

JUSTICES (AMENDMENT) ACT 1987 No. 178

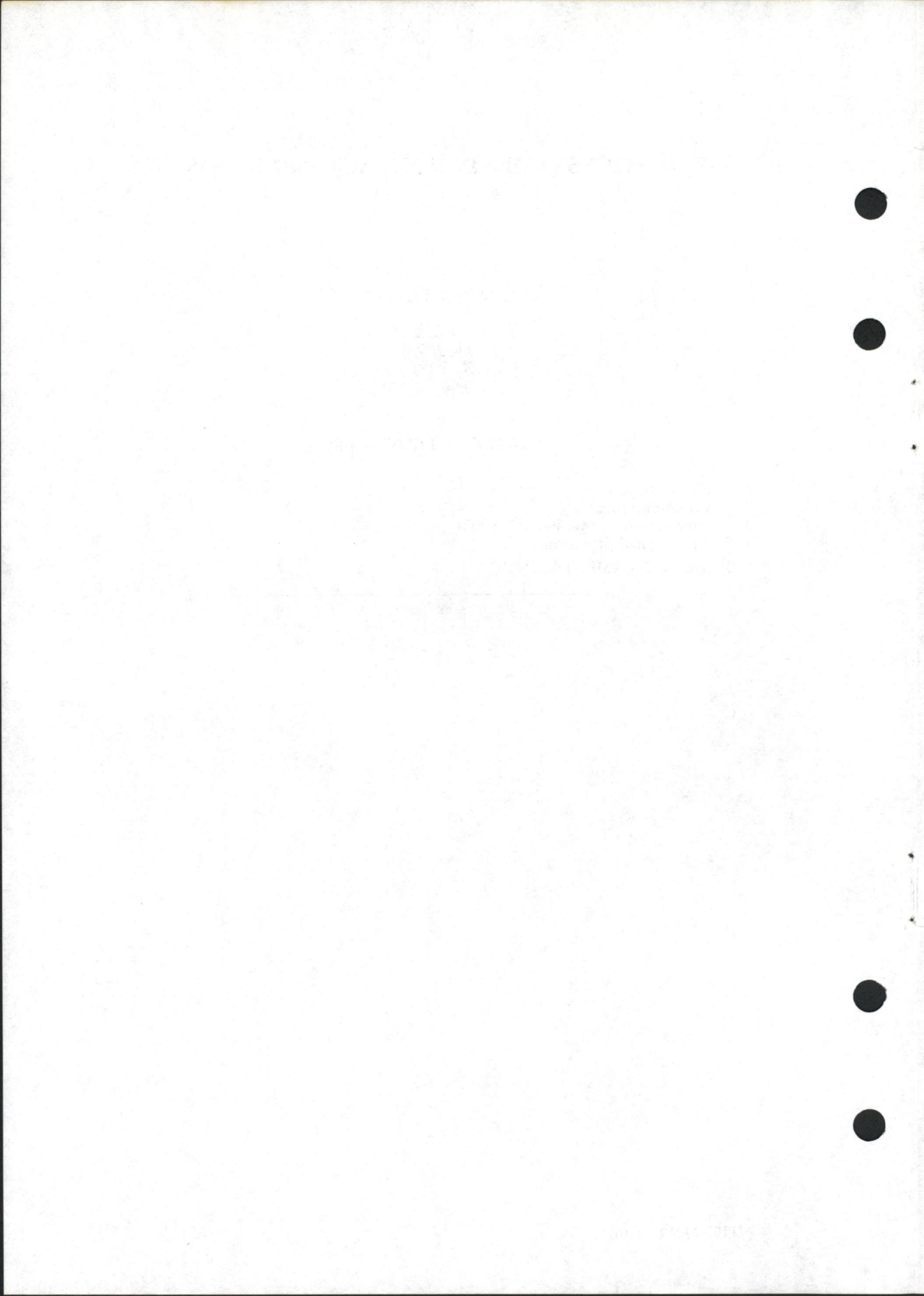
NEW SOUTH WALES



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3. Amendment of Act No. 27, 1902
4. Transitional provision

SCHEDULE 1—AMENDMENTS



JUSTICES (AMENDMENT) ACT 1987 No. 178

NEW SOUTH WALES



Act No. 178, 1987

An Act to amend the Justices Act 1902 in relation to the hearing of certain charges together and the procedure for dealing with certain matters following annulment of an enforcement order. [Assented to 4 December 1987]

*Justices (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Justices (Amendment) Act 1987.

Commencement

2. This Act shall commence on a day or days to be appointed by proclamation.

Amendment of Act No. 27, 1902

3. The Justices Act 1902 is amended as set out in Schedule 1.

Transitional provision

4. Section 78A of the Justices Act 1902, as amended by this Act, applies to charges laid or made before or after the commencement of Schedule 1 (2).

