

**SUMMARY OFFENCES ACT.**

**New South Wales**



ANNO UNDEVICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 96, 1970.**

An Act to make provisions with respect to certain offences to be made punishable in a summary manner; to repeal the Vagrancy Act, 1902, and certain provisions of the Police Offences Act, 1901, and certain other enactments; and for purposes connected therewith. [Assented to, 9th December, 1970.]

**BE**

*Summary Offences.*

**B**E it enacted by the Queen's Most Excellent Majesty, by No. 96, 1970 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I

## PRELIMINARY

1. This Act may be cited as the "Summary Offences Act, Short title. 1970".

2. This Act is divided as follows:—

Division  
of Act.

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—OFFENCES—*ss.* 6–55.

DIVISION 1.—*Offences relating to public places—*  
*ss.* 6–21.

DIVISION 2.—*Vagrancy and similar offences—*  
*ss.* 22–26.

DIVISION 3.—*Prostitution—ss.* 27–34.

DIVISION 4.—*Betting—ss.* 35–37.

DIVISION 5.—*Frauds, unlawful possession, etc.—*  
*ss.* 38–42.

DIVISION 6.—*Public assemblies—ss.* 43–48.

DIVISION 7.—*Other offences—ss.* 49–55.

PART III.—POWERS OF POLICE—*ss.* 56–59.

PART IV.—GENERAL—*ss.* 60–65.

SCHEDULES.

3. (1) Each Act specified in column 1 of Schedule **One** to this Act is amended or repealed to the extent specified opposite that Act in column 2 of that Schedule. Repeals and amendments.

(2) Section XII of the Regulations for General Traffic made under the Metropolitan Traffic Act, 1900, is hereby revoked.

(3)

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No. 96, 1970 (3) Clause sixteen of Ordinance No. 34 made under the Local Government Act, 1919, is hereby revoked.

Interpre-  
tation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“drug offender” means a person who contravenes any of the provisions of Part III or IV of the Poisons Act, 1966, relating to drugs of addiction, prohibited drugs or prescribed restricted substances, within the meaning of that Act;

“justice” means a justice of the peace;

“premises” includes any structure, building, vehicle, vessel or place, whether built upon or not, and any part thereof;

“public place” means—

(a) a place (whether or not covered by water);  
or

(b) a part of premises,

that is open to the public, or is used by the public, whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used, and whether or not the public to whom it is open consists only of a limited class of persons, but does not include a school;

“school” means any land occupied or used in connection with a public school or a technical school and any land which belongs to and is occupied or used in connection with a school registered under the Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916, and any building or structure erected on any such land but does not include any building or structure or any part of any building or structure that is occupied or used solely as a residence or

any

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any land, building or structure or any part of any land, building or structure that is for the time being occupied or used for a purpose unconnected with the conduct of the school; No. 96, 1970

“unseemly words” means obscene, indecent, profane, threatening, abusive or insulting words.

(2) Section eight of the Crimes Act 1900 does not apply to the interpretation of the expression “public place” occurring in this Act.

5. Except as provided in section three, and in subsection one of section thirty-six, of this Act, nothing in this Act, affects the provisions of any other Act, or any regulations, ordinances or by-laws thereunder or takes away any powers vested in any person or body by any other Act, or any regulations, ordinances or by-laws thereunder. Other Acts, etc., not affected by this Act.

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PART II.

OFFENCES.

DIVISION 1.—*Offences relating to public places.*

6. A person found drunk in a public place or a school is guilty of an offence. Drunkenness.

Penalty : Ten dollars.

7. A person who in or within view from a public place or a school behaves in a riotous, indecent, offensive, threatening or insulting manner is guilty of an offence. Offensive, etc., conduct.

Penalty : Two hundred dollars or imprisonment for three months.

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**No. 96, 1970**      **8.** A person who, whether or not in a public place or a school, writes, draws, exhibits or displays any unseemly word or any obscene or indecent figure or representation so that it is within view from a public place or a school is guilty of an offence.

Writing  
or drawing  
unseemly  
words  
or obscene  
or indecent  
figures or  
representa-  
tions.

Penalty : Two hundred dollars or imprisonment for three months.

**9.** A person who in or within hearing from a public place or a school uses, in any manner, any unseemly words is guilty of an offence.

Using  
unseemly  
language.

Penalty : Two hundred dollars or imprisonment for three months.

**10.** A person who wilfully prevents, in any manner, the free passage of a person, vehicle or vessel in a public place is guilty of an offence.

Obstructing  
traffic.

Penalty : One hundred dollars.

**11.** A person whose person is indecently exposed in or within view from a public place or a school is guilty of an offence.

Indecent  
exposure.

Penalty : One hundred dollars.

**12.** A person who, in or within view from a public place or a school, wilfully and obscenely exposes his person is guilty of an offence.

Obscene  
exposure.

Penalty : Four hundred dollars or imprisonment for six months.

**13.** A person who wilfully damages or defaces, enters upon, or causes any foreign material or substance to enter into, any part of a fountain erected in a public place is guilty of an offence.

Damaging  
fountains.

Penalty : One hundred dollars.

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**14.** A person who wilfully damages or defaces any shrine, monument or statue erected in a public place is guilty of an offence.

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Damaging  
shrines,  
monuments  
or statues.

Penalty : One hundred dollars.

