I certify that this is a copy of the authorised version of this Act as at 20 November 2026, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 November 2026.

K Woodward
Chief Parliamentary Counsel
Dated 24 November 2026

TASMANIA

JUSTICES ACT 1959

No. 77 of 1959

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JUSTICES ACT 1959

No. 77 of 1959

An Act to amend and consolidate the law relating to justices

[Royal Assent 23 December 1959]

Be it enacted by His 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:

PART I – PRELIMINARY

1. Short title and commencement

(1) This Act may be cited as the *Justices Act 1959*.

(2) This Act shall commence on a date to be fixed by proclamation.

2. Repeals

The Acts that are specified in Schedule 1 are repealed.

3. Interpretation

(1) In this Act, unless the contrary intention appears –

affected person means a person who is an affected person under section 61(2);

breach of duty means any act or omission (not being a simple offence) upon complaint whereof justices may make an order on a person for the payment of money or for doing, or refraining from doing, any other act;

charge of an indictable offence means charge of an indictable offence as such and in order to a committal for trial therefor;

Chief Clerk of Petty Sessions means the person holding office as Chief Clerk of Petty Sessions by virtue of section 16;

Chief Magistrate means the Chief Magistrate appointed under section 5 of the *Magistrates Court Act 1987*;

complaint means a written allegation of an indictable or simple offence or of a breach of duty made to a justice;

court of petty sessions means a court held by 2 or more justices in petty session;

court of summary jurisdiction means –

(a) a court of petty sessions; and

(b) a court held by one justice;

decision includes a committal for trial and an admission to bail as well as a conviction, order, order of dismissal, or other determination;

defendant means a person complained against before justices for an indictable offence, simple offence, or breach of duty; and in sections 77 to 87 includes any person against whom a warrant of execution is or may be issued;

Director, MPES means the Director, Monetary Penalties Enforcement Service appointed under section 8 of the *Monetary Penalties Enforcement Act 2005*;

district means a municipal area, within the meaning of the *Local Government Act 1993*;

extra-territorial justice means a justice appointed under section 11;

family violence offence means a family violence offence within the meaning of the *Family Violence Act 2004*;

family violence order means a family violence order within the meaning of the *Family Violence Act 2004* and includes a police family violence order and an interim family violence order under that Act;

gaol means a prison within the meaning of the *Corrections Act 1997*;

gaoler means –

(a) in relation to a prisoner or detainee, as defined in the *Corrections Act 1997*, in a place declared under section 9(1) of the *Corrections Act 1997* to be a prison, the Director of Corrective Services; or

(b) in relation to a person in a place declared to be a prison under the *Corrections Act 1997* that is available for use for the detention in lawful custody of persons other than prisoners or detainees under section 9(2) of the *Corrections Act 1997*, a police officer;

hearing includes the examination of a person charged with an indictable offence;

indictable offence means an offence which may be prosecuted upon indictment before the Supreme Court;

interim restraint order has the same meaning as in Part XA;

lawyer means an Australian legal practitioner as defined in section 6 of the *Legal Profession Act 2007*;

magistrate means a magistrate within the meaning of the *Magistrates Court Act 1987*;

Magistrates Rule Committee means the committee referred to in section 15AC of the *Magistrates Court Act 1987*;

order means an order made upon a complaint of a breach of duty;

pecuniary sum means a sum of money in respect of which a warrant is issued under section 80(1), including the prescribed costs of the warrant and of a warrant of commitment issued under section 80(2)(c), 80(4A) or 82(1), as the case may require;

petty session means a sitting together of 2 or more justices otherwise than in –

(a) a general session; or

(b) a special session required to be held for administrative purposes under another Act;

preliminary proceedings means proceedings conducted in accordance with a preliminary proceedings order;

preliminary proceedings order means an order requiring the giving of evidence on oath in preliminary proceedings –

(a) made under section 62; or

(b) made by the Supreme Court under section 331B of the *Criminal Code*;

prescribed means –

(a) prescribed in the rules of court; or

(b) prescribed in regulations made under section 145;

probation officer means a probation officer as defined by the *Corrections Act 1997*;

public officer means any person employed in any capacity in the public service of the State, and includes –

(a) a police officer; and

(b) a probation officer;

restraint order has the same meaning as in Part XA;

rules of court means rules of court made by the Magistrates Rule Committee under the *Magistrates Court Act 1987* for the purposes of this Act;

Secretary means the Secretary of the Department;

simple offence means any offence (indictable or not) punishable, on summary conviction before justices, by fine, imprisonment, or otherwise;

summary conviction, or ***conviction***, means a conviction by justices for a simple offence;

telephone interim restraint order has the same meaning as in Part XA;

the clerk of petty sessions means the person appointed or assigned as clerk of petty sessions for the district to which the context relates;

the justices means the justices exercising jurisdiction in respect of the matter to which the context relates.

(2) Where in any enactment the expressions ***information***, ***information and complaint***, ***charge***, and ***charge of an indictable offence*** are used in relation to proceedings before justices, they shall be deemed to mean a complaint.

PART II – . . . . . .

4 - 10. . . . . .

PART III – . . . . . .

11 - 15. . . . . .

PART IV – CLERKS

16. Chief Clerk of Petty Sessions

(1) The Administrator of the Magistrates Court appointed under the *Magistrates Court Act 1987* is, by virtue of that office and without further commission or authority, the Chief Clerk of Petty Sessions for the purposes of this Act.

(2) In the performance of their functions and the exercise of their powers under this Act, all clerks and deputy clerks of petty sessions and any persons appointed to assist the clerks of petty sessions shall be subject to the directions of the Chief Clerk of Petty Sessions.

(3) Subsection (2) does not apply to a magistrate discharging the duties of a clerk of petty sessions under section 19(1).

16A. Appointment of clerks, &c., of petty sessions

(1) The Minister administering the *State Service Act 2000* may appoint State Service officers and State Service employees to be the clerk of petty sessions for a district and deputy clerk or deputy clerks of petty sessions for a district and those officers or employees are to hold office in conjunction with State Service employment.

(2) Subject to and in accordance with the *State Service Act 2000*, there may be appointed or employed such persons as are considered necessary for the purposes of this Act.

17. Clerks of petty sessions

(1) The clerk of petty sessions is, himself or by deputy, the ordinary clerk of –

(a) all courts of summary jurisdiction;

(b) all justices examining into charges of indictable offences; and

(c) the magistrate acting ministerially or administratively in respect of matters –

within his district.

(1A) . . . . . .

(2) The clerk of petty sessions may himself or by deputy receive complaints and issue summonses thereon, summonses to witnesses, and process in execution of convictions and orders as if he were a justice.

(2A) Subject to this section, a justice who is a clerk of petty sessions, deputy clerk of petty sessions, or clerk in the office of a clerk of petty sessions shall not–

(a) sit alone or with other justices in a court of summary jurisdiction; or

(b) do any act as an examining justice in respect of a person charged with an indictable offence.

(2B) The Chief Magistrate may authorise a particular, or any, justice who holds the office or position of a clerk of petty sessions, deputy clerk of petty

sessions or clerk in the office of a clerk of petty sessions to sit alone in a court of summary jurisdiction.

(2C) An authorisation under subsection (2B) is subject to any conditions specified in it.

(2D) A justice authorised under subsection (2B) may do one or more of the following:

(a) adjourn to a later date proceedings before the justice;

(b) if the prosecutor consents, admit the defendant to bail;

(c) if the defendant has appeared before the justice in accordance with his or her bail, continue that bail to the date to which the proceedings are being adjourned;

(d) where the justice continues a defendant's bail and both the defendant and the prosecutor consent to a variation of the conditions to which that bail is subject, vary those conditions;

(e) order the defendant to appear before justices on the date to which the proceedings are being adjourned.

(2E) An order under subsection (2D)(e) has the same effect as a summons in similar terms.

(2F) The Chief Magistrate may vary or revoke an authorisation made under subsection (2B).

(2G) An authorisation under subsection (2B) and any variation or revocation of such an authorisation are to be in writing.

(3) This section does not prevent justices from using another person as their clerk in court when the clerk of petty sessions or any of his deputies cannot conveniently attend.

17A. Clerk of petty sessions to have care and custody of records of court

(1) A clerk of petty sessions shall have the care and custody of all the records of the court of which he is the clerk.

(2) In subsection (1), ***records*** includes, without limiting the generality of that expression –

(a) the complaints and applications lodged with a clerk of petty sessions and any documents filed in connection with those complaints and applications;

(b) where evidence in proceedings in a court of summary jurisdiction is recorded by mechanical means on to tapes or other apparatus, those tapes or other apparatus; and

(c) the record of those proceedings that are taken by the justices pursuant to section 50A(1).

18. Deputy clerks of petty sessions, &c.

(1) Subject to the direction of the justices or of the clerk of petty sessions a deputy clerk of petty sessions may do anything that the clerk of petty sessions may do under any enactment.

(2) During a petty session or the session of a justice acting judicially or examining into a charge of an indictable offence, any person acting as clerk to the justice or justices may do all that the clerk of petty sessions might do in respect of the business of the session.

19. Magistrate may discharge duties of the clerk of petty sessions

(1) In a district where the office of clerk of petty sessions is vacant or at a place at which no clerk of petty sessions or deputy clerk of petty sessions is present, the magistrate acting in that place may discharge all or any of the duties of the clerk of petty sessions, and all acts done by that magistrate in pursuance of this section are as valid as if done by the clerk, and all notices required to be given to the clerk, and all other matters and things required to be done with or in reference to the clerk, may be given to or done with or in reference to that magistrate, and shall have the like force and effect.

(2) The justices in petty sessions at that place or the Minister may require that any of such duties, acts, matters, and things as they or he shall think convenient shall be done by, with, or in reference to some police officer, and thereupon

those acts, matters, and things if so done shall be as valid as if done by, with, or in reference to the clerk of petty sessions.

19A. . . . . . .

PART V – JURISDICTION

20. Hearing of complaints

(1) Every complaint shall be heard and determined by a magistrate or by one or by more justices, as is directed by the Act relating to the matter, or if there is no such direction, by any 2 or more justices.

(2) No justice other than a magistrate shall sit or adjudicate under this Act on the hearing of any complaint unless he has been notified as prescribed by the clerk of petty sessions that his attendance is required on the day on which that complaint is to be heard.

(3) No finding, decision, or order of any court of summary jurisdiction may be impugned, reversed, or invalidated on the ground that a justice sitting in the court has not received a notice as provided by subsection (2).

21. Decision of 2 or more justices

(1) Subject to subsection (2), when 2 or more justices hear a matter, and do not agree, the decision of the majority shall be the decision of the justices, and if they are equally divided in opinion, the justices present, or a majority of them may –

(a) dismiss the case; or

(b) adjourn the case for a rehearing with additional justices, or by other justices, or by a magistrate sitting alone.

(2) When 2 justices only are present and acting at the hearing of a matter and do not agree, if one of them is a magistrate, the decision of the magistrate shall prevail.

(3) Where a complaint must be heard and determined by 2 or more justices, the justices making the decision must be present and act together during the whole of the hearing and determination.

22. Powers of magistrates

(1) A magistrate has power to do alone –

(a) whatever may be done by a court of petty sessions; and

(b) any other act which may be done by 2 or more justices in petty session.

(2) The court held by a magistrate, whether in the exercise of the jurisdiction of 2 or more justices or of jurisdiction exercisable by him as a magistrate, shall be deemed to be a court of petty sessions.

23. Powers of single justice

One justice may –

(a) receive a complaint and issue a summons or warrant thereon;

(b) issue his summons to compel the attendance of witnesses in relation to the matter of a complaint or the matter to which an application under Part XA of this Act, or Part 3 or 4 of the *Family Violence Act 2004*, relates;

(c) do all other necessary acts and matters preliminary to the hearing of a complaint or matter notwithstanding that it must be heard and determined by a magistrate or 2 or more justices;

(d) after the determination of a complaint or matter, whether or not he determined it or took part in its determination, issue a warrant of execution or commitment thereon; and

(e) examine into a complaint of an indictable offence and commit the defendant for trial, or if he pleads guilty, commit him for sentence; and

(f) conduct preliminary proceedings in accordance with Division 3 of Part VII.

23A. Time and place of sitting, &c., unrestricted

Subject to any other provisions of this Act –

(a) all courts of summary jurisdiction;

(b) all justices examining into charges of indictable offences; and

(c) all justices dealing with bail or recognizances –

may sit and act at any time, including Sunday, and at any place.

23AB. Approval and roster of justices who may constitute courts of summary jurisdiction, &c.

The Chief Magistrate may from time to time –

(a) by instrument in writing, approve the justices who may constitute courts of summary jurisdiction, examine charges of indictable offences and deal with bail or recognizances; and

(b) approve and vary rosters of those justices to sit as courts of summary jurisdiction, examine charges of indictable offences and deal with bail or recognizances.

24. Summons or warrant not avoided by death, &c., of justice

A warrant or summons issued by a justice is not avoided by reason of his dying or ceasing to hold office.

25. Contempt

(1) If a person –

(a) wilfully misbehaves himself before justices sitting in any place in the exercise of their jurisdiction under this or any other Act;

(b) wilfully interrupts or obstructs proceedings before such justices; or

(c) is guilty of wilful prevarication in giving evidence before such justices –

that person shall be deemed guilty of contempt of court, and the justices may, during their sitting, by oral order, direct that person to be removed from the court or place, and to be taken into custody, and at any time before they rise may impose on that person a fine not exceeding 10 penalty units or, by warrant, commit that person to a term of imprisonment not exceeding 6 months.

(2) Where a person is guilty of misconduct mentioned in subsection (1), the justices may, if they think fit, accept an apology for the misconduct, and may remit any penalty or punishment for it either wholly or in part.

PART VI – GENERAL PROCEDURE

26. Limitation on summary proceedings

(1) In the case of a simple offence that is not an indictable offence, or of a breach of duty, unless some other time is limited for making complaint by the law relating to the particular case, complaint must be made –

(a) within 6 months from the time when the matter of complaint arose; or

(b) against a provision of an Act that has been declared in accordance with subsection (1A) to be an Act to which this paragraph applies –

(i) within 3 years from the time when the matter of complaint arose; and

(ii) within 6 months from the time when the matter of complaint came to the attention of the Director of Consumer Affairs and Fair Trading.

(1A) The Minister responsible for administering the *Consumer Affairs Act 1988* may declare, by order published in the *Gazette*, an Act to be an Act to which subsection (1)(b) applies.

(1B) An order under subsection (1A) is a statutory rule within the meaning of the *Rules Publication Act 1953*.

(2) Notwithstanding subsection (1), a complaint for a simple offence (not being an indictable offence) may be made against a person within 12 months after the time when the matter of complaint arose if –

(a) that matter of complaint may also give rise to an indictable offence; and

(b) the person has been charged with that indictable offence within the period of 6 months, or the other time referred to in that subsection.

(3) Notwithstanding subsections (1) and (2), a complaint for a simple offence (not being an indictable offence) may be made against a person at any time if –

(a) the matter of complaint giving rise to a simple offence may also be a matter giving rise to an indictable offence; and

(b) the person has been charged with that indictable offence within the period of 6 months, or the other time, referred to in subsection (1); and

(c) the person has consented in writing to the making of that complaint.

27. Proceedings may be commenced by complaint

(1) Subject to subsections (2) and (3), and except as otherwise enacted or prescribed under any enactment, proceedings before justices shall be

commenced by a complaint, which may be made or laid by the complainant in person, or by his or her lawyer or other person authorized in that behalf.

(2) Where a person has been arrested without a warrant, oral information of the substance of the charge may take the place of a complaint up to the stage of the proceedings at which a complaint is needed for the person charged to plead to it.

(3) A complaint of a breach of the *Criminal Code* may not be made by a person other than –

(a) a public officer;

(b) a person authorized or directed to make the complaint by the Crown or the Commonwealth; or

(c) an officer of a municipality or another statutory public or local authority –

acting in good faith in his official capacity, without the consent of the Director of Public Prosecutions, who shall satisfy himself by affidavit, statutory declaration, or otherwise that the complainant is acting in good faith and on reasonable grounds.

(4) If a matter purporting to be a complaint has been made by a public officer in the name of, and on behalf of, an agency, Department or instrumentality purportedly in reliance on rule 6(3)(b) of the *Justices Rules 2003* as in force on and from 1 January 2004 until 1 June 2009 –

(a) the matter is taken to be a complaint validly made by the public officer who signed it; and

(b) that public officer is taken to be the complainant and to have made the complaint in his or her own right in accordance with subsection (1); and

(c) the complaint need not be sworn before a justice.

(5) Subsection (4) applies –

(a) subject to subsection (6), to a matter purporting to be a complaint referred to in subsection (4), whether or not the proceedings on the purported complaint have been finally determined; and

(b) to the public officer who made the purported complaint in the name of, and on behalf of, an agency, Department or instrumentality, whether or not the public officer was employed in that agency, Department or instrumentality.

(6) If before the commencement of subsection (4) a matter purporting to be a complaint referred to in that subsection has been dismissed by a court on the basis that the purported complainant is not a person who has the legal capacity to bring a complaint, that subsection –

(a) does not apply to that purported complaint; and

(b) does not affect the decision of the court.

28. Complaint against several defendants

(1) Any number of persons who are alleged to be parties within the meaning of section 73 to the same simple offence or who are alleged to be parties within the meaning of section 3 of the *Criminal Code* to the same indictable offence may be joined in the same complaint and the charges against them may be heard together or separately, notwithstanding that a party to the offence is not included in the complaint or is not amenable to justice.

(2) Where 2 or more persons are joined as defendants in the same complaint, whether in respect of the same offence or different offences, the justices may, at any time during the hearing, on the application of any of the defendants, direct that the hearing of the complaint against any of the defendants shall be had separately from the hearing of the complaint against the other or others of them.

29. Only one matter of complaint: Procedure if otherwise

(1) A complaint shall be for one matter only and not for 2 or more matters, except –

(a) in the case of indictable offences, where the matters complained of are such that they may be charged in one indictment;

(b) in other cases, if the matters of complaint are –

(i) substantially of the same act or omission on the part of the defendant, although amounting in law to 2 or more offences or 2 or more matters of complaint; or

(ii) founded on the same facts or are, or form part of, a series of offences or matters of complaint of the same or a similar character; or

(c) where otherwise expressly enacted.

(2) Where several matters of complaint are joined in the one complaint pursuant to subsection (1), each matter of complaint shall be set out in a separate numbered paragraph.

(3) If, contrary to subsection (2), any paragraph in a complaint includes more than one matter of complaint, the justices may, upon such terms and conditions as they think fit, at any stage of the hearing permit the complainant to amend that paragraph so that it shall include only one matter of complaint and to add a new paragraph or new paragraphs with respect to the other matter or matters of complaint.

(4) Where, on the hearing of a complaint, it appears to the justices that the defendant may be prejudiced or embarrassed in his defence because the complaint contains more than one matter of complaint or that for any other reason

it is desirable to direct that one or more of the matters of complaint should be heard separately, the justices may order a separate hearing of any matter of complaint.

(5) On the hearing of a complaint that does not comply with subsection (1) –

(a) the justices shall, on the application of the defendant, require the complainant to choose one matter of complaint on which to proceed, and shall strike out of the complaint all other matters, without prejudice to the right of the complainant to lay a fresh complaint against the defendant in respect of any matter so struck out; or

(b) if the defendant does not so apply, the justices shall proceed to hear the evidence, and shall determine which matter or matters of complaint, if any, is or are proved, and may convict the defendant accordingly.

30. Statement of offences, &c.

(1) Any complaint, summons, warrant, or other document that is laid, issued, or made for the purpose of, or in connection with, proceedings before justices shall be sufficient if it –

(a) describes the matter of complaint with which the defendant is charged or of which he is convicted in ordinary language, avoiding as far as possible the

use of technical terms and without necessarily stating all the essential elements of the matter of complaint; and

(b) contains such particulars as will give reasonable information of the nature of the matter complained of.

(2) Where an enactment constituting a simple offence or breach of duty states –

(a) the offence or breach of duty to be doing or omitting to do –

(i) any one of any different acts in the alternative; or

(ii) any act in any one of different capacities or with any one of different intentions; or

(b) any part of the offence or breach of duty in the alternative –

the acts, omissions, capacities, intentions, or other matters stated in the alternative in the enactment may be stated in the alternative in a complaint for that simple offence or breach of duty.

31. Irregularities and amendments

(1) An objection shall not be taken or allowed to a complaint in respect of –

(a) an alleged defect therein, in substance or in form; or

(b) a variance between it and the evidence in support thereof.

(2) Notwithstanding the provisions of subsection (1), where –

(a) a complaint fails to disclose an offence or matter of complaint; or

(b) the defendant appears to have been prejudiced by any defect or variance referred to in that subsection –

the justices shall, unless the complaint is amended as provided in subsection (3), dismiss the complaint.

(3) If it appears to the justices that the complaint –

(a) fails to disclose an offence or matter of complaint, or is otherwise defective; and

(b) ought to be amended so as to disclose an offence or matter of complaint, or otherwise to cure the defect –

the justices may amend the complaint upon such terms as may be just.

(4) An objection shall not be taken or allowed to a warrant or summons in respect of –

(a) an alleged defect therein, in substance or in form; or

(b) a variance between it and the evidence in support of the complaint in connection with which it is issued –

but the justices may adjourn the hearing if it appears to them that the defendant has been prejudiced by the defect or variance.

(5) Any –

(a) conviction or order made by justices; or

(b) warrant of committal, or other warrant or proceeding issued or had by or before justices –

may be amended, according to the evidence, by the justices by or before whom it was made, issued, or had, or by any court before which it comes, on appeal or otherwise, at any time after it has been signed, and before it has been executed, upon such terms as to costs, or otherwise, as to the justices or court seems fit.

(6) A conviction or order of, or other proceeding before, justices shall not be quashed or set aside for a mere matter of form or technical error, or mistake in a name, date, or title, or in a matter of description only, but in all cases regard shall be had alone to the substantial merits and justice of the case.

(7) A warrant of commitment issued upon any conviction by justices shall not be void or invalid, or be quashed, for any defect in substance or in form, and a party shall not be entitled to be discharged out of custody on account of any such defect where –

(a) it is alleged in the warrant that the party has been convicted of an offence; and

(b) it appears to the court before which the warrant is returned that the conviction proceeded on good and valid grounds.

32. Process on complaint

When complaint is made to a justice he may –

(a) issue a summons to the person complained against;

(b) where the complaint is –

(i) that a person has committed or is accessory to having committed an indictable offence within the State;

(ii) that a person charged with having committed or with being suspected of having committed an indictable offence on the high seas or in any creek, harbour, haven, or other place in which the Admiralty of England has and claims to have jurisdiction or on land outside the State, of which offence cognizance may be taken by the Supreme Court, is suspected of being within the State; or

(iii) that a person has committed a simple offence the matter whereof is substantiated before him on oath –

issue his warrant for the apprehension of the person complained against; or

(c) where the person complained against is imprisoned for any other cause, issue his warrant to the gaoler to bring up the body of that person as often as is required for the proceedings upon the complaint, and the gaoler shall obey the warrant.

33. Apprehension of person summoned

Where a summons has been issued to a person, a justice may, before or after the time for appearance mentioned in the summons, issue a warrant for the apprehension of that person.

34. Power of police officers, &c., to admit to bail

(1) Subject to subsection (3), where a person has been taken into custody for a simple offence, for a breach of duty, pursuant to a warrant issued by a justice under section 12 of the *Bail Act 1994* or to facilitate the making of an application for a restraint order–

(a) a commissioned police officer; or

(b) a police officer who is in charge, or has for the time being the charge, of a police office or police station; or

(c) in the case of an offence against the *Marine Safety (Misuse of Alcohol) Act 2006* or *Road Safety (Alcohol and Drugs)*

Act 1970, an approved operator under those Acts –

must inquire into the case and must, unless there is reasonable ground for believing that such a course would not be desirable in the interests of justice, admit that person to bail.

(2) In the case of a person taken into custody for a family violence offence or to facilitate the making of an application for a family violence order or restraint order, the person considering under subsection (1) whether to admit that person to bail, in determining whether there is reasonable ground for believing that to do so would not be in the interests of justice–

(a) must consider the protection and welfare of the person against whom the offence was committed or for whose benefit the family violence order, restraint order, interim restraint order or telephone interim restraint order is sought or was made to be of paramount importance; and

(b) must take into account any previous violence by that person against the person against whom the offence was committed or for whose benefit the family violence order, restraint order, interim restraint order or telephone interim restraint order is sought or was made or against any other person whether or not that person was convicted of an offence, or had a prior family

violence order or restraint order made against him or her, in respect of that violence; and

(c) must take into account whether a recognised DVO, within the meaning of the *Domestic Violence Orders (National Recognition) Act 2016*, is in force under that Act in respect of that person.

