

## VAGRANCY.

[See *Police Offences Act 1890.*]

## VERMIN DESTRUCTION ACT 1890.

54 VICTORIA, No. 1153. **An Act to consolidate the Law relating to the Destruction and Suppression of Rabbits and other Vermin.**

[10th July, 1890.]

"The Vermin  
Destruction Act  
1889."

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title  
commencement  
and division.

1. This Act may be cited as the *Vermin Destruction Act 1890*, and shall come into operation on the first day of August One thousand eight hundred and ninety, and is divided into Parts as follows:—

PART I.—General Provisions ss. 3–44.

PART II.—Special Fencing Provisions ss. 45–71.

Repeal.  
First Schedule.

2. The Act mentioned in the First Schedule to this Act to the extent to which the same is thereby expressed to be repealed is hereby repealed. Provided that such repeal shall not affect any proclamation appointment application Order in Council regulation by-law or declaration made or published, or any notice certificate or permit given, or any petition presented, or any summons issued, or any service effected, or any loan advanced, or any bond entered into or executed, or any expenditure validated under the said Act before the commencement of this Act.

## PART I.—GENERAL PROVISIONS.

Interpretation.  
*Ib. s. 3.*

3. In this Act, unless inconsistent with the subject-matter or context, the words and expressions following shall have or include the meanings hereinafter respectively assigned to them (that is to say):—

"Mallee land."

"Mallee land" shall mean any land held under or by virtue of any lease from the Crown granted under the provisions of "*The Mallee Pastoral Leases Act 1883*" or of any Act amending the same, or of Part II. of the *Land Act 1890*.

"Minister."

"Minister" shall mean the responsible Minister of the Crown for the time being administering this Act.

"Owner or occupier" shall include the agent of any owner or occupier, and also any joint owner or joint occupier. "The Vermin Destruction Act 1889."

"Owner" shall include any person holding any land under any lease or licence from the Crown, or any person deriving title from under or through such person, and save as to lands so held or as hereinafter provided the Board of Land and Works shall be deemed the owner of all Crown lands, and it shall also be deemed to be the occupier of all Crown lands not shown to be otherwise occupied. "Owner or occupier." "Owner."

"Vermin" shall include rabbits foxes wallabies dingoes and dogs run wild or at large and shall also include any kind of animal or bird which the Governor in Council may by proclamation in the *Government Gazette* declare to be vermin for the purposes of this Act. "Vermin."

4. Any lands permanently or temporarily vested in or (as the case may be) occupied or managed by any municipality council commissioners board or trustees whatsoever shall for all the purposes of this Act be deemed to be owned by such municipality council commissioners board or trustees respectively, and for the purposes of this Act such municipality council commissioners board or trustees (as the case may be) shall be deemed to be the owners of all lands so vested in or occupied or managed by them. Lands held for trust purposes. Ib. s. 4.

5. Any municipality council commissioners or board and any trustee or trustees who are owners within the meaning of this Act of any land under or for the purposes of any public or private trust shall have power to apply any of the funds under their control in defraying any costs or expenses necessarily or properly incurred by them as such owners under this Act. Trust funds applicable for purposes of Act. Ib. s. 5.

6. Save as hereinafter provided, nothing in this Act contained shall be construed as applying to or affecting any mallee land or any owner or occupier thereof unless and except where mallee land or the owner or occupier thereof (as hereinbefore defined) is in this Act specially mentioned or referred to. Mallee land not affected unless specially mentioned. Ib. s. 6.

7. It shall be the duty of every occupier and of every owner of land including every occupier and every owner of mallee land from time to time to suppress and destroy all vermin from time to time on any land so occupied or owned by him, or on the adjacent half-width of all roads bounding or adjoining the same or any part thereof, and for such purpose to do all necessary or proper acts or things. Duty of occupiers or owners to destroy vermin. Ib. s. 7.

The Governor in Council shall have power from time to time by proclamation in the *Government Gazette* to name any specified day on and from and after which the duty hereby declared shall in any part of Victoria described in such proclamation be simultaneously commenced continued and performed by every occupier and every owner of any land including every occupier and every owner of mallee land, and every such proclamation shall also be advertised in some newspaper circulating in the neighbourhood of the part of Victoria to which such proclamation may relate. Simultaneous destruction may be ordered.

Any occupier or owner who shall after such day have failed to have fully and continuously performed such duty to the best of his means and Penalty.

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ability shall thereupon be guilty of an offence against this Act, and shall on conviction pay for such offence a sum of not less than Two pounds nor more than Fifty pounds in addition to any other penalty or liability to which he may be subject, upon proof being given that in the opinion of the Chief Inspector (hereinafter mentioned) any occupier or owner has failed to have fully and continuously performed such duty to the best of his means and ability; the burden of proof that such occupier or owner has complied with the provisions of this section shall lie on the defendant.

Burning without  
notice during  
winter months.  
*Id. s. 8.*

8. For the purpose of destroying or suppressing vermin any owner or occupier at any time during the months of May June July August or September, without giving notice to any authority or person of his intention so to do, may notwithstanding anything in any Act contained burn or ignite any straw stubble grass herbage wood or other inflammable material on his land after he shall have cleared of inflammable substance a space of land round the straw stubble grass herbage wood or other inflammable material intended to be burnt or ignited of not less than fifteen feet in breadth.

Chief Inspector  
to be appointed  
to carry out Act.  
*Id. s. 9.*

9. Subject to the provisions of the *Public Service Act 1890* the Governor in Council shall from time to time appoint an officer to be called the Chief Inspector for Suppression of Vermin, in this Act hereinafter referred to as the "Chief Inspector," whose duty it shall be to carry out the provisions and purposes of this Act under the direction and control of the Minister and to visit and inspect whenever and so far as may for such purposes as aforesaid be proper all or any lands whatsoever and to exercise all or any of the powers by this Act on him or any inspector conferred.

