



Public Order (Protection of Persons and Property) Act 1971

Act No. 26 of 1971 as amended

This compilation was prepared on 19 April 2011
taking into account amendments up to Act No. 5 of 2011

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

Part I—Preliminary	1
1 Short title [see Note 1].....	1
2 Commencement [see Note 1].....	1
4 Interpretation	1
5 When assembly is <i>in relation to</i> protected premises or a protected person	4
5A Application of the <i>Criminal Code</i>	4
Part II—Provisions applying in Commonwealth Territories and on Commonwealth premises	6
6 Assemblies involving violence or apprehension of violence	6
7 Causing actual bodily harm or damage to property	7
8 Dispersal of certain assemblies.....	7
9 Unreasonable obstruction	8
10 Weapons, missiles etc.....	9
11 Additional offences on premises in a Territory	10
12 Additional offences on Commonwealth premises	11
13 Evidence	12
Part IIA—Provisions relating to premises of certain federal courts and tribunals	13
13A Interpretation	13
13AA Orders relating to court premises in relation to the Federal Court.....	14
13B Application of Part	15
13C Power of authorised officer to require information.....	15
13D Power of authorised officer to search a person or require a person to deposit personal effects	16
13E Removal from court premises.....	18
13F Person not to carry firearm, explosive substance or offensive weapon on court premises	18
13G Saving.....	18
13H Regulations.....	19
Part III—Provisions relating to diplomatic and consular premises and personnel, designated overseas missions and international organizations	20
14 Relation of Part to international law	20
15 Assemblies involving violence or apprehension of violence	20
16 Causing actual bodily harm or damage to property	21
17 Dispersal of certain assemblies.....	21
18 Obstruction, assault etc.....	23

19	Weapons, missiles etc.....	23
20	Additional offences in relation to protected premises.....	24
21	Evidence.....	25
Part IV—General		27
22	Arrest.....	27
23	Prosecutions.....	27
24	Particulars to be furnished in respect of certain offences.....	28
25	Exclusion of certain other laws.....	28
The Schedule		30
Part I—Imperial Enactments		30
Part II—Other enactments in force in Australia		31
Notes		33

**An Act relating to the Preservation of Public Order
in Certain Territories and in respect of
Commonwealth Premises, the Premises of certain
Federal Courts and Tribunals and the Premises
and Personnel of Diplomatic and Special Missions,
Consular Posts, Designated Overseas Missions and
International Organizations**

Part I—Preliminary

1 Short title [see Note 1]

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

2 Commencement [see Note 1]

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

4 Interpretation

- (1) In this Act, unless the contrary intention appears:

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

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

constable means a member of the Australian Federal Police or of the Police Force of a State or Territory.

Section 4

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

designated overseas mission has the same meaning as in the *Overseas Missions (Privileges and Immunities) Act 1995*.

diplomatic mission means a permanent diplomatic mission accredited to Australia by another country.

Foreign Affairs Department means the Department administered by the Minister administering the *Diplomatic Privileges and Immunities Act 1967*.

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

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

Police Force means the Australian Federal Police or the Police Force of a State or Territory.

premises means any land, building or part of a building.

prescribed staff member, in relation to a designated overseas mission, means a member of the staff (including the head) of the designated overseas mission who is specified in regulations made for the purposes of this definition.

Note: A person may be prescribed by name, by reference to the holding of a specified office or position or by reference to membership of a specified class.

protected person means a person who is:

- (a) a member of the diplomatic staff (including the head) of a diplomatic mission or special mission;
- (b) a member of the staff (including the head) of a consular post who is entrusted with the exercise of consular functions;
- (ba) a prescribed staff member of a designated overseas mission;
- (c) a high officer of an international organization; or

(d) a representative of a member of an international organization at a meeting of, or under the auspices of, the organization; but does not include a person who is an Australian citizen or is permanently resident in Australia.

protected premises means premises, whether in a State or in a Territory:

