



Queensland

Police Powers and Responsibilities (Drug Detection Dogs) Amendment Act 2005

Act No. 63 of 2005



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Police Powers and Responsibilities (Drug Detection Dogs) Amendment Act 2005

Act No. 63 of 2005

An Act to amend the *Police Powers and Responsibilities Act 2000*

[Assented to 28 November 2005]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Police Powers and Responsibilities (Drug Detection Dogs) Amendment Act 2005*.

2 Commencement

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

3 Act amended

This Act amends the *Police Powers and Responsibilities Act 2000*.

4 Insertion of new ch 2, pt 2A

After section 31—

insert—

‘Part 2A Use of drug detection dogs without warrant

‘31A Definitions for pt 2A

‘In this part—

drug detection includes—

- (a) walking or placing a drug detection dog in the vicinity of a person to ascertain whether the drug detection dog can detect the scent of an unlawful dangerous drug on the person; and
- (b) walking or placing a drug detection dog in, on, or in the vicinity of, a vehicle or a thing to ascertain whether the drug detection dog can detect the scent of an unlawful dangerous drug in or on the vehicle or thing.

drug detection dog means a dog trained to detect unlawful dangerous drugs.

event means—

- (a) a special event; or
- (b) a sports, recreational or entertainment event held at a major sports facility under the *Major Sports Facilities Act 2001*; or
- (c) a sports, recreational or entertainment event, not mentioned in paragraph (b), that is open to the public, whether on payment of a fee or not.

Example of an entertainment event for paragraph (c)—

a musical concert held at the Mt Gravatt showgrounds

handler, of a drug detection dog, means a handler within the meaning of the *Police Service Administration Act 1990*.

licensed premises—

- (a) means licensed premises within the meaning of the *Liquor Act 1992*; and
- (b) includes a place to which a permit under that Act relates.

unlawful dangerous drug—

- (a) means a dangerous drug mentioned in the *Drugs Misuse Regulation 1987*, schedule 1; and
- (b) includes—
 - (i) Gamma hydroxybutyric acid, commonly known as GBH; and
 - (ii) 3,4-Methylenedioxymethamphetamine (MDMA), commonly known as Ecstasy.

‘31B Use of drug detection dogs in particular places

- ‘(1) A handler may, without warrant, use a drug detection dog to carry out drug detection in relation to any of the following persons or things—
 - (a) a person who is about to enter, is in, or is leaving, licensed premises;

- (b) a person who is in the immediate vicinity of, is about to enter, is in, or is leaving, a place at which an event is being held;
- (c) a person who is in a public place;
- (d) a thing in a place mentioned in paragraph (a), (b) or (c), whether it is in the physical possession of a person or not.

‘(2) This section applies despite any other Act.

‘31C Police officers and drug detection dogs may enter and remain on particular premises

‘(1) For carrying out drug detection under section 31B, a drug detection dog, the drug detection dog’s handler and any other police officer may enter and remain on the following places—

- (a) licensed premises;
- (b) a place at which an event is being held;
- (c) a public place.

‘(2) For subsection (1), the power to enter and remain on licensed premises or another place includes power to enter and remain on land associated with the licensed premises or place.

Example of land associated with licensed premises or another place—

land on which carparking is provided for patrons of the licensed premises or other place

‘(3) This section applies despite any other Act.

‘31D Reasonable suspicion may be based on indication of drug detection dog

‘(1) This section applies if a provision of this Act requires a police officer to form a reasonable suspicion that a person has something, or there is something in a vehicle, that may be an unlawful dangerous drug, before the police officer may exercise a power in relation to the person or vehicle.

‘(2) It is sufficient for the police officer to form a reasonable suspicion that the person has something, or there is something

in the vehicle, that may be an unlawful dangerous drug, if a drug detection dog indicates it has detected an unlawful dangerous drug—

- (a) on the person or on, or in, a thing in the person's physical possession; or
- (b) on or in a thing, not in the person's physical possession but which the police officer reasonably suspects is connected with the person, that is at the place the drug detection dog is carrying out the drug detection; or
- (c) in the vehicle.

'31E Protection from liability for acts done by drug detection dogs

- '(1) This section applies if—
 - (a) the handler of a drug detection dog is using the drug detection dog to carry out drug detection under section 31B; and
 - (b) the drug detection dog—
 - (i) physically intrudes onto a person or the clothing of a person, or otherwise comes into contact with a person, while the drug detection dog is carrying out the drug detection; or
 - (ii) causes damage to a thing that has in or on it an unlawful dangerous drug.
- '(2) The handler does not incur civil liability for an act done, or omission made, honestly and without negligence, in the circumstances to which this section applies.
- '(3) The State does not incur civil liability in the circumstances to which this section applies—
 - (a) for an act done by the drug detection dog; or
 - (b) an act or omission of the handler.
- '(4) However, if—
 - (a) the act of the drug detection dog; or
 - (b) the act or omission of the handler;

causes bodily harm to a person and subsection (2) prevents civil liability attaching to the handler, the civil liability attaches instead to the State.

- ‘(5) The handler is not criminally responsible for an act done by the drug detection dog in the circumstances to which this section applies other than for an attack by the drug detection dog on a person intentionally caused by the handler or for which the handler is criminally responsible under the Criminal Code, section 289.
- ‘(6) This section does not prevent the State or the handler from relying on another provision of an Act to limit civil liability or criminal responsibility.

Examples of other Acts that may limit civil liability or criminal responsibility—

- *Civil Liability Act 2003*
- Criminal Code, sections 25, 271, 272 and 273
- *Police Service Administration Act 1990*, section 10.5

- ‘(7) In this section—

bodily harm includes physical injury, grievous bodily harm, and death, but does not include mental, psychological or emotional harm.

handler, of a drug detection dog, includes a police officer helping the handler of the drug detection dog.

‘31F **Effect of part on use of drug detection dogs under search warrants**

‘To remove any doubt, it is declared that this part does not restrict the powers of a police officer to use a drug detection dog to carry out drug detection in conducting a search of a place under a search warrant or without a warrant.’.

5 **Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definition *search*—
omit.
- (2) Schedule 4—

insert—

‘drug detection, for chapter 2, part 2A, see section 31A.

drug detection dog, for chapter 2, part 2A, see section 31A.

event, for chapter 2, part 2A, see section 31A.

handler, for chapter 2, part 2A, see section 31A.

licensed premises, for chapter 2, part 2A, see section 31A.

search—

- (a) includes frisk search a person; but
- (b) does not include the use of a drug detection dog to carry out drug detection under chapter 2, part 2A, even if the drug detection dog physically intrudes onto a person or the clothing of a person.

unlawful dangerous drug, for chapter 2, part 2A, see section 31A.’.

- (3) Schedule 4, definition *enforcement act*, paragraphs (a) to (c)—

omit, insert—

‘(a) the search of a person, other than—

- (i) under chapter 9, part 2;¹ or
 - (ii) by using a drug detection dog to carry out drug detection under chapter 2, part 2A;
- (b) the search of a vehicle, other than—
- (i) at a roadblock; or
 - (ii) by using a drug detection dog to carry out drug detection under chapter 2, part 2A;
- (c) the search of premises, other than—
- (i) a vehicle or a public place; or
 - (ii) by using a drug detection dog to carry out drug detection under chapter 2, part 2A;’.

¹ Chapter 9 (Other powers), part 2 (Preserving safety for special events)

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