

# Summary Offences Act 1988 No 25

[1988-25]



New South Wales

## Status Information

### Currency of version

Current version for 23 October 2023 to date (accessed 30 June 2024 at 23:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Law Enforcement \(Powers and Responsibilities\) and Other Legislation Amendment \(Knife Crime\) Act 2024 No 31](#) (not commenced)
- **See also**  
[Equality Legislation Amendment \(LGBTIQ+\) Bill 2023](#) [Non-government Bill— Mr A H Greenwich, MP]
- **Editorial note**  
The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes (em-dashes). Text of the legislation is not affected.

This version has been updated.

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 20 June 2024

# Summary Offences Act 1988 No 25



New South Wales

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# Summary Offences Act 1988 No 25



New South Wales

An Act with respect to conduct in public and other places; to repeal the *Offences in Public Places Act 1979*, the *Public Assemblies Act 1979* and the *Prostitution Act 1979*; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Summary Offences Act 1988*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act—

**building** means a building or structure, or any part of a building or structure.

**church** means—

- (a) a building ordinarily used for Divine worship, and
- (b) any land occupied or used in connection with such a building.

**dwelling** means—

- (a) a building intended for occupation as a residence and being, or capable of being, so occupied, except where it is above, or attached to, a shop or commercial premises, and
- (b) such a building that is part of a retirement village or is among the buildings in which persons live as a religious or other private community, and
- (c) any land occupied or used in connection with a building referred to in paragraph (a) or (b).

**hospital** means—

- (a) a public hospital within the meaning of the *Health Services Act 1997* controlled by a local health district or the Crown, or
- (b) a statutory health corporation or affiliated health organisation within the meaning of that Act, or
- (c) a private health facility within the meaning of the *Private Health Facilities Act 2007* or a nursing home within the meaning of the *Public Health Act 2010*,

and any land or building occupied or used in connection with such a hospital, establishment or nursing home.

**knife** includes—

- (a) a knife blade, or
- (b) a razor blade, or
- (c) any other blade,

but does not include anything that is of a class or description declared by the regulations to be excluded from this definition.

**premises** includes a structure, building, vehicle, vessel or place, whether built on or not, and any part thereof.

**prohibited drug** has the same meaning as it has in the *Drug Misuse and Trafficking Act 1985*.

**prostitution** includes acts of prostitution between persons of different sexes or of the same sex, and includes—

- (a) sexual intercourse within the meaning of Division 10 of Part 3 of the *Crimes Act 1900*, and
- (b) masturbation committed by one person on another,

for payment.

**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.

**residence** includes a building in which a person resides as part of a private community.

**road** means a road within the meaning of section 4 (1) of the [Road Transport Act 2013](#) (other than a road that is the subject of a declaration made under section 18 (1) (b) of that Act relating to all of the provisions of that Act).

**road related area** means a road related area within the meaning of section 4 (1) of the [Road Transport Act 2013](#) (other than a road related area that is the subject of a declaration made under section 18 (1) (b) of that Act relating to all of the provisions of that Act).

**school** means—

- (a) a government school or a registered non-government school within the meaning of the [Education Act 1990](#), and
- (b) a school providing education (whether secular or religious) at a pre-school or infants' school level or at a primary or secondary level, and
- (c) a place used for the purposes of an establishment commonly known as a child-minding centre or for similar purposes, and
- (d) the land, and any building, occupied by or in connection with the conduct of such a school or place,

and includes any part of such a school or place, but does not include any building that is occupied or used solely as a residence or solely for a purpose unconnected with the conduct of such a school or place.

**vehicle** includes—

- (a) a motor vehicle (whether or not still capable of being driven), and
- (b) a train or other vehicle used on a railway or monorail, and
- (c) a caravan or anything else constructed to be drawn by a vehicle or animal.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) For the purposes of this Act, a person who is in a vehicle in any place shall be taken to be in that place.
- (3) Section 8 of the [Crimes Act 1900](#) does not apply in relation to the expression “public place” in this Act.
- (4) Notes included in this Act do not form part of this Act.



## Part 2 Offences in public and other places

### Division 1 Offensive behaviour

#### 4 Offensive conduct

- (1) A person must not conduct himself or herself in an offensive manner in or near, or within view or hearing from, a public place or a school.

Maximum penalty—6 penalty units or imprisonment for 3 months.

- (2) A person does not conduct himself or herself in an offensive manner as referred to in subsection (1) merely by using offensive language.
- (3) It is a sufficient defence to a prosecution for an offence under this section if the defendant satisfies the court that the defendant had a reasonable excuse for conducting himself or herself in the manner alleged in the information for the offence.

#### 4A Offensive language

- (1) A person must not use offensive language in or near, or within hearing from, a public place or a school.

Maximum penalty—6 penalty units.

- (2) It is a sufficient defence to a prosecution for an offence under this section if the defendant satisfies the court that the defendant had a reasonable excuse for conducting himself or herself in the manner alleged in the information for the offence.
- (3) Instead of imposing a fine on a person, the court—
- (a) may make a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition (despite the offence not being punishable by imprisonment), or
  - (b) may make an order under section 5 (1) of the *Children (Community Service Orders) Act 1987* requiring the person to perform community service work, as the case requires.
- (4), (5) (Repealed)
- (6) However, the maximum number of hours of community service work that a person may be required to perform under an order in respect of an offence under this section is 100 hours.

#### 5 Obscene exposure

A person shall not, in or within view from a public place or a school, wilfully and obscenely

expose his or her person.

Maximum penalty—10 penalty units or imprisonment for six months.

## 6 Obstructing traffic

A person shall not, without reasonable excuse (proof of which lies on the person), wilfully prevent, in any manner, the free passage of a person, vehicle or vessel in a public place.

