

PUBLIC PROTECTION BILL, 1982**EXPLANATORY NOTE**

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:—

- (a) to repeal the Offences in Public Places Act 1979.
- (b) to specify as offences that may be dealt with in a summary manner the following offences:—
 - (i) being found under the influence of drugs in a public place or a school (penalty: minimum \$100 maximum \$1000); (Clause 6)
 - (ii) in or within view from a public place or a school behaving in a riotous, indecent, offensive, threatening or insulting manner (penalty minimum \$500 maximum \$1000 or imprisonment for 6 months); (Clause 7)
 - (iii) writing, drawing, exhibiting or displaying any unseemly word or any obscene or indecent figure or representation so that it is within view from a public place or a school (penalty: minimum \$100 maximum \$100 or imprisonment for 6 months); (Clause 8)
 - (iv) in or within hearing from a public place or a school using, in any manner, any unseemly words (penalty: minimum \$200 maximum \$1000 or imprisonment for 6 months); (Clause 9)
 - (v) wilfully preventing in any manner the free passage of a person, vehicle or vessel in a public place without a reasonable excuse (penalty: \$500); (Clause 10)
 - (vi) indecently exposing the person in or within view from a public place or a school (penalty: \$1000); (Clause 11)
 - (vii) in or within view from a public place or a school, wilfully and obscenely exposing the person (penalty: minimum \$500 maximum \$1000 or imprisonment for 6 months); (Clause 12)
 - (viii) wilfully damaging or defacing, entering upon, or causing any foreign material or substance to enter into, any part of a fountain erected in a public place or shrine, monument or statue erected in a public place or any part of any public building or structure no matter where situated (penalty: minimum \$500 maximum \$5000 or imprisonment for 2 years); (Clause 13)

- (ix) without prior consent, affixing a placard or paper upon any premises or wilfully marking, by means of chalk, paint or any other material, any premises so that the placard, paper or marking is within view from a public place (penalty: \$500); (Clause 14)
- (x) in circumstances likely to cause obstruction of, or annoyance or danger to, any other person or damage to the property of any other person, making or lighting any fire, or letting off any fire-work, in a public place or a school (penalty: \$1000); (Clause 15)
- (xi) without reasonable excuse, disturbing an occupier of premises by ringing a door-bell or knocking at a door or other part of the premises or by using any other device attached to the premises to arouse the occupier (penalty: \$200); (Clause 16)
- (xii) using threatening words in circumstances causing serious alarm to members of the New South Wales Police, Judges, Magistrates or other crown law officials, members of Parliament, Public Servants or the spouse or any child of such persons (penalty: imprisonment for two years); (Clause 19)
- (xiii) behaving in such manner in respect of any member of the Police Force as would be likely to cause serious affront (penalty: \$200); (Clause 20)
- (xiv) being in charge of premises which are frequented by reputed prostitutes reputed drug offenders or other reputed drug offenders or other reputed criminals (penalty: \$2000 or imprisonment for one year) (Clause 21)
- (xv) being found in premises frequented by reputed drug offenders or other reputed criminals in company with such persons, unless the defendant satisfies the court that he was in the premises for a lawful purpose (penalty: \$1000 or imprisonment for 6 months); (Clause 22)
- (xvi) habitually consorting with reputed prostitutes, reputed drug offenders or other reputed criminals (penalty: \$1000 or imprisonment for 1 year); (Clause 23)
- (xvii) for the purpose of prostitution, soliciting a person who is in or near a public place or loitering in, near or within view from a public place for the purpose of prostitution or of soliciting for prostitution (penalty: \$1000); (Clause 25)
- (xviii) knowingly living wholly or in part on the earnings of prostitution of another person (penalty: first conviction \$1000 or imprisonment for 1 year, second or subsequent conviction upon indictment—imprisonment for 5 years); (Clause 26)
- (xix) not observing a direction given by a member of the police force to persons loitering near certain licensed premises or any other public place to disperse and leave forthwith (penalty: \$500); (Clause 28)

