

# POLICE ACT, 1892-1961.

## ARRANGEMENT OF SECTIONS.

Section.

PRELIMINARY.

1. The Police Ordinance, 1861, and others repealed; saving as to past matters and offences.
2. Interpretation.
3. Short title and division of Act.

PART I.—AS TO THE APPOINTMENT OF OFFICERS AND CONSTABLES OF THE POLICE FORCE.

4. Continuation of appointment of officers and constables already made.
5. Governor may appoint Commissioner of Police.
6. Governor may appoint inspectors and other officers holding commissions.
7. Commissioner may appoint non-commissioned officers, subject to approval of the Governor.
8. Governor may remove commissioned officers and appoint others in their stead and commissioner may suspend and, subject to the approval of the Minister, remove non-commissioned officers.

PART II.—AS TO THE REGULATIONS, DUTIES, AND DISCIPLINE OF THE POLICE FORCE.

9. Commissioner may make regulations for general management and discipline of Police Force.
10. Engagement to be subscribed by officers and constables.
11. Person subscribing engagement bound to serve as member of the Police Force.
12. Non-commissioned officers and constables not to resign without leave or notice.
13. Members of the force dismissed or ceasing to hold office to deliver up accoutrements, etc.
14. Officers and constables subject to duty in any part of the State if no Police District had been established, and if employed out of the State to obey orders and perform duties as if within the State.
15. Punishment for taking bribe, etc.
16. Penalty for personating or attempting to bribe, etc., members of the force.
- 16A. Penalty for unauthorised use of the word "detective."
17. Repute to be evidence of appointment.
18. Penalty on persons harbouring constables during the hours of duty.
19. Penalty on police for neglect of duty.
20. Interference with police.
21. Non-commissioned officers and constables to execute process for levying, fines, forfeitures, etc., and as to recognizance.
22. Police constables to attend Magistrates.
23. Inquiries into misconduct of non-commissioned officer.
24. Inquiries into misconduct of constables.
25. Inquiries into misconduct of superior officers.
26. [Repealed.]
27. As to disposal of effects of non-commissioned officers or constables dying intestate.
28. Members of the force subject to imprisonment may be imprisoned in any place specially appointed.

*Police Act.*ARRANGEMENT OF SECTIONS—*continued.*

## Section.

- 29. Bankruptcy.
- 30. Bankrupt may be reinstated.
- 31. Penalty on persons wrongfully obtaining admission into the force.
- 32. Members of the force not to influence voters at elections.
- 33. Fines and penalties for misconduct payable to treasurer.

## PART IIA.—POLICE APPEAL BOARD.

- 33A. Interpretation.
- 33B. Constitution of Board:  
Allowances.
- 33C. Tenure of Office.
- 33D. Appointment of Secretary.
- 33E. Right of Appeal.
- 33F. Institution of Appeal.
- 33G. Witness at and evidence taken on appeal:  
Powers of Board: Offence.
- 33H. Determination of appeal.
- 33I. Transmission of Decision.
- 33J. Regulations.

## PART III.—AS TO THE APPOINTMENT AND REGULATIONS OF SPECIAL CONSTABLES.

- 34. Justices, upon information on oath or otherwise that disturbances exist or are apprehended, may appoint special constables.
- 35. Persons may act as special constables in any district, although not resident.  
Power of special constables.
- 35A. Appointment of special constables.
- 36. Penalty for refusing to subscribe the engagement.
- 37. Power to discontinue service of special constables.
- 38. Minister may direct reasonable allowances to be paid to and for special constables.

## PART IV.—AS TO THE ESTABLISHMENT OF POLICE DISTRICTS.

- 39. Places already established or proclaimed Police Districts to continue Police Districts under this Act.  
Governor may establish other Police Districts.  
The notice must define the limits.

## PART V.—AS TO THE POWERS OF THE POLICE FORCE AND THE APPREHENSION OF OFFENDERS.

- 40. Inspectors, sub-inspectors, etc., may board vessels.
- 41. Inspectors, sub-inspectors, etc., to apprehend and seize stolen property on board ship.
- 42. Empowering police to visit houses where games carried on.  
Police may enter theatres, etc., and remove therefrom prostitutes and reputed thieves.
- 43. Power of apprehending offenders.
- 44. Power to apprehend persons disturbing the peace on board ships or vessels, and in houses licensed for the sale of fermented and spirituous liquors.
- 45. Any person against whom a warrant has been issued, and persons charged with recent offences, may be apprehended without warrant.

*Police Act.*ARRANGEMENT OF SECTIONS—*continued.*

## Section.

- 46. Police may apprehend any offender whose name and residence are not known.
- 47. Apprehension of known offenders.
- 48. Officer or constable attending at the Police Station may take bail by recognisances from persons brought before them for petty offences; such recognisances to be conditioned for the appearance of parties before a Justice.  
In default of appearance recognisance to be forfeited.  
Time of hearing may be postponed.
- 49. Power to police and persons aggrieved to apprehend certain offenders. Every person taken into custody without warrant for offending against this Act or for petty offence to be kept in custody.
- 50. Police may demand name and address and apprehend.
- 50A. Power to prosecute for breach of by-laws.
- 51. Mad dogs, etc.
- 52. Regulations for preventing obstruction in the streets during public processions, etc.

## PART VI.—GENERAL PROVISIONS AS TO OFFENCES AND PENALTIES TO BE IN FORCE THROUGHOUT THE STATE AND SUMMARILY PUNISHABLE.

- 53. Penalty on drunkards.
- 54. Disorderly conduct.
- 55. [Repealed.]
- 56. [Repealed.]
- 57. Negligent or furious driving.
- 58. Injuring public property.
- 58A. Damage to animals, plants, etc., in gardens.
- 59. Obscenity and other offences.
- 60. To cause the Lord's Day to be observed.
- 61. As to not suffering games or play on a Sunday.
- 62. [Repealed.]
- 62A. Pointing firearms punishable.
- 63. Taking dog into public gardens.
- 64. Challenge to fight.
- 64A. Valueless cheques.
- 65. Idle and disorderly persons.
- 66. Rogues and vagabonds.
- 67. Incurrible rogues.
- 68. Seizure of property and searching.
- 69. Persons suspected of having or conveying stolen goods.
- 70. In case of information given that there is reasonable cause for suspecting that any goods have been unlawfully obtained and are concealed.
- 71. Party from whom stolen goods are received to be examined by the Magistrate.
- 72. Power to order delivery of goods stolen or fraudulently obtained and in possession of brokers and other dealers in secondhand property.
- 73. For removing doubts as to ordering the restoration of property unlawfully pawned, etc.
- 74. Power to order delivery of possession of goods charged to have been stolen or fraudulently obtained, and in custody of constable.

*Police Act.*ARRANGEMENT OF SECTIONS.—*continued.*

## Section.

75. Unclaimed stolen goods delivered to the receiver may be sold after twelve months.  
Application of proceeds.
76. Unclaimed goods in possession of police may be sold by Commissioner.
- 76A. Offence of having possession of gold or pearl suspected of being stolen.
- 76B. Occupier of premises where gold found deemed to be in possession thereof.
- 76C. Persons found upon premises where stolen gold seized may be convicted.
- 76D. Accessories.
- 76E. Magistrate may order restitution of gold.
- 76F. Summary proceedings against keepers, etc., of premises for purposes of prostitution.
- 76G. Summary proceedings against persons connected with prostitution.
- 76H. Sunday entertainments prohibited.
- 76I. Definitions.
77. Power to deal summarily with cases of oppressive distress.
78. Power to order delivery of goods unlawfully obtained to the owner.
79. [Repealed.]
- 79A. Unlawfully taking or branding animals.
80. Malicious injury to property.
81. Removing boat or boat furniture.
82. Penalty on persons destroying property with intent to steal or retaining or disposing of property.  
Persons offering such property for sale may be arrested.
83. Penalty on persons selling adulterated or unwholesome articles of food.
- 83A. This act subject to certain acts.
84. Regulation of houses of public resort.
- 84A. No house, etc., to be kept for the purposes of owner or occupier betting with other persons.
- 84B. Betting houses to be gaming houses.
- 84C. Penalty on owner or occupier of betting houses.
- 84D. Penalty on persons receiving money on condition of paying money on event of any bet.
- 84E. Money so received may be recovered from persons receiving the same.
- 84F. This Act not to extend to stakes due to owner of horse winning a race.
- 84G. Penalty on persons exhibiting placards or advertising betting houses.
- 84H. Penalty on persons advertising as to betting or lotteries.
- 84I. Wages not recoverable at law.
85. Warrant to enter, search, and seize in common gaming house.
86. Penalty on owner or keeper of a gaming house. And persons found therein.
87. Evidence of being a common gaming house.
88. Proof of gaming for money.
89. Evidence of gaming.
- 89A. Prohibition of certain slot machines.
90. Penalty for obstructing police.
- 90A. False reports to police.
91. Evidence of common gaming house.
92. Indemnity of witnesses.
93. [Repealed.]
94. Cheating at play.

*Police Act.*ARRANGEMENT OF SECTIONS—*continued.*

Section.

## PART VIA.—OPIUM AND DANGEROUS DRUGS.

- 94A. Definitions and application of Part VIA.  
Drugs to which this Part applies.  
Calculation percentages in case of liquid preparations.
- 94B. Prepared opium.
- 94C. Regulations. Offences.
- 94D. Power to enter.
- 94E. Penalties. Attempts, company, imprisonment, certificate of analyst to be evidence.

## PART VIB.—PROHIBITION OF THE MANUFACTURE, USE, SALE, ACQUISITION, POSSESSION, DISTRIBUTION, AND SUPPLY OF DIAMORPHINE, COMMONLY KNOWN AS HEROIN.

- 94F. Interpretation.
- 94G. Prohibition.
- 94H. Penalties.

## PART VII.—PROVISIONS AS TO OFFENCES; NOT TO APPLY WHERE SIMILAR PROVISIONS MADE BY BY-LAW OF MUNICIPAL OR OTHER PUBLIC AND AUTHORISED BODY.

95. This part of Act subject to powers of any municipality, etc., to make by-laws, etc.
96. Prohibition of nuisances by persons in thoroughfares.
97. Penalty for destruction of acclimatised animals or birds.
98. Street musicians to depart when desired to do so.  
Penalty on playing musical instruments in street.
99. Cannon, etc., not to be fired near dwelling houses.
100. Hog-sties and nuisances not removed on complaint.
101. Cleansing butchers' shambles and slaughter-houses. Penalty.
102. Inspection of meat.
103. As to private avenues.
104. Bathing prohibited within certain limits.
105. As to damaging public buildings.
106. As to water-courses.
107. As to injuring public fountains.
108. Slops, nightsoil, etc., to be conveyed away only at certain hours. Penalty, £5.
109. Hours of removing nightsoil, etc. Penalty on owner of carts, etc., and employees.
110. Persons in charge of stock to remove such as may die on public road or highway or bury the same.  
No dead animals to be thrown into any harbour, etc.
111. No turf, gravel, etc., to be removed from streets without permission.
112. Drawing or trailing timber, etc.
113. Entrances to cellars, coal-holes, etc., to be covered and secured.
114. Cellars or openings beneath the surface of footways prohibited.
115. Wells to be covered over.
116. Holes made for vaults, etc., to be enclosed.
117. Stalls, etc., not to be set on foot or carriage ways.  
Placing timber, bricks, etc.  
Not removing when required.  
Replacing the same after removal.

*Police Act.*ARRANGEMENT OF SECTIONS—*continued.*

## Section.

- 118. Not to prevent awnings being erected in front of shops.
- 119. Rain not to be allowed from eaves of houses on footways.
- 120. Boards to be erected, but not without license.  
What is to be specified in license.  
Erecting without license.  
Penalty.  
Chairman may cause board to be removed.  
Proceedings thereupon.
- 121. No rock to be blasted without notice.

## PART VII.—MISCELLANEOUS PROVISIONS.

- 122. Lodging houses, etc., may be searched.
- 123. Horses, carriages, etc., of offenders may be detained.
- 124. Penalty for offences where no special penalty is appointed.
- 125. Penalty for compounding information.
- 126. This Act not to prevent the indictment of offenders or liability for higher penalties.
- 127. Certain offenders may be committed to court of superior jurisdiction.
- 128. Amends for frivolous informations.
- 129. Police moiety of fines, etc., to be paid to the Treasurer.
- 130. [Repealed.]
- 131. [Repealed.]
- 132. [Repealed.]
- 133. Proceedings may be taken against master for offences committed by servant under his order or sanction.
- 134. Offence punishable summarily.
- 135. Amends, etc., to be assessed by justice.
- 136. [Repealed.]
- 137. Justice not bound to convict in certain cases.
- 138. Shortening Ordinance incorporation.
- 139. [Repealed.]
- 140. [Repealed.]
- 141. [Repealed.]
- 142. Commencement of Act.

## Schedules.

Approved for reprint, 26th June, 1962.  
WESTERN AUSTRALIA.

## POLICE ACT, 1892-1961.

### No. 27 of 1892.

[Affected by Acts Nos. 26 of 1932 (Sec. 2 and 6); 38 of 1945 (Sec. 2); 18 of 1954 (Sec. 22); and 63 of 1954 (Sec. 5).]

[As amended by Acts:

No. 10 of 1893, assented to 13/1/1893;  
No. 26 of 1894, assented to 23/11/1894;  
No. 21 of 1898, assented to 28/10/1898;  
No. 11 of 1902, assented to 18/11/1902;  
No. 14 of 1902, assented to 19/2/1902;  
No. 31 of 1902, assented to 20/12/1902;  
No. 10 of 1907, assented to 20/12/1907;  
No. 33 of 1912, assented to 10/12/1912;  
No. 13 of 1915, assented to 18/2/1915;  
No. 8 of 1925, assented to 24/9/1925;  
No. 11 of 1928, assented to 23/11/1928;  
No. 19 of 1933, assented to 13/11/1933;  
No. 19 of 1940, assented to 29/11/1940;  
No. 5 of 1945, assented to 27/11/1945;  
No. 6 of 1945, assented to 27/11/1945;  
No. 15 of 1952,<sup>1</sup> assented to 7/11/1952;  
No. 28 of 1953,<sup>2</sup> assented to 18/12/1953;  
No. 6 of 1954, assented to 25/8/1954;  
No. 25 of 1954,<sup>3</sup> assented to 20/10/1954;  
No. 63 of 1954,<sup>4</sup> assented to 30/12/1954;  
No. 8 of 1955, assented to 19/10/1955;  
No. 20 of 1956, assented to 19/11/1956;  
No. 40 of 1958,<sup>5</sup> assented to 11/12/1958;  
No. 10 of 1959, assented to 25/9/1959;  
No. 50 of 1960,<sup>6</sup> assented to 28/11/1960;  
No. 71 of 1961, assented to 28/11/1961,

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating  
to the Police in Western Australia.

[Assented to 18th March, 1892.]

WHEREAS it is expedient to consolidate and amend Preamble  
the law relating to the Police Force of Western  
Australia, and to make further provision for the  
maintenance of the public peace and good order,

<sup>1</sup> Came into operation on 19/6/1953. See *Gazette* of 19/6/1953.

<sup>2</sup> Came into operation on 1/1/1955. See *Gazette* of 26/2/1954.

<sup>3</sup> Came into operation on 18/3/1955. See *Gazette* of 18/3/1955.

<sup>4</sup> Came into operation on 1/8/1955. See *Gazette* of 29/7/1955.

<sup>5</sup> Came into operation on 18/7/1959. See *Gazette* of 10/7/1959.

<sup>6</sup> Came into operation on 31/12/1960. See *Gazette* of 23/12/1960.

and the summary prosecution of certain offences, and for other purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia in Parliament assembled, as follows:—

The Police Ordinance, 1861, and others repealed. Saving as to past matters and offences.

1. The enactments described in the First Schedule to this Act are hereby repealed, to the extent mentioned in that Schedule, save and except always as to offences committed and matters and things done before the passing of this Act, which said offences, matters, and things shall be dealt with respectively as if this present Act had not been passed.

(1) In all cases where in any Ordinance, Act, or Instrument reference is made to the Police Ordinance of 1861, or to any Ordinance or Act hereby repealed, the Ordinance, Act, or Instrument shall be construed and have effect as if reference were made therein to the corresponding provisions of this Act.

Interpretation. Amended by No. 10 of 1959, s. 2.

2. In this Act, unless the context otherwise requires—

“Governor” means the person for the time being lawfully administering the Government of Western Australia, acting with the advice of the Executive Council;

“Minister” means the responsible Minister in charge of the Department;

“Justice,” “Justices,” shall respectively mean a Justice and Justices of the Peace, and “Justice” shall include two or more Justices of the Peace;

“street” includes road, thoroughfare, and public place;

“local authority” means the municipal council, and where there is no municipality means the town council;



“chairman” of the local authority includes mayor.

“valuable security” includes any document which is the property of any person, and which is evidence of the ownership of any property or of the right to recover or receive any property.

3. This Act may be cited as the *Police Act, 1892-1961*, and shall be divided into nine parts, as follows:—
- |   |  |
|---|--|
| Part I.—As to the Appointment of Officers and Constables of the Police Force, ss. 4-8.  | Short title and Division of Act.<br>Amended by No. 11 of 1928, s. 2.<br>No. 15 of 1952, s. 5.<br>No. 28 of 1953, s. 3. |
| Part II.—As to the Regulations, Duties, and Discipline of the Police Force, ss. 9-33.   | No. 25 of 1954, s. 3.<br>No. 71 of 1961, s. 1.   |
| Part IIA.—Police Appeal Board, ss. 33A to 33J.  |  |
| Part III.—As to the Appointment and Regulation of Special Constables, ss. 34-38.  |  |
| Part IV.—As to the Establishment of Police Districts, ss. 39 only.  |  |
| Part V.—As to the Powers of the Police Force and the Apprehension of Offenders, ss. 40-52.  |  |
| Part VI.—General Provisions as to Offences and Penalties to be in Force Throughout the State, ss. 53-94.  |  |
| Part VIA.—Opium and Dangerous Drugs, ss. 94A-94E.   | No. 11 of 1928, s. 2.  |
| Part VIB.—Prohibition of the manufacture, use, sale, acquisition, possession, distribution, and supply of diamorphine, commonly known as heroin, ss. 94F-94H. | No. 28 of 1953, s. 3.  |
| Part VII.—Provisions as to Offences Applicable Only Where Not the Subject of Municipal or Other By-law, etc., ss. 95-121.                                     | Schedule Item 36.  |
| Part VIII.—Miscellaneous Provisions, ss. 122-142.   | 2 Edw. VII., No. 11, s. 2.<br>and<br>No. 15 of 1952, s. 5.   |
- (Part IX.—Deleted by No. 15 of 1952, s. 6.)

Part I.—As to the Appointment of Officers and Constables of the Police Force.

Continuation of appointments of officers and constables already made.

4. The Commissioner of Police and all other officers and constables of the Police Force already appointed shall continue to hold office under the provisions of this Act, and shall perform all such duties and possess such powers and functions as by this Act or by any law now or hereafter to be in operation in the said State may be imposed or conferred upon them respectively.

Governor may appoint Commissioner of Police.

5. The Governor may from time to time appoint a fit and proper person to be Commissioner of Police throughout the said State, and as occasion shall require may remove any Commissioner of Police and appoint another in his stead; and every Commissioner of Police shall be charged and vested with the general control and management of the Police Force of the said State, and also of any special constables who may be appointed as hereinafter provided.

Governor may appoint inspectors and other officers holding commissions.

6. The Governor may appoint such inspectors, sub-inspectors, or other officers of police as may be found necessary, who shall hold commissions under the hand of the Governor for such appointments; and such inspectors, sub-inspectors, and other commissioned officers shall be subject to the control of the Commissioner of Police, and shall be respectively charged with the government and superintendence of such portion of the Police Force as such Commissioner may from time to time direct.

Commissioner may appoint non-commissioned officers. Subject to approval of the Governor.

7. The Commissioner of Police may appoint so many non-commissioned officers and constables of different grades as he shall deem necessary for the preservation of peace and order throughout the said State, subject, however, to the approval of the Governor; and such non-commissioned officers and constables shall have all such powers and privileges, and be liable to all such duties and obligations as

any constable duly appointed now or hereafter may have, or be liable to, either by the common law, or by virtue of any statute law now or hereafter to be in force in the said State.

