



SUMMARY OFFENCES ACT 2005

Act No. 26 of 2005

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NORFOLK



ISLAND

Summary Offences Act 2005

Act No. 26 of 2005

An Act to consolidate the law relating to summary offences, and for other purposes

[Assented to 25 October 2005]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Summary Offences Act 2005*.

Commencement

2. This Act commences on the day that notice of assent is published in the Gazette.

Repeal

3. The Acts in the Schedule are repealed.

Definitions

4. In this Act, unless the contrary intention appears —
 - “Clerk” means the clerk of the Court of Petty Sessions;
 - “Court” means the Court of Petty Sessions;
 - “member” means member of the Police Force;
 - “night-time” means the interval between 9 o’clock in the evening and 6 o’clock in the morning;
 - “Police Force” means the Norfolk Island Police Force;
 - “public place” or “place of public resort” includes —
 - (a) every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier thereof; and
 - (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only; and

- (c) every road, street, footway, court, alley, thoroughfare, reserve, beach, bathing shed, changing rooms or privy which the public are allowed to use, notwithstanding that the same may be formed on private property;

“undue noise” means any noise that causes unreasonable distress, annoyance or irritation to any person by reason of its level or character or the time at which it is made or interferes unreasonably with the comfort or repose of persons who are —

- (a) where the noise is made in premises other than a public place – outside the premises; or
- (b) where the noise is made in premises that are a public place - within or outside the premises;

“vessel” means any ship, boat or other description of vessel used for any purpose on the sea or in navigation, but does not include a vessel actually employed in the service of the Crown (whether in right of the Commonwealth or not), the Commonwealth, or the Administration, or a vessel of war the commanding officer whereof holds a commission from any foreign government or power.

PART 2 — POWERS OF THE POLICE FORCE AND THE APPREHENSION OF OFFENDERS

Warrants to apprehend offenders

5. A Magistrate or the Clerk, before whom an oath is made that any person has committed, or is suspected of having committed, any offence against this Act, may summon or issue a warrant to apprehend and bring before the Court the person in question, to be dealt with as directed by this Act.

Power to search vehicles and suspected persons

- 6. Any member of the Police Force may in or upon any public place stop, search and detain —
 - (a) any cart, carriage or vehicle in or upon which there is reason to suspect that anything stolen or unlawfully obtained may be found; and
 - (b) any person who is reasonably suspected of having, or conveying in any manner, anything stolen or unlawfully obtained.

Police officer may board vessels

7. Any member of the Police Force may enter at all times, as well by night as by day, into or upon any vessel within the territorial waters of Norfolk Island and into every part of the vessel for the purpose of —

- (a) searching and inspecting the vessel;
- (b) inspecting and observing the conduct of all persons who are employed on board the vessel, in or about the lading or unloading thereof;
- (c) taking any measures necessary to provide against fire and other accidents;
- (d) preserving peace and good order on board the vessel; and
- (e) preventing or detecting offences.

Police may search ships

8. (1) Any member of the Police Force having reasonable or probable cause to suspect —

- (a) that an offence has been; or
- (b) is about to be,

committed on board any vessel within the territorial waters of Norfolk Island; or

- (c) that any person who has committed an offence rendering him or her liable to apprehension, either with or without a warrant; or

(d) that any person, against whom any warrant has been issued, is harboured, secreted or concealed on board any vessel may —

- (e) stop and detain the vessel; and
- (f) enter at all times as well by night as by day, with such members of the Police Force or with such persons to assist as he or she thinks necessary, into and upon the vessel, and into every part thereof; and
- (g) search and inspect the vessel, and therein take all necessary measures for the prevention and detection of all suspected offences, and for the apprehension of any person so suspected; and

shall

- (h) take into custody all persons suspected of being concerned in any such offences, or liable to any such apprehension; and
- (i) take charge of all property suspected of being stolen or unlawfully obtained.

- (2) Any person who —
 - (a) resists or wilfully prevents or obstructs any member of the Police Force while stopping, detaining or entering upon, or endeavouring to stop, detain or enter upon, a vessel, or while searching and inspecting a vessel; or
 - (b) harbours, conceals or rescues, or attempts to rescue, or assist any suspected person,

is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months or both.

Power of police to apprehend offenders

- 9. Any member of the Police Force may without any warrant, at any hour of the day or night, apprehend —
 - (a) any person, found drunk, or fighting, or using profane, indecent or obscene language, or who uses any threatening, abusive or insulting words, or behaves in a threatening, abusive or insulting manner, with intent to provoke a breach of the peace or whereby a breach of the peace might be occasioned, in or near any public place;
 - (b) any person who rides or drives through any public place so negligently, carelessly or furiously that the safety of any other person might thereby be endangered;
 - (c) any person who cruelly beats, ill-treats, overdrives, overloads, abuses or tortures any animal, or causes the same to be done, or who conveys or carries any animal in any public place in such a manner or position as to cause unnecessary pain or suffering to the animal;
 - (d) any loose, drunken or riotous person found disturbing the public peace;
 - (e) any person reasonably suspected of having committed, or being about to commit, an offence;
 - (f) any person found loitering in any street, highway, yard or other place, who does not give a satisfactory account of himself or herself.

Power to apprehend persons disturbing the peace on board ships

10. Any member of the Police Force, when he or she deems necessary or whenever called upon by the master or chief officer of any vessel within the territorial waters of Norfolk Island, may —

- (a) enter into and upon the vessel; and
- (b) apprehend any person found drunk, and riotously or indecently behaving himself or herself, or who is found fighting or using threatening, abusive or insulting words, or behaving in a threatening, abusive or insulting manner, and disturbing the peace and good order of the vessel, or behaving with intent to provoke a breach of the peace or whereby a breach of the peace might be occasioned.

Certain persons may be apprehended without warrant

11. Any member of the Police Force may take into custody —

- (a) any person reasonably suspected to be a person for whose apprehension a warrant has been issued; and
- (b) any person who is charged by any other person with committing any felonious assault, in every case in which the member of the Police Force has good reason to believe that the assault has been committed, although not within view of the member of the Police Force, and that by reason of the recent commission of the offence a warrant could not have been obtained for the apprehension of the offender.

Apprehension of persons seen committing an offence

12. (1) Any member of the Police Force, or any other person, with or without a warrant, may apprehend any person who, within view of the member or other person, commits any offence against this Act.

(2) The member of the Police Force or person shall forthwith take and convey the offender before a Magistrate to be dealt with in a manner provided by this Act, or shall deliver him or her to a member of the Police Force to be so taken and conveyed as aforesaid.

Power of police and persons aggrieved to apprehend certain offenders

13. Any person found committing any offence against this Act —

- (a) may be taken into custody without a warrant by any member of the Police Force; or
- (b) may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his or her employee or any person authorised by him or her, and may be detained until he or she can be delivered into the custody of a member of the Police Force, to be dealt with according to law.

Where stolen property attempted to be sold or pawned

14. Any person to whom property is offered to be sold, pawned or delivered, if he or she has reasonable cause to suspect —

- (a) that any offence punishable on summary conviction has been committed with respect to the property; or
- (b) that the property, or any part thereof, has been stolen or otherwise unlawfully obtained,

may apprehend and detain the person so offering the property, and, as soon as may be, deliver him or her into the custody of a member of the Police Force, together with the property, to be dealt with according to law.

Persons arrested without a warrant - how dealt with

15. (1) Any person apprehended without a warrant shall be forthwith delivered into the custody of the member of the Police Force in charge of a police station, in order that the person may be secured until he or she can be brought before the Court to be dealt with according to law, or, if the person has been apprehended for any offence against this Act, or for any offence punishable on summary conviction, or if, in any other case, the member thinks fit to take bail, until he or she has given bail for his or her appearance before the Court.

(2) Where any person, apprehended under this Act or charged with any offence punishable on summary conviction, is brought into the custody of the member of the Police Force in charge of a police station and a warrant for the apprehension of the person has not been issued, the member of the Police Force may, if he thinks fit, take bail by recognisance, with or without sureties, without any fee or reward, from the person.