- (xx) where a person under the age of sixteen years is found loitering after the hour of 11 p.m. on more than three occasions in any period of three months the parent, parents, guardian, guardians or person having control or custody of such person is guilty of an offence unless he can satisfy the court he has made reasonable efforts to prevent the offence (penalty: first conviction \$200, second or subsequent conviction \$500); (Clause 30 (1))
 - (xxi) not observing a direction given by a member of the Police Force acting in pursuance of instructions given by the Commissioner of Police in connection with processions, celebrations, displays, exhibitions or public assemblies (penalty: \$200); (Clause 32)
 - (xxii) entering or remaining in or upon any part of a building or structure or any land occupied or used in connection therewith and having no reasonable cause for so doing (penalty: \$500 or imprisonment for 3 months); (Clause 35 (i))
 - (xxiii) having in custody or possession any housebreaking implement or offensive weapon, or any implement or weapon capable of being used as a housebreaking implement or offensive weapon, with intent to commit an indictable offence (penalty: \$1000 or imprisonment for 1 year); (Clause 36)
 - (xxiv) being a suspected person or reputed criminal, being found in or near any premises or public place with intent to commit an indictable offence (penalty: \$1000 or imprisonment 1 year); (Clause 37)
 - (xxv) being in or near a building without reasonable cause or intent to peep or pry upon another person (penalty: \$1000 or imprisonment for 1 year); (Clause 38)
 - (xxvi) resisting or hindering or inciting any person to assault, resist or hinder a member of the Police Force in the execution of his duty (penalty: \$1000 or imprisonment for 6 months); (Clause 39)
 - (xxvii) being a person who, having laid in information for an alleged offence by which the informant was not personally aggrieved, receiving without the permission of the court before which the information is listed for hearing any valuable consideration to withdraw, seek the dismissal of, or delay the hearing of, that information (penalty: \$1000); (Clause 40)
- (c) to enable the owner of any premises who has reasonable grounds to suspect that such premises are being used in connection with certain offences relating to prostitution to evict the occupier thereof; (Clause 27)
- (d) to empower a member of the Police Force to direct persons who appear to be under the age of 16 years and who are found loitering after the hour of 11 p.m. to return to his home or place of abode and to transport such person home in a police vehicle and to use such force as may be reasonably necessary;

- (e) to empower the Commissioner of Police to give instructions to members of the Police Force—
- (i) for the orderly movement of vehicular or pedestrian traffic;
 - (ii) for preventing the obstruction of public places; or
 - (iii) for keeping order,
- at times of processions, celebrations, displays, exhibitions or public assemblies to be held in public places; (Clause 31)
- (f) to provide that a person who remains in or upon any part of a building Public building or any other building or structure or any land occupied or used in connection therewith, which part or land is not a public place, and has no reasonable cause for so doing shall if he there—
- (i) does any act; or
 - (ii) uses any language,
- which, if done or used by him in a public place, would be an offence, be deemed to have committed that offence and may be convicted and punished accordingly: (Clause 35)
- (g) to empower certain members of the Police Force to enter into and search any vessel in certain circumstances; (Clause 42)
- (h) to empower certain members of the Police Force to stop and detain any vessel in certain circumstances; (Clause 43)
- (i) to empower members of the Police Force to stop, search and detain—
- (i) any person, where he reasonably suspects the person to have or be conveying any thing stolen or otherwise unlawfully obtained or any thing used or intended to be used in the commission of an indictable offence; or
 - (ii) any vehicle in which he reasonably suspects there is any such thing; (Clause 44)
- (j) to provide for the disposal of property or money in the custody of a member of the Police Force in connection with any offence; (Clause 45)
- (k) to empower a court of petty sessions, upon the complaint of a person that he is entitled to possession of goods specified in the complaint, the value of which does not exceed \$5000 and which are detained by another person, to make an order for the delivery of the goods and certain other orders; (Clause 46)
- (l) to make provisions consequent upon or ancillary to the foregoing;
- (m) to empower a court of petty sessions to order a person convicted under sections 13, 14 or 15 to pay or contribute to the repair or restoration of any damage caused by his action;
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PUBLIC PROTECTION BILL, 1982

No. , 1982.

A BILL FOR

An Act to give police greater power to control undesirable behaviour in public places; to protect the public from offensive behaviour and other activity in public places; for these and other purposes to repeal the Offences in Public Places Act, 1979, and for purposes connected therewith.

