

Queensland



VAGRANTS, GAMING AND OTHER OFFENCES ACT 1931

**Reprinted as in force on 1 July 2003
(includes commenced amendments up to 2002 Act No. 58)**

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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VAGRANTS, GAMING AND OTHER OFFENCES ACT 1931

[as amended by all amendments that commenced on or before 1 July 2003]

An Act to make better provision for the prevention and punishment of offences by vagrants and disorderly persons, for the suppression of unlawful gaming and other offences, and for other purposes

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Vagrants, Gaming and Other Offences Act 1931*.

2 Definitions

In this Act—

“**child**” means a boy under the age of 17 years or a girl under the age of 17 years;

“**Commissioner**” means the Commissioner of the Police Service;

“**complaint**” means a complaint pursuant to the Justices Act;

“**Court**” means Magistrates Court;

“**firearm**” has the meaning given by section 1.6 of the *Weapons Act 1990*;

“**gaming Acts**” means the following Acts—

- *Charitable and Non-Profit Gaming Act 1999*
- Criminal Code, sections 232 to 235
- *Racing Act 2002*
- *Suppression of Gambling Act 1895*.

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“graffiti instrument” means a spray-paint can or another applying, scratching or etching implement.

“graffiti offence” means an offence to which the Criminal Code, section 469,¹ punishment in special cases, clause 9, applies.

“indecent advertisement or picture or printed or written matter” includes any advertisement or picture or printed or written matter relating, whether directly or indirectly, to pregnancy of women or to sexual intercourse in a lewd, prurient, or obscene manner, or which may be reasonably construed as in a lewd, prurient, or obscene manner, or sexual abuse or to any complaint or infirmity arising therefrom, or to impotency, or to nervous debility or female irregularities, or which may reasonably be construed as relating to any illegal medical treatment or illegal operation;

“instrument of gaming” includes lists, sheets, books, tickets, cards, coins, kip, dice, dice-boxes, dominoes, croupiers, and all documents and writings used, or apparently used, or capable of being used in carrying on or in connection with a lottery, betting, or gaming other than betting on horse racing, including the racing of trotting horses;

“Justices Act” means the *Justices Act 1886*;

“licensed premises” has the meaning given by section 4 of the *Liquor Act 1992*;

“lottery” means a lottery as defined in the *Art Union Regulation Act 1930*;

“Magistrates Courts Act” means the *Magistrates Courts Act 1921*;

“obscene publication” includes any obscene book, paper, newspaper, or printed matter of any kind whatsoever, and any obscene writing, print, picture, photograph, photographic negative, photographic plate, photographic slide or film, transparency, lithograph, drawing, record or representation.

In this definition, **“obscene”** includes, but without limiting the generality of its meaning, emphasising matters of sex or crime, or calculated to encourage depravity.

For the purposes of this definition a record shall be deemed to be obscene if the words or sounds capable of being reproduced therefrom are obscene;

¹ Criminal Code, section 469 (Wilful damage)

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“occupier” of a house, office, room, or other place, or of any land of whatever tenure, or building, includes the lessee or sublessee who is not the owner as hereinafter defined;

“owner” of a house, office, room, or other place, or of any land of whatever tenure, or building, includes every person, company, or corporation who is, whether at law or in equity—

- (a) entitled to the same for any estate of freehold in possession; or
- (b) in actual receipt of or entitled to receive, or if the house, office, room, place, land, or building were let to a tenant would be entitled to receive, the rents and profits of the same, whether in his or her own right or as trustee or agent of another;

and, in the case of a house, office, room, place, land, or building subleased, includes any lessee or sublessee from whom a sublessee holds;

“place”, for the purposes of the provisions of this Act relating to gaming and the Gaming Acts, means any house, office, room, tent, resort, or other place in or out of an enclosed building, vessel, or premises, whether upon land or water, whether private property or otherwise and any vehicle, and includes any place declared, by regulation, to be a place for the purposes of the said provisions;

“play”, in relation to a record, means reproduce recorded words or sounds from the record by means of a gramophone or other device;

“police station” includes a police office, watch-house, station house, and lockup;

“public place” includes every road and also every place of public resort open to or used by the public as of right, and also includes—

- (a) any vessel, vehicle, building, room, licensed premises, field, ground, park, reserve, garden, wharf, pier, jetty, platform, market, passage, or other place for the time being used for a public purpose or open to access by the public, whether on payment or otherwise, or open to access by the public by the express or tacit consent or sufferance of the owner, and whether the same is or is not at all times so open; and
- (b) a place declared, by regulation, to be a public place;

“publish”, in relation to a record, means deliver the record to any person or play the record in the hearing of any person;

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“**racecourse**” means land used for race meetings and to which admission is granted by payment of money by ticket or otherwise;

“**record**” means any gramophone record, wire, tape, or other thing by which words or sounds are recorded and from which they are capable of being reproduced;

“**road**” means a street, road, court, alley, lane, avenue, thoroughfare, highway, bridge, wharf, or railway station, or any roadway open to or used by the public, although it is not a highway, and includes a pavement, footway, or culvert upon a road;

“**spray-paint can**” means a container capable of propelling or otherwise applying paint.

“**unlawful game**”, for the purposes of the Gaming Acts and this Act and without limiting the meaning of the term “unlawful game”, means the games known or called respectively ‘fan-tan’, ‘fan-tan troy’, ‘troy’, ‘pak-a-pu’, ‘fruit machines’ of every description, and any mechanical contrivance in the nature of or similar to a fruit machine, ‘two-up’, ‘heading them’, ‘sin-ki-loo’, ‘tray bit peter’, ‘Yankee grab’, and ‘hazard’, and all similar games and machines; and the disposal of money or other property by lottery or chance or by mixed chance and skill; and all games with cards, dice, or other instruments wherefrom any person or persons derives or derive a percentage of the amount wagered or bet.

The expression “**fruit machine and any mechanical contrivance in the nature of or similar to a fruit machine**” shall not include an automatic machine used solely for the sale, by mechanical means after placing therein the necessary coin, of confectionery, matches, peanuts, or other article or commodity not being an article or commodity the sale of which by an automatic machine is prohibited under any law of the State.

The term “**unlawful game**” shall not include any game of chance or game of mixed chance and skill in respect of which a permit has been issued by the Attorney-General or other Minister of the Crown for the time being charged with the administration of the *Art Union Regulation Act 1930* and under and subject to the provisions of the *Art Union Regulation Act 1930*.²

2 Now see *Acts Interpretation Act 1954*, section 14H and *Charitable and Non-Profit Gaming Act 1999*.

Provided always that the provisions of such Act are fully complied with and observed and obeyed accordingly in respect of such game of chance or game of mixed chance and skill;

“**vehicle**” means car, tramcar, railway carriage, carriage, dray, wagon, cart, truck, handcart, barrow, bicycle, tricycle, motorcycle, motor car, motor vehicle, and any vehicle of any kind whatsoever.

PART 2—VAGRANTS AND DISORDERLY PERSONS

4

(1) Any person who—

Vagrants

- (a) having no visible lawful means of support or insufficient lawful means, does not, on being charged before a court, give to its satisfaction a good account of the person’s means of support;
- (b) is the occupier of a house frequented by reputed thieves or persons who have no visible lawful means of support;
- (c) being an habitual drunkard, behaves in a riotous, disorderly, or indecent manner in any public place;
- (d) habitually consorts with reputed criminals or known prostitutes or persons who have been convicted of having no visible lawful means of support;
- (e) in a house or place frequented by reputed thieves or persons who have no visible lawful means of support, is found in company with reputed thieves or such persons, and does not, on being charged before a court, give to its satisfaction a good account of the person’s lawful means of support, and of the person being in such house or place on a lawful occasion;
- (f) plays or bets at any unlawful game, or plays or bets in any street, road, highway, or other public place at or with any table or instrument of gaming at any game or pretended game;
- (g) without lawful excuse (the proof of which shall be upon the person)—