8. The Governor may, from time to time as he shall see fit, remove any inspector, sub-inspector, or other commissioned officer of police, and upon any vacancy in any of the said offices, by death, removal, disability, or otherwise, the Governor may appoint some other fit person to fill the same; and the Commissioner of Police may, from time to time, as he shall think fit, suspend and, subject to the approval of the Minister, remove any non-commissioned officer or constable; and in case of any vacancy in the Police Force by reason of the death, removal, disability or otherwise of any non-commissioned officer or constable, the Commissioner of Police may appoint another person to fill such vacancy.

Governor may remove commissioned officers.

And appoint others in their stead.

And Commissioner may suspend and, subject to the approval of the Minister, remove non-commissioned officers.

#### Part II.—As to the Regulations, Duties and Discipline of the Police Force.

9. The Commissioner of Police may, from time to time, with the approval of the Minister, frame rules, orders, and regulations for the general government of the members of the Police Force, as well with respect to their places of residence, their classification, grade, distribution, particular service, and inspection, as to the description of the arms, accoutrements, and other necessaries to be furnished to them and all such other rules, orders, and regulations relative to the said Police Force, and the control, management, and discipline thereof as may be necessary for rendering the same efficient for the discharge of the several duties thereof, and for the purpose of preventing neglect or abuse; and as the Minister considers necessary or desirable for establishing and conducting a Police Force Canteen referred to in paragraph (ca) of subsection (2) of section forty-six of the Licensing Act, 1911.<sup>1</sup>

Commissioner may make regulations for general management and discipline of Police Force.  
Amended by No. 40 of 1953, s. 3.

<sup>1</sup> Now Licensing Act, 1911-1961.

Engagement  
to be  
subscribed  
by officers  
and  
constables.

10. No person shall be capable of holding any office, or appointment in the Police Force, or of acting in any way therein, until he shall have subscribed the following engagement, namely:—

I, A.B., engage and promise that I will well and truly serve our Sovereign Lady the Queen, in the office of [Commissioner of Police, inspector, sub-inspector, or other officer, or constable, as the case may be], without favour or affection, malice, or illwill, until I am legally discharged; that I will see and cause Her Majesty's peace to be kept and preserved, and that I will prevent, to the best of my power, all offences against the same; and that, while I shall continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.

And the said engagement shall be subscribed in the presence of and attested by a Justice or commissioned officer of the force.

Person  
subscribing  
engagement  
bound to  
serve as  
member of  
the Police  
Force.

11. Every person, on subscribing such engagement, shall be thereby bound to serve Her Majesty as a member of the Police Force, at the current rate of pay for such member, and until legally discharged, from the day on which such engagement shall have been subscribed: Provided that no such engagement shall be set aside for want of reciprocity: Provided further, that such engagement may be cancelled at any time by the lawful discharge, dismissal, or removal from office of any such person, or by the resignation of any such person being accepted by the Commissioner of Police.

Non-com-  
missioned  
officer and  
constable  
not to resign  
without  
leave or  
notice.

12. No non-commissioned officer or constable shall be at liberty to resign his office, or to withdraw himself from the duties thereof, notwithstanding the period of his engagement shall have expired, unless expressly authorised in writing to do so by the Commissioner of Police, or unless he shall have given to such Commissioner three calendar months'

notice of his intention so to resign or withdraw, if stationed beyond two hundred miles from Perth, or one calendar month's notice if stationed within that distance, and every member who shall so resign or withdraw himself without such leave or notice shall, upon conviction thereof by any two or more Justices, be liable to forfeit all arrears of pay then due to him, and to a penalty of not more than five pounds, or may be committed to prison for a period not exceeding fourteen days.

13. Every member of the Police Force, whether special or ordinary, having been dismissed from, or having ceased to hold his office, shall forthwith deliver to the Commissioner of Police, or to such person, and at such time and place, as the said Commissioner or a commissioned officer of the force may direct, all and every the clothing, arms, ammunition, and accoutrements, horses, saddles, bridles, appointments, and other property which have been supplied to him for the execution of his duty, or which may be in his custody by virtue of his office; and in default of such delivery shall, on conviction thereof by two or more Justices, be liable to a penalty not exceeding five pounds, in addition to the value of the property not so delivered, or to imprisonment, with or without hard labour, for any time not exceeding two months; and any Justice may issue his warrant to search for and seize all and every the clothing, arms, ammunition, and accoutrements, horses, saddles, bridles, appointments, and property not so delivered, wherever the same may be found.

Members of the force dismissed or ceasing to hold office to deliver up accoutrements, etc.

14. Notwithstanding the establishment of any Police District, all officers and constables belonging to the Police Force who may be stationed in any such district shall continue as part of such force, and be subject to the same authority, and be liable, if required, to perform the same duty in any part of the said State or elsewhere, as if no such Police District had been established; and if any members

Officers and constables subject to duty in any part of the State, as if no Police District had been established.

And if employed out of the State to obey orders and perform duties as if within the State.

of the Police Force be employed beyond the limits of the said State, every member so employed shall be amenable to and obey in all respects the lawful commands of his superior officers, and shall be liable to the same penalties, forfeitures, and punishments, in all respects, for any neglect or violation of duty, in any service in which he may be so employed beyond the limits of the said State, in the same manner as if such neglect or violation of duty had been committed within the said State.

Punishment for taking bribe.

15. Any member of the Police Force who shall take any bribe, pecuniary, or otherwise, either directly or indirectly, to forego his duty, or who shall in any manner aid, abet, assist, or connive at the escape, or any attempt or preparation to escape, of any prisoner from lawful custody, or who shall desert his post, or assault his superior officer, shall for every such offence, without prejudice to any other penalties or punishment to which he shall by law be liable, upon conviction thereof before any two or more Justices, forfeit and pay a penalty not exceeding ten pounds, or may be imprisoned or kept to hard labour for any period not exceeding three calendar months.

Penalty for personating or attempting to bribe, etc., members of the force.

16. If any person, not being a member of the Police Force, shall have in his possession any arms or ammunition, or any article of clothing, accoutrements, or appointments supplied to any member of the Police Force and shall not be able satisfactorily to account for his possession thereof, or shall put on or assume the dress, name, designation, or description of any member of the Police Force, or shall pretend or assert that he is a member of such force, or shall give, or offer, or promise to give any bribe, recompense, or reward, or shall make any collusive agreement with any member of the Police Force to induce him to neglect his duty, or to conceal or connive at any act whereby any rule, order, or regulation relating to the Police Force in operation in the said State may be evaded, every person so offending shall, in addition to any other punishment to which he may be liable for such offence,

forfeit for every such offence, on conviction thereof before any two or more Justices, a sum not exceeding ten pounds.

16A. Any person, not being either a member of the Police Force of this State or a member of the Police Force of the Commonwealth or of any other State of the Commonwealth temporarily residing in this State, who uses in any manner whatsoever the word "detective" as descriptive of the nature of his business, vocation, calling, or means of livelihood with a view to soliciting, procuring or obtaining the engagement or employment by other persons of his services as an inquiry agent or investigator in respect of matters in relation to which such other persons require information or evidence shall be guilty of an offence.

Penalty for unauthorised use of the word "detective." Inserted by No. 5 of 1945, s. 2.

Penalty—Fifty pounds.

17. If any question shall arise as to the right of the Commissioner of Police, or any other officer or member of the Police Force, to hold or execute his office, common reputation shall to all intents and purposes be deemed sufficient evidence of such right, and it shall not be necessary to have or produce any written appointment, or any oath, or other document or matter whatsoever, in proof of such right.

Repute to be evidence of appointment.

18. Any person whosoever, who shall, by himself or his servant, permit any constable to be supplied with fermented or spirituous liquors when on duty, except during such time as such constable is travelling on duty, or who shall permit any constable to become drunk on his premises, and knowing him in every such case to be a member of the Police Force; and any person who shall knowingly harbour or entertain any constable, or permit such constable to abide or remain in his premises during any part of the time appointed for such constable to be on

Penalty on persons harbouring constables during the hours of duty.

duty elsewhere, on conviction thereof by any two or more Justices, shall, for every such offence, forfeit and pay a sum not exceeding five pounds.

Penalty on police for neglect of duty.

19. Every member of the Police Force who shall be guilty of any neglect or breach or violation of duty in his office shall, on conviction before any two or more Justices, be liable to a penalty of not more than ten pounds (the amount of which penalty may be deducted from any salary then due to such offender), or may be imprisoned, with or without hard labour, for any period not exceeding one calendar month.

Interference with police.

20. If any person shall disturb, hinder, or resist any member of the Police Force in the execution of his duty, or shall aid or incite any person thereto, every such offender, being convicted thereof before any two or more Justices, shall, for every such offence, forfeit and pay a sum not exceeding ten pounds; and also such further sum of money as shall appear to the convicting Justices to be a reasonable compensation for any damage or injury caused by such offender to the uniform, clothing, accoutrements, or horse of such member of the force, or for any medicine or other expenses incurred in consequence of personal injury sustained by him thereby, or may be liable to imprisonment for any time not exceeding two calendar months, with or without hard labour.

Non-commissioned officers and constables to execute process for levying fines, forfeitures, etc.

21. Every non-commissioned officer and constable of the Police Force shall execute all process to him directed for levying the amount of any recognizance forfeited to Her Majesty, or of any fine imposed on any jurors, witnesses, parties, or persons, at any Court of Judicature, or any other fine imposed under any Act in force in the said State, and any process, or any other warrant or command of any Justice directed, delivered, or given to any such non-commissioned officer or constable, shall or may be executed and enforced by any other such officer or constable, or his assistants; and every such last-mentioned officer, constable, and his



assistants, shall have all and every the same rights, powers, and authorities for and in the execution of such process, order, warrant, or command, as if the same had originally been directed to him or them expressly by name. And the amount of any recognizance so forfeited may, in addition to the manner prescribed by the 25th Vic., No. 5, be levied by distress and sale of the goods and chattels of the person bound thereby, and may be otherwise recovered and enforced as in case of an ordinary fine or penalty imposed by a Justice. And a breach of the condition of a recognizance may be proved before a Justice upon *ex parte* proof on oath thereof.

And as to  
recognizance.

22. The Commissioner or other commissioned officer of police in each magisterial district shall take care that a sufficient number of Police Constables shall be in attendance upon every Justice sitting at every Police Court in the district for the purpose of executing such summonses and warrants as may be directed to them, and returning the same.

Police  
Constables  
to attend  
Magistrates

*Inquiries into Misconduct and Penalties.*

23. The Commissioner or some other commissioned officer of the Police Force appointed by the Commissioner for the purpose may examine on oath into any charge of insubordination, neglect of duty or misconduct against the discipline of the Force against any non-commissioned officer, and, if the Commissioner considers the charge is satisfactorily proved, he may inflict a fine not exceeding fifteen pounds on the accused or order his reduction in rank, discharge or dismissal from the Force.

Inquiries  
into mis-  
conduct of  
non-commis-  
sioned officer.  
S. 22 sub-  
stituted by  
No. 25 of 1954,  
s. 4.

24. The Commissioner, or any other officer of the force appointed by the Commissioner for the purpose may examine on oath into any similar charge preferred against any constable, and on proof thereof may sentence such constable to pay a fine not exceeding ten pounds or order his discharge or dismissal from the Force; and the Commissioner or another officer hearing a charge under either this

Inquiries  
into mis-  
conduct of  
constables.  
Amended by  
No. 25 of 1954,  
s. 5.

or the next preceding section shall have the same power to summon and examine witnesses and administer oaths as a Justice, and the fine shall be enforceable in like manner as a fine imposed by a Justice under this Act.

Inquiries  
into mis-  
conduct of  
superior  
officers.

25. When any commissioned officer is accused of a breach of duty or of any conduct rendering it unfit that he should remain in the Police Force, if he deny the truth of such accusation, and if the Governor nevertheless think that sufficient cause has been shown for further proceedings, the Governor may appoint three or more fit and proper persons (of whom only one may be a member of the Police Force) to inquire as to the truth of such charge, and such persons shall have authority to hear, receive, and examine evidence on oath and shall, after fully hearing the case, report to the Governor in Council their opinion thereon.

26. [*Repealed by No. 25 of 1954, s. 6.*]

As to dis-  
posal of  
effects of  
non-com-  
missioned  
officers or  
constables  
dying  
intestate.

27. In case any non-commissioned officer or constable shall die intestate, the Commissioner of Police, or such other officer as the Governor may appoint, may cause the personal effects of the deceased to be disposed of by public auction, in such manner as to the Commissioner or other officer shall seem fit; and the proceeds of such sale, together with any balance of pay or other moneys due to the deceased, shall be applied in the first instance to defray the funeral expenses and debts of the deceased; and if after defraying such expenses and debts the sum remaining shall not exceed fifty pounds, it may be handed over by the said Commissioner or other officer to the widow or next of kin of the deceased resident in Western Australia, and the receipt of the person so entitled shall be sufficient discharge, although no letters of administration shall have been taken out; but if the widow or next of kin entitled as aforesaid be not resident in Western Australia, or if the sum so remaining shall exceed fifty pounds, it shall be paid to the Curator of Intestates' Estates.\*

\*Public Trustee. See Public Trustee Act, 1941-1953.

28. Any member of the force who shall be subject to punishment of imprisonment under this Act, for any act of insubordination or misconduct against the discipline of the force, shall be confined in any place specially appointed by the Governor as a police prison, instead of a common gaol or other place where he might be confined under this Act, and may be kept to such labour therein as the Commissioner may direct; and no imprisonment or confinement of any member of the force under this Act shall be deemed to be part of any period for which he shall have engaged to serve in the force; and the period of any such confinement shall in no case exceed the period of imprisonment to which such member may have been sentenced.

Members of the force subject to imprisonment may be imprisoned in any place specially appointed.

29. If any member of the force becomes bankrupt, or by any deed or other writing compound with his creditors, or make an assignment of his salary or wages for their benefit, he shall be deemed to have forfeited his office.

Bankruptcy.

30. When any such member of the force has so forfeited his office, if he prove to the satisfaction of the Governor that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonourable conduct, the Governor may reinstate such member of the force in his former position in the service.

Bankrupt may be reinstated.

31. Any person having been dismissed from the force who shall, by concealing the fact of such dismissal, or any person who shall by any false or forged certificates or any false representations, obtain admission into the force, or who by any such means shall receive any pay, gratuity, or pension, shall be liable, on conviction thereof before any two or more Justices, to imprisonment for any period not exceeding six months, with or without hard labour.

Penalty on persons wrongfully obtaining admission into the force.

Members of  
the force not  
to influence  
voters at  
elections.

32. No member of the force shall in any manner influence any elector in giving his vote for the choice of any person to be a member to serve in the Legislative Council or Legislative Assembly; and if any person being a member of the force shall offend herein he shall forfeit a sum not less than five nor exceeding one hundred pounds, to be recovered by any person who shall first sue for the same by action in a Local Court to be commenced within six months after commission of the offence; but nothing herein contained shall subject any member of the force to any penalty for any act done by him at or concerning any of the said elections in the discharge of his duty.

Fines and  
penalties for  
misconduct  
payable to  
Treasurer.  
Repealed and  
inserted by  
No. 19 of 1940,  
s. 2.

33. (1) All fines and penalties imposed on any member of the Police Force by virtue of this Part of this Act shall be received, collected, and recovered by the Commissioner of Police or other officer appointed by the Governor and, when so received, collected, and recovered shall be paid to the Treasurer of the State for the public uses of the State.

(2) This section shall have effect and operate and shall be deemed to have had effect and to have been in operation as from and after the twenty-ninth day of June, one thousand nine hundred and thirty-nine.

Part IIA  
inserted by  
No. 25 of 1954,  
s. 7.

#### Part IIA.—Police Appeal Board.

Inter-  
pretation.  
Inserted by  
No. 25 of 1954,  
s. 7.

33A. In this Part unless the context requires otherwise—

“Board” means the Police Appeal Board constituted under this Part;

“chairman” means the chairman of the Board;

“Commissioner” means the person for the time being holding the office of Commissioner of Police;

“member” means a member of the Board.

33B. (1) A Police Appeal Board is constituted in accordance with this Part.

Constitution of Board.  
Inserted by  
No. 25 of 1954,  
s. 7.

(2) The Board consists of three members—

- (a) a Stipendiary, Police or Resident Magistrate appointed by the Governor and who shall be chairman;
- (b) a person appointed by the Commissioner; and
- (c) a member of the Police Force elected by the members of the Police Force in manner prescribed.

(3) Each member of the Board is entitled to such allowances for out of pocket expenses as the Minister may determine.

Allowances.

33C. (1) Subject to the provisions of subsection (2) of this section, every member shall hold office until the thirtieth day of June in the second year after the year in which he was appointed or elected and at the expiration of his term is eligible for re-appointment.

Tenure of office.  
Inserted by  
No. 25 of 1954,  
s. 7.

(2) If any member—

- (a) dies or resigns his office;
- (b) becomes incapable of continuing as a member;
- (c) is guilty of misbehaviour or of incapacity;
- (d) ceases to hold the required qualifications to be a member;
- (e) is required to carry out duties the location or nature of which in the opinion of the Minister make it inconvenient or undesirable that he continue as a member,

his office on the Board becomes vacant and a successor shall be appointed who shall hold office for the residue of the term for which his predecessor was appointed.

(3) (a) Where the office of the elective member becomes vacant or the person holding that office is for any reason temporarily unable to act in his office, the member of the Police Force who received the second highest number of votes at the last previous election held under this Part, shall be appointed by the executive of the Police Union of Workers of Western Australia to fill the vacancy for the remainder of the term for which his predecessor was elected, or shall be so appointed to be acting member during the period of inability as the case may be.

(b) Where there is only one candidate at the election or if for any reason the person who received the second highest number of votes at the election is unable to act the executive of the Union may appoint a member of the Police Force to fill the vacancy or be the acting member.

(4) Where the office of the chairman or the member appointed by the Commissioner becomes vacant or the person holding the office is temporarily unable to act in his office, the Governor may appoint a Stipendiary, Police or Resident Magistrate or the Commissioner may appoint a person as the case may require, to fill the vacancy for the remainder of the term for which his predecessor was appointed or to be acting Chairman or member during the period of inability as the case may be.

Appointment  
of secretary.  
Inserted by  
No. 25 of 1954,  
s. 7.

**33D.** The Minister shall appoint a person to be secretary to the Board, who shall convene all meetings of the Board, keep a record of all its proceedings and decisions and carry out such other duties as may be prescribed.

Right of  
appeal.  
Inserted by  
No. 25 of 1954,  
s. 7.

**33E.** Where under the provisions of this Act a non-commissioned officer or constable of the Police Force has been convicted upon a summary investigation by the Commissioner or other officer appointed by the Commissioner, of insubordination,

neglect of duty or misconduct against the discipline of the Police Force, if the non-commissioned officer or constable is punished by the Commissioner or other officer as the case may be, by being discharged or dismissed from the Police Force, suspended from duty, reduced in rank, fined, or transferred by way of punishment, he may appeal to the Board in accordance with the provisions of this Act against the punishment and against any decision or finding on which the punishment was based.

33F. (1) An appeal shall be instituted by a notice of appeal containing the matters prescribed given by the appellant to the secretary of the Board within fourteen days from the date the punishment, decision or finding appealed against is given and the Board shall hear the appeal within thirty days from the date the notice of appeal is so lodged.

Institution  
of appeal.  
Inserted by  
No. 25 of 1954,  
s. 7.

(2) The Chairman shall fix a time and place for the appeal and the secretary shall give the appellant and the Commissioner at least seven days' notice of the time and place so fixed.

(3) Where the hearing of the appeal is not commenced within the period of thirty days as prescribed by subsection (1) of this section, the punishment, decision or finding appealed against is rescinded and the appellant shall be reimbursed from moneys appropriated by Parliament for the administration of this Act, any loss of salary or expenses he has incurred as a result of the punishment, decision or finding, but if the hearing of the appeal is commenced within the period of thirty days the Board may allow any adjournment it thinks fit.

