



Queensland

# Summary Offences and Other Legislation Amendment Act 2019

**Act No. 35 of 2019**

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**An Act to amend the Police Powers and Responsibilities Act 2000, the State Penalties Enforcement Regulation 2014 and the Summary Offences Act 2005 to address the use of dangerous attachment devices**

**[Assented to 30 October 2019]**





## Queensland

# Summary Offences and Other Legislation Amendment Act 2019

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Summary Offences and Other Legislation Amendment Act 2019*.

## **Part 2 Amendment of Police Powers and Responsibilities Act 2000**

### **2 Act amended**

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

### **3 Amendment of s 30 (Prescribed circumstances for searching persons without warrant)**

(1) Section 30—

*insert—*

(k) the person has something that may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.

(2) Section 30—

*insert—*

(2) For subsection (1)(k), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—

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- (a) unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

*Example—*

placing an obstacle, on a railway, that stops the passage of rolling stock

- (b) stops a person from entering or leaving a place of business; or
- (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

#### **4 Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)**

- (1) Section 32(1)—

*insert—*

- (p) may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.

- (2) Section 32—

*insert—*

- (3) For subsection (1)(p), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—

- (a) unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

*Example—*

placing an obstacle, on a railway, that stops the passage of rolling stock

- (b) stops a person from entering or leaving a place of business; or

- (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

## 5 Insertion of new s 53AA

After section 53A—

*insert—*

### **53AA Seizure and disposal of dangerous attachment devices**

- (1) This section applies if a police officer—
  - (a) finds a dangerous attachment device; and
  - (b) reasonably suspects the dangerous attachment device has been used, or is to be used, to disrupt a relevant lawful activity.
- (2) For subsection (1)(b), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—

- (a) unreasonably interferes with the ordinary operation of transport infrastructure; or

*Example—*

placing an obstacle, on a railway, that stops the passage of rolling stock

- (b) stops a person from entering or leaving a place of business; or
  - (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.
- (3) The police officer may do 1 or both of the following—
    - (a) deactivate or disassemble the dangerous attachment device to the extent the police officer considers reasonably necessary;

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- (b) seize all or parts of the dangerous attachment device.
- (4) If the police officer exercises the power under subsection (3) to seize a dangerous attachment device or parts of a device, the device or part is taken to have been forfeited to the State immediately after the police officer seizes it.
- (5) To remove any doubt, it is declared that a police office may disassemble a dangerous attachment device and choose to seize only some of the disassembled parts.
- (6) In this section—  
*deactivate*, a dangerous attachment device, includes to make the device safe or unusable.  
*transport infrastructure* see the *Transport Infrastructure Act 1994*, schedule 6.

## **6 Amendment of s 720 (Application of div 7)**

Section 720(2)—

*omit, insert—*

- (2) This division applies to a forfeited thing only after all proceedings relating to the offence or suspected offence for which the thing was forfeited are finally decided.
- (3) However, the delay of the application of this division under subsection (2) does not apply to the following things—
  - (a) a dangerous attachment device forfeited under section 53AA;
  - (b) a thing forfeited under division 6.

## **6A Insertion of new s 808B**

After section 808A—



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*insert—*

**808B Annual report about dangerous attachment devices**

- (1) As soon as practicable after the end of each financial year, the commissioner must prepare and give to the Minister a report about the use by police officers of particular powers relating to dangerous attachment devices.
- (2) The report must include the following information for the financial year to which it relates—
  - (a) when and where a person was searched under section 29 in the circumstances mentioned in section 30(1)(k);
  - (b) when and where a vehicle was searched under section 31 in the circumstances mentioned in section 32(1)(p);
  - (c) if any thing was seized in a search mentioned in paragraph (a) or (b)—
    - (i) when and where the thing was seized; and
    - (ii) a description of the thing; and
    - (iii) whether the thing was returned, disposed of or destroyed.
- (3) The report must not include any information identifying, or that is likely to lead to the identification of, a person who was the subject of an exercise of a power mentioned in subsection (2).
- (4) Within 14 sitting days after receiving the report, the Minister must table a copy of the report in the Legislative Assembly.

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**7 Amendment of sch 6 (Dictionary)**

Schedule 6—

*insert—*

*dangerous attachment device* see the *Summary Offences Act 2005*, section 14B.

**Part 3 Amendment of State Penalties Enforcement Regulation 2014**

**8 Regulation amended**

This part amends the *State Penalties Enforcement Regulation 2014*.

**9 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)**

Schedule 1, entry for *Summary Offences Act 2005*—

*insert—*

s 14C(1)	5
s 14C(2)	2

**Part 4 Amendment of Summary Offences Act 2005**

**10 Act amended**

This part amends the *Summary Offences Act 2005*.

