

House of Assembly

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South Australia

Summary Offences (Declared Public Precincts) Amendment Bill 2017

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

This Act may be cited as the *Summary Offences (Declared Public Precincts) Amendment Act 2017*.

2—Commencement

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

3—Amendment provisions

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:

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.
- (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

- (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

- (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.

66Q—Offensive weapons and dangerous articles

- (1) A person who, without lawful excuse, carries an offensive weapon or dangerous article within a declared public precinct is guilty of an offence.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (2) In this section—
dangerous article has the same meaning as in Part 3A;
offensive weapon has the same meaning as in Part 3A.

66R—Power to conduct metal detector searches etc

- (1) A police officer may, for the purpose of detecting the commission of an offence under section 66Q or Part 3A, carry out a search in relation to—
 - (a) any person present within a declared public precinct; and
 - (b) any property in the possession of such a person.
- (2) The following provisions apply to a search carried out in accordance with this section:
 - (a) the search must, in the first instance, be a metal detector search;
 - (b) if the metal detector search indicates the presence or likely presence of metal, a police officer may require the person to produce items detected by the metal detector (and, for the purpose of determining whether or not the person has produced such items, may conduct further metal detector searches);

- (c) if the person refuses or fails to produce any such item, a police officer may, for the purpose of identifying the item, conduct a search in relation to the person or property (which need not be a metal detector search but may be conducted as if it were a search of a person who is reasonably suspected of having on or about his or her person an object, possession of which constitutes an offence).
- (3) In this section—
- metal detector search* means a search conducted—
- (a) using only a metal detector of a kind approved by the Commissioner; and
 - (b) in accordance with any directions issued by the Commissioner.

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

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

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—

- (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.