

Arson Legislation Amendment Bill 2009

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Western Australia

LEGISLATIVE ASSEMBLY

Arson Legislation Amendment Bill 2009

A Bill for

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

The Parliament of Western Australia enacts as follows:

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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.

1 **Part 2 — *Bush Fires Act 1954* amended**

2 **3. Act amended**

3 This Part amends the *Bush Fires Act 1954*.

4 **4. Section 32 amended**

5 In section 32 delete the Penalty and insert:

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7 Penalty: Imprisonment for 20 years.

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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.

1 **9. Chapter XLV heading amended**

2 In the heading to Chapter XLV delete “**Definitions**” and
3 insert:
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5 **Preliminary matters**
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7 **10. Section 444A inserted**

8 In Chapter XLV after section 443 insert:
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10 **444A. Duty of person in control of ignition source or fire**

- 11 (1) It is the duty of a person who has charge of or is in
12 control of a source of ignition to use reasonable care
13 and take reasonable precautions to avoid lighting a fire
14 that destroys or may destroy or cause damage to
15 property that the person is not entitled to damage or
16 destroy; and the person is held to have caused any
17 destruction or damage to that property by reason of any
18 omission to perform that duty.
- 19 (2) It is the duty of a person who has charge of or is in
20 control of a fire to use reasonable care and take
21 reasonable precautions to contain that fire so that it
22 does not destroy or damage property that the person is
23 not entitled to damage or destroy; and the person is
24 held to have caused any destruction or damage to that
25 property by reason of any omission to perform that
26 duty.
- 27 (3) A person does not breach a duty imposed by this
28 section if the fire does not spread beyond the capacity
29 of the person to extinguish it.
- 30 (4) Property that is capable of being destroyed or damaged
31 by fire includes vegetation.
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s. 11

1 **11. Section 444 amended**

2 (1) In section 444:

3 (a) delete “Any person” and insert:

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5 (1) Any person

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7 (b) in paragraph (a) delete “imprisonment for 14 years or, if
8 the offence is committed in circumstances of racial
9 aggravation, to imprisonment for 20 years; or” and
10 insert:

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12 life imprisonment; or

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14 (2) At the end of section 444 insert:

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16 (2) Property that is capable of being destroyed or damaged
17 by fire includes vegetation.

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19 **12. Section 445A inserted**

20 Before section 445 insert:

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22 **445A. Fires causing damage to vegetation**

23 A person who unlawfully omits or refuses to do any act
24 which it is the person’s duty to do under section 444A
25 is guilty of a crime, and is liable to imprisonment for
26 15 years.

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