



Ready Reckoner

Previous Law to
Criminal Procedure Act 2009

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Guide to Using the Ready Reckoner

This ready reckoner is one of several resources that provide information regarding the *Criminal Procedure Act 2009*. It supplements the **Ready Reckoner Criminal Procedure Act 2009 to Previous Law** and the **Criminal Procedure Act 2009 Legislative Guide**. The Legislative Guide provides more detail and discussion of each provision in the Act, including the extent of change from previous legislation.

The first column of the ready reckoner contains section numbers of the Act which is amended or repealed, the second column contains the section heading, and the third column contains information describing where the section can be found in the *Criminal Procedure Act 2009* and a brief description of any differences between the old and the new section.

The final column of the ready reckoner indicates, in broad terms, the extent of the change made to the law by a section of the Act, taking into account, firstly, the extent of the change to the particular aspect of the relevant corresponding law, and secondly, the significance of the change to the law of evidence as a whole. In general:

- **No change** – means there has been no substantive change to the law.
- **Limited** – means that only technical changes to the provision have been made, usually related to organisation and terminology.
- **Moderate** – means that more significant changes to the law have been made, but still mostly related to organisation and terminology.
- **Significant** – means that a substantive change has been made to the law, e.g. not re-enacting a provision, completely re-organising a provision or differences which reflect a change in policy.

The Ready Reckoner does not refer to every section in the *Crimes Act 1958* or the *Magistrates' Court Act 1989* which has been amended by the *Criminal Procedure Act 2009* or the *Criminal Procedure (Consequential and Transitional Provisions) Act 2009*. In some sections minor terminology amendments have been made to ensure that the provision aligns with the new terminology or procedure introduced by the new Acts. The Ready Reckoner focuses on the main procedural provisions in the *Crimes Act 1958* (and therefore begins at section 351 of that Act) and the *Magistrates' Court Act 1989*.

Disclaimer

In order to succinctly describe the main effect of the provisions of the *Criminal Procedure Act 2009*, it has been necessary to simplify, condense and omit references to some of the conditions, exceptions or qualifications which may apply under those provisions. The reader should not, therefore, rely on this document as an accurate guide to the detailed operation of the Act. The same is true in relation to the descriptions of the corresponding existing common law and legislative provisions.

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
Division 1 - Pleading, procedure, proof etc.			
(1) Mode of prosecution			
351	Mode of prosecution	There is no direct equivalent in the Act because the Act removes the distinction between indictments and presentments. See section 159 for the general power to file an indictment.	Significant
352	[Does not exist]	[N/A]	
353(1)	Presentments	Redrafted and modernised in section 159. See also Schedule 1 which includes the formal requirements for an indictment.	Moderate
353(2)		See section 163, which brings the time limits for filing indictments into the Act itself. The Act does not include reference to a 'notice of trial' or 'notice to prefer a presentment'.	Limited
353(2A)		See section 171.	Limited
353(2B)		See section 173.	Limited
353(3)		See section 211, which brings the time limits for commencing trials into the Act itself.	Moderate
353(4)		No longer relevant and not re-enacted.	Significant
353(5)-(6B)	Power to extend time	These provisions have been merged with the content of section 359A(2)-(6) and with provisions from the <i>Crimes (Criminal Trials) Act 1999</i> to become section 247. Section 353(6A) has not been re-enacted as there is no need to specify that an application can be made orally.	Moderate
353(7) and (8)		See section 160.	Limited
354	Indictments	This provides the procedure for a grand jury which the Act abolishes. See section 253.	Significant
355	[Does not exist]	[N/A]	
356	[Does not exist]	[N/A]	
357	Discharge of persons under committal for indictable offence	This procedure has been changed substantially as part of the new power to discontinue a prosecution in section 177. See section 178 for the release of an accused from custody on a discontinuance.	Significant
358	[Does not exist]	[N/A]	
359	Order for change of place or time of trial	There is no direct equivalent in the Act. Instead, it has a simpler and more general set of provisions. See section 167 and 192.	Moderate
359AA	Supreme Court and County Court may determine summary offences	This procedure has been changed substantially. See sections 242-243.	Significant
359A(1)	Time limit on certain prosecutions	This has been reworked. See section 212. See also the extended definition of sexual offence in section 3.	Moderate
359A(2)		See section 247(2) and (4).	Limited
359A(2AA)-(2AAC)		This has been incorporated into section 212.	Limited
359A(2A)		See section 247(3).	Limited
359A(3) and (5)		See section 241(5)-(6).	Limited
359A(4)		Has not been re-enacted as there is no need to specify that an application can be made orally.	Significant
359A(6)		See the extended definition of sexual offence in section 3.	Limited
360	Order for postponement of trial	This has been incorporated into the general adjournment provision. See section 331.	Limited
360A	Adjournment or stay of trial	See section 197. Does not include section 360A(6) which is a transitional provision that is no longer required.	No change
361	Removal of accused persons to and from prison	This has been reworked and simplified. See section 332.	Moderate
362	[Does not exist]	[N/A]	
363	Separate abettors or accessories may be tried together	The Act overhauls numerous provisions dealing with multiple offenders. These provisions are not based directly on any existing provision. See sections 170 and 193. There are new identical provisions in summary proceedings (sections 56 and 58).	Significant
364	Definition	Not re-enacted as no longer relevant. The rules relating to presentments (now called indictments) have been simplified and reworked in Part 5.2.	Significant

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
365	Provisions relating to presentments to apply to indictments etc	Not re-enacted as no longer relevant. The rules relating to presentments (now called indictments) have been simplified and reworked in Part 5.2.	Significant
366	Rules as to presentments	Not re-enacted as no longer relevant. The rules relating to presentments (now called indictments) have been simplified and reworked in Part 5.2.	Significant
369	General provisions as to presentments	See Schedule 1 cl.1.	No change
370	No objections as to form	See section 166 which deals with this topic in a simpler way. An equivalent provision has also been added to summary procedure (section 9).	Moderate
371	Joinder of charges in the same presentment	See Schedule 1 cl.5 (in near identical terms) and section 170.	No change
372(1) and (2)	Orders for amendment of presentment, separate trial etc	See section 165 which simplifies the test for amendment.	Significant
372(3)		See section 193(1)-(4) which simplifies this subsection.	Moderate
372(3AA), (3AB), (3AC)		See section 194.	Limited
372(3A)		See sections 195 and 193.	Limited
372(4)		This is no longer necessary because of the general power to adjourn in section 331.	Significant
372(5)		See section 193(6)-(8).	Limited
373	Other powers not affected	See section 196.	No change
374	Savings	Not re-enacted as no longer relevant.	Significant
375	Omission of certain details not fatal to presentment	Now incorporated into section 166.	No change
376	Previous convictions may be added to presentment	The Act overhauls the process for dealing with previous convictions. See sections 244-245 (relating to previous convictions).	Significant
379	Description of property of Her Majesty in theft cases	Not re-enacted as obsolete.	Significant
380	Property under management of body corporate to be property thereof	Not re-enacted as obsolete.	Significant
381	Money or securities etc may be described simply as money	Not re-enacted as obsolete.	Significant
382	Presentment for stealing etc documents of title	Not re-enacted as obsolete.	Significant
386	Form of presentment or indictment for perjury etc	See Schedule 1 cl.12(1).	Limited
387	Form of presentment or indictment etc for subornation of perjury etc	See Schedule 1 cl.12(2)-(3).	Limited
388	No technical objections allowed	The restrictions on certain 'objections' have not been re-enacted in order to ensure that interlocutory appeals are not restricted (see Part 6.3, Division 4 in relation to interlocutory appeals and the definition of <i>interlocutory decision</i> in section 3).	Significant
389	No person entitled to traverse or have time to plead	Not re-enacted as obsolete.	Significant
390(1)	[Does not exist]	[N/A]	

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
390(2)	Calendar of accused persons for trial: police to be present at courts	This is now in section 3A of the <i>Court Security Act 1980</i> .	
390A(1)	Entitlement to plead 'not guilty'	See section 218. The reference to a 'demurrer' has been removed as applications to quash counts in an indictment are now dealt with as stand-alone applications under section 199(1)(c).	Moderate
390A(2)		See section 219 which simplifies this subsection.	Limited
391	Plea of 'not guilty' puts accused on trial by jury; procedure where no evidence led	In relation to an accused pleading not guilty (first part of the section) see section 217. See also section 210 as to when a trial now formally commences. In relation to the prosecution offering no evidence (second part of the section) see section 206 for a simplified process.	Significant
391A	Judge may hear and determine question of law etc before jury is impanelled	There is a general power in section 199 of the Act to determine issues of law, evidence and procedure any time prior to the commencement of trial. As a result, this specific power is unnecessary.	Significant
391B	Hearing of application for exclusion of evidence	See section 202 which simplifies this provision.	Limited
392	Refusal to plead	This has been reworked. See section 221. A similar provision has been added to summary proceedings (see section 64).	Limited
393	[Does not exist]	[N/A]	
394	Form of plea of autrefois convict or autrefois acquit	See section 220. The historical language has been replaced.	Limited
395	Trial where accused has previous convictions	The Act overhauls the process for dealing with previous convictions. See sections 244 and 245.	Significant
395(7)	Evidence of bad character	Not re-enacted as covered by the <i>Evidence Act 2008</i> (see Part 3.8).	Significant
396	Not necessary to inquire into accused's lands etc	Not re-enacted as obsolete.	Significant
397	When and by whom prisoner's defence may be made	There is no direct equivalent in the Act, but see sections 220 and 325(b) which provide for appearances generally.	Significant
398	Caution to be given to person charged	See section 228. The section has been simplified.	Limited
398A	Admissibility of propensity evidence	Not re-enacted as covered by the <i>Evidence Act 2008</i> . See sections 97 and 101 of the <i>Evidence Act 2008</i> which deal with the tendency rule and provides further restrictions concerning the use of tendency evidence in a criminal proceeding.	Significant
399	The accused, husbands and wives as witnesses for the defence; evidence of character of accused	Not re-enacted as covered by the <i>Evidence Act 2008</i> . A number of sections in the <i>Evidence Act 2008</i> deal with similar matters, for instance, sections 12, 20, 104, 110, 112 and 128.	Significant
399A	Alibi evidence	This has been simplified and reworked. See section 190. This provision is now also included in summary proceedings (see section 51).	Moderate
399B	Provision relating to witnesses to alibis	This has been simplified and a stand-alone offence created. See section 191. This provision is now also included in summary proceedings (see section 52).	Moderate
400	Wife or husband etc of the accused to be competent and compellable witnesses	Not re-enacted as covered by the <i>Evidence Act 2008</i> . A number of sections in the <i>Evidence Act 2008</i> deal with similar matters, for instance, sections 12, 17 and 18.	Significant
401	Provision for simplifying proof of previous offences	The Act overhauls the process for dealing with previous convictions. See sections 244 and 245.	Significant

