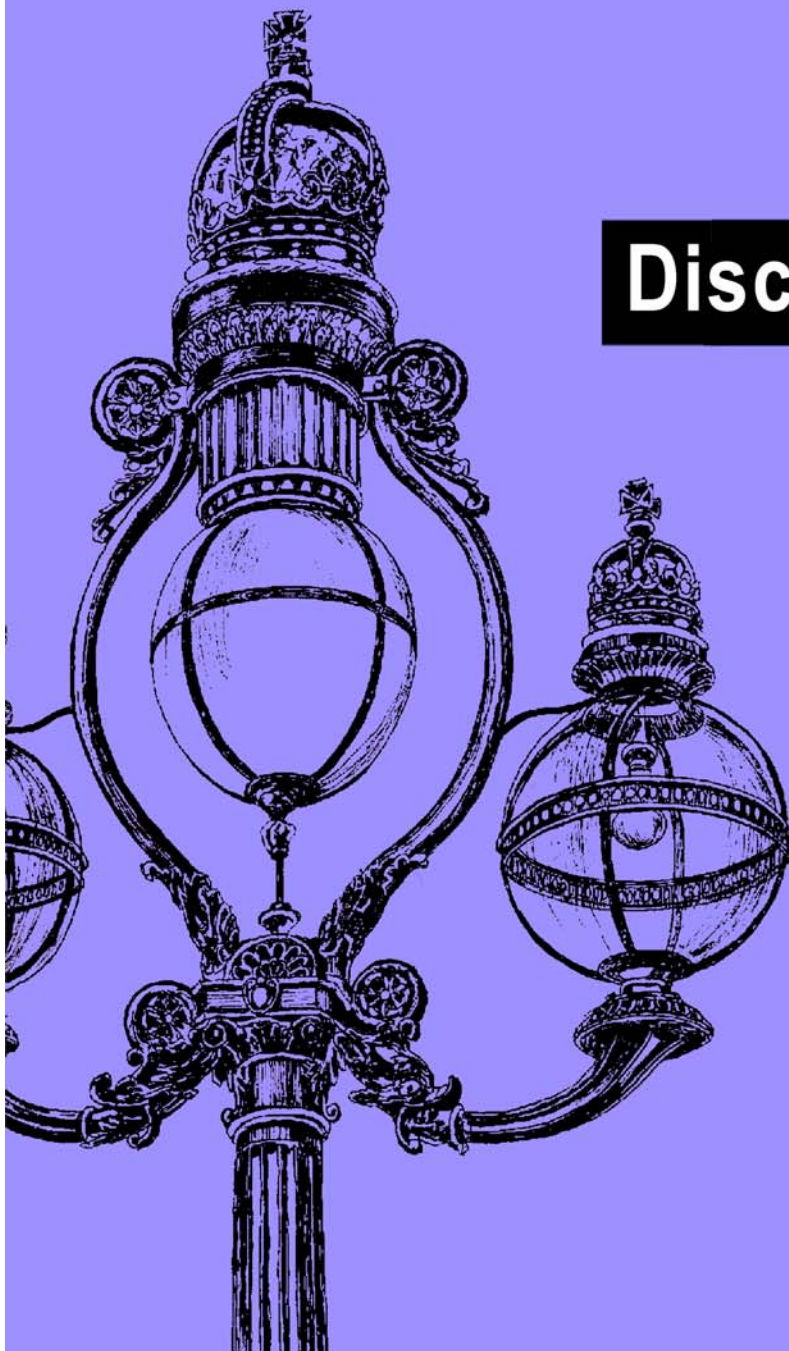




**Scrutiny of Acts and  
Regulations Committee**

# Review of the Vagrancy Act 1966

**Discussion Paper**



April 2002



# SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

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## **The Inquiry Timetable**

The deadline for submissions is **5.00 pm on Friday 24 May 2002**. The Committee is planning to hold public hearings subsequent to this. It is anticipated that the Committee will table its Report during the Autumn 2002 session of Parliament.

## **Making a Submission**

The Committee invites people and organisations to make written submissions on the terms of reference set out in this Discussion Paper. Those preparing submissions should feel free to include any other issues they consider relevant, whether or not they are mentioned in this Discussion Paper. The Committee appreciates receiving any comments on one, some or all of its recommendations contained in the Table of Recommendations.

Anyone can make a submission or comment. It is not necessary to have legal or other special qualifications. This Inquiry raises issues of importance to all Victorians and it would be helpful to the Committee in its deliberations to receive the views of the community at large.

You may wish to provide the Committee with a copy of your submission electronically.

You can do this by sending an email message containing the submission as an attachment to <simon.dinsberg@parliament.vic.gov.au>. The Committee may require a separate signed authentication of any submissions sent electronically. Hardcopy submissions should be sent to the address shown below.

There is no set format for a submission. Your contribution can take the form of a letter, a short briefing paper or a longer research document.

All submissions are treated as public documents unless confidentiality is requested.

## **Further Information**

Further information about the inquiry may be obtained from SARC's website at **[www.parliament.vic.gov.au/sarc](http://www.parliament.vic.gov.au/sarc)**.

## **Address for Submissions**

Enquiries	David Blumenthal, Consultant, 9651 4008
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Submissions to	Redundant Legislation Subcommittee Scrutiny of Acts and Regulations Committee Level 8, 35 Spring Street MELBOURNE VIC 3000

# **INQUIRY INTO THE VAGRANCY ACT 1966, DISCUSSION PAPER**

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## **Inquiry**

The Scrutiny of Acts and Regulations Committee (“SARC”) has been requested to review the *Vagrancy Act 1966* (Vic) (“the Act”). This inquiry was referred to SARC by the Legislative Assembly on 14 March 2000. The purpose of the review is to consider the content and relevance of the Act, and whether it contains provisions that are unclear, redundant or ambiguous that require repeal, amendment or revision. SARC is required to report to Parliament by the Autumn Session of Parliament 2002.

