

Queensland



ANNO VICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

No. 33 of 1977

An Act to amend the Justices Act 1886–1977 in certain particulars

[ASSENTED TO 13TH SEPTEMBER, 1977]

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. Short title and citation. (1) This Act may be cited as the *Justices Act Amendment Act 1977* (No. 2).

(2) The *Justices Act 1886–1977* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Justices Act 1886–1977*.

2. Amendment of s. 103. Section 103 of the Principal Act is amended by adding at the end of the section the following paragraph:—

“ This section does not apply where the person charged with an indictable offence is so charged upon a private complaint and the charge is one that cannot be dealt with summarily or that can be dealt with summarily without the defendant's consent.”

3. **New s. 103A.** The Principal Act is amended by inserting after section 103 the following section:—

“ **103A. Defendant’s appearance upon private complaint.** (1) Where a person is charged upon a private complaint with an indictable offence and the charge is one that cannot be dealt with summarily or that can be dealt with summarily without the defendant’s consent, and a summons has been issued against him—

- (a) the defendant is not required to appear in person in answer to the summons until the justices or any of them before whom the matter of the complaint is heard are or is satisfied that the evidence is sufficient to put the defendant upon his trial for an indictable offence;
- (b) the defendant is entitled to appear at the hearing of the matter of complaint by his counsel or solicitor until he is required pursuant to this section to appear in person.

(2) If the justices before whom a matter of complaint referred to in subsection (1) is heard or any of them are or is satisfied that the evidence is sufficient to put the defendant upon his trial for an indictable offence such justices or justice may order that the defendant appear in person at the further hearing of the matter of complaint at a time and place specified in the order and may if necessary adjourn the hearing to such time and place.

Notice of the making of an order for the personal appearance of the defendant shall be sufficiently given to the defendant if—

- (a) the order is made in the presence of the defendant’s counsel or solicitor; or
- (b) a copy of the order is served on the defendant in the same manner as is provided for the service of a summons.

Any person who serves a copy of an order made under subsection (2) may attend before any justice having jurisdiction in the State or part of the Commonwealth in which such copy order is served and depose on oath and in writing endorsed on a copy of the order to the service thereof.

Such deposition shall upon production to a justice be sufficient proof of service of the copy of the order on the defendant.

(3) If at the time and place specified in an order made pursuant to subsection (2) the defendant so required to appear in person fails to so appear the justices then present, upon being satisfied that notice of the making of the order has been sufficiently given to the defendant, shall issue their warrant to apprehend the defendant and to cause him to be brought before justices to be dealt with according to law.

(4) In this section and in section 103 the expression “ private complaint ” means a complaint made by a person other than a police officer acting in the execution of his duty.”

4. **Amendment of s. 104.** Section 104 of the Principal Act is amended by, in subsection (1), inserting in paragraph (b) after the word “ defendant ” the words “ , if he is required to be present,”.

5. Amendment of s. 111. Section 111 of the Principal Act is amended by, in subparagraph (b), inserting after the words " section forty of this Act " the words " or, where the deposition, evidence or statement was taken, given or made in a case where and at a time when the accused was not required to be present in person, that the same was taken, given or made in the presence of the accused's counsel or solicitor ".

6. Application of ss. 2 and 3. Section 103 of the Principal Act as amended by this Act and section 103A of the Principal Act inserted by this Act apply in respect of all proceedings taken subsequently to the passing of this Act whether the complaint upon which they are taken was made and the summons issued thereon before or after the passing of this Act.