

POLICE.

No. 146 of 1976.

AN ACT to amend the Police Act, 1892-1975.

[Assented to 13th December, 1976.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Police Act Amendment Act, 1976*. Short title and citation.

(2) In this Act the Police Act, 1892-1975 is referred to as the principal Act. Reprinted as approved for reprint 7th June, 1972 and amended by Acts Nos. 94 of 1972, 41 of 1974, 18 of 1975 and 91 of 1975.

(3) The principal Act as amended by this Act may be cited as the Police Act, 1892-1976.

Commence-
ment

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 3
amended.

3. Section 3 of the principal Act is amended by deleting the reference to Part VIB of the Act.

Section 52
amended.

4. Section 52 of the principal Act is amended—

- (a) by inserting after the section designation "52." the subsection designation "(1)";
- (b) by deleting the passage "carts, carriages," in line four;
- (c) by deleting the passage ", in any city or town in all times of public processions, public rejoicings, or illuminations," in line six to line eight and substituting the passage "by processions, meetings, or assemblies";
- (d) by deleting the passage commencing with the words "and any person", in line twenty-eight, and ending with the word "month", in line thirty-three; and
- (e) by adding three new subsections as follows—

(2) Directions or regulations given or made under subsection (1) of this section may impose upon the persons organising or taking part in any procession, meeting, or assembly such conditions as appear to the Commissioner of Police necessary for the preservation of public order including conditions prohibiting persons from entering any public place specified in those directions or regulations.

(3) Any person or body who or which proposes to conduct or organise any procession, meeting or assembly in any street, thoroughfare or public place shall make prior application in writing to the Commissioner of Police for his permission so to do, and the Commissioner of Police shall have regard to the time or place at which and the circumstances in which that procession, meeting or assembly is

intended to take place but shall not withhold his permission unless he has reasonable ground for apprehending that the procession, meeting, or assembly may—

- (a) occasion serious public disorder, or damage to public or private property;
- (b) create a public nuisance;
- (c) give rise to an obstruction that is too great or too prolonged in the circumstances; or
- (d) place the safety of any person in jeopardy.

(4) For the purposes of this section—

“assembly” means a coming together of three or more persons for the common purpose of thereby making known to the public their views in relation to any matter; and

“meeting” means a meeting of three or more persons held for the purpose of the discussion of matters of public interest, or for the purpose of the expression of views on such matters, which the public or any section of the public are invited or permitted to attend whether on payment or otherwise. .

5. The principal Act is amended by inserting a new section, to stand as section 54B, as follows—

54B. (1) Every person who conducts, organises or takes part in any procession, meeting or assembly in any street, thoroughfare or public place which is conducted without the prior permission of the Commissioner of Police or in a manner contrary to any limitation or condition to which such permission was made subject and who, after being acquainted of the fact, continues so to do commits an offence.

Section 54B added.

Offences relating to processions, meetings, etc.

(2) Every person who, after being acquainted with the same, contravenes or fails to observe any directions or regulations given or made by the Commissioner of Police under section fifty-two of this Act commits an offence.

(3) Where any procession, meeting or assembly takes place in any street, thoroughfare or other public place without the permission of the Commissioner of Police or in a manner contrary to any limitation or condition to which such permission was made subject, a person who addresses that procession, meeting or assembly in that place or from any other public place or private place adjacent thereto commits an offence.

(4) A person who at a lawful meeting acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, or who incites others so to act, commits an offence.

(5) For the purposes of this section—

“assembly” means a coming together of three or more persons for the common purpose of thereby making known to the public their views in relation to any matter; and

“meeting” means a meeting of three or more persons held for the purpose of the discussion of matters of public interest, or for the purpose of the expression of views on such matters, which the public or any section of the public are invited or permitted to attend whether on payment or otherwise.

(6) A person who is reasonably suspected of committing an offence against this section may be arrested without warrant and shall be liable, on conviction, to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding one month. .

6. Section 76G of the principal Act is amended by deleting the words "a rogue and vagabond within the meaning", in lines six and seven, and substituting the words "to have committed an offence against section sixty-six".

Section 76G
amended.

7. Section 94A of the principal Act is amended—

Section 94A
amended.

