

# TASMANIA

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## **JUSTICE AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2015**

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# **JUSTICE AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2015**

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*  
19 August 2015

*(Brought in by the Premier, the Honourable William Edward  
Felix Hodgman)*

## **A BILL FOR**

**An Act to amend the *Acts Interpretation Act 1931*, the  
*Administration and Probate Act 1935*, the *Bail Act 1994*, the  
*Environmental Management and Pollution Control Act 1994*, the  
*Justices Act 1959* 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:

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Justice and Related Legislation (Miscellaneous Amendments) Act 2015*.

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 2

Part 1 – Preliminary

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**2. Commencement**

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

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

Part 2 – Acts Interpretation Act 1931 Amended

s. 3

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**PART 2 – ACTS INTERPRETATION ACT 1931  
AMENDED**

**3. Principal Act**

In this Part, the *Acts Interpretation Act 1931*\* is referred to as the Principal Act.

**4. Section 30A inserted**

After section 30 of the Principal Act, the following section is inserted:

**30A. Electronic service of infringement notices**

An infringement notice –

- (a) may be served electronically if the intended recipient of the notice consents to such service; and
- (b) is taken to have been served on the intended recipient if it is sent electronically to an address or number provided for that purpose.

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\*No. 59 of 1931

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

s. 5

Part 3 – Administration and Probate Act 1935 Amended

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**PART 3 – ADMINISTRATION AND PROBATE ACT  
1935 AMENDED**

**5. Principal Act**

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

**6. Section 13A inserted**

After section 13 of the Principal Act, the following section is inserted in Division I:

**13A. Grant of administration to adult**

The Court may grant letters of administration to a person aged 18 years or more, whether or not the person resides in Tasmania.

**7. Section 14 amended (Provisions as to the number of personal representatives and where minority or life interest)**

Section 14(2) of the Principal Act is amended by omitting “committee” and substituting “administrator”.

**8. Section 25 repealed**

Section 25 of the Principal Act is repealed.

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\*No. 38 of 1935



*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 3 – Administration and Probate Act 1935 Amended

**s. 9**

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**9. Section 40 amended (Powers of personal representative as to appropriation)**

Section 40(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “committee of his estate” and substituting “administrator”;
- (b) by omitting from paragraph (d) “committee of his estate” and substituting “administrator”.

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 10

Part 4 – Appeal Costs Fund Act 1968 Amended

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**PART 4 – APPEAL COSTS FUND ACT 1968 AMENDED**

**10. Principal Act**

In this Part, the *Appeal Costs Fund Act 1968*\* is referred to as the Principal Act.

**11. Section 5 amended (Additional fee to be paid in certain cases)**

Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “of summons”;
- (b) by omitting from subsection (1) “plaint” and substituting “claim”;
- (c) by omitting from subsection (4) “of summons”;
- (d) by omitting from subsection (4) “plaint” first occurring and substituting “claim”;
- (e) by omitting from subsection (4) “plaint” second occurring and substituting “claim”.

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\*No. 57 of 1968

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 4 – Appeal Costs Fund Act 1968 Amended

s. 12

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**12. Section 5A amended (Annual statement by Registrar of Workers Rehabilitation and Compensation Tribunal)**

Section 5A(3) of the Principal Act is amended by omitting “plaint” and substituting “claim”.

**13. Section 5B amended (Annual statement by Registrar of Asbestos Compensation Tribunal)**

Section 5B(3) of the Principal Act is amended by omitting “plaint in a court of requests” and substituting “claim in the Magistrates Court (Civil Division)”.

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 14

Part 5 – Appeal Costs Fund Regulations 2013 Amended

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**PART 5 – APPEAL COSTS FUND REGULATIONS 2013  
AMENDED**

**14. Principal Regulations**

In this Part, the *Appeal Costs Fund Regulations 2013\** are referred to as the Principal Regulations.

**15. Regulation 4 amended (Additional fees payable in Supreme Court)**

Regulation 4 of the Principal Regulations is amended as follows:

- (a) by omitting from paragraph (a) “of summons”;
- (b) by omitting from paragraph (b) “plaint” and substituting “claim”.

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\*S.R. 2013, No. 96

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

Part 6 – Bail Act 1994 Amended

s. 16

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**PART 6 – BAIL ACT 1994 AMENDED**

**16. Principal Act**

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

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

Section 3(1) of the Principal Act is amended by inserting after the definition of *contravene* the following definition:

*intervention program* means a program that provides –

- (a) supervised treatment; or
- (b) supervised rehabilitation; or
- (c) supervised behaviour management; or
- (d) supervised access to support services; or
- (e) a combination of any of the matters referred to in paragraphs (a), (b), (c) and (d) –

designed to address behavioural problems (including problem gambling), substance abuse, alcohol abuse or mental impairment;

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\*No. 9 of 1994

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 18

Part 6 – Bail Act 1994 Amended

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**18. Section 5 amended (Police bail)**

Section 5 of the Principal Act is amended by inserting after subsection (5C) the following subsection:

- (5D) Subsection (5C) does not apply if the person arrested is later released unconditionally.