(3) Subsection (1) does not apply if the person is detained under section 4 (2) of the *Criminal Law (Detention and Interrogation) Act 1995*.

34A. Procedure on arrest

(1) Where a person, other than a prescribed person, who is taken into custody for an offence or a breach of duty or under section 5 (5A) of the *Bail Act 1994* is brought before a justice, the justice must determine whether there is alleged against that person an act or omission that would constitute an offence or a breach of duty and –

(a) if there is not, the justice must release him or her; or

(b) if there is, the justice must, except in a case to which section 70(2) applies, proceed as provided in section 35.

(2) Where a prescribed person is brought before a justice, the justice must –

(a) cause the application for the restraint order to be read to the person or explain

to the person, in simple terms, the contents and meaning of the application; and

(b) determine whether there is alleged against the person conduct that would constitute grounds for the making of a restraint order under Part XA.

(3) If a justice is satisfied that –

(a) there is not alleged against a prescribed person who is brought before the justice conduct that would constitute grounds for the making of a restraint order under Part XA, the justice must release the person; or

(b) there is alleged against that person any such conduct, the justice must –

(i) proceed as provided in section 35; or

(ii) make an interim restraint order under section 106D notwithstanding that the justice is acting alone in making that order.

(4) For the purposes of this section, ***prescribed person*** means a person –

(a) who is taken into custody to facilitate the making of an application for a restraint order under Part XA; or

(b) who, after having been taken into custody as specified in paragraph (a) and released on bail under section 34, is taken into custody under section 5 (5A) of the *Bail Act 1994*.

35. Power of justice to admit person to bail

(1) Where a person referred to in section 34A is brought before a justice, the justice must ask the person whether he or she wishes to apply for bail and, if the person so wishes, the justice –

(a) may make an order for bail for the person; or

(b) may refuse bail.

(2) In determining whether to refuse to bail or to admit to bail a person who is a prescribed person within the meaning of section 34A or a person referred to in section 34A(1) who has been taken into custody in respect of an offence constituted by a breach of a restraint order, interim restraint order or telephone interim restraint order, the justice –

(a) must consider the protection and welfare of the person for whose benefit the restraint order, interim restraint order or telephone interim restraint order is sought or was made to be of paramount importance; and

(b) must take into account any previous violence by that person against the

person for whose benefit the restraint order, interim restraint order or telephone interim restraint order is sought or was made or against any other person whether or not that person was convicted of an offence, or had a prior restraint order made against him or her, in respect of that violence.

36 - 36B. . . . . . .

37. Admission to courts of summary jurisdiction

(1) Subject to subsection (2) and to the *Admission to Courts Act 1916*, and the regulations thereunder, the room or place in which justices sit to hear and determine a complaint upon which a conviction or order may be made, is an open and public court, to which all persons may have access so far as it can conveniently contain them.

(2) The justices may, if they think fit, and shall, if required by a party, at any time during the hearing, order that all witnesses, other than the complainant and the defendant, and the witness under examination, except in so far as in particular cases and for special circumstances they see fit otherwise so to do, shall go and remain outside, and beyond the hearing of the court until required to give evidence.

(3) If a witness wilfully disobeys an order under subsection (2), he shall be deemed guilty of a contempt of court, and may be punished as provided in section 25.

(4) . . . . . .

37A. Publication of accounts of certain proceedings

(1) Notwithstanding anything in the *Defamation Act 2005*, a person shall not publish or cause or allow to be published an account of the proceedings on an application in respect of bail, except an account giving the fact of the application and stating that an order has been made in respect thereof.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months.

(2) Subsection (1) does not apply to –

(a) a report of proceedings in the Supreme Court or before a judge that is written as a law report; or

(b) the publication of an account of proceedings referred to in that subsection that is published after the final determination of the charge upon which the applicant was then held in custody.

(3) Notwithstanding anything contained in any other Act, a person who unlawfully publishes or causes or allows to be published an account of proceedings before justices that is forbidden to be published (other than an account to which subsection (1) applies) is liable to the penalty prescribed by that subsection.

38. Representation of parties by counsel, &c.

(1) A complainant may, in person or by the complainant's lawyer, conduct his or her case and examine and cross-examine witnesses.

(2) A defendant must, in person or by the defendant's lawyer, be admitted to make his or her full answer and defence to the complaint and to examine and cross-examine witnesses.

(3) If the complainant is a public officer, the complainant may, in person or by the complainant's lawyer or another public officer, conduct his or her case and examine and cross-examine witnesses.

(4) With the consent of the justices, a police officer may conduct the case of any complainant, and examine and cross-examine witnesses.

39. Evidence: How taken

A witness shall be examined upon oath, or in such other manner as is prescribed or allowed by the Acts relating to giving evidence in courts of justice, and the justices may administer to witnesses the usual oath.

39A. Appearance via audio or audio visual link

Where, in any proceedings, a defendant who is in custody will not be giving evidence or making submissions, he or she may appear at those proceedings via audio link or audio visual link, both within the meaning of the *Evidence (Audio*

and Audio Visual Links) Act 1999, as if he or she were giving evidence under that Act.

40. Prosecutor or complainant a competent witness

Upon a complaint of an indictable offence, simple offence, or breach of duty, the prosecutor or complainant is a competent witness to support the complaint.

41. Justice may summon witnesses to attend and give evidence

(1) A justice may issue a summons to a person requiring him to be and appear as a witness at a time and place mentioned in the summons before such justices as shall then be there to testify what he knows concerning the matter of a complaint or the matter to which an application under Part XA of this Act, or Part 3 or 4 of the *Family Violence Act 2004* of the *Family Violence Act 2004*, relates.

(2) If the justice is satisfied by evidence upon oath that it is probable that a person whose evidence is desired will not attend to give evidence without being compelled so to do, then, instead of issuing a summons, he may issue a warrant in the first instance.

(3) A person served with a summons issued under this section may, at any reasonable time before the time at which he is thereby required to appear, apply –

(a) where the party responsible for the issue of the summons is a public officer, to a police officer of the rank of commander or a police officer who is in charge, or has for the time being the charge, of a police office or police station; and

(b) in any other case, to the party responsible for the issue of the summons –

to advance him a reasonable sum towards his costs and expenses of attending, and the person applied to shall, subject to subsection (4), forthwith advance him that sum.

(4) A person applied to under subsection (3) may –

(a) if he is a public officer or an officer of the Commonwealth, arrange for a witness to use official transport to attend or return from the court; or

(b) where it is reasonable to use public transport to attend or return from the court, provide a witness with a ticket or warrant enabling him so to travel –

in lieu of advancing the witness the costs and expenses of that travel.

42. Failure of witness to attend

(1) A person who, without reasonable excuse, fails or refuses to comply with a summons issued under section 41 is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

(2) A justice before whom a person is summoned to appear as a witness may issue a warrant for the arrest of that person if –

(a) that person fails or refuses to comply with the summons; and

(b) a reasonable excuse for that failure or refusal is not given; and

(c) the summons was served on that person or had come to that person's knowledge.

(3) . . . . . .

(4) A justice may –

(a) refuse to admit to bail a person taken into custody under a warrant issued under subsection (2) and brought before the justice;

(b) admit that person to bail; or

(c) orally order that person to appear before a court of petty sessions at the time and place to which the proceedings in which that person is required as a witness have been adjourned.

(5) An order under subsection (4)(c) has the same effect as a summons issued under section 41.

43. Witness not answering

If on the appearance of a person required as a witness before justices, either voluntarily or in

obedience to a summons, or upon being brought before them by virtue of a warrant, that person –

(a) refuses to be examined upon oath concerning the matters;

(b) refuses to take an oath; or

(c) having taken an oath refuses to answer such questions concerning the matter as are then put to him –

without offering any sufficient excuse for his refusal, any justice then present and having there jurisdiction may by warrant commit the person so refusing to a gaol, there to remain and be imprisoned for 7 days, unless in the meantime he consents to be examined and to answer concerning the matter.

44. Production of documents before justices

(1) When justices have authority to summon any person as a witness, they have the like authority to require and compel him to bring and produce, for the purposes of evidence, all documents and writings, or articles in his possession or power, and to proceed against him in case of neglect or refusal so to do in the same manner as in case of neglect or refusal to attend or refusal to be examined.

(2) A person is not bound under this section to produce a document, writing, or article not specified or otherwise sufficiently described in the summons, or which he would not be bound

to produce under a *subpoena duces tecum* in the Supreme Court.

45. Expenses of witnesses

(1) A party to a proceeding under this Act, not being a public officer, is liable as in civil proceedings to a witness whose attendance at the proceedings he has procured by summons or otherwise for expenses and compensation, notwithstanding that an order may be or is made for the payment of that party's costs (including witnesses' expenses and compensation) by another party to the proceedings.

(2) A party to a proceeding under this Act may ask the justices hearing it to fix the expenses and compensation of any witness to whom he is liable therefor, and the justices shall, before concluding the proceeding, make an order fixing them in accordance with the scale for the time being prescribed for the purposes of section 17 of the *Criminal Procedure (Attendance of Witnesses) Act 1996*.

(3) If the justices have reason to believe that a person who has appeared and given evidence, or, as the case may be, has appeared and produced any documents, writings, or articles, on the hearing of a complaint, has –

(a) attempted to evade service of a summons served on him for that purpose; or

(b) failed to appear in obedience to a summons so served or in pursuance of a

recognizance to appear and give evidence –

or if, in the opinion of the justices, the conduct or demeanour of that person when appearing before the justices on the hearing of the complaint is unsatisfactory or improper, the justices may expressly fix less than they would otherwise fix under this section or may refuse to make an order fixing the expenses and compensation to be paid to that person.

(4) Where a person is liable to pay a witness in a proceeding under this Act a reasonable amount or as much as he deserves for expenses and compensation, an order under subsection (2) is conclusive of the amount.

(5) . . . . . .

(6) A public officer who is a party to a proceeding under this Act may, at or after the hearing, obtain an order under subsection (2) as if he were personally liable to the witnesses whose attendance at the proceeding he has procured, and may, in the case of an indictable offence, have included in the order the expenses and compensation of any person who might be entitled under section 17 of the *Criminal Procedure (Attendance of Witnesses) Act 1996* as if he were personally liable to that person for the expenses and compensation.

(7) A witness whose expenses and compensation are fixed by an order under subsection (6) is entitled to payment by the Secretary of the amount so

fixed, out of moneys to be provided by Parliament for that purpose, upon claim made and verified as directed by the Attorney-General.

(8) A clerk of petty sessions who receives a sum allowed for costs under section 77 shall account to the Secretary for any payment made under subsection (7) upon an order under subsection (6) obtained in the same proceedings.

(9) A public officer who receives a sum allowed him for costs under section 77 shall pay over that sum to the clerk of petty sessions who would have received it if it had been levied by execution.

(10) Payment under subsection (7) is taken as satisfaction of an entitlement under section 17 of the *Criminal Procedure (Attendance of Witnesses) Act 1996* in respect of the same attendance of a witness.

(11) Nothing in this section affects the operation of section 77, and the justices are not bound to make the amount which a witness is entitled to receive under this section from the party who procured his attendance the same as the amount which they allow under that section against the opposite party.

46. Discharge of witness on recognizance

A witness or person sought to be made a witness may be discharged upon recognizance.

47. Place of committal when defendant on remand

(1) In this section –

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

mental illness has the same meaning as in the *Mental Health Act 2013*;

specified means specified in an order under this section that commits a defendant to a secure mental health unit.

(2) Where justices have power to remand a defendant in custody, they may, instead of committing the defendant to a gaol, commit him or her to a secure mental health unit if –

(a) the justices consider that remand is appropriate in the circumstances; and

(b) the defendant appears to be suffering from a mental illness; and

(c) the justices consider that the defendant should be admitted to a secure mental health unit for his or her own health or safety or for the protection of others; and

(d) the Chief Psychiatrist has provided a report to the effect that –

(i) the admission of the defendant to the secure mental health unit is necessary for his or her care or treatment; and

(ii) adequate facilities and staff exist at the secure mental health unit for the appropriate care and treatment of the defendant; and

(iii) in the case of a defendant who has not attained the age of 18 years, the secure mental health unit is the most appropriate place available to accommodate him or her in the circumstances having regard to the objectives and general principles set out in sections 4 and 5 of the *Youth Justice Act 1997*.

(3) If justices make an order under this Act that commits a person to a secure mental health unit –

(a) the justices are to specify in the order that the specified person, or a person of the specified class of person, is to be responsible for taking the defendant to the specified secure mental health unit; and

(b) the justices may specify in the order that the specified person or another specified person, or a person of the specified class or another specified class of person, is to be responsible for bringing the defendant from the specified secure mental health unit before justices in connection with the exercise by them of their powers under this Act.

(4) A copy of the order that commits a defendant to a secure mental health unit and the report of the Chief Psychiatrist are to accompany the defendant to the specified secure mental health unit.

(5) While a defendant is the responsibility of a person as specified in an order that commits the defendant to a secure mental health unit –

(a) that person has the custody of the defendant; and

(b) the defendant is taken to be a forensic patient for the purposes of the application of relevant provisions of Parts 4 and 5 of Chapter 2 of the *Mental Health Act 2013*.

(6) Each of the following persons may apply at any time to justices for the variation or revocation of an order committing a defendant to a secure mental health unit:

(a) the Director of Public Prosecutions or prosecutor;

(b) the Secretary of the responsible Department in relation to the *Mental Health Act 2013*;

(c) the Chief Psychiatrist;

(d) the defendant.

(7) The Chief Psychiatrist must apply to justices for the revocation of an order committing a defendant to a secure mental health unit if the

Chief Psychiatrist is of the opinion that the defendant no longer requires such treatment or could no longer benefit from such treatment.

(8) On hearing an application, the justices –

(a) may vary, revoke or confirm the order committing the defendant to a secure mental health unit; and

(b) if they revoke the order, may make any other order they could have made under subsection (2) or section 35(1).

(9) An application is to be heard and determined within 14 days after it is made.

(10) . . . . . .

(11) The justices may make such orders as to the distribution and security of the report provided by the Chief Psychiatrist as they consider necessary or appropriate.

(12) Unless the justices order otherwise, the Chief Psychiatrist must give, as soon as practicable, a copy of his or her report to –

(a) the prosecutor; and

(b) the lawyer representing the defendant or, if the defendant is unrepresented, the defendant.

(13) The prosecution or the defence may dispute the whole or any part of the report of the Chief Psychiatrist.

(14) If the whole or any part of the report of the Chief Psychiatrist is disputed, the justices must not take into consideration the report or part in dispute unless the party disputing the report or part has had the opportunity –

(a) to lead evidence on the disputed matters; and

(b) to cross-examine on the disputed matters the Chief Psychiatrist or, if the Chief Psychiatrist has delegated his or her function of writing the report, the author of the report.

48. Recognizances

Where justices are authorized to discharge a witness or other person upon recognizance, they may order his discharge upon his entering into a recognizance, with or without sureties at their discretion, conditioned for his appearance at the time and place to which the hearing is adjourned, or which is named in the recognizance.

49. Issue of warrant for non-appearance

If a witness or other person, does not appear at the time and place mentioned in the recognizance, then the justices who are there present may adjourn the hearing, and may issue a warrant for his apprehension.

50. Commitment

The person to whom a warrant of commitment is directed shall convey the person therein named or described to the gaol or other place mentioned in the warrant, and there deliver him, together with the warrant, to the gaoler of that gaol or place, who shall thereupon give the person delivering the prisoner into his custody a receipt for the prisoner, setting forth the state and condition in which the prisoner was when he was delivered into the custody of the gaoler.

50A. Justices' record

(1) Justices before whom any proceedings subject to this Part take place shall take, or cause to be taken, a record of –

(a) the course of;

(b) the evidence received in; and

(c) their decision and orders in –

those proceedings.

(2) A party to proceedings subject to this Part or a person who appears to the clerk of petty sessions to have a sufficient interest in the subject-matter of the proceedings may, on application made to the clerk and upon payment of the relevant prescribed fee, obtain from the clerk a certified copy of the recording of the proceedings unless the clerk certifies that no recording of the

proceedings exists from which a copy may be taken.

(3) On receipt of an application under subsection (2), the clerk may, if the recording of the proceedings has been transcribed, upon payment of the relevant fee prescribed in the rules of court, provide the applicant with a certified transcript of the recording.

(4) For the purposes of subsections (2) and (3), ***certified***, in relation to a copy of the recording of proceedings or a transcript of the recording of those proceedings, means certified by the person who copied the recording, or who transcribed the recording, of the proceedings as being a true and accurate copy of the recording or transcript of the recording.

50B. Adjournment of proceedings

(1) Any justice or justices hearing any proceedings may, after hearing such of the parties to the proceedings as are present in court, adjourn the proceedings to another court.

(2) A clerk of petty sessions may, subject to any directions issued by the Chief Magistrate, adjourn any proceedings set down for hearing by a justice or justices in the clerk's district to another court if a written consent to the adjournment, signed by the parties to the proceedings or their lawyers or agents, is lodged with the clerk before the date of the hearing.

(3) Where, pursuant to subsection (2), a clerk of petty sessions adjourns proceedings to a court outside his district, he shall forward all necessary documents to the clerk of petty sessions for the district in which the court is situated.

(4) The rules of court may provide for or with respect to matters incidental to the adjournment of proceedings under this section, including the continuation of bail and remand.

50C. Power to remand in certain cases

(1) Where justices find that a person is guilty of an offence, the justices may, instead of sentencing that person for that offence forthwith, remand him for sentencing by themselves or by other justices.

(2) Where justices remand a person under subsection (1), those justices may order that a report or further information be obtained in respect of that person so that they or the other justices to whom that person is remanded to be sentenced, as the case may be, may be better informed as to the sentence that they should impose on him.

(3) Where justices remand a person under subsection (1) to be sentenced by other justices, it is not necessary for those other justices to hear evidence as to the commission of the offence of which that person was found guilty by the first-mentioned justices, except in so far as those other justices may consider that that evidence

will assist them in determining the sentence that should be imposed on him.

50D. Vexatious litigants

(1) Where a person is declared to be a vexatious litigant under an order in force under section 194G of the *Supreme Court Civil Procedure Act 1932*, that person may not, without the leave of the Chief Magistrate or the Deputy Chief Magistrate, institute any proceedings in a court of summary jurisdiction.

(2) If proceedings are pending in a court of summary jurisdiction when an order is made as mentioned in subsection (1), those proceedings are taken to be stayed unless leave is given as mentioned in that subsection.

(3) Where proceedings pending in a court of summary jurisdiction are taken to be stayed and the person declared to be a vexatious litigant has not applied for, or has not been granted, leave to proceed in those proceedings, any other party to those proceedings may apply to a magistrate for an order for the costs incurred by that party in those proceedings.

50E. Chief Clerk of Petty Sessions may make application under *Vexatious Proceedings Act 2011*

The Chief Clerk of Petty Sessions may apply to the Supreme Court under the *Vexatious Proceedings Act 2011* for a vexatious proceedings order in relation to a person who has

instituted any proceedings in a court of summary jurisdiction under this Act.

PART VII – PROCEEDINGS ON INDICTABLE OFFENCES

Division 1 – Proceedings where indictment filed

51. Certificate where indictment filed

Where an indictment is filed in the Supreme Court by the Attorney-General, or other authorized officer, against a person then at large, whether that person is bound by any recognizance to appear to answer the indictment or is not so bound, the proper officer of the Supreme Court shall, at any time thereafter, if that person has not already appeared and pleaded to the indictment, grant to the officer filing the indictment, upon his application, a certificate that the indictment has been filed.

52. Summons or warrant may be issued against person indicted

Where a certificate granted under section 51 is produced to a justice, he shall –

(a) if the person producing the certificate requests him to do so, issue a summons to the person against whom the relevant indictment is filed, ordering him to appear before the Supreme Court at the day, time, and place specified in the summons and to be there dealt with; or

(b) if no such request is made to the justice, issue his warrant to apprehend that last-mentioned person.

53. Committal

Where a person is by virtue of a warrant issued under section 52 apprehended and brought before justices, and it is proved upon oath before them that the person apprehended is the person indicted, he shall, without further inquiry or examination, be committed for trial.

54. Detainer of prisoner in gaol

If a person so indicted as mentioned in section 51 is, at the time of the production of the certificate under that section to the justice, confined in gaol for any other offence than that charged in the indictment, the justice, upon proof upon oath that the person indicted and the person so confined are one and the same, shall issue his warrant directed to the gaoler of the gaol in which the person indicted is then confined, commanding him to detain that person in his custody until he is lawfully removed therefrom for the purpose of being tried upon the indictment, or until he is otherwise removed or discharged out of his custody by due course of law.

Division 2 – Examination and committal

55. Procedure when brought before justices

(1) If at the first appearance before justices of a person charged with an indictable offence the person is not represented by a lawyer, the justices must –

(a) cause the charge to be read to the person or explain to the person, in simple terms, the offence with which the person is charged; and

(b) explain to the person his or her rights and duties under this Act in respect of the charge; and

(c) invite the person to enter a plea to the charge.

(2) The justices are not required to comply with subsection (1)(a) if they are satisfied that the defendant has received a copy of, and understands the nature of, the charge.

(3) If a defendant charged with an indictable offence is attending before the Court for the first time in respect of that offence, the defendant may –

(a) plead to the offence as specified in section 59; or

(b) state that he or she does not wish to plead to the offence.

(4) If the defendant pleads guilty to the offence and the charge is one in respect of which the defendant under section 72 is entitled to elect to be tried or sentenced either by justices or the Supreme Court, the defendant is to make that election unless the justices determine otherwise in the interests of justice.

(5) If the defendant does not plead guilty to the offence charged or another offence as specified in section 59(1)(b), the justices are to adjourn the proceedings for a period not exceeding 4 weeks.

(6) Subsection (5) does not apply if –

(a) the offence as charged is one in respect of which the defendant is entitled under section 72 to elect to be tried or sentenced either by justices or the Supreme Court and the defendant has elected to have the offence dealt with by justices; or

(b) the offence as charged is one in respect of which the justices, under a provision of another Act, may determine that the offence be dealt with either by the justices or the Supreme Court and the justices have determined that the offence be dealt with by them.

56. Duties during adjournment

(1) In this section –

Commander means a commander appointed under section 11 of the *Police Service Act 2003*;

relevant Commander means the Commander who has responsibilities in relation to the district in which the proceedings that are adjourned under section 55(5) are being conducted.

(2) On the adjournment of proceedings under section 55(5) –

(a) the lawyer representing the defendant is to notify the relevant Commander, in writing, of that fact as soon as is reasonably practicable; or

(b) if the defendant does not intend to be represented by a lawyer, the defendant is to notify the relevant Commander, in writing, of that fact as soon as is reasonably practicable.

(3) During an adjournment of proceedings under section 55(5), the relevant Commander is to serve a copy of each of the following documents on the lawyer representing the defendant or, if the defendant has notified the relevant Commander that he or she does not intend to be represented by a lawyer, on the defendant:

(a) the complaint;

(b) if the defendant has been interviewed in relation to the offence which is the subject of the charge by a police officer

or other person investigating the offence, a copy of the transcript of the interview;

(c) the statements of all witnesses that have been obtained by a police officer or other person investigating the offence;

(d) a summary of the material facts relevant to the charge.

(4) If there is an audio or audio-visual recording of an interview referred to in subsection (3)(b) and there is no transcript of the interview, the relevant Commander is to –

(a) serve a copy of the recording on; or

(b) provide an opportunity to hear or watch the recording to –

the lawyer representing the defendant or, if the defendant has notified the relevant Commander that he or she does not intend to be represented by a lawyer, the defendant.

(5) A legal representative or defendant served with a copy of an audio or audio-visual recording of an interview by the relevant Commander –

(a) must not allow it to be listened to or watched by any person for a purpose not connected with the proceedings; and

(b) must not copy it or allow it to be copied; and

(c) must return it to the relevant Commander within such reasonable period as the Commander specifies.

56A. . . . . .

57. Duty to provide further witness statements and summary of facts

(1) In this section –

Commander means a commander appointed under section 11 of the *Police Service Act 2003*;

relevant Commander means the Commander who has responsibilities in relation to the district in which the relevant proceedings are being conducted.

(2) If, after copies of all witness statements have been served on a defendant or his or her lawyer as required by section 56(3)(c), a statement or further statement from a witness is obtained by a police officer or other person investigating the offence, the relevant Commander is to serve a copy of that statement or further statement on the defendant or his or her lawyer as soon as is reasonably practicable.

(3) If, after a summary of material facts has been served on a defendant or his or her legal practitioner as required by section 56(3)(d), the relevant Commander becomes aware of additional material facts relevant to the charge or

considers that the material facts relevant to the charge have changed, the relevant Commander is to serve a copy of a revised summary of the material facts on the defendant or his or her legal practitioner as soon as is reasonably practicable.

