

TASMANIA

JUSTICE AND RELATED LEGISLATION (FURTHER MISCELLANEOUS AMENDMENTS) BILL 2012

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – ACTS INTERPRETATION ACT 1931 AMENDED

3. Principal Act
4. Section 23E inserted
 - 23E. Exercise of power of Governor to approve, &c., remuneration of office holders

PART 3 – AUSTRALIAN CONSUMER LAW (TASMANIA) ACT 2010 AMENDED

5. Principal Act
6. Section 25 amended (Infringement notices)

PART 4 – BAIL ACT 1994 AMENDED

7. Principal Act
8. Section 3 amended (Interpretation)
9. Section 7 amended (Conditions to which bail is subject)
10. Section 10 amended (Power of arrest on contravention of condition of bail)

11. Section 11 amended (Power of judicial officers to deal with arrested person)
12. Section 12 substituted
 12. Power of judge or justice to issue warrant for arrest
13. Section 20 amended (Forfeiture of recognizances)
14. Section 21 substituted
 21. Enforcement of orders for forfeiture of money deposited, &c.
15. Section 24 amended (Application to revoke bail, &c.)

PART 5 – BAPTIST UNION INCORPORATION ACT 1902 AMENDED

16. Principal Act
17. Section 10A amended (Auditing requirements)

PART 6 – BUILDING ACT 2000 AMENDED

18. Principal Act
19. Section 3 amended (Interpretation)
20. Section 266 amended (Reliance on certificate of other person)

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

21. Principal Act
22. Section 4 amended (Interpretation)

PART 8 – COMMUNITY PROTECTION (OFFENDER REPORTING) ACT 2005 AMENDED

23. Principal Act
24. Section 50A amended (Appeals)

PART 9 – CONVEYANCING ACT 2004 AMENDED

25. Principal Act
26. Section 30 amended (Audit of trust accounts)

PART 10 – CRIME (CONFISCATION OF PROFITS) ACT 1993 AMENDED

27. Principal Act
28. Section 21A inserted

- 21A. Certain pecuniary penalty orders to be fines
- 29. Section 79 amended (Crime (Confiscation of Profits) Account)

PART 11 – DANGEROUS GOODS (ROAD AND RAIL TRANSPORT) ACT 2010 AMENDED

- 30. Principal Act
- 31. Section 79 amended (Infringement notices)

PART 12 – ENERGY OMBUDSMAN ACT 1998 AMENDED

- 32. Principal Act
- 33. Section 3 amended (Interpretation)
- 34. Section 9A amended (Referral of matter to Ombudsman as complaint)
- 35. Section 10 amended (Determining whether to investigate complaint, &c.)
- 36. Section 19 amended (Reference to another authority for investigation)
- 37. Section 20 amended (Matters concerning reference to another authority)
- 38. Section 27 amended (Enforcement of order)
- 39. Section 29 amended (Reports)
- 40. Section 32 amended (Exchange of information)
- 41. Section 39 amended (Budget guidelines)
- 42. Section 39A amended (Preparation and publication of annual budget)
- 43. Section 39B amended (Review of apportionment in budget)

PART 13 – ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL ACT 1994 AMENDED

- 44. Principal Act
- 45. Section 100A repealed

PART 14 – GAMING CONTROL ACT 1993 AMENDED

- 46. Principal Act
- 47. Section 172A amended (Infringement notices)

**PART 15 – HEALTH SERVICE ESTABLISHMENTS ACT 2006
AMENDED**

- 48. Principal Act
- 49. Section 55A amended (Infringement notices)

PART 16 – LEGAL PROFESSION ACT 2007 AMENDED

- 50. Principal Act
- 51. Section 458 amended (Application against determinations)

PART 17 – LISTENING DEVICES ACT 1991 AMENDED

- 52. Principal Act
- 53. Section 5 amended (Prohibition on use of listening devices)

PART 18 – LITTER ACT 2007 AMENDED

- 54. Principal Act
- 55. Section 17 amended (Infringement notice)

**PART 19 – LOCAL GOVERNMENT (HIGHWAYS) ACT 1982
AMENDED**

- 56. Principal Act
- 57. Section 100 amended (Infringement notices)