**15.** A person who—

Defacing  
walls.

(a) affixes a placard or paper upon any premises; or

(b) wilfully marks, by means of chalk, paint or any other material, any premises,

so that the placard, paper or marking is within view from a public place and does so without having obtained the prior consent, where the premises are occupied, of the occupier or person in charge of the premises or, where the premises are unoccupied, of the owner or person in charge of the premises is guilty of an offence.

Penalty : Fifty dollars.

**16.** A person who, in circumstances likely to cause obstruction of, or annoyance or danger to, any other person or damage to the property of any other person—

Actions of  
obstruction,  
annoyance  
or danger.

(a) throws or discharges any stone or other missile in or into a public place or a school;

(b) places a line across, or pole in or across, any part of a public place; or

(c) plays at any game in a public place,

is guilty of an offence.

Penalty : Fifty dollars.

**17.** A person who, in circumstances likely to cause obstruction of, or annoyance or danger to, any other person or damage to the property of any other person, makes or lights any fire, or lets off any firework, in a public place or a school is guilty of an offence.

Making  
fires or  
letting off  
fireworks  
in public  
place or  
school.

Penalty : Fifty dollars.

**18.**

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No. 96, 1970      **18.** A person who disturbs an occupier of premises by ringing a door-bell or knocking at a door or other part of the premises or by using any other device attached to the premises to arouse the occupier is guilty of an offence.

Disturbing  
occupiers  
of premises.

Penalty : Fifty dollars.

**19.** Where an occupier of premises near a public place, having reasonable cause to do so, or a member of the police force, requests a person who is in that public place using a noisy instrument or device to discontinue doing so and that person remains in the neighbourhood of those premises and uses a noisy instrument or device for the purpose of announcing a show or entertainment, or of hawking, selling, distributing or collecting any article or announcing the availability of any services, that person is guilty of an offence.

Noisy  
instru-  
ments.

Penalty : Fifty dollars.

**20.** It is a sufficient defence to a prosecution for an offence under any of the provisions of this Division if the defendant satisfies the court that the act complained of in the information for the offence was done with lawful authority or, in the case of an offence arising under section ten, paragraph (c) of section sixteen, or section eighteen, of this Act, with reasonable excuse.

Defence to  
prosecution  
under this  
Division.

**21.** (1) Where the defendant charged with an offence under section seven, eight, nine or ten of this Act has requested the informant to furnish to the defendant reasonable particulars of the behaviour or conduct the subject of the charge, and the informant, or some person on his behalf has not so furnished those particulars, the court before whom the defendant is charged shall adjourn the charge pending the furnishing of those particulars or may dismiss the charge.

Particulars  
to be  
furnished  
in respect  
of certain  
offences.

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(2) Where at the hearing of a charge for an offence referred to in subsection one of this section the evidence discloses behaviour or conduct that constitutes such an offence and that behaviour or conduct is different from the behaviour or conduct of which particulars have been given to the defendant under subsection one of this section, the court may, on the application of the defendant and if it is of the opinion that the defendant was deceived by those particulars, adjourn the hearing upon such terms as it thinks fit. No. 96, 1970

DIVISION 2.—*Vagrancy and similar offences.*

**22.** (1) A person who is reasonably suspected by a member of the police force of having no visible lawful means of support or insufficient lawful means of support is guilty of an offence. Vagrancy.

Penalty : Imprisonment for three months.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section if the defendant satisfies the court that he has sufficient lawful means of support.

**23.** (1) A person who is in charge of premises which are frequented by reputed prostitutes or by reputed drug offenders or other reputed criminals or by persons who have no visible lawful means of support is guilty of an offence. Being in charge of premises frequented by reputed criminals, etc.

Penalty : Four hundred dollars or imprisonment for six months.

(2) In this section "premises" means any building, structure, vessel or vehicle, or part thereof.



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No. 96, 1970 **24.** (1) A person who in company with reputed drug offenders or other reputed criminals or with persons who have no visible lawful means of support is found in premises frequented by reputed drug offenders or other reputed criminals or by persons who have no visible lawful means of support is guilty of an offence.

Found in premises frequented by reputed criminals, etc.

Penalty : Two hundred dollars or imprisonment for three months.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section if the defendant satisfies the court that he has sufficient lawful means of support and that he was in the premises for a lawful purpose.

(3) In this section, "premises" means any building, structure, vessel or vehicle.

Consorting. **25.** A person who habitually consorts with reputed prostitutes or with reputed drug offenders or other reputed criminals or with persons who have been convicted of offences under section twenty-two of this Act or paragraph (a) of subsection one of section four of the Vagrancy Act, 1902, is guilty of an offence.

Penalty : Four hundred dollars or imprisonment for six months.

Gathering alms. **26.** (1) A person who—  
 (a) in a public place begs or gathers alms ;  
 (b) is in a public place to beg or gather alms ; or  
 (c) causes or encourages a person under the age of fourteen years to beg or gather alms in a public place or to be in a public place to beg or gather alms,

is guilty of an offence.

Penalty : Two hundred dollars or imprisonment for three months.

(2)

*Summary Offences.*

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(2) A person is not guilty of an offence under sub-section one of this section by reason of anything done by him in the conduct of an appeal for support of a charity which is registered, or is exempted from registration, by or under the Charitable Collections Act, 1934. No. 96, 1970

(3) Nothing in subsection one of this section affects section one hundred of the Justices Act, 1902.

