

NORTHERN TERRITORY OF AUSTRALIA

PASTORAL LAND REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1992, No. 23*

Regulations under the *Pastoral Land Act*

I, KEITH JOHN AUSTIN ASCHE, the Acting Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Pastoral Land Act*.

Dated 1 June 1992.

K.J.A. ASCHE
Acting Administrator

PASTORAL LAND REGULATIONS

PART 1 - PRELIMINARY

1. CITATION

These Regulations may be cited as the Pastoral Land Regulations.

2. COMMENCEMENT

These Regulations shall come into operation on the commencement of the *Pastoral Land Act 1992*.

PART 2 - PROCEEDINGS OF BOARD

3. CHAIRMAN TO NOTIFY TIME AND PLACE OF MEETINGS OF BOARD

(1) Subject to subregulation (2), the Chairman shall give not less than 14 days notice of the time and place fixed for a meeting of the Board to an applicant or other person entitled to appear, or required to give evidence, at the meeting.

(2) If the parties to a matter to be dealt with at a meeting of the Board agree, the notice required by subregulation (1) to be given may be reduced to that to which they have agreed.

* Notified in the *Northern Territory Government Gazette* on 26 June 1992.

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4. COMMUNICATIONS WITH MEMBERS OF BOARD

A person shall not, before or after a meeting of the Board, communicate with a member of the Board with a view to influencing a recommendation or decision of the Board.

Penalty: \$5,000.

5. INTERRUPTION OF PROCEEDINGS OF BOARD

A person shall not interrupt the proceedings of the Board or cause a disturbance in a place where the Board is meeting.

Penalty: \$2,000.

PART 3 - PASTORAL LEASES

6. STANDARD LEASE PROVISION

In every pastoral lease, unless otherwise provided in the lease, "stock" includes beef cattle, buffaloes, horses, donkeys, mules or camels which are not in a feral state.

7. INSURANCE OF IMPROVEMENTS

(1) Where the lessee is allowed to pay for the right to the grant of a pastoral lease with improvements by instalments, he or she shall, from and including the day of commencement of the lease insure, and keep insured, against destruction or damage by fire, storm, flood or other event, for their full insurable value, all such improvements which are susceptible to such destruction or damage.

(2) The insurance shall be in the joint names of the lessee and the Territory.

(3) The lessee shall forward to the Minister a copy of the policy of every such insurance within one month after it is issued.

(4) The lessee shall forward to the Minister the receipts for the premiums payable in respect of the policy within one month after they are due and payable.

(5) If the lessee fails to comply with a provision of this regulation, the Minister may insure the improvements as required of the lessee by this regulation.

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(6) Moneys equal to the amount expended by the Minister in pursuance of subregulation (5), with interest at the rate referred to in regulation 29 but computed from the time of expending the moneys, shall be paid by the lessee, on demand, to the Minister and may be recovered as a debt due and payable by the lessee to the Territory.

(7) All moneys received under the insurance policy shall be applied towards reinstating the improvements in respect of which the insurance is received or otherwise as approved by the Minister.

8. SURRENDER OF LEASES

The surrender of a lease or part of a lease shall be in a form approved by the Minister and shall be forwarded to the Minister for acceptance by the Minister.

9. LODGING OF SURRENDER WITH REGISTRAR-GENERAL

On acceptance of the surrender of a lease or part of a lease, the Minister shall lodge the instrument of surrender with the Registrar-General.

10. AMENDMENT OF PLAN WHERE LEASE PARTLY SURRENDERED

Where a lease has been partly surrendered, the Minister shall cause a new plan to be prepared delineating the amended boundaries of the leased land and lodge the amended plan with the Registrar-General with the instrument of partial surrender.

11. DISPOSAL OF STOCK REMOVED FROM PASTORAL LAND OTHERWISE THAN BY OR ON BEHALF OF LESSEE

(1) Where the Minister has, under section 42(1) of the Act, caused stock to be removed from pastoral land, the stock shall be disposed of in accordance with a contract entered into by the Minister for its removal or on the open market by tender, auction or private treaty, and a person so acquiring the stock shall have good title to it free of encumbrance.

(2) The proceeds of the disposal of stock in pursuance of section 42(3) of the Act shall be applied first, in meeting the expenses of its sale; and then in meeting the expenses incurred by the Minister in the work of destocking (including the reasonable costs incurred in transporting, holding and feeding the stock), with any amount remaining after the discharge of any registered mortgage of the stock being paid to the lessee without the Minister being bound to see to the application thereof by the lessee.

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12. RENT NOTICES

In addition to the matters prescribed in section 56(1)(a) and (b) of the Act, the notice under that section shall -

- (a) contain a description of the pastoral land to which it relates by reference to its portion number, pastoral lease number and title;
- (b) show the unimproved value of the land determined by the Valuer-General under the *Valuation of Land Act*; and
- (c) show the percentage of the unimproved value declared by the Minister under section 55(1) of the Act for the relevant District.

