of the notice, and in default of such compliance, the board may erect the fence or, as the case may be, carry out the alterations, and may recover the cost of so doing from the occupier or, as the case may be, the owner as a debt due to the board by the occupier or owner.
- (3) The board must not issue a notice under subsection (1) except after consultation with the occupier of the land, or the owner of the fence, as the case may require.

21—Replacement of parts of dog fences

- (1) The board may carry out work, or approve the carrying out of work, for the construction of a dog-proof fence, or for the alteration of a fence to make it dog-proof, to replace an existing part of a dog fence.
- (2) The board may enter into an agreement for contributions to be made to the board, or by the board, towards the cost of work carried out under subsection (1).
- (3) Where—
 - (a) the board carries out work to replace an existing part of a dog fence with another fence that would, as part of a dog fence, be under the same ownership; and
 - (b) the fence to be replaced is in disrepair and, in the opinion of the board, in such a condition, or on such land, that it is not reasonably practicable to make it good as dog-proof fencing,

the board may recover the cost of the work from the owner of the existing part of a dog fence as a debt due to the board by the owner.

- (4) On the recommendation of the board, the Governor may, by proclamation, declare a specified dog-proof fence to be part of the dog fence in place of an existing part of the dog fence specified in the proclamation.

22—Duty of owner to maintain dog fence and destroy wild dogs

- (1) The owner of any part of a dog fence—
 - (a) must at all times keep it in a dog-proof condition and properly maintained as a dog-proof fence; and

- (b) must, for the purpose of keeping it in that condition and so maintained, cause it to be inspected at intervals of not more than 14 days; and
 - (c) must take all reasonable steps to destroy all wild dogs in the vicinity of the part of a dog fence owned by the owner by shooting or trapping the dogs or by laying poisoned baits for them.
- (2) An owner of any part of a dog fence who fails to comply with subsection (1) is, in addition to any liability that may be incurred under section 23(2), guilty of an offence.
Penalty: Division 8 fine.

23—Powers and duties of board as to dog fences

- (1) The board has the following powers and duties with respect to dog fences:
 - (a) the board must ensure that all dog fences are properly maintained and are at all times dog-proof;
 - (b) the board must ensure that dog fences are properly inspected;
 - (c) the board must ensure that wild dogs are destroyed in the vicinity of a dog fence by the owners of the dog fence.
- (2) If the board is satisfied that an owner of any part of a dog fence has failed to maintain or inspect any part of the dog fence owned by him or her or to keep the fence dog-proof or to destroy wild dogs in the vicinity of the fence, the board may carry out any necessary work for the purpose of maintaining or inspecting the fence or making it dog-proof or of destroying wild dogs in the vicinity of the fence, and may recover the cost of so doing from the owner as a debt due to the board by the owner.
- (3) For the purposes of this section, the board, or a person authorised by the board, may enter and remain on land on which a dog fence is situated.

23A—Dog fences on Crown land

- (1) The board may—
 - (a) for the purpose of completing or replacing a portion of a dog fence, erect a fence on any Crown land;
 - (b) make dog-proof any fence on Crown land;
 - (c) maintain any such fence.
- (2) Without limitation of the powers conferred by this section, the board may, for the purpose of carrying out any work authorised by subsection (1), enter into any arrangement with the occupier of any land.

24—Payments to owners of dog fences

- (1) The board must, in each financial year, pay to each owner of part of a dog fence an amount (not exceeding \$250 for each kilometre of fence owned by him or her) to enable the owner to maintain and inspect that part of the fence and to destroy wild dogs in the vicinity of that part of the fence.
- (1aa) For the purpose of determining the amount to be paid under subsection (1), the board may fix differential rates of payment in respect of different parts of a fence.

- (1a) If any part of a dog fence is owned jointly by two or more owners, the board must pay the amount referred to in subsection (1) to such of the owners as the board is satisfied will undertake the liability of carrying out the work referred to in subsection (2), and the board may require the joint owners to enter into an agreement relating to that liability.
- (1b) Subsection (1a) does not derogate from section 22 or 23.
- (2) An amount paid to an owner must be applied by the owner for the purpose of the maintenance and inspection of a fence and the destruction of wild dogs in the vicinity of the fence.
- (2a) With the consent in writing of the board, the owner may apply any such amount or any part of it for the payment of any interest payable in respect of any capital liability incurred by the owner in respect of a fence.
- (2b) A consent may be given under subsection (2a) for a period and on conditions fixed by the board.
- (3) The board may, in any case it thinks fit, pay an amount payable under this section in instalments.
- (4) An amount paid to an owner under this section must be applied during the financial year in respect of which it is paid or during such other period as may be directed in writing by the board and in accordance with any other directions in writing given by the board at the time of payment to the owner.
- (5) If under this Act an amount is payable to the board by an owner, that amount must be set off against any amount payable to the owner under this section.
- (5a) If satisfied that an owner will not properly carry out the duties imposed on him or her by this Act the board may refuse to pay to the owner the balance of the amount payable to the owner under this section or any other amount payable to the owner under this section.
- (6) The board may, by notice in writing given to an owner to whom an amount is paid under this section, require the owner to supply to the board within the time specified in the notice, a statement in writing showing how any amounts so paid have been expended during the period specified in the notice and during the financial year in which the notice is given or during the preceding financial year.