DIVISION 3.—*Prostitution.*

**27.** In this Division, “premises” does not include licensed premises under the Liquor Act, 1912, or premises of a club registered under Part X of that Act. Premises defined.

**28.** A person who—

- (a) for the purpose of prostitution, solicits another person who is in or near a public place; or
- (b) for the purpose of prostitution or of soliciting for prostitution loiters in, near or within view from a public place,

Soliciting  
for prosti-  
tution.

is guilty of an offence.

Penalty : Four hundred dollars or imprisonment for six months.

**29.** (1) A reputed prostitute who is in or on premises habitually used for the purpose of prostitution or of soliciting for prostitution is guilty of an offence.

Prostitute  
on premises  
habitually  
used for  
prostitution  
or soliciting.

Penalty : Four hundred dollars or imprisonment for six months.

(2) A reputed prostitute who is in or on premises that may be reasonably suspected of then being premises habitually used for the purpose of prostitution or of soliciting for prostitution is guilty of an offence.

Penalty : Two hundred dollars or imprisonment for three months

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— (3) It is a sufficient defence to a prosecution for an offence under subsection two of this section if the defendant satisfies the court that she could not have reasonably suspected that the premises were habitually used for the purpose of prostitution or of soliciting for prostitution.

Prostitution or soliciting in massage rooms, etc. **30.** A person who uses, for the purpose of prostitution, or of soliciting for prostitution, any premises held out as being available for the provision of massage, sauna baths, steam baths, facilities for physical exercise, or services of a like nature, or held out as being available for the taking of photographs or as a photographic studio, is guilty of an offence.

Penalty: Four hundred dollars or imprisonment for six months.

Living on earnings of prostitution. **31.** (1) A person who knowingly lives wholly or in part on the earnings of prostitution of another person is guilty of an offence.

Penalty: First conviction—Eight hundred dollars or imprisonment for twelve months. Second or subsequent conviction upon indictment—Imprisonment for five years.

(2) For the purposes of subsection one of this section, a male person who—

- (a) lives with or is habitually in the company of a reputed prostitute; and
- (b) has no visible lawful means of support.

shall be deemed knowingly to live wholly or in part on the earnings of prostitution of another person unless he satisfies the court before which he is charged with an offence under that subsection that he has sufficient lawful means of support.

Allowing premises to be used for prostitution. **32.** (1) The owner, occupier, manager or person assisting in the management of any premises who knowingly suffers or permits the premises to be used for the purpose of prostitution, or of soliciting for prostitution, is guilty of an offence.

Penalty

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Penalty : Eight hundred dollars or imprisonment for twelve months. No. 96, 1970

(2) A conviction under subsection one of this section shall not exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

**33.** (1) Upon complaint made on oath that the complainant has reason to suspect, and believes, that section twenty-nine, thirty or thirty-two of this Act is being contravened with respect to specified premises, a stipendiary magistrate may, by special warrant under his hand, authorise and require any member of the police force to enter and search those premises and to arrest, search and bring before a justice any person who is, or appears to have been, contravening any of those sections, and to seize any article that may be evidence of such a contravention.

Warrant to enter premises.

(2) A member of the police force authorised under subsection one of this section to enter premises may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises and may execute the warrant with the aid of such assistants as he deems necessary.

(3) A special warrant issued under subsection one of this section shall be in or to the effect of Schedule Two to this Act.

**34.** (1) If the owner of any premises has reasonable grounds to suspect that any of the provisions of section twenty-nine, thirty or thirty-two of this Act have been contravened with respect to the premises—

Owner may evict occupier of premises used for prostitution.

(a) he may serve on any occupier of the premises holding, whether as tenant or otherwise, under him a notice to quit the premises; or

(b)

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(b) he may, on behalf of any person holding under him, serve on any occupier of the premises holding, whether as subtenant or otherwise, under that person, a notice to quit the premises.

(2) Service of the notice to quit referred to in subsection one of this section shall determine, as from the seventh day after the date of the service, any right of the person served to occupy the premises or any part thereof, as if that right had expired by effluxion of time, and the owner may then, without any authority other than this Act, take legal proceedings to evict, and may evict, that person.

(3) The notice to quit referred to in subsection one of this section shall be served—

(a) personally on the occupier; or

(b) if the occupier cannot be found, by affixing a copy of the notice on some conspicuous part of the premises.

(4) Any notice to quit under this section may be cancelled by the court before whom the proceedings are heard, subject to such terms as it thinks fit, on proof that the occupier has not at any time contravened section twenty-nine, thirty or thirty-two of this Act, as the case may be, in respect of the premises the subject of the notice to quit.

DIVISION 4.—*Betting.*

Betting.

**35.** (1) A person who, in or near licensed premises under the Liquor Act, 1912, or a house licensed under the Billiards and Bagatelle Act, 1902, or any other public place plays at or bets on any trick of sleight of hand or plays at or bets on any game or pretended game of chance at any table or instrument of gaming is guilty of an offence.

Penalty : One hundred dollars.

(2)

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(2) A person who, in or near licensed premises No. 96, 1970 under the Liquor Act, 1912, or a house licensed under the Billiards and Bagatelle Act, 1902, or any other public place works or assists in working any trick of sleight of hand or organises or conducts or assists in organising or conducting any game or pretended game of chance at any table or instrument of gaming is guilty of an offence.

