

FACT SHEET

Justice and Related Legislation (Miscellaneous Amendments) Bill 2018

This Bill makes minor non-controversial amendments to eighteen Acts. The amendments arise from requests from various stakeholders to clarify or improve the operation of particular pieces of legislation.

The Bill amends –

- a) Section 42AH(2) and 42AI(2) of the *Sentencing Amendment (Phasing Out of Suspended Sentences) Act 2017* to allow the court to hear the application in a shorter period and without service;
- b) The *Sentencing Act 1997* to:
 - i. Recognise offenders discharging drug treatment orders as workers for the purposes of the *Workers Rehabilitation and Compensation Act 1988* and the *Asbestos-Related Diseases (Occupation Exposure) Compensation Act 2011* under section 36A; and
 - ii. Empower magistrates to order pre-sentence reports for use in Supreme Court proceedings in section 82;
- c) The *Acts Interpretation Act 1931* to:
 - i. Include clause notes in the definition of 'extrinsic material' in section 8B(3)(e); and
 - ii. Cover persons who have a contract with Australia Post to pay for items posted on a monthly or other basis in section 30(1).
- d) Section 5 and 23 of the *Bail Act 1994* to include persons who are admitted to bail under the new subsection 4(5) or 4(6) of the *Criminal Law (Detention and Interrogation) Act 1995*;
- e) Section 77 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* to allow the court, if it considers material which is the subject of a charge for an offence under Part 8 to be child exploitation material or a bestiality product, to order that the electronic medium be forfeited to the Crown and disposed of or destroyed in such manner as the Attorney-General directs;
- f) Section 69 of the *Coroners Act 1995* to require the Chief Magistrate's annual report to be provided to the Minister for Justice;
- g) Insert a provision in the *Court Security Act 2017* to give a security officer power to take someone into custody once a judicial officer pronounces a sentence of imprisonment, order of detention, remands a person in custody or declares a person to be a dangerous criminal under section 19 of the *Sentencing Act 1997*;

- h) The *Criminal Code Act 1924* to:
- i. Allow the court to order that the electronic medium which contains child exploitation material be forfeited to the Crown and disposed of or destroyed under section 130F;
 - ii. Include electronic transmission of certified copies of arrest warrants in section 301;
 - iii. Repeal section 408 to better align current practices of the Court in relation to Appeal Books; and
 - iv. Empower a single judge or the Associate Judge under section 418 and 418A to make orders under section 409(1)(a) and (b) of the *Criminal Code Act 1924*;
- i) The *Criminal Law (Detention and Interrogation) Act 1995* to:
- i. Add a similar provision to section 4A of the Police Offences Act 1935 into the *Criminal Law (Detention and Interrogation) Act 1995* to care for intoxicated persons who have been arrested for an offence; and
 - ii. Permit multiple incommunicado requests and extensions to prevent evidence being lost or co-offenders still at large escaping justice in section 6(6);
- j) The *Criminal Procedure (Attendance of Witnesses) Act 1996* to:
- i. Remove the reference to section 380 of the *Criminal Code Act 1924* in the definition of 'criminal proceeding' in section 3;
 - ii. Include an application to a single judge or the Associate Judge pursuant to a provision of the *Criminal Code Act 1924* in the definition of 'criminal proceeding' in section 3;
 - iii. Amend 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;
 - iv. Permit the Registrar of the Supreme Court to issue a preliminary notice or a final notice at the request of any party to a criminal proceeding in section 5(1) and 10(1);
 - v. Give the judges of the Supreme Court power to make an order for the arrest of a witness, the bringing of the witness before the Court to give evidence and the detention of the witness for that purpose, when, for any reason, the issue of such a warrant is considered necessary; and

- vi. Include a provision for an arrested witness to be released upon entering into a recognisance to appear and give evidence.
- k) Section 160 of the *Evidence Act 2001* 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 is taken to have been received at that address on the seventh working day after having been posted;
- l) Section 3 of the *Forensic Procedures Act 2000* to include the offence of evading police as a serious offence per section 11A of the *Police Powers (Vehicle Interception) Act 2000*;
- m) Section 90 of the *Guardianship and Administration Act 1995* to include a specific power for the registrar to waive fees;
- n) Section 13 of the *Long Service Leave Act 1976* 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;
- o) Form 1 in Schedule 1 of the *Oaths Act 2001* 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;
- p) The *Registration to Work with Vulnerable People Act 2013* to:
 - i. Refer to a class of 'employee/volunteer' in section 33 and 41A; and
 - ii. Refer to a 'regulated activity' in section 15, 16A and 17A;
- q) Section 10A of the *Trustee Companies Act 1953* to remove the phrase 'amount prescribed by the regulations';
- r) Section 3 of the *Water Management Act 1999* 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*;
- s) Repeal the *Long Service Leave (Casual Wharf Employees) Act 1982*. The Association of Employers of Waterside Labour is no longer in operation in Tasmania.