

POLICE ACT, 1892-1972.

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 The Police Ordinance, 1861, and others repealed; saving as to past matters and offences.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 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 recognisance.
22. Police constables to attend Magistrates.
23. Inquiries into misconduct of non-commissioned officers.
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 [Repealed.]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.

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 REGULATION 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. Officers of Police Force etc., may board vessels.
- 41. Officers of Police Force 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.

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 person 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 offences 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.
- 54A. Disorderly assembly.
- 55. [Repealed.]
- 56. [Repealed.]
- 57. Negligent or furious driving.
- 58. [Repealed.]
- 58A. Damage to animals, plants, etc., in gardens.
- 59. Obscenity and other offences.
- 60. [Repealed.]
- 61. Restriction on games on certain days.
- 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. Incurable 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.

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 detained to the owner.
- 79. [Repealed.]
- 79A. Unlawfully taking or branding animals.
- 80. Wilful damage 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.
- 82A. Penalty on persons trespassing on enclosed land.
- 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 the 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 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.
- 89B. Use of metal washers, etc., in 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.

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. Cannabis or 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. Offences and Penalties.

94H. Search warrant and application of s. 94E.

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 \$40.
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.

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 licenses.
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 VIII.—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.
- 138A. Regulations.
- 139. [Repealed.]
- 140. [Repealed.]
- 141. [Repealed.]
- 142. Commencement of Act.
Schedules.

POLICE.

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); 63 of 1954 (Sec. 5) and 113 of 1965 (Sec. 8).)
[As amended by Acts:

No. 10 of 1893, assented to 13/1/1893;	No. 63 of 1954 ⁴ assented to 30/12/1954;
No. 26 of 1894, assented to 23/11/1894;	No. 8 of 1955, assented to 19/10/1955;
No. 21 of 1898, assented to 28/10/1898;	No. 20 of 1956, assented to 19/11/1956;
No. 11 of 1902, assented to 18/11/1902;	No. 40 of 1958, ⁵ assented to 11/12/1958;
No. 14 of 1902, assented to 19/2/1902;	No. 10 of 1959, assented to 25/9/1959;
No. 31 of 1902, assented to 20/12/1902;	No. 50 of 1960, ⁶ assented to 28/11/1960;
No. 10 of 1907, assented to 20/12/1907;	No. 71 of 1961, assented to 28/11/1961;
No. 33 of 1912, assented to 10/12/1912;	No. 29 of 1962, assented to 4/10/1962;
No. 13 of 1915, assented to 18/2/1915;	No. 42 of 1963, assented to 25/11/1963;
No. 8 of 1925, assented to 24/9/1925;	No. 44 of 1963, ⁷ assented to 3/12/1963;
No. 11 of 1928, assented to 23/11/1928;	No. 28 of 1964, assented to 4/11/1964;
No. 19 of 1913, assented to 13/11/1933;	No. 71 of 1964, ⁸ assented to 11/12/1964;
No. 19 of 1940, assented to 29/11/1940;	No. 22 of 1965, assented to 1/10/1965;
No. 5 of 1945, assented to 27/11/1945;	No. 7 of 1967, assented to 5/10/1967;
No. 6 of 1945, assented to 27/11/1945;	No. 52 of 1967, assented to 5/12/1967;
No. 15 of 1952, ¹ assented to 7/11/1952;	No. 26 of 1968, assented to 25/10/1968;
No. 28 of 1953, ² assented to 18/12/1953;	No. 24 of 1969, assented to 16/5/1969;
No. 6 of 1954, assented to 25/8/1954;	No. 1 of 1970, assented to 29/4/1970;
No. 25 of 1954 ³ assented to 20/10/1954;	No. 85 of 1970 ⁹ assented to 30/11/1970;
	No. 7 of 1972, assented to 25/5/1972;

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,

¹ Came into operation on 19/6/1953. See *Gazette* of 19/6/1953, p. 1225.

² Came into operation on 1/1/1955. See *Gazette* of 26/2/1954, p. 304.

³ Came into operation on 18/3/1955. See *Gazette* of 18/3/1955, p. 517.

⁴ Came into operation on 1/3/1955. See *Gazette* of 29/7/1955, p. 1767.

⁵ Came into operation on 18/7/1959. See *Gazette* of 10/7/1959, p. 1329.

⁶ Came into operation on 31/12/1960. See *Gazette* of 23/12/1960, p. 4073.

⁷ Came into operation on 1/1/1964. See *Gazette* of 13/12/1963, p. 3336.

⁸ Came into operation on 1/7/1965. See *Gazette* of 29/6/1965, p. 1933.

⁹ Came into operation on 1/7/71. See *Gazette* of 18/6/71, p. 2147.

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 wherein any Ordinance, Act, or Instrument reference is made to the Police Ordinance of 1861, or to an 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; No. 28 of 1964; 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 of a city or town and president of a shire;

“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*, 1892-1972, and shall be divided into parts, as follows:—

Short title and Division of Act.
Amended by
No. 11 of 1928, s. 2;
No. 15 of 1952, s. 5;
No. 28 of 1953, s. 3;
No. 25 of 1954, s. 3;
No. 28 of 1964, s. 3;
No. 85 of 1970, s. 1;
No. 7 of 1972, s. 1.

PART I.—AS TO THE APPOINTMENT OF OFFICERS AND CONSTABLES OF THE POLICE FORCE, ss. 4-8.

PART II.—AS TO THE REGULATIONS, DUTIES, AND DISCIPLINE OF THE POLICE FORCE, ss. 9-33.

PART IIA.—POLICE APPEAL BOARD, ss. 33A-33J.

PART III.—AS TO THE APPOINTMENT AND REGULATION OF SPECIAL CONSTABLES, ss. 34-38.

PART IV.—AS TO THE ESTABLISHMENT OF POLICE DISTRICTS, s. 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.

PART VIB.—PROHIBITION OF THE MANUFACTURE, USE, SALE, ACQUISITION POSSESSION, DISTRIBUTION, AND SUPPLY OF DIAMORPHINE, COMMONLY KNOWN AS HEROIN, ss. 94F-94H.

PART VII.—PROVISIONS AS TO OFFENCES APPLICABLE ONLY WHERE NOT THE SUBJECT OF MUNICIPAL OR OTHER BY-LAW, ETC., ss. 95-121.

