

Version No. 042
Vagrancy Act 1966

Act No. 7393/1966

Version incorporating amendments as at 22 November 2000

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An Act to re-enact with Amendments the Law relating to
Vagrancy and Kindred Offences and for Purposes connected
therewith.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

1. *Short title and commencement*

- (1) This Act may be cited as the **Vagrancy Act 1966**.
- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

2. *Repeal*

- (1) Part III of the **Police Offences Act 1958** and section 45 of the **Children's Court Act 1958** are hereby repealed.
- (2) Except as in this Act expressly or by necessary implication provided—
 - (a) all persons things and circumstances appointed or created by or under the repealed provisions or existing or continuing under the repealed provisions immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they

respectively would have had if the said provisions had not been repealed; and

- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any order information warrant commitment liability limitation saving or right made laid issued accrued incurred or acquired or existing or continuing by or under the said provisions before the commencement of this Act.

- (3) Any reference in any other Act to any of the provisions of Part III of the **Police Offences Act 1958** shall be deemed to be a reference to the corresponding provisions of this Act.

* * * * *

No. 6218 s. 45.
S. 3
repealed by
No. 9902
s. 2(1)(Sch.
item 265).

4. *Definitions*

No. 6337
ss 3, 29.

In this Act unless inconsistent with the context or subject-matter—

"**court**" means the Magistrates' Court;

S. 4 def. of
"court" or
"court of petty
sessions"
amended as
"court" or
"magistrates'
court" by
Nos 7876
s. 2(3), 9902
s. 2(1)(Sch.
item 266(a)),
substituted as
"Court"
by No.
57/1989
s. 3(Sch.
item 207.1).

S. 4 def. of
"public place"
amended by
No. 9902
s. 2(1)(Sch.
item 266(b)),
substituted by
No. 97/1987
s. 181(16),
amended by
No. 74/2000
s. 3(Sch. 1
item 136.1).

"public place" includes and applies to—

- (a) any public highway road street bridge footway footpath court alley passage or thoroughfare notwithstanding that it may be formed on private property;
- (b) any park garden reserve or other place of public recreation or resort;
- (c) any railway station platform or carriage;
- (d) any wharf pier or jetty;
- (e) any passenger ship or boat plying for hire;
- (f) any public vehicle plying for hire;
- (g) any church or chapel open to the public or any other building where divine service is being publicly held;
- (h) any State school or the land or premises used in connexion therewith;
- (i) any public hall theatre or room while members of the public are in attendance at, or are assembling for or departing from, any public entertainment or meeting therein;
- (j) any market;
- (k) any auction room or mart or place while a sale by auction is there proceeding;
- (l) any licensed premises or authorised premises within the meaning of the **Liquor Control Reform Act 1998**;
- (m) any race-course cricket ground football ground or other such place while members of the public are present or

are permitted to have access thereto whether with or without payment for admission;

- (n) any place of public resort;
- (o) any open place to which the public whether upon or without payment for admittance have or are permitted to have access; and
- (p) any public place within the meaning of the words "public place" whether by virtue of this Act or otherwise.

Vagrancy

* * * * *

S. 5 amended by No. 7876 s. 2(3), repealed by No. 9047 s. 3(1).

6. *Consorting and like offences*

No. 6337 s. 69.

(1) Any person who—

- (a) is the occupier of a house or place that is frequented by reputed thieves;
- (b) is found in a house or place in company with reputed thieves who, on being thereto required by the court, does not give to the satisfaction of the court a good account of his being in such house or place upon some lawful occasion;
- (c) habitually consorts with reputed thieves unless such person, on being thereto required by the court, gives to the satisfaction of the court a good account of his so consorting;

S. 6(1)(a) amended by No. 9047 s. 3(2)(a).

S. 6(1)(b) amended by No. 9047 s. 3(2)(b)(i)(ii).

S. 6(1)(c) amended by Nos 9047 s. 3(2)(c)(i)(ii), 124/1986 s. 77(a).

s. 7

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(d) begs or gathers alms or causes or procures or encourages a child to beg or gather alms;

S. 6(1)(e)
repealed by
No. 24/1990
s. 13(5).

* * * * *

S. 6(1)(f)
amended by
No. 10002
s. 8(4).

(f) has on or about his person without lawful excuse (the proof of which excuse shall be on such person) any article of disguise—

shall be guilty of an offence.