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 75B (Ex parte procedure for certain offences)—**(a) Section 75B (2B)—**

After section 75B (2A), insert:

(2B) Where—

- (a) an enforcement order is annulled under Division 3 of Part IVB and the certificate (together with any annexure) given under section 100L is deemed under section 100U to be an information in relation to the alleged offence;
- (b) notice of the hearing of the matter of the information has been given to the defendant; and
- (c) the defendant does not appear at the time and place fixed for the hearing,

the court before which the matter of the information comes for hearing may, if it is satisfied that the facts as alleged in or in an annexure to the certificate constitute the alleged offence and that reasonably sufficient particulars of those facts are set out in or in an annexure to the certificate, thereupon make an order imposing on the defendant a penalty to be paid within such time as is specified in the order, being a penalty of an amount not exceeding the amount of the pecuniary penalty that might have been imposed had the defendant been convicted of the offence.

 SCHEDULE 1—AMENDMENTS—*continued*

(b) Section 75B (4)—

Omit “(2) or (2A)”, insert instead “(2), (2A) or (2B)”.

(c) Section 75B (7)—

Omit “(2) (c) or (2A) (c)”, insert instead “(2) (c), (2A) (c) or (2B) (c)”.

(d) Section 75B (10)—

Omit “subsections (2) and (3)”, insert instead “this section”.

(2) Section 78A—

Omit the section, insert instead:

Provision for hearing cases together

78A. (1) Where the defendant is charged with 2 or more offences, the Justice or Justices have jurisdiction to hear and determine the charges together if—

- (a) the defendant and the informant or complainant consent;
- (b) the offences arise out of the same set of circumstances; or
- (c) the offences form or are part of a series of offences of the same or a similar character.

(2) Where 2 or more defendants are separately charged with offences, the Justice or Justices have jurisdiction to hear and determine the charges together, if—

- (a) the defendants and the informants or complainants consent;
- (b) the offences arise out of the same set of circumstances; or
- (c) the offences form or are part of a series of offences of the same or a similar character.

(3) Any such charges shall not be heard and determined together if the Justice or Justices are of the opinion that the charges ought to be heard and determined separately in the interests of justice.

SCHEDULE 1—AMENDMENTS—*continued*

(3) Section 100U (**Procedure after annulment**)—

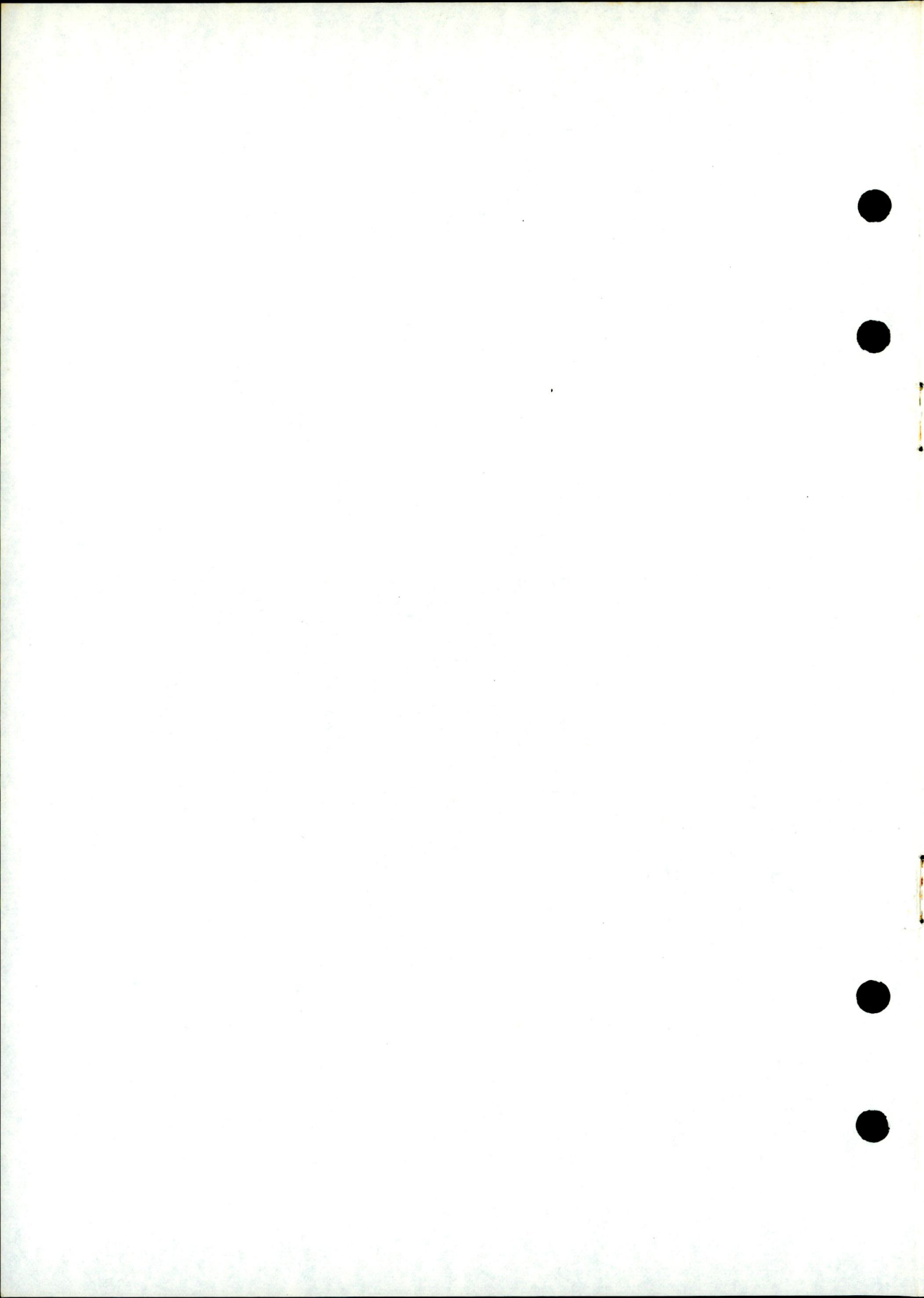
Section 100U (2)—

At the end of section 100U, insert:

