

TASMANIA

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**JUSTICE AND RELATED LEGISLATION  
(FURTHER MISCELLANEOUS AMENDMENTS)  
BILL 2006**

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**JUSTICE AND RELATED LEGISLATION  
(FURTHER MISCELLANEOUS AMENDMENTS)  
BILL 2006**

*(Brought in by the Minister for Justice and Workplace  
Relations, the Honourable Steven Kons)*

**A BILL FOR**

**An Act to amend the *Administration and Probate Act 1935*, the *Bail Act 1994*, the *Civil Liability Act 2002*, the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*, the *Community Protection (Offender Reporting) Act 2005*, the *Coroners Act 1995*, the *Criminal Code Act 1924*, the *Evidence (Children and Special Witnesses) Act 2001*, the *Guardianship and Administration Act 1995*, the *Justices Act 1959*, the *Limitation Act 1974*, the *Magistrates Court Act 1987*, the *Magistrates Court (Civil Division) Act 1992*, the *Motor Accidents (Liabilities and Compensation) Act 1973*, the *Professional Standards Act 2005*, the *Resource Planning and Development Commission Act 1997*, the *Supreme Court Act 1887*, the *Supreme Court Civil Procedure Act 1932*, the *Terrorism (Preventative Detention) Act 2005*, the *Victims of Crime Assistance Act 1976* and the *Youth Justice Act 1997***

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:

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 1

Part 1 – Preliminary

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**PART 1 – PRELIMINARY**

**1. Short title**

This Act may be cited as the *Justice and Related  
Legislation (Further Miscellaneous  
Amendments) Act 2006*.

**2. Commencement**

- (1) Except as provided by this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Part 13 commences on a day to be proclaimed.



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 2 – Administration and Probate Act 1935 Amended

**s. 3**

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**PART 2 – ADMINISTRATION AND PROBATE ACT  
1935 AMENDED**

**3. Principal Act**

In this Part, the *Administration and Probate Act 1935\** is referred to as the Principal Act.

**4. Section 27 amended (Rights of action by and against personal representatives)**

Section 27 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “estate –” and substituting “estate.”;
- (b) by omitting from subsection (1) “except as provided by subsection (2).”;
- (c) by omitting subsection (2).

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\*No. 38 of 1935

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 5

Part 3 – Bail Act 1994 Amended

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**PART 3 – BAIL ACT 1994 AMENDED**

**5. Principal Act**

In this Part, the *Bail Act 1994*\* is referred to as the Principal Act.

**6. Section 7 amended (Conditions to which bail is subject)**

Section 7 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (3A) Notwithstanding subsection (3), a person admitted to bail to appear in the Supreme Court is not required to appear in court at the time and place specified in an order, or to which the hearing may from time to time be adjourned, if he or she is advised in writing by a Crown Law Officer, within the meaning of section 1 of the *Criminal Code*, that his or her attendance is not required until a later date, but he or she must appear on that later date.

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\*No. 9 of 1994

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 4 – Civil Liability Act 2002 Amended

s. 7

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**PART 4 – CIVIL LIABILITY ACT 2002 AMENDED**

**7. Principal Act**

In this Part, the *Civil Liability Act 2002*\* is referred to as the Principal Act.

**8. Section 28E inserted**

After section 28D of the Principal Act, the following section is inserted in Part 7:

**28E. Abolition of certain actions**

The following actions at common law are abolished:

- (a) seduction;
- (b) enticement;
- (c) harbouring.

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\*No. 54 of 2002

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 9**                      Part 5 – Classification (Publications, Films and Computer Games)  
   Enforcement Act 1995 Amended

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**PART 5 – CLASSIFICATION (PUBLICATIONS, FILMS  
AND COMPUTER GAMES) ENFORCEMENT ACT 1995  
AMENDED**

**9. Principal Act**

In this Part, the *Classification (Publications,  
Films and Computer Games) Enforcement Act  
1995\** is referred to as the Principal Act.

**10. Section 63 amended (Certain advertisements to  
contain determined markings and consumer advice)**

Section 63(1)(b)(i) of the Principal Act is  
amended by omitting “by the director”.

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\*No. 105 of 1995

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 6 – Community Protection (Offender Reporting) Act 2005 Amended

**s. 11**

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**PART 6 – COMMUNITY PROTECTION (OFFENDER  
REPORTING) ACT 2005 AMENDED**

**11. Principal Act**

In this Part, the *Community Protection (Offender Reporting) Act 2005\** is referred to as the Principal Act.

