

Queensland



**SOUTH BANK
CORPORATION
AMENDMENT ACT 1995**

Act No. 46 of 1995

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Queensland



**South Bank Corporation Amendment Act
1995**

Act No. 46 of 1995

An Act to amend the *South Bank Corporation Act 1989*

[Assented to 22 November 1995]

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

1. This Act may be cited as the *South Bank Corporation Amendment Act 1995*.

Commencement

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

Act amended

3. This Act amends the *South Bank Corporation Act 1989*.

Amendment of s 4 (Interpretation)

4. Section 4—

insert—

“**court**” means—

- (a) for a child within the meaning of the *Juvenile Justice Act 1992*—the Childrens Court; or
- (b) for someone else—a Magistrates Court.

“**exclusion direction**” means a direction under section 37B.¹

“**exclusion offence**” see section 37A(2).

“**exclusion order**” means an order under section 37E.²

“**reviewable exclusion direction**” means an exclusion direction excluding a person from the site, or a part of the site, for longer than 24 hours.

¹ Section 37B (Power to exclude persons causing public nuisance)

² Section 37E (Court may exclude person from site)

“**security officer**”, for a power, means a person authorised by the corporation to exercise the power.

“**site**”, in part 5A, means the part of the corporation area declared under a by-law to be the site, and includes any part of the area declared to be the site.’.

Insertion of new pt 5A

5. After part 5—

insert—

‘PART 5A—CONDUCT ON THE SITE

‘Conduct causing public nuisance

‘**37A.(1)** A person must not, on the site—

- (a) be drunk or disorderly; or
- (b) create a disturbance.

Maximum penalty—20 penalty units

‘(2) For this part, an offence under subsection (1) is an “**exclusion offence**”.

‘Power to exclude persons causing public nuisance

‘**37B.(1)** This section applies if a security officer or police officer finds a person committing an exclusion offence.

‘(2) The security officer or police officer may, by written notice, direct the person to leave the site.

‘(3) The security officer or police officer may also, by written notice, direct the person not to re-enter the site for 24 hours.

‘(4) A person must not contravene a direction given to the person under subsection (2) or (3), unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘(5) A security officer may, by written notice, direct a person to leave the site, and not re-enter the site for a stated period (starting when the direction is given) of not more than 10 days if—

- (a) the person contravenes a direction given to the person under subsection (2) or (3); or
- (b) the security officer is of the opinion, on reasonable grounds, that the exclusion of the person from the site is justified because of the person’s behaviour.

‘(6) A person must not contravene a direction given to the person under subsection (5), unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘Power to hand over certain offenders to the police

‘37C. A security officer who finds a person on the site—

- (a) committing an exclusion offence; or
- (b) unlawfully damaging property; or
- (c) contravening an exclusion direction or order;

may take the person immediately to a police officer, using only such force as is reasonable and necessary.

‘Power to ask name and address

‘37D.(1) This section applies if a security officer or police officer (the “officer”) finds a person on the site—

- (a) committing an offence against this Act; or
- (b) in circumstances that lead, or has information that leads, the officer to suspect on reasonable grounds that the person has just committed, or is committing, an offence against this Act.

Example of paragraph (b)—

A security officer finds a person on the site, and has information to suspect on reasonable grounds that the person has remained on, or re-entered the site, in contravention of an exclusion order or direction.

‘(2) The officer may ask the person to state the person’s name and address.

‘(3) When making the request, the officer must warn the person that it is an offence to fail to state the person’s name or address, unless the person has a reasonable excuse.

‘(4) The officer may ask the person to give evidence of the correctness of the stated name or address if the officer suspects, on reasonable grounds, the stated name or address is false.

‘(5) A person must comply with a request under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘(6) A person does not commit an offence against this section if—

- (a) the person was asked to state the person’s name and address by an officer who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

‘Court may exclude person from the site

‘37E.(1) The corporation, or a police officer authorised by the corporation, may apply to a court for an order excluding a person from the site because of the person’s behaviour on the site.

‘(2) The application may be made in a proceeding for an exclusion offence, contravening an exclusion direction or order, or at any other time.

‘(3) If the application is not made in a proceeding for an offence mentioned in subsection (2), the corporation must give notice of the application to the person at least 21 days before the application is heard.

‘(4) The notice must set out particulars of the behaviour claimed to have been committed by the person.

‘(5) If the court decides to make the order, the court may order that the person not enter the site for a stated period of not more than 1 year.

‘(6) A person must not contravene an order made against the person under subsection (5).

Maximum penalty—20 penalty units.

‘(7) This section applies despite the *Juvenile Justice Act 1992*.