Inspectors to be  
appointed.  
*Id. s. 10.*

10. The Governor in Council may from time to time appoint such persons as he may think necessary to be inspectors under this Act, and may appoint such persons either generally as inspectors under this Act or as inspectors for or within some prescribed area only or with authority only to discharge or exercise some particular duty or power of an inspector under this Act or to carry out the provisions of this Act in some particular respect or otherwise and in such manner as to the Minister may seem fit, and all such inspectors so appointed shall act and be under and subject to the control of the Chief Inspector as well as of the Minister.

Proof of and  
cancellation of  
inspector's  
appointment.  
*Id. s. 11.*

11. A certificate of his appointment under this Act signed by the Minister shall be furnished to every person appointed as inspector under this Act, and shall be *prima facie* evidence in all cases of the appointment of any such person as such inspector, and the Governor in Council shall have power at any time to dismiss or remove any such person as such inspector or to cancel any such appointment of any such person.

Upon such cancellation the certificate of such person's appointment shall immediately be delivered by him to such person as the Minister or the Chief Inspector shall require.

Inspector may  
employ  
assistants.  
*Id. s. 12.*

12. Any inspector shall have power from time to time to engage or employ all such assistants or other persons as may be proper to enable the proper performance of the duties cast by this Act upon any

inspector, and from time to time to dismiss or dispense with the services of all persons so engaged or employed.

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13. Any inspector may from time to time enter upon any land at any time with or without any assistants in order to search and may search whether any vermin are on such land, and may remain thereon so long as may be reasonable for such purpose, and may take one dog and such horses as he may require.

Inspector may enter and search for vermin.  
*Id. s. 13.*

Such inspector before taking a dog on any land shall give to the occupier thereof notice of the day when he intends to take such dog upon such land, and such inspector shall be liable for any damage whatsoever done by any dog so taken by him.

14. When any inspector finds vermin upon any land, such inspector may by notice signed by him in the form contained in the Second Schedule hereto or to the like effect require the owner or occupier of such land to forthwith destroy all vermin upon such land and upon the adjacent half-width of all roads bounding or adjoining the same or any part thereof, and also thenceforth to keep such land and half-width of roads clear and free of all vermin.

Notice to owner or occupier to destroy vermin.  
*Id. s. 14.*  
Second Schedule.

15. After fourteen days from the date of the service or giving of such notice as aforesaid any inspector may if he think fit from time to time and without any further notice summon such owner or occupier to whom such notice was directed before any two justices (one of whom shall be a police magistrate), and if such owner or occupier shall in the opinion of such justices have failed or neglected to take all necessary means to destroy all vermin upon the land so owned or occupied by him and upon the adjacent half-width of all roads bounding or adjoining the same or any part thereof, he shall in respect of each such summons be liable to a penalty of not less than Two pounds nor more than Ten pounds for a first offence and for a second or any subsequent offence not less than Ten pounds nor more than Fifty pounds in addition to any other costs expenses or payments which he may have paid or to which he may be liable under this Act.

Owner or occupier failing to destroy vermin to be subject to penalties.  
*Id. s. 15.*

In the event of the owner or occupier being the Board of Land and Works any owner or occupier of any other land situated within one mile of such land of the said Board may by notice signed by him as nearly as may be to the effect of the form in the Second Schedule (such notice being delivered personally to the Chief Inspector or sent by post in a registered letter addressed to him) require the said Board to forthwith destroy all vermin upon the land mentioned or referred to in such notice and upon the adjacent half-width of all roads bounding or adjoining the same or any part thereof, and also thenceforth to keep any land and the half-width of roads adjacent thereto clear and free of all vermin, and after fourteen days from the date of the personal delivery or posting of such notice as aforesaid such owner or occupier may summon such Board before such justices, and if such Board shall in the opinion of such justices have failed or neglected to take all necessary means to destroy all vermin upon the land so owned or occupied by it, such Board in respect to each such summons shall be liable to a penalty of not less than Two pounds nor more than Ten pounds for a first offence, and not less than Ten pounds nor more than

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Fifty pounds for a second or any subsequent offence, and such penalties shall be paid to the council of the shire in which the land is situated, together with such costs as the said justices may allow.

Owner or  
occupier failing  
to comply with  
notice, Inspector  
may enter and  
destroy.  
*Id.* s. 16.

16. If after fourteen days from the date of the service or giving of such notice upon him as aforesaid any owner or occupier has in the opinion of any inspector not complied with the requirements thereof, any inspector may in addition to any other proceeding by this Act provided enter upon and remain on any land referred to in such notice with such assistants and for such time as may be reasonable in order to take or destroy or suppress all or any vermin thereon.

Powers of  
inspector enter-  
ing to destroy.  
*Id.* s. 17.

17. Any inspector entering on any land after such notice as aforesaid may use all such means and take all such measures either by himself or his assistants as he may think proper for destroying or suppressing or preventing the breeding or harbouring of any vermin on such land including the digging out filling up and stopping of all warrens and burrows, and may lay poison on such land, and do all other things thereon proper or reasonable for the destruction and suppression of vermin without any liability being thereby thrown upon him or upon any other person employed by him for injury other than wilful caused to any sheep cattle or horses on such land by reason of using such poison, and may remain upon and have for himself and his assistants with all requisite vehicles instruments or appliances free right of ingress egress and regress into over and across such land for such period as may be reasonable for carrying into effect the purposes of this Act.

Notice to be  
given before  
poison laid.

Before any poison is laid on such land by such inspector he shall give to the owner or occupier of such land fourteen days' notice in writing stating the particular land upon which such poison is to be laid.

Notice to destroy  
fences or timber  
giving harbour  
to vermin.  
*Id.* s. 18.

18. When any inspector finds that any live fence or any brushwood or log fence or hedge or stone wall or dead or fallen timber on any land is a harbour or cover for vermin, he may with the sanction in writing of the Minister or Chief Inspector by notice signed by him in the form contained in the Third Schedule hereto or to the like effect require the owner or occupier of such land—

Third Schedule.