(3) The condition of the recognisance shall be that the person shall appear for examination before the Court at 10 a.m. on a day to be specified not more than 14 days after the recognisance is taken, unless that day falls on a Sunday or Christmas Day or Good Friday or any public holiday, and in that case at the like hour on the next day following which is not one of those days.

(4) Every recognisance so taken shall be of equal obligation on the parties entering into the recognisance, and liable to the same proceedings for the estreating thereof, as if the recognisance had been taken before the Court.

(5) The member of the Police Force shall enter in a book to be kept for that purpose in the police station, the name, residence and occupation of the party and his or her surety or sureties (if any) entering into the recognisance, together with the condition thereof and the sums respectively acknowledged, and shall lay them before the Court at the time and place when and where the party is required to appear.

(6) Where the party fails to appear at the time and place required, or within one hour thereafter, the Court shall cause a record of the recognisance to be drawn up and signed by the member of the Police Force.

(7) Where the party to the recognisance fails to appear, but applies by any person on his behalf to postpone the hearing of the charge against him and the Court consents thereto, the Court shall be at liberty to enlarge the recognisance to such further time as it appoints.

(8) When the matter has been heard and determined, either by the dismissal of the case or by binding the party over to answer the matter thereof or otherwise, the recognisance for the appearance of the party before the Court shall be discharged without fee or reward.

Assaulting or resisting police, etc

16. (1) Any person who assaults, resists, obstructs, disturbs, hinders or delays, or aids, incites or encourages any other person to assault, resist, obstruct, disturb, hinder or delay —

- (a) any member of the Police Force in the execution of his or her duty under this Act or otherwise; or
- (b) any person lawfully assisting any such member of the Police Force in the execution of his or her duty under this Act,

commits an offence.

Penalty: 5 penalty units or imprisonment 3 months.

(2) A person convicted under subsection (1) shall also forfeit and pay such sum or such further sum of money as appears to the Court to be a reasonable compensation for —

- (a) any damage or injury caused by the offender to the uniform, clothing accoutrements or horse or motor vehicle of such member of the Police Force or person; or
- (b) any medical or other expenses incurred in consequence of personal injury sustained by him in the assault, resistance, obstruction, disturbance, hindrance or delay,

and any such sum shall be recoverable in the same manner as a penalty.

PART 3 — OFFENCES IN RELATION TO STOCK

Definition of “stock”

17. In this Part, unless the contrary intention appears —

“stock” means cattle, horses, sheep, goats, swine, poultry and domestic pets, and any other animal which the executive member declares by notice published in the Gazette to be stock for the purposes of this Part.

Offences in connection with driving away stock

18. (1) A person must not drive any stock from the land or out of the herds of any other person unless he or she has been authorised by that person so to do or has given not less than 14 nor more than 21 days notice in writing to that person, his employee or agent.

(2) Any person who drives away or attempts to drive away stock in contravention of subsection (1) or who enters upon the land of any other person for that purpose shall be guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months.

(3) Any person who drives away any stock, other than his or her own or employer's, from the land or out of the herds of any other person shall be guilty of an offence, unless he or she proves to the satisfaction of the Court that he or she had reasonable ground for believing the stock were his or her own or his or her employer's or principal's.

Penalty: 10 penalty units or imprisonment for 6 months.

Possession of stock suspected to have been stolen

19. Any person in whose possession is found any stock reasonably suspected to have been stolen is guilty of an offence, unless he or she proves that he or she acquired the stock in a lawful manner.

Penalty: 10 penalty units or imprisonment for 6 months.

Unlawful use of stock

20. Any person who unlawfully uses stock without the consent of the owner or person in lawful possession thereof is guilty of an offence.

Penalty: 1 penalty unit for every head of stock so used or imprisonment for 6 months.

PART 4 — OFFENCES IN RELATION TO BEHAVIOUR

Affray

21. A person who takes part in a fight in a public place of such a nature as to reasonably alarm a person witnessing the same is guilty of an offence.

Penalty: Imprisonment for 6 months.

Threatening violence to or in a dwelling

22. (1) A person who with intent to intimidate or annoy a person, threatens to damage a dwelling-house is guilty of an offence.

Penalty: (a) 10 penalty units; and/or
(b) imprisonment for 6 months; but
(c) if the offence is committed at night-time, imprisonment for not less than 6 months nor more than 12 months.

(2) A person who enters a dwelling house and threatens or leads a person therein to be fearful of violence, or who otherwise assaults a persons is guilty of an offence.

Penalty: (a) 15 penalty units; and/or
(b) imprisonment for 6 months; but
(c) if the offence is committed at night-time, imprisonment for not less than 6 months nor more than 12 months.

(3) A person who enters a dwelling house and discharges a firearm therein, or who produces to a person therein or who is found to have had on his or her person, a firearm, knife or other dangerous weapon, is guilty of an offence.

Penalty: (a) 50 penalty units; and/or
(b) imprisonment for 2 years; or
(c) if the offence is committed at night-time, imprisonment for not less than 12 months or more than 5 years.

(4) If a person convicted of an offence under this section is found to have been under the influence of intoxicating liquor or a drug or psychotropic substance at the time of the offence, the person shall be liable to the same penalty as if the offence had been committed at night-time.

Disturbing good order of vessel

23. Every person who on board any vessel within the territorial waters of Norfolk Island engages in riotous or indecent behaviour while drunk, or fighting, or using threatening, abusive or insulting words, or who behaves in a threatening, abusive or insulting manner, and disturbs the peace and good order of the vessel, or does so with intent to commit a breach of the peace or whereby a breach of the peace might have been occasioned, is guilty of an offence.

Penalty: 5 penalty units or imprisonment for 3 months.

Disturbing religious worship

24. A person who wilfully and without authorisation, justification or excuse, proof of which is on him —

- (a) interrupts or disturbs a meeting of persons lawfully assembled for religious worship;
- (b) assaults a person lawfully officiating or a person assembled at such a meeting,

is guilty of an offence.

Penalty: (a) 10 penalty units or
(b) imprisonment for 6 months.

Misbehaviour at a public meeting

25. (1) Any person who in or near any hall, room or building in which a public meeting or public entertainment is being held —

- (a) behaves in a riotous, indecent, offensive, threatening or insulting manner; or
- (b) uses any threatening, abusive, obscene, indecent or insulting words,

is guilty of an offence.

Penalty: (a) 5 penalty units or
(b) 3 months imprisonment.

(2) Where, in the opinion of the chairperson presiding at any public meeting, any person in or near the hall, room or building in which the meeting is being held —

- (a) behaves in a riotous, indecent, offensive, threatening or insulting manner; or
- (b) uses any threatening, abusive, obscene, indecent or insulting words,

the presiding person may request any member of the Police Force who is present to remove the person from the hall, room or building or the neighbourhood thereof, and the member of the Police Force shall remove the person accordingly.

Drunkenness in public places

26. (1) Any person found drunk in any public place commits an offence.

- Penalty:
- (a) for a first offence 1 penalty unit, or imprisonment for any period not exceeding 3 days; and
 - (b) for any subsequent offence 2 penalty units or imprisonment for 7 days.

(2) A person found as described in subsection (1) may be arrested by any member of the Police Force and placed in safe custody.

Regulation of places of public resort

27. (1) Every person who has or keeps any house, shop, room, or place of public resort wherein provisions, liquor, or refreshments of any kind are sold or consumed (whether the same are kept or retailed therein or procured elsewhere) who wilfully and knowingly permits drunkenness or other disorderly conduct in the house, shop, room, or place is guilty of an offence.

- Penalty: 2 penalty units.

(2) The holder of a licence under the *Liquor Act 1960* who has been found guilty of an offence against subsection (1) in respect of certain conduct may be prosecuted for an offence against that Act in respect of the same conduct.

