

KAIKOURA DISTRICT COUNCIL

MOVEMENT OF STOCK BYLAWS

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KAIKOURA DISTRICT COUNCIL

KAIKOURA DISTRICT (Movement of Stock) BYLAW

1995

BYLAW of the Kaikoura District Council made in pursuance of the powers and provisions contained in the Local Government Act 1974, and the Transport Act 1962, and in pursuance of all other powers and authorities in any other Act enabling the Council in that behalf.

ENACTMENT

The Kaikoura District Council hereby ordains as follows:

SHORT TITLE

- (a) The short title of this bylaw shall be the Kaikoura District (Movement of Stock) Bylaw 1995.
- (b) This bylaw shall come into force on the *(date)*

KAIKOURA DISTRICT COUNCIL

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PART 1

DEFINITIONS

1. **DEFINITIONS**

1.1 In this Bylaw unless the context otherwise requires:

Authorised Officer includes the District Manager, and any other person so designated in writing by the District Manager.

Council means the Kaikoura District Council as constituted under the Local Government Act 1974.

District Manager means the District Manager of the Kaikoura District Council.

Hours of Darkness means:

- (a) any period of time from 30 minutes after sunset on one day until 30 minutes before sunrise on the next day;
- (b) any other time where there is insufficient daylight to render clearly visible a vehicle or person at a distance of 100 metres.

Footpath means a path or way principally designed for, and used by, pedestrians; and includes any footbridge.

Hours of Daylight means any period of time that does not fall within the definition of "hours of darkness".

Landowner includes the owner and/or occupier of the property and includes any agent or employee or other person acting or apparently acting in the general management or control of the property.

Owner in relation to any stock includes every person who:

- a. keeps or harbours stock or has stock in their care for the time being whether the stock is at large or in confinement;
or

- b. occupies any property or farm or premises in which the stock is usually kept or permitted to remain;
- c. any agent, employee or other person acting or apparently acting in the general management or control of the stock.

Race includes any permanent road crossing.

Road includes a street; and includes any place to which the public have access, whether as of right or not; and also includes all bridges, culverts, ferries and fords forming part of any road, street or place as aforesaid.

Road Margin includes any uncultivated margin of a road adjacent to but not forming part of either the roadway or the footpath.

Roadway means that portion of the road used or reasonably usable for the time being for vehicular traffic in general.

Stock includes livestock and means:

- a. any live horse, cattle, sheep or swine that is not in a wild state; and
- b. any deer, goat, rabbit, opossum or other animal that is kept within a fence or enclosure for domestic or farming purposes.

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PART 2

STOCK DROVING

2.1 GENERAL RESTRICTIONS

2.1.1 No person shall allow stock under his control or charge to loiter in any public place and every person being the owner or having the care, custody or control of any stock shall keep and prevent the same from wandering or being at large without proper guidance on any public place.

2.1.2 No person shall drive or permit the driving of any stock on any road unless the stock shall at all times be under the control of one or more persons and otherwise in compliance with clauses 2.2 and 2.3 of this bylaw.

2.1.3 No person shall tether or otherwise put in place any stock for the purpose of depasturing or grazing the same on any public place without the written permission of the Council.

2.2 MOVEMENT OF STOCK

2.2.1 No person shall move stock across or along a road where that person can reasonably move the stock along private land or a race.

2.2.2 Where it is not reasonable to move the stock along private land or a race that stock may be moved across or along a road provided that:

- (i) the stock are attended by a drover stationed on the road to ensure the continuous progress is made towards the destination at a reasonable speed at all times so as to achieve a distance of at least 2 km in an hour provided that travel over the same ground shall not be included in the calculation of such distance; and
- (ii) the stock are driven in such a manner and use only such points of access and exit to and from the road as will ensure that danger to other road users and damage to the roadway and road margin will be minimised; and
- (iii) during the hours of darkness that sufficient warning is provided and

maintained by the person driving the stock by the use of lights or other effective devices or means to ensure that other persons using such road or part thereof shall have adequate notice of the presence of such stock on such roadway or part thereof; and

