



Summary Offences Act 2005

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This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

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Queensland

Summary Offences Act 2005

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Summary Offences Act 2005

[as amended by all amendments that commenced on or before 1 July 2006]

An Act to define particular offences that may be dealt with in a summary way, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Summary Offences Act 2005*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

4 Notes

A note in the text of this Act is part of this Act.

Part 2 Offences

Division 1 Offences about quality of community use of public places

5 Object of div 1

This division has, as its object, ensuring, as far as practicable, members of the public may lawfully use and pass through public places without interference from acts of nuisance committed by others.

6 Public nuisance

- (1) A person must not commit a public nuisance offence.
Maximum penalty—10 penalty units or 6 months imprisonment.
- (2) A person commits a public nuisance offence if—
 - (a) the person behaves in—
 - (i) a disorderly way; or
 - (ii) an offensive way; or
 - (iii) a threatening way; or
 - (iv) a violent way; and
 - (b) the person's behaviour interferes, or is likely to interfere, with the peaceful passage through, or enjoyment of, a public place by a member of the public.
- (3) Without limiting subsection (2)—
 - (a) a person behaves in an offensive way if the person uses offensive, obscene, indecent or abusive language; and
 - (b) a person behaves in a threatening way if the person uses threatening language.
- (4) It is not necessary for a person to make a complaint about the behaviour of another person before a police officer may start a proceeding against the person for a public nuisance offence.

- (5) Also, in a proceeding for a public nuisance offence, more than 1 matter mentioned in subsection (2)(a) may be relied on to prove a single public nuisance offence.

7 Review

- (1) As soon as practicable after 1 October 2005, the Crime and Misconduct Commission must review the use of the public nuisance provisions and prepare a report on the review.
- (2) The conduct of the review and the preparation of the report is a function of the Crime and Misconduct Commission for the *Crime and Misconduct Commission Act 2001*.
- (3) In the course of preparing the report, the Crime and Misconduct Commission must consult with the Minister.
- (4) The Crime and Misconduct Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.
- (5) In this section—
public nuisance provisions means the following—
- (a) section 6;
 - (b) the repealed *Vagrants, Gaming and Other Offences Act 1931*, section 7AA.¹

8 Begging in a public place

- (1) A person must not—
- (a) beg for money or goods in a public place; or
 - (b) cause, procure or encourage a child to beg for money or goods in a public place; or
 - (c) solicit donations of money or goods in a public place.
- Maximum penalty—10 penalty units or 6 months imprisonment.
- (2) Subsection (1)(c) does not apply to a person who—

¹ *Vagrants, Gaming and Other Offences Act 1931*, section 7AA (Public nuisance)

- (a) is an individual authorised by a charity registered under the *Collections Act 1966* to solicit donations for the charity; or
 - (b) is authorised by a local government to busk in a public place.
- (3) In this section—
- procure* includes—
- (a) enable; and
 - (b) facilitate.

9 Wilful exposure

- (1) A person in a public place must not wilfully expose his or her genitals, unless the person has a reasonable excuse.

Maximum penalty—

- (a) 2 penalty units; or
 - (b) if the offence involves circumstances of aggravation—40 penalty units or 1 year's imprisonment.
- (2) A person who is so near a public place that the person may be seen from the public place must not wilfully expose his or her genitals so that the person's genitals may be seen from the public place, unless the person has a reasonable excuse.

Maximum penalty—

- (a) 2 penalty units; or
 - (b) if the offence involves circumstances of aggravation—40 penalty units or 1 year's imprisonment.
- (3) It is a circumstance of aggravation for this section for a person to wilfully expose his or her genitals so as to offend or embarrass another person.

10 Being drunk in a public place

A person must not be drunk in a public place.

Maximum penalty—2 penalty units.

Division 2 Offences involving presence on property

11 Trespass

- (1) A person must not unlawfully enter, or remain in, a dwelling or the yard for a dwelling.

Maximum penalty—20 penalty units or 1 year's imprisonment.

- (2) A person must not unlawfully enter, or remain in, a place used as a yard for, or a place used for, a business purpose.

Maximum penalty—20 penalty units or 1 year's imprisonment.