Maximum penalty—4 penalty units.

### 6A Unauthorised entry of vehicle or boat

A person must not, without reasonable excuse (proof of which lies on the person), enter any vehicle or boat in a public place without the consent of the owner or lawful occupier of the vehicle or boat.

Maximum penalty—4 penalty units.

## 7 Damaging fountains

A person shall not wilfully—

- (a) damage or deface, or
  - (b) enter upon, or
  - (c) cause any foreign material or substance to enter into,
- any part of a fountain erected in a public place.

Maximum penalty—4 penalty units.

## 8 Damaging or desecrating protected places

(1) In this section—

**interment site** has the meaning it has in Part 4 of the [Cemeteries and Crematoria Act 2013](#) and includes a memorial (within the meaning of that Act).

**protected place** means a shrine, monument or statue located in a public place, and (without limitation) includes a war memorial or an interment site.

**war memorial** means a war memorial located in a public place, and (without limitation) includes—

- (a) the Anzac Memorial in Hyde Park, Sydney, being—
  - (i) the memorial building referred to in the [Anzac Memorial \(Building\) Act 1923](#), and
  - (ii) the land described in the Schedule to that Act, and

(iii) any other structure on that land, and

(b) any other place prescribed under subsection (4) as a war memorial for the purposes of this section.

(2) A person must not wilfully damage or deface any protected place.

Maximum penalty—40 penalty units.

(3) A person must not commit any nuisance or any offensive or indecent act in, on or in connection with any war memorial or interment site.

Maximum penalty—20 penalty units.

(3A) Instead of imposing a fine on a person under this section, the court—

(a) may make a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition (despite the offence not being punishable by imprisonment), or

(b) may make an order under section 5 (1) of the *Children (Community Service Orders) Act 1987* requiring the person to perform community service work, as the case requires.

(4) The regulations may prescribe a place (within a public place) as a war memorial for the purposes of this section, comprising—

(a) a specified shrine, monument, statue or other structure or place, and

(b) a specified area (if any) within its vicinity.

### **8A Climbing on or jumping from buildings and other structures**

(1) A person who risks the safety of any other person as a consequence of—

(a) abseiling, jumping or parachuting from any part of a building or other structure, or

(b) climbing down or up or on or otherwise descending (except as referred to in paragraph (a)) or ascending any part of a building or other structure, except by use of the stairs, lifts or other means provided for ascent or descent of it,

is guilty of an offence.

Maximum penalty—10 penalty units or imprisonment for 3 months, or both.

(2) A person is not guilty of an offence under this section for doing anything if the person establishes that he or she had some reasonable excuse for doing it or did it for a lawful purpose.

(3) In this section—

**structure** includes a bridge, crane (whether mobile or not) and tower, but does not include a structure provided for climbing or jumping for recreational purposes.

## 9 Continuation of intoxicated and disorderly behaviour following move on direction

(1) A person who—

(a) is given a move on direction for being intoxicated and disorderly in a public place, and

(b) at any time within 6 hours after the move on direction is given, is intoxicated and disorderly in the same or another public place,

is guilty of an offence.

Maximum penalty—15 penalty units.

(2) For the purposes of this section, a **move on direction** is a direction given to a person by a police officer, under section 198 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#), to leave a public place and not return for a specified period.

### Note—

The maximum period for which a person can be directed not to return to a public place is 6 hours.

It is a requirement under section 198 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) that the police officer warn a person given a move on direction for being intoxicated and disorderly in a public place that it is an offence to be intoxicated and disorderly in that or any other public place at any time within 6 hours after the move on direction is given.

(3) In proceedings for an offence against this section, it is necessary to prove that a move on direction was given within 6 hours before the person was found to be intoxicated and disorderly in a public place, but it is not necessary to prove that the person contravened the move on direction by being so intoxicated and disorderly in the public place at the time concerned.

(4) A person cannot be proceeded against or convicted for both an offence against this section and an offence against section 199 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) (Failure to comply with direction) in relation to the same conduct.

(5) It is sufficient defence to a prosecution for an offence under this section if the defendant satisfies the court that the defendant had a reasonable excuse for conducting himself or herself in the manner alleged in the information for the offence.

(6) For the purposes of this section, a person is **intoxicated** if—

(a) the person's speech, balance, co-ordination or behaviour is noticeably affected,

and

- (b) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of alcohol or any drug.

**10** (Renumbered as sec 11B)

**10AA, 10AB** (Renumbered as secs 11E, 11F)

**10A-10E (Repealed)**

**11 Possession of liquor by minors**

- (1) A person under the age of 18 years is guilty of an offence if the person possesses or consumes any liquor in a public place, unless the person establishes that—
- (a) the person was under the supervision of a responsible adult, or
  - (b) the person had a reasonable excuse for possessing or consuming the liquor.
- Maximum penalty—\$20.
- (2) A police officer may seize liquor in the possession of a person in a public place, if the officer suspects, on reasonable grounds, that—
- (a) the person is under the age of 18 years, and
  - (b) the person is not under the supervision of a responsible adult, and
  - (c) the person does not have a reasonable excuse for possessing the liquor.
- (3) Liquor seized under this section is forfeited to the Crown.
- (4) Liquor may be seized under this section from a person's possession even though the person is under the age of criminal responsibility.
- (5) A person may not be arrested for an offence under subsection (1), except so far as may be necessary for the purpose of the administration of a caution by a police officer in relation to such an offence.
- (5A) A police officer who reasonably suspects that a person has committed an offence under subsection (1) may require that person—
- (a) to state his or her full name and residential address, and
  - (b) to produce then, or at a police station within a reasonable time, documentary evidence that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age.
- (5B) A person the subject of a requirement under subsection (5A) must not—

- (a) refuse to state his or her full name and residential address, or
- (b) state a false name or residential address, or
- (c) without reasonable excuse, refuse or fail to produce evidence of age as referred to in subsection (5A) (b).

