

TASMANIA

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**JUSTICE (DELEGATED LEGISLATION)  
BILL 2002**

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# **JUSTICE (DELEGATED LEGISLATION) BILL 2002**

*(Brought in by the Minister for Justice and Industrial  
Relations, the Honourable Judith Louise Jackson)*

## **A BILL FOR**

**An Act to amend the *Admission to Courts Act 1916*,  
*Coroners Act 1995*, *Justices Act 1959*, *Magistrates  
Court Act 1987*, *Magistrates Court (Administrative  
Appeals Division) Act 2001*, *Magistrates Court  
(Children's Division) Act 1998*, *Magistrates Court  
(Civil Division) Act 1992*, *Mineral Resources  
Development Act 1995* and *Records of Offences  
(Access) Act 1981***

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**

### **Short title**

**1.** This Act may be cited as the *Justice (Delegated  
Legislation) Act 2002*.

### **Commencement**

**2.** The provisions of this Act commence on a day or days to  
be proclaimed.

**PART 2 – ADMISSION TO COURTS ACT 1916  
AMENDED**

**Principal Act**

**3.** In this Part, the *Admission to Courts Act 1916*\* is referred to as the Principal Act.

**Section 1A amended (Interpretation)**

**4.** Section 1A of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “court”:

**“lower courts”** means lower courts within the meaning of the *Magistrates Court Act 1987*;

- (b) by omitting ‘a “lower court”, within the meaning of the *Magistrates Court Act 1987* from paragraph (b) of the definition of “registrar” and substituting “lower courts”.

**Section 2 amended (Regulations)**

**5.** Section 2 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “on the recommendation of the judges” and substituting “on the recommendation of the judges as regards the Supreme Court or the magistrates as regards lower courts”;

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\*No. 12 of 1916

- (b) by omitting from subsection (1)(a) “any court” and substituting “courts”;
- (c) by omitting from subsection (1)(b) “any court” and substituting “courts”;
- (d) by omitting from subsection (1)(c) “any court” and substituting “courts”;
- (e) by omitting from subsection (1)(d) “any court” and substituting “courts”;
- (f) by inserting the following subsections after subsection (3):

**(3A)** Regulations made under this section may –

- (a) authorise any matter to be determined, applied or regulated by –
  - (i) in the case of regulations for the Supreme Court, the Chief Justice or another person specified in the regulations; and
  - (ii) in the case of regulations for a lower court, the Chief Magistrate or another person, or a body, specified in the regulations; and
- (b) provide for the appointment of persons to give directions to authorized officers and the giving of those directions.

**(3B)** Regulations made under this section for any court may contain provisions of

a savings or transitional nature consequent on the enactment of the *Justice (Delegated Legislation) Act 2002*.

**(3C)** A provision referred to in subsection (3B) may, if the regulations so provide, take effect on the day on which Part 2 of the *Justice (Delegated Legislation) Act 2002* commences or a later day.

### **Section 7 inserted**

**6.** After section 6 of the Principal Act, the following section is inserted:

#### **Transition to new regulations**

**7. (1)** In this section –

“**new regulations**” means regulations made under this Act as amended by the Transition Act;

“**old regulations**” means the regulations in force under this Act immediately before the transition day (the “*Admission to Courts Regulations 1995*”);

“**Transition Act**” means the *Justice (Delegated Legislation) Act 2002*;

“**transition day**” means the day on which Part 2 of the Transition Act commences.

**(2)** Notwithstanding the amendments made to this Act by Part 2 of the Transition Act –

(a) the old regulations continue in force on and after the transition day, and may be amended as if the Transition Act had not



been enacted, until new regulations first take effect; and

- (b) if the first new regulations to take effect do not apply to a particular court, the old regulations continue in force in their application to that court, and may be amended accordingly by the Governor (on the recommendation of the judges) as if the Transition Act had not been enacted, until new regulations applying to that court take effect.

