

Courts (Children's and Magistrates') Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Act.

Clause 2 deals with the commencement of the Act. The substantive parts of the Act will come into operation on the commencement of the *Magistrates' Court Act 1989*. Statute law revision elements of the Act are deemed to have come into operation on various dates.

Clause 3 makes amendments to the *Children's Court Act 1973*. The amendments are set out in Schedule 1. Schedule 2 contains saving and transitional provisions.

Clause 4 makes amendments to the *Magistrates' Court Act 1989*. The amendments are set out in Schedule 3.

Clause 5 makes amendments to the *Magistrates' Court (Consequential Amendments) Act 1989* as set out in Schedule 4.

Clause 6 makes amendments to the *Evidence Act 1958*. It provides for the Governor in Council to make regulations in respect of the witnessing of documents and any other matters required to be prescribed.

Clause 7 provides for amendments to be made to various Acts.

Sub-clause (1) inserts a reference to bail justices into the *Accident Compensation Act 1985*.

Sub-clause (2) substitutes a reference in the *County Court (Amendment) Act 1989*.

Sub-clause (3) repeals sections 50 and 53 of the *Crimes Legislation (Miscellaneous Amendments) Act 1989*.

Sub-clause (4) makes a textual correction in section 51 (a) of the *Crimes Legislation (Miscellaneous Amendments) Act 1989*.

Sub-clause (5) substitutes certain references in the *Crimes Legislation (Miscellaneous Amendments) Act 1989*.

Sub-clause (6) substitutes certain references in the *Dangerous Goods (Amendment) Act 1989*.

Sub-clause (7) substitutes a reference in the *Second-Hand Dealers and Pawnbrokers Act 1989*.

Sub-clause (8) corrects a reference in section 12 (2) of the *Occupational Health and Safety (Miscellaneous Amendments) Act 1990*, to a provision of Schedule 4 of the *Magistrates' Court Act 1990*.

SCHEDULE 1

AMENDMENT OF *CHILDREN'S COURT ACT 1973*

Item 1 confirms that Judges of the Supreme Court, Judges of the County Court and Magistrates may exercise in Children's Courts, any power conferred on a bail justice.

Items 2 to 74 inclusive make 109 consequential amendments to the *Children's Court Act 1973* to bring it into conformity with the *Magistrates' Court Act 1989*.

SCHEDULE 2

This Schedule contains savings and transitional provisions arising out of the amendments to the *Children's Court Act 1973*

SCHEDULE 3

AMENDMENT OF *MAGISTRATES' COURT ACT 1989*

Item 1 defines the meaning of "mention court" in relation to committal for trial proceedings.

Item 2 defines the meaning of "Prison officer".

Item 3 clarifies the time at which a criminal proceeding is commenced.

Item 4 allows the court to adjourn the hearing. The effect will be to allow the charge to be heard on oral evidence by the informant in the absence of the defendant.

Item 5 permits warrants to imprison to be directed to the Sheriff and Prison Officers, in addition to members of the Police Force.

Item 6 inserts an enabling provision to allow prison officers, in addition to members of the Police Force, to take custody of prisoners for the purpose of escorting them from the Magistrates' Court to prison. It also applies the procedures adopted by the Sheriff in executing warrants to seize property issued in the civil jurisdiction of the court, to warrants to imprison issued in the criminal jurisdiction which are directed to the Sheriff for execution.

Item 7 permits warrants to seize property issued in the criminal jurisdiction of the court to be directed to the Sheriff in addition to members of the Police Force.

Item 8 applies the procedures adopted by the Sheriff in executing warrants to seize property issued in the civil jurisdiction of the court, to warrants to seize property issued in the criminal jurisdiction which are directed to the Sheriff for execution.

Item 9 provides that bail justices may also be appointed for the purposes of the *Children's Court Act 1973*.

Item 10 provides that where a witness is arrested for contempt of court, he or she may be released on bail in the same way as any other person who is charged with contempt of court.

Item 11 empowers the Governor in Council to make regulations as to the manner in which orders of the court may be authenticated and to prescribe municipal districts where the police will not be required to serve civil process.

Item 12 adds a Fellow of the Institute of Legal Executives (Victoria) as a person who will be automatically empowered to witness statutory declarations.

Item 13 adds a power for the Governor-in-Council to make regulations for charges to be paid in respect of the execution by the Sheriff, of warrants issued in default of the payment of fines or instalments under instalment orders.

Item 14 adds a Fellow of the Institute of Legal Executives (Victoria) as a person who may receive an affidavit.

Item 15 clarifies that the Court may hear a charge for a summary offence in the absence of the defendant upon receiving evidence on oath, where a brief of evidence has not been served in accordance with section 37.

Item 16 repeals references to certain indictable offences which may be tried summarily.

Item 17 re-inserts certain indictable offences which may be tried summarily.

Item 18 inserts provisions to establish a “mention system” for committal for trial proceedings. It has the effect of setting time limits for action to be taken by the prosecution and defence prior to the mention date. This is a Delay Reduction initiative.

Item 19 permits a notice of appeal against a sentencing order to be filed at any venue of the Court.

Item 20 corrects a reference.

Item 21 provides that information supplied for the registration of traffic infringements in the (PERIN) Court must be in a prescribed form.

SCHEDULE 4

AMENDMENT OF *MAGISTRATES' COURT (CONSEQUENTIAL AMENDMENTS) ACT 1989*

This Schedule contains items of a minor statute law revision nature.

