



# STATUTES AMENDMENT AND REPEAL (PUBLIC OFFENCES) ACT 1992

No. 35 of 1992

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*Amendment of Criminal Law Consolidation Act 1935—Schedule 11 inserted*



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# ELIZABETHAE II REGINAE

A.D. 1992

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No. 35 of 1992

**An Act to amend the Criminal Law Consolidation Act 1935, the Correctional Services Act 1982, the Juries Act 1927, the Local Government Act 1934, the Royal Commissions Act 1917 and the Summary Offences Act 1953; to repeal the Public Meetings Act 1912; and for other purposes.**

[Assented to 21 May 1992]

The Parliament of South Australia enacts as follows:

## PART I

### PRELIMINARY

#### Short title

1. This Act may be cited as the *Statutes Amendment and Repeal (Public Offences) Act 1992*.

#### Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

#### Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

## PART II

### AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935

#### Insertion of s. 5b

4. The following section is inserted after section 5a of the principal Act:

**Proof of lawful authority or lawful or reasonable excuse**

5b. In proceedings for an offence against this Act in which it is material to establish whether an act was done with or without lawful authority, lawful excuse or reasonable excuse the onus of proving the authority or excuse lies on the defendant and in the absence of such proof it will be presumed that no such authority or excuse exists.

**Insertion of s. 85a**

5. The following section is inserted after section 85 of the principal Act:

**Recklessly endangering property**

85a. (1) Where—

(a) a person does an act knowing that the act creates a substantial risk of serious damage to the property of another;

and

(b) the person does not have lawful authority to do so and knows that no such lawful authority exists,

the person is guilty of an offence.

Penalty: Imprisonment for 6 years.

(2) It is a defence to a charge of an offence against this section for the accused to prove an honest belief that the act constituting the charge was reasonable and necessary for the protection of life or property.

**Possession of object with intent to damage property**

6. Section 86 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Where—

(a) a person has custody or control of an object intending to use the object, or to cause or permit a person to use the object, to damage property of another;

and

(b) there is no lawful authority for such use of the object and the person knows that no such lawful authority exists,

the person is guilty of an offence.

Penalty: Imprisonment for 2 years.

**Substitution of Part VII**

7. Part VII of the principal Act is repealed and the following Part is substituted:

**PART VII****OFFENCES OF A PUBLIC NATURE****DIVISION I—PRELIMINARY****Definitions**

237. In this Part—

“judicial body” means a court or any tribunal, body or person invested by law with judicial or quasi-judicial powers, or with authority to make any inquiry or to receive evidence:

“judicial officer” means a person who alone or with others constitutes a judicial body:

“judicial proceedings” means proceedings of any judicial body:

“local government body” means a municipal council, district council or controlling authority constituted under the *Local Government Act 1934*:

“public officer” includes—

- (a) a person appointed to public office by the Governor;
- (b) a judicial officer;
- (c) a member of Parliament;
- (d) a person employed in the Public Service of the State;
- (e) a member of the police force;
- (f) any other officer or employee of the Crown;
- (g) a member of a State instrumentality or of the governing body of a State instrumentality or an officer or employee of a State instrumentality;

or

- (h) a member of a local government body or an officer or employee of a local government body,

and “public office” has a corresponding meaning:

“State instrumentality” means an agency or instrumentality of the Crown or any body (whether or not incorporated) that is established by or under an Act and—

- (a) is comprised of persons, or has a governing body comprised of persons, a majority of whom are appointed by the Governor, a Minister or an agency or instrumentality of the Crown;

or

- (b) is subject to control or direction by a Minister.

### **Acting improperly**

238. (1) For the purposes of this Part, a public officer acts improperly, or a person acts improperly in relation to a public officer or public office, if the officer or person knowingly or recklessly acts contrary to the standards of propriety generally and reasonably expected by ordinary decent members of the community to be observed by public officers of the relevant kind, or by others in relation to public officers or public offices of the relevant kind.

(2) A person will not be taken to have acted improperly for the purposes of this Part unless the person’s act was such that in the circumstances of the case the imposition of a criminal sanction is warranted.

(3) Without limiting the effect of subsection (2), a person will not be taken to have acted improperly for the purposes of this Part if—

- (a) the person acted in the honest and reasonable belief that he or she was lawfully entitled to act in the relevant manner;

- (b) there was lawful authority or a reasonable excuse for the act;

or

(c) the act was of a trivial character and caused no significant detriment to the public interest.

(4) In this section—

“act” includes omission or refusal or failure to act:

“public officer” includes a former public officer.

#### **General attempt offence excluded**

239. A person may not be charged with or found guilty of an offence of attempting to commit an offence against this Part.

#### **Parliamentary privilege not affected**

240. Nothing in this Part derogates from Parliamentary privilege.

### **DIVISION II—IMPEDING INVESTIGATION OF OFFENCES OR ASSISTING OFFENDERS**

#### **Impeding investigation of offences or assisting offenders**

241. (1) Subject to subsection (2), a person (“the accessory”) who, knowing or believing that another person (“the principal offender”) has committed an offence, does an act with the intention of—

(a) impeding investigation of the offence;

or

(b) assisting the principal offender to escape apprehension or prosecution or to dispose of proceeds of the offence,

is guilty of an offence.

(2) An accessory is not guilty of an offence against subsection (1)—

(a) unless it is established that the principal offender committed—

(i) the offence that the accessory knew or believed the principal offender to have committed;

or

(ii) some other offence committed in the same, or partly in the same, circumstances;

or

(b) if there is lawful authority or a reasonable excuse for the accessory’s action.

(3) Subject to subsection (4), the penalty for an offence against subsection (1) is—

(a) where the maximum penalty for the offence established as having been committed by the principal offender is imprisonment for life—imprisonment for a term not exceeding 10 years;

(b) where the maximum penalty for that offence is imprisonment for a term of 10 years or more (but not for life)—imprisonment for a term not exceeding 7 years;

(c) where the maximum penalty for that offence is imprisonment for a term of 7 years or more but less than 10 years—imprisonment for a term not exceeding 4 years;

- (d) in any other case—imprisonment for a term not exceeding 2 years or a maximum penalty the same as the maximum penalty for that offence, whichever is the lesser.

(4) Where the offence established as having been committed by the principal offender is not the offence that the accessory knew or believed the principal offender to have committed, the penalty for an offence against subsection (1) is whichever is the lesser of—

- (a) the penalty applicable under subsection (3);

or

- (b) the penalty that would be applicable under subsection (3) if the offence that the accessory knew or believed the principal offender to have committed were the offence established as having been committed by the principal offender.

(5) Where—

- (a) a person charged with an offence as a principal offender is found not guilty of the offence charged;

but

- (b) the court is satisfied that another person was guilty of the offence charged (or some other offence of which the accused might on the charge be found guilty),

the court may, if satisfied that the accused is guilty of an offence against subsection (1) as an accessory in relation to the offence charged (or that other offence), find the accused guilty of an offence against subsection (1).

(6) An accessory may be found guilty of an offence against this section whether committed within or outside this State if a court of this State has jurisdiction to deal with the principal offender.

### DIVISION III—OFFENCES RELATING TO JUDICIAL PROCEEDINGS

#### **Perjury and subornation**

242. (1) A person who makes a false statement under oath is guilty of perjury.

Penalty: Imprisonment for 7 years.

(2) A person who counsels, procures, induces, aids or abets another to make a false statement under oath is guilty of subornation of perjury.

Penalty: Imprisonment for 7 years.

(3) In proceedings on a charge of perjury or subornation of perjury, an apparently genuine document that appears to be a transcript of evidence given in other judicial proceedings is to be accepted as evidence—

- (a) of the evidence given in those other proceedings;

- (b) where evidence appears from the transcripts to have been given by a particular person—that it was so given;

and

- (c) where evidence appears from the transcript to have been given under oath—that it was so given.

(4) It is not necessary for the conviction of a person for perjury or subornation of perjury that evidence of the perjury be corroborated.

(5) For the purposes of this section—

(a) “oath” includes an affirmation:

“statement” includes an interpretation by an interpreter;

and

(b) a statement will be taken to be false if it is false in a material particular and—

(i) in the case of perjury—the person by whom it was made knew it to be false or did not believe it to be true;

or

(ii) in the case of subornation of perjury—the person who counselled, procured, induced, aided or abetted the other person to make the statement knew it to be false or did not believe it to be true.

