

## SUMMARY OFFENCES BILL

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### EXPLANATORY NOTE

THIS Bill repeals and replaces the Police Offences Act 1927 and its amendments relating to summary offences. That Act was reviewed by the Statutes Revision Committee which reported its findings to the House in 1974: see Parliamentary Paper I.5A of that year. References in this note to the views or recommendations of the Statutes Revision Committee are references to the views or recommendations of the Committee as set out in that report.

The overall aim has been to produce in modern language a criminal code of general application. To that end, many of the more exotic provisions of the present Act have been dropped. Included in these are many of the detailed provisions of section 3, relating to such matters as allowing eaves to drip or stallions to serve, displaying offal, and beating carpets. To the extent that any of these matters remains a problem today, it can be dealt with through local authority bylaws. Further, some rather narrow provisions have been transferred to other more appropriate legislation.

The opportunity has been taken for a thorough revision of the various maximum penalties prescribed by this legislation. The present maximum penalty for assault (including assault on a Police, prison, or traffic officer acting in the course of his duty) of imprisonment for a term of 6 months has been retained, but with that exception no other maximum penalty under this Bill exceeds 3 months' imprisonment. In general, the present maximum prison sentences have been retained, reduced, or abolished, while most maximum fines have been increased, in some cases substantially.

Some of the more important changes effected by this Bill may be summarised as follows:

- (a) The offence of disorderly behaviour has been redefined, and subdivided into 2 offences. The first, more serious one arises where the behaviour causes or is likely to cause a public disturbance of some kind, manifested either by injury to persons or damage to property. The second, less serious offence relates to disorderly or offensive behaviour that is of a scale that is not likely to lead to an outbreak of violence or damage. The approach adopted in the Bill (*clause 3*) broadly follows the recommendations of the Statutes Revision Committee.
- (b) The present consorting provisions have been narrowed and tightened (*clause 5*), to a greater extent than that recommended by the Statutes Revision Committee.

- (c) The offence of obstructing a footpath has been redrawn to require a warning to be given (*clause 21*). The Statutes Revision Committee was divided on this provision, and made no recommendation.
- (d) The offence of making a false allegation of a crime has been widened to cover any statement or behaviour designed to deliberately waste the time of the Police (*clause 23*).
- (e) The offence of using indecent language has been redrawn, largely in line with the majority view of the Statutes Revision Committee, to require the Court to have regard to the circumstances in which the words were used (*clause 27*).
- (f) The present frequenting provisions have been dropped, and replaced by a provision (*clause 28*) along the lines recommended by the Statutes Revision Committee. The emphasis is shifted from felonious intent to suspicious behaviour.
- (g) The criminal sanction against being found drunk in a public place has been removed. Instead, the Police are given certain powers to take a person home or to an appropriate place where he may be looked after (*clause 50*).
- (h) The present provisions relating to idle and disorderly persons and rogues and vagabonds have been largely dropped. However, the powers of the Police to pick up children and young persons under the Children and Young Persons Act 1974 have been widened (*clause 51*).

Underneath each clause of this Bill, the source of the provision is given in a footnote, and at the end of this note there is a comparative table showing the fate of each of the present provisions.

*Clause 1* relates to the Short Title and commencement of the Bill.

*Clause 2* is the interpretation clause.

The term "assault" is defined for the purposes of *clauses 4 (2) (a) (i), 8, and 9*. The definition is the same as that in section 2 (1) of the Crimes Act 1961.

The term "colour of right" is defined for the purposes of *clause 10 (2)*. The definition is the same as that in section 2 (1) of the Crimes Act 1961.

The term "constable" is used throughout the Bill. The definition is the same as that in section 2 (1) of the Crimes Act 1961.

The term "crime" is defined for the purposes of *clause 28*. The definition is the same as that in section 2 (1) of the Crimes Act 1961.

The term "crime involving dishonesty" is defined for the purposes of *clause 5*. The definition is the same as that in section 2 (1) of the Crimes Act 1961.

The term "intoxicating liquor" is defined for the purposes of *clause 38*. The definition is taken from section 2 of the Sale of Liquor Act 1962.

The expression "is liable" is used throughout the Bill. It mirrors the equivalent definition of that term in the Crimes Act 1961.

The term "newspaper" is defined for the purposes of *clause 16*. It is taken from section 2 of the Newspaper and Printers Act 1955.

The term "night" is defined for the purposes of *clause 30*. The definition is the same as that in section 2 (1) of the Crimes Act 1961, but differs slightly from that in section 53 of the Police Offences Act 1927.

The term "prison officer" is defined for the purposes of *clauses 9 and 22*. The present definition in section 77A (3) of the Police Offences Act 1927 applies the definition in section 2 of the Penal Institutions Act 1954. This clause sets out that definition, but broadens it to include the staff of pre-release hostels.

The term "public place" is used throughout the Bill. The definition is the distillation of the present meaning in section 2 of the Police Offences Act 1927 and the extended meaning of section 40 of that Act. In essence, the term embraces every place (including vehicles) which, at any material time, is open to or is being used by members of the public. Thus, for example, a cinema that is full is a public place because, although it is no longer open to the public, it is being used by them.

It is immaterial whether an admission fee is charged, or whether the owner or occupier has the right to exclude or eject any person from the place.

The term "traffic officer" is defined for the purposes of *clauses 9 and 22*. The present definition in section 77A (3) of the Police Offences Act 1927 applies the definition in section 2 (1) of the Transport Act 1962. This clause sets out that definition.

The term "unlawful weapon" is defined for the purposes of *clause 7 (1)*. The present section 34B (1) of the Police Offences Act 1927 refers to the definition of the term in the Arms Act 1958. This clause sets out that definition.

*Subclause (2)* codifies the decision in *Walker v Crawshaw* [1924] NZLR 93 that a person is in a public place for the purposes of the Bill if he is in a mode of conveyance that is in a public place.

*Subclause (3)* is a drafting device which enables the wording of the individual clauses of the Bill to be shortened. It is based on section 2 (2) of the Crimes Act 1961.

### *Offences Against Public Order*

*Clause 3* replaces section 3D (riotous, etc., behaviour in public place) and section 34 (inciting violence, disorder, or lawlessness) of the Police Offences Act 1927. By general agreement, these are 2 of the more difficult and controversial sections of the present Act.

The history of section 3D is summarised on page 11 of the Statutes Revision Committee's report. Until 1924, the behaviour was proscribed only if it was indulged in with intent to commit a breach of the peace, or if a breach of the peace was the likely result. However, in that year, this element was dropped. In 1960, the maximum penalty was increased from a fine of £20 to imprisonment for a term of 3 months or a fine of £100. Thus, the approach of the law had changed from taking a fairly mild approach to what was seen as a threat to the peace, to a more severe condemnation of behaviour which in itself was seen as objectionable.

The test of what is or is not proscribed behaviour under the present law may be seen in the following passage from the judgment of Turner J in *Melser v Police* [1967] NZLR 437, at p. 444:

"Disorderly conduct is conduct which is disorderly; it is conduct which, while sufficiently ill-mannered, or in bad taste, to meet with the disapproval of well-conducted and reasonable men and women,

is also something more—it must, in my opinion, tend to annoy or insult such persons as are faced with it—and sufficiently deeply or seriously to warrant the interference of the criminal law.”

Against this background of the present law, the changes effected by this clause can be summarised.

Two offences are created instead of one. A distinction is drawn between behaviour of such a kind as to render it likely that violence against persons or property will ensue or continue, and that which has no such likely consequence.

The first is dealt with in *subclause (1)*. The prosecution will still have to prove that the behaviour was riotous, offensive, threatening, insulting, or disorderly, and that it took place in or within view of a public place. However, the “degree” of that behaviour will no longer be measured in terms of the tolerance level of well-conducted and reasonable men and women, but will be judged on whether it was likely to lead to the outbreak or continuance of violence against persons or property. In short, the original breach of the peace requirement is reintroduced in more modern clothing.

*Subclause (1)* also incorporates the essence of section 34 of the Police Offences Act 1927, which, in broad terms, constitutes it an offence to incite, encourage, or procure disorder, violence, or lawlessness. In *Police v Lee* [1973] NZLR 470, at p. 477 Moller J held that to justify a conviction under this section “any disorder that is the subject of the incitement by a defendant must at least be coloured with elements of violence and/or lawlessness”. By including this provision in this subclause, it will be limited in broadly the way the Judge prescribed in this case.

The ‘major’ offence in this subclause carries a maximum penalty of imprisonment for a term of 3 months or a fine of \$1,000.

*Subclause (2)* proscribes a ‘minor’ offence, carrying a maximum penalty of a fine of \$500. It deals separately with behaviour on the one hand and language on the other.

*Paragraph (a)* proscribes behaviour that is disorderly or offensive per se, in or within view of any public place.

*Paragraphs (b) and (c)* proscribe certain language in 2 situations.

*Paragraph (b)* deals with the one-to-one situation, where the offender addresses his words to a specific person, intending to threaten, alarm, insult, or offend that person. The nature of the words is immaterial: it is the intended consequence with which the provision is concerned.

*Paragraph (c)*, however, deals with words that are, in themselves, threatening or insulting. The provision prohibits the use of such words in a public place without care as to whether any person is alarmed or insulted.

*Clause 4* re-enacts without substantive amendment section 34A of the Police Offences Act 1927 (as inserted by section 2 of the Police Offences Amendment Act 1976). It provides that where 3 or more persons, each of whom has been convicted within the preceding 2 years of certain offences (termed “relevant offences”), behave on any private premises in such a manner as to cause persons in the neighbourhood to fear on reasonable grounds the commission of further such offences, the 3 or more persons concerned are guilty of an offence.

The relevant offences are those involving assault, threatening, offensive, or disorderly behaviour, possession of offensive weapons, and offences against public order.

The present maximum penalty is imprisonment for a term of 6 months or a fine of \$500. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 5* replaces the so-called consorting provisions in section 49 of the Police Offences Act 1927, and, in particular, paragraph (d) of that section.

That provision makes it an offence to habitually consort with reputed thieves or prostitutes or persons who have no visible lawful means of support. It is not necessary to prove that the associates are thieves: it is sufficient if they are suspected (even if only by the Police) of being thieves and that suspicion is known to the defendant. The longer his association, the more readily will it be inferred that he was aware of his associates' reputations: see *Stevens v Andrews* (1909) 28 NZLR 773; *O'Connor v Hammond* (1902) 21 NZLR 573. It is not necessary to show any criminal purpose; habitual association is enough: *Davis v Samson* [1953] NZLR 909.

The offence as redrawn under this clause is a good deal tighter in a number of respects. First, it must be proved that the defendant has been habitually associating with convicted thieves: suspicion or reputation is not sufficient. Moreover, 1 or 2 convictions is not sufficient either. By virtue of *subclause (3)*, the associates must have been convicted of a crime involving dishonesty on at least 3 separate occasions.

Secondly, there must be a reasonable inference of criminal purpose.

Thirdly, the defendant must have been warned on at least 3 separate occasions to end the association before an information can be laid for an offence against this section.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$200. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 6* re-enacts section 3B of the Police Offences Act 1927, which prohibits fighting in a public place. The opportunity has been taken to make it clear that acts of self-defence in the face of unprovoked assault do not constitute fighting for the purposes of this clause.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$200. The maximum penalty under this clause is a fine of \$500.

*Clause 7* largely re-enacts section 34B of the Police Offences Act 1927 (as inserted by section 3 of the Police Offences Amendment Act 1976). This makes it an offence to print or publish, for the purposes of sale or distribution to the public, any document that describes or depicts the method of manufacture of any explosive device or incendiary device, or any unlawful weapon within the meaning of the Arms Act 1958. The clause does not apply to documents of a commercial, technical, scientific, literary, or artistic character, and it is a defence if the defendant proves that it was reasonable in all the circumstances to print or publish the description or depiction.

This clause retains the same elements. However, whereas the present section includes a detailed definition of the term “document” (taken from the Indecent Publications Act 1963), this has now been dropped and the provision widened to include any “thing” that describes or depicts any relevant method of manufacture. This more elastic concept should be capable of absorbing any new technological changes in methods of imparting information.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$500. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

#### *Offences Against Persons or Property*

*Clause 3* re-enacts in substance section 4 (1) of the Police Offences Amendment Act (No. 2) 1952 relating to common assault. The present maximum penalty is imprisonment for a term of 6 months or a fine of \$400. The maximum penalty under this clause is imprisonment for a term of 6 months or a fine of \$2,000.

Section 4 (2) of the Police Offences Amendment Act (No. 2) 1952, which ousts the jurisdiction of District Courts where a charge of assault raises a question of title, has been dropped. Section 4 (3) of that Act, which removes the right of the defendant to elect trial by jury, is re-enacted by *clause 44* of the Bill.

*Clause 9* re-enacts in substance section 77A (1) of the Police Offences Act 1927 (as inserted by section 2 (1) of the Police Offences Amendment Act 1976) relating to assault on a Policé, prison, or traffic officer in the execution of his duty. The present maximum penalty is imprisonment for a term of 6 months or a fine of \$400. The maximum penalty under this clause is imprisonment for a term of 6 months or a fine not exceeding \$2,000.

Section 77A (2) of the Police Offences Act 1927, which removes the right of the defendant to elect trial by jury, is re-enacted by *clause 44* of the Bill.

*Clause 10* broadly re-enacts section 6 of the Police Offences Act 1927, relating to wilful damage to property. However, subsection (2) of that provision, which empowers the Court to order the offender to pay compensation for the damage, has been dropped. Compensation for property damage is covered by section 403 of the Crimes Act 1961.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$500. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 11* relates to certain acts endangering public safety. It broadly incorporates the provisions of section 4 (1) (p) of the Police Offences Act 1927 (which prohibits the wilful or negligent obstruction of a public place), section 5 (a) of that Act (which prohibits the placing of an obstruction in a public place in a manner likely to endanger safety), and section 5 (b) of that Act (which prohibits the leaving of holes and excavations without proper protective and warning devices).

The present maximum penalty for a breach of section 4 (1) (p) is a fine of \$20, and for a breach of section 5 (a) and 5 (b) it is imprisonment for a term of 3 months or a fine of \$500. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 12* is, in a sense, a similar provision to *clause 11*, but here the emphasis is on doing something with a dangerous article (which may be an animal) rather than acting dangerously. It may best be described, perhaps, as a summary version of section 156 of the Crimes Act 1961. To the extent that it can claim parentage at all in the Police Offences Act 1927, various provisions of section 4 would be the best candidates.

*Clause 13* broadly re-enacts section 52 (1) (f) of the Police Offences Act 1927 relating to the possession of burglary tools. However, the generic expression "instrument capable of being used for burglary" has been preferred to the rather outdated (not to say picaresque) list in the present provision.

Further, a distinction is made (somewhat along the lines of section 244 (1) of the Crimes Act 1961) between mere possession of an instrument that is capable of being used for burglary, and possession of such an instrument in circumstances that *prima facie* show an intention to use it for burglary. The first is an offence only in a public place, but there is no such limitation in respect of the second. Further, no distinction is made between possession by day and possession by night, as there is in section 244 (1).

The present maximum penalty for a breach of section 52 (1) (f) of the Police Offences Act 1927 is imprisonment for a term not exceeding 1 year or a fine not exceeding \$400. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

Section 52 (2) of that Act, which provides for the forfeiture of the instruments of burglary on a conviction under subsection (1) (f), is re-enacted in *clause 46 (3)* of this Bill.

#### *Offences Resembling Forgery or Fraud*

*Clause 14* re-enacts section 52 (1) (c) of the Police Offences Act 1927, which prohibits the soliciting, gathering, or collecting of alms, subscriptions, or contributions by any false pretence.

The present maximum penalty is imprisonment for a term of 1 year or a fine of \$400. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 15* re-enacts subsections (1A), (2), and (3) of section 12 of the Police Offences Amendment Act (No. 2) 1952 relating to fraudulently acting or claiming to be a spiritualistic medium. The prohibition (contained in subsection (1) of that section) against fortune telling has been dropped.

The clause makes it an offence for any one, acting for reward and with intent to deceive, to purport to act as a spiritualistic medium or to exercise powers of telepathy or clairvoyance. It is also an offence for any one, acting for reward, to use any fraudulent device in purporting to act as a spiritualistic medium.

The present maximum penalty is imprisonment for a term of 3 months or a fine not exceeding \$200. The maximum penalty under this clause is a fine of \$1,000.

*Clause 16* re-enacts section 10 of the Police Offences Act 1927 relating to the delivery to and the publication in any newspaper of any false notice of the birth or death of any person or the marriage of any persons.

*Subclause (1)* prohibits the sending or delivery of such a notice to a newspaper, and the printing or publishing in a newspaper of such a notice knowing it to be false. The present maximum penalty is a fine of \$400. The maximum penalty under this subclause is a fine of \$500.

*Subclause (2)* requires the printer or publisher of the newspaper to supply the name and address of the person who arranged for the notice to be published, on demand by any interested person. The present maximum penalty for failing to comply with such a demand is a fine of \$100, and this is retained in this subclause.

*Clause 17* re-enacts section 20 of the Police Offences Act 1927 relating to the use of documents that look like Court documents, for example, a bill of account designed to look like a Court summons or order.

*Subclause (1)* prohibits the sending or delivery of such a document to any person. The present provision includes “posting” but this is considered unnecessary as “sending” is wide enough to include sending by post. It could also be said that a person who posts a document “causes it to be delivered” for the purposes of this subclause.

The present provision also stipulates that for an offence to be committed the recipient of the document must be a person who is “ignorant of the law”. This requirement is dropped.

The present maximum penalty for this offence is a fine of \$100. The maximum penalty under this subclause is a fine of \$500.

*Subclause (2)* makes it an offence to print or sell or offer for sale printed forms of such a kind that, if they were completed and sent to somebody, an offence against *subclause (1)* would be committed.

The present maximum penalty for this offence is a fine of \$100. The maximum penalty under this subclause is a fine of \$500.

The present subsection (4), relating to the manner in which an information alleging an offence against these provisions is to be drawn, is re-enacted in *clause 42* of this Bill.

*Clause 18* re-enacts section 18 of the Police Offences Act 1927, which makes it an offence to issue or distribute or publicly exhibit any document that is intended or is likely to cause any person to believe, incorrectly, that it is an official document. The types of document that are “official” for the purposes of this clause are listed in *subclause (2)*.

The present maximum penalty is a fine of \$100. The maximum penalty under this clause is a fine of \$500.

*Clause 19* re-enacts subsections (1) to (4) of section 22 of the Police Offences Act 1927, which makes it an offence to publicly use in connection with any business, trade, calling, or profession, any words, initials, or abbreviations of words that are intended or are likely to cause any person to believe, incorrectly, that the user holds any degree, diploma, or certificate from a University or other body, or is a member, associate, or fellow of any such body.

The present maximum penalty is a fine of \$100. The maximum penalty under this clause is a fine of \$500.

The present subsection (5), which requires the consent of the Attorney-General to a prosecution under this provision, is re-enacted in *clause 43* of this Bill.



*Intimidation, Obstruction, and Hindering Police*

*Clause 20* re-enacts section 33 of the Police Offences Act 1927 relating to intimidation. Under *subclause (1)*, the prosecution must prove that the intimidatory act was committed for the purpose of compelling some other person "to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing".

*Subclause (2)* re-enacts subsection (2) of the present section. It makes it an offence to forcibly hinder or prevent any person from working at or exercising any lawful trade, business, or occupation.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$500. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 21* replaces section 3 (eee) of the Police Offences Act 1927, which prohibits the unreasonable obstruction of a footpath. One new element is introduced in that the person causing the obstruction must first be warned. If he heeds the warning and moves off, he commits no offence: he is liable only if he fails to move. However, it will not be sufficient to "take one step to the right". If he moves off but stops again he may still be liable if the subsequent obstruction may reasonably be deemed to be covered by the original warning to move. It will not be necessary for a constable to warn the offender every step of the way.

The present maximum penalty is a fine of \$50. The maximum penalty under this clause is a fine of \$500.

*Clause 22* re-enacts section 77 of the Police Offences Act 1927, which relates to obstructing a constable in the execution of his duty, but extends it to include the obstruction of prison officers and traffic officers as well.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$200. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 23* replaces section 4 of the Police Offences Amendment Act 1935, which makes it an offence to make to a constable a false allegation that a crime has been committed. But this clause is wider than that section. *Paragraph (b)* makes it an offence to send the Police off on a wild goose chase by making any statement or acting in a manner that gives rise to apprehension for the safety of any person or property.

For example, a call that a person is threatening to jump off the Auckland Harbour Bridge would cause Police to send men to the scene, as would a false report of a chemical spillage. The paragraph would also apply if a person faked his suicide with the intention that the Police would waste time looking for him.

The present maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding \$200. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 24* re-enacts section 13 of the Police Offences Amendment Act 1952, which makes it an offence to advertise a reward for stolen or lost property on the basis that no questions will be asked, or to offer, by advertisement, to refund the purchase or loan money to any person who has bought that property or advanced money on the security of it. It is also an offence to print or publish any advertisement containing any such words, promise, or offer.

The present maximum penalty is a fine of \$200, and this is retained in this clause.

#### *Soliciting and Indecency*

*Clause 25* replaces section 46 (a) of the Police Offences Act 1927 which prohibits soliciting in a public place for the purposes of prostitution. The opportunity has been taken to make it clear that this provision applies to male prostitutes as well as their female counterparts, and to soliciting by persons on behalf of the prostitutes as well as by the prostitutes themselves.

The present maximum penalty is a fine of \$100. The maximum penalty under this clause is a fine of \$200.

*Clause 26* replaces section 47 of the Police Offences Act 1927 relating to obscene exposure. As the offence is committed by a person who "intentionally and obscenely exposes his person", and "person" has been held to mean "penis" [*Evans v Ewel* [1972] 2. All. ER 22], this offence can be committed only by males. The opportunity has been taken to make this clear in *subclause (1)*.