- (a) occupied for the purposes of:
 - (i) a diplomatic mission;
 - (ii) a special mission; or
 - (iii) a consular post;
- (b) formerly occupied for purposes referred to in paragraph (a), being premises to which Article 45 of the Vienna Convention on Diplomatic Relations or Article 27 of the Vienna Convention on Consular Relations applies;
- (ba) occupied for the purposes of a designated overseas mission;
- (c) occupied by an international organization, or used for the purposes of a meeting of, or under the auspices of, an international organization;
- (d) used as the residence of, or otherwise for the private accommodation of, a protected person; or
- (e) formerly used as the residence of, or otherwise for the private accommodation of, the head of a diplomatic mission, being premises to which Article 45 of the Vienna Convention on Diplomatic Relations applies.

protective service officer has the same meaning as in the *Australian Federal Police Act 1979*.

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

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

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

State includes the Northern Territory.

Territory, except in subsection 25(2), means:

- (a) the Australian Capital Territory; or
- (b) the Jervis Bay Territory; or
- (c) the Territory of Christmas Island; or
- (d) the Territory of Cocos (Keeling) Islands.

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

- (2) References in this Act to a member of the Australian Federal Police shall be read as including references to a special member of the Australian Federal Police.
- (3) The Governor-General may make regulations for the purposes of the definition of *prescribed staff member* in subsection (1).

5 When assembly is *in relation to* protected premises or a protected person

For the purposes of this Act, but without limiting the operation of this Act:

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

5A Application of the *Criminal Code*

- (1) Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) Section 10.5 of the *Criminal Code* applies to an offence against section 13F as if it covered conduct that is justified or excused by a law of the Commonwealth or of a State or Territory.

Part II—Provisions applying in Commonwealth Territories and on Commonwealth premises

6 Assemblies involving violence or apprehension of violence

- (1) Where persons taking part in an assembly that is in a Territory or is wholly or partly on Commonwealth premises conduct themselves, in the Territory or on the Commonwealth premises, in a way that gives rise to a reasonable apprehension that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property, each of those persons is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.
- (1A) For the purposes of an offence against subsection (1), absolute liability applies to such of the following physical elements of circumstance as are relevant to the offence:
 - (a) that the assembly is in a Territory or is wholly or partly on Commonwealth premises;
 - (b) that the persons conduct themselves in the Territory or on the Commonwealth premises.
- (2) A person who, in a Territory or on Commonwealth premises, while taking part in an assembly, intentionally does an act of physical violence to another person, or an act that results in damage to property, is guilty of an offence, punishable on conviction by imprisonment for not more than 12 months.
- (3) For the purposes of an offence against subsection (2), absolute liability applies to the physical element of circumstance of the offence, that the person is in a Territory or on Commonwealth premises.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

7 Causing actual bodily harm or damage to property

- (1) A person who, in a Territory or on Commonwealth premises, while taking part in an assembly, intentionally causes:
 - (a) actual bodily harm to another person; or
 - (b) damage, to an extent exceeding \$1,500, to property;is guilty of an indictable offence, punishable on conviction by imprisonment, in the case of causing actual bodily harm, for a term not exceeding five years or, in the case of causing damage to property, for a term not exceeding three years.
- (2) For the purposes of an offence against subsection (1), absolute liability applies to such of the following physical elements of circumstance as are relevant to the offence:
 - (a) that the person is in a Territory or on Commonwealth premises;
 - (b) that the extent of the damage to property exceeds \$1,500.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

8 Dispersal of certain assemblies

- (1) Where there is an assembly consisting of not less than twelve persons in a Territory and:
 - (a) persons taking part in the assembly have conducted themselves in a way that has caused a member of a Police Force of the rank of Sergeant or above reasonably to apprehend that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property; or
 - (b) the assembly is being carried on in a manner involving such unlawful violence or damage;a member of a Police Force of the rank of Sergeant or above may give a direction under this section.
- (2) A direction under this section shall be given orally and in such a manner as to be likely to be audible to the persons constituting the assembly, or to as many of them as practicable, and shall be in accordance with the following form or to the like effect:

In pursuance of the Public Order (Protection of Persons and Property) Act of the Commonwealth of Australia, I [*name of police*

Section 9

officer], being a Sergeant [*or higher rank, as the case may be*] in the [*name of Police Force*], direct all persons taking part in this assembly to disperse forthwith. Persons who fail to disperse may render themselves liable to the penalties provided by the Act.