Penalty for offence against this subsection : Two hundred dollars or imprisonment for three months.

**36.** (1) The games called respectively fan-tan, pak-a-pu, Unlawful games. two-up, baccarat or manilla, or any similar game of chance, or any game where money is disposed of by lottery or chance except as authorised under the provisions of the Lotteries and Art Unions Act, 1901, are unlawful games.

(2) A person who plays at or bets on an unlawful game is guilty of an offence.

Penalty : One hundred dollars.

(3) A person who organises or conducts or assists in organising or conducting an unlawful game is guilty of an offence.

Penalty : Two hundred dollars or imprisonment for three months.

(4) A person who gives or sells a ticket or chance, or share in a ticket or chance, in an unlawful game is guilty of an offence.

Penalty for offence against this subsection : Two hundred dollars or imprisonment for three months.

**37.** (1) A person who being a reputed cheat— Reputed cheats.

- (a) loiters in or near licensed premises under the Liquor Act, 1912, or a house licensed under the Billiards and Bagatelle Act, 1902, or any other public place; and

(b)

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No. 96, 1970 (b) has in his custody or possession an instrument of gaming or an instrument which is capable of being used for cheating,

is guilty of an offence.

Penalty : Four hundred dollars or imprisonment for six months.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section if the defendant satisfies the court that the instrument in his custody or possession was not intended to be used for an unlawful purpose.

DIVISION 5.—*Frauds, unlawful possession, etc.*

Fraud to obtain money, etc. 38. A person who by any wilfully false representation obtains or attempts to obtain any money or valuable thing, or any benefit, from another person is guilty of an offence.

Penalty : Four hundred dollars or imprisonment for six months.

Fortune telling. 39. (1) A person who by pretending or professing to tell fortunes or by using any deception, artifice or trick, obtains or attempts to obtain any money or valuable thing, or any benefit, from another person is guilty of an offence.

Penalty : Two hundred dollars.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section if the defendant satisfies the court that he obtained or attempted to obtain the money, valuable thing or benefit by pretending or professing to tell fortunes for the purpose of and in accordance with an appeal for support of a charity which is registered, or is exempted from registration, by or under the Charitable Collections Act, 1934.

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**40.** (1) A person who—

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- (a) has any thing in his custody;
- (b) has any thing in the custody of another person;
- (c) has any thing in or on premises, whether belonging to or occupied by himself or not, or whether that thing is there for his own use or the use of another;  
or
- (d) gives custody of any thing to a person who is not lawfully entitled to possession of the thing,

Persons  
unlawfully  
in possession  
of property.

which thing may be reasonably suspected of being stolen or otherwise unlawfully obtained is guilty of an offence.

Penalty : Four hundred dollars or imprisonment for six months.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section if the defendant satisfies the court that he had no reasonable grounds for suspecting that the thing referred to in the charge was stolen or otherwise unlawfully obtained.

**41.** A person who fraudulently prepares, causes to be prepared or produces an invoice, receipt or document containing a false statement, with intent to induce the belief that any thing was not stolen or otherwise unlawfully obtained or to prevent any thing from being seized on suspicion of being stolen or otherwise unlawfully obtained or from being produced in evidence concerning an alleged offence, is guilty of an offence.

Framing a  
false  
invoice.

Penalty : Two hundred dollars or imprisonment for three months.



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No. 96, 1970 **42.** (1) Upon a complaint made on oath that the complainant has reason to suspect, and believes, that any thing stolen or otherwise unlawfully obtained is concealed or lodged in or on any specified premises a justice may, by special warrant under his hand, authorise and require any member of the police force—

Search  
warrant.

- (a) to enter and search the premises;
- (b) to arrest, search and bring before a justice, any person found there whom he suspects of having committed an offence in respect of the thing; and
- (c) to seize or dispose of in a safe place any thing found there that is reasonably suspected of being stolen or otherwise unlawfully obtained until it may be required to be produced in a court in evidence of any offence, or to guard on the premises any such thing until any charge in relation to the thing is dealt with by a court.

(2) A member of the police force authorised under subsection one of this section to enter premises may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises and may execute the warrant with the aid of such assistants as he deems necessary.

(3) A special warrant issued under subsection one of this section shall be in or to the effect of Schedule Three to this Act.

DIVISION 6.—*Public assemblies.*

Interpreta-  
tion.

**43.** In this Division—

“prescribed authority”—

- (a) in relation to a procession to be held in a place to which the Metropolitan Traffic Act, 1900, applies, means the Commissioner of Police; and

(b)

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- (b) in relation to a procession to be held in any other place and within an area within the meaning of the Local Government Act, 1919, means the council of the area in which the procession is to be held;

“unauthorised procession” means a procession, not being a military, naval or air force procession or a funeral procession, which is held in a public place and—

- (a) for the holding of which the prescribed authority’s consent has not been obtained under this Division; or
- (b) for the holding of which the prescribed authority’s consent has been granted under this Division subject to conditions which are not observed,

but does not include a procession held otherwise than within an area, within the meaning of the Local Government Act, 1919.

**44.** (1) An application for the consent of a prescribed authority to hold a procession shall be made by lodging the application in writing with the prescribed authority. Applications to hold processions.