## **Aim of the Discussion Paper**

The aim of this Discussion Paper is to provide interested parties with the opportunity to consider the recommendations on a clause-by-clause basis. This approach is necessary when considering the broad scope of the Act and the contentious issues raised by certain provisions contained in the Act.

During the process of preparing this Discussion Paper, the Committee has had discussions with a variety of individuals, organisations and public bodies. The Committee analysed and evaluated the recommendations and comments made by the Law Reform Commission of Victoria in *Discussion Paper No.26*, which was tabled in Parliament in 1992. The Committee also made extensive use of a number of primary and secondary legal resources while conducting background research.

## **Background of the Act**

### **(a) Vagrants and the Law of Vagrancy**

It was once said that ‘vagrants’ are persons that “wake on the night and sleep on the day, and haunt customable taverns and ale-houses, and routs about; and no man wot from whence they come, ne wither they go.”<sup>1</sup>

Traditionally, ‘vagrants’ were divided into three classes: idle and disorderly persons, rogues and vagabonds, and incorrigible rogues.<sup>2</sup> These terms operated as part of the criminal law in Victoria for many years, and were only abandoned with the enactment of the *Vagrancy Act* in 1966.<sup>3</sup>

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<sup>1</sup> 4 *Blac. Com.* 170.

<sup>2</sup> See A J Goran and R P Vine-Hall, *Bignold’s Police Offences and Vagrancy Acts*, ninth edition (1962), p. 245.

<sup>3</sup> See *Vagrancy Act 1966* (Vic), s.23.

Taking into account the historical background in relation to vagrants and the law of vagrancy, the *Vagrancy Act 1966* was enacted to regulate the same type of behaviour described as ‘vagrancy’, through creating substantive offences out of acts of vagrancy.<sup>4</sup>

### **(b) Vagrancy Act**

The *Vagrancy Act 1966* (Vic) commenced operation on 21 December 1966. The *Vagrancy Act 1966* repealed Part III of the *Police Offences Act 1958* (Vic), which until then had regulated acts of vagrancy in Victoria.

While the *Vagrancy Act 1966* no longer referred to idle and disorderly persons, rogues and vagabonds and incorrigible rogues, it did- and continues to- regulate and punish persons considered to be ‘vagrants’ (through, for example, prohibiting begging under s.6(1)(d) and witchcraft under section 13) and conduct amounting to acts of vagrancy (such as habitually consorting with reputed thieves under s.6(1)(c), and loitering with intent to commit an indictable offence, under s.7(1)(f)). In this respect, the *Vagrancy Act 1966* is similar to general criminal law statutes in other states in Australia, as well as the English *Vagrant Act* which was enacted as long ago as 1824.<sup>5</sup>

The actual need for separate ‘general’ legislation covering acts of vagrancy, such as the *Vagrancy Act 1966*, is questionable, considering that many of the offences covered by such legislation could sit comfortably in other ‘general’ criminal law statutes. In Victoria, for example, there is the *Summary Offences Act 1966* which deals with a variety of minor offences, and the *Crimes Act 1958* which covers a broad range of more serious ‘indictable’ offences. Indeed, in both the *Summary Offences Act 1966* and the *Crimes Act 1958*, there already exist a number of offences which are very similar to, and could arguably act as a sufficient substitute for, offences under the *Vagrancy Act 1966*.<sup>6</sup>

Moreover, contemporary legislation regulating the law of vagrancy is based on antiquated English legislation dating back hundreds of years, formulated when societal attitudes and the nature of criminal law was very different.<sup>7</sup>

### **(c) The Committee’s Approach**

When analysing the *Vagrancy Act 1966* and reaching the preliminary recommendations contained in this Discussion Paper, the Committee was guided by the following principles.

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4 See H Storey et al, *Paul’s Summary and Traffic Offences*, fifth edition (loose-leaf service), p. 905.

5 See Great Britain Home Office, *Working Party on Vagrancy and Street Offences Working Paper*, London, 1974, pp 100-101; also J S Adler, ‘A historical analysis of the law of vagrancy’ (1989) 27(2) *Criminology* 209.

6 Consider, for example, s.479C of the *Crimes Act 1958* (Vic), creating the offence of escape or attempted escape, which is virtually identical to s.8(b) of the *Vagrancy Act 1966* (Vic), that also regulates escape and attempted escape.

7 See generally C J Ribton-Turner, *A History of Vagrants and Vagrancy and Beggars and Begging* (1972). Consider, for example, the offence of using witchcraft under s.13 of the *Vagrancy Act 1966* (Vic). According to research undertaken by the Committee, there has not been a conviction for witchcraft since 1712 in England.

### **i. Where applicable, subject-specific legislation should operate**

A number of offences presently contained in the *Vagrancy Act 1966* are now also regulated by other legislation, some of which is subject-specific. For example, the *Control of Weapons Act 1990* (Vic) and the *Firearms Act 1996* (Vic) are subject-specific legislation dealing with firearms and other weapons. Both already provide for offences relating to the use of firearms and other weapons,<sup>8</sup> and are a more appropriate location for such offences than s.8(a) of the *Vagrancy Act 1966* which also establishes offences relating to firearms.

In dealing with situations where a provision in the *Vagrancy Act* duplicates, or significantly overlaps with, a provision existing in subject-specific legislation, the Committee recommends that the *Vagrancy Act* provision should be considered redundant, and repealed.