- (a) to cause such live fence to be cut so that the branches or leaves thereof shall not be within one foot of the ground and to cause the ground under and for at least two feet on each side of such live fence to be cleared of grass or rubbish, and to cause such fence to be limited to a width not exceeding two feet in extent up to a height of one foot from the ground, or
- (b) to cause such brushwood fence to be destroyed and the materials thereof burnt, or
- (c) to cause such log fence hedge or stone wall to be so improved pulled down or removed as to be no longer a harbour or cover for vermin, or
- (d) to cause such dead or fallen timber to be removed or burnt.

When land upon which there may be dead or fallen timber is securely surrounded with a rabbit-proof fence, the owner or occupier of

such land shall not be so required to remove or burn the dead or fallen timber thereon. "The Vermin Destruction Act 1889."

In any case where a dividing brushwood or log fence or hedge or stone wall separates the lands of different owners or occupiers notice shall be given to the owners or occupiers of the lands so separated, and anything done after such notice by any inspector in pursuance of the powers of this Act in respect of such live fence or brushwood or log fence hedge or wall shall be deemed to have been done as to one-half thereof upon the lands on one side and as to the other half thereof upon the lands on the other side of such live fence or brushwood or log fence or hedge or wall.

19. If after six months from the date of the service or giving of any such notice as aforesaid such owner or occupier has in the opinion of any inspector not complied with the requirements thereof, such inspector may with the sanction in writing of the Chief Inspector enter on any lands to which such notice refers with such assistants as he may think proper and may take all such measures as he may think necessary for cutting such live fence or clearing the grass or rubbish and limiting the width of such fence or for destroying such brushwood fence and burning the materials thereof or for improving pulling down or removing such log fences hedges or stone walls or for removing or burning such dead or fallen timber as the case may require, and may remain upon and have for himself and his assistants with all required vehicles instruments appliances and material free right of ingress egress and regress into over and across such lands for such period as may in his opinion be necessary. Powers of inspector to destroy such fences &c. *Ib.* s. 19.

No liability shall be thrown upon him or any other person for any injury or damage other than may be proved to have been wilfully or negligently caused and not to have been reasonably necessary for the purposes hereof.

20. In any case where any notice to any owner or occupier is required under this Act, such notice may be served upon such owner or occupier either by delivering the same to him personally or to his agent or by leaving the same at his usual or last-known place of abode or by posting the same in a registered letter addressed to him at his usual or last-known place of abode, or in the case of a municipality by delivering the same addressed to the town clerk or secretary at the municipal offices. Notices how served. *Ib.* s. 20.

21. In any case under this Act where the occupier or owner of any land is unknown to any inspector or shire council wishing to serve any notice upon such owner or occupier or is believed by such inspector to be absent from his land, and such occupier or owner has no agent known to such inspector and resident in Victoria, then such notice may be affixed on the dwelling-house or in some conspicuous place upon such land, and also be published once in some newspaper circulating in the neighbourhood thereof, and every notice so affixed and published shall be deemed and taken to be sufficient notice to the owner or occupier of such land from the time of its being so affixed and published. Where no known occupier notice to be affixed on land and advertised. *Ib.* s. 21.

It shall not be necessary for any such notice to specify the name of any person as owner or occupier of the land in such notice referred to.

"The Vermin  
Destruction Act  
1889" s. 22.  
Expenses  
incurred by  
Inspector a  
charge upon  
ownership or  
occupation of  
land.

22. The amount of all costs charges and expenses from time to time reasonably incurred by any inspector (including the Chief Inspector) in doing upon or in respect of any land any of the things which he is by this Act authorized to do shall be from time to time payable by any person who may be the owner or occupier of such land at the time when proceedings are taken to recover such amount notwithstanding any change of ownership or occupation of such land or of any part thereof.

Until paid the obligation to pay such amount shall be a liability from time to time attaching to any owner or occupier for the time being, and such amount shall be recoverable from such owner or occupier by such inspector or by any other person authorized in writing by the Chief Inspector to receive or recover the same, and such inspector or other authorized person may in his own name sue for and recover such amount in any court of competent jurisdiction as money paid under this Act for such owner or occupier at his request.

One of several  
joint owners or  
occupiers may  
recover  
contributions  
from others.  
Ib. s. 23.

23. Where any person being one of several joint owners or one of several joint occupiers of any land has been compelled to pay any sums to any inspector or other authorized person in respect of any acts or things done by any inspector upon such land, such person may in any court of competent jurisdiction sue for and recover from any one or more of such other joint owners or joint occupiers of such land such proportion of such sum so paid by him as may in the opinion of the court be fairly proportionate to the interest or interests in such land of such one or more of such other joint owners or joint occupiers.

Occupier under  
a year may  
recover from  
landlord.  
Ib. s. 24.

24. Any occupier who while occupying land under any agreement with any landlord or lessor has incurred any expense in doing any acts or things upon such land which he is by this Act under any duty to do, or has been compelled to pay any sum to any inspector or other authorized person in respect of any acts or things done by any inspector upon such land may unless otherwise expressly provided by such agreement sue for and recover from such landlord or lessor in any court of competent jurisdiction one-half the amount of such expense or sum if such agreement shall otherwise than by default of such occupier terminate within one year, and two-thirds of such amount if such agreement shall so terminate within six months from the incurring of such expense or paying of such sum.

Distress not to be  
levied by land-  
lord indebted  
under this Act  
to occupier.  
Ib. s. 25.

25. No judgment shall be recovered or distress levied by the landlord or lessor of any occupier for any rent due to him by such occupier whilst any sum shall remain payable by such landlord or lessor by virtue of this Act, unless the rent so due by such occupier shall exceed the sum so payable by such landlord or lessor and then only for the amount by which such rent so due shall exceed the sum so payable to him by such landlord or lessor as aforesaid.

No assignment by any landlord or lessor whilst any such sum shall remain payable by him to such occupier shall defeat the right of such occupier to the payment of such sum out of such rent.

Inspector's  
certificate *prima*  
*facie* evidence  
of expense.  
Ib. s. 26.