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- (i) is found in any dwelling house, warehouse, coach-house, stable, or outhouse, or in any enclosed yard, garden, or area, or on board any vessel in any port, harbour, or place, or in or upon any mine or claim as defined by the *Mining Act 1898*³ or any Act amending or in substitution for the same;
- (ii) has in the person's custody or possession any picklock key, crow, jack, bit, or other implement of housebreaking, or any dangerous or explosive substance;
- (iii) has in the person's custody or possession any instrument of gaming or any instrument which, in the opinion of the court, is constructed or kept or used as a means of gaming or cheating;
- (iv) wilfully exposes his or her person in view of any person in any public place;
- (h) with intent to commit any indictable offence—
 - (i) has in the person's custody or possession any deleterious drug, firearm, sword, bludgeon, or other offensive weapon or instrument;
 - (ii) is found by night having the person's face blackened or masked, or wearing felt or other slippers, or being dressed in disguise or otherwise disguised, or having in the person's possession any dark lantern, electric torch, or any matches of the kind known as silent matches;
 - (iii) being a suspected person or known or reputed thief or cheat, is found in or on any river, stream, dock or basin, or any quay, wharf, jetty, landing place, or warehouse near or adjoining thereto, or any public place or place adjacent thereto;
- (i) is found by night armed with any firearm as defined in section 2A of the *Firearms Act 1905*, as inserted by the *Firearms Act 1927*, or as defined by the *Firearms Act 1927*,⁴ sword, bludgeon, or other offensive weapon or instrument, and does not, on being charged before a court, give to its satisfaction a good account of the person's lawful means of support and a valid reason for the person being so armed;

3 Now see *Acts Interpretation Act 1954*, s 14H and *Mineral Resources Act 1989*.

4 Now see *Acts Interpretation Act 1954*, s 14H and *Weapons Act 1990*.

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- (j) fraudulently manufactures or aids in the manufacture of any spurious or mixed metal or substance, or fraudulently sells or fraudulently offers for sale as manufactured gold or as gold in its natural state any metal or mixed or adulterated metal or other substance, whether partly composed of gold or not;
- (k) loiters or places himself or herself in a public place to beg or gather alms or without the permission of the Commissioner in a public place or place of public resort solicits, gathers, or collects subscriptions or contributions;
- (l) causes, procures, or encourages any child to loiter or place himself or herself in a public place to beg or gather alms;
- (m) solicits, gathers, or collects alms, subscriptions, or contributions under any false pretence;
- (n) imposes or endeavours to impose upon any person or institution, by any false or fraudulent representation either orally or in writing, or by means of dress, apparel, or otherwise, with a view to obtain money or other benefit or advantage;
- (o) pretends or professes to tell fortunes for gain or payment of any kind;

shall be deemed to be a vagrant, and shall be liable to a penalty of \$100 or to imprisonment for 6 months.

(1A) However, subsection (1)(a) shall not extend to any person who is bona fide out of work and who is bona fide in search of employment.

Forfeiture

(2) Every implement, offensive weapon, instrument, drug, substance, and thing referred to in subsection (1)(g)(i) to (iii) and (h) to (j) shall, by the conviction of the offender, become forfeited to Her Majesty.

4A Entering or remaining in or upon buildings, enclosed farms etc. without lawful excuse

(1) Any person who, without lawful excuse (the proof of which shall be upon the person), together with others enters or remains in or upon any part of a building or structure, whether public or private, or any land occupied or used in connection therewith, is guilty of an offence.

Maximum penalty—\$200 or imprisonment for 6 months.

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(2) Any 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 lawful excuse for so doing (proof of such lawful excuse being upon the person) shall, if the person there—

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

which, if done or used by the person in a public place, would be an offence under this Act or any other Act, be guilty of an offence.

Maximum penalty—\$200 or imprisonment for 6 months.

(3) Any person who, without lawful excuse (the proof of which shall be upon the person), enters or remains upon any enclosed land used for the purpose of farming or grazing is guilty of an offence.

Maximum penalty—4 penalty units or imprisonment for 6 months.

(4) Any person who, without lawful excuse (the proof of which shall be upon the person), opens and leaves open any gate, fence or other barrier that encloses (wholly or in part) any enclosed land used for the purpose of farming or grazing is guilty of an offence.

Maximum penalty—4 penalty units or imprisonment for 6 months.

4B Unlawful parachuting etc.

(1) Any person who—

- (a) makes or attempts to make a descent from or onto a building or structure by parachuting, abseiling or other means; or
- (b) climbs or attempts to climb a building or structure;

is guilty of an offence, unless the building or structure exists for that purpose or that person has a lawful, reasonable and sufficient excuse for so doing.

Maximum penalty—4 penalty units or imprisonment for 6 months.

(2) Where a person has been found or has pleaded guilty of an offence defined in subsection (1), whether or not it imposes any penalty in respect thereof, the court may order that person to pay to another person, specified by the court, a sum assessed by the court on account of expenses shown to it to have been incurred by that other person in connection with the rescue or attempted rescue of the guilty person as a consequence of the person committing the offence.

(3) An order made pursuant to subsection (2) shall be deemed to be an order for the payment of money made under the *Magistrates Courts Act 1921* and shall be enforceable as such an order under that Act.

6 Seizure and disposal of goods found in vagrant's possession

Whenever a person is adjudged to be a vagrant, the court may order—

- (a) any money which is found with or upon the offender to be paid and applied towards the expense of arresting the person and conveying the person to prison and maintaining the person during the term for which the person is committed, and towards the expense of the keep of any animals seized, and the residue of such money to be returned to the offender; and
- (b) if sufficient money for the purposes aforesaid is not found, that the part or, if necessary, the whole of the offender's property seized shall be sold and the produce of the sale applied as aforesaid, and the residue returned to the offender after deducting the charges for the sale.

7 Obscene, abusive language etc.

(1) Any person who, in any public place or so near to any public place that any person who might be therein, and whether any person is therein or not, could view or hear—

- (a) sings any obscene song or ballad;
- (b) writes or draws any indecent or obscene word, figure, or representation;
- (c) uses any profane, indecent, or obscene language;
- (d) uses any threatening, abusive, or insulting words to any person;
- (e) behaves in a riotous, violent, disorderly, indecent, offensive, threatening, or insulting manner;

shall be liable to a penalty of \$100 or to imprisonment for 6 months, and may, in addition thereto or in substitution therefor, be required by the court to enter into a recognisance, with or without sureties, to be of good behaviour for any period not exceeding 12 months, and, in default of entering into such recognisance forthwith, may be imprisoned for any period not exceeding 6 months, unless such recognisance is sooner entered into.

(2) However, the maximum period for which a defendant may be imprisoned in respect of any offence against and also in respect of failing to enter into any recognisance under this section shall not in the aggregate exceed 6 months.

7A Printing or publishing threatening, abusive, or insulting words etc.

(1) Any person—

- (a) who by words capable of being read either by sight or touch prints any threatening, abusive, or insulting words of or concerning any person by which the reputation of that person is likely to be injured, or by which the person is likely to be injured in the person's profession or trade, or by which other persons are likely to be induced to shun, or avoid, or ridicule, or despise the person; or
- (b) who publishes any such words of or concerning any person by exhibiting such words or by causing such words to be read or seen, or by showing or causing to be shown such words with a view to such words being read or seen by any person; or
- (c) who delivers or distributes in any manner whatsoever printed matter containing any such words; or
- (d) who has in the person's possession printed matter containing any such words—

shall be liable to a penalty of \$100 or to imprisonment for 6 months.

(5) If the words hereinbefore referred to and the publication thereof shall constitute the offence of defamation as defined in the Criminal Code, proceedings in respect of such publication may be taken either under this section or as heretofore under the said Criminal Code.

(6) For the purposes of this section—

“**print**”, in relation to words, shall include write, print, type, or otherwise delineate or cause to be delineated any words in such a manner that they are capable of being read.