57A. . . . . .

58. Second appearance before justices for indictable offence: election and plea

(1) On the appearance before justices of a defendant charged with an indictable offence following an adjournment of the proceedings under section 55(5), the defendant –

(a) if the charge is one in respect of which the defendant under section 72 is entitled to elect to be tried or sentenced either by justices or the Supreme Court, is to make that election; and

(b) is to plead to the charge as specified in section 59 –

unless the justices determine that, in the particular circumstances of the case, the interests of justice require that proceedings be further adjourned before the defendant is required to make an election or plead to the charge.

(2) If –

(a) the defendant, as allowed by the determination of the justices under subsection (1), does not make the

election or plead to the charge under that subsection; and

(b) the proceedings are further adjourned –

that subsection applies to the next appearance of the defendant before justices.

59. Entering plea and making election

(1) In pleading to an indictable offence, the defendant may plead –

(a) guilty to the offence; or

(b) if the justices and prosecutor consent, guilty of any other indictable offence of which he or she might be convicted on an indictment for the offence charged; or

(c) not guilty to the offence charged; or

(d) that further proceedings may not be taken in respect of the charge; or

(e) that he or she has cause to show why he or she should not be convicted of the offence charged; or

(f) that he or she previously has been found guilty or not guilty of the offence charged.

(2) If the defendant, on being asked to plead under section 55 or 58, stands mute or refuses to, or does not, answer directly to the charge, he or she is taken to plead not guilty.

(3) If the defendant, on being asked to make an election under section 55 or 58, stands mute or refuses to, or does not, make a definite election, he or she is taken to elect for the charge to be determined by justices.

(4) If the defendant pleads guilty and is to be sentenced in the Supreme Court –

(a) the complaint is to be endorsed with the words "I plead guilty to the offence of [state offence]" and "Dated this ……day of……200…."; and

(b) that endorsement is to be –

(i) signed by the defendant; or

(ii) if the defendant is unable to sign the endorsement, marked by the defendant, with that mark being certified by the justices.

60. Committal of defendant to Supreme Court

(1) The justices must commit to the Supreme Court for sentence or trial, on a day to be fixed by the Supreme Court, a defendant charged with an indictable offence –

(a) if the defendant pleads guilty to that offence, or to another indictable offence of which he or she might be convicted on an indictment for the offence charged, and the offence to which the defendant pleads guilty is one –

(i) which must be tried in the Supreme Court; or

(ii) in respect of which the defendant under section 72 may elect to be tried or sentenced by justices or in the Supreme Court and the defendant elects to be sentenced in the Supreme Court; or

(b) if the defendant pleads not guilty to the offence charged, or enters a plea referred to in section 59(1)(d), (e) or (f), and the offence is one –

(i) which must be tried in the Supreme Court; or

(ii) in respect of which the defendant under section 72 may elect to be tried or sentenced by justices or in the Supreme Court and the defendant elects to be tried in the Supreme Court.

(2) Despite a defendant having elected to have the offence with which he or she is charged tried or sentenced by justices, the justices may commit the defendant to the Supreme Court for trial or sentence if the justices consider it appropriate to do so.

(3) On the making of an order under subsection (1) or (2) that a defendant be committed for sentence or trial –

(a) the justices must remand the defendant in custody or admit him or her to bail to appear before the Supreme Court on a day to be fixed by the Supreme Court; and

(b) the clerk of petty sessions is to forward to the Supreme Court and to the Director of Public Prosecutions the documents and other materials prescribed by the rules of court.

(4) Despite subsection (1), the justices may refuse to make an order under that subsection in respect of a defendant charged with an indictable offence if –

(a) subsection (1)(b) applies in respect of the defendant; and

(b) the justices are satisfied that –

(i) preliminary proceedings have commenced under Division 3 in relation to the offence; or

(ii) a preliminary proceedings order is being, or will be, sought or has been granted in relation to the offence.

Division 3 – Preliminary proceedings

61. Interpretation

(1) In this Division –

audio visual link has the same meaning as in the *Evidence (Audio and Audio Visual Links) Act 1999*;

certified, in relation to a transcript of evidence recorded by means other than direct recording on paper, means the certification by the person who transcribed the recording that the transcript is a true and accurate record of the recording;

crown law officer has the same meaning as in section 1 of the*Criminal Code*;

endorsed recording, in relation to the statement of an affected person, means a copy of a written or other recording of a statement made by the affected person that is endorsed with, or accompanied by, a certificate that –

(a) purports to be made by a person who was present when the affected person made the statement; and

(b) states that the copy of the recording is a true and accurate copy;

examination, of a witness, includes cross-examination or re-examination of the witness;

transcribe means transcribe, or print, onto paper.

(2) A person in respect of an indictable offence is an affected person if the person –

(a) is a person upon whom, or in respect of whom, another person is charged with having committed one or more of the following offences:

(i) a crime under section 122, 124, 124A, 124B, 124C, 125, 125A, 125B, 125C, 125D, 126, 127, 129, 130, 133, 137, 158, 159, 170, 170A, 172, 178, 185, 186 or 189 of the *Criminal Code*;

(ii) a crime under section 127A of the *Criminal Code*, as in force immediately before the commencement of the *Criminal Code Amendment (Sexual Assault) Act 2017*;

(iii) a crime under section 298, 299 or 300 of the *Criminal Code* if the crime relates to a crime referred to in subparagraph (i);

(iv) an offence under section 73 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*;

(v) a child sexual offence within the meaning of the *Evidence (Children and Special Witnesses) Act 2001*;

(vi) an offence the commission of which involves, or relates to, family violence within the meaning of the *Family Violence Act 2004*;

(vii) an offence under section 4, 7, 8(2) or 9 of the *Sex Industry Offences Act 2005*; or

(b) has not attained the age of 17 years at the time an application is made, under this Division, to examine the witness in respect of the offence; or

(c) is a member of a class of persons prescribed for the purposes of this Division.

(3) In this Division, a reference to a defendant is a reference to the defendant in respect of the indictable offence for which a preliminary proceedings order is sought or granted.

62. Preliminary proceedings orders

(1) At any appearance of a defendant before a magistrate in respect of a charge for an indictable offence, on any plea to the charge other than a plea of guilty –

(a) one or more of the following persons may apply in writing for an order that a witness named in the application give evidence on oath in preliminary proceedings:

(i) the defendant;

(ii) a crown law officer;

(iii) if the indictable offence is a Commonwealth matter, the Director of Public Prosecutions of the Commonwealth or a person acting on behalf of the Director of Public Prosecutions of the Commonwealth; and

(b) the magistrate may make such an order.

(2) A magistrate may only make an order under subsection (1) in respect of a witness if –

(a) in the application for the order, the applicant has –

(i) identified a matter in respect of which the witness specified in the application is to be questioned; and

(ii) specified why the evidence of the witness is relevant to that matter; and

(iii) specified why examination of the witness is justified; and

(b) if the witness is an affected person, the magistrate is satisfied that exceptional circumstances require the witness to give evidence on oath at the preliminary proceedings; and

(c) the magistrate is satisfied that the order is necessary in the interests of justice.

(3) If an application, or part of an application, under subsection (1) relates to whether the defendant is fit to stand trial in respect of an indictable offence –

(a) the application, or that part of the application, is to be determined by the Supreme Court; and

(b) section 10(2) of the *Criminal Justice (Mental Impairment) Act 1999* applies to the determination of that matter by the Supreme Court.

(4) An order under subsection (1) –

(a) if the witness to be examined under the order is an affected person –

(i) must limit the matters in respect of which the witness may be examined under the order; and

(ii) may impose conditions in relation to such examination under the order; and

(b) in respect of any other witness, may do either or both of the following:

(i) limit the matters in respect of which the witness may be examined under the order;

(ii) impose conditions in relation to such examination under the order.

(5) If a magistrate makes an order under subsection (1), the magistrate is to remand the defendant in custody or admit him or her to bail to appear before a magistrate, or justice, at the time and on the day specified in the order.

63. Proceedings on preliminary proceedings order generally

(1) On the receipt by the clerk of petty sessions of a copy of a preliminary proceedings order, a magistrate or justice is to conduct preliminary proceedings in accordance with the order.

(2) The defendant must be present during preliminary proceedings unless the magistrate, or justice, conducting the proceedings permits the proceedings to proceed in the absence of the defendant.

(3) During preliminary proceedings –

(a) the evidence of a witness, other than an affected person, is to be taken by the examination of the witness before the magistrate, or justice, conducting the proceedings; and

(b) the evidence of an affected person, given by audio visual link in accordance with section 65(1), is to be taken by the receipt, by the magistrate or justice conducting the proceedings, of the

endorsed recording of the statement of the witness and the examination of the witness; and

(c) the evidence of a witness given in examination is to be transcribed and the transcript is to be certified.

(4) If, during preliminary proceedings in respect of an offence, the defendant's fitness to stand trial for the offence is raised –

(a) the magistrate, or justice, conducting the preliminary proceedings may order expert evidence, including psychiatric reports, on that matter; and

(b) if expert evidence is ordered under paragraph (a), the clerk of petty sessions is to forward the expert evidence to the Supreme Court; and

(c) that matter is to be determined by the Supreme Court in accordance with section 10(2) of the *Criminal Justice (Mental Impairment) Act 1999*.

64. Preliminary proceedings to be in closed court

(1) The room or place in which preliminary proceedings are conducted is a closed court.

(2) Despite subsection (1), the following persons may not be excluded from the room or place in which the preliminary proceedings are conducted:

(a) the prosecutor;

(b) the defendant;

(c) the legal representative of the prosecutor and of the defendant;

(d) a person who has been appointed, by a court under the *Evidence (Children and Special Witnesses) Act 2001*, to assist in the examination of the witness in the proceedings to which the preliminary proceedings relate.

(3) On the application of the prosecutor or the defendant, the magistrate, or justice, conducting the preliminary proceedings may allow a person to be present in the room or place in which preliminary proceedings are conducted so as to provide a witness, or the defendant, with support.

(4) The magistrate, or justice, conducting preliminary proceedings may only allow, under subsection (3), a person to be present in the room or place in which preliminary proceedings are conducted if satisfied that the person is not, or is not likely to be, a witness in or a party to –

(a) the preliminary proceedings; or

(b) the hearing of the charge for the offence to which the preliminary proceedings relate.

65. Affected persons at preliminary proceedings

(1) If a witness to be examined as part of preliminary proceedings is an affected person, the witness is to give evidence by audio visual link unless –

(a) the witness requests otherwise; or

(b) an order has been made under section 7 of the *Evidence (Children and Special Witnesses) Act 2001* in respect of the affected person in relation to proceedings to which the preliminary proceedings relate.

(2) An affected person may only –

(a) be examined on matters specified in the preliminary proceedings order in accordance with the conditions and limitations specified in that order; and

(b) be examined on matters not provided for in the preliminary proceedings order if the magistrate, or justice, conducting the proceedings is satisfied that –

(i) to do so would not conflict with the preliminary proceedings order; and

(ii) exceptional circumstances exist; and

(iii) it is necessary to do so in the interests of justice.

(3) A decision under subsection (2)(b) to allow the examination of an affected person on matters not provided for in the preliminary proceedings order is final and is not subject to appeal or other review.

(4) For the avoidance of doubt, if the *Evidence (Children and Special Witnesses) Act 2001* applies to an affected person under this Division, the provisions of this Division are in addition to and do not derogate from the requirements of that Act.

66. Attendance of defendant and witnesses and production of documents

(1) A magistrate, or justice, may issue a summons in respect of preliminary proceedings to one or more of the following persons:

(a) the defendant, requiring the defendant to attend the proceedings at a time and place mentioned in the summons;

(b) the witness specified in the relevant preliminary proceedings order, requiring the witness to attend the proceedings, at a time and place mentioned in the summons, to testify what he or she knows concerning the offence to which the proceedings relate;

(c) a person specified in the summons, requiring the person –

(i) to attend the proceedings at a time and place mentioned in the summons; and

(ii) as part of the proceedings and for the purposes of evidence, to produce a document or thing in the possession or under the control of the person.

(2) If a person fails to attend preliminary proceedings as required by a summons issued under this section, the magistrate, or justice, conducting the proceedings may issue a warrant requiring that the person be apprehended and brought before the magistrate or justice.

67. Guidance on preliminary proceedings

(1) At any time during preliminary proceedings conducted by a justice, the justice may request that a magistrate give directions in relation to the conduct or finalisation of the preliminary proceedings.

(2) A magistrate who receives a request under subsection (1) may give such directions relating to the conduct or finalisation of the preliminary proceedings as the magistrate considers appropriate.

68. Conclusion of preliminary proceedings

On the conclusion of preliminary proceedings, or if preliminary proceedings cannot proceed or proceed further –

(a) the magistrate, or justice, conducting the proceedings must remand the defendant in custody or admit the defendant to bail to appear before the Supreme Court on a day to be fixed by the Supreme Court; and

(b) the clerk of petty sessions is to forward the transcripts of all evidence given in the preliminary proceedings, and all endorsed recordings of the statements of affected persons used in the preliminary proceedings, to each of the following persons:

(i) the Supreme Court;

(ii) the Director of Public Prosecutions;

(iii) the lawyer representing the defendant or, if the defendant is not so represented, the defendant; and

(c) the clerk of petty sessions is to forward all exhibits tendered in evidence in the preliminary proceedings to the Director of Public Prosecutions.

69. Defendant may be committed to Supreme Court

A defendant in relation to a charge may be committed to the Supreme Court in respect of the charge whether or not an application for a preliminary proceedings order has been made in respect of the charge.

69A. Prohibition on publishing preliminary proceedings

(1) Unless otherwise permitted by a magistrate or judge, a person must not publish –

(a) information given or produced in evidence in preliminary proceedings; or

(b) an account of the preliminary proceedings; or

(c) any information relating to preliminary proceedings.

Penalty: Fine not exceeding 500 penalty units or imprisonment for a term not exceeding 24 months, or both.

(2) Subsection (1) does not apply to the publication of information, or an account, if –

(a) the prosecutor, or the defendant, publishes the information or account to another person and the publication to that person is necessary for the prosecutor or defendant to effectively conduct his or her case in relation to the prosecution of the offence to which the preliminary proceedings relate; or

(b) the prosecutor publishes the information or account to another person and the publication to that person is necessary in respect of any other criminal proceedings where such matters may be lawfully disclosed.

(3) Subsection (1) prevails over an inconsistent provision in any other Act, unless the other Act specifically provides otherwise.

Division 4 – Miscellaneous

70. Adjournment of proceedings

(1) If for any reason the proceedings under this Part are adjourned, the justices may –

(a) remand the defendant in custody; or

(b) admit the defendant to bail; or

(c) orally order the defendant to appear before the justices.

(2) Despite subsection (1)(b), the justices may not admit to bail a person who has attained the age of 17 years who is charged with treason or murder.

70A. Ancillary orders

In any proceedings under this Part, the justices may make any ancillary order they think appropriate.

PART VIII – CRIMES TRIABLE SUMMARILY

71. Petty crimes triable summarily

(1) Where a person is brought before justices upon a complaint for an offence under–

(a) one of the sections of the *Criminal Code* referred to in Schedule 2 in respect of property the value of which does not exceed $20 000; or

(ab) section 244 or 245(a)(iii) of the *Criminal Code*, except where it is alleged in the complaint that –

(i) in the circumstances in which the offence was committed, property to the value of more than $20 000 was stolen; or

(ii) in the commission of the offence, the person intended to commit a crime other than stealing; or

(ac) section 253A of the *Criminal Code*, if the value of property obtained or delivered, or the benefit gained or detriment caused, does not exceed $20 000; or

(b) section 278 or 279 of the *Criminal Code* in respect of a document, seal, or die which relates to an amount not exceeding $20 000, whether as the consideration for a transaction or dealing or otherwise–

the section creating that offence shall, unless the justices think that the offence should be dealt with in the Supreme Court, be deemed, subject to subsection (1A) and (2), to have created a simple offence, and the complaint shall be dealt with accordingly.

(1A) Subsection (1) does not apply in respect of a person brought before justices upon a complaint for an offence referred to in that subsection if –

(a) the person is brought before justices for more than one offence referred to in this section that –

(i) are joined in a single complaint; or

(ii) are substantially from the same course of conduct or founded on the same facts; and

(b) the total value specified in the charges for those offences exceeds $20 000.

(2) An offence mentioned in subsection (1) may be dealt with in the Supreme Court unless –

(a) the person arraigned therefor has been convicted therefor;

(b) a complaint against him therefor has been dismissed upon summary trial by virtue of that subsection; or

(c) a complaint against him therefor has been dismissed under the *Sentencing Act*

1997 or he has been released on probation under that Act on the hearing of proceedings relating to such an offence.

72. Other crimes triable summarily

(1) Where a person is brought before justices upon a complaint for an offence–

(a) under a section of the *Criminal Code* referred to in Part I of Schedule 3;

(b) under a section of the *Criminal Code* referred to in Part II of that Schedule, in respect of property the value of which exceeds $20 000 and does not exceed $100 000;

(c) under section 244 or 245(a)(iii) of the *Criminal Code* in respect of property the value of which exceeds $20 000, except where it is alleged in the complaint that–

(i) in the circumstances in which the offence was committed, property to the value of more than $100 000 was stolen; or

(ii) in the commission of the offence, the defendant intended to commit a crime other than stealing; or

(ca) under section 253A of the *Criminal Code*, if the value of property obtained or delivered, or the benefit gained or

detriment caused, exceeds $20 000 but does not exceed $100 000; or

(d) under section 278 or 279 of the *Criminal Code* in respect of a document, seal, or die which relates to an amount exceeding $20 000 and not exceeding $100 000, whether as the consideration for a transaction or dealing or otherwise–

the justices, as specified in section 55 or 58 and in the prescribed form of words or in words of like import, may ask the defendant if he is willing to be tried or sentenced by the justices instead of by jury and, if that person, or, if he is under the age of 17 years, his parent or guardian, does not object to his being tried or sentenced by the justices, the section creating the offence shall be deemed to have created a simple offence and the complaint shall be dealt with accordingly, subject to the provisions of this section.

(2) In a case to which subsection (1) applies, if the complainant, before the defendant is asked whether he objects to being tried or sentenced by the justices, shows to the justices that the defendant–

(a) is under committal to the Supreme Court for trial or sentence; or

(b) has been charged with an offence for which he may be so committed, the proceedings in respect of which are pending or not concluded–

and requests that the procedure provided by this section shall not apply, the justices may proceed as if this section had not been enacted.

(3) Where –

(a) a person is brought before justices for more than one offence referred to in section 71(1) that –

(i) are joined in a single complaint; or

(ii) are substantially from the same course of conduct or founded on the same facts; and

(b) the total value specified in the charges for those offences exceeds $20 000 but does not exceed $100 000 –

the person may elect to have the offence tried or sentenced by the justices.

(4) Where –

(a) a person is brought before justices upon a complaint for an offence under –

(i) section 113 of the *Criminal Code*; or

(ii) section 192 of the *Criminal Code*; and

(b) the prosecutor of the complaint consents –

the person may elect to have the offence tried or sentenced by the justices.

(5) A person may not elect, under this section, to have an offence tried or sentenced by the justices if –

(a) the person is brought before justices for more than one offence referred to in this section that –

(i) are joined in a single complaint; or

(ii) are substantially from the same course of conduct or founded on the same facts; and

(b) the total value specified in the charges for those offences exceeds $100 000.

72A. Attempts triable summarily

(1) An attempt to commit an offence mentioned in section 71(1) or section 72(1) is an offence triable and punishable in the same way as the offence attempted.

(2) On a complaint of an offence referred to in subsection (1), the defendant may, where the evidence so requires, be convicted of an attempt to commit the offence.

(3) On a complaint of attempting to commit an offence referred to in subsection (1), the defendant may, where the evidence so requires,

be convicted of the offence that he is alleged to have attempted to commit.

72AB. Perverting the course of justice triable summarily

(1) In this section –

perverting the course of justice complaint means a complaint for an offence under section 105 of the *Criminal Code* that relates to an offence under the *Traffic Act 1925*, the *Vehicle and Traffic Act 1999*, the *Heavy Vehicle National Law (Tasmania) Act 2013* or the *Road Safety (Alcohol and Drugs) Act 1970*.

(2) If a person is brought before justices upon a perverting the course of justice complaint and the justices and prosecutor agree that the matter is one that should be tried summarily, the justices, pursuant to section 55 or 58 and in the prescribed form of words or in words of similar effect, may ask the defendant if he or she is willing to be tried or sentenced by the justices instead of by jury.

(3) If a defendant to whom subsection (2) applies, or, if he or she is under the age of 17 years, his or her parent or guardian, does not object to his or her being tried or sentenced by the justices, the section creating the offence is taken to have created a simple offence and the complaint is to be dealt with accordingly, subject to the provisions of this section.

72B. Hearings under this Part

(1) Where a charge is heard and determined summarily under this Part –

(a) the complaint shall be deemed good and sufficient for the purposes of Part VI; and

(b) the defendant or any one of joint defendants may, if he is found not guilty of the offence with which he is charged, be convicted of any other offence of which he might be convicted on an indictment charging the same facts if it is established by the evidence to have been committed by him.

(2) If, during the hearing of a charge to be determined under this Part, the defendant requests or the justices consider for any reason that the charge should be dealt with in the Supreme Court, the justices shall–

(a) if they have not convicted the defendant, either abandon the hearing and begin again in accordance with Part VII or complete it and convict or discharge the defendant and if they convict him commit him to the Supreme Court for sentence; or

(b) if they have convicted the defendant, commit him to the Supreme Court for sentence.

(3) Where a person has been committed for sentence after conviction as provided in subsection (2) –

(a) section 60 applies as nearly as possible as if he had pleaded guilty when charged with his offence, but so that the conviction stands, unless it is subsequently quashed by the Supreme Court; and

(b) the justices shall transmit to the Registrar of the Supreme Court a statement from the record made by them pursuant to section 50A containing particulars of the facts found by them, together with a report of their reasons for committing.

(4) . . . . . .

72C. Limitation excluded

Section 26 does not apply to complaints dealt with under this Part.

PART IX – PROCEEDINGS IN CASE OF SIMPLE OFFENCES AND BREACHES OF DUTY

72D. Summons and complaint evidence in certain cases

(1) If a person who is served with a summons to answer a complaint of an offence or breach of duty prescribed for the purposes of section 144(4)(ca) –

(a) does not file a plea of not guilty and does not appear as summoned; or

(b) files a plea of not guilty but does not, after being given notice by a justice or clerk of petty sessions of the time and place fixed for the hearing of the complaint, appear at that hearing; or

(c) pleads not guilty in answer to the complaint, either in person or through counsel, but does not appear at the time and place fixed for the hearing of the complaint –

the complaint and summons may be received in evidence as *prima facie* proof of the matters contained in them.

(2) Notwithstanding subsection (1), a person shall not be imprisoned or sentenced to a community service order, within the meaning of the *Sentencing Act 1997*, if that person is not present at the hearing of the complaint referred to in that subsection.

73. Accessories

(1) Subject to any contrary intention in the Act creating the offence, where a simple offence is committed, each of the following persons is deemed to be a party to, and to be guilty of, the offence, and may be charged with actually committing it, namely:

(a) a person who actually commits the offence;

(b) a person who does any act or makes any omission for the purpose of enabling or aiding another person to commit the offence;

(c) a person who abets another person in committing the offence;

(d) a person who instigates another person to commit the offence.

(2) A person who instigates another person to do an act or make an omission of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted a simple offence on his part, is guilty of the same offence as if he had himself done the act or made the omission, and may be charged with himself committing the offence.

(3) A person who is alleged to have instigated, aided, or abetted the commission of a simple offence may be convicted upon a complaint charging him with having committed the offence, or upon a complaint charging him with

having instigated, aided, or abetted, as the case may be, the commission thereof.

74. Attempts

(1) Where, upon the hearing of a complaint for a simple offence, the complete commission of the offence charged is not proved but the evidence establishes that the defendant attempted to commit that offence, he may be convicted of such an attempt.

(2) An attempt to commit a simple offence is an act or omission done or made with intent to commit that offence, and forming part of a series of events which if it were not interrupted would constitute the actual commission of the offence.

(3) The offence of attempting to commit a simple offence may be committed, although the offender voluntarily desists from the actual commission of the simple offence itself, and whether under the circumstances it was possible to commit that simple offence or not.

(4) The point at which a series of events as mentioned in subsection (2) begins depends upon the circumstances of each particular case.

(5) Whether an act or omission is, or is not, too remote to constitute an attempt to commit a simple offence is a question of law.

(6) Where, upon the hearing of a complaint for an attempt to commit a simple offence, the evidence establishes that the defendant has completed the

commission of the simple offence, he may be convicted of the simple offence.