### **ii. One ‘general’ statute should deal with minor offences in Victoria**

In its Final Report on its inquiry into the *Summary Offences Act 1966*, the Committee recommended that the *Summary Offences Act 1966* should be retained, though in a substantially reduced form.<sup>9</sup> The Committee recognises the importance and usefulness of the *Summary Offences Act 1966* as a ‘general’ criminal law statute dealing with minor offences.<sup>10</sup>

The Committee continues its support for this position. Furthermore, it is the view of the Committee that, to ensure the efficient and effective operation of the criminal justice system in Victoria, there should be only one ‘general’ criminal law statute dealing with minor offences. Due to this, the Committee considers that, not only should the *Vagrancy Act 1966* be repealed in its entirety, but that any useful provisions in the *Vagrancy Act 1966* which are not otherwise covered by subject specific legislation, or by generic, broader provisions in the *Crimes Act 1958*, should be alternatively housed in the *Summary Offences Act 1966* and remain minor offences. For example, the Committee recommends in this Discussion Paper that the offence of wilful and obscene exposure, which is presently covered under s.7(1)(c) of the *Vagrancy Act 1966* and for which the fourth largest number of charges under the *Vagrancy Act 1966* were made in 1999/2000,<sup>11</sup> should be retained and moved to the *Summary Offences Act 1966*.

### **iii. Certain offences may no longer be desirable in a modern society**

Many of the offences created by the *Vagrancy Act 1966* are based on anachronistic notions derived from archaic English law of what constitutes acts of vagrancy. The table in Appendix 1 reveals that a number of provisions in the Act were not invoked

<sup>8</sup> See *Control of Weapons Act 1990* (Vic), s5; *Firearms Act 1996* (Vic), ss. 5 and 6.

<sup>9</sup> See generally Victorian Scrutiny of Acts of Regulations Committee, *Final Report: Inquiry into the Summary Offences Act 1966*, November 2001.

<sup>10</sup> To this extent, the Committee departs somewhat from the opinion expressed by the Victorian Law Reform Commission in its 1992 Discussion Paper that the *Summary Offences Act 1966* should be reduced to near “vanishing point”: see Law Reform Commission of Victoria, Discussion Paper No. 26: *Inquiry into Summary Offences Act 1966 and Vagrancy Act 1966*, 1992, p. 9.

<sup>11</sup> See Appendix 1 to this Discussion Paper.

during the period 1999/2000. Further examination confirms that many of the provisions are rarely, if ever used. For example, during the period 1999/2000 there was only one charge for the offence of fortune-telling under s.13. The Committee considers that the frequency of utilisation of a provision is an important factor to consider in making any recommendations as to the continuing relevancy of a provision. However, at the same time, the Committee recognises other factors must also be considered in making such decisions.

**iv. Procedural provisions follow substantive provisions.**

It follows that if the substantive offences under the *Vagrancy Act 1966* are to be repealed, then the corresponding procedural provisions under the Act become redundant and therefore must also be repealed. For example, there is no point in retaining a provision such as section 18 of the *Vagrancy Act 1966* providing that: “[u]nless otherwise expressly provided all charges for or in respect of an offence against this Act shall be heard and determined by the Magistrates’ Court”, if there are no substantive offences retained in the Act.

## **Structure of Discussion Paper**

### **TABLE OF RECOMMENDATIONS**

In preparing this Discussion Paper, the Committee has adopted the approach of producing a Table of Recommendations and comments. The Table is divided according to the sections and sub-sections of the Act, with each given particular consideration. The Table is structured as follows:

#### **Vagrancy Act 1966**

This column of the table reproduces the provisions of the Act as enacted at the time when the Discussion Paper went to print.

#### **Proposals**

This column contains the recommendations of the Committee for each provision of the Act. The recommendation is expressed as either “Repeal” or “Repeal and re-enact”. A recommendation for the repeal or repeal and re-enactment of a provision may have been given for a number of reasons. The reasoning behind each particular recommendation is provided in the corresponding column.

#### **Reasons for Proposal**

This column contains the reasons for the Committee’s recommendation to repeal, and at times to re-enact and relocate, a provision. There are a number of reasons why the Committee may have recommended the repeal of a provision, including: the conduct penalised by the provision is such that it no longer warrants criminal penalty; there is a suitable provision in another Act to regulate the conduct; the provision is under-utilised and no longer necessary; and the provision is procedural in nature and thus unnecessary if the substantive provisions under the Act are to be repealed.

There are only two substantive provisions that the Committee recommends should be retained through re-enactment, possibly in amended form, in another Act. These are section 7(1)(c), which deals with wilful and obscene exposure in a public place, and section 7(1)(f), which deals with loitering with intent to commit an indictable offence.

### **Other/Proposed Legislation**

This column lists Acts and/or provisions of Acts that are considered to either adequately cover the subject matter of a provision in the *Vagrancy Act 1966*, or that have the potential to do so if amended.

### **Comments**

This column contains additional comments by the Committee relevant to the particular provision.

### **Appendices**

This Discussion Paper also includes statistics from the Magistrates' Court of Victoria relating to the number of charges for each particular provision of the *Vagrancy Act 1966* in the period between 1/7/1999 and 30/6/2000 (see Appendix 1), and also the number of offences under the *Vagrancy Act 1966* which were in the Top 100 most common offences (on a charge-based count) for 1998/99 (see Appendix 2).

Reference is made to these statistics by the Committee in the Table below to justify its recommendations, and will also be useful for interested parties when reading the Committee's recommendations or when preparing a submission to the Committee.

## **What is the role of the Redundant Legislation Subcommittee?**

The Scrutiny of Acts and Regulations Committee is a joint investigatory Committee of the Parliament of Victoria with members drawn from both houses and from the Government and Opposition. The role of SARC is primarily to scrutinise bills and regulations and to review redundant, unclear or ambiguous legislation. SARC also examines matters specifically referred to it by reference from Parliament or by the Governor-in-Council.