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
402	Previous convictions to be noted in new sentence	The Act overhauls the process for dealing with previous convictions. See sections 244 and 245.	Significant
403	[Does not exist]	[N/A]	
404	Proof of marriage on trial for bigamy	This remains in the <i>Crimes Act 1958</i> .	Significant
405	Meaning of term 'official record'	This remains in the <i>Crimes Act 1958</i> .	Significant
406	[Does not exist]	[N/A]	
407	[Does not exist]	[N/A]	
408	[Does not exist]	[N/A]	
409	No need to prove specific intent to defraud in trials relating to instruments	Not re-enacted as obsolete.	Significant
410	[Does not exist]	[N/A]	
411	Determination of age	Not re-enacted as covered by the <i>Evidence Act 2008</i> . Existing court processes allow the judge and jury to make inferences based on a person's appearance and section 54 of the <i>Evidence Act 2008</i> provides for inferences to be drawn from observations.	Significant
412	Prisoners entitled to inspect depositions on trial	No longer needed given modern disclosure obligations (see e.g. section 185).	Significant
413	Depositions taken on one charge may be read in prosecution of others	Not re-enacted as covered by the <i>Evidence Act 2008</i> . Section 65(3) of the <i>Evidence Act 2008</i> provides for such evidence to be admitted in a trial where the maker of the statement is unavailable, if the accused cross-examined the maker of the statement or had a reasonable opportunity to do so.	Significant
414	Subpoenas in criminal cases may be issued by sheriffs etc	Not re-enacted as obsolete. See section 336 which provides a general power for a party to a criminal proceeding to apply for a subpoena.	Significant
415	Issue of warrant when witness does not appear	Not re-enacted, see section 194 of the <i>Evidence Act 2008</i> .	Significant
416	Amendments in criminal proceedings	This provision has been simplified. See section 412.	Significant
417(1) and (2)	Rights of prosecution on trials before juries	See section 234. An equivalent provision has been added to summary proceedings (see section 73).	No change
417(3)		See section 236. An equivalent provision has been added to summary proceedings (see section 75).	No change
418	Procedure for evidence of accused	See sections 226-231. This process has been substantially reworked and simplified. Equivalent provisions have been added to summary proceedings (see sections 66-71).	Significant
419	View	Not re-enacted, see sections 53 and 54 of the <i>Evidence Act 2008</i> .	Significant
420	[Does not exist]	[N/A]	
420A	Where person charged with unlawful publication of defamatory matter	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
421(1)	Alternative verdicts on charge of murder	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
421(2) and (3)		See section 239.	No change
421(4)		See section 240.	No change
422	Procedure where facts proved on trial disclose more serious offence	Not re-enacted as obsolete.	Significant

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
422A(1)	Alternative verdict for certain charges relating to driving	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
422A(2)		Subsection (2) has not been re-enacted as it is obsolete.	Significant
423	Jury may acquit of indictable offence and convict of unlawfully wounding etc	Not re-enacted as obsolete.	Significant
424	Alternative verdict on poisoning charge	Not re-enacted as obsolete.	Significant
425(1) and (3)	Alternative verdicts for certain charges of sexual offences	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
425(4)		Subsection (4) has not been re-enacted as it is obsolete.	Significant
426	[Does not exist]	[N/A]	
427	Alternative verdict for destroying property charges	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
428	Alternative verdict for charges of unauthorised modification of data to cause impairment	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
429	Alternative verdict for charges of unauthorised impairment of electronic communication	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
430	[Does not exist]	[N/A]	
431	[Does not exist]	[N/A]	
432	[Does not exist]	[N/A]	
433	[Does not exist]	[N/A]	
434	[Does not exist]	[N/A]	
435	Alternative verdict for charges relating to riots	This section will be retained in the <i>Crimes Act 1958</i> pending the Criminal Law – Justice Statement review of offences.	No change
436	Records to be drawn up in amended form	Not re-enacted as obsolete.	Significant
437	Judgment not to be reversed because juror not returned as a juror	Not re-enacted as obsolete.	Significant
438	[Does not exist]	[N/A]	
439	Payment of fine forwarded to Prothonotary	Not re-enacted as obsolete.	Significant
440	[Does not exist]	[N/A]	
441	[Does not exist]	[N/A]	
442	[Does not exist]	[N/A]	
443	[Does not exist]	[N/A]	
443A	DPP may give directions for release of property tendered in evidence	See section 157.	No change
444	Procedure on disagreement of jury	Not re-enacted as obsolete.	Significant
445	Any court or judge may direct that a person be prosecuted for perjury	See section 415. This procedure has been simplified.	Moderate

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
446(1) and (2)	Questions of law may be reserved	See section 302. The case stated procedure has been significantly reworked. It is now available on the court's own motion as well as the application of the parties. The factors to be considered when reserving a question of law have been made consistent with those for the grant of leave to take an interlocutory appeal (see section 297(1)).	Significant
446(3)		See section 303.	Significant
447(1)	Case to be stated	See section 307.	Significant
447(2) and (3)		No equivalent in new scheme.	Significant
448	Case may be sent back for amendment	See section 305(3).	No change
449	Refusal of court to reserve a question of law	See section 304. This section has been simplified.	Moderate
450	Court to state case upon being served with order absolute	See section 304.	Moderate
450A	DPP may refer point of law to Court of Appeal	See section 308.	Limited
451	[Does not exist]	[N/A]	
452	[Does not exist]	[N/A]	
453	Scale of charges	Not re-enacted as obsolete.	Significant
454	Court fees not payable by defendants	See section 417. This section has been made of application to all criminal proceedings.	Moderate
455	Presentments not to be removed by certiorari	Not re-enacted as obsolete.	Significant
456	Provisions as to action against persons acting in pursuance of Act	Not re-enacted as obsolete.	Significant
Appeals			
566	Definitions	See the definitions in section 3.	Moderate
567	Right of appeal in criminal cases	This has been substantially reworked. See section 274 (appeal against conviction) and section 278 (appeal against sentence). The right of appeal in relation to related offences is covered in these sections by virtue of the definition of <i>originating court</i> in section 3.	Significant
567A(1)	Appeal by DPP against sentence passed	See section 287.	Moderate
567A(1A)-(1B)		See sections 291 and 292.	Moderate
567A(2)		See sections 288 and 292. These sections have been substantially reworked.	Significant
567A(3)		See sections 288(1) and 313.	Moderate
567A(4)		See sections 289 and 290. These sections restructure the process for DPP sentence appeals.	Significant
567A(4A)		See sections 293 and 294. These sections restructure the process for DPP sentence appeals.	Significant
567A(5)		No longer necessary as the powers and procedures in Division 7 of Part 6.3 apply to all appeals to the Court of Appeal. The entitlement to appear on behalf of the DPP generally is contained in section 328.	Significant
568(1)	Determination of appeals in ordinary cases	See section 276. The grounds of appeal against conviction have been significantly redrafted.	Significant
568(2)		See section 277.	Significant
568(3)	[Does not exist]	[N/A]	
568(4)-(6)		See section 282. This has been restructured.	Moderate
568(7)	Bail following appeal	See section 323.	No change
569	Powers of court in special cases	See section 277. This section has been reworked.	Moderate