33G. (1) Upon the hearing of the appeal the Board may—

- (a) take evidence on oath or affirmation;
- (b) admit evidence taken at any summary investigation held under the provisions of sections twenty-three and twenty-four of

Witnesses  
at and  
evidence  
taken on  
appeal.  
Inserted by  
No. 25 of 1954,  
s. 7.

this Act and at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence;

- (c) admit as evidence any statement or document which in its opinion is relevant to the subject matter of the appeal.

Powers of Board.

(2) The Board may—

- (a) issue summonses under the hand of the Chairman or the secretary of the Board requiring any witnesses to attend before the Board and give evidence, or to produce to the Board any books, documents or writings in his possession or under his control, which are relevant to the subject matter of the appeal;
- (b) require any person before the Board to take an oath or affirmation and answer questions put to him by the Board or by or on behalf of any party to the appeal.

Offence.

(3) A person who—

- (a) refuses or fails to comply with any requirement of a summons issued by the Board under this section and served on him;
- (b) refuses to take an oath or affirmation when required by the Board;
- (c) without lawful excuse refuses to answer a question which the Board requires him to answer;
- (d) wilfully interrupts the proceedings of the Board or in the course of the proceedings behaves offensively to the Chairman or a member,

is guilty of an offence.

Penalty: Fifty pounds.

(4) In any proceedings before the Board any party to the appeal may respectively be represented by his counsel, solicitor or agent duly appointed in writing for the purpose, who may examine and cross-examine witnesses and address the Board.



33H. (1) (a) Upon an appeal the Board may confirm, modify or reverse any decision, finding or punishment appealed against or make such other order thereon which the Board deems just and the decision of the Board is final.

Determina-  
tion of  
appeal.  
Inserted by  
No. 25 of 1954,  
s. 7.

(b) The Board may fix the costs of any appeal and direct by whom and the proportions in which they are payable but in every case the Board shall award costs against an appellant whose appeal is considered by the Board to be trivial, frivolous or vexatious.

(c) Costs awarded against an appellant are recoverable in a court of competent jurisdiction as a debt due to the Crown.

(d) Costs awarded to an appellant shall be paid from moneys appropriated by Parliament for the purpose of the administration of this Act.

(2) The decision of any two members is the decision of the Board; but the deliberations of the Board and the individual views of a member except of his own volition shall not be disclosed or published.

33I. The Chairman shall forward to the Commissioner a copy, certified by the Chairman as correct of the decision of the Board and the Commissioner shall give effect to the decision of the Board.

Trans-  
mission of  
decision.  
Inserted by  
No. 25 of 1954,  
s. 7.

33J. The Governor may make regulations prescribing any matters necessary or convenient to be prescribed for giving effect to this Part and without limiting the generality of this power, with respect to—

Regulations.  
Inserted by  
No. 25 of 1954,  
s. 7.

- (a) the nomination and election of members;
- (b) the mode of appealing and the practice and procedure on appeal; and
- (c) the duties to be performed by the secretary of the Board.

## Part III.—As to the Appointment and Regulation of Special Constables.

Justices, upon information on oath, or otherwise, that disturbances exist, or are apprehended, may appoint special constables.

34. In all cases where it shall be made to appear to any Police or Resident Magistrate or any two or more Justices, upon the oath of any credible person, that any tumult, riot, or felony has taken place or may be reasonably apprehended in any place in the said State, and any such Magistrate or Justices shall be of opinion that the ordinary constables or officers appointed for preserving the peace are not sufficient for the preservation thereof, and for the protection of the inhabitants, and the security of the property of such place, or where, without such oath or evidence as aforesaid, any such Magistrate or Justices shall be of opinion that the constables or officers aforesaid are not sufficient for the preservation, protection, or security as aforesaid, or for the apprehension of any offenders, it shall be lawful for any such Magistrate or Justices to appoint, by precept in writing under his or their hand or hands, so many as they may think fit of the persons (not legally exempt from serving the office of constable), residing in such place as aforesaid, to act as special constables for such time and in such manner as to the said Magistrate or Justices shall seem fit and necessary for the public peace, and for the protection of the inhabitants, and the security of property in such place; and any Justice of the Peace is hereby authorised to cause every person so appointed to subscribe the following engagement:—

I, A.B., engage and promise that I will well and truly serve Her Majesty Queen Victoria in the office of special constable for the (*city, town, or district of*) \_\_\_\_\_ without favour or affection, malice, or ill-will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects, and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.

Provided always, that whenever it shall be deemed necessary to appoint such special constables as aforesaid, the notice of such appointments, and of the circumstances which have rendered such appointment necessary, shall be forthwith transmitted by the Magistrate or Justices making such appointment to the Minister.

35. All persons willing to act as special constables under the provisions of this Act, shall be capable of being appointed and acting, and may be appointed and act, as such special constables, notwithstanding they may not be resident in such place as aforesaid, or in the neighbourhood thereof; and any person appointed and acting as special constable under the provisions of this section, shall have all the same powers, and be entitled to and enjoy all the same privileges and benefits, and be subject to all the same duties and obligations, as any constable duly appointed under the other provisions of this Act.

Persons may act as special constables in any district although not resident.

Power of special constables.

35A. (1) The Commissioner of Police may appoint special constables.

Appointment of special constables. No. 13 of 1915, s. 2. No. 15 of 1952, s. 7. Schedule Items No. 34 and 35.

(2) Any person appointed a special constable shall have all the same powers and be entitled to and enjoy all the same privileges and be subject to the same duties and obligations as any constable duly appointed under this Act.

(3) Any special constable may receive such payment for his services, and may be provided with such equipment and necessaries as may be allowed and provided to a special constable appointed under the provisions of this Act.

(4) All appointments of special constables made by the Commissioner of Police before the commencement of the Police Act Amendment Act, 1915, are hereby ratified and confirmed, and this section shall apply to such appointments as if it had been enacted by this Act.

Penalty for refusing to subscribe the engagement.

36. If any person residing within any place in the said State, being appointed a special constable, shall refuse to subscribe the engagement aforesaid when thereunto required by the Magistrate or Justices so appointing him, he shall, on conviction thereof, before any two or more Justices, forfeit and pay any sum of money not exceeding five pounds, and if any person being appointed a special constable shall neglect or refuse to appear at the time and place for which he shall be summoned for the purpose of subscribing such engagement, or having been appointed as special constable, and called upon to serve, shall neglect or refuse to serve as such special constable, or to obey such lawful orders and directions as may be given to him for the performance of the duties of his office, every person so offending shall on conviction thereof before any two or more Justices, forfeit and pay for any such neglect or refusal any sum of money not exceeding five pounds, unless such person shall prove, to the satisfaction of the said Justices, that he was prevented by sickness, or other such unavoidable cause as shall in the judgment of the said Justices be a sufficient cause.

Power to discontinue service of special constables.

37. The Commissioner of Police may suspend or determine the services of all or any of the said special constables, as to the Commissioner of Police shall seem meet, and notice of such suspension or determination shall be forthwith transmitted to the Minister, and to the Magistrate or Justice appointing them.

Minister may direct reasonable allowances to be paid to and for special constables.

38. The Minister may, upon the recommendation of the Commissioner of Police, order from time to time such reasonable allowances for their trouble, loss of time, and expenses, to be paid to such special constables who shall have served or be then serving as he may deem proper; and he may further order the payment of such expenses as may have been incurred in providing arms, equipments, and necessaries for such special constables.

Part IV.—As to the Establishment of Police Districts.

39. The city, towns, and places in the said State which have already been established or proclaimed as Police Districts, shall continue to be Police Districts within the meaning and for the purposes of this Act; and the Governor may, by notice in the *Government Gazette*, vary the same and establish other Police Districts wherein portions of the Police Force may be stationed; and in every notice establishing any Police District in any part of the said State, the limits of such Police District shall be defined.

Places already established or proclaimed Police Districts to continue Police Districts under this Act. Governor may establish other Police Districts. The notice must define the limits.

Part V.—As to the Powers of the Police Force and the Apprehension of Offenders.

40. Any inspector, sub-inspector, or any non-commissioned officer of the Police Force or senior constable in charge of a Police Station shall, by virtue of his office, be an Officer of Customs within the meaning of the law relating to the Customs for the time being and shall have power, by virtue of his office, to enter at all times, with such constables as he shall think necessary, as well by night as by day, into or upon every ship, boat, or other vessel (not being then actually employed in Her Majesty's service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power) lying or being in any of the waters of the said State, or any dock thereto adjacent, and into every part of such vessel, for the purpose of searching and inspecting the same, and of inspecting and observing the conduct of all persons who shall be employed on board any such ship or vessel in or about the lading or unloading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and for preserving peace and good order on board of any such ship or vessel, and for the effectual prevention or detection of any felonies or misdemeanours.

Inspectors, Sub-Inspectors, etc., may board vessels.

Inspectors,  
Sub-Inspectors,  
etc., to  
apprehend  
and seize  
stolen  
property on  
board ship.

41. Any inspector, sub-inspector, or non-commissioned officer of the Police Force, or senior constable in charge of a Police Station, having reasonable or probable cause to suspect that any offence has been, or is about to be committed on board of any ship, boat, or other vessel (not being then actually employed in Her Majesty's Service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power), lying or being in any of the waters of the said State, or that any person who has committed an offence rendering him liable to apprehension, either with or without warrant, or that any person against whom any warrant shall have been issued by any Justice is harboured, secreted, or concealed on board of any such ship, boat, or vessel, may stop and detain such ship, boat, or vessel, and may enter at all times, with such constables as he shall think necessary, as well by night as by day, into and upon every such ship, boat, or other vessel, and into every part thereof, and may search and inspect the same, and therein take all necessary measures for the effectual prevention and detection of all such suspected offences, and for the apprehension of all such suspected persons as aforesaid, and may and shall take into custody all persons suspected or being concerned in such offences, or liable to apprehension as aforesaid, and shall also take charge of all property suspected to be stolen; and if the master of any such ship or vessel, or any other person, shall resist or wilfully prevent or obstruct any officer or constable of the Police Force whilst stopping, detaining, entering, or endeavouring to stop, detain, or enter upon such ship, boat or vessel, or whilst searching and inspecting the same as and for the purposes aforesaid, or shall harbour or conceal, or rescue or attempt to rescue, or assist any such suspected persons, such master and every other person so offending shall be deemed to have committed a misdemeanour, and shall suffer such punishment by fine, not exceeding fifty pounds, and such imprisonment, with or without hard labour, for a term not exceeding six months, as any two or more Justices before whom such offender shall be convicted, shall determine.

42. Any officer or constable of the Police Force may enter into any house, room, premises, or place where any public table, board, or ground is kept for playing billiards, bagatelle, bowls, fives, rackets, quoits, skittles, or ninepins, or any game of the like kind, when and so often as any such member shall think proper; and may enter into any house, room or place kept or used in the said State for any theatrical or any public entertainments, or exhibitions, or for any show of any kind whatsoever, whether admission thereto is obtained by payment of money or not, at any time when the same shall be open for the reception of persons resorting thereto, and may remove from such house, room, or place any common prostitute, or reputed thief, or other loose, idle, or disorderly person who shall be found therein, and may order any such common prostitute, reputed thief, or disorderly person to leave the said house, room or place, and in case such person shall refuse to leave the same, may take such person into custody, and every such person remaining in such house, room, or place after having been so ordered to leave, shall on conviction be liable to a penalty of not more than forty shillings.

Empowering Police to visit houses where games carried on. Police may enter theatres, etc., and remove therefrom prostitutes and reputed thieves.

43. Any officer or constable of the Police Force, without any warrant other than this Act, at any hour of the day or night, may apprehend any person whom he may find drunk, or disorderly, or using profane, indecent, or obscene language, or who shall use any threatening, abusive, or insulting words or behaviour, with intent or calculated to provoke a breach of the peace, in any street, public vehicle, or passenger boat; and also any person who shall ride or drive on or through any street, so negligently, carelessly, or furiously that the safety of any person may thereby be endangered; and also any person who shall cruelly or wantonly beat, ill-treat, overdrive, overload, abuse or torture any living thing, or cause the same to be done, and also any person who shall convey or carry any living thing in any street, in such a manner or position as to cause unnecessary pain or suffering, and all

Power of apprehending offenders.

persons whom he shall have just cause to suspect of having committed or being about to commit any offence, or of any evil designs, and all persons whom he shall find or who shall have been lying or loitering in any street yard, or other place, and not giving a satisfactory account of themselves, and shall detain any person so apprehended in custody, until he can be brought before a Justice, to be dealt with for such offence, or until he shall have given bail for his appearance before a Justice, in the manner hereinafter mentioned.

Power to apprehend persons disturbing the peace on board ships or vessels, and in houses licensed for the sale of fermented and spirituous liquors.

44. Any constable, when so ordered by any officer of police, and any officer or constable of the force whenever called upon by the master or any officer of any ship or vessel (not being then actually employed in Her Majesty's Service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power), lying in any of the waters of the State or any dock thereto adjacent, may enter into and upon such ship or vessel, and without any warrant other than this Act, apprehend any person whom he may find drunk, or behaving himself in an indecent or disorderly manner, or using profane, indecent, or obscene language, or using any threatening, abusive, or insulting words or behaviour, with intent or calculated to provoke a breach of the peace; and any officer or constable of the force may enter at any hour of the day or night into any house licensed for the sale of fermented or spirituous liquors, or any licensed boarding, eating, or lodging house, and without any warrant other than this Act apprehend any person whom he may find drunk, or behaving himself in an indecent or disorderly manner, or using any such language as aforesaid or words or behaviour as aforesaid, with intent or calculated to provoke a breach of the peace; and to search therein for offenders and otherwise perform his duty, using as little annoyance to the inmates as possible; and any person so apprehended shall be detained in custody until he can be brought before a Justice to be dealt with for such offence, or until he shall have



given bail for his appearance before a Justice in manner hereinafter mentioned; and every such person so apprehended shall unless a different penalty for his offence be prescribed by this Act be liable on conviction to a penalty not exceeding forty shillings or to imprisonment, with or without hard labour, for any term not exceeding seven days.

45. Any officer or constable of the Police Force may, without a warrant, take into custody any person whom he may have reasonable and probable cause for believing or suspecting to be a person for whose apprehension a warrant shall have been issued; and any person who shall be charged by any other person with having committed, or whom he shall have reasonable and probable cause for believing has committed any felony or misdemeanour, punishable on information by the Supreme Court, or any Court of Quarter or General Sessions of the Peace, in cases when by reason of the recent commission of the offence a warrant could not have been obtained for the arrest of the offender. And any warrant of arrest under this or any other Act may be executed by any police officer or constable on any Sunday, Good Friday, or Christmas Day.

Any person against whom a warrant has been issued, and persons charged with recent offences may be apprehended without warrant.

46. Any officer or constable of the Police Force, and all persons whom he shall call to his assistance, may take into custody, without a warrant, any person who, within view of such officer or constable, shall offend in any manner against this Act, and whose name and residence shall be unknown to, and cannot readily be ascertained, by him.

Police may apprehend any offender whose name and residence are not known.

47. Any person whosoever, with or without a warrant, may apprehend any reputed common prostitute, thief, loose, idle, or disorderly person, and all reputed rogues and vagabonds, or incorrigible rogues who, within view of such person apprehending, shall offend against this Act, and shall forthwith deliver him to any constable or police officer of the place where he shall have been

Apprehension of known offenders.

apprehended, to be taken and conveyed before a Justice, to be dealt with according to law; and any constable who shall refuse or wilfully neglect to take such offender into custody, or to take and convey him before a Justice, or who shall not use his best endeavours to apprehend and to convey him before a Justice, shall be deemed guilty of neglect of duty and shall, on conviction, be punished in such manner as herein directed.

Officer or constable attending at the police station may take bail by recognisance from persons brought before them for petty offences; such recognisance to be conditional for the appearance of the parties before a Justice.

48. Where any person who may be apprehended as aforesaid, or who may be charged with any offence punishable in a summary manner, shall be brought without a warrant of a Justice into the custody of any police officer or constable in charge at any police station or lock-up, such officer or constable may, if he shall deem it prudent, take bail by recognisance, with or without sureties, in the form in the Second Schedule to this Act, as the said officer or constable shall think fit, without any fee or reward from such person, conditioned that such person shall appear for examination before a Justice, at some place to be specified in the recognisance, at the hour of ten in the forenoon next after such recognisance shall be taken, unless that hour shall fall on a Sunday, or Christmas Day, or Good Friday, or any public holiday, and in that case at the like hour on the next day afterwards which shall not be one of the days in this section specified; and every recognisance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a Justice; and the officer or constable shall enter into a book, to be kept for that purpose in every Police Station or lock-up, the name, residence, and occupation of the party, and his surety or sureties (if any), entering into such recognisance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such Justice as shall be present at the time and place when and where the party is required to appear;

and if the party does not appear at the time and place required, or within one hour after, the Justice shall cause a memorandum of such recognisance and of its forfeiture to be drawn up and signed by any constable, and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the Justice shall consent thereto, the Justice shall be at liberty to enlarge the recognisance to such further time as he shall appoint; and when the matter shall be heard and determined, the recognisance for the appearance of the party before a Justice shall be discharged without fee or reward.

In default of appearance, recognisance to be forfeited.

Time of hearing may be postponed.

49. Any person found committing any offence punishable in a summary manner may be taken into custody without a warrant by any officer or constable of the Police Force, or may be apprehended by the owner of the property on or with respect to which the offence shall be committed, or by his servant, or any person authorised by him, and may be detained until he can be delivered into the custody of a constable, to be dealt with according to law; and every police officer or constable may also stop, search, and detain any cart, carriage, or vehicle, in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained may be found, and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained; and any person to whom any property or liquor shall be offered to be sold, pawned, or delivered (if he shall have reasonable cause to suspect that any offence has been committed with respect to such property or liquor, or that the same, or any part thereof, has been stolen, or otherwise unlawfully obtained, or is intended to be used for an unlawful purpose), may apprehend and detain the person offering any such property or liquor as aforesaid, and as soon as may be deliver him into the custody of a constable, together with such property or liquor, to be dealt with according to law; and every person taken into custody without warrant for any offence against the provisions of this Act, or for any offence punishable in a summary

Power to police and persons aggrieved to apprehend certain offenders.

Every person taken into custody, without warrant, for offending against this Act, or for petty offence, to be kept in custody.

manner, shall be detained in custody until he can be brought before a Justice to be dealt with according to law or until he shall have given bail for his appearance before a Justice in manner hereinbefore provided.

Police may demand name and address, and apprehend.

50. Any officer or constable of the Police Force may demand from and require of any individual with whose person he shall be unacquainted his name and address, and may apprehend without warrant any such person who shall neglect or refuse to give his name and address or either of them when required so to do as aforesaid; and every such person so neglecting, or refusing, or who shall give a false name or address when applied to as aforesaid, shall upon conviction forfeit and pay any sum not exceeding five pounds, or at the discretion of the convicting Justice be committed to any gaol or lock-up, there to be kept to hard labour for any term not exceeding three calendar months.

Power to prosecute for breach of by-laws. 62 Vict., No. 21, s. 3. No. 15 of 1952, s. 7. Schedule Item No. 14.

50A. Every member of the Police Force may prosecute for any breach of or offence against any by-law or regulation made by any municipality, council of a shire, or board of health.

Mad dogs, etc.

51. Any officer or constable of the Police Force may destroy any dog or other animal reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in a rabid state, and the owner of any such dog or animal who shall permit the same to go at large after having information or reasonable ground for believing it to be in a rabid state or to have been bitten by any dog or other animal in a rabid state, shall on conviction be liable to a penalty of not more than five pounds.

Regulations for preventing obstructions in the streets during public processions, etc.

