

## Extraordinary Emergency, s 25

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**A person is not criminally responsible for an act or omission done or made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary powers of self-control could not reasonably be expected to act otherwise.**

**It is not for the defendant to prove that he acted as he did because of the stress of a sudden [extraordinary] emergency. It is for the prosecution to satisfy you beyond reasonable doubt that he did not. Has the prosecution satisfied you that the circumstances which confronted the defendant did not amount to a sudden [extraordinary] emergency? If it has, you do not need to consider this issue further [summarise arguments as to why it is/is not emergency].**

If the prosecution has not satisfied you that the defendant was not acting under the stress of a sudden extraordinary emergency, are you satisfied beyond reasonable doubt that his reaction in the circumstances was outside what you could reasonably expect of an ordinary person with ordinary powers of self control? A person in a sudden [extraordinary] emergency may make a wrong choice. But you must look at the situation as it presented itself on the moment. The defendant is not expected to be wiser or better than an ordinary reasonable person in the same circumstances; and you will appreciate that a person in an emergency cannot always weigh up and deliberate about what action is best to take. He must act quickly and do the best he can. If you consider that an ordinary person with ordinary powers of self control could not reasonably have been expected to act differently, or if the prosecution has not satisfied you beyond reasonable doubt of the contrary, you must acquit.

See *Zuccala* (1991) 14 MVR 466; and see R.S. O'Regan *New Essays on the Australian Criminal Codes* Ch IV "Sudden or Extraordinary Emergency". In *R v Lacey; ex parte A-G* (Qld) (2009) 197 A Crim R 399 the Court of Appeal held that where the specific provisions of the Code concerning self-defence (and, by extension, compulsion or provocation) arise for the jury's consideration there is no scope, on the same facts, for the operation of s 25.

The defence of extraordinary emergency is available in relation to a charge of dangerous operation of a motor vehicle: *R v Warner* [1980] Qd R 207, *R v Sheldon* [2014] QCA 328.