24A—Provisions as to ownership of dog fences

- (1) Subject to subsection (2), where part of a dog fence stands or is erected or constructed on land comprised in a Crown lease as defined in section 147 of the *Crown Lands Act 1929*, the lessee of the land under the lease will, for the purposes of this Part, be taken to be the owner of such part of the fence on that land as is not vested in a local board.
- (2) Where a dog fence divides contiguous land of adjoining owners, the owner of the land inside the dog fence will, for the purposes of this Part, be taken to be—
 - (a) the owner of the land on which that part of the fence is situated; and
 - (b) the owner of so much of that part of the fence as is not vested in a local board.
- (3) Where a part of a dog fence adjoins the area in relation to which a local board is established, the ownership of that part of the dog fence is vested in that local board.

- (4) However, the Governor may, by proclamation made on the recommendation of the board and with the agreement of the relevant owner of the land, vest part of the fence vested by subsection (3) in the owner of the land on which the fence is situated.
- (5) The Governor may, by subsequent proclamation made on the recommendation of the board, re-vest any part of the fence vested by subsection (4) in a local board.

Part 4—Financial provisions

25—Imposition of rates on ratable land

- (1) The board may, by notice published in the Gazette, declare that any holding of more than 10 square kilometres of land that is situated within an area inside a dog fence specified in the notice is ratable land and, by further notice, amend or vary that notice.
- (2) With the approval of the Minister, the board may, by notice published in the Gazette, declare in respect of each financial year a rate on ratable land and a minimum amount payable by way of rates.
- (3) The rate must be expressed as an amount per square kilometre of ratable land, not exceeding \$1.20 per square kilometre.
- (4) Where the amount of rate payable by a person would be less than the minimum amount for the time being declared under this section, the amount payable by that person is that minimum amount.
- (5) In this section—
holding includes 2 or more parcels of land that—
 - (a) are farmed as a single enterprise; and
 - (b) are occupied by the same person or persons, whether or not the pieces of land are contiguous.

26—Special rate in respect of local board areas

- (1) The board may, by notice published in the Gazette, in respect of each financial year, declare a special rate on holdings of more than 100 hectares that are situated within the area in relation to which a local board is established.
- (2) The special rate must, unless the Minister and each occupier of land on which the special rate is declared agree otherwise, be expressed as an amount per square kilometre of the land on which it is declared, not exceeding \$3 per square kilometre.
- (3) The amount collected or recovered by the board in consequence of the declaration of a special rate on land within the area in relation to which a local board is established, less the cost to the board of collection and recovery of that amount, is to be paid to the local board.

27—Payment and recovery of rates and special rates

- (1) The board must as soon as practicable after the declaration of a rate or special rate under this Part serve on the occupier of ratable land or on the occupier of land on which the special rate is declared, as the case may be, a notice stating the amount the occupier is liable to pay by way of rates or special rates, as the case may be.

- (2) Subject to subsection (3), the amount of the rate or special rate imposed under this Part is due and payable on the expiration of 28 days from the day on which the notice is served under subsection (1).
- (3) The board may, in such cases and with such conditions as it thinks fit, extend the time for payment of the rate or special rate.
- (5) Any rate or special rate imposed under this Part is, when it becomes due and payable, a debt due to the board and may be recovered in any court of competent jurisdiction.

27A—Contribution by councils as alternative to rating by board

- (1) The board may, with the approval of the Minister and after consultation with the Local Government Association of South Australia, by notice published in the Gazette—
 - (a) declare a council (other than a council whose area is comprised of or includes ratable land under section 25) to be a participating council for the purposes of this section; and
 - (b) before 31 December in any year, declare that a contribution for the next financial year is to be paid to the board by each participating council consisting of—
 - (i) in respect of the portion of the council area that is rural land—a specified percentage, not exceeding one per cent, of the general rate revenue to be derived by the council for that next financial year in respect of that rural land; and
 - (ii) in respect of the portion of the council area that is urban land—a specified percentage, not exceeding 0.25 per cent, of the general rate revenue to be derived by the council for that next financial year in respect of that urban land.
- (2) The board may, by notice published in the Gazette, amend or vary a notice under subsection (1).
- (3) The board must cause notice in writing of a declaration under subsection (1)(b) to be served on each council to which it applies not later than 31 December of the year in which the declaration is made.
- (4) A council to which a declaration under subsection (1)(b) applies must pay the contribution specified in the declaration to the board for the credit of the Dog Fence Fund not later than 31 May in the financial year next following the making of the declaration.
- (5) In this section—

council means a council constituted under the *Local Government Act 1999*;

rural land means land that is ratable land under the *Local Government Act 1999* and does not lie within a municipality or township within the meaning of that Act;

urban land means land that is ratable land under the *Local Government Act 1999* and lies within a municipality or township within the meaning of that Act.