Supply of methylated spirit or volatile substance

28. (1) A person who supplies or offers to supply another person with methylated spirit or a volatile substance when he has reasonable cause to believe that the spirit will be drunk or the volatile substance deliberately inhaled by that other person or by a third person is guilty of an offence.

- Penalty: 3 penalty units or imprisonment for 6 months.

(2) In this section —

“methylated spirit” includes —

- (a) methyl alcohol;
- (b) wood spirit; or
- (c) any other spirit, or any potable liquid, which has been methylated or denatured in such manner as to render it unfit for use as a beverage or in food by the addition to it of methyl alcohol, wood spirit, wood naphtha, pyridine, aniline violet, blue dye, petrol, gasoline, petroleum benzene, petroleum naphtha, coal tar naphtha or other similar substance;

“volatile substance” means any plastic solvent, adhesive cement, cleaning agent, glue dope, nail polish remover, lighter fluid, gasoline or any other volatile product derived from petroleum, paint thinner, lacquer thinner, aerosol propellant or anaesthetic gas.

Offensive conduct

29. Every person who is guilty —

- (a) of any riotous, offensive, disorderly or indecent behaviour, or of fighting, or using obscene language, in or within the hearing or view of any person in any road, street, thoroughfare or public place;
- (b) of disturbing the public peace;
- (c) of any riotous, offensive, disorderly or indecent behaviour in any police station;
- (d) of offensive behaviour in or about a dwelling house, dressing-room, training-shed or clubhouse;
- (e) of unreasonably causing substantial annoyance to another person; or
- (f) of unreasonably disrupting the privacy of another person,

is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months, or both.

Loitering by sexual offender

30. (1) In this section, “sexual offence” means —

- (a) an offence against sections 63, 65, 66, 67, 68, 71, 72A, 73 78A, 78B, 81, or 90 of the *Crimes Act 1900 (NSW)* as applied by the *Criminal Law Act 1960*;
- (b) an offence of —
 - (i) counselling or procuring;
 - (ii) aiding or abetting the commission of;
 - (iii) conspiring to commit;

(iv) attempting to commit; or
(v) being an accessory after the fact to,
such an offence.

- (2) A person who —
- (a) has been found guilty of —
- (i) a sexual offence;
 - (ii) murder where there are reasonable grounds to believe that a sexual offence was also committed on the victim; or
 - (iii) an offence against section 32; and
- (b) is found, without reasonable excuse, idling or lingering about in or near —
- (i) a school, kindergarten or child care centre; or
 - (ii) a public place regularly frequented by children and in which children are present at the time of the loitering,

is guilty of an offence.

- Penalty:
- (a) 50 penalty units or
 - (b) imprisonment for 12 months, or
 - (c) both.

(3) If a person has at any time been convicted of an offence against a law of a State or Territory of the Commonwealth which creates an offence substantially similar to a sexual offence, the conviction for the offence against that law shall be taken for the purposes of this section to be a conviction of a sexual offence.

Loitering

31. (1) A person loitering in any public place who does not give a satisfactory account of himself when requested so to do by a member of the Police Force shall, on request by a member of the Police Force to cease loitering, cease so to loiter.

- Penalty:
- (a) 5 penalty units or
 - (b) imprisonment for 3 months.

(2) Where a person is loitering in a public place and a member of the Police Force believes, on reasonable grounds

- (a) that an offence has been or is likely to be committed; or
- (b) that the movement of pedestrian or vehicular traffic is obstructed or is about to be obstructed,

by that person or by any other person loitering in the vicinity of that person;

(c) that the safety of the person or any person in his vicinity is in danger; or

(d) that the person is interfering with the reasonable enjoyment of other persons using the public place for the purpose or purposes for which it was intended,

the member of the Police Force may require any person so loitering to cease loitering and to remove from that public place any article under his or her control, and a person so required shall comply with and shall not contravene the requirement.

Penalty: (a) 20 penalty units or
(b) imprisonment for 6 months, or
(c) both.

(3) In this section “loiter” means to idle or linger about.

Indecent exposure

32. Any person who offends against decency by the willful exposure of his or her genitalia in any public place, or in the view thereof, is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months.

Obscenity, offensive behaviour

33. (1) Any person who in a public place, or within the view or hearing of any person passing therein —

(a) sings any obscene song or ballad, or

(b) writes or draws any indecent or obscene word, figure or representation, or

(c) uses any profane, indecent or obscene language,

is guilty of an offence.

(2) A person who in a public place or in licensed premises within the meaning of the *Liquor Act 1960* —

(a) by threatening, abusive or objectionable words or behaviour, offends or causes; or

(b) makes such a noise as might reasonably in the circumstances cause,

substantial annoyance to another person, whether that other person is in the public place, those premises, or elsewhere — is guilty of an offence.

(3) Where the words or behaviour or noise referred to in subsection (2) are or is made in licensed premises within the meaning of the *Liquor Act 1960* and the Court is satisfied that the licensee might reasonably have taken action to prevent the commission of the offence, the licensee is also guilty of an offence.

- (4) The penalty for an offence against this section is —
- (a) 20 penalty units or
 - (b) 6 months imprisonment, or
 - (c) both.

(5) The Court hearing a complaint for an offence against this section shall not award costs against the complainant unless the Court considers that the complaint was unreasonably made.

Injuring or extinguishing street lamps or other public convenience

34. Any person who wantonly or maliciously breaks or injures any notice, notice board, pane of glass, lamp or lamp post, or wilfully or unlawfully extinguishes the light of any lamp set up for public or private convenience, is guilty of an offence.

- Penalty:
- (a) 2 penalty units, and
 - (b) A person convicted under this section must, in addition to any penalty under (a), defray the necessary expense of repairing the damage done as determined by the Court.

PART 5 – NUISANCE, THEFT AND OTHER OFFENCES

Undue noise

35. (1) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any premises or part of premises where a social gathering is being held, being a complaint in respect of noise made —

- (a) after midnight in a public hall, restaurant, club or other place open to members of the public whether by way of fee or not; or
- (b) after 10:00 pm on any Monday, Tuesday, Wednesday or Thursday night or after 11:00 on any other night or public holiday in any other place, including a private dwelling,

and if he or she considers that such noise constitutes undue noise, direct —

- (c) the person who is the occupier of the premises or part of the premises, as the case may be; or
- (d) if that person cannot be ascertained, the person responsible for the noise or in charge of the property producing the noise,

to stop or abate the noise.

(2) If at any time during the period of 12 hours immediately after a person has been directed under subsection (1) to stop or abate undue noise (other than the period of 10 minutes after the direction is given), undue noise comes from the premises or part of the premises in respect of which the complaint was made, the person to whom the direction was given is guilty of an offence.

- Penalty: 20 penalty units.

Noise abatement directions

36. (1) A member of the Police Force may, in response to a

complaint from a person that undue noise is coming from any premises or part of premises and where he or she considers that such noise constitutes undue noise, direct —

- (a) the person making or causing or permitting the noise to be made; or
- (b) the person apparently at the time in charge of the premises or part of the premises, as the case may be,

to stop or abate the noise.

(2) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any unoccupied land and where he or she considers that such noise constitutes undue noise, direct the person making the noise or causing or permitting the noise to be made to stop or abate the noise.

(3) A direction under subsection (1) or (2) —

- (a) may be given by reference to a period of hours during which, or specific times when, the noise is to be stopped or abated; and
- (b) in any event, shall remain in force for not more than 48 hours.

(4) A person who has been directed under subsection (1) or (2) to stop or abate undue noise and who, other than during the period of 10 minutes immediately after being so directed —

- (a) continues to make the noise or continues to cause or permit the noise to be made; or
- (b) does not abate the noise,

in contravention of the direction is guilty of an offence.

Penalty: 20 penalty units.

Certificate of member of Police Force to be evidence

37. In a prosecution for an offence against section 35 or 36 a certificate by a member of the Police Force stating that a complaint of a kind referred to in those sections had, at a specified time and on a specified date, been made is *prima facie* evidence of the matters stated in the certificate.