**(3)** The Governor, on the recommendation of the judges, may rescind the old regulations.

**PART 3 – CORONERS ACT 1995 AMENDED****Principal Act**

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

**Section 3 amended (Interpretation)**

8. Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “investigation”:

**“Magistrates Rule Committee”**  
means the committee referred to  
in section 15AC of the *Magistrates  
Court Act 1987*;

- (b) by inserting the following definition after the definition of “police officer”:

**“prescribed”** means prescribed by the  
rules referred to in section 69A;

- (c) by inserting the following definition after the definition of “prison officer”:

**“regulations”** means regulations made  
and in force under this Act;

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\*No. 73 of 1995

**Section 10 amended (Appointment, &c., of coroners)**

**9.** Section 10(3) of the Principal Act is amended by omitting “prescribed.” and substituting “prescribed by the regulations.”.

**Section 13 amended (Delegation by coroner)**

**10.** Section 13(1) of the Principal Act is amended by omitting “a prescribed power or this power of delegation” and substituting “this power of delegation or a power prescribed by the regulations”.

**Section 18 amended (Functions and powers of State Forensic Pathologist)**

**11.** Section 18(1)(g) of the Principal Act is amended by omitting “prescribed.” and substituting “prescribed by the regulations.”.

**Section 34 amended (Power to restrict entry to place where death occurred)**

**12.** Section 34(7) of the Principal Act is amended by omitting “in regulations made under this Act or, if no such regulations are made,” and substituting “or, if the application procedure is not prescribed,”.

**Section 49 amended (Restriction of access to fire or explosion area)**

**13.** Section 49(7) of the Principal Act is amended by omitting “in regulations made under this Act or, if no such regulations are made,” and substituting “or, if the application procedure is not prescribed,”.

**Section 69A inserted**

**14.** After section 69 of the Principal Act, the following section is inserted in Part 8:

**Rules of court**

**69A.** Rules of court made for this Act by the Magistrates Rule Committee may, without limiting the generality of the committee's powers, make provision for or with respect to all or any of the following:

- (a) the practice and procedure at, or preliminary or incidental to, inquests and the recording of proceedings at inquests;
- (b) the form of oath to be taken by persons appointed to record or transcribe proceedings at inquests;
- (c) the summoning and attendance of witnesses at inquests;
- (d) the conditions relating to the conduct of an autopsy;
- (e) the issue of certificates authorising the disposal of human remains;
- (f) the manner of dealing with exhibits.

**Section 70 amended (Regulations)**

**15.** Section 70 of the Principal Act is amended as follows:

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

**(2)** Without limiting the generality of subsection (1), regulations under this section may prescribe –

- (a) fees and charges payable in respect of any matter under this Act; and
  - (b) expenses and allowances payable to witnesses or other persons under this Act.
- (b) by omitting from subsection (3)(c) “, or a failure to comply with,”.

### **Section 72A inserted**

**16.** After section 72 of the Principal Act, the following section is inserted in Part 8:

#### **Transition from regulations to rules**

**72A. (1)** In this section –

**“remade”**, for regulations, means the rescission of all of those regulations and the making of new regulations in substitution for those regulations;

**“rules”** means rules of court made for this Act by the Magistrates Rule Committee on or after the transition day;

**“Transition Act”** means the *Justice (Delegated Legislation) Act 2002*;

**“transition day”** means the day on which Part 3 of the Transition Act commences.

**(2)** Notwithstanding the amendments made to this Act by Part 3 of the Transition Act, the regulations that were in force under this Act immediately before the transition day (the “*Coroners Regulations 1996*”) –

- (a) continue in force on and after that day as if the Transition Act had not been enacted; and
- (b) may, until rules take effect, be amended or remade as if the Transition Act had not been enacted.

**(3)** After rules take effect, the *Coroners Regulations 1996*, unless sooner amended or remade consequent on the making of those rules or rescinded, continue in force only to the extent that they are not inconsistent with those rules.

