

THE DIVIDING FENCES ACT

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THE DIVIDING FENCES ACT

Cap. 101.

[22nd May, 1888.]

1. This Act may be cited as the Dividing Fences Act. Short title.

2. Nothing in this Act shall be deemed to apply to a case where land adjoins uncultivated and untenanted land being the property of the Crown, or vested in the Commissioner of Lands for any public purpose, or any public road. Classes of land to which this Act does not apply.

3. In this Act— Interpretation.

“dividing fence” means any fence which separates any holding from any other, and shall be deemed synonymous with the term “line fence”;

“fence” includes wall, bank and hedge;

“occupier” includes the owner of any land whether in possession by himself or by any person for him.

4. Every occupier of land shall, as between himself and the occupier of the adjoining land, be liable to bear one-half of the expense of erecting and maintaining a sufficient dividing fence to separate their respective holdings. How expenses of dividing fences to be apportioned.

5. A fence shall be deemed “sufficient” for the purpose of this Act when it is high enough, strong enough and close enough, to prevent ordinary animals, other than pigs and goats, of the kind kept on the one holding from trespassing on to the other. When a fence is sufficient.

Power of occupier of land to require his neighbour to agree as to making a dividing fence between them.

6.—(1) Whenever there shall be no dividing fence between two holdings, or the existing fence is from want of repair or other cause insufficient, it shall be lawful for the occupier of either holding, by notice in writing, to call on the occupier of the other to come to an agreement in writing with him as to the kind of fence to be erected, or the kind of repairs or work to be done to make such fence sufficient, and as to the mode in which the work is to be carried out.

(2) If the parties come to such an agreement, and either party shall nevertheless fail to do anything which by the said agreement he has agreed to do, the other party having done what he had agreed to do, or so much thereof as he has not been prevented from doing by the default of the other party, may do for the other party what such other party has failed to do, and on the completion of the work shall be entitled to recover from such party a sum equivalent to what he has spent on the work in excess of one-half of the cost of the whole work.

(3) If the parties shall fail, within fourteen days of the giving of such notice as aforesaid, to come to such agreement as aforesaid, it shall be lawful for the party giving the notice to erect or repair (as the case may be) the whole of such fence, and on the completion of the work he shall be entitled to recover from the other party one-half of the cost of the work so done.

(4) Any money to be recovered under this section may be sued for as money paid by the plaintiff at the request of the defendant.

(5) Nothing in this section shall apply where there is *bona fide* any dispute between the parties as to the true boundary line between their respective holdings.