

Passed by both Houses



New South Wales

Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Inclosed Lands Protection Act 1901 No 33	3
Schedule 2 Amendment of Crimes Act 1900 No 40	4
Schedule 3 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	5

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2016



New South Wales

Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016

Act No , 2016

*An Act to amend the *Inclosed Lands Protection Act 1901*, the *Crimes Act 1900* and the *Law Enforcement (Powers and Responsibilities) Act 2002* in relation to interference with mining and other businesses or undertakings.*

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Inclosed Lands Protection Act 1901 No 33

Section 4B

Insert after section 4A:

4B Aggravated unlawful entry on inclosed lands

- (1) A person is guilty of an offence under this section if the person commits an offence under section 4 in relation to inclosed lands on which any business or undertaking is conducted and, while on those lands:
- (a) interferes with, or attempts or intends to interfere with, the conduct of the business or undertaking, or
 - (b) does anything that gives rise to a serious risk to the safety of the person or any other person on those lands.

Maximum penalty: 50 penalty units.

- (2) If, on the trial of a person for an offence under this section, the court is not satisfied that the accused is guilty of the offence charged, but is satisfied that the accused is guilty of an offence under section 4, the court may find the accused not guilty of the offence charged but guilty of an offence under section 4, and the accused is liable to punishment accordingly.

Schedule 2 Amendment of Crimes Act 1900 No 40

[1] Section 201 Interfering with a mine

Insert “structure,” after “equipment,” in section 201 (c).

[2] Section 201 (c) and (d)

Insert “, or associated with,” after “belonging to” wherever occurring.

[3] Section 201 (2)

Insert at the end of section 201:

- (2) In this section, *mine* includes:
- (a) a place at which gas or other petroleum is extracted from the ground, and
 - (b) a place at which exploration for minerals, or for gas or other petroleum, is undertaken by mechanical means that disturb the ground, and
 - (c) a place at which works are being carried out to enable the extraction of minerals, or of gas or other petroleum, from the ground, and
 - (d) a former mine at which works are being carried out to decommission the mine or make it safe.

Schedule 3 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Part 4 Search and seizure powers without warrant

Insert at the end of the Part:

Division 7 Additional search and seizure powers in relation to things used to interfere with business or undertaking

45A Things to which Division applies

This Division applies to anything that is intended to be used to lock-on or secure a person to any plant, equipment or structure for the purpose of interfering with the conduct of a business or undertaking and that is likely to be used in a manner that will give rise to a serious risk to the safety of any person.

45B Power to search for and seize things without warrant

- (1) A police officer may, without warrant, stop, search and detain a person, vehicle, vessel or aircraft if the police officer suspects on reasonable grounds that the person has in his or her possession or under his or her control (or that the vehicle, vessel or aircraft contains) anything to which this Division applies.
- (2) A police officer may seize and detain all or part of a thing found as a result of a search under this section that the police officer suspects on reasonable grounds is a thing to which this Division applies.

45C Forfeiture of things seized

- (1) A thing seized under this Division is forfeited to the Crown.
- (2) The Local Area Commander of Police (or such other person as that Commander may direct) may destroy or otherwise dispose of a thing so forfeited in accordance with the directions of the Commissioner.
- (3) The proceeds from any sale of a thing disposed of under this section are to be paid to the Treasurer for payment into the Consolidated Fund.
- (4) Part 17 does not apply to a thing seized under this Division and a court does not have jurisdiction on an application under that Part to order the delivery of the thing to the person from whom the thing was lawfully seized or who appears to be lawfully entitled to the thing.

[2] Section 200

Omit the section. Insert instead:

200 Limitation on exercise of police powers under this Part

- (1) This Part does not authorise a police officer to give a direction in relation to an industrial dispute.
- (2) This Part does not authorise a police officer to give a direction in relation to:
 - (a) an apparently genuine demonstration or protest, or
 - (b) a procession, or
 - (c) an organised assembly,except as provided by subsection (3) or (4).

- (3) A police officer is not precluded from giving a direction in relation to any such demonstration, protest, procession or assembly if the police officer believes on reasonable grounds that the direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given or to any other person.
- (4) A police officer is not precluded from giving a direction in relation to any such demonstration, protest, procession or assembly that is obstructing traffic if:
 - (a) the demonstration, protest, procession or assembly is not an authorised public assembly for the purposes of Part 4 of the *Summary Offences Act 1988* or the demonstration, protest, procession or assembly is not being held substantially in accordance with any such authorisation, and
 - (b) the police officer in charge at the scene has authorised the giving of directions under this Part in relation to the demonstration, protest, procession or assembly, and
 - (c) the direction is limited to the persons who are obstructing traffic.

[3] Schedule 5 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Provision consequent on enactment of Inclosed
Lands, Crimes and Law Enforcement Legislation
Amendment (Interference) Act 2016**

Review of amendments

- (1) The Minister is to review the amendments made by the *Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016* to determine whether the policy objectives of those amendments remain valid and whether the provisions, as amended, remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 3 years from the commencement of that Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 6 months after the end of the period of 3 years.