

Explanatory Notes

Summary Offences (Protection of the Australian Flag) Amendment Bill 2026

Short title

The short title of the Bill is the *Summary Offences (Protection of the Australian Flag) Amendment Bill 2026*.

Policy Objectives and the reasons for them

Australia's flag, our unifying national symbol, must be protected. Our democracy enshrines the ability for citizens to air grievances with government and the direction it is taking, however burning the Australian flag in public goes beyond all reasonable measures of protest. Burning our flag is an affront to our military service men and women who fought under it to protect our way of life and our ability to have a free and fair democracy. Burning the flag shows utter disdain to the privilege of living in Australia.

The primary objective of the Bill is to protect the Australian National Flag as a national symbol of shared civic significance and to prohibit the burning of an Australian flag in a public place in circumstances where a reasonable person would consider the conduct likely to provoke public disorder, intimidate any person, or cause significant offence to members of the community.

The Bill seeks to make clear that the law may respond to a particular kind of public conduct involving the destruction of the national flag where that conduct is used as an act of agitation, intimidation, or provocation, and where the conduct carries a real likelihood of inflaming disorder or causing significant community offence.

The amendments:

- insert a new Division 1C into Part 2 of the *Summary Offences Act 2005*;
- define "Australian flag" for the purposes of the new division;
- state the objects of the new division;
- create a specific offence relating to burning an Australian flag in a public place in particular circumstances; and
- set out matters to which regard may be had in determining whether the conduct was carried out in a way likely to provoke public disorder, intimidate any person, or cause significant offence to members of the community.

The Bill affirms that the Australian flag is not merely a physical object. It is a national emblem that represents the Commonwealth, the Australian people, and the country's shared civic identity. Public acts of burning the flag, particularly where staged to provoke confrontation or intimidate others, may undermine social cohesion and create flashpoints for unrest. This Bill is directed to that conduct in a targeted way.

The Australian National Flag is recognised under the *Flags Act 1953* (Cwlth) and occupies a unique place as a national symbol. The deliberate public burning of the flag

may be used to provoke public anger, inflame tensions, intimidate members of the public, or create a spectacle designed to amplify division.

The objects clause inserted by the Bill makes the policy intention explicit. The new division is intended, first, to protect the Australian National Flag as a national symbol of shared civic significance and, secondly, to stop agitators burning an Australian flag to provoke public disorder, intimidate persons, or cause significant offence to the community.

The Bill is directed to a confined class of conduct. It does not create a general prohibition on criticism of the nation, political dissent, or the expression of unpopular views. Rather, it addresses the public burning of an Australian flag where the manner and context of the conduct is such that a reasonable person would consider it likely to generate the harms identified in the offence provision.

Achievement of the Objectives

The Bill achieves its policy objectives by inserting a new Division 1C into Part 2 of the *Summary Offences Act 2005*.

New section 10F defines key terms for the division. The definition of “Australian flag” includes the Australian National Flag and also extends to a flag that incorporates the Union Jack, Commonwealth Star and Southern Cross in a layout similar to that of the Australian National Flag, regardless of variations in **colours, sizes or styles**. This ensures the provision cannot readily be avoided by using a stylised or altered version of the flag.

New section 10G states the objects of the division, namely protecting the Australian National Flag as a national symbol of shared civic significance and stopping agitators burning an Australian flag to provoke public disorder, intimidate persons or cause significant offence to the community.

New section 10H creates the substantive offence. A person must not, in a public place, burn an Australian flag in a way that a reasonable person would consider likely to provoke public disorder, intimidate any person or cause significant offence to members of the community. The maximum penalty is 40 penalty units or 6 months imprisonment.

Subsection 10H(2) provides a non-exhaustive list of matters to which regard may be had when considering whether the conduct was carried out in the proscribed way. Those matters include unlawfully taking the flag from a person or place, defacing the flag, filming the burning, publishing images or video of the burning to a social media platform or online social network, and cooperating with another person who does any of those things. These matters recognise that the conduct may be planned, amplified, or performed for wider circulation and public impact.

