

TASMANIA

**JUSTICE AND RELATED LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2016**

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**JUSTICE AND RELATED LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2016**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
11 April 2017

*(Brought in by the Minister for Building and Construction, the
Honourable Guy Barnett)*

A BILL FOR

**An Act to amend the *Acts Interpretation Act 1931*, the
Supreme Court Civil Procedure Act 1932 and various other
justice-related Acts**

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

1. Short title

This Act may be cited as the *Justice and Related Legislation (Miscellaneous Amendments) Act 2016*.

2. Commencement

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

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3. Consequential amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

4. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 3

Acts Interpretation Act 1931

1. Section 23AA is amended by inserting after subsection (5) the following subsection:

(5A) If a function or power is delegated by a particular officer or the holder of a particular office or position –

(a) the delegation does not cease to have effect merely because the person who was the particular officer or the holder of the particular office or position when the function or power was delegated ceases to be that officer or the holder of that office or position; and

(b) the authority of the delegate to exercise that power or perform that function continues until that authority is terminated by notice in writing by the particular officer or the holder for the time being of the relevant office or position.

Administrative Arrangements Act 1990

1. Section 8 is repealed.

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Annulled Convictions Act 2003

1. Section 3(1) is amended by omitting paragraph (e) from the definition of *Justice Agency* and substituting:
 - (e) the Department of Immigration and Border Protection of the Commonwealth;
2. Schedule 1 is amended by omitting “Australian Customs Service established by section 4 of the *Customs Administration Act 1985*” from clause 4 of Part 2 and substituting “Department of Immigration and Border Protection”.

Bail Act 1994

1. Section 7(1) is amended by inserting after paragraph (a) the following paragraphs:
 - (ab) the Registrar of the Supreme Court; or
 - (ac) an officer of the Supreme Court appointed in writing by the Registrar of the Supreme Court; or

Coroners Act 1995

1. Section 3A is amended as follows:
 - (a) by omitting from paragraph (d) “son or daughter” twice occurring and substituting “child”;

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- (b) by omitting from paragraph (g) “brother or sister” twice occurring and substituting “sibling”.
2. Section 53(3) is amended by omitting “The coroner may” and substituting “If a coroner determines that the assistance of counsel is required, the coroner must”.
3. Section 59(7) is amended by inserting “, other than evidentiary material, within the meaning of section 59B, that is dealt with in accordance with subsection (4) of that section,” after “this section”.
4. After section 59A, the following section is inserted in Part 8:
- 59B. Disposal, &c., of evidence that cannot be practicably or safely held**
- (1) In this section –
- evidentiary material* means any article, substance or thing that –
- (a) has been seized or has otherwise come into the possession of a police officer; and
- (b) is or could be relevant to proceedings or prospective proceedings under this Act.

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- (2) This section applies if the Coroner is satisfied on reasonable grounds that it is impracticable or unsafe to hold or continue holding any evidentiary material.
- (3) The Coroner may order the Commissioner of Police to cause the evidentiary material to be –
 - (a) rendered safe or inert (if necessary by treating, repackaging or breaking up the evidentiary material); or
 - (b) destroyed or otherwise disposed of.
- (4) However, before any action is taken under subsection (3), the Commissioner of Police must ensure –
 - (a) that a photographic or audio-visual record of the evidentiary material is taken; and
 - (b) where practicable, that –
 - (i) 2 or more samples are taken of the evidentiary material; and
 - (ii) each of those samples is a true representation of the nature of the evidentiary material.

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- (5) The Commissioner must ensure that the samples so taken are kept securely for as long as they are reasonably likely to be required for evidentiary purposes.

Criminal Procedure (Attendance of Witnesses) Act 1996

1. Section 17 is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) Unless otherwise ordered by the Court, the following people are entitled to be paid expenses in accordance with this section:

- (a) any person who gives evidence in a criminal proceeding at the request of the prosecution;
- (b) any person whom a Crown Law officer certifies as having attended at any place at the request of the prosecution to give such evidence.

- (2) The Court may order the payment of expenses to any person who attends at any place for the purpose of giving evidence in a criminal proceeding.

Evidence Act 2001

1. Section 160(1) is amended by omitting “on the fourth working day after having been posted”

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and substituting “in accordance with the requirements of the *Australian Postal Corporation (Performance Standards) Regulations 1998* of the Commonwealth”.

Legal Profession Act 2007

1. Section 331 is amended by inserting after subsection (5) the following subsection:

(6) The costs assessor may order that the party who is liable to pay the costs of assessment pay to the Court a fee of not more than 4% of the amount allowed on the costs assessment.

Personal Information Protection Act 2004

1. After section 12, the following section is inserted in Division 2:

12A. Disclosure of information to Solicitor-General, &c.

A personal information custodian may disclose to the following people personal information that is relevant for the purpose of obtaining legal advice:

(a) the Solicitor-General appointed and holding office under the *Solicitor-General Act 1983*;

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- (b) any person employed in relation to the functions or duties of the Solicitor-General;
 - (c) the Director of Public Prosecutions appointed and holding office under the *Director of Public Prosecutions Act 1973*;
 - (d) any person employed in relation to the functions or duties of the Director of Public Prosecutions;
 - (e) the Crown Solicitor for Tasmania appointed under the *State Service Act 2000*;
 - (f) any person employed in relation to the functions or duties of the Crown Solicitor.
2. Section 19 is amended by inserting after subsection (1) the following subsection:
- (1A) If the Ombudsman has conducted a preliminary assessment under subsection (1), the Ombudsman may resolve the complaint without investigating it if, having regard to the nature and seriousness of the complaint, the Ombudsman believes the complaint may be resolved expeditiously.

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Public Interest Disclosures Act 2002

1. Section 87(1) is amended by inserting after paragraph (c) the following paragraph:

(d) the Integrity Commission; or

Registration to Work with Vulnerable People Act 2013

1. Section 49A is amended as follows:

(a) by inserting the following paragraph after paragraph (a) in subsection (1):

(ab) if the person engages in a regulated activity allowed by the registration for an employer and the Registrar is aware of that employer, the Registrar is to notify that employer, in writing, of the suspension while the additional risk assessment is conducted; and

(b) by omitting from subsection (2)(c) “registration.” and substituting “registration; and”;

(c) by inserting the following paragraph after paragraph (c) in subsection (2):

(d) if the person engages in a regulated activity allowed by the registration for an employer and the Registrar is aware of that

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employer, is to notify that
employer, in writing, of the
interim suspension.

2. Section 52A is amended as follows:

(a) by omitting subsections (1) and (2) and substituting the following subsection:

(1) If the Registrar reasonably considers that an entity may have information relevant to the Registrar's powers and functions under Part 5 or 6, the Registrar, by written notice provided to the entity, may require the entity to deliver or provide to the Registrar any information or document, or a copy of a document, in its possession or to which it has access, as specified in the notice.

(b) by omitting from subsection (4) "subsection (2)" and substituting "subsection (1)";

(c) by omitting from subsection (5) "subsection (2)" and substituting "subsection (1)";

(d) by omitting from subsection (5) "relevant" first occurring;

(e) by omitting subsection (6) and substituting the following subsection:

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(6) An entity or a body required or requested to deliver or provide any information, document or copy of a document under this section must –

(a) comply with the requirement or request; or

(b) provide a reasonable excuse for its failure to comply with the requirement or request.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(f) by omitting from subsection (8) “subsection (2) or (5), a relevant entity” and substituting “subsection (1) or (5), an entity or a body”;

(g) by inserting in subsection (8) “or body” after “the entity”.

Residential Tenancy Act 1997

1. Section 25(3) is amended by omitting “3” and substituting “10”.

Victims of Crime Compensation Act 1994

- 1.** Section 7 is repealed and the following section is substituted:

7. When compensation levy is to be paid

- (1) For the purposes of section 5, the compensation levy is to be paid –
- (a) if the person is sentenced to a term of imprisonment that is not wholly suspended, within 28 days after the person's release from prison; or
 - (b) if the person is not sentenced to a term of imprisonment, or is sentenced to a term of imprisonment that is wholly suspended, within 28 days after the date of sentencing.
- (2) Notwithstanding subsection (1), a court may order that the compensation levy is to be paid within a period of less than 28 days after the date of sentencing.