**11 Insertion of new pt 2, div 2A**

Part 2—

*insert—*

## **Division 2A      Offence involving use of dangerous attachment devices**

### **14A What is an *attachment device***

- (1) An *attachment device* is a device that reasonably appears to be constructed or modified to enable a person using the device to resist being safely removed from a place or safely separated from a thing.
- (2) To remove any doubt, it is declared that none of the following things is an attachment device unless it is a component of a dangerous attachment device—
  - (a) glue;
  - (b) a bike lock;
  - (c) a padlock;
  - (d) a rope;
  - (e) a chain.
- (3) In this section—

*bike lock* means a device manufactured and sold as a device for securing a bicycle while the device is locked.

### **14B What is a *dangerous attachment device***

- (1) An attachment device is a *dangerous attachment device* if it—
  - (a) reasonably appears to be constructed or modified to cause injury to a person who attempts to interfere with the device; or

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- (b) reasonably appears to be constructed or modified to cause injury to a person if another person interferes with the device; or
  - (c) incorporates a dangerous substance or thing.
- (2) Also, a sleeping dragon, dragon's den, monopole and tripod are each a ***dangerous attachment device***.
- (3) An attachment device is a ***sleeping dragon*** if it incorporates—
- (a) an anchor point for a person to hold or to which a person's hand can be bound or locked; and
  - (b) a casing that shields the person's hand, or the binding or lock, from being released by another person.

*Example of a sleeping dragon—*

two large steel pipes welded together at an angle with a thick pin fixed in the centre

- (4) An attachment device is a ***dragon's den*** if it—
- (a) incorporates 1 or more sleeping dragons or tubes large enough to pass a person's hand through; and
  - (b) reinforces the casing of the sleeping dragon or tube by adding bulk and weight.

*Example of a dragon's den—*

a 44-gallon drum incorporating a sleeping dragon and otherwise filled with concrete

- (5) An attachment device is a ***monopole*** if—
- (a) it relies on a long pole and support riggings to suspend a person off the ground; and
  - (b) it reasonably appears to be set up to fall if another person interferes with the support riggings; and

- (c) a fall of the device would cause injury to the person suspended from it.
- (6) An attachment device is a *tripod* if—
- (a) the legs of the device form a tripod large enough to be used to suspend a person off the ground; and
  - (b) it reasonably appears to be set up to collapse if another person interferes with the legs of the device or any support riggings for the device; and
  - (c) a collapse of the device would cause injury to the person suspended from it.
- (7) To remove any doubt, it is declared that a device is a dangerous attachment device under this section regardless of whether—
- (a) persons using the device can release themselves from it; or
  - (b) the device would automatically deactivate or release itself after a period of time; or
  - (c) protective clothing or other shielding would prevent injury to any person.
- (8) In this section—
- attachment device* see section 14A.
- dangerous substance or thing*, for a dangerous attachment device, means—
- (a) any thing likely to explode, when struck or compressed, causing injury to a person; or
  - (b) any thing likely to cut a person's skin while a person is being extricated from the dangerous attachment device; or
  - (c) any substance or thing that requires a person to wear protective clothing to safely handle, cut or break up the thing while a person is

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being extricated from the dangerous attachment device.

*Example for paragraph (c)—*

a pipe or casing made of asbestos

***interfere***, with a thing, includes to cut, damage, deactivate, move or release the thing.

***protective clothing*** means clothing, eyewear or masks designed to protect the wearer from infection or injury caused by chemicals, electricity or heat.

***support riggings***, for a thing, means the cables, chains, ropes or other materials used to stabilise the thing in a particular position.

#### **14C Use of dangerous attachment device to disrupt lawful activities**

- (1) A person must not use a dangerous attachment device to unreasonably interfere with the ordinary operation of transport infrastructure, unless the person has a reasonable excuse.

*Example of unreasonably interfering with transport infrastructure—*

placing an obstacle, on a railway, that stops the passage of rolling stock

Maximum penalty—50 penalty units or 2 years imprisonment.

- (2) A person must not use a dangerous attachment device to do either of the following, unless the person has a reasonable excuse—
- (a) stop a person from entering or leaving a place of business;
  - (b) cause a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

Maximum penalty—20 penalty units or 1 year’s imprisonment.

(3) However, subsection (2) does not apply to a monopole or tripod unless it incorporates a dangerous substance or thing.

(4) In this section—

*dangerous attachment device* see section 14B.

*dangerous substance or thing* see section 14B(8).

*monopole* see section 14B(5).

*transport infrastructure* see the *Transport Infrastructure Act 1994*, schedule 6.

*tripod* see section 14B(6).

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