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**JUSTICES AMENDMENT ACT 1993**

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**No. 71 of 1993**

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**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Principal Act
4. Section 26 amended (Limitation on summary proceedings)
5. Section 42 substituted  
42—Failure of witness to attend
6. Section 58 amended (Procedure on adjournment)
7. Section 107 amended (Summary mode of reviewing decisions of justices)
8. Section 110 amended (Powers of Supreme Court)
9. Section 113A amended (Alternative appeals in certain cases)
10. Section 137 amended (Fees)



**JUSTICES AMENDMENT ACT 1993**

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**No. 71 of 1993**

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**AN ACT to amend the *Justices Act 1959*****[Royal Assent 23 November 1993]**

**B**E 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 1993*.

**Commencement**

**2**—This Act commences on a day to be proclaimed.

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**Principal Act**

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

**Section 26 amended (Limitation on summary proceedings)**

4—Section 26 of the Principal Act is amended as follows:—

- (a) by omitting “In” and substituting “(1) In”;
- (b) by inserting the following subsections after subsection (1):—

(2) Notwithstanding subsection (1), a complaint for a simple offence (not being an indictable offence) may be made against a person within 12 months after the time when the matter of complaint arose if—

- (a) that matter of complaint may also give rise to an indictable offence; and
- (b) the person has been charged with that indictable offence within the period of 6 months, or the other time referred to in that subsection.

(3) Notwithstanding subsections (1) and (2), a complaint for a simple offence (not being an indictable offence) may be made against a person at any time if—

- (a) the matter of complaint giving rise to a simple offence may also be a matter giving rise to an indictable offence; and
- (b) the person has been charged with that indictable offence within the period of 6 months, or the other time, referred to in subsection (1); and
- (c) the person has consented in writing to the making of that complaint.

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\* 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 and No. 10 of 1993.

**Section 42 substituted**

**5**—Section 42 of the Principal Act is repealed and the following section is substituted:—

**Failure of witness to attend**

42—(1) A person who, without reasonable excuse, fails or refuses to comply with a summons issued under section 41 is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

(2) A justice before whom a person is summoned to appear as a witness may issue a warrant for the arrest of that person if—

- (a) that person fails or refuses to comply with the summons; and
- (b) a reasonable excuse for that failure or refusal is not given; and
- (c) the summons was served on that person or had come to that person's knowledge.

(3) A person taken into custody under a warrant issued under subsection (2) must be brought before a justice as soon as practicable.

(4) A justice may—

- (a) refuse to admit a person referred to in subsection (3) to bail; or
- (b) admit that person to bail; or
- (c) orally order that person to appear before a court of petty sessions at the time and place to which the proceedings in which that person is required as a witness have been adjourned.

(5) An order under subsection (4) (c) has the same effect as a summons issued under section 41.

**Section 58 amended (Procedure on adjournment)**

**6**—Section 58 (2) of the Principal Act is amended by omitting “14” and substituting “28”.

**Section 107 amended (Summary mode of reviewing decisions of justices)**

- 7—Section 107 of the Principal Act is amended as follows:—
- (a) by omitting “14” from subsection (3) and substituting “21”;
  - (b) by omitting “21” from subsection (5) and substituting “28”.

**Section 110 amended (Powers of Supreme Court)**

- 8—Section 110 (2) of the Principal Act is amended by inserting the following paragraph after paragraph (a):—
- (ab) in a case where the court considers that no substantial miscarriage of justice has occurred even though the cause or matter raised by the motion might be decided in favour of the applicant, dismiss the motion;

**Section 113A amended (Alternative appeals in certain cases)**

- 9—Section 113A of the Principal Act is amended by omitting “14” from subsection (2) and substituting “21”.

**Section 137 amended (Fees)**

- 10—Section 137 of the Principal Act is amended by omitting subsection (4).

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*[Second reading presentation speech made in:—  
House of Assembly on 13 October 1993  
Legislative Council on 26 October 1993]*