

SOUTH AUSTRALIA

SUMMARY OFFENCES ACT 1953

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 March 1998.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 24 September 1990.

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DIVISIONAL PENALTIES AND EXPIATION FEES

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being

Police Offences Act 1953 No. 55 of 1953
[Assented to 17 December 1953]¹

as amended by

Police Offences Act Amendment Act 1956 No. 51 of 1956 [Assented to 29 November 1956]
Police Offences Act Amendment Act 1957 No. 39 of 1957 [Assented to 14 November 1957]
Police Offences Act Amendment Act 1958 No. 22 of 1958 [Assented to 30 October 1958]
Police Offences Act Amendment Act 1960 No. 1 of 1960 [Assented to 12 May 1960]
Police Offences Act Amendment Act (No. 2) 1960 No. 61 of 1960 [Assented to 24 November 1960]
Police Offences Act Amendment Act (No. 3) 1960 No. 62 of 1960 [Assented to 24 November 1960]
Police Offences Act Amendment Act 1961 No. 44 of 1961 [Assented to 16 November 1961]
Police Offences Act Amendment Act (No. 2) 1961 No. 45 of 1961 [Assented to 16 November 1961]
Statute Law Revision Act 1965 No. 39 of 1965 [Assented to 9 December 1965]
Police Offences Act Amendment Act 1967 No. 58 of 1967 [Assented to 9 November 1967]
Police Offences Act Amendment Act 1972 No. 27 of 1972 [Assented to 6 April 1972]²
Police Offences Act Amendment Act (No. 2) 1972 No. 70 of 1972 [Assented to 7 September 1972]³
Police Offences Act Amendment Act (No. 3) 1972 No. 145 of 1972 [Assented to 7 December 1972]⁴
Police Offences Act Amendment Act 1973 No. 45 of 1973 [Assented to 8 November 1973]
Police Offences Act Amendment Act (No. 2) 1973 No. 73 of 1973 [Assented to 6 December 1973]
Statute Law Revision Act 1973 No. 77 of 1973 [Assented to 6 December 1973]
Classification of Publications Act 1974 No. 23 of 1974 [Assented to 11 April 1974]⁵
Statute Law Revision Act 1974 No. 42 of 1974 [Assented to 11 April 1974]
Police Offences Act Amendment Act 1974 No. 47 of 1974 [Assented to 8 August 1974]
Criminal Law (Sexual Offences) Amendment Act 1975 No. 66 of 1975 [Assented to 2 October 1975]
Police Offences Act Amendment Act 1975 No. 80 of 1975 [Assented to 23 October 1975]
Police Offences Act Amendment Act 1976 No. 46 of 1976 [Assented to 28 October 1976]
Police Offences Act Amendment Act (No. 2) 1976 No. 71 of 1976 [Assented to 2 December 1976]
Police Offences Act Amendment Act (No. 3) 1976 No. 106 of 1976 [Assented to 16 December 1976]⁶
Police Offences Act Amendment Act 1978 No. 38 of 1978 [Assented to 6 April 1978]
Police Offences Act Amendment Act (No. 2) 1978 No. 94 of 1978 [Assented to 7 December 1978]
Police Offences Act Amendment Act (No. 3) 1978 No. 102 of 1978 [Assented to 7 December 1978]
Police Offences Act Amendment Act 1979 No. 38 of 1979 [Assented to 15 March 1979]⁷
Police Offences Act Amendment Act 1980 No. 52 of 1980 [Assented to 3 July 1980]
Police Offences Act Amendment Act 1981 No. 39 of 1981 [Assented to 19 March 1981]⁸
Police Offences Act Amendment Act 1983 No. 69 of 1983 [Assented to 13 October 1983]⁹
Statutes Amendment (Criminal Law Consolidation and Police Offences) Act 1983 No. 114 of 1983 [Assented to 22 December 1983]¹⁰
Statute Law Revision Act 1984 No. 50 of 1984 [Assented to 24 May 1984]¹¹
Police Offences Act Amendment Act 1984 No. 53 of 1984 [Assented to 24 May 1984]
Statutes Amendment (Bail) Act 1985 No. 6 of 1985 [Assented to 7 March 1985]¹²
Police Offences Act Amendment Act 1985 No. 46 of 1985 [Assented to 2 May 1985]¹³
Summary Offences Act Amendment Act 1986 No. 31 of 1986 [Assented to 10 April 1986]¹⁴
Criminal Law Consolidation Act Amendment Act 1986 No. 90 of 1986 [Assented to 4 December 1986]¹⁵
Summary Offences Act Amendment Act (No. 2) 1986 No. 104 of 1986 [Assented to 18 December 1986]
Summary Offences Act Amendment Act (No. 3) 1986 No. 105 of 1986 [Assented to 18 December 1986]¹⁶
Summary Offences Act Amendment Act (No. 4) 1986 No. 106 of 1986 [Assented to 18 December 1986]¹⁷
Summary Offences Act Amendment Act 1987 No. 68 of 1987 [Assented to 29 October 1987]

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix 1.

Summary Offences Act Amendment Act (No. 2) 1987 No. 102 of 1987 [Assented to 17 December 1987]¹⁸
Summary Offences Act Amendment Act 1988 No. 75 of 1988 [Assented to 1 December 1988]¹⁹
Summary Offences Act Amendment Act (No. 2) 1988 No. 79 of 1988 [Assented to 1 December 1988]²⁰
Statutes Amendment (Criminal Law Consolidation and Summary Offences) Act 1988 No. 103 of 1988
[Assented to 15 December 1988]²¹
Summary Offences Act Amendment Act 1989 No. 50 of 1989 [Assented to 31 August 1989]²²
Statute Law Revision Act 1990 No. 23 of 1990 [Assented to 26 April 1990]²³
Summary Offences Act Amendment Act 1990 No. 38 of 1990 [Assented to 3 May 1990]²⁴
Summary Offences Act Amendment Act (No. 2) 1990 No. 55 of 1990 [Assented to 22 November 1990]²⁵
Summary Offences (Child Pornography) Amendment Act 1992 No. 32 of 1992 [Assented to 21 May 1992]
Statutes Amendment and Repeal (Public Offences) Act 1992 No. 35 of 1992 [Assented to 21 May 1992]²⁶
Statutes Amendment (Illegal Use of Motor Vehicles) Act 1992 No. 37 of 1992 [Assented to 21 May 1992]²⁶
Summary Offences (Prevention of Graffiti Vandalism) Amendment Act 1992 No. 38 of 1992 [Assented to
21 May 1992]²⁷
Summary Offences (Road Blocks) Amendment Act 1992 No. 53 of 1992 [Assented to 29 October 1992]
Statutes Repeal and Amendment (Places of Public Entertainment) Act 1993 No. 87 of 1993 [Assented to
27 October 1993]²⁸
Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994 No. 59 of 1994 [Assented to
27 October 1994]²⁹
State Disaster (Major Emergencies and Recovery) Amendment Act 1994 No. 73 of 1994 [Assented to
1 December 1994]³⁰
Statutes Amendment (Attorney-General's Portfolio) Act 1995 No. 27 of 1995 [Assented to 27 April 1995]³¹
Statutes Amendment (Recording of Interviews) Act 1995 No. 65 of 1995 [Assented to 10 August 1995]³²
Summary Offences (Indecent or Offensive Material) Amendment Act 1995 No. 73 of 1995 [Assented to
2 November 1995]
Summary Offences (Overcrowding at Public Venues) Amendment Act 1995 No. 106 of 1995 [Assented to
14 December 1995]³³
Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996 No. 34 of 1996 [Assented to
2 May 1996]³⁴
Second-hand Dealers and Pawnbrokers Act 1996 No. 101 of 1996 [Assented to 19 December 1996]³⁵
Statutes Amendment (Attorney-General's Portfolio) Act 1997 No. 59 of 1997 [Assented to 31 July 1997]³⁶

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- 1 Came into operation 1 March 1954: *Gaz.* 28 January 1954, p. 155.
- 2 Came into operation 13 April 1972: *Gaz.* 13 April 1972, p. 1431.
- 3 Came into operation 19 October 1972: *Gaz.* 19 October 1972, p. 1928.
- 4 Came into operation 15 February 1973: *Gaz.* 15 February 1973, p. 495.
- 5 Came into operation 18 July 1974: *Gaz.* 11 July 1974, p. 99.
- 6 Came into operation 3 September 1984: *Gaz.* 30 August 1984, p. 694.
- 7 Came into operation 1 July 1979: *Gaz.* 24 May 1979, p. 1498.
- 8 Came into operation 1 January 1982: *Gaz.* 26 November 1981, p. 2134.
- 9 Came into operation 14 November 1983: *Gaz.* 10 November 1983, p. 1354.
- 10 Came into operation 22 December 1983: *Gaz.* 22 December 1983, p. 1718.
- 11 Came into operation (except Scheds. 1, 3, 4 and 5) 1 November 1984: *Gaz.* 1 November 1984, p. 1398; Scheds. 1, 3 and 5 came into operation 1 January 1985: *Gaz.* 13 December 1984, p. 1811; Sched. 4 came into operation 6 July 1985: *Gaz.* 9 May 1985, p. 1398.
- 12 Came into operation 7 July 1985: *Gaz.* 9 May 1985, p. 1398.
- 13 Came into operation (except ss. 4, 9, 21, 26, 28-36) 10 May 1985, remainder of Act came into operation 8 July 1985: *Gaz.* 9 May 1985, p. 1398.
- 14 Came into operation 1 July 1986: *Gaz.* 1 May 1986, p. 1104.
- 15 Came into operation 1 February 1987: *Gaz.* 15 January 1987, p. 52.
- 16 Came into operation 5 April 1987: *Gaz.* 26 February 1987, p. 434.
- 17 Came into operation 30 March 1987: *Gaz.* 26 February 1987, p. 440.
- 18 Came into operation 1 May 1988: *Gaz.* 21 April 1988, p. 1016.
- 19 Came into operation 6 March 1989: *Gaz.* 2 March 1989, p. 594.
- 20 Came into operation 1 July 1989: *Gaz.* 29 June 1989, p. 1753.
- 21 Came into operation 6 March 1989: *Gaz.* 23 February 1989, p. 539.
- 22 Came into operation 5 October 1989: *Gaz.* 5 October 1989, p. 1022.
- 23 Came into operation (except Scheds. 4-7) 29 June 1990: *Gaz.* 14 June 1990, p. 1606; Scheds. 4 and 5 came into operation 1 August 1990: *Gaz.* 12 July 1990, p. 257; Sched. 7 came into operation 24 September 1990: *Gaz.* 6 September 1990, p. 778.
- 24 Came into operation 26 July 1990: *Gaz.* 19 July 1990, p. 344.
- 25 Came into operation 7 February 1991: *Gaz.* 7 February 1991, p. 366.
- 26 Came into operation 6 July 1992: *Gaz.* 2 July 1992, p. 209.
- 27 Came into operation 4 June 1992: *Gaz.* 28 May 1992, p. 1512.
- 28 Came into operation 3 April 1995: *Gaz.* 23 February 1995, p. 422.
- 29 Came into operation 1 January 1995: *Gaz.* 8 December 1994, p. 1942.
- 30 Came into operation 2 February 1995: *Gaz.* 2 February 1995, p. 200.
- 31 Came into operation (except s. 20) 10 July 1995: *Gaz.* 29 June 1995, p. 2973; s. 20 came into operation 27 April 1997 (by virtue of the Acts Interpretation Act 1915, s. 7(5)).
- 32 Came into operation 3 March 1996: *Gaz.* 21 December 1995, p. 1760.
- 33 Came into operation 21 December 1995: *Gaz.* 21 December 1995, p. 1760.
- 34 Came into operation 3 February 1997: *Gaz.* 19 December 1996, p. 1923.
- 35 **Came into operation 1 March 1998: *Gaz.* 19 February 1998, p. 932.**
- 36 Part 9 (s. 17) came into operation 14 September 1997: *Gaz.* 11 September 1997, p. 704.

An Act to consolidate and amend certain enactments relating to offences against public order and other offences punishable in courts of summary jurisdiction, and certain enactments relating to the powers of members of the police force; and for other incidental purposes.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Summary Offences Act 1953*.

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Interpretation

4. (1) In this Act, unless the contrary intention appears—

"**the Commissioner**" means the Commissioner of Police or the person for the time being acting in the office of Commissioner of Police;

"**minor**" means a person under the age of 18 years;

"**prostitute**" includes any male person who prostitutes his body for fee or reward;

"**public place**" includes—

- (a) a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and
- (b) a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and
- (c) a road, street, footway, court, alley or thoroughfare which the public are allowed to use, notwithstanding that that road, street, footway, court, alley or thoroughfare is on private property;

"**public venue**" means a place where members of the public are gathered for an entertainment or an event or activity of any kind, whether admission is open, procured by the payment of money or restricted to members of a club or a class of persons with some other qualification or characteristic, but does not include a church or place of public worship;

"**senior police officer**" means a member of the police force of or above the rank of inspector;

"**telephone**" includes any telecommunication device for the transmission of speech;

"**to tattoo**" means to insert into or through the skin any colouring material designed to leave a permanent mark.

