

Queensland



# **PUBLIC SAFETY PRESERVATION ACT 1986**

**Reprinted as in force on 15 January 1996  
(includes amendments up to Act No. 58 of 1995)**

**Reprint No. 1**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 15 January 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- correct spelling and use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 36 and 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
  - **table of changed names and titles**
  - **table of changed citations and remade laws**
  - **table of obsolete and redundant provisions**
  - **table of renumbered provisions.**

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**PUBLIC SAFETY PRESERVATION ACT  
1986**

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# **PUBLIC SAFETY PRESERVATION ACT 1986**

[as amended by all amendments that commenced on or before 15 January 1996]

**An Act to provide protection for members of the public in situations of emergency that create or may create danger of death, injury or distress to any person, loss of or damage to any property or pollution of the environment and for related purposes**

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Public Safety Preservation Act 1986*.

### **Crown bound**

3. This Act binds the Crown.

### **Definitions**

4. In this Act—

**“commissioned officer”** means any police officer of or above the rank of inspector.

**“emergency situation”** means—

- (a) any explosion or fire; or
- (b) any oil or chemical spill; or
- (c) any escape of gas, radioactive material or flammable or combustible liquids; or
- (d) any accident involving an aircraft, or a train, vessel or vehicle; or

- (e) any incident involving a bomb or other explosive device or a firearm or other weapon; or
- (f) any other accident;

that causes or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment, includes a situation arising from any report in respect of any of the matters referred to in paragraphs (a) to (f) which if proved to be correct would cause or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment.

**“incident coordinator”** see section 5.

**“premises”** includes a building or structure or any part thereof, any tent, caravan, railway rolling stock, motor vehicle or other vehicle, ship, aircraft, vessel, messuage, land, easement and tenement of any tenure.

**“resource”** means any animal or anything which may provide aid or be of assistance in any emergency situation.

## **PART 2—EMERGENCY SITUATION**

### **Declaration of emergency situation**

**5.(1)** Subject to section 6, if at any time a commissioned officer (the **“incident coordinator”**) is satisfied on reasonable grounds that an emergency situation has arisen or is likely to arise the commissioned officer may declare that an emergency situation exists in respect of an area specified by the commissioned officer.

**(2)** The commissioned officer who declares that an emergency situation exists shall be hereinafter referred to as the **“incident coordinator”**.

**(3)** The incident coordinator, as soon as practicable after he or she declares that an emergency situation exists, shall issue a certificate to this effect signed by the incident coordinator which certificate shall set out the nature of the emergency situation, the time and date it was declared to exist and the area in respect of which it exists.

(4) The declaration that an emergency situation exists shall continue until revoked by the incident coordinator.

(4A) The incident coordinator shall as soon as practicable thereafter, note the time and date of the revocation on the certificate issued pursuant to subsection (3).

(5) The certificate issued in respect of an emergency situation shall be forwarded to the office of the Commissioner of the Police Service within 14 days of the revocation of the declaration of the emergency situation and shall be held in that office for a period of at least 6 years.

### **State Counter-Disaster Organization Act**

6.(1) A declaration pursuant to section 5 shall not be made in respect of an emergency situation which is being dealt with under a state of disaster declared pursuant to the *State Counter-Disaster Organization Act 1975*.

(2) A declaration pursuant to section 5 which is in force when a state of disaster is declared pursuant to the *State Counter-Disaster Organization Act 1975*, shall be revoked by the incident coordinator when the emergency situation can be effectively dealt with under that Act.

### **Power to delegate**

7.(1) If during any period the incident coordinator ceases to act as incident coordinator, the incident coordinator may delegate his or her powers under this Act, (including the power to subdelegate the powers), to a police officer for the period.

(2) However, the incident coordinator may not delegate the power to issue a certificate or make a note on a certificate under section 5.<sup>1</sup>

(3) The delegation by the incident coordinator shall remain in force until revoked by the incident coordinator or until the revocation of the declaration referred to in section 5(4), whichever event first occurs.

