

Authorised Version No. 001
Fences Regulations 2014

S.R. No. 122/2014

Authorised Version as at
22 September 2014

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22 September 2014

1 Objective

The objective of these Regulations is to prescribe forms for the purposes of the **Fences Act 1968**.

2 Authorising provision

These Regulations are made under section 38 of the **Fences Act 1968**.

3 Commencement

These Regulations come into operation on 22 September 2014.

4 Definitions

In these Regulations—

adjoining owner has the same meaning as in section 11 of the **Fences Act 1968**;

notifying owner has the same meaning as in section 11 of the **Fences Act 1968**;

the Act means the **Fences Act 1968**.

5 Fencing notice

For the purposes of section 13(5) of the Act, the prescribed form is Form 1 in the Schedule.

6 Notice from notifying owner to long-term tenant

For the purposes of section 15(3) of the Act, the prescribed form of a notice given under section 15(1)(b) of the Act is Form 2 in the Schedule.

7 Notice from adjoining owner to long-term tenant

For the purposes of section 15(3) of the Act, the prescribed form of a notice given under section 15(2)(b) of the Act is Form 3 in the Schedule.

8 Notice from notifying owner to adjoining owner

For the purposes of section 15(3) of the Act, the prescribed form of a notice given under section 15(1)(c) of the Act is Form 4 in the Schedule.

9 Notice from adjoining owner to notifying owner

For the purposes of section 15(3) of the Act, the prescribed form of a notice given under section 15(2)(c) of the Act is Form 5 in the Schedule.

10 Urgent fencing notice

For the purposes of section 24(3) of the Act, the prescribed form is Form 6 in the Schedule.

SCHEDULE

FORM 1

Regulation 5

Fences Act 1968

Section 13(5)

Fences Regulations 2014

FENCING NOTICE

Date of this notice:

Name of person(s) giving fencing notice:

Address of person(s) giving fencing notice:

Telephone number of person(s) giving fencing notice:

Email address of person(s) giving fencing notice (if any):

1. I (the notifying owner) give this notice to you, the owner of the property located at *[insert address]* (the adjoining owner)
2. I propose that fencing works and subsidiary works* be carried out for the boundary of your property, described at 1, and my adjoining property, which is located at *[insert address]*
3. I propose that the position of the dividing fence should be:
 and complete one option only
 - the boundary line *[describe]*
 - another line *[describe]* if it is impracticable to carry out the fencing works and subsidiary works* on the common boundary because a waterway or obstruction (whether natural or manmade) is on or forms the common boundary
4. I propose that the following fencing works and subsidiary works* should be carried out:
[you may more than one option]
 - repair or maintenance of the whole or part** of the existing dividing fence *[specify nature of proposed repair or maintenance]*
 - demolition of the whole or part** of the existing dividing fence
 - removal of the whole or part** of the existing dividing fence
 - construction of the whole or part** of a new dividing fence

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- replacement of the whole or part** of the existing dividing fence (including demolition and removal of the whole or part** of the existing dividing fence and construction of the whole or part** of a new dividing fence)
 - planting, replanting, repair or maintenance** of a hedge or similar vegetative barrier that is the whole or part** of a dividing fence
 - cleaning, deepening, enlargement, repair or alteration** of a ditch or embankment** that is the whole or part** of a dividing fence
 - subsidiary works [*specify—design of dividing fence, preparation or clearing of land, surveying and marking of common boundary or other proposed line of fence, obtaining approval, using temporary barriers*]
5. *if applicable*
- A dividing fence is not required for part of the common boundary because a waterway or other obstruction (whether natural or manmade) is on or forms the common boundary
- [If applicable, describe waterway or obstruction and the part of the common boundary for which a dividing fence is not required]*
6. If it is proposed to construct a new dividing fence or replace the existing dividing fence—I propose that the height(s) of the new or replacement dividing fence should be *[specify]*
7. If it is proposed to construct a new dividing fence or replace the existing dividing fence—I propose that the type of dividing fence and construction material should be *[specify]*
8. If it is proposed to construct a new dividing fence or replace the existing dividing fence with a dividing fence that has rails and framing—I propose that the rails and framing should be placed on the side of the dividing fence facing into:
- one option only*
 - your property, described at 1
 - my property, described at 2
9. *and complete one option only*
- I propose to pay the entire cost of fencing works and any subsidiary works set out at 4
 - I propose that the cost of fencing works and any subsidiary works set out at 4 should be shared between us