(2) In proceedings for an offence in which the court is authorised by this Act to award damages or compensation, or to order the forfeiture of property or the doing of any act, the award or order may be made in addition to the penalty (if any) imposed by the court.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Proof of lawful authority and other matters

5. Subject to any provision to the contrary, where this Act provides that an act done without lawful authority, without reasonable cause, without reasonable excuse, without lawful excuse or without consent constitutes an offence, the prosecution need not prove the absence of lawful authority, reasonable cause, reasonable excuse, lawful excuse or consent, and the onus is upon the defendant to prove any such authority, cause, excuse or consent upon which he or she relies.

Assaulting and Hindering Members of the Police Force

Assaulting and hindering police

6. (1) A person who assaults any member of the police force in the execution of the member's duty is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) A person who hinders or resists any member of the police force in the execution of the member's duty is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(3) Upon convicting a person for an offence against this section, the court may order the convicted person to pay to the member of the police force against whom the offence was committed such sum as the court thinks just as compensation for—

- (a) damage caused by the defendant to property belonging to the member or to the Crown;
- (b) bodily injury caused by the defendant to the member.

(4) Compensation so awarded in respect of damage to property of the Crown must be paid by the member of the police force to the Treasurer in aid of the Consolidated Account.

(5) In this section—

"hinder" includes disturb;

"member of the police force" includes a special constable.

* * * * *

Offences Against Public Order

Disorderly or offensive conduct or language

7. (1) A person who, in a public place or a police station—

- (a) behaves in a disorderly or offensive manner; or
- (b) fights with another person; or
- (c) uses offensive language,

is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(2) A person who disturbs the public peace is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(3) In this section—

"**disorderly**" includes riotous;

"**offensive**" includes threatening, abusive or insulting;

"**public place**" includes, in addition to the places mentioned in section 4—

- (a) a ship or vessel (not being a naval ship or vessel) in a harbor, port, dock or river;
- (b) premises or a part of premises in respect of which a licence or permit is in force under the *Liquor Licensing Act 1985*.

Interruption or disturbance of religious worship

7A. (1) A person who, by noise, disorderly or offensive behaviour or language or in any other way, intentionally—

- (a) interrupts or disturbs the order and solemnity of a congregation or meeting of persons gathered for religious worship; or
- (b) interrupts or disturbs persons officiating at, participating in or proceeding to or from any such congregation or meeting,

is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) In this section—

"**disorderly**" includes riotous;

"**offensive**" includes threatening, abusive or insulting.

Challenges to fight and prize fights

8. (1) Any person who—

- (a) makes or accepts, either orally or in writing, any challenge to fight for money; or
- (b) engages in a prize fight,

is guilty of an offence.

Penalty: Division 9 fine.

(2) Nothing in subsection (1) applies to—

- (a) a challenge to engage in a boxing contest to be conducted in accordance with rules commonly accepted in Australia as being rules of boxing;
- (b) a boxing contest conducted in accordance with such rules.

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Supply of methylated spirits

9A.

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(4) A person who supplies methylated spirits, or a liquid containing methylated spirits, knowing, or having reason to suspect, that it is intended to be drunk, is guilty of an offence.

Penalty: Division 9 fine.

* * * * *

(6) In this section—

"**methylated spirits**" means industrial spirit or commercial methylated spirit, that is to say, ethyl alcohol which has been denatured by the addition of methyl alcohol, benzene, pyridine or any other methylating or denaturing substance or agent.

* * * * *

Refusal to pay for liquor, meals, etc.

11. A person who has been supplied—

- (a) by the holder of a licence under the *Liquor Licensing Act 1985* with liquor, meals or accommodation on licensed premises within the meaning of that Act; or
- (b) by the proprietor of a motel, guest house, private hotel or restaurant with meals or accommodation,

must not fail or refuse, on demand made by the holder of the licence or by the proprietor, or by a servant or agent of the holder of the licence or the proprietor, to pay a reasonable sum for the liquor, meals or accommodation.

Penalty: Division 9 fine.

Avoiding payment of entrance fee

11A. A person who, knowing that a charge is made for admission to a place of public entertainment, dishonestly gains admission to the place of public entertainment without paying the admission charge is guilty of an offence.

Penalty: Division 9 fine.

Begging alms

12. (1) A person who—

- (a) begs or gathers alms in a public place; or
- (b) is in a public place for the purpose of begging or gathering alms; or
- (c) goes from house to house begging or gathering alms; or
- (d) causes or encourages a child to beg or gather alms in a public place, or to be in a public place for the purpose of begging or gathering alms; or

(e) exposes wounds or deformities with the object of obtaining alms,
is guilty of an offence.

Penalty: Division 10 fine.

(2) In this section—

"house" includes a building or any separately occupied part of a building.

Consorting

13. A person who habitually consorts with reputed thieves, prostitutes or persons having no lawful visible means of support is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

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Offensive weapons, etc.

15. (1) A person who, without lawful excuse—

- (a) carries an offensive weapon; or
- (b) has custody or possession of an implement of housebreaking; or
- (c) carries an article of disguise,

is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(1a) A person who, in a public place and without lawful excuse, carries, or has control of—

- (a) a loaded firearm; or
- (b) a firearm and a loaded magazine that can be attached to and used in conjunction with the firearm,

is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(1b) A person who, without lawful excuse—

- (a) manufactures, sells, distributes, supplies, or otherwise deals in, dangerous articles; or
- (b) has possession of, or uses, a dangerous article,

is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) A court that has convicted a person of an offence under this section may order that the firearm, magazine, weapon, implement, article of disguise or dangerous article in relation to which the offence was committed be forfeited to the Crown.

(3) In this section—

"**carry**" includes to have on or about one's person;

"**dangerous article**" means an article or thing declared by regulation to be a dangerous article for the purposes of this section;

"**firearm**" means—

- (a) a device designed to be carried by hand and to fire shot, bullets or other projectiles by means of burning propellant or by means of compressed air or other compressed gas;
- (b) a device of a kind declared by regulation under the *Firearms Act 1977* to be a firearm for the purposes of that Act,

but does not include a device of a kind excluded by regulation under the *Firearms Act 1977* from the provisions of that Act;

"**implement of housebreaking**" includes a picklock key, crow, jack, bit or other implement of housebreaking;

"**offensive weapon**" includes a rifle, gun, pistol, sword, dagger, knife, club, bludgeon, truncheon or other offensive or lethal weapon or instrument.

* * * * *

(4) For the purposes of subsection (1a) a firearm will be taken to be loaded if a round is in the breech or barrel of the firearm or in a magazine comprising part of or attached to the firearm.

(5) The Governor may, by regulation, declare any specified articles or things, or articles or things of a specified class, to be dangerous articles for the purposes of this section.

Possession of body armour

15A. (1) A person who, without the approval in writing of the Commissioner—

- (a) manufactures, sells, distributes, supplies or otherwise deals in, body armour; or
- (b) has possession of, or uses, body armour,

is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(1a) The Commissioner may, subject to such conditions and limitations as the Commissioner thinks fit, give an approval to a person or a class of persons for the purposes of subsection (1) and may revoke an approval or revoke or vary the conditions or limitations under which an approval operates.

(1b) The giving or a variation or revocation of an approval that applies to a class of persons must be notified in the *Gazette*.

(2) In this section—

"**body armour**" means a protective jacket, vest or other article of apparel designed to resist the penetration of a projectile discharged from a firearm.

Possession of instruments for gaming or cheating

16. (1) A person who, in a public place, without lawful excuse, has possession of an instrument for gaming or an instrument constructed as a means of cheating is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) Upon the conviction of a person for an offence against subsection (1), the court may order that the instrument in respect of which the person was convicted be forfeited to the Crown.

(3) In this section—

"**instrument**" includes machine, device or contrivance.

Being on premises for an unlawful purpose

17. (1) A person who has entered, or is present on, premises for an unlawful purpose or without lawful excuse is guilty of an offence.

Penalty: Where the unlawful purpose is the commission of an offence punishable by a maximum term of imprisonment of two years or more—Division 5 imprisonment.

In any other case—Division 7 fine or division 7 imprisonment.

(1a) Notwithstanding section 5, the onus of proving absence of lawful excuse in proceedings for an offence against this section lies upon the prosecution.

(2) Where a member of the police force believes on reasonable grounds that a person has entered, or is present on, premises for the purpose of committing an offence, the member may order the person to leave the premises.

(3) A person who fails to comply with an order under subsection (2) is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(4) In this section—

"**premises**" means—

- (a) any land; or
- (b) any building or structure; or
- (c) any aircraft, vehicle, ship or boat.

Trespassers on premises

17A. (1) Where—

- (a) a person trespasses on premises; and
- (b) the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier; and

(c) the trespasser is asked by an authorised person to leave the premises, the trespasser is, if he or she fails to leave the premises forthwith or again trespasses on the premises within 24 hours of being asked to leave, guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) A person who, while trespassing on premises, uses offensive language or behaves in an offensive manner is guilty of an offence.

Penalty: Division 8 fine.

(2a) A person who trespasses on premises must, if asked to do so by an authorised person, give his or her name and address to the authorised person.

Penalty: Division 8 fine.

(2b) An authorised person, on asking a trespasser to leave premises or to give a name and address, must, if the trespasser so requests, inform the trespasser of—

- (a) the authorised person's name and address; and
- (b) the capacity in which the person is an authorised person under this section.

(2c) A person must not falsely pretend, by words or conduct, to have the powers of an authorised person under this section.

Penalty: Division 9 fine.

(3) In this section—

"authorised person", in relation to premises, means—

- (a) the occupier, or a person acting on the authority of the occupier;
- (b) where the premises are the premises of a school or other educational institution or belong to the Crown or an instrumentality of the Crown, the person who has the administration, control or management of the premises, or a person acting on the authority of such a person;

"occupier", in relation to premises, means the person in possession, or entitled to immediate possession, of the premises;

"offensive" includes threatening, abusive or insulting;

"premises" means—

- (a) any land; or
- (b) any building or structure; or
- (c) any aircraft, vehicle, ship or boat.

(4) In proceedings for an offence against this section, an allegation in the complaint that a person named in the complaint was on a specified date an authorised person in relation to specified premises will be accepted as proved in the absence of proof to the contrary.

Interference with gates

17B. (1) A person who, without the authority of the occupier of land on which animals are kept in the course of primary production—

- (a) opens and leaves open a gate on or leading to the land; or
- (b) unfastens and leaves unfastened a gate on or leading to the land; or
- (c) on finding a gate on or leading to the land open, closes it and leaves it closed,

is guilty of an offence.

Penalty: Division 9 fine.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the defendant's act was not intended to cause loss, annoyance or inconvenience and was not done with reckless indifference to the interests of the owner of the animals.

Disturbance of farm animals

17C. (1) A person who, while trespassing on land on which animals are kept in the course of primary production, disturbs any animal and thus causes harm to the animal or loss or inconvenience to the owner of the animals is guilty of an offence.

Penalty: Division 9 fine.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the disturbance was not intentional and did not arise from recklessness on the part of the defendant.

Forcible entry or retention of land or premises

17D. (1) A person who—

- (a) uses force, threats or intimidation to enter land or premises in order to expel a person who is in possession (whether lawfully or unlawfully) of the land or premises; and
- (b) does so otherwise than in pursuance of an order of a court or other lawful process,

is guilty of an offence.

Penalty: Division 6 fine or division 6 imprisonment.

(2) A person who—

- (a) enters onto land or premises unlawfully; and
- (b) retains possession of the land or premises by force or in a manner that would render the use of force the only reasonably practicable means of recovering lawful possession of the land or premises,

is guilty of an offence.

Penalty: Division 6 fine or division 6 imprisonment.

Order to move on or disperse

18. (1) Where a person is loitering in a public place or a group of persons is assembled in a public place and a member of the police force believes or apprehends on reasonable grounds—

- (a) that an offence has been, or is about to be, committed by that person or by one or more of the persons in the group or by another in the vicinity; or
- (b) that a breach of the peace has occurred, is occurring, or is about to occur, in the vicinity of that person or group; or
- (c) that the movement of pedestrians or vehicular traffic is obstructed, or is about to be obstructed, by the presence of that person or group or of others in the vicinity; or
- (d) that the safety of a person in the vicinity is in danger,

the member of the police force may request that person to cease loitering, or request the persons in that group to disperse, as the case may require.

(2) A person of whom a request is made under subsection (1) must leave the place and the area in the vicinity of the place in which he or she was loitering or assembled in the group.

Penalty: Division 8 fine or division 8 imprisonment.

Public meetings

18A. (1) A person who, in, at or near a place where a public meeting is being held—

- (a) behaves in a disorderly, indecent, offensive, threatening or insulting manner; or
- (b) uses threatening, abusive or insulting words; or
- (c) in any way, except by lawful authority or on some other lawful ground, obstructs or interferes with—
 - (i) a person seeking to attend the meeting; or
 - (ii) any of the proceedings at the meeting; or
 - (iii) a person presiding at the meeting in the organisation or conduct of the meeting,

is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(2) Where, in the opinion of the person presiding at a public meeting, a person in, at or near the place at which the meeting is being held—

- (a) is or has been behaving in a disorderly, indecent, offensive, threatening or insulting manner; or
- (b) is or has been using threatening, abusive or insulting words; or
- (c) in any way, except by lawful authority or on some other lawful ground, is or has been obstructing or interfering with—
 - (i) a person seeking to attend the meeting; or

- (ii) any of the proceedings at the meeting; or
- (iii) a person presiding at the meeting in the organisation or conduct of the meeting,

the person presiding may request a member of the police force, or the police generally, to remove that person from the place or the area in the vicinity of the place.