[MR PEACOCKE—11 *November*, 1982.]

Public Protection.

PART 1.

PRELIMINARY.

Short Title.

1. This Act may be cited as the Public Protection Act, 1982.

5 Arrangement.

2. This Act is divided as follows:—

PART I—PRELIMINARY—ss. 1–5.

PART II—OFFENCES—ss. 6–40.

DIVISION 1.—*Offences relating to Public Places*—ss. 6–18.

10 DIVISION 2.—*Offences against Police or other Persons in Authority*—
ss. 19–20.

DIVISION 3.—*Consorting and Similar Offences*—ss. 21–23.

DIVISION 4.—*Prostitution*—ss. 24–27.

DIVISION 5.—*Loitering and Other Offences*—ss. 28–33.

15 DIVISION 6.—*Other Offences*—ss. 34–40.

PART III—POWERS OF POLICE—ss. 41–44.

PART IV—GENERAL—ss. 45–49.

3. Each Act specified in Column 1 of Schedule One to this Act is amended or repealed to the extent specified opposite that Act in Column 2 of that Schedule.

Public Protection.

4. (1) In this Act, except in so far as the context or subject matter otherwise indicates or requires—

5 “drug offender” means a person who contravenes any of the provisions of Part III or IV of the Poisons Act, 1966, relating to drugs of addiction, prohibited drugs or prescribed restricted substances, within the meaning of that Act;

10 or a person who contravenes any of the provisions of any Act of Parliament of any State in Australia relating to drugs of addiction, prohibited drugs or prescribed restricted substances within the meaning of any such Act;

or a person who contravenes any of the provisions of any Act of the Parliament of Australia relating to drugs of addiction prohibited drugs or prescribed restricted substances within the meaning of any such Act;

15 “justice” means a justice of the peace;

“premises” includes any structure, building, vehicle, vessel or place, whether built upon or not, and any part thereof;

20 “Public Building” means the whole or any part of premises that are open to the public, or are used by the public, whether or not on payment of money or other consideration, whether or not the premises or part is ordinarily so open or used, and whether or not the public to whom it is open consists only of a limited class of persons, but does not include a school;

“public place” means—

25 (a) a place (whether or not covered by water); or

(b) a part of premises,

30 that is open to the public, or is used by the public, whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used, and whether or not the public to whom it is open consists only of a limited class of persons but does not include a school;

Public Protection.

“school” means any land occupied or used in connection with a public school or a technical school and any land which belongs to and is occupied or used in connection with a school registered under the Bursary Endowment Act, 1912, of any certified school under the Public Instruction (Amendment) Act, 1916, and any building or structure erected on any such land but does not include any building or structure or any part of any building or structure that is occupied or used solely as a residence or any land, building or structure or any part of any land, building or structure that is for the time being occupied or used for a purpose unconnected with the conduct of the school;

“unseemly words” means obscene, indecent, profane, threatening, abusive or insulting words.

(2) Section eight of the Crimes Act, 1900 does not apply to the interpretation of the expression “public place” occurring in this Act.

5. Nothing in this Act affects the provisions of any other Act, or any regulations, ordinances or by-laws thereunder or takes away any powers vested in any person or body by any other Act, or any regulations, ordinances or by-laws thereunder.

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PART II**OFFENCES****DIVISION I.—Offences relating to public places.**

6. A person found under the influence of drugs in a public place or a school is guilty of an offence.

25 Penalty: Not less than \$100 nor more than \$1,000.

Public Protection.

7. A person who in or within view from a public place or a school behaves in a riotous, indecent, offensive, threatening or insulting manner is guilty of an offence.

Penalty: Not less than \$500 nor more than \$1,000 or imprisonment for
5 six months.

8. A person who, whether or not in a public place or a school, writes, draws, exhibits or displays any unseemly word or any obscene or indecent figure or representation so that it is within view from a public place or a school is guilty of an offence.

10 Penalty: Not less than \$100 nor more than \$1,000 or imprisonment for six months.

9. A person who in or within hearing from a public place or a school uses, in any manner, any unseemly words is guilty of an offence.

Penalty: Not less than \$200 nor more than \$1,000 or imprisonment for
15 six months.

