

# Excerpts from NZ Fencing Act 1978

## Part 1 Interpretation and application

### 2 Interpretation

In this Act, unless the context otherwise requires,—

**adequate fence** means a fence that, as to its nature, condition, and state of repair, is reasonably satisfactory for the purpose that it serves or is intended to serve

**adjoining occupiers** means the occupiers of the lands on either side of a common boundary or a common fence

**court** means—

(a)

a District Court under the [District Courts Act 1947](#);

(b)

a Disputes Tribunal that has jurisdiction under [section 24A](#)

**fence** means a fence, whether or not continuous or extending along the whole boundary separating the lands of adjoining occupiers; and includes all gates, culverts, and channels that are part of or are incidental to a fence; and also includes any natural or artificial watercourse or live fence, or any ditch or channel or raised ground that serves as a dividing fence

**fencing agreement** means a covenant, agreement, or proviso, not being a fencing covenant, that relates in any way whatever to work on a fence between adjoining lands; and includes an agreement not to erect a fence

**fencing covenant** means a covenant, agreement, or proviso—

(a)

that one party to the covenant, agreement, or proviso may not be required by the other party, being the occupier of adjoining land, to contribute towards the cost of work on a fence between the land occupied by the first party and that adjoining land; and

(b)

that does not enure for the benefit of any subsequent purchaser for value of the land occupied by the first party

**occupier**—

(a)

in relation to any land, other than a public reserve, means the owner thereof, except that,—  
(i)

where another person is in occupation of the land under a tenancy granted for a term of not less than 10 years certain or continues to be in occupation of the land after having been in occupation thereof under such a tenancy, that other person shall be the occupier of the land;  
or

(ii)

where no person is an occupier of the land by virtue of subparagraph (i), but a person is in occupation of the land as mortgagee in possession, that last-mentioned person shall be the occupier of the land:

(b)

in relation to any public reserve, means the local authority, trustees, or persons in which or whom control of the reserve is vested

**owner**, in relation to any land, means the person for the time being entitled to receive the rack rent thereof, or who would be so entitled if the land were let to a tenant at a rack rent

**public reserve** has the same meaning as in the [Reserves Act 1977](#)

**repair** includes trimming, keeping, and maintaining a live fence, keeping an electric fence in working order, and cleaning, deepening, straightening, altering, or enlarging the course of a natural or artificial watercourse or any ditch or channel or raised ground that serves as a fence

**road** means a road within the meaning of [section 43](#) of the Government Roading Powers Act 1989; and includes any motorway, limited access road, street, access way, service lane, and other public highway

**work** and **work on a fence** include the erection, replacement, repair, and maintenance of a fence in whole or in part, and the preparation of the land along or on either side of a boundary between adjoining occupiers for any such purpose; and include any survey work necessary to determine that boundary.

## **Schedule 2** **Specimen types of fence**

### *Rural*

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*7 or 8 wire fence:* A substantial wire fence, having 7 or 8 wires properly strained, with up to 2 of these wires as galvanised barbed wire, or with 1 galvanised barbed wire and a top rail; barbed wires to be placed in a position agreed upon by the persons interested, or to be omitted if those persons agree; the posts to be of durable timber, metal, or reinforced concrete, and not more than 5 m apart, and securely rammed and, in hollows or where subject to lifting through the strain of the wire, to be securely footed, or stayed with wire; the battens (droppers) to be affixed to the wires and of durable timber, metal or plastic, evenly spaced, and not fewer than 3 between posts; the wires to be galvanised and of 2.5 mm high tensile steel or 4 mm steel or its equivalent; the bottom wire to be not more than 125 mm from the ground, the next 3 wires to be not more than 125 mm apart; and the top wire or rail to be not less than 1 m from the ground.

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*9 or 10 wire fence:* A substantial wire fence having 9 or 10 wires properly strained, with or without battens (droppers) or lacing affixed to the wires between the posts or standards; the posts or standards to be of durable timber, metal, or reinforced concrete, well and substantially erected, and not more than 5 m apart, the top wire not to be less than 1 m from the ground surface, the wires to be galvanised, and of 2.5 mm high tensile steel or 4 mm steel, or its equivalent, the space between the ground and the bottom wire not to exceed 100 mm, the 4 bottom wires to be not more than 130 mm apart.

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*Prefabricated (netting) fence:* A substantial wire netting fence properly strained of a minimum height of 1 m; the netting to have at least 7 horizontal wires, and, if necessary, extra wires above or below the netting, one of which may be a galvanised barb wire, all other wires to be galvanised in either 2.5 mm high tensile steel or 4 mm steel, or its equivalent; the vertical stays of the netting to be galvanised wire, and not more than

305 mm apart; posts or standards to be not more than 5 m apart, and of durable timber, metal, or reinforced concrete; additional battens (droppers) may be installed between the posts if both parties agree; the overall fence to be well and substantially erected.

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*Live fence:* A close and sufficient live fence.