Maximum penalty—\$20.

- (6) The regulations may make provision for or with respect to—
  - (a) the procedure to be followed as regards the seizure of liquor under this section and the procedure to be followed after its seizure, and
  - (b) without limiting paragraph (a), prescribing the circumstances in which, and the procedure by which, liquor seized under this section is to be returned, and
  - (c) prescribing circumstances in which the other provisions of this section do not apply.

- (7) In this section—

**liquor** has the same meaning as in the *Liquor Act 2007*, and includes any container containing liquor.

#### **11A Violent disorder**

- (1) If 3 or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety, each of the persons using or threatening unlawful violence is guilty of an offence.

Maximum penalty—10 penalty units or imprisonment for 6 months.

- (2) It is immaterial whether or not the 3 or more persons use or threaten unlawful violence simultaneously.
- (3) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
- (4) An offence under subsection (1) may be committed in private as well as in public places.
- (5) A person is guilty of an offence under subsection (1) only if he or she intends to use or threaten violence or is aware that his or her conduct may be violent or threaten violence.
- (6) Subsection (5) does not affect the determination for the purposes of subsection (1) of the number of persons who use or threaten violence.

(7) In this section—

**violence** means any violent conduct, so that—

- (a) it includes violent conduct towards property as well as violent conduct towards persons, and
- (b) it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct (for example, throwing at or towards a person a missile of a kind capable of causing injury which does not hit or falls short).

## **Division 2 Dangerous behaviour**

### **Subdivision 1 Knives and offensive implements**

#### **11B Custody of offensive implement**

- (1) A person shall not, without reasonable excuse (proof of which lies on the person), have in his or her custody an offensive implement in a public place or a school.

Maximum penalty—50 penalty units or imprisonment for 2 years.

- (2) If a person is convicted of an offence under this section, the court may, in addition to any penalty it may impose, make an order that the offensive implement be forfeited to the Crown, and the implement is forfeited accordingly.

(3) In this section—

**offensive implement** means—

- (a) anything made or adapted for use for causing injury to a person, or
- (b) anything intended, by the person having custody of the thing, to be used to injure or menace a person or damage property.

#### **11C (Repealed)**

#### **11D Parents who allow children to carry knives**

(1) The parent of a child, being a child—

- (a) who is under the age of 18 years, and
- (b) who commits an offence against the *Crimes Act 1900*, section 93IB,

is guilty of an offence if the parent knowingly authorised or permitted the child to commit the offence.

Maximum penalty—5 penalty units.

(2) The parent of a child may be proceeded against and dealt with under this section

whether or not the child has been proceeded against or dealt with under the *Crimes Act 1900*, section 93IB.

- (3) Nothing in this section affects the liability of the parent's child for an offence committed by the child against the *Crimes Act 1900*, section 93IB.
- (4) If an act or omission constitutes an offence—
  - (a) under this section, and
  - (b) under section 11 of the *Children (Protection and Parental Responsibility) Act 1997*,the offender is not liable to be punished twice in respect of the act or omission.
- (5) In this section, **parent** of a child has the same meaning it has in the *Children (Protection and Parental Responsibility) Act 1997*.

#### **11E (Repealed)**

#### **11F Sale of knives to children**

- (1) A person who sells a knife to a child under the age of 16 years is guilty of an offence.  
Maximum penalty—50 penalty units.
- (2) It is a defence (proof of which lies on the person) to a prosecution for an offence under this section that the person selling the knife believed on reasonable grounds that the child was of or above the age of 16 years.
- (3) If an employee contravenes subsection (1), the employer is taken to have contravened that subsection, whether or not the employee contravened the provision without the employer's authority or contrary to the employer's orders or instructions.
- (4) It is a defence to a prosecution against an employer for such a contravention if it is proved—
  - (a) that the employer had no knowledge of the contravention, and
  - (b) that the employer could not, by the exercise of due diligence, have prevented the contravention.
- (5) An employer may be proceeded against and convicted under subsection (1) by virtue of subsection (3) whether or not the employee has been proceeded against or convicted under subsection (1).
- (6) The regulations may provide that this section does not apply to or in relation to any specified class or description of knife.

#### **Subdivision 2 Laser pointers**



### **11FA Custody or use of laser pointer in public place**

- (1) A person must not, without reasonable excuse (proof of which lies on the person)—
- (a) have in his or her custody a laser pointer in a public place, or
  - (b) use a laser pointer in a public place.

Maximum penalty—50 penalty units or imprisonment for 2 years, or both.

- (2) Without limitation, it is a reasonable excuse for the purposes of this section for a person—
- (a) to have custody of, or use, a laser pointer if the custody or use is reasonably necessary in all the circumstances for the lawful pursuit of the person's occupation, education, training or hobby, or
  - (b) to have custody of a laser pointer if the person has custody during travel to or from or incidental to that occupation, education, training or hobby.
- (3) The regulations may provide that this section does not apply to or in relation to any specified class or description of laser pointer.
- (4) In this section—

***laser pointer*** means a hand-held battery-operated device, designed or adapted to emit a laser beam, that may be used for the purposes of aiming, targeting or pointing.

## **Division 2A Loitering by convicted child sexual offenders**

### **11G Loitering by convicted child sexual offenders near premises frequented by children**

- (1) A person who is a convicted child sexual offender and who loiters, without reasonable excuse, in or near—
- (a) a school, or
  - (b) a public place regularly frequented by children and in which children are present at the time of the loitering,

is guilty of an offence.

Maximum penalty—100 penalty units or imprisonment for 2 years, or both.