28—Charge to be payable by occupiers of land outside dog fence

- (1) The board may, in respect of a financial year, levy a charge on the occupier of land to which this section applies.

- (2) The amount of a charge levied against an occupier under this section is to be calculated by multiplying the length of that part of a dog fence that is adjacent to his or her land (expressed in kilometres) by the prescribed rate.
- (3) Subject to subsection (4), a charge under this section becomes due and payable on the expiration of 28 days from the day on which notice of the charge is served on the occupier.
- (4) The board may, in such cases as it thinks fit, extend the time for payment of the charge by such period as it considers the circumstances warrant.
- (5) A charge under this section is, when it becomes due and payable, a debt due to the board and may be recovered in any court of competent jurisdiction.
- (6) Amounts received by the board under this section must be paid to the owners of those parts of a dog fence that are contiguous to land occupied by persons against whom the charges are levied.
- (7) Payments made under subsection (6) must be proportioned amongst the owners according to the length of dog fence that divides their land from the land occupied by the persons charged under this section, and are in addition to other payments that may be made by the board under other provisions of this Act.
- (8) The board must, at the expiration of each successive period of five years after the commencement of the *Dog Fence Act Amendment Act 1984*, in consultation with the South Australian Farmers Federation Inc., review the prescribed rate and may, on the completion of the review, recommend to the Governor that the prescribed rate be increased or reduced.
- (9) In this section—

land to which this section applies means land of one occupier (being land situated outside a dog fence) that is divided from land of another occupier by the dog fence;

prescribed rate means \$37.50 per kilometre or such other amount per kilometre as may be fixed by regulation on the recommendation of the board under subsection (8).

31—Subsidy

The Treasurer must, out of money to be provided by Parliament for the purpose—

- (b) as soon as may be after the commencement of each financial year, pay to the board a subsidy at the rate of \$1 for every dollar of the rates and contributions by councils declared by the board for each such financial year and payable in respect of each such financial year.

32—Advance to board by Treasurer

For the temporary accommodation of the board, the Treasurer may, without any further appropriation than this section, from time to time advance to the board from the Consolidated Account any amount considered necessary by the Treasurer at such interest and on such conditions as the Treasurer thinks fit and an amount so advanced may be set off against any future subsidy payable to the board under section 31.

32A—Borrowing and investment powers of board

- (1) The board may, for the purposes of this Act, borrow money from the Treasurer or, with the consent of the Treasurer, from any other person.

- (2) Liabilities incurred by the board under subsection (1) with the consent of the Treasurer are guaranteed by the Treasurer.
- (3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) is to be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.
- (4) Any money of the board that is not immediately required for the purposes of this Act may be invested in such manner as the Treasurer may approve.

33—Dog Fence Fund

- (1) The money of the board is to be held by the Treasurer in a fund called "The Dog Fence Fund".
- (2) The fund will consist of—
 - (a) money received by the board as rates or contributions by councils;
 - (b) money paid to the board as a subsidy on rates or contributions by councils declared by the board;
 - (c) any other money received by the board.
- (3) The fund may, without any further appropriation than this Act, be expended by the board for the purposes of the execution and administration of this Act.

34—Annual report

- (1) The board must within three months after the close of each financial year, prepare and present to the Minister a statement of its receipts and payments and a report on its operations during that financial year and the report must as soon as practicable after it has been received be laid before both Houses of Parliament.
- (3) The board must, within 14 days after presenting its report and statement of receipts and payments to the Minister, publish in the Gazette a copy of the statement of receipts and payments.

35—Audit

- (1) The Auditor-General must make an annual audit of the board's accounts and for the purpose of any audit may exercise any of the powers which he or she could exercise for the purpose of auditing the accounts of a Government department.
- (2) For each audit the board must pay to the Treasurer a reasonable fee of an amount approved by the Treasurer.

Part 4A—Local dog fence boards

35A—Local dog fence boards

For the purpose of defraying the cost of erecting and maintaining part of a dog fence, or a fence that the board proposes to substitute as part of a dog fence in lieu of an existing part, the Governor may, on the recommendation of the board, by proclamation, establish in relation to such area inside a dog fence as is specified in the proclamation a local dog fence board constituted of the persons specified in the proclamation and confer and impose on the local board the powers and duties specified in the proclamation.

