



Queensland

Summary Offences and Other Acts Amendment Act 2007

Act No. 1 of 2007



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Summary Offences and Other Acts Amendment Act 2007

Act No. 1 of 2007

An Act to amend the *Summary Offences Act 2005*, and for other purposes

[Assented to 16 February 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Summary Offences and Other Acts Amendment Act 2007*.

2 Commencement

- (1) Sections 4, 5, 7, 8, 12, 13, 15 and 16 commence on a day to be fixed by proclamation.
- (2) Part 5 commences immediately after the commencement of the *Prostitution Amendment Act 2006*, part 2.

Part 2 Amendment of Summary Offences Act 2005

3 Act amended in pt 2

This part amends the *Summary Offences Act 2005*.

4 Amendment of s 23 (Sale of potentially harmful things)

- (1) Section 23(1), ‘A person (the *seller*)’—
omit, insert—
‘A seller’.
- (2) Section 23(3), definition *sell*—
omit.

5 Insertion of new ss 23A–23E

After section 23—

insert—

‘23A Seller must take prevention measures in relation to spray paint

- ‘(1) This section applies in relation to selling spray paint.
- ‘(2) A seller who is an employer must take prevention measures in relation to each employee of the seller.
- Maximum penalty—40 penalty units.
- ‘(3) The seller takes prevention measures for subsection (2) in relation to an employee if the seller—
- (a) instructs the employee—
 - (i) not to sell spray paint to minors in any circumstances, even if the sale is for, or claimed to be for, an adult; and
 - (ii) to sight acceptable evidence of age for a person before selling spray paint to the person, unless satisfied the person is an adult; and
 - (b) warns the employee that if the employee disregards the instructions mentioned in paragraph (a) and sells spray paint to minors, the employee commits an offence against section 23C; and
 - (c) obtains written acknowledgment by the employee that the employee received the instructions and warning mentioned in paragraphs (a) and (b).
- ‘(4) In this section—
- acceptable evidence of age* see section 23B.

‘23B Sale of spray paint to minors

- ‘(1) A seller of spray paint must not sell spray paint to a minor.
- Maximum penalty—
- (a) for a first offence—140 penalty units; or
 - (b) for a second offence—280 penalty units; or

- (c) for a third or later offence—420 penalty units.
- ‘(2) An employee who sells spray paint to a minor in the course of the employment can not be prosecuted under this section.
- Note—*
- See section 23C for when an employee is liable for selling spray paint to a minor.
- ‘(3) It is a defence to a charge of an offence against subsection (1) for the seller to prove—
- (a) that the seller, or an employee of the seller, required a person to produce acceptable evidence of age; and
 - (b) the person produced acceptable evidence of age showing the person was not a minor; and
 - (c) the seller or employee had no reason to believe the evidence was false.
- ‘(4) Also, for the purposes of the *Anti-Discrimination Act 1991*, section 46, a seller is not to be taken to discriminate against a person only because the seller refuses to sell spray paint to the person because of subsection (1).
- ‘(5) In this section—
- acceptable evidence of age***, for a person, means a document that—
- (a) is a driver licence, proof of age card or an Australian or foreign passport; and
 - (b) bears a photograph of the person; and
 - (c) indicates by reference to the person’s date of birth or otherwise that the person has attained a particular age.

‘23C When employee of seller liable

- ‘(1) This section applies if a seller has, in relation to an employee of the seller, taken the prevention measures mentioned in section 23A(3).
- ‘(2) The employee of the seller must not, in the course of the employee’s employment, sell spray paint to a minor.

Maximum penalty—

- (a) for a first offence—20 penalty units; or
 - (b) for a second or later offence—40 penalty units.
- ‘(3) For deciding whether a person has committed a second or later offence for subsection (2), it does not matter whether the prevention measures taken in relation to the employee were taken by the same or a different employer.

‘23D Seller of spray paint must display prohibition sign

- ‘(1) A seller of spray paint who is an employer must display, as prescribed under a regulation, a prohibition sign at each point of sale at the seller’s retail outlet.

Maximum penalty—20 penalty units.

- ‘(2) In this section—

point of sale means a counter or similar fixture where spray paint may be sold.

prohibition sign means a sign about the supply of spray paint to minors complying with the requirements prescribed under a regulation.

retail outlet means premises where spray paint is available for sale to the public.