26. In any proceeding whatsoever where it may be desired to prove the amount of any costs charges or expenses reasonably incurred by any inspector under this Act, a certificate as to such amount signed by such inspector and by the Chief Inspector shall be *prima facie* evidence as to such amount.

27. In any case where the Minister shall be satisfied that no costs charges or expenses are recoverable by any inspector for or in consideration of any thing done under this Act upon or in respect of any land or the adjacent half-width of all roads bounding or adjoining the same or any part thereof he shall if so requested by the owner or occupier of such land sign and give a certificate in the form contained in the Fourth Schedule hereto or to the like effect, and the production of such certificate so signed shall for all purposes whatsoever be deemed conclusive proof that at the date thereof no costs charges or expenses were recoverable by any inspector for or in consideration of any thing done upon or in respect of such land.

*"The Vermin Destruction Act 1889" s. 27.*  
Minister's certificate to be a discharge.

Fourth Schedule.

28. Any person who shall either keep in his possession (except as provided in the next following section) or wilfully set loose or permit to be set loose any live vermin or who shall bring or cause to be brought into Victoria any scalps of any vermin shall be guilty of an offence against this Act and shall on conviction forfeit and pay for each offence a sum of not less than Five pounds nor more than Fifty pounds or be imprisoned for any term not exceeding six months.

Penalty for keeping or setting loose any vermin or bringing scalps into Victoria.  
*Ib. s. 23.*

29. Nothing in this Act contained shall be so construed as to prohibit any person in any city or town from keeping any live animal within any cage or similar enclosure with the permission of the Governor in Council.

Animals may be kept in cages.  
*Ib. s. 29.*

30. The Governor may from time to time by proclamation in the *Government Gazette* declare any animal bird or reptile therein named to be a natural enemy of vermin, and may prohibit within any districts therein described the wounding killing or capturing selling or disposing of any such animal bird or reptile without a special permit on that behalf signed by the Chief Inspector, and may from time to time alter or revoke any such proclamation.

Natural enemy of vermin may be proclaimed.  
*Ib. s. 30.*

31. The council of any municipality may out of the municipal fund thereof from time to time pay such sums by way of bonus or reward for the destruction of vermin as to such council shall seem fit.

Power to pay for destruction of vermin.  
*Ib. s. 31.*

32. The Chief Inspector may from time to time issue to any person a permit in writing signed by him authorizing the person named therein to wound kill or capture sell or dispose of any animal bird or reptile declared to be a natural enemy of vermin under this Act, and may from time to time alter or revoke any such permit.

Permit may be issued.  
*Ib. s. 32.*

33. Any person wounding killing capturing selling or disposing of any animal bird or reptile so declared to be a natural enemy of vermin without a permit so to do signed by the Chief Inspector, and any person in whose possession or on whose premises any such animal bird or reptile shall be found to be confined or wounded or killed unless such person prove that such animal bird or reptile was so confined wounded or killed without his knowledge or consent, shall be guilty of an offence against this Act and shall on conviction be liable to a penalty of not less than One pound nor more than Ten pounds.

Penalty for destroying such natural enemy.  
*Ib. s. 34.*

34. Any owner or occupier of any land within twenty-five miles of any inspector's usual place of abode may by writing posted to or served at such place of abode call on such inspector to visit such land

Owner or occupier may call on inspector to visit land.  
*Ib. s. 35.*



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for the purpose of ascertaining whether any vermin are on such land, and such inspector shall visit such land accordingly, and inspect and report to such owner or occupier whether in such inspector's opinion there are any and what vermin on such land.

Inspectors not to  
be liable in  
exercising  
their powers.  
*Ib. s. 36.*

**35.** No inspector or assistant of such inspector shall be deemed a trespasser or be liable for any damage reasonably caused or occasioned in the performance or exercise of any of the duties authorities powers or discretions imposed upon or vested in any inspector under this Act.

Appointment  
must be  
produced if  
required.

Any inspector entering or remaining upon any land for the purposes of this Act shall whenever required exhibit the certificate of his appointment as such inspector or a copy thereof certified to by the Chief Inspector to the owner or occupier of such land.

If being so required he shall without reasonable cause or excuse then shown or made by him to such owner or occupier fail so to do he and any assistants with him shall then be liable to be deemed and dealt with as trespassers on such land.

Penalty for  
personating  
inspector.  
*Ib. s. 37.*

**36.** Any person who shall personate or falsely represent himself to be an inspector under this Act shall be guilty of an offence against this Act and shall on conviction be liable to a penalty of not less than Five pounds nor more than Fifty pounds and to be imprisoned for any period not exceeding three months.

Penalty for  
obstructing &c.  
persons carrying  
out this Act.  
*Ib. s. 38.*

**37.** Any person who shall—

wilfully obstruct hinder or interrupt any inspector or assistant of any inspector in the performance or exercise of any of the duties authorities powers or discretions imposed upon or vested in any inspector by this Act; or

disobey or fail to comply with any lawful notice or order of any inspector; or

threaten assault or use improper language to any such inspector or assistant while so performing or exercising such duties authorities powers or discretions; or

destroy alter or remove any notice signed by any inspector; or

destroy injure remove or interfere with any trap snare poison matter or thing placed or used or required on any land by any inspector or his assistants; or

disobey any provision of this Act for which no penalty is expressly provided,

shall be guilty of an offence against this Act, and on conviction shall be liable to a penalty of not more than Twenty pounds.

No proceeding for the recovery of any such penalty nor the payment thereof shall be a bar to any other proceedings at law for or in respect of the same matter.

Technical objec-  
tions not to  
prevail.  
*Ib. s. 39.*

**38.** In all proceedings which may be had for the enforcement or carrying out of the provisions of this Act no technical objection as to any matter of form or procedure shall prevail so long as there is a substantial matter on its merits to be determined.

