



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 46 of 1985

An Act to amend the Police Offences Act, 1953; and to make a consequential amendment to the Criminal Law Consolidation Act, 1935.

[Assented to 2 May 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the “Police Offences Act Amendment Act, 1985”. Short title.

(2) The Police Offences Act, 1953, is in this Act referred to as “the principal Act”.

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 1 of the principal Act is repealed and the following section is substituted: Repeal of s. 1 and substitution of new section.

1. This Act may be cited as the “Summary Offences Act, 1953”. Short title.

4. Section 4 of the principal Act is amended—

(a) by inserting after the definition of “minor” the following definition: Amendment of s. 4— Interpretation.

“place of public entertainment” has the same meaning as in the Places of Public Entertainment Act, 1913;

and

(b) by inserting after the definition of “public place” the following definition:

“telephone” includes any telecommunication device for the transmission of speech:.

Amendment of
s. 6—
Assaulting and
hindering police.

5. Section 6 of the principal Act is amended by striking out subsection (6).

Amendment of
s. 8—
Challenges to
fight, and prize
fights.

6. Section 8 of the principal Act is amended by striking out subsection (3).

Amendment of
s. 9a—
Sale and
consumption of
methylated
spirits.

7. Section 9a of the principal Act is amended by striking out subsection (5).

Repeal of s. 10.

8. Section 10 of the principal Act is repealed.

Insertion of new
s. 11a.

9. The following section is inserted after section 11 of the principal Act:

Avoiding
payment of
entrance fee.

11a. A person who, knowing that a charge is made for admission to a place of public entertainment, dishonestly gains admission to the place of public entertainment without paying the admission charge shall be guilty of an offence.

Penalty: Five hundred dollars.

Amendment of
s. 15—
Offensive weapon
and drugs.

10. Section 15 of the principal Act is amended—

(a) by striking out from paragraph (c) of subsection (1) the passage “deleterious drug or”;

(b) by striking out subsection (1a);

(c) by striking out from subsection (2) the word “drug.”;

(d) by striking out from subsection (3) the definition of “prescribed drug”;

and

(e) by striking out subsection (4) and substituting the following subsection:

(4) The Governor may, by regulation, declare any specified articles or things, or articles or things of a specified class, to be dangerous articles for the purposes of this section.

Repeal of s. 17
and substitution
of new section.

11. Section 17 of the principal Act is repealed and the following section is substituted:

Being on premises
for an unlawful
purpose.

17. (1) A person who has entered, or is present on, premises for an unlawful purpose or without lawful excuse shall be guilty of an offence.

Penalty: Two thousand dollars or imprisonment for six months.

(2) Where a member of the police force believes on reasonable grounds that a person has entered, or is present on, premises for the purpose of committing an offence, he may order the person to leave the premises.

(3) A person who fails to comply with an order under subsection (2) shall be guilty of an offence.

Penalty: Two thousand dollars or imprisonment for six months.

(4) In this section—

“premises” means—

- (a) any building or structure;
 - (b) any land that is fenced or otherwise enclosed;
 - (c) any land (whether or not fenced or enclosed) that forms the yard, garden or curtilage of a building;
- or
- (d) any aircraft, vehicle, ship or boat.

12. Section 17a of the principal Act is amended—

(a) by striking out from subsection (2) the passage “this section” and substituting the passage “subsection (1)”;

Amendment of
s. 17a—
Trespassers on
premises.

(b) by inserting after subsection (2) the following subsection:

(2a) A person who, while trespassing on premises—

(a) behaves in an offensive manner;

or

(b) uses offensive language,

shall be guilty of an offence.

Penalty: One thousand dollars.;

and

(c) by inserting in subsection (3) after the definition of “occupier” the following definition:

“offensive” includes threatening, abusive or insulting.

13. Section 17b of the principal Act is repealed.

Repeal of s. 17b.

14. Section 18 of the principal Act is amended by striking out subsection (1).

Amendment of
s. 18—
Loitering in a
public place.

15. Section 19 of the principal Act is repealed.

Repeal of s. 19.

