

## TASMANIA.



1945.

ANNO OCTAVO ET NONO  
 GEORGII VI. REGIS.

No. 56.

## ANALYSIS.

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| <p>1. Short title and citation.<br/>         2. Summary conviction for a penalty, &amp;c.<br/>         3.—<br/>             Fines: Inquiry as to means of defaulter.<br/>             Notice of fine to person liable for payment thereof.</p> | <p>Attendance of defaulters for purposes of inquiry.<br/>         Statements as to wages to be evidence.<br/>         Prohibition of charge of fees in certain cases.<br/>         Interpretation of certain provisions.</p> |
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AN ACT to amend the *Justices Procedure Act*  
 1919. [8 June, 1945.]

A.D.  
 1945  
 —

BE 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:—

**1**—(1) This Act may be cited as the *Justices Procedure Act* 1945. Short title and citation.

(2) The *Justices Procedure Act* 1919\*, as subsequently amended, is in this Act referred to as the Principal Act.

\* 10 Geo. V. No. 55, as amended by 11 Geo. V. No. 65, 25 Geo. V. No. 66, 26 Geo. V. No. 44, 2 Geo. VI. No. 54, 4 & 5 Geo. VI. No. 67, 5 Geo. VI. No. 53, 7 Geo. VI. No. 32, and by Statute Law Revision. (See Reprint of Statutes, Vol. III., page 130.)

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**2** Section one hundred and fifteen of the Principal Act is amended by deleting the word "If" at the commencement of subsection (2) and substituting therefor the words "Subject to the provisions of section one hundred and fifteen A, if".

**3** After section one hundred and fifteen of the Principal Act the following sections are inserted—

Fines:  
Inquiry as to means of defaulter.  
Cf. 25 & 26 Geo. V., c. 46 (Imp.), s. 1.

"115A—(1) Except as provided in subsection (2), where a summary conviction or order adjudges the payment of a sum of money, with or without costs, or for costs alone, the justices making the conviction or order shall allow the defendant such time for payment of the sum so adjudged to be paid as shall appear to the justices to be reasonable in the circumstances, and the justices shall not, on the occasion of making the conviction or order, impose on the defendant a period of imprisonment in default of payment of that sum.

(2) The provisions of subsection (1) shall not apply in any case where—

- (a) the justices, at the time of making the conviction or order and in the presence of the defendant, determine that for any special reasons (whether having regard to the gravity of the offence, to the character of the defendant, or to other special circumstances) it is expedient that the defendant should be refused time for payment and should be imprisoned without further inquiry in default of payment;
- (b) the justices making the conviction or order are satisfied that the defendant is possessed of sufficient means to pay the sum forthwith;
- (c) the defendant, upon being asked by the justices making the conviction or order whether he desires time for payment, does not express any such desire; or
- (d) the defendant fails to satisfy the justices that he has any fixed abode in this State.

(3) Notwithstanding anything contained elsewhere in this Act, no justice shall issue a warrant of commitment of a defendant to gaol in accordance with the provisions of this Act if the defendant has been allowed time for payment of any sum adjudged to be paid, unless on an occasion subsequent to his conviction any two justices having jurisdiction in the matter have made inquiry as to the defendant's means, and are satisfied, as the result of such inquiry, that the defendant has wilfully or negligently made default in payment of the sum adjudged to be paid, but this subsection shall not apply—

- (a) where a period of imprisonment in default of payment was imposed on the defendant on the occasion of his conviction in pursuance of subsection (2); or
- (b) in the case of a defendant who is in gaol.

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(4) Where, in pursuance of subsection (1), time has been allowed for payment of any sum adjudged to be paid by any conviction or order, any two justices may, subject to any rules made under this Act, on application being made in that behalf by or on behalf of the defendant, allow further time for payment of such sum or direct that payment thereof shall be made by instalments. A.D. 1945.

“115B—(1) Where any conviction or order adjudges the payment of any sum of money and the justices making the conviction or order allow the defendant time for payment thereof, and the defendant is not present on the occasion of the making of the conviction or order, the clerk of the court, as soon as may be practicable thereafter, shall deliver to the defendant or forward to him by post, a notice in writing informing the defendant of the making of the conviction or order. Notice of fine to person liable for payment thereof.  
Cf. 25 & 26 Geo. V., c. 46 (Imp.), s. 8.

(2) A notice under subsection (1) shall set forth—

- (a) the amount of the sum adjudged to be paid by the defendant;
- (b) the date on or before which payment thereof is required to be made;
- (c) the time and place at which payment may be made; and
- (d) if the justices have ordered payment to be made by instalments, particulars of the instalments to be paid.

“115C For the purposes of enabling any inquiry as to his means to be made in the presence of a defendant to whom time has been allowed for payment of a sum adjudged to be paid by any conviction or order and who has made default in payment of that sum, a justice may issue to the defendant a summons to appear before such justices, and at such time and place as may be specified in the summons, and if the defendant does not appear in obedience to the summons the justices may issue a warrant for the arrest of the defendant, or, if they consider it necessary or desirable so to do, may issue such warrant in the first instance. Attendance of defaulters for purposes of inquiry.  
Cf. 25 & 26 Geo. V., c. 46 (Imp.), s. 11.

“115D A statement in writing purporting to be signed by or on behalf of the employer of any person verified by statutory declaration stating that wages of any amount have been paid to that person during any specified period shall be *prima facie* evidence of the facts therein stated in any proceedings before justices for the enforcement of the payment by the person to whom the wages are stated to have been paid of any sum adjudged to be paid by any conviction or order. Statements as to wages to be evidence.  
Cf. 25 & 26 Geo. V., c. 46 (Imp.), s. 12.

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A.D. 1945. "115E No fee shall be charged for or in respect of the preparation, issue, or service of any summons, warrant, notice, or order authorised or required to be issued, given, or made under sections one hundred and fifteen A to one hundred and fifteen C.

Prohibition  
of charge of  
fees in certain  
cases.

Cf. 25 & 26  
Geo. V., c. 46  
(Imp.), s. 13.

Interpretation  
of certain  
provisions.

Cf. 25 & 26  
Geo. V., c. 46  
(Imp.), s. 15.

"115F In sections one hundred and fifteen A to one hundred and fifteen D, unless the contrary intention appears, the expression 'sum adjudged to be paid' includes any costs adjudged to be paid by any conviction or order, and any reference to an allowance of time for payment includes a reference to a direction or order for payment by instalments."