

## FACT SHEET

### *Justice and Related Legislation (Miscellaneous Amendments) Bill 2020*

This Bill contains a number of minor amendments to clarify or improve the operation of a number of pieces of legislation.

The Bill amends –

- a) The *Appeal Costs Fund Act 1968* to:
  - i. clarify section 5(2) so there is no distinction in fee payment between indictable offences, and indictable offences tried summarily and any other offence processed in the Magistrates Court, other than a conviction or order made in the Supreme Court; and
  - ii. allow the Court of Criminal Appeal to grant an indemnity certificate to an appellant who successfully appeals a conviction, except for where the person has received legal aid from the Legal Aid Commission of Tasmania in relation to the appeal;
- b) The *Constitution Act 1934* to provide that the oath of allegiance taken by members of the Tasmanian Parliament is deemed to relate to the Sovereign and their heirs and successors. This will make it clear that members are not required to take the oath again when a new Sovereign is appointed;
- c) Section 59B of the *Coroners Act 1995* to allow the Coroner to make orders in relation to the disposal or treatment of evidentiary material at their discretion, on application from the Commissioner of Police. The section retains the requirement for a photographic or audio-visual record of the evidentiary material, and where practicable samples, to be taken before an order of the Coroner can be actioned;
- d) The *Criminal Code* to:
  - i. expand the definition of "sentence" in relation to appeals by the Attorney-General under section 401 so that it applies to all the listed sentence options under the *Sentencing Act 1997*; and
  - ii. provide a power to the Court or a single judge to stay or suspend the operation of sentencing orders of all types pending the hearing and determination of a criminal appeal;
- e) Section 6 of the *Evidence (Audio and Audio Visual Links) Act 1999* to broaden the use of audio link and audio visual links to any purpose the court directs;

- f) The *Industrial Relations Act 1984* to:
- i. include a right of appeal where a former employee's application for termination of employment has been dismissed by the Industrial Relations Commission without a hearing under section 21 of the Act;
  - ii. enable the President, or other presiding member, sitting on the Full Bench of the Industrial Commission to make procedural orders or directions to facilitate the hearing of an appeal; and
  - iii. remove the two-step process to challenge a decision of the Full Bench of the Industrial Relations Commission and clarify that a person who wishes to challenge a decision of the Full Bench in respect of an appeal, may apply to the Supreme Court for review on an error of law;
- g) Section 12(2) of the *Oaths Act 2001* to reflect the requirements under the current Commonwealth *Statutory Declarations Regulations*.
- h) The *Police Offences Act 1935* to repeal section 15CA(2). This provision is now redundant as it relates to community service orders which are no longer made under Part 4 of the *Sentencing Act 1997*.
- i) Section 9 of the *Promissory Oaths Act 2015* to:
- a. replace references to the now repealed section 4 of the *Justices Act 1959*, with the current legislative provision which is section 5 of the *Justices of the Peace Act 2018*; and
  - b. repeal subsections (5) – (9) of section 9 as these provisions, which refer to 'extra-territorial justices' have become redundant since the commencement of the *Justices of the Peace Act 2018*.
- j) The *Sex Industry Offences Act 2005* to update the definition of 'sexually transmissible infection', consistent with the Macquarie Dictionary definition for 'sexually transmitted disease.' The definition also provides for other diseases to be added where they are identified as sexually transmissible.