Noise abatement orders

38. (1) If a person occupying premises makes a complaint to the Clerk alleging that his or her occupation of those premises is affected by undue noise, the Clerk may issue a summons for the appearance before the Court of the person who is —

- (a) alleged to be making or causing or permitting the noise to be made; or
- (b) the occupier or person apparently in charge of the premises or part of the premises from which the noise is alleged to be emitted.

(2) If the Court is satisfied that an alleged undue noise exists, or that although abated it is likely to recur on the same premises or part of the premises, the Court may, where it finds that such noise is not justified in the circumstances, make an order directing the person summoned under subsection (1) to stop or abate the noise or to confine the making of the noise to within such hours as the Court may fix and the Court may, in making the order, impose such other conditions as it thinks fit.

(3) A person shall not contravene or fail to comply with an order made under subsection (2).

Penalty: 20 penalty units.

(4) If —

- (a) a direction has been given under section 35 or 36; and
- (b) a member is satisfied that another person requires the name and address of the person to whom the direction was given for the purposes of making a complaint under subsection (1) in respect of that person or instituting any civil suit or proceeding in respect of the noise the subject of the direction,

the member may provide the other person with the name and address of the person to whom the direction was given.

(5) If the Court makes an order under subsection (2), the Court may order the defendant to pay to the complainant such costs as it thinks fit.

(6) Where the Court refuses to make an order under subsection (2), the Court shall not award costs against the complainant unless the Court is satisfied that the complaint made was vexatious or unreasonable.

Powers of police

39. (1) For the purposes of giving a direction under section 35 or 36, a member of the Police Force may enter the premises or the part of the premises from which the noise is coming together with such assistance and using such force as the member considers reasonable for the purpose.

(2) A member of the Police Force who enters premises or a part of premises under this section may require a person in the premises or the part to answer a question asked for the purpose of identifying the occupier of the premises or the part or the person responsible for the noise or in charge of the property that is producing the noise.

(3) A person asked a question under subsection (2) must not refuse or fail to answer the question to the best of his or her knowledge or belief.

Penalty: 2 penalty units.

Different noise irrelevant and certain noise *prima facie* undue.

40. For the purposes of a prosecution of an offence against sections 35 and 36 —

- (a) it is immaterial that noise coming from the premises or the part of the premises after a direction has been given is not of the same nature or of the same level as the noise to which the direction given related; and
- (b) any noise that can be heard inside premises more than 20 metres from the premises from which the noise emanates is *prima facie* undue noise.

Idle and disorderly persons

41. (1) Any person who —

- (a) having no visible lawful means of support or insufficient lawful means of support, and having been duly summoned for that purpose or brought before the Court, does not give a good account of his or her means of support to the satisfaction of the Court;
- (b) wanders abroad, or from house to house, or places himself or herself in any public place to beg or gather alms, or causes or procures or encourages any child so to do;
- (c) being found by night armed with any gun, pistol, sword, bludgeon, or any offensive weapon or instrument, being thereunto required does not give a good account of his means of support and assign a valid and satisfactory reason for his or her being so armed;
- (d) has on or about his or her person, without lawful excuse (proof whereof shall lie upon the person charged), any deleterious drug, or any article of disguise;

is an idle and disorderly person within the meaning of this Act, and is guilty of an offence.

Penalty: Imprisonment for 6 months.

(2) If a person is accused of having no visible lawful means of support, or of having insufficient lawful means of support, proof that he or she possesses money or other property shall be no defence unless it is also proved that the money or property was honestly obtained.

(3) If a person is convicted under paragraph (1)(c), any gun, pistol, sword, bludgeon, or other offensive weapon or instrument with which the person was armed contrary to the provisions of this section shall be forfeited to the Administration.

Rogues and vagabonds

- 42. (1)** Any person who —
- (a) being an idle or disorderly person, commits any of the offences mentioned in section 41;
 - (b) solicits, gathers or collects alms, subscriptions or contributions under any false pretence,
 - (c) imposes, or endeavours to impose, upon any charitable institution or private individual, by any false or fraudulent representation, either verbally or in writing, with a view to obtaining money or any other benefit or advantage;
 - (d) has in his or her custody or possession, without lawful excuse (proof whereof shall lie upon the person charged), any picklock, key, crow, jack, bit or other implement of housebreaking;
 - (e) is armed with any gun, pistol, sword, bludgeon or other offensive weapon or instrument with a felonious intent;
 - (f) is found dressed or disguised with an unlawful intent;
 - (g) (i) wilfully exposes to view in any public place; or
(ii) exposes, or causes to be exposed, in any window or other part of any shop or other building situated in any public place
any obscene book, print, picture, drawing or representation;
 - (h) wilfully, openly, lewdly and obscenely exposes his person in any place of public resort or in view thereof;
 - (i) being a suspected person or reputed thief, frequents with intent to commit an offence, any public place or place adjacent thereto;
 - (j) being apprehended as an idle and disorderly person, violently resists any member of the Police Force so apprehending him or her, and is subsequently convicted of the offence for which he or she was so apprehended; or
 - (k) is found, without lawful excuse (proof whereof shall lie upon him or her), in or upon any dwelling, lands, warehouse, stable, garage or outhouse, or in any enclosed yard, garden or area, or in or on board any vessel within the territorial waters of Norfolk Island,

is a rogue and vagabond within the meaning of this Act, and is guilty of an offence.

Penalty: Imprisonment for 3 months.

(2) If a person is convicted under paragraph (1)(d) or (e), any object referred to therein which was in the custody or possession of that person shall be forfeited to the Administration.

Incorrigible rogues

43. Any person who —

- (a) breaks or escapes out of any place of legal confinement before the expiration of the period for which he or she was committed or ordered to be confined;
- (b) commits any offence which subjects him to be dealt with under section 45 as a rogue and vagabond, he or she having been previously convicted thereunder; or
- (c) being apprehended as a rogue and vagabond, violently resists any member of the Police Force so apprehending him or her, and is subsequently convicted of the offence for which he or she has been so apprehended,

is an incorrigible rogue, and is guilty of an offence.

Penalty: Imprisonment for 6 months.

Valueless cheques

44. Any person who obtains any chattel, money or valuable security by passing any cheque which is not paid on presentation shall, notwithstanding that there may have been some funds to the credit of the account on which the cheque was drawn at the time it was passed, is guilty of an offence, unless he or she proves —

- (a) that he had reasonable grounds for believing that the cheque would be paid in full on presentation; and
- (b) that he did not have an intent to defraud.

Penalty: 10 penalty units or imprisonment for 6 months or both.

Fraud other than false pretences

45. A person who obtains or attempts to obtain any chattel, money, valuable security, credit, benefit or advantage or discharges or attempts to discharge any debt or liability by fraud other than false pretences is guilty of an offence.

Penalty: 10 penalty units, or imprisonment for 6 months, or both.

Stealing domestic animals

46. Any person who steals any dog, or any bird or animal ordinarily kept in a state of confinement and not being the subject of larceny, is guilty of an offence.

- Penalty:
- (a) 4 penalty units and
 - (b) a person convicted under this section shall in addition to any penalty under (a) pay to the owner the value of the dog, bird or animal stolen as determined by the Court.

Persons suspected of having stolen goods

47. (1) In this section —

“personal property” includes money in cash or cheque form, or deposited in an ADI account or other account;

“premises” includes a structure, building, vehicle, vessel, aircraft, land or place.

(2) A person who —

(a) has in that person’s custody any personal property;

(b) has in the custody of another person any personal property;

(c) has in or on any premises any personal property; or

(d) gives any personal property to a person who is not lawfully entitled to it,

being personal property which, at any time before the making of a charge for an offence against this section in respect of the personal property, is reasonably suspected of having been stolen or otherwise unlawfully obtained, is guilty of an offence.