PART VIII.—MISCELLANEOUS PROVISIONS, ss. 122-142.

(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 officers holding commissions.
Amended by No. 24 of 1969, s. 2.

6. The Governor may appoint such officers of police as may be found necessary, who shall hold commissions under the hand of the Governor for such appointments; and such 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.

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.

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

8. The Governor may, from time to time as he shall see fit, remove any commissioned officer of police, and upon any vacancy for a commissioned officer, 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. Amended by No. 24 of 1969, s. 3. 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 necessities to be furnished to them and to 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

Commissioner may make regulations for general management and discipline of Police Force. Amended by No. 40 of 1958, s. 8.

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, 1911.¹

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 from 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 the 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.

¹ Now see s.6(c) Liquor Act, 1970.

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 north of the eighteenth parallel of south latitude or one calendar month's notice if stationed elsewhere, 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 twenty dollars, or may be committed to prison for a period not exceeding fourteen days.

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

Amended by No. 28 of 1964, s. 4; No. 113 of 1965, s. 8.

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 thirty dollars, in addition to the value of the property not so delivered, or to imprisonment, with or without hard labour, for any time not exceeding one month; 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.

Amended by No. 28 of 1964, s. 5; No. 113 of 1965, s. 8.

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,

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.

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 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.
Amended by No. 28 of 1964, s. 6; No. 113 of 1965, s. 8.

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 one hundred dollars, or may, either instead of or in addition to such forfeiture and payment, be imprisoned for a term not exceeding six months.

Penalty for personating or attempting to bribe etc., members of the force.
Amended by No. 28 of 1964, s. 7; No. 113 of 1965, s. 8; No. 24 of 1969, s. 4.

16. (1) 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 one hundred dollars or may, either instead of or in addition to such forfeiture, be imprisoned for a term not exceeding six months.

16A. (1) 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 service 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 un-
authorised
use of the
word
"detective."

Added by
No. 5 of
1945 s. 2.

Amended by
No. 28 of
1964, s. 8;
No. 113 of
1965, s. 8;
No. 24 of
1969, s. 5.

Penalty: One hundred dollars, or imprisonment for six months, or both.

(2) On the trial of a person charged with an offence under subsection (1) of this section the averment in the complaint that he was not at some particular time either a member of the Police Force of this State or a member of the Police Force of the Commonwealth or any other State of the Commonwealth is sufficient evidence of the fact until the contrary is proved.

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

Repute to
be evidence
of
appoint-
ment.

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.

Penalty on persons harbouring constables during the hours of duty.
Amended by No. 28 of 1964, s. 9; No. 113 of 1965, s. 8.

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

Penalty on police for neglect of duty.
Amended by No. 113 of 1965, s. 8.

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 twenty dollars (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.
Amended by No. 28 of 1964, s. 10; No. 113 of 1965, s. 8.

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 one hundred dollars; 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, horse or vehicle 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 either instead of or in addition to such forfeiture and payment, be imprisoned for a term not exceeding six months.

21. Every non-commissioned officer and constable of the Police Force shall execute all process to him directed for levying the amount of any recognisance 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 lastmentioned 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 recognisance so forfeited may, in addition to the manner prescribed by the 25th Vic., No. 5,¹ be levied by distress and sale of 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 recognisance may be proved before a Justice upon *ex parte* proof on oath thereof.

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

And as to recognisance.

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.

¹ i.e., Recognizances (Forfeiture) Ordinance, 1861.

Inquiries into Misconduct and Penalties.

Inquiries into misconduct of non-commissioned officer.
 Substituted by No. 25 of 1954, s. 4.
 Amended by No. 113 of 1965, s. 8; No. 1 of 1970, s. 2.

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 caution or reprimand the accused or inflict a fine not exceeding thirty dollars on him or order his reduction in rank, discharge or dismissal from the Force.

Inquiries into misconduct of constables.
 Amended by No. 25 of 1954, s. 5; No. 113 of 1965, s. 8; No. 1 of 1970, s. 3.

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 caution or reprimand the constable or sentence him to pay a fine not exceeding twenty dollars or order his reduction in rank, discharge or dismissal from the Force; and the Commissioner or another officer hearing a charge under either this 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 misconduct 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 thinks 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.*]

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 one hundred dollars, 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 one hundred dollars, it shall be paid to the Curator of Intestates' Estates.¹

As to disposal of effects of non-commissioned officers or constables dying intestate.
Amended by No. 113 of 1965, s. 8.

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.

¹ Public Trustee. See Public Trustee Act, 1941.

Bankrupt
may be
reinstated.

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.

Penalty on
persons
wrongfully
obtaining
admission
into the
force.
Amended by
No. 28 of
1964, s. 11;
No. 113 of
1965, s. 8.

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 a fine not exceeding one hundred dollars, or imprisonment for a term not exceeding six months, or both.

Members of
the force
not to
influence
voters at
elections.
Amended by
No. 113 of
1965, s. 8.

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 ten nor exceeding two hundred dollars, 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.
Substituted
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.—POLICE APPEAL BOARD.

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.

(2) The Board consists of three members—

- (a) a Stipendiary 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.

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.

Part IIA
inserted by
No. 25 of
1954, s. 7.
Interpreta-
tion.
Added by
No. 25 of
1954, s. 7.

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

Allowances.

Tenure of
Office.
Added 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 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.

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.

Appoint-
ment of
secretary.
Added 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.

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

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.
Added 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.

Witnesses
at and
evidence
taken on
appeal.

Added by
No. 25 of
1954, s. 7.

Amended by
No. 113 of
1965, s. 8.

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 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.

(3) A person who—

Offence.

- (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: One hundred dollars.

(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.
Added 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.

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

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.

Regulations.
Added 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—

- (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 in-
formation
on oath, or
otherwise,
that dis-
turbances
exist, or are
apprehend-
ed, may
appoint
special
constables.

34. In all cases where it shall be made to appear to any Stipendiary 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 The Queen 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

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

Power of special constables.

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.

Appoint-
ment of
special
constables.

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

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

(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 necessities 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 engage-
ment.

Amended by
No. 28 of
1964, s. 12;
No. 113 of
1965, s. 8.