**12. Section 47 amended (Matters not to be heard in public)**

Section 47 of the Principal Act is amended by omitting “this Act” and substituting “section 8, 28, 33 or 34”.

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\*No. 61 of 2005

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 13

Part 7 – Coroners Act 1995 Amended

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**PART 7 – CORONERS ACT 1995 AMENDED**

**13. Principal Act**

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

**14. Section 53A inserted**

After section 53 of the Principal Act, the following section is inserted in Part 7:

**53A. Power of coroner to defer provision of information**

- (1) If the coroner reasonably believes it necessary for the purpose of an investigation, he or she may direct that the provision of specified information contained in records that are in the possession of a State Service Agency or a Minister and to which any person may otherwise be entitled under the *Freedom of Information Act 1991* be deferred for a specified period.
- (2) An agency or Minister directed by the coroner under subsection (1) is to comply with that direction.

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\*No. 73 of 1995

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**PART 8 – CRIMINAL CODE ACT 1924 AMENDED**

**15. Principal Act**

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

**16. Section 12A substituted**

Section 12A of the Principal Act is repealed and the following section is substituted:

**12A. Business and sittings of court**

- (1) The Chief Justice is responsible for ensuring the orderly and expeditious discharge of the business of the criminal jurisdiction of the Supreme Court and the Court of Criminal Appeal and accordingly may, subject to this Act and after such consultation with the judges as is appropriate and practicable, make arrangements as to the judge or judges who is or are to constitute the Court in a particular matter or class of matters.
- (2) Sittings of the criminal jurisdiction of the Supreme Court and sittings of the Court of Criminal Appeal are to be held from time to time as required at the places at which the registries of the Court are

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\*No. 69 of 1924

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 17

Part 8 – Criminal Code Act 1924 Amended

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established and at such other places as  
may be determined by the Chief Justice  
from time to time.

**17. Section 305 amended (Appeal as to bail to Court of  
Criminal Appeal or Full Court)**

Section 305 of Schedule 1 to the Principal Act is  
amended as follows:

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

(1A) A Crown Law Officer may  
appeal –

(a) an order of a judge of the  
Supreme Court admitting  
a person to bail; or

(b) a condition imposed by a  
judge of the Supreme  
Court to which an order  
admitting a person to bail  
is subject, or the failure to  
impose any such  
condition –

to –

(c) the Court of Criminal  
Appeal in a case where  
the person in respect of  
whom the order is made is



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 8 – Criminal Code Act 1924 Amended

**s. 17**

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bound to appear before  
that Court; or

(d) the Full Court of the  
Supreme Court, in any  
other case.

(b) by inserting in subsection (2) “or  
subsection (1A)” after “subsection (1)”.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 18**      Part 9 – Evidence (Children and Special Witnesses) Act 2001 Amended

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**PART 9 – EVIDENCE (CHILDREN AND SPECIAL  
WITNESSES) ACT 2001 AMENDED**

**18. Principal Act**

In this Part, the *Evidence (Children and Special Witnesses) Act 2001*\* is referred to as the Principal Act.

**19. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting “125C, 125D,” after “125B,” in paragraph (b)(i) of the definition of “affected child”;
- (b) by inserting “130,” after “129,” in paragraph (b)(i) of the definition of “affected child”;
- (c) by omitting “committed;” from paragraph (c) of the definition of “affected child” and substituting “committed; or”;
- (d) by inserting the following paragraph after paragraph (c) in the definition of “affected child”:

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\*No. 79 of 2001

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 9 – Evidence (Children and Special Witnesses) Act 2001 Amended

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**s. 19**

- (d) upon or in respect of whom an offence under section 73 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* is alleged to have been committed;
- (e) by inserting “125C, 125D,” after “125B,” in paragraph (b) of the definition of “prescribed proceeding”;
- (f) by inserting “130,” after “129,” in paragraph (b) of the definition of “prescribed proceeding”;
- (g) by omitting paragraph (e) from the definition of “prescribed proceeding” and substituting the following paragraphs:
  - (e) a proceeding in which a person has been charged with a crime under section 4, 7 or 9 of the *Sex Industry Offences Act 2005* or an offence under section 8(2) of that Act; or
  - (f) a proceeding in which a person has been charged with an offence under section 73 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*;

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 20

Part 10 – Guardianship and Administration Act 1995 Amended

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**PART 10 – GUARDIANSHIP AND ADMINISTRATION  
ACT 1995 AMENDED**

**20. Principal Act**

In this Part, the *Guardianship and  
Administration Act 1995*\* is referred to as the  
Principal Act.