35AB—Borrowing and investment powers of local board

- (1) A local board may, for the purposes of this Act, with the consent of the board—
 - (a) borrow money from the Treasurer; or
 - (b) borrow money, with the additional consent of the Treasurer, from any other person.
- (2) Liabilities incurred by a local board under subsection (1) with the consent of the Treasurer are guaranteed by the Treasurer.
- (3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) is to be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.
- (4) Any money of a local board that is not immediately required for the purposes of this Act may be invested in such manner as the Treasurer may approve.

35C—Variation and abolition of local boards

The Governor may, on the recommendation of the board, by proclamation—

- (a) amend or vary a proclamation made under section 35A of this Act; or
- (b) abolish a local board and make provision for incidental matters.

Part 5—Miscellaneous

36—Administrative arrangements

- (1) The board may arrange with the Minister on such terms as are mutually agreed, for the carrying out by employees of the Government of any administrative work on behalf of the board and of the compiling and keeping of any records necessary for the purposes of the board.
- (2) Without limiting the generality of subsection (1), any such arrangements may provide that measures or proceedings for the recovery of rates under this Act may be taken on behalf of the board by employees of the Government and measures or proceedings so taken will be presumed to have been taken by the board.

37—Inspection of dog fences by Government employees

- (1) The Minister may arrange for the inspection of a dog fence by employees of the Government at such intervals as are determined by the Minister on the recommendation of the board.
- (2) For the purposes of subsection (1), the Government employee may enter and remain on land on which the fence is situated.

39—Effect of notice

If a notice required to be given under this Act by the board is given to an occupier or to the owner of a fence, that notice will be taken to have been given to any successor in occupation or ownership of that occupier or owner.

40—Service of notice

A notice required by this Act to be given by the board to a person may be given by post addressed to the place of business or residence of that person.

41—Recovery of amounts payable to board

- (1) Where the board is empowered to recover the cost of any work from a person under this Act, the board must first serve notice on the person of the amount of the cost and the amount becomes due and payable on the expiration of 28 days from the day on which the notice is so served.
- (1a) Where an amount is due and payable by a person to the board under this Act, the following provisions apply:
 - (a) the person will, if the amount is not paid to the board within 28 days after the day on which the amount became due and payable, be liable to pay, in addition, a fine of 10 per cent on the amount unpaid by the person;
 - (b) any such fine may be recovered (together with the amount to which the fine relates) as a debt due to the board by action in a court of competent jurisdiction;
 - (c) the amount together with any such fine is until paid—
 - (i) in the case of an amount payable for the cost of work carried out in respect of a fence—a first charge in favour of the board on the land of which that person is owner adjoining the fence or on which the fence is situated; or
 - (ii) in any other case—a first charge in favour of the board on the land in respect of which the amount is payable.
- (1b) The board may, in its discretion, on grounds of hardship or otherwise, remit the whole or any part of an amount payable to the board under this Act, or postpone payment or allow payment by instalments.
- (1c) In any legal proceedings, an apparently genuine document purporting to be executed by the board and certifying as to any amount payable to the board by a person under this Act is, in the absence of proof to the contrary, to be accepted as proof of the matters so certified.
- (2) If under section 23 an amount is payable to the board by a local board, that amount is to be set off against any amount payable to the local board by way of rates collected or recovered for that local board by the board under Part 4.

41A—Registration of charges on land

- (1) Where there is, under section 41, a charge on land in favour of the board, the board may deliver to the Registrar-General notice, in a form determined by the Registrar-General, setting out the amount of the charge and the land subject to the charge.
- (2) On receipt of a notice under subsection (1), the Registrar-General must, in relation to any land referred to in the notice, enter a note of the charge against the relevant instrument of title or, in the case of land not under the provisions of the *Real Property Act 1886*, against the land.

- (3) Where a note of a charge is entered under this section and default is made (whether before or after the making of that entry) in the payment of an amount to which the charge relates, the board has the same powers in respect of the land charged as are given by the *Real Property Act 1886* to a mortgagee under a mortgage in respect of which default has been made in the payment of money secured by the mortgage.
- (4) The board must, if the amount to which the charge relates is paid or otherwise ceases to be payable, by notice to the Registrar-General in a form determined by the Registrar-General, apply for the discharge of the charge.
- (5) The Registrar-General must then cancel the relevant entry.
- (6) Unless the board otherwise determines, any fee or duty payable by the board in connection with a charge under this section—
 - (a) will be recoverable by the board from the person whose land is subject to the charge; and
 - (b) will be added to the amount to which the charge relates.
- (7) This section and section 41 apply notwithstanding the provisions of the *Real Property Act 1886*.
- (8) In this section—

Registrar-General includes the Registrar-General of Deeds.