PART 4 - PASTORAL LAND MONITORING

13. MONITORING SITES

For the purposes of section 75 of the Act, a monitoring site shall be marked by a marker of steel or other durable material protruding above the surface of the ground so as to be clearly visible, to which shall be attached a tag bearing the words "Monitoring Site marker Removal is an offence", or to that effect.

PART 5 - ACCESS TO PASTORAL LAND

14. REGULATION OF PERSONS ON PASTORAL LAND, &c., UNDER PART 6 OF ACT

(1) A person on pastoral land in pursuance of Part 6 of the Act, or on or in perennial natural waters referred to in section 79(1) of the Act, shall not -

- (a) wilfully or negligently destroy or damage property of the lessee or other person on the land or on or in the water;
- (b) knowingly unreasonably interfere with the operation of the pastoral enterprise;
- (c) leave a gate on the land otherwise than as he or she found it;
- (d) use a firearm, within the meaning of the *Firearms Act*, on the land (or on the water so as to deliberately or negligently cause its projectile to pass over or impact with the pastoral land or anything on the pastoral land), except with the permission of the pastoral lessee or in pursuance of a right or power under any other law in force in the Territory;

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- (e) light a fire otherwise than in a constructed fireplace or on an area so cleared as to ensure that the fire does not escape or leave such a fire unattended if it is not extinguished;
- (f) drive a motor vehicle (including a motor-cycle) in a place or manner likely to damage an access route or cause or contribute to soil erosion or other degradation on the land, having regard to soil and weather conditions and all other relevant considerations;
- (g) pollute or litter the land or the water; or
- (h) cut or otherwise damage any living plant that is not a noxious weed, within the meaning of the *Noxious Weeds Act*, on the land or in the water.

Penalty: \$5,000.

(2) Nothing in subregulation (1) shall be construed as relieving a person of the obligation to comply with any other law in force in the Territory relating to a matter referred to in that subregulation.

15. COST OF RESTORATION AND COMPENSATION

(1) In addition to any penalty imposed by a court for an offence against regulation 14, the court imposing the penalty may order that the person found guilty of the offence pay to the lessee, the Territory, or such other person as the court directs the cost of or likely to be incurred by the lessee the Territory or other person in restoring any damage resulting from the guilty person's action and/or an amount of compensation for the loss.

(2) A court referred to in subsection (1) has the jurisdiction and power to assess and enforce the payment of damages or compensation.

PART 6 - LICENCE TO GO ONTO AND TAKE
CERTAIN THINGS FROM PASTORAL LAND

16. APPLICATION TO BE LICENSED UNDER SECTION 84 OF ACT

(1) An application to the Minister to license a person under section 84 of the Act shall be in writing to the Minister and shall set out -

- (a) the full name and address of the applicant;
- (b) the occupation of the applicant;
- (c) a description of the area in respect of which the applicant wishes to be licensed; and

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- (d) the purpose for which he or she wishes to be licensed,

and shall be accompanied by the prescribed fee.

(2) The Minister may, by notice in writing to the applicant, license the applicant as requested in the application, refuse to license the applicant or return the application to the applicant for amendment in such manner as the Minister specifies and license the applicant in accordance with the amended form.

17. ENTRY BY LICENSEE ONTO PASTORAL LAND

(1) It is a condition subject to which a person is licensed under section 84 of the Act that the person shall not enter land in respect of which he or she is licensed except for such periods specified in the notice under regulation 16(2), or as subsequently advised in writing by the Minister, as in the opinion of the Minister are necessary to enable the person to exercise the person's right as a licensee.

(2) Before entering pastoral land, a licensee shall give reasonable notice to the pastoral lessee of the licensee's intention to do so and shall comply with all reasonable requests by the pastoral lessee to establish the licensee's identity and/or to avoid unnecessary interference with normal pastoral operations on the land.

Penalty for an offence against this regulation: \$500.

18. PERIOD FOR WHICH PERSON LICENSED

Subject to section 84(2), a person is licensed for such period as is specified in the notice under regulation 16(2).

19. PRODUCTION OF NOTICE

Where the Minister (or the pastoral lessee in pursuance of regulation 17(2) or person acting on his or her behalf) requires a person licensed under section 84 of the Act to produce the relevant notice under regulation 16(2) to the Minister, the pastoral lessee or the person on behalf of the pastoral lessee, as the case may be, the licensee shall forthwith produce the notice accordingly.

Penalty: \$500.

20. EMPLOYMENT OF LABOUR ON LAND IN RESPECT OF WHICH PERSON LICENSED

(1) A licensee may issue to a person he or she wishes to employ in the exercise of the licensee's rights on the land in respect of which the licensee is licensed, a certificate, in a form approved by the Minister, identifying the person.

