

JUSTICES.

No. 17 of 1972.

AN ACT to amend the Justices Act, 1902-1971.

[Assented to 26th May, 1972.]

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 Act Amendment Act, 1972*.

Short title and citation.

(2) In this Act the Justices Act, 1902-1971 is referred to as the principal Act.

Vol. 21 of the Re-printed Acts. Approved for reprint 30th November, 1967 and further amended by Acts Nos. 22 of 1968 and 48 of 1971.

(3) The principal Act as amended by this Act may be cited as the Justices Act, 1902-1972.

Commencement.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on a date to be fixed by proclamation.

(2) It is not necessary that the whole of this Act be proclaimed to come into operation on the one day; and the several sections may be proclaimed to come into operation on such respective days as are fixed by proclamation.

Amendment
to s. 1. (Short
title and
division of
the Act.)

3. Section 1 of the principal Act is amended by adding at the end thereof a passage as follows—

PART X.—MAINTENANCE AND DESTRUCTION OF
COURT RECORDS. .

Amendment
to s. 4.
(Interpreta-
tion.)

4. Section 4 of the principal Act is amended—

- (a) by deleting the words “before Justices”, in line three of the interpretation “Simple Offence”; and
- (b) by deleting the words “by Justices”, in line two of the interpretation “Summary Conviction” or “Conviction”.

Amendment
to s. 20.
(General
provisions.)

5. Section 20 of the principal Act is amended—

- (a) by adding after the section number “20.” the subsection designation “(1)”;
- (b) by adding after the word “may”, in the third last line, the passage “, subject to subsection (2) of this section,”; and
- (c) by adding a subsection as follows—

(2) Where for any indictable offence offenders may, in some circumstances, be punished summarily, a person shall not be charged with the offence before Justices, and Justices shall not deal with the charge or examine the defendant or commit him for trial, if there is a Magistrate available or the defendant does not consent, in which case a reference in this Act to any number of Justices shall be read and construed, with such modifications as are necessary, as a reference to a Magistrate. .

6. Section 29 of the principal Act is amended by substituting for the word "shall", in line four, the word "may". Amendment to s. 29. (Hearing of complaints.)
7. Section 30 of the principal Act is amended— Amendment to s. 30. (Majority to decide.)
- (a) by deleting the second paragraph;
- (b) by deleting the word "also" in line one of the third paragraph; and
- (c) by deleting the passage "a Magistrate, if he is one of the Justices, and in the absence of a Magistrate," in lines two, three, and four of the third paragraph.
8. Section 33 of the principal Act is amended— Amendment to s. 33. (Special powers given to Police and Resident Magistrates who may in all cases act alone.)
- (a) by adding after the section number "33.", the subsection designation (1); and
- (b) by adding a subsection as follows—
- (2) Where two or more Justices, one of whom is a Magistrate, are present and acting at the hearing of any matter and do not agree, the decision of the Magistrate shall prevail, notwithstanding that a majority of the Justices are of a different opinion. .
9. Section 93 of the principal Act is amended by substituting for the words "taken before Justices exercising a summary jurisdiction", in lines two and three, the passage "that is referred to in subsection (1) of section one hundred and fifty-four A". Amendment to s. 93 (Forfeited recognisances, how to be enforced.)
10. Section 136A of the principal Act is amended— Amendment to s. 136A.
- (a) by adding after the word "decision", in line seven of subsection (1), the passage " or within such further period as the court may direct";

- (b) by repealing and re-enacting subsection (3) as follows—

(3) All the provisions of sections one hundred and eighty-seven and one hundred and eighty-eight of this Act that apply to and in relation to the release, and security for appearance, of an appellant who is in custody apply, as if they were repeated in this section, to and in relation to the release, and security for appearance, of an applicant who is in custody, but as if any reference in those provisions to the expressions “appellant” and “appeal” respectively were references to the expressions “applicant” and “application” respectively. ; and

- (c) by substituting for the words “if the applicant has”, in lines three and four of subsection (4), the words “unless the applicant was released from custody on recognisance pending the decision on the application and has not”.

Amendment
to s. 154A.
(Enforcing
recog-
niscances.)

