

Legislative Council—No 150

As received from the House of Assembly and read a first time, 28 October 2009

South Australia

**Magistrates Court (Special Justices) Amendment
Bill 2009**

A BILL FOR

An Act to amend the *Magistrates Court Act 1991*.

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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 *Magistrates Court (Special Justices) Amendment Act 2009*.

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 *Magistrates Court Act 1991*

4—Amendment of section 7A—Constitution of Court

Section 7A(2)—delete subsection (2) and substitute:

(2) The Court may be constituted of a special justice—

- (a) in its Petty Sessions Division; or
- 15 (b) to hear and determine uncontested applications of a class prescribed by the regulations; or
- (c) in any other case—if there is no Magistrate available,

but, when constituted of a special justice, the Court may not impose a sentence of imprisonment.

20 5—Amendment of section 9A—Petty Sessions Division

(1) Section 9A(b)—delete paragraph (b) and substitute:

(b) to hear and determine any of the following charges:

- 5
- (i) a charge of any offence in respect of which an expiation notice has been given to a person alleged to have committed the offence where the alleged offender has elected to be prosecuted for the offence to which the expiation notice relates;
- (ii) a charge of a prescribed offence;
- 10 (iii) a charge of any other offence in respect of which the maximum penalty does not exceed a fine of \$2 500 or include imprisonment (but may include disqualification from holding or obtaining a driver's licence); and
- (2) Section 9A(c)—delete "of an enforcement order under section 14" and substitute:
under section 10 or 14
- (3) Section 9A—after its current contents as amended by this section (now to be designated as subsection (1)) insert:
- 15 (2) In this section—
- prescribed offence* means an offence—
- (a) in respect of which the maximum penalty does not exceed a fine of \$2 500 but does include imprisonment; and
- 20 (b) that is prescribed by the regulations for the purposes of this definition.

6—Amendment of section 15—Exercise of procedural and administrative powers of Court

Section 15—delete "or Justice" and substitute:
, special justice or justice