‘23E Provision about definition of *sell* for ss 23A–23D

- ‘(1) This section applies for the application of the definition *sell* in the dictionary to sections 23A to 23D.
- ‘(2) A seller does not keep or expose for sale or offer to sell spray paint to a minor only because the seller keeps or exposes for sale or offers to sell spray paint to the public generally.’.

6 Insertion of new s 24A

After section 24—

insert—

'24A Unlawful SMS messages etc.

- '(1) A person must not, in trade or commerce, provide, in Queensland or elsewhere, a service of informing another person of the location of a traffic enforcement site for the purpose of, or that has the effect of, enabling the other person to avoid, or be prepared for, a check made at the site.

Maximum penalty—100 penalty units.

- '(2) For subsection (1), a person provides a service of informing another person of the location of a traffic enforcement site if the person makes information about the location of a traffic enforcement site available to the other person by a relevant message.
- '(3) Subsection (1) does not apply to the provider of a telephone service or an internet service provider only because another person uses the provider's telephone or internet service to inform someone else of the location of a traffic enforcement site.
- '(4) In this section—

internet message means a message that may be viewed by a person on a website.

message includes information in any form, whether or not for a particular person.

relevant message means any of the following that informs a person of the location of a traffic enforcement site—

- (a) an internet message;
- (b) an SMS message;
- (c) another type of message that may be heard, read or otherwise viewed by a person using a mobile phone.

SMS message means a text message sent using the mobile phone service known as the short messaging service.

traffic enforcement site means a place being used by a police officer to perform random or systematic checks of compliance by drivers with the *Transport Operations (Road Use Management) Act 1995*.

Examples of traffic enforcement site—

- the site of a speed camera
- a random breath test site
- a vehicle safety check site’.

7 **Amendment of s 27 (Forfeiture)**

Section 27, from ‘16’ to ‘may’, first mention—

omit, insert—

‘16, 17, 23B or 23C, the court may’.

8 **Amendment of sch 2 (Dictionary)**

Schedule 2—

insert—

‘**employee**, of a seller, means a person who sells, or may sell, spray paint in the course of the person’s employment.

potentially harmful thing see section 23.

sell includes—

- (a) sell by wholesale, retail or auction; and
- (b) supply in trade or commerce or under an arrangement; and
- (c) agree, attempt or offer to sell; and
- (d) keep or expose for sale; and
- (e) cause or permit to be sold.

seller, of potentially harmful things or of spray paint, means a person who, in trade or commerce, sells potentially harmful things or spray paint to the public, and includes an employee of a seller.

spray can includes a thing that is made or adapted for use for emitting paint by the operation of air, gas or vapour pressure on the contents of the thing.

spray paint includes—

- (a) any liquid or other substance in a spray can that, if applied to a surface of a thing by using a spray can, is designed to colour, stain, mark or corrode the surface of the thing; and
- (b) the spray can.’.

Part 3 **Amendment of Domestic and Family Violence Protection Act 1989**

9 **Act amended in pt 3**

This part amends the *Domestic and Family Violence Protection Act 1989*.

10 **Amendment of sch (Dictionary)**

- (1) Schedule—

insert—

‘*officer-in-charge*, of a police station, includes a police officer nominated by the officer-in-charge of the police station as the officer-in-charge of the police station during the officer-in-charge’s absence.’.

- (2) Schedule, definition *holding cell*, from ‘or a police’ to ‘watch-house’—

omit.

Part 4 **Amendment of Police Powers and Responsibilities Act 2000**

11 **Act amended in pt 4 and sch 1**

This part and schedule 1 amend the *Police Powers and Responsibilities Act 2000*.

12 **Amendment of s 30 (Prescribed circumstances for searching persons without warrant)**

Section 30(a)(viii), from ‘section 17’—

omit, insert—

‘section 17, 23B or 23C;’.

13 **Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)**

Section 32(1), from ‘section 17’—

omit, insert—

‘section 17, 23B or 23C; or’.

14 **Amendment of s 43 (Unlawful supply of smoking products to children)**

(1) Section 43, heading ‘children’—

omit, insert—

‘minors’.

(2) Section 43, ‘a child’—

omit, insert—

‘under 18 years’.