11. Subsection (1) of section 154A of the principal Act is amended—

- (a) by substituting for the passage beginning with the word “sureties”, in line two, and ending with the word “Act”, in line eleven, a passage as follows—

sureties by any recognisance entered into—

- (a) pursuant to this Act;
- (b) pursuant to an order or decision of any court of summary jurisdiction;
- (c) in respect of any matter cognisable by such a court; or
- (d) to attend or appear before such a court ; and

- (b) by adding after the word "Act", in line sixteen the passage "and courts of summary jurisdiction, whether constituted under this or any other Act, may hear and determine them" .

12. Section 163 of the principal Act is amended by substituting for paragraph (2) a paragraph as follows:

Amendment
to s. 163.
(Procedure
on execu-
tion.)

(2) The wearing apparel of a person to the value of one hundred dollars and of his wife to the value of one hundred dollars and of his family to the value of fifty dollars for each member thereof dependent on him; household furniture and effects to a value not exceeding in the aggregate three hundred dollars, tools and implements of trade and all beds and bedding, family portraits and photographs shall not be taken in execution. .

13. Section 197 of the principal Act is amended—

Amendment
to s. 197.
(Order to
review.)

- (a) by adding after the section number "197." the subsection designation "(1)";
- (b) by adding after the word "shows," in line four, the passage ", or the Attorney General shows";
- (c) by adding after the word "aggrieved", in line eleven, the words "or the Attorney General";
- (d) by adding after the words "shows", in line seventeen, the passage, "or, in respect of such a case, the Attorney General shows";
- (e) by substituting for the words "except where the person", in line twenty-three, the words "unless the applicant"; and

(f) by adding at the end of the section subsections as follows—

(2) The right of the Attorney General to be an appellant is irrespective of, and does not effect—

(a) any right that another person has to be an appellant or to appeal under section one hundred and eighty-three of this Act; or

(b) any other remedy that is provided by law to any person,

in respect of the same decision.

(3) Where the Attorney General and another person are appellants in respect of the same decision, the Judge may consider and determine their applications for an order to review at the same time.

(4) Where the Attorney General is an appellant the provisions of sections two hundred, two hundred and six G, and two hundred and six H of this Act do not apply to or in respect of him but the other provisions of this Act relating to an appellant for an order to review do, with any necessary modifications, so apply. .

Amendment
to s. 198.
(Order to
review,
Before whom
returnable.)

14. Section 198 of the principal Act is amended—

(a) by adding after the section number “198.” the subsection designation “(1)”; and

(b) by adding at the end of the section a subsection as follows—

(2) Where orders to review have been granted to the Attorney General and another person in respect of the same decision, the Court or a Judge may, at any time, direct that the orders shall be heard together. .

15. Section 206 of the principal Act is amended— Amendment
to s. 206.
(Costs.)
- (a) by adding after the section number “206.” the subsection designation “(1)”; and
- (b) by adding at the end of the section a subsection as follows—

(2) Where the Attorney General is an appellant and costs are allowed against him to another person, such costs are not recoverable from the Attorney General but the Registrar of the Supreme Court shall give to that other person a certificate sealed with the seal of the Supreme Court showing the amount of such costs and on production of the certificate to the Treasurer, that other person shall be paid such amount out of the Consolidated Revenue Fund. .

16. The principal Act is amended by adding after Part IX a Part as follows— Addition of
Part X.

PART X.—MAINTENANCE AND DESTRUCTION OF
COURT RECORDS.

233. In this Part—

Interpreta-
tion.

“court record” means official record of any proceedings in any Court of Petty Sessions and includes any document filed in the Court, or in the custody of the Court, in relation to the proceedings; and

“document”, “official record”, “negative”, and “reproduction” have the same respective meanings as they have in and for the purposes of the Division of the Evidence Act, 1906 relating to the reproduction of documents.

234. A negative of a court record may be made at any time to be held by or on behalf of the Court. Negatives of
court records.

Destruction
of court
records
generally.

235. A court record may, in any case, be destroyed after the expiration of fifty-three years from the time it became such a record.

Destruction
of court
records
where nega-
tives held.

236. A court record may be destroyed at any time after the expiration of three years from the time it became such a record if a negative of it is held by or on behalf of the Court but in that case the negative shall be so held until the expiration of fifty-three years from the time the court record became such a record.

Evidentiary
provision.

237. For the purposes of the laws relating to the admissibility of evidence but without otherwise affecting those laws, where, at any time, a negative of a court record is held by or on behalf of the Court, the negative is deemed to be the court record and shall be treated as such by any Court of Petty Sessions, and any other Court, without any enquiry as to whether or not the court record has been destroyed. .