(3) Where:

- (a) a direction is given under this section; and
- (b) the assembly, to the number of not less than twelve persons, continues after the expiration of fifteen minutes from the time of the direction;

each of those persons who has failed to comply with the direction is guilty of an offence, punishable on conviction by imprisonment for not more than 6 months.

(3A) Strict liability applies to paragraphs (3)(a) and (b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(3B) Subsection (3) does not apply to a person who has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3B) (see subsection 13.3(3) of the *Criminal Code*).

(4) For the purpose of:

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

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

9 Unreasonable obstruction

- (1) A person who, in a Territory or on Commonwealth premises, while taking part in an assembly, engages in unreasonable obstruction is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.

- (2) For the purposes of an offence against subsection (1), absolute liability applies to the physical element of circumstance of the offence, that the person is in a Territory or on Commonwealth premises.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

10 Weapons, missiles etc.

- (1) A person who, in a Territory or on Commonwealth premises, while taking part in an assembly:
- (a) has in his or her possession a weapon, a missile or a destructive, noxious or repulsive object or substance;
 - (b) discharges or uses a weapon or throws a missile;
 - (c) throws, releases or deposits a destructive, noxious or repulsive object or substance; or
 - (d) throws, releases, deposits or deals with an object or substance, being reckless as to whether doing so will cause injury to persons or damage to property;
- is guilty of an offence.

- (1A) For the purposes of an offence against subsection (1), absolute liability applies to the physical element of circumstance of the offence, that the person is in a Territory or on Commonwealth premises.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

- (1B) Paragraph (1)(a) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1B) (see subsection 13.3(3) of the *Criminal Code*).

- (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.

Section 11

11 Additional offences on premises in a Territory

- (1) A person who trespasses on premises in a Territory is guilty of an offence, punishable on conviction by a fine of not more than 10 penalty units.
- (2) A person who:
- (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of, or on premises in a Territory, or otherwise in relation to the use of premises in a Territory;
 - (b) while trespassing on premises in a Territory, behaves in an offensive or disorderly manner; or
 - (c) being in or on premises in a Territory, refuses or neglects to leave those premises on being directed to do so by the occupier or a person acting with the authority of the occupier;
- is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.
- (2A) For the purposes of an offence against subsection (1) or (2), absolute liability applies to the physical element of circumstance of the offence, that the premises are in a Territory.
- Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.
- (2B) Subsection (1) and paragraph (2)(c) do not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (2B) (see subsection 13.3(3) of the *Criminal Code*).
- (3) Notwithstanding section 23, the consent of the Director of Public Prosecutions, or of a person, or of a person included in a class of persons, authorized by the Director of Public Prosecutions for the purposes of subsection (2) of that section, is not required for the institution of proceedings for the prosecution of an offence against this section.
- (3A) This section is not intended to exclude or limit the concurrent operation of any law of the Australian Capital Territory.
- (4) In this section, *premises* does not include Commonwealth premises.

12 Additional offences on Commonwealth premises

- (1) A person who trespasses on Commonwealth premises is guilty of an offence, punishable on conviction by a fine of not more than 10 penalty units.
- (2) A person who:
 - (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of, or on Commonwealth premises, or otherwise in relation to the use of Commonwealth premises;
 - (b) being in or on Commonwealth premises, behaves in an offensive or disorderly manner; or
 - (c) being in or on Commonwealth premises, refuses or neglects to leave those premises on being directed to do so by a constable, by a protective service officer, or by a person authorized in writing by a Minister or the public authority under the Commonwealth occupying the premises to give directions for the purposes of this section;is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.
- (3) For the purposes of an offence against subsection (1) or (2), absolute liability applies to the physical element of circumstance of the offence, that the premises are Commonwealth premises.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.
- (4) For the purposes of an offence against paragraph (2)(c), strict liability applies to the physical element of circumstance of the offence, that the direction had been given by:
 - (a) a constable; or
 - (b) a protective service officer; or
 - (c) a person authorised in writing by a Minister or the public authority under the Commonwealth occupying the premises to give directions for the purposes of this section.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (5) Subsection (1) and paragraph (2)(c) do not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

Section 13

13 Evidence

- (1) In proceedings arising out of this Part:
 - (a) a certificate in writing given by an authorized person certifying as to any matter relevant to establishing that particular premises are, or were at a particular time, Commonwealth premises is evidence of the matter so certified; and
 - (b) a writing purporting to be such a certificate shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.
- (2) In this section, ***authorized person*** means a person in respect of whom there is in force for the time being a delegation of any power under section 139 of the *Lands Acquisition Act 1989*.

