

LOCATING LEGISLATION

When deciding a sentence, judges and magistrates must take into account and apply relevant legislation or laws made by Parliament that applies to the circumstances of the case as well as case law (law made by courts).

Learning outcomes

Students will:

- use legal terminology
- locate, read and describe a particular section of an Act
- apply an Act to a prescribed set of circumstances.

Focus questions

- What laws are relevant to sentencing in Queensland?
- What laws contain Queensland criminal offences?
- What laws set out maximum penalties for Queensland criminal offences?

Key concepts

- Act
- denunciation
- deterrence
- legislation
- imprisonment
- mandatory penalty
- maximum penalty
- parliament
- community protection
- punishment
- rehabilitation
- section
- subsection.

Curriculum links

This learning resource has been developed for students studying Legal Studies 2019 (General Senior Syllabus) in Year 11 and 12, specifically the core area of criminal law. It ties in with Unit 1: Beyond reasonable doubt, Topic 4: Punishment and sentencing.

This resource has been designed to be used with [Judge for Yourself](#), an interactive program that allows students virtually experience the sentencing process.

Getting started

1. Ask students to describe how Parliament creates laws in Queensland.
2. Show students a section of an Act. Ask students to identify different features, including the long and short title, section and subsection number.

Further resources

The following websites may further enhance the learning outcomes associated with this resource:

- [Queensland Sentencing Advisory Council](#)
- [Queensland Government—how laws are made](#)
- [Queensland Legislation](#)

LEARNING RESOURCE

When sentencing, judges and magistrates must take into account legislation, also known as Acts of Parliament and case law (law established through past cases) as these apply in the individual circumstances of the case.

The types of penalties a court can impose when sentencing an offender are set out in the *Penalties and Sentences Act 1992* (Qld). The key source of criminal law in Queensland is the Criminal Code (Qld), but this is not the only legislation that contains criminal offences. The criminal offences examined in Judge for Yourself are also found in other Acts such as the *Drugs Misuse Act 1987* (Qld) and *Regulatory Offences Act 1985* (Qld). Some crimes are offences under Commonwealth law rather than state law (for example drug importation and terrorism offences).

Locating legislation

1. Legislation, together with case law, is a primary source of legal information. To locate Queensland legislation visit the [Queensland legislation website](#).
2. Open the 'In force legislation' menu, which lists the most current and enforceable version of the legislation.
3. Select the letter that corresponds with the name of the legislation you wish to read.
4. Locate the relevant section locating the relevant section number (if known), by reading the table of contents or doing a key word search.

Your turn

1. Locate and identify which Act contains the relevant criminal offence.
2. Identify the relevant section and subsection number of the criminal offence. Locate and state the maximum penalty for the criminal offence.
3. Explain what is meant by the term 'maximum penalty'. How does this differ from the term 'mandatory penalty'?
4. Locate the *Penalties and Sentences Act 1992* (Qld), section 9(1).
 - a. Describe, in your own words, the purposes for which a sentence may be imposed in Queensland.
 - b. Working on your own or in a pair, sort out which of the following sentencing options would be most likely to achieve each purpose, or a combination of purposes:
 - imprisonment
 - probation
 - fine
 - community service order
 - intensive correction order.
 - c. Justify which purpose(s) you believe is the most important to the case study.