**PART 20 – MONETARY PENALTIES ENFORCEMENT ACT 2005
AMENDED**

- 58. Principal Act
- 59. Section 3 amended (Interpretation)
- 60. Section 27 amended (Application to Director for variation of payment conditions)
- 61. Section 33 amended (Issue of MPCSO)
- 62. Section 34 amended (Requirements of MPCSO)
- 63. Section 36 repealed
- 64. Section 46 amended (Default in paying in accordance with variation of payment notice)
- 65. Section 73 amended (Enforcement warrant to enable seizure and sale of property)

- 66. Section 111 amended (Order of satisfaction of monetary penalties)

PART 21 – MOTOR VEHICLE TRADERS ACT 2011 AMENDED

- 67. Principal Act
- 68. Section 50 amended (Warrant to enter premises)
- 69. Section 53 amended (Infringement notice)

PART 22 – OCCUPATIONAL LICENSING ACT 2005 AMENDED

- 70. Principal Act
- 71. Sections 42 and 43 substituted
 - 42. Term of licence
 - 43. Renewal of licence

PART 23 – PREPAID FUNERALS ACT 2004 AMENDED

- 72. Principal Act
- 73. Section 3 amended (Interpretation)

PART 24 – PROPERTY AGENTS AND LAND TRANSACTIONS ACT 2005 AMENDED

- 74. Principal Act
- 75. Section 3 amended (Interpretation)

PART 25 – RAIL SAFETY ACT 2009 AMENDED

- 76. Principal Act
- 77. Section 133 amended (Infringement notices)

PART 26 – RESOURCE MANAGEMENT AND PLANNING APPEAL TRIBUNAL ACT 1993 AMENDED

- 78. Principal Act
- 79. Section 14 amended (Parties to appeal before Appeal Tribunal)
- 80. Section 28 amended (Costs)

PART 27 – SECURITY AND INVESTIGATIONS AGENTS ACT 2002 AMENDED

- 81. Principal Act
- 82. Section 30 amended (Audits)

83. Section 41 amended (Exemptions)

PART 28 – SENTENCING ACT 1997 AMENDED

84. Principal Act
85. Section 27 amended (Breach of order suspending sentence)
86. Section 36 amended (Breach of community service order)
87. Section 42 amended (Breach of probation order)
88. Section 54A amended (Contravention of rehabilitation program order)
89. Section 68 amended (Compensation order)
90. Section 69 amended (Enforcement of compensation order)

PART 29 – REPEAL OF ACT

91. Repeal of Act

**JUSTICE AND RELATED LEGISLATION
(FURTHER MISCELLANEOUS AMENDMENTS)
BILL 2012**

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.

P. R. ALCOCK, *Clerk of the House*
20 November 2012

*(Brought in by the Minister for Justice, the Honourable Brian
Neal Wightman)*

A BILL FOR

An Act to amend the *Acts Interpretation Act 1931*, the *Australian Consumer Law (Tasmania) Act 2010*, the *Bail Act 1994*, the *Baptist Union Incorporation Act 1902*, the *Building Act 2000*, the *Building and Construction Industry Security of Payment Act 2009*, the *Community Protection (Offender Reporting) Act 2005*, the *Conveyancing Act 2004*, the *Crime (Confiscation of Profits) Act 1993*, the *Dangerous Goods (Road and Rail Transport) Act 2010*, the *Energy Ombudsman Act 1998*, the *Environmental Management and Pollution Control Act 1994*, the *Gaming Control Act 1993*, the *Health Service Establishments Act 2006*, the *Legal Profession Act 2007*, the *Listening Devices Act 1991*, the *Litter Act 2007*, the *Local Government (Highways) Act 1982*, the *Monetary Penalties Enforcement Act 2005*, the *Motor Vehicle Traders Act 2011*, the *Occupational Licensing Act 2005*, the *Prepaid Funerals Act 2004*, the *Property Agents and Land Transactions Act 2005*, the *Rail Safety Act 2009*, the *Resource Management and Planning Appeal Tribunal Act 1993*, the *Security and Investigations Agents Act 2002* and the *Sentencing Act 1997*

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 1

Part 1 – Preliminary

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 *Justice and Related
Legislation (Further Miscellaneous
Amendments) Act 2012*.

