



Queensland

Criminal Code and Civil Liability Amendment Bill 2007



Queensland

Criminal Code and Civil Liability Amendment Bill 2007

Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Commencement	4
Part 2	Amendment of Criminal Code	
3	Code amended in pt 2	4
4	Amendment of s 328A (Dangerous operation of a vehicle)	4
5	Amendment of s 408D (Computer hacking and misuse)	6
6	Insertion of new s 408D	6
	408D Obtaining or dealing with identification information	6
Part 3	Amendment of Civil Liability Act 2003	
7	Act amended in pt 3	8
8	Amendment of s 5 (Civil liability excluded from Act).	8
9	Insertion of new ch 5, pt 5	9
	Part 5 Transitional provision for Criminal Code and Civil Liability Amendment Act 2007	
83	Personal injury to which the amended s 5 extends as a result of the amendment.	9

2007

A Bill

for

**An Act to amend the Criminal Code and the *Civil Liability Act*
2003**

Criminal Code and Civil Liability Amendment Bill
2007

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Criminal Code and Civil Liability Amendment Act 2007*. 4
5

Clause 2 Commencement 6

Part 3 is taken to have commenced on 6 November 2006. 7

Part 2 Amendment of Criminal Code 8

Clause 3 Code amended in pt 2 9

This part amends the Criminal Code. 10

Clause 4 Amendment of s 328A (Dangerous operation of a vehicle) 11

(1) Section 328A(2)(b)— 12

renumber as section 328A(2)(c). 13

(2) Section 328A(2)— 14

insert— 15

‘(b) at the time of committing the offence is excessively speeding or taking part in an unlawful race or unlawful speed trial; or’. 16
17
18

(3) Section 328A(4), from ‘liable upon conviction’, first mention— 19
20

omit, insert— 21

Criminal Code and Civil Liability Amendment Bill
2007

- ‘liable on conviction on indictment— 1
- (a) to imprisonment for 10 years, if neither paragraph (b) 2
nor (c) applies; or 3
- (b) to imprisonment for 14 years if, at the time of 4
committing the offence, the offender is— 5
- (i) adversely affected by an intoxicating substance; or 6
- (ii) excessively speeding; or 7
- (iii) taking part in an unlawful race or unlawful speed 8
trial; or 9
- (c) to imprisonment for 14 years, if the offender knows, or 10
ought reasonably know, the other person has been killed 11
or injured, and the offender leaves the scene of the 12
incident, other than to obtain medical or other help for 13
the other person, before a police officer arrives.’. 14
- (4) Section 328A(5), definitions *high alcohol limit* and *place*— 15
omit. 16
- (5) Section 328A(5)— 17
insert— 18
- ‘***excessively speeding*** means driving or operating a vehicle at 19
a speed more than 40km/h over the speed limit applying to the 20
driver under the *Transport Operations (Road Use*
Management) Act 1995. 21
22
- place*** does not include a place being lawfully used to race or 23
test vehicles under a licence or another authority under an Act 24
and from which other traffic is excluded at the time. 25
- unlawful race*** means a race involving a vehicle in 26
contravention of the *Transport Operations (Road Use*
Management) Act 1995, section 85. 27
28
- unlawful speed trial*** mean a trial of the speed of a vehicle in 29
contravention of the *Transport Operations (Road Use*
Management) Act 1995, section 85.’. 30
31
- (6) Section 328A(5) and (6)— 32
relocate and *renumber* as section 328A(6) and (5) 33
respectively. 34

Criminal Code and Civil Liability Amendment Bill
2007

Clause 5	Amendment of s 408D (Computer hacking and misuse)	1
	Section 408D—	2
	<i>renumber</i> as section 408E.	3
 Clause 6	 Insertion of new s 408D	 4
	After section 408C—	5
	<i>insert</i> —	6
	‘408D Obtaining or dealing with identification information	7
	‘(1) A person who obtains or deals with another entity’s identification information for the purpose of committing, or facilitating the commission of, an indictable offence commits a misdemeanour.	8 9 10 11
	Maximum penalty—3 years imprisonment.	12
	‘(2) For subsection (1), it is immaterial whether the other entity is alive or dead, or exists or does not exist, or consents or does not consent to the obtaining or dealing.	13 14 15
	‘(3) When a court is sentencing a person for an offence against subsection (1), the court may order that the court’s certificate be issued to the other entity stating the offence, the entity’s name and anything else the court considers relevant for the entity’s benefit.	16 17 18 19 20
	‘(4) The order may be made on the court’s own initiative or on application by the entity or the prosecutor.	21 22
	‘(5) If the person is sentenced on a plea of guilty, the certificate may be given to the entity immediately.	23 24
	‘(6) If subsection (5) does not apply, the certificate must not be given to the entity until the later of the following—	25 26
	(a) the end of any period allowed for appeal against conviction;	27 28
	(b) if an appeal is started—the end of any proceedings on the appeal.	29 30
	‘(7) In this section—	31

