

# TASMANIA

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## JUSTICES AMENDMENT BILL 2007

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# **JUSTICES AMENDMENT BILL 2007**

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

## **A BILL FOR**

**An Act to amend the *Justices Act 1959*, the *Criminal Code Act 1924*, the *Electoral Act 2004* and the *Evidence (Children and Special Witnesses) Act 2001***

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 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Justices Amendment Act 2007*.

### **2. Commencement**

This Act commences on a day to be proclaimed.

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**PART 2 – JUSTICES ACT 1959 AMENDED**

**3. Principal Act**

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

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

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of “district” and substituting the following definition:

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

- (b) by inserting the following definitions after the definition of “petty session”:

**“preliminary proceedings”** means proceedings of justices conducted in accordance with a preliminary proceedings order;

**“preliminary proceedings order”** means an order of the Supreme Court under section 331B of the *Criminal Code* requiring the giving of evidence on oath in preliminary proceedings;

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- (c) by omitting “referred to in section 144;” from paragraph (a) of the definition of “prescribed” and substituting “of court;”;
  - (d) by inserting the following definition after the definition of “restraint order”:

**“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;

**5. Section 23 amended (Powers of single justice)**

Section 23 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (e) “sentence.” and substituting “sentence; and”;
- (b) by inserting the following paragraph after paragraph (e):
  - (f) conduct preliminary proceedings in accordance with Division 3 of Part VII.

**6. Section 34A amended (Procedure on arrest)**

Section 34A(1)(b) of the Principal Act is amended by omitting “section 67” and substituting “section 70(2)”.

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**7. Section 50A amended (Justices’ record)**

Section 50A(3) of the Principal Act is amended by omitting “made under section 144,” and substituting “of court,”.

**8. Section 50B amended (Adjournment of proceedings)**

Section 50B(4) of the Principal Act is amended by omitting “made under section 144” and substituting “of court”.

**9. Sections 55, 56, 56A, 57, 57A, 58, 62, 63, 66 and 67 substituted**

Sections 55, 56, 56A, 57, 57A, 58, 62, 63, 66 and 67 of the Principal Act are repealed and the following sections are substituted:

**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 legal practitioner, 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

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- (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 7 weeks.

## **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 legal practitioner 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 legal practitioner, 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 legal practitioner representing the defendant



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

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notified the relevant Commander that he or she does not intend to be represented by a legal practitioner, 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.

**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.

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- (2) If, after copies of all witness statements have been served on a defendant or his or her legal practitioner 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 legal practitioner 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.

**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 –

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- (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 –

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- 
- (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.

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- (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 –

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- (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

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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.

**10. Part VII, Division 3: Heading inserted**

Part VII of the Principal Act is amended by inserting the following heading after section 60:

***Division 3 – Preliminary proceedings***

**11. Sections 61 and 62 inserted**

After section 60 of the Principal Act, the following sections are inserted in Division 3:



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**61. Proceedings following preliminary proceedings order by Supreme Court**

(1) In this section –

**“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;

**“endorsed recording”**, in relation to the statement of a witness who is 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;

**“transcribe”** means transcribe, or print, onto paper.

(2) On the receipt by the clerk of petty sessions of a copy of a preliminary

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proceedings order, the justices are to conduct preliminary proceedings in accordance with that order.

- (3) The defendant must be present during preliminary proceedings conducted under a preliminary proceedings order unless the justices permit the preliminary proceedings to proceed in the absence of the defendant.
- (4) In preliminary proceedings –
  - (a) the evidence of a witness, other than an affected person, is to be taken by the examination, cross-examination and re-examination of the witness before the justices; and
  - (b) the evidence of a witness who is an affected person is to be taken by the receipt by the justices of the endorsed recording of the statement of the witness and the examination, cross-examination and re-examination of the witness as specified by subsection (5); and
  - (c) the evidence of a witness given in examination, cross-examination or re-examination is to be transcribed and the transcript is to be certified.

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- (5) A witness who is an affected person may only –
- (a) be cross-examined and re-examined on matters specified in the preliminary proceedings order in accordance with the conditions and limitations specified in that order; and
  - (b) be examined, cross-examined and re-examined on matters not provided for in the preliminary proceedings order if the justices are 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.
- (6) A decision of the justices to allow the examination, cross-examination or re-examination of a witness who is an affected person under subsection (5)(b) is final and not subject to appeal or other review.
- (7) The room or place in which the justices conduct the preliminary proceedings is an open court, but the justices, if satisfied

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that it is in the interests of justice to do so, may order that a person, persons of a class or all persons may not enter, be in or remain in that room or place.

- (8) Despite subsection (7), the prosecutor, defendant and legal representative of the defendant may not be excluded from the room or place in which the justices are conducting the preliminary proceedings.
- (9) At any time during preliminary proceedings, the justices may request the Supreme Court to give directions in relation to the conduct or finalisation of the preliminary proceedings.
- (10) On the request of the justices under subsection (9), the Supreme Court may give such directions relating to the conduct or finalisation of the preliminary proceedings as it considers appropriate.
- (11) When the justices have concluded the preliminary proceedings or cannot proceed, or proceed further, with them –
  - (a) the justices must remand the defendant in custody or admit him or her 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

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recordings of the statements of witnesses who are affected persons used in the preliminary proceedings, to the following persons:

- (i) the Supreme Court;
  - (ii) the Director of Public Prosecutions;
  - (iii) the legal practitioner 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.