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 forty dollars 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 forty dollars, 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.

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.

Power to
discontinue
service of
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, equipment, and necessaries for such special constables.

Minister
may direct
reasonable
allowances
to be paid
to and for
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 pro-
claimed
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.

Officers of
Police Force,
etc., may
board
vessels.
Amended by
No. 24 of
1969, s. 6.

40. Any 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 unlading 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.

Officers of
Police Force,
etc., to
apprehend
and seize
stolen
property on
board ship.
Amended by
No. 113 of
1965, s.8;
No. 24 of
1969, s. 7.

41. Any 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 one hundred dollars, 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,

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

Amended by No. 28 of 1964, s. 13; No. 113 of 1965, s. 8.

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 fine not exceeding forty dollars, or imprisonment for a term not exceeding one month.

Power of
apprehend-
ing offenders.

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, illtreat, 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 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.

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 fine not exceeding forty dollars, or imprisonment for a term not exceeding one month.

Power to apprehend persons disturbing the peace on board ships or vessels, and in houses licensed for the sale of fermented and spirituous liquors.
Amended by No. 28 of 1964, s. 14; No. 113 of 1965, s. 8.

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

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 the District Court of Western Australia, 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.

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

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.

Apprehension of known offenders.

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 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.

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 persons, 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.

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.

In default of appearance recognisance to be forfeited.

Time of hearing may be postponed.

Power to
police and
persons
aggrieved to
apprehend
certain
offenders.

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 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.

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

Police may
demand
name and
address, and
apprehend.
Amended by
No. 113 of
1965, s. 8.

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 ten dollars, 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.

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.

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

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 twenty dollars.

Mad dogs, etc. Amended by No. 28 of 1964, s. 15; No. 113 of 1965, s. 8.

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,

Regulations for preventing obstructions in the streets during public processions, etc. Amended by No. 28 of 1964, s. 16; No. 113 of 1965, s. 8.

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 fine not exceeding forty dollars, or imprisonment for a term not exceeding one month.

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

Penalty on drunkards.
Amended by
No. 113 of
1965, s. 8.

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 two dollars, 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 ten dollars, or to imprisonment, with or without hard labour, for any period not exceeding twenty-one days.

Disorderly conduct.
Amended by
No. 28 of
1964, s. 17;
No. 113 of
1965, s. 8.

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 one hundred dollars 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.

Disorderly assembly.
Added by
No. 85 of
1970, s. 3.

54A. (1) A disorderly assembly is an assembly of three or more persons who assemble in such a manner or who so conduct themselves when they are

assembled as to give persons in the neighbourhood of the assembly reasonable grounds to apprehend that the persons so assembled—

- (a) will disturb the peace; or
- (b) will by that assembly needlessly provoke other persons to disturb the peace.

(2) Persons lawfully assembled may become a disorderly assembly if being assembled they conduct themselves in such a manner as is referred to in subsection (1) of this section.

(3) Any member of a disorderly assembly who, after being warned by a member of the Police Force to disperse immediately and go peaceably to his home or his lawful business, neglects or refuses to do so, commits an offence.

Penalty: One hundred dollars or a term of imprisonment not exceeding six months or both.

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

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

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 dollars, except where the offence is in respect of so riding or driving a vehicle that is a vehicle within the meaning of the Traffic Act, 1919, in which case like provisions shall apply to the offender as under that Act apply to a person guilty of the offence of driving a vehicle on a road recklessly or negligently, or at a speed or in a manner which is dangerous to the public.

Negligent or
furiously
driving.
Amended by
No. 28 of
1964, s. 18;
No. 113 of
1965, s. 8.

58. [Repealed by No. 85 of 1970, s. 4.]

Damage to
animals
plants, etc.,
in gardens.
2 Edw. VII.,
No. 31
s. 10.
No. 15 of
1952, s. 7.
Schedule
Item No. 30.
Amended by
No. 6 of
1954, s. 3;
No. 113 of
1965, s. 8;
No. 85 of
1970, s. 5.

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

- (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.

Penalty: A fine not exceeding three hundred dollars or imprisonment for a term not exceeding six months or both.

Obscenity
and other
offences.
Amended by
No. 28 of
1964, s. 20;
No. 113 of
1965, s. 8.

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 forty dollars, or may be committed to gaol for any period not exceeding one calendar month.

60. [Repealed by No. 44 of 1963, s. 4.]

61. Any person who, in any room or place, keeps by way of trade or business any billiard table or amusement machine, or any person having the care or management of any such room or place or in any manner assisting in conducting the business thereof who shall permit or suffer any person to play any game or machine on a Sunday except between the hours of ten o'clock in the forenoon and six o'clock in the afternoon, or on Christmas Day, or Good Friday, shall on conviction forfeit and pay a sum not exceeding forty dollars, or may be imprisoned for a term not exceeding one month; 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 forty dollars, or may be imprisoned for a term not exceeding one month.

Restriction on games on certain days.
Amended by No. 28 of 1964, s. 21; No. 113 of 1965, s. 8; No. 7 of 1972, s. 2.

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

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

Pointing firearms punishable.
58 Vict., No. 26, s. 5.
No. 15 of 1952, s. 7.
Schedule Item No. 13.
Amended by No. 28 of 1964, s. 22; No. 113 of 1965, s. 8.

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 one dollar.

Taking dog into public gardens.
Amended by No. 113 of 1965, s. 8.

Challenge
to fight.
Amended by
No. 113 of
1965, s. 8.

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 forty dollars, 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.

Valueless
cheques.
Added by
No. 10 of
1959, s. 3.
Amended by
No. 22 of
1965, s. 2;
No. 113 of
1965, s. 8;
No. 24 of
1969, s. 8.

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—

- (c) where the cheque was drawn for an amount not exceeding one hundred dollars, to a fine of one hundred dollars or to imprisonment for a term of six months; or
- (d) where the cheque was drawn for an amount exceeding one hundred dollars, to a fine of five hundred dollars or to imprisonment for a term of twelve 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 or a Commissioned Officer of Police, authorised for the purpose in writing by 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:—

Idle and disorderly persons.
Amended by
No. 8 of 1955,
s. 2;
No. 20 of 1956,
s. 2;
No. 7 of
1972, s. 3.

