

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 32 of 1985

**An Act to make provision for certain regulatory offences; to
amend The Criminal Code in certain particulars; and
for related purposes**

[ASSENTED TO 17TH APRIL, 1985]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. This Act may be cited as the *Regulatory Offences Act 1985*.

2. Commencement. (1) This section and section 1 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by Proclamation.

3. Act not to alter The Criminal Code. Subject to the provisions of section 10, nothing in this Act shall be construed to alter the provisions of *The Criminal Code*.

4. Interpretation. In this Act, unless the contrary intention appears—
“restaurant” means a place where meals or refreshments are sold;
“shop” includes a motor garage or service station.

5. Unauthorized dealing with shop goods. (1) Any person who, with respect to goods in a shop of a value of \$75 or less and without the consent, express or implied, of the person in lawful possession of them—

- (a) takes them away;
- (b) deliberately alters, removes, defaces or otherwise renders undistinguishable a price shown on them; or
- (c) consumes them

is guilty of a regulatory offence and, subject to section 9, is liable to a fine of \$150.

(2) It is a defence to a charge of an offence defined in subsection (1) (a) to prove the taking was neither deliberate nor negligent.

6. Leaving hotel, etc., without payment. (1) Any person who, with respect to food, drink, accommodation, or like goods and services, of the value of \$150 or less obtained from any restaurant or hotel, motel, boarding house or like premises—

- (a) leaves such premises without discharging, or attempting honestly, or making proper arrangements, to discharge, his lawful indebtedness therefor; or
- (b) purports to pay for them with a cheque that is not met on presentation or a credit card or similar document he is not authorized to use

is guilty of a regulatory offence and, subject to section 9, is liable to a fine of \$300.

(2) It is a defence to a charge of an offence defined in subsection (1) (b) to prove the defendant believed on reasonable grounds the cheque

would be paid in full on presentation or he was authorized to use the credit card or similar document.

7. Unauthorized damage to property. Any person who wilfully destroys or damages the property of another and without the consent, express or implied, of the person in lawful possession thereof and thereby causes loss of \$250 or less is guilty of a regulatory offence and, subject to subsection 9, is liable to a fine of \$500.

8. Manner of proceeding against offender. (1) A member of the police force may arrest without warrant any person who has or whom he suspects on reasonable grounds has committed any of the offences defined in this Act.

(2) The power and authority to proceed against an offender by way of complaint and summons under the *Justices Act 1886-1982* shall also lie and have full force and effect.

(3) Where a person has been arrested in respect of any of the offences defined in this Act, a member of the police force at the police establishment to which he is taken after arrest or where he is in custody may take all such particulars as he considers necessary for the identification of that person, including his photograph and finger prints and palm prints:

Provided that, if the person is found not guilty of the offence in question or is not proceeded against, any photograph or finger prints or palm prints taken pursuant to this subsection shall be destroyed in his presence or in the presence of a person nominated by him.

(4) Any member of the police force may appear before a Magistrates Court and act on behalf of the prosecution in proceedings in respect of any of the offences defined in this Act.

9. Further power to fine. (1) The court convicting an offender of an offence defined in this Act may also order him to pay by way of fine an amount not exceeding the costs of bringing the charge, including the costs of all reasonable investigations relating thereto, the costs of court and the cost of compensating any person injured thereby.

(2) The court may make such order as it deems just for the payment of that part of the fine representing compensation.

10. Amendments of The Criminal Code. *The Criminal Code* is amended by—

(a) repealing section 3 and substituting the following section:—

“3. (1) Offences are of two kinds, namely, criminal offences and regulatory offences.

(2) Criminal offences comprise crimes, misdemeanours and simple offences.

(3) Crimes and misdemeanours are indictable offences; that is to say, the offenders cannot, unless otherwise expressly stated, be prosecuted or convicted except upon indictment.

(4) A person guilty of a regulatory offence or a simple offence may be summarily convicted by a Magistrates Court.

(5) An offence not otherwise designated is a simple offence.”;

(b) in section 22—

(i) making the first paragraph subsection (1) by inserting before the word “Ignorance” the expression “(1)”;

(ii) making the second paragraph subsection (2) by inserting before the word “But” the expression “(2)”;

(iii) inserting after subsection (2) the following subsections:—

“(3) A person is not criminally responsible for an act or omission done or made in contravention of a statutory instrument if, at the time of doing or making it, the statutory instrument was not known to him and had not been published or otherwise reasonably made available or known to the public or those persons likely to be affected by it.

(4) For the purposes of subsection (3)—

“statutory instrument” means any Order in Council, order, rule, regulation, by-law or other instrument made pursuant to any Act;

“published” means published in the Government Gazette or notified in the Government Gazette as having been made.”;

(c) in section 36—

(i) making the existing provision subsection (1) by inserting before the word “The” the expression “(1)”;

(ii) inserting before the word “offence” occurring in subsection (1) the word “criminal”;

(iii) inserting after subsection (1) the following subsection:—

“(2) Except for sections 22(3), 29 and 31 of this Code, this Chapter does not apply to regulatory offences.”.