



TASMANIA

JUSTICES AMENDMENT ACT 1995

No. 50 of 1995

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**JUSTICES AMENDMENT ACT 1995**

No. 50 of 1995

AN ACT to amend the *Justices Act 1959***[Royal Assent 22 September 1995]**

BE it enacted by His 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:—

Short title

1—This Act may be cited as the *Justices Amendment Act 1995*.

Commencement

2—This Act commences on the day on which the *Criminal Law (Detention and Interrogation) Act 1995* commences.

Principal Act

3—In this Act, the *Justices Act 1959** is referred to as the Principal Act.

Section 23AB inserted

4—After section 23A of the Principal Act, the following section is inserted:—

Approval and roster of justices who may constitute courts of summary jurisdiction, &c.

23AB—The Chief Magistrate may from time to time—

- (a) by instrument in writing, approve the justices who may constitute courts of summary jurisdiction, examine charges of indictable offences and deal with bail or recognizances; and
- (b) approve and vary rosters of those justices to sit as courts of summary jurisdiction, examine charges of indictable offences and deal with bail or recognizances.

Section 34 amended (Power of police officers, &c., to admit to bail)

5—Section 34 of the Principal Act is amended as follows:—

- (a) by omitting “Where” and substituting “(1) Subject to subsection (2), where”;
- (b) by adding the following subsection:—

(2) Subsection (1) does not apply if the person is detained under section 4 (2) of the *Criminal Law (Detention and Interrogation) Act 1995*.

* No. 77 of 1959. For this Act, as amended to 1 May 1982, see the continuing Reprint of Statutes. Subsequently amended by Nos. 33 and 51 of 1982, Nos. 45 and 75 of 1983, Nos. 29, 48 and 55 of 1984, Nos. 9, 51 and 121 of 1985, Nos. 45, 77, 93 and 115 of 1986, Nos. 45, 57 and 82 of 1987, Nos. 8 and 15 of 1988, Nos. 13 and 34 of 1989, Nos. 5 and 13 of 1990, Nos. 41, 43 and 46 of 1991, Nos. 15 and 21 of 1992, Nos. 10, 71 and 73 of 1993, Nos. 8, 10, 64, 65 and 68 of 1994 and Nos. 30 and 38 of 1995.

Section 34A substituted

6—Section 34A of the Principal Act is repealed and the following section is substituted:—

Procedure on arrest

34A—(1) Where a person, other than a prescribed person, who is taken into custody for an offence or a breach of duty or under section 5 (5A) of the *Bail Act 1994* is brought before a justice, the justice must determine whether there is alleged against that person an act or omission that would constitute an offence or a breach of duty and—

- (a) if there is not, the justice must release him or her; or
 - (b) if there is, the justice must, except in a case to which section 67 applies, proceed as provided in section 35.
- (2) Where a prescribed person is brought before a justice, the justice must—
- (a) cause the application for the restraint order to be read to the person or explain to the person, in simple terms, the contents and meaning of the application; and
 - (b) determine whether there is alleged against the person conduct that would constitute grounds for the making of a restraint order under Part XA.
- (3) If a justice is satisfied that—
- (a) there is not alleged against a prescribed person who is brought before the justice conduct that would constitute grounds for the making of a restraint order under Part XA, the justice must release the person; or
 - (b) there is alleged against that person any such conduct, the justice must—
 - (i) proceed as provided in section 35; or
 - (ii) make an interim restraint order under section 106D notwithstanding that the justice is acting alone in making that order.

(4) For the purposes of this section, “**prescribed person**” means a person—

- (a) who is taken into custody to facilitate the making of an application for a restraint order under Part XA; or
- (b) who, after having been taken into custody as specified in paragraph (a) and released on bail under section 34, is taken into custody under section 5 (5A) of the *Bail Act 1994*.

Section 35 amended (Power of justice to admit person to bail)

7—Section 35 of the Principal Act is amended by omitting “is brought before a justice under section 34A or section 5 (5B) of the *Bail Act 1994*,” and substituting “referred to in section 34A is brought before a justice,”.

*[Second reading presentation speech made in:—
House of Assembly on 9 May 1995
Legislative Council on 30 August 1995]*