

LEGISLATIVE COUNCIL.

VAGRANCY BILL.

EXPLANATORY PAPER.

The purpose of this Bill is to constitute the Vagrancy provisions of the *Police Offences Act 1958* (Part III.) into a separate Act in accordance with the recommendations of the Statute Law Revision Committee in its Report on the Police Offences Bill 1963.

This Bill accordingly reproduces the provisions contained in Part III. of the existing Police Offences Act and deals with—

- Vagrancy ;
- Insufficient means of support ;
- Prostitution and disorderly houses ;
- Fortune telling ;
- Miscellaneous matters.

The Bill is, with two amendments, the same Bill as that introduced in the last Session and reported on by the Statute Law Revision Committee in its Report of the 10th November, 1965. In accordance with the Government's undertaking the Bill has been reprinted with the amendments included and is again presented.

The amendments concerned are—

- (a) the omission from paragraph (h) in the definition of "public place" in clause 4 of the Bill the references to universities and registered schools ; and
- (b) addition of the words "and no provision is made for enforcing payment of the sum" in clause 21 of the Bill.

A Comparative Table showing how the existing provisions of the *Police Offences Act 1958* have been dealt with in the Bill is appended with brief comments on significant changes.

COMPARATIVE TABLE.

Clause of Bill.	Section of Police Offences Act 1958.	Comment.
1	..	Short title, &c.
2	..	Repeal and savings.
3	..	Supersedes section 45 of the <i>Children's Court Act</i> 1958 which creates inequalities between children under 15 years and children 15-17 years in relation to certain vagrancy offences. The Bill follows the Statute Law Revision Committee's views by exempting "children" only from the insufficient means provisions of clause 5.
4	3, 29	The definition of "public place" is a combination of the definitions in sections 3 and 29 of the 1958 Act as suggested by the 1963 Committee at page 9 of its Report. The provisions of the 1965 Bill which would have included universities and registered schools have been omitted.
5	70, 71	The constitution of courts of petty sessions is now governed by section 66 of the <i>Justices Act</i> 1958—most of section 71 is therefore inapt but there will still be need for justices to deal with offenders "out of sessions" where courts do not sit frequently. Sub-section (4) provides the only exception in the Bill to the general requirement that offenders be dealt with by a fully constituted court.
6	69	Para. (a) of sub-section (1) of the current section is omitted from the Bill—the offences will be dealt with in the Summary Offences Bill which proposes to supersede Part I. of the 1958 Act. For clarity para. (b) of the existing sub-section (1) is split into two paras.—paras. (a) and (b) in the Bill. Para. (d) in sub-clause (1) of the Bill omits the words "Every person wandering abroad or placing himself in any place to beg"—the provision is felt to be too wide and unduly oppressive. Para. (e) in sub-clause (1) of the Bill would only require a defendant to show cause for being armed—the existing provision would also require him to give a good account of his lawful means, &c., which appeared to the 1963 Committee to be unduly burdensome. Under the Bill prior convictions may double the initial penalty but under the current Act a persistent offender may have the penalty trebled under sections 72 (1) (a) and 73 (1) (b). The "trebling" provisions are omitted as harsh together with sections 72 (1) (n) and 73 (1) (c) under which an offender could be given an extra twelve month's gaol for resisting arrest.
7	72	Para. (f) of sub-section (1) of the current section (playing at an unlawful game) is omitted—the penalties for "gaming" as such appear to be adequate without deeming gaming to be "vagrancy". The reference in the present para. (1) to "wearing felt or other slippers or being dressed . . . with an unlawful intent" is omitted from para. (h) in the Bill. In para. (i) of the Bill the words "in the precincts of" have been adopted as suggested by the 1963 Committee in relation to being found near buildings, &c., without lawful excuse.
8	73	The offence under para. (a) of being found armed with a firearm, &c., is considered to be of sufficient gravity to warrant a higher penalty than the two years imprisonment presently provided under section 72 (1) (j) of the current Act. Section 73 (1) (a) of the current Act seems now to involve that the escapee has been convicted and is serving a sentence and would not apply to persons on remand escaping from lock-ups, prison vans and escorts. Para. (b) in the Bill covers these contingencies in the light of the provisions of Part IV. of the <i>Gaols Act</i> 1958 with respect to convicted persons escaping.
9	74	No substantive change.
	75-78	These sections appear to be unnecessary and never used—they are not reproduced in the Bill.
10	79	Amendments suggested by the 1963 Committee have been adopted to make the provisions against living off the earnings of prostitution apply to females as well as males.
11	80	No substantive change.
12	81	Sub-clause (3) (b) of the Bill is wider than the current sub-section to catch up additions made in the section by the <i>Prostitution Act</i> 1961.
13	82	Monetary penalty increased.

COMPARATIVE TABLE—*continued.*

Clause of Bill.	Section of <i>Police Offences</i> <i>Act 1958.</i>	Comment.
14	202	No change.
15	190	Reference to officer of the Department of Health omitted.
16	191	No change.
17	192	Under the Bill for police instructions to exonerate an accomplice from complicity in an offence the instructions must be "given in writing in relation to a particular case"—this is in accord with the views of both the 1963 Committee and the 1965 Committee.
18	195	No change so far as applicable—the <i>Justices Act 1958</i> covers the omitted provisions.
19	204	No substantive change.
20	83	Bill provision omits reference to offence against section 5 which will be covered in the Summary Offences Bill.
21	198	Bill omits reference to want of distress and requires court to fix default when imposing a fine. Scale indicates default term to be roughly one day for \$2. The addition made to the clause is to make it clearer that the provision applies only where conviction is made under a section providing for the imposition of a fine alone.
22	..	This is a new provision conferring power on police to be on private property which is a "public place" within the meaning of the Act.
23	..	This is simply a constructional provision to convert references appearing in other Acts.
24	163, 178	No substantive change—the purpose of this provision is to protect police against vindictive actions for acts done in the course of their duty.