*Subclause (2)* is new. It provides that it is a defence if the defendant proves that he had reasonable grounds for believing that he would not be observed: cf section 125 (2) of the Crimes Act 1961.

The present maximum penalty is imprisonment for a term of 1 year or a fine of \$400. The maximum penalty under this clause is imprisonment for a term of 3 months or a fine of \$1,000.

*Clause 27* replaces section 48 of the Police Offences Act 1927, which prohibits the use, in any public place or within the hearing of any person in a public place, of any profane, indecent, or obscene language.

This clause differs from that section in a number of respects. First, the reference to profane language is dropped. Secondly, a distinction is drawn between addressing indecent or obscene words to a person on the one hand, and using such words where they may be overheard on the other. It is a defence in the latter case if the defendant proves that he had reasonable grounds for believing that he would not be overheard.

Thirdly, by virtue of *subclause (3)*, the Court is to determine whether the words complained of were indecent or obscene in relation to all the circumstances pertaining at the time, including whether the defendant had reasonable grounds for believing that any person hearing the words would not be offended.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$200. The maximum penalty under this clause is a fine of \$500 where the words are addressed to someone, or a fine of \$200 where they are merely used in a public place.

#### *Loitering and Trespass*

*Clause 28* is new, although in a sense it can be said to replace the frequenting provisions of section 52 (1) (j) of the Police Offences Act 1927.

*Subclause (1)* makes it an offence for a person to be found in any public place behaving in a manner from which it can reasonably be inferred that he is preparing to commit a crime. It is both wider and narrower than section 52 (1) (j). It is wider in that it applies to everyone: it is not necessary to prove that the defendant was a suspected person or reputed thief. It is narrower in that mere felonious intent is not sufficient: the prosecution must prove that the defendant was doing something in the nature of preparation for the commission of a crime.

The present maximum penalty for a breach of section 52 (1) (j) is imprisonment for a term of 1 year or a fine not exceeding \$400. The maximum penalty under *subclause (2)* of this clause is a fine not exceeding \$1,000, or in the case of a second offence within 1 year, imprisonment for a term of 3 months or a fine of \$1,000.

*Subclause (3)* is based broadly on section 81 of the Police Offences Act 1927. It provides that the Court may take into account a defendant's previous convictions for the purpose of determining whether or not it is reasonable to infer from his proven actions at the material time that he was preparing to commit a crime. To take one example. If a man is found sitting in a car, holding a bag of sweets, outside a primary school at 3 p.m., his behaviour may or may not be suspicious. But it would be more reasonable to assume the worst if he were known to have previous convictions for acts of indecency committed against young children.

*Clause 29* replaces sections 52 (1) (i) and 54 of the Police Offences Act 1927 relating to being found in certain places without reasonable excuse.

*Subclause (2)* makes it clear that the prosecution does not have to prove that the defendant had a criminal intent, but he is entitled to be acquitted if he can satisfy the Court that he had no such intention.

The present maximum penalty for a breach of section 52 (1) (i) is imprisonment for a term of 1 year or a fine of \$400, and for a breach of section 54 it is imprisonment for a term of 3 months or a fine of \$200. The maximum penalty under *subclause (1)* is imprisonment for a term of 3 months or a fine of \$1,000.

*Subclause (3)* is, in a sense, an alternative to *subclause (1)*. It is an attempt to deal with the person who has simply wandered in to sleep it off. The subclause provides that if a constable finds a person in one of the places to which *subclause (1)* applies in circumstances where he does not suspect any criminal purpose, he may warn the person to leave. If the person fails to comply, he commits an offence and is liable to a fine not exceeding \$100.

*Clause 30* re-enacts section 52A of the Police Offences Act 1927, which makes it an offence to peep or peer into a dwellinghouse, or loiter near a dwellinghouse, at night.

The present maximum penalty is imprisonment for 3 months or a fine of \$400. The maximum penalty under this clause is a fine of \$500.

*Clause 31* re-enacts section 2 (1) and (3) of the Police Offences Amendment Act 1950 which makes it an offence for a person to trespass on a ship after being ordered to leave.

The present maximum penalty is a fine of \$100. The maximum penalty under this clause is \$500.

#### *Offences Resembling Nuisance*

*Clause 32* replaces section 3 (o) of the Police Offences Act 1927. It makes it an offence to urinate or defecate in any public place (other than a lavatory). However, it is a defence if the defendant proves that he believed on reasonable grounds that he would not be observed.

The present maximum penalty is a fine of \$50. The maximum penalty under this clause is a fine of \$100.

*Clause 33* replaces section 3 (y) of the Police Offences Act 1927. It prohibits poster sticking, slogan writing, and so on, on any structure, or to or on any tree, without the consent of the owner or occupier.

The present maximum penalty is a fine of \$50. The maximum penalty under this clause is a fine of \$100.

*Clause 34* replaces section 3 (z) of the Police Offences Act 1927. It prohibits the throwing of stones and other objects in a manner that is likely to cause injury or damage.

The present maximum penalty is a fine of \$50. The maximum penalty under this clause is a fine of \$100.

*Clause 35* replaces section 3 (cc) of the Police Offences Act 1927. It prohibits the setting off of fireworks or explosive material in a public place in such a manner as to be likely to injure or alarm any person, or in any place in such a manner as to be likely to injure or alarm any person in any public place.

The present maximum penalty is a fine of \$50. The maximum penalty under this clause is a fine of \$100.

*Clause 36* replaces section 3 (e) of the Police Offences Act 1927. It prohibits the setting fire of any material or substance near any structure or vegetation in such a manner as to be likely to damage that structure or vegetation.

The present maximum penalty is a fine of \$50. The maximum penalty under this clause is \$100.

*Clause 37* replaces section 3 (dd) and 3c of the Police Offences Act 1927. It prohibits the unreasonable disturbance of any meeting, congregation, or audience.

The present maximum penalty for a breach of section 3 (dd) is a fine of \$50, and for a breach of section 3c it is a fine of \$200. The maximum penalty under this clause is a fine of \$100.

*Clause 38* replaces section 3E of the Police Offences Act 1927 relating to drinking in public conveyances and public places.

*Subclause (1)* prohibits the consumption or possession of liquor in various modes of conveyance. It re-enacts, without substantive amendment, subsection (1) of the present provision.

*Subclause (2)* is new. It is designed to overcome such decisions as *Police v Cook* (1950) 45 M.C.R. 11 in which it was held that a bus under charter is not within the ambit of the present section.

*Subclause (3)* prohibits the consumption or possession of liquor by minors in any public place, unless accompanied by a spouse or parent or guardian or other person acting in the place of a parent. The opportunity has been taken to bring this provision into line with equivalent provisions in the Sale of Liquor Act 1962 by stipulating that the spouse, or the person acting in the place of a parent, must be an adult. Except for this change, this subclause re-enacts subsection (2) of the present section.

*Subclause (4)* retains 2 present exclusions (in paragraphs (b) and (c)), but also includes a general exclusion for licensed premises in recognition of the fact that minors are now permitted to drink on many types of licensed premises under the Sale of Liquor Act 1962.

The present provisions of subsections (3) and (4) (relating to the seizure and forfeiture of liquor in respect of which an offence has been committed under this section) are re-enacted in *clause 46* of this Bill.

#### *Search, Arrest, and Jurisdiction*

*Clause 39* replaces section 75 of the Police Offences Act 1927 relating to the powers of a constable to search for stolen goods in or about any harbour or waterway, or in any public place adjacent to any harbour or waterway. The words "in or about" and "adjacent to" are imprecise and have been dropped. In that sense, this clause is narrower than the present provision. However, it is much broader in the sense that it now extends to airports, railways, and road transport depots.

*Clause 40* specifies the offences in respect of which a constable may arrest a suspected person without a warrant. A constable may effect such an arrest at any time in respect of the offences specified in *subclause (1)*, but in respect of those specified in *subclause (2)* he may only arrest a person when he sees that person actually committing the offence.

The present equivalent provisions are set out in section 315 (2) of the Crimes Act 1961.

*Subclause (3)* is new, although it owes something to section 60 of the Police Offences Act 1927. It permits the owner or occupier of any property who finds any person committing on that property a certain offence against this legislation to arrest that person without a warrant. If he does so, he must as soon as practicable send for the Police and hand over his captive to Police custody.

*Clause 41* replaces section 79 of the Police Offences Act 1927 relating to jurisdiction. All offences under this legislation will be triable summarily in a District Court. In respect of those offences specified in *subclause (2)* (being all offences against this legislation that are not punishable by imprisonment), the Court may comprise 2 or more Justices.

*Subclause (3)* provides that no alleged offence against this Act may be dealt with under section 20A of the Summary Proceedings Act 1957 where the defendant has been arrested. (Section 20A prescribes a special procedure

where the person charged is not liable on conviction to imprisonment or to a fine exceeding \$500. It avoids the necessity for summoning the defendant until he has had an opportunity to decide whether he accepts the charge or not. If he does, he can plead guilty by post without the need to attend Court.)

*Clause 42* re-enacts section 20 (4) of the Police Offences Act 1927. It provides a shorthand way of describing the offence in an information filed under *clause 17* of this Bill (relating to the imitation of Court documents).

*Clause 43* re-enacts (in slightly amended form) section 22 (5) of the Police Offences Act 1927. It requires the Attorney-General's consent before an information can be laid for an offence against *clause 19* of this Bill (relating to a false claim of qualifications).

*Clause 44* re-enacts section 77A (2) of the Police Offences Act 1927, and section 4 (3) of the Police Offences Amendment Act (No. 2) 1952. It provides that a person charged with an offence against *clause 8* (common assault) or *clause 9* (assault of a Police, prison, or traffic officer) shall not be entitled to elect to be tried by a jury. [The general rule, prescribed by section 66 of the Summary Offences Act 1957, is that where the maximum penalty for the offence charged is imprisonment for a term of more than 3 months, the defendant is entitled to elect to be tried by a jury.]

*Clause 45* is new. It provides that where a person is charged with an offence against *clause 3 (1)* of this Bill (which may be termed "serious" disorderly behaviour in that an essential element is the likelihood of violence or damage resulting) he may be convicted of an offence against *clause 3 (2)* (which deals with "minor" disorderly behaviour, where no likelihood of violence or damage is alleged). In other words, if the Court is satisfied, on a charge under *subclause (1)* of that clause, that the prosecution has proved disorderly behaviour but has failed to prove the likelihood of violence or damage resulting, it may convict the offender of an offence against *subclause (2)*.

In form, the clause is modelled on section 337 of the Crimes Act 1961.

*Clause 46: Subclauses (1) and (2)* re-enact subsections (3) and (4) of section 3E of the Police Offences Act 1927. They provide for the seizure and forfeiture of any liquor in respect of which an offence is committed against *clause 38* of this Bill (which relates to drinking in a public place).

*Subclause (3)* re-enacts section 52 (2) of that Act. It provides for the forfeiture of any instrument of burglary in respect of which an offence is committed against *clause 13* of this Bill (which relates to being found without reasonable excuse in possession of any such instrument).