**PART 4 – JUSTICES ACT 1959 AMENDED****Principal Act**

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

**Section 3 amended (Interpretation)**

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

- (a) by inserting the following definition after the definition of “magistrate”:

**“Magistrates Rule Committee”**  
means the committee referred to  
in section 15AC of the *Magistrates  
Court Act 1987*;

- (b) by inserting the following definition after the definition of “police officer”:

**“prescribed”** means –

- (a) prescribed in the rules  
referred to in section 144; or
- (b) prescribed in regulations  
made under section 145;

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\*No. 77 of 1959

**Section 50A amended (Justices' record)**

**19.** Section 50A(2) of the Principal Act is amended by omitting "relevant fee prescribed in the rules made under section 144" and substituting "relevant prescribed fee".

**Section 77 amended (Costs)**

**20.** Section 77(4)(d) of the Principal Act is amended by omitting "by the rules made under section 144".

**Section 136A amended (Recording of depositions and proceedings)**

**21.** Section 136A(a) of the Principal Act is amended by omitting "in the rules made under section 144".

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

**22.** Section 144 of the Principal Act is amended as follows:

- (a) by omitting subsection (1);
- (b) by omitting from subsection (4) "Without prejudice to the generality of subsection (1), the power to make rules conferred by this section includes the power to" and substituting "Rules of court made by the Magistrates Rule Committee for this Act may, without limiting the generality of the committee's powers,";
- (c) by omitting paragraphs (f) and (fa) from subsection (4);
- (d) by omitting from subsection (4)(fb) "Act and the fees, costs, and charges payable in respect



of those appeals and reviews; and” and substituting “Act.”;

- (e) by omitting paragraph (g) from subsection (4);
- (f) by omitting subsection (5);
- (g) by omitting from subsection (6) “under this section”.

### **Section 145 substituted**

**23.** Section 145 of the Principal Act is repealed and the following sections are substituted:

#### **Regulations**

**145. (1)** The Governor may make regulations –

- (a) for the purposes of Part III; and
- (b) prescribing the fees, costs and charges under this Act, or under any other Act for the time being in force, so far as they relate to any matter or proceeding as to which justices have jurisdiction, including fees for service and execution of process, including service by post; and
- (c) prescribing the travelling and other expenses payable to witnesses under this Act and the advances, whether periodical or otherwise, that may be made to those witnesses on account of those expenses; and
- (d) prescribing the fees, costs and charges payable in respect of appeals to magistrates and reviews of orders by magistrates; and

- (e) prescribing or providing for any other matter about which regulations are expressly or impliedly authorised or required by this Act to be made.

(2) The regulations may –

- (a) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
- (b) authorise any matter to be from time to time determined or regulated by the Chief Magistrate or another magistrate, the Secretary or a person specified in the regulations.

### **Transitional provision: rules and regulations**

**146. (1)** In this section –

**“new regulations”** means regulations made under section 145 after the transition day;

**“new rules”** means rules of court made for this Act by the Magistrates Rule Committee on or after the transition day;

**“old rules”** means the rules of procedure in force under section 144 immediately before the transition day (the “*Justices Rules 1976*”);

**“transition day”** means the day on which Part 4 of the *Justice (Delegated Legislation) Act 2002* commences.

**(2)** Notwithstanding the amendments made to this Act by Part 4 of the *Justice (Delegated Legislation) Act 2002*, the old rules continue in force on and after the transition day to the extent that they are not inconsistent with any new rules or new regulations and may be –

- (a) amended by the Governor, to the extent that the amendments are not inconsistent with any new rules or new regulations, as if that Act had not been enacted; or
- (b) rescinded by the Governor.

