

Authorised Version

Crimes Legislation Amendment Act 2022

No. 35 of 2022

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Authorised Version



Crimes Legislation Amendment Act 2022[†]

No. 35 of 2022

[Assented to 30 August 2022]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to amend the **Crimes Act 1958**—
 - (i) to create a new offence of engaging in grossly offensive public conduct; and
 - (ii) to abolish the common law offence of outraging public decency; and

- (b) to amend the **Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021** to extend the default commencement date for 12 months due to COVID-19 causing significant delays in the implementation and trial of a health-based response to public drunkenness.

2 Commencement

- (1) This Act, except Part 2, comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), Part 2 comes into operation on a day or days to be proclaimed.
- (3) If a provision of Part 2 does not come into operation before 3 July 2023, it comes into operation on that day.

Part 2—Amendment of Crimes Act 1958

3 Heading to Division 2C of Part I amended

In the heading to Division 2C of Part I of the **Crimes Act 1958**, after "order" insert "and grossly offensive public conduct".

4 New sections 195J, 195K and 195L inserted

After section 195I of the **Crimes Act 1958** insert—

"195J Abolition of common law offence of outraging public decency

The offence at common law of outraging public decency is abolished.

195K Grossly offensive public conduct

- (1) A person (*the offender*) commits an offence if—
- (a) the offender engages in conduct that grossly offends community standards of acceptable conduct; and
 - (b) that conduct—
 - (i) is engaged in at a public place; or
 - (ii) is seen or heard by a person in a public place; and
 - (c) the offender knows that, or is reckless as to whether—
 - (i) the place at which the conduct is engaged in is a public place; or
 - (ii) the conduct is likely to be seen or heard by a person in a public place; and

- (d) the offender knows, or a reasonable person would know, that the conduct would likely grossly offend community standards of acceptable conduct.
- (2) A person who commits an offence against subsection (1) is liable to level 6 imprisonment (5 years maximum).
- (3) A reference in subsection (1) to conduct being seen or heard does not include seeing or hearing it by using electronic communication.
- (4) A person's conduct does not grossly offend community standards of acceptable conduct just because—
 - (a) the person uses language that is profane, indecent or obscene; or
 - (b) the person is intoxicated.
- (5) It is a defence to a charge for an offence against subsection (1) if the accused engaged in the conduct reasonably and in good faith—
 - (a) in the performance, exhibition or distribution of an artistic work; or
 - (b) in the course of any statement or publication made, or discussion or debate held, or any other conduct engaged in, for—
 - (i) a genuine political, academic, educational, artistic, religious, cultural or scientific purpose; or
 - (ii) a purpose that is in the public interest; or

- (c) in making or publishing a fair and accurate report of any event or matter of public interest.
- (6) In this section—
 - public place* means—
 - (a) a public place within the meaning of section 3 of the **Summary Offences Act 1966**; or
 - (b) a non-Government school within the meaning of section 1.1.3(1) of the **Education and Training Reform Act 2006**; or
 - (c) a post-secondary education institution within the meaning of section 1.1.3(1) of the **Education and Training Reform Act 2006**.

195L Consent of Director of Public Prosecutions required

A prosecution for an offence against section 195K(1) must not be commenced without the consent of the Director of Public Prosecutions."

Part 3—Amendment of Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021

5 Commencement amended

In section 2(2) of the **Summary Offences
Amendment (Decriminalisation of Public
Drunkenness) Act 2021** for "2022" substitute
"2023".

6 Repeal of Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021 amended

In section 14 of the **Summary Offences
Amendment (Decriminalisation of Public
Drunkenness) Act 2021** for "2023" substitute
"2024".

Part 4—Repeal of this Act

7 Repeal of this Act

This Act is **repealed** on 3 July 2024.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 23 June 2022

Legislative Council: 4 August 2022

The long title for the Bill for this Act was "A Bill for an Act to amend the **Crimes Act 1958** to create a new offence of engaging in grossly offensive public conduct and to abolish the common law offence of outraging public decency, to amend the **Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021** to extend its default commencement date and for other purposes."