‘Power of arrest

‘37F.(1) This section applies to an offence against any of the following sections—

- section 37B(4) or (6) (Power to deal with persons causing a public nuisance)
- section 37D(5) (Power to require name and address)
- section 37E(6) (Court may exclude person from the site).

‘(2) A police officer may arrest a person if—

- (a) the officer—
 - (i) finds the person committing an offence to which this section applies; or
 - (ii) finds the person in circumstances that lead, or has information that leads, the officer to suspect on reasonable grounds that the person has just committed, or is committing, an offence to which this section applies; and
- (b) the officer believes on reasonable grounds that a proceeding against the person by way of complaint and summons for the offence would be ineffective.

‘Certain exclusion directions may be reviewed

‘37G.(1) A person who is given a reviewable exclusion direction may apply in writing to a court at a place in the central division of the Brisbane Magistrates Court district for a review of the reasonableness of the direction.

‘(2) The application must be made—

- (a) within 3 days after the person is given the direction; or

(b) if the direction is for less than 3 days—before the direction ends.

‘(3) The registrar or clerk of the court must immediately give the corporation a copy of the application.

‘Review does not stay effect of exclusion direction

‘37H. The making of an application for the review of a reviewable exclusion direction does not stay the operation of the direction.

‘Procedure for review

‘37I.(1) A court to which an application for the review of a reviewable exclusion direction is made must review the direction as soon as practicable after the application is made.

‘(2) In hearing and deciding the review—

- (a) the court is not bound by the rules of evidence and may inform itself in any way it considers appropriate; and
- (b) the court must observe natural justice; and
- (c) the court may hear the review in court or in chambers; and
- (d) a party to the review cannot be represented by a lawyer; and
- (e) a child may be represented by an associated adult; and
- (f) the court may not make an order for costs (other than filing fees).

Example of (2)(a)—

The court may allow a party to a review to take part in the review by telephone.

‘(3) For subsection (2)(e), an “**associated adult**” for a child is an adult who—

- (a) is the child’s parent, step-parent or guardian; or
- (b) is married to the child; or
- (c) has parental rights and duties for the child; or
- (d) might reasonably be expected to have authority over the child’s conduct.

‘(4) To remove any doubt, *Childrens Court Act 1992*, section 20³ applies to a review by the Childrens Court.

‘Decision on review

‘**37J.(1)** A court reviewing a reviewable exclusion direction may—

- (a) confirm the reasonableness of the direction; or
- (b) set the direction aside; or
- (c) set the direction aside and give directions the court considers appropriate about the direction.

‘(2) Compensation is not payable by anyone for a reviewable exclusion direction confirmed or set aside under this section.

‘(3) This section applies despite the *Juvenile Justice Act 1992*.

‘Annual report of corporation to include report on part

‘**37K.** The corporation must include a report on the exercise of powers under this part in each annual report.’

³ Section 20 (Who may be present at a proceeding)

SCHEDULE**MINOR AMENDMENTS**

section 3

1. Section 4, heading—*omit, insert—***‘Definitions’.****2. Section 4, definition “development completion date”, ‘by proclamation under section 22B’—***omit, insert—***‘under a regulation’.****3. Section 9(2), ‘by notification in the Gazette’—***omit.***4. Section 12(2), ‘by order in council’—***omit, insert—***‘under a regulation.’.****5. Section 13(1), ‘by order in council’—***omit, insert—***‘by gazette notice’.**

SCHEDULE (continued)

6. Section 13A(3), ‘by order in council’—*omit, insert—*

‘by gazette notice’.

7. Section 22B(1), ‘, by order in council,’—*omit.***8. Section 22B(3), ‘by proclamation’—***omit, insert—*

‘under a regulation’.

9. Section 24(4), ‘by order in council’—*omit, insert—*

‘by gazette notice’.

10. Section 40, heading—*omit, insert—*‘**Regulation making power**’.**11. Section 40(1), ‘for the purposes of’—***omit, insert—*

‘under’.

12. Section 40, as amended—*relocate as section 42.*

SCHEDULE (continued)

13. Section 41(1), words before paragraph (a)—

omit, insert—

‘**41.(1)** The corporation may make by-laws under this Act.

‘**(2)** A by-law may make provision—’.

14. Section 41(2) to (5)—

omit, insert—

‘**(2)** A by-law may create offences and prescribe penalties of not more than 20 penalty units for the offences.

‘**(3)** A by-law must be approved by the Governor in Council.⁴’.

15. Section 41(6)—

renumber as 41(4).

16. Schedule 7, section 7, definition “local government”—

omit, insert—

‘ **“local government”** means—

- (a) until the day prescribed under a regulation for section 22B of the principal Act—the corporation; or
- (b) after the day prescribed under a regulation for section 22B of the principal Act—the council.’.

⁴ A by-law is subordinate legislation (see *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a)).