2. Commencement

- (1) Except as provided by this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Part 6 commences on the day on which the *Building Amendment Act 2012* commences.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 2 – Acts Interpretation Act 1931 Amended

s. 3

**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 23E inserted

After section 23D of the Principal Act, the following section is inserted:

23E. Exercise of power of Governor to approve, &c., remuneration of office holders

Where an Act provides the Governor with the power to approve, determine or otherwise fix the remuneration, expenses or other emoluments payable to the holder of an office, that power may also be exercised by –

- (a) a Minister; or
- (b) any other person authorised in writing by the Governor for that purpose.

*No. 59 of 1931

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 5 Part 3 – Australian Consumer Law (Tasmania) Act 2010 Amended

**PART 3 – AUSTRALIAN CONSUMER LAW
(TASMANIA) ACT 2010 AMENDED**

5. Principal Act

In this Part, the *Australian Consumer Law (Tasmania) Act 2010** is referred to as the Principal Act.

6. Section 25 amended (Infringement notices)

Section 25 of the Principal Act is amended by omitting subsection (6).

*No. 40 of 2010

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 4 – Bail Act 1994 Amended

s. 7

PART 4 – BAIL ACT 1994 AMENDED

7. Principal Act

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

8. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after paragraph (a) in the definition of *appropriate officer* the following paragraph:

- (ab) in the case of the Court of Criminal Appeal, the Registrar of the Court of Criminal Appeal; or

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

Section 7 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b) “Court of Criminal Appeal or the” after “the”;
- (b) by inserting in subsection (1)(g) “Court of Criminal Appeal or the” after “the”;
- (c) by omitting from subsection (2) “authorised”;

*No. 9 of 1994

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 10

Part 4 – Bail Act 1994 Amended

- (d) by omitting from subsection (2)(a) “judicial officer” and substituting “person making that order”;
- (e) by omitting from subsection (2)(a) “that person” and substituting “the person admitted to bail”;
- (f) by inserting in subsection (3A) “Court of Criminal Appeal or the” after “in the”.

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

Section 10(1)(a) of the Principal Act is amended by inserting after subparagraph (iii) the following subparagraph:

- (iv) a requirement specified in written advice given to that person in accordance with section 7(3A); or

11. Section 11 amended (Power of judicial officers to deal with arrested person)

Section 11 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b) “Court of Criminal Appeal or the” after “made by the”;
- (b) by omitting from subsection (1)(b) “the Supreme” second occurring and substituting “either such”;

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 4 – Bail Act 1994 Amended

s. 12

-
- (c) by omitting from subsection (1)(b) “that Court” and substituting “the Court of Criminal Appeal or the Supreme Court, as the case may be”;
 - (d) by inserting in subsection (2) “Court of Criminal Appeal or the” after “of the”.

12. Section 12 substituted

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

12. Power of judge or justice to issue warrant for arrest

A judge of the Court of Criminal Appeal or the Supreme Court or a justice may issue a warrant for the arrest of a person admitted to bail who fails to appear at a court –

- (a) in accordance with the order for bail; or
- (b) pursuant to a requirement specified in written advice given to that person in accordance with section 7(3A).

13. Section 20 amended (Forfeiture of recognizances)

Section 20 of the Principal Act is amended as follows:

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 14

Part 4 – Bail Act 1994 Amended

- (a) by inserting “Court of Criminal Appeal or the” after “judge of the”;
- (b) by omitting “that” first occurring and substituting “either such”.

14. Section 21 substituted

Section 21 of the Principal Act is repealed and the following section is substituted:

21. Enforcement of orders for forfeiture of money deposited, &c.

An amount or part of an amount ordered to be forfeited under section 19(1)(a) or 20 is taken to be a fine imposed by the Court that may be referred to the Director, Monetary Penalties Enforcement Services for collection and enforcement.

