



Pasturage and Enclosure Act 1949

No. 4, 1949

Compilation No. 3

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Includes amendments up to: Norfolk Island Continued Laws Ordinance 2015 (No. 2, 2015) as amended up to Norfolk Island Continued Laws Amendment (Traffic and Other Measures) Ordinance 2020 (F2020L01644)

NORFOLK



ISLAND

PASTURAGE AND ENCLOSURE ACT 1949

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Pasturage and Enclosure Act 1949

An Act relating to pasturage and enclosure

Citation

1. This Act may be cited as the *Pasturage and Enclosure Act 1949*.

Repeal

2. (1) The Acts specified in the Schedule are repealed.
(2) A right of pasturage granted under any Act repealed by this Act and in force at the commencement of this Act shall continue in force until 31 December 1949.

Commencement

3. This Act shall commence on 1 December 1949.

Definitions

4. In this Act, unless the contrary intention appears —
 - “cattle proof fence” includes any fence registered under the *Fencing Act 1913*, and any wall, ditch, or other artificial or natural obstruction which would serve, under normal conditions, to exclude quiet cattle;
 - “right of pasturage” means a right to depasture and water horses or cattle on any land (whether the property of a private person or of a corporation or of the Crown) which is not enclosed by a cattle proof fence;
 - “sheep proof fence” means a fence, ditch, wall or other artificial or natural obstruction which would serve, under normal conditions, to exclude quiet sheep;
 - “stock” means horses or cattle;
 - “sufficiently enclosed” means enclosed by a cattle proof fence;
 - “tag” includes a disc issued under this Act before the commencement of the *Pasturage and Enclosure Act 1979*.

Application for right of pasturage

5. (1) An owner of stock may —
 - (a) on a form provided for the purpose by the Administration; and
 - (b) during the last 14 days of December in any year,apply to the Chief Executive Officer for a right of pasturage for the year commencing on the next succeeding 1 April.

(2) An application for a right of pasturage must be accompanied by the approved fee (if any).

Conditions upon which right of pasturage may be granted

6. (1) Subject to this Act, the Chief Executive Officer may grant to any person a right of pasturage for such number of horses or head of cattle as he determines on the payment of the approved fee.

(1A) The number of horses or cattle or horses and cattle in respect of which a right of pasturage may be granted to a person shall not exceed the prescribed number.

- (2) A right of pasturage shall not be granted so as to extend beyond 31 March in any year.

Issue of identifying numbers

7. (1) The Chief Executive Officer shall assign a separate identifying number to each horse and each head of cattle in respect of which a right of pasturage has been granted under section 6, and shall cause to be kept a register in which shall be entered every such number, and such other particulars as are required by this Act or the Regulations thereunder.

(2) The Chief Executive Officer shall issue to the owner of any horse or head of cattle in respect of which a right of pasturage has been granted under this Act a tag bearing the identifying number assigned to the horse or head of cattle.

(3) The owner of any horse or head of cattle in respect of which a tag has been issued under subsection 7(2) shall, before exercising the right of pasturage in respect of that animal, attach the tag in the prescribed manner to the animal to which it relates and shall keep it so attached during the time the right of pasturage in respect of that animal is exercised.

Penalty: 1 penalty unit.

(4) A person to whom a tag is issued under this section shall pay to the Chief Executive Officer the approved fee for the issue of a tag and the Chief Executive Officer shall refund that fee upon the return of the tag within the prescribed time by that person.

Chief Executive Officer may prohibit particular animals being depastured

8. The Chief Executive Officer may at any time by notice in writing to the owner of any particular animal prohibit the depasturing of the animal under this Act during such time as is specified in the notice, and thereupon the animal shall not be so depastured under this Act during that time.

Certain animals not to be depastured

9. (1) A right of pasturage shall not be granted under this Act for —

- (a) any entire horse over the age of 12 months;
- (b) any bull over the age of 6 months;
- (c) any animal declared by the Chief Executive Officer, or by a person appointed by the Chief Executive Officer, to be a useless animal; or
- (d) any animal declared by the Chief Executive Officer, or by a person appointed by the Chief Executive Officer, to be suffering from a contagious disease.

(2) If any animal is depastured in contravention of this section it may, by order of the Chief Executive Officer, be destroyed without compensation to the owner.

(3) Despite the provisions of subclause (1)(b) the Chief Executive Officer may permit a bull to be depastured on condition that the bull is identified to the satisfaction of the Chief Executive Officer and subject to the supervision and control of the Administration for the period of it being depastured.

(4) If a depastured bull is returned to pasture it must not be depastured without further approval given under subsection (3).

Stock not to be on land not sufficiently enclosed

10. Except in pursuance of this Act, the owner of any stock shall not depasture his stock, or allow stock to stray or be at large upon any land which is not sufficiently enclosed, whether the land is or is not owned by or in the possession of the owner of the stock.

Depasturing of sheep

11. The owner of any sheep shall not depasture his sheep except on land enclosed by a sheep proof fence so as to keep the sheep within the boundaries of the land, and shall not allow sheep to stray or be at large on any land not so enclosed or on any public road or place.

Straying stock deemed to be under control of Administration

11A. (1) All stock depastured, straying or at large on any land that is not enclosed (whether the land is or is not owned by or in the possession of the owner of the stock) shall be deemed to be within the control and management of the Administration for the purposes of the *Stock Diseases Act 1936*.

(2) Subsection 11A(1) applies to stock whether a right of pasturage exists in respect of the stock or not.

