

Queensland



# DECENTRALISATION OF MAGISTRATES COURTS ACT 1965

**Reprinted as in force on 2 August 1993  
(includes amendments up to Act No. 40 of 1992)**

**Reprint No. 1**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 2 August 1993. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- omit the enacting words as permitted by section 7(1)(a) of that Act;
- use citations and references permitted by Division 2 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by section 39 of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act.

**Also see Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

# Queensland



## DECENTRALISATION OF MAGISTRATES COURTS ACT 1965

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# DECENTRALISATION OF MAGISTRATES COURTS ACT 1965

[as amended by all amendments that commenced on or before 2 August 1993<sup>2</sup>]

**An Act to make provision with respect to the decentralisation of and expedition of hearings by Magistrates Courts, and for other purposes**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Decentralisation of Magistrates Courts Act 1965*<sup>3-6</sup>.

### Justices Act has effect subject to this Act

2. The *Justices Act 1886* has effect subject to this Act.

### Meaning of terms

4. In this Act—

“**address**”, in relation to any person, means the place of residence or place of business or other address of that person;

“**court**” means a Magistrates Court duly constituted under the *Justices Act 1886* or under the *Magistrates Courts Act 1921*;

“**defendant**” means a person to whom a summons is directed upon a plaint or complaint;

“**district**” means a district appointed under the *Justices Act 1886* for the purposes of Magistrates Courts;

“**division**” means a division, of a district, appointed under the *Justices Act 1886* for the purposes of Magistrates Courts;

“**enactment**” means any Act and any provision of any Act and any regulation, rule, by-law or ordinance made under the authority of any Act;

“**metropolitan district**” means the district named or known as the metropolitan district;

“**motor vehicle**” means a motor vehicle within the meaning of the *Traffic Act 1949*.

## **PART 2—HEARINGS ETC. BY MAGISTRATES COURTS IN DIVISIONS**

### **Venue of hearing complaint to be determined subject to this section**

**8.(1)** Section 139 of the *Justices Act 1886* shall apply in respect of a complaint of a simple offence or breach of duty to which this subsection refers subject to the following provisions—

- (a) when a simple offence or breach of duty has been committed within a district and within 800 m of the common boundary of 2 or more divisions of that district a complaint of such offence or breach may be heard and determined within any of those divisions;
- (b) when a simple offence or breach of duty has been committed within a district a complaint of such offence or breach may be heard and determined within a division of that district in which division the defendant resides or is reasonably believed by the complainant at the time of making the complaint to reside or be;
- (c) when a simple offence or breach of duty has been committed at a place which is not within any district but within 35 km of a boundary of a division of a district which is not a common boundary between 2 or more divisions of that district a complaint of such offence or breach may be heard and determined within the

division such boundary of which is nearest by direct measurement to the place of commission of such offence or breach but, subject to the following provisions of this Act, within no other division of that district or of any other district;

- (ca) however, where such an offence or breach has been committed at a place equidistant by direct measurement from such a boundary of 2 or more divisions (whether of the same district or different districts) a complaint of such offence or breach may be heard and determined in any of such divisions;
- (d) save as is prescribed by this Act a complaint of a simple offence or breach of duty committed within a division shall not be heard and determined within any other division of the same district or within a division of any other district.

(2) No provision of subsection (1) shall be construed to prejudice the jurisdiction conferred by section 139 of the *Justices Act 1886* upon a court situated elsewhere than within a district.

### **Power of clerk of the court to adjourn hearings**

**9.(1)** If, before the time at which a defendant is required by a summons to appear within a division, it appears to the clerk of the court for such division that—

- (a) in the case of a summons issued upon a plaint or upon a complaint of a simple offence or breach of duty—a court within such division has jurisdiction to hear and determine the plaint or complaint in question; and
- (b)—
  - (i) the hearing of the plaint or complaint cannot proceed or is not likely to proceed at the time and place at which the defendant is required by the summons to appear; or
  - (ii) the manifest preponderance of convenience to the plaintiff or, as the case may be, complainant or to the defendant of hearing the plaint or complaint at some other time or place requires such an adjournment; or
  - (iii) for such other reason as the clerk of the court considers

sufficient the hearing should be so adjourned;

the clerk of the court may, either upon application made to the clerk in that behalf or of the clerk's own motion, adjourn the hearing to a certain time and place, whether situated in that division or in some other division of the district, to be then appointed by the clerk of the court.