Penalty: For a first offence—imprisonment for one year; For a second or subsequent offence against this section (whether under the same paragraph or not)—imprisonment for two years.

(2) Proceedings against any person under paragraph (c) of the last preceding sub-section shall not be taken except by a member of the police force.

No. 6337 s. 72.

7. *Soliciting alms, cheating etc.*

(1) Any person who—

- (a) solicits gathers or collects alms subscriptions or contributions under a false pretence;
- (b) imposes or endeavours to impose upon any person or charitable institution by a false or fraudulent representation either verbally or in writing with a view to obtaining money or any other benefit or advantage;
- (c) wilfully and obscenely exposes his person in a public place or in the view thereof;
- (d) in or near a public place or within the view or hearing of any person being or passing therein or thereon or in or near any house or premises licensed for the sale of liquors plays or bets or solicits or encourages any other person to play or bet—

-
- (i) at or with an instrument of gaming at any game or pretended game of chance;
 - (ii) at or on a game or trick of sleight of hand;
 - (iii) at or on a game or trick played with an instrument which in the opinion of the court is constructed or kept as a means of cheating;
- (e) being a known or reputed cheat loiters in or near a public place or in or near a house or premises licensed for the sale of liquors and has in his possession an instrument of gaming or an instrument which in the opinion of the court is constructed or kept as a means of cheating, unless such person accounts for his having such instrument in his possession to the satisfaction of the court;
- (f) being a suspected person or a known or reputed thief or cheat loiters in or about or frequents—
- (i) any river canal navigable stream dock or basin or a quay wharf or warehouse near or adjoining thereto or a street highway or avenue leading thereto;
 - (ii) a public place; or
 - (iii) a place adjacent to a street or highway—

S. 7(1)(f)
amended by
No. 9576
s. 11(1).

with intent to commit an indictable offence;

- (g) has in his custody or possession without lawful excuse (the proof of which excuse shall be on such person) any picklock-key crow jack bit or other implement of housebreaking;

S. 7(1)(i) amended by No. 92/1990 s. 128(Sch. 1 item 32).

- (h) is found disguised or has his face blackened with an unlawful intent;
- (i) is found without lawful excuse (the proof of which excuse shall be on such person) in or upon or within the precincts of a building or structure or in a garden or enclosure or in or on board a ship or other vessel in any port harbor or place within Victoria or in a mine within the meaning of the **Mineral Resources Development Act 1990**;
- (j) fraudulently manufactures or aids in the manufacture of any spurious or mixed metal or substance or fraudulently sells or offers for sale as unmanufactured gold or as gold in its natural state any metal or mixed or adulterated metal or other substance whether partly composed of gold or not—

shall be guilty of an offence.

Penalty: For a first offence—imprisonment for two years; For a second or subsequent offence against this section (whether under the same paragraph or not)—imprisonment for three years.

S. 7(2) amended by No. 9576 s. 11(1).

- (2) In proving intent to commit an indictable offence for the purposes of paragraph (f) of the last preceding sub-section it shall not be necessary to show that the person charged was guilty of any particular act or acts tending to show his intent, and he may be convicted if from the circumstances of the case and from his known character as proved to the court before which he is charged it appears to such court that his intent was to commit an indictable offence.

No. 6337 ss 72(1)(k), 73. S. 8 amended by No. 40/1988 s. 23.

