

JUSTICES (AMENDMENT) ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 85, 1970.

An Act to make certain provisions with respect to the service of summonses; for this purpose and for other purposes to amend the Justices Act, 1902, and the Motor Traffic Act, 1909; and for purposes connected therewith. [Assented to, 9th December, 1970.]

BE

Justices (Amendment).

No. 85, 1970 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** (1) This Act may be cited as the "Justices (Amendment) Act, 1970".

(2) The Justices Act, 1902, is in this Act referred to as the Principal Act.

Amendment of Act No. 27, 1902. Subst. sec. 63. **2.** The Principal Act is amended by omitting section sixty-three and by inserting in lieu thereof the following section:—

Manner of service of summons.

63. (1) Subject to this section every summons shall be served by a member of the police force or other person upon the person to whom it is directed by delivering it to him personally or, if he cannot conveniently be met with, by leaving it with some person for him at his last or most usual place of abode.

(2) Subject to this section a summons in respect of an offence punishable on summary conviction under an Act specified in Part I of the Fifth Schedule to this Act, or under a rule, regulation, ordinance, by-law or order made under such an Act, or an offence punishable on summary conviction under a rule, regulation, ordinance, by-law or order specified in Part II of the Fifth Schedule to this Act, may be served by posting it not less than twenty-eight days before the return day by ordinary prepaid post addressed to the person to whom it is directed—

(a) where that person is a natural person, at his last known place of residence or business;

(b) where that person is a body corporate, at a place where it trades or carries on business; or

(c)

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(c) in either case referred to in paragraphs (a) and No. 85, 1970
(b) of this subsection—

- (i) where there is a prescribed address for the person; and
- (ii) where there are no circumstances making it appear to a court that the prescribed address for that person is not the address referred to in paragraph (a) or, as the case may require, paragraph (b) of this subsection in relation to that person,

at the prescribed address for that person.

(3) Subject to subsection four of this section, service of a summons in the manner referred to in subsection one or two of this section may be proved by the oath of the member of the police force or other person who served it, or by affidavit or otherwise.

(4) Where a summons is posted as provided in this section—

- (a) the deposition or affidavit of service shall state the manner in which the deponent was informed of the address to which it was so posted and the time and place of posting; and
- (b) in the absence of any proof to the contrary, the summons shall be deemed to have been duly served on the person to whom it is directed at the time at which it would be delivered in the ordinary course of post.

(5)

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(5) The Justice or Justices at the hearing or adjourned hearing of an information in respect of which a summons has been issued may, notwithstanding service of the summons in the manner provided by subsection two of this section, order that a further summons in respect of the same offence be served in the manner provided by subsection one of this section, and may adjourn or further adjourn the hearing to enable that summons to be served in accordance with that order.

(6) In this section “prescribed address” means—

- (a) in relation to a person alleged to have committed an offence arising out of the driving or use of a motor vehicle, or an attempt to do so (not being an offence referred to in paragraph (b) of this subsection)—the address appearing as the address of that person on a license within the meaning of the Motor Traffic Act, 1909, or any law of a State or of a Territory of the Commonwealth that corresponds to that Act, produced by that person at or about the time of the alleged offence or upon the investigation thereof;
- (b) in relation to a person alleged to have committed an offence as owner of a motor vehicle—the address appearing on the current certificate of registration of the motor vehicle under the Motor Traffic Act, 1909, or any law of a State or of a Territory of the Commonwealth that corresponds to that Act, as the address of the person in whose name the motor vehicle is registered; or

(c)

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- (c) in relation to a person alleged to have committed **No. 85, 1970** any other offence against an Act, rule, regulation, ordinance, by-law or order specified in the Fifth Schedule to this Act—the address appearing as the address of that person in any license or registration for the time being in force pertaining to that person or to any property of which that person appears to be the owner or occupier, being a license or registration held or effected by that person under the Act against which, or under the Act authorising the making of the rule, regulation, ordinance, by-law or order against which, the offence is alleged to have been committed.

(7) This section shall be construed as operating in addition to, and not as derogating from, the operation of a provision of any other Act relating to the service of summonses, and any such provision shall be construed as operating in addition to, and not as derogating from, the operation of this section.

- 3.** The Principal Act is further amended by omitting from subsection two of section 100A the words “three months” and by inserting in lieu thereof the words “six months”.

Further amendment of Act No. 27, 1902.
Sec. 100A.
(Court may annul certain convictions and penalties.)

- 4.** (1) The Principal Act is further amended—

Further amendment of Act No. 27, 1902.

- (a) by omitting section fifty-one;

Sec. 51.
(Forms in Schedule, or to like effect, to be valid.)

(b)

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No. 85, 1970 (b) by omitting section ninety-nine;

Sec. 99.
(Forms in
Schedule,
or to like
effect, to
be valid.)

Sec. 101. (c) by omitting from subsection one of section one hundred and one the words "which may be in the form in the Third Schedule to this Act" and by inserting in lieu thereof the words "in the form prescribed";
(Stated cases.)

Sec. 154. (d) by inserting next after subsection (1B) of section one hundred and fifty-four the following new subsection :—
(Regulations.)

(1C) The Governor may make regulations not inconsistent with this Act prescribing any forms to be used under this Act.

Second Schedule. (e) by omitting the Second Schedule;

Third Schedule. (f) by omitting the Third Schedule.

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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5. The Principal Act is further amended by inserting at No. 85, 1970 the end thereof the following new Schedule :—

Further
amendment
of Act No.
27, 1902.

New
Fifth
Schedule.

FIFTH SCHEDULE.

Sec. 63.

PART I.

Centenary Celebration Act (51 Victoria No. 9).
Metropolitan Traffic Act, 1900.
Motor Traffic Act, 1909.
Motor Vehicles Taxation Management Act, 1949.
Motor Vehicles (Third Party Insurance) Act, 1942.
Transport Act, 1930.

PART II.

Local Government Act, 1919, Ordinances 34 and 34A.

6. The Motor Traffic Act, 1909, is amended by omitting paragraph (b) of subsection one of section 18c and by inserting in lieu thereof the following paragraph :—

Amendment
of Act No.
5, 1909.

Sec. 18c.

(Ex parte
procedure
for offences
referred to
in section
18B.)

(b) a summons for the appearance of the defendant to answer to the information has been served on the defendant in any manner provided by law for the service of such a summons on that defendant in relation to that offence; and.

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