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

Section 7 of the Principal Act is amended as follows:

- (a) by omitting from subsection (5)(b) “bail.” and substituting “bail; or”;
- (b) by inserting the following paragraphs after paragraph (b) in subsection (5):
  - (c) the person admitted to bail be assessed for his or her suitability for participation in an intervention program, provided that the person consents to such an assessment; or
  - (d) subject to subsection (5A), the person admitted to bail undertake an intervention program.
- (c) by inserting the following subsection after subsection (5):

*Justice and Related Legislation (Miscellaneous Amendments) Act  
2015  
Act No. of*

Part 6 – Bail Act 1994 Amended

s. 20

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(5A) Before imposing a condition under subsection (5)(d), the court must satisfy itself that –

- (a) the person consents to the imposition of such a condition; and
- (b) the person is eligible for the services to be included in the program; and
- (c) the intervention program is available for the person to participate in at a suitable place and time.

**20. Section 10 amended (Power of arrest on contravention of condition of bail)**

Section 10 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Subsection (2) does not apply if the person arrested is later released unconditionally.

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 21      Part 7 – Building and Construction Industry Security of Payment Act 2009  
Amended

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**PART 7 – BUILDING AND CONSTRUCTION  
INDUSTRY SECURITY OF PAYMENT ACT 2009  
AMENDED**

**21. Principal Act**

In this Part, the *Building and Construction Industry Security of Payment Act 2009\** is referred to as the Principal Act.

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

Section 4 of the Principal Act is amended as follows:

- (a) by omitting “Code” second occurring from the definition of *Building Code of Australia* and substituting “Codes”;
- (b) by omitting “*Building Regulations 2004*” from paragraph (f) of the definition of *fire safety system* and substituting “*Building Regulations 2014*”.

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\*No. 86 of 2009



*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 8 – Civil Liability Act 2002 Amended

s. 23

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**PART 8 – CIVIL LIABILITY ACT 2002 AMENDED**

**23. Principal Act**

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

**24. Section 28E amended (Abolition of certain actions)**

Section 28E of the Principal Act is amended by inserting after paragraph (b) the following paragraphs:

- (ba) maintenance;
- (bb) champerty;

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\*No. 54 of 2002

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 25

Part 9 – Debtors Act 1888 Amended

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**PART 9 – DEBTORS ACT 1888 AMENDED**

**25. Principal Act**

In this Part, the *Debtors Act 1888*\* is referred to as the Principal Act.

**26. Section 5 amended (Penalty for failing to appear on summons)**

Section 5 of the Principal Act is amended by omitting “0.2 penalty unit” and substituting “10 penalty units”.

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\*No. 37 of 1888

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

Part 10 – Environmental Management and Pollution Control Act 1994  
Amended

s. 27

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**PART 10 – ENVIRONMENTAL MANAGEMENT AND  
POLLUTION CONTROL ACT 1994 AMENDED**

**27. Principal Act**

In this Part, the *Environmental Management and Pollution Control Act 1994*\* is referred to as the Principal Act.

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

Section 3(1) of the Principal Act is amended by inserting after the definition of *coastal waters of the State* the following definition:

*Commissioner* means the Commissioner of Police appointed under the *Police Service Act 2003*;

**29. Section 94 amended (Provisions relating to seizure)**

Section 94 of the Principal Act is amended as follows:

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

(2) Where a seizure order is issued under this Division, a person must not remove or interfere with

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\*No. 44 of 1994

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

**s. 29**                      Part 10 – Environmental Management and Pollution Control Act 1994  
Amended

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the thing to which the order  
relates without the approval of –

- (a) the Director; or
- (b) in the case of a seizure  
order issued by a police  
officer, the  
Commissioner; or
- (c) in the case of a seizure  
order issued by a council  
officer, the council –

before an order is made under  
subsection (4) in respect of the  
thing, or the seizure order is  
discharged under subsection (5).

Penalty: Fine not exceeding 40  
penalty units.

- (b) by inserting in subsection (3)  
“, Commissioner” after “unless the  
Director”;
- (c) by inserting in subsection (3)  
“, Commissioner” after “as the Director”;
- (d) by inserting in subsection (4)(a)  
“, Commissioner” after “Director”;
- (e) by inserting in subsection (4)(b)  
“, Commissioner” after “forfeited to the  
Director”;

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 10 – Environmental Management and Pollution Control Act 1994  
Amended

**s. 30**

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- (f) by inserting in subsection (4)(b)  
“, Commissioner” after “pay to the  
Director”;
  - (g) by inserting in subsection (5)  
“, Commissioner” after “Director”.