(2) The prescribed authority may by notice in writing delivered or posted to any applicant for a consent referred to in subsection one of this section require the applicant to furnish to him such particulars with respect to the procession referred to in the application as may be specified in the notice.

(3) The prescribed authority may—

- (a) by instrument in writing, grant a consent to the holding of a procession referred to in any such application unconditionally or subject to such conditions as may be specified in the instrument; or

(b) refuse to grant such a consent.

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(4) The conditions subject to which such a consent may be granted may include conditions as to the route which the procession is to follow, the times during which the procession may be held and such other conditions as the prescribed authority thinks fit and specifies in the consent.

(5) As soon as practicable after receiving an application for such a consent the prescribed authority—

- (a) being the Commissioner of Police shall inform the council of the city, municipality or shire in which the procession is proposed to be held that the application has been received; or
- (b) being the council of a city, municipality or shire in which the procession is proposed to be held shall inform the Commissioner of Police that the application has been received,

and before dealing with the application shall take into consideration any representations made by the council or the Commissioner, as the case may be.

(6) The prescribed authority, being the Commissioner of Police, shall not refuse to grant such a consent except with the concurrence of the Minister administering the Police Regulation Act, 1899.

Taking  
part  
in un-  
authorised  
procession.

45. A person who—

- (a) is taking part in an unauthorised procession;
- (b) is requested by a member of the police force of or above the rank of sergeant to cease taking part in the procession; and
- (c) does not forthwith cease taking part in the procession,

is guilty of an offence.

Penalty : Two hundred dollars or imprisonment for three months.

46.

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**46.** The Commissioner of Police may from time to time give instructions to members of the police force— No. 96, 1970

- (a) for the orderly movement of vehicular or pedestrian traffic; Regulation of traffic, etc.
- (b) for preventing the obstruction of public places; or
- (c) for keeping order,

at times of public assemblies or of processions, celebrations, displays or exhibitions to be held in public places.

**47.** A person who fails to observe a direction given by a member of the police force acting in pursuance of instructions given under section forty-six of this Act is guilty of an offence. Failing to observe police directions.

Penalty : One hundred dollars.

**48.** The powers and duties vested in the Commissioner of Police by this Division may be exercised by an Assistant Commissioner of Police or by any officer of police of or above the rank of inspector duly authorised by the Commissioner of Police for the purpose. Delegation of powers of Commissioner of Police.

DIVISION 7.—*Other offences.*

**49.** In this Division, “public building” means Government House, Parliament House, a court or a building or structure, or part of a building or structure, occupied by a department of the Government of New South Wales or by any authority, body or tribunal (not being a company within the meaning of the Companies Act, 1961, a society within the meaning of the Co-operation Act, 1924, or the Permanent Building Societies Act, 1967, or an association or credit union within the meaning of the Credit Union Act, 1969) constituted by or under any Act. Interpretation.

**50.**

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**No. 96, 1970** **50.** (1) A person who enters or remains in or upon any part of a building or structure, or any land occupied or used in connection therewith, and has no reasonable cause for so doing is guilty of an offence.

Entering or remaining in or upon buildings, etc., without reasonable cause.

Penalty : Two hundred dollars or imprisonment for three months.

(2) A person who remains in or upon any part of a building or structure or any land occupied or used in connection therewith, which part or land is not a public place, and has no reasonable cause for so doing shall, if he there—

- (a) does any act; or
- (b) uses any language,

which, if done or used by him in a public place, would be an offence under this or any other Act or any regulation, rule, ordinance or by-law made under any other Act, be deemed to have committed that offence and may be convicted and punished accordingly.

(3) Without limiting the generality of the expression “reasonable cause” in subsection one or two of this section, it is not a reasonable cause for a person to remain in or upon any part of a building or structure, being a public building, or any land occupied or used in connection therewith, if that person is requested by a controller of the public building or land to leave the building or structure or land.

(4) A reference in subsection three of this section to a controller of a public building or any land occupied or used in connection therewith is a reference to a person authorised in writing by a Minister, or by the authority, body or tribunal concerned, to make requests for the purposes of that subsection.

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**51.** (1) A person who has in his custody or possession **No. 96, 1970** any housebreaking implement or offensive weapon, or any implement or weapon capable of being used as a house-breaking implement or offensive weapon, with intent to commit an indictable offence is guilty of an offence.

Custody or possession of house-breaking implement or offensive weapon.

Penalty : Four hundred dollars or imprisonment for six months.

(2) Upon conviction of a person for an offence under subsection one of this section the implement or weapon referred to in the charge shall be forfeited to Her Majesty.

**52.** A person who, being a suspected person or reputed criminal, is found in or near any premises or public place with intent to commit an indictable offence is guilty of an offence.

Suspected person.

Penalty : Four hundred dollars or imprisonment for six months.

**53.** A person who is in, on or near a building without reasonable cause with intent to peep or pry upon another person is guilty of an offence.

Prying.

Penalty : Two hundred dollars or imprisonment for three months.

**54.** A person who resists or hinders or incites any person to assault, resist or hinder a member of the police force in the execution of his duty is guilty of an offence.

Resisting police.

Penalty : Two hundred dollars or imprisonment for three months.