#### *Amendments, Repeals, and Savings*

*Clause 47* re-enacts in the Military Decorations and Distinctive Badges Act 1918 section 31 of the Police Offences Act 1927 relating to the unlawful use of actual or imitation military decorations.

The present maximum penalty is imprisonment for a term of 3 months or a fine of \$100. The maximum penalty under this clause is a fine of \$500.

*Clause 48* re-enacts in the Machinery Act 1950 section 5A of the Police Offences Act 1927. This makes it an offence for any person to permit any child under 12 years of age to drive or ride upon any tractor or to ride upon any implement drawn by a tractor.

The present maximum penalty is a fine of \$200. The maximum penalty under this clause is a fine of \$500.

*Clause 49* re-enacts in the Crimes Act 1961, in 2 sections, section 53A of the Police Offences Act 1927 relating to possession of offensive weapons, but widens it to include deleterious drugs as well. A "deleterious drug" means any anaesthetising or disabling substance.

The present maximum penalty is imprisonment for a term of 1 year or a fine of \$400. Because the offence is now triable on indictment, no maximum fine is prescribed in this clause.

*Clause 50* amends the Alcoholism and Drug Addiction Act 1966 by inserting a new section 37A. It replaces sections 41, 42, and 44 of the Police Offences Act 1927, and is designed to remove criminal sanctions from drunkenness while still giving the Police powers to deal with the situation where an intoxicated person is found in a public place.

*Subsection (1)* empowers the Minister (of Health) to designate any premises as a temporary shelter or a detoxification centre for the purposes of this section.

*Subsection (2)* allows a constable who finds anybody intoxicated in a public place to take that person home, or to a temporary shelter or detoxification centre, or to detain him in Police custody for up to 12 hours.

If the constable detains him in Police custody and the person is still not better at the end of 12 hours, he may be taken to a temporary shelter or detoxification centre: *subsection (3)*.

*Subsection (4)* protects a constable from legal proceedings if he acts in good faith under this section.

*Subsection (5)* provides an alternative procedure where the person found is subject to the Armed Forces Discipline Act 1971. In such a case, the constable may deliver him into service custody.

*Subsection (6)* defines "intoxication" for the purposes of this section. By virtue of this definition, the section will apply to the victims of alcohol and drugs, as well as those who are intoxicated by virtue of some other substance, for example, by sniffing glue, petrol, or the like.

*Subsection (7)* defines the term "justified" for the purposes of *subsection (4)*.

*Clause 51* amends 2 provisions of the Children and Young Persons Act 1974.

Section 12 (1) of that Act provides that where a child (that is a boy or girl under 14 years of age) is found in a public place, unaccompanied by his parent or guardian or other person having the care of him, and he is associating with criminals or drug addicts or is in an environment that is detrimental to his physical or moral well-being, a constable may take that child to his parent or guardian or other person having the care of him, or to some other person who is able and willing to look after him, or to a Social Worker.

In the last case, the child may be detained in the custody of the Director-General of Social Welfare for 3 days, or until he can be returned to his parent or guardian or any other person having the care of him, or until a complaint is made to the Children and Young Persons Court under section 27 of the Act.

*Subclause (1)* extends section 12 (1) in 2 respects. First, it will now apply in respect of young persons (those of or over the age of 14 years but under 17 years) as well as children. Secondly, the powers will be available whether the child or young person is found in a public place, or in any other place.

Section 27 of the Act sets out the grounds on which a complaint may be made to the Children and Young Persons Court to the effect that any child or young person is in need of care, protection, or control.

*Subclause (2)* makes it clear that a complaint may be made on the ground that a child or young person has been found in circumstances to which section 12 (1) apply.

*Clause 52* makes consequential amendments and repeals in respect of a number of enactments.

TABLE OF CORRESPONDING SECTIONS OF  
ENACTMENTS REPEALED

THE POLICE OFFENCES ACT 1927

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	—	6 (1), (3)-(6)	10
2	2	6 (2)	—
3 (a)-(d)	—	6A-18	—
3 (e)	36	19 (1), (2)	16
3 (f)-(n)	—	19 (3)	2
3 (o)	32	19 (4)	—
3 (p)-(x)	—	20 (1)-(3)	17
3 (y)	33	20 (4)	42
3 (z)	34	21	18
3 (aa), (bb)	—	22 (1)-(4)	19
3 (cc)	35	22 (5)	43
3 (dd)	37	22A-30	—
3 (ee)	—	31	47
3 (eee)	21	32	—
3 (ff), (gg)	—	33	20
3A	—	34	3
3B	6	34A	4
3C	37	34B	7
3D	3	35-39	—
3E (1), (2)	38	40	2
3E (3)	46 (1)	41	—
3E (4)	46 (2)	42	50
3E (5)	2	43	—
4 (1) (a)-(o)	—	44	50
4 (1) (p)	11	45	—
4 (2)	—	46 (a)	25
5 (a), (b)	11	46 (b)	—
5 (c), (d)	—	47	26
5A	48	48	27



THE POLICE OFFENCES ACT 1927—*continued*

Section of Act	Clause of Bill	Section of Act	Clause of Bill
49 (a)–(c)	..... —	54	..... 29
49 (d)	..... 5	54A–74	..... —
50, 51	..... —	75	..... 39
52 (1) (a), (b)	..... —	76	..... —
52 (1) (c)	..... 14	77	..... 22
52 (1) (d), (e)	..... —	77A (1)	..... 9
52 (1) (f)	..... 13	77A (2)	..... 44
52 (1) (g), (h)	..... —	77A (3)	..... 2
52 (1) (i)	..... 29	78	..... —
52 (1) (j)	..... 28	79	..... 41
52 (2)	..... 46 (3)	79A, 80	..... —
52A	..... 30	81	..... 28 (3)
53	..... 2	82–86	..... —
53A	..... 49	87	..... 52

THE POLICE OFFENCES AMENDMENT ACT 1935

Section of Act	Clause of Bill
1, 2, 3	..... —
4	..... 23
5	..... —

THE STATUTES AMENDMENT ACT 1939

Section of Act	Clause of Bill
3 (3)	..... 47

THE STATUTES AMENDMENT ACT 1948

Section of Act	Clause of Bill
39	..... —

## THE POLICE OFFENCES AMENDMENT ACT 1950

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 .....	..... —	2 (4) .....	..... —
2 (1)-(3) .....	..... 31	3 (1) .....	..... —
		3 (2) .....	..... 35

## THE POLICE OFFENCES AMENDMENT ACT 1952

Section of Act	Clause of Bill
1-4 .....	..... —

## THE POLICE OFFENCES AMENDMENT ACT (NO. 2) 1952

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 .....	..... —	4 (3) .....	..... 44
2 .....	..... 10	5-11 .....	..... —
3 .....	..... —	12 (1) .....	..... —
4 (1) .....	..... 8	12 (1A)-(3) .....	..... 15
4 (2) .....	..... —	13 .....	..... 24

## THE POLICE OFFENCES AMENDMENT ACT 1954

Section of Act	Clause of Bill
1, 2 .....	..... —

## THE POLICE OFFENCES AMENDMENT ACT 1955

Section of Act	Clause of Bill
1-6 .....	..... —

THE POLICE OFFENCES AMENDMENT ACT 1956

Section of Act	Clause of Bill
1-6 .....	—

THE POLICE OFFENCES AMENDMENT ACT 1958

Section of Act	Clause of Bill
1 .....	—
2 (1) .....	21
2 (2), 3 .....	—

THE POLICE OFFENCES AMENDMENT ACT 1960

Section of Act	Clause of Bill	Section of Act	Clause of Bill
		5 .....	10 (3), (4)
		6 .....	20
2 (1) .....	6	7 (1) .....	30
1 .....	—	7 (2) .....	2
2 (2) .....	—	8 .....	41 (2)
3 (1), (2) .....	37	9 .....	—
4 .....	48	10 .....	15

THE POLICE OFFENCES AMENDMENT ACT (NO. 2) 1960

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 .....	—	2 (2) .....	—
2 (1) .....	3	3 (1) .....	38
		3 (2), (4) .....	—

## THE POLICE OFFENCES AMENDMENT ACT 1965

Section of Act	Clause of Bill
1-6	—
7	22
8	—

## THE POLICE OFFENCES AMENDMENT ACT 1967

Section of Act	Clause of Bill
1, 2	—

## THE POLICE OFFENCES AMENDMENT ACT 1969

Section of Act	Clause of Bill
1, 2	—

## THE POLICE OFFENCES AMENDMENT ACT 1970

Section of Act	Clause of Bill
1	—
2 (1)	8
2 (2)	44

## THE POLICE OFFENCES AMENDMENT ACT 1974

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	—	2 (2)	22
2 (1)	2, 9, 44	2 (3)	41 (2)

## THE POLICE OFFENCES AMENDMENT ACT 1976

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1	—	4 (1)	49
2	4	4 (2)	—
3	7		

## THE POLICE OFFENCES AMENDMENT ACT 1979

Section of Act	Clause of Bill
1	—
2	49

Hon. Mr McLay

## SUMMARY OFFENCES

### ANALYSIS

- |  |  |
|--|--|
| <p>Title</p> <ol style="list-style-type: none"><li>1. Short Title and commencement</li><li>2. Interpretation</li></ol> <p style="text-align: center;"><i>Offences Against Public Order</i></p> <ol style="list-style-type: none"><li>3. Disorderly behaviour</li><li>4. Disorderly behaviour on private premises</li><li>5. Associating with convicted thieves</li><li>6. Fighting in public place</li><li>7. Publishing document or thing explaining manufacture of explosives, etc.</li></ol> <p style="text-align: center;"><i>Offences Against Persons or Property</i></p> <ol style="list-style-type: none"><li>8. Common assault</li><li>9. Assault on Police, prison, or traffic officer</li><li>10. Wilful damage</li><li>11. Acts endangering safety</li><li>12. Things endangering safety</li><li>13. Possession of burglary tools</li></ol> <p style="text-align: center;"><i>Offences Resembling Forgery or Fraud</i></p> <ol style="list-style-type: none"><li>14. Seeking donations by false pretence</li><li>15. Acting as medium with intent to deceive</li><li>16. Publishing false notice of birth, marriage, or death</li><li>17. Imitation of Court documents</li><li>18. Imitation of official documents</li><li>19. False claim of qualifications</li></ol> <p style="text-align: center;"><i>Intimidation, Obstruction, and Hindering Police</i></p> <ol style="list-style-type: none"><li>20. Intimidation</li><li>21. Obstructing footpath</li><li>22. Resisting Police, prison, or traffic officer</li></ol> | <ol style="list-style-type: none"><li>23. False allegation or report to Police</li><li>24. Advertising reward for stolen property</li></ol> <p style="text-align: center;"><i>Soliciting and Indecency</i></p> <ol style="list-style-type: none"><li>25. Soliciting</li><li>26. Indecent exposure</li><li>27. Indecent language</li></ol> <p style="text-align: center;"><i>Loitering and Trespass</i></p> <ol style="list-style-type: none"><li>28. Being found in public place preparing to commit crime</li><li>29. Being found on property, etc., without reasonable excuse</li><li>30. Peeping or peering into dwelling-house</li><li>31. Trespass on a ship</li></ol> <p style="text-align: center;"><i>Offences Resembling Nuisance</i></p> <ol style="list-style-type: none"><li>32. Excreting in public place</li><li>33. Billsticking, defacing, etc.</li><li>34. Throwing stones</li><li>35. Setting off or throwing fireworks</li><li>36. Lighting fires</li><li>37. Disturbing meetings</li><li>38. Drinking in public place</li></ol> <p style="text-align: center;"><i>Search, Arrest, and Jurisdiction</i></p> <ol style="list-style-type: none"><li>39. Power of search for pillaged goods</li><li>40. Arrest</li><li>41. Jurisdiction</li><li>42. Information alleging imitation of Court documents</li><li>43. Information alleging false claim of qualifications</li><li>44. No jury trial for offence of assault</li><li>45. Defendant may be convicted of lesser charge of disorderly behaviour</li><li>46. Seizure and forfeiture</li></ol> |
|--|--|

