

VICTORIA.



ANNO QUINTO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7393.

An Act to re-enact with Amendments the Law relating to Vagrancy and Kindred Offences and for Purposes connected therewith.

[10th May, 1966.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. (1) This Act may be cited as the *Vagrancy Act 1966*.

Short title.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commencement.

2. (1) Part III. of the *Police Offences Act 1958* and section 45 of the *Children's Court Act 1958* are hereby repealed.

Repeal.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under the repealed provisions or existing or continuing under the repealed provisions

immediately

immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if the said provisions had not been repealed ; and

(b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any order information warrant commitment liability limitation saving or right made laid issued accrued incurred or acquired or existing or continuing by or under the said provisions before the commencement of this Act.

(3) Any reference in any other Act to any of the provisions of Part III. of the *Police Offences Act 1958* shall be deemed to be a reference to the corresponding provisions of this Act.

Application.
No. 6218 s. 45.

3. The provisions of section five of this Act shall not apply to any person under the age of seventeen years.

Interpretation.
No. 6337 ss. 3,
29.

4. In this Act unless inconsistent with the context or subject-matter—

“ Court ” or “ court of petty sessions ” means a court of petty sessions within the meaning of Part IV. of the *Justices Act 1958*.

“ Public place ” includes and applies to—

(a) any public highway road street bridge footway footpath court alley passage or thoroughfare notwithstanding that it may be formed on private property ;

(b) any park garden reserve or other place of public recreation or resort ;

(c) any railway station platform or carriage ;

(d) any wharf pier or jetty ;

(e) any passenger ship or boat plying for hire ;

(f) any public vehicle plying for hire ;

(g) any

- (g) any church or chapel open to the public or any other building where divine service is being publicly held ;
- (h) any State school or the land or premises used in connexion therewith ;
- (i) any public hall theatre or room while members of the public are in attendance at, or are assembling for or departing from, any public entertainment or meeting therein ;
- (j) any market ;
- (k) any auction room or mart or place while a sale by auction is there proceeding ;
- (l) any billiard room or open bar in any premises licensed under the *Licensing Act 1958* or any licensed billiard room ;
- (m) any race-course cricket ground football ground or other such place while members of the public are present or are permitted to have access thereto whether with or without payment for admission ;
- (n) any place of public resort ;
- (o) any open place to which the public whether upon or without payment for admittance have or are permitted to have access ; and
- (p) any public place within the meaning of the words "public place" whether by virtue of this Act or otherwise.

Vagrancy.

5. (1) Where any member of the police force has reasonable cause to believe that any person has no lawful means of support or has insufficient lawful means of support he may arrest such person either with or without warrant and bring him before a court of petty sessions or justices, or may summon him to appear before a court of petty sessions.

Arrest of persons without lawful means of support.
No. 6337 s. 70.

(2) Every person who fails to prove to the satisfaction of the court or justices that he has sufficient lawful means of support or that such means of support as he has are lawful shall be liable to imprisonment for a term of not more than twelve months.

Penalty.

(3) The

Evidence.

(3) The fact that any person charged under this section can produce or prove that he possesses money or property shall not be taken into account in deciding the charge against such person unless he shows by his own or other evidence that he honestly obtained such money or property.

Procedure.

(4) An information under this section may be heard and determined by two or more justices sitting out of sessions if the person charged consents to the matter being so heard and determined.

No. 6337 s. 69.
Consorting
and like
offences.

6. (1) Any person who—

- (a) is the occupier of a house or place that is frequented by reputed thieves or persons having no visible lawful means of support ;
- (b) is found in a house or place in company with reputed thieves or persons having no visible lawful means of support who, on being thereto required by the court, does not give to the satisfaction of the court a good account of his lawful means of support and also of his being in such house or place upon some lawful occasion ;
- (c) habitually consorts with reputed thieves or known prostitutes or persons who have been convicted of having no visible lawful means of support unless such person, on being thereto required by the court, gives to the satisfaction of the court a good account of his lawful means of support and also of his so consorting ;
- (d) begs or gathers alms or causes or procures or encourages a child to beg or gather alms ;
- (e) is found armed with an offensive weapon or instrument unless such person gives to the court a valid and satisfactory reason for his being so armed ;
- (f) has on or about his person without lawful excuse (the proof of which excuse shall be on such person) any deleterious drug or any article of disguise—

shall be guilty of an offence.

