

7 ELIZ. II. No. 39, 1958. *Justices Acts Amendment Act.*

An Act to Amend "The Justices Acts, 1886 to 1956," in certain particulars.

7 ELIZ. II.
No. 39.
THE
JUSTICES
ACTS
AMENDMENT
ACT OF 1958.

[ASSENTED TO 21ST NOVEMBER, 1958.]

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

1. (1.) This Act may be cited as "*The Justices Acts Amendment Act of 1958.*" Short title.

(2.) *"*The Justices Acts, 1886 to 1956,*" are in this Act referred to as the Principal Act. Principal Act.

(3.) The Principal Act and this Act may be collectively cited as "*The Justices Acts, 1886 to 1958.*" Collective title.

†(4.) This Act shall come into force on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*. Commencement of Act.

2. Section four of the Principal Act is amended by inserting therein, after the definition "Police officer", the following definition:— Amendment of s. 4.

" "Police station" includes a police office, watch-house, and lock up ; ." Police station.

3. Section twenty-two of the Principal Act is amended by adding thereto the following subsection:— Amendment of s. 22.

"(4.) Where the appointment of any place as a place for holding courts of petty sessions is or, whether before or after the enactment of this subsection, has been cancelled, the Governor in Council may, by the Proclamation cancelling that appointment or by Proclamation subsequently, direct that the complaints, depositions, and other proceedings before, and the decisions of, justices sitting in petty sessions, and the records and accounts, and any other things kept by or in the custody of the clerk of petty sessions at that place be delivered to the clerk of petty sessions at some other place.

Where such a direction is given, all such complaints, depositions, other proceedings, records, accounts, and other things shall be kept by and be placed in the custody

* 50 V. No. 17 and amending Acts.

† Commenced 2 Feb., 1959. (Proc. pubd. Gaz. 20 Dec., 1958, p. 2140.)

of the lastmentioned clerk of petty sessions and all such decisions may be enforced and all proceedings may be commenced, continued or completed at the lastmentioned place as fully and effectually as if the decisions had been decisions at that place.

Without derogating from the foregoing provision, all acts, matters and things authorised, permitted or required to be done, executed or taken, or which had been authorised, permitted or required to be done, executed or taken, whether for the purpose of the enforcement or variation of any such decision or any other purpose, by or in relation to the court of petty sessions or justices or the clerk of petty sessions at such firstmentioned place are hereby authorised, permitted or required, as the case may be, to be done, executed or taken, as the case may be, by or in relation to the court of petty sessions or justices or clerk of petty sessions, as the case may be, at such lastmentioned place.”

Repeal of
and new
s. 69.

4. Section sixty-nine of the Principal Act is repealed and, in lieu of that repealed section, the following section is inserted:—

How person
arrested
without
warrant to
be dealt
with.

“ [69.] A person taken into custody for an offence without a warrant shall be brought before a justice to be dealt with according to law as soon as practicable after he is taken into custody.”

New
headnote
and s. 69A
inserted.

5. The following headnote and section are inserted after section sixty-nine of the Principal Act:—

“ *Taking of bail by police officers.*

When police
officer may
take bail.

[69A.] (1.) When a person taken into custody for an offence punishable upon summary conviction (including any indictable offence punishable upon summary conviction), whether with or without warrant, is delivered into the custody of any police officer during his attendance at any police station, then, if that person has not appeared before a justice for that offence, that police officer may, if he is satisfied that such person cannot be taken forthwith before a justice to be dealt with according to law and if he deems it prudent so to do, take bail—

(a) By recognizance, with or without sureties as he thinks fit and for such amount as he deems sufficient, from that person conditioned; or

1958.

Justices Acts Amendment Act.

- (b) At a place appointed as a place for holding courts of petty sessions, by accepting such deposit of money as he deems sufficient as security,

for that person's appearance in accordance with this section before a justice to be dealt with according to law.

(2.) Every recognizance taken under this section shall be conditioned, and every deposit of money accepted under this section shall be as security, for the appearance of the person admitted to bail—

- (a) Before a justice at the day, time and place named in the recognizance ; or
- (b) In the case of a deposit of money, before the court of petty sessions held at the place where such person was so admitted to bail at the hour of ten o'clock in the forenoon next after such bail is taken, unless that hour falls on a day on which a court of petty sessions at that place is not held and in that case at the like hour on the first succeeding day on which a court of petty sessions at that place is held.

(3.) Every recognizance taken under this section shall be of equal obligation on the parties entering into it and the same proceedings shall lie for enforcing it as if it had been taken before a justice, and for the purposes of this Act shall be deemed to have been taken before a justice.

(4.) The police officer taking any such recognizance or accepting any such deposit of money shall enter in the book to be kept for that purpose at the police station,—

- (a) The name, address and occupation of the person (other than the surety or sureties, if any) entering into the recognizance or, as the case may be, making the deposit of money ;
- (b) In the case of a recognizance the name, address and occupation of the surety or of each of the sureties (if any), and the condition of the recognizance ;

Justices Acts Amendment Act. 7 ELIZ. II. No. 39,

(c) In the case of a deposit of money the amount thereof and the day, time and place for the appearance before a justice of the person admitted to bail,

and shall lay the original recognizance before or, in the case of a deposit of money, produce the aforesaid book to the justice present at the day, time and place when and where the person admitted to bail is required to appear.

(5.) An apparently genuine document purporting to be a recognizance under this section, or a book purporting to be a book referred to in subsection four of this section, shall upon production, and without proof of any signature, be admitted before any court or justice as *primâ facie* evidence of all matters recorded or stated therein.

(6.) The admission to bail under this section of any person shall discharge any duty then had of taking that person before a justice to be dealt with according to law.”

Amendments
of s. 93.

6. Section ninety-three of the Principal Act is amended—

(i.) By adding to that section the following proviso :—

“ Provided that if the defendant does not personally appear but appears by his counsel or solicitor, the justices may upon application enlarge the recognizance to such further time as they appoint.”;

(ii.) By renumbering the section as so amended as subsection one of that section ;

(iii.) By adding thereto the following subsections :—

“(2.) Where a person is admitted to bail under section 69A of this Act by the acceptance of a deposit of money as security for that person’s appearance before a court of petty sessions and that person—

(a) Does not appear before that court of petty sessions, subject to subsection three of this section, the justice or justices who are there present—

(i.) Shall order such bail to be forfeited and the same shall be forfeited accordingly ;
and

1958.

Justices Acts Amendment Act.

-
- (ii.) May adjourn the hearing, and may issue a warrant for his apprehension ;
- (b) Appears before that court of petty sessions, the amount of such deposit of money shall be paid over to the person who made the deposit unless the court orders the same or any part thereof to be applied in or towards payment of any penalty or costs imposed.

(3.) If the person referred to in subsection two of this section not appearing applies by his counsel or solicitor for an adjournment of the hearing and the justice or justices present consent thereto, the justice or justices may, in lieu of ordering the amount of the deposit of money by way of bail to be forfeited, suffer that defendant to go at large but may require him to enter into a recognizance conditioned for his appearance at the time and place appointed for continuing the hearing.

If the defendant fails to enter into any recognizance required under this subsection or, no such recognizance being required, if the defendant fails to appear at the time and place appointed for continuing the hearing, then the amount of the deposit of money by way of bail shall be dealt with in the manner prescribed by subsection two of this section, and for this purpose that amount shall be deemed to have been deposited as security for the appearance of the person concerned at the continued hearing.

(4.) The provisions of this section shall not prejudice or otherwise affect the provisions of any other Act relating to the estreatment or forfeiture of bail or the issue of warrants of apprehension upon failure to appear before justices.”