**62. Justices may require attendance of defendant and witnesses and production of documents**

- (1) In preliminary proceedings, a justice may issue a summons to the defendant requiring the defendant to attend before the justices at a time and place mentioned in the summons.
- (2) If a preliminary proceedings order provides that a witness may be examined in preliminary proceedings, a justice may issue a summons to the witness requiring

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the witness to attend before the justices at a time and place mentioned in the summons to testify what he or she knows concerning the charge.

- (3) In preliminary proceedings, a justice may issue a summons requiring a person to attend and produce to the justices at the time and place mentioned in the summons, for the purposes of evidence, a document or thing in the possession or under the control of the person.
- (4) If the defendant, witness or person fails to attend before the justices as required by a summons issued under this section, the justices may issue a warrant requiring that the defendant, witness or person be apprehended and brought before the justices.

**12. Section 68 amended (Recognizance of witnesses, &c.)**

Section 68 of the Principal Act is amended as follows:

- (a) by inserting “in preliminary proceedings” after “examined”;
- (b) by inserting “or her” after “him”;
- (c) by omitting “court” and substituting “Supreme Court”.

**13. Part VII, Division 4: Heading inserted**

Part VII of the Principal Act is amended by inserting the following heading after section 69:

***Division 4 – Miscellaneous***

**14. Sections 69A and 70 substituted**

Sections 69A and 70 of the Principal Act are repealed and the following sections are substituted:

**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.

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**15. Section 72 amended (Other crimes triable summarily)**

Section 72 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “instead of asking him to plead under section 56A, the justices may, in the prescribed form of words or in words of like import,” and substituting “the justices, as specified in section 55 or 58 and in the prescribed form of words or in words of like import, may”;
- (b) by inserting in subsection (1) “or sentenced” after “be tried”;
- (c) by inserting in subsection (1) “or sentenced” after “being tried”;
- (d) by inserting in subsection (2) “or sentenced” after “tried”.

**16. Section 72B amended (Hearings under this Part)**

Section 72B of the Principal Act is amended as follows:

- (a) by inserting in subsection (2) “the defendant requests or” after “Part,”;
- (b) by omitting from subsection (2) “they” first occurring and substituting “the justices”;



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- (c) by omitting from subsection (3)(a) “section 63” and substituting “section 60”.

**17. Section 74A amended (Procedure where defendant not represented)**

Section 74A(1) of the Principal Act is amended by omitting “made under section 144” and substituting “of court”.

**18. Section 113B amended (Review by magistrate)**

Section 113B(1) of the Principal Act is amended by omitting “made under section 144,” and substituting “of court,”.

**19. Section 143 amended (Appropriation of penalties and fees)**

Section 143(3A) of the Principal Act is amended by omitting “made under section 144.” and substituting “of court.”.

**20. Section 144 amended (Rules of court)**

Section 144 of the Principal Act is amended as follows:

- (a) by inserting in subsection (6) “of court” after “rules”;

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- (b) by inserting in subsection (7) “of court” after “Rules”.

**21. Section 147 inserted**

After section 146 of the Principal Act, the following section is inserted in Part XIII:

**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.

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- (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 –

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- (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.

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Part 3 – Criminal Code Act 1924 Amended

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**PART 3 – CRIMINAL CODE ACT 1924 AMENDED**

**22. Principal Act**

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

**23. Section 7 amended (Proceedings to be initiated by indictment)**

Section 7 of the Principal Act is amended by omitting “All” and substituting “Except as otherwise provided by the Code or an Act,”.

**24. *Criminal Code* amended**

Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following sections after section 331:

**331A. Release from prison if no indictment filed**

- (1) If –

- (a) a person is in a prison, by reason of having been remanded in custody by justices; and

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(b) justices have committed that person for trial in the Supreme Court for an indictable offence; and

(c) a Crown Law Officer decides on the evidence before him or her not to file an indictment against that person for that offence –

the Crown Law Officer may issue a warrant to the person in charge of that prison to release that person immediately.

(2) A person in charge of a prison who is provided with a warrant under subsection (1) is to immediately release the person named in the warrant from custody in respect of the offence mentioned in the warrant.

**331B. First appearance of defendant in Supreme Court following committal**

(1) At the first appearance before the Supreme Court of a defendant committed to the Court on a plea of guilty entered before justices, the Supreme Court is to list the defendant for sentencing on a day fixed by the Court.