#### **Fabricating, altering or concealing evidence**

243. A person who—

(a) fabricates evidence or alters, conceals or destroys anything that may be required in evidence at judicial proceedings;

or

(b) uses any evidence or thing knowing it to have been fabricated or altered,

with the intention of—

(c) influencing a decision by a person whether or not to institute judicial proceedings;

or

(d) influencing the outcome of judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time),

is guilty of an offence.

Penalty: Imprisonment for 7 years.

#### **Offences relating to witnesses**

244. (1) Subject to this section, a person who gives, offers or agrees to give a benefit to another person who is or may be required to be a witness in judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time) or to a third person as a reward or inducement for the other person's—

(a) not attending as a witness at, giving evidence at or producing a thing in evidence at the proceedings;

or

(b) withholding evidence or giving false evidence at the proceedings,

is guilty of an offence.

Penalty: Imprisonment for 7 years.



(2) Subject to this section, a person, who is or may be required to be a witness at judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time), who seeks, accepts or agrees to accept a benefit (whether for himself or herself or for a third person) as a reward or inducement for—

(a) not attending as a witness at, giving evidence at or producing a thing in evidence at the proceedings;

or

(b) withholding evidence or giving false evidence at the proceedings,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(3) Subject to this section, a person who prevents or dissuades, or attempts to prevent or dissuade, another person from—

(a) attending as a witness at judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time);

or

(b) giving evidence at, or producing a thing in evidence at, such proceedings,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(4) A person is not guilty of an offence against subsection (3) unless the person knows that, or is recklessly indifferent as to whether, the other person is or may be required to be a witness or to produce a thing in evidence at the proceedings.

(5) A person who does an act with the intention of deceiving another person in any way in order to affect the evidence of the other person at judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time) is guilty of an offence.

Penalty: Imprisonment for 7 years.

(6) A person is not guilty of an offence against this section if there is lawful authority or a reasonable excuse for his or her action.

#### **Offences relating to jurors**

245. (1) A person who gives, offers or agrees to give a benefit to another person who is or is to be a juror or to a third person as a reward or inducement for the other person's—

(a) not attending as a juror;

or

(b) acting or not acting as a juror in a way that might influence the outcome of judicial proceedings,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(2) A person, who is or is to be a juror, who seeks, accepts or agrees to accept a benefit (whether for himself or herself or for a third person) as a reward or inducement for—

(a) not attending as a juror;

or

(b) acting or not acting as a juror in a way that might influence the outcome of judicial proceedings,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(3) Subject to this section, a person who prevents or dissuades, or attempts to prevent or dissuade, another person from attending as a juror at judicial proceedings is guilty of an offence.

Penalty: Imprisonment for 7 years.

(4) A person is not guilty of an offence against subsection (3)—

(a) unless the person knows that, or is recklessly indifferent as to whether, the other person is or may be required to attend as a juror at the proceedings;

or

(b) if there is lawful authority or a reasonable excuse for his or her action.

(5) A person who—

(a) takes an oath as a member of a jury in proceedings knowing that he or she has not been selected to be a member of the jury;

or

(b) takes the place of a member of a jury in proceedings knowing that he or she is not a member of the jury,

is guilty of an offence.

Penalty—

(a) if the person acted with the intention of influencing the outcome of the proceedings—imprisonment for 7 years;

(b) in any other case—imprisonment for 2 years.

#### **Disclosure, etc., of identity or address of juror**

246. (1) Subject to this section, a person who, without lawful authority, wilfully publishes any material or broadcasts any matter containing any information that is likely to lead to the identification of a juror or former juror in a particular trial is guilty of an offence.

Penalty: \$8 000 or imprisonment for 2 years.

(2) This section does not apply to—

(a) the identification of a former juror with the consent of the former juror;

or

(b) the publication or broadcasting of such material or matter after the expiration of six months from the completion of the trial and any appeal proceedings relating to the trial.

(3) In this section, a reference to the identification of a juror or former juror includes a reference to the disclosure of the address of the juror or former juror.

**Harassment or giving of benefits, etc., to obtain information about jury's deliberations**

247. (1) A person who harasses a juror or former juror for the purpose of obtaining information about the deliberations of a jury is guilty of an offence.

Penalty: \$8 000 or imprisonment for 2 years.

(2) A person who gives, offers or agrees to give a material benefit as a reward or inducement for the disclosure of information about the deliberations of a jury is guilty of an offence.