**PART 5 – MAGISTRATES COURT ACT 1987  
AMENDED**

**Principal Act**

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

**Section 3 amended (Interpretation)**

**25.** Section 3 of the Principal Act is amended by inserting after the definition of “Chief Magistrate” the following definition:

**“committee”** means the committee continued in existence by section 15AC under the name “Magistrates Rule Committee”;

**Part IIA inserted**

**26.** After section 15AB of the Principal Act, the following Part is inserted:

**PART IIA – RULES**

**Magistrates Rule Committee**

**15AC. (1)** The former rules committee continues under the name “Magistrates Rule Committee”.

**(2)** The committee consists of –

(a) the Chief Magistrate who is the presiding member; and

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\*No. 45 of 1987

- (b) the Deputy Chief Magistrate; and
- (c) the magistrates; and
- (d) a person appointed by the Minister on the nomination of the Tasmanian Bar Association; and
- (e) a person appointed by the Minister on the nomination of the Law Society of Tasmania.

**(3)** The Minister may require the body referred to in subsection (2)(d) or (e) to nominate a person within a specified period (being a period not less than 30 days).

**(4)** If the body fails to nominate a person within that period, the Minister may make the nomination.

**(5)** If the body referred to in subsection (2)(d) or (e) changes its name, the Governor may, by order, amend the relevant paragraph by substituting the body's new name.

**(6)** If the body referred to in paragraph (d) or (e) of subsection (2) ceases to exist, the Governor may, by order made on the recommendation of the committee, amend the relevant paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the body that has ceased to exist.

**(7)** The Minister may, on the recommendation of the body referred to in paragraph (d) or (e) of subsection (2), appoint a deputy of the committee member referred to in the relevant paragraph.

**(8)** If the committee member referred to in subsection (2)(d) or (e) is unable to attend a meeting

of the committee for any reason, the member's deputy may attend and, when so doing, is taken to be a member of the committee with all the powers, rights and duties of a member.

**(9)** All acts and proceedings of the committee while a deputy is acting in place of a member of the committee are valid and effectual for all purposes.

**(10)** A committee member referred to in subsection (2)(d) or (e) and any deputy of that member holds office for the term set out in his or her instrument of appointment.

**(11)** In this section, “**former rules committee**” means the committee referred to in section 20 of the *Magistrates Court (Civil Division) Act 1992* as in force immediately before the commencement of the *Justice (Delegated Legislation) Act 2002*.

### **Meetings and procedure of committee**

**15AD. (1)** Meetings of the Magistrates Rule Committee are to be convened by or on the direction of the Chief Magistrate.

**(2)** The quorum for a meeting of the committee is 8, of whom one is to be the Chief Magistrate or Deputy Chief Magistrate.

**(3)** If the presiding member is unable to attend a meeting of the committee, the Deputy Chief Magistrate must preside at the meeting.

**(4)** A telephone or video conference between members of the committee is a meeting of the committee at which the members participating in the conference are present.

(5) Except as provided by this section, the committee may regulate its own proceedings.

**Committee may make rules of court**

**15AE. (1)** The Magistrates Rule Committee may make rules of court for all or any of the following:

- (a) the divisions of the Magistrates Court;
- (b) courts of summary jurisdiction;
- (c) except as may be provided by any Act, other lower courts;
- (d) except as may be provided by any Act, special proceedings.

(2) Rules made under subsection (1) for any court, division of a court or special proceedings may, subject to any relevant enactment –

- (a) regulate the practice and procedure of that court or division or those proceedings; and
- (b) make provision for or in relation to the enforcement of judgments and orders of that court or division or magistrate presiding over those proceedings; and
- (c) make provision for or in relation to mediation and conciliation conferences including, but not limited to, the following matters:
  - (i) the appointment of mediators and conciliators and their powers and functions;

- (ii) the conduct of such conferences and associated procedures;
  - (iii) the consequences of such conferences or the failure of such conferences; and
- (d) make provision for or in relation to any other matters as expressly or impliedly authorised by that enactment; and
- (e) make provision for any incidental or ancillary matters related to the jurisdiction and business of that court or division or related to the conduct of those proceedings.