**21. Section 3 amended (Interpretation)**

Section 3(1) of the Principal Act is amended by  
omitting the definition of “represented person”  
and substituting the following definition:

**“represented person”** means a person –

- (a) in respect of whom –
  - (i) a guardianship order is in force; or
  - (ii) an administration order is in force; or
  - (iii) both a guardianship order and an administration order are in force; or
- (b) who appoints an enduring guardian and who, by reason of disability, becomes unable to

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\*No. 44 of 1995

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 10 – Guardianship and Administration Act 1995 Amended

s. 22

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make reasonable judgments in  
relation to his or her personal  
circumstances;

**22. Section 7A inserted**

After section 7 of the Principal Act, the  
following section is inserted in Part 2:

**7A. Role of President**

The President –

- (a) is responsible for the  
administrative functions of the  
Board and the allocation of its  
work; and
- (b) may approve forms for the use of  
persons making an application or  
providing a report under this Act;  
and
- (c) may issue practice directions in  
relation to the conduct of  
hearings.

**23. Section 8A inserted**

After section 8 of the Principal Act, the  
following section is inserted in Part 2:

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 23

Part 10 – Guardianship and Administration Act 1995 Amended

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**8A. Board to sit in divisions**

- (1) Except for the purposes of Part 2 of Schedule 2, the functions of the Board may be exercised by divisions of the Board.
- (2) A division may consist of one or 3 members of the Board as may be determined in a particular case by the President.
- (3) The members of the Board who are to constitute a division are to be appointed by the President who, in so doing, must have regard to –
  - (a) the nature of the matter to be considered by that division; and
  - (b) the need for the members constituting that division to have appropriate knowledge and experience; and
  - (c) the need for an appropriate member, to be appointed by the President, to act as chairperson of a division.
- (4) Subsection (3) does not prevent the President from appointing himself or herself as chairperson of a division.
- (5) A matter arising for determination by a division is to be determined by a majority

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 10 – Guardianship and Administration Act 1995 Amended

**s. 24**

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of votes of the members constituting the  
division.

- (6) An act or decision of a division is not invalidated by reason only of a defect or irregularity in the appointment of a member of the Board or in the selection of that person for a division of the Board.
- (7) Subject to this Act, the procedure of a division is to be such as the division determines.

**24. Section 11 amended (Procedure of Board)**

Section 11 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “rules or practice as to” and substituting “the rules of”;
- (b) by inserting the following subsections after subsection (12):
  - (13) The Board may reject an application under this Act at any stage of a proceeding if the Board is of the opinion that –
    - (a) the application is frivolous or vexatious or otherwise lacking in substance; or

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 24**

Part 10 – Guardianship and Administration Act 1995 Amended

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- (b) the subject matter has already been dealt with by the Board and there has been no subsequent change to any material fact.
- (14) If the Board rejects an application, the applicant may apply for a review of that decision by a division of the Board.
- (15) A division of the Board constituted for the purposes of subsection (14) is to comprise 3 members, none of whom was involved in the decision to reject the initial application.
- (16) An application for a review must be –
  - (a) in writing; and
  - (b) lodged within 14 days after the applicant is notified of the decision to reject the initial application under subsection (13).
- (17) A decision of the Board made pursuant to an application under subsection (14) is not reviewable under this section.



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 10 – Guardianship and Administration Act 1995 Amended

**s. 25**

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**25. Section 32 amended (Appointment of enduring guardian)**

Section 32 of the Principal Act is amended by inserting after subsection (6) the following subsection:

- (7) Section 25(3) applies to an enduring guardian as if he or she were a full guardian appointed under section 20.

**26. Section 34 amended (Revocation or amendment of appointment by Board)**

Section 34(1) of the Principal Act is amended by omitting “the appointment” first occurring and substituting “or amend the instrument of appointment”.

**27. Section 73 amended (Appearance at hearing of Board)**

Section 73(1)(b) of the Principal Act is amended by omitting “may”.