Penalty: \$8 000 or imprisonment for 2 years.

(3) For the purposes of this section, the deliberations of a jury include statements made, opinions expressed, arguments advanced or votes cast by members of the jury in the course of their deliberations.

**Threats or reprisals relating to duties or functions in judicial proceedings**

248. (1) A person who causes or procures, or threatens or attempts to cause or procure, any injury or detriment with the intention of inducing a person who is or may be—

(a) a judicial officer or other officer at judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time);

or

(b) involved in such proceedings as a witness, juror or legal practitioner,

to act or not to act in a way that might influence the outcome of the proceedings is guilty of an offence.

Penalty: Imprisonment for 7 years.

(2) A person who causes or procures, or threatens or attempts to cause or procure, any injury or detriment on account of anything said or done by a judicial officer, other officer, witness, juror or legal practitioner in good faith in the discharge or performance or purported discharge or performance of his or her duties or functions in or in relation to judicial proceedings is guilty of an offence.

Penalty: Imprisonment for 7 years.

**DIVISION IV—OFFENCES RELATING TO PUBLIC OFFICERS****Bribery or corruption of public officers**

249. (1) A person who improperly gives, offers or agrees to give a benefit to a public officer or former public officer or to a third person as a reward or inducement for—

(a) an act done or to be done, or an omission made or to be made, by the public officer or former public officer in his or her official capacity;

or

(b) the exercise of power or influence that the public officer or former public officer has or had, or purports or purported to have, by virtue of his or her office,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(2) A public officer or former public officer who improperly seeks, accepts or agrees to accept a benefit from another person (whether for himself or herself or for a third person) as a reward or inducement for—

(a) an act done or to be done, or an omission made or to be made, in his or her official capacity;

or

(b) the exercise of power or influence that the public officer or former public officer has or had, or purports or purported to have, by virtue of his or her office,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(3) In proceedings for an offence against this section, the court must, in determining whether the accused acted improperly in relation to a benefit, take into account any public disclosure of the benefit made by or with the approval of the accused, or any disclosure of the benefit made to a proper authority by or with the approval of the accused.

#### **Threats or reprisals against public officers**

250. A person who causes or procures, or threatens or attempts to cause or procure, any physical injury to a person or property—

(a) with the intention of influencing the manner in which a public officer discharges or performs his or her official duties or functions;

or

(b) on account of anything said or done by a public officer in good faith in the discharge or performance or purported discharge or performance of his or her official duties or functions,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

#### **Abuse of public office**

251. A public officer who improperly—

(a) exercises power or influence that the public officer has by virtue of his or her public office;

(b) refuses or fails to discharge or perform an official duty or function;

or

(c) uses information that the public officer has gained by virtue of his or her public office,

with the intention of—

(d) securing a benefit for himself or herself or for another person;

or

(e) causing injury or detriment to another person,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

**Demanding or requiring benefit on basis of public office**

252. (1) A person who—

(a) demands or requires from another person a benefit (whether for himself or herself or for a third person);

and

(b) in making the demand or requirement—

(i) suggests or implies that it should be complied with because the person holds a public office (whether or not the person in fact holds that office);

and

(ii) knows that there is no legal entitlement to the benefit,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(2) Subsection (1) does not apply to a demand made by a public officer to a proper authority in relation to the officer's remuneration or conditions of appointment or employment.

**Offences relating to appointment to public office**

253. (1) A person who improperly—

(a) gives, offers or agrees to give a benefit to another in connection with the appointment or possible appointment of a person to a public office;

or

(b) seeks, accepts or agrees to accept a benefit (whether for himself or herself or for a third person) on account of an act done or to be done with regard to the appointment or possible appointment of a person to a public office,

is guilty of an offence.

Penalty: Imprisonment for 4 years.

(2) In subsection (1)—

“benefit” does not include—

(a) salary or allowances payable in the ordinary course of business or employment;

or

(b) fees or other remuneration paid to a person for services provided to another person in the ordinary course of business or employment in consideration for assistance provided to the other person in qualifying for, preparing an application for or determining suitability for such an appointment.

**DIVISION V—ESCAPE, RESCUE AND HARBOURING OF PERSONS SUBJECT TO DETENTION****Escape or removal from lawful custody**

254. (1) Subject to this section, a person subject to lawful detention who—

(a) escapes, or attempts to escape, from custody;

or

(b) remains unlawfully at large,  
is guilty of an offence.