Part IIA—Provisions relating to premises of certain federal courts and tribunals

13A Interpretation

In this Part, unless the contrary intention appears:

authorised officer, in relation to a court, means:

- (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 means:

- (a) in relation to any court, including the Federal Court—any premises occupied or used (whether permanently or temporarily or under a lease or otherwise) in connection with the sittings, or any other operations, of the court; and
- (b) in relation to the Federal Court—premises in respect of which a court premises order (within the meaning of section 13AA) is in effect.

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

Section 13AA

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.

13AA Orders relating to court premises in relation to the Federal Court

- (1) An authorised court official may make a written order (a *court premises order*) specifying particular premises for the purposes of paragraph (b) of the definition of *court premises*.
 - (2) An authorised court official may make a court premises order in respect of particular premises only if the authorised court official is satisfied that the premises are likely to be occupied or used (whether permanently or temporarily or under a lease or otherwise) in connection with a sitting, proceeding or any other operation, of the Federal Court.
 - (3) A court premises order:
 - (a) must describe the premises to which it relates; and
 - (b) has effect:
 - (i) for the period specified in the order (unless it is revoked before the end of that period); or
 - (ii) if no period is so specified, until it is revoked.
- Note: Subsection 33(3) of the *Acts Interpretation Act 1901* deals with revocation.
- (4) If an authorised court official makes a court premises order, the authorised court official must give notice of the order to any person likely to be directly affected by the order.
 - (5) An authorised court official may give notice of a court premises order as required by subsection (4):
 - (a) by doing both of the following:
 - (i) ensuring that, before the premises to which the order relates are occupied or used as mentioned in

- subsection (2), a copy of the order is posted in a prominent place in the vicinity of the premises;
- (ii) ensuring that, if the premises are occupied or used for the purposes of a sitting or proceeding, an announcement is made at the beginning of, or during, the sitting or proceeding describing the order and the effect of the order; and
- (b) if regulations of a kind mentioned in subsection (6) are in force in relation to the giving of such notice—by complying with the requirements prescribed by the regulations.
- (6) The regulations may make provision for one or more of the following in relation to the giving of notice as required by subsection (4):
- (a) the form of the notice;
- (b) the manner of giving the notice;
- (c) the content of the notice.
- (7) A court premises order is not a legislative instrument.
- (8) In this section:
- authorised court official* means:
- (a) the Registrar of the Federal Court; or
- (b) a Federal Court officer authorised in writing by the Registrar of the Federal Court for the purposes of this section.

Federal Court means the Federal Court of Australia.

Federal Court officer means an officer of the Federal Court within the meaning of subsection 18N(1) of the *Federal Court of Australia Act 1976*.

13B Application of Part

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

13C Power of authorised officer to require information

- (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

Section 13D

security to do so, the officer may require a person who is on the court premises to tell the officer:

- (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:
- (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.

- (3) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

13D Power of authorised officer to search a person or require a person to deposit personal effects

- (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 to comply with the requirement.

Penalty: 20 penalty units.

- (2A) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (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:
- (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.

Section 13E

13E Removal from court premises

- (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.
- (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.

13F Person not to carry firearm, explosive substance or offensive weapon on court premises

A person must not, 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.

13G Saving

- (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.

13H Regulations

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.

Part III—Provisions relating to diplomatic and consular premises and personnel, designated overseas missions and international organizations

14 Relation of Part to international law

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

15 Assemblies involving violence or apprehension of violence

- (1) Where persons taking part in an assembly that is in relation to protected premises or a protected person conduct themselves in a way that gives rise to a reasonable apprehension that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property, each of those persons is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.
- (1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance of the offence, that the way in which the persons conduct themselves gives rise to a reasonable apprehension that the assembly will be carried on in a manner involving unlawful physical violence to persons or unlawful damage to property.

Note: For *strict liability*, see section 6.2 of the *Criminal Code*.

- (2) A person who, while taking part in an assembly that is in relation to protected premises or a protected person, intentionally does an act of physical violence to another person, or an act that results in

damage to property, is guilty of an offence, punishable on conviction by imprisonment for not more than 12 months.

- (3) For the purposes of an offence against subsection (1) or (2), absolute liability applies to the physical element of circumstance of the offence, that the assembly is in relation to protected premises or a protected person.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

16 Causing actual bodily harm or damage to property

- (1) A person who, while taking part in an assembly that is in relation to protected premises or to a protected person, intentionally causes:
- (a) actual bodily harm to another person; or
 - (b) damage, to an extent exceeding \$1,500, to property;
- is guilty of an indictable offence, punishable on conviction by imprisonment, in the case of causing actual bodily harm, for a term not exceeding five years or, in the case of causing damage to property, for a term not exceeding three years.
- (2) For the purposes of an offence against paragraph 16(1)(b), absolute liability applies to the physical element of circumstance, that the extent of the damage to property exceeds \$1,500.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

17 Dispersal of certain assemblies

- (1) Where an assembly consisting of not less than twelve persons is taking place in relation to protected premises or to a protected person and:
- (a) persons taking part in the assembly have conducted themselves in a way that has caused a member of a Police Force of the rank of Sergeant or above reasonably to apprehend that the assembly will be carried on in a manner involving:
 - (i) unlawful physical violence to persons or unlawful damage to property; or
 - (ii) offences against section 18 or 20; or

Section 17

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

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

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

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

- (3) Where:

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

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

each of those persons who has failed to comply with the direction is guilty of an offence, punishable on conviction by imprisonment for not more than 6 months.

- (3A) Strict liability applies to paragraphs (3)(a) and (b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3B) Subsection (3) does not apply to a person who has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3B) (see subsection 13.3(3) of the *Criminal Code*).

- (4) For the purpose of:

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

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

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

18 Obstruction, assault etc.

- (1) A person who:
- (a) assaults a protected person;
 - (b) harasses a protected person or otherwise unreasonably interferes with the free and safe discharge of the duties of a protected person;
 - (c) behaves in an offensive, threatening or insulting manner towards a protected person; or
 - (d) unreasonably obstructs a protected person;
- is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.
- (2) For the purposes of an offence against paragraph (1)(a), (b), (c) or (d), absolute liability applies to such of the following physical elements of circumstance as are relevant to the offence:
- (a) that the person mentioned in the paragraph is a protected person;
 - (b) that interference with the discharge of the duties of such a person is interference with the free and safe discharge of those duties.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

19 Weapons, missiles etc.

- (1) A person who, while taking part in an assembly that is in relation to protected premises or to a protected person:
- (a) has in his or her possession a weapon, a missile or a destructive, noxious or repulsive object or substance;

Section 20

- (b) discharges or uses a weapon or throws a missile;
 - (c) throws, releases or deposits a destructive, noxious or repulsive object or substance; or
 - (d) throws, releases, deposits or deals with an object or substance, being reckless as to whether doing so will cause injury to persons or damage to property;
- is guilty of an offence.
- (1A) Paragraph (1)(a) does not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).
- (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.

20 Additional offences in relation to protected premises

- (1) A person who trespasses on protected premises is guilty of an offence, punishable on conviction by a fine of not more than 10 penalty units.
- (2) A person who:
- (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of or on protected premises, or otherwise in relation to the use of protected premises;
 - (b) while trespassing on protected premises, behaves in an offensive or disorderly manner; or
 - (c) being in or on protected premises, refuses or neglects to leave those premises on being directed to do so by a constable, by a protective service officer, by a protected person residing or performing duties on the premises, or by a person acting in accordance with authority conferred on him or her by such a protected person;
- is guilty of an offence, punishable on conviction by a fine of not more than 20 penalty units.
- (3) Subsection (1) and paragraph (2)(c) do not apply if the person has a reasonable excuse.
-

