

CLAUSE NOTES

Justice and Related Legislation (Miscellaneous Amendments) Bill (No.2) 2024

PART 1 – PRELIMINARY

Clause 1 **Short title**

Specifies the name of the proposed Act.

Clause 2 **Commencement**

Provides that the Act commences on Royal Assent.

Clause 3 **Repeal of Act**

This automatically repeals the amending legislation on the first anniversary after the Act commences. The provisions that are amended by this Act in the listed Principal Acts remain in force after the repeal of the amending Act.

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

Clause 4 **Principal Act**

Provides that the Principal Act being amended in this part is the *Criminal Code Act 1924*.

Clause 5 **Schedule 1 amended (*Criminal Code*)**

Clause 5(a) inserts subsection (3) to make the definition of 'sexual intercourse' in section 2B retrospective from 4 April 1924.

Clause 5(b) inserts subsection (1AA) in section 14A to include the new definition of 'relevant sexual offence'. This definition provides for an expanded list of crimes A under the *Criminal Code* in section 14A, including:

section 124 Penetrative sexual abuse of child or young person

section 124A Persistent sexual abuse of child or young person by
person in position of authority

section 125A Persistent sexual abuse of child or young person

section 125B Indecent act with child or young person

section 125C Procuring child or young person for sexual abuse

section 126 Penetrative sexual abuse of person with mental
impairment

section 127 Indecent assault

section 185 Rape

section 170A Persistent family violence (where alleged offences against sections 124, 125B, 126, 127 or 185).

Clauses 5(c), (d) and (e) amend section 14A to include the definition of 'relevant sexual offence'.

Clauses 5(g) and (h) respectively remove the term 'relevant amendments' in subsection (1), and omit subsection (2), in section 461 which relate to the application of the *Criminal Code Amendment (Sexual Assault) Act 2017*.

Clause 5(i) inserts section 466 which provides that the new definition of 'sexual intercourse' under section 2B of the *Criminal Code* does not apply to proceedings which are determined before this Act is passed and proclaimed.

PART 3 – DANGEROUS CRIMINALS AND HIGH RISK OFFENDERS ACT 2021 AMENDED

Clause 6 Principal Act

Identifies that the Principal Act being amended in this part is the *Dangerous Criminals and High Risk Offenders Act 2021*.

Clause 7 Section 37 amended (Interim HRO orders)

Amends section 37(1)(b) to clarify the criteria a judge is to consider when an application for an interim High Risk Offender (HRO) order is made to the Supreme Court.

This amendment differentiates the criteria for interim HROs from the criteria applied to a final HRO.

PART 4 – ELECTORAL ACT 2004 AMENDED

Clause 8 Principal Act

Provides that the Principal Act that is being amended in this part is the *Electoral Act 2004*.

Clause 9 Section 186 amended (Offences relating to voting)

Clarifies that it is an offence for a person to vote in more than one division for House of Assembly elections held contemporaneously.

Clarifies that it is a separate offence for a person to vote in more than one division for Legislative Council elections which are held contemporaneously.

Provides that it is not an offence to vote in a division for a House of Assembly election and then vote in a division for a Legislative Council election if both elections are held on the same day (dual polling day).

PART 5 – EVIDENCE ACT 2001 AMENDED

Clause 10 Principal Act

Identifies that the Principal Act that is being amended in this part is the *Evidence Act 2001*.

Clause 11 Section 194M amended (Evidence relating to sexual experience)

Includes the crime of 'persistent family violence' under section 170A of the *Criminal Code* within the operation of section 194M of the Principal Act.

PART 6 – FAMILY VIOLENCE ACT 2004 AMENDED

Clause 12 Principal Act

Provides that the Principal Act being amended in this part is the *Family Violence Act 2004*.

Clause 13 Section 29D amended (Review of declaration of serial family violence perpetrator)

Under the current section 29D(1) and (2) only the Director of Public Prosecutions or the offender may make an application for a review respectively.

Clause 13(a) inserts subsection (1A) to provide for a person representing Tasmania Police to make an application for a review of a serial family violence perpetrator declaration.

Clause 13(c) inserts in subsection (4) a new paragraph (b) which provides who is to be served with a review application where the applicant is the offender. If the original declaration was made in the Supreme Court, service is to be on the Director of Public Prosecutions. If the original declaration was made in the Magistrates Court, service is to be on the Commissioner of Police.

PART 7 – FORENSIC PROCEDURES ACT 2000 AMENDED

Clause 14 Principal Act

Identifies that the Principal Act that is being amended in this part is the *Forensic Procedures Act 2000*.

