

Public Order (Protection of Persons and Property)

No. 26 of 1971

An Act relating to the Preservation of Public Order in Certain Territories of the Commonwealth and in respect of Commonwealth Premises and the Premises and Personnel of Diplomatic and Special Missions, Consular Posts and International Organizations.

[Assented to 13 May 1971]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Public Order (Protection of Persons and Property) Act 1971*. Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

Parts.

3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–5).

Part II.—Provisions applying in Commonwealth Territories and on Commonwealth Premises (Sections 6–13).

Part III.—Provisions relating to Diplomatic and Consular Premises and Personnel and International Organizations (Sections 14–21).

Part IV.—General (Sections 22–25).

Definitions.

4. In this Act, unless the contrary intention appears—

“assembly” means an assembly of not less than three persons who are assembled for a common purpose, whether or not other persons are assembled with them and whether the assembly is at a particular place or moving, and includes the conduct in connexion with that common purpose of all or any of the persons in the assembly;

“Commonwealth premises” means premises, whether in a State or in a Territory, occupied by the Commonwealth or by a public authority under the Commonwealth;

“constable” means a member of a Police Force;

“consular post” means a consulate-general, consulate, vice-consulate or consular agency established in Australia by another country with the consent of the Government of Australia;

“diplomatic mission” means a permanent diplomatic mission accredited to Australia by another country;

“international organization” means an international governmental organization of which Australia is a member, and includes an agency of such an organization;

“Police Force” means the Commonwealth Police Force or the Police Force of a State or Territory;

“premises” means any land, building or part of a building;

“protected person” means a person who is—

(a) a member of the diplomatic staff (including the head) of a diplomatic mission or special mission;

(b) a member of the staff (including the head) of a consular post who is entrusted with the exercise of consular functions;

(c) a high officer of an international organization; or

(d) a representative of a member of an international organization at a meeting of, or under the auspices of, the organization,

but does not include a person who is an Australian citizen or is permanently resident in Australia;

“protected premises” means premises, whether in a State or in a Territory—

(a) occupied for the purposes of—

- (i) a diplomatic mission;
- (ii) a special mission; or
- (iii) a consular post;

(b) occupied by an international organization, or used for the purposes of a meeting of, or under the auspices of, an international organization; or

(c) used as the residence of, or otherwise for the private accommodation of, a protected person;

“public authority under the Commonwealth” means an authority or body (not being an incorporated company or association) constituted by or under a law of the Commonwealth or of a Territory;

“special mission” means a temporary mission which is sent to Australia by the government of another country with the consent of the government of Australia;

“Territory” means the Australian Capital Territory (including the Jervis Bay Territory) or the Northern Territory of Australia;

“unreasonable obstruction” means an act or thing done by a person that constitutes, or contributes to, an obstruction of, or interference with, the exercise or enjoyment by other persons of their lawful rights or privileges (including rights of passage along the public streets) where, having regard to all the circumstances of the obstruction or interference, including its place, time, duration and nature, it constitutes an unreasonable obstruction or interference, and “unreasonably obstructs” has a corresponding meaning.

5. For the purposes of this Act, but without limiting the operation of this Act—

- (a) an assembly is in relation to protected premises if persons in the assembly are on protected premises, or are at a place in the vicinity of protected premises by reason of the fact that that place is in the vicinity of those protected premises; and
- (b) an assembly is in relation to a protected person if persons in the assembly are at a place by reason of the fact that a protected person is present at or in the vicinity of that place.

When assembly is “in relation to” protected premises or a protected person.

PART II.—PROVISIONS APPLYING IN COMMONWEALTH TERRITORIES AND ON COMMONWEALTH PREMISES.

6.—(1.) Where persons taking part in an assembly that is in a Territory or is wholly or partly on Commonwealth premises conduct themselves, in the Territory or on the Commonwealth premises, in a way that gives

Assemblies involving violence or apprehension of violence.

rise to a reasonable apprehension that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property, each of those persons is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

(2.) A person who, in a Territory or on Commonwealth premises, while taking part in an assembly, wilfully and without lawful excuse, does an act or thing by way of physical violence to another person or damage to property is guilty of an offence, punishable on conviction by a fine not exceeding One thousand dollars or imprisonment for a term not exceeding twelve months, or both.