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) For the purposes of an offence against subsection (1) or (2), absolute liability applies to the physical element of circumstance of the offence, that the relevant premises are protected premises.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

- (5) For the purposes of an offence against paragraph (2)(c), strict liability applies to the physical element of circumstance of the offence, that the direction had been given by:

- (a) a constable; or
- (b) a protective service officer; or
- (c) a protected person residing or performing duties on the premises; or
- (d) a person acting in accordance with authority conferred on him or her by such a protected person.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

21 Evidence

- (1) In proceedings arising out of this Part, evidence that persons taking part in an assembly were at a place in the vicinity of protected premises, or were at a place at which, or in the vicinity of which, a protected person was present, is evidence that those persons were at that place by reason of the fact that it was in the vicinity of the protected premises, or by reason of the fact that the protected person was present at or in the vicinity of that place, as the case may be.
- (2) In proceedings arising out of this Part:
- (a) a certificate in writing given by the Secretary of the Foreign Affairs Department, or by an officer of that Department authorized in writing by the Secretary to give such certificates, certifying as to any matter relevant to establishing that:
 - (i) particular premises are, or were at a particular time, protected premises; or
 - (ii) a particular person is, or was at a particular time, a protected person;is evidence of the matter so certified; and

Part III Provisions relating to diplomatic and consular premises and personnel,
designated overseas missions and international organizations

Section 21

- (b) a writing purporting to be such a certificate shall, unless the contrary is proved, be taken to be such a certificate and to have been duly given.

Part IV—General

22 Arrest

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

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

23 Prosecutions

- (1) Offences against this Act, other than an offence against subsection 7(1) or subsection 16(1), are punishable on summary conviction.
- (2) Proceedings for:
 - (a) the commitment of a person for trial on indictment for an offence against this Act; or
 - (b) the summary prosecution of an offence against this Act;shall be instituted only with the consent in writing of the Director of Public Prosecutions, or of a person, or of a person included in a class of persons, authorized by the Director of Public Prosecutions, by writing, to give such consents.
- (3) Notwithstanding that a consent has not been given in relation to an offence in accordance with subsection (2):
 - (a) a person may be charged with an offence against this Act;
 - (b) a warrant for the arrest of a person for such an offence may be issued;
 - (c) a person may be arrested for such an offence; and
 - (d) a person charged with such an offence may be remanded in custody or on bail;but no further step in proceedings of a kind referred to in that subsection shall be taken in relation to the offence until such a consent has been obtained.

- (4) Nothing in subsection (2) prevents the discharge of the accused if proceedings are not continued within a reasonable time.

24 Particulars to be furnished in respect of certain offences

- (1) Where a person charged with an offence against this Act punishable on summary conviction has requested the informant to furnish to that person further particulars of the conduct the subject of the charge, the court shall not proceed with the hearing of the charge until reasonable particulars of that conduct have been furnished to the person charged, and may accordingly adjourn the proceedings from time to time.
- (2) If reasonable particulars of the conduct the subject of the charge are not furnished within a reasonable time, the court may dismiss the charge.
- (3) Where, at the hearing of a charge for an offence to which this section applies, evidence is given for the prosecution of conduct that would constitute such an offence but that conduct is different from the conduct of which particulars have been given to the person charged upon a request under this section, the court may, on the application of the person charged and if it is of opinion that that person was misled by those particulars, adjourn the hearing upon such terms as it thinks fit.

25 Exclusion of certain other laws

- (1) After the commencement of this Act, the common law with respect to the offences of taking part in an unlawful assembly, a rout or a riot:
- (a) does not have effect in a Territory; and
 - (b) does not have effect in a place that is a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970* (including a place that becomes such a place after the commencement of this Act), whether by virtue of that Act or otherwise.
- (2) An enactment specified in the Schedule to this Act, to the extent that it was, immediately before the commencement of this Act, in force in a Territory or, whether by virtue of the *Commonwealth Places (Application of Laws) Act 1970* or otherwise, in a place that is a Commonwealth place within the meaning of that Act, is

repealed, and none of those enactments is, by virtue of that Act or otherwise, in force in a place that becomes a Commonwealth place, within the meaning of that Act, after that commencement.