16. Section 34 of the principal Act is repealed.

Repeal of s. 34.

17. Section 35 of the principal Act is amended by inserting after subsection (4) the following subsections:

Amendment of
s. 35—
Restrictions on
reports of
immorality, etc.

(5) It is a defence to a charge of an offence against this section for the defendant to prove that the report to which the charge relates—

(a) was published at the direction of a court or other body conducting legal proceedings;

(b) forms part of a genuine series of law reports that does not form part of any other publication and consists solely of reports of proceedings in courts of law;

or

(c) is a publication of a technical character genuinely intended for circulation among members of the legal or medical professions.

(6) A prosecution for an offence against this section shall not be instituted without the written consent of the Commissioner.

(7) An apparently genuine document purporting to authorize a prosecution under this section and to be signed by the Commissioner shall, in the absence of evidence to the contrary, be accepted by a court as proof of the consent of the Commissioner to the prosecution.

Repeal of s. 36.

18. Section 36 of the principal Act is repealed.

Repeal of s. 40.

19. Section 40 of the principal Act is repealed.

Repeal of s. 44.

20. Section 44 of the principal Act is repealed.

Amendment of
s. 48—
Posting bills and
writing on walls,
etc.

21. Section 48 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsection:

(2) Where a person is convicted of an offence against this section, the court may order him to pay to the owner or occupier of the building, wall, fence, structure, road or footpath in relation to which the offence was committed such sum by way of compensation for damage caused by him as the court considers just.

Repeal of s. 49.

22. Section 49 of the principal Act is repealed.

Amendment of
s. 53—
Playing games so
as to cause
damage.

23. Section 53 of the principal Act is amended by striking out from subsection (1) the passage "or annoy or be likely to injure or annoy" and substituting the passage "or be likely to injure".

Repeal of s. 54.

24. Section 54 of the principal Act is repealed.

Repeal of s. 55.

25. Section 55 of the principal Act is repealed.

Amendment to
s. 62—
False reports to
police.

26. Section 62 of the principal Act is amended by striking out subsections (1) and (1a) and substituting the following subsection:

(1) Where—

(a) a person makes a false representation—

(i) to a member of the police force;

or

(ii) to a person who is not a member of the police force knowing that it is likely that the representation will be communicated by that person to a member of the police force,

knowing the representation to be false;

and

(b) the representation is such as would reasonably call for investigation by the police,

the person by whom the representation was made shall be guilty of an offence.

Penalty: Eight thousand dollars or imprisonment for two years.

Repeal of s. 63.

27. Section 63 of the principal Act is repealed.

28. Section 68 of the principal Act is amended—

(a) by striking out paragraphs (a) and (b) of subsection (1) and substituting the following paragraphs:

Amendment of s. 68—
Power to search suspected vehicles, vessels and persons.

(a) a vehicle or vessel in or upon which there is reasonable cause to suspect that—

(i) there are stolen goods;

(ii) there is an object, possession of which constitutes an offence;

or

(iii) there is evidence of the commission of an indictable offence;

(b) a person who is reasonably suspected of having on or about his person—

(i) stolen goods;

(ii) an object, possession of which constitutes an offence;

or

(iii) evidence of the commission of an indictable offence.;

and

(b) by striking out from subsection (2) the passage “any felony or misdemeanour” and substituting the passage “an offence”.

29. Section 73 of the principal Act is amended by striking out subsection (4).

Amendment of s. 73—
Power to visit places of public entertainment.

30. Section 75 of the principal Act is amended by striking out subsections (2) and (3).

Amendment of s. 75—
Power of arrest.

31. The following section is inserted after section 75 of the principal Act:

Insertion of new s. 75a.

75a. (1) Where a member of the police force has reasonable cause to suspect—

Power to require statement of name and address.

(a) that a person has committed, is committing, or is about to commit, an offence;

or

(b) that a person may be able to assist in the investigation of an offence or a suspected offence,

he may require that person to state his full name and address.

