



Queensland

# **Crime and Misconduct and Summary Offences Amendment Act 2009**

**Act No. 12 of 2009**





Queensland

# Crime and Misconduct and Summary Offences Amendment Act 2009

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	4
<b>Part 2</b>	<b>Amendment of Crime and Misconduct Act 2001</b>	
2	Act amended . . . . .	4
3	Amendment of s 5 (How Act's purposes are to be achieved). . . . .	4
4	Amendment of s 25 (Commission's major crime function) . . . . .	4
5	Amendment of s 26 (How commission performs its crime function) . . . . .	4
6	Replacement of ss 27 and 28. . . . .	5
	26A Definitions for div 2. . . . .	5
	27 Referrals to commission. . . . .	5
	28 Matters about which the reference committee must be satisfied before making a referral . . . . .	7
7	Amendment of s 29 (Reference committee may give commission directions about investigations) . . . . .	8
8	Insertion of new s 29A . . . . .	8
	29A Reference committee must consider whether to give commission directions in relation to particular crime investigation under general referral . . . . .	8
9	Amendment of s 30 (Amendment of referral to investigate). . . . .	9
10	Insertion of new s 30A . . . . .	9
	30A Review and lapse of general referrals . . . . .	9
11	Amendment of s 31 (Referrals to police service) . . . . .	10
12	Amendment of s 275 (Functions of reference committee) . . . . .	10
13	Amendment of s 277 (Reference committee may obtain information from commission) . . . . .	10
14	Insertion of new ch 8, pt 7 . . . . .	11
	Part 7 Crime and Misconduct Amendment Act 2009	

Contents

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	386	Validation of referrals . . . . .	11
	387	Declaration . . . . .	12
	388	Preservation of limitations and amendments . . . . .	12
	389	Validation of crime investigations . . . . .	13
	390	Validation of use of information or evidence obtained by crime investigations conducted under referrals . . .	13
	391	Review and lapsing of general referrals . . . . .	14
15		Amendment of sch 2 (Dictionary) . . . . .	14
<b>Part 3</b>		<b>Amendment of Summary Offences Act 2005</b>	
16		Act amended . . . . .	15
17		Insertion of new s 26 . . . . .	15
	26	Endangering the safe use of a vehicle by throwing an object or by a similar activity . . . . .	15



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## **Crime and Misconduct and Summary Offences Amendment Act 2009**

**Act No. 12 of 2009**

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**An Act to amend the Crime and Misconduct Act 2001 and the Summary  
Offences Act 2005 for particular purposes**

**[Assented to 28 May 2009]**

[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Crime and Misconduct and Summary Offences Amendment Act 2009*.

## **Part 2 Amendment of Crime and Misconduct Act 2001**

### **2 Act amended**

This part amends the *Crime And Misconduct Act 2001*.

### **3 Amendment of s 5 (How Act's purposes are to be achieved)**

Section 5(2), 'particular cases of'—  
*omit.*

### **4 Amendment of s 25 (Commission's major crime function)**

Section 25, after 'it'—  
*insert—*  
' , under division 2,'.

### **5 Amendment of s 26 (How commission performs its crime function)**

Section 26(a), after 'it'—

*insert—*

‘, under division 2.’.

## **6 Replacement of ss 27 and 28**

Sections 27 and 28—

*omit, insert—*

### **‘26A Definitions for div 2**

‘In this division—

***general referral*** see section 27(4).

***referral*** means—

- (a) a specific referral; or
- (b) a general referral.

***specific referral*** see section 27(2).

### **‘27 Referrals to commission**

‘(1) The reference committee may refer—

- (a) a particular incident of major crime to the commission for investigation; or
- (b) major crime to the commission for investigation.

*Examples of major crime that may be referred under paragraph (b)—*

- terrorism
- criminal paedophilia facilitated by the use of the internet by offenders to groom children or distribute obscene material depicting children
- organised crime engaged in by a class of person or involving offences of a particular type, for example, money laundering
- criminal activity involving drug trafficking and violence engaged in by members of (*generally identified*) motorcycle gangs and their associates

[s 6]

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- ‘(2) A reference under subsection (1)(a) is called a *specific referral*.
- ‘(3) A specific referral must identify—
  - (a) the particular incident of major crime to be investigated by the commission; and
  - (b) at least 1 of the following—
    - (i) the persons involved, or suspected of being involved, in the particular incident of major crime;
    - (ii) the activity constituting, or suspected of constituting, the particular incident of major crime.
- ‘(4) A reference under subsection (1)(b) is called a *general referral*.
- ‘(5) A general referral—
  - (a) must identify the major crime to be investigated by the commission; and
  - (b) may identify either or both of the following—
    - (i) the persons involved, or suspected of being involved, in the major crime;
    - (ii) the activities constituting, or suspected of constituting, the major crime.
- ‘(6) A referral may relate to any circumstances implying, or any allegations, that a particular incident of major crime, or major crime, may have been committed, may be being committed, or may in the future be committed.
- ‘(7) A referral may be made by the reference committee—
  - (a) for a specific referral—
    - (i) on its own initiative; or
    - (ii) if asked by the assistant commissioner, crime; or
    - (iii) if asked by the commissioner of police; or
  - (b) for a general referral—
    - (i) on its own initiative; or



(ii) if asked by the assistant commissioner, crime.