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
570	Re-vesting and restitution of property on conviction	The status of sentences and related orders has been substantially reformed. See Division 6 of Part 6.3. The closest equivalent to this section is section 312.	Significant
570A	Appeals in relation to mental impairment verdicts	Has been substantially redrafted and moved to the <i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> . See section 424.	Significant
570B	Provision applicable where appeals against mental impairment verdicts are allowed	Has been substantially redrafted and moved to the <i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> . See section 424.	Significant
570C	Appeals in relation to fitness to plead	Has been substantially redrafted and moved to the <i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> . See section 423.	Significant
570D	Definitions	No longer relevant as a result of moving sections 570A-C.	Significant
571	Jurisdiction of Court of Appeal	Has not been re-enacted as obsolete.	Significant
572	Time and manner for appealing	The Act prescribes the time and manner of appealing in relation to each type of appeal. See sections 275, 279, 284, 288 and 292.	Moderate
573	Judges notes and report to be furnished on appeal	See section 316. The new section does not refer to the trial judge's "notes of the trial" as that term is now obsolete. It only provides a power to order a report from the trial judge.	Moderate
574(a)	Supplemental powers of Court	See section 317.	No change
574(b)		See section 318.	No change
574(c)		See section 319.	No change
574(d)		See section 320.	No change
574(e)		Not re-enacted as assessors are appointed under section 77 of the <i>Supreme Court Act 1986</i> .	Significant
574(f)	[Does not exist]	[N/A]	
574(g)	Warrants	See section 324.	No change
574 (proviso)		See section 321. This section has been substantially changed.	Significant
576(1)	Right of appellant to be present	No direct equivalent.	Significant
576(2)		See section 322.	No change
577	Appearance for prosecution	No direct equivalent. See section 328 which provides for appearances by parties in all criminal proceedings.	Significant
578	Cost of appeals	See section 409.	No change
578(2)		See section 326. This has been simplified.	Moderate
579(1)	Admission of appellant to bail and custody when attending Court	No longer necessary.	Significant
579(2)-(3)		See section 310. Subsection (3) has not been re-enacted as the calculation of sentences is dealt with in the <i>Sentencing Act 1991</i> .	Moderate
579(4)		No equivalent provision.	Significant
579(5)		To the extent necessary to be covered in this Act, see section 332.	Moderate
580(1)	Duties of prothonotary with respect to notices of appeal etc	No equivalent provision as the subsection is no longer required.	Significant
580(2)		No equivalent provision as the subsection is obsolete.	Significant
580(3)		No equivalent provision. This specific rule making power is not required in light of the general rule making power in section 419 of the Act.	Moderate
580(4)		No equivalent provision as the subsection is obsolete.	Significant
581	Notes of evidence on trial	To be repealed. No longer necessary as proceedings are transcribed.	Moderate
582	Powers which may be exercised by a judge of the Court	See section 315. Additional powers have been added in (1)(b) and (1)(f).	Limited

Section of the <i>Crimes Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
582A(1)	Registrar may give leave etc.	See section 313(1). The Registrar's power is now expressed with the power of the Court of Appeal to extend time.	Limited
582A(2)		See section 313(2).	No change
583	Rules of Court	No equivalent provision. This specific rule making power is not required in light of the general rule making power in section 419 of the Act.	Significant
584	Reference by Attorney-General	See section 327.	No change
Schedule 3	[No title]	No equivalent schedule. There is no need to provide for the form of an indictment in light of Schedule 1 to the Act.	Moderate
Schedule 4	Certificate	No equivalent schedule. This is unnecessary in light of power to discontinue proceedings in section 177.	Significant
Schedule 5	Warrant	This process is no longer relevant as there is a significant change to this process. The obligation to notify the accused about the discontinuance of a proceeding is now placed on the DDP rather than the court. See section 177.	Significant
Schedule 6, r1	General provision as to presentments	No equivalent clause in Schedule 1. There is no need for these technical matters to be legislated. See section 159(3)(a) for the requirement that an indictment be in writing.	Moderate
Schedule 6, r1(2)		See Schedule 1 cl.7 which provides a general statement incorporating this specific clause.	Limited
Schedule 6, r2	Joining of charges in one presentment	Schedule 1 cl.5.	No change
Schedule 6, r3(1)	Statement of particulars	Schedule 1 cl.2.	No change
Schedule 6, r3(2)-(4)	Statement of particulars	No equivalent clauses. It is not necessary to include this level of detail in the Act.	Significant
Schedule 6, r4(1)	Endorsement of presentment	See Schedule 1 cl.13 of the Act.	Limited
Schedule 6, r4(2)-(3)		No equivalent clauses. It is not necessary to include this level of detail in the Act.	Significant
Schedule 6, r5	Provision as to statutory offences	Schedule 1 cl.3 & 4.	Limited
Schedule 6, r6	Description of property	Schedule 1 cl.10.	Limited
Schedule 6, r7	Description of persons	Schedule 1 cl.8.	Limited
Schedule 6, r8	Description of document	Schedule 1 cl.9.	Limited
Schedule 6, r9	General rule as to description	Schedule 1 cl.7.	Limited
Schedule 6, r10	Statement of intent	Schedule 1 cl.11.	No change
Schedule 6, r11	Charge of previous conviction	No equivalent clause. Prior convictions are no longer to be alleged as part of a 'further presentment'. See sections 77 and 78 (summary) and sections 244 and 245 (trial).	Significant
Schedule 6, r12	Copy of statement etc of offences to be supplied to accused in certain cases	No equivalent clause. This topic is covered by the general requirement on the DPP to serve a copy of the indictment on the accused. See section 171.	Moderate
Schedule 6, r13	Interpretation of rules	No equivalent clause. This is not necessary as a result of section 36(2) of the <i>Interpretation of Legislation Act 1984</i> which provides that the Schedule to an Act forms part of the Act.	Significant
Schedule 6, r14	Short title of rules	No equivalent clause. Not required as the Schedules to the Act are not rules.	Significant
Schedule 6, Appendix	Forms	The Appendix to the presentment rules sets out forms for certain offences. Some of the offences referred to no longer exist (e.g. malicious wounding contrary to section 19 of the <i>Crimes Act 1958</i>). The Appendix is unnecessary and outdated.	Significant

Section of Crimes (Criminal Trials) Act 1999		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
1	Purpose	No equivalent section. Unnecessary in light of consolidated criminal procedure in one Act.	Limited
2	Commencement	No equivalent section.	Limited
3	Definitions	See section 3. The definition of cognitive impairment has been included in section 3. Section 3 also includes a definition of legal practitioner , however it is broader than the definition in this section. Although the definition of sexual offence in section 3 is different, the effect is the same as the definition in this section. The remaining definitions are not included in section 3 because they are no longer necessary. In particular, see section 210 as to when a trial commences.	Moderate
4(1)	Presentment to be filed	See section 179 which provides for when directions hearings may be held.	Limited
4(2)(aa)		This has been reorganised to make it clearer. See section 163(2).	Limited
4(2)(a)		See section 163(3).	Limited
4(2)(b)		Not re-enacted.	Significant
4(3) and (4)		This has been substantially reworked. See section 164.	Significant
4(5)		No equivalent subsection. This provision is no longer necessary because of the new definition of related offence in section 3.	Significant
4(6)		No equivalent subsection. This provision is no longer necessary because amendments to indictments are covered by section 165.	Significant
5(1)	Directions hearing	See section 179. The section has been simplified.	Limited
5(2)		See section 180(1). This section has been simplified to provide a simple discretion to arraign an accused at a directions hearing.	Moderate
5(3)		See section 180(2).	No change
5(4) - (5)		See section 181. These provisions have been re-organised and the court given broader case management powers. The distinction between powers available at a first versus a subsequent directions hearing has been removed.	Moderate
5(6)		This is no longer necessary due to the new definition of 'commencement of trial'. See sections 210 and 217.	Significant
5(7)		Not required as a result of the general provisions dealing with when the accused is required to attend court. See sections 330 and 246.	Significant
6	Summary of prosecution opening and notice of pre-trial admissions	See section 182. The section has been slightly reworked to make it clearer.	Limited
7	Defence response to summary of prosecution opening and notice of pre-trial admissions	See section 183. The section has been slightly reworked.	Limited
8(1)	Provisions applicable to prosecution and defence	See section 224(2) and section 225(2) which incorporate these restrictions into provisions relating to the respective opening addresses of the prosecution and the accused.	No change
8(2)		See section 224(3) and section 225(3) which incorporate these restrictions into provisions relating to the respective opening addresses of the prosecution and the accused.	No change
8(3)		See section 224(4) and section 225(4) which incorporate these restrictions into provisions relating to the respective opening addresses of the prosecution and the accused.	No change
8(4)		See section 184.	Limited
9	Expert evidence	See section 189(1). Very minor drafting changes. Note also that a modified version of this disclosure rule has been adopted for summary proceedings (section 50).	Limited
10(1) and (2)	Disclosure of questions of law	See section 200. This has been substantially reworked. It now applies to pre-trial issues more generally than to questions of law. The obligations on both parties to notify pre-trial issues have also been strengthened.	Significant
10(3)-(7)		See section 201.	No change
11	Taking of evidence from a witness prior to trial	See section 198. This power has been extended to give the court a discretion to take evidence from witnesses before trial regardless of whether their statement formed part of the depositions.	Significant
12(1)	Judge constituting court	See section 203.	No change
12(2)		See section 204.	No change