(4) The incident coordinator shall note details of each delegate, the powers delegated to the delegate and the period of each delegation in writing on the certificate referred to in section 5(3) as soon as practicable after each

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<sup>1</sup> Section 5 (Declaration of emergency situation)

delegation is revoked or after the revocation of the declaration referred to in section 5(4) as the case may be.

### **Powers of incident coordinator**

8. Where during the period of and in the area specified in respect of an emergency situation the incident coordinator is satisfied on reasonable grounds that it is necessary to effectively deal with that emergency situation he or she (and any other police officer acting on his or her instructions) may—

- (a) direct the owner or the person for the time being in charge or in control of any resource to surrender it and place it under his or her control;
- (b) take control of any resource, whether it is in the charge or control of any person or not;
- (c) in respect of any resource under his or her control, direct any person who is capable of operating that resource to operate it as directed by him or her, provided that a direction shall not be given to any person to operate any resource where the operation of the resource would expose that person to imminent danger;
- (d) direct the evacuation and exclusion of any person or persons from any premises and for this purpose may remove or cause to be removed (using such force as is necessary for that purpose) any person who does not comply with a direction to evacuate or any person who enters, attempts to enter or is found in or on any premises in respect of which a direction for the exclusion of persons has been given;
- (e) close or cause to be closed to traffic and pedestrians, any road, street, motorway, private road, private way, service lane, footway, right of way, access way or other way or close any place to which members of the public have access whether on payment of a fee or otherwise;
- (f) enter or cause to be entered (using such force as is necessary for that purpose) any premises;
- (g) search or cause to be searched (using such force as is necessary



for that purpose) any premises and anything found therein or thereon;

- (h) remove or cause to be removed from any premises (using such force as is necessary for that purpose) any animal or anything;
- (i) direct any person to assist him or her in the manner specified by him or her, provided that a direction to assist shall not be given to any person where to provide assistance as directed would expose that person to imminent danger.

### **Protection of employment rights**

**9.(1)** A person shall not dismiss from employment any employee by reason only of the employee's absence during the period of an emergency situation where the absence of the employee is as a result of a direction given to him or her pursuant to section 8.

**(2)** This Act shall not be construed to prejudice any right of action by any person in respect of wrongful dismissal.

**(3)** For the purpose of calculating the entitlement of any employee to long service leave, sick leave, recreation leave or other benefits to which the employee is entitled, the continuity of service of the employee shall be deemed not to have been broken by reason only of the employee's absence as a result of a direction given to him or her pursuant to section 8.

**(4)** Where an employee has operated a resource as directed pursuant to section 8(c) or assisted as directed pursuant to section 8(i), his or her employer shall pay the employee wages in respect of the period of that operation or assistance that takes place during the employee's normal working hours as if the employee was acting in the course of his or her usual employment for that employer.

**(5)** Subsections (1) to (4) apply whether or not the employer in question has consented to the absence of the employee in the circumstances set out therein.

### **Compensation for personal injury**

**10.** Any person, other than a police officer, who is acting under the direction of the incident coordinator, the acting incident coordinator or any

police officer pursuant to section 8, shall be deemed to be a worker (within the meaning of the *Workers' Compensation Act 1990*) acting in the course of his or her employment and the provisions of that Act shall apply accordingly.

### **Compensation for use of or damage to property**

**11.(1)** Where any property is used or damaged as a result of the exercise by the incident coordinator, the acting incident coordinator or any police officer of the powers set out in section 8, any person who has suffered financial loss as a result of that use or damage (the “**claimant**”) may make application to the Minister for compensation for that use or damage.

**(2)** The claimant shall provide details of his or her financial loss to the Minister within 28 days of the notation of the revocation of the emergency situation on the certificate pursuant to section 5(4).