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10. *[Complete only if it is proposed, at 9, that the cost should be shared]*
- The total estimated cost of the proposed fencing works and any subsidiary works set out at 4 is *[specify]* and the basis of this estimate is *[specify]*
- [Attach quotation if you have one]*
- I propose that the cost should be shared as follows:
- I pay *[specify percentage]* being *[specify estimated amount]*, and
you pay *[specify percentage]* being *[specify estimated amount]*
- [If contributions other than in equal proportions are proposed, give reasons]*
11. I propose that the fencing works and any subsidiary works set out at 4 should be carried out by *[specify name and contact details of person(s) proposed to carry out works, if known]*
- *strike out if no subsidiary works are proposed*
- **strike out whichever does not apply*

IMPORTANT INFORMATION

1. This is a fencing notice under section 13 of the **Fences Act 1968**.
2. Agreement to the fencing works and any subsidiary works proposed in this fencing notice gives rise to a fencing notice agreement, which can be enforced under the **Fences Act 1968**.
3. If, within 30 days from the day this fencing notice is given, the adjoining owner has responded to this notice but does not agree to one or more of the matters specified in this notice, the notifying owner cannot proceed with fencing works or any subsidiary works (whether proposed in this notice or otherwise) without the adjoining owner's agreement. The notifying owner and adjoining owner may continue to negotiate or, after the 30 days, either owner may commence proceedings in the Magistrates' Court for orders about: the line on which fencing works and any subsidiary works are to be carried out; the line that is the common boundary; whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the fencing works and any subsidiary works should be apportioned; and other matters.
4. If, within 30 days from the day this fencing notice is given, the adjoining owner has not responded to this notice, the notifying owner may proceed with the fencing works and any subsidiary works set out in this notice. The notifying owner may then commence proceedings in the Magistrates' Court to recover contributions from the adjoining owner.

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5. Either owner may seek assistance from the Dispute Settlement Centre of Victoria to resolve any disputes about the proposed fencing works and any subsidiary works.
 6. Section 32 of the **Fences Act 1968** provides for the placement of rails and framing for a dividing fence that has rails and framing. Owners may agree about the side of the dividing fence on which the rails and framing are to be placed. However, if an agreement between owners or an order of the Magistrates' Court does not specify the side on which rails and framing are to be placed, the **Fences Act 1968** provides for the side on which rails and framing must be placed. For a dividing fence between residential or commercial land and land over which the public has general access or over which there is a right of way, the rails and framing must be placed on the side of the dividing fence facing into the residential or commercial land. For a dividing fence between residential and commercial land, the rails and framing must be placed on the side of the dividing fence facing into the residential land. In all other cases, the rails and framing must be placed on the same side as the previous dividing fence (if a dividing fence is being replaced by a similar dividing fence) or on the side least subject to weathering (if a dividing fence is being replaced by a different type of dividing fence or if there was no previous dividing fence).
 7. The **Fences Act 1968** deals with a range of other matters, including disputes about the location of the common boundary and the circumstances in which a long-term tenant of land may be liable to contribute to fencing works and any subsidiary works. Further information about the **Fences Act 1968** is available from the Dispute Settlement Centre of Victoria website.
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FORM 2

Regulation 6

Fences Act 1968

Section 15(3)

Fences Regulations 2014

**NOTICE FROM NOTIFYING OWNER TO LONG-TERM
TENANT**

Date of this notice:

Name of person(s) giving notice:

Address of person(s) giving notice:

Telephone number of person(s) giving notice:

Email address of person(s) giving notice (if any):

1. I (the notifying owner) give this notice to you, the tenant of the property located at *[insert address]* (the long-term tenant)
2. I gave a fencing notice, a copy of which is attached, to the adjoining owner proposing fencing works and any subsidiary works between my property, described at 1, and the adjoining property, as set out in the fencing notice
[Attach a copy of the fencing notice given]
3. As set out in the fencing notice, the estimated cost of the fencing works and any subsidiary works is *[specify]*
4. As set out in the fencing notice, it is proposed that I pay *[specify percentage]* estimated to be *[specify amount estimated in fencing notice]*
5. You are a long-term tenant of my property for the purposes of section 10 of the **Fences Act 1968** and are liable to contribute to the fencing works and any subsidiary works for a sufficient dividing fence.

and complete one option only

- The unexpired term of your lease is 5 years or more but not more than 10 years. You are liable under section 10 of the **Fences Act 1968** to contribute 50% of my share of the cost of the fencing works and any subsidiary works, estimated to be *[specify amount based on amount estimated in fencing notice]*

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- The unexpired term of your lease is more than 10 years. You are liable under section 10 of the **Fences Act 1968** to contribute the entire amount of my share of the cost of the fencing works and any subsidiary works, estimated to be [*specify amount based on amount estimated in fencing notice*]
6. By giving you this notice and the attached copy of the fencing notice, I seek your agreement to the fencing works and any subsidiary works set out in the fencing notice (except for any matter relating to the boundary line or line on which it is proposed to carry out the fencing works) and require you to contribute to my share of the cost in the proportion specified in this notice at 5, above.