- (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.
- (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 or in his possession any rifle, gun, pistol, sword, dagger, knife, sharpened chain, club, bludgeon or truncheon, or any other offensive or lethal weapon or instrument.
- (4b) Every person who, without lawful excuse, carries or has in his possession any jumper leads, silver paper, wire hooks, cutting implements or other implement or device to facilitate the unlawful driving or use of a motor vehicle.
- (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.

Rogues and
vagabonds.
Amended by
No. 19 of
1933, s. 2;
No. 29 of
1962, s. 2;
No. 7 of
1967, s. 2.

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:—

- (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 or any explosive substance.
- (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 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.
- (13) Any person who is or has been, without lawful excuse, in or upon any premises or the curtilage, whether enclosed or fenced or not, of any premises.

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

67. Every person who shall commit any of the next following offences shall be deemed an incorrigible rogue, and shall, on conviction before

Incorrigible
rogues.

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 Sessions of The District Court of Western Australia 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.

Seizure of
property and
searching.

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 person 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.

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 four hundred dollars, or in the discretion of the justice may be imprisoned, with or without hard labour, for any term not exceeding two years.

Persons suspected of having or conveying stolen goods.

Amended by No. 28 of 1964, s. 23; No. 113 of 1965, s. 8. No. 85 of 1970, s. 6.

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

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

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.

Amended by
No. 28 of 1954,
s. 24;
No. 113 of
1965, s. 8.

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 receive 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 one hundred dollars, 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 Justice 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 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.

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

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.

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

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

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

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 moneys 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 moneys 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.

Unclaimed
stolen goods
delivered to
the receiver
may be sold
after twelve
months.
Application
of proceeds.
Substituted
by No. 19 of
1940, s. 3.
Amended by
No. 7 of
1972, s. 4.

75. (1) Where any goods or money charged to be stolen or unlawfully obtained and of which the owner is unknown are in the custody of a member of the Police Force then, if no person appears to claim ownership, that member after the expiration of a period of six months may and within a period of twelve months 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) [*Deleted by No. 7 of 1972, s. 4.*]

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 goods in possession of police may be sold by Commissioner.

76A. Any person who—

(1) is charged before any Stipendiary 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 one hundred dollars, or to imprisonment, with or without hard labour, for any term not exceeding six months.

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.

Amended by No. 113 of 1965, s. 8.

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.

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.
Amended by No. 113 of 1965, s. 8.

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.

76C. (1) Any person who—

- (a) is charged before any Stipendiary 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 one hundred dollars 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.

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.
Amended by No. 113 of 1965, s. 8.

76D. (1) Any person charged before any Stipendiary 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 fifty dollars, or to imprisonment, with or without hard labour, for any term not exceeding three months.

(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.

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

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.
Amended by No. 28 of 1964, s. 25.
No. 113 of 1965, s. 8.

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 one hundred dollars, or imprisonment, with or without hard labour, not exceeding six months; and
- (b) on a second or subsequent conviction, to a fine not exceeding two hundred dollars, 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 prosti-
tution.

2 Edw. VII.,
No. 31 s. 8.
No. 15 of
1952, s. 7.

Schedule
Items No. 26
and No. 27.

Amended by
No. 26 of
1968, s. 2.

76G. (1) Every 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 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 Stipendiary 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 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 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 one hundred dollars, 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 a Commissioned Officer 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.

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.

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. Amended by No. 113 of 1965, s. 8; No. 24 of 1969, s. 9.

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

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

Power to deal summarily with cases of oppressive distress. Amended by No. 113 of 1965, s. 8.

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 one hundred and four dollars 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 one hundred and four dollars, such value to be determined by the said Justices.

Power to order delivery of goods unlawfully detained to the owner. Amended by No. 113 of 1965, s. 8.

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 one hundred dollars, and not being deeds, muniments, or papers relating to any property of greater value than one hundred dollars, 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 one hundred dollars, 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.

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

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

Unlawfully
taking or
branding
animals.
56 Vict., No.
10, s. 14.
No. 15 of
1952, s. 7.

Schedule
Item No. 11.
Amended by
No. 28 of
1964, s. 26;
No. 113 of
1965, s. 8.

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 two hundred dollars.

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.

Wilful
damage to
property.
Repealed
and re-
enacted by
No. 85 of
1970, s. 7.

80. (1) Every person who wilfully or maliciously destroys or damages any real or personal property of any kind, whether owned by Her Majesty or any public or local authority or by any other person, is guilty of an offence.

Penalty: A fine not exceeding three hundred dollars or imprisonment for any term not exceeding six months or both.

(2) Subsection (1) of this section does not apply—

- (a) where the alleged offender acted under a fair and reasonable supposition that he had a right to do the act complained of; or
- (b) where the act complained of was done in the course of hunting or fishing, or in the pursuit of game and was not done with an intention to destroy or damage the property.

Vide s. 135
post.

(3) On the conviction of a person for an offence against this section, the Justices may, in addition to any penalty imposed under subsection (1) of this section, order him to pay to any person such sum as they think fit by way of compensation for any damage to, or loss of, property suffered by that person through or by means of the offence.

(4) An order for payment under this section does not affect the right of any person to recover by civil proceedings any sum in excess of the amount paid pursuant to the order.

81. A person who takes, uses, or assumes control of any boat, flat, or barge or any fitting or equipment, including any motor, thereon without previously obtaining the consent of the owner or person in charge thereof is liable to a fine of five hundred dollars or imprisonment for two years and in addition, on conviction, shall forfeit and pay to the party aggrieved 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 fitting or equipment, by reason of such unauthorised removal or use thereof.

Removing
boat or boat
furniture.
Amended by
No. 28 of
1964, s. 27;
No. 113 of
1965, s. 8;
No. 1 of
1970, s. 4.

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.
Amended by
No. 42 of
1963, s. 2;
No. 28 of
1964, s. 28;
No. 113 of
1965, s. 8.

- (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 stile 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 twenty dollars, 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, mushroom or other fungus 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 ten dollars) 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 twenty dollars, 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 twenty dollars), 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 forty dollars, 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

Persons
offering such
property
for sale may
be arrested.

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.