Clause 15 Section 63 amended (Disclosure of information)

Inserts subsection (3A) which specifies the lawful purposes for which forensic material may be disclosed with other Australian jurisdictions.

PART 8 – GAS SAFETY ACT 2019 AMENDED

Clause 16 Principal Act

Provides that the Principal Act that is being amended by Part 8 is the *Gas Safety Act 2019*.

Clause 17 Section 3 amended (Interpretation)

Extends the scope of the definition of 'automotive gas fuel system' to include a fuel cell.

PART 9 – HEALTH COMPLAINTS ACT 1995 AMENDED

Clause 18 Principal Act

Provides that the Principal Act that is being amended in this part is the *Health Complaints Act 1995*.

Clause 19 Section 3 amended (Interpretation)

Amends the definition of 'health service'.

Clause 20 Schedule 1 amended (Health Services)

Amends Parts 1 and 2 of Schedule 1 to the Principal Act to include a service that may be prescribed in regulations.

PART 10 – INTEGRITY COMMISSION ACT 2009 AMENDED

Clause 21 Principal Act

Identifies that the Principal Act that is being amended in this part is the *Integrity Commission Act 2009*.

Clause 22 Section 23 amended (Joint Standing Committee on Integrity)

Amends section 23(2) of the Principal Act to allow the composition of the Joint Committee to be 6 or 8 members, while ensuring there is still equal representation from both Houses of Parliament.

Clause 23 Schedule 5 amended (Meetings of Joint Standing Committee on Integrity)

Amends clause 1(1) of Schedule 5 to the Principal Act to require the quorum of the Joint Committee to be half of the total number of members of the Joint Committee.

PART 11 – JUSTICES ACT 1959 AMENDED

Clause 24 Principal Act

Provides that the Principal Act that is being amended in this part is the *Justices Act 1959*.

Clause 25 Section 71 amended (Petty crimes triable summarily)

Inserts paragraph (ac) in section 71(1) to include within the operation of this section an offence of fraud under section 253A of the *Criminal Code* involving property with a value not greater than \$20,000.

Clause 26 Section 72 amended (Other crimes triable summarily)

Inserts paragraph (ca) in section 72(1) to include within the operation of that section an offence of fraud under section 253A of the *Criminal Code* for property valued over \$20,000 but below \$100,000.

PART 12 – JUSTICES OF THE PEACE ACT 2018 AMENDED

Clause 27 Principal Act

Identifies that the Principal Act being amended in this part is the *Justices of the Peace Act 2018*.

Clause 28 Section 5 amended (Appointment of justice)

Amends section 5(1) to allow for the Secretary to require a person who is eligible to be appointed as a justice of the peace to undertake training prior to being appointed as a justice of the peace.

Clause 29 Section 6 substituted

Inserts a new section 6 to provide that an appointed justice of the peace is not to commence exercising any powers of their office until they have taken the judicial oath for that appointment and have been allocated and notified of their registration number by the Secretary of the Department of Justice.

Clause 30 Section 7 amended (Application for reappointment as appointed justice)

Extends the timeframe in which an application for reappointment as a justice of the peace is to be made to 12 months before the term of that appointment expires.

Clause 31 Section 8 amended (Reappointment as Justice of the Peace)

Extends the period for which a person may be reappointed as a justice of the peace to 5 years.

Clause 32 Section 12 amended (Validity of acts of justice)

Amends section 12(1) to include the acts of a justice of the peace who acted in good faith but was unaware at the time of the act that their appointment had expired.

Clause 33 Section 16 amended (Providing information to Secretary)

Removes the restriction on the Secretary in subsection (2) to contact a justice of the peace only once every 5 years unless contact was in relation to a possible contravention of the Principal Act by a justice of the peace or regarding possible grounds for suspension or removal.

This amendment enables the Secretary to maintain the register of justices of the peace as required under section 38.

Clause 34 Section 38 amended (Register of justices)

Inserts a new subsection (3) in section 38 specifying when and how the Secretary is to:

- allocate a unique registration number to each appointed justice; and,
- notify each appointed justice as to the registration number.

PART 13 – OCCUPATIONAL LICENSING ACT 2005 AMENDED

Clause 35 Principal Act

Provides that Principal Act to be amended in this part is the *Occupational Licensing Act 2005*.

Clause 36 Schedule 2 amended (Occupations, Trades and Callings to Which this Act Applies)

Extends the scope of clause 1 of Division 2 (Automotive gas systems) to include work involved in a fuel cell.