Alternative ways of achieving policy objectives

There are no known alternative ways of achieving the policy objectives with the same degree of specificity and clarity. Existing public order offences may address some conduct associated with flag burning in particular circumstances, but they do not

directly address the public burning of the Australian flag as a discrete act where the conduct is likely to provoke disorder, intimidate others, or cause significant offence.

The Bill therefore provides a targeted legislative response and sets out a clear statutory standard for enforcement and adjudication.

Estimated cost for government implementation

It is not anticipated that the Bill will require significant additional expenditure from the Queensland Government's consolidated revenue. Any implementation costs are expected to be met within existing agency resources.

Consistency with Fundamental Legislative Principles

The Bill may raise issues relevant to the fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*, particularly the principle that legislation should have sufficient regard to the rights and liberties of individuals.

In particular, the Bill creates a new criminal offence carrying a maximum penalty of 40 penalty units or 6 months imprisonment. It may be argued that the offence limits individual liberty by criminalising a form of expressive conduct.

However, the Bill is drafted in a confined and targeted way. The offence is not directed at mere possession of a flag, private conduct, or political opinion as such. It applies only where an Australian flag is burned in a public place and where the manner of the conduct is such that a reasonable person would consider it likely to provoke public disorder, intimidate any person, or cause significant offence to members of the community. The Bill also includes an objects clause and a non-exhaustive set of contextual matters to guide interpretation and application.

To that extent, any impact on rights and liberties is considered justified, having regard to the Bill's objective of protecting public order, community safety and a national symbol of shared civic significance.

Consultation

Consultation has occurred through ongoing community discussion about public acts involving the desecration of national symbols and the impact of such conduct on public order and community cohesion.

The Bill reflects the policy view that Queensland law should respond where public flag burning is used as an act of agitation, intimidation, or provocation in a way likely to generate disorder or significant community offence.

Consistency with legislation of other jurisdictions

Approaches to conduct involving national flags differ across jurisdictions. The Bill reflects a Queensland-specific approach by targeting public flag burning only where the conduct is carried out in a manner likely to provoke public disorder, intimidate persons, or cause significant offence to the community.

The Bill is tailored to the structure of the *Summary Offences Act 2005* and to the policy objective of addressing a particular form of public conduct through the criminal law.

Notes on Provisions

Clause 1 provides that the short title of the Act is the *Summary Offences (Protection of the Australian Flag) Amendment Act 2026*.

Clause 2 provides that the Act amends the *Summary Offences Act 2005*.

Clause 3 inserts a new Division 1C into Part 2 of the *Summary Offences Act 2005*.

New *section 10F* defines terms for the division. It defines “Australian flag”, “Australian National flag”, “Commonwealth Star” and “Southern Cross”. The definition of “Australian flag” extends beyond the formal Australian National Flag to include a flag with a substantially similar layout incorporating the Union Jack, Commonwealth Star and Southern Cross, regardless of variations in colours, sizes or styles.

New *section 10G* sets out the objects of the division. Those objects are to protect the Australian National Flag as a national symbol of shared civic significance and to stop agitators burning an Australian flag to provoke public disorder, intimidate persons or cause significant offence to the community.

New *section 10H(1)* creates an offence where a person, in a public place, burns an Australian flag in a way that a reasonable person would consider likely to provoke public disorder, intimidate any person or cause significant offence to members of the community. The maximum penalty for the offence is 40 penalty units or 6 months imprisonment.

New *section 10H(2)* makes clear that, without limiting subsection (1), regard may be had to whether the person unlawfully took the flag from a person or place, defaced the flag, filmed the burning of the flag, published images or video of the burning to a social media platform or online social network, or cooperated with another person who engaged in any of those acts. The subsection provides contextual guidance and is not exhaustive.