‘(8) A referral must be in writing.

**‘28 Matters about which the reference committee must be satisfied before making a referral**

‘(1) The reference committee may make a specific referral only if it is satisfied—

- (a) the police service has carried out an investigation into the particular incident of major crime that has not been effective; and
- (b) further investigation into the particular incident of major crime is unlikely to be effective using powers ordinarily available to police officers; and
- (c) it is in the public interest to refer the particular incident of major crime to the commission for investigation.

‘(2) The reference committee may make a general referral only if it is satisfied it is in the public interest to refer the major crime to the commission for investigation.

‘(3) Without limiting the matters to which the reference committee may have regard in deciding whether it is in the public interest to refer a particular incident of major crime, or major crime, to the commission for investigation, the reference committee may have regard to the following—

- (a) the number of persons that may be involved;
- (b) the degree of planning and organisation likely to be involved;
- (c) the seriousness of, or the consequences of, the particular incident of major crime or the major crime;
- (d) the person or persons likely to be responsible for planning and organising the particular incident of major crime or the major crime;
- (e) the likely involvement of the person or persons in similar activities;

[s 7]

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- (f) the financial or other benefits likely to be derived by any person;
  - (g) whether investigation by the commission is a justifiable use of resources.
- ‘(4) Also, without limiting the matters to which the reference committee may have regard in deciding whether it is in the public interest to refer major crime to the commission for investigation (that is, a general referral), the reference committee may have regard to the likely effectiveness of investigation into the major crime using powers ordinarily available to the police service.’

## **7 Amendment of s 29 (Reference committee may give commission directions about investigations)**

- (1) Section 29(2)—

*insert—*

‘(d) investigation by the commission is not in the public interest.’

- (2) Section 29—

*insert—*

- ‘(4) To remove any doubt, it is declared that section 29(2)(d) is not limited by section 28(3) or (4).’

## **8 Insertion of new s 29A**

After section 29—

*insert—*

### **‘29A Reference committee must consider whether to give commission directions in relation to particular crime investigation under general referral**

- ‘(1) This section applies if the assistant commissioner, crime notifies the reference committee under section 277 that the commission has commenced a particular crime investigation under a general referral.

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- ‘(2) The reference committee must, as soon as practicable after the reference committee is notified, consider whether to give the commission a direction under section 29(1) or (2) in relation to the particular crime investigation.’

**9 Amendment of s 30 (Amendment of referral to investigate)**

Section 30, ‘to investigate major crime’—  
*omit.*

**10 Insertion of new s 30A**

After section 30—  
*insert—*

**‘30A Review and lapse of general referrals**

- ‘(1) The reference committee must review each general referral within 5 years of it being made or last confirmed under subsection (5).
- ‘(2) In conducting the review, the reference committee must give fresh consideration to the matters mentioned in section 28(2) to (4) as if a reference in the subsections to a referral were a reference to a confirmation under subsection (5).
- ‘(3) The assistant commissioner, crime may make submissions to the reference committee about its decision on the review if the general referral was initially requested by the assistant commissioner, crime.
- ‘(4) The reference committee may ask the assistant commissioner, crime to help the committee to conduct the review, and, if asked, the assistant commissioner, crime must give the committee the help it needs to conduct the review.
- ‘(5) In deciding the review, the reference committee may—
- (a) confirm the referral with or without amendment; or
  - (b) replace the referral with a referral to the commissioner of police under section 31; or

[s 11]

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(c) end the referral.

‘(6) If the reference committee does not act under subsection (5) before the end of the 5 year period mentioned in subsection (1), the referral lapses.’.

### **11 Amendment of s 31 (Referrals to police service)**

Section 31(1), ‘major crime’—

*omit, insert—*

‘a particular incident of major crime, or major crime.’.

### **12 Amendment of s 275 (Functions of reference committee)**

(1) Section 275(a), ‘this Act’—

*omit, insert—*

‘chapter 2, part 2, division 2’.

(2) Section 275(b)—

*renumber* as section 275(c).

(3) Section 275—

*insert—*

‘(b) to review general referrals under section 30A.’.

### **13 Amendment of s 277 (Reference committee may obtain information from commission)**

(1) Section 277(1) and (2)—

*omit, insert—*

‘(1) The assistant commissioner, crime must—

(a) keep the reference committee informed of the general conduct of the assistant commissioner’s operations in the performance of the commission’s functions in relation to major crime; and



[s 14]

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*Commission Act 1997* is taken to be, and to have always been, a validly made referral; and

- (b) section 355(1) is taken to be, and to have always been, effective to declare each referral or purported referral mentioned in paragraph (a) to be a validly made referral of major crime to the commission by the reference committee under this Act; and
- (c) a referral or purported referral of major crime to the commission by the reference committee under this Act is taken to be, and to have always been, a validly made referral.