- (2) In this section—

***child*** means a person under the age of 16 years.

***convicted child sexual offender*** means a person who has been convicted, whether before or after the commencement of this section, of any of the following offences—

- (a) an offence involving sexual activity or sexual touching or a sexual act (within the meaning of Division 10 of Part 3 of the *Crimes Act 1900*) that was committed in New South Wales against or in respect of a child and that was punishable by penal servitude or imprisonment for 12 months or more,
- (b) an offence under sections 91D–91G of the *Crimes Act 1900* (other than if committed by a child prostitute),
- (c) an offence under section 91H, 578B or 578C (2A) of the *Crimes Act 1900*,
- (c1) an offence an element of which is an intention to commit an offence referred to in paragraph (a), (b) or (c),
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraphs (a)–(c),
- (e) an offence under a law of a place outside New South Wales that would, if it had been committed in New South Wales, be an offence referred to in paragraphs (a)–(d).

**conviction** includes a spent conviction.

- (3) For the purposes of this section, section 579 of the *Crimes Act 1900* does not apply to or in respect of an offence referred to in the definition of **convicted child sexual offender** in subsection (2).

## Division 2B Intimidatory use of vehicles and vessels

### 11H Intimidatory use of vehicles and vessels

- (1) A person must not operate a motorised vehicle or motorised vessel in a public place—
  - (a) in such a manner as to harass or intimidate another person, or
  - (b) in such a manner as would be likely to cause a person of reasonable firmness to fear for his or her personal safety.

Maximum penalty—6 penalty units.

- (2) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
- (3) A person is not liable to be convicted (in respect of the same act or omission) of both—
  - (a) an offence under this section, and
  - (b) an offence under section 118 (Menacing driving) of the *Road Transport Act 2013* (or a former corresponding provision within the meaning of that Act).

(4) In this section—

**vehicle** includes—

- (a) anything on wheels, tracks or skis, other than a vehicle used on a railway, tramway or monorail, and
- (b) anything else declared by the regulations to be a vehicle for the purposes of this section.

**vessel** includes—

- (a) anything that is used, or is capable of being used, as a means of transportation on, under or immediately above water, and
- (b) anything else declared by the regulations to be a vessel for the purposes of this section.

## **Division 3 Miscellaneous**

### **12 Defence**

It is a sufficient defence to a prosecution for an offence under any of the provisions of this Part if the defendant satisfies the court that the act complained of in the information for the offence was done with lawful authority.

### **13 Particulars to be furnished**

(1) If a defendant charged with an offence under any of the provisions of this Part—

- (a) has requested the informant to furnish to the defendant reasonable particulars of the behaviour or conduct the subject of the charge, and
- (b) the informant, or some person on his or her behalf, has not so furnished those particulars,

the court before which the defendant is charged shall adjourn the charge pending the furnishing of those particulars or may dismiss the charge.

(2) If, at the hearing of a charge for an offence referred to in subsection (1)—

- (a) the evidence discloses behaviour or conduct that constitutes such an offence, and
- (b) that behaviour or conduct is different from the behaviour or conduct of which particulars have been given to the defendant under subsection (1),

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 on such terms as it thinks fit.

## **Part 3 Prostitution**

### **14 Exclusion of matters dealt with under certain Acts**

In this Part—

**premises** does not include—

- (a) the premises of a club registered under the *Registered Clubs Act 1976*, or
- (b) licensed premises under the *Liquor Act 1982*.

### **15 Living on earnings of prostitution**

- (1) A person shall not knowingly live wholly or in part on the earnings of prostitution of another person.

Maximum penalty—10 penalty units or imprisonment for 12 months.

- (2) For the purposes of subsection (1), a person who is of or above the age of 18 years and 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 taken knowingly to live wholly or in part on the earnings of prostitution of another person unless he or she satisfies the court before which he or she is charged with an offence under that subsection that he or she has sufficient lawful means of support.

- (3) A person does not contravene subsection (1) by living wholly or in part on earnings derived from a brothel if the person owns, manages or is employed in the brothel.
- (4) For the purposes of subsection (3), premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.

### **15A Causing or inducing prostitution**

- (1) A person must not, by coercive conduct or undue influence, cause or induce another person to commit an act of prostitution.
- (2) A person must not, by coercive conduct or undue influence, cause or induce another person to surrender any proceeds of an act of prostitution.

Maximum penalty—50 penalty units or imprisonment for 12 months, or both.

### **16 Prostitution or soliciting in massage parlours etc**

A person shall not use, for the purpose of prostitution or of soliciting for prostitution, any premises held out as being available—

- (a) for the provision of massage, sauna baths, steam baths or facilities for physical exercise, or
  - (b) for the taking of photographs, or
  - (c) as a photographic studio,
- or for services of a like nature.

Maximum penalty—5 penalty units or imprisonment for 3 months.

### **17 Allowing premises to be used for prostitution**

- (1) A person, being the owner, occupier or manager, or a person assisting in the management, of any premises held out as being available—

- (a) for the provision of massage, sauna baths, steam baths or facilities for physical exercise, or
- (b) for the taking of photographs, or
- (c) as a photographic studio,

or for services of a like nature, shall not knowingly suffer or permit the premises to be used for the purpose of prostitution or of soliciting for prostitution.

Maximum penalty—50 penalty units or imprisonment for 12 months.

- (2) A conviction under subsection (1) does not exempt the offender from any penalty or other punishment to which he or she may be liable for keeping or being concerned in keeping a disorderly house, or for the nuisance occasioned by it.

### **18 Advertising premises used for prostitution**

A person shall not, in any manner—

- (a) publish or cause to be published an advertisement, or
- (b) erect or cause to be erected any sign,

indicating that any premises are used or are available for use, or that a person is available, for the purposes of prostitution.