12

(1) Any person who—

Printing, publishing etc. obscene matter

- (a) prints, photographs, lithographs, draws, makes, sells, or has in the person's possession apparently for the purpose of sale or distribution, or publishes, distributes, or exhibits, any indecent or obscene publication or assists in so doing;
- (b) publishes a newspaper containing any indecent or obscene advertisement, matter, or report;
- (c) delivers to any other person any indecent or obscene picture or printed or written matter with the intent that the same or a copy thereof, or any part of such matter or a copy thereof, should be published as an advertisement or otherwise in any newspaper;
- (d) affixes to or inscribes on any house, building, wall, hoarding, gate, fence, pillar, board, tree, or any other thing whatsoever so as to be visible to a person in any public place, or affixes to or inscribes on any public urinal, closet, or sanitary convenience, or delivers or attempts to deliver or exhibits to any person, or throws down the area of any house or into the garden or curtilage of any house, or exhibits to public view in the window of any shop, stall, or building, or otherwise publishes any indecent or obscene picture or printed or written matter;
- (e) delivers to any other person any such picture or printed or written matter with the intent that the same or some one or more thereof, or a copy of any such picture or printed or written matter, should be affixed, inscribed, delivered, exhibited, or otherwise published in contravention of this section;
- (f) prints any picture or printed matter published in contravention of this Act;

shall be liable for a first offence to a penalty of \$400 or imprisonment for 3 months; for a second offence to a penalty of \$800 or imprisonment for 6 months; and for a third or any subsequent offence to a penalty of \$1 000 or to imprisonment for 1 year; and on any conviction in the case of a newspaper, the registration thereof shall be liable to be cancelled by order of the court.

(2) Where it is shown that the purpose of sale or distribution or the publication, distribution or exhibition that is an element of an offence defined in subsection (1)(a), is the sale, distribution, publication, or exhibition of the indecent or obscene publication in question, to a child or to children generally, the offender shall be liable for a first offence to a

penalty of not less than \$400 nor more than \$800 or imprisonment for 6 months, and for a second or subsequent offence to a penalty of not less than \$500 nor more than \$1 000 or to imprisonment for 1 year.

12A Advertising indecent or obscene publications

(1) Any person who prints, lithographs, draws, makes, exhibits or distributes or has in the person's possession for exhibition or distribution any writing, photograph or drawing that advertises the existence or availability of an indecent or obscene publication is guilty of an offence and is liable for a first offence to a penalty of \$400 or imprisonment for 3 months, for a second offence to a penalty of \$800 or imprisonment for 6 months, and for a third or any subsequent offence to a penalty of \$1 000 or imprisonment for 1 year.

(2) For the purposes of this section a document that is composed of words, photographs and drawings or any 2 or more of them shall be taken to be a writing.

13 Offence by occupier or owner

Any—

- (a) occupier of the house, shop, room, premises, or other place wherein any indecent or obscene publications have been seized or attached as hereinafter provided; and
- (b) owner of and person who, in the opinion of the court, appears to be the owner of such indecent or obscene publications;

shall for the first offence be liable to a penalty of \$400 or to imprisonment for 3 months, and for a second or subsequent offence to a penalty of \$800 or to imprisonment for 6 months.

14 Indecent postcards

(1) Any person who exposes or causes to be exposed to view in any public place or in a window or any part of a shop, stall, or building, or sells any card purporting to be or which might be used as a postcard, and which is of an indecent nature, shall be liable to a penalty of \$100 or to imprisonment for 6 months.

Proceedings

(2) Proceedings against any person for an offence against this section shall not be taken except by a police officer, acting on the written authority of a police officer of at least the rank of inspector.

Warning before prosecution

(3) A proceeding for an offence against subsection (1) must not be taken, unless the offender has been previously warned in writing by a police officer that the person will be prosecuted if, after such warning, the person exposes or causes to be exposed to view in contravention of this section any card which is of an indecent nature.

17 Bona fide medical works protected

(1) Nothing in this Part shall apply to the printing, publishing, making, possessing, selling, or delivery, or the exhibiting in the window of any shop for any lawful purpose, of any bona fide medical work or treatise.

(2) However, in any prosecution for an offence under this Part the burden of proof that a publication is a bona fide medical work or treatise shall lie on the defendant.

18 Protection to wives of habitual drunkards

(1) Where a court is satisfied by evidence produced before it that a married man is an habitual drunkard, whether previously declared so to be or not, the court may, on the application of any person specified in this subsection, make an order declaring him to be an habitual drunkard, and protecting—

- (a) the earnings or separate property of the wife of the drunkard;
- (b) anything purchased by her with such earnings or property;
- (c) the wearing apparel, school requirements, and earnings of her children or stepchildren;
- (d) any tools, instruments, appliances, or materials entrusted to her independently of her husband;
- (e) any furniture, bedding, or other articles in use as household necessities in her residence;
- (f) any tools, instruments, appliances, or other articles used in connection with any work, business, or calling engaged in by the

wife or her children or stepchildren independently of her husband.

(1A) The persons who may make an application to the court under subsection (1) are the wife of the habitual drunkard or his or her parent, child, brother, or sister, or the police officer in charge of a police station in the district in which the alleged habitual drunkard resides.

Protection to husbands of habitual drunkards

(2) Where a court is satisfied by evidence produced before it that a married woman is an habitual drunkard, whether previously declared so to be or not, the court may on the application of any person specified in this subsection, make an order declaring her to be an habitual drunkard, and protecting—

- (a) any furniture, bedding, or other articles in use as household necessities in the residence of the husband of the drunkard;
- (b) the wearing apparel, school requirements, and earnings of his children or stepchildren;
- (c) any tools, instruments, appliances, or other articles belonging to him or entrusted to him independently of his wife.

(2A) The persons who may make an application to the court under subsection (2) are the husband of the habitual drunkard or his or her parent, child, brother, or sister, or the police officer in charge of a police station in the district in which the alleged habitual drunkard resides.

(3) The court may at any time rescind or vary an order made under this section.

(4) While an order under this section is in force, it shall not be lawful to seize or sell any article specified or referred to therein for the satisfaction or discharge of any debt or liability of the habitual drunkard, or knowingly to buy from him or her, or receive from him or her or on his or her behalf, any such article in pledge or pawn, or for him or her to sell or give in pledge or pawn any such article.

(5) And any person who knowingly acts in contravention of this enactment shall be liable to a penalty of \$40 or to imprisonment for 3 months.

PART 3—GAMING

19

In addition to and without limiting any other provision of this Act, or any provisions of the Gaming Acts or the Criminal Code, any person who—

Unlawful games

- (a) plays or bets at any unlawful game;
- (b) has in the person's possession any fruit machine or any mechanical contrivance in the nature of or similar to a fruit machine;
- (c) gives or sells any ticket or chance or share in any ticket or chance in any unlawful game;
- (d) in or near any public place, or within the view or hearing of any person therein, or in or near any licensed premises, or in any vacant place whether fenced or not, plays or bets, or solicits or encourages any other person to play or bet—
 - (i) at any game or pretended game of chance; or
 - (ii) at or on any game or trick of sleight of hand; or
 - (iii) at or on any game or trick played with any instrument which, in the opinion of the court, is constructed or kept or used as a means of cheating;

shall be liable to a penalty of \$100 or to imprisonment for 6 months.

20 Cheating at games

Any person who, by any fraud, unlawful device, or ill-practice—

- (a) in playing at or with cards, dice, tables, or any other game; or
- (b) in bearing a part in the stakes, wages, or in betting on the sides or hands of the players; or
- (c) in wagering on the event of any game, sport, pastime, or exercise;

wins or attempts to win from any person to himself, herself or any other person any money or other property shall be liable to a penalty of not less than \$20 or more than \$100 or to imprisonment for 6 months.

21A Seizure of fruit machines

(1) This section applies if a police officer lawfully seizes a fruit machine or a similar machine.

(2) The machine is forfeited to the State.

(3) However, such forfeiture shall not prejudice any proceedings against any person alleged to have committed an offence with respect to such fruit machine or other machine.

22 Betting on licensed premises

(1) Any licensed victualler within the meaning of the *Liquor Act 1912*⁵ who permits the licensed victualler's licensed premises to be used for the purpose of betting or wagering on any future event or contingency, by whatever means such betting or wagering is conducted or carried on on such licensed premises, shall be guilty of an offence and liable to a penalty not exceeding \$200.

(2) Where any licensed premises are used for the purposes of such betting or wagering as aforesaid, the licensee shall for all purposes of this section be deemed to permit the licensee's licensed premises to be used for the purpose of so betting or wagering unless the licensee proves that the licensee had no knowledge and no means of knowing that the licensee's licensed premises were used for the purposes of betting or wagering.

22A Application of s 22

Section 22 does not apply to betting on a totalisator operated at licensed premises by or on behalf of the Totalisator Administration Board under the *Racing and Betting Act 1980*.

