

House of Assembly—No 148

As laid on the table and read a first time, 18 October 2005

South Australia

**Environment, Resources and Development Court
(Jurisdiction) Amendment Bill 2005**

A BILL FOR

An Act to amend the *Environment, Resources and Development Court Act 1993*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Environment, Resources and Development Court (Jurisdiction) Amendment Act 2005*.

5 **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 **Part 2—Amendment of *Environment, Resources and Development Court Act 1993***

4—Amendment of section 7—Jurisdiction

- (1) Section 7—after subsection (1) insert:

15 (1a) The Court does not have jurisdiction in respect of major indictable offences.

- (2) Section 7(2)—after "respect of" insert:
summary or minor indictable

- (3) Section 7(3)—delete subsection (3) and substitute:

20 (3) If jurisdiction is conferred on the Court under this or any other Act in respect of a summary or minor indictable offence, any proceedings for the offence must be commenced in the Court.

- 5 (3a) The Court will deal with a charge of a summary offence or a minor indictable offence in the same way as the Magistrates Court deals with such a charge (and in accordance with the procedures that would apply if the Magistrates Court were dealing with such a charge) and the *Summary Procedure Act 1921* applies to the Court subject to any additions, exclusions or modifications prescribed by the regulations as if references to the Magistrates Court extended to the Court.
- 10 (3b) For the avoidance of doubt, if a person charged with a minor indictable offence elects, in accordance with the *Summary Procedure Act 1921*, for trial in a superior court, the Court must commit the defendant for trial by jury in the District Court.
- (4) Section 7(4)—delete "an indictable" and substitute:
a minor indictable
- 15 (5) Section 7(4)(a)—delete "twice a Division 1 fine" and substitute:
\$300 000
- (6) Section 7(5)—delete subsection (5) and substitute:
(5) If the Court is of the opinion in any particular case that a sentence should be imposed that exceeds the limits prescribed by subsection (4), the Court may remand the defendant to appear for sentence before the District Court.
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5—Amendment of section 15—Constitution of Court

Section 15(14)—delete subsection (14) and substitute:

- 25 (14) Where the Court has jurisdiction to try a charge for any offence, the Court will be constituted of—
- (a) in the case of a minor indictable offence—a Judge; or
 - (b) in the case of a summary offence—a Judge or a magistrate.