**55.** A person who, having laid an information for an alleged offence by which the informant was not personally aggrieved, receives, without the permission of the court before

Compound-ing a prosecution.

which

1960

*Summary Offences.*

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**No. 96, 1970** which the information is listed for hearing, any valuable consideration to withdraw, seek the dismissal of, or delay the hearing of, that information is guilty of an offence.

Penalty : One hundred dollars.

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**PART III.**

**POWERS OF POLICE.**

Interpre-  
tation.

**56.** In this Division—

“police vessel” means a vessel ordinarily used by members of the police force in the execution of their duty;

“vessel” means any craft used in navigation on water, whatever its size.

Police may  
board  
vessels.

**57.** A member of the police force of or above the rank of sergeant or in charge of a police station or police vessel may at any time with as many members of the police force as he thinks necessary—

- (a) enter into any part of any vessel;
- (b) search and inspect the vessel;
- (c) take all necessary measures for preventing injury on the vessel to persons or property by fire or otherwise; and
- (d) take all necessary measures for preserving peace and good order on the vessel or for preventing, detecting or investigating any offences that may be, or may have been, committed on the vessel.

**58.**

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**58.** A member of the police force of or above the rank of sergeant or in charge of a police station or police vessel, may, for the purpose of enabling any powers conferred on members of the police force by this Act or any other law to be exercised, stop and detain any vessel in which he reasonably suspects—

No. 96, 1970  
Police may stop and detain vessels.

- (a) that an indictable offence has been or is about to be committed;
- (b) that there is a person who has committed an indictable offence or for whose arrest there is in force a warrant; or
- (c) that there is any thing stolen or otherwise unlawfully obtained or any thing that has been used or is intended to be used in the commission of an indictable offence.

**59.** A member of the police force may stop, search and detain—

Police may stop and search persons and vehicles.

- (a) any person whom he reasonably suspects of having or conveying any thing stolen or otherwise unlawfully obtained or any thing used or intended to be used in the commission of an indictable offence; or
- (b) any vehicle in which he reasonably suspects there is any thing stolen or otherwise unlawfully obtained or any thing used or intended to be used in the commission of an indictable offence.

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PART IV.

GENERAL.

**60.** (1) A court may, on the application of any person, make an order that any property or money which is in the custody of a member of the police force in connection with any offence whether punishable on indictment or summarily, be delivered to the person who appears to it to be lawfully entitled thereto.

Disposal of property, etc., in custody of police.

(2)



*Summary Offences.*

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No. 96, 1970

(2) If any property or money referred to in subsection one of this section has not been delivered to the person lawfully entitled thereto, whether pursuant to an order under subsection one of this section or otherwise, within one month after the determination of proceedings against a person for an offence with respect to the property or money, the money shall be paid to the Treasurer for payment into the Consolidated Revenue Fund or the property may be sold by public auction and the proceeds of the sale shall be paid to the Treasurer for payment into that Fund.

(3) A person who is lawfully entitled to any property or money which has been dealt with in accordance with subsection two of this section may recover the money or the proceeds of the sale, as the case may be, from the Treasurer.

(4) In subsection one of this section, "court" means—

- (a) where the value of the property does not exceed five hundred dollars or the money does not amount to more than five hundred dollars—the court of petty sessions for the district in which the property or money is held;
- (b) where the value of the property exceeds five hundred dollars but does not exceed six thousand dollars or the money amounts to more than five hundred dollars but does not amount to more than six thousand dollars—the district court for the district in which the property or money is held; or
- (c) where the value of the property exceeds six thousand dollars or the money amounts to more than six thousand dollars—the Supreme Court of New South Wales.

*Summary Offences.*

**61.** (1) Where a person makes a complaint to a justice No. 96, 1970 alleging that—

Detention  
of goods.

- (a) he is entitled to possession of goods specified in the complaint, the value of which does not exceed five hundred dollars;
- (b) a notice of demand has been given to a person who is detaining the goods; and
- (c) the person detaining the goods has refused or neglected to deliver up the goods,

the justice may summon the person alleged to be detaining the goods before the court for the district in which the goods are detained.

(2) The court upon being satisfied as to the matters alleged in the complaint may—

- (a) order that the defendant deliver up the goods specified in the complaint to the complainant at or before a time and at a place specified in the order and that if he neglects or refuses to do so he pay to the complainant, by way of compensation for the goods, the value of the goods as determined by the court, not exceeding the amount specified in the complaint;
- (b) order that the defendant pay to the complainant such amount as may be specified in the order for or towards the reasonable professional costs incurred by the complainant in having a barrister or attorney acting on his behalf; and
- (c) if it thinks fit, order that if the defendant does not pay to the complainant the value of the goods as so determined, and the costs so specified, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902.

(3)

No. 96, 1970

(3) Where an order is not made by the court under paragraph (c) of subsection two of this section, the order under paragraph (a) or (b) of that subsection—

- (a) if made before the commencement of the Courts of Petty Sessions (Civil Claims) Act, 1970, shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable under the provisions of that Act; or
- (b) if made after that commencement, may be recorded as a judgment under the Courts of Petty Sessions (Civil Claims) Act, 1970, in the court in which the order is made, or if that court has no jurisdiction under that Act, in any other court, as if the order were a judgment made by the court exercising jurisdiction under that Act.

(4) This section does not extend to proceedings by the owner of goods comprised in a hire-purchase agreement, or any person acting on his behalf, for the recovery of possession of those goods.