**(3)** The Governor in Council may either approve an ex gratia payment to the claimant of such amount as the Governor in Council considers appropriate, or may reject the application for compensation.

**(4)** Compensation payable under this section shall be paid from the consolidated fund (which is hereby to the necessary extent appropriated accordingly).

## **PART 3—POWERS OF POLICE**

### **Name and address**

**12.(1)** Any police officer who—

- (a) finds any person committing or reasonably suspects any person of having committed or being about to commit any offence against this Act; or
- (b) is making investigations with a view to establishing whether or not an offence against this Act has been or is about to be committed by any person;

may demand from that person such particulars of his or her name and address as are required by that police officer and if the police officer has reasonable grounds to suspect that any particular given is false may require evidence of the correctness thereof.

(1A) If that person fails upon demand to give any particulars or such evidence, the police officer shall caution the person, and, if the person still persists in such failure, or gives any particular which in the opinion of the police officer is false, may arrest the person without warrant, and take the person as soon as practicable before a justice to be dealt with according to law.

(2) A person required under this section to give any particulars who fails to give those particulars or who gives any false particular or gives false evidence with respect thereto, commits an offence against this Act.

### **Assault on police**

13. A person shall not—

- (a) assault, resist, obstruct or hinder; or
- (b) aid or incite any other person to assault, resist, obstruct or hinder;

any police officer in the execution or discharge of any power, function or duty that the police officer may exercise or is required to discharge pursuant to the provisions of this Act.

### **Power of arrest**

14.(1) A police officer may arrest without warrant any person who the police officer believes on reasonable grounds has committed or is committing an offence against this Act.

(2) A police officer who arrests a person under the authority of this Act shall take that person as soon as practicable before a justice to be dealt with accordingly to law.

(3) Subsection (1) shall not be construed to prejudice the taking of proceedings against an offender by way of complaint and summons under the *Justices Act 1886*.

**Finger prints and other particulars**

**15.(1)** Where a person has been charged with an offence against this Act a police officer may take or cause to be taken all such particulars as may be considered necessary for the identification of that person, including the person's voiceprint, photograph, fingerprints, palmprints, footprints, toeprints and handwriting.

**(1A)** Except in the case of the person's voiceprint and handwriting such force as is necessary may be used in the taking of those particulars.

**(2)** A court which convicts a person who appears personally before it, of an offence against this Act, may in its discretion order that person into the custody of a police officer for the purpose of obtaining any particulars referred to in subsection (1) and that police officer and any police officer acting in aid of him or her shall take (using such force as is necessary for that purpose) that person to a place where those particulars can adequately be taken and take those particulars.

**(2A)** Except in the case of that person's voiceprint and handwriting such force as is necessary may be used in the taking of those particulars.

**(2B)** Whether or not the particulars are obtained, that custody shall cease at the expiration of 1 hour after the court makes its order.

**(3)** Where a person arrested and charged with an offence against this Act is found not guilty or is not proceeded against in respect of that offence, any voiceprint, photograph, fingerprints, palmprints, footprints, toeprints or specimens of handwriting taken from the person pursuant to subsection (1) or (2) shall, at the person's request, be destroyed in his or her presence unless—

- (a) the person has been arrested upon a charge of any other offence, which charge is then pending; or
- (b) the person has been convicted of any other offence; or
- (c) those particulars are required as evidence in respect of any other offence alleged to have been committed by that person.

**(4)** A person shall not—

- (a) refuse or fail to provide; or

(b) resist the taking of;  
any particular required to be provided or taken under this section.

## **PART 4—GENERAL PROVISIONS**

### **Offences generally**

**16.(1)** A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

**(2)** A person who—

- (a) fails to do that which he or she is directed or required to do; or
- (b) does that which he or she is forbidden to do;

by a police officer under the authority of this Act commits an offence against this Act.