Maximum penalty—6 penalty units or imprisonment for 3 months.

### **18A Advertising for prostitutes**

- (1) A person shall not, in any manner, publish or cause to be published an advertisement for a prostitute.

Maximum penalty—10 penalty units or imprisonment for 3 months.

- (2) In this section, **advertisement for a prostitute** means an advertisement that indicates, or that can be reasonably taken to indicate, that—
- (a) employment for a prostitute is or may be available, or
  - (b) a person is required for employment as a prostitute or to act as a prostitute, or
  - (c) a person is required for employment in a position that involves, or may involve, acting as a prostitute.

### **19 Soliciting clients by prostitutes**

- (1) A person in a road or road related area shall not, near or within view from a dwelling, school, church or hospital, solicit another person for the purpose of prostitution.
- Maximum penalty—6 penalty units or imprisonment for 3 months.
- (2) A person shall not, in a school, church or hospital, solicit another person for the purpose of prostitution.
- Maximum penalty—6 penalty units or imprisonment for 3 months.
- (3) A person shall not, in or near, or within view from, a dwelling, school, church, hospital or public place, solicit another person, for the purpose of prostitution, in a manner that harasses or distresses the other person.
- Maximum penalty—8 penalty units or imprisonment for 3 months.
- (4) The provisions of this section are in addition to, and do not derogate from, any other law (including section 4).
- (5) In this section—
- (a) a reference to a person who solicits another person for the purpose of prostitution is a reference to a person who does so as a prostitute, and
  - (b) a reference to soliciting includes a reference to soliciting from a motor vehicle, whether moving or stationary.

### **19A Soliciting prostitutes by clients**

- (1) A person in a road or road related area must not, near or within view from a dwelling, school, church or hospital, solicit another person for the purpose of prostitution.
- Maximum penalty—6 penalty units or imprisonment for 3 months.
- (2) A person must not, in a school, church or hospital, solicit another person for the purpose of prostitution.
- Maximum penalty—6 penalty units or imprisonment for 3 months.

- (3) A person must not, in or near, or within view from, a dwelling, school, church, hospital or public place, solicit another person, for the purpose of prostitution, in a manner that harasses or distresses the other person.

Maximum penalty—8 penalty units or imprisonment for 3 months.

- (4) The provisions of this section are in addition to, and do not derogate from, any other law (including section 4).
- (5) In this section—
- (a) a reference to a person who solicits another person for the purpose of prostitution is a reference to a person who does so as a prospective client of a prostitute, and
- (b) a reference to soliciting includes a reference to soliciting from a motor vehicle, whether moving or stationary.

## **20 Public acts of prostitution**

- (1) Each of the persons taking part in an act of prostitution—

- (a) in, or within view from, a school, church, hospital or public place, or
- (b) within view from a dwelling,

is guilty of an offence.

Maximum penalty—10 penalty units or imprisonment for 6 months.

- (2) Each of the persons taking part in an act of prostitution in a vehicle that is—

- (a) in, or within view from, a school, church, hospital or public place, or
- (b) within view from a dwelling,

is guilty of an offence whether or not the act of prostitution can be seen from outside the vehicle.

Maximum penalty—10 penalty units or imprisonment for 6 months.

- (3) A person is not liable to be punished for an offence under both subsections (1) and (2) in respect of the same act of prostitution.
- (4) The provisions of this section are in addition to, and do not derogate from, any other law (including sections 4 and 5).
- (5) In this section—

**act of prostitution** includes sexual activity between persons of different sexes or of the same sex, comprising—

- (a) sexual intercourse within the meaning of Division 10 of Part 3 of the *Crimes Act 1900*, or
- (b) masturbation committed by one person on another,  
for payment.

## 21 Search warrant

- (1) A member of the Police Force may apply to an authorised officer for the issue of a search warrant if the member of the Police Force has reasonable grounds for believing that section 16 or 17 is being contravened or, within 72 hours, will be contravened with respect to any premises.
- (2) An authorised officer to whom an application is made under subsection (1) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any member of the Police Force—
  - (a) to enter and search the premises, and
  - (b) to arrest, search and bring before a Magistrate or an authorised officer within the meaning of the *Summary Offences Act 1988* any person who is, or appears to have been, contravening either section 16 or 17, and
  - (c) to seize any article that may be evidence of such a contravention.
- (3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (4) In this section—

**authorised officer** has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

## Part 3A Minors in sex clubs

### 21A Definitions

In this Part—

**declared sex club** means premises for the time being declared under this Part to be a sex club.

**live sex entertainment** means live public entertainment of a sexually explicit nature, such as striptease or actual or simulated sexual intercourse (whether or not involving audience participation).

**manager** of a declared sex club means a person having the management or control, or otherwise in charge, of the club.



**minor** means a person who has not attained the age of 18 years.

**public entertainment** means entertainment to which admission may ordinarily be gained by members of the public (whether or not the public to whom it is open consists only of a limited class of persons) on payment of money, or other consideration, as the price or condition of admission. Entertainment does not cease to be public entertainment merely because—

- (a) some (but not all) persons may be admitted to the entertainment otherwise than on payment of money, or other consideration, as the price or condition of admission, or
- (b) payment of money or other consideration, is demanded as the charge for a meal or other refreshment, or for any other service or thing, before admission to the entertainment is granted or as the charge for the entertainment after admission to the entertainment has been granted.