Conviction for offence under this Act a bar to certain civil proceedings.

**62.** Where a person convicted of an offence under this Act pays or suffers the penalty imposed on him for the offence, or the penalty imposed on such a person is remitted by the Crown, that person is not liable, at the suit of the person who laid the information for the offence, to any civil proceedings in respect of the cause for which he was convicted.

Evidence of behaviour or conduct within view or hearing from a public place.

**63.** Where a person is charged with an offence under this Act in respect of any behaviour or conduct occurring within view or hearing from a public place or school it is not necessary for the prosecution to prove that the behaviour or conduct was seen or heard by any person in a public place or school.

Summary jurisdiction.

**64.** (1) A prosecution for an offence under section twenty-nine, thirty or thirty-two of this Act may be heard and determined by a stipendiary magistrate sitting in petty sessions.

(2)

*Summary Offences.*

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(2) Except as provided by subsection one of this <sup>No. 96, 1970</sup> section and by section thirty-one of this Act, a prosecution for an offence under this Act or a complaint under section sixty-one of this Act may be heard and determined by a stipendiary magistrate or any two justices sitting in petty sessions or, in the case of an offence under section six of this Act, by any one justice sitting in petty sessions.

**65.** (1) An action for damages against a person for any act done in pursuance of this Act shall not be brought after the expiration of six months after the date on which the act is done. <sup>Limitation of actions.</sup>

(2) An action for damages for any act done in pursuance of this Act shall not be brought by any person unless, not later than one month before the action is brought, he gives to the person against whom he intends to bring the action notice of action in writing stating—

- (a) the cause of action;
- (b) the time and place of the alleged act; and
- (c) the name and place of abode or business of the person intending to bring the action or his attorney.

(3) The court in which the action is or is intended to be brought may make an order extending the period mentioned in subsection one, and dispensing with any of the requirements of subsection two, of this section but nothing in this subsection shall affect the operation of any statute of limitation.

(4) An order shall not be made under subsection three of this section unless the application to extend the period is made or the action is brought not later than twelve months after the expiration of the period mentioned in subsection one of this section.

(5) If judgment in the action is given for the defendant, he shall be entitled to his costs as between attorney and client.

(6) Nothing in this section affects the provisions of Part VI of the Justices Act, 1902.

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SCHEDULES

1966

*Summary Offences.*

No. 96, 1970

SCHEDULES.

Sec. 3.

SCHEDULE ONE.

Column 1		Column 2
Year and No. of Act	Short title	Extent of amendment or repeal
1900, No. 8	Metropolitan Traffic Act, 1900	Omit section 7 (1) (r). Omit section 14. Omit from section 20 the words “, or any order made and published by the Commissioner of Police as hereinbefore provided,”.
1900, No. 40	Crimes Act 1900	Omit from section 561 (1) (d) the words “of any offence against the Vagrancy Act, 1902, or”.
1901, No. 5	Police Offences Act, 1901	Omit section 4. Omit Part II, except section 19. Insert in section 41o after the words “bodily harm” the words “or any safety fuse or detonator”. Omit section 42 (1) and insert in lieu thereof the following subsection:— (1) Except to the extent to which provision is made by the Summary Offences Act, 1970, with respect to any matter with respect to which provision is made by this Part, the provisions of this Part apply only to such towns in the Western Division of New South Wales, as from time to time established under the Crown Lands Consolidation Act, 1913, as are not within an area within the meaning of the Local Government Act, 1919, and are towns to which this Part extended immediately before the commencement of the Summary Offences Act, 1970, or is thereafter extended in accordance with the provisions of this Part. Omit section 42 (3).
1901, No. 10	Party Processions Prevention Act, 1901.	Repeal the whole Act.

SCHEDULE

## Summary Offences.

Column 1		Column 2
Year and No. of Act	Short title	Extent of amendment or repeal
1902, No. 27	Justices Act, 1902	Omit from section 13 (1) the words "sections six and seven of the Police Offences Act, 1901" and insert in lieu thereof the words "section six of the Summary Offences Act, 1970". Omit from section 153 (1) the words "Any officer of police of or above the rank of inspector, and any officer of police of or above the rank of first-class constable" and insert in lieu thereof the words "Any member of the police force who is of or above the rank of sergeant or is for the time being". Omit from the same section the word "officer" wherever elsewhere occurring and by inserting in lieu thereof the words "member of the police force".
1902, No. 74	Vagrancy Act, 1902	Repeal the whole Act.
1902, No. 110	Public Health (Night-soil Removal) Act, 1902.	Omit from section 2 the words "; and while such by-laws or regulations are in force the operation of the provisions of the first paragraph of section ninety, and the first paragraph of section ninety-one of the Police Offences Act, 1901, shall, as to any removal of night-soil in accordance with such by-laws or regulations, be suspended".
1905, No. 35	Vagrancy (Amendment) Act, 1905.	Repeal the whole Act.
1908, No. 12	Police Offences (Amendment) Act, 1908.	Omit from section 1 the words:— "PART II.—VAGRANCY ACTS —ss. 3-7." Omit section 2. Omit Part II. Omit Part III, except sections 14 and 15. Omit Schedule One.

