



Criminal Code Amendment (Agricultural Protection) Act 2019

No. 67, 2019

**An Act to amend the *Criminal Code Act 1995*, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Criminal Code Amendment (Agricultural Protection) Act 2019

No. 67, 2019

An Act to amend the *Criminal Code Act 1995*, and for related purposes

[Assented to 19 September 2019]

The Parliament of Australia enacts:

1 Short title

This Act is the *Criminal Code Amendment (Agricultural Protection) Act 2019*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	20 September 2019

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Agricultural protection

Criminal Code Act 1995

1 Section 473.1 of the *Criminal Code*

Insert:

abattoir means a place where animals are slaughtered (whether or not for human consumption), but does not include a restaurant.

agricultural land means land in Australia that is used for a primary production business. For the purposes of this definition, it is immaterial:

- (a) whether a part of the land is used for residential purposes; or
- (b) whether a part of the land is used for a business that is not a primary production business.

Crown land means land that is the property of:

- (a) the Commonwealth, a State or a Territory; or
- (b) a statutory authority;

but does not include land that is subject to a lease to a person other than:

- (c) the Commonwealth, a State or a Territory; or
- (d) a statutory authority.

forestry means:

- (a) planting or tending trees in a plantation or forest that are intended to be felled; or
- (b) felling trees in a plantation or forest.

meat by-product includes skin, hide, tallow, meat meal and inedible offal.

primary production business means any of the following:

- (a) a business of grazing;
- (b) a business of operating animal feedlots;
- (c) a business of dairy farming;
- (d) a business of farming animals for the purpose of producing meat or meat by-products;

- (e) a business of poultry farming;
- (f) a business of aquaculture;
- (g) a business of bee-keeping;
- (h) a business of operating an abattoir;
- (i) a business of operating livestock sale yards;
- (j) a business of operating a registered establishment (within the meaning of the *Export Control Act 1982*);
- (k) a business of operating a fish processing facility;
- (l) a business of growing fruit;
- (m) a business of growing vegetables;
- (n) a business of growing nuts;
- (o) a business of growing crops;
- (p) a business of viticulture;
- (pa) a business of operating:
 - (i) a wood processing facility; or
 - (ii) a wood fibre processing facility;
- (q) a business of forestry that is carried on on private land.

private land means land other than Crown land.

statutory authority means a body established for a public purpose by or under a law of the Commonwealth, a State or a Territory.

2 At the end of Division 474 of the *Criminal Code*

Add:

Subdivision J—Offences relating to use of carriage service for inciting trespass, property damage, or theft, on agricultural land

474.46 Using a carriage service for inciting trespass on agricultural land

- (1) A person (the **offender**) commits an offence if:
 - (a) the offender transmits, makes available, publishes or otherwise distributes material; and
 - (b) the offender does so using a carriage service; and

- (c) the offender does so with the intention of inciting another person to trespass on agricultural land; and
- (d) the offender is reckless as to whether:
 - (i) the trespass of the other person on the agricultural land; or
 - (ii) any conduct engaged in by the other person while trespassing on the agricultural land; could cause detriment to a primary production business that is being carried on on the agricultural land.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply to material if the material relates to a news report, or a current affairs report, that:
 - (a) is in the public interest; and
 - (b) is made by a person working in a professional capacity as a journalist.
- (2A) In a prosecution for an offence against subsection (1), the defendant does not bear an evidential burden in relation to the matters in subsection (2), despite subsection 13.3(3).
- (3) Subsection (1) does not apply to conduct engaged in by a person if, as a result of the operation of a law of the Commonwealth, a State or a Territory, the person is not subject to any civil or criminal liability for the conduct.

Note 1: The *Public Interest Disclosure Act 2013* provides that an individual is not subject to any civil or criminal liability for making a public interest disclosure.

Note 2: Section 1317AB of the *Corporations Act 2001* provides that a person who makes a disclosure that qualifies for protection under Part 9.4AAA of that Act is not subject to any civil or criminal liability for making the disclosure.

Note 3: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3)).

- (4) Subsection (3) does not limit section 10.5 (lawful authority).

474.47 Using a carriage service for inciting property damage, or theft, on agricultural land

- (1) A person (the *offender*) commits an offence if:
-

- (a) the offender transmits, makes available, publishes or otherwise distributes material; and
- (b) the offender does so using a carriage service; and
- (c) the offender does so with the intention of inciting another person to:
 - (i) unlawfully damage property on agricultural land; or
 - (ii) unlawfully destroy property on agricultural land; or
 - (iii) commit theft of property on agricultural land.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply to material if the material relates to a news report, or a current affairs report, that:
 - (a) is in the public interest; and
 - (b) is made by a person working in a professional capacity as a journalist.
- (2A) In a prosecution for an offence against subsection (1), the defendant does not bear an evidential burden in relation to the matters in subsection (2), despite subsection 13.3(3).
- (3) Subsection (1) does not apply to conduct engaged in by a person if, as a result of the operation of a law of the Commonwealth, a State or a Territory, the person is not subject to any civil or criminal liability for the conduct.

Note 1: The *Public Interest Disclosure Act 2013* provides that an individual is not subject to any civil or criminal liability for making a public interest disclosure.

Note 2: Section 1317AB of the *Corporations Act 2001* provides that a person who makes a disclosure that qualifies for protection under Part 9.4AAA of that Act is not subject to any civil or criminal liability for making the disclosure.

Note 3: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3)).

- (4) Subsection (3) does not limit section 10.5 (lawful authority).

When a person commits theft

- (5) For the purposes of this section, a person commits theft of property if:
 - (a) the property belongs to another person; and

- (b) the person dishonestly appropriates the property with the intention of permanently depriving the other person of the property.
- (6) An expression used in subsection (5) and in Chapter 7 has the same meaning in that subsection as it has in that Chapter.
- (7) In a prosecution for an offence against this section, the determination of dishonesty is a matter for the trier of fact.
- (8) Sections 131.2 to 131.11 apply (with appropriate modifications) in determining whether a person commits theft of property (within the meaning of this section).

474.48 Implied freedom of political communication

- (1) This Subdivision does not apply to the extent (if any) that it would infringe any constitutional doctrine of implied freedom of political communication.
- (2) Subsection (1) does not limit the application of section 15A of the *Acts Interpretation Act 1901* to this Act.

3 Subsections 475.1A(1) and (2) of the *Criminal Code*

Omit “or G”, substitute “, G or J”.

4 Paragraphs 475.1B(1)(a) and (2)(a) of the *Criminal Code*

Omit “or F”, substitute “, F or J”.

*[Minister’s second reading speech made in—
House of Representatives on 4 July 2019
Senate on 9 September 2019]*

(117/19)