**28. Section 73A inserted**

After section 73 of the Principal Act, the following section is inserted in Division 1:

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 28

Part 10 – Guardianship and Administration Act 1995 Amended

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**73A. Interim order on adjournment**

(1) If the Board adjourns the hearing of an application under this Act, the Board may, in respect of a person who is not a represented person but in respect of whom the Board considers that there may be grounds for making a guardianship order or an administration order, make an interim order appointing –

(a) the Public Guardian as his or her guardian; or

(b) The Public Trustee as administrator of his or her estate –

and in either case the Board may make any order or give any direction it considers appropriate in the circumstances.

(2) An interim order has effect for the period of the adjournment and any subsequent adjournment.

(3) This section does not prevent the Board from varying or revoking an interim order or from making a further interim order on any subsequent adjournment.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 10 – Guardianship and Administration Act 1995 Amended

**s. 29**

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**29. Section 74A inserted**

After section 74 of the Principal Act, the following section is inserted in Division 1:

**74A. Contempt of Board**

- (1) A person is in contempt of the Board if the person –
- (a) at a hearing of the Board or in going to or returning from a hearing of the Board, insults a member of the Board, a member of the staff of the Board or a person assisting the Board; or
  - (b) deliberately interrupts a hearing of the Board, or otherwise misbehaves at such a hearing; or
  - (c) creates or continues, or joins in creating or continuing, a disturbance in or near a place where a hearing of the Board is being conducted; or
  - (d) obstructs or assaults a person attending a hearing of the Board; or
  - (e) without lawful excuse, disobeys a lawful order or direction of the Board made or given at a hearing of the Board; or

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 30**

Part 10 – Guardianship and Administration Act 1995 Amended

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- (f) does anything at a hearing of the Board or otherwise that would be contempt of court if the Board were a judge acting judicially.
- (2) The Board may order that a person who under subsection (1) is in contempt of the Board be excluded from the place where the hearing is being conducted.
- (3) A member of the staff of the Board, acting under the Board's direction, may, using necessary and reasonable help and force, exclude the person from the place.

**30. Section 81A inserted**

After section 81 of the Principal Act, the following section is inserted in Division 4:

**81A. Instruments made under corresponding laws**

- (1) Where it appears to the Minister that a law in force in another State, or in a Territory or country has substantially the same effect as Part 5 of this Act, the Minister may by notice published in the *Gazette* declare that the law is a corresponding law for the purpose of this section.
- (2) Subject to subsection (3), if an instrument appointing an enduring guardian that is made in another State, or

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 10 – Guardianship and Administration Act 1995 Amended

**s. 30**

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in a Territory or country under a corresponding law complies with that corresponding law, the instrument is taken to be an instrument appointing an enduring guardian made in accordance with Part 5.

- (3) An instrument referred to in subsection (2) is valid only to the extent that it would be valid if it were an instrument appointing an enduring guardian made in accordance with Part 5.
- (4) For the purposes of this section, a certificate, from a legal practitioner or from the Registrar of a relevant Court, Board or Tribunal exercising a guardianship jurisdiction, that the instrument appointing an enduring guardian satisfies the requirements of the relevant corresponding law is evidence of that fact.
- (5) An instrument appointing an enduring guardian recognised in accordance with this section must be registered in accordance with section 89(1)(c).
- (6) A notice under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 31**

Part 10 – Guardianship and Administration Act 1995 Amended

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**31. Section 87 amended (Offences)**

Section 87 of the Principal Act is amended by inserting after paragraph (b) the following paragraphs:

- (ba) hinders any proceedings under this Act;  
or
- (bb) uses insulting language towards a person exercising any power or performing any function under this Act; or

**32. Schedule 2 amended (Procedure of Board)**

Schedule 2 to the Principal Act is amended by omitting clauses 1 and 2 from Part 1.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 11 – Justices Act 1959 Amended

s. 33

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**PART 11 – JUSTICES ACT 1959 AMENDED**

**33. Principal Act**

In this Part, the *Justices Act 1959*\* is referred to as the Principal Act.