15 **Insertion of new s 43A**

After section 43—

insert—

‘43A Unlawful sale of spray paint to minors

- ‘(1) This section applies if a police officer—
- (a) either—
 - (i) observes a person being sold a thing the police officer reasonably suspects is spray paint; or
 - (ii) reasonably suspects a person has just been sold spray paint; and
 - (b) reasonably suspects the person is under 18 years.
- ‘(2) A police officer may—
- (a) ask the person to show acceptable evidence of age of the person; and
 - (b) require the person to produce the thing sold to the person.
- ‘(3) The police officer may seize the spray paint if—
- (a) the person either—
 - (i) refuses, or is unable, to show acceptable evidence of the person’s age; or
 - (ii) shows acceptable evidence of age of the person showing the person is under 18 years; and
 - (b) the police officer reasonably suspects the spray paint is evidence of an offence against the *Summary Offences Act 2005*, section 23B or 23C.
- ‘(4) In this section—
- acceptable evidence of age*** has the meaning given under the *Summary Offences Act 2005*, section 23B.
- spray paint*** has the meaning given under the *Summary Offences Act 2005*, schedule 2.’

16 Omission of s 608 (Expiry of ss 604–607)

Section 608—

omit.

17 Amendment of s 697 (Cost recovery for animal held by commissioner under order under s 696)

- (1) Section 697, heading, from ‘held’—
omit, insert—
‘held in possession of police service’.
- (2) Section 697(1)—
omit, insert—
- ‘(1) This section applies in relation to an animal seized by a police officer and held in the possession of the police service, whether or not under an order under section 696.’.

18 Amendment of s 705 (Destruction of drug matter soon after it is seized etc.)

- (1) Section 705(3)—
omit.
- (2) Section 705(4)—
renumber as section 705(3).

19 Insertion of new s 705A

After section 705—

insert—

‘705A Disposal of things used for administering etc. dangerous drugs

- ‘(1) Without limiting section 705, the commissioner may destroy drug matter that the commissioner is reasonably satisfied—
- (a) is for use or has been used in the administration, consumption or smoking of a dangerous drug; and
- (b) is no longer required as evidence in a proceeding.
- ‘(2) The commissioner may destroy the drug matter in a way that prevents it being used in the commission of an offence.

- ‘(3) Drug matter that is a hypodermic syringe or needle and is disposed of in a way required under the *Drugs Misuse Regulation 1987* is taken to have been destroyed.
- ‘(4) This section applies even though a proceeding for an offence in which the drug matter may be relevant has not been started or, if started, has not been decided.’

20 Amendment of s 747 (Definitions for ch 22)

Section 747, definition *relevant period*—

omit, insert—

‘*relevant period*, in relation to an evasion offence to which an application for an impounding order or a forfeiture order relates, means the period of 3 years before the commission of the evasion offence giving rise to the application for the impounding order or forfeiture order.’

21 Amendment of s 755 (When evasion offence notice may be given to owner of motor vehicle involved in offence)

- (1) Section 755(2), from ‘state’—

omit, insert—

‘give a declaration to—

- (a) the police officer named in the notice; or
- (b) the officer in charge of a stated police station or police establishment.’

- (2) Section 755(4), ‘owner the notice’—

omit, insert—

‘notice to an owner who is an individual’.

- (3) Section 755(5)(d)—

omit, insert—

‘(d) the consequences if the owner does not comply with the requirement within the 4 business days; and’.

22 Amendment of s 756 (Who may be prosecuted for evasion offence if no response to evasion offence notice)

Section 756(1)(b), ‘a police officer’—
omit.

23 Amendment of s 758 (Application for impounding order for evasion offence)

Section 758(1), after ‘evasion offence’, first mention—
insert—
‘committed within the relevant period’.

24 Amendment of s 770 (Motor vehicle not to be sold etc. before charge of offence is decided)

(1) Section 770, heading, ‘charge of offence’—
omit, insert—
‘application’.

(2) Section 770(1)—
omit, insert—

‘(1) This section applies in relation to a motor vehicle that is the subject of an application for an impounding order or a forfeiture order.’.

(3) Section 770(2), from ‘before’—
omit, insert—

‘until the application for the impounding order or forfeiture order is decided or otherwise ends.

Maximum penalty—40 penalty units.’.

25 Amendment of s 785 (Disposal of forfeited motor vehicle)

Section 785, ‘part’—
omit, insert—
‘chapter’.

26 Insertion of new ss 859–861

After section 858—

insert—

‘859 Declaratory provision about renumbering

‘(1) To remove any doubt, it is declared that in any instrument, document or order made or issued during the transitional period, it was always lawful and sufficient for all purposes to refer to a provision of this Act by a number it had immediately before the transitional period, or by any number it had during the transitional period, even though the provision had been renumbered, with or without amendment, before the issuing or making of the instrument, document or order.