39. The Governor in Council shall have power from time to time by notification in the *Government Gazette* to make alter or rescind and publish any regulations, not inconsistent herewith, for carrying this Act into effect, and such regulations shall have the full force and effect of this Act as from the date at which they are by such notification respectively stated to come into force.

*"The Vermin Destruction Act 1889" s. 40.*  
Power to make regulations &c

All such regulations shall be signed by the Minister, and upon being published in the *Government Gazette* shall be valid in law as if the same were enacted in this Act and shall be judicially noticed.

All such regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be then sitting, and if Parliament be not sitting then within fourteen days after the commencement of the next sitting of Parliament.

To be laid before Parliament.

#### *Mallee Lands.*

40. Any inspector may enter upon any mallee land and remain thereon for such time and with such assistants and dogs as he may think proper for the purpose of ascertaining whether there are vermin upon such mallee land and whether proper means are being taken to suppress or destroy such vermin.

Inspector may call on local committee or owner or occupier of mallee land  
*Ib. s. 41.*

If in his opinion proper means are not being so taken—

he shall publish in the *Government Gazette* a notice in the form contained in the Fifth Schedule hereto or to the like effect addressed to the local committee (if any) appointed or in office under Part II. of the *Land Act 1890* for the vermin district within which such mallee land is situated requiring such local committee to forthwith take all measures within its power under Part II. of the *Land Act 1890* to procure the destruction of all vermin and harbour for vermin on such mallee land; and

Fifth Schedule

shall also give notice in the form contained in the Sixth Schedule hereto or to the like effect in the manner by this Act provided to any owner or occupier of such mallee land requiring such owner or occupier also to forthwith take all proper measures to procure the destruction of all vermin and harbour for vermin on such mallee land.

Sixth Schedule.

41. If after the expiration of seven days from the date of the publication in the *Government Gazette* by such inspector of the notice to the local committee such inspector shall consider that proper steps have not been taken by either such local committee or such owner or occupier of such mallee land to whom notice under this Act shall have been given, or

Where proper steps not taken after notice  
Minister may declare mallee land subject to this Act  
*Ib. s. 42.*

if there is no local committee appointed to act in respect of any mallee land, in which case no notice as aforesaid shall be published in the *Government Gazette*,

he shall report accordingly to the Chief Inspector who shall submit such report to the Minister.

Thereupon the Minister may forthwith by writing in the form or to the effect in the Seventh Schedule hereto and published in the *Government Gazette* declare all the provisions of this Act to be applicable to

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such mallee land and to all owners and occupiers thereof until such declaration be revoked, and the Minister may at any time revoke such declaration by notice in the *Government Gazette*.

On such  
declaration all  
provisions of this  
Act to apply to  
such mallee land.  
*Ib. s. 43.*

42. Upon any such declaration being made and published by the Minister and until such declaration shall be revoked as aforesaid, the mallee land specified in such declaration shall for all purposes whatsoever of this Act be deemed to be land subject to all the provisions of this Act affecting any land other than mallee land as though it had in such provisions been specially mentioned or referred to.

#### *Crown Lands.*

Minister may  
authorize  
enclosure of  
unoccupied  
Crown lands  
with rabbit-proof  
fence.  
*Ib. s. 44.*

43. Out of any moneys available for the purposes of this Act the Governor in Council shall have power from time to time to authorize and direct the expenditure of such sums as he may think fit for the purposes of erecting and maintaining any wire netting or other rabbit-proof or vermin-proof fencing to enclose any portion of any Crown lands not owned or occupied otherwise than by the Board of Land and Works.

Repayment of  
expenditure to  
be secured from  
subsequent  
grantees.  
*Ib. s. 45.*

44. Where any expenditure shall have been made under this Act upon any Crown lands not owned or occupied otherwise than by the Board of Land and Works, and any part of such Crown lands shall afterwards be sold leased licensed or otherwise dealt with by or on behalf of the Crown or Board of Land and Works, the responsible Minister of the Crown for the time being administering the Act under which such subsequent sale lease licence or other dealing shall be made shall (in addition to any other powers) have the power to make and provide and he shall cause to be made and provided such terms or conditions as on such sale lease licence or other dealing shall secure the repayment to the Crown by the person taking under such sale lease licence or other dealing or his assigns of such part of the expenditure then already made under this Act on such Crown lands.

#### PART II.—SPECIAL FENCING PROVISIONS.

Application.  
*Ib. s. 40.*

45. This Part of this Act shall apply to mallee land or other land. The power in this Part conferred on shires of obtaining loans from the Governor in Council shall be by way of addition to any power to borrow conferred by any Act for the time being in force relating to local government.

Special area.  
*Ib. s. 47.*

46. In this Part of this Act "special area" shall mean any land comprising the whole or part of any shire and for the benefit of which a loan is intended to be applied, or which may be described in any Order in Council granting any loan under this Part of this Act, and "property" or "properties" shall mean the land of any "owner."

Loan for rabbit-  
proof fencing  
may be made by  
Governor in  
Council.  
*Ib. s. 48.*

47. On the application of the council of any shire the Governor in Council out of any moneys which may be provided by Parliament for the purpose may from time to time grant a loan to any such shire, and such shire shall thereupon have power to borrow the amount of such loan accordingly for the purpose of enabling such shire to obtain materials for wire netting or other rabbit-proof or vermin-proof fencing, and to supply such materials to owners of land in any special area for which such loan is granted.

48. No application shall be made by any shire for a loan until after the receipt by the council of such shire of a petition from the owner or owners of land forming the special area in such shire.

*"The Vermin  
Destruction Act  
1889" s. 49.*  
Application to  
be preceded by  
a petition.