Penalty: 20 penalty units or imprisonment for 6 months.

(3) It is a defence to a charge for an offence against subsection (2) if the defendant gives to the Court a satisfactory account —

(a) as to how the defendant obtained the personal property referred to in the charge; and

(b) of the custody of the personal property by the defendant after it was obtained by him or her for each period during which the defendant had custody of the personal property.

Where property improperly taken or stolen is found and not satisfactorily accounted for

48. (1) Whenever any credible witness proves upon oath before a Magistrate that there is reasonable cause to suspect that any such property as mentioned in this section has been taken or stolen, and is to be found in any house or other place, the Magistrate may issue a warrant to search the house or place for the property, and any person in whose possession, or on whose premises, any of the property is found by virtue of any such warrant, or by any member of the Police Force when executing any search warrant, or otherwise acting in the discharge of his or her duty, who does not satisfy the Court that he or she came lawfully by the property, or that the property was on his premises without his or her knowledge or consent, commits an offence.

Penalty: (a) If the property so found consists of the carcass, or the head, skin, hide, fleece, feet or other part of any cattle — 10 penalty units, or imprisonment for 6 months; and

- (b) if the property so found consists of the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, picket, rail, stile or gate, or any part thereof (being of the value of not less than \$2.50), - 5 penalty units, or imprisonment for 3 months; and
- (c) in addition must pay to the party aggrieved the value of the property so found.

(2) In every case to which this section applies, any person to whom any such property as is therein mentioned is offered for sale, or any member of the Police Force, may lawfully seize the property and shall with all convenient speed cause it to be removed to the Court, and in every such case the Court may direct that the property be delivered over to the rightful owner, if known, or, if the rightful owner is not known, that it be sold, and the proceeds thereof paid to the Revenue Fund of the Public Account.

(3) If any person charged with any offence against this section is not convicted thereof, the Court may, at its discretion, compel the attendance before it of any person through whose hands any such property as mentioned in this section, or any part thereof, appears to have passed, and if the person from whom the property was first received, or any person who has had possession thereof, does not satisfy the Court that he or she came lawfully by the property, he or she shall be liable to the appropriate punishment provided by this section.

Malicious injury to property

49. (1) Any person who wilfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, whether public or private, commits an offence.

Penalty: (a) 20 penalty units; or
(b) 6 months imprisonment.

(2) A person convicted under subsection (1) shall also pay to the party aggrieved such further sum of money (not exceeding \$5, 000) as appears to the Court to be a reasonable compensation for the damage, injury or spoil so committed.

- (3) Nothing herein contained shall extend to —
- (a) any act done in the course of a trespass, where the party trespassing acted under a fair and reasonable supposition that he or she had a right to do the act; or
 - (b) any trespass, not being unlawful or malicious, committed in hunting or fishing, or in the pursuit of game.

Destroying property with intent to steal, or unlawfully retaining or disposing of property

- 50. (1)** Any person who —
- (a) steals, or damages with intent to steal, any part of any live or dead fence, or any post, picket, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, or receives it, knowing it to have been stolen or unlawfully come by, commits an offence.

Penalty: (a) 3 penalty units or 1 month imprisonment; and
(b) for any second or subsequent offence – 6 penalty units or 2 months imprisonment;

- (b) steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any growing tree, sapling, shrub or underwood, or any growing fruit or vegetable production or any growing cultivated root or plant, or receives it, knowing it to have been stolen or unlawfully come by, commits an offence.

Penalty: (a) 3 penalty units or 1 month imprisonment; and
(b) for any second or subsequent offence – 6 penalty units or 2 months imprisonment.

- (c) being an artificer, workman, journeyman, apprentice or other person, unlawfully disposes of, or retains in his possession, without the consent of the person by whom he is hired, retained or employed, any goods, wares, work or materials (not exceeding \$1 000 in value) committed to his care or charge, commits an offence

Penalty: (a) 3 penalty units or 1 month imprisonment; and
(b) for any second or subsequent offence – 6 penalty units or 2 months imprisonment.

(2) A person convicted of an offence under subsection (1) shall in addition to any penalty imposed by the Court, pay to the party aggrieved the value of the property stolen or damaged, or compensation, as may be determined by the Court.

(3) Any person to whom any such property as mentioned in this section is offered to be sold, pawned or delivered, who has reasonable cause to suspect that any such offence as mentioned in this section has been committed with respect to that property, may arrest without a warrant, and with all convenient speed carry before the Court, the person offering the property, together with the property, to be dealt with according to law.

(4) In every such case the property shall, by order of the Court, be delivered over to the rightful owner, if known, or, if the rightful owner is not known, it shall be sold, and the proceeds thereof paid to the Revenue Fund of the Public Account.

Penalty on persons selling adulterated or unwholesome articles of food

- 51. (1)** Any person who —

- (a) sells, or offers for sale, as food for human consumption, any grain, flour, meat or vegetable which in whole or in part is spoiled or in any manner adulterated; or
- (b) exhibits for sale any unwholesome or fraudulently prepared provisions, meat or other food of any kind for man or beast, or practises any deceit or fraud in respect of the quality of any such provisions, meat or food,

is guilty of an offence.

Penalty: 4 penalty units or imprisonment for 2 months.

(2) The Court may seize, or cause to be seized any such provisions, meat or food as mentioned in paragraph (1)(b) as to which any such offence as therein mentioned has been committed.

(3) Upon the conviction of any person for an offence against this section, any grain, flour, meat or vegetable, or any provisions, meat or food, with respect to which the offence was committed, shall be forfeited to the Administration, and shall be disposed of in such manner as the Court directs.

Taking or using motor vehicle without consent of owner

52. (1) Any person who takes or in any manner uses any motor vehicle, within the meaning of the *Road Traffic Act 1982*, the property of any other person without the consent of the owner or person in lawful possession thereof is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months.

(2) Nothing in this section affects any other liability, civil or criminal, of any person guilty of an offence against this section.

(3) The provisions of this section do not apply to any member of the Police Force in the execution of his or her duty.

Prohibition of nuisances in thoroughfares

53. (1) Any person who, in any street, road, thoroughfare, or public place —

- (a) turns loose any horse or any cattle without a right of pasturage therefore under the *Pasturage and Enclosure Act 1949*; or
- (b) by negligence or ill-usage in driving cattle causes any mischief to be done by those cattle, or in any way misbehaves himself in the driving, care, or management of those cattle, or, not being hired or employed to drive those cattle, wantonly and unlawfully pelts, hurts, or drives any such cattle; or

- (c)
 - (i) being the driver of any wagon, cart, or dray of any kind not drawn by horses properly driven with reins, rides upon any such wagon, cart, or dray, not having some person on foot to guide the same; or
 - (ii) being the driver of any carriage whatsoever, is at such a distance from such carriage, or in such a situation whilst it is passing along any street, road, thoroughfare, or public place, that he or she cannot guide and control the horses or cattle drawing the same; or
 - (iii) rides upon the shafts of any wagon, cart, dray, or other vehicle whatsoever; or
 - (iv) riding a bicycle or on horseback, or driving or propelling any wagon, cart, dray, or coach, or any other carriage or vehicle whatsoever, on meeting any other person riding a bicycle or on horseback, or driving or propelling any wagon, cart, dray, or coach, or any other carriage or vehicle whatsoever, does not keep his or her bicycle, horse, wagon, cart, dray, coach, carriage, or vehicle on the left or near side of the road; or
 - (v) in any manner prevents any other person from passing him or any vehicle under his or her care, or prevents, hinders or interrupts the free passage of any vehicle or person; or
- (d)
 - (i) causes any cart or vehicle (except standing for hire in any place not forbidden by law), or any truck or barrow, with or without horses, to stand longer than is necessary for loading or unloading or for taking up or setting down passengers; or
 - (ii) by means of any cart or carriage, or any truck or barrow, or any horse or other animal, wilfully interrupts any public crossing, or wilfully causes any obstruction in any thoroughfare; or
- (e) without consent of the owner or occupier, affixes any posting bill or other paper against or upon any building, wall, or fence, or writes upon, soils, defaces, or marks any building, wall, or fence with chalk or paint, or in any other manner whatsoever; or
- (f) turns loose, or suffers any kind of swine or goats belonging to him or under his charge to stray or go about or to be tethered or depastured, in any street, road, thoroughfare, or public place,

is guilty of an offence.