8. Offences relating to firearms etc.

Any person who—

- (a) is armed, with criminal intent, with—
- (i) a firearm or an imitation firearm within the meaning of section 29(3) of the **Crimes Act 1958**; or
 - (ii) a prescribed weapon or a regulated weapon within the meaning of section 3 of the **Control of Weapons Act 1990**;
- (b) escapes or attempts to escape from a lock-up watch-house or like place wherein he is lawfully detained or from any person in whose legal custody he is or by whom he is lawfully detained—

S. 8(a)
amended by
Nos 9576
s. 11(1),
57/1989
s. 3(Sch. item
207.2),
substituted by
No. 24/1990
s. 17.

shall be guilty of an offence.

Penalty: 50 penalty units or imprisonment for 5 years.

9. Evidence of bad character

In any proceedings under any of the foregoing provisions of this Act except paragraph (c) of subsection (1) of section 6 the informant may—

- (a) give or produce evidence in support of the information to prove that the person charged is a known or reputed thief or cheat or was found in company with reputed thieves or persons having no visible lawful means of support; or
- (b) give or produce evidence to rebut any evidence (including evidence as to general character) given by or on behalf of the person charged.

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<p>Heading preceding s. 10 repealed by No. 74/2000 s. 3(Sch. 1 item 136.2).</p>	*	*	*	*	*
<p>S. 10 amended by Nos 7876 s. 2(3), 9509 s. 12(a), 10094 s. 9(a)(b), 45/1987 s. 205(Sch. item 149), repealed by No. 102/1994 s. 98.</p>	*	*	*	*	*
<p>S. 11 amended by Nos 10094 s. 10, 45/1987 s. 205(Sch. item 149), repealed by No. 102/1994 s. 98.</p>	*	*	*	*	*
<p>S. 12 amended by Nos 9509 s. 12(b), 9902 s. 2(1)(Sch. item 267), 9945 s. 3(1)(Sch. 1 item 104), 10094 s. 11(1)(a)(b)(2) , 45/1987 s. 205(Sch. item 149), repealed by No. 102/1994 s. 98A</p>	*	*	*	*	*
<p>inserted by No. 9509 s. 12(c), repealed by No. 102/1994 s. 98.</p>	*	*	*	*	*

Fortune Telling, etc.

13. *Fortune telling and pretending to exercise witchcraft etc.*

No. 6337 s. 82.
S. 13
amended by
No. 9554
s. 2(2)(Sch. 2
item 353).

Any person who pretends or professes to tell fortunes or uses any subtle craft means or device by palmistry or otherwise to defraud or impose on any other person or pretends to exercise or use any kind of witchcraft sorcery enchantment or conjuration or pretends from his skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattels stolen or lost may be found shall be guilty of an offence.

Penalty: 5 penalty units.

Miscellaneous

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S. 14
repealed by
No. 8247
s. 5.

15. *Information*

No. 6337
s. 190.

(1) Unless otherwise expressly provided any member of the police force or any member of the staff of a council concerned may file a charge for an offence against this Act.

S. 15(1)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 124.1),
57/1989
s. 3(Sch. item
207.3).

(2) No fee shall be payable on the issue of any summons to answer to a charge for an offence against this Act.

S. 15(2)
amended by
No. 57/1989
s. 3(Sch. item
207.4).

No. 6337
s. 191.
S. 16
amended by
No. 57/1989
s. 3(Sch. item
207.5(a)-(c)).

16. *Neglect to prosecute*

If any person who has filed a charge in respect of an alleged offence against this Act does not appear at the hearing or declines or neglects to proceed upon or prosecute the charge the court may authorize some other person to proceed upon or prosecute the charge or may authorize any other person to take proceedings.

No. 6337
s. 192.
S. 17
amended by
No. 8179
s. 4.

17. *Accomplice*

No member of the police force or person if such member or person is acting under instructions given in writing in relation to a particular case by a member of the police force not below the rank of senior sergeant shall be deemed to be an offender or accomplice in the commission of an offence against this Act although such member or person might, but for this section, have been deemed to be such an offender or accomplice.