10. A person who without reasonable excuse wilfully prevents, in any manner, the free passage of a person, vehicle or vessel in a public place is guilty of an offence.

Penalty: \$500.

20 **11.** A person whose person is indecently exposed in or within view from a public place or a school is guilty of an offence.

Penalty: \$1,000.

Public Protection.

12. A person who, in or within view from a public place or a school, wilfully and obscenely exposes his person is guilty of an offence.

Penalty: Not less than \$500 nor more than \$1,000 or imprisonment for one year.

5 **13.** A person who wilfully damages or defaces, enters upon without reasonable cause, or causes any foreign material or substance to enter into, any part of a fountain erected in a public place, any shrine, monument or statue erected in a public place or any part of any Public Building or structure no matter where erected or situated is guilty of an offence.

10 Penalty: Not less than \$500 nor more than \$5,000 or imprisonment for two years.

14. A person who—

(a) affixes a placard or paper upon any premises; or

15 (b) wilfully marks, by means of chalk, paint or any other material, any premises,

so that the placard, paper or marking is within view from a public place and does so without having obtained the prior consent, where the premises are occupied, of the occupier or person in charge of the premises, or where the premises are unoccupied, of the owner or person in charge of the premises
20 is guilty of an offence.

Penalty: \$500.

15. A person who, in circumstances likely to cause obstruction of, or annoyance or danger to, any other person or damage to the property of any other person, makes or lights any fire, or lets off any firework, in a public
25 place or a school is guilty of an offence.

Penalty: \$1,000.

Public Protection.

16. A person who disturbs an occupier of premises by ringing a door-bell or knocking at a door or other part of the premises or by using any other device attached to the premises to arouse the occupier is guilty of an offence.

5 Penalty: \$200.

17. It is a sufficient defence to a prosecution for an offence under any of the provisions of this Division if the defendant satisfies the court that the act complained of in the information for the offence was done with lawful authority or with reasonable excuse.

10 **18. (1)** Where the defendant charged with an offence under section six, seven, eight or nine of this Act has requested the informant to furnish to the defendant reasonable particulars of the behaviour or conduct the subject of the charge, and the informant, or some person on his behalf has not so furnished these particulars, the court before whom the defendant is charged
15 shall adjourn the charge pending the furnishing of those particulars or may dismiss the charge.

(2) Where at the hearing of a charge for an offence referred to in subsection one of this section the evidence discloses behaviour or conduct that constitutes such an offence and that behaviour or conduct is different
20 from the behaviour or conduct of which particulars have been given to the defendant under subsection one of this section, the court may, on the application of the defendant and if it is of the opinion that the defendant was deceived by those particulars, adjourn the hearing upon such terms as it thinks fit.

25 **DIVISION 2.—Offences Against Police or Other Persons in Authority**

19. A person who uses in any manner or in any place, such words to, or in respect of, any member of the New South Wales Police, any Judge, Magistrate or other Crown Law Official, any member of any House of
30 Parliament State or Federal or any member of the Public Service of any

Public Protection.

State or Territory within Australia or any member of the Public Service of Australia, or the spouse or any child of any such person hereinbefore mentioned as would be likely to cause such person to be seriously alarmed is guilty of an offence.

5 Penalty: Imprisonment for two years.

20. A person who in any place behaves in such a manner in respect of any member of the police force as would be likely to cause any reasonable member of the police force to be seriously affronted is guilty of an offence.

Penalty: \$200.

10 DIVISION 3.—*Consorting and Similar Offences*

21. (1) A person who is in charge of premises which are frequented by reputed prostitutes or by reputed drug offenders or other reputed criminals is guilty of an offence.

Penalty: \$2,000 or imprisonment for one year.

15 **(2)** In this section “premises” means any building, structure, vessel or vehicle, or part thereof.

22. (1) A person who in company with reputed drug offenders or other reputed criminals is found in premises frequented by reputed drug offenders or other reputed criminals is guilty of an offence.

20 Penalty: \$1,000 or imprisonment for six months.

(2) It is sufficient defence to a prosecution for any offence under subsection one of this section if the defendant satisfies the court that he was in the premises for a lawful purpose.

Public Protection.

(3) In this section "premises" means any building, structure, vessel or vehicle.

