



TASMANIA

**JUSTICE AND RELATED LEGISLATION
MISCELLANEOUS AMENDMENTS ACT 2023**

No. 5 of 2023

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**JUSTICE AND RELATED LEGISLATION
MISCELLANEOUS AMENDMENTS ACT 2023**

No. 5 of 2023

An Act to amend the *Animal Welfare Act 1993*, the *Births, Deaths and Marriages Registration Act 1999*, the *Coroners Act 1995*, the *Criminal Code Act 1924*, the *Dangerous Criminals and High Risk Offenders Act 2021*, the *Monetary Penalties Enforcement Act 2005*, the *Sex Industry Offences Act 2005* and the *Traffic Act 1925*

[Royal Assent 13 June 2023]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

*Justice and Related Legislation Miscellaneous Amendments Act
2023
Act No. 5 of 2023*

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Part 1 – Preliminary

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Justice and Related Legislation Miscellaneous Amendments Act 2023*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

Justice and Related Legislation Miscellaneous Amendments Act
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Part 2 – Animal Welfare Act 1993 Amended

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PART 2 – ANIMAL WELFARE ACT 1993 AMENDED

3. Principal Act

In this Part, the *Animal Welfare Act 1993** is referred to as the Principal Act.

4. Section 43 amended (Custody of animals)

Section 43(1)(a) of the Principal Act is amended by inserting “, or an offence against section 122 of the *Criminal Code*,” after “Act”.

*No. 63 of 1993

*Justice and Related Legislation Miscellaneous Amendments Act
2023
Act No. 5 of 2023*

s. 5 Part 3 – Births, Deaths and Marriages Registration Act 1999 Amended

**PART 3 – BIRTHS, DEATHS AND MARRIAGES
REGISTRATION ACT 1999 AMENDED**

5. Principal Act

In this Part, the *Births, Deaths and Marriages Registration Act 1999** is referred to as the Principal Act.

6. Long title amended

The long title of the Principal Act is amended by omitting “**uniform legislation in relation to the registration of births, deaths and marriages and to provide for the rights of persons who have undergone sexual reassignment surgery**” and substituting “**the registration of births, deaths and marriages and to provide legal recognition for trans and gender-diverse Tasmanians and those with innate variations of sex characteristics**”.

7. Section 24 amended (Application to register change of child’s name)

Section 24 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

(3) A magistrate may approve, on application by a child’s parent, a proposed change of name for the child

*No. 58 of 1999

*Justice and Related Legislation Miscellaneous Amendments Act
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Part 3 – Births, Deaths and Marriages Registration Act 1999 Amended

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under subsection (1) if the magistrate is satisfied –

- (a) that the proposed change of name for the child is consistent with the will and preference of the child; or
- (b) that the child is unable to understand the meaning and implications of the proposed change of name and that the proposed change of name is in the best interests of the child.

*Justice and Related Legislation Miscellaneous Amendments Act
2023
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Part 4 – Coroners Act 1995 Amended

PART 4 – CORONERS ACT 1995 AMENDED

8. Principal Act

In this Part, the *Coroners Act 1995** is referred to as the Principal Act.

9. Section 3B inserted

After section 3A of the Principal Act, the following section is inserted in Part 1:

3B. Determination of senior next of kin of deceased person

- (1) If a person is aggrieved by a decision made under this Act specifying who is the senior next of kin of a deceased person for the purposes of this Act, the person may appeal the decision to the Supreme Court.
- (2) On hearing an appeal under subsection (1), the Supreme Court may –
 - (a) affirm the decision; or
 - (b) quash the decision and make any further orders as the Supreme Court thinks fit in the circumstances.

*No. 73 of 1995

*Justice and Related Legislation Miscellaneous Amendments Act
2023
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Part 4 – Coroners Act 1995 Amended

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10. Section 58B inserted

Before section 59 of the Principal Act, the following section is inserted in Part 8:

58B. Information on operation of Act provided to senior next of kin and other persons with sufficient interest

As soon as practicable after a coroner commences an investigation into a death under section 21, a person appointed to be the Chief Clerk (Coronial Division) under section 14 is to ensure that any general, or specific, information that is specified in the regulations in relation to the operation of the Act is provided, in the manner specified in the regulations (whether an electronic manner, paper manner, or both), to –

- (a) the senior next of kin of the deceased person; and
- (b) any other person whom the coroner considers to have a sufficient interest in the death.

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Part 5 – Criminal Code Act 1924 Amended

PART 5 – CRIMINAL CODE ACT 1924 AMENDED

11. Principal Act

In this Part, the *Criminal Code Act 1924** is referred to as the Principal Act.

12. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *aircraft* in section 1:

bestiality means sexual activity of any kind between a human being and an animal;

- (b) by omitting section 122 and substituting the following section:

122. Bestiality

- (1) Any person who engages in an act of bestiality is guilty of a crime.

Charge: Bestiality.