82A. (1) Every person who shall, without lawful excuse, enter into the enclosed land of another person, without the consent of the owner, occupier or person in charge thereof, and shall cause damage or injury to any property such as is mentioned in section eighty-two of this Act shall pay to the party aggrieved the amount of any damage or injury done and shall be liable to a fine not exceeding twenty dollars.

Penalty on persons trespassing on enclosed land.

Added by No. 42 of 1963, s. 3.

Amended by No. 28 of 1964, s. 29; No. 113 of 1965, s. 8.

(2) The owner, occupier or person in charge of enclosed land who shall find a person on the land whom he has just cause to suspect of having entered into the land without consent may demand and require of that person his name and address, and any such person who shall neglect or refuse to give his name and address or who shall give a false name and address when applied to as aforesaid shall upon conviction be liable to a fine not exceeding twenty dollars.

Cf. s. 50 of this Act.

(3) The provisions of this section shall be read and construed as in aid of, and not in derogation from, the provisions of section eighty-two of this Act and not in derogation from the rights of a person at law.

The term "enclosed land" mentioned in this section means any land, either public or private, that is enclosed or surrounded by a fence, wall or other erection, or partly by a fence, wall or other erection, and partly by some natural feature, such as a river or cliff, by which the boundaries thereof may be known or recognised; but does not include any road enclosed with the land.

Penalty on persons selling adulterated or unwholesome articles of food. Amended by No. 28 of 1964, s. 30; No. 113 of 1965, s. 8.

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:—

- (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 forty dollars, 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 forty dollars 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.

This Act is subject to certain Acts.

Added 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).

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.

(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.

84. (1) 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 prostitutes or persons of notoriously bad character to meet together and remain therein, shall, on conviction for every such offence, be liable to a fine not exceeding forty dollars, or imprisonment for a term not exceeding one month: Provided always, that if the offender be a person licensed under the Wines, Beer, and Spirit Sale Act, 1880,¹ 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 licence of the Act under which it is granted.

Regulation of houses of public resort. Amended by No. 6 of 1954, s. 5; No. 42 of 1963, s. 4; No. 28 of 1964, s. 31; No. 113 of 1965, s. 8.

(2) Every person who, being the occupier, keeper or person having the charge or control of a shop or other place of public resort, shall knowingly permit or suffer a child apparently under the age of sixteen years to enter and remain therein, under such circumstances as shall indicate that the mental, physical or moral welfare of such child is likely to be in jeopardy, shall, on conviction for every such offence, be liable to a fine not exceeding forty dollars, or imprisonment for a term not exceeding one month.

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,

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.

¹ See Liquor Act, 1970.

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.

Betting
houses to be
gaming
houses.

56 Vict.,
No. 10, s. 5.
No. 15 of
1952, s. 7.
Schedule
Item No. 2.

Penalty on
owner or
occupier of
betting
house.

56 Vict.,
No. 10, s. 6.
No. 15 of
1952, s. 7.
Schedule
Item No. 3.

Amended by
No. 113 of
1965, s. 8.

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

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 two hundred dollars, or to be imprisoned, with or without hard labour, for any term not exceeding six calendar months.

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.

Amended by
No. 113 of
1965, s. 8.

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 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 one hundred dollars, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

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.

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.

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.

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.

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,

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.
Amended by
No. 113 of
1965, s. 8.

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 sixty dollars, or to imprisonment, with or without hard labour, for any term not exceeding two calendar months.

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.

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

- (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 of 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

subscribed 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.

34I. 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 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.

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

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

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

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.
Amended by No. 113 of 1965, s. 8.

And persons found therein.

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 two hundred dollars, 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 twenty dollars.

Evidence of being a common gaming house.

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.

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 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.

Evidence of gaming.

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

Prohibition of certain slot machines.

Added by No. 71 of 1961, s. 2.

Amended by No. 29 of 1962, s. 3; No. 113 of 1965, s. 8.

- (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.¹

(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 or, if not so operated, that is designed for entertainment or amusement and is made available for use, in the place where it is then situated, on the payment, or the prospect of payment, of any valuable consideration; 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 or sale, is not prohibited by any law of the State;
- (d) provides music; or
- (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 twenty dollars and, in the case of a person having the machine in his possession, to a penalty of fifty dollars.

(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.

89B. A person shall not insert, or attempt to insert, in any slot machine of which the use or possession is lawful, anything other than a coin made and issued under the authority of a law of the Commonwealth.

Use of metal washers etc., in slot machines.
Added by No. 22 of 1965, s. 3.
Amended by No. 113 of 1965, s. 8.

Penalty: Forty dollars.

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 of not more than two hundred dollars or in

Penalty for obstructing police.
Amended by No. 113 of 1965, s. 8.

the discretion of the Justices before whom he shall be convicted of the offence to be committed to the nearest goal with or without hard labour for any term not exceeding six calendar months.

False reports.
Cf. N.Z. Act No. 29 of 1935, s. 4.
Added by No. 5 of 1945, s. 3.
Repealed and re-enacted by No. 29 of 1962, s. 4.
Amended by No. 28 of 1964, s. 32; No. 113 of 1965, s. 8.
Cf. S.A., s. 62A.

90A. (1) Every person who, by a written or oral statement made to a member of the Police Force, represents, contrary to the fact and without a genuine belief in the truth of his statement, the existence of a circumstance reasonably calling for police investigation or inquiry commits an offence.

(2) Every person who does any act, with the intention of creating the belief or suspicion that—

- (a) an offence has been committed; or
- (b) human life has, or may have, been lost; or
- (c) a person's safety is, or may be, endangered,

knowing, at the time of doing that act, that the circumstance with respect to which he intends to create the belief or suspicion does not exist, commits an offence.

(3) A court convicting a person of an offence under this section may, in addition to, or without, imposing any penalty, order that person to pay to any other person the amount of any expenses reasonably incurred by that other person, with respect to any investigation, inquiry or search made as a result of the statement or act by reason of which the former person is convicted; and that order may be enforced as though the amount so ordered to be paid were a penalty imposed under this section.

Penalty: Two hundred dollars or imprisonment for six months or both.

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 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.*]

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

Cheating
at play.
Amended by
No. 113 of
1965, s. 8.

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 two hundred dollars or to imprisonment with or without hard labour for any term not exceeding twelve calendar months.