<i>Amendments, Repeals, and Savings</i>	
47. Military Decorations and Distinctive Badges Act 1918 amended	202B. Powers in respect of crime against section 202A
48. Machinery Act 1950 amended	50. Alcoholism and Drug Addiction Act 1966 amended
49. New sections inserted in Crimes Act 1961	51. Children and Young Persons Act 1974 amended
202A. Possession of offensive weapons or deleterious drugs	52. Amendments and repeals Schedules

## A BILL INTITULED

### **An Act to reform and restate the law relating to summary offences, and to replace the Police Offences Act 1927 and its amendments**

BE IT ENACTED by the General Assembly of New Zealand 5  
in Parliament assembled, and by the authority of the same,  
as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Summary Offences Act 1981.

(2) Except as provided in section 50 (2) of this Act, this 10  
Act shall come into force on the 1st day of January 1982.

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Assault” means the act of intentionally applying or attempting to apply force to the person of another, 15  
directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other person to believe on reasonable grounds that he has, present ability to effect his purpose; and “to 20  
assault” has a corresponding meaning:

“Colour of right”, in relation to any act, means an honest belief that the act is justifiable, although that belief may be based on ignorance or mistake of fact or of any matter of law other than the enactment against 25  
which the offence is alleged to have been committed:

“Constable” includes any member of the Police:

“Crime” means an offence for which the offender may be proceeded against by indictment:

- “Crime involving dishonesty” means any crime described in Part X of the Crimes Act 1961, except the crimes described in sections 293 to 305 of that Act (which relate to criminal damage):
- 5 “Intoxicating liquor” means any spirits, wine, ale, beer, porter, stout, cider, or perry, or any other fermented, distilled, or spirituous liquor, which on analysis is found to contain more than 2 parts percent of proof spirit:
- 10 “Is liable” means is liable on summary conviction:
- “Newspaper” means any paper containing public news or observations on public news which is printed for sale or distribution and is published in New Zealand periodically at intervals not exceeding 40 days; but
- 15 does not include any paper containing only matter wholly of a commercial nature:
- “Night” means the interval between 9 o’clock at night and 6 o’clock in the following morning:
- 20 “Prison officer” means any Superintendent, officer, or employee of a penal institution appointed under section 6 of the Penal Institutions Act 1954; and includes any Warden, officer, or employee of a pre-release hostel appointed under section 4 of the Penal Institutions Amendment Act 1978:
- 25 “Public place” means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes any
- 30 aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward:
- “Traffic officer” means a traffic officer who is an officer of the Ministry of Transport or of a local authority; and includes any other person whose appointment as
- 35 a traffic officer has been approved by the Minister of Transport:
- “Unlawful weapon” means an automatic pistol; and includes any other weapon or class of weapon, whether a firearm or not, that has been declared by
- 40 the Governor-General by Order in Council to be an unlawful weapon within the meaning and for the purposes of the Arms Act 1958.



(2) Without limiting the definition of the term “public place” in subsection (1) of this section, for the purposes of this Act, a person is in a public place if he is in any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle, which is in a public place.

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(3) When it is provided in this Act that any person is liable to any punishment for doing or omitting to do any act, every person doing or omitting to do that act is, subject to the provisions of this Act, guilty of an offence.

Cf. 1927, No. 35, ss. 2, 40; 1954, No. 51, s. 2; 1955, No. 21, s. 2; 1955, No. 85, s. 6; 1955, No. 98, s. 2; 1961, No. 43, s. 2; 1962, No. 135, s. 2; 1978, No. 34, s. 2; 1979, No. 59, s. 8 (3)

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### *Offences Against Public Order*

**3. Disorderly behaviour—**(1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, in or within view of any public place, behaves, or incites or encourages any person to behave, in a riotous, offensive, threatening, insulting, or disorderly manner that is likely in the circumstances to cause violence against persons or property to start or continue.

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(2) Every person is liable to a fine not exceeding \$500 who,—

(a) In or within view of any public place, behaves in a disorderly or offensive manner; or

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(b) In any public place, addresses any words to any person intending to threaten, alarm, insult, or offend that person; or

(c) In or within hearing of a public place, uses any threatening or insulting words and is reckless whether any person is alarmed or insulted by those words.

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Cf. 1927, No. 35, ss. 3D, 34; 1957, No. 87, s. 213; 1960, No. 7, s. 3 (1); 1967, No. 154, s. 2 (1)

**4. Disorderly behaviour on private premises—**(1) Where 3 or more persons, each of whom has been convicted of a relevant offence within the previous 2 years, conduct themselves on any private premises in such a manner as to cause

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persons in the neighbourhood of those premises to fear on reasonable grounds that those 3 or more persons will commit or cause any other person to commit any relevant offence in that neighbourhood or elsewhere, each of those 3 or more  
5 persons is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000.

(2) In this section "relevant offence" means—

(a) Any offence of, or of which an ingredient is,—

(i) Assault; or

10 (ii) Threatening or offensive or disorderly behaviour; or

(iii) Possession of offensive weapons:

(b) An offence against section 86 (unlawful assembly) or section 87 (riot) of the Crimes Act 1961.

15 Cf. 1927, No. 35, s. 34A; 1976, No. 157, s. 2

**5. Associating with convicted thieves—**(1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who habitually associates with a convicted thief in circumstances from which it can reasonably be inferred that the association is likely to lead to the  
20 commission of a crime involving dishonesty by that person or any such thief.

(2) No information for an offence against this section shall be laid unless the defendant has been warned by any constable  
25 on at least 3 separate occasions that his continued association with the convicted thief may lead to a charge being brought against him under this section.

(3) In this section "convicted thief" means a person who has been convicted on at least 3 separate occasions of a crime  
30 involving dishonesty.

Cf. 1927, No. 35, s. 49 (d); 1967, No. 154, s. 2 (1)

**6. Fighting in public place—**(1) Every person is liable to a fine not exceeding \$500 who fights in a public place.

(2) This section does not apply to acts of self defence in the  
35 face of an unprovoked assault.

Cf. 1927, No. 35, s. 3B; 1960, No. 7, s. 2 (1); 1967, No. 154, s. 2 (1)

**7. Publishing document or thing explaining manufacture of explosives, etc.**—(1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, for the purposes of sale or distribution to the public, prints or publishes or makes any document or thing (not being a document or thing of a technical, scientific, literary, or artistic character) that describes or depicts the method of manufacture of any explosive device or incendiary device or unlawful weapon, or any part of any such device or weapon.

(2) It is a defence in a prosecution under this section if the defendant proves that it was reasonable in all the circumstances to print or publish or make the description or depiction to which the prosecution relates.

Cf. 1927, No. 35, s. 34B; 1976, No. 157, s. 3

### *Offences Against Persons or Property*

**8. Common assault**—Every person is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding \$2,000 who assaults any other person.

Cf. 1952, No. 43, s. 4 (1); 1967, No. 154, s. 2 (2); 1970, No. 138, s. 2 (1)

**9. Assault on Police, prison, or traffic officer**—Every person is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding \$2,000 who assaults any constable, or any prison officer, or any traffic officer, acting in the execution of his duty.

Cf. 1927, No. 35, s. 77A (1); 1974, No. 134, s. 2 (1)

**10. Wilful damage**—(1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who intentionally—

(a) Damages any property; or

(b) Sets on fire any tree or other vegetation.

(2) For the purposes of subsection (1) of this section, a person does an act intentionally if he does it intentionally or recklessly, and without lawful justification or excuse or colour of right.

(3) The fact that the person charged had an interest in the property at the material time shall not prevent his act constituting an offence against this section if he did it with intent to defraud or to cause loss to any other person.

5 (4) For the purposes of subsection (3) of this section, where any property is subject to any mortgage or charge, each of the parties to the mortgage or charge shall be deemed to have an interest in the property.

10 Cf. 1927, No. 35, s. 6 (1), (3)–(6); 1952, No. 43, s. 2; 1960, No. 7, s. 5; 1967, No. 154, s. 2 (1)

**11. Acts endangering safety**—Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, in any public place, without reasonable excuse and in circumstances likely to cause injury,—

- 15 (a) Places or makes any obstruction; or  
(b) Digs and leaves any hole; or  
(c) Removes any protective structure or any warning sign or device.

Cf. 1927, No. 35, ss. 4 (1) (p), 5 (a), (b)

20 **12. Things endangering safety**—Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, having in his care or under his control in any public place any thing (whether animate or inanimate) that in the absence of precaution or care is likely to cause  
25 injury,—

- (a) Does anything to or with that thing; or  
(b) Leaves that thing,—

without reasonable excuse and with reckless disregard for the safety of others.

30 Cf. 1961, No. 43, ss. 156, 202

**13. Possession of burglary tools**—Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, without reasonable excuse,—

- 35 (a) In any public place, has in his possession any instrument capable of being used for burglary; or  
(b) In any place, has in his possession any such instrument in circumstances that prima facie show an intention to use it for burglary.

40 Cf. 1952, No. 35, s. 52 (1) (f); 1961, No. 43, s. 244 (1) (a), (b)

*Offences Resembling Forgery or Fraud*

**14. Seeking donations by false pretence**—Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who solicits, gathers, or collects alms, subscriptions, or contributions by means of any false pretence. 5

Cf. 1927, No. 35, s. 52 (1) (c); 1954, No. 50, s. 40 (1); 1967, No. 154, s. 2 (1)

**15. Acting as medium with intent to deceive**—(1) Every person is liable to a fine not exceeding \$1,000 who, acting for reward,— 10

(a) With intent to deceive, purports to act as a spiritualistic medium or to exercise any powers of telepathy or clairvoyance or other similar powers; or

(b) Uses any fraudulent device in purporting to act as a spiritualistic medium or in purporting to exercise any such powers. 15

(2) For the purposes of this section, a person shall be deemed to act for reward if in respect of what he does any money is paid, or any valuable thing is given, whether to him or to any other person. 20

(3) Nothing in subsection (1) of this section shall apply to anything done solely for the purpose of entertainment.

