

## No. 3375.

An Act to amend the Law relating to the Supplying of Wire Netting and to amend Section Twenty of the *Fences Act* 1915.

[23rd December, 1924.]

BE it enacted by the King'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.

1. (1) This Act may be cited as the *Wire Netting Act* 1924.

Division into Parts.

(2) This Act is divided into Parts as follows:—

Part I.—Wire Netting.

Part II.—Amendment of the *Fences Act* 1915.

## PART I.—WIRE NETTING.

Construction of this Part.

No. 2745 Part II. Div. 2.

2. This Part of this Act shall be read and construed as one with division two of Part II. of the *Vermin Destruction Act* 1915 (hereinafter in this Part called the Principal Act).

Interpretation.

3. (1) In the Principal Act and this Part of this Act unless inconsistent with the context or subject-matter—

“Owner.”  
Comp. No. 2745  
s. 87.

“Owner” includes—

(a) a licensee or lessee of an agricultural allotment or grazing allotment or a lessee of a selection purchase allotment under the Land Acts or a conditional purchase lessee under the Land Acts or the Closer Settlement Acts or a lessee under any lease to a discharged soldier pursuant to the Discharged Soldiers Settlement Acts;

(b) a licensee of land under section eighty-six of the *Land Act* 1915 or the corresponding provision of any Act thereby repealed; and

(c) a purchaser of land although the same has not been conveyed or transferred to him if he is in possession thereof under a contract of sale thereof.

(2) In

No. 2676 s. 86.

(2) In section eighty-one of the Principal Act for the words “‘Board’ means the Board of Land and Works” there shall be substituted the words “‘Board’ means the Closer Settlement Board.”

Amendment of  
No. 2745 s. 81.  
Interpretation  
of “Board.”

4. On from and after the passing of this Act no further sales of wire netting shall be made to municipal councils for the supply thereof to owners of land under division two of Part II. of the Principal Act.

Power to sell  
wire netting to  
municipalities  
for supplying  
owners to cease  
on passing  
of this Act.

5. Notwithstanding anything in division two of Part II. of the Principal Act—

Agreements  
with councils  
as to  
postponement  
of times of  
payment of  
price of wire  
netting and  
interest.

(1) Where on or after the ninth day of October One thousand nine hundred and twenty-one and before the passing of this Act a municipal council has entered into an agreement under section eighty-three of the Principal Act to pay for wire netting obtained by it a price fixed in such agreement the Commissioner of Public Works may if he thinks fit postpone for a period not exceeding three years from the date of the supplying of the wire netting the payment of—

See No. 2745  
s. 83.

- (a) the first ten per centum of the said price ;
- (b) any instalment payable during the said period ;  
and
- (c) any interest payable under the said section during  
the said period —

and the said division two and such agreement shall be read and construed and subject to this Part of this Act have effect accordingly ;

(2) In any such case—

the price payable for the wire netting shall be the price fixed in the agreement increased by an amount equivalent to the interest on the said price during the period of postponement at the rate of Four pounds per centum per annum from the date of the supplying of the wire netting ;

ten per centum of the said price so increased (together with interest thereon at the rate of Four pounds per centum per annum from the date of the expiration of the period of postponement) shall be paid by the council in cash on the expiration of the fourth year from and after the date of the supplying of the wire netting ; and

Price &c.  
payable by  
council in such  
cases and times  
of payment &c.

unless

unless otherwise arranged the balance of the said price so increased shall be paid yearly in nine equal instalments together with interest on the said balance at the rate of Four pounds per centum per annum from the date of the expiration of the said fourth year or on so much of the said balance as remains unpaid;

Advances by councils to owners when payments postponed.