While all members of SARC are involved in the scrutiny of bills, other SARC functions are carried out by subcommittees consisting of various members of the Full Committee. All Parliamentary Committees have power to appoint subcommittees of not less than four members. As such, SARC has appointed a subcommittee of five members to review redundant, unclear and ambiguous legislation – the **Redundant Legislation Subcommittee**, who will be responsible for this inquiry.

The additional scrutiny responsibility of reviewing redundant, unclear and ambiguous legislation was given to SARC in 1994 by Governor-in-Council Order. At the expiration of each Parliament the responsibility for reviewing redundant legislation ceases and these terms of reference must be renewed with the commencement of each

new Parliament. The renewed terms of reference for the 54<sup>th</sup> Parliament are as follows—

1. *The Committee is requested, in conjunction with the Chief Parliamentary Counsel, to inquire into, to consider and make recommendations as to:*  
*Acts of Parliament and provisions of Acts of Parliament which are unnecessary or redundant;*  
*Legislative instruments made under an Act of Parliament and provisions of legislative instruments made under an Act of Parliament which are unnecessary or redundant.*
2. *The Committee is requested, in conjunction with the Chief Parliamentary Counsel, to inquire into, consider and make recommendations as to:*  
*Acts of Parliament and provisions of Acts of Parliament which are unclear, ambiguous or should be re-drafted;*  
*Legislative instruments made under an Act of Parliament and provisions of legislative instruments made under an Act of Parliament which are unclear, ambiguous or should be re-drafted;*
3. *In the conduct of this reference, the Committee is requested to pursue the primary objects of reducing the number and complexity of Victorian Acts and legislative instruments, and ensuring that Acts and instruments are clearly expressed in accordance with modern drafting practices.*
4. *This reference shall continue unless revoked by the Governor-in-Council.*

## **Terms of Reference**

The specific terms of reference for this inquiry are as follows:

- 8 PARLIAMENTARY COMMITTEES REFERENCES** — *Motion made and question — That under the powers found in s 4F of the Parliamentary Committees Act 1968, the following matters are referred to the following Joint Investigatory Committees:*

...

- 8 To the Scrutiny of Acts and Regulations Committee -- for inquiry, consideration and report by 31 December 2000 on:*

...

- (b) the Vagrancy Act 1966, giving recommendations as to:*
- (i) the content of the Act;*
  - (ii) its relevance;*
  - (iii) whether it contains provisions that are unclear, redundant or ambiguous that require repeal, amendment or revision.*

## TABLE OF PROPOSALS AND RECOMMENDATIONS

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/Proposed Legislation	Comments
<p>2. Repeal</p> <p>(1) Part III of the <i>Police Offences Act 1958</i> and section 45 of the <i>Children's Court Act 1958</i> are hereby repealed.</p> <p>(2) Except as in this Act expressly or by necessary implication provided—</p> <p>(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</p>	<p><b>Repeal.</b></p>	<p>1. These provisions are no longer needed because of the passage of time.</p>		

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(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.</p>				
<p>(3) Any reference in any other Act to any of the provisions of Part 3 of the <i>Police Offences Act 1958</i> shall be deemed to be a reference to the corresponding provisions of this Act.</p>	<p><b>Repeal (and re-enact if required)</b></p>	<p>This provision will not be necessary if the <i>Vagrancy Act 1966</i> is repealed.</p>		<p>Where this Committee has recommended that a provision of the <i>Vagrancy Act 1966</i> should be retained and shifted to a new Act, a new reference provision similar to s. 2(3) may need to be enacted in the relevant Act.</p>
<p>4. Definitions In this Act unless inconsistent with the context or subject-matter— “court” means the Magistrates’ Court; “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;</p>	<p><b>Repeal</b></p>	<p>1. A definitions section will not be required if the provisions of the <i>Vagrancy Act 1966</i> are repealed.</p>		<p>If any provisions of the <i>Vagrancy Act 1966</i> are retained or shifted to another Act, then relevant definitions may also need to be retained or shifted to the relevant Act.</p>

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(b) any park garden reserve or other place of public recreation or resort;</p> <p>(c) any railway station platform or carriage;</p> <p>(d) any wharf pier or jetty;</p> <p>(e) any passenger ship or boat plying for hire;</p> <p>(f) any public vehicle plying for hire;</p> <p>(g) any church or chapel open to the public or any other building where divine service is being publicly held;</p> <p>(h) any State school or the land or premises used in connection therewith;</p> <p>(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;</p> <p>(j) any market;</p> <p>(k) any auction room or mart or place while a sale by auction is there proceeding;</p> <p>(l) any licensed premises or authorised premises within the meaning of the Liquor Control Act 1987;</p> <p>(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;</p>				

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(n) any place of public resort;</p> <p>(o) any open place to which the public whether upon or without payment for admittance have or are permitted to have access; and</p> <p>(p) any public place within the meaning of the words “public place” whether by virtue of this Act or otherwise.</p>				
<p>6. Consorting and like offences</p> <p>(1) Any person who—</p> <p>(a) is the occupier of a house or place that is frequented by reputed thieves;</p> <p>(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;</p> <p>(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;</p>	<p><b>Repeal</b></p>	<p>The Committee believes that these provisions are no longer appropriate because:</p> <ol style="list-style-type: none"> <li>1. The provisions are predicated on guilt by association, a principle at odds with contemporary standards of justice, and which potentially confer an undesirably wide discretion to charge individuals in the absence of a substantive offence;</li> <li>2. The offence of consorting is under-utilised and is no longer required.</li> </ol>		