(3) A request made under subsection (2) must be complied with by a member of the police force present or attending at the place at which the meeting is being held.

(4) In this section—

"person presiding", in relation to a public meeting, includes any person officiating at, or with responsibility for the organisation or conduct of, the meeting;

"place" means any place whether or not a hall, building or room;

"public meeting" includes any political, religious, social or other meeting, congregation or gathering that the public or a section of the public are permitted to attend, whether on payment or otherwise.

* * * * *

Permitting drunkenness and disorderly conduct

20. (1) A person who keeps premises where provisions or refreshments are sold or consumed and who knowingly permits drunkenness or disorderly conduct to take place on those premises is guilty of an offence.

Penalty: Division 9 fine.

(2) In this section—

"premises" includes a shop, restaurant or other premises to which the public are admitted.

Permitting premises to be frequented by thieves, etc.

21. (1) A person who—

(a) is the occupier of premises frequented by reputed thieves, prostitutes, persons without lawful means of support or persons of notoriously bad character; or

(b) is, without reasonable excuse, in premises frequented by any such persons,

is guilty of an offence.

Penalty: Division 9 fine.

(2) In a prosecution under this section, it is not necessary for the prosecutor to prove that the defendant knew that the persons frequenting the premises were reputed thieves, prostitutes, persons without lawful means of support or persons of notoriously bad character, but it is a defence that the defendant did not know and could not, by the exercise of reasonable diligence, have ascertained that the persons frequenting the premises were such persons.

Tattooing of Minors

Tattooing of minors

21A. (1) A person who tattoos a minor is (except where the tattoo is performed for medical reasons by a legally qualified medical practitioner or a person working under a legally qualified medical practitioner's direction) guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(2) It is a defence to a charge of an offence under subsection (1) to prove that, at the time the tattoo was performed, the defendant had reasonable cause to believe, and did believe, that the person tattooed was of or over the age of 18 years.

Offences Against Decency and Morality

Indecent language

22. (1) A person who uses indecent or profane language or sings any indecent or profane song or ballad—

- (a) in a public place; or
- (b) in a police station; or
- (c) which is audible from a public place; or
- (d) which is audible in neighbouring or adjoining occupied premises; or
- (e) with intent to offend or insult any person,

is guilty of an offence.

Penalty: Division 10 fine.

(2) In this section—

"**indecent**" includes obscene.

Indecent behaviour and gross indecency

23. (1) A person who behaves in an indecent manner—

- (a) in a public place, or while visible from a public place, or in a police station; or
- (b) in a place, other than a public place or police station, so as to offend or insult any person,

is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(2) A person who, in a public place, or while visible from a public place or from occupied premises, wilfully does a grossly indecent act, whether alone or with another person, is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

Certain acts not an offence

23A. An act consisting of being in an unclad state in an area dedicated or reserved under an Act for unclad bathing (whether or not that area is so dedicated or reserved for any other purpose), or an act of being in an unclad state in waters adjacent to such an area, is not of itself an offence against an Act or law in force in this State.

Urinating, etc., in a public place

24. A person who urinates or defecates in a public place within a municipality or town, elsewhere than in premises provided for that purpose, is guilty of an offence.

Penalty: Division 10 fine.

Soliciting

25. A person who—

- (a) in a public place, or within the view or hearing of any person in a public place, accosts or solicits a person for the purpose of prostitution; or
- (b) loiters in a public place for the purpose of prostitution,

is guilty of an offence.

Penalty: Division 9 fine.

Living on the earnings of prostitution

26. (1) A person who knowingly lives, wholly or in part, on the earnings of prostitution of another person is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) In proceedings for an offence against subsection (1), the fact that a person lives with, or is habitually in the company of, a prostitute and has no visible lawful means of support is, in the absence of proof to the contrary, proof that that person is knowingly living on the earnings of prostitution.

Brothels

Interpretation

27. In sections 28 to 32—

"**brothel**" means premises—

- (a) to which persons resort for the purpose of prostitution; or
- (b) occupied or used for the purpose of prostitution;

"**premises**" includes a part of premises.

Keeping and managing brothels

28. (1) A person who—

- (a) keeps or manages a brothel, or assists in keeping or managing a brothel; or
- (b) receives money paid in a brothel in respect of prostitution,

is guilty of an offence.

Penalty: For a first offence—Division 8 fine or division 8 imprisonment.

For a subsequent offence—Division 7 fine or division 7 imprisonment.

(2) A person who acts or behaves as master or mistress, or as a person having the control or management, of a brothel will, for the purposes of this section, be taken to keep that brothel, whether he or she is or is not the keeper.

Permitting premises to be used as brothels

29. A person who—

- (a) lets or sublets premises knowing that they are to be used as a brothel; or
- (b) permits premises to be used as a brothel,

is guilty of an offence.

Penalty: For a first offence—Division 8 fine or division 8 imprisonment.

For a subsequent offence—Division 7 fine or division 7 imprisonment.

Prosecutions

30. (1) A prosecution cannot be instituted under section 28 or 29 without the written consent of the Commissioner or a superintendent or inspector of police.

(2) An apparently genuine document produced by the prosecutor and purporting to authorise a prosecution under section 28 or 29 and purporting to be signed by the Commissioner or a superintendent or inspector of police will be accepted, in the absence of proof to the contrary, as evidence of the consent of the Commissioner, superintendent or inspector to the prosecution.

Determination of tenancy of brothels

31. (1) Upon the conviction of the tenant, lessee or occupier of premises for permitting the premises, or a part of the premises, to be used as a brothel, the landlord or lessor may require the person so convicted to assign the lease or other contract under which the premises are held to some person approved by the landlord or lessor (which approval must not be unreasonably withheld).

(2) If a person so convicted fails within one month to assign the lease or contract in accordance with a requirement made under subsection (1), the landlord or lessor may determine the lease or other contract, but without prejudice to any rights or remedies of a party to the lease or contract in respect of anything done or omitted before the determination of the lease or contract.

(3) If the landlord or lessor, after such a conviction has been brought to his or her notice, fails to exercise the rights under subsection (1) and subsequently during the subsistence of the lease or contract the premises are again used as a brothel, the landlord or lessor will be taken to have permitted the premises to be used as a brothel.

(4) Where a landlord or lessor determines a lease or other contract under the powers conferred by this section and subsequently grants another lease or enters into another contract of tenancy to, with or for the benefit of the same person, without causing to be inserted in the lease or contract reasonable and adequate provisions for preventing the premises from being used as a brothel, he or she will, if the premises are subsequently used as a brothel, be taken to have permitted the premises to be used as a brothel.

Power of police to enter suspected brothels

32. The Commissioner or any superintendent or inspector of police, or any member of the police force authorised in writing by the Commissioner or a superintendent or inspector of police, may at any time enter and search premises which he or she suspects on reasonable grounds to be a brothel.

Indecent or Offensive Material

Indecent or offensive material

33. (1) In this section—

"**child**" means a person under, or apparently under, the age of 16 years;

"**child pornography**" means indecent or offensive material in which a child (whether engaged in sexual activity or not) is depicted or described in a way that is likely to cause serious and general offence amongst reasonable adult members of the community;

"**computer data**" means electronic data from which an image, sound or text may be created by means of a computer;

"**computer record or system**" means a computer disk or tape or other object or device on which computer data is stored;

"**indecent material**" means material that is, in whole or in part, of an indecent, immoral or obscene nature;

"**indecent or offensive aspects**" of indecent material or offensive material means those aspects or characteristics of the material by virtue of which it is indecent material or offensive material;

"**material**" includes—

- (a) any written or printed material; or
- (b) any picture, painting or drawing; or
- (c) any carving, sculpture, statue or figure; or
- (d) any photograph, film, video tape or other object from which an image may be reproduced; or
- (da) any computer data or the computer record or system containing the data; or
- (e) any other material or object on which an image or representation is recorded or from which an image or representation may be reproduced;

"**offensive material**" means material—

- (a) of which the subject matter is or includes—
 - (i) violence or cruelty; or
 - (ii) the manufacture, acquisition, supply or use of instruments of violence or cruelty; or

- (iii) the manufacture, acquisition, supply, administration or use of drugs; or
 - (iv) instruction in crime; or
 - (v) revolting or abhorrent phenomena; and
- (b) which would cause serious and general offence amongst reasonable adult members of the community;

"sell" includes—

- (a) barter, exchange or let on hire; or
- (b) offer or have in possession for sale, barter, exchange or hire; or
- (c) deliver for the purpose of, or in pursuance of, sale, barter, exchange or hire,

and "sale" has a corresponding meaning.

(2) A person who—

- (a) produces, or takes any step in the production of, indecent or offensive material for the purpose of sale; or
- (b) sells indecent or offensive material; or
- (c) exhibits indecent or offensive material in a public place or so as to be visible from a public place; or
- (d) deposits indecent or offensive material in a public place or, except with the permission of the occupier, in or on private premises; or
- (e) exhibits indecent material to a person so as to offend or insult that person; or
- (f) delivers or exhibits indecent or offensive material to a minor (other than a minor of whom the person is a parent or guardian); or
- (g) being a parent or guardian of a minor, causes or permits the minor to deliver or exhibit indecent or offensive material to another person; or
- (h) causes or permits a person to do an act referred to in a preceding paragraph of this subsection,

is guilty of an offence.

Penalty—

- (a) if the offence involves child pornography—for a first offence, division 5 imprisonment and for a second or subsequent offence, division 4 imprisonment;
- (b) in any other case—division 4 fine or division 7 imprisonment.

(3) A person who is in possession of child pornography is guilty of an offence.

Penalty: Division 6 fine or imprisonment.

(4) In proceedings for an offence against this section, the circumstances of the production, sale, exhibition, delivery or possession of material to which the charge relates and its use or intended use may be taken into account in determining whether the material was indecent or offensive material, but, if the material was inherently indecent or offensive material, the circumstances of its production, sale, exhibition, delivery or possession or its use or intended use cannot be taken to have deprived it of that character.

(5) Notwithstanding the foregoing provisions of this section—

(a) no offence is committed by reason of the production, sale, exhibition, delivery or possession of material in good faith and for the advancement or dissemination of legal, medical or scientific knowledge; and

(b) no offence is committed by reason of the production, sale, exhibition, delivery or possession of material that constitutes, or forms part of, a work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on its indecent or offensive aspects.

(6) A prosecution for an offence against this section cannot be commenced without the written consent of the Minister.

(7) In deciding whether to consent to a prosecution under this section, the Minister must have regard to any relevant decision of the Classification of Publications Board.

(8) In proceedings for an offence against this section, an apparently genuine document purporting to be signed by the Minister and to be a consent to a prosecution under this section will be accepted by the court, in the absence of proof to the contrary, as proof of that consent.

(9) Upon finding a person guilty of an offence against this section, a court may, upon the application of the prosecutor or of its own motion, order that indecent or offensive material to which the proceedings relate be forfeited to the Crown.

(10) This section does not derogate from the *Classification of Publications Act 1974* or the *Classification of Films for Public Exhibition Act 1971*.

Protection of members of National Literature Board of Review

33A. No action can be brought in any court in South Australia against a person who is, or was, a member of the National Literature Board of Review established under, or for the purposes of, the *Customs Act 1901* of the Commonwealth in respect of any opinion expressed by that person as a member of that Board upon any book, pamphlet, magazine or periodical submitted for the opinion of the Board.

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Restriction on reports of immorality, etc.

35. (1) A person must not—

(a) print, or cause to be printed; or

(b) offer for sale or sell, or cause to be offered for sale or sold; or

(c) have possession of for sale or distribution,

a newspaper in which any one report—

- (d) relating to legal proceedings involving questions of sexual immorality, unnatural vice or indecent conduct; or
- (e) containing other material descriptive of, or relating to, sexual immorality, unnatural vice or indecent conduct,

occupies more than 50 lines of 13 ems wide, or an equivalent space, in any kind of type, or carries a heading composed of type larger than 10 point capitals.

Penalty: Division 7 fine or division 7 imprisonment.

(2) In this section—

"**legal proceedings**" includes coroner's inquests and sittings of Royal and other commissions of inquiry and of select committees of Parliament;

"**newspaper**" means a copy of a periodical publication which is published at intervals not exceeding three months, or any part of such a copy.

(3) For the purposes of this section, separate articles in the same newspaper relating to the same matter will be taken to form the one report, and all photographs illustrative of, or connected with, a report will be taken to form part of the report.

(4) Subsection (1)(b) and (c) prohibit, within the State, the sale, offering for sale, causing to be offered for sale or sold, or having in possession for sale or distribution, of a newspaper containing a report contrary to subsection (1), whether the newspaper was printed or published within or outside the State and whether the report relates to legal proceedings and other matters taking place within or outside the State.

(5) It is a defence to a charge of an offence against this section for the defendant to prove that the report to which the charge relates—

- (a) was published at the direction of a court or other body conducting legal proceedings; or
- (b) forms part of a genuine series of law reports that does not form part of any other publication and consists solely of reports of proceedings in courts of law; or
- (c) is a publication of a technical character genuinely intended for circulation among members of the legal or medical professions.

(6) A prosecution for an offence against this section cannot be instituted without the written consent of the Commissioner.

(7) An apparently genuine document purporting to authorise a prosecution under this section and to be signed by the Commissioner will, in the absence of evidence to the contrary, be accepted by a court as proof of the consent of the Commissioner to the prosecution.