**(3)** Rules made under subsection (1) for any court, division of a court or special proceedings may –

- (a) authorise any matter to be from time to time determined, applied or regulated by –
  - (i) the Chief Magistrate, a magistrate or coroner or other judicial officer specified in the rules; and
  - (ii) the Administrator, a registrar or other court official specified in the rules; and
- (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time or circumstance or otherwise, specified in the rules; and
- (c) provide that a contravention of any of the rules is an offence; and



- (d) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding one penalty unit for each day during which the offence continues; and
- (e) contain provisions of a savings or transitional nature consequent on the enactment of the *Justice (Delegated Legislation) Act 2002*, and any such provision may, if the rules so provide, take effect on the day of commencement of any Part of that Act specified in the rules or a later day.

(4) Rules of court are statutory rules within the meaning of the *Rules Publication Act 1953*.

(5) The committee may delegate any of its functions or powers, other than this power of delegation, to the Chief Magistrate.

(6) In this section –

**“relevant enactment”** means –

- (a) the enactment under which a court or a division of a court is established or constituted, or under which provision is made for special proceedings; or
- (b) any other enactment having application to that court or division or to those proceedings;

**“special proceedings”** means applications, appeals or other proceedings that are required to be presided over by a magistrate and for which, under the

relevant enactment, rules of court are expressly or impliedly authorised or required to be made by the committee.

### **Section 19B inserted**

**27.** After section 19A of the Principal Act, the following section is inserted in Part IV:

#### **Transitional provision: membership of committee**

**19B. (1)** In this section –

**“former committee”** means the Rules Committee of Magistrates Court (Civil Division) as constituted under Division 1 of Part 5 of the *Magistrates Court (Civil Division) Act 1992* immediately before the transition day;

**“new committee”** means the committee continued by section 15AC under the name “Magistrates Rule Committee”;

**“transition day”** means the day on which Part 5 of the *Justice (Delegated Legislation) Act 2002* commences.

**(2)** A person who was an appointed member of the former committee immediately before the transition day continues in office on and after that day as a member of the new committee, under and subject to this Act, for the remainder of the term of office set out in the instrument by which the person was appointed to the former committee.

**PART 6 – MAGISTRATES COURT  
(ADMINISTRATIVE APPEALS DIVISION) ACT 2001  
AMENDED**

**Principal Act**

**28.** In this Part, the *Magistrates Court (Administrative Appeals Division) Act 2001*\* is referred to as the Principal Act.

**Section 3 amended (Interpretation)**

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

- (a) by inserting the following definition after the definition of “Magistrates Court”:

**“Magistrates Rule Committee”**  
means the committee referred to  
in section 15AC of the *Magistrates  
Court Act 1987*;

- (b) by omitting the definition of “rules of court” and substituting the following definition:

**“rules of court”** means rules of court  
made for this Act by the  
Magistrates Rule Committee.

**Section 51 substituted**

**30.** Section 51 of the Principal Act is repealed and the following section is substituted:

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\*No. 72 of 2001

**Rules of court**

**51.** The rules of court may, without limiting the generality of the Magistrates Rule Committee's powers, make provision for or with respect to all or any of the following:

- (a) the commencement of proceedings in the Court;
- (b) the practice and procedure to be followed in, or for the purposes of, proceedings before the Court;
- (c) the means for, and the practice and procedure to be followed in, the enforcement and execution of decisions of the Court;
- (d) the functions of the registrar or other officers under this Act, including functions in relation to proceedings instituted before the Court.

**Section 55 inserted**

**31.** After section 54 of the Principal Act, the following section is inserted in Part 7:

**Transitional: rules of court**

**55. (1)** In this section –

“**new rules**” means rules of court made for this Act by the Magistrates Rule Committee on or after the transition day;

**“old rules”** means the rules of court in force under section 51 immediately before the transition day;

**“Transition Act”** means the *Justice (Delegated Legislation) Act 2002*;

**“transition day”** means the day on which Part 6 of the Transition Act commences.

**(2)** Notwithstanding the amendments made to this Act by Part 6 of the Transition Act, the old rules –

- (a) continue in force on and after the transition day until new rules take effect; and
- (b) may be amended by the Magistrates Rule Committee, for which purpose the committee has and may exercise any power expressly or impliedly conferred on it under section 15AE of the *Magistrates Court Act 1987*.

