

## POLICE OFFENCES AMENDMENT BILL

### EXPLANATORY NOTE

THE primary object of the Bill is to implement certain recommendations of the Statutes Revision Committee made in its report in 1974 (Cf. (1974) 4 Appendix to Journals of HR, paper I.5A), in relation to those offences commonly known as “vagrancy” offences.

*Clause 1* relates to the short title.

*Clause 2* repeals s. 49 which deems certain persons to be “idle and disorderly” and inserts two new sections. The new s. 49 retains the offences of an occupier allowing his/her residence to be used as a place of habitual resort for persons convicted of offences of dishonesty and of such persons using that residence as a place of resort or such persons regularly associating with others similarly convicted. In line with the Committee’s recommendation, a conviction under the section will not be entered unless the evidence shows that the defendant had ignored at least three prior separate warnings and the Court is satisfied that the defendant, by that conduct, was likely to commit an unrelated offence. The new s. 49A retains the offence of begging, but removes the penalty of imprisonment for this offence.

*Clause 3* repeals s. 52 which dealt with a variety of offences, most of which are either unnecessary or are covered in other acts. This clause substitutes a new section to cover the offence of “frequenting” which would now be based on a person’s conduct rather than his/her reputation and provides that the defendant’s criminal record (if any) for the past 5 years may be given in evidence unless he/she is charged with another offence arising from the same circumstances.

*Clause 4* repeals ss. 52A and 53 but retains the substantive offence relating to “peeping toms”. “Night” now has the same meaning as in the Crimes Act 1961.

*Clause 5* repeals s. 54 which relates to being found on property without lawful excuse and inserts a new section somewhat narrower in scope to the extent that a conviction under this section will not be entered unless the Court is satisfied that the defendant remained after being told by a member of the Police to leave the property in question.

*Clause 6* repeals sections in the principal Act which the Committee, for a variety of reasons, believed could safely be repealed, namely:

S. 51 which relates to persons armed by night or wearing disguises—this is already covered in a number of other statutes.

Ss. 57, 58, and 59 which relate respectively to the searching of lodging houses, the seizing of property, and the searching of offenders and the sale of property for their maintenance in prison—the Committee agreed that these provisions were obsolete.

S. 60 which relates to the apprehension of certain offenders under the Act—this section partially duplicates s. 315 of the Crimes Act 1961.

S. 81 which relates to the standard required to prove intent to commit a crime under the principal Act—the Committee recommended repeal of this section as a consequence of the changes recommended to s. 52.

*Mr Caygill*

## POLICE OFFENCES AMENDMENT

### ANALYSIS

Title	3. Preparation for an offence
1. Short Title	4. Peeping into window of dwelling at night
2. Principal Act amended	5. Being found on property without lawful excuse
49. Consorting with criminals	6. Repeals
49A. Begging	

### A BILL INTITULED

#### **An Act to amend the Police Offences Act 1927**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,  
5 as follows.

1. **Short Title**—This Act may be cited as the Police Offences Amendment Act 1979 and shall be read together with and deemed part of the Police Offences Act 1927 (hereinafter referred to as the principal Act).

10 2. **Principal Act amended**—The principal Act is hereby amended:

(a) By repealing section 49 and substituting the following section:

15 “49. **Consorting with criminals**—(1) Everyone commits an offence and shall be liable on conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 3 months who:

20 (a) Being the occupier of residential premises, without lawful authority or reasonable excuse, knowingly permits persons convicted of offences of dishonesty to use those premises as a place of habitual resort;  
or

(b) Having been previously convicted of an offence of dishonesty, without lawful authority or reasonable excuse:

- (i) habitually visits such premises; or
- (ii) habitually consorts with persons similarly convicted. 5

(2) No-one shall be convicted of an offence against this section unless he had been warned by a constable on at least three separate occasions to desist from the conduct in question and the Court considers that in all the circumstances that conduct was calculated to result in the commission of an offence other than an offence against this section. 10

(3) In any prosecution for an offence against this section, evidence shall be produced to the Court of the warnings given and of the explanation (if any) given by the defendant on the occasion of each warning.”: 15

(b) By inserting after section 49 (as inserted by this section) the following section:

“49A. **Begging**—Everyone commits an offence and shall be liable on conviction to a fine not exceeding \$200 who, in any public place, begs or solicits money, or causes or encourages any child so to do.”. 20

**3. Preparation for an offence**—The principal Act is hereby further amended by repealing section 52 and substituting the following section: 25

“52. (1) Everyone commits an offence and shall be liable on conviction to a fine not exceeding \$300 or to imprisonment for a term not exceeding 6 months who is found in a public place acting in such a manner as to cause another person to believe, on reasonable and probable grounds, that those actions are preparatory to the commission of an offence. 30

(2) Where a person is charged with an offence against this section, proof of any offence for which he has been convicted within 5 years of the date on which he is charged under this section may be given in evidence, notwithstanding any rule of evidence to the contrary: 35

Provided that this subsection shall not apply where the person is charged concurrently with a further offence arising from the same facts.”. 40

**4. Peeping into window of dwelling at night**—The principal Act is hereby further amended by repealing section 52A and section 53 and substituting the following section:

5 “53. (1) Everyone commits an offence and shall be liable on conviction to a fine not exceeding \$400 or to imprisonment for a term not exceeding 3 months who is found by night without lawful excuse (the proof of which shall be on him):

10 (a) Peeping or peering into a window of any dwelling-house; or

(b) On any land lurking or loitering near any dwelling-house situated on that land.

15 (2) For the purposes of this section, “night” means the interval between 9 o’clock at night and 6 o’clock in the following morning.”.

**5. Being found on property without lawful excuse**—The principal Act is hereby further amended by repealing section 54 and substituting the following section:

20 “54. (1) Every one commits an offence and shall be liable on conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 3 months who, without lawful excuse (the proof of which shall be on him), is found at any time in or on any building, or in any enclosed yard, garden or area, or in or on board any ship, launch, dredge, yacht,

25 boat, or other vessel.

(2) Where a person is charged under this section, it shall not be necessary to show that he had committed, or had an intention to commit, any other offence, but if it appears to the Court that in all the circumstances the person charged

30 did not have the intention of committing any other offence and was a trespasser only, it shall not convict him under this section unless he failed to leave on being requested by a constable to do so.”

**6. Repeals**—Sections 50, 51, 57, 58, 59, 60, and 81 of the principal Act are hereby repealed.

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