PART VIA.—OPIUM AND DANGEROUS DRUGS.¹

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

“cannabis” means the plant known as *Cannabis sativa*, sometimes known as the marijuana plant, and includes any part of that plant;

“Commissioner” means the Commissioner of Public Health for the time being appointed under the provisions of the Health Act, 1911;

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

“medical practitioner” means legally qualified medical practitioner registered under the Medical Act, 1894;

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

“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;

“prohibited plant” means any prohibited plant under and for the purposes of the Poisons Act, 1964;

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, s. 4;

No. 71 of
1964, s. 3.

No. 52 of
1967, s. 2;

No. 26 of
1968, s. 3.

¹ See footnote on page 71 post.

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

“specified drug” means a substance that is a specified drug under and for the purposes of the Poisons Act, 1964;

“veterinary surgeon” means a registered veterinary surgeon within the meaning of the Veterinary Surgeons Act, 1960.

(2) The drugs to which this Part of this Act applies are—

- (a) 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, the percentage in the case of morphine being for the purpose of this paragraph calculated as in respect of anhydrous morphine;
- (b) any new derivative of morphine or cocaine or other alkaloid of opium or any other drug, or any preparation admixture, extract or other substance, to which the Governor, pursuant to the provisions of this subsection as those provisions existed prior to the coming into operation of the Police Act Amendment Act (No. 2), 1964, has by proclamation published in the *Gazette*¹ declared that this Part of this Act shall apply;
- (c) any drug of addiction that is included in the Eighth Schedule in Appendix “A” to the Poisons Act, 1964, or that is added to that Schedule pursuant to the provisions of that Act, and any specified drug;
- (d) cannabis; and
- (e) any prohibited plant.

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.

¹ 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; 31/8/62, p. 2421-2; 18/1/63, p. 327; 17/5/63, p. 1317-8; 29/5/64, p. 2291-2.

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

(2a) 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.

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

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

Cannabis or
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.
Amended by
No. 71 of
1964, s. 4;
No. 26 of
1968, s. 4;
No. 85 of
1970, s. 8.

94B. (1) If any person—

- (a) manufactures or prepares cannabis or prepared opium; or
- (b) [*Deleted by No. 85 of 1970, s. 8.*]
- (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, cannabis or prepared opium; or
- (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of cannabis or 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 cannabis or prepared opium, or is found in any place which is then being used for the purpose of cannabis or 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—

- (a) has in his possession any drug to which this part of this Act applies;
- (b) sells or supplies or offers to sell or supply to another any drug to which this Part of this Act applies; or
- (c) has in his possession any drug to which this Part of this Act applies with intent to sell or supply it to another,

he is guilty of an offence against this Part of this Act, unless—

- (d) in the case of an offence against paragraph (a) of this subsection—
 - (i) he is authorised under the Poisons Act, 1964, or the regulations made thereunder to be in possession of the drug; or
 - (ii) the drug was sold or supplied or requested to be sold or supplied to him by a medical practitioner or veterinary surgeon or on and in accordance with a prescription complying with that Act or those regulations;
- (e) in the case of an offence against paragraph (b) or (c) of this subsection he is authorised under the provisions of the Poisons Act, 1964 or the regulations made thereunder to manufacture, prepare, sell,

distribute or supply the drug and the sale, supply, offer to sell or supply or intended sale or supply of the drug is or was in all respects in accordance with such authority.

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

(4) A person is not guilty of an offence under subsection (2) of this section by virtue of his having in his possession or attempting to obtain possession of, a drug to which this Part of this Act applies, if he proves that—

- (a) he had possession, or attempted to obtain possession thereof only for the purpose of delivering it to a person referred to in paragraph (d) or (e) of that subsection;
- (b) he had possession or attempted to obtain possession thereof pursuant to the prior written authority of such person, except in the case of a person to whom subparagraph (ii) of paragraph (d) of that subsection applies; and
- (c) after taking possession thereof, he took all such steps as were reasonably open to him to deliver it into the custody of such person.

(5) A person who is convicted of an offence—

- (a) against paragraph (a) of subsection (2) of this section, is liable on summary conviction to a fine not exceeding two thousand dollars and to imprisonment for a term not exceeding three years or both;
- (b) against paragraph (b) or (c) of subsection (2) of this section, is liable on summary conviction to a fine not exceeding four thousand dollars or to imprisonment for a

term not exceeding ten years or both, but the court convicting the person for the offence—

- (i) shall commit him for sentence before The District Court of Western Australia which may pass sentence for the offence in accordance with this section and may make such other orders in relation to the convicted person as might be made by a court of summary jurisdiction convicting a person of an offence;
- (ii) by warrant shall commit the convicted person to gaol until the sittings of the court by which he is to be sentenced or admit him to bail to appear before that court for sentence.

(6) For the purposes of paragraph (c) of subsection (2) of this section, a person shall, until the contrary is proved, be deemed to be in possession of a drug to which this Part of this Act applies with intent to sell or supply it to another if he is in possession of a prescribed quantity or more of such drug.

(7) If, on the hearing of a complaint for an offence against paragraph (b) or (c) of subsection (2) of this section, the evidence does not establish that the defendant is guilty of that offence but is guilty of some other offence against this Part of this Act, the defendant may be convicted of that other offence and is liable to be punished accordingly.

94C. (1) For the purpose of preventing the improper use of the drugs to which this Part of this Act applies, the Governor may make regulations prescribing matters and things (including fees) that by this Part of this Act are contemplated, required or permitted to be prescribed, or that appear to the Governor to be necessary or convenient for the purpose of effectually carrying out the provisions of this Part of this Act, or for better effecting the operation, objects and purposes of such Part.

Regulations.
Amended by
No. 28 of
1953, s. 5.
No. 11 of
1928, s. 5.
No. 15 of
1952, s. 7.
Schedule
Item No. 40.
Substituted
by No. 71 of
1964, s. 5.

(2) Regulations made under the provisions of this section are in addition to and not in derogation of any regulations made under the Poisons Act, 1964, but where and to the extent that inconsistency exists between the regulations made under this section and regulations made under the Poisons Act, 1964, the latter regulations shall prevail.

(3) A person who acts in contravention of or fails to comply with any regulation made under this Part of this Act is guilty of an offence against such Part.