52. The Commissioner of Police, from time to time, and as occasion shall require, may give directions and make regulations for the route and pace to be observed by all carts, carriages, vehicles,

horses, and persons, and for preventing obstruction of the streets and thoroughfares, in any city or town in all times of public processions, public rejoicings, or illuminations, or in case of fires, and by such directions and regulations provide for keeping order and for preventing any obstructions of the thoroughfares in the immediate neighbourhood of all public buildings and offices, theatres, and other places of public resort, and in any case where the streets or thoroughfares may be thronged or may be liable to be obstructed, and for causing all vehicles to proceed at a foot-pace by any building used for divine worship during the hours in which divine worship is being held, on Sunday, Christmas Day, or Good Friday, and may give such directions, and take such steps as may seem expedient to him to prevent any interference with or annoyance of any congregation or meeting engaged in divine worship in any building consecrated or otherwise, caused by any band, procession or other gathering or in any other manner. And he may also give and make suitable directions and regulations for keeping order and preventing obstructions on and near the water on which any regatta shall be held, and any person not observing any such directions and regulations after being made acquainted with the same shall be liable to be arrested, without warrant, and, on conviction, to a penalty not exceeding five pounds.

Part VI.—General Provisions as to Offences, and Penalties to be in Force Throughout the State, and Summarily Punishable.

53. Every person who shall be found drunk in any street, public place, or in any passenger boat or vehicle, shall for the first offence be liable on conviction to a penalty not exceeding one pound, or to imprisonment, with or without hard labour, for any term not exceeding seven days, and for any second or subsequent offence to a penalty not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding twenty-one days.

Penalty on drunkards.

Disorderly  
conduct.

54. Every person who shall be guilty of any disorderly conduct on any street, public place, or in any passenger boat or vehicle, any Police Station, or lock-up, shall, on conviction, be liable to a penalty of not more than ten pounds for every such offence, or to imprisonment, with or without hard labour, for any term not exceeding six calendar months, or to both fine and imprisonment.

55. [*Repealed by 1 and 2 Edwardi VII., No. 14, s. 3.*]

56. [*Repealed by 1 and 2 Edwardi VII., No. 14, s. 3.*]

Negligent or  
furious  
driving.

57. Every person who shall ride or drive in any street so negligently, carelessly, or furiously, that the safety of any other person might thereby be endangered, shall, on conviction, be liable to a penalty of not more than forty shillings.

Injuring  
public  
property.  
Amended by  
No. 6 of 1954,  
s. 2.

58. Every person who shall break or injure any public property or the property of any public company or body shall repair the injury committed, to the extent in value not exceeding one hundred pounds, to be estimated by the Justice before whom such offender shall be brought, and when such injury shall be wantonly done shall in addition forfeit and pay, upon conviction for every such offence, any sum not exceeding twenty-five pounds or be liable to imprisonment for a term not exceeding six months.

Damage to  
animals,  
plants, etc.,  
in gardens.  
2 Edw. VII.,  
No. 31, s. 10.

58A. Whoever wilfully or wantonly does or attempts to do any act which may, directly or indirectly, damage, injure, or destroy—

No. 15 of  
1952, s. 7.  
Schedule  
Item No. 30.  
Amended by  
No. 6 of  
1954, s. 3.

- (a) any beast, bird, reptile, fish, or other living creature, or any egg, or spawn thereof; or
- (b) any garden, flower bed, tree, shrub, plant, or flower; or

- (c) any building, structure, or other property, in any place maintained and used as a garden for zoological, botanical, or acclimatisation purposes, or for public resort and recreation, is guilty of an offence, and liable, on summary conviction, to a penalty not exceeding twenty-five pounds, or to imprisonment, with or without hard labour, not exceeding six months.

59. Every person who in any street or public place or to the annoyance of the inhabitants or passengers, shall sing any obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent, or obscene language, shall be deemed guilty of disorderly conduct and be punishable accordingly, and any common prostitute who shall solicit, importune or accost any person or persons for the purpose of prostitution, or loiter about for the purpose of prostitution in any street, or place, or within the view or hearing of any person passing therein, and any person who shall use any threatening, abusive, or insulting words or behaviour in any public or private place, whether calculated to lead to a breach of the peace, or not, or who shall extinguish wantonly any light set up for public convenience, shall forfeit and pay on conviction any sum not exceeding two pounds, or may be committed to gaol for any period not exceeding one calendar month.

Obscenity  
and other  
offences.

60. Every person other than a chemist, druggist, or eating-house keeper who shall trade or deal, or keep open any place for the purpose of trade or dealing (the shops or houses of butchers, bakers, fishmongers, and greengrocers, until the hour of ten in the forenoon, and of bakers and pastrycooks between the hours of twelve noon and two in the afternoon, respectively, only excepted) on the Lord's Day shall, on conviction, forfeit and pay for every such offence a sum not exceeding five pounds.

To cause the  
Lord's Day  
to be  
observed.

As to not  
suffering  
games or  
play on a  
Sunday.

61. Every owner of any public billiard room or place of amusement within any city or town who shall permit or suffer any one to play in his house or premises any game on Sunday, Christmas Day, or Good Friday, shall on conviction forfeit and pay a sum not exceeding five pounds nor less than three pounds; and it shall be lawful for any police constable, and he is hereby required to disperse or cause to be dispersed all persons gathering together on any of the days aforesaid in any public or open place for the purpose of gambling or playing at any game for money and to take and seize or cause to be taken and seized any implement, instrument, or animals used or intended to be used or which have been used therein, or which such persons may have about or near them, and to destroy or carry or lead away the same; and every person actually gambling or playing as aforesaid shall be liable on conviction to a penalty of any sum not exceeding five pounds, or in the discretion of the convicting Justice may be imprisoned with or without hard labour for any term not exceeding two calendar months.

Stealing a  
dog, etc.

62. [*Repealed 1 and 2 Edwardi VII., No. 14, s. 3.*]

Pointing  
firearms  
punishable.  
58 Vict.,  
No. 26, s. 5.  
No. 15 of 1952,  
s. 7.  
Schedule,  
Item No. 13.

62A. Every person pointing any firearm at any other person shall be liable, on conviction, to a penalty not exceeding ten pounds.

Taking dog  
into public  
gardens.

63. Every person who shall knowingly bring or take any dog into any public garden, declared such by notice published in the *Government Gazette*, or shall suffer any dog to remain in any such garden, shall for every such offence be liable on conviction to a penalty of not more than ten shillings.

Challenge  
to fight.

64. Every person who shall send or accept, either by word or letter, or publish any challenge to fight for money, or shall engage in any prize-fight, shall, upon conviction thereof by any two or more Justices, forfeit and pay a sum not more than twenty pounds,



or may be imprisoned, with or without hard labour, for any term not exceeding three calendar months; and the convicting Justices may, if they shall think fit, also require the offender to find sureties for keeping the peace.

64A. (1) Any person who obtains any chattel, money or valuable security by passing a cheque within a period of sixty days from and commencing on the day of the opening of the bank account on which the cheque is drawn, which cheque is not paid on presentation, shall, unless he proves

(a) that he had reasonable grounds for believing that that cheque would be paid in full on presentation; and

(b) that he had no intent to defraud;

be liable on summary conviction to a fine of fifty pounds or to imprisonment for a term of six months, notwithstanding that there may have been some funds to the credit of the account on which the cheque was drawn at the time it was passed.

(2) No prosecution for the offence defined in this section shall be commenced without the written consent of the Commissioner of Police.

65. Every person who shall commit any of the next following offences shall be deemed an idle and disorderly person within the meaning of this Act, and shall on conviction be liable to imprisonment for any term not exceeding six calendar months with or without hard labour:—

(1) Every person having no visible lawful means of support or insufficient lawful means of support, who being thereto required by any Justice, or who having been duly summoned for such purpose, or brought before any Justice, shall not give a good account of his means of support to the satisfaction of such Justice.

Valueless  
cheques.  
S. 64A  
inserted by  
No. 10 of 1959,  
s. 3.

Idle and  
disorderly  
persons.  
Amended by  
No. 8 of 1955,  
s. 2.  
No. 20 of 1956,  
s. 2.

- (2) Every person not being an aboriginal native, or the child of any aboriginal native, who, being found lodging, or wandering in company with any of the aboriginal natives of the said State, or of the adjoining States, and being thereto required by any Justice, shall not give a good account to the satisfaction of such Justice that he has a lawful fixed place of residence and lawful means of support, and that such lodging or wandering has been for some temporary and lawful occasion only.
- (3) Every person wandering abroad, or from house to house, or placing himself in any public place, street, highway, court, or passage to beg or gather alms, or causing, or procuring, or encouraging any person to do so, or begging or gathering alms in any other place and not quitting such place whenever thereto bidden or requested.
- (4) Every person found in possession of any weapon or instrument or thing capable of being used for the purpose of disguise, who, being thereto required, shall not give a good account of his means of support, and assign a valid and satisfactory reason for such possession.
- (4a) Every person who, without lawful excuse, carries or has on or about his person any rifle, gun, pistol, sword, dagger, knife, sharpened chain, club, bludgeon or truncheon, or any other offensive or lethal weapon or instrument.
- (5) Every person having in his possession, without lawful excuse, the proof of which excuse shall be on such person, any deleterious drug.
- (6) Every habitual drunkard having been thrice convicted of drunkenness within the preceding twelve months.

- (7) The occupier of any house which shall be frequented by reputed thieves, prostitutes, or persons who have no visible means of support.
- (8) Every common prostitute wandering in the public streets or highways, or being in any thoroughfare or place of public resort, and behaving in a riotous or indecent manner.
- (9) Every person who habitually consorts with reputed criminals or known prostitutes or persons who have been convicted of having no visible lawful means of support.

Cf. Act  
No. 30, 1929,  
s. 2 (b).  
N.S.W.

Every such weapon, instrument, and thing shall, on conviction of the offender, become forfeited to Her Majesty.

66. Every person who shall commit any of the next following offences shall be deemed a rogue and vagabond within the meaning of this Act, and shall on conviction be liable to imprisonment for any term not exceeding twelve calendar months, with or without hard labour:—

Rogues and  
vagabonds.  
Amended by  
No. 19 of 1933,  
s. 2.

- (1) Every person committing any of the offences in the next preceding section mentioned, having been previously convicted as an idle and disorderly person.
- (2) Every person imposing or endeavouring to impose upon any charitable institution or private individual, by any false or fraudulent representation, either verbally or in writing, with a view to obtain money or any other benefit or advantage.
- (2a) Any person who, by wilfully making any false statement or representation—
  - (a) as to any sum or sums of money being his own personal property then in his possession or power; or
  - (b) as to any property real or personal then owned by him; or

- (c) as to any sum of money then receivable by him by way of income, gift, or allowance; or
- (d) as to any sum of money received by him as salary or wages over any period; or
- (e) as to any employment in which he was engaged over any period; or
- (f) as to any sustenance relief received by him over any period; or
- (g) as to the number of persons then dependent on his earnings; or
- (h) as to the financial position of persons then dependent on his earnings,

obtains or attempts to obtain under any scheme for the relief of unemployed destitute or indigent persons any work or employment or any benefit in money or money's worth either for himself or for any other person.

- (2b) Any person continuing to receive or attempting to receive any such work, employment, or benefit after he shall to his knowledge have become disentitled to receive the same.
- (2c) Provided, that any person convicted of an offence under paragraph (2a) or (2b) of this section shall not be deemed to be a rogue and vagabond, but otherwise shall be liable to a penalty prescribed by this section.
- (3) Every person pretending to tell fortunes, or using any subtle craft, means, or device, to deceive and impose upon any person.
- (4) Every person having in his custody or possession without lawful excuse (the proof of which excuse shall be on such person), any picklock, key, crow, jack, bit, or other implement of housebreaking:

- (5) Every person exposing to view in any street, road, thoroughfare, highway, or public place, or who shall expose or cause to be exposed in any window, or other part of any shop or other building situate in any public place, or highway, or who shall offer for sale or attempt to dispose of any obscene book, print, picture, drawing, or representation.
- (6) Every person playing or betting at thimble-rig, or at or with any table or instrument of gaming, other than a totalisator lawfully permitted to be used, or at any unlawful game, or at any game or pretended game of chance in any public place, to which the public (whether upon or without payment for admittance) have or are permitted to have access.
- (7) Every person apprehended as an idle and disorderly person, and violently resisting any constable or other officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended.
- (8) Every person being found in or upon any place, stable, or outhouse for any unlawful purpose.
- (9) Every person wandering about or lodging in any outhouse, deserted or unoccupied building, or in the open air, or in any vehicle, not having any visible lawful means of support, and not giving a good account of himself.
- (10) Every person leaving without lawful means of support his or her wife or husband, and any parent wilfully refusing or neglecting to maintain either wholly or in part his or her child.

- (11) Any person wilfully and obscenely exposing his person in any street or public place, or in the view thereof, or in any place of public resort.
- (12) Any person fraudulently manufacturing or aiding in the manufacture of any spurious or mixed metal or substance, and any person fraudulently selling or fraudulently offering for sale, as unmanufactured 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.

And each such picklock, key, crow, jack, bit, and other implement of housebreaking, and every such table, or instrument of gaming shall, on conviction of the offender, become forfeited to Her Majesty.

incorrigible  
rogues.

67. Every person who shall commit any of the next following offences shall be deemed an incorrigible rogue, and shall, on conviction before two or more Justices, be liable to imprisonment for any term not exceeding eighteen calendar months, with hard labour:—

- (1) Every person who shall break or escape out of any legal custody.
- (2) Every person committing any offence which shall subject him to be dealt with as a rogue and vagabond, such person having been previously convicted as a rogue and vagabond.
- (3) Every person apprehended as a rogue and vagabond, and violently resisting any constable or other peace officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended.

Provided that nothing shall prevent such offender being committed to the nearest gaol, there to remain until the next General or Quarter Sessions of the Peace to be held in the district wherein or nearest to which the said offence shall be committed; and every offender who shall be so committed as aforesaid shall be there kept to hard labour during the period of his imprisonment.

68. Any constable or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may seize any horse or other cattle, or any money, goods, or vehicle in the possession or use of the persons so apprehended and charged, and may take and convey the same as well as such persons before a Justice or Justices, and the Justice or Justices by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may order that such offender be searched, and that his trunks, boxes, bundles, parcels, or packages, and any cart or other vehicle which may have been found in his possession or use, or under his control, shall be inspected and searched; and the said Justice or Justices may order that any money which may then be found with or upon such offender shall be paid and applied to defray the expense of apprehending and conveying to gaol and maintaining such offender during the time for which he shall have been committed, and the expense of the keep of any horse or other cattle so seized, during the time such horse or cattle shall be detained; and if, upon such search, money sufficient for the purposes aforesaid be not found, such Justice or Justices may order that such horse, cattle, and so much as is necessary of such other effects then found shall be sold, and that the produce of such sale shall be paid and applied as aforesaid, and also that the surplus of such money or effects, after deducting the charges for such sale, shall be returned to the said offender. And when any person shall be taken into custody on a charge of felony, his premises and property may be inspected and searched by any officer or constable of the Police Force.

Seizure of  
property and  
searching.

Persons suspected of having or conveying stolen goods.

69. Every person who shall be brought before any Justice charged with having on his person or in any place, or conveying, in any manner any thing which may be reasonably suspected of being stolen or unlawfully obtained, and who shall not give an account to the satisfaction of such Justice how he came by the same, shall be liable to a penalty of not more than ten pounds, or in the discretion of the Justice may be imprisoned, with or without hard labour, for any term not exceeding six calendar months.

In case of information given that there is reasonable cause for suspecting that any goods have been unlawfully obtained and are concealed.

70. If information shall be given on oath to any Justice that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any place or in any vehicle or package, it shall be lawful for such Justice, by special warrant under his hand directed to any police constable, to cause every such place to be entered, and the same and every such vehicle or package to be searched, at any time of the day or by night, and on any Sunday or other day; and the said Justice, if it shall appear to him necessary, may empower such police constable with such assistance as may be found necessary, such police constable having previously made known such his authority, to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made any such thing shall be found, then to convey the same before a Justice or to guard the same on the spot until the offenders are taken before a Justice, or otherwise dispose thereof in some place of safety, and moreover to take into custody and carry before a Justice every person found in such house or place, or whom he shall have reasonable cause to suspect to have been privy to the deposit of any such thing knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

Party from whom stolen goods are received to be examined by the Magistrate.

71. When any person shall be brought before any Justice charged with having or conveying any thing stolen or unlawfully obtained, and shall



declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant, to convey the same for some other person, such Justice is hereby authorised and required to cause every such person, and also if necessary every former or pretended purchaser or other person through whose possession the same shall have passed, to be brought before him and examined, and to examine witnesses upon oath touching the same; and if it shall appear to such Justice that any person shall have had possession of such thing and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed guilty of a misdemeanour; and the possession of a carrier or agent or servant shall be deemed to be the possession of the person who shall have employed him to convey the same; and every such person shall on conviction be liable to a penalty of not more than ten pounds, or to be imprisoned, with or without hard labour, for any term not exceeding six calendar months.

72. If any goods shall be stolen or unlawfully obtained from any person, or being lawfully obtained shall be unlawfully deposited, pawned, pledged, sold, or exchanged, and complaint shall be made thereof to any Justice, and that such goods are in the possession of any broker, or dealer, or of any person who shall have advanced money upon the credit of such goods, it shall be lawful for such Justice to issue a summons or warrant for the appearance of such broker or dealer, and for the production of the goods, and to order such goods to be delivered up to the owner thereof either without any payment or upon payment of such sum and at such a time as the Justices shall think fit; and every broker or dealer who being so ordered shall refuse or neglect to deliver up the goods, or who shall dispose of or make away with the same after notice that such goods were stolen or unlawfully obtained as aforesaid, shall forfeit to the owner of the goods the full value thereof to be

Power to order delivery of goods stolen or fraudulently obtained, and in possession of brokers and other dealers in second-hand property.

determined by the Justice: Provided always, that no such order shall bar any broker or dealer from recovering possession of such goods by suit or action at law from the person into whose possession they may come by virtue of the Justice's order, so that such action be commenced within six calendar months next after such order shall be made.

For removing doubts as to ordering the restoration of property unlawfully pawned, etc.

73. It shall be lawful for any Justice to order that any goods unlawfully pawned, pledged, or exchanged which shall be brought before him, and the ownership of which shall be established to the satisfaction of such Justice, shall be delivered up to the owner by the party with whom they were so unlawfully pawned, pledged, or exchanged, either without compensation or with such compensation to the party in question as the Justice may think fit.

Power to order delivery of possession of goods charged to have been stolen or fraudulently obtained and in custody of constable.

74. If any goods or money charged to be stolen or unlawfully obtained shall be in the custody of any police officer or constable by virtue of any warrant of a Justice, or in prosecution of any charge of felony or misdemeanour in regard to the obtaining thereof, and the person charged with stealing or obtaining possession as aforesaid shall not be found, or shall have been summarily convicted or discharged, or shall have been tried and acquitted, or if such person shall have been tried and found guilty, but the property so in custody shall not have been included in any information upon which he shall have been found guilty, it shall be lawful for any Justice to make an order for the delivery of such goods or money to the party who shall appear to be the rightful owner thereof, or in case the owner cannot be ascertained then to make such order with respect to such goods or money as to such Justice shall seem meet: Provided always, that no such order shall be any bar to the right of any person or persons to sue the party to whom such goods or money shall be delivered, and to recover such goods or money from him by action at law, so

that such action shall be commenced within six calendar months next after such order shall be made.

75. (1) When the owner of any goods or money charged to be stolen or unlawfully obtained shall be unknown, the member of the Police Force having the same in his custody after the expiration of twelve months during which no owner shall have appeared to claim the same, shall—

- (a) pay such money in his custody as aforesaid to the Treasurer of the State;
- (b) sell or dispose of such goods in his custody as aforesaid and pay the net proceeds of such sale or disposition to the Treasurer of the State.

(2) All moneys paid to the Treasurer of the State under the authority of subsection (1) hereof shall be received by him for the public uses of the State.

(3) This section shall have effect and operate and shall be deemed to have had effect and to have been in operation as from and after the twenty-ninth day of June, one thousand nine hundred and thirty-nine.

76. Any goods and chattels which have lawfully come to the possession of any member of the Police Force and which are unclaimed shall and may be sold and disposed of by the direction of the Commissioner of Police by public auction (a notice of such sale having been previously published thrice in the *Government Gazette*); and the clear produce of such sale shall be paid to the Treasurer to the use of Her Majesty, her heirs and successors, for the public use of the said State; and every such sale shall be valid against all persons; and no person selling any goods or chattels under the provisions hereof shall be subject or liable to pay any auction or other duty in consequence of such sale.