5 Now see *Acts Interpretation Act*, section 14H and *Liquor Act 1992*.

PART 4—OTHER OFFENCES

25 Persons unlawfully in possession of property

(1) Any person who, upon being charged before a court with having in the person's possession or conveying anything whatsoever suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of the court how the person came by such thing shall be liable to a penalty of \$50 or to imprisonment for 6 months.

Person from whom stolen goods are said to have been received to be examined

(2) When the defendant declares that the defendant received the thing from some other person, or that the defendant was employed as a carrier, agent, or servant to convey the thing for some other person, the court may cause every such person, and also, if necessary, every former or pretended purchaser or other person through whose possession the thing has passed, to be brought before the same or another court and examined concerning the thing.

(2A) Any person who appears to the court to have had possession of the thing, and to have had reasonable cause to believe the same to have been stolen or unlawfully obtained, shall be liable to a penalty of \$50 or to imprisonment for 6 months.

Possession

(2B) For the purposes of this section—

- (a) a thing, if proved to be or to have been in the possession of the defendant, whether in a building or otherwise, and whether the possession thereof had been parted with by the defendant before the defendant was brought before the court or not, shall be deemed to be in the defendant's possession;
- (b) every person shall be deemed to have had possession of the thing at the time and place when and where the same was found or seized;
- (c) the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who employed such carrier, agent, or servant to convey the thing.

(3) In this section—

“**anything whatsoever**” includes every thing animate or inanimate capable of being the subject of ownership whether the owner of such thing is known or not and which thing is a thing capable of being stolen or would if the owner were known be a thing capable of being stolen.

27 Order for delivery to the owner of goods unlawfully detained

(1) Upon complaint by any person claiming to be entitled to the property or possession of any goods which are detained by the defendant, the value of which is not greater than \$40, and not being deeds, muniments, or papers relating to any property of greater value than \$100, if it appears to the court that such goods have been detained without just cause after due notice of the claim made by the complainant, or that the defendant has a lien or right to detain the same by way of security for the payment of money or the performance of any act by the complainant, the court may order the goods to be delivered up to the complainant either—

- (a) absolutely; or
- (b) upon tender of the amount appearing to be due by the complainant (which amount the court shall determine); or
- (c) upon performance, or upon tender and refusal of the performance, of the act for the performance whereof such goods are detained as security, or, if such act cannot be performed, upon tender of amends for non-performance thereof (the nature or amount of which amends the court shall determine).

Order for payment of value if goods not delivered up may be included

(2) The court may, by the said order, further order that, in the event of failure to deliver up the goods according to such order, the defendant shall pay to the complainant the full value of such goods, not being more than \$40, which value the court shall determine.

(3) In such further order the court may, in its discretion, order that if the defendant does not pay to the complainant the amount of the value so determined the defendant shall be imprisoned in accordance with the provisions of section 174 of the Justices Act; but if the court does not so order then the aforesaid further order shall, together with any order for costs made against the defendant, operate as an order for the payment of money under the Magistrates Courts Act, and be enforceable as such order under the said last mentioned Act.

(3A) Such order for such purpose may be entered in the records of the Magistrates Court exercising jurisdiction where such order was made in

such manner as may be prescribed by rules made under the last mentioned Acts.

Or may be made subsequently

(4) In any case where no such further order is made by the adjudicating court, such further order may be subsequently made by any court.

Order no bar to right to sue

(5) No order under this section shall be a bar to the right of any person to sue the person to whose possession such goods or money came by virtue of such order, and to recover from the person such goods or money by an action commenced within 6 months next after the making of such order.

Exemption of wearing apparel

(6) In any proceeding under this section no claim, lien, or right whatsoever shall exist or be allowed for the detention by any person other than a licensed pawnbroker of the clothing or wearing apparel of another person of a value up to but not exceeding \$6, or of any of the clothing or wearing apparel of a child apparently under the age of 7 years of whatever value.

28 Pilfering ship's stores, cargoes etc.

Any person who—

- (a) knowingly takes in exchange from any sailor or other person, not being the owner or master of any vessel, anything belonging to any vessel, or any part of the cargo of any vessel, or any stores or articles in charge of the owner or master of any vessel;
- (b) in or upon any warehouse, wharf, or landing place, or on board any vessel—
 - (i) is found having in the person's possession any instrument adapted for unlawfully obtaining, or any material or utensil adapted for unlawfully secreting or carrying away, any intoxicating liquor;
 - (ii) attempts unlawfully to obtain any such liquor;
 - (iii) breaks or otherwise injures any cask or package containing such liquor with intent to steal or otherwise unlawfully obtain any of the contents thereof, or unlawfully drinks, spills, or wastes any part of the contents thereof;

- (c) wilfully causes to be broken, started, or otherwise injured any cask, bag, or other package containing or prepared for containing any goods while on board of any vessel, lighter, or other craft, or on any wharf or landing place, or on the way to or from any warehouse, with intent that the contents of such package may be dropped or unlawfully obtained from such package;

shall be liable to a penalty of not less than \$20 or more than \$100 or to imprisonment for 3 months.

29 Taking or using a vehicle

(1) Any person who takes or in any manner uses any vehicle the property of any other person without the consent of the owner or person in lawful possession thereof is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 12 months.

Suspicion of stealing a vehicle

(2) When any vehicle as aforesaid is suspected, on reasonable grounds, to have been stolen, any person in whose possession or custody the vehicle so suspected to have been stolen is found, is guilty of an offence, unless the person proves that the person came lawfully by the vehicle in question; and the person is liable on summary conviction to a penalty of \$100.

(2A) It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the vehicle in question.

Damages or injury to vehicle

(3) Where a person has been found or has pleaded guilty of an offence defined in subsection (1) or (2), whether or not it imposes any punishment in respect thereof, the court may order the offender to pay to the complainant any sum of money to be assessed by the court for any damage or injury done to or suffered by the vehicle in question; and the court may order the offender to pay the amount awarded in respect of such damage or injury either in 1 sum or by such instalments and at such times as the court thinks fit, and the court is hereby granted and invested with the necessary power and jurisdiction to enforce such order.

(3A) In such order the court may in its discretion order that if the offender does not pay to the complainant the amount of the damage or injury so assessed the offender shall be imprisoned for any further period not exceeding 6 months; but if the court does not so order then such order shall operate as an order for the payment of money under the Magistrates

Courts Act and be enforceable as such order under the said last mentioned Act.

Saving

(4) Nothing in this section shall affect any other liability, civil or criminal, of any person guilty of an offence against this section.

31 Bottles in stadiums

(1) Any person who—

- (a) brings into; or
- (b) supplies to any person in; or
- (c) has in the person's possession or under the person's control in; or
- (d) throws in;

any stadium or other place of public amusement or public resort used or about to be used for boxing, wrestling, or for training operations for boxing or wrestling; or

- (e) attempts to enter any such stadium or other place of public amusement or public resort while having in the person's possession or under the person's control;

any glass, porcelain, earthenware, or metal bottle or container or other like article on any day when any boxing or wrestling or such training operations is or are held or to be held therein shall be guilty of an offence and liable to a penalty not exceeding \$10 or to imprisonment not exceeding 1 month except that in respect of an offence of which throwing is an element the person shall be liable to a penalty not exceeding \$50 or to imprisonment not exceeding 6 months.

(2) However, subsection (1) shall not apply to any glass, porcelain, earthenware, or metal bottle or container or other like article brought into, supplied to any person in, or in the possession or under the control of any person in or attempting to enter any such stadium or other place of public amusement or public resort on any such day as aforesaid, and which—

- (a) forms a necessary part of the building, office, medical or training equipment of that stadium or other place of public amusement or public resort; or
- (b) is reasonably necessary for the time being in respect of the proper care or training of any active participant in any boxing or

wrestling or such training operations held or to be held in that stadium or other place of public amusement or public resort;

but only when in any case such bottle or container or other like article is in the possession of any person for or in connection with any purpose or use indicated as aforesaid in this subsection; or

- (c) is for the exclusive private and personal use of all or any of the persons engaged in the management or employed in the conduct of that stadium or other place of public amusement or public resort, but only when in the possession of any such person while in a part of that stadium or other place of public amusement or public resort set apart for the private use of all or any of such persons and not open to the admission of the public or while bringing it to or from such part by the shortest means of ingress or egress.