**(3)** The Magistrates Rule Committee may rescind the old rules.

**PART 7 – MAGISTRATES COURT (CHILDREN’S  
DIVISION) ACT 1998 AMENDED**

**Principal Act**

**32.** In this Part, the *Magistrates Court (Children’s Division) Act 1998*\* is referred to as the Principal Act.

**Section 23 repealed**

**33.** Section 23 of the Principal Act is repealed.

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\*No. 1 of 1998

**PART 8 – MAGISTRATES COURT (CIVIL DIVISION)  
ACT 1992 AMENDED**

**Principal Act**

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

**Section 3 amended (Interpretation)**

**35.** Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “Magistrates Court”:

**“Magistrates Rule Committee”**  
means the committee referred to  
in section 15AC of the *Magistrates  
Court Act 1987*;

- (b) by omitting the definition of “Rules Committee”;
- (c) by omitting the definition of “Rules of Court” and substituting the following definition:

**“rules of court”** means rules of court  
made for this Act by the  
Magistrates Rule Committee;

**Section 16 amended (Duties, &c., of bailiffs)**

**36.** Section 16 of the Principal Act is amended as follows:

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\*No. 27 of 1992

- (a) by omitting from subsection (4) “Rules of Court” and substituting “rules of court”;
- (b) by omitting from subsection (6) “Rules of Court.” and substituting “rules of court.”.

**Section 19 amended (Practice and procedure to be in accordance with rules of court)**

**37.** Section 19 of the Principal Act is amended as follows:

- (a) by omitting “this Part and”;
- (b) by omitting “Rules of Court.” and substituting “rules of court.”.

**Sections 20, 21 and 22 repealed**

**38.** Sections 20, 21 and 22 of the Principal Act are repealed.

**Section 27 amended (Judgment)**

**39.** Section 27 of the Principal Act is amended by omitting “Rules of Court,” and substituting “rules of court,”.

**Section 34 amended (Practitioners’ charges)**

**40.** Section 34 of the Principal Act is amended by omitting “Rules of Court.” and substituting “rules of court.”.



**Section 37 amended (Witnesses)**

**41.** Section 37(1) of the Principal Act is amended by omitting “Rules of Court,” and substituting “rules of court,”.

**Section 39B inserted**

**42.** After section 39A of the Principal Act, the following section is inserted in Part 7:

**Rules of court**

**39B.** The rules of court may, without limiting the generality of the Magistrates Rule Committee’s powers, make provision for or with respect to all or any of the following:

- (a) the enforcement of judgments and orders of the Court;
- (b) mediation and conciliation conferences, including –
  - (i) the appointment of mediators and conciliators; and
  - (ii) the conduct of conferences; and
  - (iii) the procedure to be followed before, at and after conferences; and
  - (iv) the giving of directions and making of orders by persons who conduct conferences; and
  - (v) the effect of conferences; and

- (vi) judgment following conferences or the failure of persons to attend conferences.

### **Section 43A inserted**

**43.** After section 43 of the Principal Act, the following section is inserted in Part 7:

#### **Transitional provision: rules of court**

**43A. (1)** In this section –

“**new rules**” means rules of court made for this Act by the Magistrates Rule Committee on or after the transition day;

“**old rules**” means the rules of court in force under Part 5 immediately before the transition day;

“**Transition Act**” means the *Justice (Delegated Legislation) Act 2002*;

“**transition day**” means the day on which Part 8 of the Transition Act commences.

**(2)** Notwithstanding the amendments made to this Act by Part 8 of the Transition Act, the old rules –

- (a) continue in force on and after the transition day until new rules take effect; and
- (b) may be amended by the Magistrates Rule Committee, for which purpose the committee has and may exercise any power expressly or impliedly conferred

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on it under section 15AE of the  
*Magistrates Court Act 1987*.

