



New South Wales

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

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

No. , 2016

A Bill for

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.



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

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Inclosed Lands Protection Act 1901* to create an aggravated form of the offence of unlawful entry on inclosed lands to increase, from \$550 to \$5,500, the maximum penalty that is applicable in relation to land on which a business or undertaking is being conducted and where the offender, while on the lands:
 - (i) interferes with, or attempts or intends to interfere with, the conduct of the business or undertaking, or
 - (ii) does anything that gives rise to a serious risk to the safety of the offender or any other person on those lands,
- (b) to amend the *Crimes Act 1900* to extend the meaning of “mine” in connection with the existing indictable offence (that carries a maximum penalty of imprisonment for 7 years) of intentionally or recklessly interfering with a mine (including hindering the working of equipment belonging to a mine) so that it extends to equipment and other things associated with a mine and to:
 - (i) a gas or other petroleum extraction site, and
 - (ii) a mineral, or gas or other petroleum, exploration site, and
 - (iii) a work construction site for proposed minerals, or gas or other petroleum, extraction, and
 - (iv) a former mine at which works are being carried out to decommission the mine or make it safe,

- (c) to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to confer additional search and seizure powers (without warrant) where a police officer suspects on reasonable grounds that a person has (or a vehicle, vessel or aircraft contains) 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,
- (d) to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to remove limitations on the exercise of police powers to give directions in public places to prevent obstructions of persons or traffic (or harassment or intimidation of or fear to other persons) in the case of demonstrations, protests, processions or organised assemblies, so that directions may be given:
 - (i) 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, or
 - (ii) if the demonstration, protest, procession or assembly is obstructing traffic and is not an authorised public assembly under the *Summary Offences Act 1988* in which persons are participating substantially in accordance with the authorisation, and the police officer in charge at the scene has authorised the giving of directions.

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.

Schedule 1 amends the *Inclosed Lands Protection Act 1901* to give effect to the object in paragraph (a) above.

Schedule 2 amends the *Crimes Act 1900* to give effect to the object in paragraph (b) above.

Schedule 3 [1] amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to give effect to the object in paragraph (c) above.

Schedule 3 [2] amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to give effect to the object in paragraph (d) above.

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.

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Schedule 1	Amendment of Inclosed Lands Protection Act	1
	1901 No 33	2
Section 4B		3
Insert after section 4A:		4
4B	Aggravated unlawful entry on inclosed lands	5
(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:	6
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	(a) interferes with, or attempts or intends to interfere with, the conduct of the business or undertaking, or	9
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	(b) does anything that gives rise to a serious risk to the safety of the person or any other person on those lands.	11
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	Maximum penalty: 50 penalty units.	13
(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.	14
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Schedule 2	Amendment of Crimes Act 1900 No 40	1
[1]	Section 201 Interfering with a mine	2
	Insert “structure,” after “equipment,” in section 201 (c).	3
[2]	Section 201 (c) and (d)	4
	Insert “, or associated with,” after “belonging to” wherever occurring.	5
[3]	Section 201 (2)	6
	Insert at the end of section 201:	7
	(2) In this section, <i>mine</i> includes:	8
	(a) a place at which gas or other petroleum is extracted from the ground, and	9 10
	(b) a place at which exploration for minerals, or for gas or other petroleum, is undertaken by mechanical means that disturb the ground, and	11 12
	(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	13 14
	(d) a former mine at which works are being carried out to decommission the mine or make it safe.	15 16

Schedule 3	Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	1
		2
[1]	Part 4 Search and seizure powers without warrant	3
	Insert at the end of the Part:	4
	Division 7 Additional search and seizure powers in relation to things used to interfere with business or undertaking	5
		6
45A	Things to which Division applies	7
	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.	8 9 10 11 12
45B	Power to search for and seize things without warrant	13
	(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.	14 15 16 17
	(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.	18 19 20
45C	Forfeiture of things seized	21
	(1) A thing seized under this Division is forfeited to the Crown.	22
	(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.	23 24 25
	(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.	26 27
	(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.	28 29 30 31
[2]	Section 200	32
	Omit the section. Insert instead:	33
200	Limitation on exercise of police powers under this Part	34
	(1) This Part does not authorise a police officer to give a direction in relation to an industrial dispute.	35 36
	(2) Except as provided by subsection (3) or (4), this Part does not authorise a police officer to give a direction in relation to:	37 38
	(a) an apparently genuine demonstration or protest, or	39
	(b) a procession, or	40
	(c) an organised assembly.	41

- (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. 1
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- (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: 5
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 - (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 7
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 - (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. 11
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