32 Prohibition of publication in newspapers of photographs of parties in divorce cases

(1) Any person who publishes in any newspaper any print, photograph, lithograph, or drawing of any of the parties in any case in the divorce and matrimonial causes jurisdiction of the Supreme Court shall be guilty of an offence and shall be liable to a penalty not exceeding \$200.

(2) The provisions of this section shall extend and apply notwithstanding the court has made no order under section 2 of the *Matrimonial Causes Act 1897* in reference to the publication of the evidence in the case concerned.

33 Prohibition of publication of photographs of witnesses or complainant in sexual cases

Any person who publishes in any newspaper any print, photograph, lithograph, or drawing of any woman or girl, being the complainant or a witness in respect of a prosecution whether on indictment or on summary conviction against any person in respect of the commission of an offence against morality or a sexual offence of whatever nature, or being the mother of an illegitimate child is suing for maintenance, shall be guilty of an offence and shall be liable to a penalty not exceeding \$200.

34 Penalty on persons practising frauds on Queensland Railways

(1) Any person who, without reasonable excuse, the proof whereof shall lie upon the person—

- (a) travels or attempts to travel by railway without having previously paid the person's fare; or
- (b) having paid the person's fare for a certain distance, proceeds by railway beyond such distance without previously paying the additional fare for the additional distance; or
- (c) refuses or neglects to quit on arriving at the point to which the person has paid the person's fare;

shall be liable to a penalty not exceeding \$40, in addition to the proper fare, or to imprisonment for 6 months.

(3) In this section—

“**railway**” shall mean and include a ‘railway’ as defined in the *Transport Infrastructure (Railways) Act 1991*.⁶

34A False representations causing investigations by police officers

(1) Any person who—

- (a) by the person's conduct; or
- (b) by the person's statements (whether oral or written); or
- (c) by both the person's conduct and the person's statements (whether oral or written);

falsely and with knowledge of the falsity represents that any act has been done or that any circumstances have occurred, which act or circumstances as so represented is or are such as reasonably call for investigation by the police, shall be guilty of an offence.

However, where statements alleged to have been made by the defendant were statements concerning the conduct of a police officer the defendant shall not be convicted on the uncorroborated evidence of 1 or more police officers.

Maximum penalty—\$200 or imprisonment for 6 months.

⁶ Now see *Acts Interpretation Act*, s 14H and *Transport Infrastructure Act 1994*.

(2) Where a person has been found or has pleaded guilty of an offence defined in subsection (1), whether or not it imposes any penalty in respect thereof, the court may order the person to pay to the Crown a reasonable sum for the expenses of or incidental to any investigation made by any police officer as a result of the false representation.

(3) This section does not apply to any representation concerning any offence, or the circumstances of any offence, which has actually been committed.

(4) A prosecution for an offence against this section shall not be instituted except upon the direction of an inspector of police or a police officer of higher rank.

35 Disturbing public meeting

(1) Any person who, by noise, obstruction, or other interference wilfully prevents the holding of a public meeting, or wilfully so disturbs the proceedings at a public meeting as to prevent the orderly conduct of such meeting, shall be liable to a penalty of \$20 or to imprisonment for 3 months.

(5) In this section—

“public meeting” means and includes any meeting lawfully held for a lawful purpose and for the furtherance or discussion in good faith of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the meeting is in the open air or in a building, and whether admission to the meeting was open or restricted.

37 Bogus advertisements

(1) Any person who tenders for insertion or causes to be inserted in any newspaper any bogus advertisement knowing the same to be bogus shall be guilty of an offence and shall be liable to a penalty not exceeding \$40 or to imprisonment for 3 months.

(2) For the purposes of this section—

“bogus advertisement” shall mean any advertisement or notice containing any material false statement or representation with respect to any birth, death, engagement, marriage, or employment, or with respect to any matter concerning any person other than the person who tenders

the advertisement or causes it to be inserted, or concerning the property of such other person.

37A False, deceptive or misleading advertisements

(1) Any person who—

- (a) publishes any advertisement or statement;
- (b) in Queensland, does any act or takes any step to cause the publication outside Queensland of any advertisement or statement;

which is intended or likely—

- (c) to promote the sale or disposal of or other dealing with any personal property (including stocks, shares, bonds or other securities) or services;
- (d) to increase the purchase, consumption or use of any such personal property;
- (e) to induce any person to enter into any obligations relating to any such real property or personal property or services or any interest in any such real or personal property;
- (f) to cause any person, directly or indirectly, to expend any money in connection with any transaction or dealing;

and which—

- (g) is to the person's knowledge false in any material particular or deceptive or misleading;
- (h) contains any matter which is to the effect or likely to lead to the inference that the advertisement or statement or any material particular therein is approved or commended in any way by the Government of the Commonwealth or of any State or Territory of the Commonwealth or by any municipal or other statutory authority constituted under any law of the Commonwealth or of any State or Territory of the Commonwealth;

is guilty of an offence.

Maximum penalty—\$500 or imprisonment for 6 months.

(2) It is a defence to a prosecution relating to subsection (1)(b) to prove that the advertisement or statement was not published.

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(2A) It is a defence to a prosecution relating to subsection (1)(h) to prove that the matter contained in the advertisement or statement has been published with the consent of the Government or authority in question.

(3) An advertisement or a statement shall be deemed to be published for the purposes of this section if it is—

- (a) inserted in a newspaper or other publication;
- (b) publicly exhibited—
 - (i) in, on, over or under any vehicle, vessel, building or other place whatsoever;
 - (ii) in the air so as to be seen by any person who may be in or on any public place;
- (c) contained in any document or other writing gratuitously sent or delivered to any person or thrown into or left upon any premises in the occupation of any person;
- (d) publicly announced or displayed by means of transmission of sound or light.

(4) In a proceeding under this section against any person for—

- (a) publishing any advertisement or statement; or
- (b) in Queensland, doing any act or taking any step to cause the publication outside Queensland of any advertisement or statement;

if it is proved that the advertisement or statement was false in any material particular or deceptive or misleading, that person shall be deemed to have—

- (c) published the same; or, as the case may be;
- (d) done the act or taken the step to cause the publication;

with knowledge of the false, deceptive or misleading nature of the advertisement or statement unless the person proves that, having taken all reasonable precautions against committing an offence—

- (e) the person had reasonable grounds to believe and did believe that the advertisement or statement was true; and
- (f) the person had no reason to suspect that the advertisement or statement was false, deceptive or misleading.

(5) A prosecution in respect of a contravention of this section shall not be instituted against a person who is liable on account of the contravention only by reason of the fact that the person is the printer, publisher or proprietor of any newspaper or other publication or the person having the licence, management or control of any broadcasting or television station or cinema or theatre in or by means whereof the publication in contravention of this section is made, or a person acting under the authority of any of them, unless—

- (a) the printer, publisher, proprietor, licensee, manager, controller or person as aforesaid has been warned by a police officer of the false, deceptive or misleading nature of the advertisement or statement or of any other advertisement or statement substantially the same as it and that the publication of it is an offence under this section; and
- (b) the printer, publisher, proprietor, licensee, manager, controller or person as aforesaid has after receipt of the warning published the advertisement or statement or any such other advertisement or statement.

(6) In this section—

“**newspaper**” includes magazine, periodical and pamphlet.

37B Protection of young children in picture theatres

(1) Notwithstanding anything to the contrary contained in any Act, or law or rule or process of law, it is hereby declared that every license granted by a local government, under the Local Government Acts, to any licensee to conduct a picture theatre in the area of the local government concerned shall be read and construed as containing the following conditions, namely—

- (a) it shall be a condition of the license that the licensee shall provide and maintain seating accommodation separate and distinct from adult persons for all children, under or apparently under the age of 14 years attending the picture theatre where any such child or children is or are unaccompanied by a parent, adult relative, guardian, or person over or apparently over the age of 14 years;
- (b) it shall be the duty of any such licensee and any employee of the licensee to supervise the conduct of all children attending the picture theatre and whether such children are occupying such

special seating accommodation in the picture theatre concerned or not and by such supervision to safeguard, as far as may reasonably be possible, the children in such theatre from molestation, assault, or interference by any person.

(2) Any licensee refusing or failing to comply with or who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding \$200, and to a second or any subsequent offence to a penalty not exceeding \$1 000.