IMPORTANT INFORMATION

1. This is a notice under section 15(1)(b) of the **Fences Act 1968**. The notifying owner gave the attached fencing notice to the adjoining owner under section 13 of the **Fences Act 1968**, proposing that fencing works and any subsidiary works should be undertaken between the notifying owner's property and the adjoining owner's property.
2. If, within 30 days from the day the fencing notice was given, the long-term tenant responds to this notice but the long-term tenant and the owners do not agree to one or more of the matters specified in the fencing notice, *the fencing works or any subsidiary works may not proceed and, after the 30 days, the long-term tenant, the notifying owner or the adjoining owner may commence proceedings in the Magistrates' Court for orders about: whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the fencing works and any subsidiary works should be apportioned; and other matters.
3. If, within 30 days from the day the fencing notice was given, the long-term tenant has not responded to this notice, the fencing works and any subsidiary works may proceed without the long-term tenant's agreement. The notifying owner may then seek an order in the Magistrates' Court to recover a contribution from the long-term tenant.

**The long-term tenant's agreement is not required for any matter relating to the common boundary or line of fence.*

FORM 3

Regulation 7

Fences Act 1968

Section 15(3)

Fences Regulations 2014

**NOTICE FROM ADJOINING OWNER TO LONG-TERM
TENANT**

Date of this notice:

Name of person(s) giving notice:

Address of person(s) giving notice:

Telephone number of person(s) giving notice:

Email address of person(s) giving notice (if any):

1. I (the adjoining owner) give this notice to you, the tenant of the property located at *[insert address]* (the long-term tenant)
2. I received a fencing notice, a copy of which is attached, proposing fencing works and any subsidiary works between my property, described at 1, and the adjoining property, as set out in the fencing notice
[Attach a copy of the fencing notice received]
3. As set out in the fencing notice, the estimated cost of the fencing works and any subsidiary works is *[specify]*
4. As set out in the fencing notice, it is proposed that I pay *[specify percentage]* estimated to be *[specify amount estimated in fencing notice]*
5. You are a long-term tenant of my property for the purposes of section 10 of the **Fences Act 1968** and are liable to contribute to the fencing works and any subsidiary works for a sufficient dividing fence.

and complete one option only

- The unexpired term of your lease is 5 years or more but not more than 10 years. You are liable under section 10 of the **Fences Act 1968** to contribute 50% of my share of the cost of the fencing works and any subsidiary works, estimated to be *[specify amount based on amount estimated in fencing notice]*

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- The unexpired term of your lease is more than 10 years. You are liable under section 10 of the **Fences Act 1968** to contribute the entire amount of my share of the cost of the fencing works and any subsidiary works, estimated to be [*specify amount based on amount estimated in fencing notice*]
6. By giving you this notice and the attached copy of the fencing notice, I seek your agreement to the fencing works and any subsidiary works set out in the fencing notice (except for any matter relating to the boundary line or line on which it is proposed to carry out the fencing works) and require you to contribute to my share of the cost in the proportion specified in this notice at 5, above.

IMPORTANT INFORMATION

1. This is a notice under section 15(2)(b) of the **Fences Act 1968**. The adjoining owner received the attached fencing notice under section 13 of the **Fences Act 1968**, proposing that fencing works and any subsidiary works should be undertaken for a dividing fence between the adjoining owner's property and the notifying owner's property.
2. If, within 30 days from the day the fencing notice was given, the long-term tenant responds to this notice but the long-term tenant and the owners do not agree to one or more of the matters specified in the fencing notice, *the fencing works or any subsidiary works may not proceed and, after the 30 days, the long-term tenant, the adjoining owner or the notifying owner may commence proceedings in the Magistrates' Court for orders about: whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the fencing works and any subsidiary works should be apportioned; and other matters.
3. If, within 30 days from the day the fencing notice was given, the long-term tenant has not responded to this notice, the fencing works and any subsidiary works may proceed without the long-term tenant's agreement. The adjoining owner may then seek an order in the Magistrates' Court to recover a contribution from the long-term tenant.

