

## CLAUSE NOTES

### *Magistrates Court (Criminal and General Division) (Consequential Amendments) Bill 2019*

#### PART 1 – PRELIMINARY

##### Clause 1: Short title

Cites the Act as the *Magistrates Court (Criminal and General Division) (Consequential Amendments) Act 2019*.

##### Clause 2: Commencement

Provides for the Bill to commence on the same day as the *Magistrates Court (Criminal and General Division) Act 2019* commences.

#### PART 2 – BAIL ACT 1994 AMENDED

##### Clause 3: Principal Act

Cites the *Bail Act 1994* as the Principal Act which is amended.

##### Clause 4: Section 3 amended (Interpretation)

Amends section 3 of the Principal Act by substituting “clerk of petty sessions” with “district registrar” in the definition of ‘appropriate officer’.

Inserts new definitions for “charge”, “court attendance notice” and “district registrar” in the Principal Act.

Removes the definition of “restraint order” in the Principal Act and substitutes definitions for ‘justice’, “Magistrates Court (Criminal and General Division)”, “prosecutor”, “restraint order” and “summary offence” to reflect the new regime.

Removes subsection (2) of section 3 which is an unnecessary provision which states that references in the Principal Act to justices are taken to include references to a magistrate.

##### Clause 5: Section 4E Inserted – Power of certain officers to admit person to bail

Inserts a new section 4E including new definitions for “family violence offence”, “family violence order”, “prescribed officer”, “protected person” and “restrained person” in the new section 4E of the Principal Act.

A “prescribed officer” is:

- a police officer who has been appointed as the custody officer or who is entitled to perform and is performing the functions of a custody officer at a designated police station; or
- an approved operator within the meaning of section 3(5) of the *Road Safety (Alcohol and Drugs) Act 1970* or the *Marine Safety (Misuse of Alcohol) Act 2006*, in the case of an offence against those respective Acts.

Provides that if a person is in custody pursuant to a warrant issued under section 12 of the Principal Act by the Magistrates Court (Criminal and General Division) in relation to an offence, for a breach of duty or to make a restraint order, a prescribed officer is to make inquiries into the case and admit the person to bail, unless the person is detained under section 4 of the *Criminal Law (Detention and Interrogation) Act 1995* or there are reasonable grounds to believe that it would not be in the interests of justice to bail them.

Provides that the prescribed officer, in deciding whether there are reasonable grounds to believe that it is not in the interests of justice to bail the restrained person:

- must consider the protection and welfare of the protected person to be of paramount importance; and
- 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, had a prior family violence order or restraint order made against him or her; and
- must take into account whether a recognised domestic violence order as defined in the *Domestic Violence Orders (National Recognition) Act 2016* or restraint order is in force in relation to that person.

Provides that a person who has been refused bail under this section may not appeal against the refusal to grant bail.

Provides that if a person is not detained under section 4 of the *Criminal Law (Detention and Interrogation) Act 1995* but they are refused bail under this section, they are to be taken before the Magistrates Court (Criminal and General Division) as soon as is reasonably practicable.

#### **Clause 6: Section 5 amended (Police Bail)**

Amends section 5 by substituting “section 34 of the Justices Act 1959” with “section 4E of this Act”.

Amends section 5 by substituting “justices” or “justice” with the “Magistrates Court (Criminal and General) Division”, and substituting “the justices” with “that Court” where appropriate.

Inserts references to the new term “bail notice”, and where appropriate substitutes “notice referred to in subsection (1)(a)” with “bail notice”.

Amends section 5(3A)(c) by substituting “section 106B(1) of the *Justices Act 1959*” with “section 6(2) of the *Restraint Orders Act 2019*”.

Amends section 5(5B) by substituting “section 34A of the *Justices Act 1959*” with “section 18 of the *Magistrates Court (Criminal and General Division) Act 2019*”.

Amends section 5(7) by substituting “clerk of petty sessions” with “district registrar”.

**Clause 7: Section 7 amended (Conditions to which bail is subject)**

Amends section 7 of the Principal Act by removing redundant references and replacing them with references to “a district registrar” and “an officer of the Magistrates Court authorised by a district registrar for the purposes of this section”.

Amends section 7(3) by removing the redundant references to section 117A(2) of the *Justices Act 1959* and substituting with “bail”.

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

Amends section 11(1) by substituting references to “a justice, the justice” with “the Magistrates Court (Criminal and General Division), that Court”.