**senior police officer** means a police officer of or above the rank of senior sergeant.

**21B Minister may declare premises to be sex club on application of senior police officer**

- (1) A senior police officer may apply to the Minister for premises to be declared a sex club under this Part.
- (2) The Minister may declare the premises to be a sex club under this Part if satisfied that—
  - (a) the premises are used solely or substantially for live sex entertainment, and
  - (b) there is no effective prohibition under the [Liquor Act 2007](#) or any other law on minors entering the premises.
- (3) The premises declared to be a sex club may include any area that is associated with any part of the premises used for live sex entertainment.
- (4) The Minister may rely on information supplied in the application for the declaration or any other information available to the Minister for the purposes of making the declaration.
- (5) The following provisions apply to the declaration of a sex club—
  - (a) the declaration must set out a description of the premises to which it relates,
  - (b) the declaration may be limited to circumstances specified in the declaration,
  - (c) the declaration may be revoked by the Minister at any time.
- (6) The Minister may delegate the powers conferred on the Minister by this section (other than this power of delegation).

### **21C Notification of declaration of premises**

- (1) The declaration of any premises as a sex club is to be notified by any one or more of the following means—
  - (a) by publication of the declaration in the Gazette,
  - (b) by publication of the declaration in any newspaper circulating in the area in which the premises are located,
  - (c) by the service of notice of the declaration on the manager of the premises or a person who—
    - (i) is entitled to any of the proceeds of the operation of the premises, or
    - (ii) is otherwise concerned in the management of the premises,
  - (d) by affixing a notice of the declaration in a conspicuous place at the main entry point to the premises.
- (2) A declaration does not take effect until it has been notified by any one of those means.

### **21D Minors not permitted in declared sex clubs**

- (1) A person engaged in the operation of a declared sex club must not permit a minor to enter or remain in the club.  
Maximum penalty—20 penalty units.
- (2) A person is engaged in the operation of a declared sex club if—
  - (a) the person is the manager of the club, or
  - (b) the person is employed to carry out duties in the club, or
  - (c) the person is entitled to any of the proceeds of the operation of the club or is otherwise concerned in the management of the club.
- (3) It is a defence to a prosecution for an offence under subsection (1) if it is proved that—
  - (a) the person charged believed on reasonable grounds that the minor was of or above the age of 18 years, or
  - (b) the person charged had no knowledge that the minor was in the club and could not, by the exercise of due diligence, have prevented the minor from being in the club.

### **21E Notices to be displayed**

- (1) The manager of a declared sex club must ensure that there is continually displayed at each entry point to the club a notice that—
  - (a) states that a minor is not permitted to enter the club, and
  - (b) is displayed in such a manner that it would be reasonable to expect that a person entering the club would be alerted to its contents.

Maximum penalty—20 penalty units.

- (2) The regulations may make provision for or with respect to the size and content of such notices.

### **21F Police powers of entry**

- (1) If a police officer believes on reasonable grounds that a minor is in a declared sex club, the officer may, at any time of the day or night, enter the premises to ascertain whether an offence under this Part has been or is being committed.
- (2) A police officer exercising the power conferred by subsection (1) may, with or without assistance, break into the premises if entry is refused or is unreasonably delayed.
- (3) If a police officer is satisfied, on reasonable grounds, that a minor is in a declared sex club, the officer may remove the minor, or cause the minor to be removed, from the premises.
- (4) A person who wilfully delays or obstructs a police officer in the exercise of a power under this section is guilty of an offence.

Maximum penalty—50 penalty units.

- (5) In the exercise of a power conferred under this section, a police officer may request any person to answer any question relating to any suspected offence under this Part.

## **Part 3B**

### **21G, 21H (Repealed)**

## **Part 4 Public assemblies**

### **22 Definitions**

In this Part—

**Commissioner** means the Commissioner of Police.

**Court** means the Supreme Court or the District Court.

**organiser**, in relation to a public assembly in respect of which a notice has been given to the Commissioner as referred to in section 23 (1), means the person referred to in section 23 (1) (e) (i) by whom the notice is signed.

**public assembly** means an assembly held in a public place, and includes a procession so held.

**public place** means a public road, public reserve or other place which the public are entitled to use.

### **23 Authorised public assemblies**

- (1) For the purposes of this Part, a public assembly is an authorised public assembly if—
- (a) notice, in writing, of intention to hold the public assembly, addressed to the Commissioner, has been served on the Commissioner, and
  - (b) if a form of notice has been prescribed, the notice is in or to the effect of the prescribed form, and
  - (c) the notice contains the following particulars—
    - (i) the date on which it is proposed to hold the public assembly,
    - (ii) if the proposed public assembly is not a procession, a statement specifying the time and place at which it is intended that persons gather to participate in the proposed public assembly,
    - (iii) if the proposed public assembly is a procession, a statement specifying the time at which it is intended that the procession commence and the proposed route of the procession and, if it is intended that the procession should stop at places along that route for the purpose of enabling persons participating in the procession to be addressed or for any other purpose, a statement specifying those places,
    - (iv) the purpose for which the proposed public assembly is to be held,
    - (v) such other particulars as may be prescribed, and
  - (d) the notice specifies the number of persons who are expected to be participants in the proposed public assembly, and
  - (e) the notice—
    - (i) is signed by a person who indicates in the notice that he or she takes responsibility for organising and conducting the proposed public assembly, and
    - (ii) specifies the address of that person for the service on him or her of any notice for the purposes of this Part (which may include an address for the

transmission of facsimiles or the sending of emails to the person), and

(f) the Commissioner has notified the organiser of the public assembly that the Commissioner does not oppose the holding of the public assembly or—

(i) if the notice was served on the Commissioner at least 7 days before the date specified in the notice as the date on which it is proposed to hold the public assembly—the holding of the public assembly is not prohibited by a Court under section 25 (1), or

(ii) if the notice was served on the Commissioner less than 7 days before that date—the holding of the public assembly is authorised by a Court under section 26.

(2) Without prejudice to any other method of serving a notice referred to in subsection (1) on the Commissioner, such a notice may be served by leaving it with any member of the Police Force or such other person as may be prescribed at the address prescribed as the address of the office of the Commissioner.

