



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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

(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)