(7) Where a person has been convicted of an attempt to commit a simple offence, he is not liable to be tried for the simple offence of which he was so convicted of having attempted to commit.

74A. Procedure where defendant not represented

(1) When a person charged with a simple offence to which he or she has not entered a plea in writing authorized by rules of court first appears before justices, the justices shall, if that person is not represented by counsel–

(a) cause the charge to be read to the person or state to the person in simple terms with what he or she is charged; and

(b) inform the person that he or she is entitled to have the proceedings in respect of the charge adjourned in order to consider a course of action or to obtain legal advice in relation to the charge.

(1A) The justices are not required to comply with subsection (1)(a) if they are satisfied that the defendant has received a copy of, and understands, the nature of the charge.

(2) Nothing in subsection (1) requires the justices to explain to the person referred to in that subsection the pleas which may be entered under subsection (5).

(3) If a defendant, whether represented by counsel or not, does not require an adjournment or, if the proceedings are adjourned, on the resumption of the proceedings –

(a) the charge shall be read to the defendant unless the defendant waives that requirement; and

(b) the defendant shall be called upon to plead to the charge.

(4) Notwithstanding subsection (3), the justices may at any time adjourn the proceedings to another date without calling upon the defendant to plead to the charge.

(5) The defendant may plead –

(a) guilty of the offence charged or, with the consent of the justices and the prosecutor, of any other offence of which the defendant might be convicted on the complaint; or

(b) not guilty; or

(c) that further proceedings ought not to be had on the complaint; or

(d) that the defendant has cause to show why he or she should not be convicted of the charge.

(6) A defendant who pleads as provided in subsection (5)(c), shall state the grounds for making the plea and the justices shall, before

proceeding further, hear and determine the plea and –

(a) amend the complaint; or

(b) dismiss the complaint; or

(c) overrule the plea.

(7) If the complaint is amended or the plea is overruled, the defendant shall be asked to plead to the amended complaint or to plead further, as the case requires.

(8) A defendant who, on being asked to plead, stands mute or does not answer directly to the charge shall be deemed to plead not guilty.

74B. Procedure on adjournment

(1) If for any reason a complaint is not heard and determined on the day on which the defendant is first brought before a court of summary jurisdiction in respect of it and an adjournment is ordered, the court may –

(a) remand the defendant in custody; or

(b) admit the defendant to bail; or

(c) if the defendant appeared before the court in accordance with his or her bail, continue that bail (with or without a variation to the conditions of that bail) to the time at, and the day and place to, which the proceedings are adjourned; or

(d) order the defendant to appear before the court at the time, on the day and at the place to which the proceedings are adjourned.

(2 - 3) . . . . . .

(4) An order under subsection (1)(c) has the same effect as a summons in similar terms.

(5) The provisions of this section apply in respect of any adjournment of the proceedings on a complaint of a simple offence.

74BA. Discharge after conviction

(1) Where justices convict a person of an offence they may, having regard to the circumstances, the nature of the offence and the character of the person, determine the proceedings by discharging the person.

(2) In discharging a person, justices may exercise any other powers that would have been available had the person not been so discharged.

(3) This section does not apply in relation to any offence –

(a) for which a mandatory penalty is imposed under any Act or regulations; or

(b) for which a minimum and maximum penalty is imposed under any Act or regulations; or

(c) in respect of which a court must take certain action under any Act or regulations.

74C - 76A. . . . . .

77. Costs

(1) Where justices make a conviction or order in favour of the complainant they may, in their discretion, order that the defendant shall pay to the complainant the whole or a specified proportion of his costs of and incidental to his complaint.

(2) Where justices dismiss the complaint or make an order in favour of the defendant they may, in their discretion, order that the complainant shall pay to the defendant the whole or a specified proportion of his costs of and incidental to his defence.

(2A) The provisions of subsection (2) apply only in the case of a complaint for a breach of duty.

(3) Where costs are allowed under subsection (1) or subsection (2) they shall be assessed by the justices or, when directed by the justices, by the clerk of petty sessions.

(3A) When costs are assessed by the clerk of petty sessions, the clerk must have regard to the same matters as justices would have regard to if the justices were assessing the costs, including the

amount that could have been awarded in respect of witnesses' expenses under section 45.

(4) An assessment of costs under subsection (3) –

(a) shall be in writing;

(b) shall be signed by the justices or the clerk of petty sessions, as the case may require;

(c) shall be deemed to be part of the conviction or order of dismissal to which it relates; and

(d) shall comply with such requirements (if any) as are prescribed.

(5) The sum allowed for costs in a conviction or order by which a penalty or sum of money is adjudged to be paid shall be recoverable in the same manner and under the same warrants as the penalty or sum of money adjudged to be paid by the conviction or order is recoverable.

(6) . . . . . .

(7) When a case is adjourned, the justices may, in their discretion, order that the costs of, or occasioned by, the adjournment, be paid by any party to any other party.

(8) Nothing in this section prejudices or affects the operation of the *Costs in Criminal Cases Act 1976* but subsections (3) and (4) of this section apply to the assessment of costs ordered to be paid under that Act.

77A. Amount of costs

(1) In determining the amount of costs to be granted in an order for costs under this Act, justices may have regard to any scale of costs, fees or expenses prescribed or agreed upon under any enactment.

(2) Justices who, pursuant to subsection (1), have regard to any scale of costs, fees or expenses in determining the amount of costs to be granted in an order for costs must specify that scale in the order.

(3) The clerk of petty sessions must, if directed to do so by justices, tax any costs granted by justices in respect of a matter under this Act.

(4) A taxation of costs carried out pursuant to subsection (3) may be subject to review by the justices who presided in the proceedings in respect of which the costs were granted.

78 - 86. . . . . . .

87. Commitment in other cases

When an order is not for the payment of money, but for the doing of some other act, and directs that in case of the defendant's neglect or refusal to do that act he shall be imprisoned with or without hard labour, then, if the defendant neglects or refuses to do the act, a justice may issue his warrant of commitment of the defendant to gaol, there to be imprisoned, with

or without hard labour, as the case may be, for such time as the justice making the order directs.

88 - 92C. . . . . .

PART X – SURETY OF THE PEACE

93. Power to require surety

(1) A justice may require surety of a person when he is required to do so by a person who –

(a) deposes on oath that the person from whom surety is sought will –

(i) do him, his wife or child, or a person under his care or charge bodily harm;

(ii) cause him or any of them to be unlawfully imprisoned;

(iii) burn or injure his house; or

(iv) procure another person to do any of those things –

and that he does not require it out of malice or for vexation; and

(b) satisfies the justice by the evidence of himself or of others that he has just cause for his fear because the person of whom surety is sought has –

(i) threatened so to do; or

(ii) lain in wait for that purpose.

(2) A justice may require surety of a person when he is –

(a) required so to do by any person who gives him satisfactory evidence on oath that the person from whom surety is sought has –

(i) used provoking or insulting language;

(ii) exhibited an offensive writing or object; or

(iii) done an offensive act to or in the presence of the party complaining, for the purpose of annoyance and provocation, or publicly and to the common annoyance of the Sovereign's subjects; and

(b) of opinion that such conduct is likely to be repeated and may tend to provoke a breach of the peace.

(3) A justice may require surety of a person when he is –

(a) satisfied by evidence that the person from whom surety is sought has threatened to do, or to procure some other person to do, any act which would –

(i) if done, be punishable as an offence; and

(ii) be calculated to cause serious injury to the complainant, or any

person in his care or charge, or to any property of the complainant or such person; and

(b) of opinion that there is just cause for fear that the person so threatening will, if not prevented, carry his threat into execution.

(4) A justice may require surety of a person when he is satisfied by evidence that the person from whom surety is sought –

(a) has either by word of mouth or letter, challenged another person to fight;

(b) has knowingly been the messenger of any such challenge from another;

(c) has accepted or intends to accept any such challenge; or

(d) intends to fight or to be present aiding or abetting at any such fight or breach of the peace.

(5) A justice may require surety of a person where that person has by word or writing, incited or attempted to incite another person to take part in a riot, or to commit any other breach of the peace.

(6) Where a justice is by this section empowered to require surety of a person, he may call on him to enter into recognizance to the Sovereign with or without sureties, as he thinks fit, for keeping the peace.

94. How application for surety of the peace is to be made

(1) Where a person applies to a justice to have any other person bound over to keep the peace, the application shall be by way of complaint, to be verified by the oath of the applicant.

(2) In the complaint the facts upon which the complainant relies in support of his application shall be fully set forth; and, if any of such facts be not within the personal knowledge of the complainant, they shall, if the justice so require, be verified by the corroborative oath of some other person.

(3) If the justice receiving the complaint, and considering the matter thereof, sees sufficient cause so to do, he shall thereupon issue his warrant, requiring that the person against whom the complaint is made be apprehended and brought before him, or some other justice or justices, to answer to the complaint, and to be further dealt with according to law.

(4) If the justice is of opinion that the complainant has cause for his application, but that no person or property is in immediate danger from the defendant, he may, if he thinks fit, issue his summons in the first instance to compel the appearance of the defendant.

95. How application is to be heard

(1) A complaint for surety of the peace shall be heard and determined in open court, and in the

same manner as nearly as a complaint for a simple offence.

(2) Upon the appearance of the person from whom surety is sought, the complaint shall be read over to him, and, if he has no cause to allege why he should not be bound over to keep the peace, the justice then present may thereupon require him to enter into recognizance accordingly.

(3) If he has any such cause to allege, he may require the complainant or his witnesses to be examined upon oath, and cross-examine them, and may by way of defence adduce evidence to explain, or controvert the truth of, the facts relied upon by the complainant in support of his application, or to show that the complaint is made for malice only or vexation.

96. Complaint to be dismissed if preferred from malice only and without just cause of fear

If the justice hearing the complaint is of opinion that the complainant has no just cause of fear, or that the complaint has been made out of malice or for vexation, and without just cause of fear, he shall dismiss the case, and may order the complainant to pay to the defendant such costs as to him shall seem just and reasonable in that behalf.

97. If complaint reasonable defendant to be required to give security

(1) If the justice hearing the complaint considers that there are good grounds so to do, he may order the defendant to enter with one or more sureties as to him seems meet into a recognizance to the Queen in such sum as the justice deems sufficient, conditioned that the defendant do keep the peace –

(a) towards the complainant;

(b) towards Her Majesty and all her liege people; or

(c) towards Her Majesty and all her liege people, and especially towards the complainant –

for a time to be fixed by the order not exceeding 2 years from the date of the recognizance.

(2) A recognizance for the purposes of this Part may be entered into by the principal or any sureties thereto before a justice, and it is not necessary for all the parties to the recognizance to be present at the same time.

98. Power of justice to order defendant to pay costs

(1) The costs of the proceedings for surety of the peace shall be paid in the first instance by the complainant; but the justice may, if he thinks fit, order that the defendant pay to the complainant such costs as he deems reasonable.

(2) Payment of costs which the justice may order to be paid by either party to the other shall be enforced in like manner as costs ordered to be paid under Part IX.

99. Power of justice to commit defendant until he enters into the required recognizance

(1) If the defendant refuses or neglects to enter into a recognizance when so required or is unable to find sufficient sureties to the satisfaction of the justice requiring them, the justice may issue his warrant, commanding that the defendant be taken to a gaol, there to be kept until he enters into the recognizance.

(2) A person shall not be detained in prison under this section for a longer period than he would have been bound under recognizance of the peace if he had entered into the recognizance upon the day of the making of the order.

100. Right of complainant to require defendant to be bound over to keep the peace

Where a complaint is laid against a person for an assault punishable summarily, the complainant may, in the same complaint require that the defendant be bound over to keep the peace.

101. Power to require convicted persons to give sureties of the peace in addition to or in lieu of punishment

Wherever, upon the hearing of any complaint for an offence punishable summarily, it appears to

the justices, by the evidence, that the defendant has used threats, or done an act for which he might be required to enter into recognizance of the peace, they may, if they think fit, require the defendant to enter into such a recognizance, either in addition to or in lieu of the punishment to which he is liable upon conviction of the offence, and whether the complainant has required sureties of the peace against the defendant or not.

102. Power of justices, upon sufficient cause, to require persons to give sureties of the peace where no complaint is made

When a person within the view or hearing of a justice uses a threat or other language, or does an act, on proof of which he might on complaint made be required to enter into recognizance of the peace, the justice may forthwith, and without further proof, require that person to enter into such recognizance of the peace as the justice deems sufficient, and in default of his doing may commit him to prison as provided in section 99.

103. Power to release persons imprisoned in default of finding sureties if complainant dies

If the person upon whose complaint a justice has required the defendant to find surety of the peace dies, and the defendant is then in prison in default of giving surety, the justice who made the order, if he thinks fit, may order the defendant to be released from custody without giving surety.

104. Recognizances not to be discharged by release from complainant

No person who has been required to enter into recognizance of the peace is discharged therefrom by a release from the complainant, and if in custody in default of entering into the recognizance, he is not entitled to be liberated in consequence of any such release.

105. How recognizances of the peace may be forfeited

(1) Where a recognizance to keep the peace is entered into before a justice by a person as principal or surety, a court of petty sessions may, upon application, adjudge the recognizance to be forfeited upon proof –

(a) of conviction of the party bound as principal by the recognizance of an offence which is in law a breach of the condition of the recognizance; or

(b) that the party so bound as principal has done or threatened to do an act the doing or threatening of which would, if proved against him, have been a ground for calling upon him to enter into such a recognizance –

and upon further proof that a notice in writing, signed by the person seeking to put the recognizance in force, has, 7 clear days before the application is made, been personally served upon or left at the usual place of abode of the party or each of the parties, if more than one,

against whom it is sought to put the recognizance in force, that an application will be made, at a time and place to be stated in the notice that the recognizance may be adjudged to be forfeited.

(2) Upon adjudging the recognizance to be forfeited, the court may order the persons bound thereby, whether as principal or sureties, or any of them to pay the sums for which they are respectively bound.

106. Execution of forfeiture

If the sum of money which a person is ordered to pay under section 105(2) is not paid either immediately, or within such time as the court appoints, a justice may, without further notice to that person, cause the sum, with the costs of all proceedings rendered necessary by the non-payment, to be levied and recovered by execution against the goods and chattels of that person, and in default of sufficient goods and chattels that person may be imprisoned for 3 months unless the sum adjudged to be paid, and all costs and charges of the execution, and also if the justice thinks fit so to order, of taking and conveying that person to gaol, are sooner paid.

PART XA – RESTRAINT ORDERS

106A. Interpretation of Part XA

(1) In this Part –

external restraint order means an order made by a court of another State, a Territory of the Commonwealth or New Zealand which has been made to prevent a person from acting in a manner specified in section 106B(1);

facsimile copy means a copy of a document made by transmitting the document by use of a facsimile machine;

family contact order means a Division 11 contact order within the meaning of Part 7 of the *Family Law Act 1975* of the Commonwealth;

interim restraint order means an order made under section 106D;

possession, in relation to a thing, includes –

(a) having it in one's custody; and

(b) having it under one's control in any place (whether or not another person has custody of it); and

(c) having an ability to obtain its custody at will; and

(d) having a claim to its custody if the claimant has committed it to the custody of another person, even though it is temporarily not in the control of the person having the claim;

premises includes any, or any part of any, of the following (whether a public place or private property):

(a) an area of land;

(b) a building or structure (whether movable or immovable), including a residence;

(c) a vehicle, vessel or aircraft;

(d) a caravan or trailer;

property, in relation to a person, means property that –

(a) the person owns; or

(b) the person does not own but in normal circumstances –

(i) is used and enjoyed by the person; or

(ii) is available for the person's use or enjoyment; or

(iii) is in the person's possession; or

(iv) is at the premises at which the person is residing;

registered external restraint order means an external restraint order which has been registered under section 106GB(1)(a) or (3);

relevant family contact order means, in relation to a restraint order or interim restraint order, a family contact order relating to access between –

(a) the person for whose benefit a restraint order or interim restraint order is sought or made or the person against whom the restraint order or interim restraint order is sought or made; and

(b) a child who is a member of the family of either of those persons;

restraint order means an order made under section 106B;

sealed copy includes a facsimile copy of a sealed copy;

stalking means the doing of any one or more of the following except when done for a lawful purpose:

(a) following another person;

(b) keeping another person under surveillance;

(c) loitering outside the residence or workplace of another person;

(d) loitering outside a place that another person frequents;

(e) entering or interfering with the property of another person;

(f) sending offensive material to another person or leaving offensive material where it is likely to be found by, given to or brought to the attention of another person;

(g) publishing or transmitting offensive material by electronic or any other means in such a way that the offensive material is likely to be found by, or brought to the attention of, another person;

(h) using the internet or any other form of electronic communication in a way that could reasonably be expected to cause another person to be apprehensive or fearful;

(i) contacting another person by postal, telephonic, electronic or any other means of communication;

(j) acting in another way that could reasonably be expected to cause another person to be apprehensive or fearful;

telephone interim restraint order means an order made under section 106DA;

working day means a day other than a Sunday or a statutory holiday as defined in the *Statutory Holidays Act 2000*.

(1A) For the purposes of the definition of *stalking* in subsection (1), an act is done for a lawful purpose if the act is done –

(a) by a law enforcement official as part of an official investigation; or

(b) by a member of the media (including a freelancer) as part of his or her professional occupation; or

(c) by a person during picketing that is otherwise lawful; or

(d) by a commercial agent, commercial sub-agent or inquiry agent, within the meaning of the *Security and Investigations Agents Act 2002*, as part of his or her professional occupation; or

(e) by another person as part of his or her professional occupation.

(2) In this Part, a reference to an application under this Part shall not include a reference to an

application made under section 106B(3) or section 106G(2).

(3) For the purposes of this Part, a person is a member of the family of another person if that person is a member of the family of the other person within the meaning of section 60D (2) of the *Family Law Act 1975* of the Commonwealth.

106B. Restraint orders

(1) Where on an application made under this section, justices are satisfied on the balance of probabilities –

(a) that –

(i) a person has caused personal injury or damage to property; and

(ii) that person is, unless restrained, likely again to cause personal injury or damage to property; or

(b) that –

(i) a person has threatened to cause personal injury or damage to property; and

(ii) that person is, unless restrained, likely to carry out that threat; or

(c) that –

(i) a person has behaved in a provocative or offensive manner;

(ii) the behaviour is such as is likely to lead to a breach of the peace; and

(iii) that person is, unless restrained, likely again to behave in the same or a similar manner; or

(d) that a person has stalked the person for whose benefit the application is made or a third person the stalking of whom has caused the person for whose benefit the application is made to feel apprehension or fear –

they may make an order imposing such restraints upon that person as are necessary or desirable to prevent the person from acting in a manner specified in this subsection.

(2) An application for a restraint order may be made –

(a) by a police officer;

(b) by a person against whom, or against whose property, the behaviour that forms the subject-matter of the application was directed, or, where that person is a child, a parent or guardian of that child; or

(ba) by the guardian or administrator of a person who is a represented person within the meaning of the *Guardianship and Administration Act 1995*; or

(c) by a person to whom leave is granted under subsection (3).

(3) A person other than a person referred to in subsection (2)(a) or (b) may apply to justices for leave to make an application for a restraint order.

(4) An application referred to in subsection (3) may be made in the absence of the respondent to the application.

(4AA) An application for a restraint order must include information of any relevant family contact order, or of any pending application for a relevant family contact order, of which the applicant is aware.

(4AAB) In deciding whether or not to make a restraint order, the justices –

(a) must consider the protection and welfare of the person for whose benefit the order is sought to be of paramount importance; and

(b) must consider whether access between the person for whose benefit the order is sought, or the person against whom the order is sought, and any child who is a member of the family of either of those persons is relevant to the making of the restraint order; and

(c) must consider any relevant family contact order of which the justices have been informed.

(4AAC) A restraint order is not invalid merely because –

(a) the applicant fails to inform the justices of any relevant family contact order, or of any pending application for a relevant family contact order; or

(b) the justice fail to consider access or any relevant family contact order as required by subsection (4AAB).

(4A) In determining the nature of the orders which may be included in a restraint order, the justices hearing the application for the order must consider the protection and welfare of the person for whose benefit the order is sought to be of paramount importance.

(4B) Without limiting the nature of the orders which may be included in a restraint order, the justices hearing the application for the order may include in the restraint order one or more of the following orders:

(a) an order directing the person against whom the order is made to vacate premises, restraining that person from entering premises, or limiting that person's access to premises, whether or not that person has a legal or equitable interest in the premises;

(b) an order prohibiting or restricting the possession by the person against whom the order is made of all or any firearms specified in the order or directing the

forfeiture or disposal of any firearms in the possession of that person;

(c) an order prohibiting the person against whom the order is made from stalking the person for whose benefit the order is made;

(d) an order prohibiting the person against whom the order is made from causing another person to engage in conduct restrained by justices.

(5) Before making an order of a kind referred to in subsection (4B)(a), the justices must consider –

(a) the effect of making or declining to make the order on the accommodation of the persons affected by the proceedings; and

(b) the effect of making or declining to make the order on any children of, or in the care of, the persons affected by the proceedings; and

(c) the need for suitable arrangements to be made to allow the person against whom the order is sought to take possession of personal property on the premises.

(5A) Without limiting the nature of the orders which may be made under this section, if justices make a restraint order, the justices may include in that order any one or more of the following orders:

(a) an order directing the person against whom the restraint order is sought to

deliver property, in the manner specified in the order, to a person for whose benefit the restraint order is made or to allow a person for whose benefit the restraint order is made, in the manner specified in the order, to recover possession of property or have access to property;

(b) an order directing the person for whose benefit the restraint order is made to allow a person against whom the restraint order is made, in the manner specified in the order, to recover possession of property or have access to property.

(5B) A restraint order that affects possession of or access to premises or property does not affect any legal or equitable interest held by any person in the premises or property.

(6) A restraint order shall remain in force for such period as justices consider necessary to protect the person for whose benefit the order is made or until an order is made revoking the restraint order.

(7) A restraint order may –

(a) cancel or suspend any licence or other permit relating to the possession of a firearm by the person against whom the order is made; and

(b) prohibit the person from applying for, or being granted or issued, any such licence

or other permit during the period specified in the order.

(8) . . . . . .

106BA. Powers of justices to make family violence orders after restraint order applications made

If –

(a) an application for a restraint order has been made in accordance with section 106B; and

(b) at any stage of the proceedings in respect of the application for the restraint order, the justices consider that the application should have been made as an application under section 15 of the *Family Violence Act 2004* for a family violence order –

the justices may proceed under that Act as if the application for the restraint order were an application for a family violence order.

106C. Issue of warrants in respect of applications for restraint orders

(1) Where an application for a restraint order, whether or not filed with a clerk of petty sessions, and the materials required by the rules to accompany such an application are produced to a justice, the justice may, if in his opinion it is a case of urgency and he sees sufficient cause to do so, issue a warrant for the apprehension of the

person against whom the restraint order is sought.

(2) Where a justice issues a warrant for the apprehension of a person pursuant to subsection (1) and an application for a restraint order has not been filed at the time the warrant is issued, the application shall be filed as soon as practicable after the warrant is issued.

106D. Interim restraint orders

(1) Where an application for a restraint order has been filed with a clerk of petty sessions, justices may, if they see sufficient cause to do so and whether or not they are satisfied of any of the matters specified in section 106B(1) –

(a) make an interim restraint order at any stage of the proceedings in respect of the application for the restraint order;

(b) at any stage of those proceedings vary an interim restraint order so made; and

(c) whether or not they make an interim restraint order, give such directions with respect to the further hearing of the application for the restraint order as they consider necessary.

(2) An interim restraint order shall be expressed to operate for such period, not exceeding 60 days, as may be specified by the justices.

(3) Notwithstanding subsection (2), if it appears to justices that the period for which an interim restraint order is expressed to have effect will expire before the conclusion of the proceedings in respect of the application for a restraint order, they may extend the interim restraint order until –

(a) a restraint order is served on the person against whom it is sought; or

(b) the proceedings are otherwise terminated.

(4) An interim restraint order may be made, varied, or extended in the absence of the person against whom a restraint order is sought whether or not a sealed copy of the application for the restraint order has been served on that person.

(5) In addition to, or in lieu of, making an interim restraint order, justices may issue a warrant for the apprehension of the person against whom a restraint order is sought.

(6) The provisions of section 106B(4A), (5) and (5A) apply to the making of an interim restraint order in the same manner as they apply to the making of a restraint order.

(6A) The provisions of section 106B(4AAB) and (4AAC) apply to the making, variation or extension of an interim restraint order in the same manner as they apply to the making of a restraint order.

(7) An interim restraint order may –

(a) suspend, for the period during which the order is in force, any licence or other permit relating to the possession of a firearm by the person against whom the order is made; and

(b) prohibit the person from applying for, or being granted or issued, any such licence or other permit during that period.