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
(d) begs or gathers alms or causes or procures or encourages a child to beg or gather alms;	<b>Repeal</b>	<ol style="list-style-type: none"> <li>1. With respect to offences relating to child begging, the Committee considers that this is covered by a suitable provision in another Act.</li> <li>2. The preliminary view of the Committee is that it agrees with the comments of the Victorian Law Reform Commission's 1992 Discussion Paper that begging should no longer be a criminal offence.</li> <li>3. Local government may regulate this.</li> </ol>	In relation to child begging, see <i>Community Services Act 1970</i> (Vic), s.78(a).	<p>In the decade since the Law Reform Commission prepared its Discussion Paper, begging has increasingly become an issue of concern in many communities.</p> <p>The Committee welcomes particularly submissions on this matter.</p>
(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.	<b>Repeal</b>	<ol style="list-style-type: none"> <li>1. The Committee believes that conduct of this kind that is not related to the commission of criminal offence should no longer be an offence.</li> <li>2. Conduct of this kind related directly to the commission of a criminal offence is adequately covered by the law of attempt.</li> </ol>	<i>Crimes Act 1958</i> (Vic), ss.321M, N.	
(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.	<b>Repeal</b>			

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>7. Soliciting alms, cheating etc.            (1) Any person who—            (a) solicits gathers or collects alms subscriptions or contributions under a false pretence;</p>	<b>Repeal</b>	<p>1. Suitable provisions already exist in other Acts.</p>	<p><i>Fundraising Appeals Act 1998</i> (Vic), s.7;  <i>Crimes Act 1958</i> (Vic), ss.81 and 82.</p>	
<p>(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;</p>	<b>Repeal</b>	<p>1. Suitable provisions already exist in other Acts.</p>	<p><i>Fundraising Appeals Act 1998</i> (Vic), s.7;  <i>Crimes Act 1958</i> (Vic), ss.81 and 82.</p>	
<p>(c) willfully and obscenely exposes his person in a public place or in the view thereof;</p>	<b>Retain and re-enact</b>	<p>1. The Committee believes that an offence of willful and obscene exposure should be retained. However, the Committee believes that this offence should more appropriately be transferred to the <i>Summary Offences Act 1966</i>.</p>	<p>Insert in the <i>Summary Offences Act 1966</i> (Vic).</p>	<p>The Committee is of the view that the amendment to Section 17(a) of the <i>Summary Offences Act 1966</i> proposed in its November 2001 Report is sufficiently broad to capture this offence. That proposed amendment would make it an offence to “intentionally engage in conduct likely to be offensive, threatening or obscene to other people.” If this amendment is enacted, there would be no need to maintain a separate offence of wilful and obscene exposure.</p>

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(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—</p> <p>(i) at or with an instrument of gaming at any game or pretended game of chance;</p> <p>(ii) at or on a game or trick of sleight of hand;</p> <p>(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;</p>	<b>Repeal</b>	<ol style="list-style-type: none"> <li>1. Suitable provisions already exist in other Acts.</li> <li>2. This offence is under-utilised.</li> </ol>	<p><i>Lotteries, Gaming and Betting Act 1966</i> (Vic) ss. 11, 13;</p> <p><i>Gaming and Betting Act 1994</i> (Vic), s.114.</p>	
<p>(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;</p>	<b>Repeal</b>	<ol style="list-style-type: none"> <li>1. With respect to possession of an instrument of cheating, a suitable provision already exists in another Act.</li> <li>2. The Committee believes that possession of an instrument of gaming that is not related directly to the commission of a criminal offence should no longer be an offence.</li> <li>3. This offence is under-utilised.</li> </ol>	<p><i>Crimes Act 1958</i> (Vic), ss.91.</p>	

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(f) being a suspected person or a known or reputed thief or cheat loiters in or about or frequents—</p> <p>(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;</p> <p>(ii) a public place; or</p> <p>(iii) a place adjacent to a street or highway—</p> <p>with intent to commit an indictable offence;</p>	<p><b>Repeal and re-enact</b></p>	<ol style="list-style-type: none"> <li>1. This offence would be more appropriately located in the <i>Summary Offences Act 1966</i>.</li> <li>2. This section is unduly specific and prescriptive in defining where loitering offences may occur, for example, s.7(1)(f)(i).</li> <li>3. To overcome concerns that this provision may be used inappropriately, the provision should be amended to require, in addition to loitering, the performance of an act with the intent to commit, and in furtherance of, an indictable offence.</li> </ol>		
<p>(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;</p>	<p><b>Repeal (and possibly re-enact)</b></p>	<ol style="list-style-type: none"> <li>1. A suitable provision already exists in another Act.</li> <li>2. This offence is under-utilised.</li> </ol>	<p><i>Crimes Act 1958 (Vic)</i>, s 91.</p>	<p>The Committee notes that the <i>Crimes Act</i> provision is significantly more serious in its nature than this provision, and another option would be to relocate the offence to the <i>Summary Offences Act 1966</i>.</p>
<p>(h) is found disguised or has his face blackened with an unlawful intent;</p>	<p><b>Repeal</b></p>	<ol style="list-style-type: none"> <li>1. Conduct of this kind related directly to the commission of a criminal offence is adequately covered by the law of attempt.</li> </ol>	<p><i>Crimes Act 1958 (Vic)</i>, s.321M.</p>	

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(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 <i>Mineral Resources Development Act 1990</i>;</p>	<b>Repeal</b>	<p>1. Suitable provisions already exist in another Act.</p>	<p><i>Summary Offences Act 1966</i> (Vic), ss.9(1)(d) and (e) .</p>	
<p>(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.</p>	<b>Repeal</b>	<p>1. This provision appears to be archaic in many respects, and the subject matter is adequately covered by various codes and regulations dealing with the quality of materials. 2. With respect to criminal activity in this context, a suitable provision already exists in another Act. 3. This offence is under-utilised.</p>	<p><i>Crimes Act 1958</i> (Vic), ss.81 and 82.</p>	