**(3)** A person who commits an offence against this Act is liable to a penalty not exceeding 40 penalty units or to imprisonment for a term not exceeding 12 months.

**(4)** A prosecution for an offence against this Act may be by way of summary proceeding under the *Justices Act 1886* upon the complaint of any police officer.

**(5)** In all proceedings under this Act any police officer, although not the informant or the complainant, may appear and act in court on behalf of the prosecution.

### **Protection from liability**

**17.** Liability at law shall not attach to the Crown, the Minister, the incident coordinator, any police officer, or any other person on account of any act or thing—

- (a) done or omitted to be done pursuant to this Act; or
- (b) done or omitted to be done bona fide for the purposes of this Act and without negligence.

**Evidentiary provisions**

**18.** In a proceeding for the purpose of this Act—

- (a) it shall not be necessary to prove the appointment of the Minister, the incident coordinator or any police officer to do any act or take any proceeding;
- (b) a signature purporting to be that of the Minister, the incident coordinator or any police officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be a copy of a certificate declaring an emergency situation pursuant to section 5 shall, upon its production in that proceeding be evidence and in the absence of evidence to the contrary, conclusive evidence of that certificate and of the matters contained therein.

**ENDNOTES****1 Index to 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 15 January 1996. Future amendments of the Public Safety Preservation Act 1986 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

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

### 4 List of legislation

#### Public Safety Preservation Act 1986 No. 25

date of assent 8 April 1986  
 commenced on date of assent  
 as amended by—

#### Statute Law Revision Act 1995 (No. 2) No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995  
 commenced on date of assent

### 5 List of annotations

#### Arrangement of Act

s 2 om R1 (see RA s 36)

#### Definitions

prov hdg sub 1995 No. 58 s 4 sch 1

s 4 def “**incident coordinator**” ins 1995 No. 58 s 4 sch 1  
 def “**member of the police force**” om 1995 No. 58 s 4 sch 1  
 def “**Minister**” om 1995 No. 58 s 4 sch 1

#### Declaration of emergency situation

s 5 amd 1995 No. 58 s 4 sch 1



**State Counter-Disaster Organization Act**

s 6 amd 1995 No. 58 s 4 sch 1

**Power to delegate**

s 7 amd 1995 No. 58 s 4 sch 1

**Powers of incident coordinator**

s 8 amd 1995 No. 58 s 4 sch 1

**Compensation for use of or damage to property**

s 11 amd 1995 No. 58 s 4 sch 1

**Offences generally**

s 16 amd 1995 No. 58 s 4 sch 1

**Protection from liability**

s 17 amd 1995 No. 58 s 4 sch 1

**Evidentiary provisions**

s 18 amd 1995 No. 58 s 4 sch 1

**6 Table of changes names and titles**TABLE OF CHANGED NAMES AND TITLES  
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
commissioner (of police)	commissioner (of the police service)	Police Service Administration Act 1990 s 11.1(1)(b)
consolidated revenue fund	consolidated fund	Financial Administration and Audit Act 1977 s 112
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)

**7 Table of changed citations and remade laws**TABLE OF CHANGED CITATIONS AND REMADE LAWS  
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Workers' Compensation Act 1916	Workers' Compensation Act 1990	Workers' Compensation Act 1990 s 206

**8 Table of obsolete and redundant provisions**TABLE OF OBSOLETE AND REDUNDANT PROVISIONS  
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35
penalty provision permitting fine or imprisonment permits both	Penalties and Sentences Act 1992 s 180A

**9 Table of renumbered provisions**TABLE OF RENUMBERED PROVISIONS  
under the Reprints Act 1992 s 43

Previous	Renumbered as
5(4), 2nd sentence . . . . .	5(4A)
12(1), 2nd sentence . . . . .	12(1A)
15(1), 2nd sentence . . . . .	15(1A)
15(2), 2nd sentence . . . . .	15(2A)
15(2), 3rd sentence . . . . .	15(2B)