Causing actual bodily harm or damage to property.

7. A person who, in a Territory or on Commonwealth premises, while taking part in an assembly, wilfully and without lawful excuse causes—

(a) actual bodily harm to another person; or

(b) damage, to an extent exceeding Two hundred dollars, to property, is guilty of an indictable offence, punishable on conviction by imprisonment, in the case of causing actual bodily harm, for a term not exceeding five years or, in the case of causing damage to property, for a term not exceeding three years.

Dispersal of certain assemblies.

8.—(1.) Where there is an assembly consisting of not less than twelve persons in a Territory and—

(a) persons taking part in the assembly have conducted themselves in a way that has caused a member of a Police Force of the rank of Sergeant or above reasonably to apprehend that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property; or

(b) the assembly is being carried on in a manner involving such unlawful violence or damage,

a member of a Police Force of the rank of Sergeant or above may give a direction under this section.

(2.) A direction under this section shall be given orally and in such a manner as to be likely to be audible to the persons constituting the assembly, or to as many of them as practicable, and shall be in accordance with the following form or to the like effect:—

In pursuance of the Public Order (Protection of Persons and Property) Act of the Commonwealth of Australia, I [*name of police officer*], being a Sergeant [*or higher rank, as the case may be*] in the [*name of Police Force*], direct all persons taking part in this assembly to disperse forthwith. Persons who fail to disperse may render themselves liable to the penalties provided by the Act.

(3.) Where—

(a) a direction is given under this section; and

- (b) the assembly, to the number of not less than twelve persons, continues after the expiration of fifteen minutes from the time of the direction,

each of those persons who has, without reasonable excuse, failed to comply with the direction is guilty of an offence, punishable on conviction by a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both.

- (4.) For the purpose of—

- (a) dispersing an assembly in respect of which a direction has been given under this section; or
- (b) dispersing or suppressing an assembly to which paragraph (b) of sub-section (1.) of this section applies (whether or not a direction has been given under this section in respect of the assembly),

it is lawful for a person to use such force as he believes, on reasonable grounds, to be necessary for that purpose and is reasonably proportioned to the danger which he believes, on reasonable grounds, is to be apprehended from the continuance of the assembly.

9. A person who, in a Territory or on Commonwealth premises, while taking part in an assembly, engages in unreasonable obstruction is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

Unreasonable
obstruction.

10.—(1.) A person who, in a Territory or on Commonwealth premises, while taking part in an assembly and without lawful excuse—

Weapons,
missiles,
&c.

- (a) has in his possession a weapon, a missile or a destructive, noxious or repulsive object or substance;
- (b) discharges or uses a weapon or throws a missile;
- (c) throws, releases or deposits a destructive, noxious or repulsive object or substance; or
- (d) throws, releases, deposits or deals with an object or substance in a manner likely to cause injury to persons or damage to property,

is guilty of an offence.

(2.) An offence against the last preceding sub-section is punishable on conviction—

- (a) in the case of an offence arising under paragraph (a) of that sub-section—by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both; or
- (b) in any other case—by a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both.

Additional offences on premises in a Territory.

11.—(1.) A person who, without reasonable excuse, trespasses on premises in a Territory is guilty of an offence, punishable on conviction by a fine not exceeding One hundred dollars or imprisonment for a term not exceeding one month, or both.

(2.) A person who—

- (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of, or on premises in a Territory, or otherwise in relation to the use of premises in a Territory;
- (b) while trespassing on premises in a Territory, behaves in an offensive or disorderly manner; or
- (c) being in or on premises in a Territory, refuses or neglects, without reasonable excuse, to leave those premises on being directed to do so by the occupier or a person acting with the authority of the occupier,

is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

(3.) Notwithstanding section 23 of this Act, the consent of the person holding, or performing the duties of, the office of Crown Solicitor for the Commonwealth or Deputy Crown Solicitor for the Commonwealth in the State or Territory in which the offence is alleged to have been committed is not required for the institution of proceedings for the prosecution of an offence against this section.

(4.) In this section, “premises” does not include Commonwealth premises.

Additional offences on Commonwealth premises.

12.—(1.) A person who, without reasonable excuse, trespasses on Commonwealth premises is guilty of an offence, punishable on conviction by a fine not exceeding One hundred dollars or imprisonment for a term not exceeding one month, or both.

