



Australian Capital Territory

Enclosed Lands Protection Act 1943

A1943-5

Republication No 5

Effective: 17 December 2009 – 28 February 2011

Republication date: 17 December 2009

Last amendment made by A2009-49

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Enclosed Lands Protection Act 1943* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 17 December 2009. It also includes any amendment, repeal or expiry affecting the republished law to 17 December 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



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Enclosed Lands Protection Act 1943

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R5
17/12/09

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Australian Capital Territory

Enclosed Lands Protection Act 1943

An Act relating to protection of enclosed lands from intrusion and trespass

1 Name of Act

This Act is the *Enclosed Lands Protection Act 1943*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 Penalty for unlawful entry on enclosed lands

- (1) Any person who, without lawful excuse (proof of which shall lie on the person), 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, commits an offence.

Maximum penalty: 5 penalty units.

- (2) Without limiting the expression ***lawful excuse*** in subsection (1), a drover or person in charge of stock being driven on 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 that have strayed from that road.

- (3) If a road is lawfully enclosed with the lands of any person and the road is not clearly defined and—
- (a) if there is a reasonably defined track commonly used by persons passing through those lands—the centre of the track shall, for this Act, be deemed to be the centre of the road; or
 - (b) if there is no reasonably defined track through the lands—a person passing through the lands shall not commit an offence against this section unless it is shown that the route taken by the person in so passing was, having regard to the circumstances, unreasonable.

5 Penalty for leaving gate open

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

Maximum penalty: 5 penalty units.

- (2) Any person who enters into or on 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* (NSW) in its application to the ACT) or slip panel, and wilfully or negligently leaves that gate open or that slip panel down, commits an offence.

Maximum penalty: 5 penalty units.

6 Requirement to give name etc

- (1) If the owner, occupier or person in charge of enclosed lands believes on reasonable grounds that another person is committing an offence against this Act, he or she may require that other person to give his or her full name and home address.
- (2) A person shall not fail to comply with a requirement under subsection (1).

Maximum penalty: 5 penalty units.

7 Owner may destroy goats

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

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- home address
- land
- person.

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 recognised and, if a road is lawfully enclosed with the lands of any person, those lands, but not the road, shall be deemed, for this Act, 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 subdivision of lands.

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

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Enclosed Lands Protection Ordinance 1943* A1943-5 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

Legislation before becoming Territory enactment

Enclosed Lands Protection Act 1943 No 5

notified 4 February 1943

commenced 4 February 1943

as amended by

Ordinances Revision (Decimal Currency) Ordinance 1966 No 19 sch 1

notified 23 December 1966

commenced 23 December 1966

Magistrates Court Ordinance 1985 No 67 sch pt 1

notified 19 December 1985

commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

Legislation after becoming Territory enactment

Acts Revision (Arrest Without Warrant) Act 1989 No 23 s 5

notified 1 December 1989 (Gaz 1989 No S38)

commenced 1 December 1989

Endnotes

4 Amendment history

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)

s 1, s 2 commenced 29 November 1994 (s 2 (1))

sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Legislation (Consequential Amendments) Act 2001 No 44 pt 128

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 128 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.36

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.36 commenced 12 April 2007 (s 2 (1))

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.26

notified LR 26 November 2009

s 1, s 2 commenced 26 November 2009 (LA s 75 (1))

sch 3 pt 3.26 commenced 17 December 2009 (s 2)

4 Amendment history

Dictionary

s 2 om 2001 No 44 amdt 1.1468
ins A2007-3 amdt 3.181

Notes

s 3 defs reloc to dict A2007-3 amdt 3.180
sub A2007-3 amdt 3.181

Penalty for unlawful entry on enclosed lands

s 4 am 1966 No 19 sch 1; 1994 No 81 sch

Penalty for leaving gate open

s 5 am 1966 No 19 sch 1; 1994 No 81 sch

Requirement to give name etc

s 6 am 1966 No 19 sch 1; 1985 No 67 sch pt 1
sub 1989 No 23 s 5
am 1994 No 81 sch; A2009-49 amdt 3.62

Dictionary

dict

ins A2007-3 amdt 3.182

am A2009-49 amdt 3.63

def **enclosed lands** reloc from s 3 A2007-3 amdt 3.180def **road** reloc from s 3 A2007-3 amdt 3.180def **stock** reloc from s 3 A2007-3 amdt 3.180**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1985 No 67	30 June 1991
2	Act 1994 No 81	31 January 1995
3	A2001-44	17 July 2002
4	A2007-3	12 April 2007

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