Substitutes redundant references to “the *Justices Act 1959*” with “section 4E or under the *Magistrates Court (Criminal and General Division)*”.

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

Amends section 12 to substitute “Court or a justice” with “Court, or the Magistrates Court (Criminal and General Division)”.

**Clause 10: Section 20 amended (Offences against this Act)**

Amends section 20 by substituting a “justice” with “the Magistrates Court (Criminal and General Division)”.

**Clause 11: Section 22 amended (Oral application for bail)**

Amends section 22 by substituting a “a justice” with “the Magistrates Court (Criminal and General Division)”.

**Clause 12: Section 23 amended (Application for bail or variation of conditions)**

Amends section 23 by substituting “justices” with “the Magistrates Court (Criminal and General Division)”.

Amends section 23(3) by substituting “section 34 of the *Justices Act 1959*” with “this Act, the *Magistrates Court (Criminal and General Division) Act 2019*”.

**Clause 13: Section 24 amended (Application to revoke bail, &c)**

Amends section 24(3) by substituting “justices” with “the Magistrates Court (Criminal and General Division)” and inserts the words “or the applicant”.

**Clause 14: Section 26 amended (Arrest of person admitted to bail by person bound by recognizance)**

Amends section 26 by substituting a “justice” with “the Magistrates Court (Criminal and General Division)” and “the justice” with “that Court” where relevant.

Amends section 26(3)(a) by substituting “*Justices Act 1959*” with “*Magistrates Court (Criminal and General Division) Act 2019*”.

**Clause 15: Section 27A inserted – Prohibition on publishing accounts of bail proceedings**

Inserts section 27A into the Principal Act to make it an offence, despite anything in the *Defamation Act 2005*, to publish, or cause or allow to be published, an account of bail application proceedings under any Act.

Provides that the offence provision does not apply to:

- a report of the fact of the application and a statement that an order has been made in relation to the application;
- a report of proceedings in the Supreme Court or before a judge that is written as a law report; or
- an account of the proceedings that is published after the final determination of the charge for the offence which the bail applicant is alleged to have committed.

## **PART 3 – CONSUMER AFFAIRS ACT 1988 AMENDED**

**Clause 16: Principal Act**

Cites the *Consumer Affairs Act 1988* as the Principal Act which is amended.

**Clause 17: Section 20 amended (Offences against this Act)**

Amends section 20(1)(b) to substitute “matter of complaint arose” with “alleged offence occurred” and substitute “matter of complaint” with “alleged offence”.

**Clause 18: Section 24A inserted – Minister may set time limit for commencing proceedings for offences under this and other Act**

Inserts section 24A into the Principal Act to provide that the Minister, by order, may declare the Principal Act or another Act, or a provision of those acts, to be an Act or provision to which section 80(1)(a) of the *Magistrates Court (Criminal and General Division) Act 2019* does not apply. Section 80(1)(a) provides that proceedings must be commenced within 6 months after the time when the alleged offence occurred.

Provides that a summary offence under an Act or provision that has been declared to be an Act or provision to which section 80(1)(a) does not apply and that is not an indictable offence referred to in Schedule 1 or 2 of 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.

Provides that an order made under this section is a statutory rule under the *Rules Publication Act 1953*.

#### **PART 4 – CORONERS ACT 1995 AMENDED**

##### **Clause 19: Principal Act**

Cites the *Coroners Act 1995* as the Principal Act which is amended.

##### **Clause 20: Section 14 amended (Chief Clerk (Coroner's Registrar))**

Amends section 14 to substitute "Chief Clerk (Coronial Division)" with "Coroner's Registrar".

##### **Clause 21: Section 15 amended (Coroner's associates)**

Amends section 15(3) to substitute "clerk of petty sessions and a deputy clerk of petty sessions" with "district registrar, and a deputy district registrar appointed under section 16A of the *Magistrates Court Act 1987*".

##### **Clause 22: Section 25 amended (Procedure at inquest where person charged with an offence)**

Amends section 25 by substituting "justices" with "the Magistrates Court (Criminal and General Division)", and substituting "clerk to the justices" with "district registrar of the Magistrates Court (Criminal and General Division)".

##### **Clause 23: Section 66 repealed**

Repeals the contempt offence under section 66 of the Principal Act.

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

##### **Clause 24: Principal Act**

Cites the *Criminal Law (Detention and Interrogation) Act 1995* as the Principal Act which is amended.