42—Penalty for failure to supply statement

- (1) A person who fails to supply to the board a statement in writing as and when required under section 24 is guilty of an offence.
Penalty: Division 8 fine.
- (2) A person who supplies such a statement to the board which is false in any material part is guilty of an offence.
Penalty: Division 7 fine.

43—Penalty for damaging or removing a dog fence

- (1) A person who, without lawful excuse, the burden of proof of which lies on the person, damages or does any act or makes any omission of such a nature as to be likely to cause damage to, any part of a dog fence is, whether or not he or she is the owner of that part of the fence, guilty of an offence.
Penalty: Division 7 fine.
- (2) A person who, without the consent in writing of the board, the burden of proof of which lies on the person—
 - (a) removes any part of a dog fence; or
 - (b) does any act whereby any part of a dog fence ceases to be dog-proof,is, whether or not he or she is the owner of that part of the fence, guilty of an offence.
Penalty: Division 7 fine.

- (3) On the conviction of a person for an offence involving the removal of or any damage to any part of a dog fence, the court may, if the convicted person is not the person responsible for the maintenance of that part of the fence, in addition to or in lieu of any penalty imposable under this section, order the convicted person to pay to the person so responsible such sum as the court thinks proper by way of compensation for the removal or damage.

44—Employer liable for damage done by employee

- (1) Where an act or omission constituting an offence involving damage to or the removal of any part of a dog fence is done or made by a person in the course and scope of his or her employment, the employer of that person is liable to pay to the person responsible for the maintenance of that part of the fence such expenses as are or may be necessarily incurred in restoring that part of the fence as a dog-proof fence: But this section is not to be construed as limiting any other liability of the employer under this or any other Act or otherwise.
- (2) The expenses payable under subsection (1) may be recovered in any court of competent jurisdiction.
- (3) Where an act or omission referred to in subsection (1) is done or made by the driver of a vehicle, the owner of the vehicle will for the purposes of this section be taken to be the employer of the driver unless the owner proves that at the time the act was done or omission was made the driver was not in the ordinary employment of the owner nor acting within the course and scope of that employment.

44A—Gate or ramp is part of a dog fence

For the purposes of sections 43 and 44, any gate or ramp pertaining to a dog fence will be taken to be part of the dog fence.

45—Penalty for leaving gate open

A person who—

- (a) passing through a gateway in a dog fence leaves the gate open; or
- (b) opens and leaves open a gate in a dog fence,

is guilty of an offence.

Penalty: Division 8 fine.

46—Penalty for failing to apply amounts paid for maintenance of dog fence

A person to whom an amount is paid under section 24 who fails to apply that amount as required by or under that section, is guilty of an offence.

Penalty: Division 8 fine.