**34. Section 3 amended (Interpretation)**

The definition of “affected person” in section 3(1) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “125C, 125D,” after “125B,”;
- (b) by inserting in paragraph (a) “130,” after “129,”;
- (c) by omitting paragraph (c) and substituting the following paragraphs:
  - (c) a crime under section 4, 7 or 9 of the *Sex Industry Offences Act 2005* or an offence under section 8(2) of that Act;
  - (d) an offence under section 73 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*;

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\*No. 77 of 1959

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 35

Part 11 – Justices Act 1959 Amended

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**35. Section 106B amended (Restraint orders)**

Section 106B(2) of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

- (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



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 12 – Limitation Act 1974 Amended

s. 36

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**PART 12 – LIMITATION ACT 1974 AMENDED**

**36. Principal Act**

In this Part, the *Limitation Act 1974*\* is referred to as the Principal Act.

**37. Section 7 amended (Contribution between tortfeasors)**

Section 7 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “*Tortfeasors and Contributory Negligence Act 1954*” and substituting “*Wrongs Act 1954*”;
- (b) by omitting from subsection (2) “*Tortfeasors and Contributory Negligence Act 1954*” and substituting “*Wrongs Act 1954*”.

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\*No. 98 of 1974

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 38

Part 13 – Magistrates Court (Civil Division) Act 1992 Amended

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**PART 13 – MAGISTRATES COURT (CIVIL DIVISION)  
ACT 1992 AMENDED**

**38. Principal Act**

In this Part, the *Magistrates Court (Civil Division) Act 1992*\* is referred to as the Principal Act.

**39. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by omitting the definition of “prescribed amount” and substituting the following definition:

**“prescribed amount”** means \$50 000;

**40. Section 31AB amended (Procedure for minor civil claims)**

Section 31AB of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

- (3) The Magistrates Rule Committee is to determine the rules which apply to, and in respect of, a proceeding relating to a minor civil claim.

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\*No. 27 of 1992

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 13 – Magistrates Court (Civil Division) Act 1992 Amended

**s. 40**

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- (3A) Notwithstanding subsection (3), where the Court considers it expedient and in the interests of justice, the Court may dispense with the application of the rules referred to in that subsection or may apply rules not generally applicable to minor civil claims.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 41

Part 14 – Magistrates Court Act 1987 Amended

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**PART 14 – MAGISTRATES COURT ACT 1987  
AMENDED**

**41. Principal Act**

In this Part, the *Magistrates Court Act 1987*\* is referred to as the Principal Act.

**42. Section 15 amended (Arrangement of business of courts, and administrative matters)**

Section 15 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (2) The Chief Magistrate may determine that a sitting at a specified court on a specified day, or at any time, is to be used only for a specified purpose unless the justice of the matter requires otherwise.

**43. Section 15AA amended (Practice directions)**

Section 15AA of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) The Chief Magistrate may issue practice directions specifying the circumstances

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\*No. 45 of 1987

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 14 – Magistrates Court Act 1987 Amended

**s. 43**

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in which initiating process must be filed  
in a registry.

**s. 44** Part 15 – Motor Accidents (Liabilities and Compensation) Act 1973  
Amended

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 15 – Motor Accidents (Liabilities and Compensation) Act 1973  
Amended

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**s. 47**

**47. Section 28C amended (Recovery by Board from non-indemnifiable person of scheduled benefits)**

Section 28C of the Principal Act is amended as follows:

- (a) by omitting the definition of “fault” from subsection (1);
- (b) by omitting from subsection (3) “*Tortfeasors and Contributory Negligence Act 1954*” and substituting “*Wrongs Act 1954*”;
- (c) by omitting from subsection (4) “section 4 of the *Tortfeasors and Contributory Negligence Act 1954*” and substituting “section 4 of the *Wrongs Act 1954*”;
- (d) by omitting from subsection (5)(b) “section 4 of the *Tortfeasors and Contributory Negligence Act 1954*” and substituting “section 4 of the *Wrongs Act 1954*”.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 48

Part 16 – Professional Standards Act 2005 Amended

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**PART 16 – PROFESSIONAL STANDARDS ACT 2005  
AMENDED**

**48. Principal Act**

In this Part, the *Professional Standards Act 2005\** is referred to as the Principal Act.