Penalty: 2 penalty units.

(2) It shall be lawful for any member to take into custody, without warrant, any person who commits any such offence as mentioned in this section within view of that member.

Dangerous dogs

54. (1) In this section, a reference to the owner of a dog includes —

- (a) the person for the time being under whose control the dog is;
 - (b) the occupier of premises or a part of premises where the dog is usually kept; and
 - (c) where the owner has not attained the age of 17 years, a parent or guardian of the owner.
- (2) The owner of a dog that —
- (a) attacks a person or animal; or
 - (b) menaces a person or animal,

is guilty of an offence.

Penalty: 50 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) if the owner of the dog proves that —

- (a) a person had, without the owner's permission, enticed the dog to attack or menace the person or animal;
- (b) the animal attacked or menaced was attacked or menaced on premises owned or occupied by the owner; or
- (c) the person attacked or menaced was attacked or menaced on premises owned or occupied by the owner, and the person —
 - (i) was on the premises for an illegal purpose; or
 - (ii) was attacked or menaced other than when proceeding by the shortest practical route from a boundary of the premises to the door of the premises closest to the boundary or from the door to the boundary.

(4) A person shall not entice or induce a dog to act in a manner that would render the owner of the dog liable to prosecution for an offence against subsection (2).

Penalty: 50 penalty units.

(5) Where a court finds a person guilty of an offence against subsection (2), it may —

- (a) order the destruction of the dog in addition to or instead of the penalty specified in that subsection; and/or
- (b) order the person to pay the costs and expenses of and incidental to the impounding of the dog.

(6) Where a member of the Police Force believes, on reasonable grounds, that a dog has or may cause serious injury to a person or animal, the member may seize, impound or destroy the dog and for that purpose may enter onto any land (including land that is not open to or used by the public) with or without the consent of the occupier or owner, or a warrant.

Unlawful depositing of glass, etc, in public places

55. Any person who, without lawful authority (proof whereby shall lie upon the person accused), throws or places or leaves any glass, filth, dirt, rubbish or other matter of a similar nature in or on any public place, is guilty of an offence.

Penalty: 4 penalty units.

Failure to close off dangerous place

56. Any person who leaves any hole, excavation or dangerous formation in or near any public place without fencing or enclosing it or keeping a light burning upon the enclosure from sunset to sunrise, is guilty of an offence.

Penalty: 10 penalty units or imprisonment for 6 months or both.

Wells to be covered over

57. Every person having a well situated on property owned or rented by him or her, who does not cause the well to be securely and permanently covered over or otherwise secured, is guilty of an offence.

Penalty: 0.5 penalty unit for every day that the well remains open or uncovered contrary to the provisions of this section.

Removal of nuisances

58. (1) If any privy, pig sty or any other matter or thing in any place is or becomes a nuisance to any of the inhabitants of that place, a Magistrate, upon compliant on oath thereof made to him or her by any such inhabitant and after due investigation of the complaint, may, by notice in writing, order that every or any such privy, pig sty or other matter or thing, being a nuisance, shall be remedied or removed within 7 days after the notice has been given to the owner or occupier of the premises wherein the nuisance exists, or has been left for the owner or occupier at his or her last or usual place of abode, or on the premises.

(2) Every such owner or occupier who neglects to remedy or remove the nuisance pursuant to the notice, and to the satisfaction of a Magistrate, is guilty of an offence.

Penalty: 5 penalty units.

(3) Upon the conviction of any person under this section, the nuisance in question must be taken down, removed or abated, in accordance with the order of the Court.

Keeping clean yards, etc

59. (1) Any owner or occupier of any premises or place who neglects to keep clean all private avenues, passages, yards and ways within the premises or place, so as by that neglect to cause a nuisance by offensive smell or unsightly collection of objects or otherwise, is guilty of an offence.

Penalty: 3 penalty unit.

(2) Upon the conviction of any person under this section, the nuisance in question must be taken down, removed or abated, in accordance with the order of the Court.

(3) The Court may in addition to such penalty as may be imposed for failure to comply with an order under subsection (2) impose a penalty not exceeding 1 penalty unit per day on a person until the order is complied with.

Damaging public property

60. (1) Any person who willfully damages any public building, wall, parapet, sluice, bridge, road, street, sewer, watercourse or other public property is guilty of an offence

Penalty: 5 penalty units

(2) Any person who damages any public building, wall, parapet, sluice, bridge, road, street, sewer, watercourse or other public property) shall pay the cost of repairing it.

(3) A person convicted under subsection (1) shall in addition to any penalty, pay the cost of repair and may, in the case of damage by painting or defacing, be required to clean the damage to the satisfaction of the Court.

Polluting or obstructing watercourses

61. (1) Any person who casts any filth or rubbish into any watercourse, or obstructs or diverts from its channel any public sewer or watercourse, is guilty of an offence.

Penalty: 3 penalty units.

(2) A person convicted under subsection (1) must in addition to any penalty, pay the cost of removing the filth, rubbish or obstruction, or of restoring the sewer or watercourse to its proper channel.

Leaving dead animals in public place

62. Any person who —

- (a) throws or leaves, or causes to be thrown or left, any dead animal, or any part thereof, upon any public place, or into any creek or other stream which flows through, by or along any such public place;
- (b) leaves, or causes to be left, any dead animal, or any part thereof, upon the bank of any creek or other stream; or
- (c) leaves, or causes to be left, any dead animal, or any part thereof, on or upon any private property abutting upon any public place, to the annoyance of the inhabitants or of persons passing along or resorting to the public place, or of the occupiers of any dwelling house, is guilty of an offence.

Penalty: 3 penalty unit.

No sand, gravel, etc, to be removed from streets without permission

63. Any person who —

- (a) forms, digs or opens any drain or sewer in, or removes, or causes to be removed, any turf, clay, sand, soil, gravel, stone or other material used in the formation of public places from any part of any road or footpath without the written permission of the Chief Executive Officer, or other proper officer; or
- (b) wantonly breaks up or otherwise damages any such road or footpath,

is guilty of an offence.

Penalty: 5 penalty units.

Forcible entry

64. A person who, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, enters, whether or not he is so entitled to enter, land which is in the actual and peaceable possession of another is guilty of an offence.

Penalty: 5 penalty units or 6 months imprisonment.

Forcible detainer

65. A person who, being in actual possession of land without being entitled by law to possession, holds possession of it in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace against a person entitled by law to the possession of the land is guilty of an offence.

Penalty: Imprisonment for 6 months.

Dumping of asbestos or other offensive or dangerous material

66. No person shall remove from a place or dump in a place any asbestos or other dangerous, or toxic thing or substance other than in accordance with a form of approval issued by a public sector employee or a responsible authority.

Penalty: 10 penalty units or imprisonment for 6 months or both.

Tampering with instruments, etc.

67. Any person who —

- (a) with intent to deceive tampers with any instrument or device used for the recording of mileage in a motor vehicle; or
- (b) with intent to deceive installs in substitution for an instrument or device used in a motor vehicle for recording the mileage of the motor vehicle a new instrument or device for recording the mileage of the motor vehicle,

is guilty of an offence

Penalty: 3 penalty units.

False reports to police

68. (1) Any person who falsely and with knowledge of the falsity of his or her statements represents to any member of Police Force that any act has been done or that any circumstances have occurred, which act or

circumstances as so represented are such as reasonably call for investigation by the police, shall be guilty of an offence.

Penalty: 5 penalty units, or imprisonment for 3 months, or both.

