

CLAUSE NOTES

Justice and Related Legislation (Miscellaneous Amendments) Bill 2018

- Clause 1: Short Title.
- Clause 2: Commencement on Royal Assent.
- Clause 3: Principal Act – *Sentencing Amendment (Phasing Out of Suspended Sentences) Act 2017*.
- Clause 4: Amends section 14 of the Principal Act to insert a new subsection 2A into section 42AH & 42AI of the *Sentencing Act 1997*. The new subsection 2A allows for urgent applications for variation/cancellation of a home detention order where all parties agree or the court considers it appropriate to do so in the circumstances. It allows the court to hear the application in a shorter period of time and without service.
- Clause 5: Principal Act - *Sentencing Act 1997*
- Clause 6: Amends section 27M to recognise that offenders discharging drug treatment orders are workers for the purposes of the *Workers Rehabilitation and Compensation Act 1988* and the *Asbestos-Related Diseases (Occupation Exposure) Compensation Act 2011*.
- Clause 7: Amends section 82 to empower a judge to order a pre-sentence report for use in Supreme Court proceedings if an offender pleads guilty to an indictable offence before a summary jurisdiction and is committed for sentence in the Supreme Court.
- Clause 8: Principal Act – *Acts Interpretation Act 1931*.
- Clause 9: Amends section 8B to include clause notes in the definition of extrinsic material. Clause notes are a useful reference to explain the purpose of each clause in a Bill.
- Clause 10: Amends section 30 to cover persons who have a contract with Australia Post to pay for items posted on a monthly or other basis.
- Clause 11: Principal Act – *Bail Act 1994*.
- Clause 12: Amends section 5 to include conditions of bail in the new subsection 4(5) and 4(6) of the *Criminal Law (Detention and Interrogation) Act 1995*.
- Clause 13: Amends section 23 to include persons admitted to bail in the new subsection 4(5) and 4(6) of the *Criminal Law (Detention and Interrogation) Act 1995*.
- Clause 14: Principal Act – *Classification (Publications, Films and Computer Games) Enforcement Act 1995*.

- Clause 15: Amends section 77 to allow the court, if it considers material, to make an order to forfeit the electronic medium to which child exploitation material or a bestiality product is composed or stored to the Crown.
- Clause 16: Principal Act - *Coroners Act 1995*.
- Clause 17: Amends section 69 to require the Chief Magistrate's annual report to be prepared and submitted to the Minister for Justice.
- Clause 18: Principal Act - *Court Security Act 2017*.
- Clause 19: Inserts a new provision to allow a security officer to take a person into custody subject to an order or direction of the court to the contrary.
- Clause 20: Principal Act - *Criminal Code Act 1924*.
- Clause 21: Amends section 130F to allow the court, if it considers material, to make an order to forfeit the electronic medium to which child exploitation material or a bestiality product is composed or stored to the Crown.
- Amends section 301 to include the electronic transmission of certified copies of arrest warrants.
- Removes section 408 to better align current practices of the Court in relation to Appeal Books.
- Amends section 418 and 418A to empower a single judge or Associate Judge to make orders under section 409(1)(a) and (b) of the Criminal Code Act 1924.
- Clause 22: Principal Act - *Criminal Law (Detention and Interrogation) Act 1995*.
- Clause 23: Amends section 4 to allow police officers to care for intoxicated persons who have been arrested for an offence.
- Clause 24: Amends section 6(4) to permit multiple incommunicado requests and extensions to prevent evidence being lost or co-offenders still at large escaping justice.
- Clause 25: Principal Act - *Criminal Procedure (Attendance of Witnesses) Act 1996*.
- Clause 26: Amends the definition of 'criminal proceeding' in section 3 to remove the reference to section 380 of the *Criminal Code Act 1924*. Section 380 has been repealed.
- Amends the definition of 'criminal proceeding' in section 3 to include an application to a single judge or the Associate Judge under a provision of the *Criminal Code Act 1924*.

Amends the definition of 'criminal proceeding' in section 3 to make it clear that the definition of 'criminal proceeding' does not include an appeal or application to the Court of Criminal Appeal. The Court of Criminal Appeal has existing powers to require the production of documents and order witnesses to appear before it and give evidence.

- Clause 27: Amends section 5 to permit the Registrar of the Supreme Court to issue a preliminary notice at the request of any party to a criminal proceeding.
- Clause 28: Amends section 10 to permit the Registrar of the Supreme Court to issue a final notice at the request of any party to a criminal proceeding.
- Clause 29: Amends section 12 to recognise applications made by any party to a criminal proceeding. Consistent with the amendments to section 5 and 10.
- Clause 30: Omits the current subsection 13(1) and inserts a new subsection (1) to give the judge power to issue a warrant of arrest if the judge believes on reasonable grounds that the intended witness has failed or is likely to fail to attend the criminal proceeding.
- Clause 31: Principal Act - *Evidence Act 2001*.
- Clause 32: Amends section 160(1) to clarify that a postal article sent by prepaid post addressed to a person at a specified address in Australia or in an external Territory was received at that address on the seventh working day after having been posted.
- Clause 33: Principal Act - *Forensic Procedures Act 2000*.
- Clause 34: Amends the definition of 'serious offence' in section 3 to include the offence of evading police in section 11A of the *Police Powers (Vehicle Interception) Act 2000*.
- Clause 35: Principal Act - *Guardianship and Administration Act 1995*.
- Clause 36: Amends section 90 to give the Governor power to make regulations as to the waiving, and refunding, of any fee to be paid to the Board or part of any such fee.
- Clause 37: Principal Act - *Long Service Leave Act 1976*.
- Clause 38: Omits the current subsection 13(1) and inserts a new subsection (1) to place discretion on a referrer to be able to choose whether to refer to the Secretary in the first instance or to proceed directly to the Industrial Relations Commission.
- Clause 39: Principal Act - *Oaths Act 2001*.

- Clause 40: Amends Form 1 in Schedule 1 to add a 'contact phone number' field to the form for the purpose of being able to contact the person making the declaration where needed.
- Clause 41: Principal Act - *Registration to Work with Vulnerable People Act 2013*.
- Clause 42: Amends section 15(3)(c)(ii) by omitting 'registered' and substituting 'regulated'. A person is required to be registered to engage in a 'regulating activity' as defined in section 5 of the Act.
- Clause 43: Amends section 16A(2)(a) by omitting 'registered' and substituting 'regulated'. A person is required to be registered to engage in a 'regulating activity' as defined in section 5 of the Act.
- Clause 44: Amends section 17A(2)(a) by omitting 'registered' and substituting 'regulated'. A person is required to be registered to engage in a 'regulating activity' as defined in section 5 of the Act.
- Clause 45: Amends section 33 by omitting 'employment/volunteer' and substituting 'employee/volunteer' to be consistent with other sections in the Act.
- Clause 46: Amends section 41A by omitting 'employment/volunteer' and substituting 'employee/volunteer' to be consistent with other sections in the Act.
- Clause 47: Principal Act - *Trustee Companies Act 1953*
- Clause 48: Amends section 10A to omit 'amount or, if another amount is prescribed by the regulations, that other' to remove duplication.
- Clause 49: Principal Act - *Water Management Act 1999*.
- Clause 50: Amends section 3 to clarify that a body registered under the *Co-operatives National Law (Tasmania) Act 2015* is a 'water entity' for the purposes of the *Water Management Act 1999*.
- Clause 51: Amends section 100(2) by omitting 'section 97(1)(b)' and substituting 'section 12A'. Section 97(1)(b) has been repealed and the requirement to pay the fee in section 12A.
- Clause 52: Provides for the repeal of the *Long Service Leave (Casual Wharf Employees) Act 1982*. The Association of Employers of Waterside Labour is no longer in operation in Tasmania.
- Clause 53: Provides for the repeal of this amending Act after the amendments have been incorporated into the Principal Acts.