(2.) A person who—

- (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of, or on Commonwealth premises, or otherwise in relation to the use of Commonwealth premises;
- (b) being in or on Commonwealth premises, behaves in an offensive or disorderly manner; or
- (c) being in or on Commonwealth premises, refuses or neglects, without reasonable excuse, to leave those premises on being directed to do so by a constable or by a person authorized in writing by a Minister or the public authority under the Commonwealth occupying the premises to give directions for the purposes of this section,

is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

13.—(1.) In proceedings arising out of this Part—

Evidence.

- (a) a certificate in writing given by an authorized person certifying as to any matter relevant to establishing that particular premises are, or were at a particular time, Commonwealth premises is evidence of the matter so certified; and
- (b) a writing purporting to be such a certificate shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

(2.) In this section, “ authorized person ” means a person in respect of whom there is in force for the time being a delegation of any power or function under section 64 of the *Lands Acquisition Act 1955–1966*.

PART III.—PROVISIONS RELATING TO DIPLOMATIC AND CONSULAR PREMISES AND PERSONNEL AND INTERNATIONAL ORGANIZATIONS.

14. The provisions of this Part are intended to assist in giving effect, on the part of Australia, to the special duty imposed by international law on a state that receives a diplomatic or special mission, or consents to the establishment of a consular post, to take appropriate steps to protect the premises of the mission or post against intrusion or damage, to prevent any attack on the persons, freedom or dignity of the personnel of the mission or post and to prevent disturbance of the peace, or impairment of the dignity, of the mission or post.

Relation of Part to international law.

15.—(1.) Where persons taking part in an assembly that is in relation to protected premises or a protected person conduct themselves in a way that gives rise to a reasonable apprehension that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property, each of those persons is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

Assemblies involving violence or apprehension of violence.

(2.) A person who, while taking part in an assembly that is in relation to protected premises or a protected person and without lawful excuse, does an act or thing by way of physical violence to another person or damage to property is guilty of an offence, punishable on conviction by a fine not exceeding One thousand dollars or imprisonment for a term not exceeding twelve months, or both.

16. A person who, while taking part in an assembly that is in relation to protected premises or to a protected person, wilfully and without lawful excuse causes—

Causing actual bodily harm or damage to property.

- (a) actual bodily harm to another person; or
- (b) damage, to an extent exceeding Two hundred dollars, to property, is guilty of an indictable offence, punishable on conviction by imprisonment, in the case of causing actual bodily harm, for a term not exceeding five years or, in the case of causing damage to property, for a term not exceeding three years.

Dispersal of
certain
assemblies.

17.—(1.) Where an assembly consisting of not less than twelve persons is taking place in relation to protected premises or to a protected person and—

(a) persons taking part in the assembly have conducted themselves in a way that has caused a member of a Police Force of the rank of Sergeant or above reasonably to apprehend that the assembly will be carried on in a manner involving—

(i) unlawful physical violence to persons or unlawful damage to property; or

(ii) offences against section 18 or 20 of this Act; or

(b) the assembly is being carried on in a manner involving such unlawful violence or damage, or such offences,

a member of a Police Force of the rank of Sergeant or above may give a direction under this section.

(2.) A direction under this section shall be given orally and in such a manner as to be likely to be audible to the persons constituting the assembly, or to as many of them as practicable, and shall be in accordance with the following form or to the like effect:—

In pursuance of the Public Order (Protection of Persons and Property) Act of the Commonwealth of Australia, I [*name of police officer*], being a Sergeant [*or higher rank, as the case may be*] in the [*name of Police Force*], direct all persons taking part in this assembly to disperse forthwith. Persons who fail to disperse may render themselves liable to the penalties provided by the Act.

(3.) Where—

(a) a direction is given under this section; and

(b) the assembly, to the number of not less than twelve persons, continues after the expiration of fifteen minutes from the time of the direction,

each of those persons who has, without reasonable excuse, failed to comply with the direction is guilty of an offence, punishable on conviction by a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both.

