



New South Wales

Inclosed Lands Protection Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

Inclosed lands are currently defined in the *Inclosed Lands Protection Act 1901* to be a school or any land (either public or private) that is inclosed generally by a fence, wall (or other erection) or natural feature.

The object of this Bill is to amend the Act so as:

- (a) to increase the maximum penalty for unlawful entry, or engaging in offensive conduct, on land that is occupied or used in connection with a school, and
 - (b) to treat child care services, hospitals and nursing homes in the same way as schools by providing for increased penalties for unlawful entry, or engaging in offensive conduct, on land that is occupied or used in connection with a child care service, hospital or nursing home.
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Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Inclosed Lands Protection Act 1901* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [2], [4] and [6] amend sections 3, 4 and 4A of the *Inclosed Lands Protection Act 1901* as outlined in the Overview above.

Schedule 1 [1], [3] and [5] make consequential amendments.

First print



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New South Wales

Inclosed Lands Protection Amendment Bill 1997

No. , 1997

A Bill for

An Act to amend the *Inclosed Lands Protection Act 1901* so as to increase the maximum penalties for offences relating to unlawful entry and engaging in offensive conduct on certain inclosed lands; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Inclosed Lands Protection Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Inclosed Lands Protection Act 1901 No 33

The *Inclosed Lands Protection Act 1901* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Omit paragraph (a) of the definition of *Inclosed lands* in subsection (1).

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Insert instead:

- (a) prescribed premises, or

[2] Section 3 (1)

Insert in alphabetical order:

child care service means any service that is provided by a person for the purpose of educating, minding or caring for one or more children (disregarding any children who are related to the person providing the service), but does not include any such service if the service is: 10

- (a) provided by a person at the premises at which the children reside, or 15
- (b) provided by the holder of a fostering authority (within the meaning of the *Children (Care and Protection) Act 1987*) in accordance with the authority. 20

hospital means any of the following:

- (a) an incorporated hospital mentioned in the Second Schedule to the *Public Hospitals Act 1929*,
- (b) a separate institution mentioned in the Third Schedule to that Act, 25
- (c) a hospital mentioned in the Fifth Schedule to that Act,
- (d) a hospital under the control of an area health service constituted under the *Area Health Services Act 1986*, 30
- (e) a private hospital within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*.

prescribed premises means land occupied or used in connection with any of the following:

- (a) a government school or a registered non-government school within the meaning of the *Education Reform Act 1990*, 5
- (b) a child care service,
- (c) a hospital,
- (d) a nursing home within the meaning of the *Nursing Homes Act 1988*,

and any building or structure erected on that land, but does not include all or part of any building or structure that is for the time being occupied or used for a purpose unconnected with the conduct of such a school, child care service, hospital or nursing home. 10

[3] Section 3 (1), definition of "School" 15
Omit the definition.

[4] Section 4 Unlawful entry on inclosed lands

Omit subsection (1). Insert instead:

- (1) Any person who, without lawful excuse (proof of which lies on the person), enters into inclosed lands without the consent of the owner, occupier or person apparently in charge of those lands, or who remains on those lands after being requested by the owner, occupier or person apparently in charge of those lands to leave those lands, is liable to a penalty not exceeding: 20

- (a) 10 penalty units in the case of prescribed premises, or 25
- (b) 5 penalty units in any other case.

- (1A) A drover or person in charge of stock being driven on a road lawfully inclosed within the lands of any person has a lawful excuse for entering those lands for the purpose of preventing the stock from straying, or regaining control of stock that have strayed, from that road. 30

[5] Section 4 (4)

Insert after subsection (3):

- (4) In this section, *stock* includes horses, cattle, sheep, goats, pigs and camels.

[6] Section 4A Offensive conduct while on inclosed lands

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Omit "shall be liable to a penalty not exceeding 10 penalty units" from subsection (1).

Insert instead:

is liable to a penalty not exceeding:

- (a) 20 penalty units in the case of prescribed premises, or 10
- (b) 10 penalty units in any other case.