**The long-term tenant's agreement is not required for any matter relating to the common boundary or line of fence.*

FORM 4

Regulation 8

Fences Act 1968

Section 15(3)

Fences Regulations 2014

**NOTICE OF LONG-TERM TENANT FROM NOTIFYING
OWNER TO ADJOINING OWNER**

Date of this notice:

Name of person(s) giving notice:

Address of person(s) giving notice:

Telephone number of person(s) giving notice:

Email address of person(s) giving notice (if any):

1. I (the notifying owner) give this notice to you, the owner of the property located at [*insert address*] (the adjoining owner)
2. I gave you a fencing notice under section 13 of the **Fences Act 1968** proposing fencing works and any subsidiary works between your property, described at 1, and my adjoining property, which is located at [*insert address*]
3. By giving you this further notice, I notify you that there is a long-term tenant of my property who is liable to contribute to the fencing works and any subsidiary works for a sufficient dividing fence.
4. You are not required to respond to this notice.

IMPORTANT INFORMATION

1. If, within 30 days from the day the notifying owner gave the adjoining owner the fencing notice, the long-term tenant responds but the long-term tenant and the owners do not agree to one or more of the matters specified in the fencing notice,*the fencing works or any subsidiary works may not proceed and, after the 30 days, the long-term tenant, the adjoining owner or the notifying owner may commence proceedings in the Magistrates' Court for orders about: whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the works should be apportioned; and other matters.

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2. If, within 30 days from the day the notifying owner gave the adjoining owner the fencing notice, the long-term tenant has not responded to the notice given to the long-term tenant, the fencing works and any subsidiary works may proceed without the long-term tenant's agreement. The notifying owner may then seek an order in the Magistrates' Court to recover a contribution from the long-term tenant.

**The long-term tenant's agreement is not required for any matter relating to the common boundary or line of fence.*

FORM 5

Regulation 9

Fences Act 1968

Section 15(3)

Fences Regulations 2014

**NOTICE OF LONG-TERM TENANT FROM ADJOINING
OWNER TO NOTIFYING OWNER**

Date of this notice:

Name of person(s) giving notice:

Address of person(s) giving notice:

Telephone number of person(s) giving notice:

Email address of person(s) giving notice (if any):

1. I (the adjoining owner) give this notice to you, the owner of the property located at *[insert address]* (the notifying owner)
2. I received a fencing notice under section 13 of the **Fences Act 1968** from you proposing fencing works and any subsidiary works between your property, described at 1, and my adjoining property, which is located at *[insert address]*
3. By giving you this notice, I notify you that there is a long-term tenant of my property who is liable to contribute to the fencing works and any subsidiary works for a sufficient dividing fence.
4. You are not required to respond to this notice.

IMPORTANT INFORMATION

1. If, within 30 days from the day the notifying owner gave the adjoining owner the fencing notice, the long-term tenant responds but the long-term tenant and the owners do not agree to one or more of the matters specified in the fencing notice,*the fencing works or any subsidiary works may not proceed and, after the 30 days, the long-term tenant, the notifying owner or the adjoining owner may commence proceedings in the Magistrates' Court for orders about: whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the fencing works and any subsidiary works should be apportioned; and other matters.

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2. If, within 30 days from the day the notifying owner gave the adjoining owner the fencing notice, the long-term tenant has not responded to the notice given to the long-term tenant, the fencing works and any subsidiary works may proceed without the long-term tenant's agreement. The adjoining owner may then seek an order in the Magistrates' Court to recover a contribution from the long-term tenant.

**The long-term tenant's agreement is not required for any matter relating to the common boundary or line of fence.*

FORM 6

Regulation 10

Fences Act 1968

Section 24(3)

Fences Regulations 2014

URGENT FENCING NOTICE

Date of this notice:

Name of person(s) giving urgent fencing notice:

Address of person(s) giving urgent fencing notice:

Telephone number of person(s) giving urgent fencing notice:

Email address of person(s) giving urgent fencing notice (if any):

1. I carried out urgent fencing works and subsidiary works* for a sufficient dividing fence between your property, which is located at [*insert address*], and my adjoining property, which is located at [*insert address*]
2. Fencing works and subsidiary works* needed to be carried out urgently because the dividing fence between our properties was damaged or destroyed** and it was impracticable to give you a fencing notice.
3. The reason that the fencing works and subsidiary works* needed to be carried out urgently was [*give reasons*]
4. The following fencing works and subsidiary works* were carried out urgently:
[*you may* *more than one option*]
 - repair or maintenance of the whole or part** of the existing dividing fence [*specify nature of repair or maintenance that was undertaken*]
 - demolition of the whole or part** of the existing dividing fence
 - removal of the whole or part** of the existing dividing fence
 - construction of the whole or part** of a new dividing fence