(8) A suspension referred to in subsection (7) takes effect when the interim restraint order is served on the person against whom it is made.

106DA. Telephone interim restraint orders

(1) In this section –

intimidation means verbal or physical intimidation or verbal and physical intimidation;

telephone includes radio and facsimile machine.

(2) A police officer may apply by telephone to a magistrate for an interim restraint order against a person if –

(a) the police officer has reasonable grounds for believing that –

(i) the person has intimidated another person; and

(ii) the intimidation is likely to continue and give rise to an assault; and

(b) it is not practicable to immediately apply for a restraint order because of the time and place at which the intimidation giving rise to the application occurred.

(3) A police officer who is making or intends to make an application for a telephone interim restraint order may detain the person against whom the order is sought at the scene of the intimidation, using such force as is necessary and reasonable, for as long as is reasonably necessary for –

(a) the application to be made and heard; and

(b) any order, or a copy of any order, made to be served.

(4) A magistrate to whom an application is made under subsection (2) may make an interim restraint order by telephone if the magistrate considers there is sufficient cause to do so and whether or not he or she is satisfied of any of the matters specified in section 106B(1).

(5) The provisions of section 106B(4A), (5) and (5A) apply to the making of a telephone interim restraint order in the same manner as they apply to the making of a restraint order.

(6) The provisions of section 106D(7) and (8) apply to a telephone interim restraint order in the same

manner as they apply to an interim restraint order.

(7) A telephone interim restraint order is made by the magistrate –

(a) orally communicating the terms of the order to the applicant; or

(b) transmitting the terms of the order to the applicant by facsimile machine.

(8) A magistrate who makes a telephone interim restraint order must –

(a) record in writing –

(i) the name and rank of the applicant police officer; and

(ii) the name of the person against whom the order is made; and

(iii) the name of the person for whose benefit the order is made; and

(iv) the reasons for the application; and

(v) the terms of the order; and

(vi) the date and time the order was made; and

(vii) the period for which the order operates; and

(b) provide that record or a copy of it to a clerk of petty sessions.

(9) Where a telephone interim restraint order is made orally, the police officer must record in writing the information specified in subsection (8)(a)(ii), (iii), (v), (vi) and (vii) and the name of the magistrate who made the order.

(10) A record made by a police officer under subsection (9) is taken to be the telephone interim restraint order.

(11) A paper that has been produced by or directly from the facsimile transmission of the terms of a telephone interim restraint order to the applicant is taken to be the telephone interim restraint order.

(12) A telephone interim restraint order or a copy of such an order is to be served personally on the person against whom the order is made as soon as practicable after it is made.

(13) A telephone interim restraint order operates for a period, not exceeding 5 working days, specified in the order.

(14) Before a telephone interim restraint order expires, a police officer must –

(a) apply for a restraint order; or

(b) report to the magistrate who made the telephone interim restraint order the reasons why an application for a restraint order is not being made.

(15) A person who has been detained to facilitate the making of a telephone interim restraint order has not been taken into custody for the purposes of sections 34 and 34A.

106E. Procedure in relation to hearing and determining applications under this Part

(1) Except as otherwise provided by this Act or ordered by justices –

(a) an application under this Part is to be heard and determined –

(i) in open court; and

(ii) in the same manner, as nearly as practicable, as a complaint for a simple offence; and

(b) a person who makes an application under this Part is to be treated, as nearly as practicable, as a complainant.

(1A) At the hearing of an application under this Part, the following persons may conduct the applicant's or respondent's case and examine and cross-examine witnesses:

(a) the applicant or respondent;

(b) a lawyer who represents the applicant or respondent;

(c) a police officer who represents the applicant or respondent.

(1B) If a police officer could, if available as a witness, give direct oral evidence of a fact in his or her professional capacity in the hearing of an application under this Part, the statutory declaration of the police officer in relation to that fact and made in support of the application is, subject to subsection (1C), admissible as evidence of the fact in the hearing, notwithstanding that the police officer may be available as a witness.

(1C) A statutory declaration referred to in subsection (1B) is not admissible as evidence in the hearing of an application under this Part if the justices, having regard to all the circumstances, are of the opinion that the representation in the statutory declaration ought not to be admitted without being tested by cross-examination.

(1D) The representation of a medical practitioner in a document tending to establish a fact is admissible as evidence of the fact in the hearing of an application under this Part, notwithstanding that the medical practitioner may be available as a witness, if–

(a) the medical practitioner, in his or her professional capacity, could give direct oral evidence of the fact in the hearing; and

(b) the justices, having regard to all the circumstances, are of the opinion that justice does not require that the representation be tested by cross-examination.

(2) If the justices hearing an application under this Part are satisfied that –

(a) a sealed copy of the application has been served on the respondent to the application; or

(b) reasonable attempts have been made to serve a sealed copy of the application on the respondent –

they may proceed in the absence of the respondent and may –

(c) make the order sought in the application or such other order as they consider necessary; or

(d) issue a warrant for the apprehension of the respondent.

(3) If the parties to an application under this Part consent, justices may make an order under this Part in accordance with the terms consented to by the parties.

(4) At any time in proceedings under this Part, the justices may determine that it is appropriate that those proceedings be heard and determined by the Magistrates Court (Youth Justice Division) or the Magistrates Court (Children's Division) and may transfer the proceedings to that court.

(5) If proceedings are transferred to the Magistrates Court (Youth Justice Division) or the Magistrates Court (Children's Division) under

subsection (4), that court has jurisdiction to hear and determine those proceedings.

106EA. When order takes effect

An order made under this Part takes effect –

(a) if the respondent to the application is present before the justices when the order is made, on the making of the order; or

(b) if the respondent to the application is not present before the justices when the order is made, when the respondent is served personally with the order or a copy of the order.

106F. Powers of justices to remand in custody, admit to bail, &c.

(1) If for any reason the proceedings in respect of an application under this Part are adjourned, justices may –

(a) remand the respondent to the application in custody, with a justice issuing his warrant accordingly;

(b) admit the respondent to bail; or

(c) order the respondent to appear before justices at the time and place to which the proceedings are adjourned.

(1A) In making a determination under subsection (1) in respect of an application for a restraint order or interim restraint order –

(a) the protection and welfare of the person for whose benefit the order is sought is of paramount importance; and

(b) the justices must take into account any previous violence by the person against whom the order is sought against any other person whether or not that person was convicted of an offence, or had a prior restraint order made against him or her, in respect of that violence.

(2) Where the respondent to an application under this Part is remanded in custody, the justices who remand that person shall inform him that he shall, and the warrant shall provide that he shall, be kept for a period not exceeding 28 clear days at any one time and then be brought before justices as specified in the warrant.

(3) The period for which a person may be admitted to bail under this section shall not, without his consent, exceed 60 days.

(4) An order under subsection (1)(c) has the same effect as a summons in similar terms.

106G. Variation, extension, and revocation of restraint orders

(1) A person who may make an application for a restraint order or a person against whom a

restraint order has been made may at any time apply to justices for the variation, extension, or revocation of the restraint order.

(2) A person other than a person referred to in subsection (1) may apply to justices for leave to make an application for the variation, extension, or revocation of a restraint order.

(3) An application referred to in subsection (2) may be made in the absence of the respondent to the application.

(3A) The provisions of section 106B(4AAB) and (4AAC) apply to the variation or extension of a restraint order in the same manner as they apply to the making of a restraint order.

(4) A restraint order which has been varied under this section shall have effect for the period for which the restraint order before it was varied had effect unless otherwise provided by the justices hearing the application for the variation of the restraint order.

(5) A restraint order may be extended for such period as justices consider necessary to protect the person for whose benefit the restraint order was made or until an order is made revoking the restraint order.

106GA. Application for registration of external restraint order

(1) A person may apply to the Chief Clerk of Petty Sessions for the registration of an external restraint order.

(2) An application is to –

(a) be made in a form approved by the Chief Clerk of Petty Sessions; and

(b) be accompanied by a copy of the external restraint order; and

(c) be accompanied by such evidence of effective service of the external restraint order on the person against whom it was made as the Chief Clerk considers appropriate.

106GB. Registration of external restraint order

(1) On receipt of an application under section 106GA, the Chief Clerk of Petty Sessions must –

(a) register the external restraint order to which the application relates; or

(b) refer that external restraint order to justices for adaptation and modification.

(2) On the referral of an external restraint order, justices may–

(a) vary the period during which the order has effect in its operation in this State; and

(b) make such other adaptations and modifications to the order as they consider necessary or desirable for its effective operation in this State.

(3) The Chief Clerk of Petty Sessions must register an external restraint order which has been adapted and modified under subsection (2).

(4) On registering an external restraint order, the Chief Clerk of Petty Sessions must provide the Commissioner of Police with a copy of the registered external restraint order.

(5) Notice of the registration of an external restraint order is not to be served on the person against whom the order was made except where the person who applied for that registration has consented to that service.

(6) A registered external restraint order is registered for the period during which the order, or the order as adapted and modified, is in force.

106GC. Effect of registration of external restraint order

An external restraint order which has been registered under section 106GB(1)(a) or (3)–

(a) has the same effect as a restraint order made under this Part; and

(b) may be enforced against a person as if it were a restraint order which had been made under this Part and personally served on that person.

106GD. Variation, &c., of registered external restraint order

(1) In this section, ***prescribed person*** means –

(a) a person who applied for the registration of an external restraint order; or

(b) a person for whose benefit a registered external restraint order has been made; or

(c) a person against whom a registered external restraint order has been made; or

(d) a person whom justices have granted leave to make an application under this section.

(2) A prescribed person may apply to justices for one or more of the following purposes:

(a) the variation of a registered external restraint order as it applies in this State;

(b) the variation of the period during which a registered external restraint order has effect in its operation in this State;

(c) the cancellation of the registration of a registered external restraint order.

(2A) An application for the variation of a registered external restraint order as it applies in this State or the variation of the period during which such an order has effect in its operation in this State must include information of any relevant family contact order, or of any pending application for a relevant family contact order, of which the applicant is aware.

(3) On receipt of an application under subsection (2), justices may do one or more of the acts specified in that subsection.

(4) An application by a person referred to in subsection (1)(a), (b) or (d) may be heard and determined in the absence of any person against whom the registered external restraint order has been made.

(5) A registered external restraint order varied under subsection (2)(a) or (b) is registered for the period during which the order, as varied, has effect in its operation in this State.

(6) The provisions of section 106B(4AAB) and (4AAC) apply to the variation of a registered external restraint order as it applies in this State or the variation of the period during which such an order has effect in its operation in this State in the same manner as they apply to the making of a restraint order.

106GE. Access order prevails if inconsistency

A restraint order, interim restraint order, telephone interim restraint order or registered

external restraint order operates subject to any declaration made under section 68S of the *Family Law Act 1975* of the Commonwealth.

106H. Costs

(1) The justices hearing an application under this Part made by a person other than a police officer may, if they think fit, order either party to pay to the other such costs as the justices consider reasonable.

(2) Payment of costs which justices may order to be paid by either party to the other under this section shall be enforced in like manner as costs ordered to be paid under Part IX.

106I. Contravention of restraint order, &c.

(1) Where a person in respect of whom a restraint order, interim restraint order or telephone interim restraint order, as made, varied or extended has effect contravenes or fails to comply with the order, that person is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units or to imprisonment for a period not exceeding 6 months.

(2) Where a police officer has reasonable cause to suspect that a person has committed an offence under subsection (1), he may, without warrant, arrest and detain that person and may, for the purpose of arresting and detaining such a person, enter, by force if necessary, any premises on

which he has reasonable cause to believe that person is present and search those premises for that person.

(3) Section 34 does not apply to a person arrested and detained under subsection (2).

106J. Power of justices to make orders under this Part at hearing of complaint for offence

Where, upon the hearing of a complaint for an offence punishable summarily, justices are satisfied on the balance of probabilities as to the matters set out in section 106B(1), they may make an order under this Part in addition to any other order which they may make.

106K. Restriction of publication of names of parties, &c.

(1) Where it appears to justices that for the furtherance of, or otherwise in the interests of, the administration of justice it is desirable to prohibit the publication of the name of any party to, or witness in, any proceedings before justices under this Part, justices may, either before or during the course of the proceedings or after the proceedings, make an order forbidding the publication of the name of the party or witness.

(2) Where justices make an order under subsection (1), the publication of any reference or allusion to any party or witness, the name of whom by an order under that subsection is forbidden to be published, shall, if that reference or allusion is, in the opinion of the justices making the order,

intended, or is sufficient, to disclose the identity of the party or witness, be deemed to be a publication of the name of the party or witness.

(3) Where justices make an order under subsection (1) forbidding the publication of any name, they shall report the fact to the Attorney-General and shall embody in their report a statement of the name forbidden to be published by that order and the circumstances in which the order was made.

(4) No person shall print or publish any name that justices have, under subsection (1), ordered not to be published.

(5) A person who contravenes subsection (4) is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units or to imprisonment for a period not exceeding 3 months.

(6) Where publication of the name of any party to proceedings is restricted under this section and the party is the subject of a court order imposing a fine, the Director, MPES must be notified of the restriction at the time the order imposing the fine is referred to him or her for collection and enforcement.

106L. Power of police to enter certain premises

(1) A police officer may –

(a) at the request of a person who apparently resides on any premises; or

(b) if he has reason to believe that a person on those premises is or may be under threat or attack or has recently been under threat or attack or that an attack on such a person is imminent –

enter those premises and remain on the premises for such period as he considers necessary to prevent a breach of the peace.

(1A) A police officer who has entered premises pursuant to subsection (1) may apprehend, without warrant, a person on those premises to facilitate the making of an application for a restraint order in respect of that person.

(2) A police officer who enters premises pursuant to subsection (1) may, without warrant –

(a) search any person on those premises whom he suspects on reasonable grounds to have in his possession any object;

(b) search those premises for the presence of any object; and

(c) seize and detain any object –

which the police officer suspects on reasonable grounds has been used or may be used to threaten or injure any person on those premises.

(3) For the purpose of subsection (2), if a person on premises entered by a police officer pursuant to subsection (1) alleges to a police officer that an object has been used to threaten or injure that person, that allegation shall be sufficient

justification for a police officer to search any person, to search the premises, and to seize and detain that object.

(3A) If a police officer has reason to believe that a person has acted in a manner that would constitute grounds for the making of a restraint order and in so acting has used an object to threaten or injure another person, the officer may, without warrant and using such force as is necessary –

(a) enter any premises on which the officer has reasonable cause to suspect that the object may be found; and

(b) search those premises for the object; and

(c) search any person whom the officer has reasonable cause to suspect has possession of the object; and

(d) seize and retain the object.

(3B) For the purposes of subsection (3A), if a person alleges to a police officer that another person has acted in a manner that would constitute grounds for the making of a restraint order and in so acting has used an object to threaten or injure him, her or any other person, that allegation is sufficient justification for a police officer to take any action specified in subsection (3A).

(4) On an application made by a police officer or by any person who claims to be the owner of an object seized and detained under subsection (2) or (3A), justices may order that the object –

(a) be forfeited to Her Majesty;

(b) be destroyed;

(c) be returned to that person; or

(d) be otherwise disposed of in such manner as justices think fit.

(5) Where an object is seized and detained under subsection (2), or (3A) and an application for an order has not been made under subsection (4) within 60 days after the date of the seizure, the object shall be returned to the person from whom it was seized.

106M. Rules for purposes of Part XA

(1) The Governor may make rules for the purposes of this Part.

(2) Rules made for the purposes of this Part may authorize justices, upon such terms and conditions as they consider necessary, to dispense with the need for compliance by a party to proceedings under this Part with the provisions of any such rules.

106N. Forms of application, restraint order, &c.

A restraint order, an interim restraint order or an application under this Part, including an application under section 106B(3) and 106G(2), is to be –

(a) in the prescribed form; or

(b) where a form is not prescribed, in a form approved by the Chief Magistrate.

PART XI – MOTIONS TO REVIEW, APPEALS, AND SIMILAR PROCEEDINGS

Division 1 – Motions to review to the Supreme Court and hearings de novo

107. Summary mode of reviewing decisions of justices

(1) A person who is aggrieved by an order of justices may, upon notice in accordance with this section, move the Supreme Court to review that order.

(2) A notice of motion under this section –

(a) shall be known as a notice to review; and

(b) shall set forth in specific terms the ground on which review is sought.

(3) An applicant under this section shall, within 21 days after the making of the order to be reviewed –

(a) file a notice to review in the Supreme Court; and

(b) serve a copy of that notice on –

(i) the person interested in upholding the order; and

(ii) the clerk to the justices making the order.

(4) The grounds set forth in a notice to review shall allege –

(a) an error or mistake on the part of the justices on a matter or question of fact alone, or of law alone, or of both fact and law; or

(b) that the justices had no jurisdiction to make the relevant order.

(5) A notice to review shall be made returnable on the prescribed day for the return of those notices that first occurs not less than 28 days after the making of the relevant order by the justices.

(6) A judge in his discretion may, on an affidavit setting forth reasonable grounds, extend the time mentioned in subsection (3) at any time within that time or after it has expired.

108. Applicant limited to grounds to be stated in notice to review

(1) On the hearing of a motion made on notice to review, the applicant shall be held to the ground set forth in his notice to review unless the court, on such terms as to costs and otherwise as it thinks proper, allows amendment of the notice.

(2) A notice to review may be amended under this section by adding new grounds and by striking out and amending existing grounds.

109. Interlocutory proceedings

(1) On the application of a person who has filed or been served with a notice to review, a judge may, *ex parte* or on summons to such parties as

he requires or the rules or practice of the court require –

(a) vary the return day of the notice to review;

(b) impose conditions as to costs and security to be complied with before the motion is heard;

(c) stay proceedings on the order or suspend the operation thereof *ab initio*; and

(d) admit the applicant for the review to bail –

in his discretion and on such terms as to costs and otherwise as he thinks fit.

(2) A clerk to justices who has been served with a notice to review shall forthwith deliver the notice to the justices and shall –

(a) within 7 days of the delivery of the notice, cause to be transmitted to the Registrar of the Supreme Court the documents that are prescribed for that purpose (in this section referred to as "the prescribed documents"); and

(b) take such steps as are necessary to preserve any tape recording of the proceedings to which the notice relates.

(3) A party to a notice to review is entitled to obtain from –

(a) the Registrar of the Supreme Court an office copy of the prescribed documents or any part thereof; and

(b) the clerk to the justices, upon payment of the prescribed fee (if any), a certified transcript of the recording of the proceedings to which the notice relates or any portion of those proceedings specified by the party unless the clerk certifies that no recording of the proceedings exists from which a transcript may be taken.

(3A) For the purposes of subsection (3), ***certified***, in relation to a transcript of the recording of proceedings, means certified by the person who transcribed the recording as being a true and accurate record of the recording.

(4) Subject to subsection (5), on the hearing of a motion to review, the Supreme Court shall have regard to the prescribed documents transmitted under subsection (2) and to such affidavits (if any) as have been filed that purport to set out material that was before the justices whose order is being reviewed.

(5) The Supreme Court may have regard to the notes of evidence (if any) transmitted under subsection (2) so far as they are not contradicted on oath, by affidavit, or otherwise.

110. Powers of Supreme Court

(1) The Supreme Court shall be constituted by a single judge for the hearing of motions to review under section 107, but the judge may reserve the motion or any point arising thereon for the Full Court or direct the motion or any such point to be argued in the Full Court, and the Full Court has power to hear and determine any motion or point so reserved or directed to be argued.

(2) On the hearing of a motion to review, the court shall, upon consideration of the evidence and materials adduced and brought before the justices and such further evidence (if any) as it thinks fit, review the order so far as relates to the ground set forth in the notice to review, and thereupon may do all or any of the following things, namely:

(a) dismiss the motion;

(ab) in a case where the court considers that no substantial miscarriage of justice has occurred even though the cause or matter raised by the motion might be decided in favour of the applicant, dismiss the motion;

(b) confirm, vary, amend, rescind, set aside, or quash the order reviewed;

(c) remit the cause or matter to the justices by whom it was dealt with, either with or without any direction in law;

(d) order that the cause or matter be re-tried by a magistrate;

(e) prohibit the justices concerned, or any other person, from proceeding or further proceeding in respect of the order;

(f) amend or cause to be amended, on such terms as are just, any defect or error in any proceedings before the justices;

(g) make all such orders and cause all such proceedings to be had and taken as the court thinks necessary to secure a final determination of the cause or matter on the merits;

(h) exercise, in addition to any other powers conferred by this section, any power which the court might exercise upon *habeas corpus* or an order of review under the *Judicial Review Act 2000*;

(i) exercise any power that might have been exercised by the justices in relation to whose order the motion to review is made.

(2AA) The court, on hearing a motion to review in relation to an order imposing a sentence on a person in relation to a matter, may, whether the person who filed the notice of review in respect of the order was the person or the prosecutor, take into account any matter, relevant to sentencing, that has occurred between when the justices who made the order dealt with the

person in relation to the matter and when the court hears the motion to review.

(2AB) Despite subsection (2AA), the court, in exercising in relation to an order a power under subsection (2), the effect of the exercise of which is that the person to whom the order relates is being sentenced again for an offence, must not take into account any element of double jeopardy involved in the person being sentenced again so as to impose a less severe sentence than the court would otherwise consider appropriate.

(2AC) If the court quashes an order, made by justices, in relation to a matter and remits the matter under subsection (2) to the justices, either with or without any direction in law –

(a) the justices must hear and determine the matter in accordance with the law and any such direction in law; and

(b) the justices, in sentencing the person in relation to the matter, may take into account any matter relevant to sentencing that has occurred between when the court made the quashed order and when the justices determine the remitted matter; and

(c) despite paragraph (b), the justices must not take into account the element of double jeopardy involved in the person being sentenced again, so as to impose a less severe sentence than the justices would otherwise consider appropriate.

(2A) If the court considers that the reasons given for making the order under review are insufficient, it may, before doing anything under subsection (2), remit the matter to the justices who made the order with a direction to furnish the court with further and better reasons within such time as the court specifies.

(2B) If subsection (2A) applies, the court must cause the further and better reasons to be made known to the parties to the notice to review as soon as practicable after they have been furnished to the court and, in any event, before the court proceeds to do anything under subsection (2).

(3) On the hearing of a motion to review, all such amendments shall be made under subsection (2)(f) as may be necessary for the purpose of determining the cause or matter on the merits.

111. Hearings *de novo*

(1) Notwithstanding anything contained in section 110 and subject to this section, a person who has filed, or has been served with, a notice to review may apply to the Supreme Court for an order that the complaint to which the notice relates be heard *de novo* and determined in the Supreme Court.

(2) An application for an order under subsection (1) may be made on a return day fixed for the notice to review to which it relates or on summons on any day before that day and shall in any case, except with the consent of the respondent to the application, be made before the commencement

of the hearing of the motion to review to which it relates.

(3) No application for an order under subsection (1) shall be made in relation to a notice to review an order –

(a) made *ex parte*, unless the applicant has first applied to set it aside;

(b) made on the applicant's plea of guilty; or

(c) made by 2 or more justices.

(4) An order shall not be made under subsection (1) unless the court is satisfied that, having regard to all the circumstances, the interests of justice require that the complaint be reheard *de novo*.

(5) Without limiting the generality of the provisions of subsection (4), the court may make an order under subsection (1), if –

(a) there does not exist, or it is not practicable to bring into existence, any sufficient account of that part of the proceedings to which any ground set out in the notice to review relates;

(b) at the hearing of the complaint the applicant was not represented by counsel and evidence available at that time amounting to a substantial ground of defence was not then adduced; or

(c) the parties to the notice to review consent to the making of an order.

(6) Upon the making of an order under subsection (1), the court –

(a) may make such orders as to costs occasioned by the notice to review and the application as the court thinks fit;

(b) may require security for the costs of the rehearing of the complaint to be given; and

(c) may extend the operation of any order made on the notice to review or make any order that, but for the application, might have been made on the notice to review pursuant to section 109(1)(c) or (d).

(7) Where a complaint is heard and determined *de novo* pursuant to this section, the court has all the powers of the justices at the original hearing of the complaint, and the orders and warrants of the court have the like effect, and are enforceable in the like manner, as if they were made or issued by the justices.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the court may, if it considers it expedient so to do, order that a complaint in respect of which an application for an order under subsection (1) has been made shall be reheard by a magistrate and may exercise the powers referred to in subsection (6) on making such an order.

112. Right of justices to show cause

(1) Where a notice to review is served on the clerk to the justices pursuant to section 107(3)(b)(ii), the justices may make and file in the Supreme Court without fee an affidavit setting forth –

(a) the grounds of the order sought to be reviewed; and

(b) any facts that they consider to have a material bearing on the question at issue.

(2) An affidavit under this section may be sworn before a justice, and sent by post to the Registrar of the Supreme Court for filing.