Note—

See the *Police Powers and Responsibilities Act 2000*, section 391A for safeguards applying to starting proceedings for particular offences in this division.

- (3) This section does not prevent an authorised industrial officer entering a workplace in accordance with the terms of the person's appointment as an authorised industrial officer.²

11A Unlawful driving of motorbike on public land

- (1) A person must not drive a motorbike on public land in contravention of a regulation under this Act or a local law that regulates access by motorbikes to public land, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) If a regulation under this Act or a local law requires a person to possess a stated type of authority while driving a motorbike on public land, a person who drives a motorbike on public land must be in possession of the stated authority while driving the motorbike, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

² *Industrial Relations Act 1999*, section 364 (Authorising industrial officers)

- (3) A person found by a police officer driving a motorbike on land mentioned in subsection (1) must produce the stated authority to the police officer on request.

Maximum penalty—20 penalty units.

- (4) In this section—

motorbike has the meaning given by the *Transport Operations (Road Use Management) Act 1995*, and includes a 4-wheeled motorbike that is ridden in the same way as a motorbike.

public land, for a regulation or local law, means public land as defined under the regulation or local law, but does not include a road.

road has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

12 Persons unlawfully gathering in or on a building or structure

- (1) Two or more persons must not, together—

(a) unlawfully enter—

- (i) any part of a public building or structure or a building or structure used for a business purpose; or
(ii) any land occupied by or used in connection with any public building or structure or a building or structure used for a business purpose; or

(b) unlawfully remain in or on—

- (i) any part of a public building or structure or a building or structure used for a business purpose; or
(ii) any land occupied by or used in connection with any public building or structure or a building or structure used for a business purpose.

Maximum penalty—10 penalty units or 6 months imprisonment.

- (2) Subsection (1)(b) applies whether or not the persons lawfully entered the building, structure or land.

- (3) A person must not, while unlawfully in or on a building or structure mentioned in subsection (1) that is not a public place, do an act or use language that, if done or used by a person in a public place, would be an offence.

Maximum penalty for subsection (3)—10 penalty units or 6 months imprisonment.

- (4) This section does not prevent an authorised industrial officer entering a workplace in accordance with the terms of the person's appointment as an authorised industrial officer.

13 Unlawfully entering farming land, etc.

- (1) A person must not unlawfully enter, or remain on, land used for—

- (a) agricultural or horticultural purposes; or
- (b) grazing; or
- (c) animal husbandry.

Maximum penalty—10 penalty units or 6 months imprisonment.

- (2) A person must not unlawfully open, and leave open, any gate, fence or other barrier that encloses all or part of enclosed land used for agricultural or horticultural purposes or for grazing or animal husbandry.

Maximum penalty—10 penalty units or 6 months imprisonment.

- (3) This section does not prevent an authorised industrial officer entering a workplace in accordance with the terms of the person's appointment as an authorised industrial officer.

14 Unregulated high-risk activities

- (1) A person must not unlawfully do any of the following—

- (a) parachute or hang-glide onto a building or structure;
- (b) BASE-jump or hang-glide from a building or structure;
- (c) climb up or down the outside of a building or a structure;

(d) abseil from a building or structure.

Maximum penalty—20 penalty units or 1 year's imprisonment.

- (2) It is not an offence against subsection (1) for a person—
- (a) to do an act mentioned in that subsection involving a building or structure that has been built for use, or is designated for use, for a purpose mentioned in that subsection; or
 - (b) to do an act mentioned in that subsection involving a building or structure for a stunt performed with the permission of the owner of the building or structure and as part of the person's engagement or employment for the production of a cinematographic film or for television; or
 - (c) to climb up or down a building or structure for cleaning, maintaining or repairing the building or structure.
- (3) In addition to any penalty that may be imposed on a person who is found guilty of, or has pleaded guilty to, a charge of an offence against subsection (1), a court hearing the charge of the offence may order the person to pay to a stated person the costs the court decides are the other person's costs of rescuing or attempting to rescue the person.

