



FENCING ACT 1913

[Consolidated as at 21 April 1986
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Fencing Act 1913

Short title

1. This Act may be cited as the *Fencing Act 1913*.

Interpretation

2. (1) In this Act —
 - “cattle” means bull, cow, steer, heifer or calf;
 - “fence” includes a cattle proof boundary which may consist of one or more of a wall, ditch or artificial structure or natural obstruction that would, under normal conditions, exclude trespass on land by quiet cattle and horses;
 - “horse” means horse, mare, gelding, colt or filly;
 - “Registrar” means Registrar of Lands.
- (2) For the purposes of registration under this Act —
 - (a) artificial structures forming a fence or part of a fence shall be of a prescribed type and in accordance with the standards prescribed for that type of structure; and
 - (b) natural obstructions forming a fence or part of a fence shall be of a kind that, in the opinion of the executive member, would under normal conditions, exclude trespass on land by quiet cattle and horses.

Application to register fence

3. Application in writing may be made to the Registrar to register a fence whether now or hereafter to be constructed.

Registration of fences

4. The application shall be submitted by the Registrar to the executive member, who, if, after receipt of a report furnished by the authorised officer following inspection of the fence, is satisfied that the

fence is in accordance with the prescribed standards and would effectively exclude trespass on land by quiet cattle and horses, may direct the fence to be registered, and thereupon the Registrar shall register the fence in such manner and with such particulars as the executive member directs.

Fee to register fence

5. A fee of 2 fee units shall be paid on the registration of a fence.

Fence registered for five years

6. The registration of a fence shall, if not cancelled, have effect for a period of 5 years.

Payment of fee to inspect register

7. The register shall be open to inspection on payment of a fee of 0.50 fee unit.

Cancellation of registration

8. (1) Where the Registrar is satisfied, after receipt of a report furnished by the authorised officer following inspection of a fence that is registered under this Act, that the fence would no longer effectively exclude trespass on land by quiet cattle and horses, the Registrar shall cancel the registration.

(2) Where, after the registration of a fence has been cancelled under subsection 8(1), the fence is restored so that it would effectively exclude trespass on land by quiet cattle and horses, an application may be made under section 3 for restoration of the registration and section 5 does not apply.

Action for trespass

9. No action for trespass on land by quiet cattle and horses shall lie unless the land is protected by a fence that is —

- (a) registered under this Act; and
- (b) maintained in accordance with the prescribed standards.

Notice to owner of adjoining land

10. (1) The owner of any land may, by notice in writing served personally on the owner of any adjoining land, require such last-mentioned owner to join him on equal terms in making a new dividing fence between their properties, or in repairing an existing dividing fence.

(2) Whenever service of the notice cannot be effected personally, it shall be deemed to have been duly effected if the notice or a true copy thereof is affixed in a prominent position on the adjoining land and published in the Gazette.

Owner of adjoining land may recover half of cost

11. (1) If the said owners, within one month after the said notice, fail to come to an agreement as to the making or repairing of the fence, or if, after such agreement is come to, no substantial part of the work is done within 2 months after such notice, either party may carry out the work, and may recover half the cost thereof from the other party in the Court of Petty Sessions. This provision shall not apply to the Administration.

(2) An order or judgment of the Court for the payment of any sum of money recoverable from the owner of any land under this section may be enforced by execution issued against the land of the judgment debtor.

Authorised officer

12. (1) The executive member may, by notice in writing signed by the executive member, appoint a person to be an authorised officer for the purposes of this Act and the Regulations.

(2) The executive member shall issue to a person appointed as an authorised officer under subsection 12(1) a certificate in a form approved by the executive member.

(3) A person who ceases to be an authorised officer shall, as soon as practicable, return his certificate of appointment to the executive member.

Penalty: 2 penalty units.

(4) A person shall not personate or falsely represent that he is an authorised officer for the purposes of this Act.

Penalty: 2 penalty units.

Entry on land

13. (1) An authorised officer may —

- (a) at the request of the applicant under section 3; or
- (b) for the purposes of section 8,

enter land for the purpose of inspecting a fence.

(2) An authorised officer who enters land in pursuance of paragraph 13(1)(b) is not authorised to remain on the land if, on the request of the occupier of the land, the authorised officer does not produce the certificate of appointment issued under subsection 12(2).

(3) A person shall not, without reasonable excuse, obstruct an authorised officer carrying out his duties under this section.

Penalty: 2 penalty units.

Regulations

14. (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection 14(1), the Regulations may prescribe penalties not exceeding 2 penalty units for a contravention or breach of the Regulations.

NOTES

The *Fencing Act 1913* as shown in this consolidation comprises Act No. 14 of 1913 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Fencing Law 1913</i>	14, 1913	24.12.13	
<i>Administration Act 1936</i>	14, 1936	16.12.36	
<i>Fencing Act 1937</i>	1, 1937	4.3.37	
<i>Fencing Act 1938</i>	1, 1938	10.2.38	
<i>Amendments Incorporation Act 1963</i>	2, 1963	28.3.63	
<i>Ordinances Revision Act 1964</i>	6, 1964	30.6.64	6
<i>Ordinances Revision Act 1965</i>	1, 1965	30.6.64	
Enactment	Number	Date of	Application

	and year	commencement	saving or transitional provision
<i>Fees Act 1976</i>	3, 1976	31.5.76	
<i>Ordinances Citation Act 1976</i>	11, 1976	25.11.76	
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Ordinances Revision (Executive Members) Act 1980</i>	8, 1980	6.11.81	5
<i>Ordinances Revision (Decimal Currency) Act 1980</i>	31, 1980	15.1.81	
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>Fencing (Amendment) Act 1985</i>	5, 1986	31.3.86	

Table of Amendments

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

Provisions affected	How affected
1	am 2, 1963; 6, 1964; 1, 1965; 3, 1976; 11, 1976
2(1)	am 1, 1965; 5, 1986
2(2)	ad 5, 1986
4	am 14, 1936; 8, 1980; 5, 1986
5	am 3, 1976; 9, 1985
7	am 31, 1980; 9, 1985
8	am 14, 1936; 8, 1980
	rs 5, 1986
9	rs 5, 1986
10(1)	am 5, 1986
10(2)	ad 1, 1938
	am 6, 1964
11(1)	am 1, 1937; 6, 1964; 13, 1979
11(2)	ad 1, 1937
12	ad 5, 1986

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

Provisions affected	How affected
13	ad 5, 1986
14	ad 5, 1986

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