

Queensland



**JUSTICE LEGISLATION
(MISCELLANEOUS
PROVISIONS) BILL (No. 3)
1999**

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1999

A BILL

FOR

**An Act to amend Acts administered by the Attorney-General and
Minister for Justice and Minister for The Arts**

The Parliament of Queensland enacts— 1

PART 1—PRELIMINARY 2

Short title 3

Clause 1. This Act may be cited as the *Justice Legislation (Miscellaneous Provisions) Act (No. 3) 1999*. 4
5

PART 2—AMENDMENT OF BAIL ACT 1980 6

Act amended in pt 2 7

Clause 2. This part amends the *Bail Act 1980*. 8

Amendment of s 6 (Definitions) 9

Clause 3. Section 6— 10
insert— 11

‘**“precincts”**, of a court, means any land or building, or the part of any land 12
or building, used for the purposes of the court.’. 13

Insertion of new s 27A 14

Clause 4. After section 27— 15
insert— 16

**‘Warrant for apprehension of defendant for failing to enter into 17
undertaking etc. before leaving precincts of court** 18

‘**27A.(1)** This section applies if a court grants bail to a defendant and the 19
defendant leaves the precincts of the court— 20

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- (a) if the defendant is required to enter into an undertaking under section 20—without entering into the undertaking; or 1
2
- (b) if there are conditions of the bail the defendant must comply with before leaving the precincts of the court—without fulfilling the conditions. 3
4
5
- ‘(2) The court may issue a warrant for the apprehension of the defendant. 6
- ‘(3) The warrant must— 7
- (a) name the defendant against whom it is issued; and 8
- (b) state the reason, under subsection (1)(a) or (b), for its issue; and 9
- (c) order all police officers to apprehend the defendant and bring the defendant before the court to be dealt with according to law.’. 10
11

Amendment of s 28A (Warrant for apprehension of defendant by Magistrates Court or Childrens Court) 12
13

- Clause 5. Section 28A(1)(a)— 14
- insert—* 15
- ‘(iv) that has been continued under section 34A(2) or 34B(2);’. 16

Amendment of s 29 (Apprehension by police officer of defendant on bail) 17
18

- Clause 6.(1) Section 29(1)(a)(i) to (iii)— 19
- renumber* as section 29(1)(a)(ii) to (iv). 20
- (2) Section 29(1)(a)— 21
- insert—* 22
- ‘(i) that the defendant has left the precincts of the court that granted bail to the defendant— 23
24
- (A) if the defendant is required to enter into an undertaking under section 20—without entering into the undertaking; or 25
26
27

- (B) if there are conditions of the bail the defendant must
 comply with before leaving the precincts the
 court—without fulfilling the conditions; or’.

Insertion of new ss 34A and 34B

Clause 7. After section 34—

insert—

‘Varying bail if summary charge transmitted from court of summary jurisdiction to another court

‘34A.(1) This section applies if—

- (a) a person charged with a summary offence before a court of summary jurisdiction is granted bail (the **“summary bail”**) by the court to appear before it on the charge; and
- (b) the clerk of the court of summary jurisdiction transmits the complaint or bench charge sheet or a copy of it to the registrar of another court (the **“receiving court”**) under the Criminal Code, section 652(4).

‘(2) The summary bail is continued and is taken to have been granted by the receiving court on the conditions imposed by the court of summary jurisdiction.

‘(3) However, the summary bail is taken to be varied to require the defendant to appear before the receiving court for the hearing of the summary offence on the day the receiving court has set for the hearing of the charge on indictment before it.

‘Varying bail if summary charge transmitted from receiving court back to court of summary jurisdiction

‘34B.(1) This section applies if—

- (a) section 34A applies; and
- (b) under the Criminal Code, section 653(2), the receiving court—

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- (i) directs that the charge be heard by a court exercising summary jurisdiction; and 1
2
- (ii) orders the court registrar to send the relevant court record to the clerk of the court exercising summary jurisdiction. 3
4
- ‘(2) The summary bail is taken to have been granted by the court exercising summary jurisdiction on the conditions that applied to it under section 34A. 5
6
7
- ‘(3) However, the summary bail is taken to be varied to require the defendant to appear before the court of summary jurisdiction for the hearing of the summary charge on the day set by the receiving court on the day it gives the direction and makes the order. 8
9
10
11
- ‘(4) The day set by the receiving court must be not earlier than 1 month after the day it gives the direction and makes the order. 12
13
- ‘(5) In this section— 14
- “receiving court” has the meaning given by section 34A(1)(b). 15
- “summary bail” has the meaning given by section 34A(1)(a).’ 16

PART 3—AMENDMENT OF JUSTICES ACT 1886 17

Act amended in pt 3 18

Clause **8.** This part amends the *Justices Act 1886*. 19

Replacement of s 150 (Minute of decision to be made and advice thereof sent by post) 20 21

