

KAIKOURA DISTRICT COUNCIL



STOCK CONTROL BYLAW 2011

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KAIKOURA DISTRICT COUNCIL STOCK CONTROL BYLAW
2011

BYLAW Pursuant to the powers vested in under sections 145 and 146 of the Local Government Act 2002, Section 72 of the Transport Act 1962 the Kaikoura District Council makes this Bylaw.

ENACTMENT

The Kaikoura District Council hereby ordains as follows:

SHORT TITLE AND COMMENCEMENT

- a) The short title of this bylaw shall be the Kaikoura District Stock Control Bylaw 2011.
- b) This bylaw shall come into force on the 1st August 2011

OBJECT OF THE BYLAW

The object of this Bylaw is to control the management and movement of stock on roads, in order to protect people, traffic and stock, while safeguarding the condition of the road.

APPLICATION

(1) This Bylaw applies generally to all roads under the care, control and management of the Council.

(2) This Bylaw does not apply to SH1 roads under the care, control and management of New Zealand Transport Agency, unless the Council and New Zealand Transport Agency have entered into a formal agreement for the control of stock on those roads. SH70 is under the care of Kaikoura District Council and is included as part of this Bylaw.

(3) Nothing in this Bylaw limits the application of any other Act or any rules or regulations made under any other Act, for example, and without limitation:

- (a) the Impounding Act 1955;
- (b) the Land Transport Act 1998.

(4) This Bylaw, does not apply to:

- (a) any stock which is being led or ridden or which is drawing a vehicle; or
- (b) any stock which is being transported in a vehicle.

(5) A reference in this Bylaw to any Act, regulation or rule, unless the context otherwise requires, includes a reference to all subsequent Acts, regulations or rules, made in amendment or substitution, and for the time being in force.

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PART 1

1. DEFINITIONS

1.1 In this Bylaw unless the context otherwise requires:

Authorised Officer includes the Chief Executive Officer and or any officer or other person appointed by the Council to perform duties required under this Bylaw.

Council means the Kaikoura District Council and includes any person authorised by the Council to act on its behalf.

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.

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

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

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.

Prescribed Sign	means any traffic control device (such as a traffic sign) referred to in the Land Transport Rule: Traffic Control Devices 2004.
Race	a fenced off section of the road verge designed to travel through when moving stock along the road from one location to another
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: <ul style="list-style-type: none"> 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.

2. DELEGATION

In this bylaw, where the written permission of the Council is required, such permission may be given by the Chief Executive, and the Chief Executive may delegate all or part of that function to any other officer of the Council.

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PART 2

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. All regular stock crossings are also subject to Part 3 of the 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 The procedures set out in this bylaw shall used in conjunction with the Kaikoura District Council Policy On Stock Underpasses, Crossing, and Races on Road Reserve 2011 or any subsequent version of the policy.
- 2.2.2 No person shall move stock across or along a road where that person can reasonably move the stock along private land or a race.
- 2.2.3 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) Written permission is obtained from Council. There is no fee required for such applications
 - (ii) 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 Council. The objection shall be in writing, shall state the grounds of the objection, and shall be addressed to 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 Council 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 OR CROSSINGS

3.1 PRIOR APPROVAL TO CONSTRUCT RACE/CROSSINGS

- 3.1.1 No person shall construct a race/crossing 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. There is a \$100 fee for the application for all stock underpasses and stock crossings on formed roads but not on paper roads.
- 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/crossing without approval as set out in clause 3.1.1 or to construct and/or use a race/crossing 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/crossing.
- 3.1.6 The Council may at any time by notice given in writing to the landowner require the fence and race or the crossing 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

Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000, as set out in the Local Government Act 2002 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

5.1 REVOCATIONS AND SAVINGS

- 5.1.1 The Kaikoura District (Movement of Stock Bylaw1995) is hereby revoked.
- 5.1.2 Any approval, permit or other act of authority which originated under The Kaikoura District (Movement of Stock Bylaw1995 that is continuing at the commencement of this Bylaw, continues to have full force and effect for the purposes of this Bylaw, but is subject to the application of any relevant clause in this Bylaw.
- 5.1.3 The revocation of any of The Kaikoura District (Movement of Stock Bylaw1995 under subclause (5.1.1) does not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw and such proceedings continue to be dealt with and completed as if the that bylaws had not been revoked.

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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/crossing entrance on each 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;
- 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 the Bylaw to control the movement of stock in the Kaikoura District.

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.

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.

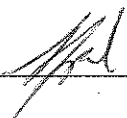
The bylaws have been prepared using the Kaikoura District Movement of Stock Bylaw 1995 and sample bylaw from the Christchurch City Council.

Date bylaw made

This bylaw was made by the Kaikoura District Council at a meeting of the Council on 20th July 2011.

The common seal of the Kaikoura District Council is attached in the presence of:


_____ Mayor


_____ Chief Executive Officer