Division 3 Possession offences

15 Possession of implement in relation to particular offences

- (1) A person must not possess an implement that is being, or is to be, used—
- (a) for burglary of a dwelling; or
 - (b) for unlawfully entering a place; or
 - (c) for entering a vehicle with intent to commit an indictable offence; or
 - (d) to steal or unlawfully use a vehicle; or
 - (e) to unlawfully injure a person; or

(f) to unlawfully damage property.

Maximum penalty—20 penalty units or 1 year's imprisonment.

(2) A person must not possess an implement that has been used—

(a) for burglary of a dwelling; or

(b) for unlawfully entering a place; or

(c) for entering a vehicle with intent to commit an indictable offence; or

(d) to steal or unlawfully use a vehicle; or

(e) to unlawfully injure a person; or

(f) to unlawfully damage property.

Maximum penalty—20 penalty units or 1 year's imprisonment.

(3) For subsection (2), it is a defence for the person to prove that the person's possession of the implement was not connected to any involvement by the person in the preparation of the offence or in any criminal responsibility in relation to the offence.

Note—

See the *Police Powers and Responsibilities Act 2000*, section 391A for safeguards applying to starting proceedings for offences against this section and sections 16 and 17.

16 Unlawful possession of suspected stolen property

A person must not unlawfully possess a thing that is reasonably suspected of having been stolen or unlawfully obtained.

Maximum penalty—20 penalty units or 1 year's imprisonment.

17 Graffiti instrument

(1) A person must not possess a graffiti instrument that—

(a) is reasonably suspected of having been used for graffiti;
or

- (b) is being used for graffiti; or
- (c) is reasonably suspected of being about to be used for graffiti.

Maximum penalty—20 penalty units or 1 year's imprisonment.

- (2) The court may, whether or not it imposes any other penalty for the offence, order the offender—
 - (a) to perform community service under the *Penalties and Sentences Act 1992*, part 5, division 2³ including, for example, removing graffiti from property; or
 - (b) to pay compensation to any person under the *Penalties and Sentences Act 1992*, part 3, division 4.⁴
- (3) For subsection (1)(a), it is a defence for the person to prove that the person's possession of the graffiti instrument was not connected to any involvement by the person in the preparation of the offence or in any criminal responsibility in relation to the offence.

Division 4 Offences relating to children or minors

18 Particular body piercing of minor prohibited

- (1) A person must not, as part of a business transaction, perform body piercing to any part of—
 - (a) the external genitalia of a female who is a minor; or
 - (b) the penis or scrotal skin of a male who is a minor; or
 - (c) the nipples of a minor.

Maximum penalty—

- (a) 40 penalty units or 6 months imprisonment; or

³ *Penalties and Sentences Act 1992*, part 5 (Intermediate orders), division 2 (Community service orders)

⁴ *Penalties and Sentences Act 1992*, part 3 (Releases, restitution and compensation), division 4 (Orders for restitution and compensation)

- (b) if the minor is an intellectually impaired person or the minor's decision-making capacity is impaired because of alcohol or a drug—80 penalty units or 1 year's imprisonment.
- (2) It is not a defence to a prosecution of a person for a charge of an offence against subsection (1) that the minor, or a parent or guardian of the minor, consented to the body piercing.
- (3) In this section—

body piercing means the process of penetrating a person's skin or mucous membrane with a sharp instrument for the purpose of implanting jewellery or other foreign material through or into the skin or mucous membrane.

Examples of foreign material—

- a ring
- a bar
- a pin
- a stud

genitalia see the Criminal Code, section 1.⁵

intellectually impaired person see the Criminal Code, section 1.

19 Tattooing minor prohibited

- (1) A person must not perform tattooing on a minor.
Maximum penalty—40 penalty units or 6 months imprisonment.
- (2) In this section—
- tattooing—***
- (a) means the process of penetrating a person's skin and inserting into it colour pigments to make a permanent mark, pattern or design on the skin; and

⁵ Criminal Code, section 1 (Definitions)

- (b) includes any process that penetrates the skin and inserts into it colour pigments to make a semipermanent mark, pattern or design on the skin including for example—
 - (i) the process known as cosmetic tattooing; or
 - (ii) the process for applying semipermanent make-up.

Division 5 Other offences

20 Preventing public meetings

A person must not intentionally prevent or attempt to prevent the holding of a public meeting.