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>(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.</p>	<p><b>Repeal (and possibly Re-enact)</b></p>	<p>1. This provision will need to be amended, or possibly repealed, in light of the proposed amendments to s. 7(1)(f). If a successor provision to s.7(1)(f) is enacted in the <i>Summary Offences Act 1966</i>, then an amended form of s.7(2) may need to be transferred to that Act.</p>		<p>Section 71)(f) is the offence of 'loitering with intent to commit an indictable offence'. See above.</p>
<p>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 <i>Crimes Act 1958</i>; or (ii) a prohibited weapon or controlled weapon within the meaning of section 3 of the <i>Control of Weapons Act 1990</i>;</p>	<p><b>Repeal</b></p>	<p>1. A range of suitable provisions already exist in other Acts.</p>	<p><i>Control of Weapons Act 1990</i> (Vic), ss.5 and 6; <i>Firearms Act 1996</i> (Vic), ss.5 and 6.</p>	
<p>(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— shall be guilty of an offence. Penalty: 50 penalty units or imprisonment for 5 years.</p>	<p><b>Repeal</b></p>	<p>1. A suitable provision already exists in another Act.</p>	<p><i>Crimes Act 1958</i> (Vic), s.479C.</p>	<p>Section 479C of the <i>Crimes Act 1958</i> covers both escape and attempted escape.</p>

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>9. Evidence of bad character In any proceedings under any of the foregoing provisions of this Act except paragraph (c) of sub-section (1) of section 6 the informant may—</p> <p>(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</p> <p>(b) give or produce evidence to rebut any evidence (including evidence as to general character) given by or on behalf of the person charged.</p>	<p><b>Repeal</b></p>	<p>1. This provision will no longer be necessary if the <i>Vagrancy Act 1966</i> is repealed.</p>		
<p>Fortune Telling etc. 13. Fortune telling and pretending to exercise witchcraft etc. 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.</p>	<p><b>Repeal</b></p>	<p>1. The Committee notes that Section 13 is in many respects anachronistic, and is only rarely used today.</p> <p>2. The Committee considers that ss.81 and 82 of the <i>Crimes Act 1958</i> are sufficiently broad to cover predatory behaviour of a serious nature in the context of fortune telling and other conduct that might otherwise fall within the ambit of Section 13.</p>	<p><i>Crimes Act 1958</i> (Vic), ss. 81 and 82.</p>	<p>The Committee notes that the <i>Crimes Act</i> provisions appropriately require proof of a dishonest intention and of a deception for the purpose of gaining property or a financial advantage.</p>

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>15. Information</p> <p>(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.</p> <p>(2) No fee shall be payable on the issue of any summons to answer to a charge for an offence against this Act.</p>	<b>Repeal</b>	<p>1. This provision will no longer be needed if the <i>Vagrancy Act 1966</i> is repealed.</p>		
<p>16. Neglect to prosecute</p> <p>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.</p>	<b>Repeal</b>	<p>1. This provision will no longer be needed if the <i>Vagrancy Act 1966</i> is repealed.</p> <p>2. A suitable provision already exists in another Act.</p>	<i>Magistrates' Court Act 1989</i> (Vic), s.38.	
<p>17. Accomplice</p> <p>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.</p>	<b>Repeal</b>	<p>1. This provision will no longer be needed if the <i>Vagrancy Act 1966</i> is repealed.</p>		

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>18. Procedure</p> <p>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.</p>	<p><b>Repeal</b></p>	<p>1. A similar provision already exists in another Act.</p>	<p><i>Magistrates' Court Act 1989</i> (Vic), s.25</p>	<p>Section 25 of the <i>Magistrates' Court Act 1989</i> provides that the Magistrates' Court has the jurisdiction to hear and determine all summary offences, and to hear and determine all indictable offences which may be heard and determined summarily.</p>
<p>19. Offences of a serious nature not to be dealt with under this Act</p> <p>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.</p>	<p><b>Repeal</b></p>	<p>1. This provision will not be needed if the <i>Vagrancy Act 1966</i> is repealed.</p>		

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>20. Forfeiture of offensive weapons etc.</p> <p>(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.</p>	<b>Repeal</b>	<p>1. Suitable provisions already exist in other Acts.</p>	<p><i>Control of Weapons Act 1990</i> (Vic), s.9;  <i>Gaming No.2 Act 1997</i> (Vic), s.102;  <i>Firearms Act 1996</i> (Vic), s.151.</p>	
<p>(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.</p> <p>(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.</p>	<b>Repeal</b>	<p>1. A suitable provision already exists in another Act.</p>	<p><i>Magistrates' Court Act 1989</i> (Vic), s.137.</p>	

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>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.</p>	<p><b>Repeal</b></p>	<ol style="list-style-type: none"> <li>1. A suitable provision exists in another Act.</li> <li>2. This provision will be unnecessary if the <i>Vagrancy Act 1966</i> is repealed.</li> </ol>	<p><i>Summary Offences Act 1966, s. 22.</i></p>	
<p>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 3 of the <i>Police Offences Act 1958</i> 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.</p>	<p><b>Repeal/ Re-enact</b></p>	<ol style="list-style-type: none"> <li>1. This provision will not be necessary if the <i>Vagrancy Act 1966</i> is repealed.</li> </ol>		<p>Where this Committee has recommended that a provision of the <i>Vagrancy Act 1966</i> should be retained and shifted to a new Act, a new reference provision may need to be enacted in the relevant Act.</p>

Vagrancy Act 1966	Proposals	Reasons for Proposal	Other/ Proposed Legislation	Comments
<p>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.</p>	<p><b>Repeal/ Re-enact</b></p>	<p>1. This provision will not be necessary if the <i>Vagrancy Act 1966</i> is repealed.</p>	<p><i>Summary Offences Act 1966</i> (Vic)</p>	<p>1. As a consequence of some offences under the <i>Vagrancy Act 1966</i> being transferred to the <i>Summary Offences Act 1966</i> in accordance with the recommendations of the Committee, the Committee considered that a similar provision could be introduced in the <i>Summary Offences Act 1966</i>.</p>

