**DOG FENCE (MISCELLANEOUS) AMENDMENT BILL 1994**

**Legislative Assembly, 15 November 1994**

Second reading

The Hon. J.K.G. OSWALD (Minister for Housing, Urban Development and Local Government Relations) obtained leave and introduced a Bill for an Act to amend the Dog Fence Act. Read a first time.

The Hon. J.K.G. OSWALD: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it.

Leave granted.

This Bill proposes a series of miscellaneous amendments to the Dog Fence Act 1946.

It amends the definition of 'dog proof fence' to make it more flexible. The current definition of a dog proof fence is contained in the Animal and Plant Control (Agriculture and Other Purposes) Act, and refers to a single configuration of netting fences with no provision for alternative configurations to cope with differing circumstances (eg. areas subject to frequent flood damage, etc). The current definition does not allow the introduction of electric fences which can be a cost effective alternative to netting in many areas.

The amendments clarify responsibility for the fence by clear identification of the ownership of the fence structure and the land upon which it is sited.

They also provide for greater flexibility for Board involvement in replacement of parts of the fence. Under existing provisions, the Board can only fund fence replacement in the event of owner default.

The amendments consolidate the provisions relating to the recovery of amounts payable to the Board and strengthen the Board's capacity to recover such amounts by providing for these amounts to be a first charge in favour of the Board upon the land in respect of which the amount is payable.

The Board, at its discretion, on grounds of hardship or otherwise, may remit the whole or part of an amount payable to the Board under the Act, or postpone payment or allow payment by instalments.

An enigmatic expression in Section 25 of the Act which refers : to rateable land is replaced. The expression 'separate holding' is not defined in the Act and could be interpreted to mean that a holding comprised of several titles, each of which is greater than the prescribed minimum rateable area, would be liable for a separate charge upon each title. This would result in a total rate charge disproportionate to the area of land held. By deleting the word 'separate' this undesirable potential is removed.

The amendments recognise the change of name of an organisation which nominates two members for appointment to the Board and at the same time clarifies a prerequisite for nominees to the Board to be occupiers of land rateable under section 25 of the Act.

The Bill also introduces an alternative rating system to enable the cost of the dog fence to be spread more equitably across land holders. In this respect, the Local Government Association has given measured support to the Board by agreeing to facilitate the collection of dog fence levies in areas where councils opt to participate on a voluntary basis.

Explanation of Clauses

Clauses 1 and 2:

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 strikes out the definition of 'dog proof fence' and replaces it with a definition which allows the board to determine the ap­propriate type of fencing for the circumstances. It also inserts definitions of 'land' and 'owner' in relation to land. 'Land' is defined as including any interest or right under a lease, licence or agreement to purchase Crown lands. The definition of 'owner' in relation to land provides that where the land is leased or held under an agreement to purchase the owner is the lessee or the person on whom the right of purchase is conferred. The clause also strikes out the definitions of 'chairman', 'suburban land' and 'town'.

Clause 4: Amendment of s. 6—Members of board

Clause 4 amends section 6 of the principal Act to make the Minister responsible for nominating the person who is to chair the meetings of the board. It also reflects the change of name of the United Farmers and Stockowners of S.A. Inc. to the South Australian Farmers Federation Inc. and replaces the definition of 'occupier of rateable land'.

Clause 5: Substitution of s. 15

Clause 5 substitutes section 15 of the principal Act to provide that the member appointed to chair the board is to preside at meetings of the board.

Clause 6: Substitution of ss. 20a and 21

Clause 5 repeals sections 20a and 21 of the principal Act and replaces them with a new section 21. The proposed section deals with the replacement of parts of the dog fence, allowing the board to construct a dog proof fence or alter a fence to make it dog proof, in order to replace an existing part of the fence. The board may enter into an agreement for contributions, for the cost of this work to be made to the board or by the board. Where the board replaces part of the fence with another fence because it is not practicable for it to be fixed, and the new fence is under the same ownership as the old fence, the board may recover the cost of the work from the owner.

By proclamation, and on the recommendation of the board, the Governor may declare a new fence to be part of the dog fence in place of an existing part of the dog fence.

Clause 7: Amendment of s. 22—Duty of owner to maintain dog fence and destroy wild dogs

Clause 7 alters the maximum penalty for an offence against section 22 to bring it up to date with current penalties.

