

Legislative Council—No 135

As received from the House of Assembly and read a first time, 13 November 2019

South Australia

**Summary Offences (Trespass on Primary
Production Premises) Amendment Bill 2019**

A BILL FOR

An Act to amend the *Summary Offences Act 1953*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Summary Offences (Trespass on Primary Production Premises) Amendment Act 2019*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Amendment provisions

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Summary Offences Act 1953*

4—Amendment of section 4—Interpretation

Section 4(1), after the definition of *motor vehicle* insert:

15 *primary production activities*—the following are primary production activities:

- (a) agricultural, pastoral, horticultural, viticultural, forestry or apicultural activities;
- 20 (b) poultry farming, dairy farming or any business that consists of the cultivation of soils, the gathering of crops or the rearing or processing of livestock;
- (c) commercial fishing, aquaculture or the propagation or harvesting of fish or other aquatic organisms for the purposes of aquaculture;
- (d) an activity prescribed by regulation;

5—Amendment of section 17—Being on premises for an unlawful purpose

(1) Section 17—before subsection (1) insert:

(a1) A person who has entered, or is present on, primary production premises for an unlawful purpose or without lawful excuse is guilty of an offence.

Maximum penalty:

(a) where the unlawful purpose is the commission of an offence punishable by a maximum term of imprisonment of 2 years or more—imprisonment for 2 years;

(b) in any other case—

(i) if the offence is committed in aggravated circumstances—\$10 000 or imprisonment for 12 months;

(ii) if the offence is not committed in aggravated circumstances—\$5 000 or 6 months imprisonment.

(a2) A person commits an offence against subsection (a1) in *aggravated circumstances* if, while on the primary production premises, the person—

(a) interferes with, or attempts or intends to interfere with, primary production activities; or

(b) is accompanied by 2 or more persons; or

(c) does anything that gives rise to a serious risk to the safety of the person or any other person on the premises; or

(d) does anything that—

(i) involves, or gives rise to a risk of—

(A) the introduction, spread or increase of a disease or pest; or

(B) the contamination of any substance or thing; or

(ii) gives rise to any other risk, or kind of risk, related to primary production activities prescribed by the regulations; or

(e) intentionally causes, or is recklessly indifferent as to whether they cause, damage to an operation or activity connected to the primary production activities at the premises.

(2) Section 17(1)—before "premises" insert:

other

(3) Section 17—after subsection (3) insert:

(3a) A person found guilty of an offence against subsection (a1) committed in aggravated circumstances is liable to pay compensation to a person for injury, loss or damage to the person resulting from the offence of which the defendant has been found guilty, unless exceptional circumstances exist.

(3b) Compensation payable under subsection (3a) will be of such amount as the court considers appropriate having regard to any evidence before the court and to any representations made by or on behalf of the prosecutor or the defendant.

(4) Section 17(4)—after the definition of *premises* insert:

primary production premises means premises used for the purpose of primary production activities.

6—Amendment of section 17A—Trespassers on premises

(1) Section 17A(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) if the premises are primary production premises—\$5 000 or imprisonment for 6 months;

(b) in any other case—\$2 500 or imprisonment for 6 months.

(2) Section 17A(3)—after the definition of *premises* insert:

primary production premises means premises used for the purpose of primary production activities.

7—Amendment of section 17B—Interference with gates and fences

(1) Section 17B(1)—after paragraph (c) insert:

or

(d) removes or disables a gate on or leading to the land; or

(e) interferes with any part of a fence on or immediately surrounding the land in a manner that—

(i) causes the animals to no longer be confined by the fence; or

(ii) gives rise to a risk that the animals will no longer be confined by the fence,

(2) Section 17B(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$1 500.

Expiation fee: \$375.

(3) Section 17—after subsection (2) insert:

(3) In this section—

gate includes a cattle grid or any moveable thing used to enclose land, including a slip panel or moveable fence.

8—Amendment of section 17C—Disturbance of farm animals

Section 17C(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$2 500 or imprisonment for 6 months.