Unclaimed stolen goods delivered to the receiver may be sold after twelve months.  
Application of proceeds.  
Repealed and inserted by No. 19 of 1940, s. 3.

Unclaimed goods in possession of police may be sold by Commissioner.

Offence of having possession of gold or pearl suspected of being stolen.  
2 Edw. VII., No. 31, s. 2.  
No. 15 of 1952, s. 7.  
Schedule Items No. 15 and No. 16.  
No. 10 of 1907, s. 2.

**76A.** Any person who—

(1) is charged before any Resident or Police Magistrate with having—

(a) on his person or on any animal, or in any cart or other vehicle or in any boat or vessel; or

(b) in his possession on any premises of which he is the tenant or occupier, or reputed tenant or occupier,

any gold or pearl reasonably suspected of being stolen or unlawfully obtained; and

(2) does not prove to the satisfaction of the Magistrate that such gold or pearl was lawfully obtained,

is liable, on summary conviction, to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any term not exceeding six months.

Occupier of premises where gold found deemed to be in possession thereof.  
2 Edw. VII., No. 31, s. 3.  
No. 15 of 1952, s. 7.  
Schedule Items No. 17 and No. 18.  
No. 10 of 1907, s. 2.

**76B.** Any person being the reputed tenant or occupier of any premises at the time when any gold or pearl reasonably suspected of being stolen or unlawfully obtained is found thereon and seized by any police officer shall be deemed to have been in possession of such gold or pearl until the contrary is proved.

Persons found upon premises where stolen gold seized may be convicted.  
2 Edw. VII., No. 31, s. 4.  
No. 15 of 1952, s. 7.  
Schedule Items No. 19 and No. 20.  
No. 10 of 1907, s. 2.

**76C.** (1) Any person who—

(a) is charged before any Resident or Police Magistrate with being present at the time when any gold or pearl reasonably suspected of being stolen or unlawfully obtained is found and seized by any police officer on any premises; and

(b) is unable to give an account of his presence there to the satisfaction of the magistrate,

is liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment, with or without hard labour, for any term not exceeding six months.

(2) A person may be convicted under this section notwithstanding that no charge is laid or conviction obtained against the tenant or occupier or reputed tenant or occupier of the premises.

76D. (1) Any person charged before any Resident or Police Magistrate with having assisted in the commission of an offence under section seventy-six A of this Act, who is unable to give an account of himself to the satisfaction of the Magistrate, is liable to a penalty of not more than twenty-five pounds, or to imprisonment, with or without hard labour, for any term not exceeding three months;

Accessories.  
2 Edw. VII.,  
No. 31, s. 5.  
No. 15 of 1952,  
s. 7.  
Schedule  
Items No. 21  
and No. 22.  
No. 10 of 1907,  
s. 2.

(2) For the purpose of this section any person proved—

(a) to have been watching or patrolling outside and in the vicinity of any premises on or about which gold or pearl reasonably suspected of being stolen or unlawfully obtained is found and seized by any police officer; or

(b) to have been accompanying any person having on his person, or on any animal, or in any cart or vehicle, gold or pearl reasonably suspected of being stolen or unlawfully obtained, and which is seized by any police officer,

shall be deemed to be a person who has assisted in the commission of an offence under subsection one, unless the contrary is proved to the satisfaction of the Magistrate.

76E. Upon a conviction under any of sections seventy-six A, seventy-six C and seventy-six D of this Act, the Magistrate may order the gold or pearl to be delivered to the person whose right to the same shall have been found by such Magistrate, and failing any such person, the gold or pearl shall be forfeited to the Crown. In this and the preceding sections of this Act the word "pearl" includes baroque pearl and blister pearl.

Magistrate  
may order  
restitution  
of gold.  
2 Edw. VII.,  
No. 31, s. 6.  
No. 15 of 1952,  
s. 7.  
Schedule  
Items No. 23  
and No. 24.  
No. 10 of  
1907, s. 2.

Summary proceedings against keepers, etc., of premises for purposes of prostitution.  
2 Edw. VII., No. 31, s. 7.  
No. 15 of 1952, s. 7.  
Schedule Item No. 25.

**76F.** Any person who—

- (1) keeps or manages, or acts, or assists in the management of any premises for purposes of prostitution; or
- (2) being the tenant, lessee, or occupier of any premises, knowingly permits such premises, or any part thereof, to be used for purposes of prostitution; or
- (3) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, or collects the rent with the knowledge that such premises, or some part thereof, are or is to be used for purposes of prostitution, or is a party to the continued use of such premises, or any part thereof, for purposes, of prostitution, is liable, on summary conviction—
  - (a) to a fine not exceeding twenty-pounds, or imprisonment, with or without hard labour, not exceeding six months; and
  - (b) on a second or subsequent conviction, to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, not exceeding twelve months.

It is immaterial whether the premises kept or occupied for prostitution are kept or occupied by one person or more than one person.

Summary proceedings against persons connected with prostitution.  
2 Edw. VII., No. 31, s. 8.  
No. 15 of 1952, s. 7.  
Schedule Items No. 26 and No. 27

**76G.** (1) Every male person who—

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in any public place persistently solicits or importunes for immoral purposes,

shall be deemed a rogue and vagabond within the meaning of this Act, and may be dealt with accordingly.

(2) Where a male person lives with, or is habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he can satisfy the Court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

(3) If it be made to appear by information on oath to any Police or Resident Magistrate that there is reason to suspect that any house or part of a house is used by any female for purposes of prostitution, and that any male person residing in or frequenting the house is living wholly or in part on the earnings of the said female, such Magistrate may issue a warrant authorising any police constable to enter and search the house, and to arrest such male person.

76H. (1) Any person who, except by statutory authority or with the license, in writing, of the Chief Secretary—

- (a) keeps, opens, or uses any premises for public entertainment or amusement on any Sunday or on Christmas Day or on Good Friday in any year, or during any part of any such days respectively, and to which persons are admitted by payment of money, or by tickets sold for money, or in which, or in respect of which, a charge is made for seats, or a collection of money is made; or
- (b) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, for such purpose, is liable, on summary conviction, to a penalty not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any term not exceeding six months.

(2) No prosecution shall be instituted under this section except with the consent, in writing, of an inspector or sub-inspector of police, of whose signature judicial notice shall be taken.

(3) Any lecture, address, or discussion on science, ethics, social duties, literature, or art, or on any matter of public interest, shall not be deemed a public entertainment or amusement within the meaning of this section.

Sunday entertainments prohibited. 2 Edw. VII., No. 31, s. 9. No. 15 of 1952, s. 7. Schedule Items No. 28 and No. 29. No. 6 of 1945, s. 2.

Definitions.  
2 Edw. VII.,  
No. 31, s. 11.  
No. 15 of 1952,  
s. 7.  
Schedule  
Item Nos. 31  
and 32.

76I. For the purposes of sections seventy-six A to seventy-six H inclusive of this Act—

“gold” means gold bullion, retorted gold, gold ores, gold amalgam, gold alloys, precipitates containing gold, slag, concentrates, tailings, and residues.

“police officer” includes any constable or officer of police.

“premises” include any house, shop, room, building, erection, yard, or other place.

Power to deal  
summarily  
with cases  
of oppressive  
distress.

77. On complaint made to any Justice by any person who shall have occupied any house or lodging by the week or month, or whereof the rent does not exceed the rate of fifty-two pounds by the year, that his goods have been taken from him by an unlawful distress, or that the landlord or his broker or agent has been guilty of an irregularity or excess in respect of such distress, it shall be lawful for such Justice to summon the party complained against, before any two or more Justices, and if upon the hearing of the matter it shall appear to the said Justices that such distress was improperly taken or unfairly disposed of, or that the charges made by the party having distrained or having attempted to distrain are contrary to law, or that the proceeds of the sale of such distress have not been duly accounted for to the owner thereof, it shall be lawful for the said Justices to order the distress so taken, if not sold, to be returned to the tenant on payment of the rent which shall appear to be due at such time as the said Justices shall appoint, or if the distress shall have been sold, then to order payment to the said tenant of the value thereof, deducting thereout the rent which shall so appear to be due, such value to be determined by the said Justices; and such landlord or the party complained against, in default of compliance with any such order, shall forfeit to the party aggrieved the value of such distress not being greater than fifty-two pounds, such value to be determined by the said Justices.



78. On complaint made to any Justice by any person claiming to be entitled to the property or possession of any goods which are detained by any other person, the value of which shall not be greater than fifty pounds, and not being deeds, muniments, or papers relating to any property of greater value than fifty pounds, it shall be lawful for such Justice to summon the person complained of before any two or more Justices who shall inquire into the title thereto or to the possession thereof, and if it shall appear to the said Justices that such goods have been detained without just cause after due notice of the claim made by the person complaining, or that the person detaining such goods 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 owner thereof, it shall be lawful for the said Justices to order the goods to be delivered to the owner thereof either absolutely or upon tender of the amount appearing to be due by such owner (which amount the said Justices are hereby authorised to determine), or 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, then upon tender of amends for the non-performance thereof (the nature or amount of which amends the said Justices are hereby authorised to determine), and every person who shall neglect or refuse to deliver up the goods according to such order shall forfeit to the party aggrieved the full value of such goods, not greater than the sum of fifty pounds, such value to be determined by the said Justices. Provided always, that no such order shall bar any person from recovering possession of the goods or money so delivered or forfeited by suit or action at law from the person to whose possession such goods or money shall come by virtue of such order, so that such action be commenced within six calendar months next after such order shall be made.

Power to order delivery of goods unlawfully obtained to the owner.

79. [*Repealed by No. 33 of 1912, s. 2.*]

Unlawfully  
taking or  
branding  
animals.  
56 Vict., No.  
10, s. 12.  
No. 15 of 1952,  
s. 7.  
Schedule  
Item No. 11.

**79A.** Whosoever takes and works or otherwise uses or takes for the purpose of working or using any cattle or dog the property of another person, without the consent of the owner or person in lawful possession thereof, or who takes any such cattle or dog for the purpose of secreting the same or obtaining a reward for the restoration or pretended finding thereof or for any other fraudulent purpose, shall be guilty of a misdemeanour, and on conviction before two justices shall be liable to imprisonment for a term not exceeding twelve months, or to pay a fine not exceeding fifty pounds.

The term "cattle" mentioned in this section shall include any camel, horse, mare, gelding, colt, foal, filly, ass, mule, bull, cow, ox, steer, heifer, calf, wether, ram, ewesheep, lamb, pig, goat, deer, alpaca, llama or vicuna, and every hybrid or cross thereof.

Malicious  
injury to  
property.  
Amended by  
No. 6 of 1954,  
s. 4.

**80.** Every person who shall wilfully, wantonly, or maliciously commit any damage, injury, or spoil, to or upon any real or personal property whatsoever, either of a private or public nature, not otherwise herein provided for, shall, on conviction, be liable to a penalty not exceeding twenty-five pounds; and shall also forfeit and pay such further sum of money as shall appear to such Justice to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of fifty pounds, or may be imprisoned for any term not exceeding six calendar months; and the last-mentioned sum of money shall be paid to the party aggrieved. Provided that nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of; nor to any trespass, not being unlawful or malicious, committed in hunting, fishing, or in the pursuit of game; but that every such trespass shall be punishable in the same manner as if this Act had not been passed.

81. Every person who in any of the waters of the State shall remove any boat, flat, or barge from its usual anchorage or mooring, or from the place where the same shall have been last left by the owner, or person in charge thereof, or his boatmen or servants, or who shall remove out of any such vessel any mast, sail, oar, or other furniture, or shall use such vessel or furniture, without the consent of the owner or other lawful authority, shall on conviction forfeit a sum not exceeding three pounds, together with such a reasonable sum as shall appear to the convicting Justice to be compensation for any loss of work, or loss of time, or damage sustained by the owner or person in charge of such vessel or furniture, by reason of such unauthorisid removal or use thereof.

Removing  
boat or boat  
furniture.

82. Every person who shall commit any of the next following offences as to any articles of property in this section mentioned (or who shall receive any of the same, knowing them to have been stolen or unlawfully come by), shall on conviction for the first offence be liable to the punishment, and for any second or subsequent offence to double the amount of punishment hereinafter specified in each case:—

Penalty on  
persons  
destroying  
property  
with intent  
to steal, or  
retaining or  
disposing of  
property.

- (1) Every person who shall steal, or damage with intent to steal any part of any live or dead fence, or any post, pale, or rail, set up or used as a fence, or any style or gate, or any part thereof respectively, shall pay to the party aggrieved the value of the property stolen, or the amount of the damage done, and shall also be liable to a fine not exceeding five pounds, or to be imprisoned, with or without hard labour, for a term not exceeding one calendar month.
- (2) Every person who shall steal or shall cut, break, root up, or otherwise destroy or damage, with intent to steal the whole or any part of any growing tree, sapling, shrub, or underwood, or any growing fruit or

vegetable production, or any growing cultivated root or plant, shall (in case the value of the property stolen, or the amount of the damage done, shall not exceed five pounds) pay to the party aggrieved the value of the property stolen, or the amount of the injury done, and shall be liable to a fine not exceeding five pounds, or to be imprisoned, with or without hard labour, for any term not exceeding one calendar month:

- (3) Every artificer, workman, journeyman, apprentice, or other person who shall unlawfully dispose of or retain in his possession without the consent of the person by whom he shall be hired, retained, or employed, any goods, wares, work or materials committed to his care or charge (the value of such goods, wares, work, or materials, not exceeding the sum of ten pounds), shall pay to the party aggrieved such compensation as the convicting Justice shall think reasonable, and shall also be liable to a fine not exceeding ten pounds, or to be imprisoned, with or without hard labour, for a term not exceeding three calendar months; and any person to whom any such property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed with respect to such property, is hereby authorised to arrest without a warrant, and with all convenient speed, cause to be delivered into the custody of a constable, the person offering the same, together with such property, to be dealt with according to law; and in every such case any such stolen property shall by order of the Justice by whom such case shall be heard and determined, be delivered over to the rightful owner, if known, or if the rightful owner shall not be known, the same shall be retained and sold, and the proceeds thereof applied in like manner as any penalties awarded under this Act.

Persons offering such property for sale may be arrested.

83. Every person who shall commit any of the next following offences shall, on conviction before any two Justices, be liable to the punishments hereafter specified in each case:—

Penalty on persons selling adulterated or unwholesome articles of food.

- (1) Every person who shall sell, or offer for sale, as food for human consumption, any grain, flour, meat, fish, fruit, or vegetable, which shall, in the whole or in part be unfit for human consumption, or in any manner adulterated, shall forfeit the same, to be disposed of as such Justices shall direct, and shall also be liable to a fine not exceeding ten pounds, or be imprisoned for a term not exceeding two calendar months with or without hard labour:
- (2) Every person who shall exhibit for sale any unwholesome or fraudulently prepared provisions, meat or other food of any kind for man or beast, or shall practise any deceit or fraud in respect to the quality of any such provisions or food, shall forfeit all such provisions, to be disposed of as such Justices shall direct, and shall be liable to a fine not exceeding ten pounds or to be imprisoned, with or without hard labour, for any term not exceeding two calendar months; and any Justice may seize, or cause to be seized, any of the articles hereinbefore lastmentioned as to which any such offence shall have been committed.

83A. (1) The provisions of this Act are subject to The Totalisator Act, 1883, the Totalisator Regulation Act, 1911, the Lotteries Control Act, 1954, the Betting Control Act, 1954, and the Totalisator Agency Board Betting Act, 1960.

This Act is subject to certain Acts inserted by No. 63 of 1954, s. 5 and Pt. III of the Schedule. Amended by No. 50 of 1960, s. 20 (3) and Schedule Pt. II. Cf. ss. 84-94. Cf. Crim. Code s. 211 (2).

(2) Without prejudice to the operation of subsection (1) of this section, the provisions of sections eighty-four G and eighty-four H of this Act do not apply to the Totalisator Agency Board established under the Totalisator Agency Board Betting Act, 1960.

Regulation  
of houses of  
public  
resort.  
Amended by  
No. 6 of 1954,  
s. 5.

84. Every person who shall have or keep any house, shop, or room, or any place of public resort, and who shall wilfully and knowingly permit drunkenness or other disorderly conduct in such house, shop, room, or place, or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer persons apparently under the age of sixteen years to enter and remain therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, shall, on conviction for every such offence, be liable to a penalty of not more than five pounds: Provided always, that if the offender be a person licensed under the Wines, Beer, and Spirit Sale Act, 1880,\* this enactment shall not be construed to exempt him from the penalties or penal consequences to which he may be liable for committing an offence against the tenor of his license or the Act under which it is granted.

No house,  
etc., to be  
kept for the  
purpose of  
owner or  
occupier  
betting with  
other  
persons.  
56 Vict.,  
No. 10, s. 4.  
No 15 of 1952,  
s. 7.  
Schedule  
Item No. 1.

84A. No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier or keeper, or person using the same, or of any person having the care or management, or in any manner conducting the business thereof, betting with persons resorting thereto, or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper or person as aforesaid, as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race or other race, fight, game, sport or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room or other place opened, kept, or used for the purposes aforesaid or any of them, is hereby declared to be common nuisance and contrary to law.

\*See Licensing Act, 1911-1961.

84B. Every house, room, office, or place opened, kept or used for the purposes in the last mentioned section, or any of them shall be taken and deemed to be a common gaming house.

Betting houses to be gaming houses.  
56 Vict., No. 10, s. 5.  
No. 15 of 1952, s. 7.  
Schedule Item No. 2.

84C. Any person who, being the owner or occupier of any house, office, room, or other place, or a person using the same, shall open, keep or use the same for the purposes hereinbefore mentioned, or any of them, and any person who, being the owner or occupier of any house, room, office, or other place, shall knowingly and wilfully permit the same to be opened, kept, or used by any other person for the purposes aforesaid, or any of them, and any person having the care or management of, or in any manner assisting in conducting the business of any house, office, room, or place opened, kept or used for the purposes aforesaid, or any of them, shall be liable on conviction to a penalty of not more than one hundred pounds, or to be imprisoned, with or without hard labour, for any term not exceeding six calendar months.

Penalty on owner or occupier of betting house.  
56 Vict., No. 10, s. 6.  
No. 15 of 1952, s. 7.  
Schedule Item No. 3.

84D. Any person, being the owner or occupier of any house, office, room, or place opened, kept, or used for the purposes aforesaid, or any of them, or any person acting for or on behalf of any such owner or occupier, or any person having the care or management or in any manner assisting in conducting the business thereof who shall receive directly or indirectly any money or valuable thing as a deposit on any bet on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to a horse race or any other race, or any fight, game, sport, or exercise, or as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency, and any person giving any acknowledgment, note, security, or draft on the receipt of any money or valuable thing so paid or given as aforesaid, purporting or intended to entitle the bearer or any other person to receive any money

Penalty on persons receiving money on condition of paying money on event of any bet.  
56 Vict., No. 10, s. 7.  
No. 15 of 1952, s. 7.  
Schedule Item No. 4.

or valuable thing on the happening of any such event or contingency as aforesaid, shall be liable on conviction to a penalty of not more than fifty pounds, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

Money so received may be recovered from persons receiving the same.  
56 Vict., No. 10, s. 8.  
No. 15 of 1952, s. 7.  
Schedule Item No. 5.

**84E.** Any money or valuable thing received by any such person aforesaid as a deposit on any bet, or as or for the consideration for any such assurance, undertaking, promise, or agreement as aforesaid, shall be deemed to have been received to or for the use of the person from whom the same was received, and such money or valuable thing or the value thereof may be recovered accordingly, with full costs of suit in any court of competent jurisdiction.

This Act not to extend to stakes due to owner of horse winning a race.  
56 Vict., No. 10, s. 9.  
No. 15 of 1952, s. 7.  
Schedule Item No. 6.

**84F.** Nothing in this Act contained shall extend to any person receiving or holding any money or valuable thing by way of stakes or deposit to be paid to the winner of any race or lawful sport, game, or exercise, or to the owner of any horse engaged in any race.

