

Queensland



CRIMINAL LAW AMENDMENT ACT 1993

Act No. 65 of 1993

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Criminal Law Amendment Act 1993

Act No. 65 of 1993

An Act to amend the Criminal Code

[Assented to 23 November 1993]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Criminal Law Amendment Act 1993*.

Amended Code

2. The Criminal Code is amended as set out in this Act.

Insertion of new ss.359A and 359B

3. After section 359—

insert—

‘Unlawful stalking

‘359A.(1) A person must not unlawfully stalk another person.

‘(2) A person (the **“first person”**) unlawfully stalks another person (the **“second person”**) if—

- (a) the first person engages in a course of conduct involving doing a concerning act on at least 2 separate occasions to another person or other persons (whether the second person, another or others); and
- (b) the first person intends that the second person be aware that the course of conduct is directed at the second person, even if the concerning acts or particular concerning acts are done to, or to the property of, a person other than the second person; and
- (c) the second person is aware that the course of conduct is directed at the second person; and
- (d) the course of conduct would cause a reasonable person in the second person’s circumstances to believe that an offensive act (a **“concerning offensive act”**) is likely to happen.

‘(3) For the purpose of subsection (2)(d), the second person’s circumstances are those known or foreseen by the first person and those

reasonably foreseeable by the first person.

‘(4) It is a defence to a charge under this section to prove that the course of conduct was engaged in for the purposes of a genuine—

- (a) industrial dispute; or
- (b) political or other public dispute or issue carried on in the public interest.

‘(5) The offence under this section may only be committed against an individual.

‘(6) Unlawful stalking is a crime for which the first person is liable to a maximum penalty of—

- (a) imprisonment for 5 years if, for any of the concerning acts constituting the offence, the first person—
 - (i) unlawfully uses or threatens to use unlawful violence against another person or another person’s property; or
 - (ii) has possession of a weapon within the meaning of the *Weapons Act 1990*; or
 - (iii) contravenes an injunction or order imposed or made by a court under a law of the State, the Commonwealth, another State or a Territory, or threatens this; or
- (b) imprisonment for 3 years in any other case.

‘(7) In this section—

“**concerning act**” means any of the following acts—

- (a) following, loitering near, watching or approaching another person;
- (b) telephoning or otherwise contacting another person;
- (c) loitering near, watching, approaching or entering a place where another person lives, works or visits;
- (d) interfering with property in the possession of another person;
- (e) leaving offensive material where it will be found by, given to or brought to the attention of, another person;
- (f) giving offensive material to another person, directly or indirectly;

- (g) an act of harassment, intimidation or threat against another person;
- (h) an unlawful act committed against the person or property of another person;

“concerning offensive act” means an unlawful act of violence by the first person against—

- (a) the second person’s person or property; or
- (b) a person, other than the second person, about whose health or custody the second person would reasonably be expected to be seriously concerned if the act were done, including, for example, a dependant, relative, friend, employer or associate of the second person; or
- (c) the property of a person, other than the second person, about whose property the second person would reasonably be expected to be seriously concerned if the act were done, including, for example, the premises where the second person lives or works, or the property of a dependant, relative, friend, employer or associate of the second person;

“property” of a person other than the first person includes property in which both the first person and the other person have an interest;

“unlawful” act means an unlawful act constituting an offence;

“violence” against the person includes an act depriving a person of liberty;

“violence” against property includes an unlawful act of damaging, destroying, removing, using or interfering with property.

‘Summary proceedings for unlawful stalking

‘359B.(1) A proceeding for an indictable offence against section 359A may be dealt with summarily, unless the accused is charged with a circumstance of aggravation mentioned in section 359A(6)(a).

‘(2) The maximum sentence that may be imposed on a summary conviction for an indictable offence against section 359A is imprisonment for 18 months.

‘(3) A proceeding for an indictable offence against section 359A may be

dealt with summarily even though the proceeding was started more than 1 year after the offence was committed.

‘(4) A proceeding for an indictable offence against section 359A may be dealt with summarily at any place appointed for holding Magistrates Courts regardless of where the offence was committed.

‘(5) The summary jurisdiction conferred by this section must be exercised in the way, and subject to the conditions, prescribed by section 444 for the summary trial and punishment of offenders who may be summarily convicted of indictable offences under that section.’.