Maximum penalty—10 penalty units or 6 months imprisonment.

Examples of actions that may prevent the holding of a public meeting—

- 1 making a noise to prevent a public meeting starting or continuing
- 2 blocking a door to prevent persons lawfully entering a place where a public meeting is to be held

21 False advertisements etc., about births, deaths, marriages or employment

- (1) A person must not publish in a newspaper or by radio, television or on the internet an advertisement or notice that states, expressly or by implication, any of the following, knowing what is stated to be false—
 - (a) a child has been born who has not been born;
 - (b) a person who is still living has died;
 - (c) a funeral for a person who is still living is to happen or has happened;
 - (d) a particular couple who have not become engaged are engaged;
 - (e) a particular couple who do not intend to marry have married or are to marry;
 - (f) employment that is not available is available.

Maximum penalty—10 penalty units or 6 months imprisonment.

- (2) In this section—

publish includes cause to be published.

22 Imposition

- (1) A person must not impose or attempt to impose on another person to obtain money or an advantage.

Maximum penalty—20 penalty units or 1 year's imprisonment.

- (2) A person imposes or attempts to impose on another person if the person—

(a) makes an oral or written representation that is false or fraudulent with intent to obtain money or an advantage from the other person; or

(b) by dress, apparel or otherwise, fraudulently seeks to obtain money or an advantage from the other person.

- (3) In this section—

advantage includes benefit.

23 Sale of potentially harmful things

- (1) A person (the *seller*) must not sell a potentially harmful thing to another person if the seller knows or believes, on reasonable grounds, that the other person—

(a) intends to inhale or ingest the thing; or

(b) intends to sell the thing to another person for inhalation or ingestion whether by that person or someone else.

Maximum penalty—

(a) for a first offence—25 penalty units or 3 months imprisonment; or

(b) for a second or later offence—50 penalty units or 1 year's imprisonment.

(2) For the purposes of the *Anti-Discrimination Act 1991*, section 46,⁶ a seller is not to be taken to discriminate against a person only because the seller refuses to sell a potentially harmful thing to the person because of subsection (1).

(3) In this section—

potentially harmful thing—

(a) means a thing a person may lawfully possess that is or contains a substance that may be harmful to a person if ingested or inhaled; and

Examples—

- glue
- paint
- a solvent

(b) includes methylated spirits; and

(c) does not include a thing intended by its manufacturer to be inhaled or ingested by a person using it.

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.

24 Throwing things at a sporting event

(1) A person at a sporting event must not throw or propel an object that may—

(a) injure a person; or

(b) damage property; or

(c) disrupt the event.

⁶ *Anti-Discrimination Act 1991*, section 46 (Discrimination in goods and services area)

Maximum penalty—10 penalty units or 6 months imprisonment.

- (2) Subsection (1) does not apply to a person actually participating in a sporting event who throws or propels an object the person ordinarily throws or propels as part of the sporting event.
- (3) Also, subsection (1) does not apply to a person who is a spectator at a sporting event who returns an object ordinarily used in the sporting event to a person actually participating in the sporting event in a way not intended to contravene subsection (1).

Example for subsection (3)—

Returning to a cricket player a cricket ball that has been hit over the fence in a cricket match.

25 Use of vehicles

A person must not—

- (a) unlawfully use a vehicle without the consent of the person in lawful possession of the vehicle; or
- (b) have a vehicle in the person's possession without the consent of the person in lawful possession of it (the *other person*) with intent to temporarily or permanently deprive the other person of the use or possession of the vehicle.

Maximum penalty—20 penalty units or 1 year's imprisonment.

Part 3 Procedural provisions

26 Offences are simple offences

- (1) An offence against this Act is a simple offence.
- (2) A proceeding for an offence against this Act is a summary proceeding under the *Justices Act 1886*.

27 Forfeiture

If a court finds a person guilty of an offence against section 15, 16 or 17,⁷ the court may order that the thing to which the offence relates be forfeited to the State.

Note—

For how something forfeited to the State may be disposed of, see the *Police Powers and Responsibilities Act 2000*, chapter 11 (Administration), part 3 (Dealing with things in the possession of police service), division 7 (Dealing with forfeited things).