Power to enter.
10 and 11, Geo. V., c. 46, s. 10.
13 and 14 Geo. V., c. 5, s. 1.
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.

(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.

94E. (1) A person who is guilty of an offence against this Part of this Act, not being an offence for which a penalty is otherwise in this Part of this Act expressly provided, is liable on summary conviction for the offence to a penalty of a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding three years or both.

Penalties.
13 and 14
Geo. V., c.
5, s. 2.
N.S.W. No. 7
of 1927,
s. 2.
No. 11 of
1923, s. 7.
No. 15 of
1952, s. 7.
Schedule
Item No 42.
Amended by
No. 71 of
1964, s. 6;
No. 113 of
1965, s. 8;
No. 52 of
1967, s. 3;
No. 85 of
1970, s. 9.

(1a) Subject to subsection (1b) of this section, the court by which a person is convicted of an offence against this Part of this Act may order anything shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(1b) The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of, or otherwise interested in it, applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(2) No person shall, on conviction for any offence of contravening or failing to comply with the conditions of any license 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 twenty dollars, 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.

(3) It is an offence for a person to attempt to commit or to incite another to commit an offence against this Part of this Act and the person is liable on summary conviction to the same penalty and forfeiture and to be dealt with as if he had been convicted of the last mentioned offence.

Company.

(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.

(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.

Proof.

(7) Any analyst appointed under the Health Act, 1911, 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.

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

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.

(8) A complaint for an offence against paragraph (b) or (c) of subsection (2) of section ninety-four B of this Act shall be heard by a court of summary jurisdiction constituted by a stipendiary magistrate sitting alone.

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—

Interpretation.

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

Amended by No. 85 of 1970, s. 10.

“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.

Offences and
penalties

Vide s. 41
Act No. 70
of 1964 as
amended.

Substituted
by No. 85 of
1970, s. 11.

94G. (1) If a person—

- (a) manufactures, prepares or uses the drug;
- (b) has in his possession the drug;
- (c) sells or supplies or offers to sell or supply the drug to another;
- (d) has in his possession the drug with intent to sell or supply it to another,

he is guilty of an offence unless he is authorised by the Poisons Act, 1964 or the regulations made thereunder, so to do.

(2) A person who is convicted of an offence—

- (a) against paragraph (a) or (b) of subsection (1) of this section, is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding three years or both;
- (b) against paragraph (c) or (d) of subsection (1) of this section, is liable on summary conviction to a fine not exceeding four thousand dollars or to imprisonment for a term not exceeding ten years or both, but the court convicting the person for the offence—

shall commit him for sentence before The District Court of Western Australia which may pass sentence for the offence in accordance with this section and may make such other orders in relation to the convicted person as might be made by a court of summary jurisdiction convicting a person of an offence;

- (ii) by warrant shall commit the convicted person to gaol until the sittings of the court by which he is to be sentenced or admit him to bail to appear before that court for sentence.

(3) For the purposes of paragraph (d) of subsection (1) of this section, a person shall, until the contrary is proved, be deemed to be in possession of the drug with intent to sell or supply it to another, if he is in possession of a prescribed quantity or more of the drug.

(4) If on the hearing of a complaint for an offence against paragraph (c) or (d) of subsection (1) of this section the evidence does not establish that the defendant is guilty of that offence but is guilty of some other offence against that subsection, the defendant may be convicted of that offence and is liable to be punished accordingly.

94H. (1) If a Justice is satisfied by information on oath that there is reasonable grounds for suspecting that the drug is in the possession of any person on any premises, the Justice may grant a search warrant authorising any member of the Police Force 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.

Search
warrant and
application
of s. 94E.
Substituted
by No. 85 of
1970, s. 12.

(2) Where a member of the Police Force finds the drug in the possession of any person he may seize the drug and deliver it into the custody of a person authorised by the Minister to receive it.

(3) If any person wilfully delays or obstructs any member of the Police Force in the exercise of his powers under this section, he is guilty of an offence and is liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding three years or both.

(4) Where a person is convicted of an offence against section ninety-four G of this Act, the provisions of subsections (1a), (1b), (3), (4), (5), (6) and (7) of section ninety-four E of this Act apply to the person, the offence, and any

proceedings against the person for the offence, with such adaptations as the circumstances require, and for the purposes of giving effect to subsection (7) of that section as so applied, the Governor may make regulations providing for the analysing of any drug or substance by an analyst as defined in the Health Act, 1911.

(5) A complaint for an offence against paragraph (c) or (d) of subsection (1) of section ninety-four G of this Act shall be heard by a Court of summary jurisdiction constituted by a stipendiary magistrate sitting alone.

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.

Amended by No. 28 of 1964, s. 33; No. 113 of 1965, s. 8.

96. Every person shall, on conviction, be liable to a penalty of not more than forty dollars 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 wagon, 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 propellor 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 alight 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.

Police.

- (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 watercourse, 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.

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 fifty dollars or to imprisonment for a term not exceeding six months.

Penalty for destruction of acclimatised animals or birds.
Amended by No. 6 of 1954, s. 6; No. 113 of 1965, s. 8.

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 twenty dollars; and every person who shall play or sound upon any musical instrument in any street, and

Street musicians to depart when desired to do so.
Amended by No. 28 of 1964, s. 34; No. 113 of 1965, s. 8.
Penalty on playing musical instruments in street.

against whom any 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 twenty dollars.

Cannon, etc.
not to be
fired near
dwelling
houses.
Amended by
No. 28 of
1964, s. 35;
No. 113, of
1965, s. 8.

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 forty dollars.

Hog-sties
and
nuisances
not removed
on com-
plaint.
Amended by
No. 113 of
1965, s. 8.

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 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 forty dollars 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.

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 forty dollars.

Butchers' shambles and slaughter houses.
Amended by No. 28 of 1964, s. 36; No. 113 of 1965, s. 8.

Penalty.

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 forty dollars, 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.

Inspection of meat.
Amended by No. 28 of 1964, s. 37; No. 113 of 1965, s. 8.

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

As to private avenues.
Amended by No. 28 of 1964, s. 38; No. 113 of 1965, s. 8.

offensive smell or otherwise, shall, on conviction, forfeit and pay a sum not exceeding forty dollars, for every such offence.

