

LEGISLATIVE COUNCIL

Read 1° 18 September 1990

(Brought in by the Honourable M. A. Lyster)

A BILL

to amend the **Magistrates' Court Act 1989** with respect to the time limits applicable to, and the legal representation of informants in, committal proceedings and with respect to the procedure on arrest and for other purposes.

Magistrates' Court (Amendment) Act 1990

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is—

- 5 (a) to extend the time limits applicable to committal proceedings that relate to offences for which proceedings were instituted before the commencement of the **Magistrates' Court Act 1989**; and
- 10 (b) to require that the informant be legally represented only in committal proceedings that relate to offences for which proceedings were commenced

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**)

after the commencement of the **Magistrates' Court Act 1989**; and

- (c) to make the provisions of the **Magistrates' Court Act 1989** that relate to the bringing of people who have been arrested on a warrant before a bail justice or the Magistrates' Court consistent with the **Crimes Act 1958**.

2. *Commencement*

- (1) This Act (except sections 3 and 4) comes into operation on the day on which it receives the Royal Assent.
- (2) Sections 3 and 4 must be taken to have come into operation on 1 September 1990.

3. *Time limits applicable to committal proceedings*

No. 51/1989.
Amended by
Nos 25/1989,
48/1989,
54/1989,
56/1989,
5/1990,
11/1990 and
34/1990.

In Schedule 8 to the **Magistrates' Court Act 1989**, after clause 13 insert—

- “14. (1) Sub-clause (8) (a) of clause 15 of Schedule 5 must be construed as if it required a committal proceeding to which that clause applies to be commenced before the end of the period of 3 months after the date of assent to the **Magistrates' Court (Amendment) Act 1990** if it relates to an offence for which proceedings were instituted before 1 September 1990.
- (2) Sub-clause (1) (a) of clause 16 of Schedule 5 must be construed as if it required a committal proceeding to which that clause applies to be commenced before the end of the period of 6 months after the date of assent to the **Magistrates' Court (Amendment) Act 1990** if it relates to an offence for which proceedings were instituted before 1 September 1990.
- (3) Nothing in this clause takes away from the power of the Court to fix a longer period in

accordance with clause 15 (8) (b) or 16 (1) (b) (as the case requires) of Schedule 5.

- 5 (4) Any order made by the Court under clause 15 (9) or 16 (2) of Schedule 5 before the date of assent to the **Magistrates' Court (Amendment) Act 1990** is of no effect, and must be taken never to have had any effect, in relation to an offence for which proceedings were instituted before 1 September 1990.”.

10 **4. Legal representation of informant in committal proceedings**

In clause 15 (2) of Schedule 5 to the **Magistrates' Court Act 1989**, after “solicitor” insert “if the committal proceeding relates to an offence for which the proceeding was commenced on or after 1 September 1990”.

15 **5. Procedure on arrest**

In the **Magistrates' Court Act 1989**—

- (a) in section 64 (2) (a) for “as soon as practicable” substitute “within a reasonable time of being arrested”;

- 20 (b) in section 64, after sub-section (3) insert—

“(4) In determining what constitutes a reasonable time for the purposes of sub-section (2) (a) the matters specified in section 464A (4) of the **Crimes Act 1958** may be considered.”;

- 25 (c) In section 65 (2) for “as soon as practicable” substitute “within a reasonable time of being arrested”;

- (d) In section 65, after sub-section (5) insert—

- 30 “(6) In determining what constitutes a reasonable time for the purposes of sub-section (2) the matters specified in section 464A (4) of the **Crimes Act 1958** may be considered.”;

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- (e) In section 78 (2) (a) for “as soon as practicable” **substitute** “within a reasonable time of being arrested”;
- (f) In section 78, after sub-section (3) **insert—**
 - “(4) In determining what constitutes a reasonable 5
time for the purposes of sub-section (2) (a) the
matters specified in section 464A (4) of the
Crimes Act 1958 may be considered.”.