- (2A) In subsection (2), ***Territory*** means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.
- (3) It is the intention of this Act that the provisions of this Act that apply in relation to assemblies in a State that are:
- (a) on Commonwealth premises that are not a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*; or
 - (b) in relation to protected premises or to a protected person;
- shall so apply to the exclusion of the common law with respect to the offences of taking part in an unlawful assembly, a rout or a riot and to the exclusion of the enactments specified in the Schedule to this Act.
- (4) Except as provided by this section, nothing in this Act is intended to exclude the operation of a law of a State or Territory, whether made before or after the commencement of this Act, to the extent that that law is capable of operating concurrently with the express provisions of this Act.
- (5) A reference in the Schedule to a particular enactment shall be read as including a reference to that enactment as amended at any time and to any enactment in substitution for that enactment.

The Schedule

Section 25

Part I—Imperial Enactments

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

Part II—Other enactments in force in Australia

New South Wales—

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

Victoria—

Section 206 of the Crimes Act, 1958.

Unlawful Assemblies and Processions Act 1958.

Queensland—

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

South Australia—

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

Western Australia—

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

Tasmania—

Sections 74, 75 and 77 of the Criminal Code.

Northern Territory—

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

Sections 64, 65, 66, 67 and 68 of the Criminal Code Act 1983.

Australian Capital Territory and Jervis Bay Territory—

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

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

Table of Acts**Notes to the *Public Order (Protection of Persons and Property) Act 1971*****Note 1**

The *Public Order (Protection of Persons and Property) Act 1971* as shown in this compilation comprises Act No. 26, 1971 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 6 April 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Public Order (Protection of Persons and Property) Act 1971</i>	26, 1971	13 May 1971	13 May 1971	
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	S. 9(1)
<i>Australian Federal Police (Consequential Amendments) Act 1979</i>	155, 1979	28 Nov 1979	19 Oct 1979 (<i>see</i> s. 2 and <i>Gazette</i> 1979, No.S206)	—
<i>Australian Federal Police (Consequential Amendments) Act 1980</i>	70, 1980	28 May 1980	28 May 1980	—
<i>Director of Public Prosecutions (Consequential Amendments) Act 1983</i>	114, 1983	14 Dec 1983	Part XII (ss. 25–27): 5 Mar 1984 (<i>see Gazette</i> 1984, No. S55) (a)	S. 27(2)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1984</i>	165, 1984	25 Oct 1984	S. 3: 22 Nov 1984 (b)	S. 6(1)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i>	193, 1985	16 Dec 1985	S. 3: Royal Assent (c)	S. 16
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1986</i>	168, 1986	18 Dec 1986	S. 3: Royal Assent (d)	S. 5(1)
<i>Statute Law (Miscellaneous Provisions) Act 1987</i>	141, 1987	18 Dec 1987	S. 3: Royal Assent (e)	S. 5(1)
<i>Lands Acquisition (Repeal and Consequential Provisions) Act 1989</i>	21, 1989	20 Apr 1989	9 June 1989 (<i>see</i> s. 2 and <i>Gazette</i> 1989, No.S185)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Territories Law Reform Act 1992</i>	104, 1992	30 June 1992	S. 24: 1 July 1992 (f)	—
<i>Crimes Legislation Amendment Act 1992</i>	164, 1992	11 Dec 1992	Part 1 (ss. 1, 2) and Parts 3–11 (ss. 18–53): 8 Jan 1993 Remainder: 1 Feb 1993 (see <i>Gazette</i> 1993, No. GN1)	—
<i>Overseas Missions (Privileges and Immunities) (Consequential Amendments) Act 1995</i>	58, 1995	28 June 1995	28 June 1995	—
<i>Public Order (Protection of Persons and Property) Amendment Act 1995</i>	116, 1995	17 Oct 1995	17 Apr 1996	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 5 (item 125): Royal Assent (g)	—
<i>Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001</i>	24, 2001	6 Apr 2001	S. 4(1), (2) and Schedule 42: (h)	S. 4(1) and (2) [see Table A]
<i>Law and Justice Legislation Amendment Act 2004</i>	62, 2004	26 May 2004	Schedule 1 (item 54): 27 May 2004	—
<i>Australian Federal Police and Other Legislation Amendment Act 2004</i>	64, 2004	22 June 2004	Schedule 2 (item 13): 1 July 2004	—
<i>Federal Justice System Amendment (Efficiency Measures) Act (No. 1) 2009</i>	122, 2009	7 Dec 2009	Schedule 4: Royal Assent	—
<i>Statute Law Revision Act 2011</i>	5, 2011	22 Mar 2011	Schedule 6 (items 88, 89) and Schedule 7 (item 115): 19 Apr 2011	—