SCHEDULE

*Summary Offences.*

No. 96, 1970

SCHEDULE ONE—*continued.*

Column 1		Column 2
Year and No. of Act	Short title	Extent of amendment or repeal
1912, No. 25	Gaming and Betting Act, 1912.	Omit from section 50b wherever occurring the words "Vagrancy Act, 1902" and insert in lieu thereof the words "Summary Offences Act, 1970".
1912, No. 42	Liquor Act, 1912.. ..	Insert next after section 43A the following new section:— Making 43AA. Whosoever without the consent of the Licensing Court makes or uses or allows to be made or used any internal communication between any house, shop, room or place of public resort, not being licensed premises, premises in respect of which a permit is in force under Part IIIA of this Act or a club registered under Part X of this Act and any licensed premises, premises in respect of which such a permit is in force or such a club shall be liable to a penalty not exceeding twenty dollars for every day that such communication is open.
1919, No. 41	Local Government Act, 1919.	Omit section 249 (q). Omit from section 260 (2) the words "the Police Offences Act, 1901,". Omit from section 270B (1) the words "the Police Offences Act, 1901,". Omit section 275. Omit section 297. Omit section 312 (4). Omit section 354 (3).

SCHEDULE

## Summary Offences.

Column 1		Column 2
Year and No. of Act	Short title	Extent of amendment or repeal
1919, No. 41 — <i>cont.</i>	Local Government Act, 1919— <i>cont.</i>	Omit from section 576 (1) (g) the words “, although the same or a similar matter may have been already provided for by the Police Offences Act, 1901”.
1929, No. 2 . .	Crimes (Amendment) Act, 1929.	Omit section 20.
1929, No. 30	Vagrancy (Amendment) Act, 1929.	Repeal the whole Act.
1929, No. 31	Crimes (Intimidation and Molestation) Act, 1929.	Omit section 3.
1935, No. 13	Police Regulation (Amendment) Act, 1935.	Omit section 4 (2). Omit from section 7 (1) the words “the Police Offences Act, 1901”.
1936, No. 30	Firearms Act, 1936. . .	Omit section 2 (1) (c), (e).
1937, No. 35	Statute Law Revision Act, 1937.	Omit so much of the Second Schedule as amended Act No. 5, 1901, except sections 3 and 60, and section 2 of Act No. 12, 1908.
1954, No. 31	Fines and Penalties (Amendment) Act, 1954.	Omit section 4.
1960, No. 33	Hire-Purchase Act, 1960. .	Omit section 53 (2) and section 53 (3) (b).
1961, No. 50	Money-lenders and Infants Loans (Amendment) Act, 1961.	Omit section 3.
1962, No. 43	Factories, Shops and Industries Act, 1962.	Omit so much of Schedule One as amended Act No. 5, 1901.
1966, No. 17	Sunday Entertainment Act, 1966.	Omit section 1 (2).
1967, No. 19	Police Offences, Vagrancy and Crimes (Amendment) Act, 1967.	Omit section 1 (2). Omit section 2 (a) to (j) inclusive. Omit section 3.
1968, No. 32	Vagrancy, Disorderly Houses and Other Acts (Amendment) Act, 1968.	Omit section 1 (2) and section 2.

SCHEDULE



1970

*Summary Offences.*

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SCHEDULE TWO.

Sec. 33.

*Special Warrant under section 33 of the Summary Offences Act, 1970.*

NEW SOUTH WALES

To WIT

TO ..... a member of the police force for the State of New South Wales, and to all other members of the said force.

WHEREAS ..... of ..... in the State of New South Wales has this day made complaint upon oath to me, the undersigned, a Stipendiary Magistrate, that the complainant has reason to suspect, and believes, that section twenty-nine, thirty or thirty-two of the Summary Offences Act, 1970, is being contravened with respect to the premises known as .....

..... and situate at ..... This is therefore in the name of Our Lady the Queen, to require you forthwith to enter into those premises situate as aforesaid and, if necessary, to use force for making that entry, and to search those premises, and to arrest, search and bring before a justice any person who is, or appears to have been, contravening any of those sections of that Act and to seize any article that may be evidence of such a contravention, and for so doing this shall be your warrant.

Given under my hand and seal this ..... day of ..... one thousand nine hundred and ..... at ..... in the said State.

Stipendiary Magistrate.

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SCHEDULE

Summary Offences.

No. 96, 1970

SCHEDULE THREE.

Sec. 42.

Special Warrant under section 42 of the Summary Offences Act, 1970.

NEW SOUTH WALES

To WIT

TO ..... a member of the police force for the State of New South Wales, and to all other members of the said force.

WHEREAS ..... of ..... in the State of New South Wales has this day made complaint upon oath to me, the undersigned, a Justice of the Peace, that the complainant has reason to suspect, and believes, that a thing, to wit ..... being a thing stolen or otherwise unlawfully obtained is concealed or lodged in or on premises situate at .....

..... This is therefore in the name of Our Lady the Queen, to require you forthwith to enter into those premises situate as aforesaid and, if necessary, to use force for making that entry, and to search those premises, and to arrest, search and bring before a justice any person found there whom you suspect of having committed an offence in respect of the said thing and to seize or dispose of in a safe place any thing found in or on the said premises that you reasonably suspect of being stolen or otherwise unlawfully obtained or to guard on the said premises any such thing, and for so doing this shall be your warrant.

Given under my hand and seal this .....

day of ..... one thousand nine

hundred and ..... at ..... in the said State.

Justice of the Peace.



WASTE