

CONCURRENCE COPY

JUSTICES (PROCEDURE) AMENDMENT BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crimes (Amendment) Bill, 1983.

The objects of this Bill are—

- (a) to require a defendant to be supplied with a written copy of the charges against him (Schedule 1);
 - (b) to enable committal proceedings to continue in the absence of an absconding defendant (Schedule 2);
 - (c) to limit the circumstances in which the prosecutor may address the court after the closing address for the defendant (Schedule 3); and
 - (d) to make provisions consequential upon or ancillary to the foregoing.
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JUSTICES (PROCEDURE) AMENDMENT BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Justices Act, 1902, with respect to the procedure at committal proceedings and for other purposes.

[MR WALKER—30 *March*, 1983.]

Justices (Procedure) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Justices (Procedure) Amendment Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall
10 commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–3, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–3 shall commence on such
day or days as may be appointed by the Governor in respect thereof and as
15 may be notified by proclamation published in the Gazette.

Principal Act.

3. The Justices Act, 1902, is referred to in this Act as the Principal Act.

Schedules.

20 4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO COPIES OF CHARGES.

Justices (Procedure) Amendment.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO COMMITTAL PROCEEDINGS IN THE ABSENCE OF THE DEFENDANT.

5 SCHEDULE 3.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO CLOSING ADDRESSES.

Amendment of Act No. 27, 1902.

5. The Principal Act is amended in the manner set forth in Schedules 1–3.

Application of Act.

10 6. An amendment made by this Act does not have effect in relation to proceedings in which the defendant has appeared in court to answer the charge before the commencement of the amendment.

SCHEDULE 1.

(Sec. 5.)

15 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO COPIES OF CHARGES.

(1) Section 41 (1)—

After “shall”, insert “, if the person so charged has been provided with a written copy of the charges against him,”.

(2) Section 78 (1)—

20 After “hearing”, insert “and has been provided with a written copy of any charges against him,”.

Justices (Procedure) Amendment.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO COMMITTAL
PROCEEDINGS IN THE ABSENCE OF THE DEFENDANT.

5 (1) Section 41 (1B) (d)—

After section 41 (1B) (c), insert:—

10 (d) Where, having appeared or been brought before a Justice or Justices as referred to in subsection (1), a person so referred to subsequently fails, after the commencement of the taking of evidence for the prosecution, to appear or be brought before the Justice or Justices, the taking of evidence for the prosecution may, notwithstanding paragraph (a), continue in the absence of the defendant if—

- 15 (i) no good and proper reason is shown for the absence of the defendant; and
(ii) a warrant for the apprehension of the defendant is issued.

(2) Section 41 (2) (b)—

Omit “made out, proceed as hereinafter provided.”, insert instead:—
made out—

- 20 (i) if the defendant is present—proceed as provided by subsections (4), (5) and (6); or
(ii) if the defendant is not present—proceed as provided by subsection (6).

(3) Section 41 (6)—

25 Omit “for the defence has”, insert instead “any evidence for the defence have”.

(4) Section 41 (7)—

After section 41 (6), insert:—

30 (7) Where, pursuant to subsections (2) (b) (ii) and (6), a defendant has been committed for trial, a stipendiary magistrate or Judge may set aside the order for committal and any warrant of

Justices (Procedure) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO COMMITTAL
PROCEEDINGS IN THE ABSENCE OF THE DEFENDANT—*continued.*

5 commitment issued thereon if, upon the application of the defendant
made before the presentation of an indictment against him, good and
proper reason is shown for the absence of the defendant that occurred
during the taking of the evidence for the prosecution.

SCHEDULE 3.

(Sec. 5.)

10 AMENDMENT TO THE PRINCIPAL ACT RELATING TO CLOSING
ADDRESSES.

Section 79—

Omit “the trial of an issue of fact”, insert instead “a trial on indictment”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

(40c)

