



Australian Capital Territory

Enclosed Lands Protection Ordinance 1943

Ord1943-5

Republication No 0B

Effective: 1 February 1986 – 30 November 1989

Reissued electronically: 25 September 2013

Last amendment made by Ord1985-67

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Enclosed Lands Protection Ordinance 1943* effective from 1 February 1986 to 30 November 1989.

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ENCLOSED LANDS PROTECTION ORDINANCE 1943

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An Ordinance relating to Protection of Enclosed Lands from Intrusion and Trespass

Short title

1. This Ordinance may be cited as the *Enclosed Lands Protection Ordinance 1943*.¹

Repeal of State Act

2. The Inclosed Lands Protection Act, 1901, of the State of New South Wales, shall cease to apply to the Territory.

Interpretation

3. In this Ordinance, unless the contrary intention appears—

“Enclosed lands” means any lands, whether public or private, enclosed or surrounded with any fence, wall or other erection, or partly by a fence, wall or other erection, and partly by a canal or by some natural feature, such as a river or cliff, by which the boundaries of those lands may be known or recognized and, where a road is lawfully enclosed with the lands of any person, those lands, but not the road, shall be deemed, for the purposes of this Ordinance, the enclosed lands of that person;

“road” means any land proclaimed, dedicated, resumed or otherwise provided as a public thoroughfare or way and any land defined, reserved or left as a road in any sub-division of lands;

“stock” includes horses, cattle, sheep, goats and pigs.

Penalty for unlawful entry upon enclosed lands

4. (1) Any person who, without lawful excuse (proof whereof shall lie upon him), enters into the enclosed land of any other person, without the consent of the owner or occupier or the person in charge of those lands, shall be guilty of an offence.

Penalty: Ten dollars.

(2) Without prejudice to the generality of the expression “lawful excuse” in the last preceding subsection, a drover or person in charge of stock being driven upon a road lawfully enclosed with the lands of any person shall be deemed to have lawful excuse for entering those lands for the purpose of preventing the stock from straying or of regaining control of stock which have strayed from that road.

(3) Where a road is lawfully enclosed with the lands of any person and the road is not clearly defined and—

- (a) where there is a reasonably defined track commonly used by persons passing through those lands—the centre of the track shall, for the purposes of this Ordinance, be deemed to be the centre of the road; or
- (b) where there is no reasonably defined track through the lands—a person passing through the lands shall not be guilty of an offence against this section unless it is shown that the route taken by him in so passing was, having regard to the circumstances, unreasonable.

Penalty for leaving gate open

5. (1) Any person who enters into or upon the enclosed lands of any other person, and wilfully or negligently leaves any gate open or slip-panel down, shall be guilty of an offence.

Penalty: Twenty dollars.

(2) Any person who enters into or upon any road lawfully enclosed with the lands of any other person through any gate (other than a public gate as defined in the Public Gates Act 1901, of the State of New South Wales, in its application to the Territory) or slip-panel, and wilfully or negligently leaves that gate open or that slip-panel down, shall be guilty of an offence.

Penalty: Twenty dollars.

Offender may be apprehended

6. (1) Any person found committing any offence against this Ordinance, and who refuses, when required so to do, to give his name and place of abode, may be apprehended by the owner, occupier, or person in charge of the enclosed lands upon or in relation to which the offence was committed, and may be delivered to the nearest member of the Police Force who may keep him in custody until he can be taken before the Magistrates Court to be tried for such offence.

(2) Any person who, upon being so required to give his name and place of abode, gives any false name or place of abode, shall be guilty of an offence.

Penalty: Ten dollars.

Owner may destroy goats

7. Any owner, occupier, or person in charge of enclosed land may destroy any goat (other than a goat which is legibly branded or which has around its neck a collar on which the name and address of its owner is legibly engraved) found trespassing thereon.

NOTE

1. The *Enclosed Lands Protection Ordinance 1943* as shown in this reprint comprises Ordinance No. 5, 1943 as amended by the other Ordinances specified in the following table:

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Enclosed Lands Protection Ordinance 1943</i>	5, 1943	4 Feb 1943	4 Feb 1943	
<i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>	19, 1966	23 Dec 1966	23 Dec 1966	—
<i>Magistrates Court Ordinance 1985</i>	67, 1985	19 Dec 1985	1 Feb 1986 (see <i>Gazette</i> 1986, No. G3, p. 265)	—

NOTE-continued

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Ss. 4, 5.....	am. No. 19, 1966
S. 6	am. No. 19, 1966; No. 67, 1985