

INCLOSED LANDS PROTECTION
(AMENDMENT) ACT.

Act No. 9, 1939.

An Act to amend the Inclosed Lands Protection Act, 1901, in certain respects; and for purposes connected therewith. [Assented to, 6th September, 1939.]

George VI.
No. 9, 1939.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Inclosed Lands Protection (Amendment) Act, 1939." Short title.

(2) The Inclosed Lands Protection Act, 1901, as amended by this Act may be cited as the Inclosed Lands Protection Act, 1901-1939.

2. The Inclosed Lands Protection Act, 1901, is amended— Amendment of Act No. 33, 1901.

(a) (i) by inserting in the definition of "Inclosed lands" in section three, after the word "erection," the words "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"; Sec. 3. (Interpretation.)

(ii) by omitting the word "and" at the end of the same definition and inserting in lieu thereof the following words:—

Where a road is lawfully inclosed with the lands of any person such lands of such person but not the road shall be deemed for the purposes of this Act the inclosed lands of such person.

(iii)

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(iii) by inserting after the definition of "Justice" the following definition:—

"Road" means any land proclaimed, dedicated, resumed or otherwise provided as a public thoroughfare or way or any land defined, reserved or left as a road in any subdivision of lands.

Sec. 4.
(Penalty
for
unlawful
entry.)

(b) by inserting at the end of section four the following words and new subsection:—

Without prejudice to the generality of the expression "lawful excuse" a drover or person in charge of stock being driven upon a road lawfully inclosed with the lands of any person shall be deemed to have lawful excuse for entering such lands for the purpose of preventing the stock from straying or of regaining control of stock which have strayed from such road.

In this subsection "stock" includes horses, cattle, sheep, goats, pigs and camels.

(2) Where a road is lawfully inclosed with the lands of any person, and such road is not clearly defined but there is a reasonably defined track commonly used by persons passing through such lands, the centre of such track shall, for the purposes of this Act, be deemed to be the centre of the road.

(3) Where a road is lawfully inclosed with the lands of any person and such road is not clearly defined and there is no reasonably defined track through such lands a person passing through such inclosed lands shall not be guilty of an offence unless it is shown that the route taken by such person in so passing was, having regard to the circumstances, unreasonable.

Sec. 5.
(Penalty
for leaving
gate
open.)

(c) by inserting at the end of section five the following new subsection:—

(2) Any person who enters into or upon any road lawfully inclosed with the lands of any other person through any gate (not being a public gate as defined in the Public Gates Act, 1901),

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1901), or slip panel, and wilfully or negligently leaves open or down such gate or slip-panel, shall be liable to a penalty not exceeding ten pounds.

- (d) by omitting subsection two of section seven and by inserting in lieu thereof the following subsection:—

Sec. 7.

(Owner may destroy goats.)

(2) Subsection one of this section shall not be construed to authorise the destruction of any goat which is legibly branded or which has around its neck a collar with the name and address of its owner legibly engraved thereon.