(2) When a hearing is so adjourned the clerk of the court shall cause the time and place to which the hearing is adjourned to be stated in the presence and hearing of every party to the proceeding concerned or of the party's counsel, solicitor or agent who is then present and if any party to such proceeding is not then present either personally or by the party's counsel, solicitor or agent the clerk of the court shall, forthwith after such adjournment, give notice in writing to that party or, as the clerk of the court may elect, the party's counsel, solicitor or agent informing the person of—

- (a) the time and place to which the hearing is adjourned; and
- (b) the reason for the adjournment; and
- (c) the right of the party concerned to be heard at the adjourned hearing.

(3) When a hearing is so adjourned the defendant shall not be obliged to appear at the time and place referred to in the summons in question but such summons shall thenceforth be read and construed as if the time and place to which such hearing is, for the time being, adjourned were appointed by such summons as the time and place at which the defendant is thereby required to appear.

(4) The hearing as adjourned shall not commence at the appointed time and place unless the court is satisfied that the parties or their respective counsel, solicitors, or agents have been given reasonable notice thereof.

(5) A document purporting to be a certificate signed by the clerk of the court who last adjourned the hearing in question pursuant to this section as to the making of a statement in the presence and hearing of a party or the party's counsel, solicitor or agent of the time and place to which the hearing is adjourned shall upon its production in any proceeding and without further proof be received as evidence of the matter therein contained and a document purporting to be a duplicate original or copy of a notice last directed to any person in accordance with this section and endorsed with a certificate purporting to be signed by the person who served the original of such notice or, where such notice was sent by post, by the clerk of the court



who last adjourned the hearing in question that—

- (a) the document is a duplicate original or, as the case may be, copy of the notice directed to the person named therein; and
- (b) the original of such notice was served upon such person personally on a date specified or, as the case may be, was posted on a date specified to the address appearing therein and such address was the address of such person last known to such clerk of the court; and
- (c) where the original of such notice was sent by post, in the ordinary course of post such original would have been delivered at such address on a date specified;

shall, upon its production in any proceeding and without further proof, be received as evidence that the original of such notice was given to the person named therein, according to the certificate so endorsed and, where such original was sent by post, that the address appearing therein is the address of such person last known to such clerk and that such original was delivered to the address appearing therein on the date on which the same would be delivered in the ordinary course of post according to the certificate so endorsed.

(6) Costs of and occasioned by any adjournment under this section may be ordered by the court hearing and determining the plaint or complaint to be paid by any party to any other party as to the court may appear just.

(7) Where a hearing is duly adjourned under this section from one division to another division of a district—

- (a) the clerk of the court by whom the hearing is adjourned, unless the clerk is also clerk of the court for the division to which the hearing is adjourned, shall forthwith transmit to the clerk of the court for such division the plaint or complaint and summons and any other documents relating to the proceeding which have been lodged with or received by the clerk of the court;
- (b) the plaint or complaint and summons and other documents relating to the proceeding shall be kept and preserved by the clerk of the court for the division to which the hearing is adjourned as if the clerk were the clerk of the court at the place where the defendant is required by the summons to appear unless the hearing and determination of the complaint is further adjourned to

another division of the district;

- (c) the plaint or complaint may be heard and determined in the division to which the hearing is adjourned and all proceedings may be commenced, continued or completed and all acts, matters and things which are authorised, permitted or required by law to be done, executed or taken, whether for the purpose of the enforcement or variation of an order made in such a proceeding or any other purpose, may be done, executed, or taken as fully and effectually as if the hearing or order were a hearing by or, as the case may be, an order of a court at the place at which the defendant was originally required by the summons to appear.

(8) The hearing of a plaint or complaint which has been adjourned under this section may be further adjourned from time to time under this section or any other provision of this Act or under any relevant provision of any other Act and the relevant provision, whether of this Act or such other Act, shall with all necessary adaptations, extend and apply accordingly.

(9) A clerk of the court need not constitute a court for the purpose of exercising any power or function under this section, and may exercise in respect of a defendant to a complaint any of the powers which justices might exercise in respect of a defendant upon an adjournment under the *Justices Act 1886*.

(10) No provision of this section shall be construed to affect the powers or duties of a registrar of a court under the *Magistrates Courts Rules 1960* as amended from time to time.

### **Court or justices may adjourn within or outside district**

**10.(1)** Notwithstanding the provisions of this Act or any other Act a court or justices sitting for any purpose at a place within a district may, in order to carry out such purpose, sit at any other place within such district or within an adjoining district or an adjoining district for the purposes of Magistrates Courts appointed under the *Justices Act 1886* and may, from time to time (whether before or after entering upon the purpose for which such court or, as the case may be, justices are then sitting)—

- (a) adjourn the proceeding to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties then present or of their respective counsel, solicitors or

agents then present; or

- (b) adjourn the proceeding and leave the time and place at which the proceeding is to be continued to be later determined by such court or, as the case may be, justices.