(4.) For the purpose of—

(a) dispersing an assembly in respect of which a direction has been given under this section; or

(b) dispersing or suppressing an assembly to which paragraph (b) of sub-section (1.) of this section applies by reason of its being carried on in a manner involving unlawful violence or damage (whether or not a direction has been given under this section in respect of the assembly),

it is lawful for a person to use such force as he believes, on reasonable grounds, to be necessary for that purpose and is reasonably proportioned

to the danger which he believes, on reasonable grounds, is to be apprehended from the continuance of the assembly.

18. A person who—

- (a) assaults a protected person;
- (b) harasses a protected person or otherwise unreasonably interferes with the free and safe discharge of the duties of a protected person;
- (c) behaves in an offensive, threatening or insulting manner towards a protected person; or
- (d) unreasonably obstructs a protected person,

Obstruction,
assault, &c.

is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

19.—(1.) A person who, while taking part in an assembly that is in relation to protected premises or to a protected person, without lawful excuse—

Weapons,
missiles, &c.

- (a) has in his possession a weapon, a missile or a destructive, noxious or repulsive object or substance;
- (b) discharges or uses a weapon or throws a missile;
- (c) throws, releases or deposits a destructive, noxious or repulsive object or substance; or
- (d) throws, releases, deposits or deals with an object or substance in a manner likely to cause injury to persons or damage to property,

is guilty of an offence.

(2.) An offence against the last preceding sub-section is punishable on conviction—

- (a) in the case of an offence arising under paragraph (a) of that sub-section—by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both; or
- (b) in any other case—by a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both.

20.—(1.) A person who, without reasonable excuse, trespasses on protected premises is guilty of an offence, punishable on conviction by a fine not exceeding One hundred dollars or imprisonment for a term not exceeding one month, or both.

Additional
offences in
relation to
protected
premises.

(2.) A person who—

- (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of or on protected premises, or otherwise in relation to the use of protected premises;

- (b) while trespassing on protected premises, behaves in an offensive or disorderly manner; or
- (c) being in or on protected premises, refuses or neglects, without reasonable excuse, to leave those premises on being directed to do so by a constable, by a protected person residing or performing duties on the premises, or by a person acting in accordance with authority conferred on him by such a protected person,

is guilty of an offence, punishable on conviction by a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both.

Evidence.

21.—(1.) In proceedings arising out of this Part, evidence that persons taking part in an assembly were at a place in the vicinity of protected premises, or were at a place at which, or in the vicinity of which, a protected person was present, is evidence that those persons were at that place by reason of the fact that it was in the vicinity of the protected premises, or by reason of the fact that the protected person was present at or in the vicinity of that place, as the case may be.

(2.) In proceedings arising out of this Part—

- (a) a certificate in writing given by the Secretary to the Department of Foreign Affairs, or by an officer of that Department authorized in writing by the Secretary to give such certificates, certifying as to any matter relevant to establishing that—
 - (i) particular premises are, or were at a particular time, protected premises; or
 - (ii) a particular person is, or was at a particular time, a protected person,is evidence of the matter so certified; and
- (b) a writing purporting to be such a certificate shall, unless the contrary is proved, be taken to be such a certificate and to have been duly given.

PART IV.—GENERAL.

Arrest.

22. A constable may, without warrant, arrest a person for an offence against this Act if the constable has reasonable ground to believe that the person has committed that offence and that—

- (a) proceedings against the person by summons would not be effective; or
- (b) the arrest is necessary in order to prevent persistence by the person in, or repetition by the person of, conduct of the kind constituting the offence, or the commission by the person of other offences against this Act.

Prosecutions.

23.—(1.) Offences against this Act, other than an offence against section 7 or section 16, are punishable on summary conviction.

(2.) Proceedings for—

- (a) the commitment of a person for trial on indictment for an offence against this Act; or
- (b) the summary prosecution of an offence against this Act,

shall be instituted only with the consent in writing of the person holding, or performing the duties of, the office of Crown Solicitor for the Commonwealth or Deputy Crown Solicitor for the Commonwealth in the State or Territory in which the offence is alleged to have been committed.

(3.) Notwithstanding that a consent has not been given in relation to an offence in accordance with the last preceding sub-section—

- (a) a person may be charged with an offence against this Act;
- (b) a warrant for the arrest of a person for such an offence may be issued;
- (c) a person may be arrested for such an offence; and
- (d) a person charged with such an offence may be remanded in custody or on bail,

but no further step in proceedings of a kind referred to in that sub-section shall be taken in relation to the offence until such a consent has been obtained.