23. A person who habitually consorts with reputed prostitutes or with reputed drug offenders or other reputed criminals is guilty of any offence.

5 Penalty: \$1,000 or imprisonment for one year.

DIVISION 4—*Prostitution.*

24. In this Division "premises" does not include licensed Premises under the Liquor Act, 1912, or premises of a club registered under the Registered Clubs Act.

10 **25.** A person who—

(a) for the purpose of prostitution, solicits another person who is in or near a public place; or

(b) for the purpose of prostitution or of soliciting for prostitution loiters in, near or within view from a public place, is guilty of an offence.

15 Penalty: \$1,000.

26. A person who knowingly lives wholly or in part on the earnings of prostitution of another person is guilty of an offence.

Penalty: First conviction—\$1,000 or imprisonment for one year. Second or subsequent conviction upon indictment—Imprisonment for five years.

Public Protection.

27. (1) If the owner of any premises has reasonable grounds to suspect that the premises are being used for the purposes of prostitution—

5 (a) he may serve on any occupier of the premises holding, whether as tenant or otherwise, under him a notice to quit the premises after the expiry of 7 days from the date of service upon the said occupier of the Notice to Quit.

(b) he may, on behalf of any person holding under him, serve on any occupier of the premises holding, whether as subtenant or otherwise, under that person, a Notice to Quit the premises.

10 (2) Service of the notice to quit referred to in subsection one of this section shall determine, as from the seventh day after the date of the service, any right of the person served to occupy the premises or any part thereof, as if that right had expired by effluxion of time, and the owner may then, without any authority other than this Act, take legal proceedings to evict,
15 and may evict, that person.

(3) The Notice to Quit referred to in subsection one of this section shall be served—

(a) personally on the occupier; or

20 (b) if the occupier cannot be found, by affixing a copy of the notice on some conspicuous part of the premises.

(4) It shall be a defence to any legal proceedings for the eviction of any person under the provisions of this section: that the occupier has not at any time used the premises the subject of the Notice to Quit for the purposes of prostitution.

25 DIVISION 5—*Loitering and Other Offences.*

28. A member of the police force may direct any person or group of persons found loitering near licensed premises under the Liquor Act, 1912 or any other premises licensed under any Act or Regulation of the State of New South Wales or any other public place to disperse and leave forthwith the
30 place at which such person or persons are found so loitering. Any person who fails to obey such direction forthwith shall be guilty of an offence.

Penalty: \$500.

Public Protection.

29. Where any person referred to in section 28 of this Act appears to be under the age of sixteen years a member of the police force may at any time after the hour of eleven p.m. direct such person to return to his or her home or place of abode and may transport such person thereto by means
5 of any police vehicle available for that purpose and shall be permitted to use such force as may be reasonably necessary to give effect to such direction.

30. (1) Where any person under the age of sixteen years is found loitering in the manner referred to in section 28 of this Act but after the hour of eleven p.m. more than three times in any period of three months the parent,
10 parents, guardian, guardians or person having control or custody of such person for such period of three months is guilty of an offence.

Penalty: First conviction—\$200. Second or subsequent conviction—\$500.

(2) It is a sufficient defence to a prosecution for any offence under
15 subsection one of this section if the defendant satisfies the court that he or she has made reasonable efforts to prevent such person from loitering in the manner referred to in subsection one of this section.

31. The Commissioner of Police may from time to time give instructions to members of the police force—

- 20 (a) for the orderly movement of vehicular or pedestrian traffic;
(b) for preventing the obstruction of public places; or
(c) for keeping order,

at times of public assemblies or of processions, celebrations, displays or exhibitions to be held in public places.

25 32. A person who fails to observe a direction given by a member of the police force acting in pursuance of instructions given under section thirty-one of this Act is guilty of an offence.

Penalty: \$200.

Public Protection.

33. The powers and duties vested in the Commissioner of Police by this Division may be exercised by an Assistant Commissioner of Police or by any officer of police of or above the rank of inspector duly authorised by the Commissioner of Police for the purpose.