**30. Section 97 amended (Environment Protection  
Fund)**

Section 97(2)(d) of the Principal Act is amended  
as follows:

- (a) by inserting “or Commissioner” after  
“paid to the Director”;
- (b) by inserting “or Commissioner” after  
“forfeited to the Director”.

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

s. 31

Part 11 – Health Complaints Act 1995 Amended

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**PART 11 – HEALTH COMPLAINTS ACT 1995  
AMENDED**

**31. Principal Act**

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

**32. Section 25 amended (Assessment)**

Section 25 of the Principal Act is amended by inserting after subsection (1C) the following subsection:

(1CA) If there is a delay in obtaining information sought by the Commissioner, the Commissioner may extend the period referred to in subsection (1) for such time as is necessary to allow the provision and consideration of the requested information.

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\*No. 95 of 1995

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

Part 12 – Integrity Commission Act 2009 Amended

s. 33

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**PART 12 – INTEGRITY COMMISSION ACT 2009  
AMENDED**

**33. Principal Act**

In this Part, the *Integrity Commission Act 2009*\* is referred to as the Principal Act.

**34. Section 53 amended (Application for use of surveillance device)**

Section 53(2) of the Principal Act is amended as follows:

- (a) by omitting “Division 3” and substituting “Divisions 2 and 3”;
- (b) by omitting “applies” and substituting “apply”.

**35. Section 75 amended (Application for use of surveillance device)**

Section 75(2) of the Principal Act is amended as follows:

- (a) by omitting “Division 3” and substituting “Divisions 2 and 3”;
- (b) by omitting “applies” and substituting “apply”.

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\*No. 67 of 2009

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 36

Part 13 – Justices Act 1959 Amended

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**PART 13 – JUSTICES ACT 1959 AMENDED**

**36. Principal Act**

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

**37. Section 39A inserted**

After section 39 of the Principal Act, the following section is inserted in Part VI:

**39A. Appearance via audio or audio visual link**

Where, in any proceedings, a defendant who is in custody will not be giving evidence or making submissions, he or she may appear at those proceedings via audio link or audio visual link, both within the meaning of the *Evidence (Audio and Audio Visual Links) Act 1999*, as if he or she were giving evidence under that Act.

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\*No. 77 of 1959



*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 14 – Occupational Licensing Act 2005 Amended

s. 38

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**PART 14 – OCCUPATIONAL LICENSING ACT 2005  
AMENDED**

**38. Principal Act**

In this Part, the *Occupational Licensing Act 2005\** is referred to as the Principal Act.

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

Section 3(1) of the Principal Act is amended by omitting the definition of *specified person*.

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\*No. 47 of 2005

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 40

Part 15 – Ombudsman Act 1978 Amended

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**PART 15 – OMBUDSMAN ACT 1978 AMENDED**

**40. Principal Act**

In this Part, the *Ombudsman Act 1978*\* is referred to as the Principal Act.

**41. Section 16A repealed**

Section 16A of the Principal Act is repealed.

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\*No. 82 of 1978

*Justice and Related Legislation (Miscellaneous Amendments) Act  
2015  
Act No. of*

Part 16 – Powers of Attorney Act 2000 Amended

s. 42

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**PART 16 – POWERS OF ATTORNEY ACT 2000  
AMENDED**

**42. Principal Act**

In this Part, the *Powers of Attorney Act 2000*\* is referred to as the Principal Act.

**43. Section 32AH amended (Effect of adoptions of testamentary gifts by attorney under enduring power of attorney)**

Section 32AH of the Principal Act is amended by inserting after subsection (4) the following subsections:

- (4A) An application under subsection (4) is to be made not later than 3 months after the date of the grant of probate of the will, or letters of administration of the estate, of the deceased person.
- (4B) The Supreme Court may extend the period referred to in subsection (4A) if it considers it necessary.

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\*No. 68 of 2000

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 44

Part 17 – Public Interest Disclosures Act 2002 Amended

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**PART 17 – PUBLIC INTEREST DISCLOSURES ACT**  
**2002 AMENDED**

**44. Principal Act**

In this Part, the *Public Interest Disclosures Act 2002*\* is referred to as the Principal Act.

**45. Section 60 amended (Public body to establish procedures that comply with guidelines and standards)**

Section 60 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “large” after “A”;
- (b) by inserting the following subsections after subsection (3):
  - (4) In this section –

***GBE*** means a Government  
Business Enterprise  
within the meaning of the  
*Government Business*  
*Enterprises Act 1995*;

***large public body*** includes –

- (a) a State Service  
Agency; and

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\*No. 16 of 2002

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 17 – Public Interest Disclosures Act 2002 Amended

**s. 45**

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(b) a council within the meaning of the *Local Government Act 1993*; and

(c) a GBE; and

(d) a State-owned company;

***State-owned company*** means a company that is incorporated under the Corporations Act and is controlled by –

(a) the Crown; or

(b) a GBE; or

(c) a statutory authority; or

(d) another company which is itself controlled by an entity referred to in paragraph (a), (b) or (c).

