

JUSTICES (AMENDMENT) ACT 1987 No. 178

NEW SOUTH WALES



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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.

*Justices (Amendment) 1987*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.

Justices (Amendment) 1987

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.