Section of <i>Crimes (Criminal Trials) Act 1999</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
13(1)	Defence response to prosecutor's opening	See section 225(1). The opening is now only mandatory if the accused is represented.	Moderate
13(2)		See section 225(5). Note that the court now also has the power to limit the prosecution opening (see section 224(5)).	No change
14	Judge's address to the jury	See section 222. This has been incorporated into a general power of a trial judge to address the jury.	Moderate
15	Evidence at trial	See section 233.	No change
16	Comment on departure or failure	See section 237. This section has been slightly amended to remove reference to the law as it stood immediately before the commencement of the <i>Crimes (Criminal Trials) Act 1999</i> .	Moderate
17	Names of defence witnesses	See section 230. This section has been restructured.	Limited
18	Cross-examination	No equivalent section as the topic is covered by the <i>Evidence Act 2008</i> .	Significant
19	Jury documents	See section 223 which has some minor changes, including confirming that documents can be given to the jury by order at any time during the trial.	Limited
20	Manner of giving evidence	See section 232.	No change
21	Retrial	See section 205. The section has been divided into subsections.	Limited
22(1)	Power to extend time	See section 247(1). This section has been incorporated into a more general provision for extensions and abridgments of time.	Limited
22(2)		See section 247(4). This section has been incorporated into a more general provision for extensions and abridgments of time.	Limited
23	Parties must inform Juries Commissioner of certain events	See section 248.	No change
23A	Sentence indication	See sections 207-209. Minor changes to update terminology.	Limited
24(1), (3) and (5)	Costs	See section 405. There are minor changes to structure and terminology.	Limited
24(2)		Subsection (2) has not been retained as the power of the court to make an order on its own motion is now in section 337 of the Act.	Moderate
24(4)		Subsection (4) has not been retained as the right to be heard is in section 400 of the Act.	Moderate
25	Costs liability of legal practitioner	See section 410. Changes to this section reflect the fact that it applies to both proceedings on indictment and proceedings in the Magistrates' Court.	Limited
26	Costs order	See section 405. Includes minor cross reference changes.	Limited
27	Counsel required to retain brief for trial	See section 249.	No change
28	Complaints about legal practitioners	See section 250. This has been rearranged but not changed substantively.	Limited
29	Related trials	See section 251. This has been changed slightly to incorporate new terminology in the Act.	Limited
30	Service of documents by prosecutor	This has been incorporated into a new service regime which includes specific requirements as to how documents are to be served. See generally Part 8.3 and specifically sections 390, 391 and 394.	Significant
31	Exercise of prosecutor's functions and powers	No equivalent section. It is not necessary to specifically empower a person briefed by the DPP to be able to, in effect, act on behalf of the DPP.	Significant
32	Relationship with other legislation	No equivalent section. Not required given consolidation of Acts.	Significant
33	Transitional provisions	No equivalent section. New transitional requirements for the Act will be enacted.	Significant

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
1	Purposes	Where appropriate, incorporated into the purposes of the Act. See section 1.	Significant
3	Definitions	See section 3. The following definitions from the <i>Magistrates' Court Act 1989</i> have been repealed and/or added to the Act. Changes made are noted in brackets: <ul style="list-style-type: none"> • "Appropriate registrar" (no change to definition – but see the new approach to determining venue in section 11). • "Committal mention date" (no equivalent definition). • "Defendant" (replaced with 'accused'). • "Depositions" (amended definition). • "Hearing date" (no equivalent definition). • "Informant" (no change to definition). • "Mention date" (replaced with 'return date'). • "Proper venue" (amended definition). • "Sentencing order" (replaced with 'sentence' which has a broader definition). • "Sexual offence" (which has been made consistent, and now includes offences of sexual servitude). There are also a large number of new definitions in section 3.	Mixed (as noted)
25	Extent of jurisdiction	Remains in the <i>Magistrates' Court Act 1989</i> .	No change
26(1)	How criminal proceeding is commenced	See section 6(1). This clarifies precisely when and how a criminal proceeding in the Magistrates' Court is commenced. See also section 5 for other ways in which a criminal proceeding can be commenced (e.g. by direct indictment).	Moderate
26(2)		See section 6(3). The distinction between 'charge' and 'charge-sheet' has been removed and the subsection also incorporates the requirement that a charge-sheet complies with Schedule 1 (which also applies to indictments).	Moderate
26(2A)		See section 6(2).	No change
26(3)		No equivalent provision. There are now no charges in Victoria that need to be proved on oath.	Significant
26(4) and (5)		See section 7.	No change
27	Descriptions in charge	These requirements for charges have been combined with the requirements for charges in indictments in Schedule 1.	Significant
27(1)		See Schedule 1 cl.1, cl.2(b) and cl.3.	Moderate
27(2)		See Schedule 1 cl.3(2).	Moderate
27(3)-(5)		These subsections have been slightly reworded and rearranged. See Schedule 1 cl.10.	Moderate
27(6) and (7)		See Schedule 1 cl.8(1) which takes a slightly different approach to the description of persons.	Moderate
27(8)		See Schedule 1 cl.9.	Limited
28	Compelling attendance	See section 12.	No change
29	Magistrate may exercise registrar's powers	Remains in the <i>Magistrates' Court Act 1989</i> .	No change
30(1) and (1A)	Prescribed persons may issue summons	See sections 14(1) and (2). Public official is now defined in section 3.	Moderate
30(2)		The first part of this provision is reflected in section 14(2). The section is now silent as to when a proceeding is commenced – that topic is dealt with under section 6.	Limited
30(3)		See section 14(3). Costs are now dealt with by section 401(3).	No change
30(4)		No equivalent section as a result of the simpler approach taken to 'proper venue' in the Act.	Limited
31(1) and (2)	Joinder of offences	See section 56 and Schedule 1 cl.5(1). Section 56 also applies to multiple accused named in a single charge-sheet. The Act changes the approach to joinder of offences to be consistent with the approach to joinder of offences in indictable proceedings (see sections 170 and 193).	Moderate
31(3)		See section 58(1) and (3) which give greater detail as to the test/procedure to be applied.	Moderate
31(4)		See section 57.	Limited

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
32	Defendant entitled to receive copy of charge	See section 32.	No change
33(1) and (1A)	Summons to answer to a charge	See section 15.	Limited
33(2)		See section 19. This includes some changes to terminology and the time limit of “a month” is changed to “28 days”, consistent with the approach to time limits in the Act more generally.	Limited
34(1)	Service of summons to answer to a charge	This provision has been reworked, see sections 16 and 17.	Moderate
34(2)		See section 345 which provides for substituted service across the Act.	No change
34(3)		For service on a body corporate see section 393, which applies across the Act.	Limited
35	Proof of service	See section 399. Section 35 applied only in relation to a summons (although it is picked up by other provisions). Section 399 applies to documents generally across the Act.	Moderate
36(1) and (1A)	Service of summonses for certain offences by post	See section 17. This now provides a more comprehensive test for the mode of service of summonses for summary offences. Rather than “post” the section now refers to ordinary service which is explained in section 394.	Significant
36(2)		See section 396 for last known place of residence for service which can now be prescribed in rules rather than regulations.	Moderate
36(3)		See section 17(3).	Limited
37	Service of statements on defendant	Disclosure obligations in summary proceedings have been substantially changed and restructured. In particular, the ‘brief of evidence’ process and the ‘Schedule 2’ request process have been combined into a full brief and new processes for resolving disputes about disclosure have been included. A new preliminary brief has replaced the ‘outline of evidence’. See Division 2 of Part 3.2.	Significant
37(1)		See section 41(1)(a)-(d) which includes the obligation to include in (what is now called) a full brief material that the prosecution intends to rely upon.	Moderate
37(2)-(5)		See section 47.	Limited
37(6)		No equivalent section. Simpler rules for service of a full brief are provided in section 40.	Significant
37(7)		No equivalent section. This is no longer necessary in light of the general provision at section 399.	Significant
37(8)		No equivalent provision. This process is obsolete.	Significant
37A	Service of outline of evidence on defendant	This has been substantially reworked and renamed the preliminary brief . See sections 35-38.	Significant
37A(1)		See section 35(4). The remaining subsections make service of a preliminary brief mandatory in certain circumstances.	Significant
37A(2)		See section 37(2). This contains more details as to what must be included in a preliminary brief .	Significant
37A(3)		See section 38. The test for attestation has been modified slightly.	Limited
37A(4)		See section 49(4) and (5) which provide a clearer method for placing unsworn material on a database.	Moderate
37A(5)		See section 38(2).	No change
37A(6)		See section 40 which provides a more express set of rules for service of a preliminary brief .	Moderate
37A(7)		No equivalent subsection. See general proof of service provision at section 399.	Significant
38(1)	Appearance	No equivalent subsection specifically in relation to summary proceedings. See section 328 which provides for appearance across the whole Act. See also the definitions in section 3 for the distinction between attend and appear .	Significant
38(2)(a)		See section 29(3).	No change
38(2)(b)		See section 63.	No change
38A	Charge to be read or explained to defendant before plea	See section 62.	No change
39	Legal representation	See section 33 which adds a requirement (in section 33(e)) to advise an accused of their right to legal aid (if eligible) to be consistent with the <i>Charter of Human Rights and Responsibilities Act 2006</i> .	Limited

