



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 68 of 1982

An Act to amend the Justices Act, 1921-1982.

[Assented to 1 July 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

- 1. (1) This Act may be cited as the "Justices Act Amendment Act (No. 3), 1982".
- (2) The Justices Act, 1921-1982, is in this Act referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Justices Act, 1921-1982".

Amendment of Justices Act Amendment Act, 1982.

2. The Justices Act Amendment Act, 1982, is amended by inserting after the present contents of section 2 (now to be designated as subsection (1)) the following subsection:

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Commencement.

3. This Act (other than sections 1 and 2 which shall come into operation on assent) shall come into operation immediately after the Justices Act Amendment Act, 1982, comes into operation.

Amendment of s. 3—
Division of Act.

4. Section 3 of the principal Act is amended by inserting after the item:

DIVISION V—COSTS

the item:

DIVISION VA—PAYMENT OF FINES AND SUMS ADJUDGED.

Amendment of s. 4—
Interpretation.

5. Section 4 of the principal Act is amended by inserting in subsection (1) after the definition of "minor indictable offence" the following definition:

"the Registrar" means the person for the time being holding, or acting in, the office of Registrar of Courts of Subordinate Jurisdiction under the Local and District Criminal Courts Act, 1926-1981:.

6. Section 9a of the principal Act is amended by striking out subsection (1). Amendment of s. 9a—
The Registrar.

7. Section 42 of the principal Act is amended by striking out from subsection (4) the passage “A special magistrate” and substituting the passage “The Registrar”. Amendment of s. 42—
Clerks of court.

8. Section 76 of the principal Act is amended by striking out from subsection (2) the passage “, such instalments shall be paid to the clerk or to such person as the court orders, and, if” and substituting the word “and”. Amendment of s. 76—
Court may allow time for payment or direct payment by instalments.

9. The following section is inserted after section 76a of the principal Act: Insertion of new s. 76b.

76b. (1) Where an applicant under section 76a is in custody pursuant to the conviction or order to which his application relates, a special magistrate or any two justices may, subject to this section, if satisfied that his application has been duly made, release him upon his entering into a recognizance, with or without sureties, conditioned for his appearance at the hearing of his application. Release of applicant in custody.

(2) The applicant shall give the complainant reasonable notice of his intention to apply for release.

(3) The complainant may object to the application for release.

(4) If the conviction or order is not set aside upon the application, the time during which the applicant is in custody pending the determination of his application and not for any other cause shall count as part or the whole of the term of imprisonment pursuant to the conviction or order.

(5) A recognizance under this section may contain such additional conditions as the special magistrate or two justices think fit and include in the recognizance.

(6) Where a justice has reasonable cause to believe that a person released upon a recognizance under this section has failed to observe any condition of the recognizance, he may issue a warrant for the apprehension of the person so released and for his return to custody.

10. The following Division is inserted after section 79 of the principal Act: Insertion of new Division VA of Part IV.

DIVISION VA—PAYMENT OF FINES AND SUMS ADJUDGED

79a. (1) Where a fine or sum is by a conviction or order adjudged to be paid to a person other than the clerk, the fine or sum shall not be paid directly to that person but to the clerk for payment to that person. Payment of fines and sums adjudged.

(2) Upon receipt of a fine or sum adjudged to be paid by a conviction or order, or of any part thereof, the clerk shall pay the amount received as follows:

(a) firstly, if any costs are payable to a party to the proceedings, then in or towards satisfaction of those costs;

and

(b) secondly—

(i) if the order is one for the payment of money to the complainant, then to the complainant;

or

- (ii) in any other case, according to the direction of the Special Act, or, if the Special Act contains no directions for payment to any person or persons, then to the Treasury.

Amendment of
s. 82—
Proof of
default.

11. Section 82 of the principal Act is amended by striking out the word “then—” and paragraphs (a) and (b) and substituting the passage “the production of a certificate purporting to be signed by the clerk to whom the fine or sum is to be paid certifying that the fine or sum or any part thereof has not been paid to him”.

Amendment of
s. 171—
Manner in
which appeal
is to be
instituted.

12. Section 171 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) An appeal is instituted by serving a notice of appeal upon the clerk of the court of summary jurisdiction by which the conviction, order or adjudication subject to the appeal was made.;

and

(b) by striking out subsection (3) and substituting the following subsection:

(3) Before the expiration of seven days from the day on which the notice of appeal is served upon the clerk of the court of summary jurisdiction, copies of the notice must be served upon—

(a) the respondent;

and

(b) the Registrar of the Supreme Court.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor