

# Right to Farm Act 2019 No 15

[2019-15]



New South Wales

## Status Information

### Currency of version

Current version for 22 November 2019 to date (accessed 1 July 2024 at 8:14)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Right to Farm Act 2019 No 15



New South Wales

An Act to provide for matters relating to farm trespass and the defence of agricultural enterprises; and for other purposes.

## 1 Name of Act

This Act is the [Right to Farm Act 2019](#).

## 2 Commencement

This Act commences on the date of assent to this Act.

## 3 Definitions

(1) In this Act—

**agricultural activity** means an activity carried out for, or in connection with, agriculture.

**agriculture** includes aquaculture and forestry.

**commercial agricultural activity** means an activity carried out for or in connection with a primary production business within the meaning of the [Income Tax Assessment Act 1997](#) of the Commonwealth.

### Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

## 4 Commercial agricultural activities do not constitute nuisance

No action lies in respect of nuisance by reason only of the carrying out of any of the following activities if the activity is carried out lawfully and not negligently and that type of activity has been carried out on the land for at least 12 months—

(a) a commercial agricultural activity,

(b) an activity carried out for the purposes of any of the following—

- (i) any business or undertaking in which cattle, poultry, pigs, goats, horses, sheep or other livestock are kept or bred for commercial purposes (for example, a dairy, saleyard or feedlot),
- (ii) a business or undertaking for the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, including abattoirs, knackereries, tanneries, woolscours and rendering plants,
- (iii) a business or undertaking for forestry (including timber mills) or aquaculture,
- (iv) a show or competition involving livestock (including a rodeo).

## **5 Courts to not order cessation of agricultural activity if other order available**

- (1) This section applies if in proceedings a court finds that a commercial agricultural activity carried out by a party to the proceedings constitutes a nuisance.
- (2) The court must not order the complete cessation of the commercial agricultural activity if the court is satisfied that it could make an order that would permit the continuation of the activity in a manner—
  - (a) that is managed, modified or reduced, and
  - (b) consistent with an efficient and commercially viable agricultural operation, and
  - (c) unlikely to significantly disturb the other party to the proceedings.
- (3) Subsection (2) does not limit or otherwise prejudice the power of a court to make any other order it thinks fit in respect of the nuisance, including an order as to damages or costs.

## **6 Regulations**

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Schedule 1 Savings, transitional and other provisions**

### **Part 1 Provisions consequent on enactment of this Act**

#### **1 Regulations**

- (1) A regulation (a ***transitional regulation***) may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate the doing of any thing to achieve the transition to the operation of this Act, and

- (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the commencement of this Act.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This clause and any transitional regulations expire 2 years after the commencement of this Act.

## **2 Existing proceedings**

Sections 4 and 5 do not apply to proceedings commenced before the commencement of this Act.

## **Schedule 2 (Repealed)**