



TASMANIA

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**JUSTICES AMENDMENT (CHILD WITNESSES) ACT  
1995**

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**No. 38 of 1995**

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**AN ACT to amend the *Justices Act 1959***

**[Royal Assent 1 September 1995]**

**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 (Child Witnesses) Act 1995*.

**Commencement**

**2**—This Act commences on the day proclaimed under section 2 of the *Evidence Amendment (Children and Special Witnesses) Act 1995*.

**Principal Act**

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

**Section 3 amended (Interpretation)**

4—Section 3 (1) of the Principal Act is amended by inserting the following definition before the definition of “breach of duty”—

“**affected child**” means a person—

- (a) who is under the age of 17 years; and
- (b) upon or in respect of whom the defendant is charged with having committed one or more of the following crimes:—
  - (i) a crime under section 122, 123, 124, 125, 126, 127, 127a, 128, 129, 185, 186, 298 or 300 of the *Criminal Code*;
  - (ii) a crime under section 299 of the *Criminal Code* in relation to a crime specified in a section referred to in subparagraph (i).

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

5—Section 56A of the Principal Act is amended as follows:—

- (a) by inserting the following subsection after subsection (6):—

(6AA) For the purposes of subsection (6), the taking of a deposition of a witness who is an affected child means the taking of the deposition in accordance with section 57A.

- (b) by inserting “other than an affected child” in subsection (6A) after “witness” (first occurring).

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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, Nos. 10, 71 and 73 of 1993, Nos. 8, 10, 64, 65 and 68 of 1994 and No. 30 of 1995.

**Section 57A inserted**

**6**—After section 57 of the Principal Act, the following section is inserted:—

**Depositions of affected children**

57A—(1) If a defendant requires, under section 56A (6) (a) or (b), the deposition of witnesses to be taken before a justice—

- (a) a witness who is an affected child must not be examined before a justice; and
- (b) the deposition of the affected child is the presentation of a copy of a written, electronic or other recording of a statement made by the affected child accompanied by a certificate of a kind referred to in subsection (4).

(2) Notwithstanding subsection (1), a justice may summon an affected child who is required to make a deposition for the purposes of section 56A (6) to attend as a witness for examination or further examination (including cross-examination) if the justice is satisfied that there exist special circumstances which justify the child being so examined.

(3) If an affected child attends as a witness after being summoned under subsection (2), the deposition of the affected child consists of any deposition referred to in subsection (1) previously made by the child and the deposition of the child taken before a justice in accordance with section 57.

(4) A certificate is evidence of the facts stated in it if it—

- (a) is on or accompanying a copy of a recording of an affected child's statement; and
- (b) purports to be made by a person who was present when the child made the statement; and
- (c) specifies that the copy is a true and accurate copy of the recording.

**Section 69A amended (Witnesses where no depositions taken)**

7—Section 69A of the Principal Act is amended as follows:—

(a) by omitting “A justice shall not issue a summons in respect of a person in accordance with subsection (1)” from subsection (2) and substituting “On receipt of an application made under subsection (1) in respect of a person who is not an affected child, a justice must not issue a summons”;

(b) by inserting the following subsections after subsection (2):—

(2A) On receipt of an application made under subsection (1) in respect of a person who is an affected child, a justice must not issue a summons unless the person making the application has first obtained the leave of the Supreme Court to do so.

(2B) The Supreme Court must not grant leave for a person to apply under subsection (1) for a summons in respect of an affected child unless it is satisfied that there exist special circumstances that justify the summoning of the child.

(c) by omitting “section 57” from subsection (5) (b) and substituting “sections 57 and 57A”.

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*[Second reading presentation speech made in:—  
House of Assembly on 9 May 1995  
Legislative Council on 16 August 1995]*