(3) Where on or after the ninth day of October One thousand nine hundred and twenty-one and before the passing of this Act the council has granted an advance of wire netting obtained under any such agreement to any owner of land—

(a) the price payable by the said owner for the wire netting shall be the amount of the advance granted to him increased by an amount equivalent to the interest on the said advance during the aforesaid period of postponement at the rate of Four pounds and five shillings per centum per annum from the date of the supplying of the wire netting; and references in the said division two to the price or value of wire netting or to the amount of such price or to the amount of the advance granted to an owner or to the amount at any time due to a council by any owner or any like expression shall be read and construed accordingly;

(b) the repayment of the advance the amount of which is so increased (together with interest at the rate of Four pounds and five shillings per centum per annum on the amount so increased from the date of the expiration of the aforesaid period of postponement or on so much of the said amount as remains unpaid) shall unless otherwise agreed upon be made by the owner in ten yearly instalments the first of which shall become due and payable on the expiration of the fourth year from and after the date of the supplying of the wire netting.

Power to postpone times of payment &c. in cases of advances of wire netting by Closer Settlement Board to owners of land. No. 2745 s. 87. No. 2629 ss. 4, 103.

6. Notwithstanding anything in division two of Part II. of the Principal Act—

(1) Where on or after the ninth day of October One thousand nine hundred and twenty-one and whether before or after the passing of this Act the Closer Settlement Board pursuant to division two

two of Part II. of the Principal Act or paragraph (b) of sub-section (11) of section four or section one hundred and three of the *Closer Settlement Act 1915* has made or makes an advance of wire netting to any owner of land on such terms as to security and otherwise as are arranged the repayment of such advance and the payment of any interest thereon may if in any case the Board thinks fit be postponed as in this section provided;

(2) In such case such advance (together with the interest thereon at the rate agreed upon) may be made repayable as follows :—

(a) At the expiration of the period of three years from and after the date of the supplying of the wire netting all interest accrued due may be added to the advance; and

(b) The advance (including such interest) shall be repayable by the owner in ten yearly instalments, together with interest on such advance so increased at the rate agreed upon as aforesaid from the date of the expiration of the period of postponement or on so much of such advance so increased as remains unpaid, the first of which instalments shall become due and payable on the expiration of the fourth year from and after the date of the supplying of the wire netting—

and for the purposes of this section references in the said division two to the price or value of wire netting or to the amount of such price or to the amount of the advance granted to an owner or to the amount at any time due to the Board by any owner or any like expression shall be read and construed accordingly.

7. (1) In any case of the postponement of the time of payment of any percentage or interest or repayment of any instalment of an advance of wire netting pursuant to either of the two last preceding sections of this Act any council or owner which has paid such percentage or interest or any part thereof or repaid such instalment or any part thereof on or after the ninth day of October One thousand nine hundred

Provision in cases of postponements for crediting instalments &c. paid before passing of this Act.

hundred and twenty-one and before the passing of this Act shall be entitled to receive credit for the same when the corresponding postponed payment or repayment becomes due and payable or repayable.

Adjustments of agreements and securities.

(2) The Commissioner of Public Works or the council or the Closer Settlement Board (as the case may be) may make such adjustments as are necessary so as to conform with the provisions of this Part of this Act in any agreement for an advance or in any security to secure the repayment of an advance made on or after the day aforesaid and before the passing of this Act ; or in lieu of the adjustment of any agreements new agreements may be entered into and in lieu of the adjustment of any securities the council or the Board may require such new securities to be entered into as the council or the Board thinks fit.

Power to pay to owners part of value of wire netting used for fences already erected on boundaries of private and unoccupied Crown lands or to grant wire netting to complete such fences.

Comp. No. 2745 s. 88 (1).  
No. 2629 ss. 4 (ii) (b), 103.

No. 2745 s. 87.  
No. 2629 ss. 4, 103.