(2) A person who is deemed by this section to have laid an information shall be regarded as an informant.



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JUSTICES (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Justices Act 1902—

- (a) to provide for a matter which comes before a Magistrate for hearing after the annulment of an enforcement order to be dealt with by the Magistrate in the absence of the defendant; and
- (b) to enable certain charges to be heard together without the consent of the parties.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 is a transitional provision which provides that the new section 78A applies to the hearing of charges together where those charges were laid or made before or after the commencement of Schedule 1 (2).

Schedule 1 (1) amends section 75B of the Principal Act so that the procedure provided in that section for dealing with certain offences in the absence of the defendant applies to a matter which comes before the court for hearing after annulment of an enforcement order.

Schedule 1 (2) substitutes section 78A of the Principal Act. The new section 78A expands the circumstances in which a Justice or Justices may hear charges together. At present, charges may be heard together only with the consent of the parties. The new section 78A will also allow a Justice or Justices to hear charges together if the alleged offences arise out of the same set of circumstances or form or are part of a series of offences of the same or a similar character.

Justices (Amendment) 1987

Schedule 1 (3) amends section 100U of the Principal Act so as to provide that a person who produces a certificate under section 100L (and is deemed to have laid an information) is to be regarded as an informant. This amendment will facilitate the application of the provisions of section 75B to matters which come before the court for hearing after annulment of an enforcement order.

JUSTICES (AMENDMENT) BILL 1987

NEW SOUTH WALES



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JUSTICES (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Justices Act 1902 in relation to the hearing of certain charges together and the procedure for dealing with certain matters following annulment of an enforcement order.

*Justices (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Justices (Amendment) Act 1987.

Commencement

2. This Act shall commence on a day or days to be appointed by proclamation.

Amendment of Act No. 27, 1902

3. The Justices Act 1902 is amended as set out in Schedule 1.

Transitional provision

4. Section 78A of the Justices Act 1902, as amended by this Act, applies to charges laid or made before or after the commencement of Schedule 1 (2).

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 75B (Ex parte procedure for certain offences)—

- (a) Section 75B (2B)—

After section 75B (2A), insert:

- (2B) Where—

- (a) an enforcement order is annulled under Division 3 of Part IVB and the certificate (together with any annexure) given under section 100L is deemed under section 100U to be an information in relation to the alleged offence;
- (b) notice of the hearing of the matter of the information has been given to the defendant; and
- (c) the defendant does not appear at the time and place fixed for the hearing,

the court before which the matter of the information comes for hearing may, if it is satisfied that the facts as alleged in or in an annexure to the certificate constitute the alleged offence and that reasonably sufficient particulars of those facts are set out in or in an annexure to the certificate, thereupon make an order imposing on the defendant a penalty to be paid within such time as is specified in the order, being a penalty of an amount not exceeding the amount of the pecuniary penalty that might have been imposed had the defendant been convicted of the offence.

- (b) Section 75B (4)—

 SCHEDULE 1—AMENDMENTS—*continued*

Omit “(2) or (2A)”, insert instead “(2), (2A) or (2B)”.

(c) Section 75B (7)—

Omit “(2) (c) or (2A) (c)”, insert instead “(2) (c), (2A) (c) or (2B) (c)”.

5 (d) Section 75B (10)—

Omit “subsections (2) and (3)”, insert instead “this section”.

(2) Section 78A—

Omit the section, insert instead:

Provision for hearing cases together

10 78A. (1) Where the defendant is charged with 2 or more offences, the Justice or Justices have jurisdiction to hear and determine the charges together if—

- (a) the defendant and the informant or complainant consent;
- (b) the offences arise out of the same set of circumstances; or
- 15 (c) the offences form or are part of a series of offences of the same or a similar character.

(2) Where 2 or more defendants are separately charged with offences, the Justice or Justices have jurisdiction to hear and determine the charges together, if—

- 20 (a) the defendants and the informants or complainants consent;
- (b) the offences arise out of the same set of circumstances; or
- (c) the offences form or are part of a series of offences of the same or a similar character.

25 (3) Any such charges shall not be heard and determined together if the Justice or Justices are of the opinion that the charges ought to be heard and determined separately in the interests of justice.

(3) Section 100U (**Procedure after annulment**)—

30 Section 100U (2)—

At the end of section 100U, insert:

(2) A person who is deemed by this section to have laid an information shall be regarded as an informant.