(5) For the purposes of the definition of *State-owned company* in subsection (4), the provisions of the Corporations Act relating to control are taken to apply as if the Crown, GBE or statutory

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

**s. 45**

Part 17 – Public Interest Disclosures Act 2002 Amended

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authority, as the case may be,  
were a corporation under that  
Act.

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**PART 18 – RECORDS OF OFFENCES (ACCESS) ACT  
1981 AMENDED**

**46. Principal Act**

In this Part, the *Records of Offences (Access) Act 1981*\* is referred to as the Principal Act.

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

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

- (a) by omitting the definition of *infringement notice* and substituting the following definition:

***infringement notice*** means an infringement notice within the meaning of the *Monetary Penalties Enforcement Act 2005*;

- (b) by omitting paragraph (c) from the definition of *prescribed record* and substituting the following paragraph:

- (c) records information as to whether or not a person has been taken to have been convicted under section 20 of the *Monetary Penalties Enforcement Act 2005* –

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\*No. 61 of 1981

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 48

Part 19 – Right to Information Act 2009 Amended

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**PART 19 – RIGHT TO INFORMATION ACT 2009  
AMENDED**

**48. Principal Act**

In this Part, the *Right to Information Act 2009*\*  
is referred to as the Principal Act.

**49. Section 6 amended (Exclusions of certain persons or  
bodies)**

Section 6(1) of the Principal Act is amended by  
inserting after paragraph (1) the following  
paragraph:

(1a) the Parole Board;

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\*No. 70 of 2009



*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

Part 20 – Search Warrants Act 1997 Amended

s. 50

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**PART 20 – SEARCH WARRANTS ACT 1997 AMENDED**

**50. Principal Act**

In this Part, the *Search Warrants Act 1997*\* is referred to as the Principal Act.

**51. Section 23 amended (Laws relating to taking forensic samples not affected)**

Section 23 of the Principal Act is amended by omitting “*Criminal Process (Identification and Search Procedures) Act 1976*” and substituting “*Forensic Procedures Act 2000*”.

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\*No. 34 of 1997

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
*2015*  
*Act No. of*

s. 52

Part 21 – Surrogacy Act 2012 Amended

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**PART 21 – SURROGACY ACT 2012 AMENDED**

**52. Principal Act**

In this Part, the *Surrogacy Act 2012*\* is referred to as the Principal Act.

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

Section 4 of the Principal Act is amended by inserting after the definition of *accredited counsellor* the following definition:

***approved form*** means a form approved by the Chief Magistrate;

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\*No. 34 of 2012

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

Part 22 – Testator’s Family Maintenance Act 1912 Amended

**s. 54**

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**PART 22 – TESTATOR’S FAMILY MAINTENANCE  
ACT 1912 AMENDED**

**54. Principal Act**

In this Part, the *Testator’s Family Maintenance Act 1912*\* is referred to as the Principal Act.

**55. Section 2 amended (Interpretation)**

Section 2 of the Principal Act is amended as follows:

- (a) by omitting the definition of *stepchild* from subsection (1) and substituting the following definition:

***stepchild*** means, in relation to a person –

- (a) a child of that person’s spouse; and
  - (b) a child whose natural parent was the spouse of that person at the time of the natural parent’s death;
- (b) by omitting subsection (2) and substituting the following subsection:
- (2) For the avoidance of doubt, the definition of *stepchild*, as

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\*No. 7 of 1912

*Justice and Related Legislation (Miscellaneous Amendments) Act  
2015  
Act No. of*

**s. 55**

Part 22 – Testator’s Family Maintenance Act 1912 Amended

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substituted by the *Justice and Related Legislation (Miscellaneous Amendments) Act 2015*, does not apply in respect of a claim against the estate of a person whose death occurred before the commencement of that Act.

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

Part 23 – Victims of Crime Assistance Act 1976 Amended

**s. 56**

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**PART 23 – VICTIMS OF CRIME ASSISTANCE ACT  
1976 AMENDED**

**56. Principal Act**

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

**57. Section 8 amended (Restriction on publicity of proceedings)**

Section 8(2) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

(ab) in any electronic form; or

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\*No. 32 of 1976

*Justice and Related Legislation (Miscellaneous Amendments) Act*  
2015  
*Act No. of*

**s. 58**

Part 24 – Repeal of Act

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**PART 24 – REPEAL OF ACT**

**58. Repeal of Act**

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