Penalty : For a first offence—imprisonment for one year ; For a second or subsequent offence against this section (whether under the same paragraph or not)—imprisonment for two years.

(2) Proceedings against any person under paragraph (c) of the last preceding sub-section shall not be taken except by a member of the police force.

7. (1) Any

7. (1) Any person who—

No. 6337 s. 72.
Soliciting alms,
cheating, &c.

- (a) solicits gathers or collects alms subscriptions or contributions under a false pretence ;
- (b) imposes or endeavours to impose upon any person or charitable institution by a false or fraudulent representation either verbally or in writing with a view to obtaining money or any other benefit or advantage ;
- (c) wilfully and obscenely exposes his person in a public place or in the view thereof ;
- (d) in or near a public place or within the view or hearing of any person being or passing therein or thereon or in or near any house or premises licensed for the sale of liquors plays or bets or solicits or encourages any other person to play or bet—
 - (i) at or with an instrument of gaming at any game or pretended game of chance ;
 - (ii) at or on a game or trick of sleight of hand ;
 - (iii) at or on a game or trick played with an instrument which in the opinion of the court is constructed or kept as a means of cheating ;
- (e) being a known or reputed cheat loiters in or near a public place or in or near a house or premises licensed for the sale of liquors and has in his possession an instrument of gaming or an instrument which in the opinion of the court is constructed or kept as a means of cheating, unless such person accounts for his having such instrument in his possession to the satisfaction of the court ;
- (f) being a suspected person or a known or reputed thief or cheat loiters in or about or frequents—
 - (i) any river canal navigable stream dock or basin or a quay wharf or warehouse near or adjoining thereto or a street highway or avenue leading thereto ;
 - (ii) a public place ; or
 - (iii) a place adjacent to a street or highway—
with intent to commit a felony or misdemeanour ;

(g) has

- (g) has 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 ;
- (h) is found disguised or has his face blackened with an unlawful intent ;
- (i) is found without lawful excuse (the proof of which excuse shall be on such person) in or upon or within the precincts of a building or structure or in a garden or enclosure or in or on board a ship or other vessel in any port harbor or place within Victoria or in or upon a mine or claim within the meaning of the *Mines Act 1958* ;
- (j) fraudulently manufactures or aids in the manufacture of any spurious or mixed metal or substance or fraudulently sells or offers 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—

shall be guilty of an offence.

Penalty : For a first offence—imprisonment for two years ;
For a second or subsequent offence against this section (whether under the same paragraph or not)—imprisonment for three years.

(2) In proving intent to commit a felony or misdemeanour for the purposes of paragraph (f) of the last preceding sub-section it shall not be necessary to show that the person charged was guilty of any particular act or acts tending to show his intent, and he may be convicted if from the circumstances of the case and from his known character as proved to the court before which he is charged it appears to such court that his intent was to commit a felony or misdemeanour.

No. 6337 ss. 72
(1) (k) and 73.

8. Any person who—

- (a) is armed, with felonious intent, with a firearm or an imitation firearm within the meaning of section 36 of the *Crimes Act 1958* or any offensive weapon or instrument ;
- (b) escapes or attempts to escape from a lock-up watch-house or like place wherein he is lawfully detained or from any person in whose legal custody he is or by whom he is lawfully detained—

shall be guilty of an offence.

Penalty : Imprisonment for three years.

9. In any proceedings under any of the foregoing provisions of this Act except paragraph (c) of sub-section (1) of section 6 the informant may—

Evidence of
bad character.

- (a) give or produce evidence in support of the information to prove that the person charged is a known or reputed thief or cheat or was found in company with reputed thieves or persons having no visible lawful means of support ; or
- (b) give or produce evidence to rebut any evidence (including evidence as to general character) given by or on behalf of the person charged.

Prostitution, Brothels, Disorderly Houses, &c.

10. (1) Any person who knowingly lives wholly or in part on the earnings of prostitution shall be guilty of an offence.

As to living
on earnings of
prostitution.
No. 6337 s. 79.

Penalty : Imprisonment for two years.

(2) Where—

- (a) a person is proved to live with or to be habitually in the company of a prostitute ; or
- (b) a person is proved to have exercised control direction or influence over the movements of a prostitute in such manner as to show that that person is aiding abetting procuring or compelling her prostitution with any other person or generally—

that person shall be deemed to be knowingly living on the earnings of prostitution unless the court is satisfied to the contrary.