(3) The Administration or an inspector is not liable for any loss or damage sustained by a person by reason of —

- (a)** an act done by an inspector in good faith and without negligence under or for the purposes of, or purporting to be under or for the purposes of, the *Stock Diseases Act 1936* or the Regulations in force under that Act in respect of stock deemed by this section to be within the control and management of the Administration for the purposes of that Act; or
- (b)** an omission made by an inspector in good faith and without negligence in respect of stock referred to in paragraph 11A(3)(a).

(4) A reference in this section to an inspector includes a reference to any person acting on behalf of the Administration.

Penalties

12. (1) If any horse or head of cattle or sheep is depastured, or allowed to stray, or is found at large, in contravention of this Act, the Chief Executive Officer or some person thereto authorised by the Chief Executive Officer, shall notify the fact to the owner of the animal.

(2) If at any time thereafter the animal is so depastured, or allowed to stray, or is found at large, the owner of the animal shall be guilty of an offence.

Penalty: In the case of an entire horse over the age of 12 months or bull over the age of 6 months, a fine not exceeding 1 penalty unit, and in the case of any other animal, a fine not exceeding 0.50 penalty unit.

(3) Where any horse, head of cattle or sheep is depastured, allowed to stray, or found at large, in contravention of this Act, the Chief Executive Officer or some person thereto authorised by the Chief Executive Officer, may remove the animal and deliver it to the owner and the Administration may, in the Court of Petty Sessions, recover from the owner the cost of such removal and delivery.

Regulations

13. The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for the following —

- (b)** regulating the mustering of stock depastured under this Act;
- (c)** providing for the keeping of books required in connection with the administration of this Act;

- (d) prescribing the method to be adopted in attaching tags bearing identifying numbers to depastured animals;
- (f) prescribing penalties not exceeding 1 penalty unit for any contravention of the regulations.

SCHEDULE

Section 2

Pasturage and Enclosure Act 1920
Pasturage and Enclosure Act 1927
Pasturage and Enclosure Act 1933
Pasturage and Enclosure Act 1936
Pasturage and Enclosure Act 1938

NOTES

The *Pasturage and Enclosure Act 1949* as shown in this consolidation comprises Act No. 4 of 1949 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Pasturage and Enclosure Act 1949</i>	4, 1949	1.12.49	2
<i>Amendments Incorporation Act 1963</i>	2, 1963	28.3.63	
<i>Ordinances Revision Act 1964</i>	6, 1964	30.6.64	6
<i>Ordinances Citation Act 1976</i>	11, 1976	25.11.76	
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Pasturage and Enclosure Act 1979</i>	8, 1979	8.11.79	
<i>Ordinances Revision (Decimal Currency) Act 1980</i>	31, 1980	15.1.81	
<i>Pasturage and Enclosure (Amendment) Act 1981</i>	20, 1981	31.12.81	6
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>Statute Law Revision (Self-Government) No. 4 Act 1991</i>	17, 1991	1.11.91	
<i>[Previously consolidated as at 4 March 2005]</i>			
<i>Interpretation (Amendment) Act 2012</i> <i>[to substitute throughout —</i> <i>Commonwealth Minister for Minister;</i> <i>and executive member for Minister]</i>	14, 2012	28.12.2012	
<i>Registration of Bulls (Repeal) Act 2012</i>	3, 2013	18.1.2013	

Ordinance	Registration	Commencement	Application, saving and transitional provisions
Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015) (now cited as Norfolk Island Continued Laws Ordinance 2015 (see F2015L01491))	17 June 2015 (F2015L00835)	18 June 2015 (s 2(1) item 1)	Sch 1 (items 344, 345, 382–396)
as amended by			
Norfolk Island Continued Laws Amendment (Statutory Appointments and Other Matters) Ordinance 2018	28 Sept 2018 (F2018L01378)	Sch 1 (item 43): 29 Sept 2018 (s 2(1) item 1)	—
Norfolk Island Legislation Amendment (Fees and Other Matters) Ordinance 2019	12 Aug 2019 (F2019L01048)	Sch 1 (items 58–61): 13 Aug 2019 (s 2(1) item 1)	—
Norfolk Island Continued Laws Amendment (Traffic and Other Measures) Ordinance 2020	18 Dec 2020 (F2020L01644)	Sch 2: 19 Dec 2020 (s 2(1) item 1)	—

Table of Amendments

ad = added or inserted	am = amended	rep = repealed	rs = repealed and substituted
Provisions affected	How affected		
1	am	2, 1963; 11, 1976	
4	am	11, 1976; 8, 1979	
5	rs	20, 1981	
	am	17, 1991; Ord No 2, 2015 (as am by F2018L01378 and F2019L01048)	
6	am	8, 1979; 17, 1991; 20, 1981; Ord No 2, 2015 (as am by F2018L01378, F2019L01048 and F2020L01644)	
7	am	8, 1979; 31, 1980; 9, 1985; 17, 1991; Ord No 2, 2015 (as am by F2018L01378 and F2019L01048)	
8	am	17, 1991; Ord No 2, 2015 (as am by F2018L01378 and F2019L01048)	
9	am	17, 1991; 3, 2013; Ord No 2, 2015 (as am by F2018L01378 and F2019L01048)	
11A	ad	8, 1979	
12	am	6, 1964; 13, 1979; 8, 1979; 31, 1980; 9, 1985; 17, 1991; Ord No 2, 2015 (as am by F2018L01378 and F2019L01048)	
13	am	13, 1979; 8, 1979; 31, 1980; 9, 1985; Ord No 2, 2015 (as am by F2019L01048 and F2020L01644)	