49. Every such petition from owners of land shall—

Requisites of  
petitions.  
*ib. s. 50.*

- (1) Describe the special area for which the petitioners desire a loan to be obtained by the shire and state the acreage of the whole of such special area and the acreage owned by each and every owner of any part thereof:
- (2) Be signed by a majority in number of the owners of the land in the special area:
- (3) Be signed by petitioners owning more than one-half of the land in such area:
- (4) Describe shortly the land owned by each petitioner, and state the acreage thereof:
- (5) Give an estimate of the probable cost of the whole of the materials for wire netting or other rabbit-proof or vermin-proof fencing required for the land in such area, and ask that the shire council will apply to the Governor in Council for a loan of the amount of such estimate:
- (6) Give an estimate of the materials required for each petitioner's land and the probable cost of such material, and an estimate of the extent of fencing to be erected by each owner; and state whether in such special area any two or more adjoining properties could advantageously be enclosed by one continuous wire netting or other rabbit-proof or vermin-proof fence instead of being separated by dividing fences; and, if so, state in each case the estimated cost of such continuous fence and the proportion thereof to be borne by every owner of property to be enclosed by such fence:
- (7) State that each petitioner signing the petition undertakes to pay to the council in each and every year one-tenth part of his proportion of the value of all materials for wire netting or other rabbit-proof or vermin-proof fencing which the council may obtain by means of the loan proposed to be obtained from the Governor in Council and such undertaking shall as between such petitioner or the owner for the time being of the land of such petitioner or any part thereof and the council be deemed to be and may be enforced as a specialty contract:
- (8) State that each petitioner undertakes to erect on his land with the materials with which he may be furnished wire netting or other rabbit-proof or vermin-proof fencing to the satisfaction of the council, or that he will join with other owners in erecting all necessary fencing:
- (9) Where a petition is signed by one owner only the requirements of this Part of this Act shall be complied with as nearly as possible by such owner, and the signature of such petitioner instead of being verified as hereinafter provided shall be verified by a justice.

"The Vermin  
Destruction Act  
1889" s. 51.  
Signatures to  
petition.  
Eighth  
Schedule.

50. Every signature to any petition shall be verified by the solemn declaration of some person signing such petition and such declaration shall be in the form or to the effect in the Eighth Schedule hereto. No petition shall be received by any shire council unless the same be accompanied by a declaration in accordance with the provisions of this section.

Presentation of  
petition to shire.  
*Id.* s. 52.

51. Every petition shall be left with the municipal clerk of the shire, which shall be deemed the presentation thereof.

Council to trans-  
mit petition to  
the Minister.  
*Id.* s. 53.

52. The shire council shall consider the prayer of such petition, and if they determine to apply for a loan from the Governor in Council in accordance therewith they shall transmit to the Minister such petition as well as any information they desire to convey in reference thereto or which the Minister may at any time require.

Accompanying such petition the council on behalf of the shire shall send an application under seal for a loan on the terms prayed in such petition, or on such other terms as they may think fit.

Such application shall contain an undertaking to repay such loan in accordance with the provisions of this Act and of any Order in Council granting such loan.

Governor in  
Council may  
grant loan.  
*Id.* s. 54.

53. On the recommendation of the Minister the Governor in Council may by order subject to such terms and conditions as he may think fit grant either the whole or any part of the loan applied for by any shire council.

If part only of the desired loan is granted the Order in Council shall state whether the loan is for the benefit of the whole of the land described in the petition or of any specified part of such land.

Every loan shall be payable to the council in such instalments as shall be specified in such order or as may be determined by any regulations made or in force for the time being under this Act.

All land in any special area whether or not owned by any persons signing the petition as aforesaid shall (unless certified by the council when forwarding the petition to be already sufficiently fenced with wire netting or other rabbit-proof or vermin-proof fencing) be chargeable with the payment of all materials for wire netting or other rabbit-proof or vermin-proof fencing which the shire council may furnish to the owner of any such land or which the shire council may offer to furnish to the owner of any such land and whether the same be accepted by such owner or not.

The proportion of the loan which each and every owner of land in the special area shall pay to the council shall be set out in such Order in Council.

Every Order in Council shall be published in the *Government Gazette*, and shall be conclusive evidence of the statements in such order contained.

Particulars of  
loan to be kept.  
*Id.* s. 55.

54. Full particulars of such loan and of the mode of repayment thereof and of all lands affected by such loan and of all moneys collected and received in respect thereof and of the mode of application of such moneys and of all owners of land to whom materials have been furnished or offered to be furnished and of the amounts payable by each owner shall be separately kept and recorded by the council of such municipality in a book kept by such council.

55. On receiving any loan or instalment from the Governor in Council every council shall expend the whole amount thereof in purchasing and obtaining materials for wire netting or other rabbit-proof or vermin-proof fencing, and shall furnish or offer to furnish such materials to the owners of the lands in the special area for the benefit of which such loan was granted proportionately to the requirements of such land.

*"The Vermin Destruction Act 1889" s. 56.*  
Loans to be used for purchase of material for wire fencing &c.

When furnishing or offering to furnish such materials to any owner, the council shall notify such owner of the amount of value of such materials.

Thereupon such amount (whether the materials be accepted by such owner or not) shall become a debt due to such municipality by such owner.

In the month of February in each and every year one-tenth part of the amount of such debt shall be payable by the owner of such land for the time being to the municipality until the whole debt is paid, and every yearly payment shall bear interest at the rate of Eight pounds per centum per annum from the date when the same is hereby declared payable until actual payment, and such interest shall be deemed a further debt due to the municipality by the owner by whom such yearly payment is due.

If default is made in respect to any such yearly payment the amount of such payment may be enforced at any time by the municipality in a summary way or by action in any court of competent jurisdiction from the owner for the time being of such land or any part thereof.

The amount of every such yearly payment as it becomes due shall be, and until paid shall remain, a first charge on such land. Provided that every mortgagee or lienee shall be at liberty upon any default being made in the payment of such yearly payment by the owner to pay the said yearly payment to the municipality, and such payment when so made shall be deemed a part of the principal sum secured by such mortgage or lien respectively, and be subject to the provisions powers and trusts thereof.

56. When furnishing or offering to furnish any owner of land in any special area with materials for wire netting or other rabbit-proof or vermin-proof fencing the municipal council shall give such owner written notice to erect such fencing on the land for which it is furnished within a time to be limited in such notice.