(2) In addition to or without imposing a fine on any defendant found guilty under this section, the Court may order that the defendant pay to the complainant a reasonable sum for the expenses of or incidental to any investigation made by any member of the Police Force as a result of the false statement.

(3) Any amounts received by the complainant under this section shall be paid by him or her into the Revenue Fund of the Public Account.

(4) This section shall not be held to restrict the operation of any other enactment or rule of law.

Advertising a reward for the return of stolen property, etc.

69. A person who —

- (a) publicly offers a reward for the return of property that has been stolen, and in the offer makes use of words purporting that no questions will be asked or that the person producing such property will not be seized or molested;
- (b) publicly offers to return to a person who may have brought or advanced money by way of loan on stolen property the money so paid or advanced or any other sum of money or reward for the return of such property; or
- (c) prints or publishes such an offer,

is guilty of an offence.

Penalty: 5 penalty units.

Disobedience to laws of Norfolk Island

70. A person who, without lawful excuse, proof of which is on him or her —

- (a) does an act that he or she is forbidden to do; or
- (b) omits to do an act that he or she is required to do, by a law in force in Norfolk Island, unless a penalty intended to be exclusive of all other punishment is expressly provided by such a law, is guilty of an offence.

Penalty: 3 months Imprisonment.

PART 6 — ANIMAL WELFARE OFFENCES

Definitions for Part 6

71. In this Part —

“animal” means —

- (a) a live member of a vertebrate species, including —
 - (i) an amphibian; and
 - (ii) a bird; and
 - (iii) a fish; and
 - (iv) a mammal (other than a human being); and

- (v) a reptile; or
- (b) a live cephalopod; or
- (c) a live crustacean intended for human consumption.

“animal welfare” means the health, safety and welfare of —

- (a) animals in general; or
- (b) 1 or more animals in particular.

“confine”, in relation to an animal, includes —

- (a) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal; and
- (b) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing freedom of movement of the animal; and
- (c) tether the animal.

Cruelty

72. A person shall not, without reasonable excuse, commit an act of cruelty on an animal.

Penalty: 100 penalty units, imprisonment for 6 months, or both.

Pain

73. (1) A person shall not, without reasonable excuse, deliberately cause an animal unnecessary pain.

Penalty: 20 penalty units, imprisonment for 1 year or both.

(2) A person in charge of an animal shall not, without reasonable excuse —

- (a) fail to provide it with appropriate, and adequate, food, water, shelter or exercise; or
- (b) fail to take reasonable steps (including, where appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal; or
- (c) abandon the animal, unless authorised to do so under a law of Norfolk Island; or
- (d) neglect the animal so as to cause it pain; or
- (e) kill the animal in a manner that causes it unnecessary pain.

Penalty: 20 penalty units, imprisonment for 6 months, or both.

Confined animals

74. (1) A person in charge of a confined animal shall not, without reasonable excuse, fail to provide the animal with adequate exercise.

Penalty: 10 penalty units.

(2) A person shall not, without reasonable excuse, confine an animal in a manner that causes injury, pain, or undue distress to the animal.

Penalty: 10 penalty units, imprisonment for 6 months or both.

Release

75. (1) A person shall not, without reasonable excuse, release, or cause the release of, an animal from custody or control.

Penalty: 20 penalty units, imprisonment for 6 months or both.

(2) A person in charge of an animal shall not, without

reasonable excuse, fail to take adequate precautions to prevent the release of the animal from custody or control.

Penalty: 10 penalty units, imprisonment for 6 months.

(3) Subsections (1) and (2) do not apply in relation to—

- (a) the release of domestic cats in the course of their reasonable management and control; or
- (b) the release of animals in a manner authorised by law.

Administering poison

76. (1) A person must not, without reasonable excuse, administer poison to a domestic or native animal.

Penalty: 50 penalty units, imprisonment for 1 year or both.

(2) A person does not contravene subsection (1) by administering poison to a domestic or native animal if—

- (a) the administration of the poison to the animal is authorised by a law; and
- (b) the administration is performed in a way that does not contravene that law.

Laying poison

77. (1) A person must not lay a poison in any place with the intention of killing or injuring a domestic or native animal.

Penalty: 50 penalty units, imprisonment for 1 year, or both.

(2) A person must not, with reckless indifference to causing the death of, or injury to, a domestic or native animal, lay a poison in any place if the poison results in the death of, or injury to, a domestic or native animal.

Penalty: 25 penalty units, imprisonment for 6 months or both.

(3) A person must not, without reasonable excuse, lay a poison in any place if there is a reasonable likelihood that the poison will kill or injure a domestic or native animal.

Penalty 10 penalty units.

(4) A person does not contravene subsection (1), (2) or (3) by laying a poison if —

- (a) the laying is authorised by a law; and
- (b) the laying is performed in a way that does not contravene that law.

(5) It is a defence to a prosecution for a contravention of subsection (3) if the defendant establishes that the defendant took reasonable steps to avoid death or injury to domestic and native animals.

Carriage of dogs

78. A person must not carry a dog (other than a dog being used to work livestock) in or on a moving vehicle on a road or road related area unless the dog is restrained or enclosed in a way that would prevent the dog from falling or jumping from the vehicle.

Penalty: 5 penalty units.

Spurs

79. (1) A person shall not, knowingly, use spurs with sharpened or fixed rowels on an animal.

Penalty: 50 penalty units, imprisonment for 6 months, or both.

- (2) A person shall not, without reasonable excuse, possess —
- (a) a spur or similar device with sharpened or fixed rowels; or
 - (b) a cockfighting spur cap.

Penalty: 5 penalty units.

(3) Subsection (2) does not apply in relation to the possession of a spur, a cockfighting spur cap or a similar device, kept solely—

- (a) for the purpose of display; or
- (b) as a curio or as part of a collection.

Matches, competitions and baiting

80. (1) A person shall not, without reasonable excuse, promote, take part in, or be present at a match, competition or any other activity in which an animal is released from captivity for the purpose of being —

- (a) killed by the use of a firearm or other weapon; or
- (b) hunted, caught, confined, injured or killed by another animal; or
- (c) used to train or exercise another animal.

Penalty: 50 penalty units, imprisonment for 1 year, or both.

- (2) A person shall not, without reasonable excuse —
- (a) keep, use or assist in the management of premises for the purpose of causing an animal to fight, or for the baiting or maltreating of an animal; or
 - (b) cause, procure or permit an animal in captivity to be injured or killed by any other animal; or
 - (c) keep an animal, or have the custody, care or control of an animal —
 - (i) for use as a lure or kill for the purpose of bleeding greyhounds; or
 - (ii) for any other use in connection with the training and

racing of coursing dogs.

Penalty: 100 penalty units, imprisonment for 1 year, or both.

(3) Subsections (1) and (2) do not apply in relation to the following activities —

- (a) the rehabilitation of native animals for release into the wild in a manner authorised under a law of Norfolk Island;
- (b) the keeping and display of animals whose normal diet includes live food;
- (c) the mustering and working of stock within the meaning of the *Pasturage and Enclosure Act 1949*.

PART 7 — MISCELLANEOUS

Defacing premises

81. (1) A person shall not —

- (a) affix a placard or paper on any private premises; or
- (b) wilfully mark, by means of chalk, paint or any other material, any private premises

unless the person has first obtained the consent—

- (c) if the premises are occupied — of the occupier or person in charge of the premises; or
- (d) if the premises are not occupied — of the owner or person in charge of the premises.

Penalty — 10 penalty units, imprisonment for 6 months or both.

(2) A person shall not, without lawful authority, affix a placard or paper on, or wilfully mark, by means of chalk, paint or any other material, any public street, road, footpath, bus shelter, toilet block or changing shed, or other property of the Administration or the Commonwealth or of an authority or body constituted by or under a law of Norfolk Island, the Commonwealth or another Territory.

Penalty — 10 penalty units, imprisonment for 6 months or both.

