

# TASMANIA

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## JUSTICE AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2012

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# **JUSTICE AND RELATED LEGISLATION (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*  
17 April 2012

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

## **A BILL FOR**

**An Act to amend various Acts and revoke certain  
proclamations and orders**

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 (Miscellaneous Amendments) Act 2012*.

### **2. Commencement**

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.

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

**s. 2**

Part 1 – Preliminary

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(2) Part 21 commences on a day to be proclaimed.



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

Part 2 – Appeal Costs Fund Act 1968 Amended

s. 3

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**PART 2 – APPEAL COSTS FUND ACT 1968 AMENDED**

**3. Principal Act**

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

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

Section 2 of the Principal Act is amended as follows:

- (a) by omitting “a court of requests” from the definition of *judicial officer* and substituting “the Magistrates Court (Civil Division)”;
- (b) by omitting “a court of requests” from paragraph (b) of the definition of *proper officer* and substituting “the Magistrates Court (Civil Division)”.

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

Section 5(1) of the Principal Act is amended by omitting “a court of requests” and substituting “the Magistrates Court (Civil Division)”.

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\*No. 57 of 1968

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

s. 6

Part 2 – Appeal Costs Fund Act 1968 Amended

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

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

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

Part 3 – Bail Act 1994 Amended

s. 7

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**PART 3 – BAIL ACT 1994 AMENDED**

**7. Principal Act**

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

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

Section 7(3A) of the Principal Act is amended by omitting “that later date” and substituting “the last date so advised”.

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\*No. 9 of 1994

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

s. 9      Part 4 – Building and Construction Industry Security of Payment Act 2009  
Amended

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**PART 4 – BUILDING AND CONSTRUCTION  
INDUSTRY SECURITY OF PAYMENT ACT 2009  
AMENDED**

**9. Principal Act**

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

**10. Section 4A inserted**

After section 4 of the Principal Act, the following section is inserted in Part 1:

**4A. Interpretation of *business day***

(1) In this Act, unless the contrary intention appears –

*business day* means any day other than –

- (a) a Saturday or Sunday; or
- (b) a day specified in section 4 of the *Statutory Holidays Act 2000*; or
- (c) a day specified in Part 1 of Schedule 1 to the

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\*No. 86 of 2009

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

Part 4 – Building and Construction Industry Security of Payment Act 2009  
Amended

**s. 11**

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*Statutory Holidays Act  
2000; or*

(d) a day specified in Part 1  
or 2 of Schedule 2 to the  
*Statutory Holidays Act  
2000; or*

(e) the 27th, 28th, 29th, 30th  
or 31st of December;

(2) For the purposes of the definition of  
*business day* in subsection (1), a day  
referred to in that definition is a holiday  
for all of the day and in the whole of the  
State.

**11. Section 19 amended (Consequences of failing to  
provide payment schedule within relevant period)**

Section 19(2) of the Principal Act is amended by  
inserting “or, in a case to which subsection (3)(a)  
applies, later” after “earlier”.

**12. Section 20 amended (Consequences of not paying  
claimant in accordance with payment schedule)**

Section 20(1)(b) of the Principal Act is amended  
by inserting “or, in a case to which  
section 19(3)(a) applies, later” after “earlier”.

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

s. 13

Part 5 – Business Names Act 1962 Amended

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**PART 5 – BUSINESS NAMES ACT 1962 AMENDED**

**13. Principal Act**

In this Part, the *Business Names Act 1962*\* is referred to as the Principal Act.

**14. Section 14 amended (Disability of persons in default)**

Section 14(2)(b) of the Principal Act is amended as follows:

- (a) by omitting “a court of requests” and substituting “the Magistrates Court (Civil Division)”;
- (b) by omitting “commissioner of courts of requests” and substituting “magistrate”.

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\*No. 44 of 1962

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

Part 6 – Civil Liability Act 2002 Amended

s. 15

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**PART 6 – CIVIL LIABILITY ACT 2002 AMENDED**

**15. Principal Act**

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

**16. Section 4 amended (Application of Act)**

Section 4 of the Principal Act is amended by inserting after subsection (5) the following subsection:

- (6) Part 10B applies to a cause of action accrued after the commencement of that Part .