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
40	Interpreter	See section 335 which now applies across the whole Act.	No change
41(1)-(3)	Non-attendance of accused	See sections 80 and 81 which divide this issue up into non-appearance for summary and indictable offences respectively. The terminology has also been changed consistent with the attend/appear distinction in the Act.	Limited
41(4)		See section 87(1).	No change
42	Return of property taken from a defendant	See section 34 which has been extended to cover the return of property taken from people other than the accused (see section 34(2)).	Limited
43	Witness summonses	Remains in the <i>Magistrates' Court Act 1989</i> . See section 336 for a general provision authorising the issue of witness summonses. New section (5), (5A) and (5B) provides new ways of serving a summons. These methods mirror section 391.	Significant
44	Production before date for attendance	Remains in the <i>Magistrates' Court Act 1989</i> .	No change
45	Attendance of witnesses on adjournment	Remains in the <i>Magistrates' Court Act 1989</i> .	No change
46	Statement to be given to defendant	This is comparable to section 68 except that the content of (what was previously) section 398 of the <i>Crimes Act 1958</i> is set out in full and the requirement for the advice to be given in writing has been removed.	Moderate
47	Alibi evidence	See sections 51 and 52. This provision has been altered to incorporate aspects of (what was previously) sections 399A and 399B of the <i>Crimes Act 1958</i> . The time limit has also been changed from being before the start of the evidence of the first prosecution witness to being 7 days before the contest mention or summary hearing. Almost identical alibi provisions are used in trial proceedings (see sections 190 and 191).	Significant
48	Proceedings against corporations	See section 330 which applies a version of this section to all criminal proceedings under the Act. The section also includes changes to terminology.	Limited
49	Power to return defendant to youth training centre	See section 333.	No change
50	Power to amend where there is a defect or error	Remains in the <i>Magistrates' Court Act 1989</i> in relation to a warrant (although warrants are also referred to in the general correction power in section 412). There is a specific test for amendment of charge-sheets in section 8 which has been reworded and simplified.	Significant
50A	Sentence indication	50A(1) - see section 60. 50A(2) - see section 61.	No change
51	Procedure for summary offences	See section 27. Rather than referring to a schedule, this section refers to Chapter 3 of the Act.	Limited
52	Abettors in summary offences triable as principal offenders	Remains in the <i>Magistrates' Court Act 1989</i> , subject to review as part of the continuing review of criminal offences by Criminal Law – Justice Statement.	No change
53(1)	Indictable offences triable summarily	See section 29(1). The factors to be applied are listed in section 29(2).	Limited
53(1A)		This has been slightly reworded see section 28(1).	Limited
53(1B)		This has been slightly reworded see section 28(2).	Limited
53(1C)		See section 28(3).	No change
53(2)		See section 7(2)(b).	No change
53(3) and (4)		See section 29(2) which combines the factors into a single list but does not change the substance of the factors (although there is some rewording).	Limited
53(5)		See section 29(4).	Moderate
54(1)-(8)	Procedure for indictable offences triable summarily	See section 30. Note that (3) has been slightly modified.	Limited
54(9)		The time limits for giving alibi notices have been changed in a way that makes subsection (9) redundant. See section 51(3).	Significant
54(10)		No equivalent subsection. Subsection (10) provides that an order dismissing a charge for, or convicting a person of, an indictable offence heard summarily has the same effect as an acquittal or conviction on indictment for the offence. However, there does not appear to be any reason why a dismissal of, or conviction for, such an offence would not have that effect.	Moderate

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
54(11)		No equivalent subsection. Subsection (11) gives the court the same power in relation to restitution and compensation orders as if the charge had been tried on indictment. However, the <i>Sentencing Act 1991</i> provisions regarding restitution and compensation orders apply to all courts (except the Children's Court).	Moderate
54A	Non-appearance of corporate defendant	See section 82. Note that section 82(2) is new.	Limited
55	Option of verdict of attempt	See section 76.	No change
56(1)(a)	When and how committal proceeding must be held	See section 96(a). This has been reworked to replace the reference to a presentment with a reference to a direct indictment which is defined in section 3.	Limited
56(1)(b)		This is not reflected in the Act because when a person elects to stand trial a committal proceeding has commenced.	Significant
56(1)(c)		See section 96(b).	No change
56(2)		No longer relevant as the procedure for conducting a committal proceeding is now in the body of the Act.	Significant
56(2A)		This has been slightly reworded. See section 154(1). Subsection (2) is new and gives procedural flexibility to the court.	Limited
56(3)-(7)		See section 143. Note that the procedure if the accused is in custody has been simplified in section 143(3).	Moderate
56(8)		No equivalent subsection. This is no longer relevant because of the way that the Act deals with an election to stand trial. See sections 143(4) and 144.	Significant
56(9)		See section 155 which applies generally to this Chapter.	Limited
56A	Compulsory examination procedure	This has been broken into separate sections. See sections 103-106.	Limited
56A(1)		See sections 103(2) and (3), and 104(1) and (2). This has been slightly reworded.	Limited
56A(1A)		See section 103(2)(a) and 103(5).	No change
56A(1B)		See section 103(4).	No change
56A(1C)		See section 103(6).	No change
56A(2)(a)		See section 103(7)(a).	No change
56A(2)(b)		See section 106(4).	No change
56A(2)(c)		See section 103(7)(b).	No change
56A(2)(d)		See section 106(3) and (4).	No change
56A(3)		See section 105(1) and (2).	No change
56A(4)		See section 105(3).	No change
56A(4A)		See section 106(1).	No change
56A(5)		See section 106(2).	No change
56A(6)		See section 106(5).	No change
56(7)		See section 104(3). Now includes greater details as to who may make an application to set aside.	Limited
56B	Nothing in Act affects certain powers of DPP	There have been some wording changes. See section 156.	Limited
57	Warrants	New powers have been provided to the registrar of the County Court and the prothonotary of the Supreme Court to issue a warrant. This is relevant to Part 6.1.	Significant
61(1)(a), (4), (5)(a) and (c)	Issue of warrant to arrest	See sections 12(1), 25, 80 and 411.	Moderate
66 and 67	Warrant to arrest following indictment or presentment and arrest process	This process has been substantially reworked and simplified. See sections 174-176 in relation to obtaining the accused's attendance on a direct indictment. In relation to non-attendance by an accused generally see section 246 (which requires an accused to attend all hearings in a trial proceeding), section 330(1)(c) (which allows the court to require an accused to appear) and section 330(4)-(5) (which allow the court to issue warrant to arrest for non-appearance). Note also that an accused arrested on warrant must now presumptively be brought before the court that issued the warrant. See section 411(1)-(4).	Significant

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
83(1)	Appeal to County Court	This has been reworked. See section 254 which now draws a distinction between conviction and sentence . The procedure for such an appeal is now in the body of the Act rather than in a schedule.	Moderate
83(2)		See section 273.	No change
84	Appeal by DPP against sentence for offence punishable summarily	See section 257.	No change
85	Appeal operates as re-hearing	See section 256(1) and section 259(1).	No change
86(1)	Powers of County Court on appeal	This has been reworded. See section 256(2) and section 259(2).	Limited
86(1AA)		There is no equivalent subsection as the Act requires the court to give a warning about the risk of an increased sentence. See section 256(3).	Significant
86(1A)		See section 256(4) and section 259(4).	No change
86(2)		See section 256(5) and section 259(5). Note that these provisions do not include the reference to section 74 of the <i>County Court Act 1958</i> . This reference is unnecessary because section 74 applies to civil proceedings.	Limited
86(3)		See section 266(4). Note that the Act does not re-enact the requirement for the appellant to seek leave (and show exceptional circumstances) to abandon an appeal.	Limited
86(3A)(a)		No equivalent to (a) as the County Court will no longer have the power to hear an appeal in the appellant's absence. See section 267(1) which sets out the options if the appellant does not appear (strike out or adjournment).	Significant
86(3B) and (3C)		No equivalent sections as the County Court will no longer have the power to hear an appeal in the appellant's absence.	Significant
86(4)		See section 266(5)(a) and section 267(2)(a).	No change
87	[Does not exist]	[N/A]	
88	Procedure on appeal	This is no longer necessary as the procedure for appeals is in the body of the Act rather than in a schedule.	Significant
88AA	Costs powers of County Court on appeal	See section 406(1) and (2).	No change
88A	Regulations may prescribe costs of appeal	See section 420(1)(a).	No change
89	Appellant's failure to appear	See section 267(3)-(6).	No change
89A	Re-hearing where County Court hears appeal in appellant's absence	No equivalent section as the County Court will no longer have the power to hear an appeal in the appellant's absence.	Significant
90	Appeal to County Court authorised by other Acts	See section 271.	No change
91(1) and (2)	Right of appeal if County Court substitutes imprisonment for other penalty	See section 283(1)-(2) which have been slightly reworked.	Limited
91(3)		No equivalent section. Bail pending appeal is dealt with in a general provision. See section 310.	Moderate
91(4)		See section 284. This adopts a clearer filing/service regime consistent with all appeals provisions in the Act.	Moderate
91(5)		See sections 285 and 286 which rework this provision and separate it into two. Note that the court must also now warn of the possibility of a more severe sentence (section 285(3)). Also note that the test for when the appeal should be allowed is more expressly set out (section 285(1)(a)-(b)).	Significant
92	Appeal to Supreme Court on a question of law	See section 272. This has been slightly reworked.	Limited
92A	Appeals under section 567A(1A) of <i>Crimes Act 1958</i>	No equivalent section. It is unnecessary, as the DPP's appeal right against sentences imposed for related offences is clear in the definition of originating court and original jurisdiction in section 3 as applied to section 287.	Significant
93(1)	Application for re-hearing	This has been slightly reworded. See section 88.	Limited
93(2)		This has been slightly reworded. See section 92.	Limited

