



Public Order (Protection of Persons and Property) Amendment Act 1995

No. 116 of 1995

An Act to provide for the protective security of certain Federal Courts and Tribunals, and for other purposes

[Assented to 17 October 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Public Order (Protection of Persons and Property) Amendment Act 1995*.

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Property) Amendment No. 116, 1995*

Commencement

2.(1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.

(2) If this Act does not commence under subsection (1) within 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

Amendments

3. The *Public Order (Protection of Persons and Property) Act 1971* is amended as set out in the Schedule.

SCHEDULE

Section 3

**AMENDMENTS OF THE *PUBLIC ORDER (PROTECTION OF
PERSONS AND PROPERTY) ACT 1971***

1. Title:

After “**Commonwealth Premises**” insert “, **the Premises of certain Federal Courts and Tribunals**”.

2. Subsection 4(1):

Insert:

“*frisk search* means a search of a person conducted by quickly running the hands over the person’s outer clothing.

screening search means a search of a person conducted by equipment designed to carry out such a search without touching the person.”.

3. Subsection 6(1):

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

4. Subsection 6(2):

Omit “a fine not exceeding One thousand dollars or imprisonment for a term not exceeding twelve months, or both”, substitute “imprisonment for not more than 12 months”.

5. Paragraph 7(b):

Omit “Two hundred dollars”, substitute “\$1,500”.

6. Subsection 8(3):

Omit “a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both”, substitute “imprisonment for not more than 6 months”.

7. Paragraph 8(4)(b):

Omit “paragraph (b) of subsection (1) of this section”, substitute “paragraph (1)(b)”.

8. Section 9:

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

SCHEDULE—continued

9. Paragraph 10(1)(a):

After “his” insert “or her”.

10. Subsection 1f(2):

Omit the subsection, substitute:

“(2) An offence against subsection (1) is punishable on conviction:

(a) in respect of an offence arising under paragraph (1)(a)—by a fine of not more than 20 penalty units; or

(b) in any other case—by imprisonment for not more than 6 months.”.

11. Subsection 11(1):

Omit “a fine not exceeding One hundred dollars or imprisonment for a term not exceeding one month, or both”, substitute “a fine of not more than 10 penalty units”.

12. Subsection 11(2):

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

13. Subsection 12(1):

Omit “a fine not exceeding One hundred dollars or imprisonment for a term not exceeding one month, or both”, substitute “a fine of not more than 10 penalty units”.

14. Subsection 12(2):

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

15. After Part II:

Insert:

**“PART IIA—PROVISIONS RELATING TO PREMISES OF
CERTAIN FEDERAL COURTS AND TRIBUNALS**

Interpretation

“13A. In this Part, unless the contrary intention appears:

authorised officer, in relation to a court, means:

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SCHEDULE—continued

- (a) a constable; or
- (b) a person authorised to exercise powers under this Part in relation to the court by:
 - (i) the Attorney-General; or
 - (ii) if the court has power to administer its own affairs—a person exercising that power on behalf of the court.

court means a federal court and includes a tribunal, authority or person having power under a law of the Commonwealth to require the production of documents or the answering of questions.

court premises, in relation to a court, means any premises occupied in connection with the operations of the court.

explosive substance includes:

- (a) any material for making an explosive substance; and
- (b) any apparatus, machine, implement or material used, or intended to be used, or adapted, for causing, or aiding in causing, an explosion in or with an explosive substance; and
- (c) a part of such an apparatus, machine or implement.

firearm means a weapon designed or adapted to discharge shot, a bullet, or any other missile, as a result of the expansion of gases produced in the weapon by the ignition of strongly combustible materials, or by compressed air or other gases, whether stored in the weapon in pressurised containers or produced in the weapon by mechanical means, and includes a part of such a weapon and ammunition for use in such a weapon.

offensive weapon means any article:

- (a) made or adapted for use for causing injury to, or incapacitating, a person; or
 - (b) intended by the person having it with him or her, for such use;
- and includes a part of such an article.

Application of Part

“13B. This Part applies only to a court (as defined by section 13A) that is prescribed by the regulations for the purposes of this Part.

Power of authorised officer to require information

“13C.(1) Subject to any limitations and restrictions provided by the regulations, if an authorised officer in relation to a court believes on reasonable grounds that it is necessary in the interests of security to do so, the officer may require a person who is on the court premises to tell the officer:

SCHEDULE—continued

- (a) the person's name; and
- (b) the address of the person's place of residence; and
- (c) the person's reason for being on the premises; and
- (d) evidence of the person's identity.

“(2) A person of whom such a requirement is made must not, without reasonable excuse:

- (a) refuse or fail to comply with the requirement; or
- (b) give false information, or false evidence of identity, in response to the requirement.

Penalty: 20 penalty units.

Power of authorised officer to search a person or require a person to deposit personal effects

“13D.(1) Subject to any limitations and restrictions provided by the regulations, if an authorised officer in relation to a court believes on reasonable grounds that it is necessary in the interests of security to do so, the officer may:

- (a) require a person who is on the court premises to submit to either or both of the following:
 - (i) a screening search and/or a frisk search of the person;
 - (ii) a search of any of the person's personal effects that are reasonably capable of concealing a firearm, explosive substance or offensive weapon;

for the purposes of finding out whether a firearm, explosive substance or offensive weapon is hidden in the person's clothing or personal effects; and

- (b) require a person who is on the court premises to deposit with the authorised officer any personal effects that are reasonably capable of:
 - (i) concealing a firearm, explosive substance or offensive weapon; or
 - (ii) being used to cause injury to, or incapacitate, a person.