47—Regulations

The Governor may make any regulations necessary or convenient for carrying this Act into effect.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1946	34	<i>Dog Fence Act 1946</i>	19.12.1946	17.6.1947 (<i>Gazette</i> 12.6.1947 p1637)
1949	43	<i>Dog Fence Act Amendment Act 1949</i>	1.12.1949	1.12.1949
1953	9	<i>Dog Fence Act Amendment Act 1953</i>	8.10.1953	8.10.1953
1959	29	<i>Dog Fence Act Amendment Act 1959</i>	3.12.1959	3.12.1959
1960	32	<i>Dog Fence Act Amendment Act 1960</i>	3.11.1960	3.11.1960
1961	14	<i>Dog Fence Act Amendment Act 1961</i>	2.11.1961	2.11.1961
1962	48	<i>Dog Fence Act Amendment Act 1962</i>	15.11.1962	15.11.1962
1964	18	<i>Statutes Amendment (Dog Fence and Vermin) Act 1964</i>	24.9.1964	24.9.1964
1969	43	<i>Dog Fence Act Amendment Act 1969</i>	20.11.1969	20.11.1969
1975	42	<i>Dog Fence Act Amendment Act 1975</i>	10.4.1975	2.10.1975 (<i>Gazette</i> 2.10.1975 p1822)
1978	105	<i>Dog Fence Act Amendment Act 1978</i>	7.12.1978	15.2.1979 (<i>Gazette</i> 15.2.1979 p348)
1982	99	<i>Dog Fence Act Amendment Act 1982</i>	23.12.1982	3.2.1983 (<i>Gazette</i> 3.2.1983 p284)
1984	63	<i>Dog Fence Act Amendment Act 1984</i>	27.9.1984	27.9.1984
1986	22	<i>Dog Fence Act Amendment Act 1986</i>	20.3.1986	3.7.1986 (<i>Gazette</i> 3.7.1986 p2)
1989	63	<i>Dog Fence Act Amendment Act 1989</i>	29.10.1989	1.1.1990 (<i>Gazette</i> 21.12.1989 p1844)
1995	2	<i>Dog Fence (Miscellaneous) Amendment Act 1995</i>	2.3.1995	1.7.1995 (<i>Gazette</i> 25.5.1995 p2198)
1995	99	<i>Dog Fence (Special Rate, etc) Amendment Act 1995</i>	14.12.1995	11.4.1996 (<i>Gazette</i> 11.4.1996 p1944)
2004	34	<i>Natural Resources Management Act 2004</i>	5.8.2004	Sch 4 (cl 4)—1.7.2005 (<i>Gazette</i> 30.6.2005 p2093)
2005	45	<i>Dog Fence (Miscellaneous) Amendment Act 2005</i>	29.9.2005	10.11.2005 (<i>Gazette</i> 10.11.2005 p3926)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 49 (ss 99 & 100)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The Public General Acts of South Australia 1837-1975 at page 487.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 2/1995 Sch	1.7.1995
	substituted by 45/2005 s 4	10.11.2005
Pt 1		
<i>ss 2 and 3</i>	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 2/1995 s 3(e)	1.7.1995
board	amended by 2/1995 Sch	1.7.1995
<i>chairman</i>	<i>deleted by 2/1995 s 3(a)</i>	<i>1.7.1995</i>
dog fence	inserted by 45/2005 s 5(1)	10.11.2005
<i>dog-proof fence</i>	<i>deleted by 2/1995 s 3(a)</i>	<i>1.7.1995</i>
financial year	amended by 2/1995 Sch	1.7.1995
<i>inside the dog fence</i>	<i>amended by 63/1984 s 2</i>	<i>27.9.1984</i>
	<i>deleted by 45/2005 s 5(2)</i>	<i>10.11.2005</i>
inside a dog fence	inserted by 45/2005 s 5(2)	10.11.2005
outside a dog fence	inserted by 45/2005 s 5(3)	10.11.2005
land	inserted by 2/1995 s 3(b)	1.7.1995
local board	amended by 2/1995 Sch	1.7.1995
member	amended by 2/1995 s 3(c)	1.7.1995
<i>Minister</i>	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
occupier	substituted by 105/1978 s 3	15.2.1979
owner	inserted by 2/1995 s 3(d)	1.7.1995
primary dog fence	inserted by 45/2005 s 5(4)	10.11.2005
secondary dog fence	inserted by 45/2005 s 5(4)	10.11.2005
<i>suburban land</i>	<i>deleted by 2/1995 s 3(d)</i>	<i>1.7.1995</i>
<i>town</i>	<i>deleted by 2/1995 s 3(d)</i>	<i>1.7.1995</i>
wild dog	substituted by 45/2005 s 5(5)	10.11.2005
s 4(2)	inserted by 2/1995 s 3(e)	1.7.1995
Pt 2		
s 5		
s 5(1)	substituted by 2/1995 Sch	1.7.1995
s 5(2) and (3)	amended by 2/1995 Sch	1.7.1995
s 6	amended by 99/1982 s 3	3.2.1983
	substituted by 22/1986 s 3	3.7.1986

s 6(1)	amended by 63/1989 s 3	1.1.1990
	substituted by 2/1995 s 4(a)	1.7.1995
	amended by 99/1995 s 3(a)	11.4.1996
	amended by 34/2004 Sch 4 cl 4	1.7.2005
	amended by 45/2005 s 6	10.11.2005
s 6(1a)	inserted by 99/1995 s 3(b)	11.4.1996
s 6(2) and (3)	amended by 2/1995 Sch	1.7.1995
s 6(4)		
occupier of ratable land	substituted by 2/1995 s 4(b)	1.7.1995
s 6(5)	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
s 7		
s 7(1)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 7(1)	10.11.2005
s 7(2)	<i>amended by 2/1995 Sch</i>	<i>1.7.1995</i>
	<i>deleted by 45/2005 s 7(2)</i>	<i>10.11.2005</i>
s 7(3)	substituted by 2/1995 Sch	1.7.1995
s 7(4)	amended by 2/1995 Sch	1.7.1995
s 8	<i>deleted by 99/1982 s 4</i>	<i>3.2.1983</i>
s 9	<i>deleted by 22/1986 s 4</i>	<i>3.7.1986</i>
s 10	amended by 22/1986 s 5	3.7.1986
	substituted by 2/1995 Sch	1.7.1995
s 11		
s 11(1)	amended by 22/1986 s 6(a)	3.7.1986
	amended by 2/1995 Sch	1.7.1995
s 11(2)	amended by 22/1986 s 6(b)	3.7.1986
	amended by 63/1989 s 4	1.1.1990
	amended by 2/1995 Sch	1.7.1995
s 12	amended by 22/1986 s 7	3.7.1986
	amended by 2/1995 Sch	1.7.1995
s 13	amended by 2/1995 Sch	1.7.1995
s 14		
s 14(1) and (2)	amended by 2/1995 Sch	1.7.1995
s 15	substituted by 2/1995 s 5	1.7.1995
s 15A	inserted by 84/2009 s 99	1.2.2010
s 16		
s 16(1)	amended by 2/1995 Sch	1.7.1995
s 16(2)	substituted by 2/1995 Sch	1.7.1995
s 16(3)	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
s 17		
s 17(1)	amended by 22/1986 s 8	3.7.1986
	amended by 2/1995 Sch	1.7.1995
s 17(2)	amended by 2/1995 Sch	1.7.1995

