

CLAUSE NOTES

Justice and Related Legislation (Further Miscellaneous Amendments) Bill 2012

- Clause 1:** Short Title
- Clause 2:** Commencement Dates
- Clause 3:** Principal Act for Part 2 - *Acts Interpretation Act 1931*
- Clause 4:** Inserts a section in the Principal Act to clarify that where an Act provides the Governor with the power to fix the remuneration, expenses or other emoluments payable to the holder of an office a Minister or a person authorised in writing by the Governor may exercise this power in respect of any changes to the amounts set at the time of appointment.
- Clause 5:** Principal Act for Part 3 – *Australian Consumer Law (Tasmania) Act 2010*
- Clause 6:** Omits subsection 25(6) of the Principal Act
- Clause 7:** Principal Act for Part 4 – *Bail Act 1994*
- Clause 8:** Amends the definition of “appropriate officer” in section 3 of the Principal Act.
- Clause 9:** Inserts references to the Court of Criminal Appeal in section 7 of the Principal Act and clarifies subsection (2) of that section.

- Clause 10:** Amends section 10(1)(a) of the Principal Act to recognise that subsection (3A) allows a Crown Law Officer to give written notice to a person admitted to bail of the date that person is required to appear in court.
- Clause 11:** Inserts references to the Court of Criminal Appeal into section 11 of the Principal Act.
- Clause 12:** Substitutes a new section 12 in the Principal Act which includes reference to the Court of Criminal Appeal and recognises that subsection (3A) allows a Crown Law Officer to give written notice to a person admitted to bail of the date that person is required to appear in court.
- Clause 13:** Inserts references to the Court of Criminal Appeal into section 20 of the Principal Act.
- Clause 14:** Substitutes a new section 21 in the Principal Act to provide for collection of an amount forfeited under sections 19 or 20 as a fine imposed by the Court.
- Clause 15:** Inserts references to an appeal into section 24 of the Principal Act.
- Clause 16:** Principal Act for Part 5 – *Baptist Union Incorporation Act 1902*
- Clause 17:** Amends section 10A(2)(c) of the Principal Act to reflect the change of name of a professional body
- Clause 18:** Principal Act for Part 6 – *Building Act 2000*

- Clause 19:** Amends the definition of *Building Code of Australia* in section 3 of the Principal Act.
- Clause 20:** Clarifies section 266(2)(d) of the Principal Act
- Clause 21:** Principal Act for Part 7 – *Building and Construction Industry Security of Payment Act 2009*
- Clause 22:** Omits the definition of “business day” from section 4 of the Principal Act. The phrase is now defined in section 4A.
- Clause 23:** Principal Act for part 8 – *Community Protection (Offender Reporting) Act 2005*
- Clause 24:** Amends section 50A of the Principal Act to allow the prosecution to appeal against a decision not to make an offender reporting order.
- Clause 25:** Principal Act for Part 9 – *Conveyancing Act 2004*
- Clause 26:** Amends section 30(2)(a) of the Principal Act to reflect the change of name of a professional body
- Clause 27:** Principal Act for Part 10 – *Crime (Confiscation of Profits) Act 1993*
- Clause 28:** Inserts a new section 21A in the Principal Act to provide that a pecuniary penalty order made before 1 June 2011 and not paid within 60 days of the commencement of this Act is taken to be a fine within the meaning of the

Monetary Penalties Enforcement Act 2005 and may be enforced as such.

Clause 29: Updates a reference in section 79 of the Principal Act.

Clause 30: Principal Act for Part 11 – *Dangerous Goods (Road and Rail Transport) Act 2010*

Clause 31: Omits subsection 79(6) of the Principal Act.

Clause 32: Principal Act for Part 12 – *Energy Ombudsman Act 1998*

Clause 33: Amends section 3 of the Principal Act to omit the definition of “Director of Gas” and substitute a new definition of “Regulator”

Clauses 34 to 43: Omits references to the “Director of Gas” from sections 9A, 10, 19, 20, 27, 29, 32, 39, 39A and 39B of the Principal Act and substitutes a new subsection 39B(7) referring to the “Regulator”

Clause 44: Principal Act for Part 13 – *Environmental Management and Pollution Control Act 1994*

Clause 45: Repeals section 100A of the Principal Act

Clause 46: Principal Act for Part 14 – *Gaming Control Act 1993*

Clause 47: Omits subsection 172A (5) of the Principal Act

Clause 48: Principal Act for Part 15 – *Health Service Establishments Act 2006*

- Clause 49:** Omits subsection 55A (5) of the Principal Act
- Clause 50:** Principal Act for Part 16 – *Legal Profession Act 2007*
- Clause 51:** Adds a dismissal of a complaint after an investigation (section 451) or after a hearing (section 454(1)) to those matters taken to be a determination of the Board for the purpose of section 458.
- Clause 52:** Principal Act for Part 17 – *Listening Devices Act 1991*
- Clause 53:** Inserts a new subsection (2A) in section 5 of the Principal Act to include in the term “police officer” for the purpose of subsection (2)(e) a person appointed under Australian law to prevent or investigate offences.
- Clause 54:** Principal Act for Part 18 – *Litter Act 2007*
- Clause 55:** Omits section 17(11) of the Principal Act
- Clause 56:** Principal Act for Part 19 – *Local Government (Highways) Act 1982*
- Clause 57:** Corrects a section reference in section 100(7) of the Principal Act
- Clause 58:** Principal Act for Part 20 – *Monetary Penalties Enforcement Act 2005*
- Clause 59:** Amends section 3 of the Principal Act to insert a definition of “compensation order” and to omit “made by the Magistrates court” from paragraph (a)(ii) of the definition of fine

- Clause 60:** Amends section 27(2)(b) of the Principal Act to omit the words “imposed by the infringement notice”
- Clause 61:** Amends section 33 of the Principal Act to omit “alleged” from subsection (2) and to substitute a new subsection (4)
- Clause 62:** Inserts further words into section 34(2) of the Principal Act so that a Monetary Penalties Community Service Order (MPCSO) must include a notice to the effect that non-compliance with the order may result in its cancellation and the taking of other action to enforce payment.
- Clause 63:** Repeals section 36 of the Principal Act
- Clause 64:** Amends section 46 to include non-compliance with an MPCSO within the section.
- Clause 65:** Amends section 73 to include a public place as a place from where a conveyance may be seized and to provide that the Director may cancel an enforcement warrant at any time.
- Clause 66:** Amends section 111(b) to reflect the fact that all outstanding compensation orders may now be enforced under the Principal Act.
- Clause 67:** Principal Act for Part 21- *Motor Vehicle traders Act 2011*
- Clause 68:** Amends section 50 of the Principal Act to substitute “Magistrate” for “justice of the peace”.

- Clause 69:** Amends section 53 of the Principal Act to substitute “Director” for “Commissioner” and omit subsection (6).
- Clause 70:** Principal Act for Part 22 – *Occupational Licensing Act 2005*
- Clause 71:** Substitutes new sections 42 and 43 to provide that a contractor’s licence, as well as a practitioner’s licence, may be granted for a period not exceeding 3 years.
- Clause 72:** Principal Act for Part 23 – *Prepaid Funerals Act 2004*
- Clause 73:** Amends the definition of “auditor” in section 3 of the Principal Act to reflect the change of name of a professional body.
- Clause 74:** Principal Act for Part 24 – *Property Agents and Land Transactions Act 2005*
- Clause 75:** Amends the definition of “accountant” in section 3 of the Principal Act to reflect the change of name of a professional body.
- Clause 76:** Principal Act for Part 25 – *Rail Safety Act 2009*
- Clause 77:** Omits subsection 133(7) of the Principal Act
- Clause 78:** Principal Act for Part 26 – *Resource Management and Planning Appeal Tribunal Act 1993*
- Clause 79:** Amends section 14 to include the Board of the Environment Protection Authority as a party

to an appeal where the Board has required a condition or restriction be included in a permit or has directed the planning authority to refuse to grant a permit,.

Clause 80: Amends section 28 to substitute the word “proceedings” for “appeal” to give the Tribunal discretion to award costs even if it finds that it does not have jurisdiction to hear and determine a matter.

Provides that the amended provision will apply to any matters before the Tribunal on the day the new provision commences in respect of which no decision has been made as to costs.

Clause 81: Principal Act for Part 27 – *Security and Investigations Agents Act 2002*

Clause 82: Amends subparagraph 30(2)(a)(iii) of the Principal Act to reflect the change of name of a professional body.

Clause 83: Amends subparagraph 41(1)(d) to reflect the change of name of a professional body.

Clause 84: Principal Act for Part 28 – *Sentencing Act 1997*

Clauses 85, 86, 87 and 88 Amend sections 27, 36, 42 and 54A of the Principal Act to provide that a court may issue an arrest warrant where reasonable efforts have been made to serve an application under the relevant section, but service has not been possible because the offender’s whereabouts is unknown.

Clause 89: Omits subsection 68(2) of the Principal Act as the payment of all compensation orders will be

enforced under the *Monetary Penalties Enforcement Act 2005* which provides for the making of variation of payment notices to allow payment by instalments.

Clause 90: Amends section 69 of the Principal Act to reflect the fact that a compensation order made by the Supreme Court will now fall within the definition of “fine” in the *Monetary Penalties Enforcement Act* and will only need to be enforced by civil action if deemed uncollectable under section 109 of that Act.

Clause 91: Provides for the automatic repeal of this amending Act.