##### **Clause 25: Section 3 amended (Interpretation)**

Amends section 3(1) by inserting a definition for “Magistrates Court (Criminal and General Division)”.

**Clause 26: Section 4 amended (Detention of person in custody)**

Amends section 4 by substituting “a magistrate or justice” and substituting “the Magistrates Court (Criminal and General Division)” or “that Court” where relevant.

Amends section 4(1) by substituting “section 34 of the *Justices Act 1959*” with “section 4E of the *Bail Act 1994*”.

Amends section 4(3) by substituting “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”.

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

Amends section 6 by substituting “magistrate” and substituting “the Magistrates Court (Criminal and General Division)” or “that Court” where relevant.

**Clause 28: Section 7 amended (Orders made by telephone)**

Amends section 7 by substituting “magistrate” and substituting “the Magistrates Court (Criminal and General Division)” or “that Court” or “it” where relevant.

Amends subsection (4) by substituting “a magistrate who” with “if the Magistrates Court (Criminal and General Division)”.

Amends subsection 5(b) by substituting “magistrate by whom, and the date and time when” with “magistrate, bench justice or authorised justice who constituted the Magistrates Court (Criminal and General Division) which made the order, and the date on which”.

## **PART 6 – FAMILY VIOLENCE ACT 2004 AMENDED**

**Clause 29: Principal Act**

Cites the *Family Violence Act 2004* as the Principal Act which is amended.

**Clause 30: Section 4 amended (Interpretation)**

Amends section 4 of the Principal Act by substituting the definition of “Chief Clerk of Petty Sessions” with a new definition for “district registrar”.

**Clause 31: Section 5 amended (Meaning of “court”)**

Amends section 5 by substituting “a court of summary jurisdiction within the meaning of the *Justices Act 1959*” with “the Magistrates Court (Criminal and General Division)”.

Amends 5(2) by substituting the existing subsection (2) with the following provision.

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 for proceedings under the *Family Violence Act 2004* in accordance with section 11 of the *Magistrates Court (Criminal and General Division) Act 2019*, or if the rules of the court under section 162 of the *Magistrates Court (Criminal and General Division) Act 2019* prescribe that one or more bench justices may exercise jurisdiction for that proceeding.

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

Amends section 9A by substituting “a complaint” with “proceedings”.

Amends section 9A by substituting “made against a person” with “commenced”.

Amends section 9A by substituting “matter of complaint” with “charge for the offence”.

**Clause 33: Section 11 amended (Power of Magistrates Court (Criminal and General Division) to deal with arrested person)**

Amends section 11(2) by substituting “section 34 of the *Justices Act 1959* with “section 4E of the *Bail Act 1994*”.

**Clause 34: Section 12 amended (Power of judge or Magistrates Court (Criminal and General Division) to issue warrant for arrest)**

Amends section 12(3) by substituting “section 34 of the *Justices Act 1959* with “section 4E of the *Bail Act 1994*”.

**Clause 35: Section 13B amended (Effect of failure to submit evidence)**

Amends section 13B(1) by substituting “a court of summary jurisdiction” with “the court” and “a court of summary jurisdiction or on indictment” with “the court or the Supreme Court”.

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

Amends section 13C(1) by substituting “section 73 of the *Justices Act 1959*” with “section 94 of the *Magistrates Court (Criminal and General Division) Act 2019*”.

**Clause 37: Section 14 amended (Chief Clerk (Coroner's Registrar))**

Amends section 14(2) by substituting “Chief Clerk of Petty Sessions” with “district registrar”.

**Clause 38: Section 24 amended (Alternative orders)**

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

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

Amends section 25A(1)(c) by substituting “issue a summons to the respondent to the application” with “make an order to attend, within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*”, and by substituting “summons” with “order to attend”.

**Clause 40: Section 26 amended (Application for registration of external family violence order)**

Amends section 26(1) by substituting “the Clerk of Petty Sessions” with “a district registrar”.

**Clause 41: Section 27 amended (Registration of external family violence order)**

Amends section 27 by substituting “Clerk of Petty Sessions” with “district registrar”.

**Clause 42: Section 31 amended (Procedure in relation to hearing and determining applications)**

Amends section 31(1)(a)(ii) by substituting “a complaint for a simple offence” with “a charge for an offence is heard and determined under the *Magistrates Court (Criminal and General Division) Act 2019*”.