**(3)** The Magistrates Rule Committee may  
rescind the old rules.

**PART 9 – MINERAL RESOURCES DEVELOPMENT  
ACT 1995 AMENDED**

**Principal Act**

**44.** In this Part, the *Mineral Resources Development Act 1995*\* is referred to as the Principal Act.

**Section 3 amended (Interpretation)**

**45.** Section 3 of the Principal Act is amended by inserting after the definition of “licensee” the following definition:

**“Magistrates Court (Civil Division)”** means the division of the Magistrates Court established under section 4 of the *Magistrates Court (Civil Division) Act 1992*;

**Section 131 amended (Hearings and proceedings)**

**46.** Section 131(1) of the Principal Act is amended by omitting “is to be in accordance with Rules of Court under the *Magistrates Court (Civil Division) Act 1992*.” and substituting “is to be in accordance with the rules of court applicable to the Magistrates Court (Civil Division).”.

**Section 133 amended (Orders of Mining Tribunal)**

**47.** Section 133(5)(a) of the Principal Act is amended by omitting “Civil Division of the Magistrates Court of Tasmania” and substituting “Magistrates Court (Civil Division)”.

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\*No. 116 of 1995

**Section 134 amended (Ejection or seizure)**

**48.** Section 134(2)(b) of the Principal Act is amended by omitting “Civil Division of the Magistrates Court of Tasmania.” and substituting “Magistrates Court (Civil Division).”.

**PART 10 – RECORDS OF OFFENCES (ACCESS) ACT  
1981 AMENDED**

**Principal Act**

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

**Section 3 amended (Interpretation)**

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

- (a) by inserting the following definition after the definition of “infringement notice”:

**“Magistrates Rule Committee”**  
means the committee referred to  
in section 15AC of the *Magistrates  
Court Act 1987*;

- (b) by omitting the definition of “the rules” and substituting the following definition:

**“rules”** means rules of court made for  
this Act by the Magistrates Rule  
Committee.

**Section 12 substituted**

**51.** Section 12 of the Principal Act is repealed and the following section is substituted:

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\*No. 61 of 1981

**Rules of court**

**12.** The rules of court may, without limiting the generality of the Magistrates Rule Committee's powers, make provision for or with respect to any or all of the following:

- (a) the attendance of witnesses at hearings of applications under section 8;
- (b) the giving and admissibility of evidence at hearings of applications under section 8;
- (c) the powers of magistrates in relation to the matters referred to in paragraphs (a) and (b);
- (d) the form of any application or notice.

**Sections 12A and 12B inserted**

**52.** After section 12 of the Principal Act, the following sections are inserted:

**Regulations**

**12A. (1)** The Governor may make regulations for the purposes of this Act.

**(2)** Without limiting the generality of subsection (1), the regulations may –

- (a) prescribe the travelling and other expenses payable to persons who are witnesses at hearings of applications under section 8; and
- (b) prescribe fees and charges in relation to any matter under this Act.

(3) The regulations may –

- (a) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
- (b) authorise any matter to be from time to time determined or regulated by a magistrate.

**Transitional provision: rules and regulations**

**12B. (1)** In this section –

“**new rules**” means rules of court made for this Act by the Magistrates Rule Committee on or after the transition day;

“**old rules**” means the rules of procedure and practice in force under section 12 immediately before the transition day;

“**regulations**” means regulations made under section 12A on or after the transition day;

“**transition day**” means the day of commencement of Part 10 of the *Justice (Delegated Legislation) Act 2002*.

(2) Notwithstanding the amendments made to this Act by Part 10 of the *Justice (Delegated Legislation) Act 2002*, the old rules continue in force on and after the transition day to the extent that they are not inconsistent with any new rules or regulations and may be –



- (a) amended by the Governor, to the extent that the amendments are not inconsistent with any new rules or regulations, as if that Act had not been enacted; or
- (b) rescinded by the Governor.