(2) Where a member of the police force has reasonable cause to suspect that a name or address as stated in response to a requirement under subsection (1) is false, he may require the person making the statement to produce evidence of the correctness of the name or address as stated by him.

(3) If a person—

(a) refuses or fails, without reasonable excuse, to comply with a requirement under subsection (1) or (2);

or

(b) in response to a requirement under subsection (1) or (2)—

(i) states a name or address that is false;

or

(ii) produces false evidence of his name or address,

he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or imprisonment for three months.

(4) Where a person has been required to state his full name and address under subsection (1), he may require the member of the police force who has made the requirement to state his surname and rank.

Repeal of s. 78
and substitution
of new section.

32. Section 78 of the principal Act is repealed and the following section is substituted:

Person
apprehended
without warrant.
how dealt with.

78. (1) Subject to this section, a person who is apprehended without warrant shall be forthwith delivered into the custody of the member of the police force in charge of the nearest police station.

(2) Where a person is apprehended, without warrant, on suspicion of having committed a serious offence, a member of the police force may, for the purpose of investigating the suspected offence—

(a) detain that person, prior to delivering him into custody at the nearest police station, for so long as may be necessary to complete the investigation of the suspected offence, or for the prescribed period, whichever is the lesser;

and

(b) take that person, or cause him to be taken, during the course of detention under this subsection, to places connected with the suspected offence.

(3) Where a person has been delivered into custody at a police station in pursuance of this section, he may, on the authorization of a magistrate, be temporarily removed from that custody to the custody of a member of the police force for a purpose related to the investigation of an offence.

(4) An application to a magistrate for an authorization under this section may be made by telephone and, where an application is so made, a written record must be made in the prescribed form stating—

(a) the grounds on which the application was made;

and

(b) whether the application was granted and, if so, the terms and conditions on which it was granted,

and the record must be confirmed by the signature of the magistrate to whom the application was made.

(5) Where it is decided not to charge a person who is apprehended on suspicion of having committed an offence, the member of the

police force who is in charge of the investigation of the suspected offence shall ensure that the person is, if the person so requires—

(a) returned to the place of apprehension;

or

(b) delivered to another place that may be reasonably nominated by the person.

(6) In this section—

“the nearest police station”, in relation to a person apprehended without warrant, means—

(a) the police station nearest the place of apprehension at which facilities are continuously available for the care and custody of the person apprehended;

or

(b) in the case of a person apprehended within a radius of 30 kilometres from the General Post Office at Adelaide—

(i) the police station at Adelaide known as the City Watch House;

or

(ii) any other police station within that radius at which facilities are continuously available for the care and custody of the person apprehended:

“the prescribed period”, in relation to the detention of a person apprehended without warrant, means a period (calculated from the time of apprehension) of four hours or such longer period (not exceeding eight hours) as may be authorized by a magistrate, but in determining whether the prescribed period has elapsed since apprehension—

(a) any delays occasioned by a request of the person apprehended that the investigation should be carried out in the presence of a solicitor or other person shall not be taken into account;

and

(b) the time that would have been reasonably required to convey the person apprehended from the place of apprehension to the nearest police station, assuming that he had been taken forthwith to that police station, shall be subtracted from the time that has actually elapsed from the time of apprehension:

“serious offence” means an indictable offence or an offence punishable by imprisonment for two years or more.

33. Section 78a of the principal Act is amended by striking out from subsection (3) the passage “Any person” and substituting the passage “Subject to section 78, a person”.

Amendment of
s. 78a—
Power of arrest in
cases of certain
offences
committed
outside the State.

Insertion of new
ss. 79a and 79b.

34. The following sections are inserted after section 79 of the principal Act:

Rights upon
arrest.

79a. (1) Subject to this section, where a person is apprehended by a member of the police force (whether with or without a warrant)—

(a) he shall be entitled to make, in the presence of a member of the police force, one telephone call to a nominated relative or friend to inform the relative or friend of his whereabouts;

and

(b) where he is apprehended on suspicion of having committed an offence—

(i) he shall be entitled to have a solicitor, relative or friend present during any interrogation or investigation to which he is subjected while in custody;

(ii) if English is not his native language—he shall be entitled, if he so requires, to be assisted at an interrogation by an interpreter;

and

(iii) he shall, while he remains in custody, be entitled to refrain from answering any question (unless he is required to answer the question under this or any other Act or law).