(3) Where an affidavit is filed under this section, the court shall, before determining the matter so as to overrule, set aside, or vary the act or order of the justices, take into consideration the matters set forth in the affidavit, although no counsel appears on behalf of the justices.

113. Affidavits

(1) On the hearing of a motion to review, a party may not use an affidavit that has not been filed and a copy thereof delivered to every other party at least 48 hours before the motion is returnable, except by leave of the court, which may be granted on terms as to costs or otherwise.

(2) This section does not apply to affidavits filed by justices under section 112.

Division 2 – Appeals to, and review by, magistrates

113A. Alternative appeals in certain cases

(1) A person who is aggrieved by an order made by a court of petty sessions (other than one constituted by a magistrate) may appeal to a magistrate as provided in this section.

(2) An appellant shall, within 21 days after the making of the order to which the appeal relates, serve on the person concerned in upholding the order, and on the appropriate clerk of petty sessions, a notice of appeal setting forth the grounds of the appeal.

(3) A clerk of petty sessions shall, on receipt of a notice of appeal, transmit a copy of the notice to the Chief Magistrate.

(4) The Chief Magistrate is to give –

(a) the appellant or his or her lawyer; and

(b) the person concerned in upholding the order or his or her lawyer –

14 days' notice of the day on which and the place at which an appeal under this section is to be heard.

(5) An appeal under this section operates as a stay of execution of the order appealed against –

(a) in respect of the payment of money; and

(b) in respect of the imprisonment of the appellant, if a justice, in his discretion, admits the appellant to bail –

(i) with such surety or sureties as the justice may require; and

(ii) to appear on the appeal and at every time and place to which, during the course of the proceedings, the hearing may be from time to time adjourned.

(6) Except as provided in subsection (5), a magistrate or any 2 justices may, on summons to the respondent, and on such terms and conditions as seem fit to him or them, stay any proceedings upon an order appealed against, or suspend its operation *ab initio*.

(7) If an appellant proceeds under section 107, he shall be deemed to have waived his right of appeal under this section, and any proceedings taken by him under this section shall be deemed to be void, and the magistrate may order him to pay any other party's costs occasioned by his appeal.

(8) No appeal lies under this section against an order –

(a) made on the appellant's plea of guilty; or

(b) against sentence only.

(9) A magistrate may, on an affidavit setting forth reasonable grounds, enlarge the time for serving

a notice of appeal or doing any act under subsection (5), either before or after the time has expired.

(10) On an appeal under this section, the magistrate –

(a) shall hear the appeal by way of re-hearing;

(b) may at any time allow the grounds of appeal set forth in the notice of appeal to be amended on such terms as to costs or otherwise as the magistrate thinks fit;

(c) may adjourn the hearing on terms, if he considers it proper to do so;

(d) may exercise in relation to the appeal any power that might have been exercised by the justices against whose order the appeal is made; and

(e) may confirm, reverse, mitigate, or vary the order of the justices appealed against or make such other order in the matter as he thinks fit.

(11) On hearing an appeal under this section against an order the magistrate may, in exercising under subsection (10) a power in relation to sentencing (whether the person who appeals under subsection (1) is the person to whom the order relates or the prosecutor), take into account any matter relevant to sentencing that has occurred between when the order appealed against was made and when the magistrate hears and determines the appeal.

(12) Despite subsection (11), the magistrate, in exercising in relation to an order in respect of a person a power under subsection (10), the effect of the exercise of which is that the person is being sentenced again for an offence, must not take into account any element of double jeopardy so as to impose a less severe sentence than the magistrate would otherwise consider appropriate.

113B. Review by magistrate

(1) Subject to compliance with the provisions of the rules of court, a person who is aggrieved by an order made by a court of petty sessions (other than one constituted by a magistrate) in relation to an offence or a breach of duty may apply to a magistrate to review that order.

(2) On the hearing of an application under this section, the magistrate may –

(a) if he is of opinion that the matter received by him from the original court is insufficient to enable him to review the order; or

(b) with the consent of the party who was the defendant in the original proceedings –

proceed as if the defendant was then and there appearing before him on the first hearing of the relevant complaint and had pleaded guilty to the matter of complaint contained therein.

(3) Upon the hearing of an application under this section –

(a) the magistrate may exercise any of the powers contained in paragraphs (a), (b), (f), and (g) of section 110(2); and

(b) the provisions of section 111(7) apply, with the necessary modifications, to the hearing of an application under this section.

(3A) A magistrate, on the hearing of an application under this section in relation to an order imposing a sentence on a person in relation to a matter, may (whether the person or the prosecutor applied under subsection (1) for the review) take into account any matter relevant to sentencing that has occurred between when the order to which the reviews relates was made and when the magistrate reviews the order.

(3B) Despite subsection (3A), a magistrate, in exercising in relation to an order in respect of a person a power under subsection (3), the effect of the exercise of which is that the person is being sentenced again for an offence, must not take into account any element of double jeopardy so as to impose a less severe sentence than the magistrate would otherwise consider appropriate.

(4) The receipt by an original court of an application under this section operates as a suspension *ab initio* of the order to be reviewed, except in so

far as that order imposes a term of imprisonment on a person referred to in the order.

(5) Notwithstanding anything contained in subsection (4), a justice may grant bail to a person sentenced to a term of imprisonment under the order for any period not exceeding 28 days if, in the opinion of the justice, adequate measures can be taken to secure the attendance of that person at the hearing of the application.

Division 3 – Stated case

114. Right of justices to state case

(1) Where, in the opinion of the justices, the matter before them involves a question of law of such public and general importance as to make it desirable in the public interest that it should be determined by the Supreme Court, the justices instead of deciding the matter may state a case for the opinion of the Supreme Court, and may adjourn the hearing of the matter pending the receipt of the opinion of the Supreme Court thereon.

(2) In any such case the justices shall forthwith prepare and state a case setting forth the material facts and their findings thereon, and stating the question of law upon which they desire the opinion of the Supreme Court; and shall transmit the case without delay to the Registrar of the Supreme Court.

(3) On receipt of a case stated under this section the Registrar shall set it down for hearing and give the parties at least 3 days' notice thereof.

(4) On the hearing of a case stated, the Supreme Court –

(a) shall be constituted by a single judge;

(b) may remit the case to the justices for amendment if, in its opinion, the case is defective;

(c) may reserve the case or any point arising thereon for the Full Court or direct the case or any such point to be argued in the Full Court; and

(d) shall cause the case to be remitted to the justices with the opinion of the Court on the question therein submitted.

(5) The Full Court has power to hear and determine any case or point that is reserved for the Full Court or directed to be argued in the Full Court pursuant to subsection (4)(c).

Division 4 – Rule to show cause

115. Rule to show cause and order thereon

(1) Where a justice refuses to do an act relating to the duties of his office as justice, the person requiring the act to be done may apply to the Supreme Court or a judge, upon an affidavit of the facts, for a rule or order calling upon the

justice and the person to be affected by the act to show cause why the act should not be done.

(2) If after due service of the rule or order good cause is not shown against it, the court or judge may make it absolute with or without or upon payment of costs.

(3) Upon being served with the rule or order absolute, the justice shall obey it and do the act by it required to be done.

(4) No action or proceeding may be commenced or prosecuted against the justice for having obeyed the rule and done the act thereby required.

Division 5 – General provisions

116. Interpretation

In this Part, unless the contrary intention appears, ***order*** includes conviction, dismissal of a complaint, determination, and adjudication.

117. Limitation of this Part

An order committing a defendant for trial is not subject to review or appeal under this Part.

117A. Applications to justices for relief

(1) A person who is aggrieved by an order of justices may –

(a) forthwith after the making of the order or within such further time thereafter as the justices allow; and

(b) on giving notice in the prescribed form of his intention to file a notice of review under section 107 –

apply to the justices for relief as provided in this section.

(2) On an application under this section, the justices may, in their discretion and on such terms as to costs and otherwise as they think fit, grant the application by –

(a) staying proceedings on the order to which the application relates or suspending the operation thereof *ab initio*; and

(b) admitting the applicant to bail –

for such period as appears to be desirable for the notice of review to be returnable in the Supreme Court.

118. Proceedings not to be quashed for want of form

A complaint, conviction, order, or other proceeding before justices shall not be quashed or set aside, or adjudged void, or insufficient for want of form.

119. Amendment of convictions, &c.

(1) When evidence given before the justices in substance supports the adjudication of the justices, and if that evidence would have justified the justices in making any necessary allegation or finding omitted in the adjudication, or in the formal conviction or order, or any warrant issued in pursuance of the adjudication, all necessary amendments shall be made by the Supreme Court, and when in a conviction there is some excess which may, consistently with the merits of the case, be corrected, the conviction shall be amended accordingly, and shall stand good for the remainder.

(2) All amendments made under this section shall be subject to such order as to costs and otherwise as the court thinks fit.

120. Want of complaint or summons

When the person convicted, or against whom an order has been made, or a person whose goods have been condemned or directed to be sold as forfeited, was present at the hearing of the case, the conviction or order shall be sustained, although there may have been no complaint or summons, unless he objected at the hearing that there was no complaint or summons, and the Supreme Court is of opinion that the course of procedure was prejudicial to the conduct of his case.

121. Distribution of penalty

A conviction or order shall not be defeated for the want of any distribution, or for a wrong distribution, of the penalty or forfeiture.

121A. . . . . .

122. Power of court or judge to admit to bail

(1) Where a person committed to gaol by virtue of a summary conviction or order has been brought up by writ of *habeas corpus*, and the Supreme Court postpones the final decision of the case, the Court may admit the person to bail to secure his appearance at such time and place, and upon such conditions, as the Court may appoint.

(2) If the judgment of the Supreme Court is against the person discharged, it may remand him to his former custody, there to serve the rest of the term for which he was committed.

123. Appeals to Full Court

(1) If a party to a motion to review, an appeal, or a case stated is dissatisfied with a rule or order of the Supreme Court in point of law or upon the admission or rejection of evidence he may, subject to this section, appeal from that rule or order to the Full Court.

(2) The decisions of the Supreme Court on the hearing of an appeal as to –

(a) the sufficiency of the statement of a ground of appeal; or

(b) the amending or refusing to amend an order appealed against or a ground of appeal –

are not subject to appeal under this section.

(3) On the hearing of an appeal under this section the Full Court may –

(a) draw any inference of fact;

(b) order –

(i) any judgment to be entered that ought to have been given; or

(ii) a hearing *de novo* on such terms as to costs or otherwise as it thinks just; and

(c) make such other orders as it thinks just and proper to ensure the determination on the merits of the real questions in controversy between the parties.

(4) An appeal under this section shall not succeed on the ground merely of misdirection or improper reception or rejection of evidence, unless in the opinion of the Full Court substantial wrong or miscarriage has been thereby occasioned in the court below.

123A. Bail where appeal to Full Court

If an appeal is made to the Full Court under section 123, the Full Court may, on the application of the appellant, make an order for bail for the appellant or refuse bail.

124. Rules of court

The judges, or a majority of them, may make general rules and orders to regulate the practice and procedure under this Part, and for carrying this Part into effect, and, subject to the provisions of this Act, may prescribe the fees to be taken and the costs to be allowed.

125. Costs on appeal

(1) In proceedings under this Part the court or a judge may make such order as to costs, both in the Supreme Court and before the justices, as to the court or judge seems proper.

(2) . . . . . .

Division 6 – . . . . . .

125A - 125D. . . . . .

PART XII – PROTECTION OF JUSTICES IN THE EXECUTION OF THEIR OFFICE

126. Action for act done within jurisdiction as a justice

(1) An action brought against a justice for an act done by him in the execution of his duty as a justice with respect to a matter within his jurisdiction as a justice shall be an action as for a tort.

(2) In the statement of claim or plaint it shall be expressly alleged that the act was done maliciously and without reasonable and probable cause.

(3) If at the trial the plaintiff fails to prove the allegation mentioned in subsection (2), he shall be non-suited, or a verdict shall be given for the defendant, with costs.

127. Action for act done without or in excess of jurisdiction

(1) An action against a justice for an act done by him in a matter –

(a) of which by law he has not jurisdiction; or

(b) in which he has exceeded his jurisdiction –

may be maintained by any person injured by that act or by any act done under any conviction or order made, or any warrant issued by the justice

in that matter, in the same form and in the same cases as such an action might have been maintained before the passing of this Act.

(2) In the statement of claim or plaint it is not necessary to allege that the act was done maliciously and without reasonable and probable cause.

(3) No such action may be brought –

(a) for anything done under the conviction or order until after that conviction or order has been set aside, or has been quashed under Part XI;

(b) for anything done under a warrant issued by the justice to procure the appearance of that person if the warrant has been followed by a conviction or order in the same matter until after that conviction or order has been set aside or has been quashed under Part XI; or

(c) for anything done under a warrant issued by the justice to procure the appearance of that person if –

(i) the warrant has not been followed by a conviction or order in the same matter; or

(ii) the warrant was upon a complaint for an alleged indictable offence, and a summons had been issued previously to the warrant and duly served, and that person had

not appeared according to the exigency thereof.

128. No action maintainable for exercise of discretion, &c.

An action shall not be brought against a justice –

(a) for or by reason of the manner in which he has exercised his discretion in the execution of a discretionary power conferred on him by an Act;

(b) for anything done under a warrant of execution or of commitment on the ground of a defect in the conviction or order on which it was founded if, either before or after the granting of the warrant, the conviction or order has been confirmed or amended under Part XI;

(c) by reason of a defect in a conviction or order made by some other justice on which he has *bona fide* and without collusion granted a warrant of execution or of commitment; or

(d) by reason of a want of jurisdiction in another justice by whom a conviction or order has been made on which he has *bona fide* and without collusion granted a warrant of execution or of commitment.

129. Setting aside of proceedings when prohibited action brought

If an action is brought in the Supreme Court or Magistrates Court (Civil Division) against a justice which by this Act is declared to be not maintainable a judge or a magistrate of that Magistrates Court (Civil Division) may, upon the application of the defendant, and upon an affidavit of the facts, set aside the proceedings in the action, with or without costs.

130. Notice of action

(1) An action shall not be brought against a justice for anything done by him or her in the execution of his or her office unless notice in writing of the intended action has been delivered to the justice or left for him or her at his or her usual place of abode by the party intending to commence the action, or by his or her lawyer.

(2) The notice shall state clearly and explicitly the cause of action and the court in which it is intended to bring the action.

(3) The notice shall be endorsed with the name and place of abode of the party intending to bring the action, and, if it is served by his or her lawyer, with the name and place of abode or of business of that lawyer.

131. Where action may be brought

(1) An action against a justice for anything done by him in the execution of his office may, subject to this section, be brought in the Supreme Court, or in a Magistrates Court (Civil Division).

(2) Such an action shall not be continued in a Magistrates Court (Civil Division) if the justice, or his or her lawyer, within 6 days after being served with the summons gives notice in writing to the plaintiff that he objects to being sued in the Magistrates Court (Civil Division) for the cause of action, and all proceedings afterwards had in that court in the action shall be null and void.

132. Where plaintiff does not recover damages beyond amount tendered, judgment to be for defendant

If at the trial of an action subject to this Part, the court or jury find that the plaintiff is not entitled to damages beyond the amount, if any, tendered or paid into court –

(a) judgment shall be given for the defendant;

(b) the plaintiff shall not be at liberty to elect to be non-suited; and

(c) so much of the amount, if any, paid into court as is sufficient to pay the defendant's costs, shall be paid out of court to the defendant, and the residue, if any, to the plaintiff.

133. Damages

If the plaintiff in an action subject to this Part claims as damages the amount of a penalty or sum of money levied or paid under the conviction or order, or seeks to recover damages in respect of imprisonment suffered by him thereunder, and it is proved –

(a) that he was guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was ordered to pay; and

(b) that the imprisonment, if any, so suffered by him was no greater than the punishment assigned by law for the offence of which he was convicted, or for non-payment of the sum he was ordered to pay –

he is not entitled to recover the amount of the penalty or sum so levied or paid or any sum as damages for the imprisonment or any costs.

134. Costs

(1) Subject to section 133, if the plaintiff in an action subject to this Part recovers a verdict, or obtains judgment by default, he is entitled, unless the court otherwise orders –

(a) to costs in the same manner as if this Act had not been passed; or

(b) if he has alleged in the statement of claim or plaint that the act complained of was done maliciously and without reasonable and probable cause, to his full costs as between lawyer and client.

(2) Unless the court otherwise orders, the defendant in any such action, if he obtains judgment by verdict or otherwise, or if the plaintiff discontinues the action, is entitled to his full costs as between lawyer and client.

(3) If the plaintiff in any such action recovers a sum less than $20 as damages, he is not entitled to recover from the defendant any costs of suit.

PART XIII – MISCELLANEOUS

135. Warrant not to be void for form only

A warrant of commitment or to apprehend shall not be held void by reason only of a defect or error therein if there is a conviction or order which is good and valid, or which may be amended and made good and valid, under this Act to sustain it.

136. Protection of defective or irregular execution

(1) Where there is a defect or want of form in a conviction or order –

(a) execution made thereon under this Act shall be deemed not to be unlawful; and

(b) the person making the execution shall be deemed not to be a trespasser –

by reason thereof.

(2) A person making an execution under this Act shall be deemed not to be a trespasser from the beginning by reason of an irregularity afterwards committed by him in the execution.

(3) A person aggrieved by an irregularity as mentioned in subsection (2) may recover satisfaction for any special damage caused him by the irregularity.

136A. Recording of depositions and proceedings

Where a deposition or the whole or part of proceedings in any cause or matter under this Act is recorded by mechanical means on to tapes or other apparatus –

(a) the tapes or apparatus shall be preserved for such period as may be prescribed; and

(b) the person who recorded the deposition or the proceedings shall certify the recording to be a true and accurate record of the deposition or proceedings to which it relates.

137. Fees

(1) Fees shall not be received or demanded from –

(a) a public officer; or

(b) subject to subsection (1A), a duly appointed officer of a statutory public body or board –

in respect of proceedings under this Act instituted by him in the execution of his duty.

(1A) Subsection (1) does not apply to a duly appointed officer of a municipality in respect of proceedings under this Act instituted by him pursuant to Part VII of the *Local Government (Highways) Act 1982* where a composition has been made to the corporation of the municipality under section 100 (1) of that Act.

(2) A person who is summarily convicted or against whom an order is made upon the complaint of a person exempted from payment of fees by this section shall pay the amount of the prescribed fees that would otherwise have been payable in respect of the proceedings if all documents used therein had been prepared by the clerk of petty sessions, and that amount shall for purposes of recovery be deemed to be costs ordered under section 77.

(3) Fees under subsection (2) that relate to the preparation of documents that were prepared not by the clerk of petty sessions but by the complainant shall when recovered be paid over to the complainant.

(4) . . . . . .

138. Power to order delivery of possession of goods in custody of police officer

(1) When possession has been taken by a police officer of property in relation to which an offence is alleged to have been committed and–

(a) proceedings taken against the alleged offender have terminated by his conviction or discharge; or

(b) the alleged offender is not known or cannot be found–

or when property reasonably supposed to have been stolen has come into the possession of a police officer, and in either case the police

officer is not satisfied as to who is entitled to the property or the owner of the property is not known or cannot be found, the officer may apply to a court of petty sessions for directions for the disposal of the property.

(2) The justices, after such inquiry as they may think sufficient, may make an order for the delivery of the property to any person who appears to them to be entitled thereto, or if no claim to the property is established may make an order that it shall be sold or otherwise disposed of, and that the net proceeds of the sale, if any, shall be paid into the Public Account if no claim thereto is established within 3 months after the date of their order.

(3) If there are several claimants to the property, the justices, after hearing the several claimants appearing before them, may make an order for the delivery of the property on such terms as they may think necessary for securing the safe custody thereof pending any action which may be brought for the recovery thereof.

(4) An order under this section does not prejudice the right of a person to recover in a court of competent jurisdiction the property to which the order relates from the person to whom it is so delivered if proceedings for the recovery thereof are taken within 6 months after the order is made.

139. Prisoner to be present for statement under *Evidence Act 2001*

Where a prisoner in custody has served or received notice of an intention to take a statement as provided in section 194B of the *Evidence Act 2001*–

(a) a judge;

(b) a justice by whom the prisoner was committed;

(c) a magistrate; or

(d) one of the visiting justices of the gaol in which the prisoner is confined–

may, by an order in writing, direct the gaoler having the custody of the prisoner to convey him to the place mentioned in the notice for the purpose of being present at the taking of the statement, and the gaoler shall convey the prisoner or cause him to be conveyed accordingly, and the expenses of his conveyance shall be paid out of the funds applicable to the other expenses of the gaol.

140 - 140B. . . . . .

141. Payment of fees

(1) A copy of the table of fees in force for the time being shall be conspicuously exhibited at each place appointed by the Governor, or ordinarily used, for holding courts of petty sessions and the

office of each clerk of petty sessions, and at the foot of each copy there shall be printed section 137.

(2) A justice or clerk of petty sessions may refuse to do any act or thing in respect of which a fee is payable under this Act unless that fee is first duly paid.

(3) If any such act or thing is done, and the fee due thereon is not paid, the clerk to whom the fee should have been paid may recover it in a summary way before a justice.

(4) If a justice or clerk of petty sessions is satisfied that paying a fee would cause a person undue hardship, the justice or clerk of petty sessions may –

(a) waive the fee; or

(b) reduce the fee; or

(c) refund the whole or any part of the fee already paid; or

(d) allow time to pay the whole or any part of the fee.

(5) Where it is not otherwise expressly appointed, every such fee shall, in the first instance, be payable, and paid by the party (whether prosecutor or otherwise) on whose behalf or at whose instance the particular act or thing is done, or required to be done, but shall be eventually repaid to him by the defendant or adverse party if the justices think fit so to order.

142. Accounts to be kept

Clerks of petty sessions and gaolers shall –

(a) keep a true and exact account of all money received by them under or by virtue of a conviction or order, showing the persons from whom and the time when the sums were received, and to whom and when the sums were paid, in such form and manner as the Auditor-General may determine; and

(b) once in every month, render a true copy of their accounts to the Treasury.

143. Appropriation of penalties and fees

(1) Subject to the *Penalties Remission Act 1934* and to subsections (3) and (3A), and except as otherwise provided by section 123 of the *Local Government (Highways) Act 1982* or any provision of any other Act which makes special provision with respect to the payment of fines and penalties, all fines and penalties imposed upon summary conviction before justices, and any incidental fees shall be paid into the Public Account.

(2) . . . . . .

(3) This section does not deprive an informer of any moiety or share of a fine or penalty.

(3A) Notwithstanding anything contained in subsection (1), fees incidental to complaints of

simple offences and recoverable on conviction thereof are payable as provided in the rules of court.

(4) Fees incidental to complaints for breach of duty shall be paid into the Public Account.

(5) Fees incidental to other proceedings before justices shall be paid into the Public Account.

143A. Savings provisions

(1) Where proceedings in respect of an application made under section 106A, as in force immediately before the day fixed under section 2 (2) of the *Justices Amendment Act 1988*, have not been determined before that day, Part XA, as in force immediately before that day, continues to apply to those proceedings.

(2) Section 140B applies only to the hearing of a complaint by a court of summary jurisdiction that is commenced on or after the day on which the *Justices Amendment (Addresses on Sentences) Act 1987* commences.

(3) The amendments made by the *Justices Amendment (Fine Defaulters) Act 1993* extend to a person who has been adjudged to pay a sum of money, with or without costs, or for costs alone imposed before the commencement of that Act that was outstanding wholly or in part on that commencement, notwithstanding any period of imprisonment specified in an order made, or warrant issued, under this Act as in force immediately before that commencement.

(4) For the purposes of subsection (3), where on the commencement of the *Justices Amendment (Fine Defaulters) Act 1993* a person has served part of a term of imprisonment imposed in default of payment of a sum of money as mentioned in that subsection, the balance of that term is to be calculated in accordance with the amendments made by that Act, notwithstanding the period specified in the order or warrant by virtue of which he or she was committed to prison.

(5) If, before the commencement of the *Justice (Miscellaneous Amendments) Act 1993* –

(a) a copy of a summons was served on the Crown Solicitor or the Solicitor-General under section 304 of the *Criminal Code*, that copy is to be taken as having been served on the Director of Public Prosecutions; or

(b) any act or thing was done by or in respect of the Crown Solicitor under section 368A of the *Criminal Code* in relation to a notice of alibi, that act or thing is to be taken as having been done by or in respect of the Director of Public Prosecutions; or

(c) a copy of an order disqualifying a person for serving as a juror was sent to the Crown Solicitor under section 7 of the *Jury Act 1899*, that copy is to be taken as having been sent to the Director of Public Prosecutions.

144. Rules of court

(1 - 3) . . . . . .

