

SUMMARY OFFENCES BILL.

EXPLANATORY PAPER.

The basic object of this Bill is to re-enact as a self-contained measure in more modern form certain provisions of the *Police Offences Act 1958* relating to—

1. Public Order.
2. General matters.
3. Illegal taking or using of vehicles.
4. Contraceptives.
5. Tattooing of Juveniles.
6. Juvenile smoking.
7. Homing Pigeons.
8. Special localities ; and
9. Supplementary matters.

This Bill is drawn having regard to the views on separation of subject-matter expressed by the Statute Law Revision Committee in its Report of 24th October, 1963, on the Police Offences Bill 1963.

The provisions selected for inclusion in this Bill are those of a general nature not relating to any extensive topic or not extensive enough to warrant isolation. Other Bills will be introduced to re-enact the more coherent provisions of the parent Act relating to Protection of Animals, Vagrancy, Lotteries and Gaming, and Obscene Publications.

For better placement some of the existing Police Offences provisions should, in the opinion of the Statute Law Revision Committee, be transferred to other Acts dealing with the subject matters concerned. The Committee has suggested, for example, that the provisions relating to firearms should be transferred to the Firearms Act.—A Bill to amend the Firearms Act will accordingly propose to transfer to it Division 2 of Part VII.—Pea Rifles, Saloon Guns and Air-Guns, and Division 7 of Part VII.—Trespass to Farms.

In drawing the Bill the views of the Statute Law Revision Committee expressed in the 1963 Report have been considered and generally followed. In particular the statement of offences in uniform style and the expression of penalties in the form "Penalty: \$10, &c.", as the Committee suggested, has led to considerable re-arrangement of most of the clauses.

The Government sees considerable merit in adopting a consistent form for general use in all future Acts and proposes to introduce a Bill to amend the *Acts Interpretation Act 1958* to facilitate the use of the formula the Committee suggested. The provision contemplated is that any penalty expressed in or at the foot of a provision creating an offence shall be the maximum penalty for that offence. The Summary Offences Bill proceeds on the assumption that the Acts Interpretation Act will be so amended.

All monetary penalties in the Bill are expressed in terms of decimal currency and the ratio of imprisonment to penalty has been standardized at roughly £1 per day on present values.

A number of the provisions appearing in the parent Act are omitted from the Bill because they duplicate provisions of other Acts more properly dealing with the subject-matter or are obsolete. In the century since its passing in 1864 the Police Offences Act has become the repository of a wide diversity of police, administrative and regulatory provisions: Some fragments such as "Racing" have already been broken off but much remains to clutter up what started as "An Act to consolidate the Law relating to the Management of Towns and other Populous Places and for the Suppression of Various Offences". The Bill goes a long way towards restoring the meaning of that original long title in relation to the provisions it contains.

The following Comparative Table shows how the Bill deals with the Police Offences Act provisions it proposes to supersede and what provisions have been omitted. The references in the column headed "Act" are to the *Police Offences Act 1958*.

COMPARATIVE TABLE.