Pt 3

heading	amended by 45/2005 s 8	10.11.2005
<i>s 18 before substitution by 45/2005</i>		
<i>s 18(1)</i>	<i>amended by 2/1995 Sch</i>	<i>1.7.1995</i>
s 18	substituted by 45/2005 s 9	10.11.2005
<i>s 19 before substitution by 45/2005</i>		
<i>s 19(1)</i>	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
<i>s 19(2)</i>	<i>substituted by 2/1995 Sch</i>	<i>1.7.1995</i>
s 19	substituted by 45/2005 s 9	10.11.2005
s 20		
s 20(1)	amended by 45/2005 s 10(1)	10.11.2005
s 20(2)	amended by 2/1995 Sch	1.7.1995
s 20(3)	inserted by 45/2005 s 10(2)	10.11.2005
s 20A	<i>deleted by 2/1995 s 6</i>	<i>1.7.1995</i>
s 21	substituted by 2/1995 s 6	1.7.1995
s 21(1) and (3)	amended by 45/2005 s 11	10.11.2005
s 22		
s 22(1)	amended by 99/1982 s 5	3.2.1983
	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 12(1), (2)	10.11.2005
s 22(2)	substituted by 2/1995 s 7	1.7.1995
	amended by 45/2005 s 12(3)	10.11.2005
s 23		
s 23(1)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 13(1)—(4)	10.11.2005
s 23(2)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 13(5)	10.11.2005
s 23(3)	inserted by 45/2005 s 13(6)	10.11.2005
s 23A		
s 23A(1)	amended by 2/1995 s 8, Sch	1.7.1995
	amended by 45/2005 s 14	10.11.2005
24		
s 24(1)	substituted by 99/1982 s 6	3.2.1983
	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 15(1), (2)	10.11.2005
s 24(1aa)	inserted by 99/1982 s 6	3.2.1983
	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 15(3)	10.11.2005
s 24(1a)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 15(4)	10.11.2005

s 24(1b)	inserted by 2/1995 Sch	1.7.1995
s 24(2)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 15(5)	10.11.2005
s 24(2a)	inserted by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 15(6)	10.11.2005
s 24(2b)	inserted by 2/1995 Sch	1.7.1995
s 24(3) and (4)	amended by 2/1995 Sch	1.7.1995
s 24(5)	amended by 2/1995 s 9, Sch	1.7.1995
s 24(5a)	inserted by 2/1995 Sch	1.7.1995
s 24(6)	amended by 2/1995 Sch	1.7.1995
s 24A		
s 24A(1)	s 24A amended and redesignated as s 24A(1) by 63/1984 s 3	27.9.1984
	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 16(1)	10.11.2005
s 24A(2)	inserted by 63/1984 s 3(b)	27.9.1984
	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 16(2)	10.11.2005
s 24A(3)	inserted by 2/1995 s 10	1.7.1995
	amended by 45/2005 s 16(3)	10.11.2005
s 24A(4) and (5)	inserted by 45/2005 s 16(4)	10.11.2005
Pt 4		
s 25		
s 25(1)	amended by 2/1995 s 11, Sch	1.7.1995
	amended by 45/2005 s 17(1)	10.11.2005
s 25(2)	substituted by 99/1982 s 7(a)	3.2.1983
	amended by 2/1995 Sch	1.7.1995
s 25(3)	amended by 99/1982 s 7(b)	3.2.1983
	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 17(2)	10.11.2005
s 25(4)	amended by 2/1995 Sch	1.7.1995
s 25(5)	inserted by 45/2005 s 17(3)	10.11.2005
s 26		
s 26(1)	amended by 99/1982 s 8(a)	3.2.1983
	amended by 2/1995 s 12, Sch	1.7.1995
s 26(2)	amended by 99/1982 s 8(b)	3.2.1983
	amended by 2/1995 Sch	1.7.1995
	amended by 99/1995 s 4	11.4.1996
s 26(3)	amended by 2/1995 Sch	1.7.1995
s 27	inserted by 105/1978 s 4	15.2.1979
s 27(1)	amended by 2/1995 Sch	1.7.1995
s 27(2)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 18(1)	10.11.2005