Bathing prohibited within certain limits.
Amended by No. 28 of 1964, s. 39; No. 113 of 1965, s. 8.

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 forty dollars; and any constable may take into custody any person who shall commit any such offence within view of such constable.

As to damaging public buildings.
Amended by No. 28 of 1964, s. 40; No. 113 of 1965, s. 8.

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 forty dollars.

As to water-courses.
Amended by No. 28 of 1964, s. 41; No. 113 of 1965, s. 8.

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 forty dollars, and shall pay the cost of removing such filth or obstruction, or of restoring such sewer, watercourse, drain, or canal to its proper channel.

As to injuring public fountains.
Amended by No. 6 of 1954, s. 7; No. 28 of 1964, s. 42; No. 113 of 1965, s. 8.

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 fifty dollars 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 forty dollars; 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 twenty dollars; 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 ten dollars.

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 forty dollars.

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

Amended by No. 28 of 1964, s. 43; No. 113 of 1965, s. 8.

Penalty \$40.

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

Hours of removing night-soil, etc.

Amended by No. 28 of 1964, s. 44; No. 113 of 1965, s. 8.

Penalty on owner of carts, etc., and employer.

not exceeding forty dollars 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 forty dollars for every such offence.

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.
Amended by No. 28 of 1964, s. 45; No. 113 of 1965, s. 8.

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 forty dollars. 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 forty dollars; 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 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.
Amended by No. 28 of 1964, s. 46; No. 113 of 1965, s. 8.

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 forty dollars.

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 dollars together with the damages occasioned thereby: Provided that nothing herein contained shall apply to vehicles loaded with hay, wool, or rushes.

Drawing
or trailing
timber, etc.
Amended by
No. 28 of
1964, s. 47;
No. 113 of
1965, s. 8.

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 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

Entrances
to cellars,
coal-holes,
etc., to be
covered and
secured.
Amended by
No. 28 of
1964, s. 48;
No. 113 of
1965, s. 8.

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 coal, 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 forty dollars.

Cellars or openings beneath the surface of footways prohibited.
Amended by No. 28 of 1964, s. 49; No. 113 of 1965, s. 8.

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 forty dollars and also the expense of remedying or removing any such cellar, opening, door, or window made contrary to the provisions hereof.

Wells to be covered over.
Amended by No. 28 of 1964, s. 50; No. 113 of 1965, s. 8.

115. Every person having a well situated between his dwelling house, or the appurtenances thereof, and in 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 to be securely and permanently covered over or otherwise secured shall, upon conviction, for every such offence, forfeit and pay the sum of two dollars 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.
Amended by No. 28 of 1964, s. 51; No. 113 of 1965, s. 8.

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 site 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 forty dollars.

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 footways 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 footways, 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

Stalls, etc.,
not to be
set foot on
or carriage
ways.
Amended by
No. 28 of
1964, s. 52;
No. 113 of
1965, s. 8.

Placing
timber,
bricks, etc.

Not
removing
when
required.

Replacing
the same
after
removal.

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 part 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, basketwares, 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 footways 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 dollars.

Not to
prevent
awnings
being
erected in
front of
shops.

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 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.

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 two dollars and a like sum for every day that the same may not be prevented or remedied by gutters or otherwise.

Rain not to be allowed from eaves of houses on footways. Amended by No. 28 of 1964, s. 53; No. 113 of 1965, s. 8.

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 twenty-five cents; 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 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

Boards to be erected, but not without license. Amended by No. 28 of 1964, s. 54; No. 113 of 1965, s. 8.

What is to be specified in license.

Erecting without license.

Penalty.

Chairman
may cause
board to be
removed.Proceedings
thereupon.

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 the persons, or the person or persons by whom he or they shall or may be employed, shall forfeit and pay the sum of two dollars 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.

No rock to
be blasted
without
notice.
Amended by
No. 28 of
1964. s. 55;
No. 113 of
1965, s. 8.

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 Stipendiary 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 not conform to the directions given to him, he shall on conviction forfeit and pay a sum not exceeding forty dollars.

PART VIII.—MISCELLANEOUS PROVISIONS.

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.

Lodging
houses, etc.,
may be
searched.

123. Whenever any person having charge of any horse, cart, carriage, or boat, or any other animal or thing, shall be taken into 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.

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

Penalty for offences where no special penalty is appointed. Amended by No. 28 of 1964, s. 56; No. 113 of 1965, s. 8.

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 twenty dollars 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.

Penalty for compounding in-formations. Amended by No. 28 of 1964, s. 57; No. 113 of 1965, s. 8.

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 fine not exceeding one hundred dollars, or imprisonment for a term not exceeding six months.

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

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.

Certain offenders may be committed to Court of superior jurisdiction.

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 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 informations.

Amended by No. 28 of 1964, s. 58; No. 113 of 1965, s. 8.

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 Justice by whom the case 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 one hundred dollars, 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, or to order that the informer be imprisoned for a term not exceeding six months: Provided that this section shall not apply to any information or charge preferred by any police officer or constable.

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.

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

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.*]

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.

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

Offence
punishable
summarily.

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.

Amends, etc.,
to be
assessed by
Justice.

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, or making 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.

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

Justice not
bound to
convict in
certain
cases.

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.

Shortening
Ordinance,
incorpora-
tion.

138. Sections A, D, G, and H of 'The Shortening Ordinance, 1853',¹ 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.

¹ See Interpretation Act, 1918, s. 47.

138A. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act, are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.
Added by
No. 85 of
1970, s. 13.

(2) The regulations may impose penalties not exceeding in any case one hundred dollars, in respect of the contravention of any provision thereof.

PART IX. [*Deleted by No. 15 of 1952, s. 6.¹*]

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.*]

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

Commence-
ment of
Act.

¹ 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.

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*: 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.

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 to be made and levied of their several goods and chattels, lands and tenements respectively, to use of our said Lady the Queen, her Heirs and Successors, if he the said shall fail in the condition endorsed.

Section 48.

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 Recognizance 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 recognizance to be void, or else stand in full force
and virtue.

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

THE THIRD SCHEDULE.

Cereoli Iodoformi et Morphinae, 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. Gallae c. Opio, B.P. (Gall and Opium Ointment).

Ung. Gallae Co., B.P.C.