

TASMANIA

MAGISTRATES COURT (CRIMINAL AND GENERAL DIVISION) (CONSEQUENTIAL AMENDMENTS) BILL 2019

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**MAGISTRATES COURT (CRIMINAL AND
GENERAL DIVISION) (CONSEQUENTIAL
AMENDMENTS) BILL 2019**

*(Brought in by the Minister for Justice, the Honourable Elise
Nicole Archer)*

A BILL FOR

**An Act to consequentially amend certain Acts on the
enactment of the *Magistrates Court (Criminal and General
Division) Act 2019***

Be it enacted by Her 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 *Magistrates Court
(Criminal and General Division) (Consequential
Amendments) Act 2019*.

2. Commencement

This Act commences on the day on which the
*Magistrates Court (Criminal and General
Division) Act 2019* commences.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 3

Part 2 – Bail Act 1994 Amended

PART 2 – BAIL ACT 1994 AMENDED

3. Principal Act

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

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “clerk of petty sessions” from paragraph (b) of the definition of *appropriate officer* in subsection (1) and substituting “district registrar”;
- (b) by inserting the following definition after the definition of *appropriate officer* in subsection (1):

charge means an allegation of a summary offence, indictable offence or breach of duty;

- (c) by inserting the following definitions after the definition of *contravene* in subsection (1):

court attendance notice has the same meaning as in the *Magistrates*

*No. 9 of 1994

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 4

Court (Criminal and General Division) Act 2019;

district registrar means a person appointed to the office of district registrar, or deputy district registrar, under section 16A of the *Magistrates Court Act 1987*;

- (d) by omitting the definition of *restraint order* from subsection (1) and substituting the following definitions:

justice has the same meaning as in the *Justices of the Peace Act 2018*;

Magistrates Court (Criminal and General Division) means the division of the Magistrates Court of that name established by section 9 of the *Magistrates Court (Criminal and General Division) Act 2019*;

prosecutor has the same meaning as in the *Magistrates Court (Criminal and General Division) Act 2019*;

restraint order has the same meaning as in the *Restraint Orders Act 2019*;

summary offence has the same meaning as in the *Magistrates Court (Criminal and General Division) Act 2019*.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 5

Part 2 – Bail Act 1994 Amended

(e) by omitting subsection (2).

5. Section 4E inserted

Before section 5 of the Principal Act, the following section is inserted in Part 2:

4E. Power of certain officers to admit person to bail

(1) In this section –

family violence offence has the same meaning as in the *Family Violence Act 2004*;

family violence order has the same meaning as in the *Family Violence Act 2004*;

prescribed officer means –

(a) a police officer who, under section 14 of the *Criminal Law (Detention and Interrogation) Act 1995* –

(i) has been appointed as the custody officer for a designated police station, within the meaning of

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 5

section 13 of that
Act; or

(ii) is entitled to
perform and is
performing the
functions of a
custody officer at
such a designated
police station; or

(b) in the case of an offence
against the *Road Safety*
(Alcohol and Drugs) Act
1970, an approved
operator within the
meaning of section 3(5) of
that Act; or

(c) in the case of an offence
against the *Marine Safety*
(Misuse of Alcohol) Act
2006, a person who is an
approved operator within
the meaning of that Act;

protected person means a person –

(a) in relation to whom a
family violence offence is
alleged to have been
committed; or

(b) for whose benefit a
restraint order is sought or
was made;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 5

Part 2 – Bail Act 1994 Amended

restrained person means a person
taken into custody –

- (a) in relation to the alleged
commission of a family
violence offence; or
 - (b) to facilitate the making of
an application for a
restraint order; or
 - (c) in relation to an alleged
contravention of a
restraint order.
- (2) If a person has been taken into custody in
pursuance of a warrant issued under
section 12 by the Magistrates Court
(Criminal and General Division) in
respect of an offence or a breach of duty,
or to facilitate the making of an
application for a restraint order, a
prescribed officer is to –
- (a) inquire into the case; and
 - (b) admit that person to bail unless –
 - (i) the person is detained
under section 4 of the
*Criminal Law (Detention
and Interrogation) Act
1995*; or
 - (ii) there are reasonable
grounds for believing that

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 5

to do so would not be
desirable in the interests
of justice.

- (3) In determining whether there are reasonable grounds for believing that it would not be desirable in the interests of justice for a restrained person to be admitted to bail, the prescribed officer –
- (a) must consider the protection and welfare of the protected person to be of paramount importance; and
 - (b) must take into account any previous violence by the restrained person against the protected person or any other person, whether or not the restrained person was convicted of an offence, or had a prior family violence order or prior restraint order made against him or her, in respect of that previous violence; and
 - (c) must take into account whether a recognised DVO, within the meaning of the *Domestic Violence Orders (National Recognition) Act 2016*, or a restraint order, is in force in respect of that person.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 6

Part 2 – Bail Act 1994 Amended

- (4) If a person has been refused bail under this section, he or she may not appeal against that refusal.
- (5) A person who –
 - (a) is not detained under section 4 of the *Criminal Law (Detention and Interrogation) Act 1995*; but
 - (b) has been refused bail under this section –is to be taken before the Magistrates Court (Criminal and General Division) as soon as is reasonably practicable.

6. Section 5 amended (Police bail)

Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “section 34 of the *Justices Act 1959*” and substituting “section 4E of this Act”;
- (b) by inserting in subsection (1)(a) “(in this section referred to as a ***bail notice***)” after “notice”;
- (c) by omitting from subsection (1)(a) “justices;” and substituting “the Magistrates Court (Criminal and General Division);”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 6

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- (d) by omitting from subsection (2) “section 34 of the *Justices Act 1959*” and substituting “section 4E of this Act”;
 - (e) by omitting from subsection (2)(a) “justices” and substituting “the Magistrates Court (Criminal and General Division)”;
 - (f) by omitting from subsection (2)(a) “a notice referred to in subsection (1)(a);” and substituting “the bail notice;”;
 - (g) by omitting from subsection (2)(b) “justices” and substituting “the Magistrates Court (Criminal and General Division)”;
 - (h) by omitting from subsection (3)(b) “notice referred to in subsection (1)(a).” and substituting “bail notice.”;
 - (i) by omitting from subsection (3A)(c) “section 106B (1) of the *Justices Act 1959*.” and substituting “section 6(2) of the *Restraint Orders Act 2019*.”;
 - (j) by omitting from subsection (4) “notice referred to in subsection (1)(a)” and substituting “bail notice”;
 - (k) by inserting in subsection (4) “bail” after “the”;
 - (l) by omitting from subsection (5) “justices” first occurring and substituting

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 6

Part 2 – Bail Act 1994 Amended

- “the Magistrates Court (Criminal and General Division)”;
- (m) by omitting from subsection (5) “notice referred to in subsection (1)(a), the justices” and substituting “bail notice, that Court”;
 - (n) by omitting from subsection (5A) “notice referred to in subsection (1)(a)” and substituting “bail notice”;
 - (o) by inserting in subsection (5A) “bail” after “of the”;
 - (p) by omitting from subsection (5B) “a justice, the justices” and substituting “the Magistrates Court (Criminal and General Division), that Court”;
 - (q) by omitting from subsection (5B) “section 34A of the *Justices Act 1959*.” and substituting “section 18 of the *Magistrates Court (Criminal and General Division) Act 2019*.”;
 - (r) by omitting from subsection (6) “section 34 of the *Justices Act 1959*” and substituting “section 4E of this Act”;
 - (s) by omitting from subsection (6) “justices” and substituting “the Magistrates Court (Criminal and General Division)”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 7

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- (t) by inserting in subsection (6) “bail” after “specified in the”;
 - (u) by omitting from subsection (7) “clerk of petty sessions” and substituting “district registrar”;
 - (v) by inserting in subsection (7) “bail” after “in the”.

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

Section 7 of the Principal Act is amended as follows:

- (a) by omitting paragraphs (d) and (e) from subsection (1) and substituting the following paragraphs:
 - (d) a district registrar; or
 - (e) an officer of the Magistrates Court authorised by a district registrar for the purposes of this section; or
- (b) by omitting from subsection (3) “bail, except an order made under section 117A (2) of the *Justices Act 1959*,” and substituting “bail”.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 8

Part 2 – Bail Act 1994 Amended

8. Section 11 amended (Power of Magistrates Court (Criminal and General Division) to deal with arrested person)

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

- (a) by omitting “a justice, the justice” and substituting “the Magistrates Court (Criminal and General Division), that Court”;
- (b) by omitting from paragraph (a) “the *Justices Act 1959* –” and substituting “section 4E or under the *Magistrates Court (Criminal and General Division) Act 2019* –”;
- (c) by omitting from paragraph (b) “justice.” and substituting “Magistrates Court (Criminal and General Division).”.

9. Section 12 amended (Power of judge or Magistrates Court (Criminal and General Division) to issue warrant for arrest)

Section 12 of the Principal Act is amended by omitting “Court or a justice” and substituting “Court, or the Magistrates Court (Criminal and General Division).”.

10. Section 20 amended (Offences against this Act)

Section 20 of the Principal Act is amended as follows:

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 11

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- (a) by omitting “a justice,” and substituting “the Magistrates Court (Criminal and General Division),”;
 - (b) by omitting from paragraph (a) “justice;” and substituting “the Magistrates Court (Criminal and General Division),”;
 - (c) by omitting from paragraph (d) “justice” and substituting “the Magistrates Court (Criminal and General Division),”;
 - (d) by omitting “justice” fourth occurring and substituting “the Magistrates Court (Criminal and General Division)”.

11. Section 22 amended (Oral application for bail)

Section 22 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a justice” and substituting “the Magistrates Court (Criminal and General Division),”;
- (b) by omitting from subsection (2) “a justice” and substituting “the Magistrates Court (Criminal and General Division)”.

12. Section 23 amended (Application for bail or variation of conditions)

Section 23 of the Principal Act is amended as follows:

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 13

Part 2 – Bail Act 1994 Amended

- (a) by omitting from subsection (2) “justices,” first occurring and substituting “the Magistrates Court (Criminal and General Division)”;
- (b) by omitting from subsection (2)(a) “the justices,” and substituting “the Magistrates Court (Criminal and General Division),”;
- (c) by omitting from subsection (2)(b) “those justices.” and substituting “the Magistrates Court (Criminal and General Division).”;
- (d) by omitting from subsection (3) “section 34 of the *Justices Act 1959*” and substituting “this Act, the *Magistrates Court (Criminal and General Division) Act 2019*”;
- (e) by omitting from subsection (3) “justices” and substituting “the Magistrates Court (Criminal and General Division)”.

13. Section 24 amended (Application to revoke bail, &c.)

Section 24(3) of the Principal Act is amended as follows:

- (a) by omitting “justices,” first occurring and substituting “the Magistrates Court (Criminal and General Division),”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 14

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- (b) by inserting in paragraph (a) “or the applicant” after “charged”;
 - (c) by omitting from paragraph (a) “justices,” and substituting “Magistrates Court (Criminal and General Division),”;
 - (d) by omitting from paragraph (b) “those justices.” and substituting “the Magistrates Court (Criminal and General Division).”.

14. Section 26 amended (Arrest of person admitted to bail by person bound by recognizance)

Section 26 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “a justice.” and substituting “the Magistrates Court (Criminal and General Division).”;
- (b) by omitting from subsection (3) “a justice, the justice” and substituting “the Magistrates Court (Criminal and General Division), that Court”;
- (c) by omitting from subsection (3)(a) “*Justices Act 1959 –*” and substituting “*Magistrates Court (Criminal and General Division) Act 2019 –*”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 15

Part 2 – Bail Act 1994 Amended

- (d) by omitting from subsection (3)(b) “justice.” and substituting “Magistrates Court (Criminal and General Division).”.

15. Section 27A inserted

After section 27 of the Principal Act, the following section is inserted in Part 5:

27A. Prohibition on publishing accounts of bail proceedings

- (1) Despite anything in the *Defamation Act 2005*, a person must not publish, or cause or allow to be published, an account of proceedings on an application in respect of bail under any Act.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (2) Subsection (1) does not apply to –
 - (a) a report giving only the fact of the application and stating that an order has been made in relation to the application; or
 - (b) a report of proceedings in the Supreme Court or before a judge that is written as a law report; or
 - (c) an account of the proceedings that is published after the final determination of the charge for

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 2 – Bail Act 1994 Amended

s. 15

the offence which the applicant
for bail is then alleged to have
committed.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 16

Part 3 – Consumer Affairs Act 1988 Amended

PART 3 – CONSUMER AFFAIRS ACT 1988 AMENDED

16. Principal Act

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

17. Section 20 amended (Offences against this Act)

Section 20(1)(b) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (i) “matter of complaint arose;” and substituting “alleged offence occurred;”;
- (b) by omitting from subparagraph (ii) “matter of complaint” and substituting “alleged offence”.

18. Section 24A inserted

After section 24 of the Principal Act, the following section is inserted in Part V:

24A. Minister may set time limit for commencing proceedings for offences under this and other Act

- (1) The Minister, by order, may declare this Act or another Act, or a provision of this Act or another Act, to be an Act or provision to which section 80(1)(a) of the

*No. 53 of 1988

*Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019*

Part 3 – Consumer Affairs Act 1988 Amended

s. 18

Magistrates Court (Criminal and General Division) Act 2019 does not apply.

- (2) Proceedings for a summary offence –
 - (a) against an Act or provision that has been declared under subsection (1) to be an Act or provision to which 80(1)(a) of the *Magistrates Court (Criminal and General Division) Act 2019* does not apply; and
 - (b) that is not also an indictable offence referred to in Schedule 1 or Schedule 2 to the *Magistrates Court (Criminal and General Division) Act 2019* –

must be commenced within 3 years after the time when the alleged offence occurred, but not later than 6 months after the day on which the alleged offence came to the attention of the Director.

- (3) An order under subsection (1) is a statutory rule for the purposes of the *Rules Publication Act 1953*.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 19

Part 4 – Coroners Act 1995 Amended

PART 4 – CORONERS ACT 1995 AMENDED

19. Principal Act

In this Part, the *Coroners Act 1995** is referred to as the Principal Act.

20. Section 14 amended (Chief Clerk (Coroner’s Registrar))

Section 14 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Chief Clerk (Coronial Division)” and substituting “Coroner’s Registrar”;
- (b) by omitting from subsection (2) “Chief Clerk (Coronial Division)” and substituting “Coroner’s Registrar”;
- (c) by omitting from subsection (3) “Chief Clerk (Coronial Division)” and substituting “Coroner’s Registrar”.

21. Section 15 amended (Coroner’s associates)

Section 15(3) of the Principal Act is amended by omitting “clerk of petty sessions and a deputy clerk of petty sessions” and substituting “district registrar, and a deputy district registrar,

*No. 73 of 1995

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 4 – Coroners Act 1995 Amended

s. 22

appointed under section 16A of the *Magistrates Court Act 1987*".

22. Section 25 amended (Procedure at inquest where person charged with an offence)

Section 25 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) "justices" and substituting "the Magistrates Court (Criminal and General Division)";
- (b) by omitting from subsection (6) "clerk to the justices" and substituting "district registrar of the Magistrates Court (Criminal and General Division)".

23. Section 66 repealed

Section 66 of the Principal Act is repealed.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 24 Part 5 – Criminal Law (Detention and Interrogation) Act 1995 Amended

**PART 5 – CRIMINAL LAW (DETENTION AND
INTERROGATION) ACT 1995 AMENDED**

24. Principal Act

In this Part, the *Criminal Law (Detention and Interrogation) Act 1995** is referred to as the Principal Act.

25. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of *legal practitioner* the following definition:

Magistrates Court (Criminal and General Division) means the division of the Magistrates Court established by section 9 of the *Magistrates Court (Criminal and General Division) Act 2019*;

26. Section 4 amended (Detention of person in custody)

Section 4 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a magistrate or a justice” and substituting “the Magistrates Court (Criminal and General Division)”;

*No. 72 of 1995

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 5 – Criminal Law (Detention and Interrogation) Act 1995 Amended

s. 27

- (b) by omitting from subsection (1) “section 34 of the *Justices Act 1959*.” and substituting “section 4E of the *Bail Act 1994*.”;
- (c) by omitting from subsection (2)(b) “a magistrate or justice” first occurring and substituting “the Magistrates Court (Criminal and General Division)”;
- (d) by omitting from subsection (2)(b) “a magistrate or justice.” and substituting “that Court.”;
- (e) by omitting from subsection (3) “person mentioned in section 34 of the *Justices Act 1959*.” and substituting “prescribed officer, within the meaning of section 4E of the *Bail Act 1994*, and for that purpose section 4E(2), (3), (4) and (5) of that Act applies.”.

27. Section 6 amended (Right to communicate with friend, relative and legal practitioner)

Section 6 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “a magistrate” first occurring and substituting “the Magistrates Court (Criminal and General Division)”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 28 Part 5 – Criminal Law (Detention and Interrogation) Act 1995 Amended

- (b) by omitting from subsection (4) “a magistrate” second occurring and substituting “that Court”;
- (c) by omitting from subsection (6) “magistrate” first occurring and substituting “Magistrates Court (Criminal and General Division)”;
- (d) by omitting from subsection (6) “the magistrate” second occurring and substituting “that Court”.

28. Section 7 amended (Orders made by telephone)

Section 7 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “a magistrate” and substituting “the Magistrates Court (Criminal and General Division)”;
- (b) by omitting from subsection (2) “A magistrate” and substituting “The Magistrates Court (Criminal and General Division)”;
- (c) by omitting from subsection (3) “A magistrate” and substituting “The Magistrates Court (Criminal and General Division)”;
- (d) by omitting from subsection (3) “the magistrate” and substituting “that Court”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 5 – Criminal Law (Detention and Interrogation) Act 1995 Amended

s. 28

- (e) by omitting from subsection (3) “a magistrate” and substituting “it”;
- (f) by omitting from subsection (4) “A magistrate who” and substituting “If the Magistrates Court (Criminal and General Division)”;
- (g) by omitting from subsection (4)(c) “a magistrate” and substituting “the Magistrates Court (Criminal and General Division)”;
- (h) by omitting from subsection (5)(b) “magistrate by whom, and the date and time when,” and substituting “magistrate, bench justice or authorised justice who constituted the Magistrates Court (Criminal and General Division which made the order, and the date on which”.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 29

Part 6 – Family Violence Act 2004 Amended

PART 6 – FAMILY VIOLENCE ACT 2004 AMENDED

29. Principal Act

In this Part, the *Family Violence Act 2004** is referred to as the Principal Act.

30. Section 4 amended (Interpretation)

Section 4 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Chief Clerk of Petty Sessions*;
- (b) by inserting the following definition after the definition of *Director, MPES*:

district registrar means a person appointed as a district registrar, or deputy district registrar, under section 16A of the *Magistrates Court Act 1987*;

31. Section 5 amended (Meaning of “court”)

Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a court of summary jurisdiction within the meaning of the *Justices Act 1959*.” and

*No. 67 of 2004

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 6 – Family Violence Act 2004 Amended

s. 32

substituting “the Magistrates Court
(Criminal and General Division).”;

(b) by omitting subsection (2) and
substituting the following subsection:

(2) The court when constituted by
one or more bench justices,
within the meaning of the
*Magistrates Court (Criminal and
General Division) Act 2019*, may
only exercise jurisdiction in
relation to a proceeding under
this Act –

(a) in accordance with
section 11 of that Act; or

(b) if the rules of court
referred to in section 162
of that Act prescribe that
one or more such bench
justices may exercise
jurisdiction in relation to
that proceeding.

**32. Section 9A amended (Limitation period for offences
under section 8 or 9)**

Section 9A of the Principal Act is amended as
follows:

(a) by omitting “A complaint” and
substituting “Proceedings”;

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(Consequential Amendments) Act 2019
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Part 6 – Family Violence Act 2004 Amended

- (b) by omitting “made against a person” and substituting “commenced”;
- (c) by omitting “matter of complaint” and substituting “charge for the offence”.

33. Section 11 amended (Arrest and detention)

Section 11(2) of the Principal Act is amended by omitting “section 34 of the *Justices Act 1959*.” and substituting “section 4E of the *Bail Act 1994*.”.

34. Section 12 amended (Bail)

Section 12(3) of the Principal Act is amended by omitting “Section 34 of the *Justices Act 1959*” and substituting “Section 4E of the *Bail Act 1994*”.

35. Section 13B amended (Effect of failure to submit evidence)

Section 13B(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “a court of summary jurisdiction” and substituting “the court”;
- (b) by omitting from paragraph (b) “a court of summary jurisdiction or on indictment –” and substituting “the court or the Supreme Court –”.

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(Consequential Amendments) Act 2019
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Part 6 – Family Violence Act 2004 Amended

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36. Section 13C amended (Limited liability of affected person for instigating, &c., breach of protection order)

Section 13C(1) of the Principal Act is amended by omitting “section 73 of the *Justices Act 1959*,” and substituting “section 94 of the *Magistrates Court (Criminal and General Division) Act 2019*,”.

37. Section 14 amended (Chief Clerk (Coroner’s Registrar))

Section 14(2) of the Principal Act is amended by omitting “Chief Clerk of Petty Sessions.” and substituting “district registrar.”.

38. Section 24 amended (Alternative orders)

Section 24 of the Principal Act is amended by omitting “section 106B(1) of the *Justices Act 1959*, make an order in accordance with Part XA of that Act.” and substituting “section 6(2) of the *Restraint Orders Act 2019*, make a restraint order under that Act.”.

39. Section 25A amended (Powers of court to remand in custody, admit to bail, &c.)

Section 25A(1)(c) of the Principal Act is amended as follows:

- (a) by omitting “issue a summons to the respondent to the application” and

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(Consequential Amendments) Act 2019
Act No. of 2019

s. 40

Part 6 – Family Violence Act 2004 Amended

substituting “make an order to attend, within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*,”;

- (b) by omitting “summons,” and substituting “order to attend,”.

40. Section 26 amended (Application for registration of external family violence order)

Section 26(1) of the Principal Act is amended by omitting “the Clerk of Petty Sessions” and substituting “a district registrar”.

41. Section 27 amended (Registration of external family violence order)

Section 27 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Clerk of Petty Sessions” and substituting “district registrar”;
- (b) by omitting from subsection (3) “The Clerk of Petty Sessions” and substituting “A district registrar”;
- (c) by omitting from subsection (4) “Clerk of Petty Sessions” and substituting “district registrar”.

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(Consequential Amendments) Act 2019
Act No. of 2019

Part 6 – Family Violence Act 2004 Amended

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42. Section 31 amended (Procedure in relation to hearing and determining applications)

Section 31(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a)(ii) “a complaint for a simple offence;” and substituting “a charge for an offence is heard and determined under the *Magistrates Court (Criminal and General Division) Act 2019*;”;
- (b) by omitting from paragraph (b) “a complainant.” and substituting “a prosecutor under the *Magistrates Court (Criminal and General Division) Act 2019*.”.

43. Section 35 amended (Contravention of FVO or PFVO)

Section 35(3) of the Principal Act is amended by omitting “complaint” and substituting “charge sheet, within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*,”.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 44

Part 7 – Magistrates Court Act 1987 Amended

PART 7 – MAGISTRATES COURT ACT 1987
AMENDED

44. Principal Act

In this Part, the *Magistrates Court Act 1987** is referred to as the Principal Act.

45. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of *Administrator of the Magistrates Court*:

authorised justice means a justice who has been authorised under section 13(1) of the *Magistrates Court (Criminal and General Division) Act 2019*;

bench justice has the same meaning as in the *Magistrates Court (Criminal and General Division) Act 2019*;

- (b) by inserting the following definitions after the definition of *Deputy Chief Magistrate*:

*No. 45 of 1987

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 7 – Magistrates Court Act 1987 Amended

s. 46

deputy district registrar means a person appointed as a deputy district registrar under section 16A(1);

district registrar means a person appointed as a district registrar under section 16A(1);

- (c) by omitting paragraph (b) from the definition of *lower courts*.

46. Section 3A amended (Creation of the Magistrates Court)

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

- (3) The Magistrates Court consists of –
- (a) the Chief Magistrate, the Deputy Chief Magistrate and the magistrates; and
 - (b) coroners appointed under the *Coroners Act 1995* when constituting the Magistrates Court (Coronial Division); and
 - (c) bench justices when constituting the Magistrates Court (Criminal and General Division); and

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

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Part 7 – Magistrates Court Act 1987 Amended

(d) authorised justices when constituting the Magistrates Court (Criminal and General Division).

(4) In subsection (3) –

Magistrates Court (Coronial Division) means the division established by section 5 of the *Coroners Act 1995*;

Magistrates Court (Criminal and General Division) means the division established by section 9 of the *Magistrates Court (Criminal and General Division) Act 2019*.

47. Section 10A amended (Immunities)

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

- (a) by inserting “coroner, bench justice or authorised justice,” after “A magistrate,”;
- (b) by inserting “coroner, bench justice or authorised justice,” after “of magistrate,”.

48. Section 10B amended (Magistrates, &c., not required to give evidence in certain cases)

Section 10B of the Principal Act is amended as follows:

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(Consequential Amendments) Act 2019
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Part 7 – Magistrates Court Act 1987 Amended

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- (a) by omitting “magistrate” first occurring and substituting “magistrate, coroner, bench justice or authorised justice”;
- (b) by omitting “the magistrate’s” and substituting “his or her”;
- (c) by omitting “magistrate.” and substituting “magistrate, coroner, bench justice or authorised justice.”.

49. Section 13 amended (Jurisdiction and powers of magistrates)

Section 13 of the Principal Act is amended by omitting subsection (2).

50. Section 15 amended (Arrangement of business of courts, and administrative matters)

Section 15 of the Principal Act is amended as follows:

- (a) by inserting in subsection (5) “bench justice, authorised” after “magistrate,”;
- (b) by omitting from subsection (7) “magistrates and between other” and substituting “magistrates, the coroners, the bench justices and the authorised”;
- (c) by inserting the following subsections after subsection (8):

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(Consequential Amendments) Act 2019
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Part 7 – Magistrates Court Act 1987 Amended

- (9) The Magistrates Court may sit and act at any time on any day, including a statutory holiday within the meaning of the *Statutory Holidays Act 2000*.
- (10) The Magistrates Court is to sit at such times and places as the Chief Magistrate directs.
- (11) The Chief Magistrate may vary or revoke a direction made under subsection (10).

51. Section 15AAA inserted

After section 15 of the Principal Act, the following section is inserted in Part II:

15AAA. Persons allowed in courtroom

- (1) Subject to this Act and any other Act, the room or place in which the Magistrates Court sits is an open and public court to which all persons may have access so far as it can conveniently contain them.
- (2) If at any time during proceedings the Magistrates Court considers it appropriate, the Magistrates Court may order all or any members of the public or all or any witnesses, other than the witness being examined or a party to the proceedings, to leave the room or place in which the Court is sitting and remain

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(Consequential Amendments) Act 2019
Act No. of 2019

Part 7 – Magistrates Court Act 1987 Amended

s. 51

outside that room or place and beyond the proceedings of the Court until permitted to re-enter.

- (3) Without limiting the reasons for which the Magistrates Court may make an order under subsection (2), the Magistrates Court may make such an order for any of the following reasons:
- (a) to ensure that the national or international security of Australia is not endangered;
 - (b) to ensure that the administration of justice is not prejudiced;
 - (c) to ensure that the physical safety of any person is not endangered;
 - (d) to prevent undue distress or embarrassment to an affected person, within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*;
 - (e) to prevent undue distress or embarrassment to a witness under examination in a proceeding that relates to a charge for an offence against an affected person, within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*.

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(Consequential Amendments) Act 2019
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Part 7 – Magistrates Court Act 1987 Amended

- (4) If at any time during proceedings the Magistrates Court considers that the behaviour of a party to the proceedings is significantly hindering the Court's capacity to carry out its functions and duties, the Magistrates Court may order that party to leave the room or place in which the Court is sitting and remain outside that room or place and beyond the proceedings of the Court until permitted by the Court to re-enter.
- (5) If the Magistrates Court, other than the Magistrates Court when constituted by a coroner, excludes a party to the proceedings from a room or place under subsection (4), it must arrange for the excluded party to be provided with a means of hearing and observing the proceedings from another room or place unless it is not practicable to provide those means.
- (6) Except as provided in subsection (4), a party to proceedings may not be excluded from the room or place in which the Magistrates Court is sitting.
- (7) If a person wilfully disobeys an order under subsection (2) or (4), the person is guilty of contempt of the Magistrates Court and may be punished as provided in section 17A.

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(Consequential Amendments) Act 2019
Act No. of 2019

Part 7 – Magistrates Court Act 1987 Amended

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52. Section 15AB amended (Professional development)

Section 15AB(1) of the Principal Act is amended by omitting “magistrates, the other justices” and substituting “magistrates”.

53. Section 15AE amended (Committee may make rules of court)

Section 15AE(1) of the Principal Act is amended by omitting paragraph (b).

54. Section 15A substituted

Section 15A of the Principal Act is repealed and the following section is substituted:

15A. District registries

- (1) A district registry is established for each of the following areas of Tasmania:
 - (a) the northern region;
 - (b) the north-western region;
 - (c) the southern region.
- (2) The regulations may do any one or more of the following:
 - (a) establish a district registry for any area of Tasmania;
 - (b) revoke the establishment of a district registry, whether

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Part 7 – Magistrates Court Act 1987 Amended

established under subsection (1)
or by the regulations;

- (c) redefine the area for which a district registry has been established if the district registry was established by the regulations.

55. Section 17 amended (Delegation)

Section 17 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2) “under this or any other Act” after “the Administrator”;
- (b) by inserting the following subsection after subsection (2):
 - (2A) A district registrar may, by instrument in writing, delegate to a person employed in the Department the performance and exercise of such of the functions and powers of the district registrar under this or any other Act (other than this power of delegation) as are specified in the instrument, and may, by instrument in writing, revoke wholly or in part any such delegation.

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Part 7 – Magistrates Court Act 1987 Amended

s. 56

- (c) by omitting from subsection (5) “Magistrate or the Administrator,” and substituting “Magistrate, Administrator or district registrar,”;
- (d) by omitting from subsection (6) “Magistrate or the Administrator,” twice occurring and substituting “Magistrate, Administrator or district registrar,”.

56. Section 17A amended (Contempt of Court)

Section 17A(1) of the Principal Act is amended as follows:

- (a) by omitting “3 months” and substituting “12 months”;
- (b) by omitting “5 penalty units.” and substituting “20 penalty units.”.

57. Section 17AB inserted

After section 17A of the Principal Act, the following section is inserted in Part IV:

17AB. Power to control process

The Magistrates Court has the same powers to control its process as the Supreme Court.

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(Consequential Amendments) Act 2019
Act No. of 2019

s. 58

Part 8 – Police Offences Act 1935 Amended

PART 8 – POLICE OFFENCES ACT 1935 AMENDED

58. Principal Act

In this Part, the *Police Offences Act 1935** is referred to as the Principal Act.

59. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *body armour*:

charge sheet has the same meaning as in the *Magistrates Court (Criminal and General Division) Act 2019*;

- (b) by omitting the definition of *court* and substituting the following definitions:

court means –

- (a) in relation to any proceedings relating to an offence, the Magistrates Court (Criminal and General Division) or the Magistrates Court (Youth Justice Division); or

*No. 44 of 1935

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 8 – Police Offences Act 1935 Amended

s. 59

- (b) in relation to proceedings on a civil matter, a court of summary jurisdiction having jurisdiction in relation to those proceedings;

court attendance notice has the same meaning as in the *Magistrates Court (Criminal and General Division) Act 2019*;

- (c) by inserting the following definition after the definition of *data*:

district registrar means a district registrar appointed under section 16A of the *Magistrates Court Act 1987*;

- (d) by inserting the following definitions after the definition of *liquor infringement notice*:

Magistrates Court (Criminal and General Division) means the division of the Magistrates Court established by section 9 of the *Magistrates Court (Criminal and General Division) Act 2019*;

Magistrates Court (Youth Justice Division) means the division of the Magistrates Court established by section 159 of the *Youth Justice Act 1997*;

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(Consequential Amendments) Act 2019
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s. 60

Part 8 – Police Offences Act 1935 Amended

(e) by omitting the following item

any police office or police station, or any court-house or court of petty sessions, or any yard or enclosure used therewith respectively, to which the public have access;

from the definition of *public place* and
substituting the following item:

any police office or police station, or any court-house or building connected with the sittings or administration of the Magistrates Court or any division of the Magistrates Court, or any yard or enclosure used therewith respectively, to which the public have access;

60. Section 13 amended (Public annoyance)

Section 13(3D) of the Principal Act is amended as follows:

- (a) by omitting “a magistrate” and substituting “the Magistrates Court (Criminal and General Division) or Magistrates Court (Youth Justice Division)”;
- (b) by omitting “the magistrate” and substituting “that Court”.

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(Consequential Amendments) Act 2019
Act No. of 2019

Part 8 – Police Offences Act 1935 Amended

s. 61

61. Section 14B amended (Unlawful entry on land)

Section 14B(3) of the Principal Act is amended as follows:

- (a) by omitting “or one of the justices”;
- (b) by omitting “complainant.” and substituting “relevant owner, occupier or person in charge of the land, building, structure, premises, aircraft, vehicle or vessel.”.

62. Section 15E amended (Body armour)

Section 15E(6)(e) of the Principal Act is amended by omitting “under Part XA of the *Justices Act 1959*,” and substituting “within the meaning of the *Restraint Orders Act 2019*,”.

63. Section 17 amended (Chimneys on fire)

Section 17(2) of the Principal Act is amended by omitting “any complaint” and substituting “an offence”.

64. Section 20D amended (Official warnings)

Section 20D(6)(a)(iii) of the Principal Act is amended by omitting “a magistrate” and substituting “the Magistrates Court (Administrative Appeals Division)”.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 65

Part 8 – Police Offences Act 1935 Amended

65. Section 35 amended (Common assault and aggravated assault)

Section 35 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “on a complaint under subsection (3)”;
- (b) by inserting in subsection (4) “referred to in subsection (3)” after “the assault”;
- (c) by omitting from subsection (4) “complaint” second occurring and substituting “offence specified in the charge sheet”;
- (d) by omitting from subsection (5) “A complaint made for the purposes of the *Justices Act 1959*” and substituting “Proceedings”;
- (e) by omitting from subsection (5) “is to be made” and substituting “are to be commenced”.

66. Section 36 amended (Injury by driving, &c.)

Section 36 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “Part VII of the *Justices Act 1959*.” and substituting “Part 9 of the *Magistrates Court (Criminal and General Division) Act 2019*.”;

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(Consequential Amendments) Act 2019
Act No. of 2019

Part 8 – Police Offences Act 1935 Amended

s. 67

- (b) by omitting from subsection (3) “one of the justices” and substituting “the court”.

67. Section 37 amended (Offences relating to property)

Section 37(6) of the Principal Act is amended as follows:

- (a) by omitting “A complaint made for the purposes of the *Justices Act 1959*” and substituting “Proceedings”;
- (b) by omitting “is to be made” and substituting “are to be commenced”.

68. Section 37AAA amended (Interference with war memorials)

Section 37AAA(3) of the Principal Act is amended as follows:

- (a) by omitting “A complaint made for the purposes of the *Justices Act 1959*” and substituting “Proceedings”;
- (b) by omitting “is to be made” and substituting “are to be commenced”.

69. Section 37AA amended (Unlawfully setting fire to property)

Section 37AA(3) of the Principal Act is amended as follows:

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(Consequential Amendments) Act 2019
Act No. of 2019

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Part 8 – Police Offences Act 1935 Amended

- (a) by omitting “A complaint made for the purposes of the *Justices Act 1959*” and substituting “Proceedings”;
- (b) by omitting “is to be made” and substituting “are to be commenced”.

70. Section 37A amended (Interpretation)

Section 37A of the Principal Act is amended by omitting “a court held by a magistrate sitting alone in petty session;” from the definition of *court of summary jurisdiction* and substituting “the Magistrates Court (Criminal and General Division), or Magistrates Court (Youth Justice Division), when constituted by a single magistrate;”.

71. Section 37B amended (Motor vehicle stealing)

Section 37B of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “A complaint made for the purposes of the *Justices Act 1959*” and substituting “Proceedings”;
- (b) by omitting from subsection (3) “is to be made” and substituting “are to be commenced”;
- (c) by omitting from subsection (4)(b) “Part VII of the *Justices Act 1959*.” and substituting “Part 9 of the *Magistrates*

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 8 – Police Offences Act 1935 Amended

s. 72

Court (Criminal and General Division)
Act 2019.”.

72. Section 37K amended (Interpretation of Division)

Section 37K(1) of the Principal Act is amended by omitting “Magistrates Court;” from the definition of *Court* and substituting “Magistrates Court (Criminal and General Division) or Magistrates Court (Youth Justice Division);”.

73. Section 37O amended (Period of clamping or confiscation for first prescribed offence)

Section 37O(1) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) no proceedings have been commenced previously under the *Magistrates Court (Criminal and General Division) Act 2019* in respect of a prescribed offence.

74. Section 37P amended (Period of clamping or confiscation for second prescribed offence)

Section 37P(1) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) proceedings have been commenced previously under the *Magistrates Court (Criminal and General Division) Act*

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 75

Part 8 – Police Offences Act 1935 Amended

2019 in respect of a prescribed offence
on one occasion.

**75. Section 37Q amended (Period of clamping or
confiscation for third or subsequent prescribed
offence)**

Section 37Q of the Principal Act is amended as
follows:

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

(b) proceedings have been
commenced previously under the
*Magistrates Court (Criminal and
General Division) Act 2019* in
respect of a prescribed offence on
2 or more occasions.

(b) by omitting paragraph (b) from
subsection (3) and substituting the
following paragraph:

(b) if –

(i) the person is found guilty
of the new prescribed
offence; and

(ii) proceedings have been
commenced previously
under the *Magistrates
Court (Criminal and*

*Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019*

Part 8 – Police Offences Act 1935 Amended

s. 76

*General Division) Act
2019 in respect of 2 or
more offences under
section 11A of the Police
Powers (Vehicle
Interception) Act 2000 –*

the vehicle used in connection
with the new prescribed offence
is forfeited to the Crown and the
Commissioner may sell or
dispose of the vehicle, and
anything in or on it, in a way the
Commissioner considers
appropriate.

76. Section 37Y amended (Application for forfeiture of vehicles)

Section 37Y(2) of the Principal Act is amended
by omitting “complaint” and substituting
“charge”.

77. Section 44A amended (False reports to police)

Section 44A of the Principal Act is amended as
follows:

- (a) by omitting from subsection (2) “the complainant,” and substituting “the person who instituted the proceedings,”;

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(Consequential Amendments) Act 2019
Act No. of 2019

s. 78

Part 8 – Police Offences Act 1935 Amended

- (b) by omitting from subsection (2) “the complainant” second occurring and substituting “that person”;
- (c) by omitting from subsection (3) “complainant under this section” and substituting “a person under subsection (2)”.

78. Section 55 amended (Arrest)

Section 55 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “summons.” and substituting “the issue of a court attendance notice.”;
- (b) by omitting from subsection (2E) “Part XA of the *Justices Act 1959*” and substituting “the *Restraint Orders Act 2019*”.

79. Section 58 amended (Search of persons for poison)

Section 58(2) of the Principal Act is amended by omitting “justice” and substituting “court”.

80. Section 65 amended (Power of court upon neglect to prosecute)

Section 65 of the Principal Act is amended as follows:

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(Consequential Amendments) Act 2019
Act No. of 2019

Part 8 – Police Offences Act 1935 Amended

s. 81

- (a) by omitting “laid any complaint” and substituting “commenced proceedings”;
- (b) by omitting “such complaint,” twice occurring and substituting “the proceedings,”;
- (c) by omitting “take” and substituting “commence”.

81. Section 66 amended (Provision relating to determination of certain questions by courts)

Section 66(1) of the Principal Act is amended by omitting “held before a” and substituting “constituted by a”.

82. Section 67 amended (Averment of age *prima facie* proof)

Section 67 of the Principal Act is amended by omitting “complaint” and substituting “charge sheet”.

83. Section 67A amended (Evidentiary provision)

Section 67A of the Principal Act is amended as follows:

- (a) by omitting “complaint –” and substituting “charge sheet –”;

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 84

Part 8 – Police Offences Act 1935 Amended

- (b) by omitting from paragraph (a) “complaint” and substituting “charge sheet”;
- (c) by omitting from paragraph (b) “complaint” and substituting “charge sheet”.

84. Section 69 amended (Disposal of property forfeited to Crown)

Section 69(1) of the Principal Act is amended by omitting “court or justices,” and substituting “court,”.

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

Part 9 – Supreme Court Civil Procedure Act 1932 Amended

s. 85

**PART 9 – SUPREME COURT CIVIL PROCEDURE ACT
1932 AMENDED**

85. Principal Act

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

86. Section 9 amended (Application of Act)

Section 9 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(d) “Part XI of the *Justices Act 1959*.” and substituting “Part 12 of the *Magistrates Court (Criminal and General Division) Act 2019*.”;
- (b) by omitting from subsection (2) “a court of summary jurisdiction” and substituting “the Magistrates Court (Criminal and General Division) established by section 9 of the *Magistrates Court (Criminal and General Division) Act 2019*”.

*No. 58 of 1932

Magistrates Court (Criminal and General Division)
(Consequential Amendments) Act 2019
Act No. of 2019

s. 87

Part 10 – Repeal of Act

PART 10 – REPEAL OF ACT

87. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commences.