15. Section 24 amended (Application to revoke bail, &c.)

Section 24(1) of the Principal Act is amended as follows:

- (a) by inserting “, respondent to an appeal” after “prosecutor”;
- (b) by omitting “or” second occurring and substituting “,”;

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 4 – Bail Act 1994 Amended

s. 15

- (c) by inserting “or in respect of his or her appeal” after “application for a restraint order”;
- (d) by omitting “or application” twice occurring and substituting “, application or appeal”.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 16

Part 5 – Baptist Union Incorporation Act 1902 Amended

**PART 5 – BAPTIST UNION INCORPORATION ACT
1902 AMENDED**

16. Principal Act

In this Part, the *Baptist Union Incorporation Act 1902** is referred to as the Principal Act.

17. Section 10A amended (Auditing requirements)

Section 10A(2) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:

(c) the Institute of Public Accountants.

*No. 48 of 1902

PART 6 – BUILDING ACT 2000 AMENDED

18. Principal Act

In this Part, the *Building Act 2000** is referred to as the Principal Act.

19. Section 3 amended (Interpretation)

The definition of *Building Code of Australia* in section 3(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “or additions in the Tasmania Appendix” and substituting “and additions in the Appendix Tasmania”;
- (b) by omitting from paragraph (b) “Tasmanian variations” and substituting “Tasmania additions”.

20. Section 266 amended (Reliance on certificate of other person)

Section 266(2)(d) of the Principal Act is amended by omitting “building plumbing” and substituting “building system or plumbing”.

*No. 100 of 2000

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

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

**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 by omitting the definition of *business day*.

*No. 86 of 2009

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012
Act No. of*

Part 8 – Community Protection (Offender Reporting) Act 2005 Amended

s. 23

**PART 8 – COMMUNITY PROTECTION (OFFENDER
REPORTING) ACT 2005 AMENDED**

23. Principal Act

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

24. Section 50A amended (Appeals)

Section 50A of the Principal Act is amended by inserting after subsection (3) the following subsections:

- (3A) The prosecution may appeal against a decision of the Supreme Court not to make an offender reporting order.
- (3B) On an appeal under subsection (3A), the Court of Criminal Appeal may –
 - (a) affirm the decision not to make an offender reporting order; or
 - (b) make an offender reporting order.

*No. 61 of 2005

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 25

Part 9 – Conveyancing Act 2004 Amended

PART 9 – CONVEYANCING ACT 2004 AMENDED

25. Principal Act

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

26. Section 30 amended (Audit of trust accounts)

Section 30(2)(a) of the Principal Act is amended by omitting subparagraph (iii) and substituting the following subparagraph:

(iii) the Institute of Public Accountants; and

*No. 22 of 2004

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 10 – Crime (Confiscation of Profits) Act 1993 Amended

s. 27

**PART 10 – CRIME (CONFISCATION OF PROFITS)
ACT 1993 AMENDED**

27. Principal Act

In this Part, the *Crime (Confiscation of Profits) Act 1993** is referred to as the Principal Act.

28. Section 21A inserted

After section 21 of the Principal Act, the following section is inserted in Division 3:

21A. Certain pecuniary penalty orders to be fines

Where a pecuniary penalty order was made before 1 June 2011 and has not been paid within 60 days after the commencement of section 28 of the *Justice and Related Legislation (Further Miscellaneous Amendments) Act 2012*, the order is to be taken to be a fine within the meaning of the *Monetary Penalties Enforcement Act 2005* and is enforceable as such.

29. Section 79 amended (Crime (Confiscation of Profits) Account)

Section 79(7) of the Principal Act is amended by omitting “*Criminal Injuries Compensation Act*

*No. 20 of 1993

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 29 Part 10 – Crime (Confiscation of Profits) Act 1993 Amended

*1976” and substituting “Victims of Crime
Assistance Act 1976”.*

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 11 – Dangerous Goods (Road and Rail Transport) Act 2010 Amended **s. 30**

**PART 11 – DANGEROUS GOODS (ROAD AND RAIL
TRANSPORT) ACT 2010 AMENDED**

30. Principal Act

In this Part, the *Dangerous Goods (Road and Rail Transport) Act 2010** is referred to as the Principal Act.

31. Section 79 amended (Infringement notices)

Section 79 of the Principal Act is amended by omitting subsection (6).

*No. 16 of 2010

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 32

Part 12 – Energy Ombudsman Act 1998 Amended

**PART 12 – ENERGY OMBUDSMAN ACT 1998
AMENDED**

32. Principal Act

In this Part, the *Energy Ombudsman Act 1998**
is referred to as the Principal Act.

33. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as
follows:

- (a) by omitting the definition of *Director of Gas*;
- (b) by omitting the definition of *Regulator* and substituting the following definition:

Regulator means the Tasmanian
Economic Regulator established
under section 9 of the *Economic
Regulator Act 2009*.

**34. Section 9A amended (Referral of matter to
Ombudsman as complaint)**

Section 9A of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1) “or
Director of Gas” twice occurring;

*No. 20 of 1998

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 12 – Energy Ombudsman Act 1998 Amended

s. 35

- (b) by omitting from subsection (3) “or Director of Gas” twice occurring.

35. Section 10 amended (Determining whether to investigate complaint, &c.)

Section 10 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “, the Director of Gas”;
- (b) by omitting from subsection (1)(b) “or the Director of Gas”;
- (c) by omitting from subsection (1)(c)(vii) “or the Director of Gas”;
- (d) by omitting from subsection (5)(b) “, the Director of Gas”.

36. Section 19 amended (Reference to another authority for investigation)

Section 19(1) of the Principal Act is amended by omitting “, the Director of Gas” twice occurring.

37. Section 20 amended (Matters concerning reference to another authority)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “, the Director of Gas” twice occurring;

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 38

Part 12 – Energy Ombudsman Act 1998 Amended

- (b) by omitting from subsection (2) “, the Director of Gas”;
- (c) by omitting from subsection (2) “, Director of Gas”;
- (d) by omitting from subsection (4) “, the Director of Gas”.

38. Section 27 amended (Enforcement of order)

Section 27(1) of the Principal Act is amended by omitting “or Director of Gas”.

39. Section 29 amended (Reports)

Section 29(3)(d) of the Principal Act is amended by omitting “or Director of Gas”.

40. Section 32 amended (Exchange of information)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “, the Director of Gas”;
- (b) by omitting from paragraph (b) “, the Director of Gas”.

41. Section 39 amended (Budget guidelines)

Section 39(3) of the Principal Act is amended by omitting paragraph (b).

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 12 – Energy Ombudsman Act 1998 Amended

s. 42

42. Section 39A amended (Preparation and publication of annual budget)

Section 39A(4)(a) of the Principal Act is amended by omitting “, the Director of Gas”.

43. Section 39B amended (Review of apportionment in budget)

Section 39B of the Principal Act is amended as follows:

- (a) by omitting from subsection (5) “and Director of Gas”;
- (b) by omitting from subsection (6) “and Director of Gas, jointly,”;
- (c) by omitting subsection (7) and substituting the following subsection:

(7) In determining applications, the Regulator –

- (a) is to consider all the submissions made in respect of the applications; and
- (b) may inform himself, herself or itself in any manner he, she or it considers appropriate.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 44 Part 13 – Environmental Management and Pollution Control Act 1994
 Amended

**PART 13 – ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL ACT 1994 AMENDED**

44. Principal Act

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

45. Section 100A repealed

Section 100A of the Principal Act is repealed.

*No. 44 of 1994

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 14 – Gaming Control Act 1993 Amended

s. 46

PART 14 – GAMING CONTROL ACT 1993 AMENDED

46. Principal Act

In this Part, the *Gaming Control Act 1993** is referred to as the Principal Act.

47. Section 172A amended (Infringement notices)

Section 172A of the Principal Act is amended by omitting subsection (5).

*No. 94 of 1993

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 48

Part 15 – Health Service Establishments Act 2006 Amended

**PART 15 – HEALTH SERVICE ESTABLISHMENTS
ACT 2006 AMENDED**

48. Principal Act

In this Part, the *Health Service Establishments Act 2006** is referred to as the Principal Act.

49. Section 55A amended (Infringement notices)

Section 55A of the Principal Act is amended by omitting subsection (5).

*No. 17 of 2006

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 16 – Legal Profession Act 2007 Amended

s. 50

PART 16 – LEGAL PROFESSION ACT 2007 AMENDED

50. Principal Act

In this Part, the *Legal Profession Act 2007** is referred to as the Principal Act.

