

NORTHERN TERRITORY OF AUSTRALIA

JUSTICES AMENDMENT ACT 1997

No. 5 of 1997

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NORTHERN TERRITORY OF AUSTRALIA

No. 5 of 1997

AN ACT

to amend the *Justices Act*

[Assented to 26 March 1997]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Justices Amendment Act 1997*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. POWERS OF JUSTICES TO TAKE PLEA OF GUILTY WITHOUT EVIDENCE

Section 106A of the *Justices Act* is amended -

(a) by omitting subsection (1) and substituting the following:

"(1) Where the defendant appears before a Magistrate and the information charges the defendant with an offence cognisable by a Magistrate under section 120 or 121A, or both, the defendant at any stage of the proceedings, and

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whether any statement has been taken from any witness or not, may plead guilty to the offence or any of the offences charged against him or her, and the Magistrate at the commencement of the proceedings is to inform the defendant of his or her right so to plead.";

- (b) by omitting from subsection (2)(a) "or Justices";
- (c) by omitting from subsection (2)(c) "129,"; and
- (d) by omitting subsection (3) and substituting the following:

"(3) If after the defendant has so pleaded guilty to an offence, the Magistrate, on consideration of any facts stated by the prosecution or given in evidence, is of the opinion that the time for taking the plea should be postponed, the Magistrate may order that the plea of guilty be withdrawn and thereupon all further proceedings in respect of the offence are to be conducted in accordance with this Part; but if any such further proceedings are taken the defendant is not, by reason of his or her plea of guilty, entitled to plead *autrefois convict*."

4. MINOR OFFENCES

Section 120 of the *Justices Act* is amended -

- (a) by omitting "or by 2 or more Justices";
- (b) by omitting all words after "does not exceed" and substituting "\$5,000."; and
- (c) by adding at the end the following:

"(2) The jurisdiction conferred by subsection (1) may be exercised whether or not the defendant consents to its exercise."

5. OFFENCES THAT MAY BE DEALT WITH SUMMARILY

Section 121A of the *Justices Act* is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) Subject to section 122A, where -

- (a) a person is charged before the Court with an indictable offence;
- (b) the offence is either -
 - (i) punishable by not more than 10 years imprisonment; or

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- (ii) against sections 210, 213, 228, 229, 240, 241, 243, 245, 246, 247, 251 or 252 of the Criminal Code and punishable by not more than 14 years imprisonment;
- (c) in the opinion of the Court, the charge is not one that the Court has jurisdiction, apart from this section, to hear and determine in a summary manner;
- (d) the defendant consents to it being so disposed of;
- (e) the prosecutor consents to it being so disposed of; and
- (f) the Court is of the opinion that the case can properly be disposed of summarily,

the Court has jurisdiction to hear and determine the charge in a summary manner, and pass sentence on the person so charged.

"(1AA) The Court may seek from the prosecutor or, if the informant is appearing in person, from the informant, and the prosecutor or informant shall give to the Court, an outline of the evidence that will be presented for the prosecution, for the purpose of enabling the Court to determine whether to hear and determine the charge in a summary manner.

"(1AB) A statement made by the prosecutor or informant under subsection (1AA) is not admissible in evidence in a subsequent proceeding in respect of the charge."; and

- (b) by omitting subsection (3) and substituting the following:

"(3) In this section, 'Court' means the Court constituted by a Magistrate."

6. REPEALS AND SUBSTITUTION

Sections 121B, 121C, 122, 122A and 123 of the *Justices Act* are repealed and the following substituted:

"122A. SERIOUS OR DIFFICULT MATTERS NOT TO BE DEALT WITH SUMMARILY

"If it appears to the Court that an offence being dealt with pursuant to section 120 or 121A, having regard to its seriousness, the intricacy of the facts or the difficulty of any question of law likely to arise at the trial or any other relevant circumstances, ought to be tried by the Supreme Court, the Court may conduct a preliminary examination under this Part in relation to the offence."

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7. CHARGE TO BE REDUCED INTO WRITING AND DEFENDANT REQUIRED TO PLEAD

Section 125 of the *Justices Act* is amended -

(a) by omitting from subsection (1) "When Justices or a Magistrate proceed to dispose of any case as a minor offence, or a Magistrate proceeds to dispose of a case under section" and substituting "When a Magistrate proceeds to dispose of any case under section 120 or"; and

(b) by omitting from subsection (2) "Justices or".

8. WITNESS FOR PROSECUTION MAY BE RECALLED FOR CROSS-EXAMINATION

Section 126 of the *Justices Act* is amended by omitting "Subject to section 123(3), when" and substituting "When".

9. REPEAL

Section 129 of the *Justices Act* is repealed.

10. NEW SECTION

The *Justices Act* is amended by inserting after section 183 the following:

"183A. COMPLAINT AND INFORMATION MAY BE JOINED IN CERTAIN CIRCUMSTANCES

"Notwithstanding any other provision of this Act, where the Court has jurisdiction to deal with both -

(a) a charge specified in a complaint; and

(b) a charge specified in an information,

relating to the same defendant and arising from the same or associated circumstances, the Court may deal with both the complaint and information together."

11. NEW DIVISION

The *Justices Act* is amended by inserting before Division 4 of Part VII the following:

"Division 4A - Rules and Practice Directions

"201A. RULES AND PROCEDURES

"(1) For the purpose of the Court exercising the jurisdiction conferred on the Court by this or any other Act, the Chief Magistrate, within the meaning of the *Magistrates Act*, may make rules and give practice directions -

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- (a) regulating the practice and procedures of the Court;
- (b) regulating the enforcement of an order of the Court; and
- (c) regulating and prescribing all matters and things incidental or relating to court practice or procedure or enforcement,

as the Chief Magistrate considers necessary or convenient for the conduct of the business of the Court.

"(2) Without limiting the generality of subsection (1), the Rules may -

- (a) prescribe fees, costs and charges in respect of a proceeding in the Court;
- (b) enable the hearing of a proceeding to be conducted by telephone or closed circuit television;
- (c) provide for officers of the Court and their functions and may confer a discretionary authority on an officer or class of officers; and
- (d) provide for the exemption of a person or proceeding, or a class of persons or proceedings, from the application of the Rules or a particular rule.

"(3) The Rules may impose or confer on a clerk the functions and powers in relation to the Court and proceedings before the Court and a clerk is to perform those functions and may exercise those powers accordingly.

"(4) Subject to this Act and the Regulations, the practice and procedures of the Court in relation to a proceeding within its jurisdiction are in the discretion of the Court."