‘(2) In this section—

transitional period means the period between 20 July 2006 and the commencement of this section.

‘Part 8 Transitional provisions for Summary Offences and Other Acts Amendment Act 2007

‘860 References to provisions in s 861

‘A reference in section 861 to a provision of the *Police Powers and Responsibilities Act 2000*, whether or not the provision had commenced, is a reference to the provision as numbered before the commencement of the *Police Powers and Responsibilities and Other Acts Amendment Act 2006*, section 84.

‘861 Effect of particular amendments

‘It is declared that the amendment of the following provisions of the *Police Powers and Responsibilities Act 2000* had effect, and always had effect, as if—

- (a) for section 361(2)—the words ‘to ‘direction.’ ’ had appeared after ‘ ‘relates’ ’ in the *Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005*, section 20(2);
- (b) for section 204—the word ‘After’ did not appear before the word ‘section’ in the *Police Powers and Responsibilities and Other Acts Amendment Act 2006*, section 39;
- (c) for section 371AB(4)—the word ‘omit,’ did not appear before the word ‘insert’ in the *Police Powers and Responsibilities and Other Acts Amendment Act 2006*, section 49(1).’.

Part 5 Amendment of Prostitution Act 1999

27 Act amended in pt 5

This part amends the *Prostitution Act 1999*.

28 Replacement of ss 62 and 63

Sections 62 and 63—

omit, insert—

‘62 Definitions for pt 4

‘In this part—

application land means land the subject of a development application.

development application means an application under the Integrated Planning Act for—

- (a) a material change of use of premises for a brothel; or
- (b) a minor change to a development approval for a brothel or a request to change or cancel conditions of a development approval for a brothel.’.

29 Amendment of s 64A (Object of appeal divisions)

Section 64A(1), ‘code assessable development applications’—

omit, insert—

‘particular development applications’.

30 Amendment of s 64K (Appeals by applicants)

- (1) Section 64K(1), from ‘An applicant’ to ‘against’—

omit, insert—

‘An applicant for a development application that an assessment manager decides requires code assessment under the Integrated Planning Act may appeal to the independent assessor against’.

- (2) Section 64K—

insert—

- ‘(1A) Also, an applicant for a development application may appeal to the independent assessor against a statement in an acknowledgment notice under the Integrated Planning Act that an aspect of the development applied for requires impact assessment.’.

- (3) Section 64K(2), after ‘after’—

insert—

‘either of the following happens under the Integrated Planning Act’.

- (4) Section 64K(2)(a), from ‘is given’—

omit, insert—

‘or acknowledgment notice is given to the applicant;’.

- (5) Section 64K(4), ‘and (3)’—

omit, insert—

‘, (2) and (4)’.

- (6) Section 64K(1A) to (4)—
renumber as section 64K(2) to (5).

31 Amendment of sch 4 (Definitions)—

Schedule 4, definition *code assessable development application*—
omit.

Part 6 Other Acts amended

32 Acts amended in sch 2

Schedule 2 amends the Acts it mentions.

Schedule 1 Minor amendments of Police Powers and Responsibilities Act 2000

section 11

- 1 Section 53(1)(a)(ii), from ‘section 103’—**
omit, insert—
‘section 35 or 45(c) or (d);’.
- 2 Section 55(3), ‘, tram, or animal’—**
omit, insert—
‘or tram’.
- 3 Section 60(6), definition *liquor provision*, paragraph (b), from ‘103’—**
omit, insert—
‘35 or 45;’.
- 4 Section 123(6)(b)(ii), ‘122(2)(c)’—**
omit, insert—
‘121(2)(c)’.
- 5 Chapter 5, divisions 1 to 3—**
renumber as chapter 5, parts 1 to 3.
- 6 Section 153, heading, ‘warrants’—**
omit, insert—
‘warrant’.

Schedule 1 (continued)

- 7 Section 217(4), '244(2)(a) or (b)'—**
omit, insert—
'219(2)(a) or (b)'.
- 8 Section 220(4), 'subsection (5)'—**
omit, insert—
'subsection (6)'.
- 9 Section 325(9), 'insert—'—**
omit.
- 10 Section 382(4), note, 'Justice'—**
omit, insert—
'Justices'.
- 11 Section 398(a), '?'—**
omit, insert—
'; or'.
- 12 Chapter 19, part 1, division 2, heading, 'div'—**
omit, insert—
'division'.
- 13 Section 583(2)(b)(iii), '?'—**
omit, insert—
'; or'.