## APPENDIX 1

### OFFENCES CHARGED UNDER THE VAGRANCY ACT 1966

(FOR CASES COMPLETED 01/07/1999 TO 30/06/2000)

Section	Offence	Total Charges
6(1)(a)	Occupier of house frequented by reputed thieves	0
6(1)(b)	Found in house or place in company with reputed thieves	0
6(1)(c)	Habitually consort with reputed thieves	1
6(1)(d)	Beg Alms	306
6(1)(e)	Found armed with an offensive weapon	1
6(1)(f)	Possess article of disguise	34
7(1)(a)	Solicit alms under false pretences	6
7(1)(b)	Impose upon charity for gain	1
	Impose upon person for gain	24
7(1)(c)	Willful and obscene exposure in public	282
7(1)(d)	Playing or betting in relation to a game	0
7(1)(e)	Reputed cheat loitering in or near a public place	0
7(1)(f)	Loiter with intent to commit indictable offence	611
7(1)(f)(i)	Reputed thief loiter at wharf etc.	1
7(1)(f)(ii)	Known thief loiter in public place	51
	Reputed thief loiter in public place	35
	Suspected person loiter in public place	99
7(1)(f)(iii)	Reputed thief loiter adjacent to street	1
7(1)(g)	Possess house breaking implements	53
7(1)(h)	Found disguised with unlawful intent	3
	Found face blackened for unlawful intent	15
7(1)(i)	Unlawfully on board a vessel	3
	Unlawfully on premises	3
	Unlawfully on premises/precinct	1068
7(1)(j)	Fraudulent manufacture or sale of substances	0
8(a)	Armed- offensive weapon with criminal intent	9
	Armed- regulated weapon with criminal intent	1
	Armed- imitation firearm with criminal intent	1
	Armed- offensive instrument with criminal intent	3
	Armed- prescribed weapon with criminal intent	5
	Armed with firearm with criminal intent	3

<b>Section</b>	<b>Offence</b>	<b>Total Charges</b>
8(b)	Aid and abet an escape	4
	Attempt to escape from lawful custody	10
	Escape from lawful custody	112
10(1)	Live on earnings of prostitution	1
13	Fortune telling etc	1

**Source:** *Table CR 4.4- Expanded Codes Disposition of Offences and Type of Penalty Imposed for Each Charged Offence, Magistrates' Court, Victoria, Australia, 1999-2000.*

## APPENDIX 2

# MAGISTRATES' COURT STATISTICS

## 1998/99

The hundred most common offences (charge based count) by Act, Magistrates' Court, 1998/99

\*denotes *Vagrancy Act 1966*

Rank	Act-Section	Description	Number	Percentage
1	6231.74	Theft	35,654	12.0
2	6231.81.1	Obtain property by deception	23,056	7.8
3	7405.13*	Drunk in a public place	17,414	5.9
4	9719.73.1	Possess drug of dependence (not named)	8,888	3.0
5	86/127.65	Careless driving	7,598	2.6
6	7405.23*	Unlawful assault	7,092	2.4
7	86/127.49.1.B	Drive whilst exceeding p.c.a. (.05 per cent)	7,077	2.4
8	9719.75	Use drug of dependence (not named)	6,957	2.4
9	86/127.49.1.F	Ex. Prescribed concentration 3hrs-breath	6,671	2.3
10	6231.76.1	Burglary	6,406	2.2
11	86/127.30.1	Drive whilst disqualified	6,101	2.1
12	7405.52.1	Assault police/person assisting police	5,030	1.7
13	6231.88.1	Handle/receive/dispose of stolen goods	4,911	1.7
14	86/127.18.1.A	Unlicensed driving	4,717	1.6
15	86/127.7.1.A	Use unregistered motor vehicle - highway	4,609	1.6
16	6231.197.1	Criminal damage (intent damage/destroy)	4,604	1.6
17	9008.30.1	Fail to answer bail	4,552	1.5
18	6231.321M	Att. Commit an indictable offence	3,847	1.3
19	87/19.22	Breach intervention order	3,808	1.3
20	SR88/30.1001.1C	Exceed speed limit - speed zone	3,766	1.3
21	SR88/28.225.1 SR87/24.225.1	Drive with no 'p' plates displayed Fail to conspicuously display plates	3,544	1.2
22	6231.91.1	Go equipped to steal/cheat	3,513	1.2
23	7405.24.2*	Assault in company	3,285	1.1
24	6231.82.1	Obtain financial advantage by deception	3,258	1.1
25	9719.71.1	Traffick drug of dependence (not named)	3,186	1.1
26	6231.83A.1	Make a false doc. To prejudice of other	3,040	1.0
27	6231.18	Recklessly cause injury	2,823	1.0
28	CSOC.1350	Contravene section of act	2,593	0.9
29	6231.76.1.A	Burglary - intent to steal	2,239	0.8