Penalty: Imprisonment for 7 years.

(2) A child is not guilty of an offence against subsection (1) in respect of an act or omission that constitutes an offence against section 61a of the *Children's Protection and Young Offenders Act 1979*.

(3) A person who, knowing that, or being recklessly indifferent as to whether, another person is subject to lawful detention—

(a) assists in the escape or attempted escape of the other person from custody;  
or

(b) without lawful authority, removes, or attempts to remove, the other person from custody,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

(4) A person having custody or authority in respect of another person subject to lawful detention who, knowing that, or being recklessly indifferent as to whether, there is no legal authority to do so—

(a) releases or procures the release of, or attempts to release or procure the release of, the other person from custody;

or

(b) permits the other person to escape from custody,

is guilty of an offence.

Penalty: Imprisonment for 7 years.

#### **Harbouring or employing escapee, etc.**

255. A person who, knowing that, or being recklessly indifferent as to whether, another person has escaped from custody or is otherwise unlawfully at large—

(a) harbours or employs the other person;

or

(b) assists the other person to remain unlawfully at large,

is guilty of an offence.

Penalty: Imprisonment for 4 years.

#### **DIVISION VI—ATTEMPT TO OBSTRUCT OR PERVERT COURSE OF JUSTICE OR DUE ADMINISTRATION OF LAW**

##### **Attempt to obstruct or pervert course of justice or due administration of law**

256. (1) A person who attempts to obstruct or pervert the course of justice or the due administration of the law in a manner not otherwise dealt with in the preceding provisions of this Part is guilty of an offence.

Penalty: Imprisonment for 4 years.

(2) Where—

(a) a person charged with an offence against any of the preceding provisions of this Part is found not guilty of the offence charged;

but

(b) the court is satisfied that the accused is guilty of an offence against subsection (1),

the court may, if the maximum penalty prescribed for an offence against subsection (1) is the same as or less than the maximum penalty prescribed for the offence charged, find the accused guilty of an offence against subsection (1).

#### DIVISION VII—CRIMINAL DEFAMATION

##### **Criminal defamation**

257. (1) A person who, without lawful excuse, publishes defamatory matter concerning another living person—

(a) knowing the matter to be false or being recklessly indifferent as to whether the matter is true or false;

and

(b) intending to cause serious harm, or being recklessly indifferent as to whether the publication of the defamatory matter will cause serious harm, to a person (whether the person defamed or not),

is guilty of an offence.

Penalty: Imprisonment for 3 years.

(2) A person charged with an offence against this section has a lawful excuse for the publication of the defamatory matter concerning the other person if the person charged would have a defence to an action for damages for defamation if such an action were instituted against him or her by the other person in respect of the publication of the defamatory matter.

(3) On a trial before a jury of an information for an offence against this section—

(a) the question whether the matter published is capable of bearing a defamatory meaning is a question for determination by the judge;

(b) the question whether the matter published does bear a defamatory meaning is a matter for the jury;

and

(c) the jury may give a general verdict of guilty or not guilty on the issues as a whole.

(4) Proceedings for an offence against this section must not be commenced without the consent of the Director of Public Prosecutions.

(5) In any proceedings for an offence against this section, a certificate apparently signed by the Director of Public Prosecutions certifying his or her consent to the proceedings is, in the absence of proof to the contrary, to be accepted as proof of the Director's consent.

DIVISION VIII—OFFENCES LIMITED IN RELATION TO INDUSTRIAL DISPUTES AND  
RESTRAINT OF TRADE**Offences limited in relation to industrial disputes and restraint of trade**

258. (1) An agreement or combination by two or more persons to do, or procure to be done, an act in contemplation or furtherance of an industrial dispute as defined in the *Industrial Relations Act (S.A.) 1972* is not punishable as a conspiracy unless the act, if committed by one person, would be punishable as an indictable offence.

(2) No person is liable to any punishment for doing, or conspiring to do, an act on the ground that the act restrains, or tends to restrain, the free course of trade unless the act constitutes an offence against this Act.

**Repeal of s. 268**

8. Section 268 of the principal Act is repealed.

**Punishment for certain offences**

9. Section 270 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) “any nuisance, keeping a common gaming house,” and substituting “keeping”;

and

(b) by striking out paragraphs (d) and (e) of subsection (1).

