



# **Criminal Code Amendment (Food Contamination) Act 2018**

**No. 98, 2018**

**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 (Food Contamination) Act 2018**

**No. 98, 2018**

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

[Assented to 21 September 2018]

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Criminal Code Amendment (Food Contamination) Act 2018*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	22 September 2018

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments**

### **Part 1—Contamination offences**

#### ***Criminal Code Act 1995***

##### **1 Subsection 380.2(1) of the *Criminal Code* (heading)**

Omit “*Offence*”, substitute “*Offences*”.

##### **2 Subsection 380.2(1) of the *Criminal Code* (penalty)**

Omit “10 years”, substitute “15 years”.

##### **3 After subsection 380.2(1) of the *Criminal Code***

Insert:

(1A) A person commits an offence if:

- (a) the person contaminates goods; and
- (b) the person does so reckless as to:
  - (i) causing public alarm or anxiety in Australia; or
  - (ii) causing widespread, or nationally significant, economic loss in Australia through public awareness of the contamination, or possible contamination, of the goods; or
  - (iii) causing harm to, or creating a risk of harm to, public health in Australia.

Penalty: Imprisonment for 10 years.

##### **4 Subsection 380.2(2) of the *Criminal Code* (penalty)**

Omit “10 years”, substitute “15 years”.

##### **5 After subsection 380.2(2) of the *Criminal Code***

Insert:

(2A) A person commits an offence if:

- (a) the person contaminates goods; and
- (b) the person does so reckless as to causing:
  - (i) public alarm or anxiety; or

- (ii) economic loss through public awareness of the contamination, or possible contamination, of the goods; and
- (c) any of the following subparagraphs applies:
  - (i) the loss is a loss to a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
  - (ii) the loss is a loss to a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (iii) the goods belong to a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
  - (iv) the goods belong to a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (v) the person is a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
  - (vi) the person is a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (vii) the loss takes the form of detriment to constitutional trade and commerce;
  - (viii) the goods are in the course of, or intended for, constitutional trade and commerce;
  - (ix) the contamination occurs outside Australia and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (x) the loss is a loss to the Commonwealth or a Commonwealth authority.

Penalty: Imprisonment for 10 years.



**6 Subsection 380.2(3) of the *Criminal Code***

Omit “paragraph (2)(c)”, substitute “paragraphs (2)(c) and (2A)(c)”.

**7 Subsection 380.3(1) of the *Criminal Code* (heading)**

Omit “*Offence*”, substitute “*Offences*”.

**8 Subsection 380.3(1) of the *Criminal Code* (penalty)**

Omit “10 years”, substitute “15 years”.

**9 After subsection 380.3(1) of the *Criminal Code***

Insert:

(1A) A person commits an offence if:

- (a) the person makes a threat that goods will be contaminated;  
and
- (b) the person does so reckless as to:
  - (i) causing public alarm or anxiety in Australia; or
  - (ii) causing widespread, or nationally significant, economic loss in Australia through public awareness of the contamination, or possible contamination, of the goods;  
or
  - (iii) causing harm to, or creating a risk of harm to, public health in Australia.

Penalty: Imprisonment for 10 years.

**10 Subsection 380.3(2) of the *Criminal Code* (penalty)**

Omit “10 years”, substitute “15 years”.

**11 After subsection 380.3(2) of the *Criminal Code***

Insert:

(2A) A person commits an offence if:

- (a) the person makes a threat that goods will be contaminated;  
and
- (b) the person does so reckless as to causing:
  - (i) public alarm or anxiety; or

- (ii) economic loss through public awareness of the contamination, or possible contamination, of the goods; and
- (c) any of the following subparagraphs applies:
  - (i) the loss is a loss to a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
  - (ii) the loss is a loss to a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (iii) the goods belong to a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
  - (iv) the goods belong to a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (v) the person is a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
  - (vi) the person is a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (vii) the loss takes the form of detriment to constitutional trade and commerce;
  - (viii) the goods are in the course of, or intended for, constitutional trade and commerce;
  - (ix) the person makes the threat in Australia using a postal or other like service or an electronic communication;
  - (x) the person makes the threat outside Australia and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
  - (xi) the loss is a loss to the Commonwealth or a Commonwealth authority;

- (xii) the threat is made to the Commonwealth or a Commonwealth authority.