Penalty on persons exhibiting placards or advertising betting houses.  
56 Vict., No. 10, s. 10.  
No. 15 of 1952, s. 7.  
Schedule Item No. 7.

**84G.** Any person exhibiting or publishing or causing to be exhibited or published any placard, handbill, card, writing, sign or advertisement whereby it shall be made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers in manner aforesaid, or for the purposes of exhibiting lists for betting, or with the intent to induce any person to resort to such house, office, room, or place for the purpose of making bets or wagers in manner aforesaid, or any person who, on behalf of the owner or occupier of any such house, office, room, or place, or persons using the same, shall invite other persons to resort thereto for the purpose of making bets or wagers in manner aforesaid, shall be liable on conviction to a penalty of not more than thirty pounds, or to imprisonment, with or without hard labour, for any term not exceeding two calendar months.



84H. Where any letter, circular, telegram, placard, handbill, card or advertisement is sent, exhibited, or published—

Penalty on persons advertising as to betting or lotteries.  
56 Vict., No. 10, s. 11.  
No. 15 of 1952, s. 7.  
Schedule Item No. 8.

- (a) whereby it is made to appear that any person either in Western Australia or elsewhere, will, on application, give information or advice for the purpose of or with respect to any such bet or wager, or any such event or contingency as is mentioned in this Act, or will make on behalf of any other person any such bet or wager as is mentioned in this Act; or
- (b) with intent to induce any person, whether any particular person or generally, to apply to any house, office, room, or place, or to any person with the view of obtaining information or advice for the purpose of any such bet or wager, or with respect to any such event or contingency as is mentioned in this Act;
- (c) inviting any person, whether any particular person or generally, to make or take any share in or in connection with any such bet or wager, or to take or purchase any share, ticket, or interest in any lottery, or to subscribe money or goods to entitle him to participate in any distribution of money or goods, on the happening of any such event or contingency as is mentioned in this Act;

every person sending, exhibiting or publishing, or causing the same to be sent, exhibited or published, shall be subject to the penalties provided in the last preceding section with respect to offences under that section.

84I. All contracts or agreements, whether by parol or in writing, by way of gaming or wagering, shall be null and void, and no action or suit shall be brought or maintained in any court of law or equity for recovering any sum of money or valuable thing alleged to be won upon any wager, or which shall have been deposited in the hands of any person to abide the event on which any wager shall have.

Wagers not recoverable at law.  
56 Vict., No. 10, s. 12.  
No. 15 of 1952, s. 7.  
Schedule Item No. 9.

been made: Provided always, that this provision shall not be deemed to apply to any subscription, or contribution, or agreement to subscribe or contribute for or toward any plate, prize, or sum of money to be awarded to the winner of any lawful game, sport, pastime, or exercise.

Warrant to enter, search and seize in common gaming house.  
Amended by No. 8 of 1955, s. 3.

85. Any Justice, upon complaint made before him on oath that there is reason to suspect any house, room, premises, or place to be kept or used as a common gaming house, and that it is commonly reported and believed by the deponent so to be, may give authority by warrant under his hand in the form contained in the Second Schedule hereto (when in his discretion he shall think fit) to any officer or constable of the Police Force to enter with such assistance as may be found necessary into such house, room, premises, or place, and (if necessary) to use force for making such entry, whether by breaking open doors or otherwise, and to arrest, and bring before any two or more Justices all persons found therein, and to seize all tables and instruments of gaming, moneys and securities for money, found therein; and the person making such entry as aforesaid in obedience to any such warrant may search all parts of the house, room, premises, or place, which he shall have so entered where he shall suspect that tables or instruments of gaming are concealed, and also all persons whom he shall find therein.

Penalty on owner or keeper of a gaming house.

86. The owner or keeper of the said gaming house or other person having the care or management thereof, and also every person who acts in any manner in conducting the said gaming house, room, premises, or place, shall be liable on conviction before any two or more Justices to a penalty of not more than one hundred pounds, or to imprisonment with or without hard labour, for any term not exceeding six months; and upon conviction of any such offender all the moneys and securities for money which shall have been seized as aforesaid shall be forfeited to Her Majesty; and every person found in such house, room, premises, or place, without lawful excuse, shall on conviction be liable to a penalty of not more than ten pounds.

And persons found therein.

87. In default of other evidence proving any house, room, premises, or place to be a common gaming house or place for gaming, it shall be sufficient in support of the allegation in any information that any house, room, premises, or place is a common gaming house or place for gaming, to prove that such house, room, premises, or place is kept or used for playing therein at any unlawful game, and that a bank is kept there by one or more of the players, exclusively of the others, or that the chances of any game played therein are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed or against whom the other players stake, play, or bet; and every such house, room, premises, or place shall be deemed a common gaming house or place for gaming such as is contrary to law and forbidden to be kept by all Acts containing any provision against unlawful games or gaming houses. But this enactment and the other enactments against gaming herein contained, shall not apply to the instrument known as the totalisator, when used according to law.

Evidence of being a common gaming house.

88. It shall not be necessary, in support of any information for gaming in or suffering any games or gaming in or for keeping or using or being concerned in the management or conduct of a common gaming house or place for gaming, to prove that any person found playing at any game was playing for any money, wager, or stake.

Proof of gaming for money.

89. Where any cards, dice, balls, counters, or other instruments of gaming used in playing any unlawful game are found in any house, room, premises, or place suspected to be used as a common gaming house or place for gaming, and entered under a warrant under the provisions of this Part of this Act, or about the person of any of those who shall be found therein, it shall be evidence (until the contrary be made to appear) that such house, room, premises, or place is used as a common gaming house, and that the persons found in the room or

Evidence of gaming.

place where such cards, dice, balls, counters, or other instruments of gaming shall have been found were playing therein, although no play was actually going on in the presence of the constable or police officer entering the same under such warrant or in the presence of those persons by whom he shall be accompanied as aforesaid; and the Justices before whom any person is taken by virtue of the said warrant may direct all such cards, dice, balls, counters, or other instruments of gaming to be forthwith destroyed.

Prohibition  
of certain  
slot  
machines.  
Added by  
No. 71 of 1961,  
s. 2.

**89A.** (1) The Governor may, subject to subsection (3) of this section, from time to time, on the recommendation of the Commissioner of Police, by proclamation prohibit—

- (a) the use or possession of any slot machine, or class or classes of slot machine; or
- (b) the use or possession in any place, class or classes of place of any slot machine, or class or classes of slot machine,

named or described in the proclamation.<sup>1</sup>

(2) The Governor may, from time to time, by proclamation vary or cancel any proclamation made under subsection (1) of this section.

(3) For the purposes of this section, "slot machine" means a machine that is operated by the insertion of a coin or valuable token but does not include any machine that—

- (a) gives access to any place or convenience;
- (b) is a weighing machine or parking meter;
- (c) certainly yields previously ascertained goods of which the sale, or exposure for sale, is not prohibited by any law of the State;
- (d) provides music; or

<sup>1</sup> See proclamation published *Gov. Gaz.* 16/2/62, p. 477.

- (e) for the insertion of only one coin or token, enables two or more competitors to play a game entirely of skill,

without affording any other consideration, advantage or reward.

(4) A member of the Police Force finding any slot machine—

- (a) of which the possession is prohibited; or
- (b) in a place in which its possession is prohibited,

under this section, may seize, take and carry away that machine, without any authority other than the authority of this subsection.

(5) A person using, or a person having in his possession, or a person using or having in his possession in a place, any slot machine of which the use or possession, or the use or possession in that place, is prohibited under this section, is guilty of an offence and is liable, in the case of a person using the machine, to a penalty of ten pounds and, in the case of a person having the machine in his possession, to a penalty of twenty-five pounds.

(6) Where a person is convicted of having the machine in his possession, contrary to subsection (5) of this section, the court shall order the machine, and any money or tokens found in the machine, to be forfeited to Her Majesty.

90. Any person who shall wilfully prevent any constable or officer authorised under the provisions of this Act to enter any house, room, or place from entering the same, or any part thereof, or who shall obstruct or delay any such constable or officer in so entering, and any person who by any bolt, bar, chain, or other contrivance shall secure any external or internal door of or means of access to any house, room, or place so authorised to be entered, or shall use any means or contrivance whatsoever, for the purposes of preventing, obstructing, or delaying the entry of any constable or officer authorised as aforesaid into any such house, room, or place or any part thereof, shall be liable on conviction to a penalty

Penalty for obstructing police.

of not more than one hundred pounds or in the discretion of the Justices before whom he shall be convicted of the offence to be committed to the nearest gaol with or without hard labour for any term not exceeding six calendar months.

False reports  
to police.  
S.A. No. 2280,  
s. 118.  
N.Z., 1935,  
No. 29, s. 4.  
Inserted by  
No. 5 of 1945,  
s. 3.

**90A.** (1) Any person who falsely and with knowledge of the falsity of his statements represents to any member of the Police Force that any act has been done or that any circumstances have occurred, which act or circumstances as so represented are such as reasonably call for investigation by the police shall be guilty of an offence.

Penalty—Fifty pounds, or imprisonment for three months.

(2) In addition to or without imposing a fine or imprisonment on any person convicted under this section the Court may order that such person pay to the complainant a reasonable sum for the expenses of or incidental to any investigation made by any member of the Police Force as a result of the false statement.

(3) Any amount received by the complainant under subsection (2) of this section shall be paid by him to the Treasury as public moneys of the State.

Evidence of  
common  
gaming  
house.

**91.** Where any constable or officer authorised under this Act to enter any house, room, or place, is wilfully prevented from, or obstructed, or delayed in entering the same or any part thereof, or where any external or internal door of or means of access to any such house, room, or place so authorised to be entered, shall be found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part thereof, of any constable or officer authorised as aforesaid, or for giving an alarm in case of such entry, or if any such house, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any

instruments of gaming, it shall be evidence until the contrary be made to appear that such house, room, or place is used as a common gaming house within the meaning of this Act, and that the persons found therein were unlawfully playing therein.

92. Every person concerned in any unlawful gaming and who is examined as a witness by or before any Justices, or on the trial of any information against the owner or keeper or other person having the care or management of any common gaming house or place for gaming, touching such unlawful gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and shall thereupon receive from the Justices or Judge of the Court by or before whom he shall be so examined a certificate in writing to that effect, shall be freed from all criminal prosecutions and from all forfeitures, punishments and disabilities to which he may have become liable for anything done before that time in respect of such unlawful gaming.

Indemnity  
of witnesses.

93. [*Repealed by 56 Vict., No. 10.*]

Lotteries  
prohibited.

94. Every person who shall by any fraud or unlawful device, or ill-practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wages, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to defraud or cheat such person of the same, and being convicted thereof, before any two or more Justices, shall be liable to a penalty not exceeding one hundred pounds or to imprisonment with or without hard labour for any term not exceeding twelve calendar months.

Cheating  
at play.

No. 15 of 1952,  
s. 7.  
Schedule  
Item No. 36.  
No. 11 of 1928,  
s. 2.  
Definitions  
and  
application  
of Part VIA.  
N.S.W.,  
No. 7 of 1927,  
s. 2.  
No. 11 of 1928,  
s. 3.  
No. 15 of 1952,  
s. 7.  
Schedule  
Items No. 37  
and No. 38.  
Amended by  
No. 28 of 1953,  
s. 4.  
No. 10 of 1959,  
4.

Part VIA.—Opium and Dangerous Drugs.<sup>1</sup>

94A. (1) In this Part, unless the context or subject-matter otherwise indicates or requires—

“Council” means the Council of the Pharmaceutical Society of Western Australia;

“dentist” means a dentist registered under the Dentists Act, 1939-1947;<sup>2</sup>

“drug” means any drug to which this Part of the Act from time to time applies;

“medical practitioner” means legally qualified medical practitioner registered under the Medical Act, 1894-1950;<sup>3</sup>

“opium” means the spontaneously coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*);

“pharmaceutical chemist” means a pharmaceutical chemist registered under the Pharmacy and Poisons Act, 1910-1952;<sup>4</sup>

“prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked;

“prescribed” means prescribed by this Part of this Act, or by regulations;

“regulations” means regulations made under the authority of this Part of this Act;

“veterinary surgeon” means a veterinary surgeon registered under the Veterinary Act, 1911.<sup>5</sup>

<sup>1</sup> See footnote on page 67 post.

<sup>2</sup> Now Dentists Act, 1939-1954.

<sup>3</sup> Now Medical Act, 1894-1961.

<sup>4</sup> Now Pharmacy and Poisons Act, 1910-1954.

<sup>5</sup> Repealed by Veterinary Surgeons Act, 1960, s. 1.



(2) (a) The drugs to which this Part of this Act applies are morphine, cocaine, ecgonine, and their respective salts, and opium, and any preparation, admixture, extract, or other substance containing not less than one-fifth per centum of morphine or one-tenth per centum of ecgonine, or cocaine.

Drugs to which this Part applies: Cf. 10 and 11 Geo. V. c. 46, s. 8. N.S.W. No. 7 of 1927, s. 2.

For the purpose of the foregoing provision the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

(b) Percentages in the case of liquid preparations shall, unless other provision in that behalf is made by regulations under this Part of this Act be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

Calculation percentages in case of liquid preparations. 13 and 14 Geo. V., c. 5, s. 5.

(c) If it appears to the Governor that any new derivative of morphine or cocaine or of any salts of morphine or cocaine or any other alkaloid of opium or any other drug of whatever kind is or is likely to be productive, if improperly used, of ill-effects substantially of the same character or nature as or analogous to those produced by morphine or cocaine, the Governor may by proclamation published in the *Gazette* declare that this Part of this Act shall apply to that new derivative or alkaloid or other drug in the same manner as it applies to the drugs mentioned in paragraph (a) of this subsection.<sup>1</sup>

10 and 11 Geo. V., c. 46.

(d) If it appears to the Governor that the use of any preparation, admixture, extract, or other substance containing any of the drugs mentioned in paragraph (a) of this subsection in a percentage less than is therein mentioned, is having ill-effects, the Governor may by proclamation published in the

<sup>1</sup> See proclamations published in *Government Gazettes* of 29/11/46, p. 1453; 30/7/48, p. 1695; 24/2/50, p. 315; 5/5/50, p. 953; 25/6/54, p. 1121; 7/10/55, p. 2545; 21/9/56, p. 2337; 6/12/57, p. 3503; 6/3/59, p. 540; 11/3/60, p. 751; 27/5/60, p. 1433; 4/11/60, p. 3398; 19/5/61, p. 1245-6.

*Gazette* declare that this Part of this Act shall apply to such preparation, admixture, extract, or substance.

(3) This Part of this Act shall not apply in respect of the preparations named in the Third Schedule.

(4) A proclamation made pursuant to the provisions of this section may be cancelled or from time to time varied by subsequent proclamation.

Prepared  
opium.  
10 and 11  
Geo. V.,  
c. 46, s. 5.  
N.S.W.,  
No. 7 of 1927,  
s. 2.  
No. 11 of 1928,  
s. 4.  
No. 15 of 1952,  
s. 7.  
Schedule  
Item No. 39.

94B. (1) If any person—

- (a) manufactures, sells, or otherwise deals in prepared opium; or
- (b) has in his possession any prepared opium; or
- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation of opium for smoking, or the sale, distribution, or smoking of prepared opium; or
- (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of opium smoking; or
- (e) is concerned in the management of any premises used for any such purpose as aforesaid; or
- (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium or any utensils used in connection with the preparation of opium for smoking; or
- (g) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking;

he shall be guilty of an offence against this Part of this Act.

In this subsection the expression "owner" includes the person entitled to receive the rent of premises and the person to whom the rent of premises is paid.

(2) If any person has in his possession or attempts to obtain possession of any other drug to which this Part of this Act applies he shall be guilty of an offence against this Part of this Act, unless—

- (a) he is licensed under the regulations to manufacture or supply the drug; or
- (b) he is otherwise licensed under the regulations to be in possession of the drug; or
- (c) the drug was supplied for his use by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the conditions of the regulations.

(3) Any prepared opium or other drug in the order or disposition of any person shall be deemed to be in his possession.

94C. (1) For the purpose of preventing the improper use of the drugs to which this Part of this Act applies, the Governor may by regulations make provision for regulating and controlling the manufacture, sale, possession, distribution and supply of those drugs, and in particular and without limiting the generality of the foregoing power for—

- (a) prohibiting the manufacture of any drug to which this Part of this Act applies, except on premises licensed for the purpose and subject to the conditions specified in the license; and
- (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the license or authority; and
- (c) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder; and

Regulations.  
Amended by  
No. 28 of 1953,  
s. 5.  
See 10 and 11.  
Geo. V.,  
c. 46, s. 7.  
N.S.W.,  
No. 7 of 1927,  
s. 2.  
No. 11 of 1928,  
s. 5.  
No. 15 of 1932,  
s. 7.  
Schedule  
Item No. 49.

- (d) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise as may be prescribed, and making provision for the inspection of such books and records by the prescribed persons; and
- (e) fixing the fees to be paid in respect of any license, inspection, permit, or authority issued thereunder. Any such fees may be paid to the council for administrative expenses; and
- (f) providing for the forfeiture of any such drug unlawfully in the possession of any person; and
- (g) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act, or misconduct sufficient to justify the removal of the name of the offender from a register under any Act.

The regulations shall provide for authorising a registered pharmaceutical chemist—

- (a) to manufacture at his shop in the ordinary course of his retail business any preparation, admixture, or extract, or extract of any drug to which this Part of this Act applies; or
- (b) to carry on at his shop the business of retailing, dispensing, or compounding such drug.

They shall also provide for authorising medical practitioners, and pharmaceutical chemists employed in dispensing medicines at any public hospital or other institution, or persons in charge of laboratories for the purpose of research or instruction, dentists, veterinary surgeons, and such other persons as to the board may seem proper to be in possession of any drug to which this Part of

this Act applies for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed.

They shall also provide that licenses or authorities for the purposes of this Part of this Act may be issued or granted by the Minister upon the recommendation of the council and may be issued or granted on such terms and subject to such conditions (including in the case of a license the payment of a fee) as the council thinks proper.

They shall also provide that any license or authority may be withdrawn by the Minister upon the recommendation of the council.

They shall also provide for an appeal to a Judge against any determination of the Minister or the council with respect of a license or authority, and the procedure on any such appeal shall be in accordance with rules of court.

(2) [Repealed by No. 28 of 1953, s. 5.]

(3) Any person—

- (a) who acts in contravention of or fails to comply with any regulation made under this Part of this Act; or
- (b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Part of this Act; or
- (c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or any document containing the same,

Offences.  
13 and 14  
Geo. V.,  
c. 5, s. 2.

shall be guilty of an offence against this Part of this Act.

Power to enter.  
 10 and 11,  
 Geo. V,  
 c. 46, s. 10.  
 13 and 14  
 Geo. V,  
 c. 5, s. 1 (2).  
 N.S.W.,  
 No. 7 of 1927,  
 s. 2.  
 No. 11 of 1928,  
 s. 6.  
 No. 15 of 1952,  
 s. 7.  
 Schedule  
 Item No. 41.

94D. (1) Any member of the police force or other person authorised in that behalf by any general or special order of the Minister shall, for the purposes of the execution of this part of this Act, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller, or distributor of any drug to which this Part of this Act applies, and to demand the production of and to inspect any books or documents relating to dealings in any such drug, and to inspect any stocks of any such drug.

13 and 14  
 Geo. V,  
 c. 5, s. 1.

(2) If a Justice is satisfied by information on oath that there is reasonable ground for suspecting—

- (a) that any opium or drug to which this Part of this Act applies is, in contravention of the provisions of this Part of this Act or the regulations, in the possession or under the control of any person in any premises; or
- (b) that any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would, if carried out, be an offence against this Part of this Act, is in the possession or under the control of any person in any premises,

such Justice may grant a search warrant authorising any constable named in the warrant, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein.

And, if there is reasonable ground for suspecting—

- (i) that an offence against this Part of this Act has been committed in relation to any such drug which may be found in the premises or in the possession of any such persons; or

(ii) that any document which may be so found is such a document as aforesaid,

to seize and detain the drug or that document, as the case may be.