8. (1) Where on or after the ninth day of October One thousand nine hundred and twenty-one and whether before or after the passing of this Act any owner of private land whether freehold or leased or licensed has purchased and used or purchases and uses wire netting for the vermin-proof fencing of a boundary or part of a boundary between such private land and unoccupied Crown land or separated only by a public road therefrom and such wire netting has not been obtained from or advanced by any council or has not been or is not obtained from or advanced by the Board under division two of Part II. of the Principal Act or under this Part of this Act or under paragraph (b) of sub-section (11) of section four or section one hundred and three of the *Closer Settlement Act* 1915 the Board, out of any moneys available for the purpose, may if it thinks fit and upon such conditions restrictions and limitations as it thinks fit—

- (a) pay to such owner of private land an amount not exceeding Fifty per centum of the value of wire netting so purchased and used ; or
- (b) grant any such owner wire netting for the completion of the vermin-proof fencing of any part of such boundary to an amount equivalent in value to that of the wire netting already used by him in the vermin-proof fencing of such boundary :

Provided that the determination of the Board as to any question of value under paragraph (a) or paragraph (b) of this sub-section shall be final and conclusive.

(2) No

(2) No payment under paragraph (a) and no grant of wire netting under paragraph (b) of the last preceding sub-section to any owner shall exceed in amount or value for each lineal mile of fencing or portion thereof the rate chargeable under division two of Part II. of the Principal Act to owners of land by the Board for wire netting at the date of purchase by the said first-mentioned owner of the wire netting used in the erection of the fence on such boundary or part (as the case may be).

Restriction on amount which may be paid and on value of wire netting which may be granted.

(3) The provisions of sub-section (5) of section eighty-eight of the Principal Act shall so far as applicable and with such alterations modifications and substitutions as are necessary extend and apply to wire netting with respect to which any payment is made under paragraph (a) of sub-section (1) of this section or which is granted under paragraph (b) thereof or which is sold for cash at a reduced price pursuant to this Part of this Act.

Application of No. 2745 s. 88 (5).

Protection from execution &c.

9. (1) Where the price of wire netting advanced, whether before or after the passing of this Act by the Board, or before the passing of this Act by a council, to any owner of private land adjoining unoccupied Crown land or separated only by a public road therefrom pursuant to section eighty-eight of the Principal Act, or where the price of wire netting sold whether before or after the passing of this Act to any such owner by the Board pursuant to any power of the Board in that behalf, or sold before the passing of this Act to any such owner by the Commissioner of Public Works or a council pursuant to any power of the Commissioner of Public Works or the council in that behalf, is fifty per centum only of the value of such wire netting, or where any payment under paragraph (a) of sub-section (1) of the last preceding section of this Act or any grant of wire netting under paragraph (b) of the said sub-section (1) has been made by the Board to any owner of private land adjoining unoccupied Crown land or separated only by a public road therefrom the incoming lessee of such unoccupied Crown land shall pay to the Board—

Recovery of proportion of certain rebates &c. from incoming lessee of adjoining Crown lands.

(a) in any case under the said section eighty-eight or in any case of a sale of wire netting as aforesaid—Fifty per centum of the value at the date of the lease and as determined by the Board of the wire netting advanced or sold (as the case may be) to the owner; and

(b) in

(b) in any case under paragraph (a) of sub-section (1) of the last preceding section of this Act—a sum not exceeding Fifty per centum of the value at the date of the lease and as determined by the Board of the wire netting used by the owner ; and

(c) in any case under paragraph (b) of the said sub-section (1)—a sum equivalent to the value at the date of the lease and as determined by the Board of the wire netting granted to the owner as aforesaid :

Provided that the determination of the Board as to any question of value under paragraph (a) or paragraph (b) or paragraph (c) of this sub-section shall be final and conclusive.

Determination of value of wire netting &c.  
Comp. No. 2676 s. 209.

(2) The amount payable under this section by any incoming lessee with respect to the portion of the said unoccupied Crown land to which his lease relates shall be determined by the Board as soon as practicable after the issue of the lease of such portion.

Amount unpaid to be treated as advance.

(3) If such amount is not paid by the lessee on demand in writing by the Board the same may be treated as and shall be deemed to be an advance by the Board to the lessee under the Principal Act as amended by this Act, and for the purposes of this sub-section the provisions of the said Acts with respect to advances and securities therefor shall with such alterations modifications and substitutions as are necessary extend and apply and have effect accordingly.

New section substituted for No. 2745 s. 87.

**10.** For section eighty-seven of the Principal Act there shall be substituted the following section :—

Advances by the Board to owners of land Crown licensees &c.