Schedule 1 (continued)

- 14 Chapter 20, part 2, division 1, heading, ‘pt 2’—**
omit, insert—
‘part 2’.
- 15 Schedule 6, definitions *approving officer, chapter 10 criminal activity, methylated spirits and surveillance warrant—***
omit.
- 16 Schedule 6, definitions *breath test, pedestrian, person in control, private vehicle, road, tram and transport Act, before ‘Road’—***
insert—
‘the’.
- 17 Schedule 6, definition *chief executive officer*, paragraph (b), ‘.’—**
omit, insert—
‘; or’.
- 18 Schedule 6, definition *controlled operations committee, ‘256’—***
omit, insert—
‘232’.
- 19 Schedule 6, definition *covert search powers ‘see’—***
omit.

Schedule 1 (continued)

- 20** **Schedule 6, definition *law enforcement agency*, paragraph (a), ‘for chapters’—**
omit, insert—
‘for chapter’.
- 21** **Schedule 6, definition *minor drugs offence*, subparagraphs (a) and (b)—**
renumber as subparagraphs (i) and (ii).
- 22** **Schedule 6, definition *monitor*, paragraph (a), ‘246’—**
omit, insert—
‘740’.
- 23** **Schedule 6, definition *regulated place*—**
omit, insert—
‘*regulated place* means a place that is a regulated place under section 44.’.
- 24** **Schedule 6, definition *restricted item*, ‘(Categories)’—**
omit, insert—
‘*Categories*’.
- 25** **Schedule 6, definition *surveillance device*, second mention, from ‘*surveillance device* includes—’ to ‘paragraphs (a), (b) and (c).’—**
omit.

Schedule 2 Other Acts amended

section 32

Police Service Administration Act 1990

1 Section 5A.3(1)(c)—

omit, insert—

‘(c) a watch-house officer; or’.

2 Section 10.28, heading, ‘Regulations’—

omit, insert—

‘Regulation-making power’.

Weapons Act 1990

1 Section 10(2B)(c), ‘section 12(1)(k)’—

omit, insert—

‘section 12(k)’.

2 Section 18(10), ‘subsection (8)’—

omit, insert—

‘subsection (9)’.

3 Section 18B(3)(b)(ii), examples, each number of an example—

omit, insert—

‘.’.

Schedule 2 (continued)

- 4 Section 25(4)(b), ‘the stated day’—**
omit, insert—
‘on the stated day’.
- 5 Section 27A(3)(a), ‘and’—**
omit, insert—
‘or’.
- 6 Section 48A(5)(b)(ii), ‘the period’—**
omit, insert—
‘within the period’.
- 7 Section 53(2), examples—**
omit.
- 8 Section 53(2)(a)—**
insert—
‘Examples of photographic identification—
 - weapons licence
 - driver licence’.
- 9 Section 65, penalty, paragraph (a), at the end—**
insert—
‘or’.
- 10 Section 68(1), penalty, paragraphs (a) and (b), ‘and’—**
omit, insert—
‘or’.

Schedule 2 (continued)

- 11 Section 69(1), penalty, paragraphs (a) and (b), ‘and’—**
omit, insert—
‘or’.
- 12 Section 94(5)(b), ‘the specified day’—**
omit, insert—
‘on the specified day’.
- 13 Section 124(3)(b), before ‘suspend’—**
omit, insert—
‘may’.
- 14 Section 128(2), penalty, ‘for subsection (2)’—**
omit.
- 15 Section 131(2)(b)(ii), example, ‘Example’—**
omit, insert—
‘Examples’.
- 16 Section 131(2)(b)(ii), examples, each number of an example—**
omit, insert—
‘.’.
- 17 Section 151(1)(a), ‘or’, second mention—**
omit.

Schedule 2 (continued)

- 18 Section 157(1)(a)(iii) and (b), at the end—**
insert—
‘or’.
- 19 Section 163(2)(c)(i), (ii) and (iii), at the end—**
insert—
‘or’.
- 20 Section 168B(4), examples, each number of an example—**
omit, insert—
‘•’.
- 21 Schedule 2, definition *possession*, paragraphs (a) to (c), at the end—**
insert—
‘and’.
- 22 Schedule 2, definition *sword*, examples—**
omit, insert—
‘Examples—
- a rapier
 - a broadsword’.