51. Section 458 amended (Application against determinations)

Section 458(2) of the Principal Act is amended by inserting “, section 451 (Dismissal of complaint) or section 454(1) (Determination of Board)” after “complaints”.

*No. 24 of 2007

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 52

Part 17 – Listening Devices Act 1991 Amended

PART 17 – LISTENING DEVICES ACT 1991 AMENDED

52. Principal Act

In this Part, the *Listening Devices Act 1991** is referred to as the Principal Act.

53. Section 5 amended (Prohibition on use of listening devices)

Section 5 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) For the purposes of subsection (2)(e), *police officer* includes a person appointed by or under an Australian law whose functions include the prevention or investigation of offences.

*No. 21 of 1991

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 18 – Litter Act 2007 Amended

s. 54

PART 18 – LITTER ACT 2007 AMENDED

54. Principal Act

In this Part, the *Litter Act 2007** is referred to as the Principal Act.

55. Section 17 amended (Infringement notice)

Section 17 of the Principal Act is amended by omitting subsection (11).

*No. 38 of 2007

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 56 Part 19 – Local Government (Highways) Act 1982 Amended

**PART 19 – LOCAL GOVERNMENT (HIGHWAYS) ACT
1982 AMENDED**

56. Principal Act

In this Part, the *Local Government (Highways)
Act 1982** is referred to as the Principal Act.

57. Section 100 amended (Infringement notices)

Section 100(7) of the Principal Act is amended
by omitting “section 24” and substituting
“section 23”.

*No. 57 of 1982

**PART 20 – MONETARY PENALTIES ENFORCEMENT
ACT 2005 AMENDED**

58. Principal Act

In this Part, the *Monetary Penalties Enforcement Act 2005** is referred to as the Principal Act.

59. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *Commissioner*:

compensation order means an order made under Division 2 of Part 9 of the *Sentencing Act 1997*;

- (b) by omitting “made by the Magistrates Court” from paragraph (a)(ii) of the definition of *fine*.

60. Section 27 amended (Application to Director for variation of payment conditions)

Section 27(2)(b) of the Principal Act is amended by omitting “imposed by the infringement notice”.

*No. 57 of 2005

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 61

Part 20 – Monetary Penalties Enforcement Act 2005 Amended

61. Section 33 amended (Issue of MPCSO)

Section 33 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “alleged”;
- (b) by omitting subsection (4) and substituting the following subsection:
 - (4) On the issue of an MPCSO, the Director is to cease, or not take, action to enforce payment of any monetary penalty to which the order relates while the offender complies with the order.

62. Section 34 amended (Requirements of MPCSO)

Section 34(2) of the Principal Act is amended by inserting “cancellation of the order and the taking of other action to enforce payment of the monetary penalty which may result in the” after “in the”.

63. Section 36 repealed

Section 36 of the Principal Act is repealed.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 20 – Monetary Penalties Enforcement Act 2005 Amended

s. 64

64. Section 46 amended (Default in paying in accordance with variation of payment notice)

Section 46 of the Principal Act is amended as follows:

- (a) by inserting “or issued with an MPCSO” after “conditions notice”;
- (b) by inserting “or comply with the terms of the MPCSO” after “with the notice”;
- (c) by inserting in paragraph (a) “or MPCSO” after “the notice”;
- (d) by inserting in paragraph (a) “or MPCSO” after “conditions”;
- (e) by inserting in paragraph (b) “or MPCSO” after “the notice”;
- (f) by inserting in paragraph (b) “or MPCSO” after “conditions”.

65. Section 73 amended (Enforcement warrant to enable seizure and sale of property)

Section 73 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:
 - (1) The Director may issue an enforcement warrant to enable the seizure and sale of property in

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 66

Part 20 – Monetary Penalties Enforcement Act 2005 Amended

which the enforcement debtor has a legal interest from premises identified in the database available to the Director as being occupied by the enforcement debtor or, if the property is a conveyance –

- (a) the place identified in the database available to the Director as being the place where the conveyance is hangared, parked or moored; or
 - (b) a public place.
- (b) by inserting the following subsection after subsection (3):
 - (3A) The Director may cancel an enforcement warrant at any time.
- (c) by inserting in subsection (4) “or the warrant is cancelled” after “discharged”.