*Notice to owners to erect fencing.*  
*Ib. s. 57.*

If any owner shall fail to comply with such notice or if any person shall use any of such materials except for the purpose for which they were furnished he shall be guilty of an offence against this Act, and shall on conviction be liable to a penalty not exceeding Twenty pounds.

*Penalties.*

If after the time limited in any such written notice any direction therein is not complied with by the owner to the satisfaction of the council then such council shall undertake and carry out such direction at the expense of such owner, and may recover such expense from him in a summary way or by action in any court of competent jurisdiction; and until paid such expenses shall be a charge upon the land affected, and be recoverable at any time from the owner for the time being of such land or any part thereof.

57. Any two or more owners of adjoining properties with the sanction of the shire council if within a special area, instead of having dividing fences between such lands may enclose the whole of such

*Adjoining owners may enclose with one continuous fence.*  
*Ib. s. 58*

"The Vermin  
Destruction Act  
1889."

adjoining lands with a continuous wire netting or other rabbit-proof or vermin-proof fence having when enclosing any road swing gates covered with wire netting.

Owner may  
enclose with one  
continuous  
fence.  
*Ib. s. 59.*

58. Any owner of land intersected with roads with the sanction of the shire council instead of having dividing fences between such land may enclose at his own expense the whole of such land with a continuous wire netting or other rabbit-proof or vermin-proof fence having when enclosing any road swing gates covered with wire netting. Nothing in this or the preceding or following section shall authorize the enclosing as therein provided of any main road.

Power to fence  
across unused  
public roads.  
*Ib. s. 60.*

59. In enclosing any two or more adjoining properties with one continuous fence under this Part of this Act it shall be lawful, with the approval in writing of the shire council, to erect such fence across any public road if in the opinion of such council such road is not required for public use and if a swing gate covered with wire netting be erected wherever the fence crosses such road.

If any person wilfully damages or destroys any such fence or swing gate erected across any such road or elsewhere or leaves any such swing gate open or breaks or injures any wire netting or other rabbit-proof or vermin-proof fence or portion thereof he shall on conviction be liable to be imprisoned for any period not exceeding six months and to pay a penalty not exceeding Fifty pounds.

Councils may  
erect fencing  
on request  
of owners.  
*Ib. s. 61.*

60. On the application of any two or more owners of adjoining properties in any special area who have been furnished by the shire council with materials for wire netting or other rabbit-proof or vermin-proof fencing the shire council may at the cost and on behalf of the owners undertake to erect all wire netting or other rabbit-proof or vermin-proof fencing necessary to enclose such properties so as to make the same secure against the intrusion of vermin, and also if the council thinks fit any properties any two sides of which adjoin the same.

In the first instance, the cost of such erection may be defrayed out of the municipal fund, but such cost shall be repaid to the council by the owners of any land so fenced in such proportions as they may agree upon among themselves, or failing agreement as the shire council shall finally determine.

No council shall undertake to erect any such fence on any land until the owners thereof shall have entered into bonds conditioned to repay the actual cost of erecting such fencing in the manner aforesaid.

Every such payment shall become a charge upon the land of such owners in the proportion agreed upon as aforesaid and may at any time be recovered in a summary way or by action in any court of competent jurisdiction from the owner for the time being of such land or any part thereof.

Repayment of  
loans.  
*Ib. s. 62.*

61. The amount of the loan granted under this Act by the Governor in Council to any shire shall within ten years and without interest be repaid to the Secretary for Lands by the council of such shire by yearly payments received from owners of land or out of the municipal fund.

It shall be the duty of such council to take all proper steps to recover all moneys due from any owner.

All such moneys when received shall be paid into a separate account in some bank from time to time approved by the said Minister and shall be applied only for the purpose of reducing the amount of the loan.

*"The Vermin  
Destruction Act  
1889."*

In the month of May in each and every year all moneys so recovered by the council of any shire during the year ended on the last day of April in such year shall be drawn from such separate account by such council and paid to the Secretary for Lands, who shall pay the same into the consolidated revenue in reduction of the amount of the loan granted to such municipality under this Act.

62. In default of payment being made to the Secretary for Lands during May in any year by any municipality of any moneys so recovered, or in the event of one-tenth part of any loan made to such municipality under this Act not being fully repaid either by means of moneys so recovered or out of the municipal fund to the Secretary for Lands in each and every year or during the month of May, it shall become the duty of the said secretary to make and sign a certificate to that effect and to forward such certificate to the Crown Solicitor.

*Procedure on  
default by  
municipality.  
Ib. s. 63.*

*All yearly pay-  
ments payable  
under this Act  
to such  
municipality.*

Upon the receipt of such certificate the Crown Solicitor shall apply to the Supreme Court or any County Court to appoint, and the Supreme Court or any County Court may thereupon appoint, some person or persons not exceeding three to receive or collect all yearly payments due in respect of materials for fencing as the Court may direct.

Such person or persons shall act under the directions of and may from time to time be removed by the Supreme Court or County Court (as the case may be).

63. The person or persons so appointed under this Act shall be deemed for the purpose of collecting such payments to be the council of such municipality, and may exercise all the powers thereof.

*Powers.  
Ib. s. 64.*

64. Every such person shall be entitled to such commission as remuneration for his services as the Court may appoint.

*Receivers'  
commission.  
Ib. s. 65.*

65. Such person or persons shall apply all moneys received by him or them in payment of all proper costs and expenses including his or their commission and in payment and discharge of the whole amount due for principal in respect of any loan made under this Act of which he or they have been appointed and the surplus if any shall be paid to such municipality.

*Application  
of moneys  
recovered by  
receivers.  
Ib. s. 66.*

66. If any such payments recovered by any municipality be not so paid into a separate account in some bank as aforesaid, or if any money be drawn from such separate account and be appropriated whether temporarily or permanently for any purpose other than that of reducing the loan, the councillors who have consented to such moneys being not so paid into such separate account or who have consented to such misappropriation shall be jointly and severally liable to refund the same and interest thereon at the rate of Eight pounds per centum per annum; and the same may be recovered in any court of competent jurisdiction from such councillors or any of them as money lent to such councillors, and may be sued for by any ratepayer of the municipality on behalf of the municipality.