**49. Section 4 amended (Definitions)**

Section 4 of the Principal Act is amended as follows:

(a) by omitting “In this Act” and substituting “(1) In this Act”;

(b) by inserting the following definition after the definition of “business assets”:

**“costs”** includes fees, charges, disbursements and expenses;

(c) by omitting the definition of “damages” and substituting the following definition:

**“damages”** means –

(a) damages awarded in respect of a claim or counter-claim or by way of set-off; and

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\*No. 24 of 2005



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 16 – Professional Standards Act 2005 Amended

**s. 49**

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- (b) costs in or in relation to the proceedings ordered to be paid in connection with such an award (other than costs incurred in enforcing a judgment or incurred on an appeal made by a defendant); and
  - (c) any interest payable on the amount of those damages or costs;
- (d) by inserting the following subsection:
  - (2) A reference in this Act to the amount payable under an insurance policy in respect of an occupational liability includes a reference to –
    - (a) defence costs payable in respect of a claim, or notification that may lead to a claim (other than reimbursement of the defendant for time spent in relation to the claim), but only if those costs are payable out of the one sum insured under the policy in respect of the occupational liability; and

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 50**

Part 16 – Professional Standards Act 2005 Amended

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- (b) the amount payable under or in relation to the policy by way of excess.

**50. Section 24 substituted**

Section 24 of the Principal Act is repealed and the following section is substituted:

**24. Limitation of liability by insurance arrangements**

A scheme may provide that, if a person to whom the scheme applies and against whom a proceeding relating to occupational liability is brought is able to satisfy the court that –

- (a) the person has the benefit of an insurance policy insuring the person against the occupational liability to which the cause of action relates; and
- (b) the amount payable under the policy in respect of that occupational liability is not less than the amount of the monetary ceiling specified in the scheme in relation to the class of person and the kind of work to which the cause of action relates –

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 16 – Professional Standards Act 2005 Amended

**s. 51**

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the person is not liable in damages in relation to that cause of action above the amount of that monetary ceiling.

**51. Section 25 amended (Limitation of liability by reference to amount of business assets)**

Section 25 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “at the time at which the act or omission giving rise to the cause of action occurred”;
- (b) by omitting subparagraph (ii) from paragraph (b) and substituting the following subparagraph:
  - (ii) the net current market value of the business assets and the amount payable under the policy in respect of that occupational liability, if combined, would total an amount that is not less than the amount of the monetary ceiling specified in the scheme in relation to the class of person and the kind of work to which the cause of action relates –

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 52

Part 16 – Professional Standards Act 2005 Amended

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**52. Section 26 amended (Limitation of liability by multiple of charges)**

Section 26(1) of the Principal Act is amended as follows:

- (a) by omitting subparagraph (ii) from paragraph (a) and substituting the following subparagraph:
  - (ii) under which the amount payable in respect of that occupational liability is not less than an amount (the “**limitation amount**”), being a reasonable charge for the services provided by the person, or which the person failed to provide, and to which the cause of action relates, multiplied by the multiple specified in the scheme in relation to the class of person and the kind of work to which the cause of action relates; or
- (b) by omitting subparagraph (ii) from paragraph (c) and substituting the following subparagraph:
  - (ii) the net current market value of the assets and the amount payable under the policy in respect of that occupational liability, if combined, would total an amount

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 16 – Professional Standards Act 2005 Amended

**s. 53**

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that is not less than the limitation  
amount –

**53. Section 29A inserted**

After section 29 of the Principal Act, the  
following section is inserted in Division 2:

**29A. Liability in damages not reduced to below  
relevant limit**

The liability in damages of a person to  
whom a scheme applies is not reduced  
below the relevant limitation imposed by  
a scheme in force under this Act because  
the amount required or available to be  
paid to the claimant under the insurance  
policy required for the purposes of this  
Act in respect of that liability is less than  
the relevant limitation.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 54**                      Part 17 – Resource Planning and Development Commission Act 1997  
Amended

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**PART 17 – RESOURCE PLANNING AND  
DEVELOPMENT COMMISSION ACT 1997 AMENDED**

**54. Principal Act**

In this Part, the *Resource Planning and  
Development Commission Act 1997\** is referred  
to as the Principal Act.

**55. Section 13A inserted**

After section 13 of the Principal Act, the  
following section is inserted in Part 3:

**13A. Protection from liability**

- (1) A member of the Commission, the registrar and any other person acting under the direction of the Commission do not incur any personal liability in respect of any act done or omitted to be done in good faith in the performance or exercise, or purported performance or exercise, of any function or power of the Commission or in the administration or execution, or purported administration or execution, of this Act.
- (2) Subsection (1) does not preclude the Crown or the Commission from incurring liability that a member of the

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\*No. 85 of 1997

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 17 – Resource Planning and Development Commission Act 1997  
Amended

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**s. 56**

Commission, the registrar or other person  
mentioned in that subsection would, but  
for that subsection, incur.