(4) Rules of court made by the Magistrates Rule Committee for this Act may, without limiting the generality of the committee's powers, make provision as to –

(a) the practice and procedure of justices out of sessions;

(b) the execution of convictions and orders;

(c) the entry of summary judgment upon obligations of a civil nature enforceable as breaches of duty;

(ca) the simple offences and breaches of duty in respect of which a defendant who is served with a summons to answer a complaint of such an offence or breach is, on filing a plea of guilty or not guilty to the charge in the complaint, not required to appear as summoned;

(cb) the practice and procedure relating to the filing of pleas of guilty by defendants to complaints of simple offences and breaches of duty prescribed for the purposes of paragraph (ca);

(cc) the issue of summonses to persons who are charged with simple offences and breaches of duty requiring them to appear before justices for the taking of pleas only;

(cd) the hearing and determination in the absence of the defendant of complaints for simple offences and breaches of duty where the defendant has failed to appear as summoned or in accordance with his admission to bail, and the taking at such a hearing of the complaint as admitted, but with a right in the defendant to have the conviction or order then made vacated and the complaint reheard, except where he has filed a plea of guilty before the hearing;

(ce) the practice and procedure relating to matters arising under the *Family Violence Act 2004*;

(cf) the practice and procedure relating to matters arising under the *Mental Health Act 2013*;

(cg) the practice and procedure relating to matters arising under the *Monetary Penalties Enforcement Act 2005*;

(ch) the practice and procedure relating to matters arising under the *Domestic Violence Orders (National Recognition) Act 2016*;

(d) the giving of security under this Act;

(e) the keeping of records of proceedings before justices, and the manner in which things done in the course of, or as preliminary or incidental to, any such

proceedings may be proved in any legal proceedings;

(ea) the providing to persons of transcripts of recordings of depositions and proceedings, and copies of recordings of proceedings, in any cause or matter under this Act and the fees payable for transcripts and copies of recordings of proceedings in any such cause or matter and the exemption from the payment of those fees in cases prescribed in the rules;

(eb) the period for the preservation of tapes or other apparatus on to which depositions or proceedings in any cause or matter under this Act are recorded;

(ec) the settlement of disputes as to the accuracy of transcripts of recordings of depositions and proceedings, and copies of recordings of proceedings, in any cause or matter under this Act;

(ed) the oaths to be taken by persons who –

(i) record depositions or proceedings in any cause or matter under this Act;

(ii) transcribe the recordings of those depositions and proceedings; or

(iii) copy the recordings of those proceedings;

(f - fa) . . . . . .

(fb) the practice and procedure relating to appeals to magistrates, and reviews of orders by magistrates, under this Act.

(g) . . . . . .

(5) . . . . . .

(6) Where rules of court are made for the issue of summonses for summary offences without a prior complaint, such a summons shall contain a statement of the charge to be answered, which statement shall be deemed to be a complaint made before a justice and the summons to be a summons issued thereon.

(7) Rules of court made under subsection (4)(ce) may authorise justices, upon such terms and conditions as they think necessary, to dispense with the need for compliance by a party to proceedings under the *Family Violence Act 2004* with the provisions of any such rules.

(8) Rules made under subsection (4)(cg) may authorise justices, upon such terms and conditions as they think necessary, to dispense with the need for compliance by a party to proceedings under the *Monetary Penalties Enforcement Act 2005* with the provisions of any such rules.

145. Regulations

(1) The Governor may make regulations –

(a) for the purposes of Part III; and

(b) prescribing the fees, costs and charges under this Act, or under any other Act for the time being in force, so far as they relate to any matter or proceeding as to which justices have jurisdiction, including fees for service and execution of process, including service by post; and

(c) prescribing the travelling and other expenses payable to witnesses under this Act and the advances, whether periodical or otherwise, that may be made to those witnesses on account of those expenses; and

(d) prescribing the fees, costs and charges payable in respect of appeals to magistrates and reviews of orders by magistrates; and

(e) prescribing or providing for any other matter about which regulations are expressly or impliedly authorised or required by this Act to be made.

(2) The regulations may –

(a) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and

(b) authorise any matter to be from time to time determined or regulated by the

Chief Magistrate or another magistrate, the Secretary or a person specified in the regulations.

146. Transitional provision: rules and regulations

(1) In this section –

new regulations means regulations made under section 145 after the transition day;

new rules means rules of court made for this Act by the Magistrates Rule Committee on or after the transition day;

old rules means the rules of procedure in force under section 144 immediately before the transition day (the "*Justices Rules 1976*");

transition day means the day on which Part 4 of the *Justice (Delegated Legislation) Act 2003* commences.

(2) Notwithstanding the amendments made to this Act by Part 4 of the *Justice (Delegated Legislation) Act 2003*, the old rules continue in force on and after the transition day to the extent that they are not inconsistent with any new rules or new regulations and may be –

(a) amended by the Governor, to the extent that the amendments are not inconsistent with any new rules or new regulations, as if that Act had not been enacted; or

(b) rescinded by the Governor.

147. Transitional provisions consequent on *Justices Amendment Act 2007*

(1) In this section –

amended Criminal Code means the *Criminal Code Act 1924* as amended by the *Justices Amendment Act 2007*;

amended Part VII means Part VII of this Act as amended by the *Justices Amendment Act 2007*;

commencement day means the day on which the *Justices Amendment Act 2007* commences;

former Criminal Code means the *Criminal Code Act 1924* as in force immediately before the commencement day;

former Part VII means Part VII of this Act as in force immediately before the commencement day.

(2) If a person charged with an indictable offence appeared before justices and entered a plea under the former Part VII in respect of that charge, or any other charge in respect of an indictable offence joined in the same complaint, before the commencement day, former Part VII and the former Criminal Code continue to apply to proceedings in respect of that charge as if the *Justices Amendment Act 2007* had not been enacted.

(3) If a person charged with an indictable offence appeared before justices but did not enter a plea under former Part VII in respect of that charge, or any other charge in respect of an indictable offence joined in the same complaint, before the commencement day –

(a) amended Part VII and the amended Criminal Code apply to proceedings in respect of that charge; and

(b) for the purposes of amended Part VII, the first appearance of the person before justices after the commencement day is taken to be the first appearance of the person before justices.

(4) Despite subsection (3), justices may dispense with or vary any requirement of amended Part VII if they are of the opinion that –

(a) the requirement has already been complied with or partly complied with; or

(b) complying with the requirement, or the requirement without variation, would cause an undue delay in the proceedings and the defendant would not be unduly prejudiced by dispensing with, or varying, the requirement.

SCHEDULE 1 – ACTS REPEALED

Section 2

Year and Number of Act	Short Title of Act
7 Edw. VII No. 36	*District Justices Act 1907*
10 Geo. V No. 55	*Justices Procedure Act 1919*
16 Geo. V No. 6	*Extra-Territorial Justices Act 1925*
No. 66 of 1954	*Justices Procedure Act 1954*

SCHEDULE 2 – PETTY CRIMES TRIABLE SUMMARILY

Section 71

1. Section 234.

2. Section 235.

3. Section 236.

4. Section 237.

5. Section 238.

6. Section 239.

7. Section 250.

8. Section 251.

9. Section 252.

10. Section 252A.

11. Section 253.

12. Section 258.

13. Section 259.

14. Section 260.

15. Section 261(a).

16. Section 261(b).

17. Section 264.

18. Section 265.

19. Section 266(1).

20. Section 266(2).

21. Section 280(a).

22. Section 280(b).

23. Section 280(c).

24. Section 281.

25. Section 282.

26. Section 284.

27. Section 293(a).

28. Section 293(b).

29. Section 293(c).

30. Section 293(d).

31. Section 293(e).

32. Section 293(f).

33. Section 293(g).

34. Section 293(h).

35. Section 293(i).

36. Section 293(j).

37. Section 293(k).

38. Section 293(l).

39. Section 293(m).

40. Section 293(n).

41. Section 293(o).

42. Section 294(a).

43. Section 294(b).

44. Section 295(1)(a).

45. Section 295(1)(b).

46. Section 295(1)(c).

47. Section 296(1).

48. Section 300 (if it relates to a crime to which this Part applies).

SCHEDULE 3 – OTHER CRIMES TRIABLE SUMMARILY

Section 72

PART I – CRIMES TRIABLE SUMMARILY

1. Section 107.

2. Section 108.

3. Section 119.

4. Section 120.

5. Section 121.

6. Section 127.

7. Section 137.

9. Section 300 (if it relates to a crime to which this Part applies).

PART II – CRIMES TRIABLE SUMMARILY IN RESPECT OF CERTAIN PROPERTY

1. Section 234.

2. Section 235.

3. Section 236.

4. Section 237.

5. Section 238.

6. Section 239.

7. Section 250.

8. Section 251.

9. Section 252.

10. Section 252A.

11. Section 253.

12. Section 258.

13. Section 259.

14. Section 260.

15. Section 261(a).

16. Section 261(b).

17. Section 264.

18. Section 265.

19. Section 266(1).

20. Section 266(2).

21. Section 280(a).

22. Section 280(b).

23. Section 280(c).

24. Section 281.

25. Section 282.

26. Section 284.

27. Section 293(a).

28. Section 293(b).

29. Section 293(c).

30. Section 293(d).

31. Section 293(e).

32. Section 293(f).

33. Section 293(g).

34. Section 293(h).

35. Section 293(i).

36. Section 293(j).

37. Section 293(k).

38. Section 293(l).

39. Section 293(m).

40. Section 293(n).

41. Section 293(o).

42. Section 294(a).

43. Section 294(b).

44. Section 295(1)(a).

45. Section 295(1)(b).

46. Section 295(1)(c).

47. Section 296(1).

48. Section 300 (if it relates to a crime to which this Part applies).

NOTES

The foregoing text of the *Justices Act 1959* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 November 2026 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
Statute Law Revision Act 1958	No. 36 of 1958	24.7.1958
Justices Act 1961	No. 8 of 1961	4.8.1961
Child Welfare Act 1960	No. 48 of 1960	2.9.1961
Statute Law Revision Act 1961	No. 41 of 1961	15.12.1961
Justices Act 1959	No. 77 of 1959	1.1.1962 (see SR 1961 No. 193)
Justices Act 1963	No. 33 of 1963	1.1.1964
Justices Act 1965	No. 19 of 1965	22.6.1965
Decimal Currency Act 1965	No. 55 of 1965	14.2.1966
Justices Act 1966	No. 38 of 1966	11.11.1966
Criminal Code Act 1968	No. 77 of 1968	24.12.1968
Justices Act 1971	No. 60 of 1971	1.7.1970
Police Offences Act 1973	No. 23 of 1973	27.6.1973
Justices Act 1973	No. 22 of 1973	1.8.1973
Metric Conversion Act 1973	No. 75 of 1973	1.4.1975
Acts Interpretation (Justices Act 1959) Order 1975	S.R. 1975, No. 166	9.7.1975
Parole Act 1975	No. 73 of 1975	31.3.1976
Justices Act 1974	No. 108 of 1974	15.6.1976
Justices Act 1975	No. 66 of 1975	15.6.1976
Justices Act 1976	No. 15 of 1976	23.6.1976
Traffic Act (No. 2) 1976	No. 96 of 1976	22.12.1976
Costs in Criminal Cases Act 1976	No. 107 of 1976	1.2.1977
Criminal Code Amendment Act 1982	No. 33 of 1982	28.10.1982
Local Government (Consequential Amendments) Act 1982	No. 51 of 1982	1.9.1983
Justices Amendment Act 1983	No. 45 of 1983	12.10.1983
Justices Amendment (No. 2) 1983	No. 75 of 1983	1.1.1984
Justices Amendment Act 1984	No. 48 of 1984	27.6.1984
Revenue (Miscellaneous Provisions) Act 1984	No. 55 of 1984	1.8.1984
Statute Law Revision Act 1985	No. 51 of 1985	23.5.1985
Justices Amendment Act 1985	No. 9 of 1985	1.7.1985

Act	Number and year	Date of commencement
Tasmanian State Service (Miscellaneous Amendments) Act 1984	No. 29 of 1984	1.12.1985
Probation of Offenders Amendment Act 1985	No. 121 of 1985	19.3.1986
Justices Amendment Act 1986	No. 45 of 1986	4.6.1986
Criminal Code Amendment (Bail) Act 1986	No. 77 of 1986	11.11.1986
Justices Amendment Act (No. 2) 1986	No. 115 of 1986	18.12.1986
Criminal Proceedings (Civil Remedies) Act 1986	No. 93 of 1986	1.1.1987
Justices Amendment Act 1987	No. 57 of 1987	18.8.1987
Magistrates Act 1987	No. 45 of 1987	2.9.1987
Justices Amendment (Addresses on Sentences) Act 1987	No. 82 of 1987	27.11.1987
Justices Amendment Act 1988	No. 8 of 1988	1.7.1988
Justices Amendment Act (No. 2) 1988	No. 15 of 1988	16.9.1988
Magistrates Amendment Act 1989	No. 13 of 1989	1.9.1989
Justices Amendment Act (No. 2) 1989	No. 34 of 1989	4.10.1989
Administrative Arrangements (Miscellaneous Amendments) Act 1990	No. 5 of 1990	1.7.1990
Criminal Law Amendment Act 1990	No. 13 of 1990	11.7.1990
Justices Amendment (Committal Proceedings) Act 1991	No. 41 of 1991	4.12.1991
Penalty Units and Other Penalties Amendment Act 1991	No. 43 of 1991	18.12.1991
Statute Law Revision Act 1991	No. 46 of 1991	18.12.1991
Justices Amendment Act 1992	No. 15 of 1992	6.8.1992
Justice Legislation Amendment (Domestic Violence) Act 1992	No. 21 of 1992	6.8.1992
Justices Amendment (Fine Defaulters) Act 1993	No. 10 of 1993	11.8.1993
Justices Amendment Act 1993	No. 71 of 1993	1.3.1994
Justices Amendment (Miscellaneous) Act 1994	No. 8 of 1994	17.3.1994
Justice Legislation Amendment (Restraint Orders) Act 1994	No. 64 of 1994	25.11.1994
Vexatious Litigants Act 1994	No. 65 of 1994	25.11.1994
Statute Law Revision Act 1994	No. 68 of 1994	25.11.1994
Bail (Miscellaneous Amendments) Act 1994	No. 10 of 1994	9.1.1995
Local Government (Consequential Amendments) Act 1995	No. 30 of 1995	1.9.1995
Justices Amendment Act 1995	No. 50 of 1995	1.1.1996 (s. 4)
Justices Amendment Act (No. 2) 1995	No. 66 of 1995	1.1.1996

Act	Number and year	Date of commencement
Justices Amendment Act (No. 3) 1995	No. 107 of 1995	11.6.1996
Justices Amendment (Child Witnesses) Act 1995	No. 38 of 1995	1.11.1996
Justices Amendment Act 1995	No. 50 of 1995	2.12.1996 (ss. 5-7)
Magistrates Court (Civil Division) Amendment Act 1993	No. 73 of 1993	30.3.1998
Sentencing Act 1997	No. 59 of 1997	1.8.1998
Evidence Amendment Act 1999	No. 7 of 1999	30.4.1999
Justices Amendment Act 1999	No. 40 of 1999	16.7.1999
Youth Justice (Consequential Amendments) Act 1999	No. 49 of 1999	1.2.2000
Criminal Law (Aggravated Burglary and Repeat Offenders) Act 2000	No. 12 of 2000	28.4.2000
Children, Young Persons and Their Families and Youth Justice (Consequential Repeals and Amendments) Act 1998	No. 2 of 1998	1.7.2000
Justice Legislation (Miscellaneous Amendments) Act 2000	No. 62 of 2000	14.11.2000
Statutory Holidays (Consequential Amendments) Act 2000	No. 82 of 2000	13.12.2000
State Service (Consequential and Miscellaneous Amendments) Act 2000	No. 86 of 2000	1.5.2001
Criminal Procedure (Attendance of Witnesses) Act 1996	No. 13 of 1996	1.7.2001
Judicial Review Act 2000	No. 54 of 2000	1.12.2001
Promissory Oaths Amendment Act 2001	No. 92 of 2001	5.12.2001
Justice Legislation (Miscellaneous Amendments) Act 2001	No. 91 of 2001	5.12.2001
Evidence (Consequential Amendments) Act 2001	No. 80 of 2001	1.7.2002
Statute Law Revision Act 2003	No. 9 of 2003	16.4.2003
Justice (Delegated Legislation) Act 2003	No. 6 of 2003	1.7.2003
Justice (Miscellaneous Amendments) Act 2003	No. 69 of 2003	15.12.2003
Police Service (Consequential Amendments) Act 2003	No. 76 of 2003	1.1.2004
Fair Trading (Miscellaneous Amendments) Act 2004	No. 7 of 2004	1.8.2004
Criminal Code Amendment (Appeals) Act 2004	No. 31 of 2004	27.10.2004
Justice and Related Legislation (Miscellaneous Amendments) Act 2004	No. 44 of 2004	16.11.2004
Family Violence Act 2004	No. 67 of 2004	30.3.2005
Justice and Related Legislation	No. 6 of 2005	6.5.2005

Act	Number and year	Date of commencement
(Miscellaneous Amendments) Act 2005		
Statutory Officers (Age for Retirement) Act 2005	No. 17 of 2005	10.6.2005
Sex Industry Offences Act 2005	No. 42 of 2005	1.1.2006
Security and Investigations Agents Amendment (Crowd Controllers) Act 2005	No. 58 of 2005	1.1.2006
Defamation Act 2005	No. 73 of 2005	1.1.2006
Mental Health Amendment (Secure Mental Health Unit) Act 2005	No. 72 of 2005	20.2.2006
Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006	No. 43 of 2006	18.12.2006
Marine Safety (Misuse of Alcohol) Act 2006	No. 25 of 2006	23.12.2006
Justices Amendment Act 2007	No. 22 of 2007	1.2.2008 1.2.2008
Monetary Penalties Enforcement (Transitional Arrangements and Consequential Amendments) Act 2007	No. 72 of 2007	28.4.2008
Justice and Related Legislation (Miscellaneous Amendments) Act 2008	No. 18 of 2008	26.6.2008
Legal Profession (Miscellaneous and Consequential Amendments) Act 2007	No. 66 of 2007	31.12.2008
Justice and Related Legislation (Miscellaneous Amendments) Act 2009	No. 23 of 2009	16.6.2009
Justices Amendment (Complaint Validation) Act 2009	No. 33 of 2009	19.6.2009
Justice and Related Legislation (Further Miscellaneous Amendments) Act 2009	No. 76 of 2009	1.2.2010
Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Act 2010	No. 3 of 2010	1.7.2010
Vexatious Proceedings Act 2011	No. 31 of 2011	1.3.2013
Crimes (Miscellaneous Amendments) Act 2013	No. 23 of 2013	1.9.2013
Heavy Vehicle National Law (Tasmania) Act 2013	No. 30 of 2013	10.2.2014
Mental Health (Transitional and Consequential Provisions) Act 2013	No. 69 of 2013	17.2.2014

Act	Number and year	Date of commencement
Promissory Oaths (Consequential Amendments) Act 2015	No. 8 of 2015	15.5.2015
Family Violence Amendment Act 2015	No. 32 of 2015	6.10.2015
Justice and Related Legislation (Miscellaneous Amendments) Act 2015	No. 38 of 2015	13.10.2015
Domestic Violence Orders (National Recognition) Act 2016	No. 29 of 2016	25.11.2017
Justices of the Peace Act 2018	No. 15 of 2018	1.7.2019
Financial Management (Consequential and Transitional Provisions) Act 2017	No. 4 of 2017	1.7.2019
Criminal Code Amendment (Bullying) Act 2019	No. 34 of 2019	8.10.2019
Justice Miscellaneous (Court Backlog and Related Matters) Act 2020	No. 27 of 2020	1.7.2021
Justices (Validation) Act 2021	No. 25 of 2021	29.11.2021
Justice and Related Legislation (Miscellaneous Amendments) Act 2022	No. 2 of 2022	18.3.2022
Family Violence Reforms Act 2022	No. 21 of 2022	22.12.2022
Justice Miscellaneous (Royal Commission Amendments) Act 2023	No. 2 of 2023	20.4.2023
Mental Health Amendment Act 2023	No. 4 of 2023	25.9.2023
Justice Miscellaneous (Commission of Inquiry) Act 2024	No. 17 of 2024	1.11.2024
Justice and Related Legislation (Miscellaneous Amendments) Act 2026	No. 25 of 2026	20.11.2026
Magistrates Court (Criminal and General Division) Act 2019	No. 43 of 2019	not commenced

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 33 of 1963, s. 2, No. 108 of 1974, s. 38 and Sched. 1, No. 15 of 1976, s. 2, No. 45 of 1987, s. 21 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 46 of 1991, s. 5 and Sched. 3, No. 10 of 1993, s. 4, No. 8 of 1994, s. 4, No. 68 of 1994, s. 3 and Sched. 1, No. 38 of 1995, s. 4, No. 66 of 1995, s. 4, No. 7 of 1999, s. 5, No. 91 of 2001, s. 6, No. 9 of 2003, Sched. 1, No. 6 of 2003, s. 18, No. 69 of 2003, Sched. 1, No. 76 of 2003, Sched. 1, No. 44 of 2004, s. 35, No. 67 of 2004, Sched. 1, No. 42 of 2005, s. 28, No. 43 of 2006, s. 34, No. 22 of 2007, s. 4, No. 72 of 2007, Sched. 1, No. 23

Provision affected	How affected
	of 2009, s. 19, No. 15 of 2018, Sched. 1 and No. 27 of 2020, s. 13
Part II	Repealed by No. 15 of 2018, Sched. 1
Section 4	Inserted by No. 15 of 1976, s. 4
	Repealed by No. 15 of 2018, Sched. 1
Section 4A	Inserted by No. 15 of 1976, s. 4
	Amended by No. 45 of 1983, s. 3
	Repealed by No. 15 of 2018, Sched. 1
Section 4B	Inserted by No. 15 of 1976, s. 4
	Repealed by No. 15 of 2018, Sched. 1
Section 4C	Inserted by No. 15 of 1976, s. 4
	Amended by No. 92 of 2001, s. 12
	Repealed by No. 15 of 2018, Sched. 1
Section 5	Amended by No. 15 of 1976, s. 5 and No. 92 of 2001, s. 12
	Substituted by No. 8 of 2015, s. 8
	Repealed by No. 15 of 2018, Sched. 1
Section 6	Substituted by No. 30 of 1995, s. 3 and Sched. 1
	Repealed by No. 15 of 2018, Sched. 1
Section 7	Substituted by No. 15 of 1976, s. 7
	Repealed by No. 17 of 2005, Sched. 1
Section 8	Repealed by No. 15 of 2018, Sched. 1
Section 9	Repealed by No. 15 of 2018, Sched. 1
Section 10	Amended by No. 15 of 1976, s. 8
	Repealed by No. 15 of 2018, Sched. 1
Part III	Repealed by No. 15 of 2018, Sched. 1
Section 11	Repealed by No. 15 of 2018, Sched. 1
Section 12	Amended by No. 15 of 1976, s. 9
	Repealed by No. 15 of 2018, Sched. 1
Section 13	Amended by No. 15 of 1976, s. 10
	Repealed by No. 15 of 2018, Sched. 1
Section 14	Amended by No. 92 of 2001, s. 12
	Substituted by No. 8 of 2015, s. 9
	Repealed by No. 15 of 2018, Sched. 1
Section 15	Substituted by No. 15 of 1976, s. 11
	Amended by No. 45 of 1986, s. 4 and No. 5 of 1990, s. 3 and Sched. 1
	Repealed by No. 15 of 2018, Sched. 1
Section 16	Repealed by No. 15 of 1976, s. 12
	Inserted by No. 45 of 1987, s. 21 and Sched. 1
	Amended by No. 13 of 1989, s. 19 and No. 9 of 2003, Sched. 1
Section 16A	Inserted by No. 60 of 1971, s. 2
	Amended by No. 108 of 1974, s. 2, No. 29 of 1984, Sched. 1, No. 5 of 1990, s. 3 and Sched. 1 and No. 86 of 2000, Sched. 1
Section 17	Amended by No. 19 of 1965, s. 2, No. 108 of 1974, s. 3, No. 45 of 1987, s. 21 and Sched. 1 and No. 40 of 1999, s. 4