No. 6337
s. 195.
S. 18
amended by
Nos 7876
s. 2(3),
57/1989
s. 3(Sch. item
207.6(a)(b)).
No. 6337
s. 204.
S. 19
amended by
Nos 7876
s. 2(3),
57/1989
s. 3(Sch. item
207.7(a)-(c)).

18. *Procedure*

Unless otherwise expressly provided all charges for or in respect of an offence against this Act shall be heard and determined by the Magistrates' Court.

19. *Offences of a serious nature not to be dealt with under this Act*

If the court is of opinion that the offence charged does not properly come within the meaning and intention of this Act but that an offence of a more serious or heinous kind has been committed the court may refuse to entertain or to further entertain the charge and may proceed as if the more serious or more heinous offence had been alleged in the charge before the court whether the person charged has or has not pleaded thereto.

No. 6337 s. 83.

20. *Forfeiture of offensive weapons etc.*

- (1) When any person is convicted of an offence against any of the provisions of this Act any firearm sword dirk dagger bludgeon or other offensive weapon or instrument and any instrument of gaming or of cheating picklock-key crow jack bit or other implement of housebreaking and any metal or substance or spurious mixed or adulterated metal or substance such as is referred to in paragraph (j) of sub-section (1) of section 7 found in his possession or control when arrested may by order of the court be forfeited to Her Majesty.
- (2) All property forfeited to Her Majesty under this Act shall by order of the court be sold, or in its discretion destroyed, and the proceeds of any such sale shall be paid to the Consolidated Fund.
- (3) This section shall be read and construed as in aid of, and not in derogation of, the provisions of any other Act relating to firearms or any other offensive weapons or things.

S. 20(2)
amended by
No. 9902
s. 2(1)(Sch.
item 268).

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S. 21
repealed by
No. 9554
s. 2(1)(Sch. 1
item 17).

22. Entry of member of police force

In the execution of this Act any member of the police force is authorized to enter and be and remain upon or in any public place notwithstanding that such place be upon private property and no such entry shall in any way be deemed a trespass.

23. Construction of references

Unless the context otherwise requires any reference in any other Act to "an idle and disorderly person" or to "a rogue and vagabond"

or to "an incorrigible rogue" or to a person convicted of an offence against Part III of the **Police Offences Act 1958** or any corresponding previous enactment shall be deemed and taken to refer to and mean persons convicted pursuant to the provisions of sections 6, 7 and 8 respectively of this Act.

No. 6337
ss 163, 178.

24. *Tender of amends*

No plaintiff shall recover in any action for any irregularity trespass or other wrongful proceeding made or committed in the execution of or under the authority of this Act if tender of sufficient amends is made to the plaintiff before such action is commenced; and in case no tender is made the defendant in any such action may, by leave of the court in which the action is pending and at any time before issue is joined in the action, pay into court such sum of money as he thinks fit and thereupon the action shall proceed as an action in which the defendant is allowed to pay money into court.

NOTES

1. General Information

The **Vagrancy Act 1966** was assented to on 10 May 1966 and came into operation on 21 December 1966: Government Gazette 21 December 1966 page 4265.

2. Table of Amendments

This Version incorporates amendments made to the **Vagrancy Act 1966** by Acts and subordinate instruments.