28 Evidentiary provision

- (1) In a proceeding, a statement in a charge of an offence that a place is a place to which a provision of this Act applies is evidence that the place is what it is claimed to be.
- (2) In a proceeding for an offence against section 16, it is not necessary to prove that the police officer starting the proceeding knew anything had recently been stolen or unlawfully obtained, or that in fact anything had been stolen or unlawfully obtained, if the circumstances in which the property had been found gives rise to a reasonable suspicion that the property had been stolen or unlawfully obtained.

Example—

See the *Police Powers and Responsibilities Act 2000*, section 391A for procedural safeguards a police officer must follow before charging a person with an offence against section 16 of this Act.

Part 3A General**28A Regulation-making power**

The Governor in Council may make regulations under this Act.

⁷ Section 15 (Possession of implement in relation to particular offences), 16 (Unlawful possession of suspected stolen property) or 17 (Graffiti instrument)

Part 4 **Repeal and amendments**

29 **Act repealed**

The Vagrants, Gaming and Other Offences Act 1931 22 Geo 5 No. 27 is repealed.

Schedule 2 Dictionary

section 3

authorised industrial officer means—

- (a) an authorised industrial officer appointed under the *Industrial Relations Act 1999*, section 364;⁸ or
- (b) an authorised officer appointed under the *Workplace Relations Act 1996* (Cwlth), section 83BG.⁹

business purpose includes commercial purpose.

dwelling includes, when used as a dwelling, a boat or part of a boat, a caravan, and a tent.

graffiti see the Criminal Code, section 469, punishment in special cases, paragraph 9.¹⁰

graffiti instrument includes—

- (a) a container from which paint or another marking substance may be forced by pressure, suction or in another way; or
- (b) an etching instrument.

implement includes equipment and substance.

place includes dwelling.

possession has the same meaning as in the Criminal Code.

Note—

Under the *Acts Interpretation Act 1954*, section 32, if an Act defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

public place means a place that is open to or used by the public, whether or not on payment of a fee.

8 *Industrial Relations Act 1999*, section 364 (Authorising industrial officers)

9 *Workplace Relations Act 1996* (Cwlth), section 83BG (Appointment of authorised officers)

10 Criminal Code, section 469 (Wilful damage)

Schedule 2 (continued)

unlawfully means without authorisation, justification or excuse by law.

vehicle includes a motor vehicle, bicycle and boat.

yard means—

- (a) for a dwelling other than a boat, the parcel of land related to the dwelling that appears to be within identifiable boundaries; or

Examples for paragraph (a)—

- 1 The boundaries may be defined by the position of fencing.
- 2 There may be a garden along a boundary of the land giving a general indication of where the boundary is.
- 3 It may be easy to recognise the position of the front boundary of land because of the position of fencing along the front of adjoining land.

- (b) for a place used for a business purpose, a part of the place not occupied by buildings—

- (i) that is fenced in a way that ordinarily restricts access to the place when the place is not open to the public; or
- (ii) that is otherwise ordinarily enclosed to restrict access to the place; or
- (iii) to which entry is prohibited by signs displayed on the premises.

Example for paragraph (b)—

The place may have a high chain-wire fence along its boundaries.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2006. Future amendments of the Summary Offences Act 2005 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	21 March 2005	
1A	2005 Act No. 64	1 July 2006	

5 List of legislation

Summary Offences Act 2005 No. 4

date of assent 3 March 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 21 March 2005 (2005 SL No. 34)

amending legislation—

Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005 No. 64 pts 1, 4

date of assent 28 November 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (2006 SL No. 107)

Police Powers and Responsibilities and Other Acts Amendment Act 2006 No. 26 ss 1–2(1), 119 sch 2

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

6 List of annotations

Unlawful driving of motorbike on public land

s 11A ins 2005 No. 64 s 33

PART 3A—GENERAL

pt 3A (s 28A) ins 2005 No. 64 s 34

Other Acts amended

s 30 om R1 (see RA s 40)

SCHEDULE 1—ACTS AMENDED
om R1 (see RA s 40)