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(2) A person to whom a certificate under subregulation (1) is issued may enter the relevant land (but only during the periods referred to in regulation 17(1)) for the purpose of being employed by the licensee in the exercise of the licensee's rights, and these regulations apply to and in relation to the certificate and the person to whom it is issued as if the certificate were a notice under regulation 16(2).

(3) A certificate under this regulation remains in force for as long only as the relevant notice of the Minister under regulation 16(2) remains in force.

21. RETURNS IN RELATION TO MATERIAL TAKEN

The Minister may require a person licensed under section 84 of the Act to furnish to the Minister a return, in such form and at such times as the Minister thinks fit which accurately indicates the amount of material taken from the land in respect of which the licensee is licensed, and the licensee shall comply with the requirement.

Penalty: \$500.

22. ROYALTIES

The Minister may determine the amount or rate of a royalty on material removed or to be removed from pastoral land in respect of which a person is or is to be licensed under section 84 of the Act and the amount or rate of the royalty, if any, and the time and place at which it is to be paid shall be specified in the relevant notice under regulation 16(2), and the licensee shall pay the royalty accordingly.

23. REFUSAL OF LICENCE WHEN ROYALTY OR RATE FIXED

Where an amount or rate of royalty is determined in pursuance of regulation 22, the licensee may, in writing, advise the Minister that the licensee does not intend to exercise his or her rights as a licensee because the amount or rate of royalty determined is not acceptable to the licensee and, on the licensee returning to the Minister the relevant notice under regulation 16(2), the Minister shall refund to him or her the fee paid at the time of lodging the application to be licensed.

24. MINISTER MAY REVOKE NOTICE TO LICENSEE

- (1) Where a licensee fails -
 - (a) to comply with a condition subject to which he or she is licensed;

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- (b) to comply with a requirement of or under the Act or these Regulations; or
- (c) to pay within the time required a fee or an amount of royalty required under the Act or these Regulations to be paid,

the Minister may, by notice in writing to the licensee specifying the failure, revoke the notice under regulation 16(2).

(2) Notwithstanding subregulation (1), the Minister may, in his or her absolute discretion revoke a notice of approval under regulation 16(2), but on so doing, except in a case referred to in subregulation (1) of this regulation, the Minister shall refund such percentage of the fee paid by the licensee under regulation 16(1) as the Minister thinks appropriate in the circumstances.

PART 7 - APPEALS AND REVIEWS

25. ESTABLISHMENT OF PANEL FROM WHICH APPEAL TRIBUNAL MAY BE CHOSEN

(1) The Minister may, in writing, appoint such persons as he or she thinks fit to the panel of experts referred to in section 115(3) of the Act.

(2) An appointment under subregulation (1) shall be notified in the *Gazette* and shall indicate the field in which the Minister considers the person to be expert.

(3) Subject to subregulation (6) an appointment under subsection (1) shall be for such period, not exceeding 4 years, as the Minister thinks fit and specifies in the instrument of appointment.

(4) An appointment under subregulation (1) may at any time, in the absolute discretion of the Minister, be terminated by the Minister.

(5) A person appointed under subregulation (1) may resign office in writing to the Minister but the resignation is not effective until accepted by the Minister.

(6) Where the period of appointment of a member of the panel would otherwise expire, the person shall continue to be a member of the Appeal Tribunal (the membership of which, as constituted, includes that person), to enable any matter part-heard before the Tribunal so constituted to be disposed of.

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26. WITNESS FEES

The scale of fees applicable to witnesses in matters before the Local Court are the prescribed scale of fees for the purposes of section 117(9).

27. COSTS

The scale of costs applicable in matters before the Local Court are the prescribed scale of costs for the purposes of section 117(11).

PART 8 - MISCELLANEOUS

28. RECORDS TO BE KEPT

A pastoral lessee shall keep, in respect of each area of pastoral land held by him or her under a separate pastoral lease, a continuous record of -

- (a) the stock levels on, and turned off from, the pastoral land; and
- (b) measures taken to control feral animals as directed under section 73 of the Act by the Board.

Penalty: \$2,000.

29. INTEREST ON DEBTS DUE AND PAYABLE TO TERRITORY

For the purposes of section 124(2) of the Act, interest shall accrue on an amount from time to time due and payable to the Territory (other than under section 59) at the rate of 1% above the Commonwealth Bank of Australia standard overdraft rate applicable on the first working day of each relevant quarter, commencing one month after the amount first became payable and thereafter on the first working day after each subsequent 1 October, 1 January, 1 April and 1 July, as the case may be, with corresponding quarterly rests.

30. BOARD TO NOTIFY REASONS

Where the Board takes an action or makes a decision that adversely affects a lessee and against which a right of appeal lies under the Act, the Board shall, in its relevant report, or notice to the lessee, give its reasons for taking the action or making the decision.