(2A) Moreover in the case of any third conviction the adjudicating court may order that the license of the offending licensee be cancelled or suspended for such period as mentioned in the order, and the local government concerned shall obey and give effect to such order of cancellation or suspension accordingly.

(3) Any licensee, or any employee of the licensee, shall have full power and authority by virtue of this section to apprehend any person whom the licensee or employee finds committing, or whom the licensee or employee reasonably suspects of committing, any offence of whatever nature against any child attending the picture theatre and whether in such special seating accommodation or not and to detain such person until the person is handed over to a police officer, to be dealt with according to law.

Obstruction

(4) Any person who in any way prevents a licensee or any employee of the licensee from exercising the licensee's or employee's powers and authorities under this section, or who hinders or obstructs such licensee or employee in the execution of his or her duty under this section shall be guilty of an offence and be liable on conviction to a penalty not exceeding \$40 or imprisonment for 3 months.

(6) The term "**picture theatre**" means any building or any part of a building or any enclosure, ground, place, or premises whatsoever wherein or whereon any film is exhibited and to which admission is or may be procured by payment of money or by ticket or by any other means, token, or consideration as the price, hire, or rent of admission.

(7) The term "**film**" means a film exhibited or proposed to be exhibited in a picture theatre by the use of a cinematograph and any other similar apparatus and reproducing equipment to produce a moving picture or other optical effect.

(8) In the execution of and for the purposes of this section, the licensee, or any employee of the licensee, may decide upon the licensee's or

employee's own view and judgment whether any child attending the picture theatre is over or under the age of 14 years.

(9) The provisions of this section shall have operation and effect in the cities and/or towns of Brisbane, Ipswich, Toowoomba, Warwick, Gympie, Maryborough, Bundaberg, Gladstone, Rockhampton, Mackay, Bowen, Townsville, Charters Towers, and Cairns, and such other cities and/or towns in the areas or parts of areas of any local government or local governments as may be from time to time prescribed by the Governor in Council by order in council published in the Gazette.

(10) Notwithstanding anything to the contrary herein contained, the Governor in Council may, from time to time, by order in council, extend the provisions of this section to include, in addition to a picture theatre, any building or any enclosure, ground, place, or premises whatsoever used for a theatre, music hall, circus, or other entertainment or amusement, and to which admission is or may be procured by payment of money or by ticket or by any other means, token, or consideration as the price, hire, or rent of admission.

(11) Any such order or orders in council may specify the city or cities and/or town or towns in the areas or parts of areas of any local government or local governments to which the provisions of this section shall extend.

(12) And the aforesaid provisions of this section shall, *mutatis mutandis*, apply and extend accordingly.

37C Possession of a graffiti instrument

(1) A person must not without lawful excuse, the proof of which lies on him or her, possess a graffiti instrument under circumstances that give rise to a reasonable suspicion that the instrument has been used or is intended to be used to commit a graffiti offence.

Maximum penalty—70 penalty units or 2 years imprisonment.

(2) The court may—

- (a) whether or not it imposes any other penalty for the offence, order the offender to perform community service under the *Penalties and Sentences Act 1992*, part 5 division 2⁷ including, for example, removing graffiti from property; or

⁷ *Penalties and Sentences Act 1992*, part 5 (Intermediate orders), division 2 (Community service orders)

- (b) whether or not it imposes any penalty for the offence, order the offender to pay compensation to any person under the *Penalties and Sentences Act 1992*, part 3, division 4.⁸

PART 5—GENERAL

39 Constitution of court

Subject to this Act all prosecutions for any offence against this Act shall be heard and determined before the court in a summary way.

41 Accomplice

No police officer acting in the discharge of duty, or person acting under instructions from a police officer, shall be deemed to be an offender or accomplice in the commission of any offence under this Act, although such officer or person might but for this section have been deemed to be such an offender or accomplice.

43 Fingerprints

(1) Where a person has been arrested on any charge in respect of which a person may be arrested under this Act, or is in lawful custody for any offence punishable on indictment pursuant to the Criminal Code, or has been arrested for an offence against section 445, 446, 447, 448 or 448A of the Criminal Code, the officer in charge of police at the police station to which the person is taken after arrest or where the person is in custody, as the case may be, may take or cause to be taken all such particulars as may be deemed necessary for the identification of such person, including the person's photograph and fingerprints and palm prints.

(1A) However, if such person as aforesaid is found not guilty or is not proceeded against, any fingerprints or palm prints or photographs taken in pursuance of the provisions of this section shall be destroyed in the presence of the said persons so concerned.

8 *Penalties and Sentences Act 1992*, part 3 (Releases, restitution and compensation), division 4 (Orders for restitution and compensation)

(2) Where a person, appearing personally before a court of criminal jurisdiction or a Magistrates Court, is convicted of an offence against section 445, 446, 447, 448 or 448A of the Criminal Code, the court in question may in its discretion order that person into the custody of a police officer for the purpose of obtaining any particulars referred to in subsection (1), and that police officer and any police officer acting in aid of the officer shall take (using such force as is reasonably necessary for the purpose) that person to a place where those particulars can adequately be taken and take those particulars.

44 Statements by person arrested or on suspicion

(1) Any person, who being arrested for an offence under this Act or being detained on suspicion of the commission of an offence under this Act, may, before giving any statement to or answering any questions of a police officer, require that a justice of the peace or some officer of the public service or some reputable citizen shall be present while the person is making any such statement or answering any such questions as aforesaid.

(2) Any police officer who uses or threatens to use force or otherwise intimidates any person in giving any statement or answering any questions contrary to the provisions of this section shall be liable to a penalty not exceeding \$40.

47 Committal for trial

If a person is charged with an offence punishable under this Act, and the court is of opinion that there ought to be a prosecution for an indictable offence, it may abstain from dealing with the case summarily and commit the defendant to take the defendant's trial for an indictable offence.

48 Masters made liable where servants have acted under their orders

Whenever it appears to the court that the person committing any offence under this Act has acted under the orders or by the sanction of the person's master or employer, and that such master or employer is in fact the offending party either solely or as well as the defendant, the court may summon and proceed against such master or employer as if the complaint or charge had originally been laid or made against the master or employer, and may in the discretion of the court either discharge the original defendant or may proceed against both.

49 Act not to prejudice powers of local governments or Commissioner of Public Health

Save as by this Act is expressly provided, nothing in this Act shall be deemed to repeal or affect any local laws made by any local government and in force at the passing of this Act if not in conflict with this Act, or to revoke or prejudice any power to make and enforce local laws not in conflict with this Act or any other powers or privileges now possessed by any local government, or to repeal or affect any provisions of the *Health Act 1900*⁹ or any regulations made thereunder, or any powers of the Commissioner of Public Health, but the same may be exercised and enjoyed to the same extent as if this Act had not been passed.

52 Act read with the Criminal Code and Gaming Acts

(1) This Act shall be read and construed with and as an amendment of and in addition to the Criminal Code and the Gaming Acts respectively.

(2) However, nothing in this Act shall be construed to prejudice or limit the provisions of the Criminal Code and the Gaming Acts.

55

In any proceedings under this Act—

Facilitation of proof

- (a) it shall not be necessary to prove the limits of any district or other prescribed place, or that any road or place within any district or other prescribed place, or that any place alleged to be a road or public place or any particular part of a road or public place is a road or public place or such part thereof, or the authority of the Commissioner or any police officer, inspector, or other officer to do any act or take any proceedings, but this shall not prejudice the right of any defendant to prove the facts;

Possession of articles

- (b) any animal, article, or thing whatsoever shall be deemed to be in the possession of a person when it is placed in any house, outhouse, yard, garden, or place occupied by the person, or has been removed with the person's knowledge and permission to

9 Now see *Acts Interpretation Act*, section 14H and *Health Act 1937*.

any other place without a bona fide sale having been made by the person;

Age

- (c) in cases where the age of any person is material, the court may decide, upon its own view and judgment whether any person charged or present before it has or has not attained any prescribed age, but nothing herein shall be construed to prevent the age of such person being proved;

Vagrants having money in their possession

- (d) against any person accused of being a vagrant on the ground that the person has no visible lawful means of support or that the person has insufficient lawful means of support, proof that the person possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was lawfully obtained by the person;

Persons unlawfully in possession of property

- (e) in order to a conviction under section 25 it shall not be necessary to prove that the police officer starting the proceeding had cognisance of anything having recently been stolen or unlawfully obtained, or that in fact anything had recently been stolen or unlawfully obtained;

Particular acts

- (f) where an intent to commit an indictable offence is a material element of an offence, it shall not be necessary to prove that the person suspected was guilty of any particular act or acts tending to show the person's purpose or intent, and the person may be convicted if, from the circumstances of the case and from the person's known character as proved to the court, it appears to the court that the person's intent was to commit an indictable offence;

Printing

- (g) in which the printing or publishing of any printed matter is an element of the offence charged, and such matter appears in a book, pamphlet, card, leaflet, or newspaper having or bearing an imprint, it shall be presumed, until the contrary is proved, that the person whose name appears in such imprint printed and

published the said matter and the book, pamphlet, card, leaflet, or newspaper containing the same.