*When councillors  
personally liable.  
Ib. s. 67.*



"The Vermin  
Destruction Act  
1889" s. 68.  
Powers of  
recovery.

67. With regard to all moneys due to any shire council pursuant to the provisions of this Part of this Act every such council in addition to any powers in this Act contained shall also have the like powers of enforcement and recovery as are conferred on municipal councils with regard to unpaid rates by any Act in force for the time being relating to local government.

Evidence of  
moneys owing  
on land.  
Ib. s. 69.

68. In any proceeding whatever where it may be desired to prove the amount of any payments then due or hereafter payable under this Part of this Act, in respect of any land a certificate as to such amount, signed by the municipal clerk of the shire shall be *prima facie* evidence as to such amount.

Additional  
power to make  
by-laws.  
Ib. s. 70.

69. The council of every shire shall have power to make by-laws pursuant to the provisions of the *Local Government Act 1890* for—

- (1) apportioning the liability of every owner of land in any special area;
- (2) facilitating and regulating the collection and recovery of all moneys due and payable to such council pursuant to this Part of this Act; and
- (3) generally carrying out the provisions of this Part of this Act.

Inspector may  
have recourse to  
municipal  
documents.  
Ib. s. 71.

70. For the purposes of this Act any inspector shall have recourse to all books and documents under the control of the council of any municipal district and may make extracts therefrom at all reasonable times without fee.

Vermin-proof  
fence to be a  
sufficient fence.  
Ib. s. 72.

71. The Governor in Council may from time to time by order as to the whole or any part of Victoria proclaim any wire-netting or other vermin-proof or rabbit-proof fence described in such order to be a wire-netting or other vermin-proof or rabbit-proof fence within the meaning of this Act, and in the making of such fence may authorize the use of barbed wire.

Every fence erected in the manner so proclaimed if at least three feet six inches in height shall be deemed to be a "sufficient fence" within the meaning of the *Fences Act 1890* and the Governor in Council may at any time revoke any such order.

## SCHEDULES.

### FIRST SCHEDULE.

Section 2.

Date of Act.	Title of Act.	Extent of Repeal.
53 Vict. No. 1028	"The Vermin Destruction Act 1889" ...	The whole.

## SECOND SCHEDULE.

Section 14.

*Vermin Destruction Act 1890.*

## NOTICE TO DESTROY VERMIN.

To [name of owner or occupier] of [address and occupation].

TAKE NOTICE that I [name of inspector] of [address of inspector], being an inspector under the *Vermin Destruction Act 1890* and authorized for this purpose, do hereby in pursuance of the provisions of such Act require you to forthwith destroy all rabbits or other vermin within the meaning of such Act upon the land owned or occupied by you in the [state municipal district and the division thereof in which the land is] containing about [area in acres] and upon the adjacent half-width of all roads bounding or adjoining the same or any part thereof, and I also require you henceforth to keep such land and half-width of roads clear and free of all rabbits and other vermin as aforesaid.

Dated at this day of 18  
(Signed) [Signature of inspector.]

NOTE.—Your attention is directed to the several sections of the *Vermin Destruction Act 1890*, which are printed at the back of this Notice. [At the back of the Notice there shall be printed such sections of the Act as the Minister may think fit.]

## THIRD SCHEDULE.

Section 18.

*Vermin Destruction Act 1890.*

## NOTICE AS TO LIVE FENCE, OR BRUSHWOOD OR LOG FENCES OR HEDGES, OR STONE WALLS, OR DEAD OR FALLEN TIMBER.

To [name of owner or occupier] of [address and occupation].

TAKE NOTICE that I [name of inspector] of [address of inspector], being an inspector under the *Vermin Destruction Act 1890* and duly authorized for this purpose, and with the sanction in writing of the Minister [or Chief Inspector] first obtained, do hereby in pursuance of the provisions of such Act require you—

- (a) To cause the whole of the live fence standing or lying [describe the position as nearly as possible of any particular fence referred to] on the land owned or occupied by you in the [state municipal district and the division thereof in which the land is] containing about [area in acres] to be cut so that the branches or leaves of such live fence shall not be within one foot of the ground and also to cause the ground under and for at least two feet on each side of such live fence to be cleared of grass or rubbish and also to cause such fence to be limited to a width not exceeding two feet in extent, up to a height of one foot from the ground, or
- (b) To cause the whole of the brushwood fence [describe fully as before] to be so destroyed, and the materials thereof to be burnt, or
- (c) To cause such log fence hedge or stone wall [describe fully as before] to be so improved pulled down or removed as to be no longer a harbour or cover for vermin, or
- (d) To cause the whole of the dead or fallen timber [describe fully as before] to be removed or burnt.

And I hereby give you notice that if at the expiration of six months from the date of service hereof upon you shall not have complied with the requirements hereof, I shall with the sanction of the Chief Inspector take such measures as I may think necessary in accordance with the provisions of the *Vermin Destruction Act 1890*.

Dated at this day of 18  
(Signed) [Signature of inspector.]

NOTE.—Your attention is directed to the several sections of the *Vermin Destruction Act 1890* which are printed at the back of this Notice. [At the back of the Notice there shall be printed such sections of the Act as the Minister may think fit.]

## FOURTH SCHEDULE.

Section 27.

*Vermin Destruction Act 1890.*

This is to certify that at the date hereof no costs charges or expenses are recoverable by any inspector under the *Vermin Destruction Act 1890* for or in consideration of anything done upon or in respect of the land now owned or occupied by [name of owner or occupier] in the [state municipal district and division thereof in which the land is] containing about acres or the adjacent half-width of all roads bounding or adjoining the same or any part thereof.

Dated at this day of 18  
(Signed) [Signature of Minister.]  
Minister for