- (2) A person does not commit an offence against subsection (1) if the act that the person engaged in –

*No. 69 of 1924

*Justice and Related Legislation Miscellaneous Amendments Act
2023
Act No. 5 of 2023*

Part 5 – Criminal Code Act 1924 Amended

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- (a) occurred in the course of a procedure being carried out by the person for a genuine veterinary, agricultural or scientific research purpose; and
- (b) was, in the circumstances, reasonable for that purpose.

*Justice and Related Legislation Miscellaneous Amendments Act
2023
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s. 13 Part 6 – Dangerous Criminals and High Risk Offenders Act 2021 Amended

**PART 6 – DANGEROUS CRIMINALS AND HIGH RISK
OFFENDERS ACT 2021 AMENDED**

13. Principal Act

In this Part, the *Dangerous Criminals and High Risk Offenders Act 2021** is referred to as the Principal Act.

14. Section 32A inserted

After section 32 of the Principal Act, the following section is inserted in Division 2:

32A. Disclosure of certain confidential information

(1) In this section –

parole means parole within the meaning of the *Corrections Act 1997*;

Parole Board means the Parole Board established by section 62 of the *Corrections Act 1997*;

parole order means a parole order as defined in section 3 of the *Corrections Act 1997*;

*No. 2 of 2021

*Justice and Related Legislation Miscellaneous Amendments Act
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Act No. 5 of 2023*

Part 6 – Dangerous Criminals and High Risk Offenders Act 2021 Amended

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prisoner means prisoner as defined in section 3 of the *Corrections Act 1997*.

- (2) As soon as practicable after the DPP becomes aware that a person is a relevant offender, the DPP is to inform the Parole Board that the person is a relevant offender for the purposes of this Part.
- (3) If a prisoner makes an application for parole, and the Parole Board has been informed under subsection (2) that the prisoner is a person who is a relevant offender, the Parole Board must disclose to the DPP, as soon as is practicable, the following confidential information in relation to the prisoner:
 - (a) notice that the Parole Board is to consider whether the prisoner should be released on parole;
 - (b) if a parole order is made –
 - (i) a copy of the parole order; and
 - (ii) a copy of the reasons for the parole order that were published by the Parole Board in accordance with section 72(7)(b) of the *Corrections Act 1997*;

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s. 14 Part 6 – Dangerous Criminals and High Risk Offenders Act 2021 Amended

- (c) if the making of a parole order is deferred, or refused, by the Parole Board –
 - (i) a copy of the notice of the Parole Board’s decision;
and
 - (ii) a copy of the Parole Board’s reasons for refusing parole, that were given to the prisoner in accordance with section 72(8) of the *Corrections Act 1997*.
- (4) For the avoidance of doubt, section 8 of the *Corrections Act 1997* does not apply in respect of the disclosure of any confidential information authorised under subsection (3).

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Part 7 – Monetary Penalties Enforcement Act 2005 Amended

s. 15

**PART 7 – MONETARY PENALTIES ENFORCEMENT
ACT 2005 AMENDED**

15. Principal Act

In this Part, the *Monetary Penalties Enforcement Act 2005** is referred to as the Principal Act.

16. Section 27 amended (Application to Director for variation of payment conditions)

Section 27(2)(a) of the Principal Act is amended by omitting “the approved form” and substituting “a manner approved by the Director”.

*No. 57 of 2005

Justice and Related Legislation Miscellaneous Amendments Act
2023
Act No. 5 of 2023

s. 17

Part 8 – Sex Industry Offences Act 2005 Amended

**PART 8 – SEX INDUSTRY OFFENCES ACT 2005
AMENDED**

17. Principal Act

In this Part, the *Sex Industry Offences Act 2005** is referred to as the Principal Act.

18. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting “section 1 of the *Criminal Code*” from the definition of *sexual intercourse* and substituting “section 2B of the *Criminal Code*”.

*No. 42 of 2005

*Justice and Related Legislation Miscellaneous Amendments Act
2023
Act No. 5 of 2023*

Part 9 – Traffic Act 1925 Amended

s. 19

PART 9 – TRAFFIC ACT 1925 AMENDED

19. Principal Act

In this Part, the *Traffic Act 1925** is referred to as the Principal Act.

20. Section 32 amended (Reckless driving)

Section 32 of the Principal Act is amended by inserting after subsection (7) the following subsection:

- (8) A complaint in relation to an offence against subsection (2A) or (2B) may, despite section 26 of the *Justices Act 1959*, be made at any time within 12 months after the time when the alleged offence occurred.

*No. 38 of 1925

*Justice and Related Legislation Miscellaneous Amendments Act
2023
Act No. 5 of 2023*

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Part 10 – Repeal of Act

PART 10 – REPEAL OF ACT

21. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.

*[Second reading presentation speech made in:–
House of Assembly on 18 October 2022
Legislative Council on 24 November 2022]*