#### **24 Participation in authorised public assembly**

If an authorised public assembly is held substantially in accordance with the particulars furnished with respect to it under section 23 (1) (c) or, if those particulars are amended by agreement between the Commissioner and the organiser, in accordance with those particulars as amended and in accordance with any prescribed requirements, a person is not, by reason of any thing done or omitted to be done by the person for the purpose only of participating in that public assembly, guilty of any offence relating to participating in an unlawful assembly or the obstruction of any person, vehicle or vessel in a public place.

#### **25 Prohibition by a Court of a public assembly**

(1) The Commissioner may apply to a Court for an order prohibiting the holding of a public assembly in respect of which a notice referred to in section 23 (1) has been served if the notice was served 7 days or more before the date specified in the notice as the date on which it is proposed to hold the public assembly.

(2) The Commissioner shall not apply for an order under subsection (1) relating to a public assembly in respect of which a notice referred to in section 23 (1) has been served unless—

(a) the Commissioner has caused to be served on the organiser of the public assembly a notice, in writing, inviting the organiser to confer with respect to the public assembly with a member of the Police Force specified in the notice at a time and place so specified, or to make written representations to the Commissioner, with respect to the public assembly, within a time so specified, and

(b) if the organiser has, in writing, informed the Commissioner that he or she wishes

so to confer, the Commissioner has made available to confer with the organiser at the time and place specified in the notice—

- (i) the member of the Police Force specified in the notice, or
- (ii) if that member of the Police Force is for any reason unavailable so to confer, another member of the Police Force, and

(c) the Commissioner has taken into consideration any matters put by the organiser at the conference and in any representations made by the organiser.

(3) A notice referred to in subsection (2) (a) may be served on the organiser—

- (a) personally, or
- (b) by registered post, facsimile transmission or email addressed to the organiser at an address, specified in the notice served on the Commissioner under section 23 (1) (e) (ii), as an address for the service of any notice for the purposes of this Part, or
- (c) by leaving it with any person apparently of or above the age of 16 years at a postal address so specified.

## **26 Authorisation by a Court of a public assembly**

If—

- (a) a notice referred to in section 23 (1) is served on the Commissioner less than 7 days before the date specified in the notice as the date on which it is proposed to hold the public assembly referred to in the notice, and
- (b) the Commissioner has not notified the organiser of the public assembly that the Commissioner does not oppose the holding of the public assembly,

the organiser may apply to a Court for an order authorising the holding of the public assembly.

## **27 Applications under section 25 or 26**

- (1) The Court to which an application in respect of a public assembly is made under section 25 (1) or 26 shall decide the application with the greatest expedition possible so as to ensure that the application is not frustrated by reason of the decision of the Court being delayed until after the date on which the public assembly is proposed to be held.
- (2) The decision of a Court on an application under section 25 (1) or 26 is final and is not subject to appeal.
- (3) Not more than one application may be made under section 25 (1) or 26 in respect of

the same public assembly.

## Parts 4A, 5

### 27A-28I (Repealed)

## Part 5A Hunting

### 28J Offence of hunting on private land

(1) In this section—

**animal** means any vertebrate animal but does not include a fish within the meaning of the *Fisheries Management Act 1994*.

**hunt** an animal includes search for, pursue, trail, stalk or drive out the animal in order to capture, trap, harm or kill the animal.

**occupier** and **owner** have the same meanings as they have in the *Local Land Services Act 2013*.

**private land** has the same meaning as it has in the *Local Land Services Act 2013*.

(2) A person who, without reasonable excuse (proof of which lies on the person) enters private land and hunts for any animal on the land, without the consent of the owner or occupier of the land, is guilty of an offence.

Maximum penalty—20 penalty units or imprisonment for 12 months, or both.

(3) Without limiting subsection (2), a person is taken to have reasonable excuse for the purposes of that section if—

(a) the person did not know that the land was private land, or

(b) the person is an Aboriginal person—

(i) who is a member, or in the company of a member, of a Local Aboriginal Land Council and who is undertaking traditional cultural hunting within the area of the Council in accordance with a permit issued under section 48 of the *Aboriginal Land Rights Act 1983*, or

(ii) who enters the land and hunts an animal pursuant to a native title right or interest that is the subject of an approved determination of native title or of a registered native title claim, or

(c) the land is land to which an emergency order, control order or biosecurity zone regulation under the *Biosecurity Act 2015* applies and the person enters the land and hunts animals—

(i) in accordance with a duty imposed on the person by that order or regulation, or

- (ii) under section 59, 76 or 88 of that Act, or
- (d) the person is of a class, or enters the land and hunts in the circumstances, prescribed by the regulations.

## **Part 6 General**

### **29 Penalty notices**

- (1) A member of the Police Force to whom it appears that a person has committed an offence under section 11 may serve on the apparent offender a notice to the effect that, if it is not desired to have the matter determined by a court, the person served may, within a time specified in the notice, pay \$20 to an officer so specified.
- (2) A notice under this section may be served personally or by post.
- (3) If the amount of \$20 for an alleged offence under section 11 is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (4) Payment under this section shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (5) This section shall be read as supplementing, and not as derogating from—
  - (a) any other provision of this Act or the regulations, or
  - (b) a provision of any other Act or of a regulation, by-law or ordinance under any other Act,in relation to proceedings which may be taken in respect of offences.