Criminal Code and Civil Liability Amendment Bill
2007

<i>dealing</i> , with identification information, includes supplying or using the information.	1 2
<i>digital signature</i> means encrypted electronic or computer data intended for the exclusive use of a particular person as a means of identifying himself or herself as the sender of an electronic communication.	3 4 5 6
<i>identification information</i> , of another entity, means information about, or identifying particulars of, the entity that is capable of being used, whether alone or in conjunction with other information, to identify or purportedly identify the entity.	7 8 9 10 11
<i>Examples for an entity that is an individual—</i>	12
• information about the individual or the individual’s relatives including name, address, date of birth, marital status and similar information	13 14 15
• the individual’s driver licence or driver licence number	16
• the individual’s passport or passport number	17
• anything commonly used by an individual to identify himself or herself, including a digital signature	18 19
• the individual’s financial account numbers, user names and passwords	20 21
• a series of numbers or letters (or a combination of both) intended for use as a means of personal identification	22 23
• any data stored or encrypted on the individual’s credit or debit card	24
• biometric data relating to the individual	25
• the individual’s voice print	26
• a false driver licence or other false form of identification for a fictitious individual	27 28
<i>Examples for an entity that is a body corporate—</i>	29
• the body corporate’s name	30
• the body corporate’s ABN	31
• the body corporate’s financial account numbers	32
• any data stored or encrypted on a credit or debit card issued to the body corporate	33 34
<i>obtaining</i> , identification information, includes possessing or making the information.’.	35 36

	Part 3	1
	Amendment of Civil Liability Act 2003	2
Clause 7	Act amended in pt 3	3
	This part amends the <i>Civil Liability Act 2003</i> .	4
Clause 8	Amendment of s 5 (Civil liability excluded from Act)	5
	(1) Section 5, from ‘any civil claim’ to ‘claimant’—	6
	<i>omit, insert—</i>	7
	‘deciding liability or awards of damages for personal injury if the harm resulting from the breach of duty’.	8 9
	(2) Section 5(a) and (b), ‘as defined’—	10
	<i>omit, insert—</i>	11
	‘for which compensation is payable’.	12
	(3) Section 5—	13
	<i>insert—</i>	14
	‘(2) For subsection (1)(a) or (b), the following is immaterial—	15
	(a) whether compensation for the injury is actually claimed under the relevant Workers’ Compensation Act;	16 17
	(b) whether the entitlement to seek damages for the injury is regulated under that Act.	18 19
	‘(3) To remove any doubt, it is declared that a breach of duty mentioned in subsection (1) includes a breach of duty giving rise to a dependency claim.	20 21 22
	‘(4) In this section—	23
	compensation for injury, under a relevant Workers’ Compensation Act, includes payment of—	24 25
	(a) reasonable expenses for medical treatment or attendance; and	26 27
	(b) funeral expenses.	28

Criminal Code and Civil Liability Amendment Bill
2007

- relevant Workers' Compensation Act* means— 1
- (a) for compensation, or an entitlement to seek damages, 2
for an injury mentioned in subsection (1)(a)—the 3
WorkCover Queensland Act 1996; or 4
- (b) for compensation, or an entitlement to seek damages, 5
for an injury mentioned in subsection (1)(b)—the 6
Workers' Compensation and Rehabilitation Act 2003.'. 7

Clause 9	Insertion of new ch 5, pt 5	8
	After section 82—	9
	<i>insert—</i>	10
'Part 5	Transitional provision for Criminal Code and Civil Liability Amendment Act 2007	11 12 13
'83	Personal injury to which the amended s 5 extends as a result of the amendment	14 15
	‘(1) It is declared that section 5, to the extent it is amended by the amending Act, has effect to disapply this Act to a decision in relation to personal injury only if the personal injury, or any part of it, is or was caused on or after 6 November 2006.	16 17 18 19
	‘(2) However, section 5, to the extent it is amended by the amending Act, does not have effect to disapply this Act to a decision in relation to personal injury if, before the date of assent of the amending Act—	20 21 22 23
	(a) the parties have entered into an agreement to pay damages for the personal injury; or	24 25
	(b) the trial in relation to the personal injury has started but final relief has not been granted by the court; or	26 27
	(c) final relief in relation to the personal injury has been granted by a court.	28 29
	‘(3) Section 5, as in force before 6 November 2006, continues to apply in relation to a decision mentioned in subsection (2).	30 31

Criminal Code and Civil Liability Amendment Bill
2007

- (4) In this section— 1
- amending Act* means the *Criminal Code and Civil Liability Amendment Act 2007*. 2
3
- final relief*, in relation to personal injury, means the judgment 4
or decision for the civil claim in relation to the personal injury, 5
including the judgment or decision about liability only, 6
whether or not an appeal has been made against the judgment 7
or decision.’. 8