**17. Section 26 amended (Damages for loss of earning capacity)**

Section 26(1) of the Principal Act is amended by inserting “or where a claim for damages is made pursuant to the *Fatal Accidents Act 1934*” after “capacity”.

**18. Part 10B inserted**

After section 49A of the Principal Act, the following Part is inserted:

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\*No. 54 of 2002

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

s. 18

Part 6 – Civil Liability Act 2002 Amended

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**PART 10B – RIGHTS BETWEEN EMPLOYER AND  
EMPLOYEE**

**49B. Employee not liable where employer also  
liable**

- (1) If an employee commits a tort for which his or her employer is also liable –
  - (a) the employee is not liable to indemnify, or to pay any contribution to, the employer in respect of the liability incurred by the employer; and
  - (b) the employer is liable to indemnify the employee in respect of liability incurred by the employee for the tort (unless the employee is otherwise entitled to an indemnity in respect of that liability).
- (2) Contribution under this section includes contribution as joint tortfeasor or otherwise.
- (3) This section does not apply to a tort committed by an employee if the conduct constituting the tort –
  - (a) was serious and wilful misconduct; or



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

Part 6 – Civil Liability Act 2002 Amended

**s. 18**

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- (b) did not occur in the course of, and  
did not arise out of, the  
employment of the employee.

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

s. 19

Part 7 – Consumer Affairs Act 1988 Amended

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**PART 7 – CONSUMER AFFAIRS ACT 1988 AMENDED**

**19. Principal Act**

In this Part, the *Consumer Affairs Act 1988*\* is referred to as the Principal Act.

**20. Section 22 amended (Preservation of secrecy)**

Section 22(2) of the Principal Act is amended by omitting “Small Claims Division of the Court of Requests” and substituting “Magistrates Court (Civil Division)”.

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\*No. 53 of 1988

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

Part 8 – Corrections Act 1997 Amended

s. 21

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**PART 8 – CORRECTIONS ACT 1997 AMENDED**

**21. Principal Act**

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

**22. Section 87A amended (Eligible persons register)**

Section 87A of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) The Secretary must keep a register of persons who are eligible to receive information, under section 87B, about a prisoner who has been sentenced to a period of imprisonment for a violent offence or a sexual offence or about an adult forensic patient, within the meaning of the *Mental Health Act 1996*, who is subject to –

(a) a restriction order; or

(b) a supervision order if the forensic patient has been

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\*No. 51 of 1997

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

s. 23

Part 8 – Corrections Act 1997 Amended

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apprehended under  
section 31 of the *Criminal  
Justice (Mental  
Impairment) Act 1999* –

in respect of a violent offence or  
a sexual offence.

- (b) by inserting in subsection (2)(c)(i) “or forensic patient” after “prisoner”;
- (c) by inserting in subsection (2)(c)(ii) “or the making of the restriction order or supervision order” after “imprisonment”.

**23. Section 87B amended (Releasing information)**

Section 87B(1) of the Principal Act is amended as follows:

- (a) by inserting “or forensic patient” after “a prisoner”;
- (b) by inserting “or forensic patient” after “of the prisoner”;
- (c) by inserting in paragraph (a) “or forensic patient’s” after “prisoner’s”;
- (d) by inserting in paragraph (b) “or forensic patient’s” after “prisoner’s”;
- (e) by inserting in paragraph (c) “or forensic patient’s” after “prisoner’s”;

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

Part 8 – Corrections Act 1997 Amended

**s. 23**

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- (f) by inserting in paragraph (d) “or forensic patient’s” after “prisoner’s”;
  - (g) by inserting in paragraph (e) “or forensic patient’s” after “prisoner’s”;
  - (h) by inserting in paragraph (f) “or forensic patient’s” after “prisoner’s”;
  - (i) by inserting in paragraph (g) “or forensic patient” after “prisoner”.

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

s. 24                      Part 9 – Criminal Justice (Mental Impairment) Act 1999 Amended

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**PART 9 – CRIMINAL JUSTICE (MENTAL  
IMPAIRMENT) ACT 1999 AMENDED**

**24. Principal Act**

In this Part, the *Criminal Justice (Mental Impairment) Act 1999*\* is referred to as the Principal Act.