Limit of advance.

“87. An advance of wire netting but not in any case to a greater extent than is sufficient for six lineal miles of fencing for the vermin-proof fencing of the land of the owner may be made by the Board to any owner of land in Victoria not in a city or town (whether the said land is or is not included in the municipal district of any municipality) on such terms as to security and otherwise as are arranged.”

Power to advance wire netting to councils which are committees of management of certain public reserves.  
Comp. No. 2745 s. 87.

**11.** (1) An advance of wire netting, but not in any case to a greater extent than is sufficient for six lineal miles of fencing for the vermin-proof fencing of any Crown lands which are reserved under the Land Acts for any public purpose and whether or not vested in trustees or jointly in the

the Board of Land and Works and trustees but in respect of which a committee of management, being a municipal council of any municipality in Victoria (including a city or town), has been appointed pursuant to the Land Acts, may be made to the said committee of management by the Closer Settlement Board on such terms as to security and otherwise as may be arranged.

(2) The price of the wire netting to be advanced under this section shall be Fifty per centum only of the value of such wire netting and shall be deemed and taken to be the amount of the advance.

Amount of  
advance.  
Comp. No. 2745  
s. 88.

(3) Any municipal council which is a committee of management as aforesaid may apply out of the municipal fund or town fund of the municipality the amount of any advance repayable and interest payable to the Board in respect of wire netting pursuant to this section.

Application  
of municipal  
or town fund.

12. (1) At any time upon the report of an inspector of the Board that—

Power to recall  
advances or  
cancel rebates  
in cases of  
misapplication  
&c. of wire  
netting &c.  
Comp. No. 2987  
s. 30.

- (a) any wire netting advanced granted or sold, whether before or after the passing of this Act, to any owner of land by the Board pursuant to any Act or with respect to which the price was Fifty per centum only of the value of such wire netting has not been used for the purposes for which it was advanced granted or sold; or
- (b) any such wire netting has not been so used within a period of twelve months from and after the date of such advance grant or sale; or
- (c) any such wire netting has not been used for the vermin-proof fencing of the boundary in respect of which it was advanced granted or sold; or
- (d) any such wire netting has not been affixed in a satisfactory manner to the fence for which the wire netting was advanced granted or sold; or
- (e) wire netting advanced granted or sold to an owner or in respect of which a proportion of the value thereof has been paid to an owner pursuant to any power of the Board in that behalf is not being maintained in a proper state of repair; or
- (f) wire netting has been removed from a boundary in respect of which it was advanced granted or sold



sold or the price thereof was reduced or a proportion of the value thereof was paid to the owner as aforesaid—

the Board may direct—

- (i) in the case of an advance—that the amount thereof shall with interest thereon become immediately due and payable by the owner for the time being of the land or any part thereof to the Board : or
- (ii) in the case of the grant of wire netting as aforesaid to the owner—that the value of the wire netting at the date of the grant thereof (with interest thereon at the rate per centum per annum chargeable by the Board for advances under section eighty-seven of the Principal Act as re-enacted in this Act at the date of the direction of the Board) shall be forthwith paid by the owner for the time being of the land or any part thereof to the Board : or
- (iii) in the case of a reduction of the price of the wire netting—that the remaining Fifty per centum of the value of such wire netting shall be forthwith paid by the owner for the time being of the land or any part thereof to the Board : or
- (iv) in the case of the payment to the owner of a proportion of the value of the wire netting as aforesaid—that the amount so paid (with interest thereon at the rate per centum per annum chargeable by the Board for advances under section eighty-seven of the Principal Act as re-enacted in this Act at the date of the direction of the Board) shall be forthwith paid by the owner for the time being of the land or any part thereof to the Board.

(2) The Board may forthwith (as the case may be)—

- (a) recover the amount of the said advance with interest thereon in the like manner as any instalments due to the Board are recoverable; or
- (b) recover in any court of competent jurisdiction as a debt due and payable to the Board the said remaining Fifty per centum of the value of the

wire

wire netting or any other amount or value directed as aforesaid to be paid by the owner for the time being of the land or any part thereof to the Board.