(4.) Nothing in the last preceding sub-section prevents the discharge of the accused if proceedings are not continued within a reasonable time.

24.—(1.) Where a person charged with an offence against this Act punishable on summary conviction has requested the informant to furnish to that person further particulars of the conduct the subject of the charge, the court shall not proceed with the hearing of the charge until reasonable particulars of that conduct have been furnished to the person charged, and may accordingly adjourn the proceedings from time to time.

Particulars to be furnished in respect of certain offences.

(2.) If reasonable particulars of the conduct the subject of the charge are not furnished within a reasonable time, the court may dismiss the charge.

(3.) Where, at the hearing of a charge for an offence to which this section applies, evidence is given for the prosecution of conduct that would constitute such an offence but that conduct is different from the conduct of which particulars have been given to the person charged upon a request under this section, the court may, on the application of the person charged and if it is of opinion that that person was misled by those particulars, adjourn the hearing upon such terms as it thinks fit.

25.—(1.) After the commencement of this Act, the common law with respect to the offences of taking part in an unlawful assembly, a rout or a riot—

Exclusion of certain other laws.

- (a) does not have effect in a Territory; and

(b) does not have effect in a place that is a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970* (including a place that becomes such a place after the commencement of this Act), whether by virtue of that Act or otherwise.

(2.) An enactment specified in the Schedule to this Act, to the extent that it was, immediately before the commencement of this Act, in force in a Territory or, whether by virtue of the *Commonwealth Places (Application of Laws) Act 1970* or otherwise, in a place that is a Commonwealth place within the meaning of that Act, is repealed, and none of those enactments is, by virtue of that Act or otherwise, in force in a place that becomes a Commonwealth place, within the meaning of that Act, after that commencement.

(3.) It is the intention of this Act that the provisions of this Act that apply in relation to assemblies in a State that are—

(a) on Commonwealth premises that are not a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*; or

(b) in relation to protected premises or to a protected person, shall so apply to the exclusion of the common law with respect to the offences of taking part in an unlawful assembly, a rout or a riot and to the exclusion of the enactments specified in the Schedule to this Act.

(4.) Except as provided by this section, nothing in this Act is intended to exclude the operation of a law of a State or Territory, whether made before or after the commencement of this Act, to the extent that that law is capable of operating concurrently with the express provisions of this Act.

(5.) A reference in the Schedule to an enactment of the Parliament of a State shall be read as including a reference to that enactment as amended at any time and to any enactment in substitution for that enactment.

THE SCHEDULE

Section 25.

PART I.—IMPERIAL ENACTMENTS.

<i>Enactment</i>	<i>Short title or subject</i>
17 Richard 2, c. 8	Riots and Tumults Suppression
13 Henry 4, c. 7	The Riot Act, 1411
2 Henry 5, Stat. 1, c. 8	The Riot Act, 1414
13 Charles 2, Stat. 1, c. 5	The Tumultuous Petitioning Act, 1661
1 George 1, Stat. 2, c. 5	The Riot Act
33 George 3, c. 67	The Shipping Offences Act, 1793

PART II.—OTHER ENACTMENTS IN FORCE IN STATES.

New South Wales—

Sections 205, 206, 207 and 545c of the Crimes Act, 1900.

Victoria—

Section 206 of the Crimes Act, 1958.

Unlawful Assemblies and Processions Act 1958.

Queensland—

Sections 62, 63, 64, 65, 66 and 77 of The Criminal Code.

South Australia—

Sections 95, 244 and 245 of the Criminal Law Consolidation Act 1935–1966.

Western Australia—

Sections 63, 64, 65, 66 and 67 of the Criminal Code Act 1913.

Tasmania—

Sections 74, 75 and 77 of the Criminal Code.

PART III.—OTHER ENACTMENTS IN FORCE IN TERRITORIES.

Australian Capital Territory—

Party Processions Prevention Act, 1901 of the State of New South Wales, in its application to the Territory.

Sections 205, 206 and 207 of the Crimes Act, 1900 of the State of New South Wales, in its application to the Territory.

Northern Territory—

Sections 91, 92, 300, 301 and 302 of the Criminal Law Consolidation Act and Ordinance 1876 to 1969, as in force in the Territory.