- (a) by inserting after the definition of the term "drug", in subsection (1), a new definition as follows—

"heroin" means the drug commonly known as heroin and includes any substance containing diamorphine or its salts and any preparation, admixture, or extract containing diamorphine or any such salt; ;

- (b) by inserting in the definition of the term "prescribed", in subsection (1), after the word "regulations" the words "under this Act";

- (c) by deleting the definition of the term "regulations", in subsection (1);

- (d) by inserting after the definition of the term "specified drug", in subsection (1), a new definition as follows—

"to possess" includes to have control or dominion over, and to have the order or disposition of, and inflections and derivatives of the verb "to possess" have correlative meanings; ;

- (e) by inserting immediately before the word "morphine", in line one of paragraph (a) of subsection (2), the passage "heroin,";

- (f) by deleting the word "new", in line one of paragraph (b) of subsection (2);

- (g) by inserting after the word "cannabis", in paragraph (d) of subsection (2), the passage ", or any derivative of cannabis"; and

- (h) by deleting the passage “under this Part of this Act,” in line three of subsection (2a).

Section 94B
amended.

8. Section 94B of the principal Act is amended—

- (a) by deleting the passage “smoking; or”, in line five of paragraph (f) of subsection (1), and substituting the passage “smoking”;
- (b) by deleting paragraph (g) of subsection (1);
- (c) by deleting the words “part of this Act applies”, in line two of paragraph (a) of subsection (2), and substituting the passage “Part of this Act applies, or unlawfully uses any such drug, or is found in any place which is then being used for the purpose of cannabis or opium smoking”;
- (d) by inserting after the passage “another,” in line three of paragraph (c) of subsection (2) the passage “or manufactures or prepares any such drug”;
- (e) by deleting the words “the drug”, in line one of subparagraph (ii) of paragraph (d) of subsection (2), and substituting the passage, “that drug, not being heroin”;
- (f) by inserting immediately before the word “sale”, in line six of paragraph (e) of subsection (2), the passage “manufacture, preparation”;
- (g) by deleting subsection (3);
- (h) by deleting the word “convicted”, in line one of subsection (5), and substituting the word “guilty”;
- (i) by deleting the word “and”, in line four of paragraph (a) of subsection (5), and substituting the word “or”;
- (j) by deleting the word “three”, in line five of paragraph (a) of subsection (5), and substituting the word “two”;

- (k) by inserting immediately before the word “against”, in line one of paragraph (b) of subsection (5), the passage “being an offence relating only to cannabis and not being an offence which relates to any cannabis derivative or to any other drug to which this Part of this Act applies,”;
- (l) by deleting the passage “sentence.”, in line six of subparagraph (ii) of paragraph (b) of subsection (5), and substituting the passage “sentence; or”;
- (m) by inserting a new paragraph, to stand as paragraph (c) of subsection (5), as follows—
 - (c) being an offence relating to a cannabis derivative or to any other drug to which this Part of this Act applies, not being cannabis, against paragraph (b) or (c) of subsection (2) of this section, is liable on conviction on indictment to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding twenty-five years or both. ;
- (n) by deleting the words “a complaint”, in line one of subsection (7), and substituting the words “any proceedings”; and
- (o) by adding a new subsection as follows—
 - (8) A complaint for an offence against paragraph (b) or (c) of subsection (2) of this section, being an offence relating to cannabis only, shall be heard by a court of summary jurisdiction constituted by a stipendiary magistrate sitting alone. .

9. Section 94BA of the principal Act is amended by inserting immediately after the word “regulations”, in line six, the passage “(other than an offence in which the person is found to have been in possession of the drug solely for his own personal use)”.

Section 94BA
amended.

Section 94C
amended.

10. Section 94C of the principal Act is amended—

- (a) by deleting the passage “For the purpose of preventing the improper use of the drugs to which this Part of this Act applies, the”, in lines one, two and three of subsection (1) and substituting the word “The”; and
- (b) by deleting the word “under”, in line two of subsection (3), and substituting the words “for the purposes of”.

Section 94D
amended.

11. Section 94D of the principal Act is amended by deleting the words “shall be guilty of an offence against this Part of this Act”, in lines six and seven of subsection (5), and substituting the words “is guilty of an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding three years or both”.

Section 94E
amended.

12. Section 94E of the principal Act is amended—

- (a) by deleting the word “two”, in line six of subsection (1), and substituting the word “three”;
- (b) by deleting the word “summary” in line four of subsection (3);
- (c) by deleting the words “of summary jurisdiction” in line two of subsection (5); and
- (d) by deleting subsection (8) and substituting a new subsection as follows—

(8) Regulations made for the purposes of this Part of this Act may provide for the procedure to be followed in and in relation to any analysis for the purpose of proceedings under this Part of this Act and as to the admissibility and receipt of evidence relating to any matter taken or sent for such analysis. .

Part VIB
repealed.

13. The heading to Part VIB of the principal Act and sections 94F, 94G, 94GA and 94H of the principal Act are repealed.