



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

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*.

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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

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

(209/18)
