

Arson legislation in Australia

All Australian states and territories have enacted offences resulting from the unlawful and malicious use of fire. In each jurisdiction it is an offence to use fire to destroy or damage property. In addition there is a Commonwealth offence of destroying or damaging property. This Commonwealth provision is not specifically directed at the use of fire to damage property, although fire could certainly be a means of committing the offence.

Some jurisdictions have specific offences dealing with the use of fire to endanger life, while others prosecute such offences under general provisions that prohibit endangering life or committing injury. Where a fire results in the death of a person, this would be prosecuted under general manslaughter or murder provisions.

Most jurisdictions have specific offences concerned with the setting of bushfires. In some cases these specifically identify bushfires and have typically been enacted following significant bushfire incidents where some of the fires were known or suspected to have been deliberately lit.

All states and territories regard arson as a serious indictable offence with heavy penalties. In many cases arson provisions are established as an extension of criminal damage provisions, with additional penalties where the damage is carried out by means of fire or explosives. This appears to be a recognition of the potential for destruction that fire has, above and beyond most other means of causing damage. A summary of indictable offence provisions relating to arson can be found on the AIC web site at: <http://www.aic.gov.au/topics/arson/legislation/>

In addition to legislation establishing indictable offences under the criminal law for the deliberate and malicious use of fire, most jurisdictions have a range of summary offences relating to the inappropriate lighting of fires in national parks, forests and other open areas. These are typically enacted under legislation covering land management activities such as forestry and national parks, or under legislation establishing and governing rural and country fire services.

Some of these summary provisions are available on the AIC web site. This list is not comprehensive. As well as provisions that may exist in land management-related legislation, there may also be prohibitions on the inappropriate use of fire in council by-laws and legislation governing the use of particular facilities or public areas. The list on the web site nonetheless will give an appreciation of the range and type of provisions that exist.

For more information:

<http://www.aic.gov.au/topics/arson/legislation/>