Cf. 1952, No. 43, s. 12 (1A), (2), (3); 1960, No. 7, s. 10; 1967, No. 154, s. 2 (2) 25

**16. Publishing false notice of birth, marriage, or death**—

(1) Every person is liable to a fine not exceeding \$500 who—

(a) Sends or delivers or causes to be sent or delivered to the proprietor, printer, or publisher of any newspaper, for the purpose of publication in that newspaper, a notice of the birth of a child, or of the marriage of any persons, or of the death of any person, knowing the notice to be untrue; or 30

(b) Being a printer or publisher of a newspaper, prints or publishes any such notice knowing it to be untrue. 35

(2) Every printer or publisher of a newspaper is liable to a fine not exceeding \$100 who, on application in writing made to him by a person interested within 14 days after the publication in the newspaper of the notice of a birth, a marriage, or a death, refuses to furnish the person so applying with the name of the person who sent or delivered the notice for publication. 40

Cf. 1927, No. 35, s. 19 (1), (2); 1967, No. 154, s. 2 (1)

17. **Imitation of Court documents**—(1) Every person is liable to a fine not exceeding \$500 who sends or delivers or causes to be sent or delivered to any other person any document that is intended or is likely, by reason of its wording or appearance or in any other manner, to cause any person to believe, contrary to the fact, that—

- (a) The document has been issued by or with the authority of a Court or Judge or Justice, or an officer of a Court; or
- 10 (b) The issue or delivery of the document has any legal effect or operation as a step or process in or preliminary to any civil or criminal proceedings.

(2) Every person is liable to a fine not exceeding \$500 who prints or sells or offers for sale any printed form of document intended to be filled up and used as a document the delivery of which to any person would constitute an offence against subsection (1) of this section.

(3) It is no defence in a prosecution under this section that—

- 20 (a) The person who received the document was not actually deceived by it; or
- (b) The document does not purport to be any summons, notice, or other document—
  - 25 (i) That any actual Court or Judge or Justice, or any officer of a Court, has authority to issue; or
  - (ii) The issue of which has any legal effect or operation of a kind referred to in subsection (1) of this section.

Cf. 1927, No. 35, s. 20 (1)–(3); 1967, No. 154, s. 2 (1)

30 18. **Imitation of official documents**—(1) Every person is liable to a fine not exceeding \$500 who issues or distributes or publicly exhibits or causes to be issued or distributed or publicly exhibited any document that is intended or is likely, by reason of its wording or appearance or in any other  
35 manner, to cause any person to believe, contrary to the fact, that—

- (a) The document is an official document; or
- (b) The document is or contains a copy of or an extract from an official document; or
- 40 (c) The document sets forth the substance of an official document.

- (2) In this section "official document" means a document issued by or with the authority of—
- (a) Her Majesty; or
  - (b) The Governor-General; or
  - (c) The Executive Council; or
  - (d) Any Minister or officer in the service of the Crown in his capacity as such; or
  - (e) Any local or public authority; or
  - (f) Any member or officer of any local or public authority in his capacity as such.

Cf. 1927, No. 35, s. 21; 1967, No. 154, s. 2 (1)

**19. False claim of qualifications**—(1) Every person is liable to a fine not exceeding \$500 who, in connection with his business, trade, calling, or profession, publicly uses any written words, initials, or abbreviation of words intended or likely to cause any person to believe, contrary to the fact, that—

- (a) He holds a degree, diploma, or certificate granted or issued by any university or other institution, society, or association, whether in New Zealand or elsewhere; or
- (b) He is a member, associate, or fellow of any such institution, society, or association.

(2) In a prosecution under this section the burden of proving that the defendant holds such degree, diploma, or certificate, or is a member, associate, or fellow of any such institution, society, or association, shall be on the defendant.

(3) It is no defence in a prosecution under this section that the words, initials, or abbreviation so used by the defendant do not refer or profess to refer, or were not understood by any person to refer, to any particular or actual university, institution, society, or association.

(4) For the purposes of this section, the use of the word "doctor" by a registered medical practitioner shall not in itself be deemed to indicate or to be likely to cause other persons to believe that the medical practitioner holds the degree of doctor in any university.

Cf. 1927, No. 35, s. 22 (1)–(4); 1967, No. 154, s. 2 (1)

#### *Intimidation, Obstruction, and Hindering Police*

**20. Intimidation**—(1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- (a) Uses violence to or intimidates such other person or his wife or children, or injures or threatens to injure his property; or
  - 5 (b) Follows such other person about from place to place; or
  - (c) Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or
  - 10 (d) Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or
  - (e) Follows such other person with 2 or more other persons in a disorderly manner in or through any street or
  - 15 road.
- (2) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who forcibly hinders or prevents any person from working at or exercising any lawful trade, business, or occupation.
- 20 Cf. 1927, No. 35, s. 33; 1960, No. 7, s. 6; 1967, No. 154, s. 2 (1)

- 21. Obstructing footpath**—(1) Every person is liable to a fine not exceeding \$500 who, without reasonable excuse, obstructs any footpath and, having been warned by a
- 25 constable to desist,—
- (a) Continues with that obstruction; or
  - (b) Does desist from that obstruction but subsequently obstructs that footpath again, or some other footpath in the same vicinity, in circumstances in which
  - 30 it is reasonable to deem the warning to have applied to the new obstruction as well as the original one.
- (2) In this section “footpath” includes every road, street, path, mall, arcade, or other thoroughfare.
- Cf. 1927, No. 35, s. 3 (eee); 1958, No. 87, s. 2 (1)

- 35 **22. Resisting Police, prison, or traffic officer**—Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who resists or intentionally obstructs, or incites or encourages any other person to resist or obstruct,—
- 40 (a) Any constable, or any prison officer, or any traffic officer, acting in the execution of his duty; or
  - (b) Any other person acting in aid of any such constable, prison officer, or traffic officer.
- Cf. 1927, No. 35, s. 77; 1965, No. 7, s. 7; 1974, No. 134,
- 45 s. 2 (2)



**23. False allegation or report to Police**—Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who,—

- (a) Contrary to the fact and without a belief in the truth of the statement, makes or causes to be made to any constable any written or verbal statement alleging that an offence has been committed; or 5
- (b) With the intention of causing wasteful deployment, or of diverting deployment, of Police personnel or resources, or being reckless as to that result,— 10
  - (i) Makes a statement to any person that gives rise to serious apprehension for his own safety or the safety of any person or property, knowing that the statement is false; or
  - (ii) Behaves in a manner that is likely to give rise to such apprehension, knowing that such apprehension would be groundless. 15

Cf. 1935, No. 29, s. 4; 1967, No. 154, s. 2 (2)

**24. Advertising reward for stolen property**—Every person is liable to a fine not exceeding \$200 who— 20

- (a) Publicly advertises a reward for the return of any property that has been stolen or lost, and in the advertisement uses any words to the effect that no questions will be asked; or
- (b) Promises or offers in any public advertisement to refund to any other person who may have bought any property stolen or lost, or advanced any money by way of loan on the security of any such property, the money paid by that other person, or any other sum of money or reward for the return of the property; or 25 30
- (c) Prints or publishes any advertisement containing any such words, promise, or offer.

Cf. 1952, No. 43, s. 13; 1967, No. 154, s. 2 (2)

*Soliciting and Indecency*

35

**25. Soliciting**—Every person is liable to a fine not exceeding \$200 who, in any public place, offers his or her body, or any other person's body, for the purpose of prostitution.

Cf. 1927, No. 35, s. 46 (a); 1967, No. 154, s. 2 (1)

**26. Indecent exposure**—(1) Every male is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, in or within view of any public place, intentionally and obscenely exposes his person.

5 (2) It is a defence in a prosecution under this section if the defendant proves that he had reasonable grounds for believing that he would not be observed.

Cf. 1927, No. 35, s. 47; 1967, No. 154, s. 2 (1)

**27. Indecent language**—(1) Every person is liable to a fine not exceeding \$500 who, in or within hearing of any public place, addresses any indecent or obscene words to any other person.

10 (2) Every person commits an offence and is liable to a fine not exceeding \$200 who, in or within hearing of any public place, uses any indecent or obscene words.

15 (3) In determining for the purposes of a prosecution under this section whether any words were indecent or obscene, the Court shall have regard to all the circumstances pertaining at the material time, including whether the defendant had reasonable grounds for believing that the person to whom the words were addressed, or any person by whom they might be overheard, would not be offended.

20 (4) It is a defence in a prosecution under subsection (2) of this section if the defendant proves that he had reasonable grounds for believing that his words would not be overheard.

25 Cf. 1927, No. 35, s. 48; 1954, No. 50, s. 40 (1); 1967, No. 154, s. 2 (1)

*Loitering and Trespass*

**28. Being found in public place preparing to commit crime**—(1) Every person commits an offence who is found in any public place behaving in a manner from which it can reasonably be inferred that he is preparing to commit a crime.

30 (2) Every person who commits an offence against this section is liable—

35 (a) To a fine not exceeding \$1,000; or

(b) On a second or subsequent conviction within a period of 12 months, to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000.

(3) In determining for the purposes of a prosecution under this section whether it can reasonably be inferred from anything proved to have been done by the defendant at the material time that he was preparing to commit a crime, the Court may have regard to his previous convictions (if any), and for that purpose evidence of any such conviction shall be admissible accordingly. 5

Cf. 1927, No. 35, ss. 52 (i) (j), 81; 1954, No. 50, s. 40 (1); 1967, 154, s. 2 (1)

**29. Being found on property, etc., without reasonable excuse—**(1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who is found without reasonable excuse— 10

- (a) In or on any building; or
- (b) In any enclosed yard or other such area; or 15
- (c) In or on board any aircraft, hovercraft, or ship or ferry or other vessel, train, or vehicle.

(2) It is not necessary in a prosecution under this section for the prosecutor to prove that the defendant had an intention to commit any other offence, but it is a defence if the defendant satisfies the Court that he had no such intention. 20

(3) If any constable finds a person in any place referred to in subsection (1) of this section, without reasonable excuse but in circumstances that do not cause the constable to suspect an intention to commit any other offence, the constable may, instead of arresting him for an offence against subsection (1) of this section, warn that person to leave that place and, if the person refuses or fails to do so, he is liable to a fine not exceeding \$100. 25

Cf. 1927, No. 35, ss. 52 (1) (i), 54; 1954, No. 50, s. 40 (1); 1967, No. 154, s. 2 (1) 30

**30. Peeping or peering into dwellinghouse—**Every person is liable to a fine not exceeding \$500 who is found by night without reasonable excuse—

- (a) Peeping or peering into a window of a dwellinghouse; 35  
or
- (b) Loitering on any land on which a dwellinghouse is situated.

Cf. 1927, No. 35, ss. 52A, 53; 1960, No. 7, s. 7

31. **Trespass on a ship**—Every person is liable to a fine not exceeding \$500 who (not being a member of the crew or a passenger or a person duly authorised by law to be on board), having been warned by the master or an officer of any ship  
5 or by any constable to leave the ship,—

(a) Refuses or fails to do so; or

(b) Leaves the ship, but returns or persists in attempting to return on board.