- (iv) the owner of such stock shall forthwith cleanse the roadway of any such debris or matter of any kind deposited or brought onto the roadway by the stock which may cause any inconvenience to road users, or any damage to the roadway surface; and
- (v) any person being the driver of any stock on any roadway or part thereof shall where reasonably necessary to allow any vehicle to proceed along such roadway or part thereof take all reasonable practicable steps at the request of the driver of such vehicle to make or allow a way for such vehicle to pass through such stock.

2.3 DAIRY CATTLE ON ROADS

2.3.1 No road, or part thereof, shall be used by any person or persons for the purpose of regularly moving dairy cattle from one part of a farm to another part of the same farm for milking where such road or part thereof does not intersect that farm PROVIDED that where one farming unit is split into two or more parts, and those parts are not adjacent to each other or are separated by a natural barrier or other obstruction the nature of which renders it impracticable to move the dairy cattle from one part of the farm to the other part of the farm without using the road, dairy cattle may be moved from one part of the farm to another part of the same farm along the road for the shortest practicable distance.

2.3.2 Where a road intersects a farm and it is necessary for dairy cattle to cross the road for the purpose of milking, the Council may by written notice require the landowner to use only such points of access and exit as are as nearly practicable opposite each other PROVIDED THAT the points of access and exit shall be selected in a manner that ensures that the landowner can continue to conduct farming operations in an efficient manner.

2.3.3 A notice shall only be issued under sub-clause 2.3.2 after the Council or a duly authorised officer thereof had discussed or made reasonable attempts to discuss the matter with the landowner concerned in an effort to reach agreement on points of access and exit.

2.3.4 A landowner may, within thirty (30) days of the receipt by registered mail of a notice under sub-clause 2.3.2 hereof lodge an objection against that notice to a special committee of the Council which shall consist of a member of the Council, a member nominated by the Kaikoura Branch of the Federated Farmers of New Zealand, and an independent chairman agreed upon by those parties. The objection shall be in writing, shall state the grounds of the objection, and shall be

addressed to the principal administrative officer of the Council. The address for service of the objection shall be at the office of the Council.

2.3.5 Every party shall have the right to be heard personally or by Council.

2.3.6 In determining the objection the committee may uphold the objection wholly or partly and may abandon or modify the notice accordingly or may dismiss the objection.

2.3.7 Every determination on an objection shall include reasons for the decision and shall be given as soon as practicable after such objection has been determined.

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PART 3

CONSTRUCTION OF RACES

3.1 PRIOR APPROVAL TO CONSTRUCT RACE

- 3.1.1 No person shall construct a race for the purposes of moving stock along a roadway or road margin or to regularly move stock across a roadway or road margin except with the prior written approval of the Council.
- 3.1.2 The Council by resolution may set any terms and conditions from time to time as it sees fit for the construction and use of any such race and those conditions shall form part of that approval.
- 3.1.3 The Council after consultation with such parties as it thinks fit may alter the terms and conditions of any such approval by notice in writing from time to time and any such alteration shall be deemed to form part of the original approval.
- 3.1.4 It shall be an offence against these bylaws to construct a race without approval as set out in clause 3.1.1 or to construct and/or use a race that does not comply with the terms and conditions under which the approval was given (including any alterations made pursuant to clause 3.1.3 herein).
- 3.1.5 The applicant shall be responsible for all costs of construction, maintenance and removal of any such race.
- 3.1.6 The Council may at any time by notice given in writing to the landowner require the fence and race to be removed and the roadway or road margin reinstated to its original condition.
- 3.1.7 It shall be an offence against these Bylaws to fail to comply with any Notice issued under clause 3.1.6 within three months of the date of service of the notice.