“(2) A person of whom a requirement is made under subsection (1) must not refuse or fail, without reasonable excuse, to comply with the requirement.

Penalty: 20 penalty units.

“(3) If, in the course of a search under paragraph (1)(a), a firearm, explosive substance or offensive weapon is found, an authorised officer in relation to the court:

SCHEDULE—continued

- (a) may take possession of the firearm, substance or weapon; and
- (b) may retain it for any period that he or she thinks necessary for the purposes of this Part.

“(4) This section does not authorise anyone conducting a frisk search of a person to remove, or to require the person to remove, any of the person’s clothing.

“(5) A frisk search of a person under this section is to be conducted by:

- (a) an authorised officer of the same sex as the person; or
- (b) if an authorised officer of the same sex as the person is not available to conduct the search—any other person who is of the same sex and:
 - (i) is requested by an authorised officer; and
 - (ii) agrees;

to conduct the search.

“(6) An action or proceeding, whether civil or criminal, does not lie against a person who, at the request of an authorised officer, conducts a search under this section if the person acts in good faith and does not contravene subsection (7).

“(7) An authorised officer or other person who conducts a search under this section must not use more force, or subject a person to greater indignity, than is reasonably necessary in order to conduct the search.

Removal from court premises

“13E.(1) An authorised officer in relation to a court may direct a person to leave the court premises if the person:

- (a) refuses or fails to comply with a requirement made under subsection 13C(1) or 13D(1); or
- (b) does not satisfy the authorised officer that the person has a proper reason for being on the court premises.

“(2) For the purposes of paragraph (1)(b), without limiting what constitutes a proper reason for being on court premises, a person has such a reason if he or she wishes to attend the hearing of the proceedings in the court.

“(3) If a person refuses or fails to comply with a direction given to the person under subsection (1):

- (a) the person is guilty of an offence punishable on conviction by a fine of not more than 20 penalty units; and
- (b) a constable may refuse the person entry to, or remove the person from, the court premises, as the case requires.

SCHEDULE—continued

“(4) Except as provided in subsection (1), a person is entitled to enter and remain on court premises if there is room for the person on the premises.

Person not to carry firearm, explosive substance or offensive weapon on court premises

“13F. A person must not, without lawful excuse, while on any court premises, carry or otherwise have in his or her possession a firearm, an explosive substance or an offensive weapon.

Penalty: Imprisonment for 12 months.

Saving

“13G.(1) The powers conferred by this Part are in addition to, and do not derogate from, any other powers conferred on or possessed by any court, judge or person in relation to the conduct of proceedings in a court or the regulation of the conduct of people on court premises.

“(2) This Part does not affect any other power of a court in relation to contempt of the court or any other similar power.

Regulations

“13H. The Governor-General may make regulations prescribing matters:

- (a) required or permitted to be prescribed for the purposes of this Part;
or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part;

and, in particular, providing for the dealing with information given by a person in response to a requirement made under this Part.”.

16. Subsection 15(1):

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

17. Subsection 15(2):

Omit “a fine not exceeding One thousand dollars or imprisonment for a term not exceeding twelve months, or both”, substitute “imprisonment for not more than 12 months”.

18. Paragraph 16(b):

Omit “Two hundred dollars”, substitute “\$1,500”.

SCHEDULE—continued

19. Subparagraph 17(1)(a)(ii):

Omit “of this Act”.

20. Subsection 17(3):

Omit “a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both”, substitute “imprisonment for not more than 6 months”.

21. Paragraph 17(4)(b):

Omit “paragraph (b) of subsection (1) of this section”, substitute “paragraph (1)(b)”.

22. Subsection 17(4):

After “he” (wherever occurring) insert “or she”.

23. Section 18:

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

24. Paragraph 19(1)(a):

After “his” insert “or her”.

25. Subsection 19(2):

Omit “the last preceding subsection”, substitute “subsection (1)”.

26. Paragraph 19(2)(a):

Omit the paragraph, substitute:

“(a) in respect of an offence arising under paragraph (1)(a)—by a fine of not more than 20 penalty units; or”.

27. Paragraph 19(2)(b):

Omit “a fine not exceeding Five hundred dollars or imprisonment for a term not exceeding six months, or both”, substitute “imprisonment for not more than 6 months”.

28. Subsection 20(1):

Omit “a fine not exceeding One hundred dollars or imprisonment for a term not exceeding one month, or both”, substitute “a fine of not more than 10 penalty units”.

29. Paragraph 20(2)(c):

After “him” insert “or her”.

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SCHEDULE—continued

30. Subsection 20(2):

Omit “a fine not exceeding Two hundred and fifty dollars or imprisonment for a term not exceeding three months, or both”, substitute “a fine of not more than 20 penalty units”.

31. Subsections 23(3) and (4):

Omit “the last preceding subsection”, substitute “subsection (2)”.

*[Minister's second reading speech made in—
House of Representatives on 23 August 1995
Senate on 29 August 1995]*