(1A) However, a proceeding so adjourned shall not be continued at a time and place so determined unless the court or, as the case may be, justices are satisfied that the parties or their respective counsel, solicitors or agents have been given reasonable notice of such determination.

(2) Upon such an adjournment the court or, as the case may be, justices may exercise in respect of a defendant to a complaint any of the powers which the court or justices might exercise in respect of a defendant upon an adjournment under the *Justices Act 1886*.

### **PART 3—ADMINISTRATION OF MAGISTRATES COURTS IN THE METROPOLITAN DISTRICT**

#### **Chief clerk**

11.(1) The Governor in Council may, by Gazette notice, appoint a chief clerk for the metropolitan district.

- (2) The chief clerk is to be an officer of the public service.

#### **Functions and powers of the chief clerk**

12.(1) The chief clerk is the clerk of the court of each Magistrates Court held at a place within the metropolitan district.

- (2) The chief clerk has such additional functions and powers as are prescribed.

### **PART 4—MISCELLANEOUS**

**Regulations**

**13.(1)** The Governor in Council may make regulations for the purposes of this Act.

**(2)** A regulation may make provision with respect to—

- (a) matters of practice and procedure to expedite the hearing and determination of complaints within a district; and
- (b) prescribing the functions and powers of the chief clerk, clerks of the court and any officers of the court.

**(3)** Provision made by an order in council made under section 15 (as in force immediately before the commencement of this section) continues to have effect, after the commencement, as if it had been made by a regulation.

**ENDNOTES****1 Index to Endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation on or before 2 August 1993. Future amendments of the *Decentralisation of Magistrates Courts Act 1965* may be made in accordance with this reprint under section 49 of the *Reprints Act 1992*.

**3 List of legislation****Decentralisation of Magistrates Courts Act 1965 No. 43**

date of assent 23 November 1965

Pts 1, 2, 3, 4 and 7 commenced 1 January 1966 (proc pubd Gaz 18 December 1965 p 1707)

Pt 5 commenced 1 March 1968 (proc pubd Gaz 13 January 1968 p 254)

Pt 6 commenced 1 May 1967 (proc pubd Gaz 25 March 1967 p 1129)

as amended by—

**Justices Acts and Other Acts Amendment Act 1968 No. 14 Pt 4**

date of assent 19 April 1968

commenced on date of assent

**Metric Conversion Act 1972 No. 31 Pt 2 Sch 1**

date of assent 21 December 1972

Pt 2 and Sch 1 in relation to this Act commenced 1 June 1973 (proc pubd Gaz 5 May 1973 p 93)

**Justices Act and Another Act Amendment Act 1974 No. 25 Pt 3**

date of assent 24 April 1974

commenced 29 July 1974 (proc pubd Gaz 20 July 1974 p 1690)

**Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 s 163 Sch 1**  
 date of assent 14 August 1992  
 commenced on date of assent

## 4 List of annotations

### Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Chap	=	Chapter
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
prev	=	previous
pres	=	present

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

### Short title

s 1 sub 1992 No. 40 s 163 Sch 1

### Justices Act has effect subject to this Act

s 2 sub 1992 No. 40 s 163 Sch 1

### Arrangement of this Act

s 3 amd 1974 No. 25 s 16  
 om 1992 No. 40 s 163 Sch 1

### Meaning of terms

s 4 def “**district**” sub 1992 No. 40 s 163 Sch 1  
 def “**division**” sub 1992 No. 40 s 163 Sch 1  
 def “**metropolitan district**” sub 1992 No. 40 s 163 Sch 1

## PART 2—DISTRICTS AND DIVISIONS OF DISTRICTS

Pt 2 (ss 5–7) prev Pt 2 om 1992 No. 40 s 163 Sch 1

## PART 2—HEARINGS ETC. BY MAGISTRATES COURTS IN DIVISIONS

Pt hdg prev Pt 2 hdg om 1992 No. 40 s 163 Sch 1  
 pres Pt 2 hdg (prev Pt 3 hdg) renum 1992 No. 40 s 163 Sch 1