(2) The member of the police force who is in charge of the investigation of a suspected offence in relation to which a person has been apprehended may decline to permit—

(a) the person in custody to make a telephone call to a particular person (being a relative or friend);

or

(b) a particular person (being a relative or friend of the person who has been taken into custody) to be present at an interrogation or investigation,

if the member of the police force has reasonable cause to suspect that communication between the person in custody and that particular person would result in an accomplice taking steps to avoid apprehension or would prompt the destruction or fabrication of evidence.

(3) A member of the police force shall, as soon as is reasonably practicable after the apprehension of a person—

(a) inform that person of his rights under subsection (1);

and

(b) warn him that anything that he may say may be taken down and used in evidence.

Removal and
storage of vehicles
in case of arrest
of driver.

79b. (1) Subject to subsection (2), where a member of the police force arrests the driver of a motor vehicle, he may remove, or arrange for the removal of, the motor vehicle to a place at which it may be safely and conveniently stored.

(2) A member of the police force may not remove, or arrange for the removal of, a motor vehicle under subsection (1) if—

(a) the driver referred to in subsection (1) is being accompanied by another person who is lawfully entitled to drive the vehicle;

(b) the driver authorizes that other person to remove the vehicle; and

(c) the vehicle is removed within a reasonable period.

(3) No liability attaches to a member of the police force in relation to any damage to a motor vehicle caused while the motor vehicle is being removed or stored under this section.

(4) A liability that would, but for subsection (3), lie against a member of the police force shall lie against the Crown.

(5) A member of the police force who removes, or arranges for the removal of, a motor vehicle under this section shall notify the driver in writing of the place to which the vehicle has been removed.

(6) A vehicle removed and stored under this section shall be returned to a person entitled to possession of the vehicle upon payment of the reasonable costs of removal and storage calculated in accordance with a scale in force under subsection (7).

(7) The Commissioner may prepare and from time to time revise a scale of costs for the purposes of subsection (6).

(8) If no application for the return of the vehicle is made within forty-two days after it was taken into storage, it may be dealt with as unclaimed property under the Police Regulation Act, 1952.

35. Section 81 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “in lawful custody upon a charge of committing any offence” and substituting the passage “taken into lawful custody”;

and

(b) by striking out subsection (4) and substituting the following subsections:

(4) Where a person is in lawful custody on a charge of committing an offence, a member of the police force may, if he believes on reasonable grounds that it is necessary to do so for the purpose of identifying that person or identifying that person as the person who committed an offence—

(a) take, or cause to be taken, photographs of that person and prints of the hands, fingers, feet or toes of that person, and may use, or cause to be used, such reasonable force as is necessary for that purpose;

(b) cause impressions of the teeth of that person to be taken by a registered dentist;

(c) make a recording of the voice of that person;

(d) request that person to supply a sample of his handwriting.

Amendment of
s. 81—
Power to search,
examine and take
particulars of
persons.

(4a) A member of the police force may not exercise a power under subsection (4) for the purpose of identifying a person in lawful custody as the person who committed an offence unless—

(a) he has been charged with the offence;

or

(b) the member of the police force is acting upon the authorization of a magistrate given under this section.

(4b) For the purposes of subsection (4a), a member of the police force may obtain the authorization of a magistrate upon application made by him in person or, if it is impracticable for him to do so in person, upon application made by him by telephone.

(4c) A magistrate to whom application is made under subsection (4b) may give his authorization if he thinks it proper to do so in all the circumstances of the case.

(4d) Where application is made under subsection (4b) in person, the magistrate shall give an authorization in writing and where application is made under that subsection by telephone, the magistrate shall, as soon as is practicable after giving the authorization, cause a written memorandum of the authorization to be forwarded to the member of the police force who made the application.