58 Regulations

(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may—

- (a) create offences and provide penalties for the offences of not more than 1 penalty unit; and
- (b) make provision with respect to the giving of a notice to an offender in relation to an offence against section 18A or 18C advising that a prescribed penalty may be paid for the offence without involving court proceedings.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2003. Future amendments of the Vagrants, Gaming and Other Offences Act 1931 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key**Key to abbreviations in list of legislation and annotations**

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	to 1992 Act No. 65	1 February 1993	28 April 1994
1A	to 1997 Act No. 3	1 July 1997	1 July 1997
2	to 2000 Act No. 5	1 July 2000	7 July 2000
2A	to 2000 Act No. 46	25 October 2000	8 November 2000 (Column discontinued) Notes
2B	to 2003 Act No. 58	1 July 2003	

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1

6 List of legislation

Vagrants, Gaming and Other Offences Act 1931 22 Geo 5 No. 27

date of assent 10 December 1931

commenced 16 December 1931 (proc pubd gaz 16 December 1931 p 1803)

amending legislation—

Vagrants, Gaming, and Other Offences Act Amendment Act 1933 24 Geo 5 No. 28

date of assent 14 December 1933

commenced on date of assent

Racecourses Acts and Other Acts Amendment Act 1936 1 Edw 8 No. 24 pt 5

date of assent 3 December 1936

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1938 2 Geo 6 No. 18

date of assent 24 November 1938

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1946 10 Geo 6 No. 28

date of assent 30 April 1946

commenced on date of assent

Criminal Law Amendment Act 1948 12 Geo 6 No. 48 pt 3

date of assent 9 December 1948

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1949 13 Geo 6 No. 54

date of assent 8 December 1949

commenced on date of assent

Racing and Betting Act 1954 3 Eliz 2 No. 54 s 5 sch 2

date of assent 21 December 1954

commenced 1 July 1955 (proc pubd gaz 18 June 1955 p 869)

Vagrants, Gaming, and Other Offences Acts Amendment Act 1955 4 Eliz 2 No. 2

date of assent 14 April 1955

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1958 7 Eliz 2 No. 62

date of assent 12 December 1958

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1959 8 Eliz 2 No. 49

date of assent 9 December 1959

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1961 10 Eliz 2 No. 39

date of assent 11 December 1961

commenced on date of assent

Racing and Betting Acts and Another Act Amendment Act 1962 No. 40 pt 3

date of assent 21 December 1962

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1963 No. 27

date of assent 12 December 1963

commenced on date of assent

Art Union Regulation Act 1964 No. 55 s 4(1) sch

date of assent 21 December 1964

commenced 1 March 1965 (proc pubd gaz 6 February 1965 p 387)

Racing and Betting Acts and Another Act Amendment Act 1964 No. 63 pt 3

date of assent 22 December 1964

commenced on date of assent

Vagrants, Gaming, and Other Offences Acts Amendment Act 1967 No. 8

date of assent 23 March 1967

commenced on date of assent

Vagrants, Gaming, and Other Offences Act Amendment Act 1970 No. 16

date of assent 16 April 1970
 commenced on date of assent

Vagrants, Gaming, and Other Offences Act Amendment Act 1971 No. 17

date of assent 19 April 1971
 commenced on date of assent

Aborigines Act 1971 No. 59 s 4(1) sch

date of assent 16 December 1971
 commenced 4 December 1972 (proc pubd gaz 2 December 1971 p 1457)

Vagrants, Gaming, and Other Offences Act Amendment Act 1971 (No. 2) No. 69

date of assent 20 December 1971
 commenced on date of assent

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974
 commenced 1 July 1975 (see s 2)

Golden Casket Art Union Act 1978 No. 19 s 22

date of assent 2 June 1978
 commenced 3 February 1979 (proc pubd gaz 3 February 1979 p 364)

Noise Abatement Act 1978 No. 51 s 58

date of assent 12 June 1978
 commenced 28 September 1978 (proc pubd gaz 30 September 1978 p 371)

Firearms and Offensive Weapons Act 1979 No. 68 s 4 sch 1

date of assent 21 December 1979
 commenced 1 May 1980 (proc pubd gaz 22 March 1980 p 965)

Criminal Code Amendment Act 1986 No. 1 s 98

date of assent 6 March 1986
 commenced 1 July 1987 (proc pubd gaz 13 June 1987 p 1461)

Vagrants, Gaming, and Other Offences Act Amendment Act 1987 No. 17

date of assent 15 April 1987
 commenced on date of assent

Land (Fair Dealings) Act 1988 No. 11 s 10

date of assent 7 April 1988
 commenced 1 July 1988 (proc pubd gaz 18 June 1988 p 1443)

Corrective Services (Consequential Amendments) Act 1988 No. 88 s 3 sch 1

date of assent 1 December 1988
 commenced 15 December 1988 (see s 2(2) and order pubd gaz 10 December 1988 p 1675)

Vagrants, Gaming, and Other Offences Act Amendment Act 1989 No. 83 pt 3

date of assent 18 September 1989
 commenced on date of assent

Totalisator on Licensed Premises Act 1991 No. 66 pts 1, 4

date of assent 17 October 1991
 commenced on date of assent

Criminal Law (Escaped Prisoners) Amendment Act 1992 No. 25 pts 1, 3

date of assent 1 June 1992
commenced on date of assent

Penalties and Sentences Act 1992 No. 48 ss 1–2, 207 sch

date of assent 24 November 1992
ss 1–2 commenced on date of assent
commenced 27 November 1992 (1992 SL No. 377)

Prostitution Laws Amendment Act 1992 No. 65 pts 1, 4

date of assent 7 December 1992
pt 1 commenced on date of assent
remaining provisions commenced 1 February 1993 (1993 SL No. 11)

Criminal Law Amendment Act 1997 No. 3 pts 1, 4 s 122 sch 2

date of assent 3 April 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 152)

Prostitution Act 1999 No. 73 ss 1, 2(2)–(3), 179 sch 3

date of assent 14 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(2)–(3))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 2, 461 (prev s 373) sch 3

date of assent 23 March 2000
ss 1–2, 373 sch 2 commenced on date of assent (see s 2(2))
s 461 (prev s 373) sch 3 amdt 6 (amendment could not be given effect)
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 s 3 sch

date of assent 25 October 2000
commenced on date of assent

Racing Act 2002 No. 58 ss 1–2(1), 398(1) sch 2 pt 1

date of assent 14 November 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2003 (2003 SL No. 141)