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<b>Rank</b>	<b>Act-Section</b>	<b>Description</b>	<b>Number</b>	<b>Percentage</b>
31	CTAX.8C.A	Refuse to furnish return	2,097	0.7
32	6231.18	Intentionally cause injury	2,055	0.7
33	7405.17.1.C	Use indecent language in public place	2,004	0.7
34	9719.72.1	Cultivate a narcotic plant-cannabis	1,829	0.6
35	7405.17.1.D*	Behave in riotous manner in public place	1,797	0.6
36	6231.83A.2	Use a false document to prejudice other	1,790	0.6
37	7405.26.1*	Unlawful possession	1,754	0.6
38	7405.9.1.C*	Wilfully injure property	1,651	0.6
39	91/49.47.1	Failure to comply with cbo	1,553	0.5
40	86/127.64.1	Drive in a manner dangerous	1,432	0.5
41	90/24.6.1	Possess regulated weapon	1,428	0.5
42	91/49.31.1	Breach of suspended sentence order	1,279	0.4
43	SR88/30.1001.1.A	Exceed 60 kph limit in a built up area	1,237	0.4
44	86/127.59.2	State false name	1,215	0.4
45	SR88/29.222.1	Fix false number plates on vehicle	1,167	0.4
46	SR88/28.224.1.B	Learner drive without full licensee	1,166	0.4
47	CCORP.335.1	Fail to lodge an annual return	1,155	0.4
48	86/127.61.1.A	Fail to stop vehicle after an accident	1,114	0.4
49	86/127.61.1.C.I	Fail to give name and address to injured	1,068	0.4
<b>50</b>	<b>7393.7.1.I</b>	<b>Unlawfully on premises/precinct</b>	<b>1,052</b>	<b>0.4</b>
51	94/81.29.1	Dog rushes person/animal	1,017	0.3
52	SR88/30.1506.1	Fail to wear proper secured seatbelt	963	0.3
53	9719.77	Forge prescription for drug dependence	960	0.3
54	6231.20	Make threat to kill	867	0.3
55	86/127.R5.1001.1.B	Exceed speed limit - 100kph	863	0.3
56	86/127.21.1A	Fail to carry probationary licence	853	0.3
57	SR88/30.401.1	Disobey traffic control signal	830	0.3
58	86/127.61.1.F	Fail to report to police owner not present	824	0.3
59	86/127.70.1	Tamper with motor vehicle	758	0.3
60	SR88/30.803.1	Fail to give appropriate signal	722	0.2
61	CCRI.85ZE.A	Use telecommunications service to menace	719	0.2
62	SR88/28.223.1	Drive without "I" plates displayed	690	0.2
63	94/81.24.1	Dog at large outside owners premises	669	0.2
64	SR88/30.1619.2	Cause undue noise while using a vehicle	644	0.2
65	6231.456AA.3.B	State false name when requested	617	0.2
66	96/66.6.1	Non-proh. Possess cat a longarm unlic.	608	0.2
67	86/127.72.1.B	Fraudulently alter registration label	589	0.2
68	6231.83.1.A	False accounting	574	0.2
69	7405.53.1	Make false report to police	568	0.2
70	97/108.123.1	Bring money to vic - proceeds of crime	568	0.2
71	6231.17	Recklessly cause serious injury	555	0.2
72	86/127.49.1.E	Refuse/fail to accompany to station for blood test	540	0.2
73	6231.21A.1	Stalk another person (crimes act)	536	0.2
74	6231.23	Reckless conduct endanger serious injury	532	0.2
75	86/127.49.1.G	Ex. Prescribed concentration 3hrs-blood	526	0.2
76	Local Law Offence	Local law offence	515	0.2
77	CCRI.85ZE	Use phone service - menace/harass/offend	503	0.2
78	86/127.59.1.A	Fail to stop motor vehicle on request	483	0.2
<b>79</b>	<b>7393.7.1.F</b>	<b>Loiter with intent commit indict offence</b>	<b>467</b>	<b>0.2</b>
80	CHEA.128B.1	Make false statement relating to claim	439	0.1

Rank	Act-Section	Description	Number	Percentage
81	SR88/28.203.4	Fail to notify change of name/address	418	0.1
82	CTAX.8H	Refuse to comply with order	417	0.1
83	CCORP.1311.1	Do forbidden act under this law	414	0.1
84	6231.83A.4	Use copy of false document	413	0.1
85	86/46.9.C	Cause unnecessary pain to an animal	407	0.1
86	9719.78.A	Obtain drug by false representation	407	0.1
87	86/127.49.1.A	Drive under influence of intoxicating liquor	398	0.1
88	7405.7.G	Throw stone to injure/danger/damage prop	386	0.1
89	90/24.7.1	Possess a dangerous article	375	0.1
90	86/127.61.1.B	Fail to render assistance after accident	361	0.1
91	6231.75	Robbery	359	0.1
<b>92</b>	<b>7393.7.1.C</b>	<b>Wilful and obscene exposure in public</b>	<b>359</b>	<b>0.1</b>
93	86/127.R5.402.10.A	Fail to stop at stop sign	341	0.1
94	6231.39.1	Indecent assault	340	0.1
95	86/127.7.1.B	Own unregistered vehicle used on highway	340	0.1
96	96/66.7	Possess unregistered handgun wo licence	339	0.1
97	94/81.10.1	Fail to apply to register a dog	337	0.1
98	6231.456AA.3.C	State false address when requested	329	0.1
99	86/127.18.1.B	Drive in breach of licence condition	325	0.1
100	86/127.61.1.C.II	Fail to give name/address to owner/rep.	324	0.1
<b>Total of Hundred Most Common Offences (charge based count)</b>			<b>253,926</b>	<b>85.8</b>
<b>Total Charges Finalised</b>			<b>296,000</b>	<b>100.0</b>

Source: Table CR 4.11, Table A11: The hundred most common offences (charge based count) by Act, Magistrates’ Court, 1998/99, Statistics of the Magistrates’ Court of Victoria, 1998/99.

#### Points:

1. Same as for the Summary Offences Act Discussion Paper (Magistrates’ Court Statistics 1998/99), except that the \* will be used to denote offences under the *Vagrancy Act 1966*, rather than the *Summary Offences Act 1966*.
2. The ‘rank number’ to be highlighted and denoted in the table are 50 (s.7(1)(i)- unlawfully on premises/precinct), 79 (s.7(1)(f) - loiter with intent to commit an indictable offence), and 92 (s.7(1)(c) - wilful and obscene exposure in public).