(4e) A person who refuses or fails to comply with the reasonable directions of a person who seeks to obtain an impression of his teeth or a sample of his voice or handwriting under subsection (4) shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or imprisonment for three months.

(4f) Where photographs, prints, impressions or recordings are taken in respect of a person under subsection (4), or a person supplies a sample of his handwriting under that subsection, and the charge against him is subsequently withdrawn or dismissed, then all such photographs, prints, impressions, recordings and samples of handwriting shall be destroyed.

Amendment to
penalties.

36. The provisions of the principal Act set out in the first column of the schedule to this Act are amended as shown in the second column of the schedule.

Amendment of
Criminal Law
Consolidation
Act, 1935.

37. The Criminal Law Consolidation Act, 1935, is amended by inserting immediately after section 259 the following section:

Acting as a
spiritualist,
medium, etc.

259a. (1) Subject to this section, where a person, with intent to defraud, purports to act as a spiritualist or medium, or to exercise powers of telepathy, clairvoyance or other similar powers, that person shall be guilty of a misdemeanour and liable to imprisonment for a term not exceeding two years.

(2) Proceedings for an offence against this section may only be brought by, or with the consent of, the Attorney-General.

THE SCHEDULE

Provision Affected	How Affected
Section 6 (1)	By striking out "Two hundred dollars, or imprisonment for twelve months, or both such fine and imprisonment" and substituting "Eight thousand dollars or imprisonment for two years".
Section 6 (2)	By striking out "One hundred dollars, or imprisonment for six months, or both such fine and imprisonment" and substituting "Two thousand dollars or imprisonment for six months".
Section 7 (1)	By striking out "One hundred dollars" and substituting "One thousand dollars".
Section 7 (2)	By striking out "One hundred dollars" and substituting "One thousand dollars".
Section 8 (1)	By striking out "One hundred dollars or imprisonment for three months" and substituting "Five hundred dollars".
Section 9a (4)	By striking out "For a first offence forty dollars; for a second or subsequent offence one hundred dollars or imprisonment for three months" and substituting "Five hundred dollars".
Section 11	By striking out "One hundred dollars or imprisonment for three months" and substituting "Five hundred dollars".
Section 12 (1)	By striking out "Fifty dollars or imprisonment for not more than three months" and substituting "Two hundred dollars".
Section 13	By striking out "Two hundred dollars" and substituting "Two thousand dollars".
Section 15 (1)	By striking out "One hundred dollars or imprisonment for three months" and substituting "Two thousand dollars or imprisonment for six months".
Section 15 (1b)	By striking out "Two thousand dollars or imprisonment for two years, or both" and substituting "Eight thousand dollars or imprisonment for two years".
Section 16 (1)	By striking out "Two hundred dollars" and substituting "Two thousand dollars or imprisonment for six months".
Section 18 (3)	By striking out "Fifty dollars" and substituting "One thousand dollars".
Section 20 (1)	By striking out "Forty dollars" and substituting "Five hundred dollars".
Section 21 (1)	By striking out "One hundred dollars or imprisonment for three months" and substituting "Five hundred dollars".
Section 21a (1)	By striking out "for a first offence to a penalty not exceeding five hundred dollars and for a second or subsequent offence to a penalty not exceeding one thousand dollars" and substituting "to a penalty not exceeding one thousand dollars or imprisonment for a term not exceeding three months".
Section 22 (1)	By striking out "One hundred dollars or imprisonment for two months" and substituting "Two hundred dollars".
Section 23 (1)	By striking out "One hundred dollars" and substituting "One thousand dollars".
Section 23 (2)	By striking out "Two hundred dollars" and substituting "Two thousand dollars".
Section 24	By striking out "Fifty dollars" and substituting "Two hundred dollars".
Section 25	By striking out "Forty dollars or imprisonment for two months" and substituting "Five hundred dollars".
Section 26 (1)	By striking out "Two hundred dollars" and substituting "Two thousand dollars".
Section 28 (1)	(a) By striking out "one hundred dollars" and substituting "one thousand dollars". (b) By striking out "two hundred dollars" and substituting "two thousand dollars".
Section 29	(a) By striking out "two hundred dollars" and substituting "one thousand dollars or imprisonment for three months". (b) By striking out "four hundred dollars" and substituting "two thousand dollars".