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PART 4

PENALTIES

4.1 PENALTY

4.1.1 Every person committing any breach of this Bylaw shall be liable upon conviction to a fine not exceeding \$500 and where the breach is a continuing one to a further fine not exceeding \$50 for every day or part thereof on which the failure continues.

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PART 5

REPEAL

5.1 **REPEAL**

5.1.1 The Kaikoura County General Bylaw (Cattle and Stock 1986) is hereby repealed.

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GUIDELINES

for Approval under Clause 3.1

ROAD CROSSINGS

- A direct route perpendicular to road alignment shall apply;
- Gates shall be erected at the race entrance on each boundary, and also, 50 metres back from the race boundary;
- Entrance and race itself shall be constructed of hardfill material with a cambered free draining profile for at least 15 metres from the edge of seal or road formation on each side of the road;
- Obstructions impairing road user visibility of full width of road reserve shall be avoided where at all possible;
- Crossings shall be sited to permit effective, safe stopping sight distance for road users relevant to the speed environment of the road;
- For heavy use crossings, Council may require a financial contribution limited to 50% of the cost, towards the installation of a durable road pavement, eg Concrete. Maintenance shall also be apportioned at 50%, except cleaning, which shall be the responsibility of the landowner;
- Stock shall be held back 50 metres from the road exit point prior to entering race or crossing the road;
- Warning Signs of a suitable standard shall be erected and maintained by the Landowner, such warning signs being collapsible, and displayed only when stock is being moved.
- Gateways entering the roadway shall be as wide as is practicable, to allow rapid movement of stock.

RACES ON ROAD MARGINS

- Size

Maximum length of 1.5km, minimum 3m wide and maximum 5m wide

- Fence Construction

No waratah standards or similar steel posts shall be used.

Electric fences shall be constructed of wooden battens/posts, small decimetre or plastic electric fence standards. Must give regard to all road users (including pedestrians).

- Pavement

Shall be hard fill.

Shall be to the satisfaction of the Council Works and Services Manager or his delegated representative.

- Proximity to Road

No fence or race shall be constructed closer than 2 metres from the edge of the roadway.

- Water Tables/Drains

Construction and use of the race shall not encroach into or foul water tables or drains.

- Underground Services/Drainage Structures

The applicant shall be responsible for locating, avoiding and if necessary repairing underground services and culvert drainage structures.

- Hours of Darkness

No stock will be left in the race during the hours of darkness.

- Road Crossings

The conditions relating to Road Crossings shall apply to any race constructed on a road margin.

- Effect on Other Properties

The effect of the construction and use of a race on properties fronting the road reserve shall be taken into consideration and other landowners must be consulted before approval is given.

- Visibility to Other Road Users

Reflective markers shall be installed, one at each end, and at intervals of not more than 100 metres on the fence nearest the road edge.

GENERAL EXPLANATORY COMMENT

This document is a draft proposal for Bylaws to control the movement of stock in the Kaikoura District.

At present, to the best of my knowledge, such bylaws do not exist, or are no longer used.

A bylaw is a rule or regulation made by a local authority which affects the public, which orders something to be done, or not to be done, as the case may be.

A bylaw provides penalties for non-compliance, including fines that may be enforced by a District Court. Additional measures to enforce bylaws include court orders, or in some cases, direct intervention by a council to demolish or remove nonconforming features.

The word "by" or "bye" in the word "bylaw" does not mean a subordinate law. It comes from a Norse and Middle English word meaning "town" or "local custom". Bylaws are therefore "town" laws and have the same effect as those made by Parliament.

These bylaws deal specifically with the Kaikoura District, to improve the safe and reasonable movement of stock, and to help protect the roads from unnecessary damage.

The authority to make this bylaw is found in the Transport Act 1962, Section 72, and the Local Government Act 1974.

The bylaws have been drafted using a sample bylaw from the neighbouring Hurunui District, and the Stock Movement Guidelines as set out in the minutes of the meeting held between the KDC and the Kaikoura Co-op Dairy Co Ltd on the 28th April 1995.