Clause 8: Amendment of s. 23a—Dog fence on Crown lands Section 23a of the principal Act provides, in part, that the board may erect a fence on Crown land for the purpose of completing part of the dog fence. Clause 8 amends section 23a to allow the board to replace as well as complete part of the fence.

Clause 9; Amendment of s. 24—Payments to owners of dog fence

Clause 9 is a consequential amendment.

Clause 10; Amendment of s. 24a—Provisions as to ownership of dog fence

Section 24a deals with the ownership of the dog fence. Clause 10 inserts a new subsection which provides that where part of the dog fence adjoins an area in which a local board is established, the ownership of that part of the fence is vested in that local board.

Clause 11: Amendment of s. 25—Imposition of rates on rateable land

Section 25 of the principal Act provides that the board may declare any separate holding of more than ten square kilometres of land to be rateable land. The proposed amendment removes the word 'separate', allowing the board to declare any holding of more than ten square kilometres to be rateable.

Clause 12: Amendment of s. 26—Special rate in respect of local board areas

Section 26 of the principal Act provides that the board may declare a special rate on separate holdings of more than 100 hectares. The proposed amendment removes the word 'separate', allowing the board to declare a special rate on any holding of more than 100 hectares.

Clause 13: Amendment of s. 27—Payment and recovery of rates and special rates

Clause 13 removes the provisions imposing a fine for the late payment of rates or special rates.

Clause 14: Insertion of s. 27a

The proposed section 27a provides that the board may, with the approval of the Minister and after consultation with the Local Government Association of South Australia, by notice published in the Gazette, declare a council to be a participating council and before 31 December in any year, declare that a contribution for the next financial year is to be paid to the board by each participating council. In respect of the rural land of a council the rate is to be not greater than 1 per cent of the general rate revenue to be derived by the council for the next financial year in respect of that rural land, and in respect of the urban land of the council the rate is to be not greater than 0.25 per cent of the general rate revenue to be derived by the council in respect of that urban land for the next financial year.

A declaration made under-this section must be served on each council to which it applies not later than 31 December of the year in which the declaration is made. The amount must be paid by the council to the Dog Fence Fund not later than 31 May in the financial year following the making of the declaration.

Clause 15: Amendment of s. 28—Charge to be payable by occupiers of land outside dog fence.

Clause 15 amends section 28 of the principal Act to reflect the change of name of the United Farmers and Stockowners of S.A Incorporated to the South Australian Farmers Federation Inc.

Clause 16: Amendment of s. 31—Subsidy

Clause 16 is a consequential amendment.

Clause 17: Amendment of s. 33—Dog Fence Fund

Clause 17 is a consequential amendment.

Clause 18: Amendment of s. 41—Recovery of amounts payable to board

Clause 18 strikes out subsection (1) of section 41 and replaces it with clauses which provide that where the board is empowered to recover the cost of any work from a person under the Act, the amount becomes payable on the expiration of 28 days from the day on which notice of the amount is served on the person. If the amount is not paid within 28 days after this, the person is liable to a fine of 10 per cent on the amount unpaid. This fine, together with the amount to which the fine relates, may be recovered as a debt due to the board by action in a court of competent jurisdiction. Until paid, in the case of an amount payable for the cost of work carried out in respect of a fence, the amount is a first charge in favour of the board on the land of which that person is owner. In any other case, the amount is a first charge in favour of the board on the land in respect of which the amount is payable.

The board may remit the whole or any part of an amount payable to the board or allow postponement or payment by instalments.

Clause 19: Amendment of s. 42—Penalty for failure to supply statement

Clause 19 alters the maximum penalty for an offence against section 42 to bring it up to date with current penalties.

Clause 20: Amendment of s. 43—Penalty for damaging or removing dog fence

Clause 20 alters the maximum penalty for an offence against section 43 to bring it up to date with current penalties.

Clause 21: Amendment of s. 45—Penalty for leaving gate open Clause 21 alters the maximum penalty for an offence against section 45 to bring it up to date with current penalties.

Clause 22: Amendment of s. 46—Penalty for failing to apply amounts paid for maintenance of dog fence

Clause 22 alters the maximum penalty for an offence against section 46 to bring it up to date with current penalties.

Schedule

Statute Law Revision Amendments

This is a statute law revision schedule to ensure modem, gender neutral language.

Mr CLARKE secured the adjournment of the debate.