7 List of annotations

Short title

s 1 sub 1992 No. 65 s 14

Definitions

prov hdg sub 2000 No. 5 s 461 sch 3

s 2 def “arrest” om 2000 No. 5 s 461 sch 3

def “Commissioner” sub 1992 No. 65 s 15

def “Court” sub 1971 No. 69 s 2(a); 1992 No. 65 s 15

def “firearm” sub 1992 No. 65 s 15

- def “**gaming Acts**” sub 1954 3 Eliz 2 No. 54 s 5 sch 2; 2000 No. 5 s 373 sch 2
amd 2003 No. 58 s 398 sch 2 pt 1
- def “**graffiti instrument**” ins 1997 No. 3 s 122 sch 2
- def “**graffiti offence**” ins 1997 No. 3 s 122 sch 2
- def “**Habitual drunkard**” om 1992 No. 65 s 15(1)
- def “**Imprisonment**” om 1988 No. 88 s 3 sch 1
- def “**instrument of gaming**” amd 1964 No. 63 s 23
- def “**Justice**” om 1992 No. 65 s 15(1)
- def “**Justices Act**” sub 1992 No. 65 s 15
- def “**licensed premises**” sub 1992 No. 65 s 15
- def “**Local Authority**” om 1992 No. 65 s 15(1)
- def “**Magistrates Courts Act**” sub 1992 No. 65 s 15
- def “**Minister**” om 1992 No. 65 s 15(1)
- def “**obscene publication**” amd 1938 2 Geo 6 No. 18 s 2; 1958 7 Eliz 2
No. 62 s 2(i)
sub 1971 No. 69 s 2(b)
- def “**place**” amd 1936 1 Edw 8 No. 24 s 23; 1992 No. 65 s 15(3)
- def “**play**” ins 1958 7 Eliz 2 No. 62 s 2(ii)
- def “**Police officer**” om 1992 No. 65 s 15(1)
- def “**Prescribed**” om 1992 No. 65 s 15(1)
- def “**prostitution**” ins 1992 No. 65 s 15(2)
om 1999 No. 73 s 179 sch 3
- def “**public place**” amd 1992 No. 65 s 15(4)
- def “**publish**” ins 1958 7 Eliz 2 No. 62 s 2(iii)
- def “**record**” ins 1958 7 Eliz 2 No. 62 s 2(iii)
- def “**Regulations**” om 1992 No. 65 s 15(1)
- def “**spray-paint can**” ins 1997 No. 3 s 122 sch 2
- def “**This Act**” om 1992 No. 65 s 15(1)

Repeal, Schedule

- s 3** om 1992 No. 65 s 16
- s 4** amd 1933 24 Geo 5 No. 28 s 2(i); 1962 No. 40 s 23; 1964 No. 63 s 24; 1971
No. 59 s 4(1) sch; 1971 No. 69 ss 3, 14 sch

Entering or remaining in or upon buildings, enclosed farms etc. without lawful excuse

- prov hdg** amd 1989 No. 83 s 5(a)
- s 4A** ins 1971 No. 17 s 2
amd 1989 No. 83 s 5(b)

Unlawful parachuting etc.

- s 4B** ins 1987 No. 17 s 3

Prostitutes, etc.

- s 5** amd 1970 No. 16 s 2; 1971 No. 69 s 4
om 1992 No. 65 s 17

Seizure and disposal of goods found in vagrants possession

- s 6** amd 2000 No. 5 s 373 sch 2

Obscene, abusive language etc.

- s 7** amd 1955 4 Eliz 2 No. 2 s 2; 1971 No. 69 s 14 sch

Printing or publishing threatening, abusive, or insulting words etc.

s 7A ins 1936 1 Edw 8 No. 24 s 24
 amd 1938 2 Geo 6 No. 18 s 3; 1971 No. 69 s 14 sch; R1 (see RA s 39); 2000
 No. 5 s 373 sch 2

Keepers of premises for purposes of prostitution etc.

s 8 amd 1971 No. 69 s 5
 om 1992 No. 65 s 18

Persons using massage rooms etc. for prostitution or soliciting

s 8A ins 1971 No. 69 s 6
 om 1992 No. 65 s 19

Warrant to enter premises

s 8B ins 1971 No. 69 s 7
 om 1992 No. 65 s 20

Lodging-house keepers permitting prostitution

s 9 amd 1971 No. 69 s 14 sch
 om 1992 No. 65 s 21

Return of inmates of suspected house

s 10 amd 1971 No. 69 s 14 sch
 om 1992 No. 65 s 22

Lodging houses may be entered and vagrants arrested

s 11 amd 1971 No. 69 s 8; 1992 No. 65 s 23
 om 2000 No. 5 s 373 sch 2

s 12 amd 1971 No. 69 s 9; R1 (see RA s 39)

Advertising indecent or obscene publications

s 12A ins 1971 No. 69 s 10

Offence by occupier or owner

s 13 amd 1971 No. 69 s 11

Indecent postcards

s 14 amd 1971 No. 69 s 14 sch; 2000 No. 5 s 373 sch 2

Search for indecent or obscene publications

s 15 amd 1958 7 Eliz 2 No. 62 s 3; 1971 No. 69 s 12
 om 2000 No. 5 s 373 sch 2

Seizure of indecent or obscene publications hawked

s 16 om 2000 No. 5 s 373 sch 2

Protection to wives of habitual drunkards

s 18 amd 1971 No. 69 s 14 sch

PART 2A—OFFENCES RELATING TO PROSTITUTION

pt hdg ins 1992 No. 65 s 24
 om 2000 No. 46 s 3 sch

Public soliciting for purposes of prostitution

- s 18A ins 1992 No. 65 s 24
om 1999 No. 73 s 179 sch 3

Advertising prostitution

- s 18B ins 1992 No. 65 s 24
om 1999 No. 73 s 179 sch 3

Nuisances connected with prostitution

- s 18C ins 1992 No. 65 s 24
om 1999 No. 73 s 179 sch 3

- s 19 amd 1971 No. 69 s 14 sch

Cheating at games

- s 20 amd 1971 No. 69 s 14 sch

Places of access to gaming places

- s 21 amd 1971 No. 69 ss 13, 14 sch
om 2000 No. 5 s 373 sch 2

Seizure of fruit machines

- s 21A ins 1938 2 Geo 6 No. 18 s 4
amd 2000 No. 5 s 373 sch 2

Betting on licensed premises

- s 22 sub 1936 1 Edw 8 No. 24 s 25

Application of s 22

- s 22A ins 1991 No. 66 s 8

Police may board vessels

- s 23 om 2000 No. 5 s 373 sch 2

Search of vessels etc. or persons

- s 24 amd 1963 No. 27 s 2
om 2000 No. 5 s 373 sch 2

Persons unlawfully in possession of property

- s 25 amd 1948 12 Geo 6 No. 48 s 14; 1971 No. 69 s 14 sch

Search warrant

- s 26 om 2000 No. 5 s 373 sch 2

Order for delivery to the owner of goods unlawfully detained

- s 27 amd 1971 No. 69 s 14 sch

Pilfering ship's stores, cargoes etc.

- s 28 amd 1971 No. 69 s 14 sch

Taking or using a vehicle

- s 29 amd 1961 10 Eliz 2 No. 39 s 2; 1971 No. 69 s 14 sch; 1987 No. 17 s 4; 1988 No. 88 s 3 sch 1; R1 (see RA s 39)

Police officer may take bail by recognizance

s 40 om 1958 7 Eliz 2 No. 62 s 4

Offences as to name and address

s 42 amd 1971 No. 69 s 14 sch
om 2000 No. 5 s 461 sch 3

Fingerprints

s 43 amd 1958 7 Eliz 2 No. 62 s 5; 1986 No. 1 s 98

Statements by person arrested or on suspicion

s 44 amd 1971 No. 69 s 14 sch

Arrest of offender about to abscond

s 45 om 2000 No. 5 s 461 sch 3

Police may prosecute in all proceedings

s 46 om 2000 No. 5 s 461 sch 3

Committal for trial

prov hdg sub 2000 No. 5 s 373 sch 2
s 47 amd 2000 No. 5 s 373 sch 2

Discretionary powers of court as to fine and imprisonment, etc.

s 50 om 1992 No. 48 s 207 sch

Appropriation of penalties

s 51 om 1992 No. 48 s 207 sch

“Golden Casket” Art Union

s 53 amd 1933 24 Geo 5 No. 28 s 2(ii); 1971 No. 69 s 14 sch
om 1978 No. 19 s 22(1)

Amendment of “The Art Union Regulation Act of 1930”

s 54 om 1964 No. 55 s 4(1) sch

s 55 amd 1967 No. 8 s 3; 1992 No. 65 s 26; 2000 No. 5 s 373 sch 2

Police officer may require person to provide name and address etc.

s 56 prev s 56 om 1974 No. 75 s 4 sch
pres s 56 ins 1992 No. 65 s 27
om 2000 No. 5 s 461 sch 3

Additional power of arrest

s 57 prev s 57 om 1979 No. 68 s 4 sch 1
pres s 57 ins 1992 No. 65 s 27
om 2000 No. 5 s 461 sch 3

Regulations

s 58 amd 1971 No. 69 s 14 sch
sub 1992 No. 65 s 27

SCHEDULE

om 1992 No. 65 s 28