Penalty: Imprisonment for 10 years.

**12 Subsection 380.3(3) of the *Criminal Code***

Omit “paragraph (2)(c)”, substitute “paragraphs (2)(c) and (2A)(c)”.

**13 Subsection 380.4(1) of the *Criminal Code* (heading)**

Omit “*Offence*”, substitute “*Offences*”.

**14 Subsection 380.4(1) of the *Criminal Code* (penalty)**

Omit “10 years”, substitute “15 years”.

**15 After subsection 380.4(1) of the *Criminal Code***

Insert:

(1A) A person commits an offence if:

- (a) the person makes a statement that the person believes to be false; and
- (b) the person does so with the intention of inducing the person to whom the statement is made or others to believe that goods have been contaminated; and
- (c) the person does so reckless as to:
  - (i) causing public alarm or anxiety in Australia; or
  - (ii) causing widespread, or nationally significant, economic loss in Australia through public awareness of the contamination, or possible contamination, of the goods; or
  - (iii) causing harm to, or creating a risk of harm to, public health in Australia.

Penalty: Imprisonment for 10 years.

**16 Subsection 380.4(2) of the *Criminal Code* (heading)**

Omit “*Offence*”, substitute “*Offences*”.

**17 Subsection 380.4(2) of the *Criminal Code* (penalty)**

Omit “10 years”, substitute “15 years”.

**18 After subsection 380.4(2) of the *Criminal Code***

Insert:

- (2A) A person commits an offence if:
- (a) the person makes a statement that the person believes to be false; and
  - (b) the person does so with the intention of inducing the person to whom the statement is made or others to believe that goods have been contaminated; and
  - (c) the person does so reckless as to causing:
    - (i) public alarm or anxiety; or
    - (ii) economic loss through public awareness of the contamination, or possible contamination, of the goods; and
  - (d) any of the following subparagraphs applies:
    - (i) the loss is a loss to a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
    - (ii) the loss is a loss to a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
    - (iii) the goods belong to a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
    - (iv) the goods belong to a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
    - (v) the person is a constitutional corporation (other than a foreign corporation within the meaning of paragraph 51(xx) of the Constitution);
    - (vi) the person is a constitutional corporation that is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution and the goods have been produced, manufactured, assembled or otherwise processed in Australia;

- (vii) the loss takes the form of detriment to constitutional trade and commerce;
- (viii) the goods are in the course of, or intended for, constitutional trade and commerce;
- (ix) the person makes the statement in Australia using a postal or other like service or an electronic communication;
- (x) the person makes the statement outside Australia and the goods have been produced, manufactured, assembled or otherwise processed in Australia;
- (xi) the loss is a loss to the Commonwealth or a Commonwealth authority;
- (xii) the statement is made to the Commonwealth or a Commonwealth authority.

Penalty: Imprisonment for 10 years.

**19 Subsection 380.4(3) of the *Criminal Code***

Omit “paragraph (2)(d)”, substitute “paragraphs (2)(d) and (2A)(d)”.

**20 Section 380.5 of the *Criminal Code***

Omit “subsection 380.2(1) or (2), 380.3(1) or (2) or 380.4(1) or (2)”, substitute “section 380.2, 380.3 or 380.4”.

## Part 2—Sabotage offences

### *Criminal Code Act 1995*

#### **21 Subparagraph 82.2(1)(e)(i) of the *Criminal Code***

After “of any kind”, insert “, or relates to food (within the meaning of the *Food Standards Australia New Zealand Act 1991*) intended for the public”.

#### **22 At the end of subsection 82.2(1) of the *Criminal Code***

Add:

- ; (f) food (within the meaning of the *Food Standards Australia New Zealand Act 1991*) that:
  - (i) is intended for the public; and
  - (ii) is produced, distributed or sold by a constitutional corporation or for the purposes of, or in the course of, constitutional trade and commerce.

#### **23 At the end of subsection 82.2(3) of the *Criminal Code***

Add:

- ; and (c) in relation to public infrastructure within the meaning of paragraph (1)(f)—to the element that the food is produced, distributed or sold by a constitutional corporation or for the purposes of, or in the course of, constitutional trade and commerce.

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[*Minister’s second reading speech made in—  
House of Representatives on 20 September 2018  
Senate on 20 September 2018*]

(209/18)

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