

**JUSTICES AMENDMENT ACT (No. 2) 1989**

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**No. 34 of 1989**

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**AN ACT to amend the *Justices Act 1959*****[Royal Assent 4 October 1989]**

**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 (No. 2) 1989*.

**Commencement**

**2**—This Act shall commence on the day on which it receives the Royal Assent.

**Principal Act**

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

**Section 56A amended (Procedure when brought before justices)**

4—Section 56A of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

(1) When a person charged with an indictable offence first appears before justices, the justices shall, if that person is not represented by counsel—

- (a) cause the charge to be read to the person or state to the person in simple terms with what he or she is charged; and
- (b) explain to the person his or her rights and duties under this Act in respect of the charge; and
- (c) inform the person that he or she is entitled to have the proceedings in respect of the charge adjourned in order to consider a course of action or to obtain legal advice in relation to the charge.

(1A) Nothing in subsection (1) requires the justices to explain to the person referred to in that subsection the pleas which may be entered under subsection (3).

(2) If a defendant, whether represented by counsel or not, does not require an adjournment or, if the proceedings are adjourned, on the resumption of the proceedings—

- (a) the charge shall be read to the defendant unless the defendant waives that requirement; and
- (b) the defendant shall be called upon to plead to the charge.

(2A) Notwithstanding subsection (2), the justices may at any time adjourn the proceedings to another date without calling upon the defendant to plead to the charge.

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\* No. 77 of 1959. For this Act, as amended to 1st 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 and No. 11 of 1989.

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

5—Section 58 of the Principal Act is amended by omitting subsection (3).

**Section 62 amended (Committal of defendant)**

6—Section 62 of the Principal Act is amended by omitting “admitted” and substituting “admit the defendant”.

**Section 65 amended (Continuous bail)**

7—Section 65 of the Principal Act is amended by omitting “58” and substituting “62”.

**Section 74A substituted**

8—Section 74A of the Principal Act is repealed and the following section is substituted:—

**Procedure where defendant not represented**

74A—(1) When a person charged with a simple offence to which he or she has not entered a plea in writing authorized by rules made under section 144 first appears before justices, the justices shall, if that person is not represented by counsel—

- (a) cause the charge to be read to the person or state to the person in simple terms with what he or she is charged; and
- (b) inform the person that he or she is entitled to have the proceedings in respect of the charge adjourned in order to consider a course of action or to obtain legal advice in relation to the charge.

(2) Nothing in subsection (1) requires the justices to explain to the person referred to in that subsection the pleas which may be entered under subsection (5).

(3) If a defendant, whether represented by counsel or not, does not require an adjournment or, if the proceedings are adjourned, on the resumption of the proceedings—

- (a) the charge shall be read to the defendant unless the defendant waives that requirement; and
- (b) the defendant shall be called upon to plead to the charge.

(4) Notwithstanding subsection (3), the justices may at any time adjourn the proceedings to another date without calling upon the defendant to plead to the charge.

(5) The defendant may plead—

- (a) guilty of the offence charged or, with the consent of the justices and the prosecutor, of any other offence of which the defendant might be convicted on the complaint; or
- (b) not guilty; or
- (c) that further proceedings ought not to be had on the complaint; or
- (d) that the defendant has cause to show why he or she should not be convicted of the charge.

(6) A defendant who pleads as provided in subsection (5) (c), shall state the grounds for making the plea and the justices shall, before proceeding further, hear and determine the plea and—

- (a) amend the complaint; or
- (b) dismiss the complaint; or
- (c) overrule the plea.

(7) If the complaint is amended or the plea is overruled, the defendant shall be asked to plead to the amended complaint or to plead further, as the case requires.

(8) A defendant who, on being asked to plead, stands mute or does not answer directly to the charge shall be deemed to plead not guilty.

#### **Section 74B amended (Procedure on adjournment)**

**9**—Section 74B of the Principal Act is amended by omitting subsection (3).