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- replacement of the whole or part** of the existing dividing fence (including demolition and removal of the whole or part** of the existing dividing fence and construction of the whole or part** of a new dividing fence)
 - planting, replanting, repair or maintenance** of a hedge or similar vegetative barrier that is the whole or part** of a dividing fence
 - cleaning, deepening, enlargement, repair or alteration** of a ditch or embankment** that is the whole or part** of a dividing fence
 - subsidiary works [*specify—design of dividing fence, preparation or clearing of land, surveying and marking of common boundary or other proposed line of fence, obtaining approval, using temporary barriers*]
5. The fencing works and subsidiary works* set out at 4 were carried out on:
- the boundary line [*describe*]
 - another line [*describe*] because it was impracticable to carry out the fencing works and subsidiary works* on the common boundary because a waterway or obstruction (whether natural or manmade) is on or forms the common boundary
6. If a new dividing fence was constructed or the existing dividing fence was replaced—the height(s) of the new or replacement dividing fence is [*specify*]
7. If a new dividing fence was constructed or the existing dividing fence was replaced—the type of dividing fence and construction material is [*specify*]
8. If a new dividing fence was constructed or the existing dividing fence was replaced with a dividing fence that has rails or framing—the rails and framing were placed on the side of the dividing fence facing into:
- one option only*
- your property, described at 1
 - my property, described at 1

-
9. The cost of the fencing works and subsidiary works* was
[specify amount]
[Attach a copy of the receipt for the works]
I propose that the cost should be shared as follows:
I pay [specify percentage] being [specify amount], and
you pay [specify percentage] being [specify amount]
[If contributions other than in equal proportions are proposed, give reasons]

*strike out if no subsidiary works were undertaken

**strike out whichever does not apply

IMPORTANT INFORMATION

1. The owner who gives an urgent fencing notice requires the owner who receives it to contribute to the fencing works and any subsidiary works for a sufficient dividing fence that were carried out urgently in accordance with the **Fences Act 1968**.
2. If, within 30 days from the day this urgent fencing notice is given, the owner who receives it responds to the notice but does not agree to one or more of the matters specified in the notice, either owner may commence proceedings in the Magistrates' Court for orders about: the line that is the common boundary; whether or not a dividing fence is required and whether or not fencing works and any subsidiary works should be carried out; the nature of any fencing works and subsidiary works to be carried out; the nature of the fence that constitutes a sufficient dividing fence; the way in which contributions for the fencing works and any subsidiary works should be apportioned; and other matters.
3. If, within 30 days from the day this urgent fencing notice is given, the owner who received it has not responded to the notice, the owner who gave the urgent fencing notice may commence proceedings in the Magistrates' Court for orders about the urgent fencing works and subsidiary works or contributions.
4. Section 32 of the **Fences Act 1968** provides for the placement of rails and framing for a dividing fence that has rails and framing. Owners may agree about the side of the dividing fence on which the rails and framing are to be placed. However, if an agreement between owners or an order of the Magistrates' Court does not specify the side on which rails and framing are to be placed, the **Fences Act 1968** provides for the side on which rails and framing must be placed. For a dividing fence between residential or commercial land and land over which the public has general access or over which there is a right of way, the rails and framing must be placed on the side of the dividing fence facing into the

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residential or commercial land. For a dividing fence between residential and commercial land, the rails and framing must be placed on the side of the dividing fence facing into the residential land. In all other cases, the rails and framing must be placed on the same side as the previous dividing fence (if a dividing fence is being replaced by a similar dividing fence) or on the side least subject to weathering (if a dividing fence is being replaced by a different type of dividing fence or if there was no previous dividing fence).

ENDNOTES

1. General Information

The Fences Regulations 2014, S.R. No. 122/2014 were made on 16 September 2014 by the Governor in Council under section 38 of the **Fences Act 1968**, No. 7733/1968 and came into operation on 22 September 2014: regulation 3.

The Fences Regulations 2014 will sunset 10 years after the day of making on 16 September 2024 (see section 5 of the **Subordinate Legislation Act 1994**).

Endnotes

2. Table of Amendments

There are no amendments made to the Fences Regulations 2014 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

No entries at date of publication.