**Insertion of schedule 11**

10. The schedule set out in the schedule of this Act is inserted after schedule 10 of the principal Act.

## PART III

## AMENDMENT OF CORRECTIONAL SERVICES ACT 1982

**Substitution of heading to Division IV of Part V**

11. The heading to Division IV of Part V of the principal Act is repealed and the following heading is substituted:

## DIVISION IV—PRISONERS ESCAPING OR AT LARGE.

**Effect of prisoner escaping or being at large**

12. Section 50 of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsection:

(1) A term of imprisonment to which a prisoner is sentenced for an offence of escaping, or attempting to escape from, or being otherwise unlawfully at large from, custody under this Act is cumulative on any other term of imprisonment that the prisoner is liable to serve.

**Power of arrest by officers of the Department**

13. Section 52 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) An officer of the Department may, without warrant, apprehend—

(a) any person who the officer suspects on reasonable grounds of being an escaped prisoner or a prisoner otherwise unlawfully at large;

or



- (b) any person who the officer suspects on reasonable grounds of having assisted or being about to assist a prisoner in an escape or attempted escape or of having removed or attempted to remove, or being about to remove, a prisoner from custody.

**Repeal of s. 53**

14. Section 53 of the principal Act is repealed.

**PART IV****AMENDMENT OF JURIES ACT 1927****Offence by jurors**

15. Section 78 of the principal Act is amended by striking out paragraph (c) of subsection (1).

**Repeal of s. 83**

16. Section 83 of the principal Act is repealed.

**PART V****AMENDMENT OF LOCAL GOVERNMENT ACT 1934****Repeal of ss. 55, 56, 79 and 81**

17. Sections 55, 56, 79 and 81 of the principal Act are repealed.

**PART VI****AMENDMENT OF ROYAL COMMISSIONS ACT 1917****Repeal of ss. 15 and 17 to 22**

18. Sections 15 and 17 to 22 (inclusive) of the principal Act are repealed.

**PART VII****AMENDMENT OF SUMMARY OFFENCES ACT 1953****Insertion of s. 7a**

19. The following section is inserted after section 7 of the principal Act:

**Interruption or disturbance of religious worship**

7a. (1) A person who, by noise, disorderly or offensive behaviour or language or in any other way, intentionally—

- (a) interrupts or disturbs the order and solemnity of a congregation or meeting of persons gathered for religious worship;

or

- (b) interrupts or disturbs persons officiating at, participating in or proceeding to or from any such congregation or meeting,

is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

- (2) In this section—

“disorderly” includes riotous;

“offensive” includes threatening, abusive or insulting.

**Substitution of s. 18**

20. Section 18 of the principal Act is repealed and the following sections are substituted:

**Forcible entry or retention of land or premises**

17d. (1) A person who—

(a) uses force, threats or intimidation to enter land or premises in order to expel a person who is in possession (whether lawfully or unlawfully) of the land or premises;

and

(b) does so otherwise than in pursuance of an order of a court or other lawful process,

is guilty of an offence.

Penalty: Division 6 fine or division 6 imprisonment.

(2) A person who—

(a) enters onto land or premises unlawfully;

and

(b) retains possession of the land or premises by force or in a manner that would render the use of force the only reasonably practicable means of recovering lawful possession of the land or premises,

is guilty of an offence.

Penalty: Division 6 fine or division 6 imprisonment.

**Order to move on or disperse**

18. (1) Where a person is loitering in a public place or a group of persons is assembled in a public place and a member of the police force believes or apprehends on reasonable grounds—

(a) that an offence has been, or is about to be, committed by that person or by one or more of the persons in the group or by another in the vicinity;

(b) that a breach of the peace has occurred, is occurring, or is about to occur, in the vicinity of that person or group;

(c) that the movement of pedestrians or vehicular traffic is obstructed, or is about to be obstructed, by the presence of that person or group or of others in the vicinity;

or

(d) that the safety of a person in the vicinity is in danger,

the member of the police force may request that person to cease loitering, or request the persons in that group to disperse, as the case may require.

(2) A person of whom a request is made under subsection (1) must leave the place and the area in the vicinity of the place in which he or she was loitering or assembled in the group.

Penalty: Division 8 fine or division 8 imprisonment.