(3) A person convicted of an offence under subsection (1) or (2) may in addition to or in substitution for any other penalty be ordered to remove that for which he or she was convicted of having affixed, placed, or made.

Failure to leave dwelling or business premises upon request

82. (1) A person on premises that are a dwelling or business premises whether by invitation or not and who is asked to leave the premises must do so without delay.

(2) A person who is requested to leave premises under subsection (1) and fails to do so commits an offence.

Penalty: 20 penalty units; or
Imprisonment for 1 month

(3) A person who having been asked to leave premises fails to do so and in addition

- (a)** threatens violence; or
- (b)** resists a person seeking his or her removal; or
- (c)** puts any person in the premises in fear of injury to their person or property

commits an offence.

Penalty: 50 penalty units; or
6 months imprisonment

Power to deliver stolen goods, etc, from brokers

83. (1) If any goods are stolen or unlawfully obtained from any person, or being lawfully obtained are unlawfully deposited, pawned, pledged, sold or exchanged, and complaint is made to a Magistrate that the goods are in the possession of any broker, marine store dealer or other dealer in secondhand property, or of any person who has advanced money upon the security of the goods, the Magistrate may —

- (a)** issue a summons or warrant for the appearance of such broker, dealer or person, and for the production of the goods; and
- (b)** order the goods to be delivered up to the owner thereof, either without any payment, or upon payment of such sum, and at such time, as the Magistrate thinks fit.

(2) Every such broker, dealer or person who, being so ordered, refuses or neglects to deliver up the goods, or who disposes of or makes away with them, after notice that the goods were stolen or unlawfully obtained, shall pay to the owner of the goods the full value thereof, to be determined by a Magistrate:

Provided that any such order shall not bar any such broker, dealer or person from recovering possession of any goods from the person into whose possession they come by virtue of the order, by proceedings in the Court commenced within 6 months after the order is made.

Power to dispose of goods stolen or fraudulently obtained

- 84. (1)** If —
- (a) any goods or money which any person is charged with having stolen or fraudulently obtained are in the custody of any member of the Police Force by virtue of any warrant, or in prosecution of any offence with regard to the obtaining thereof; and
 - (b) the person charged with stealing or fraudulently obtaining the goods or money is not found, or has been summarily convicted or discharged, or has been tried and acquitted, or has been tried and found guilty, but the property so in custody has not been included in any indictment upon which he or she has been found guilty,

the Court may make an order for the delivery of the goods or money to the person who appears to be the rightful owner thereof, or, in case the rightful owner thereof cannot be ascertained, may make such order with respect to the goods or money as to the Court seems just.

(2) The order shall not be a bar to the right of any person to sue the person to whom the goods or money is delivered and recover the goods or money from him or her by action, provided the action is commenced within 6 months after the order is made.

Offences punishable on indictment or on summary conviction

85. Notwithstanding anything contained in this Act, where any person has committed an offence which is punishable on summary conviction under this Act and is also punishable on indictment under any other law in force in Norfolk Island, he or she may be prosecuted on indictment under that other law, and, if so prosecuted, shall be liable to the penalty or punishment provided for the offence by that law:

Provided that no person shall be punished twice for the same offence.

Power to award costs

86. The Court which hears and determines any charge or complaint, whether a warrant or summons has been issued in consequence of the charge or complaint or not, may award such costs as to it seem just, to be paid to or by either of the parties to the charge or complaint.

Penalty for compounding information

87. (1) If any person lays any information for any offence alleged to have been committed, by which he or she was not personally aggrieved, and afterwards directly or indirectly receives, without the permission of a Magistrate, any sum of money or other reward for compounding, delaying or withdrawing the information, a Magistrate may issue his or her warrant or summons, as he or she thinks best, for bringing that person before him or her.

(2) If the facts mentioned in subsection (1) are proved by the confession of the person charged, or by the oath of any credible witness, that person is guilty of an offence.

Penalty: 10 penalty units.

On non-payment of penalties, etc, Court may imprison

88. In every case of the adjudication of a pecuniary penalty or an order to make amends under this Act or of the forfeiture of a sum of money payable under a recognisance, and of the non-payment of the pecuniary penalty or making of amends, or money payable under any such recognisance, the Court may commit the offender or person making default in payment to prison for any period not exceeding 6 months, the imprisonment to cease on payment of the sum due or the making of amends and the costs of such proceedings as may have been taken for the recovery thereof.

Compensation for frivolous information

89. In every case where —

- (a) any information or complaint of any offence is laid or made before a Magistrate or the Clerk, and is not further prosecuted; or
- (b) if such information or complaint is further prosecuted, it appears to the Court hearing the information or complaint that there is not sufficient ground for making the charge,

the Court shall have power to award such amends to be made by the informant or complainant, not being more than the sum of \$1,000, to be paid by the informer to the party informed or complained against, for his or her loss of time and expenses in the matter, as to the Court seems just.

Recovery of fines

90. All fines imposed, and all sums of money ordered to be paid under this Act, may be recovered before the Court.

Court not bound to convict where offence trivial

91. The Court shall not be bound to convict if the offence proved is, in its opinion, of so trivial a nature as not to merit punishment.

Proceedings against persons acting under this Act

92. (1) In this section reference to the “plaintiff” includes a complainant or informant and reference to a “defendant” includes an accused.

(2) All proceedings under this Act against any person shall be commenced within 12 months after the act complained of was committed, and not otherwise.

(3) Notice in writing of every such proceeding, and of the cause thereof, shall be given to the defendant 10 days at least before the commencement of the proceeding.

(4) In any such proceeding the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereon.

(5) A plaintiff shall not succeed in any such proceeding if tender of sufficient amends has been made before the proceeding was brought, or if a sufficient sum of money has been paid into Court after the proceeding was brought by or on behalf of the defendant, together with the costs incurred up to that time.

(6) If a verdict is given for the defendant, or the plaintiff becomes non-suited or discontinues any such proceeding after issue joined, or if judgment is given against the plaintiff, the defendant shall recover his or her full costs as between solicitor and client, and have the like remedy therefor as any defendant has by law in other cases.

(7) Notwithstanding that a verdict has been given for the plaintiff in any such proceeding, the plaintiff shall not have costs against the defendant unless the Court certifies its approbation of the proceeding and the verdict obtained thereon.

(8) In the case of an offence whereby a penalty in excess of 6 months imprisonment may be imposed, the prosecution may proceed by indictment before the Supreme Court but if it proceeds summarily before the Court of Petty Sessions that court cannot impose imprisonment in excess of 6 months.

Penalty for offences where no special penalty is appointed

93. Any person who commits an offence against this Act for which no other penalty is provided shall be liable to a penalty not exceeding 5 penalty units, or imprisonment for three months.

Seizure and condemnation of forfeitable goods

94. Any member of the Police Force may, without warrant, seize any articles which are forfeited or which he or she has reasonable ground to believe are forfeited under any law in force in Norfolk Island and take them before the Court to be dealt with in accordance with subsection 42 of the *Interpretation Act 1979* or if Regulations are made in that regard, in accordance with those regulations.

Regulations

95. (1) The Administrator may make Regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) A Regulation made under subsection (1) may provide for a penalty not exceeding 20 penalty units or imprisonment not exceeding 6 months.

SCHEDULE

(Section 3)

Repealed enactments

Enactment	Number and year	Date of commencement
<i>Police Offences Act 1933</i>	2, 1933	6.9.33
<i>Police Offences Act 1957</i>	5, 1957	23.4.57
<i>Police Offences Act 1960</i>	18, 1960	29.9.60
<i>Police Offences (Amendment) Act 1982</i>	9, 1983	25.8.83
<i>Police Offences (Amendment) Act 1986</i>	1, 1987	12.3.87
<i>Police Offences (Amendment) Act 1987</i>	4, 1987	14.5.87
<i>Police Offences (Amendment) Act 1989</i>	17, 1989	26.10.89
<i>Police Offences (Amendment) Act 1993</i>	18, 1993	26.8.93

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