**56. Sections 17B and 17C inserted**

After section 17A of the Principal Act, the  
following sections are inserted in Part 3:

**17B. Contempt of Commission**

- (1) A person must not –
  - (a) insult a member of the Commission in relation to the performance of his or her functions as a member; or
  - (b) interrupt a proceeding or hearing of the Commission; or
  - (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the Commission is sitting; or
  - (d) do anything that would, if the Commission were a court of record, constitute a contempt of that court.
- (2) The Commission may order that a person who under subsection (1) is in contempt of the Commission at a Commission

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 56**

Part 17 – Resource Planning and Development Commission Act 1997  
Amended

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hearing be excluded from the place  
where the hearing is being conducted.

- (3) A member of the Commission staff, acting under the Commission's order, may, using necessary and reasonable help and force, exclude the person from the place.

**17C. Punishment of contempt**

- (1) Without limiting the Commission's power to punish for contempt, a person's contempt of the Commission may be punished under this section.
- (2) The Commission may certify the contempt in writing to the Supreme Court.
- (3) For the purposes of subsection (2), it is enough for the Commission to be satisfied that there is evidence of contempt.
- (4) The Commission may issue a warrant directed to a police officer or all police officers for the arrest of the person to be brought before the Supreme Court to be dealt with according to law.
- (5) The *Bail Act 1994* applies to the proceeding for the contempt started by the certification in the same way as it applies to a charge of an offence.



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 17 – Resource Planning and Development Commission Act 1997  
Amended

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**s. 56**

- (6) The Supreme Court must inquire into the alleged contempt.
- (7) The Supreme Court must hear –
  - (a) witnesses and evidence that may be produced against or for the person whose contempt was certified; and
  - (b) any statement given by the person in defence.
- (8) If the Supreme Court is satisfied that the person has committed the contempt, the Court may punish the person as if the person had committed the contempt in relation to proceedings in that Court.
- (9) The Rules of the Supreme Court apply to the Court's investigation, hearing and power to punish with necessary changes.
- (10) The Commission's certificate of contempt is evidence of the matters contained in the certificate.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 57

Part 18 – Supreme Court Act 1887 Amended

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**PART 18 – SUPREME COURT ACT 1887 AMENDED**

**57. Principal Act**

In this Part, the *Supreme Court Act 1887*\* is referred to as the Principal Act.

**58. Section 3 amended (Acting judges)**

Section 3(1A) of the Principal Act is amended by inserting after paragraph (a) in the definition of “qualified person” the following paragraph:

(ab) has been a judge of the Supreme Court;  
or

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\*No. 36 of 1887

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 19 – Supreme Court Civil Procedure Act 1932 Amended

s. 59

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**PART 19 – SUPREME COURT CIVIL PROCEDURE  
ACT 1932 AMENDED**

**59. Principal Act**

In this Part, the *Supreme Court Civil Procedure Act 1932\** is referred to as the Principal Act.

**60. Sections 18A, 19, 20, 20A, 21, 22, 23, 24 and 25  
substituted**

Sections 18A, 19, 20, 20A, 21, 22, 23, 24 and 25 of the Principal Act are repealed and the following sections are substituted:

**19. Business and sittings of Court**

- (1) The Chief Justice is responsible for ensuring the orderly and expeditious discharge of the business of the Court and accordingly may, subject to this Act and after such consultation with the judges as is appropriate and practicable, make arrangements as to the judge or judges who is or are to constitute the Court in a particular matter or class of matters.
- (2) Sittings of the Court are to be held from time to time as required at the places at which the registries of the Court are

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\*No. 58 of 1932

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 60**

Part 19 – Supreme Court Civil Procedure Act 1932 Amended

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established and at such other place as may be determined by the Chief Justice from time to time.