s 27(3)	deleted by 2/1995 s 13(a)	1.7.1995
	inserted by 45/2005 s 18(2)	10.11.2005
s 27(4)	<i>deleted by 2/1995 s 13(a)</i>	1.7.1995
s 27(5)	amended by 2/1995 s 13(b), Sch	1.7.1995
s 27(6)	<i>deleted by 2/1995 s 13(c)</i>	1.7.1995
s 27A	inserted by 2/1995 s 14	1.7.1995
s 27A(5)	amended by 45/2005 s 19	10.11.2005
s 28	inserted by 63/1984 s 4	27.9.1984
s 28(2)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 20(1)	10.11.2005
s 28(3) and (5)	amended by 2/1995 Sch	1.7.1995
s 28(6)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 20(2)	10.11.2005
s 28(7)	amended by 2/1995 Sch	1.7.1995
s 28(8)	amended by 2/1995 s 15, Sch	1.7.1995
s 28(9)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 20(3)	10.11.2005
s 28(10)	<i>deleted by 2/1995 Sch</i>	1.7.1995
ss 29 and 30	<i>deleted by 105/1978 s 5</i>	15.2.1979
s 31	amended by 2/1995 s 16, Sch	1.7.1995
	(a) deleted by 2/1995 Sch	1.7.1995
s 32	amended by 2/1995 Sch	1.7.1995
s 32A	substituted by 22/1986 s 9	3.7.1986
s 32A(3)	amended by 2/1995 Sch	1.7.1995
s 33		
s 33(1)	amended by 2/1995 Sch	1.7.1995
s 33(2)	amended by 2/1995 s 17, Sch	1.7.1995
s 33(3)	amended by 2/1995 Sch	1.7.1995
s 34		
s 34(1)	amended by 105/1978 s 6(a)	15.2.1979
	amended by 2/1995 Sch	1.7.1995
s 34(2)	<i>amended by 105/1978 s 6(b)</i>	15.2.1979
	<i>deleted by 2/1995 Sch</i>	1.7.1995
s 34(3)	amended by 105/1978 s 6(c)	15.2.1979
	amended by 2/1995 Sch	1.7.1995
s 35		
s 35(1) and (2)	amended by 2/1995 Sch	1.7.1995
Pt 4A		
s 35A	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 21	10.11.2005
s 35AB	inserted by 22/1986 s 10	3.7.1986
s 35AB(3)	amended by 2/1995 Sch	1.7.1995
s 35B	<i>deleted by 2/1995 Sch</i>	1.7.1995

s 35C	amended by 2/1995 Sch	1.7.1995
s 35D	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
Pt 5		
s 36		
s 36(1) and (2)	amended by 2/1995 Sch	1.7.1995
s 37		
s 37(1)	s 37 amended and redesignated as s 37(1) by 45/2005 s 22(1), (2)	10.11.2005
s 37(2)	inserted by 45/2005 s 22(2)	10.11.2005
s 38	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>
	<i>inserted by 45/2005 s 23</i>	<i>10.11.2005</i>
	<i>deleted by 84/2009 s 100</i>	<i>1.2.2010</i>
ss 39 and 40	amended by 2/1995 Sch	1.7.1995
s 41		
s 41(1)	substituted by 2/1995 s 18	1.7.1995
s 41(1a)—(1c)	inserted by 2/1995 s 18	1.7.1995
s 41(2)	amended by 63/1989 s 5	1.1.1990
	amended by 2/1995 Sch	1.7.1995
s 41A	inserted by 99/1995 s 5	11.4.1996
s 42		
s 42(1)	amended by 99/1982 s 9(a)	3.2.1983
	amended by 2/1995 s 19(a), Sch	1.7.1995
s 42(2)	amended by 99/1982 s 9(b)	3.2.1983
	amended by 2/1995 s 19(b), Sch	1.7.1995
s 43		
s 43(1)	amended by 2/1995 s 20(a), Sch	1.7.1995
	amended by 45/2005 s 24	10.11.2005
s 43(2)	amended by 2/1995 s 20(b), Sch	1.7.1995
	amended by 45/2005 s 24	10.11.2005
s 43(3)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 24	10.11.2005
s 44		
s 44(1)	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 25	10.11.2005
s 44(2) and (3)	amended by 2/1995 Sch	1.7.1995
s 44A	amended by 2/1995 Sch	1.7.1995
	amended by 45/2005 s 26	10.11.2005
s 45	amended by 2/1995 s 21, Sch	1.7.1995
	amended by 45/2005 s 27	10.11.2005
s 46	amended by 2/1995 s 22, Sch	1.7.1995
s 48	<i>deleted by 2/1995 Sch</i>	<i>1.7.1995</i>

Historical versions

Reprint No 1—1.7.1991
Reprint No 2—1.7.1995
Reprint No 3—11.4.1996
1.7.2005
10.11.2005

Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.