

FACT SHEET

Primary Industry Activities Protection Amendment Bill 2016

This Bill will amend the *Primary Industry Activities Protection Act 1995* ('the Act'), which protects primary producers from court action under the common law tort of nuisance. It is commonly known as Tasmania's 'right to farm' Act.

The legislation seeks to ensure that the arrival of new, usually non-farming neighbours in rural areas does not result in the usual activities of nearby farms being impeded or stopped. Tasmania is the only Australian jurisdiction to introduce legislation of this nature, but with the most rural and dispersed population of any State, must manage an increased likelihood of conflict between farmers and their non-farming neighbours.

One of the Government's election commitments in 'Cultivating Prosperity in Agriculture' was to review the Act, with a view to strengthening the legal position of farmers. A review was accordingly undertaken by the Department of Primary Industries, Parks, Water and Environment (DPIPWE), which received 16 submissions from peak bodies, agricultural companies and individuals.

The Review concluded that the Act serves an important purpose, but that its complex drafting causes unnecessary confusion amongst stakeholders. The Act currently imposes nine separate and convoluted conditions on either the individual, the land or the activity in question, before a farmer can rely on the protections of the Act.

The Review also concluded that the question of whether farm forestry was protected by the legislation was presently unclear.

This Bill will address both of those issues. It articulates that a primary industry activity carried out on a farm does not constitute a nuisance if certain basic conditions are met. These conditions will henceforth be that:

- the farm is being used for (or prepared for use as) a primary production business;
- the activity does not contravene State, Commonwealth or council laws;
- the zoning of the land enables it to be used for primary industry, and the land has been in that zone for a continuous period of at least one year;
- the activity would not have constituted a nuisance if it had been carried out when the land was initially zoned for primary industry; and
- the activity is not being improperly or negligently carried out.

As such, the conditions placed on the protection have been reduced from nine to five.

The Bill also ensures that planting trees, establishing forests, growing or harvesting timber is a protected 'primary industry' for the purposes of the Act, but it explicitly states that this protection does not extend to Crown or Forestry Tasmania land. It is a sensible extension of the Act to support farm forestry.