66. Section 111 amended (Order of satisfaction of monetary penalties)

Section 111(b) of the Principal Act is amended by omitting “issued by the Magistrates Court”.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 21 – Motor Vehicle Traders Act 2011 Amended

s. 67

**PART 21 – MOTOR VEHICLE TRADERS ACT 2011
AMENDED**

67. Principal Act

In this Part, the *Motor Vehicle Traders Act 2011** is referred to as the Principal Act.

68. Section 50 amended (Warrant to enter premises)

Section 50 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “justice of the peace” and substituting “magistrate”;
- (b) by omitting from subsection (2) “justice of the peace” and substituting “magistrate”;
- (c) by omitting from subsection (4)(b) “justice of the peace” and substituting “magistrate”.

69. Section 53 amended (Infringement notice)

Section 53 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “Commissioner” and substituting “Director”;

*No. 23 of 2011

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 69

Part 21 – Motor Vehicle Traders Act 2011 Amended

(b) by omitting subsection (6).

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 22 – Occupational Licensing Act 2005 Amended

s. 70

**PART 22 – OCCUPATIONAL LICENSING ACT 2005
AMENDED**

70. Principal Act

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

71. Sections 42 and 43 substituted

Sections 42 and 43 of the Principal Act are repealed and the following sections are substituted:

42. Term of licence

A practitioner's licence or a contractor's licence may be granted for a period, not exceeding 3 years, specified in the licence.

43. Renewal of licence

The Administrator may, on application by a licence holder who can show continuing professional development satisfactory to the Administrator, renew the licence for a further period, not exceeding 3 years.

*No. 47 of 2005

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 72

Part 23 – Prepaid Funerals Act 2004 Amended

PART 23 – PREPAID FUNERALS ACT 2004 AMENDED

72. Principal Act

In this Part, the *Prepaid Funerals Act 2004** is referred to as the Principal Act.

73. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting subparagraph (iii) from paragraph (b) of the definition of *auditor* and substituting:

(iii) the Institute of Public Accountants;

*No. 11 of 2004

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 24 – Property Agents and Land Transactions Act 2005 Amended

s. 74

**PART 24 – PROPERTY AGENTS AND LAND
TRANSACTIONS ACT 2005 AMENDED**

74. Principal Act

In this Part, the *Property Agents and Land Transactions Act 2005** is referred to as the Principal Act.

75. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting paragraph (c) from the definition of *accountant* and substituting:

- (c) the Institute of Public Accountants in Australia;

*No. 75 of 2005

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 76

Part 25 – Rail Safety Act 2009 Amended

PART 25 – RAIL SAFETY ACT 2009 AMENDED

76. Principal Act

In this Part, the *Rail Safety Act 2009** is referred to as the Principal Act.

77. Section 133 amended (Infringement notices)

Section 133 of the Principal Act is amended by omitting subsection (7).

*No. 64 of 2009

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 26 – Resource Management and Planning Appeal Tribunal Act 1993
Amended

s. 78

**PART 26 – RESOURCE MANAGEMENT AND
PLANNING APPEAL TRIBUNAL ACT 1993 AMENDED**

78. Principal Act

In this Part, the *Resource Management and Planning Appeal Tribunal Act 1993** is referred to as the Principal Act.

79. Section 14 amended (Parties to appeal before Appeal Tribunal)

Section 14 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) For the purposes of subsection (1)(b), the Board of the Environment Protection Authority and a planning authority are taken to be persons who made the decision appealed against in the case of an appeal against –
- (a) a condition or restriction required by the Board, under section 25(5)(a) of the *Environmental Management and Pollution Control Act 1994*, to be included in a permit granted by the planning authority; or

*No. 66 of 1993

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 80 Part 26 – Resource Management and Planning Appeal Tribunal Act 1993
Amended

- (b) a direction by the Board, under section 25(5)(b) of that Act, to the planning authority to refuse to grant a permit.