(3) If any person wilfully delays or obstructs any person in the exercise of his powers under this section or fails to produce or conceals or attempts to conceal any such books, stocks, opium, drug, or documents as aforesaid, he shall be guilty of an offence against this Part of this Act.

<sup>10 and 11</sup>  
Geo. V.,  
c. 46, s. 10 (2).

94E. (1) Every person guilty of an offence against this Part of this Act shall in respect of each offence be liable on summary conviction to a fine not exceeding two hundred and fifty pounds or to imprisonment with or without hard labour for a term not exceeding twelve months, or to both such fine and imprisonment.

Penalties.  
13 and 14  
Geo. V.,  
c. 5, s. 2 (2).  
N.S.W.  
No. 7 of 1927,  
s. 2.  
No. 11 of 1928,  
s. 7.  
No. 15 of 1952,  
s. 7.  
Schedule  
Item No. 42.

And shall in every case on conviction for the offence forfeit to His Majesty all articles in respect of which the offence was committed.

The court before which the offender was convicted may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

(2) No person shall, on conviction for any offence of contravening or failing to comply with the conditions of any license granted under the regulations made in pursuance of this Act to supply a drug to which this Part of this Act applies or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug to which this Part of this Act applies, be sentenced to imprisonment without the option of a fine, or to pay a fine exceeding ten pounds, if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to or committed in the course of or in connection with the commission or intended commission of any other offence against this Part of this Act.

Attempts.  
13 and 14  
Geo. V.,  
c. 5, s. 1.

(3) If any person attempts to commit an offence against this Part of this Act, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable on summary conviction to the same punishment and forfeiture as if he had committed an offence under this part of this Act.

Company.  
*Ibid.*

(4) Where a company is convicted of an offence under this Part of this Act, the chairman, and every director, and every officer concerned in the management of the company, shall be deemed guilty of the like offence, unless he proves that the Act constituting the offence took place without his knowledge or consent.

Imprisonment.

(5) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Part of this Act may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

Proof.  
13 and 14  
Geo. V.,  
c. 5, s. 1 (3).

(6) In any proceedings against a person for an offence against this Part of this Act it shall not be necessary to negative by evidence any license, authority or other matter of exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof.

Certificate  
of analyst  
to be  
evidence.  
No. 15 of 1952,  
s. 7.  
Schedule  
Item No. 42.

(7) Any analyst appointed under the Health Act, 1911-1952,<sup>1</sup> analysing any drug or substance submitted to him in pursuance of the regulations under this Part of this Act, may give a certificate in the form prescribed of the result of the analysis.

In any legal proceedings under this Part of this Act or the regulations made thereunder, the production of a certificate purporting to be signed by such an analyst shall be *prima facie* evidence of the identity of the drug or substance analysed, and of the result of the analysis, without proof of the signature or appointment of the person appearing to have signed the same.

<sup>1</sup> Now Health Act, 1911-1960.



Part VIB.—Prohibition of the manufacture, use, sale, acquisition, possession, distribution, and supply of diamorphine, commonly known as heroin.

Part VIB  
added by  
No. 28 of 1953,  
s. 6.

94F. In this Part unless the context requires otherwise—

Interpreta-  
tion.  
Added by  
No. 28 of 1953,  
s. 6.

“drug” means diamorphine, commonly known as heroin, and includes its salts and any preparation, admixture, extract, or other substance containing it;

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

“to sell” means to sell by wholesale or retail and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send forward or deliver for sale, cause or suffer to be sold, and inflections and derivatives of the verb “to sell” have correlative meanings.

94G. It is an offence to manufacture, use, sell, acquire, possess, distribute, or supply the drug.

Prohibition.  
Added by  
No. 28 of 1953,  
s. 6.

94H. The provisions of subsections (1), (3), (4), (5), (6) and (7) of section 94E of this Act, apply as if repeated at length in this section, and for the purposes of giving effect in this section to the provisions of subsection (7) of that section, the Governor may make regulations providing for the analysing of any drug or substance by an analyst appointed under the Health Act, 1911.<sup>1</sup>

Penalties.  
Added by  
No. 28 of 1953,  
s. 6.  
Cf. s. 94E.

<sup>1</sup> Now Health Act, 1911-1960.

PART VII.—Provisions as to Offences: not to apply where similar Provisions made by By-law of Municipal or other Public and Authorised Body.

This part of Act subject to powers of any Municipality, etc., to make By-laws, etc.

95. This Part of this Act shall cease to have any force or effect wherever any by-law or regulations for effecting the same or a similar object are lawfully made by any Municipality, Council of a Shire, or Board of Health.

Prohibition of nuisances by persons in thoroughfares.

96. Every person shall, on conviction, be liable to a penalty of not more than forty shillings who shall in any street commit any of the following offences:—

- (1) Every person who shall, to the annoyance of the inhabitants or passengers, expose for show or sale (except in a market lawfully appointed for that purpose), or feed or fodder any horse or other animal (horses in vehicles on any public stand excepted), or shall shoe, bleed, or farry any horse or other animal (except in case of accident), or clean, dress, exercise, train, or break any horse or animal, or clean, make, or repair any part of any carriage or cart (except in cases of accident where repair on the spot is necessary).
- (2) Every person who shall turn loose any horse or cattle, or suffer to be at large any unmuzzled ferocious dog, or set on or urge or permit any dog or other animal to attack, worry, or put in fear any person, horse, or other animal.
- (3) Every person who shall drive any horses or cattle (except milch cows, or horses or oxen attached to any vehicle for the purpose of draught), excepting between the hours of ten at night and eight in the morning; and the local authority is hereby

empowered to define, by notice to be published in the *Government Gazette*, the route by which any horses, cattle, and sheep, with the exception as aforesaid, shall be driven, and after such publication no cattle, horses, or sheep shall be driven by any other route.

- (4) Every person who, by negligence or ill-usage in driving any such stock, shall cause any mischief to be done by such stock, or who shall in any wise misbehave himself in the driving, care, or management thereof; and also every person not being hired or employed to drive such stock who shall wantonly pelt, hunt or drive the same.
- (5) Every driver of any waggon, wain, cart, or dray of any kind who shall ride upon any such carriage, not having some person on foot to guide the same (such as are drawn by horses and properly driven with reins only excepted); and the driver of any carriage whatsoever who shall wilfully be at such a distance from such carriage, or in such a situation whilst it shall be passing upon any street, road, thoroughfare or public place that he cannot have the direction and government of the horses or cattle drawing the same; and every person who shall ride upon the shafts of any waggon, cart, dray, or other carriage whatsoever; and every person riding on horseback, or the driver or propeller of any carriage, machine, or vehicle whatsoever, who on meeting any person riding on horseback, or driving or propelling any other carriage, machine, or vehicle aforesaid, shall not keep his horse, carriage, machine or vehicle aforesaid on the left or near side of the road except in the case of a led horse or horses; and every person who shall in any manner wilfully prevent any other person from passing him or any carriage, machine, or vehicle under his care upon any street,

road, thoroughfare, or public place, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any carriage, machine, vehicle, or person so in or upon the same.

- (6) Every person who shall cause any cart, hackney carriage, truck, or barrow, with or without horses, to stand longer than may be necessary for loading or unloading, or for taking up, or setting down passengers (except hackney carriages standing for hire in any place not forbidden by law), or who by means of any cart, carriage, truck, vehicle or barrow, or any horse or other animal, shall wilfully interrupt any public crossing, or wilfully cause any obstruction.
- (7) Every person who, without the consent of the owner or occupier, shall affix any posting bill, placard, or other paper, against or upon any building, wall, fence, tree, or pale, or write upon, soil, deface, or mark any such building, wall, fence, tree, or pale, with chalk or paint, or in any other way whatsoever.
- (8) Every person who shall wantonly discharge any firearm, or burn or set light to anything or throw or discharge any stone or other missile to the damage, annoyance, or danger of any person, or property, or throw or set fire to any firework, without having the consent, in writing, of the Chairman of the Local Authority, or of the Council of a Shire having jurisdiction in the locality.
- (9) Every person who shall wilfully or wantonly disturb any inhabitant by pulling or ringing any door-bell, or knocking at any house without lawful excuse, or who shall wilfully and unlawfully extinguish the light or break the glass of any lamp.
- (10) Every person who shall fly any kite, or play any game or use any shanghai or other sling or instrument to the annoyance of the inhabitants or passengers, or to the common danger of the passengers.

- (11) Every person who shall turn loose, or suffer any kind of animals, belonging to him or under his charge, to stray or go about, or to be tethered or depastured in any street.
- (12) Every person who shall stand or loiter about, to the annoyance of the passers by, or who shall interfere with or impede the free passage of foot passengers.
- (13) Every person who shall lead or ride any horse or other animal, or draw, drive, or propel any carriage, cart, sledge, truck, barrow, or other vehicle or machine (not being a bath chair or perambulator), upon any footway or kerbstone, or fasten any horse or animal so that it can stand across or upon any footway.
- (14) Every person who shall roll or carry any cask, tub, hoop, or wheel, or any ladder, plank, pole, showboard, or placard upon any footway except for the purpose of loading or unloading any cart or carriage or of crossing the footway.
- (15) Every person who in any street shall burn, dress, or cleanse any cork, or hoop, cleanse, fire, wash, or scald any cask or tub, or hew, saw, bore, or cut any timber or stone, or slack, sift, or screen any lime.
- (16) Every person who shall throw or lay in any street, any coals, stones, slates, shells, lime, bricks, timber, iron, or other materials (except building materials or rubbish thereby occasioned, which shall be placed or enclosed as hereinafter provided so as to prevent any mischief happening to passengers).
- (17) Every person who in any street shall beat or shake any carpet, rug or mat (except door mats before the hour of eight in the morning), or throw or lay any dirt, litter, or ashes, or any carrion, fish, offal, bottles, broken glass, or rubbish, or throw or cause any such thing to fall into any sewer, pipe,

or drain, or into any well, stream, or water-course, pond or reservoir for water, or cause any offensive matter to run from any manufactory, brewery, slaughter house, butcher's shop, or dung-hill into any street, or any uncovered place whether or not surrounded by a wall or fence.

- (18) Every person who shall pick, take, or injure any flowers, fruit, shrubs, or trees in any public or private garden, unless with the consent of the owner, caretaker or other person authorised to give such consent, or throw any missile at any tree growing in any street or public place.
- (19) Every person who shall expose anything for sale upon or so as to hang over any carriageway or footway, or on the outside of any house or shop, or who shall set up or continue any pole, blind, awning, line, or any other projection from any window, parapet, or other part of any house, shop or other building, so as to cause any annoyance or obstruction in any street.
- (20) Any driver or guard of a public vehicle for the conveyance of passengers wilfully delaying on the road, using any abusive or insulting language to any passenger or by reason of intoxication, negligence or other misconduct, endangering the safety or property of any passenger or other person, or demanding or exacting more than the proper fare due from any passenger.

And it shall be lawful for any constable to take into custody, without warrant, any person who shall commit any such offence within view of such constable.

Penalty for  
destruction  
of acclima-  
tised animals  
or birds.  
Amended by  
No. 6 of 1954,  
s. 6.

97. Every person who shall wilfully injure or destroy, or attempt to injure or destroy, any native or acclimatised animals or birds which may be on any park or public road or reserve, without the authority of the person having the care and

management of such park, public road, or reserve, as the case may be, shall be liable, on conviction, to a penalty not exceeding twenty-five pounds or to imprisonment for a term not exceeding six months.

98. Every householder personally, or by his servant, or by any police constable, may require any street musicians to depart from the neighbourhood of the house of such householder, on account of the illness of any inmate of such house, or for any reasonable cause; and every person who shall sound or play upon any musical instrument in any street, near to, and so as to be heard at such house, after being so required to depart, shall, on conviction, be liable to a penalty of not more than forty shillings; and every person who shall play or sound upon any musical instrument in any street, and against whom an information may be laid by any inhabitant (who may be annoyed by the playing or sounding of such musical instrument), or by any constable, upon the written complaint of such inhabitant, shall be liable, on conviction, to a penalty of not more than forty shillings.

Street musicians to depart when desired to do so.

Penalty on playing musical instruments in street.

99. Every person other than persons acting in obedience to lawful authority, who shall discharge any cannon or other firearm of greater calibre than a common fowling piece within three hundred yards of any dwelling house within any city or town to the annoyance of any inhabitant thereof, after being warned of the annoyance by any inhabitant, shall on conviction be liable to a penalty of not more than five pounds.

Cannon, etc., not to be fired near dwelling houses.

100. In case any privy, pig-sty, or any other place, matter, or thing, shall be or become a nuisance to any of the inhabitants in any city or town, any two or more Justices, upon complaint, on oath, thereof to them made by any such inhabitant, and after due investigation into such complaint, may order that every or any such privy, pig-sty, or other place, matter, or thing being a nuisance, shall be remedied or removed within seven days after notice shall have been given to the owner

Hog-sties and nuisances not removed on complaint.

or occupier of the premises wherein such nuisance shall exist, to remedy or remove the same, and any such notice may be left for such owner or occupier at his or her last or usual place of abode, or on the said premises; and every such occupier neglecting to remedy or remove such nuisance pursuant to such notice, and to the satisfaction of such Justices shall forfeit, and pay, on conviction before such Justices a sum not exceeding twenty pounds for every such neglect and disobedience; and such Justices may order at the same time such nuisance to be removed, taken down, and abated, at the expense of the person in default, and payment thereof may be enforced as a penalty on summary conviction.

Cleansing  
butchers'  
shambles  
and  
slaughter  
houses.

101. It shall be lawful for any Justice and for any constable authorised and deputed by any writing under the hand of a Justice, from time to time, and when and as often as he or either of them shall see occasion, to visit and inspect any butchers' shambles and slaughter houses and slaughter house yards, and to give such directions concerning the cleansing the said shambles, slaughter houses, and slaughter house yards, both within and without, as to him shall seem needful; and any butcher and the owner or occupier of any such shambles, slaughter house, or slaughter house yard who shall obstruct or molest any such Justice or constable in the inspection thereof, or who shall refuse or neglect to comply with such directions within a reasonable time, shall, on conviction on the complaint of any such Justice, or constable, forfeit and pay a sum not exceeding five pounds.

Penalty.

Inspection  
of meat.

102. Any constable may at any time enter into any slaughter house, shambles, shop, or other premises where meat is prepared or exposed for sale, and inspect and examine any meat there found, and if in his opinion any such meat shall be unfit for human consumption, he shall at once summon the person who has prepared or exposed for sale such meat before a Justice, who, on being satisfied that the meat so complained of is unfit for human consumption, may order it to be destroyed; and such



person shall also be deemed guilty of an offence, and, upon conviction, shall be liable to a penalty not exceeding ten pounds, or to be imprisoned for any term not exceeding one month. Any meat which shall be blown for the purpose of improving its appearance shall be deemed unfit for human consumption.

103. Any owner or occupier of any house or place who shall neglect to keep clean all private avenues, passages, yards, and ways, within the said premises, so as by such neglect to cause a nuisance by offensive smell or otherwise, shall, on conviction, forfeit and pay a sum not exceeding forty shillings, nor less than ten shillings for every such offence.

As to private avenues.

104. No person shall bathe, unless in proper bathing costume, near to or within view of any public wharf, quay, jetty, bridge, street, road, or other place of public resort, between the hours of six in the morning and eight in the evening; and any person who shall offend against this regulation shall, on conviction, forfeit and pay a sum not exceeding one pound; and any constable may take into custody any person who shall commit any such offence within view of such constable.

Bathing prohibited within certain limits.

105. Every person who shall damage any public building, wall, parapet, sluice, bridge, road, street, sewer, watercourse, or other public property, shall pay the cost of repairing the same; and if the same be wilfully done, shall, on conviction, forfeit and pay a further sum not exceeding ten pounds.

As to damaging public buildings.

106. Every person who shall cast any bottles, earthenware, filth, rubbish, or any noxious substance into any watercourse, drain, river, ornamental water, canal, or reservoir, or shall obstruct or divert from its channel any public sewer, watercourse, drain, or canal, shall, on conviction, forfeit a sum not exceeding ten pounds nor less than one pound, and shall pay the cost of

As to water-courses.

removing such filth or obstruction, or of restoring such sewer, watercourse, drain, or canals to its proper channel.

As to  
injuring  
public  
fountains.  
Amended by  
No. 6 of 1954,  
s. 7.

107. Every person who shall injure any public fountain, pump, cock, or water-pipe, or any pipe thereof, shall pay the cost of repairing the same; and if the injury be wilfully done, shall, on conviction, forfeit and pay a further sum not exceeding twenty-five pounds nor less than one pound or be liable to imprisonment for a term not exceeding six months; and every person who shall have in his possession any private key for the purpose of opening any cock, or who shall in any matter clandestinely or unlawfully appropriate to his use any water from any public fountain or pipe, shall, on conviction, forfeit a sum not exceeding ten pounds nor less than two pounds; and every person who shall open, or leave open any cock or any public fountain or pump, so that the water shall or may run to waste, shall, on conviction, forfeit a sum not exceeding two pounds nor less than five shillings; and every person who shall wash any clothes or animal at any public fountain or pump shall, on conviction, forfeit and pay a sum not exceeding one pound nor less than five shillings.

Slops, night-soil, etc., to be conveyed away only at certain hours.

108. If any person shall drive or cause to be driven any cart or other carriage with any night-soil or ammoniacal liquor or other such offensive matter therein through or in any street, between the hours of five o'clock in the morning and half-past eleven o'clock at night, or who shall at any time use for any such purpose any cask, tank, cart, or carriage not having a proper covering, or shall fill any cart or other carriage so as to turn over or cast any night-soil, ammoniacal liquor, or such other offensive matter, in or upon any of such streets, public places, or thoroughfares, it shall and may be lawful for any person whomsoever to seize and apprehend, and to assist in seizing and apprehending, the offender, and to hand him over to the custody of any constable until he can be brought before a Justice, and every such person so offending

and his employer and also the owner of any such cart or carriage shall, on conviction of such offence, forfeit and pay any sum not exceeding five pounds.

Penalty £5.

109. If any person shall empty, or begin to empty, any privy, or take away any night-soil, or shall go with carts or carriages for that purpose, except between the hours of half-past eleven at night and five in the morning; and if any person shall put in or cast out of any cart, or tub, or otherwise, any offensive matter, in or near any street, every such offender shall, upon conviction, be liable to a penalty not exceeding five pounds or to imprisonment for any term not exceeding one calendar month; and the owner of any carts, carriages, horses, or beasts employed in and about emptying and removing such night-soil, or going for that purpose (save and except within the hours hereby allowed), and the employers of any person who shall so put or cast out any such night-soil, shall, on conviction, forfeit and pay a sum not exceeding five pounds for every such offence.

Hours of removing night-soil, etc.

110. The person in charge of any animal travelling along any public road or highway shall remove the bodies of any that may die on such road or highway to a distance of one hundred yards from such road or highway, or bury the same three feet beneath the surface of the ground; and in default of so doing such person shall, on conviction, be liable to a fine not exceeding five pounds. And if any person shall throw, or cause to be thrown, any dead animal into any harbour, river, creek, water-hole, or cove, in, near, or adjacent to any city or town, or leave or cause the same to be left upon the shores thereof, or in any manner pollute or render useless any well in any city or town, or any well or spring or pool on any unfenced or unenclosed land in the said State, he shall, on conviction, forfeit and pay any sum not exceeding five pounds nor less than five shillings; and it shall be lawful for any police constable, without warrant, to seize any person whom he shall find committing the said offence, and to take him before any Justice, or

Penalty on owner of carts, etc., and employer. Persons in charge of stock to remove such as may die on public road or highway, or bury the same.

No dead animals to be thrown into any harbour, etc.

cause him to be detained in any police station, or lock-up, or other place of security, until he can be brought before a Justice, to be dealt with according to law, and every such offender shall in addition to such fine pay the expense of cleaning, restoring, and purifying such well, pool, or spring.

No turf, gravel, etc., to be removed from streets without permission.

