

Criminal Code (Trespass Offences) Amendment Bill 2019

Explanatory Notes

Short title

The short title of the Bill is the *Criminal Code (Trespass Offences) Amendment Bill 2019*.

Policy objectives and the reasons for them

The Bill seeks to protect all legitimate and legal businesses in Queensland from unlawful trespass activities by introducing three new criminal offences to significantly strengthen Queensland's trespass laws. The objectives of the Bill are to:

1. Introduce a new offence of 'Aggravated trespass' to enable the prosecution of a person who enters or is in premises, private land or transport infrastructure with the intent to cause economic harm to another person, business or the State.
2. Introduce a new offence of 'Serious criminal trespass' to enable the prosecution of a person who enters or is in premises, private land or transport infrastructure used for business purposes and commits an offence punishable by 3 or more years imprisonment.
3. Introduce a new offence of 'Organised trespass' to enable the prosecution of a person who participates in the organisation of trespass by counselling, procuring or arranging for another person to commit an aggravated or serious trespass offence.

Achievement of policy objectives

To achieve these objectives, the Bill amends the *Criminal Code* as follows:

1. **Aggravated Trespass:** adds s422 (aggravated trespass) stating that 'A person who unlawfully enters or is in premises, private land or transport infrastructure with intent to cause economic loss to another person or the State commits an offence'.

Maximum penalty—100 penalty units or 3 years imprisonment.

The new aggravated trespass offence will be utilised when a person unlawfully enters premises with the intent to cause economic harm to another person, business or the State.

2. **Serious Criminal Trespass:** adds s423 (serious criminal trespass) stating that 'A person who enters or is in premises, private land or transport infrastructure used for business purposes and commits an offence punishable by 3 years imprisonment or more commits a crime'.

Maximum penalty—3,000 penalty units or 10 years imprisonment.

This offence is designed to act as a deterrent for anyone seeking to commit a crime or offence whilst trespassing. The significant penalty associated with this offence targets those individuals that seek to trespass and commit further crimes.

3. **Organised Trespass:** adds s424 (organised trespass) stating that
 - (1) A person commits a crime if -
 - (a) the person -
 - (i) is a participant in an organisation; and

- (ii) counsels or procures, or arranges for, another person to commit an offence against section 422 or 423; and
- (b) the other person -
 - (i) is a participant in the same organisation; and
 - (ii) commits an offence against section 422 or 423.

Maximum penalty—3,000 penalty units or 10 years imprisonment.

If a director, member or volunteer of an organisation, has been found to have organised a deliberate and premeditated campaign against a project or business that involves individuals from that organisation being found guilty of committing offences of aggravated trespass or serious criminal trespass, then the offence of 'organised trespass' would apply.

4. Updating the definitions in and section 418(4) for private land, public land and transport infrastructure to ensure it captures trespass activities on the types of land the Bill intended:
 - Private land** means land other than public land.
 - Public land** means -
 - a) land that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
 - b) land, the occupier of which allows, whether or not on payment of money, members of the public to enter
 - Transport infrastructure** means a port or railway.

Alternative ways of achieving policy objectives

There are no known alternate ways of achieving the same policy objective.

Estimated cost for government implementation

There is no known cost. This simply adds additional offences in the *Criminal Code*.

Consultation

There was consultation undertaken on the Bill with the Queensland Law Society, Queensland Farmers' Federation and AgForce Queensland.

Consistency with legislation of other jurisdictions

This legislation is specific to Queensland, however there is similar legislation in place in other states including South Australia and the United Kingdom.

Notes on provisions

Clause 1 lists the short title of the Bill.

Clause 2 amends the Criminal Code.

Clause 3 outlines definitions for private land, public land and transport infrastructure.

Clause 4 amends the definitions section 418(4) inserting private land, public land and transport infrastructure.

Clause 5 inserts sections 422 'aggravated trespass', section 423 'serious criminal trespass' and section 424 'organised trespass' with details of the specific offences.

Clause 6 amends the table on section 552BB (Excluded offences) to insert section 423 serious criminal trespass and section 424 organised trespass to ensure these offences aren't dealt with summarily.