Bill.	Act.	Comments.
1	..	Short title, &c.—the title " Police Offences " is abandoned in favour of " Summary Offences " at the suggestion of the Statute Law Revision Committee.
2	..	Repeal and savings.
3	3, 29	Interpretations—the interpretation of " public place " is a combination of those in sections 3 and 29 of the Act in the terms suggested by the Committee in relation to clause 3 of the 1963 Bill.
	4	Omitted—many of the existing provisions are only in force in cities, towns and boroughs but the Bill provisions are designed to run throughout the State.
4	5	Paras. (e) (g) (h) (l) (r) (v) (w) and (x) of sub-section (1) of the current section are omitted from the Bill as duplications of provisions of other Acts. Paras. (f) (m) and (o) have been transposed to clause 7 of the Bill as more appropriate in that setting. For intelligibility current para. (y) appears in the Bill as two paras.—(l) and (m). Provisions in (y) against discharging and carrying firearms will be proposed for transfer to the Firearms Act.
	6	Omitted—duplicates powers conferred under section 197 of the <i>Local Government Act 1958</i> .
5	7	Reference to rules and regulations under section 6 in para. (b) omitted.
	8, 9	Omitted—duplicate powers conferred under section 197 of the <i>Local Government Act 1958</i> .
6	10	No substantive change.
	11	Omitted—covered by <i>Health Act 1958</i> .
	12	Omitted from this Bill but being considered for inclusion in the <i>Local Government Act 1958</i> .
	13	Omitted—all offences under Bill have penalties specified for them.
	14	Transposed to clause 57 of Bill with verbal alteration.
	15	Omitted as obsolete.
	16	Omitted—provisions of Bill to run through whole of State.
7	17	Paras. (e) (f) and (g) transposed from section 5 as more appropriate in this clause.
8	18	Paras. (a) (b) (f) (k) (l) and (m) now in the Act are omitted—subjects are covered by Road Traffic Regulations, <i>Local Government Act 1958</i> , and <i>Health Act 1958</i> . Sub-clause (a) in Bill expressed to apply to horse-drawn vehicles only.
	19	Lights on vehicles—omitted from Bill as duplication of Motor Car and Road Traffic Regulations.
9	20	Level of compensation increased—provision as to toll-gates, &c., omitted but " ponds and pools " inserted to cover swimming pools in particular.
10	5 (1) (j)	Makes wider the existing provisions against bill-posting, &c., and provides for payment of compensation. Reversal of onus provision of 1963 Bill omitted.
11	21	Current sub-section (2) is omitted—need to affix registration plates to motor cars seems to fill purpose of provision.
		Current sub-section (3) is divided into two sub-sections : sub-clause (4) deals with the situation within the City of Melbourne where the 1849 Act prohibits the lighting of fires within 50 feet of any building wall or fence in the city and prevents the legal burning of rubbish, grass, &c., even upon notice by the Council, without some such provision as is in the sub-clause.
12	22	The exclusion of children from liability by sub-section (3) of the current section is not continued by the Bill.
13	23	No substantive change.
14	24	No substantive change.
15	69 (1) (a)	Transposed from " vagrancy " provisions with maximum of twelve month's imprisonment. It is felt that drunkenness as such should not expose a persistent offender to the possibility of three year's gaol for vagrancy.
16	25	Offence of being drunk in possession of loaded firearms will be proposed for transfer to Firearms Act.
17	26, 27	It has long been felt by the courts that the content of the two sections should be in one section without provision for imprisonment in default of immediate payment.
18	28	Re-expressed as suggested by the Statute Law Revision Committee to cover all forms of soliciting, &c.
	29	Substance of section included in the interpretation of " public place " in clause 3.
19	30	No substantive change in sub-clauses (2)-(5). In sub-clause (1) the words " if the person charged consents " have been substituted for the words " unless the person charged objects " now appearing in the Act. Section 66 of the <i>Justices Act 1958</i> would not apply with respect to sittings " out of sessions ".
	31	Omitted—provision never availed of and not now likely to be used.
20	32	Words " to be assembled therein " replaced by words " to frequent his premises "—the requirement of assembly has, over the years, defeated the objects of the section.
21	33	No substantive change—penalties substantially increased.
	34	Substance of section transposed into clause 17 of Bill as public meeting place is a " public place ".

COMPARATIVE TABLE—*continued.*

Bill.	Act.	Comments.
22	35-37	These three sections are consolidated into one in the Bill. Rather than embark upon exhaustive definition it seems more effective to give police the right to be in any place which is for the time being a "public place".
23	38	No substantive change.
24	39	No substantive change.
25	40	No substantive change.
	41	Covered in principle by clause 62.
26	42	The word "reasonably" has been inserted in sub-clause (1) as suggested by the Statute Law Revision Committee.
27	43	No substantive change.
28	44	No substantive change.
29	45	No substantive change.
30	46	No substantive change.
31	47	No substantive change.
32	48	No substantive change.
33	49	No substantive change.
34	50	No substantive change.
35	52, 53, 54, 55, 56	Bill provision confined to publishing newspaper on Sunday—provisions against selling newspapers, &c., on Sunday not continued. The provisions of section 51 relating to firearms have been transferred to the <i>Firearms Act 1958</i> and the provisions relating to trading have been omitted as they are covered by the <i>Labour and Industry Act 1958</i> .
36	57	Sub-clause (3) (b) extends the provisions to advertising by radio television or film. On the suggestion of the Statute Law Revision Committee para. (c) of the existing sub-section (3) is omitted.
37	58	No substantive change.
38	207	No substantive change.
39	216	The interpretation of "public place" is omitted.
40	217	No substantive change.
41	218	No substantive change.
42	219A	No substantive change.
43	220	Sub-section (2) omitted— <i>Tobacco Sellers Act 1958</i> repealed by Act No. 7197.
	221	Omitted—no longer applicable.
	222	Omitted—limitation of time too short.
44	222A	No substantive change.
45	224	"Metal or other ring" substituted for "rubber or metal ring".
46	225	No substantive change.
47	226	Bill adverts to general compensation provisions of <i>Crimes Act 1958</i> instead of making specific provision.
48	227	No substantive change in offence provision but compensation provision omitted in favour of <i>Crimes Act</i> provisions.
49	228	No change.
50	223	No substantive change.
51	202	No substantive change as to power of arrest, &c., but provisions as to neglect of duty omitted.
52	189	No substantive change.
53	189A	No substantive change.
54	188	Provision made general instead of being of limited application as under current Act.
55	14	No substantive change.
56	190	No substantive change.
57	191	No substantive change.
58	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 accords with the views of the Statute Law Revision Committee.
59	195	No substantive change.
60	204	No substantive change.
61	196	No substantive change.
62	197	Reference to Police Superannuation Fund omitted.
63	198	Bill provision omits reference to want of distress and requires court to fix default when imposing a fine. Scale indicates default term of roughly one day for each pound of penalty.