



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 33 of 1989

An Act to amend the Justices Act, 1921, and the Local and District Criminal Courts Act, 1926.

[Assented to 4 May 1989]

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Statutes Amendment (Criminal Sittings) Act, 1989*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to "the principal Act" is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART I

AMENDMENT OF JUSTICES ACT, 1921

Committal for trial

4. Section 112 of the principal Act is amended—

- (a) by striking out paragraph (d) of subsection (2) and the word "and" immediately preceding that paragraph;
 - (b) by striking out paragraphs (d) and (e) of subsection (3);
- and
- (c) by striking out subsection (5) and substituting the following subsection:

(5) If the question arises, in any legal proceedings, whether a justice who has committed a defendant for trial has provided the defendant with the information and memorandum as required by subsection (2) (b), it will be presumed that the justice has done so in the absence of proof to the contrary.

Repeal of s. 116

5. Section 116 of the principal Act is repealed.

Committal for sentence**6. Section 136 of the principal Act is amended—**

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

(1) If the defendant pleads guilty, the justice must commit the defendant for sentence.;

and

(b) by striking out paragraphs (d) and (e) of subsection (2).

Repeal of s. 139

7. Section 139 of the principal Act is repealed.

Withdrawal of plea and substitution of plea of not guilty**8. Section 141 of the principal Act is amended—**

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) A defendant who is committed for sentence may, by notice in writing given to the Attorney-General not less than 7 clear days before the day on which he or she is to appear for sentence, withdraw the plea of guilty and substitute a plea of not guilty.

(2) A defendant who withdraws a plea of guilty in pursuance of subsection (1) will be taken to have been committed for trial instead of sentence.;

and

(b) by striking out from subsection (3) “mentioned in section 139” and substituting “of the court to which the defendant has been committed for sentence”.

Insertion of s. 155

9. The following heading and sections are inserted after section 154:

Committal of Defendant for Trial or Sentence

Committal of defendant for trial or sentence

155. (1) Where a defendant is committed for trial or sentence, the order for committal must fix the date and time at which the defendant is to appear for trial or sentence before the court to which he or she is committed.

(2) The date must be the first business day of a week, being the first such day to fall after the expiration of the prescribed period from the date of the committal, unless the justice is satisfied that there is good reason for fixing some other date.

(3) If a preliminary examination is conducted in a circuit district of the Supreme Court, and the defendant is to be committed for trial or sentence in the Supreme Court, the defendant must be committed for trial or sentence at a circuit sitting of the Court in the relevant circuit district.

(4) A defendant who is to be committed for trial or sentence in a District Court must be so committed to the District Court for the District Court district in which the preliminary examination is conducted.

(5) Where a defendant is committed for trial or sentence, the justice must forward to the Attorney-General—

(a) a note of the terms of the order of committal;

(b) a copy of the information on which the preliminary examination was conducted showing any amendments made by the justice;

- (c) a transcript of the evidence taken at the preliminary examination;
 - (d) a list of the exhibits tendered indicating by whom they were tendered and who has possession of them;
 - (e) a copy of any subsisting bail agreement under which the defendant has been released from custody;
 - (f) any recognizances of witnesses.
- (6) The Attorney-General must forward the documents to the proper officer of the court to which the defendant has been committed for trial or sentence.
- (7) In this section—

“business day” means any day of the week except Saturday, Sunday or a public holiday and, in relation to a committal for trial or sentence in a circuit district or a District Court district (other than the Adelaide district) the expression does not include any day on which the Court is not to sit for the hearing of criminal matters in that district:

“the prescribed period” means the period prescribed in the rules of the court to which the defendant is committed.

Publication of committal

156. The Sheriff must, as soon as practicable after the end of each month, cause to be published in the *Gazette* a list of the names of all persons committed for trial or sentence during that month and the offences for which they were committed.

PART II

AMENDMENT OF LOCAL AND DISTRICT CRIMINAL COURTS ACT, 1926

Judges to be assigned to districts

10. Section 320 of the principal Act is amended by striking out paragraph (b) and substituting the following paragraph:

- (b) give, or cause to be given, such notice as the Senior Judge considers proper of the times and places at which District Criminal Courts will sit for the hearing and determination of cases and the dispatch of other business;

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

D. B. DUNSTAN, Governor