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
93(3)		See section 91(1).	No change
93(4)		See section 91(2).	No change
93(5)		See section 91(3) This has been slightly redrafted.	Limited
93(6)		See section 93.	No change
94(1)	Notice of intention to apply for re-hearing	See section 89. Note that in section 89(b) "lodged" has been changed to "filed", consistent with the terminology used throughout the Act.	Limited
94(2)		See section 90(1).	No change
94(3)		This has been reworked. See section 90(2). The new provision now provides specifically for service, rather than stating that it is to be served "as though it were a summons".	Moderate
95	Automatic re-hearing in certain cases	See section 94(1).	No change
127(1)(ba)	Witness order	See section 336A.	Limited
128		See section 331 which is based on this section and provides a power of adjournment in all criminal proceedings.	Moderate
128A	Adjournment to undertake diversion program	See section 59.	No change
130(1), (3), (4)	Evidential burden on defendant for exceptions etc.	See section 72.	No change
130(2)		Schedule 1 cl.4. This schedule sets out all requirements for charges (on charge-sheets and in indictments).	No change
131(1), (2), (2A), (2C) and (4)	Costs	See section 401.	Limited
131(2B)		See section 400 which applies the right to be heard across all costs provisions in the Act.	No change
131(3)		See section 403.	No change
132	Costs liability of practitioner	See section 410. This section has been combined and consolidated with provisions that apply to costs against legal practitioners in other proceedings.	Limited
Sch.2 cl.1(1)	Venue of Court	This is partially reflected in the simplified section 11 (Place of hearing of criminal proceeding in the Magistrates' Court).	Significant
Sch.2 cl.1(2)-(2B)		These are not directly reflected in the Act. They are largely covered by the power to change venue of a hearing in section 31.	Significant
Sch.2 cl.1(3)		Although it is quite different, this is largely covered by section 11(2).	Significant
Sch.2 cl.1A(1)	Pre-hearing disclosure	No equivalent provision as a brief of evidence no longer exists. See sections 39-41 for new full brief process.	Significant
Sch.2 cl.1A(2)		The broadly equivalent provisions in relation to the full brief are sections 39 and 41.	Significant
Sch.2 cl.1A(2A)		See section 49 which has been reworked.	Moderate
Sch.2 cl.1A(3)		See sections 43(1)(e) and 45(3).	Moderate
Sch.2 cl.1A(4), (5) and (5A)		These have been substantially reworked in sections 43-45.	Significant
Sch.2 cl.1A(6)		See section 46. This has been made of application to disclosure disputes generally.	Moderate
Sch.2 cl.1A(7)		See section 42 which expressly provides for the scope of the continuing obligation of disclosure.	Moderate
Sch.2 cl.1A(8)	[Does not exist]	[N/A]	
Sch.2 cl.1A(9)		No equivalent provision but see section 13 which requires the same information to be given with a summons or warrant.	Significant
Sch.2 cl.1B	Expert witness statement	See section 50 which has been modified, particularly by changing the time frame of the obligation to disclose.	Moderate
Sch.2 cl.2(1) and (2)	Course of proceedings	The Act adopts a different approach. Rather than applying trial procedures "with necessary modifications", sections 65-75 set out the detail of the procedure to be followed, which has been adapted from the trial procedures.	Significant
Sch.2 cl.2(3)		See sections 65, 71 and 73-75.	Moderate

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
Sch.2 cl.3	Mention system	See section 20.	Limited
Sch.2 cl.3A	Contest mention hearing	See section 55. This has been slightly reworded.	Limited
Sch.2 cl.4	Non-appearance of informant	See section 79. Note that, consistent with the approach taken across the Act, the phrase “thinks fit” has been replaced with “considers appropriate”. This ensures that discretions are described in consistent language throughout the Act.	Limited
Sch.2 cl.5	Non-appearance of defendant	See section 83. This has been modified to refer to a full brief . Subsection (3) is new and ensures that a criminal record is only admissible in the accused’s absence for the purpose of sentencing.	Significant
Sch.2 cl.6(1)-(3), (5), (11)	Non-appearance of defendant-outline of evidence	See section 84(1)-(6). Note that “outline of evidence” is replaced with preliminary brief , together with other minor terminology changes. Subsection (5) is new and provides that a criminal record is admissible in the accused’s absence for the sole purpose of sentencing.	Moderate
Sch.2 cl.6(6)		See section 83, which has been restructured.	Limited
Sch.2 cl.6(7)		See section 87(3).	No change
Sch.2 cl.6(8)		The Act adopts a different approach and allows prior convictions to be used on sentencing in the absence of the accused. See section 86.	Significant
Sch.2 cl.6(9)		See section 87(4).	No change
Sch.2 cl.6(10)		See section 94(2) which forms part of a new section dealing with a range of situations in which re-hearings must be granted.	No change
Sch.2 cl.7	Non-appearance of defendant - <i>Infringements Act 2006</i>	See section 85.	No change
Sch.4	Indictable offences which may be heard and determined summarily	Schedule 2. There are many differences between the two schedules. Section 28 of the Act provides a clearer test for indictable offences triable summarily and, as a result, Schedule 2 has been consolidated and shortened. There have also been changes to the way in which maximum financial penalties are described in light of the amendments to the <i>Sentencing Act 1991</i> in sections 433 and 434 of the Act.	Significant
Sch.5 cl.1(1)	Definitions and provision about service	The definition of cognitive impairment is included in section 3. The definition of the registrar is included in section 95. The remaining definitions are no longer necessary.	Limited
Sch.5 cl.1(2)		No equivalent subsection in relation to committal proceedings. Instead, service is dealt with in general provisions in Part 8.3. In relation to legal practitioners see sections 391(4) and 394(b).	Significant
Sch.5 cl.2	Power of Court to control committal proceedings	To the extent that it is necessary to state the powers of the court explicitly, this is done in certain sections where it is most likely to be relevant (see e.g. section 125(1)).	Moderate
Sch.5 cl.2A	Power to dispense with requirements where corporate defendant absent	See section 154(2). This has been simplified but not changed in substance.	Limited
Sch.5 cl.3	Special mention hearing	This provision has been replaced by a wholly different provision. See section 153.	Significant
Sch.5 cl.4(1)	Committal mention hearing	See section 125(1). This has been slightly reworded and a general case management power added.	Limited
Sch.5 cl.4(2)		See section 126(1). Note that the reference to the “Rules” has been omitted from the introductory words in the subclause.	Limited
Sch.5 cl.4(3)		See section 126(2). This has been reworked and simplified. Note that the reference to fixing a shorter period has been omitted.	Moderate
Sch.5 cl.4(4)		This has been slightly reworded. See section 125(3)	Limited
Sch.5 cl.4(5)		See section 125(4).	No change
Sch.5 cl.4(6)		This has not been reflected in the Act. When parties must attend or appear is dealt with generally in sections 328-330 and, specifically in relation to a committal proceeding, in section 100(2).	Significant
Sch.5 cl.4(7)		See section 125(2). This has been reworked.	Limited
Sch.5 cl.4A(1) and (2)	Committal case conference	See section 127(1) and (2). Subsection (3) is new.	Significant

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
Sch.5 cl.4A(3) and (4)		These have not been reflected in the Act. Subsection (3) is unnecessary and subsection (4) is now dealt with by the new approach to this issue in the Act. When parties must attend or appear is dealt with generally in sections 328-330 and, specifically in relation to a committal proceeding, in section 100(2).	Significant
Sch.5 cl.5(1)	Plea brief may be served by informant	See section 116(1) and (2). This has been substantially restructured. Note that section 116(1) does not include the references to a legal practitioner. Note also that the contents of the plea brief are now in a separate section (section 117).	Significant
Sch.5 cl.5(2)		See section 117(2). This has been restructured but remains the same in substance.	Limited
Sch.5 cl.5(3)		See section 117(3).	No change
Sch.5 cl.5(4)		See section 117(4).	No change
Sch.5 cl.5(5)		This is no longer necessary because of section 399.	Significant
Sch.5 cl.5(6)		See section 116 which significantly restructures filing and service of the plea brief .	Significant
Sch.5 cl.6	Service of hand-up brief by informant	Disclosure of documents in the Act has been significantly reworked and restructured. Unless there is a good reason for a difference, the list of material required to be disclosed is consistent with that in summary proceedings.	Significant
Sch.5 cl.6(1)		See section 107 which contains the obligation to provide a hand-up brief and section 110 which lists the required contents. Changes to the content include: <ul style="list-style-type: none"> • The requirements for the notice are expanded (section 110(1)). • The list is divided into material that the prosecution intends to rely upon (section 110(1)(d)) and other material relevant to the charge (section 110(1)(e)). The second list is more specific than in cl.6. • There is a new reference to medical examinations (section 110(1)(e)(iv)). 	Significant
Sch.5 cl.6(2)		See section 107(2).	No change
Sch.5 cl.6(3)		No equivalent subsection as further disclosure obligations are made clear by way of the ongoing disclosure obligation in section 111 and the Act-wide saving in section 363.	Significant
Sch.5 cl.7(1)	Time for service of hand-up brief	See section 108(1) and (2). Note that this does not include references to service on a legal practitioner as such service is now dealt with under the general service provisions in Part 8.3.	Significant
Sch.5 cl.7(2)		This is no longer necessary because of section 347.	Significant
Sch.5 cl.7(3)		This has been slightly reworked and located in a separate clause. See section 109.	Limited
Sch.5 cl.7(4)		See section 111. This has been extensively reworked.	Significant
Sch.5 cl.8(1)	Rules with respect to statements	See section 112(1) and the list in Schedule 3 to the Act.	No change
Sch.5 cl.8(2)-(4)		See section 114. This has been reworked and the test for disclosure amended to require the privacy interests of witnesses to be taken into account.	Significant
Sch.5 cl.8(5)-(7)		See section 112(2)-(4).	No change
Sch.5 cl.9	Rules with respect to recordings	See s113.	No change
Sch.5 cl.10	Inspection of exhibits	See section 115.	No change
Sch.5 cl.10A	Time limit applicable to certain committal proceedings	See section 99. There has been some rewording. Note that subsection (3) has been extensively reworked in line with section 126(2) (which is based on <i>Magistrates' Court Act 1989</i> Schedule 5 cl.4(3)).	Significant
Sch.5 cl.11(1)(a)	Procedure where plea brief served and filed	See section 142(1) and section 144(2). These provisions have been reworked.	Moderate
Sch.5 cl.11(1)(b)		See section 142(1)(b). This has been shortened.	Limited
Sch.5 cl.11(2)		See section 142(2).	No change
Sch.5 cl.11AA and 11AB	Case direction notices	The case direction regime has been modified to properly provide for the joint case direction notice. The provisions have also been re-ordered.	Moderate
Sch.5 cl.11AA(1)		See section 118(1).	No change
Sch.5 cl.11AA(2)		See section 119. This lists the contents of the case direction notice. Paragraph (e) in the new provision differs from the existing provision because it includes the matters in <i>Magistrates' Court Act 1989</i> Schedule 5 cl.12(1) directly.	Limited