Provision affected	How affected
Section 17A	Inserted by No. 115 of 1986, s. 4
Section 19	Amended by No. 108 of 1974, s. 3 and s. 38 and Sched. 1
Section 19A	Inserted by No. 108 of 1974, s. 5
	Amended by No. 29 of 1984, s. 3 and Sched. 1
	Repealed by No. 45 of 1987, s. 21 and Sched. 1
Section 20	Amended by No. 108 of 1974, s. 38 and Sched. 1
Section 21	Amended by No. 108 of 1974, s. 38 and Sched. 1
Section 22	Amended by No. 108 of 1974, s. 38 and Sched. 1
Section 23	Amended by No. 108 of 1974, s. 38 and Sched. 1, No. 22 of 2007, s. 5 and No. 25 of 2021, s. 5
Section 23A	Inserted by No. 108 of 1974, s. 6
Section 23AB	Inserted by No. 50 of 1995, s. 4
Section 25	Amended by No. 55 of 1965, s. 5, No. 38 of 1974, s. 7 and No. 43 of 1991, s. 5 and Sched. 1
Section 26	Amended by No. 71 of 1993, s. 4 and No. 7 of 2004, Sched. 1
Section 27	Amended by No. 108 of 1974, s. 8, No. 5 of 1990, s. 3 and Sched. 1, No. 23 of 2009, s. 20 and No. 33 of 2009, s. 4
Section 32	Amended by No. 8 of 1961, s. 3
Section 34	Substituted by No. 108 of 1974, s. 9
	Amended by No. 48 of 1984, s. 4, No. 45 of 1986, s. 5, No. 43 of 1991 and No. 21 of 1992, s. 4
	Substituted by No. 10 of 1994, s. 7 and Sched. 2
	Amended by No. 64 of 1994, s. 4, No. 50 of 1995, s. 5, No. 66 of 1995, s. 5, No. 40 of 1999, s. 5, No. 76 of 2003, Sched. 1, No. 67 of 2004, Sched. 1, No. 25 of 2006, Sched. 2 and No. 29 of 2016, Sched. 1
Section 34A	Inserted by No. 108 of 1974, s. 9
	Amended by No. 21 of 1992, s. 5, No. 10 of 1994, sched. 2 and No. 64 of 1994, s. 5
	Substituted by No. 50 of 1995, s. 6
	Amended by No. 22 of 2007, s. 6
Section 35	Substituted by No. 108 of 1974, s. 9
	Amended by No. 45 of 1986, s. 6, No. 77 of 1986, s. 5, No. 57 of 1987, s. 4 and No. 43 of 1991
	Substituted by No. 10 of 1994, s. 7 and Sched. 2
	Amended by No. 64 of 1994, s. 15, No. 50 of 1995, s. 7 and No. 66 of 1995, s. 6
Section 36	Substituted by No. 108 of 1974, s. 9
	Repealed by No. 10 of 1994, s. 7 and Sched. 2
Section 36A	Inserted by No. 108 of 1974, s. 9
	Repealed by No. 10 of 1994, s. 7 and Sched. 2
Section 36B	Inserted by No. 57 of 1987, s. 5
	Repealed by No. 10 of 1994, s. 7 and Sched. 2
Section 37	Amended by No. 2 of 1998, Sched. 2
Section 37A	Inserted by No. 108 of 1974, s. 10
	Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 91 of 2001, s. 7 and No. 73 of 2005, Sched. 4
Section 38	Amended by No. 23 of 2009, s. 21
Section 39A	Inserted by No. 38 of 2015, s. 37

Provision affected	How affected
Section 41	Amended by No. 108 of 1974, s. 11, No. 76 of 2003, Sched. 1 and No. 25 of 2021, s. 6
Section 42	Substituted by No. 108 of 1974, s. 12 and No. 71 of 1993, s. 5
	Amended by No. 66 of 1995, s. 7
Section 45	Amended by No. 108 of 1974, s. 38 and Sched. 1, No. 45 of 1986, s. 7, No. 5 of 1990, s. 3 and Sched. 1 and No. 13 of 1996, s. 23
Section 47	Substituted by No. 108 of 1974, s. 13 and No. 72 of 2005, s. 125
	Amended by No. 66 of 2007, Sched. 1, No. 23 of 2009, s. 22, No. 69 of 2013, Sched. 1 and No. 4 of 2023, s. 38
Section 48	Amended by No. 10 of 1994, s. 7 and Sched. 2
Section 49	Amended by No. 10 of 1994, s. 7 and Sched. 2
Section 50A	Inserted by No. 108 of 1974, s. 14
	Amended by No. 45 of 1986, s. 8, No. 6 of 2003, s. 19 and No. 22 of 2007, s. 7
Section 50B	Inserted by No. 108 of 1974, s. 14
	Amended by No. 57 of 1987, s. 6, No. 8 of 1994, s. 5, No. 91 of 2001, s. 8, No. 22 of 2007, s. 8 and No. 23 of 2009, s. 23
Section 50C	Inserted by No. 115 of 1986, s. 5
Section 50D	Inserted by No. 65 of 1994, s. 4
Section 50E	Inserted by No. 31 of 2011, Sched. 1
Section 52	Substituted by No. 108 of 1974, s. 15
Section 55	Substituted by No. 22 of 2007, s. 9
	Amended by No. 23 of 2009, s. 24, No. 76 of 2009, s. 15 and No. 2 of 2022, Sched. 1
Section 56	Substituted by No. 22 of 2007, s. 9
	Amended by No. 23 of 2009, s. 25
Section 56A	Inserted by No. 33 of 1963, s. 3
	Amended by No. 22 of 1973, s. 2, No. 108 of 1974, s. 38 and Sched. 1, No. 45 of 1986, s. 9, No. 34 of 1989, s. 4, No. 41 of 1991, s. 4, No. 38 of 1995, s. 5, No. 62 of 2000, Sched. 1, No. 91 of 2001, s. 9 and No. 44 of 2004, s. 36
	Repealed by No. 22 of 2007, s. 9
Section 57	Amended by No. 33 of 1963, s. 4 and No. 108 of 1974, s. 38 and sched
	Substituted by No. 45 of 1986, s. 10
	Amended by No. 115 of 1986, s. 6 and No. 66 of 1995, s. 8
	Substituted by No. 22 of 2007, s. 9
	Amended by No. 23 of 2009, s. 26
Section 57A	Inserted by No. 38 of 1995, s. 6
	Amended by No. 91 of 2001, s. 10
	Repealed by No. 22 of 2007, s. 9
Section 58	Substituted by No. 108 of 1974, s. 17
	Amended by No. 45 of 1986, s. 11, No. 34 of 1989, s. 5

Provision affected	How affected
	and No. 71 of 1993, s. 6
	Substituted by No. 22 of 2007, s. 9
Section 59	Repealed by No. 108 of 1974, s. 17
	Substituted by No. 22 of 2007, s. 9
Section 60	Repealed by No. 108 of 1974, s. 18
	Substituted by No. 22 of 2007, s. 9
	Amended by No. 27 of 2020, s. 14 and No. 2 of 2022, Sched. 1
Division 3 of Part VII	Substituted by No. 27 of 2020, s. 15
Section 61	Amended by No. 33 of 1963, s. 5
	Repealed by No. 62 of 2000, Sched. 1
	Substituted by No. 22 of 2007, s. 11
	Amended by No. 18 of 2008, s. 34 and No. 23 of 2009, s. 27
	Substituted by No. 27 of 2020, s. 15
	Amended by No. 21 of 2022, s. 31, No. 2 of 2023, s. 34 and No. 17 of 2024, s. 26
Section 62	Substituted by No. 108 of 1974, s. 19
	Amended by No. 34 of 1989, s. 6
	Substituted by No. 41 of 1991, s. 5
	Amended by No. 10 of 1994, s. 7 and Sched. 2 and No. 62 of 2000, Sched. 1
	Substituted by No. 22 of 2007, s. 11 and No. 27 of 2020, s. 15
Section 63	Substituted by No. 108 of 1974, s. 19
	Amended by No. 33 of 1982, s. 6 and No. 45 of 1986, s. 12
	Repealed by No. 22 of 2007, s. 11
	Substituted by No. 27 of 2020, s. 15
Section 64	Repealed by No. 10 of 1994, s. 7 and Sched. 2
	Substituted by No. 27 of 2020, s. 15
Section 65	Repealed by No. 10 of 1994, s. 7 and Sched. 2
	Substituted by No. 27 of 2020, s. 15
Section 66	Repealed by No. 22 of 2007, s. 11
	Substituted by No. 27 of 2020, s. 15
Section 67	Amended by No. 77 of 1968, s. 10 and Sched. 1 and No. 115 of 1986, s. 8
	Repealed by No. 22 of 2007, s. 11
	Substituted by No. 27 of 2020, s. 15
Section 68	Amended by No. 22 of 2007, s. 12
	Substituted by No. 27 of 2020, s. 15
Section 69	Substituted by No. 27 of 2020, s. 15
Section 69A	Inserted by No. 33 of 1963, s. 8
	Amended by No. 108 of 1974, s. 21
	Substituted by No. 41 of 1991, s. 6
	Amended by No. 38 of 1995, s. 7 and No. 69 of 2003, Sched. 1
	Repealed by No. 22 of 2007, s. 14
	Substituted by No. 27 of 2020, s. 15
Division 4 of Part	Heading inserted by No. 22 of 2007, s. 13

Provision affected	How affected
VII	
Section 70	Amended by No. 55 of 1965, s. 5 and No. 43 of 1991, s. 5 and Sched. 1
	Substituted by No. 22 of 2007, s. 14
Section 70A	Inserted by No. 22 of 2007, s. 14
Section 71	Substituted by No. 108 of 1974, s. 22
	Amended by No. 75 of 1983, s. 4, No. 45 of 1986, s. 13, No. 59 of 1997, Sched. 1, No. 44 of 2004, s. 37, No. 23 of 2013, s. 6, No. 27 of 2020, s. 16 and No. 25 of 2026, s. 23
Section 72	Substituted by No. 108 of 1974, s. 22
	Amended by No. 75 of 1983, s. 5, No. 45 of 1986, s. 14, No. 12 of 2000, s. 4, No. 44 of 2004, s. 38, No. 22 of 2007, s. 15, No. 23 of 2013, s. 7, No. 27 of 2020, s. 17 and No. 25 of 2026, s. 24
Section 72A	Inserted by No. 108 of 1974, s. 22
Section 72AB	Inserted by No. 76 of 2009, s. 16
	Amended by No. 30 of 2013, Sched. 1
Section 72B	Inserted by No. 108 of 1974, s. 22
	Amended by No. 45 of 1986, s. 15, No. 59 of 1997, Sched. 1 and No. 22 of 2007, s. 16
Section 72C	Inserted by No. 108 of 1974, s. 22
Section 72D	Inserted by No. 66 of 1975, s. 2
	Amended by No. 45 of 1986, s. 16, No. 8 of 1994, s. 6 and No. 59 of 1997, Sched. 1
Section 74	Amended by No. 115 of 1986, s. 9
Section 74A	Substituted by No. 34 of 1989, s. 8
	Amended by No. 44 of 2004, s. 39 and No. 22 of 2007, s. 17
Section 74B	Inserted by No. 108 of 1974, s. 23
	Amended by No. 45 of 1986, s. 17, No. 57 of 1987, s. 7, No. 34 of 1989, s. 9 and No. 2 of 2022, Sched. 1
Section 74BA	Inserted by No. 15 of 1992, s. 4
Section 74C	Inserted by No. 108 of 1974, s. 23
	Repealed by No. 73 of 1975, s. 34 and Sched. 1, No. 45 of 1986, s. 18, No. 115 of 1986, s. 10 and No. 15 of 1988, s. 3
	Repealed by No. 59 of 1997, Sched. 1
Section 74D	Inserted by No. 15 of 1992, s. 5
	Repealed by No. 59 of 1997, Sched. 1
Section 75	Substituted by No. 108 of 1974, s. 24
	Repealed by No. 59 of 1997, Sched. 1
Section 76	Amended by No. 55 of 1965, s. 5, No. 45 of 1986, s. 19 and No. 43 of 1991, s. 5 and Sched. 1
	Repealed by No. 59 of 1997, Sched. 1
Section 76A	Inserted by No. 108 of 1974, s. 25
	Amended by No. 115 of 1986, s. 11
	Repealed by No. 59 of 1997, Sched. 1

Provision affected	How affected
Section 77	Amended by No. 108 of 1974, s. 26, No. 107 of 1976, s. 8, No. 45 of 1986, s. 20, No. 40 of 1999, s. 6 and No. 6 of 2003, s. 20
Section 77A	Inserted by No. 8 of 1994, s. 7
Section 78	Substituted by No. 108 of 1974, s. 27
	Amended by No. 45 of 1983, s. 4, No. 121 of 1985, s. 17, No. 45 of 1986, s. 21 and No. 115 of 1986, s. 12
	Substituted by No. 10 of 1993, s. 5
	Repealed by No. 59 of 1997, Sched. 1
Section 79	Substituted by No. 108 of 1974, s. 27 and No. 10 of 1993, s. 5
	Repealed by No. 59 of 1997, Sched. 1
Section 80	Substituted by No. 108 of 1974, s. 27 and No. 10 of 1993, s. 5
	Amended by No. 8 of 1994, s. 8 and No. 66 of 1995, s. 9
	Repealed by No. 59 of 1997, Sched. 1
Section 81	Repealed by No. 108 of 1974, s. 27
	Inserted by No. 10 of 1993, s. 5
	Amended by No. 8 of 1994, s. 9
	Repealed by No. 59 of 1997, Sched. 1
Section 82	Repealed by No. 108 of 1974, s. 27
	Inserted by No. 10 of 1993, s. 5
	Repealed by No. 59 of 1997, Sched. 1
Section 83	Repealed by No. 108 of 1974, s. 27
	Inserted by No. 10 of 1993, s. 5
	Amended by No. 8 of 1994, s. 10
	Repealed by No. 59 of 1997, Sched. 1
Section 84	Repealed by No. 108 of 1974, s. 27
Section 85	Repealed by No. 108 of 1974, s. 27
Section 85A	Repealed by No. 108 of 1974, s. 27
Section 86	Repealed by No. 108 of 1974, s. 27
Section 88	Amended by No. 108 of 1974, s. 38 and sched.
	Repealed by No. 10 of 1993, s. 6
Section 89	Amended by No. 108 of 1974, s. 38 and sched. and No. 10 of 1993, s. 7
	Repealed by No. 59 of 1997, Sched. 1
Section 90	Substituted by No. 108 of 1974, s. 28
	Amended by No. 10 of 1993, s. 8
	Repealed by No. 59 of 1997, Sched. 1
Section 91	Repealed by No. 108 of 1974, s. 28
Section 92	Amended by No. 75 of 1973, s. 2 and Sched. 1
	Repealed by No. 59 of 1997, Sched. 1
Section 92A	Inserted by No. 33 of 1963, s. 11
	Amended by No. 108 of 1974, s. 29 and No. 73 of 1993, Sched. 1
	Repealed by No. 59 of 1997, Sched. 1
Section 92B	Inserted by No. 38 of 1966, s. 2
	Amended by No. 96 of 1976, s. 15 and Sched. II and No. 45 of 1986, s. 22
	Repealed by No. 59 of 1997, Sched. 1

Provision affected	How affected
Section 92C	Inserted by No. 45 of 1986, s. 23 Repealed by No. 59 of 1997, Sched. 1
Section 97	Amended by No. 45 of 1986, s. 24
Part XA	Inserted by No. 9 of 1985, s. 4 Substituted by No. 8 of 1988, s. 5
Section 106A	Substituted by No. 8 of 1988, s. 5 Amended by No. 21 of 1992, s. 6, No. 64 of 1994, s. 6, No. 66 of 1995, s. 10, No. 107 of 1995, s. 4, No. 40 of 1999, s. 7, No. 82 of 2000, Sched. 1, No. 6 of 2005, s. 36 and No. 58 of 2005, s. 43
Section 106B	Substituted by No. 8 of 1988, s. 5 Amended by No. 21 of 1992, s. 7, No. 64 of 1994, s. 7, No. 66 of 1995, s. 11, No. 107 of 1995, s. 5, No. 40 of 1999, s. 8 and No. 43 of 2006, s. 35
Section 106BA	Inserted by No. 32 of 2015, s. 15
Section 106C	Substituted by No. 8 of 1988, s. 5
Section 106D	Substituted by No. 8 of 1988, s. 5 Amended by No. 21 of 1992, s. 8, No. 64 of 1994, s. 8, No. 66 of 1995, s. 12 and No. 107 of 1995, s. 6
Section 106DA	Inserted by No. 66 of 1995, s. 13
Section 106E	Substituted by No. 8 of 1988, s. 5 Amended by No. 64 of 1994, s. 9, No. 49 of 1999, Sched. 1, No. 2 of 1998, Sched. 2, No. 66 of 2007, Sched. 1, No. 23 of 2009, s. 28 and No. 3 of 2010, Sched. 1
Section 106EA	Inserted by No. 64 of 1994, s. 10 Amended by No. 66 of 1995, s. 14
Section 106F	Substituted by No. 8 of 1988, s. 5 Amended by No. 66 of 1995, s. 15
Section 106G	Inserted by No. 8 of 1988, s. 5 Amended by No. 107 of 1995, s. 7
Section 106GA	Inserted by No. 21 of 1992, s. 9 Amended by No. 40 of 1999, Sched. 1
Section 106GB	Inserted by No. 21 of 1992, s. 9 Amended by No. 40 of 1999, Sched. 1
Section 106GC	Inserted by No. 21 of 1992, s. 9 Amended by No. 9 of 2003, Sched. 1
Section 106GD	Inserted by No. 21 of 1992, s. 9 Amended by No. 107 of 1995, s. 8 and No. 40 of 1999, Sched. 1
Section 106GE	Inserted by No. 107 of 1995, s. 9 Amended by No. 40 of 1999, Sched. 1
Section 106H	Inserted by No. 8 of 1988, s. 5
Section 106I	Inserted by No. 8 of 1988, s. 5 Amended by No. 64 of 1994, s. 11 and No. 66 of 1995, s. 16
Section 106J	Inserted by No. 8 of 1988, s. 5
Section 106K	Inserted by No. 8 of 1988, s. 5 Amended by No. 72 of 2007, Sched. 1

Provision affected	How affected
Section 106L	Inserted by No. 8 of 1988, s. 5 Amended by No. 21 of 1992, s. 10 and No. 64 of 1994, s. 12
Section 106M	Inserted by No. 8 of 1988, s. 5
Section 106N	Inserted by No. 64 of 1994, s. 13
Part XI	Heading substituted by No. 108 of 1974, s. 30
Part XI, Div. 1	Substituted by No. 108 of 1974, s. 30
Section 107	Substituted by No. 108 of 1974, s. 30 Amended by No. 71 of 1993, s. 7
Section 108	Substituted by No. 108 of 1974, s. 30
Section 109	Substituted by No. 108 of 1974, s. 30 Amended by No. 45 of 1986, s. 25 and No. 115 of 1986, s. 18
Section 110	Substituted by No. 108 of 1974, s. 30 Amended by No. 45 of 1986, s. 26, No. 71 of 1993, s. 8, No. 54 of 2000, Sched. 4, No. 91 of 2001, s. 11 and No. 23 of 2013, s. 8
Section 111	Substituted by No. 108 of 1974, s. 30
Section 112	Substituted by No. 108 of 1974, s. 30
Section 113	Substituted by No. 108 of 1974, s. 30
Part XI, Div. 2	Substituted by No. 108 of 1974, s. 30
Section 113A	Inserted by No. 108 of 1974, s. 30 Amended by No. 45 of 1987, s. 21 and Sched. 1, No. 71 of 1993, s. 9, No. 23 of 2009, s. 29 and No. 23 of 2013, s. 9
Section 113B	Inserted by No. 108 of 1974, s. 30 Amended by No. 45 of 1986, s. 27, No. 22 of 2007, s. 18 and No. 23 of 2013, s. 10
Division 4 of Part XI	Heading amended by No. 54 of 2000, Sched. 4
Section 117	Substituted by No. 108 of 1974, s. 31
Section 117A	Inserted by No. 108 of 1974, s. 31 Amended by No. 10 of 1994, s. 7 and Sched. 2
Section 120	Amended by No. 108 of 1974, s. 38 and Sched. 1
Section 121A	Inserted by No. 108 of 1974, s. 32 Amended by No. 59 of 1997, Sched. 1 Repealed by No. 31 of 2004, s. 5
Section 122	Amended by No. 108 of 1974, s. 38 and Sched. 1 and No. 10 of 1994, s. 7 and Sched. 2
Section 123A	Inserted by No. 40 of 1999, s. 9
Section 124	Amended by No. 18 of 2008, s. 35
Section 125	Amended by No. 107 of 1976, s. 8
Part XI, Div. 6	Inserted by No. 10 of 1994, s. 7 and Sched. 2
Division 6 of Part XI	Repealed by No. 27 of 2020, s. 18
Section 125A	Inserted by No. 10 of 1994, s. 7 and Sched. 2 Repealed by No. 27 of 2020, s. 18
Section 125B	Inserted by No. 10 of 1994, s. 7 and Sched. 2 Repealed by No. 27 of 2020, s. 18
Section 125C	Inserted by No. 10 of 1994, s. 7 and Sched. 2

Provision affected	How affected
	Repealed by No. 27 of 2020, s. 18
Section 125D	Inserted by No. 10 of 1994, s. 7 and Sched. 2
	Repealed by No. 27 of 2020, s. 18
Section 129	Amended by No. 9 of 2003, Sched. 1
Section 130	Amended by No. 66 of 2007, Sched. 1 and No. 23 of 2009, s. 30
Section 131	Amended by No. 9 of 2003, Sched. 1 and No. 23 of 2009, s. 31
Section 133	Amended by No. 60 of 1971, s. 5
Section 134	Amended by No. 55 of 1965, s. 5, No. 66 of 2007, Sched. 1 and No. 23 of 2009, s. 32
Section 135	Amended by No. 66 of 1975, s. 3
Section 136	Amended by No. 66 of 1975, s. 4
Section 136A	Inserted by No. 45 of 1986, s. 28
	Amended by No. 6 of 2003, s. 21
Section 137	Substituted by No. 19 of 1965, s. 4
	Amended by No. 55 of 1984, s. 3, No. 45 of 1986, s. 29 and No. 71 of 1993, s. 10
Section 138	Amended by No. 40 of 1999, s. 10, No. 9 of 2003, Sched. 1 and No. 4 of 2017, Sched. 1
Section 139	Amended by No. 80 of 2001, Sched. 1
Section 140	Substituted by No. 33 of 1963, s. 12
	Amended by No. 55 of 1965, s. 5, No. 23 of 1973, s. 4, No. 108 of 1974, s. 33, No. 66 of 1975, s. 4, No. 93 of 1986, s. 4 and No. 66 of 1995, s. 17
	Repealed by No. 59 of 1997, Sched. 1
Section 140A	Inserted by No. 108 of 1974, s. 34
	Amended by No. 93 of 1986, s. 4
	Repealed by No. 59 of 1997, Sched. 1
Section 140B	Inserted by No. 82 of 1987, s. 4
	Repealed by No. 59 of 1997, Sched. 1
Section 141	Amended by No. 44 of 2004, s. 40
Section 143	Amended by No. 108 of 1974, s. 35, No. 51 of 1982, s. 11, No. 45 of 1987, s. 21 and Sched. 1, No. 46 of 1991, s. 4 and Sched. 2, No. 9 of 2003, Sched. 1, No. 22 of 2007, s. 19 and No. 4 of 2017, Sched. 1
Section 143A	Inserted by No. 17 of 1996, s. 30, incorporation of savings provisions from No. 8 of 1988, No. 82 of 1987, No. 10 of 1993 and No. 72 of 1993
Section 144	Amended by No. 8 of 1961, s. 5, No. 19 of 1965, s. 5, No. 108 of 1974, s. 36, No. 66 of 1975, s. 6, No. 45 of 1986, s. 30, No. 10 of 1994, s. 7 and Sched. 2, No. 6 of 2003, s. 22, No. 67 of 2004, Sched. 1, No. 72 of 2005, s. 126, No. 22 of 2007, s. 20, No. 72 of 2007, Sched. 1, No. 69 of 2013, Sched. 1 and No. 29 of 2016, Sched. 1
Section 145	Substituted by No. 6 of 2003, s. 23
Section 146	Inserted by No. 6 of 2003, s. 23
Section 147	Inserted by No. 22 of 2007, s. 21

Provision affected	How affected
Schedule 2	Substituted by No. 108 of 1974, s. 37 Amended by No. 75 of 1983, s. 6 and No. 45 of 1986, s. 31 Substituted by No. 27 of 2020, s. 19
Schedule 3	Inserted by No. 108 of 1974, s. 37 Amended by No. 75 of 1983, s. 7, No. 51 of 1985, s. 4 and Sched. 2, No. 45 of 1986, s. 32 and No. 66 of 1995, s. 18 Substituted by No. 27 of 2020, s. 19
Part I of Schedule 3	Amended by No. 69 of 2003, Sched. 1 and No. 34 of 2019, s. 11 Substituted by No. 27 of 2020, s. 19
Part II of Schedule 3	Substituted by No. 27 of 2020, s. 19