13. (1) Without affecting the generality of the provisions of section eighty-eight of the Principal Act where any advance of wire netting is made under division two of Part II. of the Principal Act as amended by this Part of this Act by the Board to a purchaser of land who is in possession thereof under a contract of sale thereof the amount of the price of such wire netting with interest thereon at the rate agreed upon shall be and until paid to the Board remain a first charge upon the land for the fencing of which such wire netting is supplied.

Advance &c.  
to purchaser  
under contract  
of sale to be  
charged on  
land.  
See No. 2745  
s. 88 (2).

Comp. No. 3195  
s. 32.

(2) When any land is so charged the Board may cause to be deposited with the Registrar-General or the Registrar of Titles (as the case may be) a certificate under the seal of the Board describing the land charged and stating the amount of such charge, and the Registrar-General or Registrar of Titles (as the case may be) shall on payment of a fee of Ten shillings register such certificate accordingly; and when the amount of the price of the wire netting together with interest thereon as provided in this section is paid the Registrar-General or the Registrar of Titles (as the case may be) shall on payment of a fee of Ten shillings cancel the registration of the charge if so required by the Board.

Registration of  
charge.  
Ib.

(3) Nothing in this section shall affect any right of the Board to require the said purchaser to give to the Board any security for the repayment to the Board of any advance or instalment thereof or the payment of interest thereon.

Right to require  
further security.  
See No. 2745  
s. 89.

14. (1) Section eighty-nine of the Principal Act is hereby amended as follows :—

Amendment of  
No. 2745 s. 89.  
Securities for  
advances.

(a) In sub-section (1) after the words "improvements thereon" all words to the end of the sub-section are hereby repealed; and

(b) Sub-section (2) is hereby repealed.

(2) Section ninety-two of and the Seventh Schedule to the Principal Act are hereby repealed.

Repeal of No.  
2745 s. 92 and  
Seventh  
Schedule as to  
liens on crops.

(3) In section ninety-six of the Principal Act—

(a) for the words "forms in the Sixth and Seventh Schedules to this Act or forms" there shall be substituted the words "form in the Sixth Schedule to this Act or a form"; and

Consequential  
amendment of  
No. 2745 s. 96.

(b) the

(b) the words "or liens on crops" are hereby repealed.

Application of  
No. 2745 s. 90  
to vendor's lien.

No. 2745 s. 87.

15. Without affecting the generality of section ninety of the Principal Act the said section shall extend and apply to any case in which an advance of wire netting under section eighty-seven of the Principal Act as re-enacted in this Part of this Act is to be made or is made to a purchaser of land who is in possession thereof under a contract of sale thereof; and in particular for the purposes of this section in the said section ninety—

(a) any reference to a mortgage or incumbrance shall be deemed to include a reference to a vendor's lien; and

(b) any reference to a mortgagee or incumbrancer shall be deemed to include a reference to the unpaid vendor of such land.

Amendment of  
No. 2745 s. 90.

Inspection of  
land where  
mortgagee &c.  
refuses consent  
to advance to  
owner.

16. (1) In sub-section (3) of section ninety of the Principal Act for the words "then if the Chief Inspector after a personal inspection or on consideration of a recommendation or report by any inspector certifies in writing that he is of opinion" there shall be substituted the words "if the Board on consideration of a recommendation or report by any inspector of the Board made after a personal inspection by such inspector certifies in writing that it is of opinion."

Consequential  
amendment of  
No. 2745 s. 97.

Regulations as  
to procedure.

(2) In paragraph (d) of sub-section (1) of section ninety-seven of the Principal Act for the words "the Chief Inspector" there shall be substituted the words "the Board."

Amendment of  
No. 2745 s. 90.

Priority of  
mortgages &c.  
of  
Commissioners  
of State Savings  
Bank.