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DIVISION 6.—*Other Offences.*

34. In this Division, “public building” means a Government House, Parliament House, a court or a building or structure or part of a building or structure, occupied by a department of the Government of New South Wales or by any authority, body or tribunal (not being a company within the 10 meaning of the Companies Act, 1961, a society within the meaning of the Co-operation Act, 1924, or the Permanent Building Societies Act, 1967, or an association or credit union within the meaning of the Credit Union Act, 1969) constituted by or under any Act.

35. (1) A person who enters or remains in or upon any part of a public 15 building or any other building or structure, or any land occupied or used in connection therewith, and has no reasonable cause for so doing is guilty of an offence.

Penalty: \$500 or imprisonment for three months.

(2) A person who remains in or upon any part of a Public Building 20 or any other building or structure or any land occupied or used in connection therewith, which part or land is not a public place, and has no reasonable cause for so doing shall, if he there—

(a) does any act; or

(b) uses any language,

25 which, if done or used by him in a public place, would be an offence under this or any other Act or any regulation, rule, ordinance or by-law made under any other Act, be deemed to have committed that offence and may be convicted and punished accordingly.

Public Protection.

(3) Without limiting the generality of the expression 'reasonable cause' in subsection one or two of this section, it is not a reasonable cause for a person to remain in or upon any part of a building or structure, or any land occupied or used in connection therewith, if that person is requested by
5 a controller of, or the person for the time being having charge of, the building, structure or land, to leave the building or structure or land.

(4) A reference in subsection three of this section to a controller of a building structure or any land occupied or used in connection therewith is a reference to a person authorised in writing by a Minister, or by the authority,
10 body or tribunal concerned, to make requests for the purposes of that subsection.

(5) A reference in subsection three of this section to the person for the time being having charge of a building structure or any land occupied or used in connection therewith is a reference to the most senior officer or
15 employee of the Authority body tribunal or owner of the building structure or land then in or upon such building structure or land.

36. (1) A person who has in his custody or possession any housebreaking implement or offensive weapon, or any implement or weapon capable of being used as a housebreaking implement or offensive weapon, with intent
20 to commit an indictable offence, is guilty of an offence.

Penalty: \$1,000 or imprisonment for one year.

37. A person who, being a suspected person or reputed criminal, is found in or near any premises or public place with intent to commit an indictable offence is guilty of an offence.

25 Penalty: \$1,000 dollars or imprisonment for one year.

38. A person who is in, on or near a building without reasonable cause with intent to peep or pry upon another person is guilty of an offence.

Penalty: \$1,000 dollars or imprisonment for one year.

Public Protection.

39. A person who resists or hinders or incites any person to assault, resist or hinder a member of the police force in the execution of his duty, is guilty of an offence.

Penalty: One thousand dollars or imprisonment for six months.

5 **40.** A person who, having laid an information for an alleged offence by which the informant was not personally aggrieved, receives, without the permission of the court before which the information is listed for hearing, any valuable consideration to withdraw, seek the dismissal of, or delay the hearing of, that information is guilty of an offence.

10 Penalty: One thousand dollars.

PART III

POWERS OF POLICE

41. In this Division—

15 “police vessel” means a vessel ordinarily used by members of the police force in the execution of their duty;

“vessel” means any craft used in navigation on water, whatever its size.

42. A member of the police force of or above the rank of sergeant or in charge of a police station or police vessel may at any time with as many members of the police force as he thinks necessary—

20 (a) enter into any part of any vessel;

(b) search and inspect the vessel;

Public Protection.

- 5 (c) take all necessary measures for preventing injury on the vessel to persons or property by fire or otherwise; and
- (d) take all measures for preserving peace and good order on the vessel or for preventing, detecting or investigating any offences that may be, or may have been, committed on the vessel.

43. A member of the police force of or above the rank of sergeant or in charge of a police station or police vessel, may, for the purpose of enabling any powers conferred on members of the police force by this Act or any other law to be exercised, stop and detain any vessel in which he
10 reasonably suspects—

- (a) that an indictable offence has been or is about to be committed;
- (b) that there is a person who has committed an indictable offence of for whose arrest there is in force a warrant; or
- 15 (c) that there is any thing stolen or otherwise unlawfully obtained or any thing that has been used or is intended to be used in the commission of an indictable offence.