### **‘387 Declaration**

‘On the commencement of this part, a referral or purported referral to which section 386 applies is taken to be—

- (a) to the extent the referral identified a particular incident of major crime to be investigated by the commission—a specific referral by the reference committee to the commission under section 27; or
- (b) to the extent the referral otherwise identified major crime to be investigated by the commission—a general referral by the reference committee to the commission under section 27.

### **‘388 Preservation of limitations and amendments**

‘A referral or purported referral to which section 386 or 387 applies is subject to—

- (a) for a referral or purported referral to the crime commission by the management committee under the repealed *Crime Commission Act 1997*—any limitations imposed by the management committee under the repealed *Crime Commission Act 1997*; and
- (b) for a referral or purported referral declared under section 355(1) to be a referral of major crime to the commission by the reference committee under this Act—any

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amendment, or purported amendment, under section 30 or otherwise, of the terms of the referral by the reference committee; and

- (c) for a referral or purported referral of major crime to the commission by the reference committee under this Act—any amendment, or purported amendment, under section 30 or otherwise, of the terms of the referral by the reference committee.

### **‘389 Validation of crime investigations**

- ‘(1) A crime investigation conducted, or being conducted, under a referral or purported referral to which section 386 or 387 applies is taken to be, and to have always been, as valid as if it were a crime investigation conducted, or being conducted, under a referral by the reference committee to the commission under section 27.
- ‘(2) Subsection (1) does not limit the effect of a validation under section 386 or 387.

### **‘390 Validation of use of information or evidence obtained by crime investigations conducted under referrals**

- ‘(1) The use of information or evidence obtained by a crime investigation conducted, or being conducted, under a referral or purported referral to which section 386 or 387 applies, for a purpose mentioned in subsection (2), is taken to be, and to have always have been, as valid as if the information or evidence were obtained by a crime investigation conducted, or being conducted, under a referral by the reference committee to the commission under section 27.
- ‘(2) The purposes are—
- (a) the performance of a function of the crime commission under the repealed *Crime Commission Act 1997*; or
- (b) the performance of a function of the commission under this Act; or

[s 15]

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- (c) the performance of a function of any law enforcement agency or prosecuting authority to which the information or evidence—
    - (i) has been directly or indirectly provided by the crime commission mentioned in paragraph (a) under the repealed *Crime Commission Act 1997*; or
    - (ii) has been or is provided directly or indirectly by the commission under this Act.
- ‘(3) Subsection (1) does not limit the effect of a validation under section 386 or 387.’

### ‘391 Review and lapsing of general referrals

- ‘(1) This section applies to a referral that, under section 387(b), is taken to be a general referral on the commencement of this part.
- ‘(2) The reference committee is to review the referral within a period of 2 years from the commencement.
- ‘(3) Section 30A(2) to (5) applies to the review.
- ‘(4) If the reference committee has not acted under section 30A(5) on the review before the end of the period of 2 years mentioned in subsection (2), the referral lapses.
- ‘(5) If the reference committee confirms the referral, section 30A applies to the referral for the purpose of its future review and lapsing as if it were made on the day it was confirmed.’

## 15 Amendment of sch 2 (Dictionary)

Schedule 2—

*insert—*

‘**general referral**, for chapter 2, part 2, division 2, see section 27(4).

**referral**, for chapter 2, part 2, division 2, see section 26A.



*specific referral*, for chapter 2, part 2, division 2, see section 27(2).’

## **Part 3                          Amendment of Summary Offences Act 2005**

### **16        Act amended**

This part amends the *Summary Offences Act 2005*.

### **17        Insertion of new s 26**

Part 2, division 5—

*insert—*

### **‘26        Endangering the safe use of a vehicle by throwing an object or by a similar activity**

‘(1) A person must not unlawfully—

- (a) throw an object at a vehicle that is in the course of travelling; or
- (b) place an object in or near to the path a vehicle is using or may use in the course of travelling; or
- (c) direct a beam of light from a laser at or near a vehicle that is in the course of travelling;

in a way that endangers or is likely to endanger the safe use of the vehicle.

Maximum penalty—2 years imprisonment.

‘(2) For subsection (1)(a), throwing an object at a vehicle includes throwing or dropping an object onto or near the vehicle or into or near to the path of the vehicle.

‘(3) The following do not matter—

[s 17]

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- (a) the intention with which an object is thrown, dropped or placed or a beam of light from a laser is directed (in any case, the *initial act*);
- (b) whether contact is made with a vehicle;
- (c) without limiting paragraph (a), whether a particular vehicle is involved;
- (d) in relation to a requirement that a vehicle be in the course of travelling—whether the vehicle is moving or stationary;
- (e) whether a vehicle is in the sight of the offender or present when the initial act is done.

‘(4) In this section—

*at* includes towards.

*beam of light*, from a laser, means the beam of radiation produced by a laser device.

*laser* means a laser pointer, laser scope or other laser device.

*path* includes pathway, course and channel.

*place* includes insert and submerge.

*throw* includes propel, project and kick.

*vehicle* see the Criminal Code, section 1.’