Act Notes

- (a) The *Public Order (Protection of Persons and Property) Act 1971* was amended by Part XII (sections 25–27) only of the *Director of Public Prosecutions (Consequential Amendments) Act 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, on the day on which the *Director of Public Prosecutions Act 1983* comes into operation.
- (b) The *Public Order (Protection of Persons and Property) Act 1971* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *Public Order (Protection of Persons and Property) Act 1971* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (d) The *Public Order (Protection of Persons and Property) Act 1971* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (e) The *Public Order (Protection of Persons and Property) Act 1971* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (f) The *Public Order (Protection of Persons and Property) Act 1971* was amended by section 24 only of the *Territories Law Reform Act 1992*, section 2(3) of which provides as follows:
- (3) The remaining provisions of this Act commence on 1 July 1992.
- (g) The *Public Order (Protection of Persons and Property) Act 1971* was amended by Schedule 5 (item 125) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (h) The *Public Order (Protection of Persons and Property) Act 1971* was amended by Schedule 42 only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:
- (1) Subject to this section, this Act commences at the later of the following times:
 - (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
- Item 15 commenced on 24 May 2001.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title	am. No. 216, 1973; Nos. 58 and 116, 1995
Part I	
S. 3.....	rep. No. 216, 1973
S. 4.....	am. No. 155, 1979; No. 70, 1980; No. 193, 1985; No. 168, 1986; No. 141, 1987; No. 104, 1992; Nos. 58 and 116, 1995; No. 64, 2004; No. 5, 2011
S. 5A	ad. No. 24, 2001
Part II	
Ss. 6, 7	am. No. 116, 1995; No. 24, 2001
S. 8.....	am. No. 116, 1995; No. 43, 1996; No. 24, 2001
Ss. 9, 10.....	am. No. 116, 1995; No. 24, 2001
S. 11.....	am. No. 114, 1983; No. 165, 1984; No. 164, 1992; No. 116, 1995; No. 24, 2001
S. 12.....	am. No. 141, 1987; No. 116, 1995; No. 24, 2001
S. 13.....	am. No. 21, 1989
Part IIA	
Part IIA	ad. No. 116, 1995
S. 13A	ad. No. 116, 1995 am. No. 62, 2004; No. 122, 2009
S. 13AA	ad. No. 122, 2009
S. 13B	ad. No. 116, 1995
Ss. 13C, 13D.....	ad. No. 116, 1995 am. No. 24, 2001
S. 13E	ad. No. 116, 1995
S. 13F.....	ad. No. 116, 1995 am. No. 24, 2001
Ss. 13G, 13H.....	ad. No. 116, 1995
Part III	
Heading to Part III	am. No. 58, 1995
S. 14.....	am. No. 58, 1995
Ss. 15–19.....	am. No. 116, 1995; No. 24, 2001
S. 20.....	am. No. 141, 1987; No. 116, 1995; No. 24, 2001
S. 21.....	am. No. 5, 2011
Part IV	
S. 23.....	am. No. 114, 1983; No. 165, 1984; No. 116, 1995; No. 24, 2001
S. 25.....	am. No. 168, 1986
The Schedule	
The Schedule.....	am. No. 168, 1986

Table A

Table A

Application, saving or transitional provisions

*Law and Justice Legislation Amendment (Application of Criminal Code)
Act 2001 (No. 24, 2001)*

4 Application of amendments

- (1) Subject to subsection (3), each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.