Justices (Amendment) Act 1969, No. 7876/1969

Assent Date: 25.11.69
Commencement Date: 1.4.70 (except for ss 3, 5–7(k)(m)–(o)) which came into operation on 1.7.70: Government Gazette 25.2.70 p. 462
Current State: All of Act in operation

Police Regulation (Amendment) (No. 2) Act 1971, No. 8179/1971

Assent Date: 23.11.71
Commencement Date: 15.12.71: Government Gazette 15.12.71 p. 3845
Current State: All of Act in operation

Crimes (Powers of Arrest) Act 1972, No. 8247/1972

Assent Date: 6.4.72
Commencement Date: 1.7.72: Government Gazette 28.6.72 p. 2360
Current State: All of Act in operation

Social Welfare (Homeless Persons) Act 1977, No. 9047/1977

Assent Date: 22.11.77
Commencement Date: 22.11.77: Government Gazette 23.11.77 p. 3571
Current State: All of Act in operation

Crimes (Sexual Offences) Act 1980, No. 9509/1980

Assent Date: 23.12.80
Commencement Date: 1.3.81: Government Gazette 4.2.81 p. 338
Current State: All of Act in operation

Penalties and Sentences Act 1981, No. 9554/1981

Assent Date: 19.5.81
Commencement Date: S. 2(1)(Sch. 1 item 17), s. 2(2)(Sch. 2 item 353) on 1.9.81: Government Gazette 26.8.81 p. 2799
Current State: This information relates only to the provisions amending the **Vagrancy Act 1966**

Crimes (Classification of Offences) Act 1981, No. 9576/1981

Assent Date: 26.5.81
Commencement Date: 1.9.81: Government Gazette 26.8.81 p. 2799
Current State: All of Act in operation

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Statute Law Revision Act 1983, No. 9902/1983

Assent Date: 15.6.83
Commencement Date: 15.6.83: subject to s. 2(2)
Current State: All of Act in operation

Penalties and Sentences (Amendment) Act 1983, No. 9945/1983

Assent Date: 20.9.83
Commencement Date: S. 3(1)(Sch. 1 item 104) on 20.12.83: Government Gazette 14.12.83 p. 4035
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

Drugs Poisons and Controlled Substances (Amendment) Act 1983, No. 10002/1983

Assent Date: 13.12.83
Commencement Date: 18.12.83: Government Gazette 14.12.83 p. 3954
Current State: All of Act in operation

Planning (Brothels) Act 1984, No. 10094/1984

Assent Date: 22.5.84
Commencement Date: Ss 9–11 on 2.7.84: Government Gazette 30.5.84 p. 1674
Current State: This information relates only to the provisions amending the **Vagrancy Act 1966**

Prostitution Regulation Act 1986, No. 124/1986

Assent Date: 23.12.86
Commencement Date: S. 77(a) on 16.8.87: Government Gazette 12.8.87 p. 2175; s. 77(b) not proclaimed and later repealed by No. 102/1994 s. 91
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

Planning and Environment Act 1987, No. 45/1987

Assent Date: 27.5.87
Commencement Date: S. 205(Sch. item 149(a)(b)) on 16.2.88: Government Gazette 10.2.88 p. 218
Current State: This information relates only to the provisions amending the **Vagrancy Act 1966**

Liquor Control Act 1987, No. 97/1987

Assent Date: 1.12.87
Commencement Date: S. 181(16) on 3.5.88: Government Gazette 27.4.88 p. 1044
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

Firearms (Amendment) Act 1988, No. 40/1988

Assent Date: 24.5.88
Commencement Date: S. 23 on 25.5.88: Government Gazette 25.5.88 p. 1458
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

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Local Government (Consequential Provisions) Act 1989, No. 12/1989

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 item 124.1) on 1.11.89: Government Gazette 1.11.89 p. 2798
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Control of Weapons Act 1990, No. 24/1990

Assent Date: 5.6.90
Commencement Date: 31.8.90: Government Gazette 29.8.90 p. 2616
Current State: All of Act in operation

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 item 32) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

Prostitution Control Act 1994, No. 102/1994

Assent Date: 13.12.94
Commencement Date: Ss 1, 2 on 13.12.94: s. 2(1); rest of Act on 13.6.95: s. 2(3)
Current State: All of Act in operation

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 136) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision amending the **Vagrancy Act 1966**

3. Explanatory Details

No entries at date of publication.