

JUSTICES (No. 2).

No. 125 of 1982.

AN ACT to amend the Justices Act 1902-1982.

[Assented to 10 December 1982.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Justices Amendment Act (No. 2) 1982*. Short title and citation.

(2) In this Act the Justices Act 1902-1982 is referred to as the principal Act. Reprinted as approved on 30 November 1977 and amended by Acts Nos. 6 and 67 of 1979, 67 of 1980, 120 of 1981 and 20 of 1982.

(3) The principal Act as amended by this Act may be cited as the Justices Act 1902-1982.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Section 1
amended.

3. Section 1 of the principal Act is amended by deleting "PART VII.—SURETY OF THE PEACE AND FOR GOOD BEHAVIOUR." and substituting the following—

" PART VII.—ORDERS TO KEEP THE PEACE. " .

Part VII
repealed
and
substituted.

4. Part VII of the principal Act is repealed and the following Part is substituted—

" PART VII.—ORDERS TO KEEP THE PEACE.

Orders to
keep the
peace.

172. (1) Where, upon a complaint made in accordance with subsection (2) of this section, Justices are satisfied on the balance of probabilities—

(a) that—

(i) the defendant has caused personal injury or damage to property; and

(ii) the defendant is, unless restrained, likely again to cause personal injury or damage to property;

(b) that—

(i) the defendant has threatened to cause personal injury or damage to property; and

(ii) the defendant is, unless restrained, likely to carry out that threat; or

(c) that—

(i) the defendant has behaved in a provocative or offensive manner;

- (ii) the behaviour is such as is likely to lead to a breach of the peace; and
- (iii) the defendant is, unless restrained, likely again to behave in the same or a similar manner,

the Justices may make an order imposing such restraints upon the defendant as are necessary or desirable to prevent him from acting in the apprehended manner.

(2) A complaint under this section may be made by—

(a) a police officer; or

(b) a person against whom, or against whose property, the behaviour that forms the subject matter of the complaint was directed.

(3) An order under this section may be made in the absence of the defendant if the defendant was summoned to appear at the hearing of the complaint and failed to appear in obedience to the summons.

(4) An order under this section may be made in the absence of the defendant and notwithstanding that he was not summoned to appear at the hearing of the complaint, but in that case the Justices shall summon the defendant to appear before them to show cause why the order should not be confirmed and the order shall not be effective after the conclusion of the hearing to which the defendant is summoned unless the defendant does not appear at that hearing in obedience to the summons or the Justices having considered the evidence of the defendant and any other evidence adduced by him confirm the order.

(5) Justices may make an order under this section restraining the defendant from entering premises, or limiting his access to premises, whether or not the defendant has a legal or equitable interest in the premises, but before making such an order the Justices shall consider—

- (a) the effect of making or declining to make the order on the accommodation of the persons affected by the proceedings; and
- (b) the effect of making or declining to make the order on any children of, or in the care of, the persons affected by the proceedings.

(6) Where an order under this section is made by Justices, the clerk of petty sessions shall cause a copy of the order to be served personally on the defendant and shall forward a copy of the order to the Commissioner of Police and, where the complainant is not a police officer, the complainant.

Breach of
order
to keep the
peace.

173. (1) A person who, having been served personally with an order made under section 172 of this Act, contravenes or fails to comply with the order commits an offence.

Penalty: 6 months imprisonment.

(2) Where a police officer has reasonable cause to suspect that a person has committed an offence under subsection (1) of this section, he may, without warrant, arrest and detain that person.

(3) Where a suspected offender is arrested and detained under subsection (2) of this section, he shall be brought as soon as practicable (and in any event not later than 24 hours after the time of the arrest) before Justices to be dealt with for the offence.

(4) In calculating whether, for the purposes of subsection (3) of this section, 24 hours has elapsed since the time of an arrest, no period falling on a Saturday, Sunday or public holiday shall be taken into account.

174. (1) A party to proceedings in which an order has been made under section 172 of this Act may at any time apply to Justices for variation or revocation of the order and the Justices may, after all parties have had an opportunity to be heard on the matter, vary or revoke the order.

Variation or
revocation of
order.

(2) Where an order made under section 172 of this Act is varied or revoked by Justices under this section, the clerk of petty sessions shall cause a copy of the order as so varied or notice of the revocation, as the case may be, to be served personally on the defendant and shall also notify the Commissioner of Police and, where the complainant is not a police officer, the complainant, of the variation or revocation. ” .