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- (2) At the first or a subsequent appearance before the Supreme Court of a defendant committed to the Court on any plea, other than a plea of guilty –
- (a) the defendant or a Crown law officer may apply for an order that the witnesses named in the application give evidence on oath in preliminary proceedings; and
  - (b) the Court may make such an order; and
  - (c) the Court is to warn the defendant that he or she may not be permitted at trial to give evidence of an alibi or to call witnesses in support of an alibi unless he or she gives the Director of Public Prosecutions written notice of that alibi and of those witnesses within the time provided in section 368A.
- (3) The Supreme Court may only make an order under subsection (2)(b) requiring a witness named in the order to

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give evidence on oath in preliminary proceedings –

- (a) if the defendant, or Crown law officer, in his or her application for the order has identified a matter in respect of which the witness is to be questioned, has specified why the evidence of the witness is relevant to that matter and has specified why cross-examination, or examination, of the witness is justified; and
  - (b) if, in a case where the witness is an affected person within the meaning of the *Justices Act 1959*, the Court is satisfied that exceptional circumstances require the witness to give evidence on oath at preliminary proceedings; and
  - (c) the Court is satisfied that it is necessary in the interests of justice.
- (4) An order under subsection (2)(b) –



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- (a) in respect of a witness who is not an affected person within the meaning of the *Justices Act 1959*, may limit the matters on which the witness may be examined, cross-examined and re-examined and impose conditions in relation to such examination, cross-examination and re-examination; and
  - (b) in respect of a witness who is an affected person within the meaning of the *Justices Act 1959*, must limit the matters on which the witness may be examined, cross-examined and re-examined and may impose conditions in relation to such examination, cross-examination and re-examination.
- (5) If the Supreme Court makes an order under subsection (2)(b), the Court is to remand the defendant in custody or admit him or her on bail to appear before justices, at the time and on the day specified in the order.

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**331C. Jurisdiction of Supreme Court to sentence**

If a defendant is committed, by justices in accordance with the *Justices Act 1959*, to the Supreme Court for sentence, the Supreme Court has jurisdiction over the defendant as if the defendant had appeared and entered the plea to an indictment for the offence in respect of which he or she was committed.

- (b) by omitting from section 368A(3) “section 56A of the *Justices Act 1959*,” and substituting “section 331B,”;
- (c) by omitting “section 56A of the *Justices Act 1959*” from paragraph (a) of the definition of “the prescribed period” in section 368A(8) and substituting “section 331B”;
- (d) by omitting from section 401(3)(b) “section 63 of the *Justices Act 1959*,” and substituting “section 331C”;
- (e) by inserting the following sections after section 421:

**421A. Notice to attend or arrest warrant against person indicted in Supreme Court**

- (1) In this section –

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**“at large”** means not detained in prison as specified in subsection (2)(c).

- (2) On the application of a person who has filed an indictment in the Supreme Court under section 420 or 421 in respect of an offence, the Supreme Court –
- (a) if the defendant is at large and the applicant requests it, must issue a notice to attend to the defendant ordering him or her to attend before the Supreme Court at the time and place specified in the notice; or
  - (b) if the defendant is at large but no such request is made, may issue an arrest warrant against the defendant to bring him or her before the Supreme Court; or
  - (c) if there is proof, on oath, that the defendant is a person at that time detained in a prison in relation to an offence other than that charged in the indictment, must direct the person in charge

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of the prison to detain the defendant in his or her custody until –

- (i) the defendant is lawfully removed from that custody for the purpose of being tried on the indictment; or
  - (ii) the defendant is otherwise removed or discharged out of that custody by due course of law.
- (3) Subsection (2)(a) and (b) applies in respect of a defendant regardless of whether or not the defendant is bound by a recognizance to appear to answer the indictment.
- (4) A person may not make an application, and the Supreme Court may not proceed, under subsection (2) if the defendant has already attended before the Supreme Court and pleaded to the indictment.

**421B. Committal for trial in certain circumstances**

If a person is arrested under a warrant issued under section 421A in respect of an indictment and brought before the Supreme Court and it is proved upon oath before the Court that the person arrested is the person indicted –

- (a) the person must be committed for trial without further inquiry or examination; and
- (b) if the person has not appeared before the Supreme Court under section 331B in respect of the charge which is the subject of the indictment –
  - (i) section 331B applies; and
  - (ii) for the purpose of the application of section 331B, the person is taken to be appearing for the first time after being committed

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to the Supreme  
Court.

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Part 4 – Electoral Act 2004 Amended

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**PART 4 – ELECTORAL ACT 2004 AMENDED**

**25. Principal Act**

In this Part, the *Electoral Act 2004*\* is referred to as the Principal Act.

**26. Section 236 amended (Certain crimes to be tried by justices)**

Section 236(1) of the Principal Act is amended by omitting “section 56A of the *Justices Act 1959*,” and substituting “section 55 or 58 of the *Justices Act 1959*,”.

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**s. 27**

Part 5 – Evidence (Children and Special Witnesses) Act 2001 Amended

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**PART 5 – EVIDENCE (CHILDREN AND SPECIAL  
WITNESSES) ACT 2001 AMENDED**

**27. Principal Act**

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

**28. Section 5 amended (Admission of prior statement of affected child)**

Section 5(2) of the Principal Act is amended by omitting “section 56A(6AA) or 57A of the *Justices Act 1959*.” and substituting “section 61 of the *Justices Act 1959*.”.

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\*No. 79 of 2001