

LEGISLATIVE ASSEMBLY

Read 1° 13 October 1987

(Brought in by Mr Mathews and Mr Wilkes)

A BILL

to amend the *County Court Act 1958*, the *Evidence Act 1958*, the *Juries Act 1967*, the *Planning Appeals (Amendment) Act 1987* and the *Administrative Appeals Tribunal Act 1984* and for other purposes.

Courts (Amendment) Act 1987

The Parliament of Victoria enacts as follows:

Purpose.

1. The purposes of this Act are—

- 5 (a) to facilitate the appointment of the judicial members of the
Liquor Control Commission as judges of the County Court;
and
- (b) to make provision with respect to civil proceedings in the
County Court that are beyond the jurisdiction of that Court;
and
- 10 (c) to enable the County Court to issue a warrant to apprehend
a person who disobeys a summons; and
- (d) to increase the size of juries in civil trials in the County
Court and to validate certain verdicts given in such trials;
and
- 15 (e) to render ineffective the proclamation of Schedule 4 to the
Planning Appeals (Amendment) Act 1987; and
- (f) to empower the Registrar of the Administrative Appeals
Tribunal to preside over preliminary conferences.

Commencement.

2. (1) This Act (except section 6) comes into operation on a day or days to be proclaimed.

(2) Section 6 comes into operation on the day on which this Act receives the Royal Assent.

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Amendment of County Court Act.

3. The *County Court Act* 1958 is amended as follows:

(a) After section 14 insert—

Appointment of judicial members of Liquor Control Commission as judges.

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“14A. (1) This section applies to a person who immediately before the commencement of section 3 (a) of the *Courts (Amendment) Act* 1987 was a judicial member of the Liquor Control Commission constituted under the *Liquor Control Act* 1968.

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(2) If a person to whom this section applies is appointed as a judge of the County Court, that person’s service as a judicial member of the Liquor Control Commission counts, for the purposes of section 14, as service in the office of judge under this Act.”;

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(b) In section 39, for sub-sections (2) and (3) substitute—

“(2) If an action or matter is wholly or partly beyond the jurisdiction of the Court, the Court may—

(a) amend the summons or other process by which the action or matter was commenced for the purpose of bringing the action or matter within jurisdiction; or

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(b) order that the action or matter be stayed pending the making of an application under section 61 (1); or

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(c) order that the action or matter be struck out and award costs as if the Court had jurisdiction and the action or matter were dismissed.

(3) If—

(a) under sub-section (2) (b) the Court orders that an action or matter be stayed pending the making of an application under section 61 (1); and

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(b) within a reasonable time after the making of that order the action or matter has not been transferred to the Supreme Court—

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the Court may exercise the power conferred by sub-section (2) (c).”; and

(c) In section 61, after sub-section (1) insert—

“(1A) An application may be made under sub-section (1) even if the proceeding is wholly or partly beyond the jurisdiction of the County Court.”.

5 Amendment of Evidence Act.

4. In section 150 of the *Evidence Act* 1958—

(a) for “*ad testificandum or duces tecum*” substitute “or summons”; and

(b) after “Supreme Court” insert “or the County Court”; and

10 (c) for “the Court” (where first occurring) substitute “the Supreme Court or County Court (as the case requires)”; and

(d) after “subpoena” (where secondly occurring) insert “or summons”.

No. 6246.
Reprinted to No.
127/1986.

Amendment of Juries Act.

15 5. (1) The *Juries Act* 1967 is amended as follows:

(a) For section 14 (1) substitute—

“(1) A civil inquest in the Supreme Court or the County Court is to be heard by a jury of six.”; and

20 (b) In section 15 (2) for “four” (where twice occurring) substitute “six”; and

(c) In section 17 for “four” substitute “six”; and

(d) After section 17 insert—

Validation of verdict where incorrect number of jurors impanelled.

25 “18. If at any time between the commencement of section 135 of the *Supreme Court Act* 1986 and the commencement of section 5 (1) (d) of the *Courts (Amendment) Act* 1987 six jurors were impanelled and sworn in any civil inquest in the County Court, the verdict given

30 (a) is not liable to be challenged, appealed against, reviewed, quashed or called in question in any court on account of the fact that six, and not four, jurors were impanelled and sworn; and

35 (b) has the same force and effect as if four jurors had been impanelled and sworn.”.

No. 7851.
Reprinted to No.
9602.
Subsequently
amended by Nos.
10089, 10191,
10245, 10260,
110/1986,
117/1986 and
16/1987.

40 (2) The *Juries Act* 1967 as in force immediately before the commencement of paragraphs (a), (b) and (c) of sub-section (1) continues to apply to the impanelling of jurors in a civil inquest in the County Court the hearing of which has begun before that commencement.”.

Amendment of Planning Appeals (Amendment) Act.

No. 9/1987.
Amended by No.
45/1987.

6. (1) The *Planning Appeals (Amendment) Act 1987* is amended as follows:

- (a) In section 9, omit "or 4";
- (b) Schedule 4 is repealed.

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(2) The *Planning Appeals (Amendment) Act 1987* is deemed to have been enacted as amended by sub-section (1).

Amendment of Administrative Appeals Tribunal Act.

No. 10155.
Amended by Nos. 10191,
16/1986 and
9/1987.

7. Section 38 of the *Administrative Appeals Tribunal Act 1984* is amended as follows:

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- (a) In sub-section (1) after "member" insert "or the Registrar"; and

- (b) After sub-section (1) insert—

"(1A) The Registrar, while presiding over a conference held in accordance with sub-section (1), has such of the powers of a member as are necessary for the purposes of the conference."; and

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- (c) In sub-section (4) after "conference" (where first occurring) insert "presided over by a member".

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