**20. Reserved judgments**

- (1) When any cause or matter, after being fully heard before a Full Court, is ordered to stand for judgment, it is not necessary that both or all judges before whom it was heard be present together in court to declare their opinions on the cause or matter, but the opinion of any of them may be reduced to writing and may be read by any other judge at any subsequent sitting of a Full Court at which judgment in the cause or matter is appointed to be delivered.
- (2) In any such case the question is to be decided in the same manner, and the judgment of the Court has the same force and effect, as if the judge whose opinion is so read had been present in court and had declared his or her opinion in person.
- (3) Nothing in this section affects the practice of publishing in writing a judge's reasons for his or her opinion.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 19 – Supreme Court Civil Procedure Act 1932 Amended

**s. 61**

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**61. Section 28 amended (Transfer to inferior courts of  
civil jurisdiction of actions and counter-claims  
founded on contract or tort)**

Section 28 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “\$20 000” and substituting “\$50 000”;
- (b) by omitting from subsection (1)(b) “\$20 000” and substituting “\$50 000”;
- (c) by omitting from subsection (1A) “\$20 000” and substituting “\$50 000”;
- (d) by omitting from subsection (3)(a) “\$20 000” and substituting “\$50 000”;
- (e) by omitting from subsection (3)(b) “\$20 000” and substituting “\$50 000”.

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 62

Part 20 – Terrorism (Preventative Detention) Act 2005 Amended

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**PART 20 – TERRORISM (PREVENTATIVE  
DETENTION) ACT 2005 AMENDED**

**62. Principal Act**

In this Part, the *Terrorism (Preventative Detention) Act 2005*\* is referred to as the Principal Act.

**63. Section 23 amended (Warrant under section 34E of the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth)**

Section 23(1)(b) of the Principal Act is amended by omitting “section 34D” and substituting “section 34E”.

**64. Section 26 amended (Effect of preventative detention order to be explained to person detained)**

Section 26 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) Without limiting subsection (2)(d), the police officer detaining the person under the order must inform the person under that paragraph about the persons that he or she may contact under section 32 or 36.

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\*No. 71 of 2005

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 20 – Terrorism (Preventative Detention) Act 2005 Amended

**s. 65**

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- (4) Subsection (2)(d) does not require the police officer to inform the person being detained of –
- (a) the fact that a prohibited contact order has been made in relation to the person's detention; or
  - (b) the name of a person specified in a prohibited contact order that has been made in relation to the person's detention.

**65. Section 34 amended (Contacting lawyer)**

Section 34 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (3A) If the police officer who is detaining a person under a preventative detention order has reasonable grounds to believe that –
- (a) the person is unable, because of inadequate knowledge of the English language, or a disability, to communicate with reasonable fluency in that language; and
  - (b) the person may have difficulties in choosing or contacting a lawyer because of that inability –

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

**s. 66**

Part 20 – Terrorism (Preventative Detention) Act 2005 Amended

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the police officer must give the person reasonable assistance (including, if appropriate, by arranging for the assistance of an interpreter) to choose and contact a lawyer under subsection (1).

**66. Section 51 amended (Annual report)**

Section 51(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (e) “year.” and substituting “year;”;
- (b) by inserting the following paragraph after paragraph (e):
  - (f) the number of preventative detention orders, and the number of prohibited contact orders, that a court has found not to have been validly made or that the Administrative Appeals Tribunal has declared to be void.



*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

Part 21 – Victims of Crime Assistance Act 1976 Amended

**s. 67**

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**PART 21 – VICTIMS OF CRIME ASSISTANCE ACT  
1976 AMENDED**

**67. Principal Act**

In this Part, the *Victims of Crime Assistance Act 1976\** is referred to as the Principal Act.

**68. Section 40A inserted**

After section 40 of the Principal Act, the following section is inserted in Part 4:

**40A. Protection from liability**

A Commissioner is not liable, and an action does not lie against him or her, on account of anything done under the authority of this Act, or done in good faith purportedly under the authority of this Act, or on account of any omission made in good faith in the administration of this Act.

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\*No. 32 of 1976

*Justice and Related Legislation (Further Miscellaneous  
Amendments) Act 2006*  
*Act No. of*

s. 69

Part 22 – Youth Justice Act 1997 Amended

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**PART 22 – YOUTH JUSTICE ACT 1997 AMENDED**

**69. Principal Act**

In this Part, the *Youth Justice Act 1997*\* is referred to as the Principal Act.

**70. Section 49A amended (Court may impose single, general or mixed sentence)**

Section 49A(1) of the Principal Act is amended by omitting “convicted” and substituting “found guilty”.

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\*No. 81 of 1997