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
Sch.5 cl.11AA(3)		See section 118(2).	No change
Sch.5 cl.11AA(4)		See section 120(1). Now contained in a separate section relating to late applications.	Limited
Sch.5 cl.11AA(5)		See section 120(2).	No change
Sch.5 cl.11AA(6)		See section 120(3).	No change
Sch.5 cl.11AA(7)		See section 118(3).	No change
Sch.5 cl.11AB	Adjournment in absence of parties	See section 121. Note that section 121(2) is new and requires notice of the adjourned date to be given to the DPP and the accused.	Limited
Sch.5 cl.11A	No cross-examination of certain witnesses	See section 123.	No change
Sch.5 cl.12(1) and (2)	Defence notice	The case direction process has been amended to ensure that it applies to all of the processes in the case direction stage. Currently it applies to all situations except those covered in clause 12(1) of Schedule 5. As a result, cl.12(1) and (2) are not required.	Significant
Sch.5 cl.12(3)		See section 122(1).	No change
Sch.5 cl.12(4)		See sections 122(2) and (4)(a)-(c).	Limited
Sch.5 cl.13(1)	Application for leave to cross-examine a witness	See section 124.	Limited
Sch.5 cl.13(2)		This has been reworked. See section 124(1).	Limited
Sch.5 cl.13(3)		This is no longer necessary because section 124(1) applies to cross-examination of witnesses generally.	Significant
Sch.5 cl.13(4) and (4A)		These have been reworked and the substance is now covered by section 124(2).	Limited
Sch.5 cl.13(5)		See section 124(3). This has been slightly reworked to tie in with section 124(2).	Limited
Sch.5 cl.13(5A)		See section 124(4).	No change
Sch.5 cl.13(5B)		See section 124(5). This has been slightly reworked.	Limited
Sch.5 cl.13(5C)		See section 132(1).	No change
Sch.5 cl.13(6)		This has been removed because section 129(1) is sufficient in addressing when a witness must attend court.	Moderate
Sch.5 cl.14(1)	Attendance of witness	This has been reworked. See section 129(1) and section 134(2).	Moderate
Sch.5 cl.14(2)		See section 134(1).	No change
Sch.5 cl.14(3)		See section 129(3).	No change
Sch.5 cl.15	Giving of evidence by witnesses	See section 130 which has the same content but a revised structure.	Moderate
Sch.5 cl.16(1)	Cross-examination of witnesses	See section 132(2). Note that (c) has been omitted because it is covered by the <i>Evidence Act 2008</i> .	Limited
Sch.5 cl.16(2)		This is covered by section 132(3) which links in with section 124(4) and (5) rather than repeating the list.	No change
Sch.5 cl.16(3)		This is covered by section 128 which links in with section 124(5), except that it omits paragraph (b) of <i>Magistrates' Court Act 1989</i> Schedule 5 cl.16(3), because that is covered by the <i>Evidence Act 2008</i> .	Limited
Sch.5 cl.17	Special rules applicable to sexual offences	See section 133. There has been some rewording. Note that "reasonably available" in (3)(c) has become "available" in the new (3)(c). The language in (3)(d) has been modernised to refer to "assistants".	Moderate
Sch.5 cl.18	Admissibility of non-oral evidence	See section 139. Note that (1)(a), (c) and (d) exclude a statement or recording that is inadmissible under section 134(2).	Moderate
Sch.5 cl.19	Procedure if defendant makes admission of relevant fact or matter	See section 140.	No change
Sch.5 cl.20	Absence of defendant	These have been reworked. See sections 135 and 136. Note that section 135(4) excludes the operation of section 330(3) (power to excuse an accused from attending court).	Limited

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
Sch.5 cl.21	Procedure if defendant absent at close of prosecution case	See section 137. The words “who is a natural person” have been added to paragraph (a).	Limited
Sch.5 cl.22	Procedure on defendant's attendance after absence	See section 138. A reference to shorthand notes has been removed from paragraph (c)(i) and a reference to section 124 has been added to paragraph (d).	Limited
Sch.5 cl.23(1)	Determination of committal proceeding	See section 141(1).	No change
Sch.5 cl.23(2) (a) and (3)(a)		See section 141(4)(a). These two subclauses have been combined.	Limited
Sch.5 cl.23(2) (b) and (3)(b)		See section 141(4)(b). Paragraphs (i) and (ii) are in section 144(2) and have been reworked concerning the order in which information is given to the accused and the content of that information.	Significant
Sch.5 cl.23(2) (c) and (3)(c)		See section 141(4)(c) and (5). This represents a change in that the Court may now only give the prosecution the option of filing an alternative charge.	Significant
Sch.5 cl.24(1)	Procedure after committal	This has been significantly reworked into section 144. It is now described as occurring “on” rather than “after” committal. It has been reworked concerning the order in which information is given to the accused and the content of that information.	Significant
Sch.5 cl.24(2)		This has been simplified in section 146.	Limited
Sch.5 cl.24(3)		See section 147.	No change
Sch.2 cl.24(4)-(8)	[Does not exist]	[N/A]	
Sch.5 cl.24(9)		There is no equivalent subsection. This power was rarely, if ever, exercised.	Significant
Sch.5 cl.24AA(1)	Absent corporate defendant to be notified of committal	This has been reworded. See section 148.	Limited
Sch.5 cl.24AA(2)		This is now covered by a general purpose provision. See section 393.	Limited
Sch.5 cl.24A(1)-(3)	Evidence taken after accused person directed to be tried	See section 149. This process is no longer available to the DPP in light of the expansion of the ability to take evidence before trial (in section 198).	Significant
Sch.5 cl.24A(4)		See section 150(2).	No change
Sch.5 cl.24A(5)		This has been shortened. See section 150(3).	Limited
Sch.5 cl.24A(6)-(7)		These have been shortened. See section 150(4). The matters listed in the current subclauses are picked up in the new subclause by a cross reference to section 124.	Limited
Sch.5 cl.24A(8)		See section 152(1).	No change
Sch.5 cl.24A(9)		See section 151(1).	No change
Sch.5 cl.24A(10)-(14)		See section 152(2)-(8). These subsections have been simplified.	Limited
Sch.5 cl.24B	Offence to fail to appear at trial	See section 252. The wording has been changed to extend to non-appearance on any date when ordered to appear.	Moderate
Sch.5 cl.25	Costs order	This is now dealt with by a general costs provision. See section 401(2).	Limited
Sch.6	Procedure on Appeals to the County Court	These clauses have been combined with the substantive appeals provisions in the <i>Magistrates' Court Act 1989</i> (e.g. sections 83-84) to create a single location for appeals provisions in Part 6.1 of the Act.	Significant
Sch.6 cl.1(1)	Service of notice of appeal	See sections 255(1), 258(1) and 261(1). The time limits for filing have been changed to 28 days, consistent with the overall approach in the Act to describing time limits in multiples of 7 days. The provisions have been generally reworked to be consistent with the model for commencing appeals across the Act.	Significant
Sch.6 cl.1(2) and (3)		See section 263.	No change
Sch.6 cl.1(4)		See sections 255(1), 258(1) and 261(1). The process for filing and serving notices of appeal has been substantially reworked and simplified. Service is expressly dealt with in sections 255(2), 258(2) and 261(2).	Significant
Sch.6 cl.1(4A) and (4B)		See section 255(4) and (6).	No change

Section of <i>Magistrates Court Act 1989</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of Change
Sch.6 cl.1(5)		Not repeated in the Act as it is more appropriate for rules.	Significant
Sch.6 cl.1(6)		See section 406(3).	No change
Sch.6 cl.2(1)	Undertaking to prosecute appeal	See section 255(5).	No change
Sch.6 cl.2(2)		Section 255(5) requires an undertaking to be signed by the appellant "in the manner prescribed by the rules", rather than setting out the relevant witnesses in the body of the Act.	Limited
Sch.6 cl.2(3)		See section 406(4).	No change
Sch.6 cl.2(4)		No equivalent section as this issue is now dealt with in section 334 (general section dealing with corporations).	Limited
Sch.6 cl.3	Stay of order	See section 264.	No change
Sch.6 cl.4	Bail pending appeal	See section 265.	Limited
Sch.6 cl.5	Service of notices	This is now covered by the general service provisions in Part 8.3 of the Act.	Significant
Sch.6 cl.6(1)	Abandonment of appeal	See section 266(3). Note that this section is significantly restructured.	Moderate
Sch.6 cl.6(2)		This is not specifically replicated in the Act, but the content is incorporated into section 266(1).	Moderate
Sch.6 cl.6(2A)-(2C)		The Act no longer requires the appellant to obtain leave to abandon an appeal, nor to show special circumstances.	Significant
Sch.6 cl.6(3)		See section 266(5)(b) and section 267(2)(b).	No change
Sch.6 cl.6(4)		See section 266(5)(c) and section 267(2)(c).	No change
Sch.6 cl.7	Costs on abandonment	See section 407. Note change of time limit from 30 days to 28 days.	Limited
Sch.6 cl.8	One notice of appeal for two or more sentencing orders	This has been reworked. See section 269.	Limited
Sch.6 cl.9	Appeal against aggregate sentence	This has been reworked. See section 270. Much of the existing subclause (1) has been omitted because it is more appropriate to deal with this in the rules, if it needs to be provided for at all.	Moderate