**25. Section 10 amended (Reservation of question of fitness to stand trial)**

Section 10(2) of the Principal Act is amended as follows:

- (a) by omitting “a hearing for committal to stand trial” and substituting “preliminary proceedings”;
- (b) by omitting “committal hearing is” and substituting “proceedings are”.

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\*No. 21 of 1999

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**PART 10 – EVIDENCE (AUDIO AND AUDIO VISUAL  
LINKS) ACT 1999 AMENDED**

**26. Principal Act**

In this Part, the *Evidence (Audio and Audio Visual Links) Act 1999\** is referred to as the Principal Act.

**27. Section 4 amended (Application of Act)**

Section 4 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) This Act, as amended by the *Justice and Related Legislation (Miscellaneous Amendments) Act 2012*, extends to any proceeding pending in a Tasmanian court on the commencement of this subsection.

**28. Section 6 amended (Tasmanian courts may take evidence and submissions by audio link or audio visual link)**

Section 6 of the Principal Act is amended as follows:

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\*No. 9 of 1999

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

s. 29      Part 10 – Evidence (Audio and Audio Visual Links) Act 1999 Amended

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- (a) by inserting in subsection (1) “, from any place outside Australia other than New Zealand,” after “State”;
- (b) by omitting from subsection (3) “The” and substituting “Where evidence is given from a participating State, the”.

**29. Sections 10C and 10D inserted**

After section 10B of the Principal Act, the following sections are inserted in Part 2:

**10C. Premises to be considered part of court**

- (1) Any place within Tasmania or outside Australia at which audio link or audio visual link facilities are being used for the purpose of a person giving evidence or making a submission in any proceeding is taken to be part of the Tasmanian court that is sitting at a courtroom or other place for the purpose of conducting the proceeding.
- (2) Subsection (1) has effect, for example, for the purposes of the laws relating to evidence, procedure, contempt of court or perjury.
- (3) Subsection (1) also has the effect that any offence committed at the place where the person giving the evidence or making the submission is located is to be taken to



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

Part 10 – Evidence (Audio and Audio Visual Links) Act 1999 Amended

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s. 29

have been committed at the courtroom or other place where the court is sitting for the purposes of the laws in force in Tasmania.

**10D. Administration of oaths and affirmations**

- (1) Subject to subsection (2), an oath to be sworn or affirmation to be made by a person giving evidence by audio link or audio visual link within Tasmania or outside Australia may be administered either –
  - (a) by means of the audio link or audio visual link, as nearly as practicable in the same way as if the person were to give evidence in the courtroom or other place where the Tasmanian court is sitting; or
  - (b) at the direction of, or on behalf of, the court at the place where the person is giving the evidence by a person authorised by the court.
- (2) A person giving evidence by audio link or audio visual link from a place outside Australia is not required to give the evidence on oath or affirmation if –
  - (a) the law in force in that country –

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

**s. 29**            Part 10 – Evidence (Audio and Audio Visual Links) Act 1999 Amended

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- (i) does not permit the person to give evidence on oath or affirmation for the purposes of the proceeding; or
  - (ii) would make it inconvenient for the person to give evidence on oath or affirmation for the purposes of the proceeding; and
- (b) the Tasmanian court is satisfied that it is appropriate for the evidence to be given otherwise than on oath or affirmation.
- (3) If evidence is given otherwise than on oath or affirmation, the Tasmanian court is to give the evidence such weight as it thinks fit in the circumstances.
- (4) Subsections (2) and (3) apply despite anything to the contrary in the *Evidence Act 2001* or any other law of this State.

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

Part 11 – Integrity Commission Act 2009 Amended

s. 30

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**PART 11 – INTEGRITY COMMISSION ACT 2009  
AMENDED**

**30. Principal Act**

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

**31. Section 5 amended (Public authorities)**

Section 5(1) of the Principal Act is amended by inserting after paragraph (i) the following paragraph:

- (ia) the University of Tasmania;

**32. Section 11 amended (Annual and other reports)**

Section 11(1) of the Principal Act is amended as follows:

- (a) by omitting “as soon as practicable after 31 October in each year” and substituting “on or before 31 October or such other date as may be prescribed”;
- (b) by omitting “that date” and substituting “the last preceding 30 June”.