(3) Where it is made to appear to a justice by information on oath that there is reason to suspect that a house or any part of a house is used 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 prostitute, the justice may issue a warrant authorizing any member of the police force to enter and search the house and to arrest any such person and to bring him before a court of petty sessions to answer to a charge under this section.

11. (1) Any person who keeps or manages or acts or assists in the management of a brothel shall be guilty of an offence.

Keeping or
assisting in
brothel.
No. 6337 s. 80.

Penalty : Imprisonment for two years.

(2) Any person who appears acts or behaves as master or mistress or as having the care government or management of a brothel bawdy-house or other disorderly house of any kind shall for the purposes of this Act or any other Act or law relating thereto be deemed to keep such brothel bawdy-house or disorderly house.

12. (1) Any

Suppression of
brothels.
No. 6337 s. 81.

12. (1) Any person who—

- (a) being the tenant lessee or occupier or person in charge of any premises uses such premises or any part thereof or knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution (whether of one woman or more) or for soliciting or accosting persons therein or thereon for the purposes of prostitution ; or
- (b) being the owner or lessee of any premises or the agent of such owner or lessee, lets or sublets the premises or any part thereof with the knowledge that the premises or some part thereof are or is to be used as a brothel or for the purposes of habitual prostitution or for soliciting or accosting persons therein or thereon for the purposes of prostitution, or is wilfully a party to the continued use of the premises or any part thereof as a brothel or for any of those purposes—

shall be guilty of an offence.

Penalty : \$250.

Determination
of tenancy of
premises on
conviction for
using or
permitting use
as brothel, &c.

(2) Upon the conviction of the tenant lessee or occupier of any premises of using the premises or any part thereof or of knowingly permitting the premises or any part thereof to be used as a brothel or for the purposes aforesaid—

- (a) the landlord or lessor shall be entitled to require the person so convicted to assign the lease or other contract under which the premises are held by him to some other person approved by the landlord or lessor, which approval shall not be unreasonably withheld, and in the event of the person so convicted failing within one month to assign the lease or contract as aforesaid the landlord or lessor shall be entitled to determine the lease or other contract but without prejudice to the rights or remedies of any party to such lease or contract accrued before the date of such determination ; and
- (b) if the landlord or lessor should so determine the lease or other contract of tenancy, the court which has convicted the tenant lessee or occupier or any other court of petty sessions shall have power to issue a warrant under Part IV. of the *Landlord and Tenant Act* 1958 to give possession of the premises to the landlord or lessor and the provisions of the said Part IV. shall with such adaptations as are necessary extend and apply accordingly.

(3) If

(3) If—

(a) the landlord or lessor after such conviction has been brought to his notice fails to exercise his rights under the foregoing provisions of this section ; and

(b) subsequently during the subsistence of the lease or contract the premises or any part thereof are again used as a brothel or for the purposes of habitual prostitution or for soliciting or accosting persons therein or thereon for the purposes of prostitution—

the landlord or lessor shall be deemed to have knowingly aided or abetted the commission of that offence unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(4) Where a landlord or lessor determines a lease or other contract under the powers conferred by this section and subsequently grants another lease or enters into another contract of tenancy to with or for the benefit of the same person without causing to be inserted in the later lease or contract all reasonable provisions for the prevention of a recurrence of any such offence as aforesaid, he shall be deemed to have failed to exercise his rights under the foregoing provisions of this section.

Liability of landlord, &c., for aiding and abetting.

Where lease, &c., determined duty of landlord, &c., as to subsequent lease, &c.

Fortune Telling, &c.

13. Any person who pretends or professes to tell fortunes or uses any subtle craft means or device by palmistry or otherwise to defraud or impose on any other person or pretends to exercise or use any kind of witchcraft sorcery enchantment or conjuration or pretends from his skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattels stolen or lost may be found shall be guilty of an offence.

Penalty : \$250.

Fortune telling and pretending to exercise witchcraft, &c. No. 6337 s. 82.

Miscellaneous.

14. (1) Unless otherwise expressly provided any person whosoever may without warrant apprehend any person whom he finds offending against any of the provisions of this Act and forthwith take and convey him before some justice to be dealt with according to law or may deliver him to any member of the police force to be so taken and conveyed.

(2) No member of the police force shall be bound to apprehend or to accept or take into custody or to take or convey before a justice any person found offending as aforesaid if such member believes on reasonable grounds that the purposes of this Act can be fully and effectually accomplished by proceedings by way of summons without any arrest or apprehension.