### Venue of hearing complaint to be determined subject to this section

s 8 amd 1972 No. 31 s 6 Sch 1

**PART 3—ADMINISTRATION OF MAGISTRATES COURTS IN THE METROPOLITAN DISTRICT**

**Pt hdg** prev Pt 3 hdg renum as Pt 2 hdg 1992 No. 40 s 163 Sch 1  
pres Pt 3 hdg ins 1992 No. 40 s 163 Sch 1

**PART 4—ADMINISTRATION OF MAGISTRATES COURTS IN THE METROPOLITAN DISTRICT**

**Pt hdg** prev Pt 4 hdg om 1992 No. 40 s 163 Sch 1

**Chief clerk**

**s 11** sub 1992 No. 40 s 163 Sch 1

**PART 5—AMENDMENTS TO THE JUSTICES ACT 1886**

**Pt hdg** om 1992 No. 40 s 163 Sch 1

**Functions and powers of the chief clerk**

**s 12** sub 1992 No. 40 s 163 Sch 1

**PART 4—MISCELLANEOUS**

**Pt hdg** prev Pt 4 hdg om 1992 No. 40 s 163 Sch 1  
pres Pt 4 hdg ins 1992 No. 40 s 163 Sch 1

**Regulations**

**s 13** sub 1992 No. 40 s 163 Sch 1

**PART 6—AMENDED PROCEDURE FOR CERTAIN OFFENCES**

**Pt hdg** om 1974 No. 25 s 17

**Permissible procedure on certain complaints**

**s 14** prev s 14 om 1968 No. 14 s 23(a)  
new s 14 (prev s 15) renum 1968 No. 14 s 23(b)  
amd 1968 No. 14 s 23(b)  
om 1974 No. 25 s 17

**PART 7—MISCELLANEOUS**

**Pt hdg** om 1992 No. 40 s 163 Sch 1

**Rules**

**s 15** prev s 15 renum as s 14 1968 No. 14 s 23(b)  
new s 15 (prev s 16) renum 1968 No. 14 s 24  
om 1992 No. 40 s 163 Sch 1

**Alteration of Schedule to Act**

**s 16** prev s 16 renum as s 15 1968 No. 14 s 24  
new s 16 (prev s 17) renum 1968 No. 14 s 24  
om 1974 No. 25 s 18

**Mode of service of notice**

**s 17** prev s 17 renum as s 16 1968 No. 14 s 24  
new s 17 (prev s 18) renum 1968 No. 14 s 24  
om 1992 No. 40 s 163 Sch 1

**Mode of service of notice**

**s 18** renum as s 17 1968 No. 14 s 24

**SCHEDULE—ENACTMENTS WITHIN THE APPLICATION OF PART 6**  
 amd 1968 No. 14 s 25  
 om 1974 No. 25 s 19

**5 Table of renumbered provisions**

TABLE OF RENUMBERED PROVISIONS  
 under section 43 of *Reprints Act 1992*

Original	Renumbered as
8(1)(c) proviso	8(1)(ca)
9(2)(a)	9(2)
9(2)(a)(i)	9(2)(a)
9(2)(a)(ii)	9(2)(b)
9(2)(a)(iii)	9(2)(c)
9(2)(b)	9(3)
9(2)(c)	9(4)
9(2)(d)	9(5)
9(2)(d)(i)	9(5)(a)
9(2)(d)(ii)	9(5)(b)
9(2)(d)(iii)	9(5)(c)
9(2)(e)	9(6)
9(2)(f)	9(7)
9(2)(f)(i)	9(7)(a)
9(2)(f)(ii)	9(7)(b)
9(2)(f)(iii)	9(7)(c)
9(2)(g)	9(8)
9(2)(h)	9(9)
9(2)(i)	9(10)
10(1)(b) proviso	10(1A)



## **6 Transitional and savings provisions**

Part 5 of Act No. 14 of 1968 provides—

### **PART 5—PROVISIONS RELATING TO MAGISTRATES COURTS DISTRICTS**

**Exercise of powers under s. 22 of 50 Vic. 17 (as amended) or s. 5 of No. 43 of 1965 not to prejudice hearings, &c.**

26. Where the Governor in Council exercises a power conferred on him by section twenty-two of “*The Justices Acts 1886 to 1965*,” or by section five of “*The Decentralisation of Magistrates Courts Act of 1965*”—

- (a) a complaint made before the date of the exercise of such power of a simple offence or breach of duty may and always could be heard and determined;
- (b) any order may and always could be made in relation to such a complaint and enforced; and
- (c) an order made before the date of the exercise of such power in relation to a complaint of a simple offence or breach of duty may and always could be enforced,

as if that power had not been exercised.