111. Every person who shall form, dig or open any drain or sewer, or remove, or cause to be removed, any turf, clay, sand, soil, gravel, or stone, or other material used in the formation of the streets, roads, or other public highways in or from any part of the carriage or foot ways within any city, town, or suburb without the leave first had and obtained of the Chairman of the Local Authority or who shall wantonly break up or otherwise damage the said streets, roads, carriage or foot ways shall, on conviction forfeit and pay for every such offence any sum not exceeding five pounds nor less than one pound.

Drawing or trailing timber, etc.

112. If any person shall haul or draw, or cause to be hauled or drawn, upon any road, street, thoroughfare, bridge, causeway, or public place, any timber, stone, or other material or thing, otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other material or thing, which shall be carried principally or in part upon wheeled carriages, to drag or trail upon any part of such road, street, thoroughfare, bridge, causeway, or public place to the injury thereof, or to hang over and beyond any part of any such carriage, so as to occupy or obstruct the road beyond the breadth of the said carriage, every such person so offending shall, on conviction, forfeit and pay for every such offence a sum not exceeding forty shillings, together with the damages occasioned thereby: Provided that nothing herein contained shall apply to vehicles loaded with hay, wool, or rushes.

Entrances to cellars, coal-holes, etc., to be covered and secured.

113. If the owner or occupier of any house building, or premises, having any iron or wooden rails or bars over the areas, or openings to any kitchens or cellars, or other part or parts of the

the said house, building, or premises beneath the level of the footway of any street, or public places, or having any doorway or entrance into the basement or cellar story thereof, shall not either keep the same, and the rails of such kitchens or cellars, in sufficient and good repair, or safely and securely guard, and constantly keep the same securely guarded by rail, or cover the same over with a strong flap or trap-door according to the nature of the case, and so as to prevent danger to any persons passing and repassing; or if any such owner or occupier do or shall leave open, or not sufficiently and substantially cover, and keep covered and secured, any hole, funnel, trap-door, or cellar-flap belonging to or connected with his house, building, or premises (save and except only during such reasonable times as any coals, wood, casks, or other things shall be putting down or taking up out of any such vault or basement story, or during such reasonable times as the flap, trap-door, or covering thereof shall be altering, repairing, or amending); or if such owner or occupier shall not repair, and from time to time keep in good and substantial repair, all and every, or any such iron or wooden rails, guard-rails, flaps, trap-doors, and other covering, then, and in every such case, the persons neglecting so to do, for every such offence, shall, on conviction, forfeit and pay any sum not exceeding five pounds.

114. No person shall make any cellar, or any opening, door, or window, in or beneath the surface of the footway of any street or public place, and if any person shall offend in the premises he shall, on conviction, forfeit and pay a sum not exceeding five pounds and also the expense of remedying or removing any such cellar, opening, door, or window made contrary to the provisions hereof.

Cellars or openings beneath the surface of footways prohibited.

115. Every person having a well situated between his dwelling house, or the appurtenances thereof, and any street or footway, or at the side thereof, or in any yard or place, open and exposed to such street or footway, who shall not cause such well

Wells to be covered over.

to be securely and permanently covered over or otherwise secured shall, upon conviction, for every such offence, forfeit and pay the sum of two shillings and sixpence for every day that such well shall remain open or uncovered contrary to the provisions of this Act.

Holes made for vaults, etc., to be enclosed.

116. Any person who, being the owner or occupier of any vacant ground, or any house, tenement, or building erected, or being erected, or about to be erected, before, adjoining, or at the side of which, and adjoining to any road, street, or public place, or thoroughfare formed, or to be formed, or in course of formation, shall dig or make, or cause to be dug or made, any hole, or cause to be left any hole, for the purpose of making any vault, or the foundation to such house or other buildings, or for any other purposes whatsoever, and shall not forthwith enclose the same in a good and sufficient manner, or who shall keep up, or cause to be kept up and continued, any such enclosure for any time which shall be longer than shall be absolutely necessary, or shall not, when thereunto required by any Justice, well and sufficiently fence or enclose any such hole, or area, or space, opened, or left open, and intended for an area, foundation, or for any other purpose whatsoever, in the front of, or behind, or on the side of any such vacant ground, house, or other tenement or building, twenty-four hours after he shall be required to do so by any Justice, and in the manner, and with such materials, as he shall direct, and to his satisfaction, and shall not place a light upon the said enclosure, and keep the same constantly burning from sunset to sunrise, during the continuance of such enclosure; then, every person so offending shall on conviction forfeit and pay for every such offence, and for every such refusal or neglect, any sum not exceeding five pounds.

Stalls, etc., not to be set on foot or carriage ways.

117. If any person shall set or place, or cause or permit to be set or placed any stall, board, chopping blocks, showboard (on hinges or otherwise), basket wares, merchandise, casks, or goods of any kind whatsoever, or shall hoop, place, wash or cleanse, or cause to be hooped, placed, washed or cleansed any pipe, barrel, cask, or vessel in or upon

or over any of the carriage or foot ways in any such streets or public places of any city or town; or if any person shall set or place or cause to be set or placed in or upon or over any of the said carriage or foot ways, any timber, stones, bricks, lime or other materials, or things for building whatsoever (unless with the permission in writing of the Chairman of the Local Authority), or any other matters or things whatsoever, or shall hang out or expose, or shall cause or permit to be hung out or exposed any meat or offal or other thing or matter whatsoever from any house or houses or other buildings or premises over any part of either or any of such footways or carriageways, or over any area or areas of any house or other buildings or premises, or any other matter or thing from and on the outside of the front or any other part of any house or houses or other buildings or premises over or next unto any such street or public place, and shall not immediately remove all or any such matters or things, being thereto required by any Justice, or Chairman of the local authority, or by any police constable, and shall not continue and keep the same so removed; or if any person having in pursuance of any such requisition as aforesaid removed or caused to be removed any such stall, board, showboard, chopping blocks, basket wares, merchandise, timber, stone, bricks, lime, meat, offal, or other matters or things, shall at any time thereafter again set, lay, place or expose, or put, or cause, procure, permit, or suffer to be laid, placed, exposed, or put out the same or any of them, or any other stall, board, showboard, chopping block, basket wares, merchandise, goods, timber, stones, bricks, lime, meat, offal, or other things or matters whatsoever (save and except as aforesaid) in, upon, or over any of the carriage or foot ways of or next unto any street or public places as aforesaid, then and in every such case every person so offending shall upon conviction, forfeit and pay a sum not exceeding forty shillings.

Placing  
timber,  
bricks, etc.

Not  
removing  
when  
required.

Replacing  
the same  
after  
removal.

118. Nothing in this Act contained shall be deemed to prevent any person from placing an awning in front of his shop or house: Provided, however, that such awning be at least seven feet

Not to  
prevent  
awnings  
being  
erected in  
front of  
shops.

above the height of the footway in front of such house or shop and that the posts be placed close up to the kerbstone or outer edge of such footway and subject to the approval of the Chairman of the local authority.

Rain not to be allowed from eaves of houses on footways.

119. If at any time any house or buildings in any city or town shall not be provided with gutters or otherwise so constructed as to prevent rain from dropping from the eaves thereof upon any of the footways of any street or public place within such city or town, the owner or occupier of such house or building shall on conviction forfeit and pay the sum of five shillings and a like sum for every day that the same may not be prevented or remedied by gutters or otherwise.

Boards to be erected, but not without license.

120. No person or persons whatsoever shall erect, place, set up, or build in any street or public place within any city or town, any board or scaffolding, or place or erect any posts, bars, rails, boards, or other things by way of enclosure for the purpose of making mortar, or of depositing, sifting, screening, or slacking any brick, stone, lime, sand, or any other materials for building or repairing any house or other tenement or erection or for other works, or for any other purpose, without leave or license first had and obtained under the hand of the Chairman of the local authority, who is hereby required to grant the same forthwith for the purpose of making mortar and depositing or sifting, screening, or slacking any bricks, stone, lime, sand, or any other materials for building or repairing any house or other tenement or erection, specifying therein the length of time for which the same when so erected and set up may be continued, and giving such other directions respecting the same as he may think necessary, on being paid by every person so applying for such license the sum of two shillings and sixpence; and if any person or persons shall place, set up, erect, or build, or cause or permit to be erected, placed, set up, or built any such board or scaffolding, or any enclosure, post, bars, or rails, or any other matter or thing, for the purposes

What is to be specified in license.

Erecting without license.



aforesaid or for any other purpose, without the leave or license signed as aforesaid of the said Chairman so had and obtained, or shall erect, set up, or build, or cause or permit the same to be erected, set up, or built, in any other manner, or be continued for any longer time than shall be allowed or expressed in such license, then and in either of the said cases such person or persons, or the person or persons by whom he or they shall or may be employed, shall forfeit and pay the sum of ten shillings for every day that the same shall have been or shall be set up and continued; and also it shall and may be lawful for the said Chairman to cause the same to be pulled down and removed, and the same and all the materials thereof and of every part thereof to be kept and detained until such person or persons shall and do pay the said Chairman, or to the person or persons in whose custody the same shall be, all the penalties incurred by such person or persons, together with the charges of pulling down, removing, and keeping the same, to be ascertained and determined by the said Chairman; and in case the same shall not be claimed, and the said penalties and charges aforesaid shall not be paid within the space of five days next after the pulling down and removing thereof, then it shall and may be lawful to and for the said Chairman to order or cause the same to be appraised and sold, and the money arising therefrom, after deducting the said charges, shall be appropriated to the uses of the said local authority.

Penalty.

Chairman may cause board to be removed.

Proceedings thereupon

121. Every person who shall be desirous of blasting any stone, rock, tree, or other matter within the limits of any city or town shall first give notice in writing twenty-four hours previously, to the Chairman of the local authority, or to the Resident or Police Magistrate of any city or town, who shall appoint a time when the same may take place, and give such other directions in writing as he may deem necessary for the public safety; and if any person shall blast or cause to be blasted any rock or other matter within the limits aforesaid without giving such notice and obtaining such directions, or shall

No rock to be blasted without notice.

not conform to the directions given to him, he shall on conviction forfeit and pay any sum not less than twenty shillings nor more than five pounds.

Part VIII.—Miscellaneous Provisions.

Lodging  
houses, etc.,  
may be  
searched.

122. Any Justice, upon information on oath that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is, or is suspected to be, in any place, kept or purporting to be kept for the reception, lodging, or entertainment of travellers or others or that any place is a disorderly house, house of ill-fame, brothel, or bawdy-house, or place where liquor is reasonably suspected of being illegally sold, may enter the same at any time by day or night, or issue his warrant authorising any constable or other person in like manner to enter the same, from time to time and to apprehend and bring before him, or any other Justice, every such idle and disorderly person, rogue and vagabond, or incorrigible rogue, and to seize any liquor found therein, to be dealt with according to law.

Horses,  
carriages,  
etc., of  
offenders  
may be  
detained

123. Whenever any person having charge of any horse, cart, carriage, or boat, or any other animal or thing, shall be taken into the custody of any police constable under the provisions of this Act, it shall be lawful for any police constable to take charge of such horse, cart, carriage, or boat, or such other animal or thing, and to deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof may become liable, and for payment of any expenses which may have been necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any Justice before whom the case shall have been heard, to order such horse, cart, carriage, or boat, or such other animal or thing to be sold, for the purpose of satisfying such penalty and reasonable expenses in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment of such penalty and reasonable expenses.

124. Every offence against this Act for which no special penalty is appointed shall render the offender liable, on conviction before a Justice, to a penalty of not more than five pounds or to be imprisoned for any term not exceeding one calendar month in any gaol of the said State, either with or without hard labour, and every such person apparently under the age of sixteen years summarily convicted of any offence under this Act or of larceny or embezzlement, or of aiding, counselling, or procuring any larceny or embezzlement may, if a male, in addition to or in lieu of any other punishment, be whipped to the extent of thirty-six strokes with a birch rod or cane.

Penalty for offences where no special penalty is appointed.

125. In case any person shall lodge any information before any Justice for any offence alleged to have been committed, by which he was not personally aggrieved, and shall afterwards directly or indirectly receive, without the permission of such Justice, any sum of money or other reward for compounding, delaying, or withdrawing the information, he shall, on conviction, be liable to a penalty of not more than ten pounds.

Penalty for compounding in-  
formations.

126. Nothing in this Act contained shall be construed to save any person from being indicted or prosecuted for any indictable offence made punishable on summary conviction by this Act, or to prevent any person from being liable to any higher or other penalty or punishment than is provided for such offence by this Act, so nevertheless that no person be punished twice for the same offence.

This Act not to prevent the indictment of offenders, or liability for higher penalties.

127. Where any person is charged before any Justice with an offence cognisable by a Court of superior jurisdiction, and in the opinion of such Justice the case is proper to be disposed of by such Court, the Justice before whom such person is so

Certain offenders may be committed to Court of superior jurisdiction.

charged may commit such person for trial to any Court of competent jurisdiction, and shall at the same time forward the depositions taken in the case to the proper officer of such Court.

Amends for  
frivolous  
informa-  
tions.

128. In every case in which any information or complaint of any offence shall be laid or made before any Justice, and shall not be further prosecuted, or in which if further prosecuted it shall appear to the Justices by whom the cases shall be heard that there was no sufficient ground for making the charge, such Justice shall have power to award, in addition to costs, such amends, not more than the sum of five pounds, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to such Justice shall seem fit: Provided that this section shall not apply to any information or charge preferred by any police officer or constable.

Police,  
molety of  
fines, etc.,  
to be paid  
to the  
Treasurer.  
Amended by  
No. 8 of 1925,  
s. 2.

129. When any person employed in the said Police Force shall be entitled to the whole or any portion of any forfeiture, penalty or seizure under this or any other Act in force within the said State, the amount of the proceeds thereof shall go to the Treasurer to the use of Her Majesty, her heirs and successors, for the public use of the said State.

130. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

131. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

132. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

Proceedings  
may be  
taken  
against  
master for  
offences  
committed  
by servant  
under his  
order or  
sanction.

133. In any case where under this Act any offence is created and it appears to the Justice before whom the complaint or information against any person for the commission of any such offence may be heard that the person committing the same has acted only under the orders or by the sanction

of any master or employer of any such person, and that such master or employer is in fact the offending party, either solely or as well as such person so rendered liable, such Justice may summon and proceed against such master or employer as if the information or complaint had originally been laid or made against any such master or employer, and may either discharge such person so first informed or complained against, or may otherwise proceed against both as such Justice may see fit.

134. All offences against this Act shall, except where otherwise provided, be summarily punishable on conviction before any Justice in Petty Sessions, and so much of every pecuniary penalty as shall not be awarded to the informer or party prosecuting shall be appropriated to the use of Her Majesty for the public uses of the State.

Offence punishable summarily.

135. In every case where, under the provisions of this Act, any person may be liable to pay any sum of money by way of amends, compensation, or damages, or for the value of or the costs or expenses of repairing, reinstating, remaking good any injury or damage done or occasioned by him to any property, article, or thing, the Justice before whom the charge against such person shall be heard shall assess and determine the sum of money payable as aforesaid, and order the payment of the same to such person or persons and at such time or times and either in one sum or by instalments as such Justice may think fit, and every such sum of money shall be enforced and recoverable in like manner as any pecuniary penalty under this Act.

Amends, etc., to be assessed by Justice.

136. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

137. A Justice or Justices shall not be bound to convict if the offence proved shall, in the opinion of such Justice or Justices, be of so trivial a nature as not to merit punishment.

Justice not bound to convict in certain cases.

Shortening  
Ordinance,  
incorpora-  
tion.

138. Sections A, D, G, and H of 'The Shortening Ordinance, 1853',<sup>1</sup> shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said section had been introduced and fully set forth in this Act.

*Part IX. deleted by No. 15 of 1952, s. 6.<sup>2</sup>*

139. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

140. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

141. [*Repealed by 2 Edwardi VII., No. 11, s. 2.*]

Commence-  
ment of Act.

142. This Act shall come into force on the first day of April, 1892,

ALEX. C. ONSLOW,  
Administrator.

<sup>1</sup> See Interpretation Act, 1918-1957, s. 47.

<sup>2</sup> Heading only.

## SCHEDULES.

## THE FIRST SCHEDULE.

Session and Number	Title or Short Title	Extent of repeal
14 Vic., No. 20.	An Ordinance for the Establishment of further Precautionary Regulations for the Port of Fremantle.	The whole.
14 Vic., No. 25.	An Ordinance to Provide a More Suitable Mode of Inflicting Punishment for Drunkenness.	The whole.
17 Vic., No. 8.	An Ordinance for the More Effectual Suppression of Drunkenness.	The whole.
18 Vic., No. 1.	An Ordinance to Regulate the forms to be Observed by Pardoned Convicts prior to their leaving the Colony.	The whole.
25 Vic., No. 15.	The Police Ordinance, 1861.	The whole.
28 Vic., No. 12.	An Ordinance to Amend The Police Ordinance, 1861.	The whole.
34 Vic., No. 28.	An Act to alter and amend the 12th section, and to repeal the 35th section of the Police Ordinance, 1861, and to enact another clause in lieu thereof.	The whole.
39 Vic., No. 15.	An Act to regulate the Execution of Warrants of Arrest.	The whole.
41 Vic., No. 18.	An Act to amend the 26th section of the Police Ordinance, 1861.	The whole.
44 Vic., No. 3.	An Act to amend the Police Ordinance, 1861.	The whole.
44 Vic., No. 9.	The Wines, Beer, and Spirit Sale Act, 1880.	Section 82.
46 Vic., No. 14.	An Act to make the winning of money by Cheating at Cards, or at other Games a Criminal Offence.	The whole.

*Police Act.*

THE SECOND SCHEDULE.

*Form of Warrant*

To wit. } To constable

Section 85.  
Amended by  
No. 8 of 1955,  
s. 4.

WHEREAS it appears to me, a Justice of the Peace, by the information on oath of A.B. of in the of [yeoman] that the house [room, premises, or place] known as (*here insert a description of the house, room, premises, or place by which it may be readily known and found*) is kept and used as a common gaming house or place for gaming within the meaning of the *Police Act, 1892-1961*: this is therefore, in the name of our Lady the Queen, to require you, with such assistants as you may find necessary, to enter into the said house [room, premises, or place], and if necessary to use force for making such entry whether by breaking open doors or otherwise, and there diligently to search for all instruments of unlawful gaming which may be therein, and to arrest, search, and bring before me, or some other of the Justices of the Peace, as well the keepers of the same, as also the persons there found, to be dealt with according to law, and for so doing this shall be your warrant.

J.P.

Given under my hand at  
this day of 19 .

*Recognisance for the Appearance of a Person in Charge of a Police Station or Lock-up.*

Section 48.

Be it remembered, that on of and of personally came before the undersigned, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said the sum of and the said the sum of of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her Heirs and Successors, if he the said shall fail in the condition endorsed.

Taken and acknowledged, the day and }  
year first abovementioned at }  
before }

Officer of Police or Police Constable in Charge, as the case may be.

The condition of the within written Recognisance is such, that if the said shall personally appear on the day of instant, at ten o'clock in the forenoon, at before such Justice of the Peace for the said State as may then be there, to answer to any information then and there exhibited against the said and to be further dealt with according to law, then the said recognisance to be void, or else stand in full force and virtue.



THE THIRD SCHEDULE.

Cereoli Iodoformi et Morphinæ, B.P.C.  
Emp. Opii, B.P., 1898.  
Lin. Opii, B.P.  
Lin Opii, Ammon., B.P.C.  
Pasta Arsenicalis, B.P.C.  
Pil. Hydrarg. c. Opio, B.P.C.  
Pil. Ipecac. c. Scilla, B.P.  
Pil. Plumbi c. Opio, B.P.  
Pil. Digitalis et Opii Co., B.P.C.  
Pil. Hydrarg. c. Cret. et Opii, B.P.C.  
Pulv. Cretae Aromat. c. Opii, B.P.  
Pulv. Ipecac. Co., B.P. (Dover's Powder).  
Pulv. Kino Co., B.P.  
Tablettaa Plumbi c. Opio, B.P.C.  
Ung. Gallæ c. Opio, B.P. (Gall and Opium Ointment).  
Ung. Gallæ Co., B.P.C.

Section 94A.  
N.S.W.,  
No. 7 of 1927,  
s. 2.  
No. 11 of 1928,  
s. 3.  
No. 15 of 1952,  
s. 7.