Clause **9.** Section 150— 22

omit, insert— 23

‘Minute of decision to be made and advice sent by post 24

‘**150.(1)** This section applies if justices convict or make an order against a person. 25
26

‘(2) The justices must make a minute or memorandum of the conviction or order and sign it. 1
2

‘(3) If neither the person nor the person’s lawyer or agent is present when the conviction is pronounced or the order is made, the clerk of the court must give written notice of the conviction or order by post to the person at the person’s last address known to the clerk. 3
4
5
6

‘(4) A minute or memorandum made under this section does not form part of the warrant of commitment or execution. 7
8

‘(5) If subsection (3) applies, a warrant of commitment or execution must not issue for at least 28 days from the day of the conviction or order, unless the adjudicating justices otherwise direct.’. 9
10
11

Replacement of s 175A (Allocation of part payments) 12

Clause 10. Section 175A— 13

omit, insert— 14

‘Allocation of part payments 15

‘175A.(1) An amount received by a clerk of the court from a person under a decision must be applied in the following order— 16
17

(a) compensation; 18

(b) restitution; 19

(c) damages; 20

(d) a fixed portion of a penalty ordered to be paid to an individual; 21

(e) court fees paid by the complainant or defendant; 22

(f) court fees ordered to be paid and not already paid by the complainant or defendant mentioned in paragraph (e); 23
24

(g) costs and charges of taking and conveying the person making payment to prison, if known and stated in the decision; 25
26

(h) witnesses’ expenses; 27

(i) professional costs; 28

(j) other fees or costs; 29

- (k) any other amount ordered to be paid, including a fine. 1
- ‘(2) For subsection (1)(k), subject to any direction given in relation to the 2
amount, the amount must be applied in the way in which fines, penalties, or 3
forfeitures are applied. 4
- ‘(3) This section applies subject to any direction under the Act under 5
which the complaint was made. 6
- ‘Order of satisfaction if amounts payable under more than 1 decision 7**
- ‘175B.(1) This section applies if— 8**
- (a) a clerk of the court receives an amount from a person in part 9
satisfaction of an amount payable by the person under a decision; 10
and 11
- (b) the person is liable to pay amounts under 2 or more decisions. 12
- ‘(2) The amount must first be applied to satisfy all outstanding amounts 13
under the decisions in the first relevant category in section 175A(1) in the 14
order in which they became payable. 15
- ‘(3) After all amounts in the first relevant category are satisfied, any 16
remaining amount must be applied to satisfy unpaid amounts under the 17
decisions in the next relevant category and then to each other relevant 18
category in the same way until each relevant category is satisfied. 19
- Example for subsection (3)— 20*
- If a person has been ordered to pay the following amounts— 21
- (a) under a decision made on 2 January 1999—\$200 for a fine, \$80 costs of 22
court, \$50 witness expenses, \$250 professional fees and \$300 restitution; 23
and 24
- (b) under a decision made on 4 January 1999—\$500 for a fine, \$80 costs of 25
court, \$50 witness expenses, \$600 professional fees and \$350 restitution; 26
- any part payments must first satisfy the restitution amounts ordered on 2 January 1999 27
and 4 January 1999 in that order before any other part payments may be applied to 28
satisfy amounts outstanding in the next relevant category.’. 29

**PART 4—AMENDMENT OF PENALTIES AND
SENTENCES ACT 1992**

	1		2
		3	
Clause	11. This part amends the <i>Penalties and Sentences Act 1992</i> .		4
		5	
Clause	12. Section 4, definition “ proper officer ”— <i>omit, insert—</i>		6
	‘ proper officer ’ means—		7
	(a) for an order made by the Supreme Court—the sheriff; or		8
	(b) for an order made by the District Court—any registrar; or		9
	(c) for an order made by a Magistrates Court—any clerk of the court.’.		10
			11
			12
		13	
Clause	13. Section 84(1), ‘purporting to be signed’— <i>omit, insert—</i>		14
	‘given’.		15
			16
		17	
Clause	14. After section 185B— <i>insert—</i>		18
			19
	‘Power of proper officer to recall warrant and issue new warrant on part payment of penalty		20
	‘185C.(1) This section applies if—		21
	(a) the proper officer of the court issues a warrant under section 185A(1); and		22
			23
			24

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- (b) before the warrant is executed, the offender pays an amount in part satisfaction of the penalty. 1
2
- ‘(2) The proper officer may— 3
- (a) recall the warrant; and 4
- (b) issue a new warrant for the reduced penalty for the arrest and imprisonment of the offender. 5
6
- ‘(3) For subsection (2)(b) the term of imprisonment is to be reduced in the way stated in section 186(1). 7
8
- ‘(4) If the offender pays a further amount in part satisfaction of the penalty, the proper officer may recall a warrant issued under subsection (2)(b) if it has not been executed and issue further warrants in accordance with subsection (2)(b) until the penalty is fully paid.’. 9
10
11
12
13