(3) At the end of section ninety of the Principal Act there shall be inserted the following sub-section:—

"(5) Notwithstanding anything in this division of this Part of this Act or in the *Wire Netting Act 1924* when any advance under the said Acts has been or is granted and made or is deemed to have been or to be granted and made to an owner of land which is subject to any mortgage or incumbrance in favour of the Commissioners of the State Savings Bank of Victoria such mortgage or incumbrance shall without further or other authority than this sub-section have priority over

over any charge arising upon the land of the owner by reason of such advance and over any security taken therefor.”

17. Notwithstanding anything in any Act the Board shall have power and shall be deemed to have had power to sell wire netting for cash to any owner for the vermin-proof fencing of his land at a price being the value thereof; and also to sell wire netting for cash at a price being not less than Fifty per centum of the value of the wire netting to any such owner for the vermin-proof fencing of a boundary between his land and unoccupied Crown land or separated only by a public road therefrom.

Power to sell wire netting to owners for cash or in certain cases at reduced price.

18. (1) Without affecting the generality of section ninety-five of the Principal Act any person—

Penalty for using or removing wire netting improperly.

(a) who receives an advance of wire netting or has been supplied with wire netting at a reduced price or has been granted wire netting pursuant to division two of the Principal Act or this Part of this Act or to whom wire netting has been sold by the Board at a reduced price pursuant to this Part of this Act or who has been paid by the Board any proportion of the value of wire netting used by him for vermin-proof fencing pursuant to this Part of this Act; and

No. 2745 s. 95.

(b) who without written authority uses the wire netting for any purpose other than the vermin-proof fencing of the land or the boundary in respect of which the advance was made or the wire netting supplied granted or sold or the proportion aforesaid paid or removes the wire netting from the boundary in respect of which the wire netting was advanced supplied granted or sold or the proportion aforesaid paid—

shall be guilty of an offence and shall be liable to a penalty of not more than One hundred pounds or to imprisonment for a term of not more than six months.

(2) If any person being the owner for the time being of any land in respect of which or of the boundary or part of the boundary of which any wire netting has been advanced supplied granted or sold or any proportion of the value thereof paid as aforesaid to any previous owner of such land removes without the written authority of the Board such wire netting from the boundary in respect of which the wire netting was advanced supplied granted or sold

Penalty on subsequent owner removing wire netting.

sold or the proportion of the value thereof paid as aforesaid to any such previous owner such first-mentioned owner shall be guilty of an offence and shall be liable to a penalty of not more than One hundred pounds or to imprisonment for a term of not more than six months.

Form in Sixth  
Schedule to  
No. 2745.

19. The form in the Sixth Schedule to the Principal Act with such alterations modifications and substitutions as are necessary to give effect to the provisions of this Part of this Act or a form to the like effect varied as circumstances require may be used and shall be sufficient in law for the purposes of a lien on improvements under division two of Part II. of the Principal Act as modified by this Part of this Act.

Power to make  
regulations.  
No. 2745 s. 97.

20. (1) Without affecting the generality of the powers under section ninety-seven of the Principal Act the Governor in Council may make regulations prescribing any matter or thing necessary or convenient to be prescribed for carrying into effect the purposes of this Part of this Act.

Publication.

(2) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.

PART II.—AMENDMENT OF THE “FENCES ACT 1915.”

Construction  
of Part II. and  
citation.  
No. 2851.

21. This Part of this Act shall be read and construed as one with the *Fences Act 1915* which Act and this Part of this Act may be cited together as the *Fences Acts*.

Amendment of  
No. 2851 s. 20.  
As to liability  
respecting  
vermin-proof  
dividing fence.

22. In sub-section (1) of section twenty of the *Fences Act 1915*—

(a) for the words “and the Chief Inspector for Suppression of Vermin after a personal inspection of such adjoining lands or on consideration of a recommendation or report of an inspector under the *Vermin Destruction Act 1915* or any corresponding previous enactment” there shall be substituted the words “and the Closer Settlement Board on consideration of a recommendation or report by any inspector of the Board made after a personal inspection by such inspector”; and

(b) for the words “certificate of the Chief Inspector” there shall be substituted the words “certificate of the Closer Settlement Board.”