Apprehension of offenders. No. 6337 s. 202.

(3) In

(3) In this section the expression "found offending" extends to the case of a person found doing any act or so behaving or conducting himself or in such circumstances that the person finding him believes on reasonable grounds that the person so found is guilty of an offence against this Act; and "finds offending" has a corresponding meaning.

Informations.
No. 6337 s. 190.

15. (1) Unless otherwise expressly provided any member of the police force or any officer of the council of any city town borough or shire concerned may lay an information for an offence against this Act.

(2) No fee shall be payable on the issue of any summons upon an information for an offence against this Act.

Neglect to
prosecute.
No. 6337 s. 191.

16. If any person who has laid an information in respect of an alleged offence against this Act does not appear at the hearing or declines or neglects to proceed upon or prosecute the information the court or justices may authorize some other person to proceed upon or prosecute the information or may authorize any other person to take proceedings.

Accomplice.
No. 6337 s. 192.

17. No member of the police force or person if such member or person is acting under instructions given in writing in relation to a particular case by a member of the police force not below the rank of sergeant shall be deemed to be an offender or accomplice in the commission of an offence against this Act although such member or person might, but for this section, have been deemed to be such an offender or accomplice.

Procedure.
No. 6337 s. 195.

18. Unless otherwise expressly provided all informations for or in respect of an offence against this Act shall be heard and determined by a court of petty sessions.

Offences of
more serious
nature not
to be dealt
with under
this Act.
No. 6337 s. 204.

19. If any court of petty sessions before which an information is brought for an offence against this Act is of opinion that the offence charged does not properly come within the meaning and intention of this Act but that an offence of a more serious or heinous kind has been committed the court may refuse to entertain or to further entertain the information and may proceed as if the more serious or more heinous offence had been charged in the information before the court whether the person charged has or has not pleaded thereto.

Forfeiture of
offensive
weapons, &c.
No. 6337 s. 83.

20. (1) When any person is convicted of an offence against any of the provisions of this Act any firearm sword dirk dagger bludgeon or other offensive weapon or instrument and any

instrument

instrument of gaming or of cheating picklock-key crow jack, bit or other implement of housebreaking and any metal or substance or spurious mixed or adulterated metal or substance such as is referred to in paragraph (j) of sub-section (1) of section 7 found in his possession or control when arrested may by order of the court be forfeited to Her Majesty.

(2) All property forfeited to Her Majesty under this Act shall by order of the court be sold, or in its discretion destroyed, and the proceeds of any such sale shall be paid to the Consolidated Revenue.

(3) This section shall be read and construed as in aid of, and not in derogation of, the provisions of any other Act relating to firearms or any other offensive weapons or things.

21. Where a court convicts a person of an offence against this Act and adjudges him to pay a sum of money by way of penalty for or in respect of such offence and no provision is made for enforcing payment of the sum the court shall order that such sum be paid either immediately or within such time as the court allows and that in default of payment of the sum as aforesaid such person be imprisoned—

Imprisonment
in default of
payment of
penalty.

- (a) where the sum is not more than \$50—for a term of not more than one month ;
- (b) where the sum is more than \$50 but not more than \$100—for a term of not more than two months ;
- (c) where the sum is more than \$100 but not more than \$250—for a term of not more than three months ; and
- (d) where the sum is more than \$250—for a term of not more than six months.

22. In the execution of this Act any member of the police force is authorized to enter and be and remain upon or in any public place notwithstanding that such place be upon private property and no such entry shall in any way be deemed a trespass.

Entry of
member of
police force.

23. Unless the context otherwise requires any reference in any other Act to “an idle and disorderly person” or to “a rogue and vagabond” or to “an incorrigible rogue” or to a person convicted of an offence against Part III. of the *Police Offences Act 1958* or any corresponding previous enactment shall be deemed and taken to refer to and mean persons convicted pursuant to the provisions of sections 6, 7 and 8 respectively of this Act.

Construction
of references.

Tender of
amends.
No. 6337
ss. 163, 178.

24. No plaintiff shall recover in any action for any irregularity trespass or other wrongful proceeding made or committed in the execution of or under the authority of this Act if tender of sufficient amends is made to the plaintiff before such action is commenced ; and in case no tender is made the defendant in any such action may, by leave of the court in which the action is pending and at any time before issue is joined in the action, pay into court such sum of money as he thinks fit and thereupon the action shall proceed as an action in which the defendant is allowed to pay money into court.