80. Section 28 amended (Costs)

Section 28 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “an appeal” and substituting “proceedings”;
- (b) by omitting from subsection (2) “appeal” second occurring and substituting “proceedings”;
- (c) by omitting from subsection (3)(a) “appeal appears” and substituting “proceedings appear”;
- (d) by omitting from subsection (3)(d) “appeal” and substituting “proceedings”;
- (e) by omitting from subsection (3)(d) “it” and substituting “them”;
- (f) by omitting from subsection (3)(g) “appeal” and substituting “proceedings”;
- (g) by inserting the following subsection after subsection (7):

- (8) The amendments to this section made by the *Justice and Related*

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 26 – Resource Management and Planning Appeal Tribunal Act 1993
Amended

s. 80

Legislation (Further
Miscellaneous Amendments) Act
2012 apply in respect of a matter
that was before the Tribunal on
the day on which section 80 of
that Act commenced but in
respect of which a final decision
on costs had not been made.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 81

Part 27 – Security and Investigations Agents Act 2002 Amended

**PART 27 – SECURITY AND INVESTIGATIONS
AGENTS ACT 2002 AMENDED**

81. Principal Act

In this Part, the *Security and Investigations Agents Act 2002** is referred to as the Principal Act.

82. Section 30 amended (Audits)

Section 30(2)(a) of the Principal Act is amended by omitting subparagraph (iii) and substituting the following subparagraph:

(iii) the Institute of Public Accountants; and

83. Section 41 amended (Exemptions)

Section 41(1)(d) of the Principal Act is amended by omitting “National Institute of Accountants” and substituting “Institute of Public Accountants”.

*No. 19 of 2002

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 28 – Sentencing Act 1997 Amended

s. 84

PART 28 – SENTENCING ACT 1997 AMENDED

84. Principal Act

In this Part, the *Sentencing Act 1997** is referred to as the Principal Act.

85. Section 27 amended (Breach of order suspending sentence)

Section 27 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The court may issue a warrant for the arrest of the offender if –
 - (a) the offender fails to appear at the hearing of the application; or
 - (b) the court is satisfied that reasonable efforts to give the offender notice of the application have been made but those efforts have been unsuccessful.

86. Section 36 amended (Breach of community service order)

Section 36 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

*No. 59 of 1997

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 87

Part 28 – Sentencing Act 1997 Amended

- (3) The court may issue a warrant for the arrest of the offender if –
 - (a) the offender fails to appear at the hearing of the application; or
 - (b) the court is satisfied that reasonable efforts to give the offender notice of the application have been made but those efforts have been unsuccessful.

87. Section 42 amended (Breach of probation order)

Section 42 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The court may issue a warrant for the arrest of the offender if –
 - (a) the offender fails to appear at the hearing of the application; or
 - (b) the court is satisfied that reasonable efforts to give the offender notice of the application have been made but those efforts have been unsuccessful.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 28 – Sentencing Act 1997 Amended

s. 88

88. Section 54A amended (Contravention of rehabilitation program order)

Section 54A of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The court may issue a warrant for the arrest of the offender if –
 - (a) the offender fails to appear at the hearing of the application; or
 - (b) the court is satisfied that reasonable efforts to give the offender notice of the application have been made but those efforts have been unsuccessful.

89. Section 68 amended (Compensation order)

Section 68 of the Principal Act is amended by omitting subsection (2).

90. Section 69 amended (Enforcement of compensation order)

Section 69 of the Principal Act is amended as follows:

- (a) by omitting subsection (1);
- (b) by omitting from subsection (2) “made by a court of petty sessions”;

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

s. 90

Part 28 – Sentencing Act 1997 Amended

(c) by omitting subsection (3) and substituting the following subsection:

(3) If the amount payable under a compensation order has been deemed uncollectable in full or in part under section 109 of the *Monetary Penalties Enforcement Act 2005*, the order –

(a) in the case of a compensation order made by the Supreme Court, is taken to be a judgment of the Supreme Court and is enforceable under the *Supreme Court Civil Procedure Act 1932*; or

(b) in the case of a compensation order made by a court of petty sessions, is taken to be a judgment of the Magistrates Court (Civil Division) and is enforceable under the *Magistrates Court (Civil Division) Act 1992*.

*Justice and Related Legislation (Further Miscellaneous
Amendments) Act 2012*
Act No. of

Part 29 – Repeal of Act

s. 91

PART 29 – REPEAL OF ACT

91. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.