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\*No. 67 of 2009

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

s. 33

Part 11 – Integrity Commission Act 2009 Amended

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**33. Section 62 amended (Constitution of Integrity Tribunal)**

Section 62(1)(b) of the Principal Act is amended by omitting “members of the Board referred to in section 14(1)(e), (f) or (g) and such other persons (if any)” and substituting “other persons”.

**PART 12 – JURIES ACT 2003 AMENDED**

**34. Principal Act**

In this Part, the *Juries Act 2003*\* is referred to as the Principal Act.

**35. Section 39 amended (Information for jury)**

Section 39 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The court may excuse a juror from jury service for the trial if –
  - (a) the court suspects on reasonable grounds that the juror may not be able to consider the case impartially; or
  - (b) the court is satisfied that the person is unable to perform jury service for any other reason.

**36. Section 40 amended (Discharge of juror by court)**

Section 40 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

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\*No. 48 of 2003

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

**s. 37**

Part 12 – Juries Act 2003 Amended

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- (a) the court suspects on reasonable grounds that the juror may not be able to consider the case impartially; or

**37. Section 41 amended (Discharge of jury without verdict)**

Section 41(1) of the Principal Act is amended by omitting “in an emergency,”.

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

Part 13 – Landlord and Tenant Act 1935 Amended

s. 38

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**PART 13 – LANDLORD AND TENANT ACT 1935  
AMENDED**

**38. Principal Act**

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

**39. Section 51 amended (Power of registrars of Magistrates Court (Civil Division) to make replevin and deliverance)**

Section 51(1) of the Principal Act is amended by omitting “any court of requests” and substituting “the Magistrates Court (Civil Division)”.

**40. Section 53 amended (Sale of distress by public auction)**

Section 53(4) of the Principal Act is amended by omitting “a court of requests” and substituting “the Magistrates Court (Civil Division)”.

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\*No. 42 of 1935

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

s. 41

Part 14 – Legal Profession Act 2007 Amended

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**PART 14 – LEGAL PROFESSION ACT 2007 AMENDED**

**41. Principal Act**

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

**42. Section 607 amended (Secretary of Board of Legal Education)**

Section 607 of the Principal Act is amended by omitting “Subject to and in accordance with the *State Service Act 2000*, a” and substituting “A”.

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\*No. 24 of 2007



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**PART 15 – MARRIED WOMEN’S PROPERTY ACT  
1935 AMENDED**

**43. Principal Act**

In this Part, the *Married Women’s Property Act 1935\** is referred to as the Principal Act.

**44. Section 7A amended (Actions in tort between husband and wife)**

Section 7A(3) of the Principal Act is amended by omitting “a court of requests” and substituting “the Magistrates Court (Civil Division)”.

**45. Section 10 amended (Money spent within two years by husband in improving wife’s land, &c.)**

Section 10(3) of the Principal Act is amended by omitting “a court of requests” and substituting “the Magistrates Court (Civil Division)”.

**46. Section 10A amended (Removal of matters from Magistrates Court (Civil Division) to Supreme Court)**

Section 10A(1) of the Principal Act is amended as follows:

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\*No. 90 of 1935

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

**s. 46**

Part 15 – Married Women’s Property Act 1935 Amended

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- (a) by omitting from paragraph (a) “a court of requests” and substituting “the Magistrates Court (Civil Division)”;
- (b) by omitting “appropriate court of requests” and substituting “Magistrates Court (Civil Division)”.

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**PART 16 – MONETARY PENALTIES ENFORCEMENT  
ACT 2005 AMENDED**

**47. Principal Act**

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

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

Section 3 of the Principal Act is amended by omitting the definition of *fine* and substituting the following definition:

*fine* means the sum of money payable by an offender under an order –

- (a) of a court made on the offender being convicted of an offence and includes –
  - (i) a sum of money payable as costs; and
  - (ii) a sum of money payable under a compensation order made by the Magistrates Court; and
  - (iii) a sum of money payable under a compensation levy under the *Victims of*

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\*No. 57 of 2005

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

**s. 48**

Part 16 – Monetary Penalties Enforcement Act 2005 Amended

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*Crime Compensation Act  
1994; and*

- (iv) a sum of money payable under a pecuniary penalty order made under the *Crime (Confiscation of Profits) Act 1993* –

but does not include a restitution order; or

- (b) made by a Criminal Injuries Compensation Commissioner under section 7A of the *Victims of Crime Assistance Act 1976*;

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

Part 17 – Police Powers (Controlled Operations) Act 2006 Amended

**s. 49**

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**PART 17 – POLICE POWERS (CONTROLLED  
OPERATIONS) ACT 2006 AMENDED**

**49. Principal Act**

In this Part, the *Police Powers (Controlled Operations) Act 2006*\* is referred to as the Principal Act.

**50. Section 32 amended (Inspection of records by inspection entity)**

Section 32(4) of the Principal Act is amended by omitting “31 July in each year” and substituting “3 months after the end of each financial year”.

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\*No. 21 of 2006

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

**s. 51**                      Part 18 – Police Powers (Surveillance Devices) Act 2006 Amended

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**PART 18 – POLICE POWERS (SURVEILLANCE  
DEVICES) ACT 2006 AMENDED**

**51. Principal Act**

In this Part, the *Police Powers (Surveillance Devices) Act 2006*\* is referred to as the Principal Act.

**52. Section 42 amended (Report on inspection)**

Section 42(1) of the Principal Act is amended by omitting “31 July in each year” and substituting “3 months after the end of each financial year”.

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\*No. 22 of 2006

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

Part 19 – Public Interest Disclosures Act 2002 Amended

s. 53

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**PART 19 – PUBLIC INTEREST DISCLOSURES ACT**  
**2002 AMENDED**

**53. Principal Act**

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

**54. Section 4 amended (Public bodies and officers)**

Section 4(1) of the Principal Act is amended by inserting after paragraph (g) the following paragraph:

(ga) the University of Tasmania;

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\*No. 16 of 2002

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

s. 55

Part 20 – Right to Information Act 2009 Amended

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**PART 20 – RIGHT TO INFORMATION ACT 2009  
AMENDED**

**55. Principal Act**

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

**56. Section 5 amended (Interpretation)**

Section 5(1) of the Principal Act is amended by  
inserting after paragraph (a) in the definition of  
*public authority* the following paragraph:

(ab) the University of Tasmania; or

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\*No. 70 of 2009



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Part 21 – Supreme Court Civil Procedure Act 1932 Amended

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**PART 21 – SUPREME COURT CIVIL PROCEDURE  
ACT 1932 AMENDED**

**57. Principal Act**

In this Part, the *Supreme Court Civil Procedure Act 1932*\* is referred to as the Principal Act.

**58. Section 186 amended (Establishment of district registries)**

Section 186(1) of the Principal Act is amended by omitting “any Court of Requests” and substituting “the Magistrates Court (Civil Division)”.

**59. Section 191A repealed**

Section 191A of the Principal Act is repealed.

**60. Section 191B amended (Effect of, and appeal from, orders of the Associate Judge)**

Section 191B of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) A party affected by an order or decision of the Associate Judge may, within such

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\*No. 58 of 1932

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Part 21 – Supreme Court Civil Procedure Act 1932 Amended

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time as is prescribed by the Rules of Court and subject to any conditions so prescribed, appeal –

- (a) from an interlocutory order or decision, to a judge sitting in chambers or in court; or
- (b) from any other judgment, order or decision, to the Full Court.

**61. Section 197 amended (Power of judges to make Rules of Court)**

Section 197(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (f) “determination and hearing” and substituting “hearing and determination”;
- (b) by inserting the following paragraph after paragraph (g):
  - (ga) Specifying, for the purposes of section 191B, which orders and decisions of the Associate Judge are to be regarded as interlocutory and which are not to be so regarded;

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**PART 22 – VICTIMS OF CRIME ASSISTANCE ACT  
1976 AMENDED**

**62. Principal Act**

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

**63. Section 7A amended (Recovery from offender)**

Section 7A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “shall make an” and substituting “is to make a provisional”;
- (b) by omitting subsections (3) and (4) and substituting the following subsections:
  - (3) The Commissioner must serve notice of a provisional order on the offender.
  - (4) An offender may, within 28 days after being served with notice of a provisional order, object to the order by sending a notice of objection to the address provided.
  - (4A) If the offender does not send a notice of objection, the

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\*No. 32 of 1976

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Part 22 – Victims of Crime Assistance Act 1976 Amended

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provisional order is to be confirmed by the Commissioner.

(4B) Notice of a provisional order is to –

- (a) set out the terms of the order; and
- (b) specify the date on which the award of compensation was made and the facts on which the award was based; and
- (c) specify the crime to which the order relates; and
- (d) state that the offender has 28 days in which to object to the order; and
- (e) state that, if the offender does not object within the time stated, the order will be confirmed by the Commissioner and will become a fine payable under the *Monetary Penalties Enforcement Act 2005*; and
- (f) state that, if the offender sends a notice of objection to the address provided within 28 days,

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Part 22 – Victims of Crime Assistance Act 1976 Amended

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the Commissioner will  
hear the offender as to  
why the order should not  
be confirmed; and

- (g) contain any other  
particulars that may be  
prescribed by regulation.
- (4C) A notice of objection must be in  
writing and must include a  
statement of the grounds of  
objection on which the defendant  
intends to rely.
- (4D) The Commissioner may confirm  
a provisional order without  
hearing the offender if satisfied  
that the offender has not sent a  
notice of objection within 28 days  
after notice of the provisional  
order was duly served on the  
defendant.
- (4E) If the offender files a notice of  
objection, the Commissioner  
must hear the offender before  
deciding whether the provisional  
order should be confirmed, varied  
or revoked.
- (4F) The Commissioner may confirm  
or vary a provisional order if  
satisfied that the offender has  
been convicted of an offence in

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Part 22 – Victims of Crime Assistance Act 1976 Amended

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respect of the criminal conduct which led to an application for the award of compensation being made.

- (4G) If the Commissioner confirms or varies a provisional order under this section, the order becomes a fine payable under the *Monetary Penalties Enforcement Act 2005*.
- (4H) The Commissioner may, when varying a provisional order, reduce the amount to be paid under the order having regard to –
  - (a) the financial means of the offender; and
  - (b) any other matters that the Commissioner considers to be relevant.
- (4I) The Commissioner must revoke a provisional order if he or she is not satisfied that the offender has been convicted of an offence in respect of the criminal conduct which led to an application for the award of compensation being made.
- (4J) The Commissioner is to provide a sealed copy of a confirmed or varied order by electronic means

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to the Director, Monetary  
Penalties Enforcement Service.

(4K) A sealed copy of a confirmed or varied order provided under subsection (4J) is to include the following:

- (a) the offender's full name and date of birth;
- (b) the offender's residential or postal address;
- (c) the amount of the order;
- (d) the date the order takes effect.

(c) by omitting from subsection (5) “pursuant to a judgment entered in accordance with subsection (3) shall” and substituting “under this section is to”.

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Part 23 – Legislation Revoked

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**PART 23 – LEGISLATION REVOKED**

**64. Legislation revoked**

The legislation specified in Schedule 1 is  
revoked.



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Part 24 – Repeal of Act

**s. 65**

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**PART 24 – REPEAL OF ACT**

**65. Repeal of Act**

This Act is repealed on the ninetieth day from the day on which it commences.

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**SCHEDULE 1 – LEGISLATION REVOKED**

Section 3

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 21 September 1909, p. 1203)

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 14 January 1913, p. 83)

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 18 March 1913, p. 746)

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 26 October 1920, p. 2204)

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 26 March 1929, p. 918)

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 7 May 1929, p. 1062)

Proclamation under the *Trustee Act 1898* (notified in the Tasmanian Government *Gazette* on 21 May 1929, p. 1340)

Proclamation under the *Trustee Act 1898* (S.R. 1959, No. 57)

Proclamation under the *Trustee Act 1898* (S.R. 1986, No. 304)

*Trustee (Authorized Investments) Order 1982* (S.R. 1982, No. 68)

*Trustee (Building Societies) Order 1989* (S.R. 1989, No. 165)

*Trustee (Authorized Investments) Order 1990* (S.R. 1990, No. 32)

*Trustee (Authorized Investments) Order 1993* (S.R. 1993, No. 81)

*Trustee (Building Societies) Order 1993* (S.R. 1993, No. 254)

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*Trustee (Building Societies) Order 1994* (S.R. 1994, No. 154)

*Trustee (Authorized Investments) Order 1994* (S.R. 1994, No. 212)