Amends section 31(1)(b) by substituting “a complainant” with “a prosecutor under the *Magistrates Court (Criminal and General Division) Act 2019*”.

**Clause 43: Section 35 amended (Contravention of FVO or PFVO)**

Amends section 35(3) by substituting “complaint” with “charge sheet, within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*.”

## **PART 7 – MAGISTRATES COURT ACT 1987 AMENDED**

**Clause 44: Principal Act**

Cites the *Magistrates Court Act 1987* as the Principal Act which is amended.

**Clause 45: Section 3 amended (Interpretation)**

Inserts in section 3 definitions for “authorised justice”, “bench justice”, “deputy district registrar” and “district registrar”.



Removes paragraph (b) from the definition of “lower courts”.

**Clause 46: Section 3A amended (Creation of the Magistrates Court)**

Amends section 3A by removing subsection (3) and substituting the following.

The Magistrates Court consists of:

- the Chief Magistrate, the Deputy Chief Magistrate and the magistrates,
- coroners appointed under the *Coroners Act 1995* when constituting the Magistrates Court (Coronial Division);
- bench justices when constituting the Magistrates Court (Criminal and General Division); and
- authorised justices when constituting the Magistrates Court (Criminal and General Division).

Inserts definitions for “Magistrates Court (Coronial Division)” and “Magistrates Court (Criminal and General Division)” in subsection (3).

**Clause 47: Section 10A amended (Immunities)**

Amends section 10A by inserting references to a “coroner, bench justice or authorised justice” after “magistrate”.

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

Amends section 10B by substituting “magistrate” with “magistrate, coroner, bench justice or authorised justice” and substituting “the magistrate’s” with “his or her”.

**Clause 49: Section 13 amended (Jurisdiction and powers of magistrates)**

Removes subsection (2) from section 13.

**Clause 50: Section 15 amended (Arrangement of business of courts, and administrative matters)**

Amends section 15 by inserting “bench justice, authorised” after “magistrate” and by substituting “magistrates and between other” with “magistrates, the coroners, the bench justices and the authorised”.

Inserts in section 15 a provision to clarify that the Magistrates Court:

- may sit and act at any time and on any day, including statutory holidays; and
- is to sit at such times and places as directed by the Chief Magistrate.

Provides that the Magistrate may vary or revoke a direction made in relation to court sitting times and places.

**Clause 51: Section 15AAA inserted – Persons allowed in courtroom**

Inserts a new section 15AAA after section 15 of the Principal Act. Section 15AAA provides that subject to the *Magistrates Court Act 1987* and any other Act, the Magistrates Court sits as an open and public court to which all persons may have access, if the room or place can conveniently contain them.

If at any time the Magistrates Court considers it appropriate, the Court may order all or any members of the public or all or any witnesses (other than a witness who is being cross-examined or a party to proceedings) to leave the room or place where the Court is sitting and remain outside and beyond the court, until they are permitted to re-enter.

Provides that the reasons for which the Magistrates Court may make an order may include, but are not limited to the following reasons:

- to ensure that the national or international security of Australia is not endangered;
- to ensure that the administration of justice is not prejudiced;
- to ensure that the physical safety of any person is not endangered;
- to prevent the undue distress or embarrassment to an affected person within the meaning of the *Magistrates Court (Criminal and General Division) Act 2019*;
- to prevent the undue distress or embarrassment to a witness under examination in a proceedings that relates to a charge for an offence against an affected person, as defined above.

Provides that if at any time during proceedings, the Magistrates Court considers the behaviour of a party to be significantly hindering the Court's capacity to carry out its functions and duties, the Court may order the party to leave the Court and remain outside and beyond the proceedings, until permitted by the Court to re-enter.

Provides that if the Magistrates Court, other than when sitting as the Coronial Division, excludes a party to the proceedings from the room or place in which the court is sitting, it must arrange for that party to be provided with a means of hearing and observing the proceedings, unless it is not practicable to provide those means.

Except as provided under subclause (4), a party to proceedings may not be excluded from the room or place in which the court is sitting.

If a person wilfully disobeys an order to leave the room or place, the person is guilty of contempt of the Magistrates Court and may be punished in accordance with section 17A of the *Magistrates Court Act 1987*.

**Clause 52: Section 15AB amended (Professional development)**

Amends section 15AB(1) by substituting “magistrates, the other justices” with “magistrates”.

