

Western Australia

Arson Legislation Amendment Act 2009

As at 03 Dec 2009

No. 43 of 2009

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Arson Legislation Amendment Act 2009

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Arson Legislation Amendment Act 2009

No. 43 of 2009

An Act to amend the *Bush Fires Act 1954* and *The Criminal Code*.

[Assented to 3 December 2009]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Arson Legislation Amendment Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Bush Fires Act 1954* amended

3. Act amended

This Part amends the *Bush Fires Act 1954*.

4. Section 32 amended

In section 32 delete the Penalty and insert:

Penalty: Imprisonment for 20 years.

Part 3 — *The Criminal Code* amended

5. Act amended

This Part amends *The Criminal Code*.

6. Section 23A amended

In section 23A(1) after “Chapter XXVII” insert:

and section 444A

7. Section 23B amended

In section 23B(1) after “Chapter XXVII” insert:

and section 444A

8. Section 266 amended

(1) In section 266 delete “It is” and insert:

(2) It is

(2) At the beginning of section 266 insert:

(1) In this section —

anything includes a source of ignition and a fire.

9. Chapter XLV heading amended

In the heading to Chapter XLV delete “**Definitions**” and insert:

Preliminary matters

10. Section 444A inserted

In Chapter XLV after section 443 insert:

444A. Duty of person in control of ignition source or fire

- (1) It is the duty of a person who has charge of or is in control of a source of ignition to use reasonable care and take reasonable precautions to avoid lighting a fire that destroys or may destroy or cause damage to property that the person is not entitled to damage or destroy; and the person is held to have caused any destruction or damage to that property by reason of any omission to perform that duty.
- (2) It is the duty of a person who has charge of or is in control of a fire to use reasonable care and take reasonable precautions to contain that fire so that it does not destroy or damage property that the person is not entitled to damage or destroy; and the person is held to have caused any destruction or damage to that property by reason of any omission to perform that duty.
- (3) A person does not breach a duty imposed by this section if the fire does not spread beyond the capacity of the person to extinguish it.
- (4) Property that is capable of being destroyed or damaged by fire includes vegetation.

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11. Section 444 amended

- (1) In section 444:
- (a) delete “Any person” and insert:
 - (1) Any person
 - (b) in paragraph (a) delete “imprisonment for 14 years or, if the offence is committed in circumstances of racial aggravation, to imprisonment for 20 years; or” and insert:

life imprisonment; or
 - (2) At the end of section 444 insert:
 - (2) Property that is capable of being destroyed or damaged by fire includes vegetation.

12. Section 445A inserted

Before section 445 insert:

445A. Fires causing damage to vegetation

A person who unlawfully omits or refuses to do any act which it is the person’s duty to do under section 444A is guilty of a crime, and is liable to imprisonment for 15 years.