44. A member of the police force may stop, search and detain—

- 20 (a) any person whom he reasonably suspects of having or conveying any thing stolen or otherwise unlawfully obtained or any thing used or intended to be used in the commission of an indictable offence; or
- (b) any vehicle in which he reasonably suspects there is any thing stolen or otherwise unlawfully obtained or any thing used or intended to be used in the commission of an indictable offence.
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Public Protection.

PART IV

GENERAL

5 **45. (1)** A court may, on the application of any person, make an order that any property or money which is in the custody of a member of the police force in connection with any offence whether punishable in indictment or summarily, be delivered to the person who appears to it to be lawfully entitled thereto.

10 **(2)** If any property or money referred to in subsection one of this section has not been delivered to the person lawfully entitled thereto, whether pursuant to an order under subsection one of this section or otherwise, within one month after the determination of proceedings against a person for an offence with respect to the property or money, the money shall be paid to the Treasurer for payment into the Consolidated Revenue Fund or the property may be sold by public auction and the proceeds of the sale shall be paid to
15 the Treasurer for payment into that Fund.

(3) A person who is lawfully entitled to any property or money which has been dealt with in accordance with subsection two of this section may recover the money or the proceeds of the sale, as the case may be, from the Treasurer.

20 **(4)** In subsection one of this section, "court" means—

(a) where the value of the property does not exceed five thousand dollars or the money does not amount to more than five thousand dollars—the court of petty sessions for the district in which the property or money is held;

25 (b) where the value of the property exceeds five thousand dollars but does not exceed twenty thousand dollars or the money amounts to more than five thousand dollars but does not amount to more than twenty thousand dollars—the district court for the district in which the property or money is held;

30 or

(c) where the value of the property exceeds twenty thousand dollars or the money amount to more than twenty thousand dollars—the Supreme Court of New South Wales.

Public Protection.

46. (1) Where a person makes a complaint to a justice alleging that—

- (a) he is entitled to possession of goods specified in the complaint, the value of which does not exceed one thousand dollars;
- 5 (b) a notice of demand has been given to a person who is detaining the goods; and
- (c) the person detaining the goods has refused or neglected to deliver the goods,

the justice may summon the person alleged to be detaining the goods before the court for the district in which the goods are detained.

10 (2) The court upon being satisfied as to the matters alleged in the complaint may—

- 15 (a) order that the defendant deliver up the goods specified in the complaint to the complainant at or before a time and at a place specified in the order and that if he neglects or refuses to do so he pay to the complainant, by way of compensation for the goods, the value of the goods as determined by the court, not exceeding the amount specified in the complaint;
- 20 (b) order that the defendant pay to the complainant such amount as may be specified in the order for or towards the reasonable professional costs incurred by the complainant in having a barrister or attorney acting on his behalf; and
- 25 (c) if it thinks fit, order that if the defendant does not pay to the complainant the value of the goods as so determined, and the costs so specified, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902.

(3) Where an order is not made by the court under paragraph (c) of subsection two of this section, the order under paragraph (a) or (b) of that subsection may be recorded as a judgment under the Courts of Petty Sessions (civil Claims) Act, 1970, in the court in which the order is made, 30 or if that court has no jurisdiction under that Act, in any other court, as if the order were a judgment made by the Court exercising jurisdiction under that Act.

Public Protection.

(4) This section does not extend to proceedings by the owner of goods comprised in a hire-purchase agreement, or any person acting on his behalf, for the recovery of possession of those goods.

47. Where a person is charged with an offence under this Act in respect of any behaviour or conduct occurring within view or hearing from a public place or school it is not necessary for the prosecution to prove that the behaviour or conduct was seen or heard by any person in a public place or school.

48. An action for damages against a person for any act done in pursuance of this Act shall not be brought after the expiration of six months after the date on which the act is done.

49. Any person convicted of an offence under sections 13, 14 or 15 of this Act shall be liable to pay such sum not exceeding \$5,000 as the court may order as the cost of a contribution to the repair or restoration of any damage caused by his action which resulted in his conviction.

SCHEDULE 1.

Column 1		Column 2.
Year and number of Act.	Short title.	Extent of amendment or repeal.
1979, No. 63	Offences in Public Places Act, 1979.	Repeal the whole Act.