**Public meetings**

18a. (1) A person who, in, at or near a place where a public meeting is being held—

(a) behaves in a disorderly, indecent, offensive, threatening or insulting manner;

(b) uses threatening, abusive or insulting words;

or

(c) in any way, except by lawful authority or on some other lawful ground, obstructs or interferes with—

(i) a person seeking to attend the meeting;

(ii) any of the proceedings at the meeting;

or

(iii) a person presiding at the meeting in the organization or conduct of the meeting,

is guilty of an offence.

Penalty: Division 8 fine or division 8 imprisonment.

(2) Where, in the opinion of the person presiding at a public meeting, a person in, at or near the place at which the meeting is being held—

(a) is or has been behaving in a disorderly, indecent, offensive, threatening or insulting manner;

(b) is or has been using threatening, abusive or insulting words;

or

(c) in any way, except by lawful authority or on some other lawful ground, is or has been obstructing or interfering with—

(i) a person seeking to attend the meeting;

(ii) any of the proceedings at the meeting;

or

(iii) a person presiding at the meeting in the organization or conduct of the meeting,

the person presiding may request a member of the police force, or the police generally, to remove that person from the place or the area in the vicinity of the place.

(3) A request made under subsection (2) must be complied with by a member of the police force present or attending at the place at which the meeting is being held.

(4) In this section—

“person presiding”, in relation to a public meeting, includes any person officiating at, or with responsibility for the organization or conduct of, the meeting;

“place” means any place whether or not a hall, building or room:

“public meeting” includes any political, religious, social or other meeting, congregation or gathering that the public or a section of the public are permitted to attend, whether on payment or otherwise.

#### Insertion of s. 40

21. The following section is inserted after section 39 of the principal Act:

**Acting as a spiritualist, medium, etc., with intent to defraud**

40. A person who, with intent to defraud, purports to act as a spiritualist or medium, or to exercise powers of telepathy or clairvoyance or other similar powers, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

**Repeal of s. 66**

22. Section 66 of the principal Act is repealed.

**Repeal of s. 83**

23. Section 83 of the principal Act is repealed.

**PART VIII****REPEAL OF PUBLIC MEETINGS ACT 1912****Repeal of Public Meetings Act 1912**

24. The *Public Meetings Act 1912* is repealed.

## SCHEDULE

*Amendment of Criminal Law Consolidation Act 1935—Schedule 11 Inserted*

## SCHEDULE 11

## ABOLITION OF CERTAIN OFFENCES

**Certain common law offences abolished**

1. The following common law offences are abolished:

- (1) compounding an offence;
  - (2) misprision of felony;
  - (3) maintenance, including champerty;
  - (4) embracery;
  - (5) interference with witnesses;
  - (6) escape;
  - (7) rescue;
  - (8) bribery or corruption in relation to judges or judicial officers;
  - (9) bribery or corruption in relation to public officers;
  - (10) buying or selling of a public office;
  - (11) obstructing the exercise of powers conferred by statute;
  - (12) oppression by a public officer;
  - (13) breach of trust or fraud by a public officer;
  - (14) neglect of duty by a public officer;
  - (15) refusal to serve in public office;
  - (16) forcible entry and forcible detainer;
  - (17) riot;
  - (18) rout;
  - (19) unlawful assembly;
  - (20) affray;
  - (21) challenges to fight;
  - (22) public nuisance;
  - (23) public mischief;
  - (24) eavesdropping;
  - (25) being a common barrator, a common scold or a common night walker;
  - (26) criminal libel, including obscene or seditious libel;
  - (27) publicly exposing one's person;
  - (28) indecent exhibitions;
- and
- (29) spreading infectious disease.

**Certain offences under Imperial law abolished**

2. An Act of the Imperial Parliament has no further force or effect in this State to the extent that it enacts an offence of a kind referred to in clause 1.

**Special provisions relating to maintenance and champerty**

3. (1) Liability in tort for conduct constituting maintenance or champerty at common law is abolished.
- (2) The abolition of criminal and civil liability for maintenance and champerty does not affect—
  - (a) any civil cause of action accrued before the abolition;
  - (b) any rule of law relating to the avoidance of a champertous contract as being contrary to public policy or otherwise illegal;

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(c) any rule of law relating to misconduct on the part of a legal practitioner who is party to or concerned in a champertous contract or arrangement.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor