

TASMANIA

**PRIMARY INDUSTRY ACTIVITIES PROTECTION
AMENDMENT BILL 2016**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 4 substituted
 4. Primary industry activity does not constitute a nuisance in certain circumstances
6. Repeal of Act

**PRIMARY INDUSTRY ACTIVITIES PROTECTION
AMENDMENT BILL 2016**

*(Brought in by the Minister for Primary Industries and Water,
the Honourable Jeremy Page Rockliff)*

A BILL FOR

An Act to amend the *Primary Industry Activities Protection Act 1995*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Primary Industry Activities Protection Amendment Act 2016*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Primary Industry Activities Protection Act 1995** is referred to as the Principal Act.

*No. 102 of 1995

Primary Industry Activities Protection Amendment Act 2016
Act No. of

s. 4

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions before the definition of *nuisance* in subsection (1):

farm means an area of land that –

- (a) is primarily being used for, or in connection with, primary industry; and
- (b) is not Crown land, or land owned by the Forestry corporation, that is used for planting trees, establishing forests or growing or harvesting timber; and
- (c) is being used, or being prepared for use, by the occupier of the land as a primary production business within the meaning of the *Income Tax Assessment Act 1997* of the Commonwealth;

Forestry corporation has the same meaning as in the *Forest Management Act 2013*;

Primary Industry Activities Protection Amendment Act 2016
Act No. of

s. 5

(b) by inserting the following paragraph after paragraph (e) in the definition of *primary industry* in subsection (1):

(f) planting trees, establishing forests or growing or harvesting timber;

(c) by omitting paragraph (a) from the definition of *primary industry activity* in subsection (1);

(d) by omitting “by-law.” from paragraph (c) of the definition of *primary industry activity* in subsection (1) and substituting “by-law;”;

(e) by inserting the following definition after the definition of *primary industry activity* in subsection (1):

timber has the same meaning as in the *Forest Practices Act 1985*.

(f) by omitting subsection (2).

5. Section 4 substituted

Section 4 of the Principal Act is repealed and the following section is substituted:

4. Primary industry activity does not constitute a nuisance in certain circumstances

A primary industry activity that is carried out on, in, immediately over or under an area of land does not constitute a nuisance if –

Primary Industry Activities Protection Amendment Act 2016
Act No. of

s. 5

- (a) the area of land is on a farm; and
- (b) the area of land –
 - (i) is within a zone, designated to the land under the *Land Use Planning and Approvals Act 1993*, that enables the land to be used for the purposes of primary industry; and
 - (ii) has been within that zone for a continuous period, beginning before the activity is carried out, of at least one year –

or the primary industry activity is a use that, despite the zone designated to the area of land, is authorised under the *Land Use Planning and Approvals Act 1993* and the use has been lawful for a continuous period, beginning before the activity is carried out, of at least one year; and

- (c) the activity did not constitute, or would not have constituted, a nuisance if it had been carried out on that area of land at the beginning of the period referred to in paragraph (b); and

Primary Industry Activities Protection Amendment Act 2016
Act No. of

s. 6

- (d) the activity is not being improperly or negligently carried out.

6. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.