

## Question on Notice

No. 1899

Asked on 27 November 2019

**MR J LISTER** ASKED THE ATTORNEY-GENERAL AND MINISTER FOR JUSTICE (HON Y D'ATH) –

### QUESTION:

With reference to the criminal offence of 'setting fire to crops and growing plants' contained in section 463 of the Criminal Code —

Will the Attorney-General advise (a) the number of offenders convicted of 'setting fire to crops and growing plants' between 2016-19 (reported separately by year), (b) of those convicted in (a) provide (i) a breakdown of the things set fire to as mentioned in section 461(1)(a) to (d), (ii) the average length of imprisonment imposed and (iii) the lengthiest sentence imposed?

### ANSWER:

I thank the Member for Southern Downs for his question.

I am advised that:

- (a) The following number of offenders have been convicted of 'setting fire to crops and growing plants' between 2016 and 2019:

| Year | Total |
|------|-------|
| 2016 | <5    |
| 2017 | <5    |
| 2018 | 5     |
| 2019 | 7     |

Figures less than five have been replaced with "<5" to reduce the risk of identification of individuals.

In relation to answer part (a) the number of offenders found guilty, whether by way of a plea of guilty or after trial, is dependent on a range of factors including but not limited to: decisions of an independent Queensland police officer to charge this offence, the sufficiency of evidence and prosecutorial discretion exercised by the independent Director of Public Prosecutions. The Government has no control over these matters.

- (b) (i) The offenders convicted in (a) were convicted under section 463 and therefore it is not possible to break down the things set fire to under section 461(1)(a) to (d).
- (ii) I am advised that the Courts database does not calculate averages.

(iii) The lengthiest term of imprisonment imposed on those convicted in (a) was three years. Please note the length of sentence imposed will turn on the individual

circumstances of the case, the circumstances of the offender appearing before the Court, relevant sentencing principles outlined in the *Penalties and Sentences Act 1992* and caselaw. Furthermore, an offender sentenced for an offence against section 463 Criminal Code may have also been sentenced, at the same time, for a more serious offence, for which the court may have imposed a higher penalty.

Examination of the average length of imprisonment and the lengthiest sentence imposed, in isolation, can lead to an inaccurate interpretation of sentencing data.

The Justice and Other Legislation Amendment Bill 2019, which was introduced in the Legislative Assembly on 28 November 2019, contains an amendment to the offence in section 463 of the Criminal Code to clarify that it applies to naturally growing grass and any other vegetation.