Cf. 1950, No. 95, s. 2 (1), (3); 1967, No. 154, s. 2 (2)

10

*Offences Resembling Nuisance*

32. **Excreting in public place**—(1) Every person is liable to a fine not exceeding \$100 who urinates or defecates in any public place other than a public lavatory.

(2) It is a defence in a prosecution under this section if  
15 the defendant proves that he had reasonable grounds for believing that he would not be observed.

Cf. 1927, No. 35, s. 3 (o); 1967, No. 154, s. 2 (1)

33. **Billsticking, defacing, etc.**—Every person is liable to a fine not exceeding \$100 who, without the consent of the  
20 owner or occupier,—

(a) Affixes any placard, banner, poster, or other material bearing any writing or pictorial representation to any structure, or to or from any tree; or

(b) Writes, paints, sprays, or etches on, or otherwise marks,  
25 any structure.

Cf. 1927, No. 35, s. 3 (y); 1967, No. 154, s. 2 (1)

34. **Throwing stones**—Every person is liable to a fine not exceeding \$100 who throws or discharges any stone or other object in a manner that is likely to cause injury or damage.

30 Cf. 1927, No. 35, s. 3 (z); 1967, No. 154, s. 2 (1)

35. **Setting off or throwing fireworks**—Every person is liable to a fine not exceeding \$100 who,—

(a) In any public place, sets off or throws any firework or explosive material in such a manner as to be likely  
35 to cause injury to, or to alarm, any person; or

- (b) In any place other than a public place, sets off or throws any firework or explosive material in such a manner as to be likely to cause injury to, or to alarm, any person in a public place.

Cf. 1927, No. 35, s. 3 (cc); 1967, No. 154, s. 2 (1) 5

**36. Lighting fires**—Every person is liable to a fine not exceeding \$100 who, without reasonable excuse, sets fire to any material or substance near any structure or vegetation (of which he is neither the owner nor occupier) in such a manner as to be likely to cause damage to the structure or vegetation. 10

Cf. 1927, No. 35, s. 3 (e); 1967, No. 154, s. 2 (1)

**37. Disturbing meetings**—Every person is liable to a fine not exceeding \$100 who, in any public place, unreasonably disturbs any meeting, congregation, or audience. 15

Cf. 1927, No. 35, ss. 3 (dd), 3c; 1960, No. 7, s. 3 (1); 1967, No. 154, s. 2 (1)

**38. Drinking in public place**—(1) Every person is liable to a fine not exceeding \$100 who, in or on any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle that is carrying passengers for reward,— 20

- (a) Drinks any intoxicating liquor; or
- (b) Supplies or offers any intoxicating liquor to any other person for consumption there; or
- (c) Has in his possession or under his control any intoxicating liquor for consumption there. 25

(2) For the purposes of subsection (1) of this section, if any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carries any passengers while under charter it shall be deemed to be carrying those passengers for reward. 30

(3) Without limiting subsection (1) of this section, every person under the age of 20 years commits an offence and is liable to a fine not exceeding \$100 who, in any public place and while not accompanied by his spouse (being an adult) or by his parent or guardian or any other person (being an adult) acting in the place of his parent,— 35

- (a) Drinks any intoxicating liquor; or
- (b) Has in his possession or under his control any intoxicating liquor for consumption there.

- (4) This section does not apply in respect of—
- (a) Any licensed premises under the Sale of Liquor Act 1962; or
  - (b) Any vessel in respect of which a ship licence is in force under that Act; or
  - (c) Any part of a railcar or railway carriage in which the General Manager of Railways maintains liquor facilities under section 14A of the Government Railways Act 1949.
- Cf. 1927, No. 35, s. 3E; 1960, No. 119, s. 3 (1); 1962, No. 149, s. 300; 1967, No. 154, s. 2 (1); 1968, No. 40, s. 2 (3)

*Search, Arrest, and Jurisdiction*

- 39. Power of search for pillaged goods**—Any constable who has reasonable ground for believing that any property that has been stolen or unlawfully obtained is—
- (a) In the possession of any person; or
  - (b) In any container, package, or receptacle; or
  - (c) In or on any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle,—
- in any airport, or in or on any port or harbour or waterway, or in or on any railway or railway line or railway station, or in any depot, terminus, yard, or other place used between trips by vehicles engaged in the carriage of goods for reward, may search and detain for the purpose of search any such person, container, package, receptacle, aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle, and may take possession of any such property found during the search.

Cf. 1927, No. 35, s. 75

- 40. Arrest**—(1) Any constable, and all persons whom he calls to his assistance, may arrest and take into custody without a warrant any person whom he has good cause to suspect of having committed an offence against any of the provisions of this Act except sections 16 to 19, 24, and 32 to 38.
- (2) Any constable, and all persons whom he calls to his assistance, may arrest and take into custody without a warrant any person who, within his view, commits an offence against any of sections 16 to 19, 24, and 32 to 38 of this Act and who fails to give his name and address on demand.

(3) Any person who, on or in any property of which he is the owner or occupier, finds any other person committing an offence against any of the provisions of sections 8 to 10, 29, and 30 of this Act, may arrest that other person without a warrant; but, if he does so, he shall as soon as practicable call a constable to his aid and deliver the arrested person into the constable's custody. 5

Cf. 1961, No. 43, s. 315 (2)

**41. Jurisdiction**—(1) Every offence against this Act shall be punishable on summary conviction by a District Court presided over by a Judge. 10

(2) Notwithstanding subsection (1) of this section, a District Court presided over by 2 or more Justices shall have jurisdiction in respect of offences against sections 3 (2), 6, 16 to 19, 21, 24, 25, 27, and 30 to 38 of this Act. 15

(3) Nothing in section 20A of the Summary Proceedings Act 1957 (which prescribes a special summary procedure for certain minor offences) shall apply in respect of any offence against this Act for which the defendant has been arrested.

Cf. 1927, No. 35, s. 79; 1957, No. 87, s. 213; 1960, No. 7, s. 8 20

**42. Information alleging imitation of Court documents**—In any information for an offence against section 17 of this Act, it shall be sufficient to allege that the defendant sent, delivered, printed, sold, or offered for sale (as the case may require) a document in imitation of judicial process. 25

Cf. 1927, No. 35, s. 20 (4)

**43. Information alleging false claim of qualifications**—No information for an offence against section 19 of this Act shall be laid without the consent of the Attorney-General. 30

Cf. 1927, No. 35, s. 22 (5)

**44. No jury trial for offence of assault**—Section 66 of the Summary Proceedings Act 1957 (which relates to the right of a defendant to elect trial by jury) shall not apply with respect to any offence against section 8 or section 9 of this Act. 35

Cf. 1927, No. 35, s. 77A (2); 1952, No. 43, s. 4 (3); 1970, No. 138, s. 2 (2); 1974, No. 134, s. 2 (1)

45. **Defendant may be convicted of lesser charge of disorderly behaviour**—Where the commission of an offence against subsection (1) of section 3 of this Act is not proved, but the evidence proves an offence against subsection (2) of that section, the defendant may be convicted of an offence against that latter subsection notwithstanding that the information alleges an offence against subsection (1) only.

46. **Seizure and forfeiture**—(1) Any constable may seize and remove any intoxicating liquor which there is reasonable ground to suppose is intended for consumption in contravention of subsection (1) or subsection (3) of section 38 of this Act, and the vessels containing the liquor.

(2) On the conviction of any person of an offence against either of those provisions, any liquor or vessels so seized shall become forfeited to the Crown.

(3) On the conviction of any person of an offence against section 13 of this Act, every instrument to which the charge relates shall become forfeited to the Crown.

Cf. 1927, No. 35, ss. 3E (3), (4), 52 (2); 1960, No. 119, s. 3 (1)

*Amendments, Repeals, and Savings*

47. **Military Decorations and Distinctive Badges Act 1918 amended**—(1) The Military Decorations and Distinctive Badges Act 1918 is hereby amended by inserting, after section 4, the following section:

“4A. **Offences in respect of military decorations**—(1) In this section the term “military decoration” means any medal, clasp, badge, ribbon, stripe, emblem, or decoration issued, supplied, or authorised, or purporting or reputed to be issued, supplied, or authorised, by a naval, military, or air force authority, whether in New Zealand or in any other Commonwealth country; but does not include an ordinary regimental badge or any brooch or ornament representing such a badge.

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500—

“(a) Who represents himself, contrary to the fact, to be a person who is or has been entitled to wear or use any military decoration; or



“(b) Who wears or uses any medal, clasp, badge, ribbon, stripe, emblem, or decoration that is intended or is likely, by reason of its appearance or in any other manner, to cause any person to believe, contrary to the fact, that it is a military decoration; or 5

“(c) Who, without reasonable excuse, supplies or offers to supply—

“(i) Any military decoration; or

“(ii) Any medal, clasp, badge, ribbon, stripe, emblem, or decoration that is intended or is likely, by reason of its appearance or in any other manner, to cause any person to believe, contrary to the fact, that it is a military decoration— 10

to any person who is not authorised to wear or use that military decoration. 15

“(3) In a prosecution under this section, the burden of proving that any person is authorised to wear or use any military decoration shall be on the defendant.” 20

(2) Section 6 of the Military Decorations and Distinctive Badges Act 1918 is hereby amended by omitting the words “either of the two last preceding sections”, and substituting the words “section 4 of this Act”. 20

Cf. 1927, No. 35, s. 31; 1939, No. 39, s. 3 (3); 1967, No. 154, s. 2 (1) 25

**48. Machinery Act 1950 amended—**(1) The Machinery Act 1950 is hereby amended by inserting, after section 21B (as inserted by section 2 (1) of the Machinery Amendment Act 1965), the following section:

“21c. **Children on tractors and implements—**(1) Every person commits an offence against this Act who permits any child under the age of 12 years— 30

“(a) To drive any tractor; or

“(b) To ride upon any tractor while it is drawing any implement; or 35

“(c) To ride upon any implement (not being a sled or trailer designed or adapted exclusively or principally for the carriage of passengers or of goods) drawn by any tractor.

“(2) It is a defence in a prosecution under this section if the defendant proves that he had reasonable cause to believe and did believe that the child was of or over the age of 12 years.

5 “(3) In this section the term ‘tractor’ has the same meaning as it has in section 21B of this Act.”

(2) Section 29 of the Machinery Act 1950 (as substituted by section 3 (1) of the Machinery Amendment Act 1978) is hereby amended by inserting, after paragraph (ba)  
10 (as inserted by section 6 (2) of the Machinery Amendment Act (1979), the following paragraph:

“(bb) In the case of an offence against section 21c of this Act, to a fine not exceeding \$500.”.

Cf. 1927, No. 35, s. 5A; 1960, No. 7, s. 4

15 **49. New sections inserted in Crimes Act 1961**—(1) The Crimes Act 1961 is hereby amended by inserting, after section 202, the following sections:

“202A. **Possession of offensive weapons or deleterious drugs**—(1) In subsection (4) (a) of this section ‘offensive  
20 weapon’ means any article made or altered for use for causing bodily injury, or intended by the person having it with him for such use.

“(2) In subsection (4) (b) of this section ‘offensive  
25 weapon’ means any article capable of being used for causing bodily injury.

