

TASMANIA.



1941.

ANNO QUINTO

GEORGI VI. REGIS.

No. 46.

ANALYSIS.

1. Short title.
2. Interpretation.
3. Advertising prohibited.
Liability of seller, &c., of newspaper, &c., not printed in this State.
Liability of officers or corporations.
Liability of partners, &c.
Liability of two or more persons.
This section not to apply to certain publications.
4. Prohibition against exhibiting, hawking, selling, &c., contraceptives.
5. Seizure of articles illegally sold, &c.
6. Penalties.

AN ACT to amend the *Police Offences Act 1935*,
and to prohibit the Advertisement, Exhibition,
Sale, and Distribution of Contraceptives.
[13 November, 1941.]

A.D.
1941.

BE it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:—

1 This Act may be cited as the *Police Offences (Contra-* Short title.
ceptives) Act 1941.

6d.]

Police Offences (Contraceptives).

A.D. 1941.

Interpretation.

2 In this Act, unless the contrary intention appears, "Contraceptive" means any contrivance or appliance or manufactured preparation designed for securing, or reputed to secure, by the use thereof before, during, or after sexual intercourse between human beings, that such intercourse may take place without resulting in, or with less likelihood of resulting in, conception.

Advertising
prohibited.

3—(1) Subject to the provisions of subsection (7) hereof no person shall—

- I. Insert in any newspaper, magazine, periodical, handbill, circular, programme, or other document printed or prepared in this State any statement which is intended, or apparently intended, by such person or any other person to promote the sale or disposal of any contraceptive as such:
- II. Publicly exhibit any such statement in view of persons who are in any public place: or
- III. Gratuitously send or deliver to any person, or throw or leave upon premises in the occupation of any person, or upon any public place, any handbill, circular, programme, or other document containing any such statement as aforesaid.

(2) If in contravention of this section any statement is inserted in a newspaper printed and published in this State, the printer, publisher, and proprietor of such newspaper shall severally be guilty of an offence against this Act: Provided that—

- I. Before any proceedings are taken under this subsection against any such printer, publisher, or proprietor, the Commissioner shall notify him that the publication of the statement complained of is an infringement of this Act, and such printer, publisher, or proprietor shall not be liable to prosecution for an offence under this subsection, except in respect of an offence of the same or a similar nature after such notification: and
- II. In any proceedings against the printer, publisher, or proprietor of a newspaper for an offence under this subsection it shall be a sufficient defence if such printer, publisher, or proprietor prove that the statement complained of was inserted in the newspaper without his knowledge and authority.

Liability of
seller, &c., of
newspaper,
&c. not
printed in
this State.

(3) Subject to the provisions of subsection (7) hereof, no person shall sell or distribute in this State any newspaper, magazine, periodical, handbill, circular, programme, or other document printed or prepared elsewhere than in this State containing any statement which is intended or apparently intended to promote the sale or disposal of any contraceptive as such, but in any proceedings against any person for an

Police Offences (Contraceptives).

offence under this subsection it shall be a sufficient defence if such person prove that he was not aware and had no reason to believe that such newspaper, magazine, periodical, handbill, circular, programme, or other document, as the case may be, contained such statement. A.D. 1941.

(4) Where a person convicted of an offence under this section is a body corporate, every person, being a chairman or member of the governing body or director, manager, secretary, or officer of such body corporate, shall be deemed to have committed the like offence unless he proves that the act or omission which constituted the said offence took place without his knowledge or consent. Liability of officers or corporations.

(5) Where any person acting for or on behalf of any firm or other body of persons unincorporate is convicted of an offence under this section, every member of the firm and every member of the governing body, if any, and every officer of such body of persons unincorporate who is concerned in the management thereof shall be deemed to have committed the like offence, unless he proves that the act or omission which constituted such offence took place without his knowledge or consent. Liability of partners, &c.

(6) Where two or more persons commit or knowingly authorise or permit the commission of any offence under this section, each of such persons shall be liable therefor, and the liability of each of them shall be independent of the liability of the other or others. Liability of two or more persons.

(7) Nothing in this section shall apply or relate to—

- I. The insertion of any statement in any genuine medical or pharmaceutical magazine, periodical, handbill, circular, or document:
- II. The sale or distribution on sale of any such magazine, periodical, handbill, circular, or document as aforesaid:
- III. The gratuitous sending or delivery of any such magazine, periodical, handbill, circular, or document as aforesaid to any duly qualified medical practitioner or to any registered pharmaceutical chemist: or
- IV. The gratuitous sending or delivery of any such magazine, periodical, handbill, circular, or document as aforesaid to any adult person at his request by—
 - (a) Any duly qualified medical practitioner:
or
 - (b) Any registered pharmaceutical chemist carrying on in an open pharmacy the business of a chemist and druggist for the compounding or dispensing of drugs or medicines supplied on the order or prescription of a duly qualified medical practitioner.

This section not to apply to certain publications.

Police Offences (Contraceptives).

A.D. 1941. (8) Nothing in this section shall prejudice or affect the operation of Division IV. of Part II. of the Principal Act relating to indecent publications.

Prohibition against exhibiting, hawking, selling, &c., contraceptives.

4 No person shall—

- I. Exhibit any contraceptive in view of persons who are in any place:
- II. Go from house to house hawking, selling, or offering or exposing for sale any contraceptive:
- III. Sell, or offer for sale, any contraceptive in any public place other than a shop in which medicines and drugs may lawfully be sold: or
- IV. Being a shopkeeper within the meaning of the *Shops Act 1925* or an agent, servant, or employee of any such shopkeeper, gratuitously send or deliver, or cause to be sent or delivered gratuitously, to any person any contraceptive.

Seizure of articles illegally sold, &c.

5—(1) Any police officer who finds any contraceptive being exhibited or sold, or being offered or exposed for sale, in contravention of section four, may seize, and, if necessary, use force for the purpose, the contraceptive being so exhibited or sold or being so offered or exposed for sale, and may retain such contraceptive pending the prosecution of the person for an offence in relation to the contraceptive so seized and retained.

(2) If upon such prosecution the defendant is convicted, the court may order that such contraceptive be confiscated and be destroyed or otherwise dealt with as the court shall direct; but if the complaint is dismissed the said contraceptive shall be restored to the defendant.

Penalties.

6 Every person who is guilty of any offence against this Act shall be liable to a penalty of ten pounds for a first offence; and for any subsequent offence not more than twenty-five pounds.