**Clause 53: Section 15AE amended (Committee may make rules of court)**

Amends section 15AE(1) by removing paragraph (b).

**Clause 54: Section 15A substituted – District Registries**

Repeals section 15A of the Principal Act and substitutes the following provisions.

Provides for a district registry to be established in the northern region, the north-western region and the southern region of Tasmania.

Provides that regulations may do any one or more of the following:

- establish a district registry for any area of Tasmania;
- revoke the establishment of a district registry;
- re-define the area of district registry, if it was established by the regulations.

**Clause 55: Section 17 amended (Delegation)**

Amends section 17 by inserting in subsection (2) “under this or any other Act” after the words “the Administrator”.

Inserts a new subsection 2A to provide for the following.

A district registrar may, by instrument in writing, delegate to a Departmental employee, the performance and exercise of functions and powers conferred on the district registrar under this or any other Act (except for this power of delegation) that are specified in the instrument of appointment.

Further provides that the delegation may, by instrument in writing, also be revoked wholly or in part.

Amends section 17 by substituting “Magistrate or the Administrator” with “Magistrate, Administrator or district registrar”.

**Clause 56: Section 17A amended (Contempt of Court)**

Amends section 17A(1) by increasing the penalties for contempt of court.

**Clause 57: Section 17AB inserted – Power to control process**

Inserts a new section 17AB after section 17A of the Principal Act to provide for the following.

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

**PART 8 – POLICE OFFENCES ACT 1935 AMENDED**

**Clause 58: Principal Act**

Cites the *Police Offences Act 1935* as the Principal Act which is amended.

**Clause 59: Section 3 amended (Interpretation)**

Inserts in section 3(1) of the Principal Act, new definitions for “charge sheet”, “court attendance notice”, “district registrar”, “Magistrates Court (Criminal and General Division)” and “Magistrates Court (Youth Justice Division)”.

Amends section 3(1) by removing the current definition for “court” and replacing it with the following definition: “in relation to any proceeding relating to an offence, the Magistrates Court (Criminal and General Division) or the Magistrates Court (Youth Justice Division), or in relation to proceedings on a civil matter, a court of summary jurisdiction having jurisdiction in relation to those proceedings”.

Amends section 3(1) by removing from the table in the definition of “public place”, the words “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” and substituting the words “any police office or police station, or any court-house or building connected with the sittings or administration of the Magistrates Court, or any yard or enclosure used therewith respectively, to which the public have access”.

**Clause 60: Section 13 amended (Public annoyance)**

Amends section 13(3D) by substituting “a magistrate” with “the Magistrates Court (Criminal and General Division) or Magistrates Court (Youth Justice Division)”, and substituting “the magistrate” with “that Court”.

**Clause 61: Section 14B amended (Unlawful entry on land)**

Amends section 14B(3) by removing “or one of the justices” and by substituting “complainant” with “relevant owner, occupier or person in charge of the land, building, structure, premises, aircraft, vehicle or vessel”.

**Clause 62: Section 15E amended (Body armour)**

Amends section 15E(6)(e) by substituting “under Part XA of the *Justices Act 1959*” with “within the meaning of the *Restraint Orders Act 2019*”.

**Clause 63: Section 17 amended (Chimneys of fire)**

Amends section 17(2) by substituting “any complaint” with “an offence”.

**Clause 64: Section 20D amended (Official warnings)**

Amends section 20D(6)(a)(iii) by substituting “a magistrate” with “the Magistrates Court (Administrative Appeals Division)”.

**Clause 65: Section 35 amended (Common assault and aggravated assault)**

Amends section 35(4) by removing the phrase “on a complaint under subsection (3)”.

Amends section 35(4) by inserting the phrase “referred to in subsection (3)” after “the assault”.

Amends section 35(4) by substituting “complaint” where appropriate, with “offence specified in the charge sheet”.

Amends section 35(5) by substituting “A complaint made for the purposes of the *Justices Act 1959*” with “proceedings”, and substituting “is to be made” with “are to be commenced”.

**Clause 66: Section 36 amended (Power to make orders at hearing for offence)**

Amends section 36 by substituting “Part VII of the *Justices Act 1959*” with “Part 9 of the Magistrates Court (Criminal and General Division) Act 2019, and substituting “one of the justices” with “the court”.

**Clause 67: Section 37 amended (Offences relating to property)**

Amends section 37(6) by substituting “A complaint made for the purposes of the *Justices Act 1959*” and substituting “proceedings”, and substituting “is to be made” with “are to be commenced”.

**Clause 68: Section 37AAA amended (Interference with war memorials)**

Amends section 37AAA(3) by substituting “A complaint made for the purposes of the *Justices Act 1959*” with “proceedings”, and substituting “is to be made” with “are to be commenced”.

**Clause 69: Section 37AA amended (Unlawfully setting fire to property)**

Amends section 37AA(3) by substituting “A complaint made for the purposes of the *Justices Act 1959*” with “proceedings”, and substituting “is to be made” with “are to be commenced”.

**Clause 70: Section 37A amended (Interpretation)**

Amends section 37A by substituting “a court held by a magistrate sitting alone in petty sessions” in the definition of “court of summary jurisdiction” with “the Magistrates Court (Criminal and General Division), or Magistrates Court (Youth Justice Division), when constituted by a single magistrate”.

**Clause 71: Section 37B amended (Motor vehicle stealing)**

Amends section 37B by substituting “A complaint made for the purposes of the *Justices Act 1959*” with “proceedings”, by substituting “is to be made” with “are to be commenced”, and substituting “Part VII of the *Justices Act 1959*” with “Part 9 of the *Magistrates Court (Criminal and General Division) Act 2019*”.

**Clause 72: Section 37K amended (Interpretation of Division)**

Amends section 37K(1) by substituting “Magistrates Court” in the definition of “court” with “Magistrates Court (Criminal and General Division) or Magistrates Court (Youth Justice Division)”.

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

Amends section 37O(1) by removing paragraph (b) and inserting the following paragraph.

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

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

Amends section 37P(1) by removing paragraph (b) and inserting the following paragraph.

Proceedings have been commenced previously under the *Magistrates Court (Criminal and General Division) Act 2019* in respect of a prescribed offence on one occasion.

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

Amends section 37Q(1) by removing paragraph (b) and inserting the following paragraph. 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.

Amends section 37Q(3) by removing paragraph (b) and inserting the following paragraph.

If the person is found guilty of the new prescribed offence, and proceedings have been commenced previously under the *Magistrates Court (Criminal and 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.

**Clause 76: Section 37Y amended (Application for forfeiture of vehicles)**

Amends section 37Y(2) by substituting “complaint with “charge”.

**Clause 77: Section 44A amended (False reports to police)**

Amends section 44A(2) by substituting “the complainant” with “the person who instituted proceedings” and substitutes “the complainant” second occurring with “that person”.

Amends section 44A (3) by substituting “complainant under this section” with “a person under subsection (2)”.

**Clause 78: Section 55 amended (Arrest)**

Amends section 55 by substituting “summons” with “the issue of a court attendance notice” and substituting “Part XA of the *Justices Act 1959*” with “the *Restraint Orders Act 2019*”.

**Clause 79: Section 58 amended (Search of persons for poison)**

Amends section 58(2) by substituting “justice” with “court”.

**Clause 80: Section 65 amended (Power of court upon neglect to prosecute)**

Amends section 65 by substituting “laid any complaint” with “commenced proceedings”, substituting “such complaint” with “the proceedings” and substituting “take” with “commence”.

**Clause 81: Section 66 amended (Provision relating to determination of certain questions by courts)**

Amends section 66(1) by substituting “held before a” with “constituted by a”.

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

Amends section 67 by substituting “complaint” with “charge sheet”.

**Clause 83: Section 67A amended (Evidentiary provision)**

Amends section 67A by substituting “complaint” with “charge sheet”.

**Clause 84: Section 69 amended (Disposal of property forfeited to Crown)**

Amends section 69(1) by substituting “court or justices” with “court”.

**PART 9 – SUPREME COURT CIVIL PROCEDURES ACT 1992 AMENDED**

**Clause 85: Principal Act**

Cites the *Supreme Court Civil Procedures Act 1932* as the Principal Act which is amended.

**Clause 86: Section 9 amended (Application of Act)**

Amends section 9 of the Principal Act by substituting “Part XI of the *Justices Act 1959*” with “Part 12 of the *Magistrates Court (Criminal and General Division)*” and substituting “a court of summary jurisdiction” with “the Magistrates Court (Criminal and General Division)”.

## PART 10 – REPEAL OF ACT

### Clause 87: Repeal of Act

Provides that the Act is repealed a year after it commences.