Section of the <i>Evidence Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
Part II - Witnesses			
Division 3-Examination and cross-examination of witnesses			
32AB	Guiding principles	This section remains in the <i>Evidence (Miscellaneous Provisions) Act 1958</i> but a similar section has been drafted in section 338.	No change
37A(1)	Special rules of evidence in relation to certain offences which relate to rape	See section 339 for first paragraph which has been broadened. The definition of sexual offence is broader under the <i>Criminal Procedure Act 2009</i> as it includes sexual servitude offences.	Moderate
37A(1) r(1)		See section 341.	No change
37A(1) r(2)		See section 342. The provision no longer applies to the sexual activities to which the charge relates (i.e. leave from the court is not required for the prosecution to adduce evidence about the alleged offence, or for the accused to cross-examine about sexual activities to which the charge relates, subject to restrictions on cross-examination of a protected witness).	Limited
37A(1) r(3)(a)		See section 349.	Limited
37A(1) r(3)(b)		See section 350. The pre-conditions for leave being granted have been simplified to reflect modern practice; the relevant times for this provision are when the offender has pleaded guilty or been found guilty.	Moderate
37A(1) r(4)		See section 340 for definition of sexual history evidence . See sections 343 and 352 for restrictions and limitations on the use of sexual history evidence.	Moderate
37A(1) r(4A)		See section 343.	No change
37A(1) r(5)		Rule (5)(aa)(i) has been substantially reworked with clearer time limits - see section 344. Rule (5)(aa)(ii) can now be found in section 346. There are new requirements where an application is made for leave to admit evidence (cf. leave to cross-examine the complainant which remains the same). Rule (5)(a) - see section 348. Rule (5)(b) has been omitted because it is not necessary to state such matters.	Significant
37A(1) r(5A)		Not re-enacted, now covered by process in section 344.	
37A(1) r(5B)		See section 345. 'Exceptional circumstances' test replaced with 'interests of justice'.	Moderate
37A(1) r(5C)		See section 347. 'Exceptional circumstances' test replaced with 'interests of justice'.	Moderate
37A(1) r(6)		See section 351(1).	No change
37A(2)		See section 351(2).	No change
37B(1)	Use of recorded evidence-in-chief in certain proceedings	See section 366. Paragraph (ab) of section 37(1) has been removed because it is now covered within the definition of a sexual offence under the <i>Criminal Procedure Act 2009</i> .	Limited
37B(2)		See section 367, the language has been clarified.	Limited
37B(3)		See section 368(1). The time limits for a summary hearing, special hearing and trial have been clarified.	Limited
37B(3A)		See section 368(2).	No change
37B(4)		See section 368(3).	No change
37C(1)	Alternative arrangements for giving evidence in certain proceedings	See section 359. Now includes section 37C(2) as well. Note, Division 4 also deals with alternative arrangements provided in sections 37CAA and 41E of the <i>Evidence Act 1958</i> , and combines them into one Division.	Limited
37C(2)		See section 359. The provision has been simplified through the use of the definition of sexual offence (which replaces section 37C(2)(a)).	Moderate
37C(3)		See section 360. This section also consolidates section 37CAA(1) and section 41E(1) of the <i>Evidence Act 1958</i> .	No change
37C(4)		See section 361. This section also consolidates section 37CAA(7) and section 41E(4) of the <i>Evidence Act 1958</i> .	No change
37C(5)		See section 362(2). This section also consolidates sections 37CAA(8) and 41E(5) of the <i>Evidence Act 1958</i> .	No change
37C(6)		This subsection has not been re-enacted as the general power to vary or revoke an order is provided in section 337(2) of the Act.	

Section of the <i>Evidence Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
37CAA(1)	Alternative arrangements for giving evidence by certain complainants in certain proceedings	See section 360. Note, Division 4 also deals with alternative arrangements provided in sections 37C and 41E of the <i>Evidence Act 1958</i> , and combines them into one Division. As a result, the range of alternative arrangements available has been broadened for evidence given by complainants.	Moderate
37CAA(2)		See section 363. This section is also based on section 41E(2) of the <i>Evidence Act 1958</i> .	Limited
37CAA(3)		See section 362(3). This section is also based on section 41E(3) of the <i>Evidence Act 1958</i> .	No change
37CAA(4)		See section 362(4).	No change
37CAA(5)		See section 364.	No change
37CAA(6)		See section 365.	No change
37CAA(7)		See section 361. This section also consolidates section 37C(4) and section 41E(4) of the <i>Evidence Act 1958</i> .	No change
37CAA(8)		See section 362(2). This section also consolidates section 37C(5) and section 41E(5) of the <i>Evidence Act 1958</i> .	No change
37CAA(9)		This subsection has not been re-enacted as the general power to vary or revoke an order is provided in section 337(2) of the Act.	
37CA(1)	Special rules for cross-examination of protected witnesses	See section 353, includes minor additions. The definition of sexual offence is broader under the <i>Criminal Procedure Act 2009</i> as it includes sexual servitude offences.	Limited
37CA(2)		See section 354. Paragraph (c) of the definition of 'family member' has been expanded to include a step-parent.	No change
37CA(3)		See section 355.	No change
37CA(4)		See section 356.	No change
37CA(5)		See section 357(1).	No change
37CA(6)		See section 357(2).	No change
37CA(7)		See section 357(3).	No change
37CA(8)		See section 357(4).	No change
37CA(9)		See section 357(5). This provision has been simplified.	Limited
37CA(10)		See section 358. This provision has been reorganised and some changes in expression have been made.	Limited
37D	Video link evidence from overseas in certain proceedings	See section 389.	No change
37E	Evidence of specialised knowledge in certain cases	See section 388.	No change
38	Saving existing rights	Not re-enacted. Repealed by the <i>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</i> .	Limited
39	Indecent or scandalous questions	Not re-enacted. Repealed by the <i>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</i> . See section 41 of the <i>Evidence Act 2008</i> .	Limited
40	Questions intended to insult or annoy	Not re-enacted. Repealed by the <i>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</i> . See section 41 of the <i>Evidence Act 2008</i> .	Limited
41	Prohibited questions not to be published	Not re-enacted. Repealed by the <i>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</i> . See section 195 of the <i>Evidence Act 2008</i> .	Significant
Division 3AA-Examination and cross-examination of certain witnesses			
41A	Definition	Not re-enacted. Repealed by <i>Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009</i> . Where a provision relates to a child, this is expressly indicated in the section.	Limited
41B	Application of Division	Not re-enacted. Repealed by <i>Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009</i> .	Moderate
41C	Evidence of specialised knowledge to determine competency	Not re-enacted. Repealed by the <i>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</i> . See sections 108C and 13(8) of the <i>Evidence Act 2008</i> .	Limited

Section of the <i>Evidence Act 1958</i>		Where is it in the <i>Criminal Procedure Act 2009</i> ?	Extent of change
41D	Evidence of previous representations made by child complainants	See section 377. The language and structure has been simplified. The mandatory warning to the jury has been removed as in some situations it was illogical or inaccurate. The provision no longer expressly refers to the admissibility of this evidence to prove the truth of the fact contained in the representation because by definition it permits that as an exception to the hearsay rule.	Significant
41E(1)	Alternative arrangements for giving evidence in certain proceedings by child complainants or complainants with a cognitive impairment	See section 360. This section also consolidates section 37C(3) and section 37CAA(1) of the <i>Evidence Act 1958</i> .	Limited
41E(2)		See section 363, with clarification of the process. This section also consolidates section 37CAA(2) of the <i>Evidence Act 1958</i> .	Limited
41E(3)		See section 362(3). This section also consolidates section 37CAA(3) of the <i>Evidence Act 1958</i> .	No change
41E(4)		See section 361. This section also consolidates section 37CAA(7) and section 37C(4) of the <i>Evidence Act 1958</i> .	No change
41E(5)		See section 362(2). This section also consolidates section 37C(5) and section 37CAA(8) of the <i>Evidence Act 1958</i> .	No change
41E(6)		This subsection has not been re-enacted as the general power to vary or revoke an order is provided in section 337(2) of the Act.	Limited
41F	Improper questions	Not re-enacted. Repealed by the <i>Statute Law Amendment (Evidence Consequential Provisions) Act 2009</i> . Substantially replaced by section 41 of the <i>Evidence Act 2009</i> .	Moderate
41G(1)	Pre-recording evidence at special hearing	See section 369. This section incorporates part of section 41G(2) and clarifies that the Division applies only to trial proceedings.	Limited
41G(2)		See section 370(1) and in part, section 369(2). The section modernises the language by referring to an audiovisual recording rather than a video recording. Note also new section 373.	Limited
41G(3)		See section 370(2).	Limited
41G(4)		See section 371(1).	Limited
41G(5)		See section 371. Subsection (3) is new and makes clear an extension of time may be granted before or after a time limit expires.	Moderate
41G(6)		See section 372(1). Section 372(1)(c) has been modified to make clear that the powers to limit who is present applies to both the courtroom and the room which the complainant is in when giving evidence.	Moderate
41G(7)		See section 372(2).	No change
41H(1)	Use of pre-recorded evidence	See section 374(1) and (2) with minor modification concerning the terminology used.	Limited
41H(2)		See section 374(3).	No change
41H(3)		See section 374(4).	No change
41H(4)		See section 374(5).	No change
41H(5)		See section 375. The jury warning has been broadened to include a further direction concerning the routine use of the special hearing process. This direction is similar to that in section 358 (cross-examination of protected witnesses).	Moderate
41H(6)		See section 374(6).	No change
41H(7)		See section 376(1).	No change
41H(8)		See section 376(2).	Limited
41H(9)		See section 376(3).	No change
Division 3A-Witness orders			
42	Victim who is a witness entitled to be present in court unless the court otherwise orders	See section 336A.	Limited