“(3) In this section ‘deleterious drug’ means any anaesthetising or disabling substance.

“(4) Every one is liable to imprisonment for a term not exceeding 1 year—

30 “(a) Who, without lawful authority or reasonable excuse, has with him in any public place any offensive weapon or deleterious drug; or

“(b) Who has in his possession in any place any offensive  
35 weapon or deleterious drug in circumstances that prima facie show an intention to use it to commit an offence involving bodily injury or the threat or fear of violence.

“(5) It is a defence to a charge under subsection (4) (b)  
40 of this section if the person charged proves that he did not intend to use the offensive weapon or deleterious drug to

commit an offence involving bodily injury or the threat or fear of violence.

Cf. 1927, No. 35, s. 53A (1), (2), (8)–(10); 1976, No. 157, s. 4 (1)

**“202B. Powers in respect of crime against section 202A—** 5

(1) Where any constable has reasonable grounds for believing that any person is committing an offence against section 202A (4) (a) of this Act he may—

“(a) Stop and search that person and any package or receptacle he has with him that the constable has reasonable grounds for believing contains any offensive weapon or deleterious drug, and may detain that person for as long as is reasonably necessary to conduct that search: 10

“(b) Stop and search any vehicle in which that person is travelling or from which he has alighted if the constable has reasonable grounds for believing that the vehicle contains any offensive weapon or deleterious drug, and may detain that vehicle for as long as is reasonably necessary to conduct that search;— 15 20

and in any such case the constable may take possession of any offensive weapon or deleterious drug found.

“(2) Every constable exercising the powers conferred by subsection (1) of this section shall identify himself to every person searched, tell him that the search is being made under this section, and, if not in uniform and if so required, produce evidence that he is a member of the Police. 25

“(3) Where any person is convicted of a crime against section 202A of this Act, the Court may make an order for the forfeiture or disposal of any weapon or drug in respect of which the crime was committed.” 30

Cf. 1927, No. 35, s. 53A (3)–(6); 1976, No. 157, s. 4 (1); 1979, No. 133, s. 2

(2) Part I of the First Schedule to the Summary Proceedings Act 1957 is hereby amended by inserting, after the item relating to section 202 of the Crimes Act 1961, the following item: 35

“202A. Possession of offensive weapons or deleterious drugs.” 40

**50. Alcoholism and Drug Addiction Act 1966 amended—**

(1) The Alcoholism and Drug Addiction Act 1966 is hereby amended by inserting, under the heading *Miscellaneous Provisions* but before section 38, the following section:

5     “37A. **Persons found intoxicated in public place—**(1) For the purposes of this section, the Minister may from time to time, by notice in the *Gazette*, declare any premises to be a temporary shelter or a detoxification centre.

10    “(2) Any constable who finds any person intoxicated in any public place—

    “(a) May take or cause that person to be taken to his usual place of residence or, if he is temporarily residing elsewhere, to his temporary place of residence; or

15    “(b) If that place cannot reasonably be ascertained or it is not reasonably practicable to take that person to it or it may not be safe to leave him there, may take that person or cause him to be taken to any temporary shelter or detoxification centre; or

20    “(c) If neither the course authorised by paragraph (a) nor that authorised by paragraph (b) of this subsection is reasonably practicable, detain or cause that person to be detained in a police station for any period not exceeding 12 hours.

25    “(3) If, after being detained under subsection (2) (c) of this section for a period of 12 hours, any person is still, in the opinion of any constable, so intoxicated as to be incapable of properly looking after himself, the constable  
30 may take that person or cause him to be taken to a temporary shelter or detoxification centre.

    “(4) Every constable is justified in detaining in accordance with this section, for any period not exceeding 12 hours, any person whom he believes on reasonable and  
35 probable grounds to be intoxicated.

    “(5) Notwithstanding the foregoing provisions of this section, any constable who finds any person subject to the Armed Forces Discipline Act 1971 intoxicated in any public place may, instead of dealing with him under those  
40 provisions, deliver or cause him to be delivered into service custody to be dealt with in accordance with that Act.

“(6) For the purposes of this section, a person is intoxicated if he is under the influence of intoxicating liquor, drug, or other substance to such an extent as to be incapable of properly looking after himself.

“(7) In subsection (4) of this section, ‘justified’ means not guilty of an offence and not liable to any civil proceeding.” 5

(2) Section 37 (5) of the Alcoholism and Drug Addiction Act 1966 (as inserted by subsection (1) of this section) shall come into force on the date appointed for the commencement of the Armed Forces Discipline Act 1971. 10

Cf. 1927, No. 35, ss. 41, 42, 44; 1935, No. 29, s. 3; 1939, No. 39, s. 58 (c); 1954, No. 49, s. 7 (3); 1967, No. 154, s. 2 (1); 1971; No. 53, s. 208 (1)

**51. Children and Young Persons Act 1974 amended—**

(1) Section 12 of the Children and Young Persons Act 1974 is hereby amended by repealing subsection (1), and substituting the following subsection: 15

“(1) Where a child or young person is found unaccompanied by his parents or guardian or by any other person who has the care of him and— 20

“(a) He is associating with known criminals or drug addicts; or

“(b) He is in an environment that is detrimental to his physical or moral well-being,—

any member of the Police may, using such force as may reasonably be necessary, take the child or young person and forthwith deliver him into the custody of his parents or guardian or of any other person who has the care of him.” 25

(2) Section 12 of the Children and Young Persons Act 1974 is hereby further amended by inserting, after the word “child” wherever it occurs in subsections (2) and (3), the words “or young person”. 30

(3) Section 27 (2) of the Children and Young Persons Act 1974 (as substituted by section 7 (1) of the Children and Young Persons Amendment Act 1977) is hereby amended 35

by inserting, after paragraph (h), the following paragraph: “(ha) He is associating with known criminals or drug addicts, or is in an environment that is detrimental to his physical or moral well-being:”.

**52. Amendments and repeals**—(1) The enactments specified in the first column of the First Schedule to this Act are hereby amended in the manner indicated in the second column of that Schedule.

5 (2) The enactments specified in the Second Schedule to this Act are hereby repealed.

(3) Where in any enactment the term “public place” is defined by reference to the meaning of that term in the Police Offences Act 1927 or in any specified provision or part of  
10 that Act, that term shall be deemed for the purposes of that enactment to have the meaning assigned to it by section 2 of this Act.

SCHEDULES

FIRST SCHEDULE

Section 52 (1)

ENACTMENTS CONSEQUENTIALLY AMENDED

Enactment Amended	Amendment
1939, No. 39—The Statutes Amendment Act 1939 (Reprinted 1973, Vol. 2, p. 1635)	By repealing sections 3 (3) and 58 (c).
1948, No. 77—The Statutes Amendment Act 1948 (Reprinted 1973, Vol. 2, p. 1636)	By repealing section 39.
1955, No. 32—The Shops and Offices Act 1955	By repealing section 4 (2).
1955, No. 108—The Impounding Act 1955 (1957 Reprint, Vol. 6, p. 309)	By repealing section 34 (3).
1958, No. 21—The Arms Act 1958 (R.S. Vol. 1, p. 155)	By repealing section 16 (4).
1961, No. 43—The Crimes Act 1961 (R.S. Vol. 1, p. 635)	By repealing paragraphs (c) to (e) of section 315 (2).
1962, No. 129—The Sale of Liquor Act 1962 (Reprinted 1975, Vol. 4, p. 2639)	By repealing so much of the Fifth Schedule as relates to section 3E of the Police Offences Act 1927.

FIRST SCHEDULE—*continued*ENACTMENTS CONSEQUENTIALLY AMENDED—*continued*

Enactment Amended	Amendment
1968, No. 40—The Government Railways Amendment Act 1968 (Reprinted 1973, Vol. 2, p. 1520)	By repealing section 2 (3).
1969, No. 129—The Sale of Liquor Amendment Act 1969 (Reprinted 1975, Vol. 4, p. 2933)	By repealing section 7.
1970, No. 12—The Hospitals Amendment Act 1970 (R.S. Vol. 2, p. 891)	By repealing section 14 (7).
1971, No. 53—The Armed Forces Discipline Act 1971	By repealing so much of the Seventh Schedule as relates to section 42 of the Police Offences Act 1927.
1976, No. 168—The Cinematograph Films Act 1976	By repealing subsection (2) of section 104, and substituting the following subsection: “(2) Nothing in section 27 of the Summary Offences Act 1981 (which relates to indecent language) shall apply with respect to the exhibition of any film if that film has been approved for exhibition in accordance with this Act.”
1978, No. 13—The Massage Parlours Act 1978	By omitting from section 2 (2) the words “the Police Offences Act 1927, the Crimes Act 1961,” and substituting the words “the Crimes Act 1961”.
1979, No. 59—The Local Government Amendment Act 1979 (R.S. Vol. 5, p. 683)	By repealing so much of the Third Schedule as relates to the Police Offences Act 1927.

SECOND SCHEDULE

Section 52 (2)

ENACTMENTS CONSEQUENTIALLY REPEALED

- 1927, No. 35—The Police Offences Act 1927. (Reprinted 1973, Vol. 2, p. 1577.)
- 1935, No. 29—The Police Offences Amendment Act 1935. (Reprinted 1973, Vol. 2, p. 1634.)
- 1950, No. 95—The Police Offences Amendment Act 1950. (Reprinted 1973, Vol. 2, p. 1636.)
- 1952, No. 40—The Police Offences Amendment Act 1952. (Reprinted 1973, Vol. 2, p. 1637.)
- 1952, No. 43—The Police Offences Amendment Act (No. 2) 1952. (Reprinted 1973, Vol. 2, p. 1637.)
- 1954, No. 79—The Police Offences Amendment Act 1954. (Reprinted 1978, Vol. 2, p. 1638.)
- 1955, No. 85—The Police Offences Amendment Act 1955. (Reprinted 1973, Vol. 2, p. 1638.)
- 1956, No. 57—The Police Offences Amendment Act 1956. (Reprinted 1973, Vol. 2, p. 1639.)
- 1958, No. 87—The Police Offences Amendment Act 1958. (Reprinted 1973, Vol. 2, p. 1639.)
- 1960, No. 7—The Police Offences Amendment Act 1960. (Reprinted 1973, Vol. 2, p. 1640.)
- 1960, No. 119—The Police Offences Amendment Act (No. 2) 1960. (Reprinted 1973, Vol. 2, p. 1641.)
- 1965, No. 7—The Police Offences Amendment Act 1965. (Reprinted 1973, Vol. 2, p. 1641.)
- 1967, No. 154—The Police Offences Amendment Act 1967. (Reprinted 1973, Vol. 2, p. 1642.)
- 1969, No. 42—The Police Offences Amendment Act 1969. (Reprinted 1973, Vol. 2, p. 1644.)
- 1970, No. 138—The Police Offences Amendment Act 1970. (Reprinted 1973, Vol. 2, p. 1644.)
- 1974, No. 134—The Police Offences Amendment Act 1974.
- 1976, No. 157—The Police Offences Amendment Act 1976.
- 1979, No. 133—The Police Offences Amendment Act 1979.