### **29A (Repealed)**

### **29B Penalty notices: hunting on private land without consent of owner or occupier of the land**

- (1) A police officer, or inspector appointed under Division 1 of Part 4 of the *Game and Feral Animal Control Act 2002*, to whom it appears that a person has committed an offence under section 28J may serve on the person a notice to the effect that, if it is not desired to have the matter determined by a court, the person may, within a time specified in the notice, pay an amount prescribed by the regulations to a person so specified.
- (2) A notice under this section may be served personally or by post.
- (3) If the amount prescribed for an alleged offence under section 28J is paid under this section, no person is liable for any further proceedings for the alleged offence.



- (4) Payment under this section is not be regarded as an admission of liability for the purpose of, nor in any way affects or prejudices, any civil claim, action or proceeding arising out of the same occurrence.
- (5) This section is to be read as supplementing, and not as derogating from—
  - (a) any other provisions of this Act or the regulations, or
  - (b) a provision of any other Act or statutory rule,in relation to proceedings which may be taken in respect of offences.

### **30 No detention for certain offences**

No person shall be imprisoned or detained in a detention centre in consequence of failing to pay a pecuniary penalty for an offence under section 11 or in consequence of failing to pay an amount under a penalty notice issued in relation to such an offence.

### **30A Compensation**

- (1) A court that convicts a person of an offence under section 8 (being an offence committed after the commencement of this section) may, in addition to any penalty imposed for the offence, order the person to pay an amount not exceeding 20 penalty units as the cost of, or as a contribution to the cost of, the repair or restoration of any damage caused by the action that resulted in the conviction.
- (2) An amount ordered to be paid under subsection (1) is to be paid to such person or body as the court orders, or in the absence of such an order to the Consolidated Fund.
- (3) An order for the payment of money under subsection (1) is taken to be a fine for the purposes of the *Fines Act 1996*.
- (4) An order by a court under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in any proceedings for an offence referred to in subsection (1) operates for the purposes of that subsection as a conviction for the offence.
- (5) The court may also, on the application of the convicted person and with the consent of the prosecutor, order that the person must, under the supervision of a person or class of persons designated by the court, personally repair or restore, or assist in the repair or restoration of, any damage caused by the action that resulted in the conviction, as an alternative to paying the whole or a specified part of an amount ordered to be paid by the person under subsection (1).
- (6) Compliance with an order under subsection (5) is, to the extent indicated in the order, taken to be satisfaction of the order under subsection (1).

### **31 Evidence as to road and road related area etc**

In proceedings for an offence under this Act, evidence that a certain place appeared at

the time of the alleged offence to be a road or road related area or public place, or a dwelling, school, church or hospital, is prima facie evidence of that fact.

### **32 Proceedings for offences**

Proceedings for an offence under this Act may be taken before the Local Court.

### **33 Payment towards cost of repairing damage**

A person convicted of an offence under this Act is liable to pay such amount not exceeding an amount equal to 20 penalty units as the court may order as the cost of, or contribution to, the repair or restoration of any damage caused by the action which resulted in the conviction.

### **34 Repeals**

Each Act specified in Schedule 1 is repealed.

### **34A Savings and transitional provisions**

Schedule 2 has effect.

### **35 Regulations**

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

### **36 Report by Ombudsman on section 9**

- (1) As soon as practicable after the end of the period of 12 months from the commencement of section 9 (as inserted by the [Summary Offences Amendment \(Intoxicated and Disorderly Conduct\) Act 2011](#)), the Ombudsman must prepare a report on—
  - (a) the operation of section 9, and
  - (b) the issue of penalty notices in respect of offences against section 9.
- (2) For that purpose, the Commissioner of Police is to ensure that the Ombudsman is provided with information about—
  - (a) any prosecutions brought under section 9, and
  - (b) the issue of penalty notices in respect of offences against section 9.
- (3) The Ombudsman may at any time require the Commissioner of Police, or any public authority, to provide any information or further information the Ombudsman requires for the purposes of preparing the report under this section.

- (4) The Ombudsman must furnish a copy of the report to the Attorney General and to the Commissioner of Police.
- (5) The Attorney General is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after the Attorney General receives the report.
- (6) If a House of Parliament is not sitting when the Attorney General seeks to lay a report before it, the Attorney General may present copies of the report to the Clerk of the House concerned.
- (7) The report—
  - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
  - (b) may be printed by authority of the Clerk of the House, and
  - (c) if so printed, is for all purposes taken to be a document published by or under the authority of the House, and
  - (d) is to be recorded—
    - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and
    - (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,on the first sitting day of the House after receipt of the report by the Clerk.

### **37-39 (Repealed)**

## **Schedule 1 Repeals**

(Section 34)

*Offences in Public Places Act 1979 No 63*

*Public Assemblies Act 1979 No 64*

*Prostitution Act 1979 No 71*

*Offences in Public Places (Amendment) Act 1987 No 38*

*Offences in Public Places (Further Amendment) Act 1987 No 131*

*Offences in Public Places (Juvenile Drinking) Amendment Act 1987 No 224*

## **Schedule 2 Savings and transitional provisions**

(Section 34A)

### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent

on the enactment of the following Acts—

*Traffic Legislation Amendment Act 1997*, but only in relation to the amendments made to this Act

*Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Act 2001*

*Summary Offences Amendment (Intoxicated and Disorderly Conduct) Act 2011*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **2 Provision consequent on enactment of *Crimes Legislation Amendment (Sentencing) Act 1999***

Section 37A of the *Correctional Centres Act 1952*, as in force immediately before its repeal by the *Crimes Legislation Amendment (Sentencing) Act 1999*, continues to have effect in relation to any offence under section 37 or 38 of the *Correctional Centres Act 1952*, as so in force, as if it had not been repealed.

## **3 Provision consequent on enactment of *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018***

The reference in paragraph (a) of the definition of **convicted child sexual offender** in section 11G (2) to sexual touching or a sexual act is taken, in a reference to any offence occurring before the amendment of that paragraph by the *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018*, to include a reference to an act of indecency.