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Fraud, Unlawful Possession, etc.

Frauds upon charitable institutions

37. A person who, by false pretences, obtains from a charitable institution or organisation any chattel, money, valuable security, credit, benefit or advantage is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

Fraud other than false pretences

38. A person who, by fraud other than false pretences, obtains any chattel, money, valuable security, credit, benefit or advantage is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

Sale of books and educational matter

38A. (1) A person who, in order to induce another person to purchase or to agree to purchase books or other educational matter, states, holds out or represents, directly or indirectly, that he or she is a representative of, or is in any way connected with, or has the approval of, the Minister of Education or the Education Department or any educational institution under the control of, or connected with, the Government of the State is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) If a person is induced to enter into an agreement to purchase books or other educational matter by unreasonable persuasion on the part of a person acting or appearing to act on behalf of the seller or the seller's agent, the agreement will be taken to have been induced by undue influence and is voidable at the option of the first mentioned person if repudiated by notice in writing given to the seller within a period of 28 days after the making of the agreement, and any affirmation of, or agreement purporting to waive any right to avoid, the agreement to purchase will, upon the giving of the notice, be void and of no effect.

Valueless cheques

39. (1) A person who obtains any chattel, money, valuable security, credit, benefit or advantage by passing a cheque which is not paid on presentation is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) It is a defence to a charge for an offence against subsection (1) to prove that the defendant—

- (a) had reasonable grounds for believing that the cheque would be paid in full on presentation; and
- (b) had no intent to defraud.

(3) The fact that at the time when the cheque was passed there were some funds to the credit of the account on which the cheque was drawn is not of itself a defence.

Acting as a spiritualist, medium, etc., with intent to defraud

40. A person who, with intent to defraud, purports to act as a spiritualist or medium, or to exercise powers of telepathy or clairvoyance or other similar powers, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

Unlawful possession of personal property

41. (1) A person who has possession of personal property which, either at the time of possession or at any subsequent time before the making of a complaint under this section in respect of the possession, is reasonably suspected of having been stolen or obtained by unlawful means whatsoever, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) It is a defence to a charge for an offence against this section to prove that the defendant obtained possession of the property honestly.

(3) If personal property is proved to have been in the possession of a person, whether in a building or otherwise and whether the possession had been parted with before the hearing or not, it will, for the purposes of this section, be taken to have been in the possession of that person.

Larceny of things attached to land

42. (1) A person who—

(a) steals or, with intent to steal, severs, removes, damages or destroys an article fixed to or in, or forming part of, any land or building, or growing in any land; or

(b) receives any such article knowing it to have been stolen or unlawfully obtained,

is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) Upon convicting a person for an offence against this section, the court may order the convicted person to pay to the owner of the land or building, or the article, such sum as the court thinks just by way of compensation for the loss caused to the owner by the convicted person.

(3) In this section—

"**article**" includes any wood, metal, mineral or other substance, any article or structure fabricated from wood, metal, mineral or other substance, and any tree, sapling, shrub, seedling, plant or other vegetable growth.

Offences with Respect to Property

Interference with railways and similar tracks

43. (1) A person must not, without lawful authority to do so, and knowing that no such lawful authority exists—

(a) interfere with any part of a railway, tramway or track designed for the passage of a vehicle; or

(b) interfere with any signal or machinery used in connection with any such railway, tramway or track; or

(c) place any obstruction on any such railway, tramway or track or in any other manner obstruct or cause the obstruction of a vehicle using any such railway, tramway or track; or

(d) do anything else that is likely to result in damage to a vehicle using any such railway, tramway or track.

Penalty: Division 5 fine or division 5 imprisonment.

(2) For the purposes of subsection (1), a reference to a railway, tramway or track includes a rail, sleeper, support or other related structure.

Unlawful operation of computer system

44. (1) A person who, without proper authorisation, operates a restricted-access computer system is guilty of an offence.

(2) The penalty for an offence against subsection (1) is as follows:

- (a) if the person who committed the offence did so with the intention of obtaining a benefit from, or causing a detriment to, another—division 7 fine or division 7 imprisonment.
- (b) in any other case—division 7 fine.

(3) A computer system is a restricted-access computer system if—

- (a) the use of a particular code of electronic impulses is necessary in order to obtain access to information stored in the system or operate the system in some other way; and
- (b) the person who is entitled to control the use of the computer system has withheld knowledge of the code, or the means of producing it, from all other persons, or has taken steps to restrict knowledge of the code, or the means of producing it, to a particular authorised person or class of authorised persons.

Using vehicles or animals without consent of owner

45. (1) A person who uses any vehicle (other than a motor vehicle as defined in Part 1 of the *Road Traffic Act 1961*), horse or other beast of burden without the consent of the owner is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) Upon convicting a person for an offence against this section, the court may order the convicted person to pay to the owner of the vehicle, horse or other beast such sum as the court thinks just by way of compensation for the loss caused to the owner by the convicted person.

Interference with ships and boats without consent

46. (1) A person who, without lawful authority to do so, and knowing that no such lawful authority exists, casts away or uses any boat or uses any equipment or article in, upon, or forming part of a boat is guilty of an offence.

Penalty: Division 6 fine or division 6 imprisonment.

(2) Upon convicting a person for an offence against this section, the court may order the convicted person to pay to the owner of the boat, equipment or article in respect of which the offence was committed such sum as the court thinks just by way of compensation for the loss caused to the owner by the convicted person.

(3) In this section—

"boat" includes canoe, dinghy, yacht, raft, pontoon, ship and other similar vessel.

Interference with homing pigeons

47. (1) A person who—

- (a) without lawful authority, kills, injures or takes any homing pigeon; or

- (b) enters upon any land for the purpose of killing, injuring or taking any homing pigeon without lawful authority,

is guilty of an offence.

Penalty: Division 10 fine.

(2) Upon the conviction of a person for an offence against subsection (1), the court may order the convicted person to pay to the owner of the pigeon killed, injured or taken in contravention of that subsection a sum equal to the value of that pigeon.

(3) It is a defence to a charge of killing, injuring or taking a homing pigeon contrary to subsection (1) to prove that the defendant was the owner or occupier of improved or cultivated land, or a person acting under the instructions of any such owner or occupier, and killed, injured or took the pigeon while it was actually upon that land or any building on that land.

(4) In this section—

"**homing pigeon**" means a pigeon having a ring affixed or attached to either or both legs;

"**take**" includes to ensnare or catch.

Posting bills and marking graffiti

48. (1) A person who, without lawful authority—

- (a) posts a bill on property; or
(b) marks graffiti,

is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) Where a bill is posted without lawful authority, a person who distributed or authorised the distribution of such bills for posting is guilty of an offence unless it is proved—

- (a) that the person did not foresee and could not be reasonably expected to have foreseen the likelihood that such bills would be posted unlawfully; or
(b) that the person took reasonable precautions to ensure that such bills were not posted unlawfully.

Penalty: Division 7 fine or division 7 imprisonment.

(3) Where a person is convicted of an offence against subsection (1) or (2), the court may order the convicted person to pay to the owner or occupier of the property in relation to which the offence was committed such compensation for damage caused by the convicted person as the court consider just.

(4) A person who—

- (a) carries a graffiti implement with the intention of using it to mark graffiti; or

(b) carries a graffiti implement of a prescribed class without lawful excuse in a public place or a place on which the person is trespassing or has entered without invitation,

is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(5) In this section—

"**carry**" includes to have about one's person;

"**graffiti implement**" includes any implement capable of being used to mark graffiti;

"**mark graffiti**" includes deface property in any way;

"**property**" includes a building, structure, road, paved surface or object of any kind.

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Nuisances and Annoyances

Unlawfully ringing doorbells

50. A person who, without reasonable excuse, disturbs another by wilfully pulling or ringing the doorbell of a house or by knocking at the door of a house is guilty of an offence.

Penalty: Division 10 fine.

Use of firearms

51. (1) A person who discharges a firearm or throws a stone or other missile, without reasonable cause and so as to injure, annoy or frighten, or be likely to injure, annoy or frighten, any person, or so as to damage, or be likely to damage, any property, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) In this section—

"**firearm**" means a gun or device, including an airgun, from or by which any kind of shot, bullet or missile can be discharged;

"**throw**" includes to discharge or project by means of any mechanism or device.

Throwing fireworks

52. A person who throws, sets fire to or explodes a firework or explosive material so as to injure, annoy or frighten, or be likely to injure, annoy or frighten, persons in any public place is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

Playing games so as to cause damage

53. (1) A person who, in a public place or in a place adjacent to a public place, plays any game so as to injure, or be likely to injure, persons in a public place, or so as to damage, or be likely to damage, property, is guilty of an offence.

Penalty: Division 10 fine.

(2) This section does not apply to the playing of a game on an oval, court or other ground constructed for the purpose of such a game.

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Depositing or leaving dead animals in streets, etc.

56. A person who deposits the carcass of an animal, or leaves the carcass of an animal, belonging to the person upon—

- (a) a street, road or other thoroughfare; or
- (b) a public park or reserve; or
- (c) land or premises abutting any such place as is mentioned in paragraph (a) or (b),

to the annoyance of persons in any such place, land or premises is guilty of an offence.

Penalty: Division 9 fine.

Depositing rubbish on land

57. (1) A person who deposits rubbish on land without the consent of the owner or occupier or other lawful authority is guilty of an offence.

Penalty: Division 9 fine.

(2) The court by which a person is found guilty of an offence against subsection (1) may, whether or not a fine is imposed, order the person to remove, within the time specified by the court, the rubbish from the land on which it was deposited.

- (3) If a person makes default in complying with an order under subsection (2)—
 - (a) the person is guilty of an offence and liable to a division 11 fine; and
 - (b) the court may order the person to pay to the owner or occupier of the land the cost of removing the rubbish.

(4) In this section—

"**land**" includes roads, streets and other public places, as well as private land;

"**rubbish**" includes soil, stone, rubble, animal or vegetable matter and other debris, waste or refuse.

Obstruction of public places

58. (1) Subject to subsection (2), a person who wilfully obstructs the free passage of a public place is guilty of an offence.

Penalty: Division 9 fine.

(2) This section does not prohibit a person from, or restrict a person in, the exercise of rights arising by reason of a legal or equitable interest that the person has in property constituting, or forming part of, a public place.

Objectionable persons in public passenger vehicles

58A. (1) The driver or conductor of a public passenger vehicle or a member of the police force may request a person to leave the vehicle if—

- (a) before, or at the time when, the person entered the vehicle he or she was informed by the driver or conductor that it was fully loaded with passengers; or
- (b) the person, being under the influence of intoxicating liquor, is causing, or is likely to cause, annoyance to any passenger in the vehicle; or
- (c) the person's attire or person soils or damages, or is likely to soil or damage, any part of the vehicle or the attire or belongings of any such passenger; or
- (d) the person acts in a noisy, violent or abusive manner, or uses obscene or indecent language, or consumes intoxicating liquor, in the vehicle, after having been requested to cease doing so.

(2) A person who, upon being requested to depart from the vehicle, fails to comply with the request forthwith, is guilty of an offence.

Penalty: Division 9 fine.

(3) A person who, upon being so requested, fails to comply with the request may be removed from the vehicle by the driver, conductor or member of the police force and any person or persons whom the driver, conductor or member may call to assist.

(4) The driver, conductor or member of the police force may require a person who fails to comply with the request to state his or her correct full name and correct address and a person who fails to comply with that requirement forthwith is guilty of an offence.

Penalty: Division 9 fine.

(5) If the driver, conductor or member of the police force has reasonable cause to suspect that the name or address stated by the person is incorrect or false in any particular, the person must, if required to do so by the driver, conductor or member, produce evidence of the correctness of the name or address so stated.

Penalty: Division 9 fine.

(6) Any such person who produces false evidence with respect to his or her name or address is guilty of an offence.

Penalty: Division 9 fine.

Sale of certain refrigerators, etc.

58B. (1) A person must not sell or hire, or offer or expose for sale or hire, a refrigerator, ice chest or icebox having in it a compartment of a capacity of 42.5 litres or more unless that compartment is so constructed or equipped that every door or lid can be opened easily from the inside of the compartment when any lock or catch that can be operated from the outside of the compartment is fastened.

(2) In a prosecution for an offence against subsection (1), it is a defence if the defendant proves that the refrigerator, ice chest or icebox with respect to which the offence is alleged to have been committed was manufactured in, or imported into, the State before 1 January, 1962.

(3) A person must not place any of the following articles, that is to say, a refrigerator, ice chest, icebox, article of furniture, trunk or other similar article upon any dump, tip, sanitary depot, public reserve, public place or unfenced vacant land if that article has in it a compartment of a capacity of 42.5 litres or more unless, before so placing that article, that person has removed from the compartment every door and lid, or their locks and hinges, or has otherwise rendered every such door and lid incapable of being fastened, but a person is not prevented by this subsection from placing any such articles upon a public reserve, public place or unfenced vacant land for his or her own use while residing on that public reserve, public place or unfenced vacant land.

(4) After the making of regulations for the purposes of this subsection, a person must not, except as prescribed, sell or hire, or offer or expose for sale or hire, any prescribed domestic or commercial appliance, equipment, container or other article which is of such a kind, or is so constructed, that it might be dangerous to young children.

Penalty: Division 9 fine.

Control of Traffic on Special Occasions

Regulation of traffic in certain cases

59. (1) In this section—

"**special occasion**" means a period during which, in the opinion of the person giving a direction under this section, a street, road or public place will be unusually crowded.

(2) The Commissioner, or the mayor or chairman of a council, may give reasonable directions, either orally or in writing, or in any other manner, for—

- (a) regulating traffic of all kinds;
- (b) preventing obstructions;
- (c) maintaining order,

in any street, road or public place on any special occasion.

(3) Any such direction—

- (a) if given by the Commissioner, may apply within the whole or any part of the State;
- (b) if given by the mayor or chairman of a council, may apply only within the area of the council.

(4) If a direction given by the Commissioner under this section is in conflict with a direction given by a mayor or chairman of a council, the direction of the Commissioner prevails.

(5) The Commissioner may delegate the power to give directions under this section to any member of the police force holding a rank not lower than that of inspector, subject to any limitations or conditions which the Commissioner thinks it proper to impose.

(6) A direction under this section must be given—

- (a) by publication of the direction in a newspaper circulating generally throughout the State;
or

(b) in such other manner as to ensure as far as reasonably practicable that, prior to the special occasion, the direction will come to the attention of those who, by their actions or presence, are likely to cause, or contribute to, the crowding of the street, road or public place.

(7) Where a direction has been given under this section, a member of the police force may, upon the occurrence of the special occasion, give to any person, orally or in writing, such orders as are reasonably calculated to ensure compliance with the direction.

(8) A person who fails to comply forthwith with an order under this section is guilty of an offence.

Penalty: Division 9 fine.

(9) An allegation in a complaint for an offence against this section that a direction under subsection (6) was given or published and was given or published in a particular manner is, in the absence of evidence to the contrary, proof that that direction was given or published and that it was given or published in that manner.

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Bribery of Police

Bribery

61. (1) A person who gives, or offers or promises to give, a bribe to, or makes any collusive agreement with, a member of the police force to induce the member to neglect his or her duty, or to conceal or connive at an act by which a regulation or order relating to the appointment and duties of members of the police force may be evaded, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) In this section—

"bribe" includes any form of inducement.

False Reports to Police

False reports to police

62. (1) Where—

(a) a person makes a false representation—

(i) to a member of the police force; or

(ii) to a person who is not a member of the police force knowing that it is likely that the representation will be communicated by that person to a member of the police force,

knowing the representation to be false; and

(b) the representation is such as would reasonably call for investigation by the police,

the person by whom the representation was made is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

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(2) Upon convicting a person of an offence against this section, the court may order the convicted person to pay to the complainant a reasonable sum for the expenses of or incidental to any investigation made by a member of the police force as a result of the false representation.

(3) An amount received by the complainant under this section must be paid to the Treasurer in aid of the Consolidated Account.

Creating false belief as to events calling for police action

62A. (1) A person who intentionally creates a false belief that an offence has been committed, or that life has or may have been lost or is endangered, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

In this subsection—

"**belief**" includes suspicion.

(2) Upon convicting a person of an offence against this section, a court may order the convicted person to pay to the complainant a reasonable sum for the expenses of or incidental to any investigation made by a member of the police force as a result of the offence.

(3) An amount received by the complainant under this section must be paid to the Treasurer in aid of the Consolidated Account.

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Proceedings by Municipal and District Councils in Respect of Certain Offences

Payment of certain fines

65. If—

(a) a report is made by a member of the police force to a municipal or district council with respect to the commission of an offence and, arising out of that report, proceedings are taken in a court and a fine is imposed upon the offender; and

(b) it is provided by an Act that the fine is to be paid to any municipal or district council,

then, notwithstanding that Act, one-half of the fine must be paid to the Treasurer and will be credited to the Consolidated Account.

Compounding Informations and Complaints

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Police powers of entry, search, etc.

General search warrants

67. (1) Notwithstanding any law or custom to the contrary, the Commissioner may issue general search warrants to such members of the police force as the Commissioner thinks fit.

(2) Every such warrant must be in the form in the schedule, or in a form to the same effect, and must be signed by the Commissioner.

(3) Every such warrant will, subject to prior revocation by the Commissioner, remain in force for six months from the date of the warrant, or for a shorter period specified in the warrant.

(4) The member of the police force named in any such warrant may, at any time of the day or night, exercise all or any of the following powers:

(a) the member may, with such assistants as he or she thinks necessary, enter into, break open and search any house, building, premises or place where he or she has reasonable cause to suspect that—

(i) an offence has been recently committed, or is about to be committed; or

(ii) there are stolen goods; or

(iii) there is anything that may afford evidence as to the commission of an offence; or

(iv) there is anything that may be intended to be used for the purpose of committing an offence;

(b) the member may break open and search any cupboards, drawers, chests, trunks, boxes, packages or other things, whether fixtures or not, in which he or she has reasonable cause to suspect that—

(i) there are stolen goods; or

(ii) there is anything that may afford evidence as to the commission of an offence; or

(iii) there is anything that may be intended to be used for the purpose of committing an offence;

(c) the member may seize any such goods or things to be dealt with according to law.

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Power to search suspected vehicles, vessels, and persons

68. (1) A member of the police force may do any or all of the following things, namely, stop, search and detain—

(a) a vehicle or vessel in or upon which there is reasonable cause to suspect that—

(i) there are stolen goods; or

(ii) there is an object, possession of which constitutes an offence; or

(iii) there is evidence of the commission of an indictable offence;

(b) a person who is reasonably suspected of having, on or about his or her person—

(i) stolen goods; or

(ii) an object, possession of which constitutes an offence; or

(iii) evidence of the commission of an indictable offence.

(2) In this section—

"stolen goods" includes goods obtained by the commission of an offence.

Power to board vessels

69. A member of the police force may, at any time of the day or night—

- (a) enter into or upon a vessel which is in any harbor, port, dock, river or creek and into or upon every part of the vessel; and
- (b) search and inspect the vessel; and
- (c) inspect and observe the conduct of all persons who are employed on board the vessel in or about the loading or unloading of the vessel; and
- (d) take all such measures as are necessary for providing against fire and other accidents; and
- (e) take all such measures as are necessary for preserving peace and good order and preventing or detecting the commission of offences on board the vessel.

Power to stop and search vessels

70. If a member of the police force in charge of a police station or holding a rank not lower than sergeant has reasonable cause to suspect—

- (a) that an offence has been, or is about to be, committed on board a vessel which is in any harbor, port, dock, river or creek; or
- (b) that a person who has committed an offence, or against whom a warrant has been issued by a justice, is on board a vessel,

that member of the police force may, at any time of the day or night, exercise all or any of the following powers:

- (c) the member may stop and detain that vessel;
- (d) the member may enter, at all times, with such constables as he or she thinks necessary, into and upon that vessel and every part of that vessel;
- (e) the member may search and inspect that vessel and in doing so take all necessary measures for the effectual prevention or detection of any such suspected offence and for the apprehension of any such suspected person;
- (f) the member may take into custody any person reasonably suspected of having committed an offence or liable to apprehension under paragraph (e);
- (g) the member may take charge of all property suspected to be stolen or otherwise unlawfully obtained.

Power to apprehend persons committing offences on board ships

71. A member of the police force holding a rank not lower than sergeant, or a constable, when so ordered by any such member of the police force or called upon by the master or chief officer of the vessel concerned, may—

- (a) enter into and upon a vessel which is in any harbor, port, dock, river or creek; and
- (b) without any warrant, apprehend a person whom he or she finds drunk or committing an offence or whom he or she has reasonable cause to suspect of having committed an offence.

Interpretation

72. In sections 69, 70 and 71—

"vessel" means a ship, boat or other navigable vessel, not being a naval ship, boat or vessel.

Power of police to remove disorderly persons from public venues

73. (1) A member of the police force may enter a public venue and—

- (a) order any person who is behaving in a disorderly or offensive manner to leave; or
- (b) use reasonable force to remove any person who is behaving in such a manner.

(2) A person—

- (a) who remains in a public venue after having been ordered to leave pursuant to this section; or
- (b) who re-enters, or attempts to re-enter, a public venue within 24 hours of having left or having been removed from such a place pursuant to this section,

is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

Power to enter licensed premises, etc.

74. (1) A member of the police force, when called upon by the holder of a licence or permit under the *Liquor Licensing Act 1985*, may—

- (a) enter the premises to which the licence or permit relates; and
- (b) without any warrant, apprehend any person whom the member finds drunk and behaving in a riotous or indecent manner or whom the member finds fighting, or using threatening, abusive or insulting words, or behaving in a threatening, abusive or insulting manner.

(2) The powers conferred by subsection (1) are additional to powers conferred on a member of the police force by or under any other Act.

Power to require statement of name and address

74A. (1) Where a member of the police force has reasonable cause to suspect—

- (a) that a person has committed, is committing, or is about to commit, an offence; or
- (b) that a person may be able to assist in the investigation of an offence or a suspected offence,

the member may require that person to state his or her full name and address.

(2) Where a member of the police force has reasonable cause to suspect that a name or address as stated in response to a requirement under subsection (1) is false, the member may require the person making the statement to produce evidence of the correctness of the name or address as stated.

(3) A person who—

- (a) refuses or fails, without reasonable excuse, to comply with a requirement under subsection (1) or (2); or
- (b) in response to a requirement under subsection (1) or (2)—
 - (i) states a name or address that is false; or
 - (ii) produces false evidence of his or her name or address,

is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(4) Where a person has been required to state his or her full name and address under subsection (1), the person may require the member of the police force who has made the requirement to state his or her surname and rank.

Road blocks

74B. (1) In this section—

"**major offence**" means—

- (a) an offence attracting a penalty or maximum penalty of life imprisonment or imprisonment for at least seven years; or
- (b) an offence against section 86A(1) of the *Criminal Law Consolidation Act 1935*.

(2) Where a senior police officer believes on reasonable grounds that the establishment of a road block at a particular place would significantly improve the prospects of apprehending a person—

- (a) suspected of having committed a major offence; or
- (b) who has escaped from lawful custody,

the officer may authorise the establishment of a road block at that place.

(3) An authorisation under this section—

- (a) operates for an initial period (not exceeding 12 hours) specified by the officer granting the authorisation; and
- (b) may be renewed from time to time by a magistrate for a further period (not exceeding 12 hours).

(4) An authorisation may be granted under this section orally or in writing but a written record must be kept of—

- (a) the place at which the establishment of a road block was authorised;
 - (b) the period or periods for which the authorisation was granted or renewed;
 - (c) the grounds on which the authorisation was granted or renewed.
- (5) Where a road block is authorised under this section, a member of the police force—
- (a) may establish a road block (consisting of any appropriate form of barrier or obstruction preventing or limiting the passage of vehicles) at the place to which the authorisation relates;
 - (b) may stop vehicles at or in the vicinity of the road block;
 - (c) may require any person in any such vehicle to state his or her full name and address;
 - (d) may search the vehicle for the purpose of ascertaining whether the person for whose apprehension the road block was established is in or on the vehicle and give reasonable directions to any person in the vehicle for the purpose of facilitating the search;
 - (e) may take possession of any object found in the course of such a search that the member suspects on reasonable grounds to constitute evidence of an offence.

(6) Where a member of the police force suspects on reasonable grounds that a name or address as stated in response to a requirement under subsection (5) is false, he or she may require the person making the statement to produce evidence of the correctness of the name or address as stated.

- (7) A person who—
- (a) fails, without reasonable excuse, to stop a vehicle at a road block when requested or signalled to do so; or
 - (b) fails, without reasonable excuse, to comply with a requirement or direction under subsection (5) or (6); or
 - (c) in response to a requirement under subsection (5) or (6)—
 - (i) states a name or address that is false; or
 - (ii) produces false evidence of his or her name or address,

is guilty of an offence.

Penalty: \$2 000 or imprisonment for 6 months.

(8) In proceedings for an offence against this section, a certificate apparently signed by a senior police officer stating—

- (a) that an authorisation under this section was given or renewed for a specified period; and
- (b) that the authorisation authorised the establishment of a road block at a specified place; and
- (c) the grounds on which the authorisation was given or renewed,

will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

(9) The Commissioner must, as soon as practicable after each successive period of three months following the commencement of this section, submit a report to the Minister in relation to that period stating—

- (a) the number of authorisations granted under this section during that period;
- (b) in relation to each authorisation granted during that period—
 - (i) the place at which the establishment of a road block was authorised;
 - (ii) the period or periods for which the authorisation was granted or renewed;
 - (iii) the grounds on which the authorisation was granted or renewed;
- (c) any other matters the Commissioner considers relevant.

(10) The Minister must cause copies of a report under subsection (9) to be laid before both Houses of Parliament within seven sitting days after receipt of the report if Parliament is in session, or if Parliament is not then in session, within seven sitting days after the commencement of the next session of Parliament.

Duty of investigating officers to record interviews

Interpretation

74C. In this Division (sections 74C to 74G)—

"**interview**" includes—

- (a) a conversation; or
- (b) part of a conversation; or
- (c) a series of conversations;

"**investigating officer**" means—

- (a) a member of the police force; or
- (b) a person authorised under an Act to investigate offences and arrest suspected offenders.

Obligation to record interviews with suspects

74D. (1) An investigating officer who suspects, or has reasonable grounds to suspect, a person ("**the suspect**") of having committed an indictable offence and who proposes to interview the suspect must ensure the following requirements are complied with:

- (a) if it is reasonably practicable to record the interview on videotape, a videotape recording of the interview must be made;
- (b) if it is not reasonably practicable to record the interview on videotape but it is reasonably practicable to record the interview on audiotape, an audiotape recording of the interview must be made;

- (c) if it is neither reasonably practicable to record the interview on videotape nor reasonably practicable to record the interview on audiotape—
 - (i) a written record of the interview must be made at the time of the interview or as soon as practicable after the interview; and
 - (ii) as soon as practicable after the interview, the record must be read aloud to the suspect and the reading must be recorded on videotape; and
 - (iii) when the videotape recording begins (but before the reading begins) the suspect must be invited to interrupt the reading at any time to point out errors or omissions in the record; and
 - (iv) if the suspect in fact interrupts the reading to point out an error or omission, the suspect must then be allowed a reasonable opportunity to do so; and
 - (v) at the end of the reading, but while the videotape recording continues, the suspect must again be invited to point out errors or omissions in the record and allowed a reasonable opportunity to do so; and
 - (vi) if the investigating officer agrees that there is an error or omission in the record, the officer must amend the record to correct the error or omission and if the officer does not agree that there is an error or omission in the record, the officer must nevertheless make a note of the error or omission asserted by the suspect in an addendum to the record of interview.

(2) If the suspicion, or a reasonable ground for suspicion, arises during the course of an interview, the investigating officer's obligations under subsection (1) arise at that point and apply to the interview from that point.

(3) In deciding whether it is reasonably practicable to make a videotape or audiotape recording of an interview, the following matters must be considered:

- (a) the availability of recording equipment within the period for which it would be lawful to detain the person being interviewed;
- (b) mechanical failure of recording equipment;
- (c) a refusal of the interviewee to allow the interview to be recorded on videotape or audiotape;
- (d) any other relevant matter.

(4) As soon as practicable after a videotape or an audiotape recording is made under this Division, the investigating officer must give the suspect a written statement of the suspect's right—

- (a) if a videotape recording was made—
 - (i) to have the videotape played over to the suspect or the suspect's legal adviser (or both); and
 - (ii) to obtain an audiotape recording of the sound track of the videotape; or

- (b) if an audiotape recording (but no videotape recording) of the interview was made—to obtain a copy of the audiotape.

(5) Arrangements must be made, at the request of a suspect, for the playing of a videotape at a reasonable time and place to be nominated by an appropriate investigating officer.

(6) A suspect must be provided, on request and on payment of the fee fixed by regulation, with—

- (a) an audiotape of the soundtrack of a videotape recording of an interview with the suspect under this Division; or
- (b) a copy of an audiotape recording of an interview with the suspect under this Division.

Admissibility of evidence of interview

74E. (1) In proceedings for an indictable offence, evidence of an interview between an investigating officer and the defendant is inadmissible against the defendant unless—

- (a) the investigating officer complied with this Division; or
- (b) the court is satisfied that the interests of justice require the admission of the evidence despite the investigating officer's non-compliance.

(2) If, in the course of a trial by jury, the court admits evidence of an interview under subsection (1)(b), the court must—

- (a) draw the jury's attention to the non-compliance by the investigating officer; and
- (b) give an appropriate warning in view of the non-compliance,

unless the court is of the opinion that the non-compliance was trivial.

Prohibition on playing tape recordings of interviews

74F. A person must not play to another person a videotape or audiotape containing an interview or part of an interview recorded under this Division except where the videotape or audiotape is played—

- (a) for purposes related to the investigation of an offence; or
- (b) for the purposes of, or purposes related to, legal proceedings, or proposed legal proceedings, to which the interview is relevant; or
- (c) with the permission of a court before which the videotape or audiotape has been tendered in evidence¹.

¹ For example, the court might permit the use of a videotape or audiotape for the purpose of instructing investigating officers in relation to duties under this Division.

Non-derogation

74G. This Division does not—

- (a) make evidence admissible that would otherwise be inadmissible; or
- (b) affect the court's discretion to exclude evidence.

Arrest

Power of arrest

75. A member of the police force, without any warrant other than this Act, at any hour of the day or night, may apprehend any person whom the member finds committing, or has reasonable cause to suspect of having committed, or being about to commit, an offence.

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Arrest by owner of property or by servant or agent of owner

76. (1) If the owner of any property, or the servant or agent of the owner of any property, finds a person committing an offence on, or with respect to, that property, the owner, or the servant or agent, may apprehend the offender and deliver the offender forthwith into the custody of a member of the police force to be dealt with according to law.

(2) In this section—

"owner", in relation to property consisting of land, a building or other premises, includes an occupier of, and a person resident on or in, the land, building or premises.

Arrest of persons pawning or selling stolen goods

77. (1) If a person to whom any property is offered (for sale, as a pawn or in some other kind of commercial transaction) has reasonable cause to suspect that the person offering the property has stolen it, or obtained it by unlawful means, the person may—

- (a) apprehend and detain that other person until he or she can be delivered into the custody of a member of the police force; and
- (b) seize and detain the property until it can be delivered into the custody of a member of the police force.

(2) A person who exercises a power of apprehension or seizure under this section must take the necessary action to have the person or property delivered into the custody of a member of the police force as soon as practicable.

Person apprehended without warrant, how dealt with

78. (1) Subject to this section, a person who is apprehended without warrant must be forthwith delivered into the custody of the member of the police force in charge of the nearest police station.

(2) Where a person is apprehended, without warrant, on suspicion of having committed a serious offence, a member of the police force may, for the purpose of investigating the suspected offence—

- (a) detain that person, prior to delivering him or her into custody at the nearest police station, for so long as may be necessary to complete the investigation of the suspected offence, or for the prescribed period, whichever is the lesser; and
- (b) take that person, or cause him or her to be taken, during the course of detention under this subsection, to places connected with the suspected offence.

(3) Where a person has been delivered into custody at a police station in pursuance of this section, the person may, on the authorisation of a magistrate, be temporarily removed from that custody to the custody of a member of the police force for a purpose related to the investigation of an offence.

(4) An application to a magistrate for an authorisation under this section may be made by telephone and, where an application is so made, a written record must be made in the prescribed form stating—

- (a) the grounds on which the application was made; and
- (b) whether the application was granted and, if so, the terms and conditions on which it was granted,

and the record must be confirmed by the signature of the magistrate to whom the application was made.

(5) Where it is decided not to charge a person who is apprehended on suspicion of having committed an offence, the member of the police force who is in charge of the investigation of the suspected offence must ensure that the person is, if the person so requires—

- (a) returned to the place of apprehension; or
- (b) delivered to another place that may be reasonably nominated by the person.

(6) In this section—

"the nearest police station", in relation to a person apprehended without warrant, means—

- (a) the police station nearest the place of apprehension at which facilities are continuously available for the care and custody of the person apprehended; or
- (b) in the case of a person apprehended within a radius of 30 kilometres from the General Post Office at Adelaide—
 - (i) the police station at Adelaide known as the City Watch House; or
 - (ii) any other police station within that radius at which facilities are continuously available for the care and custody of the person apprehended;

"the prescribed period", in relation to the detention of a person apprehended without warrant, means a period (calculated from the time of apprehension) of four hours or such longer period (not exceeding eight hours) as may be authorised by a magistrate, but in determining whether the prescribed period has elapsed since apprehension—

- (a) any delays occasioned by arranging for a solicitor or other person to be present during the investigation will not be taken into account; and
- (b) the time that would have been reasonably required to convey the person apprehended from the place of apprehension to the nearest police station, assuming that the person had been taken forthwith to that police station, will be subtracted from the time that has actually elapsed from the time of apprehension;

"serious offence" means an indictable offence or an offence punishable by imprisonment for two years or more.

Power of arrest in cases of certain offences committed outside the State

78A. (1) This section applies to an offence—

- (a) that is an offence against the law of a State (other than this State) or a Territory of the Commonwealth; and
- (b) that consists of an act or omission which, if it occurred in this State, would constitute—
 - (i) an indictable offence; or
 - (ii) an offence punishable by imprisonment for two years or more.

(2) Any member of the police force may, without any warrant other than this Act, at any hour of the day or night, apprehend a person whom the member has reasonable cause to suspect of having committed an offence to which this section applies.

(3) Subject to section 78, a person apprehended pursuant to this section must be brought as soon as practicable before a court of summary jurisdiction and the court—

- (a) may discharge the person; or
- (b) may—
 - (i) admit the person to bail on such conditions and recognizances as the court thinks fit; or
 - (ii) commit the person to custody,

pending the issue of a warrant for the person's apprehension under the law of the State or Territory in which he or she is alleged to have committed the offence, and the execution of that warrant.

(4) Where a person has been detained or admitted to bail pursuant to subsection (3) and a warrant for the person's apprehension is not issued and executed within a reasonable time (not exceeding seven days) thereafter, that person must be discharged from custody or released from bail (as the case may require) by the court.

(5) The provisions of the *Justices Act 1921* apply, with any necessary modifications, in relation to proceedings before a court of summary jurisdiction under this section.

Arrest without warrant where warrant has been issued

79. (1) A member of the police force may, without a warrant, take into custody a person whom the member has reasonable cause for believing or suspecting to be a person for whose apprehension or commitment a warrant has been issued by a justice.

(2) If a member of the police force, without a warrant, takes into custody a person whom the member has reasonable cause for believing or suspecting to be a person for whose committal a warrant has been issued by a justice, that member must forthwith deliver that person into the custody of the member of the police force in charge of the nearest police station and must, as soon as conveniently may be, produce or cause to be produced to the person taken into custody the warrant of commitment (if any), whereupon that person must be dealt with as required by the warrant.

Rights upon arrest

79A. (1) Subject to this section, where a person is apprehended by a member of the police force (whether with or without a warrant)—

- (a) the person is entitled to make, in the presence of a member of the police force, one telephone call to a nominated relative or friend to inform the relative or friend of his or her whereabouts; and
- (b) where the person is apprehended on suspicion of having committed an offence—
 - (i) the person is entitled to have a solicitor, relative or friend (in the case of a minor the relative or friend must be an adult) present during any interrogation or investigation to which the person is subjected while in custody; and
 - (ii) if English is not the person's native language—the person is entitled, if he or she so requires, to be assisted at an interrogation by an interpreter; and
 - (iii) the person is, while in custody, entitled to refrain from answering any question (unless required to answer the question under this or any other Act or law).

(1a) Where a minor has been apprehended on suspicion of having committed an offence and—

- (a) the minor does not nominate a solicitor, relative or friend to be present during an interrogation or investigation relating to the suspected offence; or
- (b) the solicitor, relative or friend nominated by the minor is unavailable or unwilling to attend the interrogation or investigation,

then, subject to subsection (1b), the minor must not be subjected to an interrogation or investigation until the member of the police force in charge of the investigation of the suspected offence has secured the presence of—

- (c) a person nominated by the Director-General of Community Welfare to represent the interests of children subject to criminal investigation; or
- (d) where no such person is available, some other person (not being a minor, a member of the police force or an employee of the Police Department) who, in the opinion of the member of the police force, is a suitable person to represent the interests of the minor.

(1b) An interrogation or investigation may proceed notwithstanding subsection (1a) if—

- (a) the suspected offence is not an offence punishable by imprisonment for two years or more; and
- (b) it is not reasonably practicable to secure the presence of a suitable representative of the child's interests as contemplated by that subsection.

(2) The member of the police force who is in charge of the investigation of a suspected offence in relation to which a person has been apprehended may decline to permit—

- (a) the person in custody to make a telephone call to a particular person (being a relative or friend); or
- (b) a particular person (being a relative or friend of the person who has been taken into custody) to be present at an interrogation or investigation,

if the member of the police force has reasonable cause to suspect that communication between the person in custody and that particular person would result in an accomplice taking steps to avoid apprehension or would prompt the destruction or fabrication of evidence.

(3) A member of the police force must, as soon as is reasonably practicable after the apprehension of a person—

- (a) inform that person of his or her rights under subsection (1); and
- (b) warn the person that anything that he or she may say may be taken down and used in evidence.

Removal and storage of vehicle in case of arrest of driver

79B. (1) Subject to subsection (2), where a member of the police force arrests the driver of a motor vehicle, the member may remove, or arrange for the removal of, the motor vehicle to a place at which it may be safely and conveniently stored.

(2) A member of the police force may not remove, or arrange for the removal of, a motor vehicle under subsection (1) if—

- (a) the driver referred to in subsection (1) is being accompanied by another person who is lawfully entitled to drive the vehicle; and
- (b) the driver authorises that other person to remove the vehicle; and
- (c) the vehicle is removed within a reasonable period.

(3) No liability attaches to a member of the police force in relation to any damage to a motor vehicle caused while the motor vehicle is being removed or stored under this section.

(4) A liability that would, but for subsection (3), lie against a member of the police force lies against the Crown.

(5) A member of the police force who removes, or arranges for the removal of, a motor vehicle under this section must notify the driver in writing of the place to which the vehicle has been removed.

(6) A vehicle removed and stored under this section must be returned to a person entitled to possession of the vehicle upon payment of the reasonable costs of removal and storage calculated in accordance with a scale in force under subsection (7).

(7) The Commissioner may prepare and from time to time revise a scale of costs for the purposes of subsection (6).

(8) If no application for the return of the vehicle is made within 42 days after it was taken into storage, it may be dealt with as unclaimed property under the *Police Act 1952*.

Power of entry and search in relation to fires and other emergencies

80. A member of the police force may, at any time of the day or night, with or without assistance—

- (a) enter and inspect land, premises or an object for the purpose of determining the cause of a fire or other emergency; or

- (b) remove an object or material that may tend to prove the cause of a fire or other emergency; or
- (c) retain possession of an object or material for the purpose of an investigation or inquiry into the cause of the fire or other emergency.

Power to search, examine and take particulars of persons

81. (1) When a person is taken into lawful custody, a member of the police force may search, and take anything found upon, his or her person, and may use such force as is reasonably necessary for those purposes.

(2) When a person is in lawful custody on a charge of committing an offence and there are reasonable grounds for believing that an examination of his or her person will afford evidence as to the commission of the offence, a legally qualified medical practitioner acting at the request of a member of the police force in charge of a police station, or of or above the rank of sergeant, and any assistant acting in good faith under the practitioner's direction may make such an examination of the person so in custody as is reasonable in order to ascertain the facts which may afford such evidence, and may use such force as is reasonably necessary for that purpose.

(3) Where a member of the police force intends to request a medical practitioner to examine a person in custody—

- (a) the member must, before communicating with the medical practitioner for the purpose of making the request, inform the person in custody of the intention and inquire from that person whether he or she desires to be examined also by another medical practitioner named by that person;
- (b) if the person states that he or she does so desire and names a medical practitioner, the member must promptly take all reasonable steps to inform that practitioner by telephone message that the person in custody desires him or her to attend at the police station and examine the person.

A person in custody is liable for the cost of any medical examination conducted at his or her request under this subsection and neither the Crown nor any member of the police force is liable for that cost.

Failure to comply with this subsection does not affect the legality of the detention of any person in custody, or of any medical examination conducted at the request of a member of the police force.

(4) Where a person is in lawful custody on a charge of committing an offence, a member of the police force may, if the member believes on reasonable grounds that it is necessary to do so for the purpose of identifying that person or identifying that person as the person who committed an offence—

- (a) take, or cause to be taken, photographs of that person and prints of the hands, fingers, feet or toes of that person, and may use, or cause to be used, such reasonable force as is necessary for that purpose;
- (b) cause impressions of the teeth of that person to be taken by a registered dentist;
- (c) make a recording of the voice of that person;
- (d) request that person to supply a sample of his or her handwriting.

(4a) A member of the police force may not exercise a power under subsection (4) for the purpose of identifying a person in lawful custody as the person who committed an offence unless—

- (a) the person has been charged with the offence; or
- (b) the member of the police force is acting upon the authorisation of a magistrate given under this section.

(4b) For the purposes of subsection (4a), a member of the police force may obtain the authorisation of a magistrate upon application made in person or, if it is impracticable to do so in person, upon application made by telephone.

(4c) A magistrate to whom application is made under subsection (4b) may give the authorisation if the magistrate thinks it proper to do so in all the circumstances of the case.

(4d) Where application is made under subsection (4b) in person, the magistrate must give an authorisation in writing and where application is made under that subsection by telephone, the magistrate must, as soon as is practicable after giving the authorisation, cause a written memorandum of the authorisation to be forwarded to the member of the police force who made the application.

(4e) A person who refuses or fails to comply with the reasonable directions of a person who seeks to obtain an impression of his or her teeth or a sample of his or her voice or handwriting under subsection (4) is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(4f) Where photographs, prints, impressions or recordings are taken in respect of a person under subsection (4), or a person supplies a sample of his or her handwriting under that subsection, and the charge is subsequently withdrawn or dismissed, then all such photographs, prints, impressions, recordings and samples of handwriting must be destroyed.

(5) The powers given by this section are in addition to, and do not derogate from, any other powers of members of the police force.

General powers, privileges, duties, etc., of police

82. A member of the police force has, in addition to the powers, privileges, duties and responsibilities conferred or imposed by this or any other Act, all such powers, privileges, duties and responsibilities as a constable has by the common law.

* * * * *

Right to an Interpreter

Right to an interpreter

83A. (1) Where—

- (a) a person whose native language is not English is suspected of having committed an offence; and
- (b) the person is not reasonably fluent in English,

the person is entitled to be assisted by an interpreter during any questioning conducted by an investigating officer in the course of an investigation of the suspected offence.

(2) Where it appears that a person may be entitled to be assisted by an interpreter under subsection (1), an investigating officer must not proceed with any questioning, or further questioning, until the person has been informed of the right to an interpreter that exists under subsection (1).

(3) If a person who is entitled to be assisted by an interpreter under subsection (1) requests the assistance of an interpreter, an investigating officer must not proceed with any questioning, or further questioning, until an interpreter is present.

(4) In this section—

"investigating officer" means—

- (a) a member of the police force;
- (b) a person authorised by or under an Act to investigate the suspected offence.

Miscellaneous Provisions

Dangerous areas

83B. (1) Where a senior police officer believes on reasonable grounds that it would be unsafe for members of the public to enter a particular area, locality or place because of conditions temporarily prevailing there, the officer may declare the area, locality or place to be dangerous.

(2) A declaration under this section—

- (a) comes into force when it is made but should be broadcast as soon as practicable after that time by public radio or published in any other manner the senior police officer thinks appropriate in the circumstances of the case; and
- (b) remains in force for a period (not exceeding 2 days) stated in the declaration.

(3) Where a declaration is in force under this section, a member of the police force may—

- (a) warn any person apparently proceeding towards, or in the vicinity of, the dangerous area, locality or place against entering it; and
- (b) require or signal the driver of a motor vehicle to stop so that such a warning may be given to the occupants of the vehicle.

(4) A warning under this section lapses—

- (a) when the relevant declaration expires; or
- (b) at some earlier time specified by a senior police officer.

(5) A person who—

- (a) enters a dangerous area, locality or place contrary to a warning under this section; or
- (b) fails, without reasonable excuse, to stop a vehicle when required or signalled to do so under this section,

is guilty of an offence.

Penalty: \$2 000 or imprisonment for 6 months.

(6) Subsection (5)(a) does not apply to—

- (a) a person if it is reasonably necessary for the person to enter the area, locality or place in order to protect life or property; or
- (b) a representative of the news media, unless the member of the police force who gave the warning believes on reasonable grounds that the entry of the representative into the area, locality or place would give rise to a risk of death or injury to any person other than the representative and advises the representative accordingly.

(7) If—

- (a) a person enters a dangerous area, locality or place contrary to a warning under this section; and
- (b) the person is found guilty of an offence against subsection (5)(a),

the person is liable to compensate the Crown for the costs of operations reasonably carried out for the purpose of finding or rescuing that person.

(8) In civil or criminal proceedings under this section, a certificate apparently signed by a senior police officer stating—

- (a) that a declaration was made under this section in relation to a particular area, locality or place; and
- (b) that the declaration was in force for a specified period; and
- (c) the grounds on which the declaration was made,

will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

(9) The Commissioner must, as soon as practicable after each successive period of three months following the commencement of this section, submit a report to the Minister in relation to that period stating—

- (a) the number of declarations made under this section during that period;
- (b) in relation to each declaration made during that period—
 - (i) the area, locality or place in relation to which the declaration was made;
 - (ii) the period for which the declaration was in force;
 - (iii) the grounds on which the declaration was made;
- (c) any other matters the Commissioner considers relevant.

(10) The Minister must cause copies of a report under subsection (9) to be laid before both Houses of Parliament within seven sitting days after receipt of the report if Parliament is in session, or if Parliament is not then in session, within seven sitting days after the commencement of the next session of Parliament.

(11) This section does not apply if—

- (a) a declaration is in force under the *State Disaster Act 1980*;
- (b) an emergency order is in force under the *State Emergency Service Act 1987*.

Overcrowding at public venues

83BA. (1) A member of the police force may enter and inspect a public venue to determine whether there is overcrowding such that there is serious risk of injury or damage.

(2) Where a senior police officer forms the opinion that there is serious risk of injury or damage due to overcrowding at a public venue, the officer may do one or more of the following:

- (a) order persons to leave the place immediately;
- (b) order the occupier of the place immediately to remove persons from the place;
- (c) order the occupier of the place to take other specified action to rectify the situation immediately or within a specified period;
- (d) if an order under paragraph (a), (b) or (c) is not obeyed, take action to carry out the order;
- (e) if satisfied that the safety of persons cannot reasonably be ensured by other means, order the occupier of the place to close the place immediately and for such period as the officer considers necessary (but not exceeding 12 hours) for the alleviation of the danger;
- (f) if a closure order under paragraph (e) cannot for any reason be given to the occupier, or if a closure order, having been given to the occupier, is not immediately obeyed, take action to close the place for such period as the officer considers necessary (but not exceeding 12 hours) for the alleviation of the danger.

(3) An order under this section may be given orally or by notice in writing served on the occupier of the place.

(4) If a closure order under this section is given orally, the officer must as soon as practicable cause a written notice containing the order to be served on the occupier of the place.

(5) If a person given an order under this section refuses or fails to obey the order, the person is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(6) When a senior police officer is satisfied that the danger has been alleviated, he or she may rescind an order under this section.

(7) A senior police officer may authorise another member of the police force to exercise all or any of the powers conferred by subsection (2) if satisfied (whether on the basis of his or her own observations or the report of another member of the police force) that urgent action is required.

(8) A member of the police force may use such force to enter a place, or to take other action under this section, as is reasonably necessary for the purpose.

(9) The Commissioner must include in the Commissioner's annual report to the Minister to whom the administration of the *Police Act 1952* is for the time being committed a record of the authorisations issued under subsection (7) during the period to which the report relates.

Special powers of entry

83C. (1) Where a senior police officer suspects on reasonable grounds—

- (a) that an occupant of premises has died and his or her body is in the premises; or
- (b) that an occupant of premises is in need of medical or other assistance,

the officer may authorise a member of the police force to enter the premises for the purpose of investigating the matter and taking such action as the circumstances of the case may require.

(2) An authorisation under subsection (1) must be in writing unless the authorising officer has reason to believe that in the circumstances urgent action is required, in which case, the authorisation may be given orally.

(3) Where a person has died and the Commissioner considers it necessary or desirable to do so, the Commissioner may issue to a member of the police force a warrant in the prescribed form authorising the member to enter the premises in which the person last resided before death and—

- (a) search the premises for material that might identify or assist in identifying the deceased or relatives of the deceased;
- (b) take property of the deceased into safe custody.

(4) A member of the police force may, if necessary, exercise reasonable force for the purpose of obtaining entry to premises, or carrying out a search, under this section.

(5) The Commissioner is responsible for ensuring that a proper record is kept of property taken from premises under this section and must, if satisfied that a person has a proper interest in the matter, allow that person to inspect the record.

(6) The Commissioner must, as soon as practicable (but not later than three months) after each 30 June, submit a report to the Minister in relation to the year ended on that 30 June stating—

- (a) the number of authorisations and warrants granted under this section during that year;
- (b) the nature of the grounds on which the authorisations and warrants were granted;
- (c) the type of property taken from premises pursuant to warrant under this section;
- (d) any other matters the Commissioner considers relevant.

(7) The Minister must cause copies of a report under subsection (6) to be laid before both Houses of Parliament within seven sitting days after receipt of the report if Parliament is in session, or if Parliament is not then in session, within seven sitting days after the commencement of the next session of Parliament.

Summary offences

84. Proceedings for offences against this Act will, except where otherwise provided, be heard and determined summarily.

Regulations

85. The Governor may make regulations for the purposes of this Act.

SCHEDULE

South [Royal Arms] Australia

SUMMARY OFFENCES ACT 1953

General Search Warrant

To

You are hereby authorised at any time in the day or night, with such assistants as you think necessary, to enter into and search any house, building, premises or place where you have reasonable cause to suspect that—

- (a) an offence has been recently committed, or is about to be committed; or
- (b) there are any goods obtained by an offence; or
- (c) there is anything which may afford evidence as to the commission of an offence; or
- (d) there is anything which may be intended to be used for the purpose of committing an offence,

and to break open the house, building, premises or place and to break open and search any cupboards, drawers, chests, trunks, boxes, packages or other things, whether fixtures or not, in which you have reasonable cause to suspect that—

- (e) there are any goods obtained by an offence; or
- (f) there is anything which may afford evidence as to the commission of an offence; or
- (g) there is anything which may be intended to be used for the purpose of committing an offence,

and to seize any such goods or things, to be dealt with according to law. This warrant remains in force for six months from its date. *[If for a shorter period state how long.]*

Dated this _____ day of _____, 19 ____.

Commissioner of Police

Summary Offences Act 1953

APPENDIX 1**LEGISLATIVE HISTORY****Repeals**

The *Police Offences Act 1953* repealed certain provisions of the *Police Act 1936*.

Transitional Provisions

(*Transitional provision from Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996, s. 5*)

5. An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

Legislative History

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 8 of *The Public General Acts of South Australia 1837-1975* at page 429.
- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 8 July 1985. A schedule of these alterations was laid before Parliament on 1 August 1985.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Long title:	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 1:	substituted by 46, 1985, s. 3
Section 2:	repealed by 23, 1990, s. 3(1) (Sched. 7)
Section 4(1):	amended by 23, 1990, s. 3(1) (Sched. 7) definition of "minor" inserted by 52, 1980, s. 2(a) definition of "place of public entertainment" inserted by 46, 1985, s. 4(a); substituted by 87, 1993, s. 13; repealed by 106, 1995, s. 3(a) definition of "public venue" inserted by 106, 1995, s. 3(b) definition of "senior police officer" inserted by 38, 1990, s. 3 definition of "telephone" inserted by 46, 1985, s. 4(b) definition of "to tattoo" inserted by 52, 1980, s. 2(b)
Section 4(2):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 5:	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 6(1) and (2):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 6(3) and (4):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 6(6):	repealed by 46, 1985, s. 5
Section 7(1) and (2):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 7(3):	definition of "public place" substituted by 50, 1984, s. 3(1) (Sched. 4)
Section 7A:	inserted by 35, 1992, s. 19
Section 8(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 8(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 8(3):	repealed by 46, 1985, s. 6
Section 9:	amended by 69, 1983, s. 3; repealed by 106, 1976, s. 3
Section 9A(1) - (3):	repealed by 106, 1976, s. 4
Section 9A(4):	substituted by 50, 1984, s. 3(1) (Sched. 4); amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)

Section 9A(5):	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 7
Section 10:	repealed by 46, 1985, s. 8
Section 11:	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 11A:	inserted by 46, 1985, s. 9; amended by 23, 1990, s. 3(1) (Sched. 7)
Section 12(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 12(2):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 13:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 15(1):	amended by 46, 1985, s. 10(a); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 15(1a):	repealed by 46, 1985, s. 10(b); inserted by 103, 1988, s. 4(a); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 15(1b):	inserted by 102, 1978, s. 2(a); amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 15(2):	substituted by 102, 1978, s. 2(b); amended by 46, 1985, s. 10(c); 103, 1988, s. 4(b)
Section 15(3):	definition of "dangerous article" inserted by 102, 1978, s. 2(c) definition of "firearm" inserted by 103, 1988, s. 4(c) definition of "prescribed drug" substituted by 102, 1978, s. 2(d); repealed by 46, 1985, s. 10(d)
Section 15(4):	inserted by 103, 1988, s. 4(d)
Section 15(4):	inserted by 102, 1978, s. 2(e); substituted by 46, 1985, s. 10(e); redesignated as s. 15(5) by 23, 1990, s. 3(1) (Sched. 7)
Section 15A:	inserted by 27, 1995, s. 20
Section 15A(1a) and (1b):	inserted by 59, 1997, s. 17
Section 16(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 16(2) and (3):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 17:	amended by 50, 1984, s. 3(1) (Sched. 4); 53, 1984, s. 2; substituted by 46, 1985, s. 11
Section 17(1):	amended by 23, 1990, s. 3(1) (Sched. 7); 37, 1992, s. 7
Section 17(1a):	inserted by 50, 1984, s. 3(1) (Sched. 4); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17(4):	substituted by 104, 1986, s. 2
Section 17A:	inserted by 53, 1984, s. 3
Section 17A(1):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17A(2):	amended by 46, 1985, s. 12(a); substituted by 104, 1986, s. 3(a); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17A(2a):	inserted by 46, 1985, s. 12(b); substituted by 104, 1986, s. 3(a); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17A(2b):	inserted by 104, 1986, s. 3(a)
Section 17A(2c):	inserted by 104, 1986, s. 3(a); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17A(3):	definition of "offensive" inserted by 46, 1985, s. 12(c) definition of "premises" substituted by 104, 1986, s. 3(b)
Section 17A(4):	inserted by 104, 1986, s. 3(c); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17B:	inserted by 53, 1984, s. 3; repealed by 46, 1985, s. 13; inserted by 104, 1986, s. 4
Section 17B(1):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17C:	inserted by 104, 1986, s. 4
Section 17C(1):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 17D:	inserted by 35, 1992, s. 20
Section 18:	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, ss. 14, 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7); substituted by 35, 1992, s. 20

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Section 18A:	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 79, 1988, s. 3; inserted by 35, 1992, s. 20
Section 19:	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 15
Section 20(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 21(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 21A and heading:	inserted by 52, 1980, s. 3
Section 21A(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 21A(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 22(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 23(1) and (2):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 23A:	amended by 23, 1990, s. 3(1) (Sched. 7)
Sections 24 and 25:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 26(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 26(2):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 27:	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 28(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 28(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 29:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 30(1) and (2):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 31(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 31(2):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 31(3) and (4):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 32:	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Heading preceding section 33:	substituted by 73, 1995, s. 2
Section 33:	amended by 46, 1976, s. 2; 38, 1978, s. 2; 94, 1978, s. 2; substituted by 114, 1983, s. 4(a)
Section 33(1):	definition of "child pornography" inserted by 32, 1992, s. 2(a); amended by 73, 1995, s. 3(a) definition of "computer data" inserted by 32, 1992, s. 2(a) definition of "computer record or system" inserted by 32, 1992, s. 2(a) definition of "indecent material" amended by 73, 1995, s. 3(b) definition of "material" amended by 32, 1992, s. 2(b) definition of "offensive material" amended by 73, 1995, s. 3(c)
Section 33(2):	amended by 23, 1990, s. 3(1) (Sched. 7); 32, 1992, s. 2(c)
Section 33(3):	amended by 23, 1990, s. 3(1) (Sched. 7); substituted by 32, 1992, s. 2(d)
Section 33(4):	amended by 23, 1990, s. 3(1) (Sched. 7); 32, 1992, s. 2(e); substituted by 73, 1995, s. 3(d)
Section 33(5):	amended by 32, 1992, s. 2(f), (g)
Section 33(6) - (8):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 33(10):	amended by 50, 1984, s. 3(1) (Sched. 7)
Section 33A:	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 34:	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 16

Section 35(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 35(3) and (4):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 35(5):	inserted by 46, 1985, s. 17
Section 35(6) and (7):	inserted by 46, 1985, s. 17; amended by 23, 1990, s. 3(1) (Sched. 7)
Section 36:	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 18
Sections 37 and 38:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 38A(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 38A(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 39(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 39(3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 40:	repealed by 46, 1985, s. 19; inserted by 35, 1992, s. 21
Section 41(1):	amended by 71, 1976, s. 2; 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 41(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 42(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 42(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 43:	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); substituted by 90, 1986, s. 10(2) (Sched. Pt. 2)
Section 43(1):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 44:	repealed by 46, 1985, s. 20; inserted by 50, 1989, s. 3
Section 44(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 45(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 45(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 46(1):	amended by 46, 1985, s. 36 (Sched.); substituted by 90, 1986, s. 10(2) (Sched. Pt. 2); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 46(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 47(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 47(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 47(3):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 47(4):	definition of "take" amended by 50, 1984, s. 3(1) (Sched. 4)
Section 48:	amended by 46, 1985, ss. 21, 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7); substituted by 38, 1992, s. 3
Heading preceding section 49:	inserted by 102, 1987, s. 3; repealed by 101, 1996, Sched. cl. 2
Section 49:	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 22; inserted by 102, 1987, s. 3; amended by 23, 1990, s. 3(1) (Sched. 7); 55, 1990, s. 3; repealed by 101, 1996, Sched. cl. 2
Sections 49A - 49D:	inserted by 102, 1987, s. 3; amended by 23, 1990, s. 3(1) (Sched. 7); repealed by 101, 1996, Sched. cl. 2
Sections 49E - 49G:	inserted by 102, 1987, s. 3; repealed by 101, 1996, Sched. cl. 2
Section 50:	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 51(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 52:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)

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Section 53(1):	amended by 46, 1985, ss. 23, 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 53(2):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 54:	amended by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 24
Section 55:	repealed by 46, 1985, s. 25
Section 56:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 57(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 57(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 57(4):	definition of "rubbish" amended by 50, 1984, s. 3(1) (Sched. 4)
Section 58(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 58(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 58A(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 58A(2):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 58A(3):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 58A(4):	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 58A(5) and (6):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 58B(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 58B(3):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 58B(4):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7); 65, 1995, Sched. cl. 1(a)
Section 59(1) - (3):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 59(4) and (5):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 59(8):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 59(9):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 61(1):	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7)
Section 61(2):	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 62(1):	substituted by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, s. 26; amended by 23, 1990, s. 3(1) (Sched. 7)
Section 62(1a):	inserted by 50, 1984, s. 3(1) (Sched. 4); repealed by 46, 1985, s. 26
Section 62(2):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 62(3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 62A(1):	substituted by 50, 1984, s. 3(1) (Sched. 4); amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7); 59, 1994, Sched. 2
Section 62A(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 63:	repealed by 46, 1985, s. 27
Heading preceding section 64:	inserted by 39, 1981, s. 3; repealed by 34, 1996, s. 4 (Sched. cl. 34)
Section 64:	repealed by 38, 1979, s. 3; inserted by 39, 1981, s. 3; amended by 50, 1984, s. 3(1) (Sched. 4); 31, 1986, s. 3; 75, 1988, s. 3; 23, 1990, s. 3(1) (Sched. 7); 55, 1990, s. 4; 65, 1995, Sched. cl. 1(b); repealed by 34, 1996, s. 4 (Sched. cl. 34)
Section 65:	substituted by 50, 1984, s. 3(1) (Sched. 4); amended by 23, 1990, s. 3(1) (Sched. 7); 34, 1996, s. 4 (Sched. cl. 34)

Section 66:	amended by 46, 1985, s. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7); repealed by 35, 1992, s. 22
Heading preceding section 67:	substituted by 65, 1995, s. 4
Section 67(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 67(3):	substituted by 50, 1984, s. 3(1) (Sched. 4); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 67(4):	amended by 23, 1990, s. 3(1) (Sched. 7); 59, 1994, Sched. 2
Section 67(5):	repealed by 59, 1994, Sched. 2
Section 68(1):	amended by 46, 1985, s. 28(a); 23, 1990, s. 3(1) (Sched. 7)
Section 68(2):	amended by 46, 1985, s. 28(b)
Section 69:	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 70:	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 71:	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 72:	amended by 50, 1984, s. 3(1) (Sched. 4)
Section 73:	amended by 50, 1984, s. 3(1) (Sched. 4); 46, 1985, ss. 29, 36 (Sched.); substituted by 68, 1987, s. 2
Section 73(1):	amended by 106, 1995, s. 4
Section 73(2):	amended by 23, 1990, s. 3(1) (Sched. 7); 106, 1995, s. 4
Section 74(1):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 74A:	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 74B:	inserted by 38, 1990, s. 4
Section 74B(1):	definition of "major offence" substituted by 53, 1992, s. 2
Heading preceding section 74C:	inserted by 65, 1995, s. 5
Sections 74C - 74G:	inserted by 65, 1995, s. 5
Heading preceding section 75:	inserted by 65, 1995, s. 6
Section 75(1):	redesignated as s. 75 in pursuance of the <i>Acts Republication Act 1967</i> ; amended by 23, 1990, s. 3(1) (Sched. 7)
Section 75(2) and (3):	repealed by 46, 1985, s. 30
Section 75A:	inserted by 46, 1985, s. 31; redesignated as s. 74A and transposed so as to follow s. 74 by 105, 1986, s. 3
Section 76:	substituted by 31, 1986, s. 4
Section 77:	amended by 50, 1984, s. 3(1) (Sched. 4); substituted by 102, 1987, s. 4
Section 78:	amended by 46, 1976, s. 3; 69, 1983, s. 4; 50, 1984, s. 3(1) (Sched. 4); substituted by 6, 1985, s. 7(a); 46, 1985, s. 32
Section 78(1) - (3) and (5):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 78(6):	definition of "the prescribed period" amended by 106, 1986, s. 3; 23, 1990, s. 3(1) (Sched. 7)
Section 78A:	inserted by 38, 1978, s. 3
Section 78A(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 78A(3):	amended by 46, 1985, s. 33; 23, 1990, s. 3(1) (Sched. 7)
Section 78A(4) and (5):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 79:	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 79A:	inserted by 46, 1985, s. 34
Section 79A(1):	amended by 106, 1986, s. 4(a); 23, 1990, s. 3(1) (Sched. 7)
Section 79A(1a) and (1b):	inserted by 106, 1986, s. 4(b)
Section 79A(3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 79B:	inserted by 46, 1985, s. 34
Section 79B(1), (4) - (6) and (8):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 80:	repealed by 6, 1985, s. 7(b); inserted by 27, 1995, s. 21
Section 81(1):	amended by 46, 1985, s. 35(a); 23, 1990, s. 3(1) (Sched. 7)
Section 81(2):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 81(3):	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7)
Section 81(4):	substituted by 46, 1985, s. 35(b); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 81(4a) - (4f):	inserted by 46, 1985, s. 35(b); amended by 23, 1990, s. 3(1) (Sched. 7)
Section 82:	amended by 23, 1990, s. 3(1) (Sched. 7)

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Section 83:	amended by 46, 1985, 2. 36 (Sched.); 23, 1990, s. 3(1) (Sched. 7); repealed by 35, 1992, s. 23
Section 83A and heading:	inserted by 105, 1986, s. 4
Section 83A(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 7)
Section 83B:	inserted by 38, 1990, s. 5
Section 83B(11):	amended by 73, 1994, Sched. 2
Section 83BA:	inserted by 106, 1995, s. 5
Section 83C:	inserted by 38, 1990, s. 5
Section 84:	amended by 114, 1983, s. 4(b); 23, 1990, s. 3(1) (Sched. 7)
Section 85:	amended by 50, 1984, s. 3(1) (Sched. 4); 23, 1990, s. 3(1) (Sched. 7); substituted by 65, 1995, s. 7
Schedule:	amended by 23, 1990, s. 3(1) (Sched. 7); 59, 1994, Sched. 2

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.