

Legislative Council—No 142

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South Australia

**Summary Offences (Declared Public Precincts)
Amendment Bill 2016**

A BILL FOR

An Act to amend the *Summary Offences Act 1953*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Summary Offences (Declared Public Precincts) Amendment Act 2016*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Summary Offences Act 1953*

4—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *the Commissioner* insert:

declared public precinct—see section 66N(1);

declared public precinct period means a period during which, in accordance with a declaration under section 66N(1), an area is a declared public precinct;

5—Insertion of Part 14B

After Part 14A insert:

5 **Part 14B—Declared public precincts**

Division 1—Declared public precincts

66L—Limitation on action

The powers in this Part to make a declaration or take any other action must not be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest, dissent or industrial action.

66M—Public order and safety

For the purposes of this Part, *public order and safety* includes matters of—

- (a) personal safety and apprehension of danger to personal safety; and
- (b) safety of property and apprehension of danger to safety of property; and
- (c) public order unrelated to matters of public safety; and
- (d) public safety unrelated to matters of public order.

66N—Declaration of public precinct

- (1) The Attorney-General may, by notice in the Gazette, declare a defined area comprised of 1 or more public places to be a *declared public precinct* for a period, or periods, specified in the declaration.
- (2) The Attorney-General may only make a declaration in relation to an area under subsection (1) if satisfied that—
 - (a) there is, during the period or periods specified in the declaration, a reasonable likelihood of conduct in the area posing a risk to public order and safety; and
 - (b) the inclusion of each public place in the area is reasonable having regard to that identified risk.
- (3) A declaration under subsection (1) may be made on the Attorney-General's own motion or on the recommendation of the Commissioner.
- (4) An area may not be a declared public precinct for more than 12 hours in any 24 hour period unless the Attorney-General is satisfied that special circumstances exist in the particular case.

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- (5) The Attorney-General must cause notice of a declaration under this section to be published on a website determined by the Attorney-General to which the public has access free of charge.
 - (6) The Attorney-General may, by subsequent notice in the Gazette, vary or revoke a declaration made under subsection (1).
 - (7) In this section—
public place has the same meaning as in section 7.

Division 2—Maintaining public order and safety in declared public precinct

66O—Request to leave declared public precinct

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- (1) If a person is within a declared public precinct, or a group of persons is assembled within a declared public precinct, and a police officer believes or apprehends on reasonable grounds that—
 - (a) an offence of a kind that may pose a risk to public order and safety has been, or is about to be, committed by that person or by 1 or more of the persons in the group; or
 - (b) the presence of that person, or of the group of persons, poses a risk to public order and safety,the officer may order that person, or persons in that group, to leave the declared public precinct.
 - (2) A person who, having been ordered to leave a declared public precinct pursuant to this section—
 - (a) remains in the declared public precinct after having been so ordered; or
 - (b) re-enters, or attempts to re-enter, the declared public precinct during that declared public precinct period,is guilty of an offence.
Maximum penalty: \$1 250.
 - (3) If a person fails to leave a declared public precinct when ordered to under subsection (1), or re-enters a declared public precinct in contravention of subsection (2)(b), a police officer may use necessary and reasonable force to remove the person from the declared public precinct.

66P—Offensive or disorderly conduct

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- (1) A person must not behave in an offensive or disorderly manner within a declared public precinct.
Maximum penalty: \$1 250.
Expiation fee: \$250.
 - (2) This section does not apply to any behaviour involving violence or a threat of violence.

66S—Power to carry out general drug detection

A police officer may carry out general drug detection under the *Controlled Substances Act 1984* in relation to any person present within a declared public precinct (and, for the purposes of the *Controlled Substances Act 1984*, a declared public precinct will be taken to be an area to which section 52A of that Act applies).

66T—Declared public precinct barring order

- (1) If a person commits an offence of a kind that may pose a risk to public order and safety, or behaves in an offensive or disorderly manner, within a declared public precinct, a police officer may, by order served on the person, do 1 or both of the following:
 - (a) bar the person from entering or remaining within the declared public precinct for a period specified in the order (which must not extend beyond the declared public precinct period);
 - (b) bar the person from entering or remaining within any other declared public precinct specified in the order for a period specified in the order (which must not extend beyond 24 hours after the time of the order).
- (2) An order under subsection (1)(b) in relation to a declared public precinct may only operate during the declared public precinct period for that declared public precinct.
- (3) A person who enters or remains within a declared public precinct from which he or she is barred under this section is guilty of an offence.
Maximum penalty: \$2 500.
- (4) A police officer may, by subsequent order served on a person, revoke an order under this section.

66U—Hindering police

- (1) A person must not—
 - (a) hinder or obstruct a police officer, or a person accompanying a police officer, in the exercise of the powers conferred by section 66R or section 66S; or
 - (b) refuse or fail to comply with a requirement made of the person, or a direction given to the person, pursuant to section 66R or section 66S.

Maximum penalty: \$2 500 or imprisonment for 6 months.

Division 3—Power to remove children from dangerous situations

66V—Power to remove children from dangerous situations

5 A minor who is in a declared public precinct will be taken, for the purposes of section 16 of the *Children's Protection Act 1993*, to be in a situation of serious danger if the minor is, in the opinion of a police officer—

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- (a) in danger of being physically harmed or injured; or
 - (b) in danger of abuse (including assault and sexual assault, ill treatment and exposure to behaviour that may cause psychological harm to the minor); or
 - (c) behaving in an offensive or disorderly manner or is otherwise committing or about to commit an offence.