Provision Affected	How Affected
Section 35 (1)	<p>(a) By striking out "For a first offence, four hundred dollars" and substituting "Two thousand dollars or imprisonment for six months".</p> <p>(b) By striking out "For a second or subsequent offence, one thousand dollars or imprisonment for six months, or both such fine and imprisonment".</p>
Section 37	By striking out "Two hundred dollars or imprisonment for twelve months" and substituting "Eight thousand dollars or imprisonment for two years".
Section 38	By striking out "Two hundred dollars or imprisonment for twelve months" and substituting "Eight thousand dollars or imprisonment for two years".
Section 38a (1)	By striking out "Two hundred dollars or imprisonment for not more than twelve months" and substituting "Two thousand dollars or imprisonment for six months".
Section 39 (1)	By striking out "Two hundred dollars or imprisonment for twelve months" and substituting "Eight thousand dollars or imprisonment for two years".
Section 41 (1)	By striking out "Two hundred dollars" and substituting "Eight thousand dollars".
Section 42 (1)	By striking out "One hundred dollars" and substituting "Two thousand dollars".
Section 43 (1)	By striking out "One hundred dollars or imprisonment for three months" and substituting "Two thousand dollars or imprisonment for six months".
Section 45 (1)	By striking out "One hundred dollars" and substituting "Two thousand dollars or imprisonment for six months".
Section 46 (1)	<p>(a) By striking out "For a first offence, one hundred dollars or imprisonment for three months" and substituting "Two thousand dollars or imprisonment for six months".</p> <p>(b) By striking out "For a second or subsequent offence, two hundred dollars or imprisonment for six months".</p>
Section 47 (1)	By striking out "Forty dollars" and substituting "Two hundred dollars".
Section 48 (1)	By striking out "Fifty dollars" and substituting "One thousand dollars or imprisonment for three months".
Section 50	By striking out "Ten dollars" and substituting "Two hundred dollars".
Section 51 (1)	By striking out "Fifty dollars" and substituting "Eight thousand dollars or imprisonment for two years".
Section 52	By striking out "Fifty dollars" and substituting "Two thousand dollars or imprisonment for six months".
Section 53 (1)	By striking out "Twenty dollars" and substituting "Two hundred dollars".
Section 56	By striking out "Fifty dollars" and substituting "Five hundred dollars".
Section 57 (1)	By striking out "Fifty dollars" and substituting "Five hundred dollars".
Section 58 (1)	By striking out "Fifty dollars" and substituting "Five hundred dollars".
Section 58a (2)	By striking out "Forty dollars or imprisonment for three months" and substituting "Five hundred dollars".
Section 58a (4)	By striking out "Forty dollars" and substituting "Five hundred dollars".
Section 58a (5)	By striking out "Forty dollars" and substituting "Five hundred dollars".
Section 58a (6)	By striking out "Forty dollars or imprisonment for three months" and substituting "Five hundred dollars".

Provision Affected	How Affected
Section 58b (4)	By striking out "Fifty dollars" and substituting "Five hundred dollars".
Section 59 (8)	By striking out "Forty dollars" and substituting "Five hundred dollars".
Section 61 (1)	By striking out "Two hundred dollars or imprisonment for twelve months" and substituting "Eight thousand dollars or imprisonment for two years".
Section 62a (1)	By striking out "Two hundred dollars or imprisonment for one year" and substituting "Eight thousand dollars or imprisonment for two years".
Section 66 (1)	By striking out "One hundred dollars" and substituting "Two thousand dollars or imprisonment for six months".
Section 73 (3)	By striking out "Fifty dollars" and substituting "Two thousand dollars or imprisonment for six months".
Section 83	By striking out "Two hundred dollars or imprisonment for twelve months" and substituting "Eight thousand dollars or imprisonment for two years".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor