



Australian Capital Territory

Magistrates Court Act 1930

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About this republication

The republished law

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MAGISTRATES COURT ACT 1930

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

Reprinted as at 1 June 1998

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Australian Capital Territory

MAGISTRATES COURT ACT 1930

An Act to establish a Magistrates Court, to provide for the appointment of Magistrates, and for other purposes

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Magistrates Court Act 1930*.¹

5. Interpretation

(1) In this Act, unless the contrary intention appears—

“Administrator” has the same meaning as in the *Remand Centres Act 1976*;

“approved form” means a form approved under subsection 256 (3);

“bail undertaking” means an undertaking given by a person charged with an offence in order to obtain bail in relation to the offence;

“bailiff” means a bailiff appointed under this Act;

“charge of an indictable offence” means charge of an indictable offence as such and an order to a committal for trial therefor;

“claim” means a claim under the *Magistrates Court (Civil Jurisdiction) Act 1982*;

“Court” means Magistrates Court;

“Crimes Act” means the *Crimes Act 1900*;

“decision” includes a committal for trial and an admission to bail, and a conviction, order, order of dismissal, or other determination;

“defendant” means a person against whom an information is laid;

“hearing” includes the examination of a person charged with an indictable offence;

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“indictable offence” means an offence which may be prosecuted before the Supreme Court by charge or indictment;

“indictment” means an information for an indictable offence presented by some authorised officer to a court having jurisdiction to try the accused person;

“information” includes a complaint or application under the *Maintenance Act 1968* and any complaint upon which an order may be made for the payment of money under any Act of the State of New South Wales which has been continued in force as a law by virtue of section six of the *Seat of Government Acceptance Act 1909* of the Commonwealth;

“Judge” means a Judge of the Supreme Court;

“Magistrate” means the Chief Magistrate, a magistrate or a special magistrate appointed under this Act and, where any power or function of a magistrate is exercisable by a Registrar, includes a Registrar;

“Motor Traffic Act” means the *Motor Traffic Act 1936*;

“Notice to Defendant form” means the approved form containing the heading “Notice to Defendant”;

“Notice of Intention to Defend form” means the approved form containing the heading “Notice of Intention to Defend”;

“Plea of Guilty form” means the approved form containing the heading “Plea of Guilty”;

“police officer” means any member of the Police Force of the Territory;

“Registrar” means the Registrar of the Court, and includes a Deputy Registrar of the Court;

“remand centre” means a remand centre or a temporary remand centre established under the *Remand Centres Act 1976*;

“summary conviction” or “conviction” means a conviction by a magistrate for an offence;

“Superintendent” has the same meaning as in the *Remand Centres Act 1976*;

“the Territory” includes the Territory accepted by the Commonwealth under the *Jervis Bay Territory Acceptance Act 1915* of the Commonwealth.

(2) A reference in this Act to a certified copy of depositions or to a certified copy of a statement made by a person in reply to the question referred to in subsection 92 (1) shall be read as a reference to—

- (a) if a record of the depositions or statement was made in accordance with subsection 54A (2)—a transcript of the record certified in accordance with subsection 255B (2); or
- (b) if the depositions were or the statement was taken down in writing and signed in accordance with subsection 54A (3)—the depositions or statement as so taken down and signed.

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6. Application to Jervis Bay Territory

(1) This Act extends to the Territory accepted by the Commonwealth under the *Jervis Bay Territory Acceptance Act 1915* of the Commonwealth.

PART II—APPOINTMENT AND JURISDICTION OF MAGISTRATES

Division 1—Appointment of Chief Magistrate and Magistrates

6A. Interpretation

In this Division, “Magistrate” means—

- (a) a person who holds the office of Chief Magistrate; or
- (b) a person who is appointed under section 7 to hold an office of Magistrate.

7. Chief Magistrates, Magistrates

(1) For the purposes of this Act, there shall be a Chief Magistrate and such other Magistrates as from time to time hold office in accordance with this Act.

(2) The Chief Magistrate and each other Magistrate shall be appointed by the Executive.

(3) Where a person holding an office of Magistrate is appointed to hold the office of Chief Magistrate, the person ceases to hold the office of Magistrate.

8. Eligibility for appointment as Magistrate

A person is not eligible for appointment under subsection 7 (2) unless he or she is a legal practitioner and has been for not less than 5 years.

9. Seniority of Magistrates

The Magistrates other than the Chief Magistrate have seniority according to the dates on which their appointments took effect or, where the appointments of 2 or more of them took effect on the same date, according to the precedence assigned to them by the instruments of their appointment.

10. Terms and conditions of appointment

A Magistrate holds office on such terms and conditions as the Executive, from time to time, determines.

10A. Tenure of office

(1) Subject to this Act, a Magistrate holds office until he or she attains the age of 65 years.

(2) A person who has attained the age of 65 years shall not be appointed under section 7.

10B. Resignation

A Magistrate may resign his or her office by writing signed by him or her and delivered to the Executive.

10C. Acting Chief Magistrate

(1) Where—

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- (a) there is a vacancy in the office of Chief Magistrate; or
- (b) the Chief Magistrate is absent from duty or from the Territory or, for any other reason, is unable to carry out the duties of his or her office,

the Executive may appoint a Magistrate to act as Chief Magistrate during that vacancy, absence or inability, as the case may be.

(2) Where—

- (a) either—
 - (i) there is a vacancy in the office of Chief Magistrate; or
 - (ii) the Chief Magistrate is absent from duty or from the Territory or, for any other reason, is unable to carry out the duties of his or her office; and
- (b) no appointment is in force under subsection (1),

the senior Magistrate who is in the Territory and is able and willing to do so shall act as Chief Magistrate.

(3) Subject to this section, a person appointed under subsection (1) shall not continue to act as Chief Magistrate for more than 12 months.

(4) Where a person is acting as Chief Magistrate under subsection (1) or (2)—

- (a) a reference in a law of the Territory (including this Act) to the Chief Magistrate includes a reference to that person; and
- (b) that person has all the powers, functions and duties conferred or imposed upon the Chief Magistrate by this Act or by any other law of the Territory.

(5) The Executive may—

- (a) determine the terms and conditions of appointment of a person under this section; and
- (b) at any time terminate such an appointment.

(6) Where a person is acting as Chief Magistrate in pursuance of an appointment under subsection (1) and the office of Chief Magistrate becomes vacant while that person is so acting, that person may continue so to act until the Executive otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(7) A person may resign an appointment under subsection (1) by writing signed by him or her and delivered to the Executive.

(8) The validity of anything done by a person acting as Chief Magistrate under this section shall not be called in question—

- (a) on the ground that the occasion for his or her action had not arisen or had ceased; or
- (b) in the case of a person acting in pursuance of an appointment under subsection (1)—by reason of any defect or irregularity in, or in connection with, that appointment.

10D. Retirement

The Executive may, with the consent of a Magistrate who is—

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- (a) an eligible employee for the purposes of the *Superannuation Act 1976* of the Commonwealth; or
- (b) a member of the Superannuation Scheme for the purposes of the *Superannuation Act 1990* of the Commonwealth;

retire the Magistrate from office on the ground of invalidity.

10E. Magistrates not to undertake other work

- (1) A Magistrate shall not engage in practice as a legal practitioner.
- (2) A Magistrate is not, without the written consent of the Attorney-General, entitled to—
 - (a) engage in remunerative employment otherwise than in connection with the duties of office as a Magistrate; or
 - (b) accept appointment to another office under a law of the Territory, the Commonwealth, a State or another Territory.
- (3) The Attorney-General shall consult with the Chief Magistrate before giving consent.

10F. Rights of public servants

Where a Magistrate was, immediately before his or her appointment—

- (a) an officer of the Government Service;
- (b) an officer of the Australian Public Service; or
- (c) a person to whom the *Officers' Rights Declaration Act 1928* of the Commonwealth applied;

he or she retains his or her existing and accruing rights.

10G. Arrangement of business of Courts

The Chief Magistrate is responsible for ensuring the orderly and expeditious discharge of the business of the Magistrates Court and the Childrens Court and accordingly may, subject to this Act and to such consultation with the Magistrates and special magistrates as is appropriate and practicable, make arrangements as to the Magistrate or special magistrate who is to constitute each of those Courts in particular matters or classes of matters.

Division 2—Special Magistrates

10H. Appointment of special magistrates

For the purposes of this Act, the Executive may appoint such special magistrates as are required.

10J. Tenure of office

- (1) A special magistrate holds office—
 - (a) for the period specified in the instrument of appointment; or
 - (b) if a period is not so specified—until he or she attains the age of 70 years.
- (2) A person who has attained the age of 70 years shall not be appointed under section 10H.

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(3) A person shall not be appointed under section 10H for a period that extends beyond the person's 70th birthday.

10K. Resignation

A special magistrate may resign his or her office by writing signed by him or her and delivered to the Executive.

10L. Terms and conditions of appointment

A special magistrate holds office on such terms and conditions as the Executive, from time to time, determines.

Division 3—Registrar and other officers of the Magistrates Court

10M. Appointment of Registrar etc.

(1) The Minister may appoint a Registrar of the Magistrates Court.

(2) The Registrar may appoint such Deputy Registrars of the Court, bailiffs and other officers as are required.

(3) The power conferred by subsection (2) may not be exercised by a Deputy Registrar of the Court.

10MA. Staff assisting the Registrar

(1) The staff assisting the Registrar shall be employed under the *Public Sector Management Act 1994*.

(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Registrar.

10N. Duties of the Registrar

The Registrar shall perform such duties as are prescribed by or under this Act or as the Chief Magistrate directs.

Division 4—Jurisdiction of Magistrates

10P. Oath etc. of office

(1) A person appointed under subsection 7 (2) or section 10H shall not exercise or perform any of the powers, functions or duties conferred or imposed upon a Magistrate by any law of the Territory unless he or she has made an oath or affirmation in accordance with the form in the Second Schedule.

(2) An oath or affirmation for the purpose of subsection (1) shall be made before the Chief Justice of the Supreme Court.

10Q. Acts done beyond the Territory

(1) An act done by a Magistrate, by virtue of his or her office, outside the Territory for the purpose of authenticating the signature of a person to an instrument intended to take effect in the Territory shall, unless the act is required by law to be done in the Territory, be effective for the purposes of any law of the Territory.

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(2) An oath or affirmation administered by a Magistrate, by virtue of his or her office, outside the Territory in any case in which an oath or affirmation may be administered by a Magistrate shall, unless the oath or affirmation is required by law to be administered in the Territory, be effective for the purposes of any law of the Territory.

11. Authentication of acts of Magistrate or Registrar

(1) Every summons, warrant, writ, conviction, and order (not being by law authorised to be made by word of mouth only) shall be in writing signed by the Magistrate or Registrar issuing or making it and sealed with the Court's seal.

(2) Documents relating to Court process shall not be signed in blank.

12. Acts by Magistrate or Registrar

(1) Any Magistrate out of court or the Registrar may receive an information and grant a summons or warrant thereon and may issue his or her summons or warrant to compel the attendance of witnesses and do all other necessary acts and matters preliminary to the hearing.

(2) Without affecting the generality of subsection (1), where it is provided in any law in force in the Territory that an information or complaint may be laid or made before, or a summons or warrant issued by, a Court, a Justice of the Peace, a Clerk of Petty Sessions or a Registrar of Petty Sessions, the information or complaint may be laid or made, and the summons or warrant may be issued by, a Magistrate or the Registrar.

13. Issue of warrant of commitment or writ of execution

After a case has been heard and determined, any Magistrate or a Registrar may issue any warrant of commitment or writ of execution thereon.

15. Process not avoided by death of Magistrate or Registrar

A summons, warrant or writ issued by a Magistrate or Registrar shall not be avoided by reason of the Magistrate or Registrar dying or ceasing to hold office.

16. Order in lieu of mandamus

(1) Where a Magistrate or Registrar refuses to do any act relating to the duties of his or her office as a Magistrate or Registrar, the party requiring the act to be done may apply to the Supreme Court, upon affidavit of the facts, for an order calling upon the Magistrate or Registrar and also the party to be affected by the act to show cause why the act should not be done, and if, after due service of the order, good cause is not shown against it, the Supreme Court may make the order absolute, with or without payment of costs.

(2) A Magistrate or Registrar upon being served with an order absolute shall obey the order, and do the act required by it to be done.

(3) Where, before 28 March 1977, a Magistrate or the Registrar had refused to do an act relating to the duties of his or her office, subsections (1) and (2) apply, on and after that date, and proceedings under subsection (1) may be continued, as if—

- (a) sections 7, 10H and 10M had been in operation at the time of the refusal; and
- (b) the Magistrate or Registrar had held office under section 7, section 10H or section 10M, as the case may be.

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17. Powers and functions of Magistrates

Where under any law in force in the Territory, anything is required or permitted to be done before, to or by a justice of the peace, it may be done before, to or by a Magistrate.

PART III—MAGISTRATES COURT

Division 1—Establishment of Magistrates Court

18. Constitution of the Court

(1) There is hereby established a Magistrates Court which shall have and exercise jurisdiction in the Territory and shall sit at Canberra, Jervis Bay and such other places as are notified in the *Gazette*.

(2) The jurisdiction of the Court may be exercised by a Magistrate (other than a Special Magistrate) or by one or more Special Magistrates.

(3) When two or more Special Magistrates are divided in opinion on any case, the case shall be decided according to the decision of the majority, if there is a majority; but if the Court is equally divided in opinion, the case shall be adjourned for hearing and determination by a Magistrate (other than a Special Magistrate) on the next day appointed for the holding of the court constituted by that Magistrate.

Division 2—Jurisdiction of Magistrates Court

19. Jurisdiction of the Court

(1) Whenever, by any law for the time being in force in the Territory, any offence is punishable on summary conviction or any person is made liable to a penalty or punishment or to pay a sum of money for any offence, act or omission, and no other provision is made for the trial of the person committing the offence, the matter may be heard and determined by the Court in a summary manner under the provisions of this Act, and the jurisdiction shall be deemed to be conferred on and may be exercised by the Court.

(2) Where, by any law in force in the Territory pursuant to section 6 of the *Seat of Government Acceptance Act 1909* of the Commonwealth or the *Imperial Acts Application Act 1986*, any jurisdiction is given to a Court of Petty Sessions or of summary jurisdiction or any court constituted by a Police or Stipendiary Magistrate or justices, or to a Magistrate or to a justice or justices or a Children's Court the jurisdiction shall be deemed to be conferred on, and may be exercised by, the Court.

21. Jurisdiction of the Court where defendant absent from the Territory

The Court shall have jurisdiction notwithstanding that the defendant is not within the Territory.

22. Proceedings of Court where it considers offence should be dealt with on indictment

If, in the case of an information with respect to an offence which is punishable either summarily or upon indictment it appears to the Court, upon the close of the case for the

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prosecution, that the offence ought to be dealt with on indictment, the Court shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only.

23. Ex parte order may be set aside

(1) Where a conviction or order is made when one party does not appear, the party in whose absence the conviction or order was made may apply to the Court for an order that the Court set aside the conviction or order.

(2) Subsection (1) does not apply to or in relation to a conviction or order made in the absence of a defendant who has entered a plea of guilty in accordance with section 116D and has not, before the entry of the conviction or the making of the order, withdrawn his or her plea.

(3) Where, in his or her absence, a conviction is entered or an order is made against a person who has duly been served with a summons in accordance with section 116B and—

- (a) that person did not return the Notice of Intention to Defend form or the Plea of Guilty form to the Registrar before the day on which he or she was required by the summons to appear before the Court;
- (b) the Court, in a case in which it has previously, in the absence of that person, adjourned the hearing under subsection 116E (3), is satisfied that a notice under that subsection did not come to his or her attention before the conviction is entered or the order made; or
- (c) the Court is satisfied that the notice referred to in section 116F or 116H did not come to his or her attention before the date fixed under that section for the hearing of the matter,

the Court, upon the application of that person, shall set aside the conviction or order.

(4) In any case other than an application to set aside a conviction or order referred to in subsection (3), the Court may set aside the conviction, order or judgment on such terms as to costs or otherwise as the Court thinks just.

(7) Where, under this section, the Court has set aside a conviction, the Court may set aside a warrant issued under this Act in consequence of the conviction.

(7A) Where, pursuant to this section, the Court has set aside a conviction or order for a parking or traffic offence within the meaning of Division 2 of Part IX—

- (a) the Court shall set aside any further order made under section 150A or 150B, as the case requires, in consequence of that conviction or order; and
- (b) if, in consequence of that conviction or order or an order made under section 147A, a driving licence, the registration of a motor vehicle, a person's right to drive in the Territory or the right to drive a motor vehicle in the Territory has been suspended, under section 162E or 180F of the Motor Traffic Act, the Court shall make an order directing the Registrar of Motor Vehicles, pursuant to section 162H or 180H, as the case requires, of that Act—
 - (i) to reinstate the licence;
 - (ii) to reinstate the registration of the motor vehicle; or
 - (iii) to cancel the suspension;

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as the case requires.

(8) Where, under this section, the Court has set aside a conviction or order, the Court may, upon service of such reasonable notice upon the parties as the Court directs, proceed to hear and determine the matter, or may adjourn the hearing to such time and place as the Court thinks fit.

(9) Where the Court has adjourned the hearing of a matter under subsection (8), the Court shall direct such notice as the Court thinks fit of the adjourned hearing to be given to the parties.

23AA. Ex parte conviction may be set aside on application by informant

(1) Subject to subsection (2), where a conviction is entered or an order is made against a person charged with an offence and the conviction is entered or the order is made in the absence of that person, the informant may apply to the Court for an order that the Court set aside the conviction or order.

(2) Subsection (1) does not apply to, or in relation to, a conviction entered or an order made in the absence of a defendant who has entered a plea of guilty in accordance with section 116D and has not, before the entry of the conviction or the making of the order, withdrawn his or her plea.

(3) Where an application to set aside a conviction or order is made under this section, the Court may set aside the conviction or order on such terms as to costs or otherwise as the Court thinks just.

(4) Where, under this section, the Court sets aside a conviction or order, the Court shall dismiss the information and set aside any warrant issued under this Act in consequence of the conviction.

23A. Requests under Conventions regarding Legal Proceedings in Civil and Commercial Matters

The Court shall have jurisdiction to make any Order or take any action which is necessary in order to comply with any request received from the Consular or other authority of a foreign country, with which a Convention regarding Legal Proceedings in Civil and Commercial Matters has been made and extended to the Commonwealth, for the service of documents in the Territory or for the taking of evidence in the Territory.

23B. Rectification of certain orders etc.

(1) In this section—

- (a) a reference to a penalty shall be read as including a reference to a cancellation, forfeiture, suspension or other loss of a licence or privilege and to a disqualification of a person from obtaining, holding, using or enjoying a licence or exercising a privilege;
- (b) a reference to the Court in relation to proceedings shall be read as a reference to the magistrate who convicted the defendant or made the order against the defendant; and
- (c) a reference to a business day shall be read as a reference to a day other than a Saturday, a Sunday or a public holiday.

(2) Subject to subsection (3), where the Court enters a conviction or makes an order against a defendant and—

- (a) imposes a penalty that is contrary to law; or

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- (b) fails to impose a penalty that is required by law to be imposed,

the Court may, of its own motion or on the application of a party to the proceedings, re-open the proceedings and, after giving the parties an opportunity of being heard, amend the conviction or order to impose a penalty that is in accordance with the law.

- (3) The Court may re-open proceedings under subsection (2)—
- (a) of its own motion before the expiration of 28 days after the day on which the penalty was imposed, the conviction was entered or the order was made, as the case may be;
 - (b) on application under subsection (2) before the expiration of 28 days after the day on which the penalty was imposed, the conviction was entered or the order was made, as the case may be; or
 - (c) with the consent of the parties to the proceedings—at any time.
- (4) Subject to subsection (5)—
- (a) the Registrar shall serve on each party to the proceedings written notice of the intention of the Court to re-open proceedings of its own motion under subsection (2) at least 3 business days before the proceedings are re-opened; and
 - (b) an applicant shall serve on the Registrar and, at least 3 business days before the day on which the application is heard, on the other party to the proceedings, written notice of an application referred to in subsection (2).
- (5) The requirements of subsection (4) may be dispensed with by the Court when each of the parties is before the Court.
- (6) Where, under subsection (2), the Court re-opens proceedings and, in the absence of a party to those proceedings, amends a conviction or an order, the Registrar shall cause written notice of the amended conviction or order to be served on that absent party forthwith.
- (7) Service of any notice referred to in subsection (4) or (6) may be effected in accordance with section 41 as if the notice were a summons issued in respect of an information.
- (8) The jurisdiction conferred on the Court by subsection (2) shall be exercised only on the evidence and material before the Court in the original proceedings.
- (9) Proceedings shall not be re-opened under subsection (2) in respect of a conviction or order that is the subject of an appeal.
- (10) Where proceedings re-opened under this section have not been determined in respect of a conviction or order that, after the proceedings have been re-opened but before they are determined, becomes the subject of an appeal, the re-opened proceedings shall be stayed until the appeal is determined.
- (11) Where the Court re-opens proceedings under subsection (2), the Court may make such order as to costs as it thinks just and reasonable.
- (12) Subject to subsection (13), an order made or a conviction or order amended by the Court in determining proceedings that have been re-opened under this section shall, unless the Court otherwise directs, take effect from the beginning of the day on which the original conviction was entered or on which the original order was made, as the case requires.

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(13) For the purposes of Part XI, where the Court, in determining proceedings that have been re-opened under this section, makes an order or amends a conviction or order, the time within which an appeal may be made from that order, amended conviction or amended order shall commence on the day on which that order was made, or that conviction or order was amended, as the case may be.

PART IV—COMMENCEMENT OF PROCEEDINGS

Division 1—General

25. Informations

Proceedings may be commenced in the Court by information laid by the informant or by a legal practitioner or other person representing the informant.

Division 2—Informations

26. Laying of informations

(1) An information may be laid before a Magistrate in any case where a person has committed or is suspected of having committed, in the Territory, an indictable offence or an offence which may be dealt with summarily as provided in section 19.

27. Description of persons and property and of offences

(1) Such description of persons or things as would be sufficient in an indictment shall be sufficient in informations.

(2) The description of any offence in the words of the Act, Ordinance, law, order, by-law, regulation, or other instrument creating the offence, or in similar words, shall be sufficient in law.

28. Power of Court to amend information

(1) If at the hearing of any information or summons any objection is taken to an alleged defect therein in substance or form or if objection is taken to any variance between the information or summons and the evidence adduced at the hearing thereof, the Court may make such amendment in the information or summons as appears to it to be desirable or to be necessary to enable the real question in dispute to be determined.

(2) The Court shall not make any such amendment where it considers that the amendment cannot be made without injustice to the defendant.

29. Court may adjourn hearing where amendment made

If in any case where an amendment in an information or summons has been made under section 28 the Court considers that the defendant has been misled by the form in which the information or summons has been made out, it may adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

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30. Form of information

(1) Where it is intended to issue a warrant in the first instance against the party charged, the information shall be in writing and on oath, which oath may be made either by the informant or some other person.

(2) Where it is intended to issue a summons instead of a warrant in the first instance, the information need not be in writing or on oath, but may be verbal merely, and without oath, whether any law under which the information is laid requires it to be in writing or not.

31. Limitation of proceedings

(1) A prosecution in respect of an offence of which cognisance may be taken by the Court may be commenced as follows:

- (a) where the maximum term of imprisonment in respect of the offence, in the case of a first conviction, exceeds six months—at any time after the commission of the offence;
- (b) where the maximum term of imprisonment in respect of the offence, in the case of a first conviction, does not exceed six months—at any time within one year after the commission of the offence;
- (c) where the punishment provided in respect of the offence is a pecuniary penalty and no term of imprisonment is mentioned—at any time within one year after the commission of the offence.

(2) Where by any law in force in the Territory, any longer time than the time provided by this section is provided for the commencement of a prosecution in respect of an offence against that law, a prosecution in respect of the offence may be commenced at any time within that longer time.

Division 4—Summonses

37. When Magistrate may issue summons

Where an information is laid before a Magistrate, the Magistrate may issue a summons.

38. Form of summons

A summons issued in the case of an information shall be directed to the defendant, and shall state shortly the matter of the information and require him or her to appear at a certain time and place before the Court, to answer to the information and to be further dealt with according to law.

41. Service of summons

(1) A summons issued in respect of an information may be served upon the person to whom it is directed by—

- (a) delivering a copy of the summons to that person; or
- (b) by leaving a copy of the summons at the last known or usual place of abode or business of that person with some other person who is apparently an inmate of, or employed at, that place and apparently over the age of sixteen years.

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- (1A) Service of a summons under subsection (1) shall be effected at least 72 hours before the time appointed in the summons for the hearing of the information.
- (2) If it appears to the Court or a Magistrate or the Registrar, by statement on oath or by affidavit, that from any cause service in accordance with subsections (1) and (1A) cannot be effected, the Court or Magistrate or the Registrar may extend the time for hearing.
- (3) Service of a summons in accordance with this section may be proved by the oath of the person who served it or by affidavit or otherwise.

Division 5—Warrants of Arrest

42. Issue of warrant and summons

- (1) Where an information is laid before a Magistrate as hereinbefore provided, against any person and the matter thereof is substantiated by the oath of the informant or a witness, the Magistrate may, if such a person is not then in custody, issue his or her warrant in the first instance for the arrest of that person, and for bringing him or her before the Court to answer to the information, and to be further dealt with according to law.
- (1A) The Magistrate, if he or she thinks fit, instead of issuing his or her warrant in the first instance for the arrest of the person charged, may proceed by summons and issue a summons against him or her accordingly.
- (2) Subject to subsection (3), a Magistrate may, notwithstanding the issue of a summons, issue his or her warrant at any time before or after the time mentioned in the summons for the appearance of the defendant.
- (3) Subsection (2) does not authorise the issue of a warrant for bringing a person before the Court to answer to an information in relation to which a summons has been served in accordance with section 116B.

43. Procedure on filing of indictment

- (1) Where an indictment in respect of an offence committed in the Territory has been filed in the Supreme Court by the Attorney-General, Attorney-General of the Commonwealth or other officer, authority or person duly appointed in that behalf against any person then at large, whether on bail or not, the Registrar of the Supreme Court shall at any time after the end of the then sittings of such Court if the person so indicted has not already appeared and pleaded to such indictment, upon application by or on behalf of the prosecutor, grant to the prosecutor or person applying on his or her behalf a certificate that such indictment has been filed.
- (2) Upon production of such certificate to a Magistrate, the Magistrate shall—
- (a) where the person indicted is, at the time of both the application for and the production of the certificate, confined in prison for any other offence than that charged in the indictment, upon proof upon oath that the person so confined in prison is the person charged and named in the indictment, issue his or her warrant directed to the gaoler of the prison in which the person is so confined, commanding him or her to detain such person in his or her custody until, by a writ of habeas corpus, he or she is removed from custody for the purpose of being tried upon the indictment, or until he or she is otherwise removed or discharged out of custody by due course of law; and

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- (b) in any other case, issue his or her warrant to apprehend the person so indicted and to cause him or her to be brought before the Court to be dealt with according to law and the Court when any person apprehended under any such warrant is brought before it shall upon proof upon oath that such person is the person charged and named in such indictment, and without further inquiry commit him or her for trial or admit him or her to bail in accordance with the provisions of the *Bail Act 1992*.

44. Direction of warrant

A warrant to apprehend a defendant that he or she may answer to an information may be directed either to any police officer by name or generally to all police officers within the Territory, without naming them, or to both.

45. Any police officer may execute warrant

When a warrant is directed to all police officers, any police officer may execute the warrant as if it were directed specially to him or her by name.

47. Form of warrant

A warrant shall state shortly the offence or matter of the information on which it is founded, and shall name or otherwise describe the person against whom it is issued, and it shall order the police officers to whom it is directed to apprehend the defendant, and to bring him or her before the Court to answer to the information and to be further dealt with according to law.

48. Warrant to be in force till executed

A warrant need not be returnable at any particular time, but may remain in force until executed.

49. Sunday warrants

A Magistrate may grant or issue a warrant upon an information of an indictable offence, or a search warrant, on a Sunday as on any other day.

PART V—HEARING

Division 1—General

51. Hearings to be in public except in special circumstances

- (1) Subject to subsection (2), the hearing of a proceeding before the Court shall be in public.
- (2) Where the Magistrate presiding at a hearing is of the opinion that it is desirable in the public interest or in the interests of justice to do so, the Magistrate may, by order—
- (a) direct that the hearing or part of the hearing shall take place in private and give directions as to the persons who may be present;
 - (b) give directions prohibiting or restricting the publication of evidence given at the hearing, whether in public or in private, or of matters contained in documents lodged with the Court or received in evidence by the Court for the purposes of the proceeding; and

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- (c) give directions prohibiting or restricting the disclosure to some or all of the parties to the proceeding of evidence given at the hearing, or of a matter contained in a document lodged with the Court or received in evidence by the Court for the purposes of the proceeding.

(3) A person who, without reasonable excuse, contravenes an order under subsection (2) is guilty of an offence punishable, on conviction—

- (a) if the offender is a natural person—by a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months, or both; or
- (b) if the offender is a body corporate—by a fine not exceeding 500 penalty units.

53. Conduct of case

(1) The informant may himself or herself or by a legal practitioner representing the informant conduct his or her case and may examine and cross-examine the witnesses giving evidence for or against him or her and may, if the defendant gives any evidence or examines any witness as to any matter other than as to general character, call and examine witnesses in reply.

(2) The defendant may himself or herself or by a legal practitioner representing the defendant make full answer and defence and may give evidence himself or herself and may examine and cross-examine the witnesses giving evidence for or against him or her respectively.

54. Where both parties present Court to hear case

If both parties appear either personally or by legal practitioners or other persons appearing for them, the Court shall proceed to hear and determine the information.

54A. Recording of proceedings

(1) In this section, unless the contrary intention appears, “deposition” includes a statement made by an accused person in reply to the question referred to in subsection 92 (1), but does not include a written statement admitted under section 90AA or subsection 110 (2).

(2) Subject to subsection (3), a record of the depositions of a witness in any proceedings shall be made—

- (a) by means of sound-recording apparatus; or
- (b) if the Court so directs, by means of shorthand or any similar means.

(3) Where the Court so directs, the depositions of a witness in any proceedings shall not be recorded in accordance with subsection (2), but shall be taken down in writing, and, after being read over to the witness or given to him or her to read, signed by the witness and the Magistrate constituting the Court.

(4) The Registrar shall have the custody of any record of depositions made in accordance with subsection (2).

(5) The Registrar may cause to be erased the record of the depositions of a witness recorded by means of sound-recording apparatus and the record of any other part of a proceeding made by means of sound-recording apparatus after the expiration of 7 years after the date of completion of the proceedings in which the record was made.

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- (5A) Notwithstanding subsection (5), the sound recording of any part of proceedings—
- (i) under the *Maintenance Act 1968*;
 - (ii) in which a person charged with an indictable offence is committed to take his or her trial before the Supreme Court;
 - (iii) in which evidence is taken in pursuance of a request referred to in section 23A;
 - (iv) under the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* of the Commonwealth; or
 - (v) under the *Workers' Compensation Act 1951* (other than prosecutions for offences against that Act),

shall not be erased unless a transcript of the record of that part of the proceedings has been prepared.

- (6) This section applies to and in relation to proceedings before a Magistrate as if a reference to the Court were a reference to a Magistrate.

Division 2—Evidence

55. Examination to be on oath

- (1) Every person appearing to give evidence shall be examined on oath.
- (2) The Court may administer or cause to be administered to every person so appearing the usual or other lawful oath.
- (3) It shall not be necessary to administer an oath to any person who appears solely for the purpose of producing documents.

58. Defendant and husband or wife, when competent in criminal proceedings

- (1) Every accused person in a criminal proceeding, and the husband or wife of such person shall be competent, but not compellable, to give evidence in such proceeding.
- (2) No such person shall be liable—
 - (a) to be called as a witness on behalf of the prosecution; or
 - (b) without the leave of the Court, to be questioned on cross-examination as to his or her previous character or antecedents.

59. Proof of negative etc.

If the information in any case negatives any exemption, exception, proviso, or condition contained in the Act, Ordinance or law on which the information is framed, it shall not be necessary for the informant to prove the negative; but the defendant may prove the affirmative in his or her defence.

60. Record of proceedings and transcript

- (1) Where a record made by means of sound-recording apparatus, shorthand or similar means is produced out of the custody of the Registrar and the record purports to be a record made in accordance with subsection 54A (2) of the depositions of a witness in any proceedings, the record is evidence that that person made those depositions in those proceedings.

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- (2) Where—
- (a) a sound-recording is produced out of the custody of the Registrar; and
 - (b) the sound-recording contains a record of comments that purport—
 - (i) to have been made at the same time as a sound-recording made in accordance with subsection 54A (2) of the depositions of a person in any proceedings; and
 - (ii) to have been made for the purpose of identifying the proceedings, voices recorded on the last-mentioned sound-recording or any other matter or thing so recorded,

the first-mentioned sound-recording is evidence of the identity of the proceedings, of the voices or of that other matter or thing, as the case may be.

- (3) Where—
- (a) a document purports to be a transcript, or a copy of a transcript, of a record made in accordance with subsection 54A (2) of depositions made by a person in any proceedings; and
 - (b) the document bears a certificate that purports to be a certificate given in accordance with subsection 255B (2) or 255C (6),

the document is evidence that the person made those depositions in those proceedings.

- (4) Where a document—
- (a) purports to be the depositions of a witness in any proceedings as taken down in writing and signed in accordance with subsection 54A (3); or
 - (b) purports to be a copy of the depositions of a witness in any proceedings as so taken down in writing and signed and bears a certificate that purports to be a certificate given in accordance with subsection 255C (6),

the document is evidence that the witness made those depositions in those proceedings.

60A. Informant may request witnesses to attend

- (1) The informant may, by letter sent by a form of post that requires a signature on receipt, request a person to appear as a witness at the hearing of an information.
- (2) The letter shall—
- (a) set out the time and place for the hearing;
 - (b) be accompanied by an undertaking to appear for the signature of the person and return to the informant by the date specified in the undertaking; and
 - (c) be accompanied by a form to be completed by the person to claim his or her reasonable costs and expenses of attendance at the hearing.

61. Power of Magistrate to summon witnesses

- (1) If it appears to a Magistrate that a person who is likely to give material evidence at the hearing of an information will not voluntarily appear at the hearing, the Magistrate shall issue a summons requiring the person to appear before the Court at the time and place specified in the summons to give that evidence.

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(2) In considering whether a person will voluntarily appear at a hearing or not, a Magistrate may take into account any response by the person to any request made of the person to appear.

62. Service of summons on witness

(1) A summons may be served on a witness—

- (a) personally;
- (b) by sending it to the witness's last known place of residence or employment by a form of post that requires a signature on receipt; or
- (c) by leaving it with a responsible adult at the witness's last known place of residence or employment.

(2) The summons shall be accompanied by—

- (a) an undertaking to appear for the signature of the person and return to the Court by the date specified in the undertaking; and
- (b) a form to be completed by the person to claim his or her reasonable costs and expenses of attendance at the hearing.

(3) Service of a summons on a witness may be proved by the oath of the person who served it or by affidavit.

62A. Witnesses entitled to claim expenses

(1) Any notice (however described and whether written or oral) requiring a person to appear as a witness at a hearing shall be accompanied by a form to be completed by the person to claim his or her reasonable costs and expenses of attendance at the hearing.

(2) A person is not entitled to refuse to comply with such a notice because it was not accompanied by that form.

63. Warrant to bring witness to Court

Where a witness—

- (a) has been informed of the time and place for the hearing;
- (b) has been requested, has given an undertaking, or has been served with a summons, to appear at the hearing to give evidence; and
- (c) the witness does not appear in accordance with that request, undertaking or summons and does not provide to the Court a reasonable explanation for his or her non-appearance;

the Court may issue a warrant requiring the witness to be brought before the Court at the time and place specified in the warrant to give evidence.

64. Warrant in the first instance

If a Magistrate is satisfied by evidence upon oath that it is probable that a person whose evidence is desired will not attend to give evidence without being compelled to do so, then, instead of issuing a summons, he or she may issue a warrant in the first instance.

66. Production of documents before Magistrate

(1) Where a Magistrate has authority to summon any person as a witness, he or she shall have the like authority to require and compel him or her to bring and produce, for the purposes of evidence, all documents and writings in his or her possession or power, and to proceed against him or her, in case of neglect or refusal so to do, in the same manner as in case of neglect or refusal to attend or refusal to be examined.

(2) A person shall not be bound to produce any document or writing not specified or otherwise sufficiently described in the summons, or which he or she would not be bound to produce upon a subpoena *duces tecum* in the Supreme Court.

66A. Setting aside summons

(1) A summons issued under section 61 or 66 may be set aside, wholly or in part, by the Court on the application of the person to whom the summons is addressed.

(2) An applicant shall serve a copy of the application on the party to the proceedings on whose request the summons was issued.

67. Person about to leave Territory may be ordered to be examined or produce documents

(1) Where, by evidence on oath, a Magistrate is satisfied that any person is able to give material evidence or to produce relevant or material documents relating to any information or claim pending before a Court, and that that person is likely to be absent from the Territory when the case comes on for hearing, the Magistrate may, on the application of any party, order that the evidence of that person be taken or the documents be produced before him or her, at any time before the hearing, in the same manner as the evidence would be taken or the documents be produced at the hearing and after reasonable notice of the intended examination or production is given to the other party.

(1A) When an order under subsection (1) is served on a person, it shall be accompanied by a form to be completed by the person to claim his or her reasonable costs and expenses of attending the examination or production.

(1B) A person is not entitled to refuse to comply with an order under subsection (1) because the person was not given the form mentioned in subsection (1A) at the time the order was served on him or her.

(2) The taking of depositions before a Magistrate under subsection (1) is a proceeding for the purposes of section 54A.

67A. Examination of witnesses—application of *Magistrates Court (Civil Jurisdiction) Act 1982*

Section 202 of the *Magistrates Court (Civil Jurisdiction) Act 1982* applies in relation to proceedings on an information in respect of the alleged commission of an offence against a law in force in the Territory, as if references in that section to proceedings were references to proceedings on an information.

67B. Affidavits—application of *Magistrates Court (Civil Jurisdiction) Act 1982*

Sections 203, 204, 205, 210, 211, 212, 213 and 214 of the *Magistrates Court (Civil Jurisdiction) Act 1982* apply in relation to affidavits for use in proceedings under this Act.

68. Witnesses' rights and liabilities

Upon service on any person of an order made under section 67, that person shall attend at the time and place thereby appointed, and shall have all the rights and liabilities which he or she would have if he or she was duly summoned to appear to give evidence or to produce documents on the hearing.

69. Depositions to be delivered to the Registrar

(1) Where depositions are taken before a Magistrate under section 67 there shall be delivered to the Registrar—

- (a) the record of the depositions made in accordance with subsection 54A (2) or the document containing the depositions as taken down in writing and signed in accordance with subsection 54A (3); and
- (b) any documents produced to the Magistrate.

(2) Where documents are produced by a person not giving evidence, the documents, shall, on delivery to the Registrar, be accompanied by a certificate signed by the Magistrate stating the name of the person producing them.

(3) Where the Court is satisfied that the person who made the depositions is not in the Territory, his or her depositions may be read by any party.

(4) Any documents so delivered to the Registrar may, subject to all just exceptions, be put in at the hearing as if produced at the hearing by the person producing them.

Division 3—Remand

70. Remand of defendant

(1) If—

- (a) because of the absence of witnesses; or
- (b) for any other reasonable cause;

it becomes necessary or advisable to defer the hearing of proceedings for an indictable offence, the Court may adjourn the hearing and may by warrant or, if the period of remand is not to exceed 3 days, by order made orally, remand the defendant into the custody of the Administrator for such period (not exceeding 15 days at any one time) as the Court considers reasonable.

(2) A warrant or order under subsection (1) shall direct the Administrator to—

- (a) keep the defendant in custody for the specified period; and
- (b) bring the defendant before the Court at the specified time and place for the hearing.

72. Bringing up during remand

The Court may order the defendant to be brought before it at any time before the expiration of the time for which he or she was so remanded, and the officer in whose custody he or she then is shall duly obey the order.

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73. Bail of defendant during examination

Instead of detaining the defendant in custody during the period for which he or she is remanded, the Magistrate before whom he or she appears or is brought may remand the defendant into the custody of the Administrator.

Division 4—Committal and Recognizance

73A. Application of Division

This Division applies in relation to a person in respect of whom a warrant has been issued under subsection 187 (8) of the *Magistrates Court (Civil Jurisdiction) Act 1982*.

74. Committal or detention before decision

Where the Court commits a defendant by way of remand or upon adjournment, or at any time before the decision, it may remand the defendant into the custody of the Administrator.

75. Committal of witness or of defendant after decision

(1) Where the Court commits a witness, or a person sought to be made a witness, it shall remand him or her into the custody of the Administrator.

(2) Where the Court commits a defendant after the decision, it shall remand the defendant into the custody of the Administrator.

76. Witnesses may be discharged on recognizance

A witness, other than a witness committed under section 255AB, or person sought to be made a witness may be discharged upon recognizance.

77. Recognizances

Where the Court is authorised to discharge the witness, or person sought to be made a witness, upon recognizance, it may order his or her discharge upon his or her entering into a recognizance, with or without a surety or sureties at its discretion, conditioned for his or her appearance at the time and place to which the hearing is adjourned, or which is named in the recognizance.

78. Issue of warrant for non-appearance

If the witness, or person sought to be made a witness does not appear at the time and place mentioned in the recognizance the Court may adjourn the hearing, and may issue a warrant for his or her apprehension in accordance with the provisions of Division 5 of Part IV.

79. Recognizances taken out of Court

Notwithstanding anything in this or any other Act, a recognizance under this Act need not be entered into before the Court, but may be entered into by the parties before any Magistrate or before any Registrar, or before a police officer who is in charge of a police station, or, where any one of the parties is in gaol or in a remand centre, before the keeper of the gaol or Superintendent of the remand centre, as the case requires; and thereupon all the consequences of the law shall ensue, and the provisions of this Act with respect to recognizances taken before the Courts shall apply, as if the recognizance had been entered into before the Court in accordance with section 77.

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80. Forfeited recognizances—how enforced

Where the conditions, or any of them, in a recognizance entered by a witness or a person sought to be made a witness are not complied with, any Magistrate may certify upon the back of the recognizance in what respect the conditions have not been observed, and transmit it to the proper officer, to be proceeded upon in like manner as other recognizances, and that certificate shall be deemed sufficient *prima facie* evidence of the recognizance having been forfeited.

82. Conveying persons to custody

(1) The person to whom a warrant of remand or commitment is directed shall convey and deliver the person named in the warrant into the custody of the Administrator, and shall also deliver the warrant to the Administrator.

(2) Where a person is delivered to the Administrator in accordance with subsection (1), the Administrator shall give a written acknowledgment of the delivery stating the condition of the person at the time.

Division 5—Adjournment of Proceedings

83. Magistrate may adjourn Court generally

Where all the cases have not been heard and determined at any sitting of the Court, the Magistrate may adjourn the cases remaining unheard or undetermined, either to the next day appointed for the holding of the Court or to such other time as he or she thinks fit.

84. Particular cases may be adjourned

(1) Where, before or during the hearing or further hearing of any information, it appears advisable, the Magistrate may, in his or her discretion, adjourn the hearing or further hearing to a certain time and place to be then appointed and stated in the presence and hearing of the parties or the legal practitioners or other persons appearing for them.

(2) The Magistrate may, in the meantime, suffer the defendant to go at large or commit him or her to gaol or a place of security, or to such other safe custody as the Magistrate thinks fit, or may admit the defendant to bail in accordance with the provisions of the *Bail Act 1992*.

85. Proceedings when either party is not present at adjourned hearing

If, at the time and place to which the hearing or further hearing is so adjourned, either or both of the parties do not appear personally or by legal practitioners or other persons appearing for them, the Court may proceed to the hearing or further hearing as if the party or parties were present, or, if the informant does not appear, the Court may dismiss the information, with or without costs as to the Court appears just.

86. Proceedings when both parties are present at adjourned hearing

If, at the time and place to which the hearing or further hearing is so adjourned, the parties appear personally or by legal practitioners or other persons appearing for them, the Court may, subject to the provisions of this Act, proceed with the further hearing.

87. Witnesses to attend adjourned sittings

All persons whose attendance to give evidence or produce documents has been required by summons in any cases which have been adjourned or postponed, shall attend at the time and place to which the case has been adjourned or postponed without the issue or service of any further summons, but shall nevertheless be entitled to their additional expenses for so attending.

88. Postponement of hearing

If, on the return of any summons or at any adjournment of the hearing or at the time to which the hearing is postponed, a Magistrate is not present, the Registrar may, and after the lapse of an hour, at the request of the informant, shall, postpone the hearing until the next day on which a Court will be held at the place mentioned in the summons or to which the case has been so adjourned.

PART VI—PROCEEDINGS IN CASE OF INDICTABLE OFFENCES

Division 1A—Preliminary

88A. Meaning of “jury”

In this Part, “jury” means a reasonable jury properly instructed.

Division 1—Institution of Proceedings

89. Disobedience of summons

(1) Subject to subsection (2), where a person who is alleged by an information to have committed an indictable offence and against whom a summons has been issued does not appear before the Court at the time and place mentioned in the summons, and it is made to appear to the Court, by oath, that the summons was duly served upon him or her a reasonable time before the time therein appointed for appearing to it, the Court, upon oath being made before it substantiating the matter of the information to its satisfaction, may issue its warrant for the arrest of the defendant and to bring him or her before the Court to answer to the information and to be further dealt with according to law.

(2) Subsection (1) does not apply where an order has been made under subsection 89A (1).

89A. Accused person may be excused from attendance before Court

(1) Where—

- (a) an information for an indictable offence has been laid; and
- (b) a summons has been issued against the person named in the information;

the Court may, on an application made by or on behalf of that person, by order excuse that person from attendance before the Court to answer the information or for any other purpose in connection with the proceedings commenced by the information.

(2) An order under subsection (1) may be made—

- (a) at any time after the issue of the summons and before the completion of the taking of evidence for the prosecution;

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- (b) whether or not any evidence has been taken in the proceedings; and
- (c) whether or not the applicant for the order is before the Court or has attended before the Court in connection with the proceedings.

(3) The Court shall not make an order under subsection (1) unless the Court has been informed, by or on behalf of the applicant, that the applicant is represented by a legal practitioner for the purposes of the proceedings.

(4) The Court may, at any time during proceedings commenced by an information for an indictable offence, direct the informant to give to a person in respect of whom an order has been made under subsection (1) notice in writing requiring him or her to attend before the Court, for the purposes of those proceedings, at such time and place as are specified by the Court.

(5) Where—

- (a) a person has been excused, under subsection (1), from attendance before the Court; and
- (b) after all the evidence for the prosecution has been taken, the Court is of the opinion, having regard to all the evidence before it, that the evidence is capable of satisfying a jury beyond reasonable doubt that the person has committed an indictable offence;

the Court shall direct the informant to give to the person a notice in writing requiring him or her to attend, at such time and place as are specified by the Court, to be dealt with in accordance with section 92.

(6) A notice under subsection (4) or (5) may be given to a person by delivering a copy of the notice to him or her or by leaving a copy of the notice at his or her last-known or usual place of residence or business with a person who is apparently an inmate of, or employed at, that place and is apparently over the age of 16 years.

(7) The giving of a notice under subsection (4) or (5) may be proved in the same manner as the service of a summons.

(8) If an accused person does not attend before the Court in accordance with a notice under subsection (4) or (5), the Court may issue a warrant for the arrest of the person and for bringing him or her before the Court at the time and place specified in the warrant.

90. Procedure where informant proposes to tender written statements to Court

(1) Where a person is alleged to have committed an indictable offence, the informant, not later than 14 days, or such shorter period as the Court may approve, before the date fixed for the taking of the preliminary examination, may give to that person a notice in writing—

- (a) informing him or her of the time and place of the preliminary examination;
- (b) stating that the Court will be asked to admit written statements as evidence without requiring the attendance of the persons who made the statements; and
- (c) setting out the terms of this section and section 90AA.

(2) A notice under subsection (1) is not duly given unless it is accompanied by—

- (a) a copy of the information;
- (b) a list of persons who have made written statements which the informant proposes to tender to the Court at the preliminary examination;

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- (c) a copy of each of those statements;
 - (d) a list of the documents and things (if any) referred to in those statements which the informant proposes to tender to the Court at the preliminary examination;
 - (e) where a thing, not being a document, cannot adequately be described in that list, a photograph of that thing; and
 - (f) a copy of each document mentioned in the list.
- (3) A notice and accompanying documents may be given to an accused person in any manner in which a summons issued in respect of an information may be served under any provision of this Act.
- (4) The giving of a notice under subsection (3) may be proved in the same manner as the service of a summons.
- (5) Where a notice has been given to an accused person under this section, the informant, not later than 7 days, or such shorter period as the Court may approve, before the date set down for the preliminary examination, shall file with the Registrar a copy of the notice together with a copy of each document and photograph accompanying the notice.
- (6) Where copies are filed with the Registrar under subsection (5), he or she shall transmit them before the preliminary examination to the Magistrate constituting the Court for the preliminary examination.
- (7) The informant, if so requested by the accused person or a legal practitioner representing the accused person shall, before the taking of the preliminary examination, permit the accused person or his or her legal practitioner to inspect the documents and things referred to in the list (if any) given to the accused person under paragraph (2) (d).

90AA. Written statements may be admitted in evidence

- (1) Subject to this section, where an informant has duly given notice to an accused person under section 90, the Court at the preliminary examination may admit a written statement, a copy of which accompanied that notice, as evidence of the matters stated in the statement, and the statement shall thereupon constitute depositions of the person who made it.
- (2) A written statement shall not be admitted in evidence by the Court unless—
- (a) it is made in the form of a statutory declaration;
 - (b) it contains a statement that the person who made it—
 - (i) has attained the age of 18 years; or
 - (ii) has attained the age of 14 years but not the age of 18 years; and
 - (c) it contains a statement that before he or she signed it, the person who made it read the statement or had it read to him or her.
- (3) Where a person has made a written statement which, but for this subsection, would be admissible under subsection (1), that statement shall not be admissible where the accused person, not later than 5 days before the date set down for the preliminary examination, gives notice in writing to the informant that he or she requires the attendance at the preliminary examination of the person who made the statement.

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- (4) Where the accused person gives notice in writing to the informant under subsection (3), he or she shall file a copy of that notice with the Registrar.
- (5) Where an accused person has given notice under subsection (3), he or she may, at any time before the preliminary examination, notify the informant in writing that he or she withdraws that notice and this section shall apply as if the notice under subsection (3) had not been given.
- (6) Notwithstanding the failure by an accused person to give notice under subsection (3), he or she may object at the preliminary examination to a written statement being tendered in evidence and the Court may, if it thinks fit, uphold the objection and require the person who made the statement to attend and give evidence to the Court.
- (7) Where, under this section, the Court admits a written statement, the Court may, of its own motion, require the person who made the statement to attend before the Court to give evidence.
- (8) Where it appears to the Court that any part of a written statement tendered in evidence under this section is inadmissible according to the rules of evidence, the Court may, where the statement is otherwise admissible under this section, admit that statement, but, where it does so, shall identify the part that is inadmissible and shall, with reference to that part, write on the statement the words “ruled inadmissible” or words to that effect.
- (9) Where the Court admits a written statement under this section, the informant, or a legal practitioner representing the informant, may call the person who made the statement to give oral evidence and that person and any other witnesses, not being witnesses called by the accused person, who attend before the Court—
- (a) shall be examined in the presence or hearing of the accused person and, if the accused person so desires, in the presence or hearing of a legal practitioner representing the accused person; and
 - (b) may be cross-examined by the accused person or his or her legal practitioner.

90AB. Preliminary examination where written statements not tendered

Where a person is alleged to have committed an indictable offence and a notice has not been given to that person in accordance with section 90, the Court shall, in the presence or hearing of the accused person and, if the accused person so desires, in the presence or hearing of a legal practitioner representing the accused person, take the preliminary examination or statement on oath of any persons who know the facts and circumstances of the case, and the accused person or his or her legal practitioner may cross-examine those persons.

90ABA. Attendance not required under section 90AA or 90AB where order made under subsection 89 (1)

An accused person is not required to be present during the preliminary examination under subsection 90AA (9) or section 90AB where he or she is excused from attendance during that examination under section 89A.

90A. Plea of guilty in committal proceedings

(1) This section does not apply in relation to a person charged with an indictable offence punishable by imprisonment for life.

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(1A) Subsections (1B), (2), (3) and (4) do not apply in relation to a person charged with an offence in relation to which section 477 of the Crimes Act applies.

(1B) A person (in this section referred to as “the accused person”) who is before the Court charged with an indictable offence may at any stage of the proceedings plead guilty to the charge.

(2) The Court may accept or reject the plea but the rejection of the plea at any stage of the proceedings does not prevent the accused person from pleading guilty under this section at a later stage of the proceedings and the Court may accept or reject the plea at that later stage.

(3) Where the Court rejects the plea, the proceedings before the Court shall continue as if the plea had not been made.

(4) Where the Court accepts the plea and—

- (a) the offence is one that, under any law in force in the Territory is punishable either on indictment or on summary conviction;
- (b) the offence is one that may be dealt with summarily without the consent of the accused person;
- (c) the offence is one that may be dealt with summarily if the accused person consents to its being so dealt with and the accused person does so consent; or
- (d) the offence is one that may, upon the request of the prosecutor, be dealt with summarily and the prosecutor requests that it be so dealt with,

and it appears to the Court that it is proper to deal with the case summarily, the Court may, without hearing further evidence, sentence or otherwise deal with the accused person and finally dispose of the charge and all incidental matters.

(5) Where the Court accepts the plea and—

- (a) it does not appear to the Court that it is proper to deal with the case summarily;
- (b) the offence is one that is punishable only on indictment;
- (c) the offence is one that may be dealt with summarily if the accused person consents to it being so dealt with and the accused person does not so consent;
- (d) the offence is one that may, upon the request of the prosecutor, be dealt with summarily and the prosecutor does not so request; or
- (e) this section applies to an accused person by virtue of section 477 of the Crimes Act,

the Court shall commit the accused person to such sittings of the Supreme Court as the Court directs and the Supreme Court shall deal with the accused person in accordance with subsections (6) to (10) (inclusive).

(6) A committal under subsection (5) shall, for all purposes relating to the venue or change of venue of proceedings consequent on that committal, be deemed to be a committal for trial.

(7) The Supreme Court shall, where it appears to the Supreme Court from the information or evidence given to or before it that the facts in respect of which the accused person was charged before the Court do not support the charge to which the accused person pleaded guilty or where the accused person or a legal practitioner representing either the accused person or the informant requests that an order be made under this subsection, and may, where for any other

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reason it sees fit so to do, order that the proceedings before the Court at which the accused pleaded guilty be continued at a time or place specified in the order.

(8) Except where an order is made under subsection (7), the Supreme Court has the same powers of sentencing or otherwise dealing with the accused person and of finally disposing of the charge and of all incidental matters as it would have had if the accused person, or arraignment at any sittings of the Court, had pleaded guilty to the offence charged on an indictment filed by the Attorney-General or the Attorney-General of the Commonwealth.

(9) The procedure relating to committal for trial applies, as nearly as may be, to a committal under subsection (5) and bail may be granted as on a committal for trial, but a person shall not be bound over to give evidence on a committal under that subsection unless the Court otherwise orders.

(10) Where an order is made by the Supreme Court under subsection (7) that proceedings before a Court at which an accused person pleaded guilty be continued at a time and place specified in the order—

- (a) those proceedings shall be continued in all respects as if the accused person had not pleaded guilty and as if those proceedings had been adjourned by the Court to the time and place so specified; and
- (b) the Supreme Court may exercise any power that the Court might have exercised under Division 3 of Part V if the order had been an order made by the Court adjourning the proceedings to the time and place so specified, and the provisions of Division 3 of Part V apply to and in respect of the accused person.

91. Court may discharge accused

When all the evidence offered upon the part of the prosecution against a person charged with an indictable offence has been taken, the Court shall—

- (a) if the Court is not of the opinion referred to in paragraph (b)— forthwith order the accused person, if in custody, to be discharged from custody in respect of that offence; or
- (b) if the Court is of the opinion, having regard to all the evidence before it, that the evidence is capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence—proceed as hereinafter provided.

92. Proceedings where evidence sufficient to put accused on trial

(1) Where the Court is of the opinion, having regard to the evidence for the prosecution, that the evidence is capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence, the Court shall charge the accused person with such offence and shall say to the accused person these words, or words to the like effect: “Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say may be given in evidence against you upon your trial. You are clearly to understand that you have nothing to hope from any promise or favour, and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence against you upon your trial, notwithstanding any such promise or threat.”.

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(1A) Subsection (1) does not apply in relation to a person charged with an indictable offence if the Court has decided to dispose of the case summarily pursuant to a law in force in the Territory.

(2) Where the Court commits the accused person for trial before the Supreme Court, any statement made by the person in reply to the question referred to in subsection (1) is, upon the trial of the accused person, admissible as evidence.

(3) Whether or not the accused person makes a statement in reply to the question referred to in subsection (1), the Magistrate shall ask him or her if he or she desires to give evidence himself or herself or to call any witnesses on his or her behalf and, if the accused person or any other person then gives evidence, the prosecutor is at liberty to cross-examine the witness and to adduce evidence in reply.

92A. Committal for sentence for indictable offence tried summarily

(1) Upon the summary conviction of a person charged with an indictable offence, the Court may, where it appears to it that by reason of the character and antecedents of that person it is desirable that sentence be passed upon him or her by the Supreme Court, commit him or her for sentence to such sittings of the Supreme Court as the Court directs.

(2) Where the Court commits a person for sentence under subsection (1), the Court shall deal with him or her in the same way as a person who is committed for trial under paragraph 94 (b).

(3) The Supreme Court has the same powers of sentencing or otherwise dealing with a person committed for sentence under this section as it would have had if that person had been convicted in that court.

92B. Depositions as evidence

Where—

- (a) a person is charged with an indictable offence;
- (b) the person has not admitted the truth of the charge; and
- (c) the Court has decided to dispose of the case summarily pursuant to a law in force in the Territory,

the depositions of the witnesses who gave evidence for the prosecution at the preliminary hearing shall be deemed to be evidence given on the hearing of the charge and those witnesses, or any of them, shall, if so required by the prosecutor or the defendant, be called or recalled, as the case requires, for examination or cross-examination.

93. Admissions and confessions

Nothing in this Act shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the defendant made at any time, which by law would be admissible as evidence against that person.

Division 2—Proceedings subsequent to Hearing of Evidence

94. Discharge or committal for trial

When all the evidence for the prosecution and the defence has been taken—

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- (a) if the Court is of opinion, having regard to all the evidence before it, that a jury would not convict the defendant of an indictable offence—it shall forthwith order the defendant, if he or she is in custody, to be discharged as to the information then under inquiry; and
- (b) if the Court is not of the opinion referred to in paragraph (a)—it shall commit him or her to take his or her trial for the offence before the Supreme Court, and in the meantime either shall by warrant commit him or her to gaol, a lock-up or a remand centre, to be there safely kept until the sittings of the Court before which he or she is to be tried, or until he or she is delivered by due course of law or admitted to bail in accordance with the *Bail Act 1992*.

95. Depositions of dead or absent persons

Where, upon the trial of a person who has previously been charged before the Court with an indictable offence and committed for trial, it is proved—

- (a) that a witness whose depositions were taken at the hearing of the charge before the Magistrate is dead or so ill as not to be able to travel or to give evidence, or is absent from the Commonwealth;
- (b) that the depositions of the witness were taken in the presence of the accused person; and
- (c) that the accused person or a legal practitioner representing the accused person had a full opportunity of cross-examining the witness,

the depositions are admissible as evidence—

- (d) if taken in the manner specified in subsection 54A (3), be read as evidence at the trial of the accused person without further proof unless it is proved that the Magistrate by whom the depositions purport to have been signed did not in fact sign them; or
- (e) if recorded by one of the means specified in subsection 54A (2), be read as evidence at the trial of the accused person if it is proved that the record is a correct record of the depositions and that the transcript is a correct transcript of that record.

96. Evidence for defence

Where a person is charged with an indictable offence as such, the Court shall be bound to hear any evidence tendered on his or her behalf tending to show that the defendant is not guilty of the offence with which he or she is charged.

Division 2A—Costs

97. Discontinued proceedings

Where—

- (a) in proceedings under this Part, the Court is of the opinion that the evidence for the prosecution is not capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence or is of the opinion, having regard to all the evidence before it, that a jury would not convict the defendant of an indictable offence; or
- (b) proceedings under this Part are discontinued for any other reason,

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the Court may order that the informant shall pay to the defendant such costs as the Court thinks just.

Division 3—Recognizances of Witnesses

103. Recognizance of witnesses etc.

- (1) The Court may bind by recognizance every person whose written statement was admitted in evidence under section 90AA, or who was examined before it, to appear at the court at which the defendant is to be tried, and then and there to give evidence against the defendant.
- (2) The recognizance shall particularly specify the profession, trade, or calling of every person who enters into it, together with his or her full name and place of residence.

Signature of Magistrate

Notice to witnesses

104. Every such recognizance shall be duly acknowledged by every person who enters into it, and shall be subscribed by the Magistrate before whom it is acknowledged, and a notice thereof signed by the Magistrate shall at the same time be given to every person bound thereby.

105. Court may commit refractory witness

- (1) If a witness refuses to enter into the recognizance, the Court may by warrant commit him or her to gaol or to a remand centre, there to be safely kept until after the trial of the defendant, unless in the meantime the witness duly enters into the recognizance before a Magistrate.
- (2) If afterwards, the defendant is not committed for trial for the offence with which he or she is charged, or if the duly appointed officer declines to file an information against the defendant for the offence, any Magistrate, upon being duly informed of the fact, may, by his or her order in that behalf, order and direct the keeper of the goal or Superintendent of the remand centre, as the case requires where the witness is in custody to discharge him or her from custody, and the keeper or Superintendent shall thereupon forthwith discharge him or her accordingly, as to that warrant.

Division 4—Miscellaneous

106. Transmission of depositions etc. to Director of Public Prosecutions

- (1) Where a defendant is committed for trial or for sentence the Court shall as soon as possible after the conclusion of the case before it, transmit to the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions all informations, examinations, depositions, statements, bail undertakings and other documents sworn taken or acknowledged in the case.
- (2) The reference in subsection (1) to depositions shall be read as a reference to a certified copy of depositions and the reference in that subsection to statements shall be read as including a reference to a certified copy of the statement, if any, made by a defendant in reply to the question referred to in subsection 92 (1).

107. Delivery of documents to proper officer of Court

(1) After the transmission of the documents and before the day of trial, the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions shall have and be subject to the same duties and liabilities with respect to the documents upon a certiorari directed to him or her, or upon a rule or order directed to him or her in lieu of that writ, as the Court would have had and been subject to upon a certiorari to it if the documents had not been transmitted.

(2) The Director of Public Prosecutions, a person authorised by the Director of Public Prosecutions, the person representing the Director of Public Prosecutions or the person representing the informant, shall, at any time after the opening of the Court at the sitting at which the trial is to be had, deliver or cause to be delivered the documents or any of them to the proper officer of the Court, if the presiding judge so directs.

108. Copies of depositions may be obtained by accused

(1) Where any person charged with any indictable offence is directed by the Court to be tried, if that person, at any time after the examinations in his or her case have been concluded and before the first sitting of the Court at which he or she is to be tried, makes application to the officer having the custody thereof, that person shall receive from the officer certified copies of the depositions on which he or she has been directed to be tried, and of the evidence given on the cross-examination or the examination of any witnesses that have been cross-examined or called and examined by or on behalf of that person.

(2) Any gaoler or officer having that person in his or her custody shall convey or cause to be conveyed any such application to the officer having the custody of the depositions and evidence.

PART VII—PROCEEDINGS IN CASE OF OFFENCES PUNISHABLE SUMMARILY

108A. Indictable offences dealt with summarily

Where—

- (a) a person is charged with an indictable offence; and
- (b) the Court has decided to dispose of the case summarily pursuant to a law in force in the Territory,

this Part applies, so far as it is applicable, to the summary disposal of the case.

109. Dismissal or adjournment in absence of informant

(1) If—

- (a) the defendant appears (whether voluntarily, in accordance with a summons or by virtue of a warrant) at the time and place for the hearing of an information in respect of an offence punishable summarily; and
- (b) the informant, having been notified of the time and place for the hearing, does not appear either personally or by a legal practitioner appearing for him or her;

the Court shall, subject to subsection (2), dismiss the information.

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(2) The Court may, if it thinks it is appropriate to do so, adjourn to another day the hearing of an information that would otherwise be dismissed under subsection (1).

110. Ex parte hearing in absence of defendant

(1) Where a summons has been served in accordance with section 41 and the defendant does not appear when called, the Court may either—

- (a) proceed *ex parte* to hear and determine the case in the absence of the defendant; or
- (b) upon oath being made before it, substantiating the matter of the information to its satisfaction, issue its warrant for the arrest of the defendant and to bring him or her before the Court to answer to the information and be further dealt with according to law.

(2) Where the Court proceeds pursuant to paragraph (1) (a)—

- (a) the evidence of the informant or another person may be given orally; or
- (b) a written statement made by the informant or another person may be admitted as evidence of the matters contained in it.

(3) A written statement admitted in evidence shall constitute the depositions of the person who made the statement.

(4) A written statement shall not be admitted in evidence unless it is sworn before—

- (a) a legal practitioner;
- (b) a Justice of the Peace;
- (c) the Registrar; or
- (d) a prescribed person.

(5) Where the Court admits a written statement in evidence it may, of its own motion, adjourn the hearing of the information and require the person who made the statement to attend before the Court to give evidence.

(6) Although a part of a written statement tendered in evidence under this section is inadmissible according to the rules of evidence, that statement is nevertheless admissible under this section as evidence of the matters contained in the remainder of that statement, but if the Court admits such a statement, the Court shall identify the part that is inadmissible and shall, with reference to that part, write on the statement “ruled inadmissible” or words to that effect.

111. Magistrate may adjourn the case

Where the Court upon the non-appearance of the defendant issues its warrant, it shall adjourn the hearing of the information until the defendant is arrested, and if the defendant is afterwards arrested under the warrant he or she shall be detained in safe custody until he or she can be brought up before the Court at a convenient time and place of which the informant shall have due notice.

112. Both parties appearing

If both parties appear either personally or by legal practitioners appearing for them, the Court shall proceed to hear and determine the information.

113. Proceedings at the hearing on defendant's confession

Where the defendant is present at the hearing, the substance of the information shall be stated to him or her, and he or she shall be asked if he or she has any cause to show why he or she should not be convicted or why an order should not be made against him or her, and if he or she has no cause to show, the Court may convict him or her, or make an order against him or her accordingly.

114. Where defendant does not admit the case

If the defendant does not admit the truth of the information, the Court shall proceed to hear the informant and his or her witnesses and also the defendant and his or her witnesses and also such witnesses as the informant may examine in reply, if the defendant has given any evidence other than as to his or her general character; and the Court having heard what each party has to say, and the evidence so adduced, shall consider the whole matter and determine it, and shall convict or make an order upon the defendant or dismiss the information as justice requires.

115. Court may proceed to hearing in absence of both or either of the parties

If at the time or place to which a hearing or further hearing is adjourned, either or both of the parties does not or do not appear personally or by legal practitioners appearing for them, the Court may proceed to the hearing or further hearing as if the party or parties were present, or if the informant does not appear the Court may dismiss the information with or without costs.

116. Conduct of summary proceedings regulated

The defendant or a legal practitioner representing the defendant may address the Court after all the evidence for the informant and the evidence (if any) for the defendant and for the informant in reply has been given and the informant or a legal practitioner representing the informant shall have a closing address.

PART VIIA—SERVICE AND PLEADING BY POST WITH RESPECT TO CERTAIN OFFENCES

116A. Interpretation

(1) In this Part, unless the contrary intention appears—

“defendant” means a person who has been duly served with a summons in accordance with section 116B;

“prescribed offence” has the meaning given by subsection (3).

(2) A reference in this Part, other than in subsection 116B (2), to the Notice to Defendant form, the Notice of Intention to Defend form or the Plea of Guilty form shall be read as a reference to a copy of that form printed on the back of a copy of a summons.

(3) An offence against a law in force in the Territory is a prescribed offence in relation to a person if—

- (a) in the case of an offence against the *Motor Traffic Act 1936*—the maximum penalty applicable to that person is a fine not exceeding the amount specified in subsection 192 (2) of that Act;

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- (b) in the case of an offence against the *Motor Vehicles (Dimensions and Mass) Act 1990*—the maximum penalty applicable to that person is a fine not exceeding 30 penalty units; or
- (c) in the case of an offence against any other law in force in the Territory—the maximum penalty applicable to that person is a fine not exceeding 10 penalty units;

whether or not any other penalty may be imposed with that fine.

- (4) In this Part, a reference to a law in force in the Territory includes a reference to—
 - (a) the Australian National University Parking and Traffic Statute as amended and in force from time to time; and
 - (b) where that statute is repealed and remade—any such remade statute as amended and in force from time to time.

116B. Service of summons

(1) Without prejudice to the methods of service provided for by subsection 41 (1), a summons with respect to a prescribed offence may be served upon the person to whom it is directed—

- (a) by delivering 2 copies of the summons to him or her personally;
- (b) by sending 2 copies of the summons by post addressed to him or her at his or her last known place of residence or business; or
- (c) by leaving 2 copies of the summons at his or her last known place of residence or business with a person apparently resident or employed at that place and apparently over the age of 16 years.

(2) One copy of a summons with respect to a prescribed offence served in accordance with this section shall have the Notice to Defendant form printed on the back of it, and the other copy of that summons so served shall have the Notice of Intention to Defend form and the Plea of Guilty form printed on the back of it.

(3) Service in accordance with this section of a summons with respect to a prescribed offence, being service in a manner referred to in paragraph (1) (a) or (c), shall be effected not less than 14 days before the day on which the person to whom it is directed is required by the summons to appear before the Court.

(4) Where a summons with respect to a prescribed offence is served in accordance with this section in the manner referred to in paragraph (1) (b), the 2 copies of the summons shall be sent by post not less than 21 days before the day on which the person to whom it is directed is required by the summons to appear before the Court.

116BA. Giving of notice

Where the Registrar is required to give notice to a person under this Part, the notice may be served by sending a copy by post addressed to the person at his or her last known place of residence or business.

116C. Proof of service

(1) Service of a summons or notice for the purposes of this Part may be proved by the oath of the person who served it, by affidavit or otherwise.

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- (2) For the purposes of this Part, where—
- (a) a summons has been served in accordance with section 116B; and
 - (b) a copy of the summons is returned to the Registrar with the Notice of Intention to Defend form or the Plea of Guilty form completed,

the defendant shall, unless the contrary is proved, be taken to have completed and signed the form so completed and to have returned the form to the Registrar.

- (3) The Plea of Guilty form shall be signed in the presence of one of the following persons:
- (a) the Registrar;
 - (b) a legal practitioner;
 - (c) a Justice of the Peace;
 - (d) a prescribed person.

116D. Pleas

A defendant may—

- (a) without prejudice to any other means of pleading guilty, enter a plea of guilty by completing the Plea of Guilty form and returning the form, whether by post or otherwise, to the Registrar; or
- (b) give notice of his or her intention to defend by completing the Notice of Intention to Defend form and returning the form, whether by post or otherwise, to the Registrar.

116E. Procedure where plea of guilty entered

- (1) Where—
- (a) a defendant enters a plea of guilty in accordance with section 116D;
 - (b) the defendant—
 - (i) does not appear at the hearing; or
 - (ii) appears but does not withdraw his or her plea of guilty;
- and
- (c) the Court accepts the plea of guilty,

the Court shall record a plea of guilty and determine the proceedings accordingly.

(2) The Court shall, in determining proceedings under subsection (1), have regard to the matters (if any) drawn to the attention of the Court in the plea of guilty and shall give to those matters such weight as to the Court seems proper.

- (3) Where the Court declines to accept a plea of guilty entered in accordance with section 116D—
- (a) the Court shall adjourn the hearing and fix a time and place for the hearing of the proceedings; and
 - (b) if the defendant is not before the Court, the Registrar shall give to the defendant notice of the time and place so fixed.

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(4) Where a defendant does not appear at the time and place fixed under subsection (3), the Court may hear and determine the proceedings in the absence of the defendant.

116F. Procedure where notice of intention to defend given

Where a defendant returns the Notice of Intention to Defend form to the Registrar before the day on which he or she is required by the summons to appear before the Court—

- (a) the Court shall fix a time and place for the hearing of the proceedings; and
- (b) the Registrar shall give to the defendant notice of the time and place so fixed.

116FA. Procedure where defendant pleads not guilty

Where the defendant appears before the Court at the time and place at which he or she is required by the summons to appear and pleads not guilty, the Court shall adjourn the hearing, fix a time and place for the hearing of the proceedings and inform the defendant of the time and place so fixed.

116G. Procedure where defendant does not plead

Where—

- (a) a summons has been served in accordance with section 116B;
- (b) either—
 - (i) the defendant does not enter a plea of guilty in accordance with section 116D or return the Notice of Intention to Defend form to the Registrar before the day on which he or she is required by the summons to appear before the Court, and does not appear before the Court at the time and place specified in the summons; or
 - (ii) the defendant does not appear before the Court at the time and place specified in the notice given to him or her in accordance with section 116F or fixed by the Court in accordance with section 116FA; and
- (c) the Court is satisfied—
 - (i) that the matters alleged in the summons are reasonably sufficient to inform the defendant of the offence alleged against him or her; and
 - (ii) that the matters so alleged constitute the offence charged in the summons,

the Court may convict the defendant of the offence charged in the summons.

116H. Restrictions on the imposition of penalties under this Part

(1) Subject to subsection (4), where—

- (a) a defendant is convicted under this Part of an offence against a law referred to in a paragraph of subsection 116A (3); and
- (b) at the time that the defendant is sentenced, the defendant is not before the Court or is not represented before the Court by a legal practitioner;

the only penalty that the Court may impose is a fine of an amount not exceeding the amount referred to in that paragraph.

(2) Subsection (1) does not prevent a Court imposing a penalty of imprisonment in default of payment of a fine.

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- (3) Where—
- (a) the Court convicts a defendant of an offence against a law referred to in a paragraph of subsection 116A (3);
 - (b) the law provides in effect that a penalty other than a fine may be imposed on the defendant; and
 - (c) at the time that the defendant is sentenced, the defendant is not before the Court or is not represented before the Court by a legal practitioner;

and the Court considers that a penalty other than a fine may be appropriate—

- (d) the Court shall adjourn the hearing and fix a time and place for sentence; and
- (e) the Registrar shall give to the defendant notice of the time and place so fixed.

(4) Where a defendant convicted of an offence against a law referred to in a paragraph of subsection 116A (3) does not appear at the time and place fixed under subsection (3), the Court, in the absence of the defendant, may impose on the defendant any penalty that is applicable under that law.

116I. Consequences of conviction *ex parte*

Where a defendant is, in his or her absence, convicted of an offence, the Registrar shall give to the defendant notice in writing of—

- (a) the conviction and order of the Court;
- (b) the penalty (if any) imposed by the Court, and the means by which and the time by which the penalty is required to be discharged; and
- (c) except where the proceedings are determined in accordance with subsection 116E (1), the defendant's right to apply for the setting aside of the conviction or order in accordance with section 23.

PART IX—ENFORCEMENT OF DECISIONS

Division 1—General

141. Minute of decision to be made and defendant to be notified

- (1) Where the Court convicts or makes an order against a defendant—
- (a) a minute or memorandum of the conviction or order shall be made and signed by the Magistrate exercising the jurisdiction of the Court; and
 - (b) the defendant shall be notified in writing of the conviction or order, the penalty (if any) imposed by the Court, and the means by which and the time by which the penalty is required to be discharged.

(1A) A minute or memorandum under paragraph (1) (a), or a notice under paragraph (1) (b), shall specify the amount of any levy imposed under Part III of the *Criminal Injuries Compensation Act 1983*.

(1AA) Failure to comply with subsection (1) does not invalidate a conviction or order or the enforcement of a conviction or order.

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- (2) The minute shall not form any part of the warrant of commitment or of execution.
- (3) A document purporting to be a copy of the minute or memorandum signed by the Registrar shall be *prima facie* evidence in all courts of law of the making of the conviction or order.

142. Formal convictions and orders

- (1) The conviction or order shall afterwards, if required, be drawn up by the Court in proper form, and it shall cause the conviction or order to be lodged with the Registrar, to be by him or her filed among the records of the Court.
- (2) It shall not be necessary for a Court formally to draw up a conviction or order or any other record of a decision, unless it is demanded by a party to the proceedings for the purpose of an appeal against the decision, or is required for the purpose of a return to a writ of habeas corpus or other writ from the Supreme Court.

143. Proceedings in case of dismissal

- (1) If the Court dismisses the information the Court shall make an order of dismissal, and shall, on application, give the defendant a certificate thereof signed by the adjudicating Magistrate or the Registrar.
- (2) The certificate, without further proof, shall, on its production be a bar to any other information or legal proceeding in any Court (other than proceedings on appeal) for the same matters respectively against the same party.

144. Copies of informations and other documents

- (1) Upon application, the Registrar shall give the applicant a copy of—
- (a) an information;
 - (c) a minute or memorandum of a conviction or order; or
 - (d) a formal conviction or order.
- (2) The Registrar may refuse an application under subsection (1) if—
- (a) the applicant is not a party to the relevant proceedings; and
 - (b) the Registrar or a Magistrate is not satisfied that the applicant has a good reason for being given that copy.

145. Imprisonment in first instance

Where the Court upon a conviction sentences the defendant to a term of imprisonment, it shall issue its warrant of commitment accordingly.

Division 2—Enforcement of fines, penalties and other sums

146. Interpretation

In this Division—

“parking offence” means the contravention, before 14 February 1990, of a provision of Part X of the Motor Traffic Act, other than sections 150, 163G, 163H, 163J, 163K and 163MA; and

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“traffic offence” means the contravention, before 18 May 1992, of a provision of the Motor Traffic Act in respect of which a traffic infringement notice under section 180A may be issued.

146A. No imprisonment for breach of reparation order

A reference in subsection 147 (2) or 150 (1) or in paragraph 151 (1) (b) to an order shall not be read as including a reference to an order under section 437 of the Crimes Act.

147. Enforcing convictions and orders

(2) Where a natural person is ordered to pay an amount being a penalty, sum of money or costs under a conviction or order, the conviction or order shall also provide that in default of payment of the amount in accordance with the terms of the conviction or order, the person shall be imprisoned for the period specified in the conviction or order until the amount is paid.

(2A) Subsection (2) does not apply to a judgment given or entered or an order made in respect of a claim.

(2B) Subsection (2) does not affect the provisions relating to periodical payments contained in the *Maintenance Act 1968*.

(2C) Where a person is ordered to pay an amount or do any other thing under a conviction or order, the conviction or order shall also contain a statement to the effect that, in default of compliance with the order, the person would become liable to pay the fee determined under subsection 248A (1) for the purposes of this subsection.

(3) Whenever any corporate body is by any conviction or order adjudged to pay any fine, penalty, sum of money or costs or an informant is ordered to pay costs to a defendant or a defendant is ordered to pay costs to an informant, the conviction or order shall operate as a judgment given or entered in respect of a claim for the payment of money and be enforceable as such order.

(3AA) Subsections (2) and (3) do not apply in relation to a natural person or a body corporate, as the case requires, against whom a conviction or order in respect of a parking offence is made after the commencement of this subsection.

(3AB) Subsections (2) and (3) do not apply in relation to a natural person or a body corporate, as the case requires, against whom a conviction or order in respect of a traffic offence is made after the commencement of this subsection.

(3A) Where, in the enforcement of a conviction or order of the kind referred to in subsection (3), a writ of execution is issued, the provisions of Part XVII of the *Magistrates Court (Civil Jurisdiction) Act 1982*, other than section 240, apply to and in relation to property taken or to be taken by a bailiff under that writ, and to the proceeds of a sale of that property, as if—

(a) a reference in that Part to a judgment debtor were a reference to the party against whom the writ is issued; and

(b) a reference in that Part to the plaintiff or judgment creditor were a reference to the party obtaining the writ.

(4) Notwithstanding anything contained in this section, where in any law in force in the Territory provision is made for the recovery or enforcement of payment of any fine, penalty,

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sum of money or costs in any particular manner, such fine, penalty, sum of money or costs may be recovered or payment thereof may be enforced in that manner.

147A. Parking and traffic offences

(1) This section applies to a conviction or order in respect of a parking offence made after the commencement of this section.

(1A) This section applies to a conviction or order in respect of a traffic offence made after the commencement of this subsection.

(2) Where, by a conviction or order in respect of a parking or traffic offence to which this section applies, it is adjudged that any penalty for the offence and costs (if any) shall be paid by a person, the Court shall order that, in default of payment in accordance with the terms of the conviction or order, a copy of the conviction or order shall be forwarded to the Registrar of Motor Vehicles—

- (a) for suspension of the person's driving licence or suspension of the registration of the motor vehicle in respect of which the parking or traffic offence occurred; or
- (b) for suspension of the person's right to drive in the Territory, suspension of the right to drive in the Territory the motor vehicle in respect of which the parking or traffic offence occurred, or suspension of the person's right to drive in the Territory and the right to drive the motor vehicle in the Territory, as the case requires;

in accordance with section 162E or 180F, as the case requires, of the Motor Traffic Act.

(3) When a conviction or order to which this section applies is made—

- (a) if the defendant is before the Court, the Registrar shall cause a copy of section 162E or 180F of the Motor Traffic Act, as the case requires, to be given to the defendant; or
- (b) if the defendant is not before the Court, the Registrar shall cause a copy of section 162E or 180F of the Motor Traffic Act, as the case requires, to be attached to the notice of the conviction or order served on the defendant.

148. Court may allow time to pay etc.

(1) Where the Court, by a conviction or order, imposes a fine or penalty, or orders that a sum of money or costs be paid—

- (a) the Court shall, in the case of a fine imposed on conviction for an offence where the summons was served in accordance with section 116B; and
- (b) the Court may, in any other case,

allow time for the payment of the amount.

(1A) In the case of a fine referred to in paragraph (1) (a), the time allowed by the Court shall be not less than 14 days from the date of conviction.

(1B) In addition to allowing time for the payment of an amount, the Court may, in any case—

- (a) direct payment of the amount to be made by instalments; and

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- (b) direct that the person liable to pay the amount give security, to the satisfaction of such person as is specified by the Court, with or without sureties, for the payment of the amount or of an instalment of the amount.

(1C) The security referred to in paragraph (1B) (b) shall be given, and may be enforced, in the manner provided by this Act.

(2) Where a sum or costs is or are directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if the original conviction or order had ordered the payment of all the instalments then remaining unpaid and default had been made therein.

(3) The Court directing the payment of a sum or costs, or of an instalment of a sum or costs, may direct the payment to be made at such time or times and in such place, and to such person, as the Court specifies; and every person to whom any such sum or costs or instalments is or are paid, if he or she is not the Registrar, shall forthwith pay over or account for the sum or costs or instalment to the Registrar.

150. Committal to prison where fine or costs not paid

(1) Where a natural person defaults in payment of an amount being a penalty, sum of money or costs that is payable under a conviction or order, a Magistrate may, by warrant, commit the person to prison in accordance with the terms of the conviction or order until the amount is paid.

(1AA) Subsection (1) does not apply in respect of an amount payable under a judgment given or entered or an order made in respect of a claim.

(1A) Subsection (1) does not apply in relation to a person against whom a conviction or order has been made in respect of a parking offence before the commencement of this subsection if a warrant has not been issued under subsection (1).

(1B) Subsection (1) does not apply in relation to a person against whom a conviction or order has been made in respect of a traffic offence before the commencement of this subsection if a warrant has not been issued under subsection (1).

(2) Where—

- (a) the summons in proceedings was served in accordance with section 116B;
- (b) the defendant was convicted in his or her absence; and
- (c) it was adjudged that the defendant pay a fine or penalty or a sum of money,

a warrant issued under subsection (1) shall not be executed unless—

- (d) a member of the Police Force has made a demand upon the defendant for payment of the fine, penalty or sum of money;
- (e) a period of 7 days has expired since that demand was made; and
- (f) the fine, penalty or sum of money has not been paid in full.

(3) A demand referred to in paragraph (2) (d) shall be made—

- (a) to the defendant in person; or

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- (b) by writing addressed to the defendant and left at his or her last known place of residence or business with a person apparently resident or employed at that place and apparently over the age of 16 years.

150A. Parking and traffic offences—further orders in respect of natural persons

(1) Where, but for subsection 150 (1A), a person would have been liable to be committed to prison pursuant to subsection 150 (1) in respect of a conviction or order in respect of a parking or traffic offence, the Court shall, on the matter being placed before the Court by the Registrar, make a further order that, unless the person pays the amount adjudged to be paid (including costs) in accordance with the conviction or order within 14 days after the date of service of a copy of the further order on the defendant, a copy of the further order shall be forwarded to the Registrar of Motor Vehicles—

- (a) for suspension of the person's driving licence or suspension of the registration of the motor vehicle in respect of which the parking or traffic offence occurred; or
- (b) for suspension of the person's right to drive in the Territory, or suspension of the person's right to drive in the Territory and the right to drive the motor vehicle in the Territory, as the case requires;

in accordance with section 162E or 180F of the Motor Traffic Act, as the case requires, and where a further order is made under this subsection, the defendant shall not be committed to prison in respect of that liability.

(2) Where a further order is made under subsection (1), the Registrar shall cause a copy of the order and a copy of section 162E or 180F of the Motor Traffic Act, as the case requires, to be served on the defendant.

150B. Parking and traffic offences—further orders in respect of bodies corporate

(1) Where, but for this section, in default of payment of an amount adjudged to be paid (including costs) by a body corporate a writ of execution could be issued against the body corporate in respect of a conviction or order in respect of a parking or traffic offence, the Court shall, on the matter being placed before the Court by the Registrar, make a further order that, unless the body corporate pays the amount adjudged to be paid (including costs) in accordance with the conviction or order within 14 days after the date of service of a copy of the further order on the defendant, a copy of the further order shall be forwarded to the Registrar of Motor Vehicles—

- (a) for suspension of the registration of the motor vehicle in respect of which the parking or traffic offence occurred; or
- (b) for suspension of the right to drive in the Territory the motor vehicle in respect of which the parking or traffic offence occurred;

in accordance with section 162E or 180F of the Motor Traffic Act, as the case requires.

(2) Where a further order is made under subsection (1), the Registrar shall cause a copy of the order and a copy of section 162E of the Motor Traffic Act to be served on the defendant.

(3) Where a further order is made under subsection (1), a writ of execution shall not be issued in respect of the parking or traffic offence to which the order relates.

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150C. Further orders—service

A copy of a further order required to be served under section 150A or 150B shall be served by sending it by pre-paid post to the address of the place of residence or business of the person last-known to the Registrar.

151. Committal to prison

Where—

- (a) a conviction does not order the payment of any fine or penalty but orders that the defendant be imprisoned for his or her offence; or
- (b) an order is not for the payment of money but for the doing of some other act and directs that, if he or she neglects or refuses to do the act, the defendant be imprisoned and the defendant neglects or refuses to do such act,

the Court or a Magistrate may by warrant commit the defendant to prison there to be kept according to the terms in that behalf of the conviction or order.

152. Warrant of commitment

(1) A warrant of commitment—

- (a) shall require the police officer to whom it is directed to take the person named in the warrant to a prison mentioned in the warrant; and
- (b) shall require the person in charge of the prison to which the person is taken to imprison the person in accordance with the warrant.

(2) On the arrival at the prison of the person named in the warrant, the person in charge of the prison or a person authorised by him or her—

- (a) shall sign the receipt on the warrant for the person; and
- (b) shall complete the report on the warrant about the person's apparent physical condition and state of health.

153. Term of imprisonment where part payment is made

(1) The Court, Magistrate or Registrar to whom application is made to issue a warrant of commitment for non-payment of an amount adjudged to be paid by a conviction or order may, if it or he or she deems it expedient so to do, allow further time for the payment of the amount or any part thereof or direct that payment of the amount or any part thereof be made by instalments or may postpone the issue of the warrant until such time and on such conditions, if any, as it or he or she thinks just.

(2) Where, upon an application to the Court or a Magistrate to issue any such warrant of commitment, it appears to the Court or magistrate to whom the application is made that, by payment of part of the amount, whether by instalments or otherwise, the amount has been reduced, the Court or the Magistrate shall by its or his or her warrant of commitment order that the term of imprisonment be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the amount of the reduction bears to the total amount adjudged to be paid.

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153A. Parking offences—instalment payments

(1) Where the Court makes a further order under subsection 150A (1) or 150B (1), the defendant may apply in writing to the Court, Magistrate or Registrar—

- (a) for further time for the payment of the whole or any part of the amount the subject of the order; or
- (b) for a direction that payment of the whole or any part of that amount be made by instalments.

(2) The Court, Magistrate or Registrar, as the case requires, may, if satisfied that it is expedient to do so—

- (a) allow further time for the payment of the whole or any part of the amount the subject of the order; or
- (b) direct that payment of the whole or any part of that amount be made by instalments.

(3) The Registrar shall not forward a copy of a further order to the Registrar of Motor Vehicles under section 153B unless default is made in the payment of an instalment or the further time allowed for payment has expired.

153B. Consequence of non-compliance with certain orders

In default of payment in accordance with—

- (a) a conviction or order to which section 147A applies;
- (b) a further order under subsection 150A (1) or 150B (1), as the case may be;

the Registrar shall cause a copy of the order or further order to be forwarded to the Registrar of Motor Vehicles.

153C. Part payments

Where the defendant pays part of an amount in accordance with an order to which section 147A applies, or a further order under subsection 150A (1) or 150B (1), the Registrar shall endorse on the order or further order the amount the subject of the order or further order remaining unpaid.

154. Warrant of commitment where defendant already in prison

(1) Where by any conviction or order it is adjudged that the defendant be imprisoned and the defendant is then undergoing imprisonment upon a conviction for another offence the warrant of commitment in respect of the subsequent offence shall be forthwith delivered to the gaoler to whom it is directed.

(2) The Court or Magistrate issuing the warrant of commitment may order thereby that the imprisonment for the subsequent offence shall commence at the termination of the imprisonment which the defendant is then undergoing.

155. Moneys to be paid to Registrar

If a person adjudged by the conviction or order of a Court or Magistrate to pay any amount of money pays the amount to any police officer or other person such police officer or other person shall forthwith pay the amount to the Registrar.

155A. Costs to be paid to Registrar by Registrar of Motor Vehicles

Where a sum of money payable on account of costs pursuant to a conviction or order in respect of a parking or traffic offence is paid to the Registrar of Motor Vehicles, he or she shall pay an amount equal to that sum to the Registrar.

156. Execution to cease on payment of amount due

In any case where a warrant of commitment has been issued, the defendant pays or tenders to the police officer having the execution of the warrant the sum or sums mentioned therein, the police officer shall cease to execute the warrant.

157. Payment of amount to keeper or Superintendent

(1) Where a person is imprisoned for non-payment of an amount adjudged to be paid by a conviction or order of the Court or a Magistrate, the person may pay, or cause to be paid, to the keeper of the prison or, in the case of a person in respect of whom a warrant under section 255A has been issued, the Superintendent of the remand centre, and the keeper or Superintendent shall receive—

- (a) the sum mentioned in the warrant of commitment and the keeper or Superintendent shall thereupon discharge the person unless he or she is in custody for some other matter;
- (b) any sum in part satisfaction of the sum so adjudged to be paid and thereupon the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which he or she was committed as the sum so paid bears to the sum for which he or she is so liable and the keeper or Superintendent shall on the expiration of the term so reduced discharge the person unless he or she is in custody for some other matter.

(2) The keeper or Superintendent shall forthwith pay all sums received by him or her under the subsection (1) to the Registrar.

Division 2A—Reciprocal Enforcement of Fines against Bodies Corporate

166A. Interpretation

In this Division, unless the contrary intention appears—

“conviction” means a conviction or order entered or made by a court in the exercise of summary jurisdiction in proceedings for an offence;

“fine” includes—

- (a) a pecuniary penalty, pecuniary forfeiture and pecuniary compensation; and
- (b) fees, charges and costs payable by a body corporate under an order made in proceedings in which a conviction was entered in respect of the body corporate;

“reciprocating court” means—

- (a) a court declared under section 166B to be a reciprocating court; and
- (b) a court included in a class of courts declared under section 166B to be a class of reciprocating courts;

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“relevant officer”, in relation to a reciprocating court, means the Registrar or other corresponding officer of the court;

“State” includes a Territory other than the Australian Capital Territory and the Jervis Bay Territory;

“Territory fine” means a fine payable under a conviction of the Court.

166B. Declarations relating to reciprocating courts

Where a State has laws providing for enforcement in the State of a Territory fine against a body corporate, the Attorney-General may, by notice published in the *Gazette*—

- (a) declare a court of summary jurisdiction in the State to be a reciprocating court; or
- (b) declare a class of courts of summary jurisdiction in the State to be a class of reciprocating courts.

166C. Enforcement of fine

(1) Where a fine is payable by a body corporate under a conviction of a reciprocating court and the Registrar receives a request in writing from the relevant officer of the reciprocating court for the enforcement of the conviction accompanied by—

- (a) a copy, certified by the relevant officer to be correct, of the conviction; and
- (b) a certificate under the hand of the relevant officer specifying the amount of the fine that remains unpaid,

the Registrar shall—

- (c) register the conviction by filing in the Court the certified copy of the conviction; and
- (d) note the date of the registration on the copy.

(2) On the registration of a conviction under subsection (1)—

- (a) the conviction shall, for the purposes of this Part, be deemed to be a conviction of the Court adjudging payment of a fine by the body corporate in the amount specified as unpaid in the certificate referred to in paragraph (1) (b);
- (b) the Registrar shall issue a writ of execution for the purpose of recovering the amount referred to in paragraph (a); and
- (c) subject to this section, this Act and the *Magistrates Court (Civil Jurisdiction) Act 1982* apply in relation to a writ issued under paragraph (b) as if the writ had been issued in connection with a conviction of the Court.

(3) Where a request is made under this section in respect of a fine payable under a conviction of a reciprocating court and the Registrar later receives a notification from the relevant officer of the reciprocating court of payment of an amount in satisfaction in whole or part of the amount of the fine, the Registrar shall note the particulars of the payment on the certified copy of the conviction filed in the Court.

(4) Notwithstanding anything in this Part, where—

- (a) a writ is issued under subsection (2) in respect of a fine; and
- (b) before execution, the Registrar receives a notification referred to in subsection (3) relating to the fine,

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the Registrar shall arrange for the return of the writ and, upon its return, he or she shall—

- (c) if the amount of the fine has been paid in full—withdraw the writ; or
- (d) if part of the amount of the fine remains unpaid—amend the writ to show the amount still unpaid.

(5) Where a writ is amended under subsection (4), the writ shall be enforced in respect of the amount of the fine for the time being shown in the writ as unpaid.

(6) Notwithstanding section 190, where a sum of money is paid to the Registrar in satisfaction in whole or in part of a fine payable under a conviction registered under subsection (1), the Registrar shall remit the sum of money to the relevant officer of the reciprocating court by which the conviction was entered.

(7) For the purposes of this section, a document that purports to have been signed by the relevant officer of a reciprocating court shall be taken to have been so signed unless the contrary is proved.

166D. Effect of enforcement by reciprocating court

A sum of money received by the Registrar from a reciprocating court in satisfaction in whole or in part of a Territory fine shall be applied to the Registrar as if the sum had been paid to him or her by the body corporate by which the fine was payable in satisfaction in whole or in part of the fine.

166E. Registrar to notify payment of Territory fine

Where—

- (a) a conviction of the Court under which a fine is payable is registered by the relevant officer of a reciprocating court; and
- (b) a sum of money is received by the Registrar in satisfaction in whole or in part of the fine,

the Registrar shall, as soon as practicable, notify the relevant officer of the amount of that payment.

Division 6—Miscellaneous

188. Mitigation of payment by court

(1) Where in a case when either imprisonment or fine is imposed there is prescribed a requirement for the defendant to enter into his or her recognizance and to find sureties for keeping the peace, or being of good behaviour, and observing some other condition, or to do any of such things, the Court may dispense with any such requirement or any part thereof.

(2) Where the Court has authority under any law in force in the Territory (other than this Act), whether past or future, to impose imprisonment for an offence punishable on summary conviction, and has no authority to impose a fine for that offence, it may notwithstanding, when adjudicating on that offence, if it thinks that the justice of the case will be better met by a fine than by imprisonment, impose a penalty not exceeding 50 penalty units, and not being of such an amount as will subject the offender under the provisions of this Act in default of payment of the penalty, to any greater term of imprisonment than that to which he or she is liable under the law authorising the imprisonment.

189. Scale of imprisonment for non-payment of money

Subject to the provisions of the law under which a conviction or order is made, the period of imprisonment imposed by the Court in default of payment of an amount being a penalty, sum of money or costs under a conviction or order shall be such period as in the opinion of the Court will satisfy the justice of the case, but not exceeding in any case a period calculated at the rate of one day for each \$100, or part of \$100, included in the amount ordered to be paid or 6 months, whichever is the less.

191. Accounts to be kept in the form in Third Schedule

Every Registrar, keeper of a gaol and Superintendent of a remand centre shall keep a true and exact account of all moneys received by him or her under or by virtue of any conviction or order, showing the persons from whom and the time when the sums were received and to whom and when the sums were paid, in accordance with the form in the Third Schedule to this Act.

Penalty: 1 penalty unit.

193. Forfeited goods may be sold

Except where otherwise provided, all forfeitures, not pecuniary, which are incurred in respect of an offence triable by the Court or which may be enforced by the Court, may be sold or disposed of or dealt with in such a manner as the Court directs, and the proceeds of the sale shall be applied in like manner as if the proceeds were a fine imposed under the Act, Ordinance or law on which the proceeding for forfeiture is founded.

194. Warrant of commitment or writ of execution not void for form only

A warrant of commitment or writ of execution shall not be held void by reason only of any defect or error therein if there is a conviction or order which is good and valid or which may be amended and made good and valid under this Act to sustain it.

195. Convictions etc. to be transmitted to Registrar of Supreme Court

Where any person is convicted before, or an information is dismissed by, the Court in respect of any prosecution for an indictable offence, the Court shall forthwith thereafter transmit the conviction and recognizances, or a copy of the certificate of dismissal (if any), as the case may be, to the Registrar of the Supreme Court, to be kept by the Registrar among the records of the Supreme Court; and the Court shall also cause all such decisions to be registered in a book to be kept of the purpose.

PART X—RESTRAINING ORDERS

196. Interpretation

In this Part, unless the contrary intention appears—

“aggrieved person” means the person in respect of whom, or in respect of whose property, conduct or alleged conduct was engaged in;

“child” means a person who has not attained the age of 18 years;

“interim restraining order” means an order under section 206C;

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“relative”, in relation to an aggrieved person, means—

- (a) a parent of the person;
- (b) a child of the person who has attained the age of 18 years; or
- (c) a brother or sister of the person who has attained the age of 18 years;

“respondent”, in relation to a restraining order or interim restraining order, means the person in respect of whom the order is sought or made;

“restraining order” means an order under section 197.

“vary” includes adapt and modify.

197. Power to make

(1) The Court may, on application and if satisfied on the balance of probabilities that—

- (a) the respondent has caused personal injury or damage to property and, unless the respondent is restrained, the respondent is likely to cause further personal injury or damage to property;
- (b) the respondent has threatened to cause personal injury or damage to property and, unless the respondent is restrained, the respondent is likely to carry out the threat; or
- (c) the respondent has behaved in an offensive or harassing manner;

make an order restraining the respondent from 1 or more of the following:

- (d) causing personal injury or damage to property;
- (e) threatening to cause personal injury or damage to property;
- (f) behaving in an offensive or harassing manner;

and may impose 1 or more of the prohibitions and conditions specified in section 205.

(2) Subsection (1) applies in respect of conduct engaged in outside the Territory.

198. Entitlement to apply

(1) An application may be made by—

- (a) the aggrieved person;
- (b) a relative of the aggrieved person;
- (c) where the aggrieved person is a child—
 - (i) a person with whom the child normally resides;
 - (ii) a parent or guardian of the child; or
 - (iii) the child; or
- (d) a police officer.

(2) A person is not entitled to make an application in respect of alleged conduct under this Part if the person is entitled to make an application in respect of that conduct under the *Domestic Violence Act 1986*.

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199. Hearing dates

The Registrar shall fix a date for the hearing of an application that is not more than 2 days after the date on which the application is filed.

200. Parties—applications by relatives and police officers

(1) Where the applicant is—

- (a) a relative; or
- (b) a police officer;

the aggrieved person shall be a party to the proceedings.

(2) Subsection (1) does not apply where the aggrieved person is a child.

201. Parties—applications involving children

(1) Where the aggrieved person is a child, the Registrar shall, as soon as practicable, cause a copy of the application, together with notice of the date, time and place of the hearing, to be served—

- (a) on a person (other than the respondent) with whom the child normally resides; and
- (b) where the child has a parent or guardian with whom the child does not normally reside—on that parent or guardian.

(2) A person who has been served shall, on application to the Court, be made a party to the proceedings.

202. Representation of children

(1) Where—

- (a) an application has been made by a child;
- (b) the child is not separately represented by another person; and
- (c) it appears to the Court that the child should be so represented;

the Court may, of its own motion or on the application of a person (including the child), order that the child be separately represented by another person and the Court may make such other orders as it thinks necessary to secure that representation.

(2) Where the Court orders that a child be separately represented, the Court may request that the representation be arranged by the Legal Aid Office (A.C.T.).

203. Hearing of applications

(1) Section 22 of the *Magistrates Court (Civil Jurisdiction) Act 1982* (other than paragraph (4) (a) and subsection (5)) applies in relation to proceedings under this Part.

(2) Section 199 of the *Magistrates Court (Civil Jurisdiction) Act 1982* does not apply in relation to proceedings under this Part.

(3) Notwithstanding the provisions of sections 206 and 207 of the *Magistrates Court (Civil Jurisdiction) Act 1982*—

- (a) an affidavit; and
- (b) a notice referred to in subsection 207 (1) of that Act;

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shall each be served—

- (c) as soon as practicable before the hearing; or
- (d) within such other time as the Court orders.

(4) Where a period of time, being a period of 5 days or less, is prescribed or allowed for any purpose under this Part, that period shall be reckoned exclusive of any day on which the office of the Court is closed.

204. Matters to be taken into account

(1) When determining an application, the Court shall have regard to the following:

- (a) the need to ensure that the aggrieved person is protected from violence, threats or harassment;
- (b) the welfare of a child affected, or likely to be affected, by the respondent's conduct;
- (c) the need to ensure that property is protected from damage;
- (d) any other matter that the Court considers relevant.

(2) The Court shall regard the matters specified in paragraphs (1) (a) and (b) as being of primary importance.

205. Restrictions in orders

A restraining order may—

- (a) prohibit the respondent from being on premises on which the aggrieved person resides or works;
- (b) prohibit the respondent from being on premises specified in the order, being premises frequented by the aggrieved person;
- (c) prohibit the respondent from being in a locality specified in the order;
- (d) prohibit the respondent from approaching within a specified distance of the aggrieved person;
- (e) prohibit the respondent from contacting, harassing, threatening or intimidating the aggrieved person;
- (f) prohibit the respondent from damaging property of the aggrieved person;
- (g) prohibit the respondent from causing another person to engage in conduct referred to in paragraph (e) or (f); or
- (h) specify conditions subject to which the respondent may—
 - (i) be on premises;
 - (ii) be in a locality; or
 - (iii) approach or contact a person;specified in the order.

206. Consent orders

The Court may make any order with the consent of the parties to the proceedings.

206A. Service of applications

(1) Subject to section 206M, the Registrar shall, as soon as practicable after an application has been filed, cause—

- (a) a copy of the application, together with a notice in accordance with Form 1 in the First Schedule, to be served personally on the respondent; and
- (b) where the applicant is a relative or police officer—a copy of the application, together with notice of the date, time and place of the hearing, to be served personally on the aggrieved person (other than an aggrieved person who is a child).

(2) Where a hearing is adjourned because the respondent has not been served, the date, time and place stated in the notice shall be the date, time and place fixed by the Court for the adjourned hearing.

206B. Procedure in absence of respondent

Where the respondent—

- (a) has been served; and
- (b) fails to appear in person at the Court at the time fixed for the hearing;

the Court may—

- (c) proceed to hear and determine the application in the respondent's absence; or
- (d) where the Court is satisfied that it is appropriate to do so—adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

206C. Interim restraining orders

(1) Where—

- (a) an application has been made; and
- (b) the Court is satisfied that it is necessary, in order to ensure the safety of the aggrieved person, to make an interim restraining order;

the Court may make an interim restraining order whether or not the respondent has been served.

(2) The Court shall not make an interim restraining order unless the application is supported by oral evidence on oath given by the applicant or the aggrieved person.

(3) An interim restraining order—

- (a) shall restrain the respondent from engaging in conduct on which the application is based and—
 - (i) if the conduct consisted of causing personal injury or damage to property—
from threatening to cause further injury or damage; or
 - (ii) if the conduct consisted of a threat—from carrying out the threat;
- (b) may prohibit the respondent from being on premises on which the aggrieved person resides or works or which the aggrieved person frequents; and
- (c) shall not contain any other prohibition or condition specified in section 205 unless the Court is satisfied, by reason of the circumstances of the case, that it is necessary to do so to ensure the safety of the aggrieved person.

206D. Seizure of firearms

- (1) Where a restraining order is made in respect of a person who is the holder of a licence under the *Firearms Act 1996*, the licence is by force of this section cancelled unless, on application being made to it at the time of the making of the order, the Court is satisfied that the licence should not be cancelled.
- (2) If the Court makes such a restraining order, the Court may also order—
- (a) the seizure of any firearm and any ammunition for a firearm in the respondent's possession; and
 - (b) the seizure of the licence.
- (3) Where an interim restraining order is made in respect of a person who is the holder of a licence under the *Firearms Act 1996*, the licence is by force of this section suspended until the order is confirmed or revoked unless, on application made at the time of the making of the order, the Court is satisfied that the licence should not be suspended.
- (4) Where a licence is suspended under subsection (3), the Court may order—
- (a) the seizure of the licence for the period specified in the order; and
 - (b) the seizure and detention for that period of any firearm and any ammunition for a firearm in the respondent's possession.
- (5) In determining an application under subsection (1) or (3), the Court shall have regard to the matters specified in section 204.
- (6) An expression used in this section that is defined in the *Firearms Act 1996* has, in this section, the same meaning as in that Act.

206E. Explaining proposed orders

- (1) Where—
- (a) the Court proposes to make a restraining order or interim restraining order; and
 - (b) the respondent is before the Court;
- the Court shall, before making the order, explain or cause to have explained to the respondent in language likely to be understood by the respondent—
- (c) the purpose, terms and effect of the proposed order;
 - (d) the consequences that may follow if the respondent fails to comply with the terms of the proposed order;
 - (e) the means by which the proposed order may be varied or revoked; and
 - (f) that, where a State or another Territory has reciprocal legislation in force, the proposed order may be registered, and enforced, in that State or other Territory without notice of registration being given to the respondent.
- (2) Where—
- (a) the Court proposes to make a restraining order or interim restraining order; and
 - (b) the aggrieved person is before the Court;
- the Court shall, before making the order, explain or cause to have explained to the aggrieved person in language likely to be understood by that person—

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- (c) the matters specified in paragraphs (1) (c), (d) and (e); and
- (d) the consequences of the aggrieved person aiding or abetting the respondent in the commission of an offence against section 206L.

206F. Counselling

Where the Court makes a restraining order, the Court may recommend that the respondent, the aggrieved person or any other person participate in counselling, or attend a conflict resolution service, of a nature specified by the Court.

206G. Power of Court to make orders where person charged

The power of the Court to make a restraining order or interim restraining order in respect of a person may be exercised notwithstanding that the person has been charged with an offence arising out of conduct in respect of which the application has been made.

206H. Duration of orders

(1) A restraining order remains in force for the period (not exceeding 12 months) specified by the Court in the order.

(2) Where a restraining order contains a prohibition or condition of a kind specified in section 205, the Court may specify the period (not exceeding the period of the order) for which the prohibition or condition remains in force.

(3) An interim restraining order remains in force for the period (not exceeding 10 days) specified by the Court in the order.

(4) Where—

- (a) the Court adjourns the hearing of an application; and
- (b) an interim restraining order is in force;

the Court may, with or without hearing further evidence, extend the period for which the order remains in force until the date fixed for the further hearing of the application.

(5) An interim restraining order ceases to be in force—

- (a) where a restraining order is made and the respondent is present when that order is made—when that order is made;
- (b) where a restraining order is made but the respondent is not present when that order is made—when that order is served on the respondent; or
- (c) when the application is dismissed.

206J. Variation and revocation of orders

(1) Where a restraining order or interim restraining order is in force, the Court may, on application by—

- (a) a party to the proceedings in which the order was made; or
- (b) the aggrieved person;

vary or revoke the order.

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(2) The Registrar shall cause a copy of the application to be served personally on each other party to those proceedings.

(3) When determining an application, the Court shall have regard to the matters specified in subsection 204 (1).

206K. Service etc. of orders

(1) Where a restraining order or interim restraining order is made or varied by the Court, the Registrar shall—

- (a) arrange for an order in the prescribed form to be engrossed and filed in the Court;
- (b) cause a copy of the order to be served personally on the respondent; and
- (c) cause a copy of the order to be given to—
 - (i) the Commissioner of Police;
 - (ii) the Registrar of Gun Licences; and
 - (iii) each other party to the proceedings.

(2) In subsection (1), a reference to an order in the prescribed form shall be read as a reference to—

- (a) in the case of the making of a restraining order or interim restraining order—an order in accordance with Form 1A in the First Schedule; and
- (b) in the case of the varying of a restraining order or interim restraining order—an order in accordance with Form 1B in the First Schedule.

(3) Where an order is made under section 206D, the Registrar shall cause a copy of the order to be forwarded to the Registrar of Gun Licences.

206L. Offence

(1) Where—

- (a) a restraining order or interim restraining order is in force;
- (b) the respondent—
 - (i) was present at the time the order was made; or
 - (ii) was served personally with a copy of the order; and
- (c) the respondent contravenes the order;

the respondent is guilty of an offence punishable, on conviction, by a fine not exceeding 50 penalty units or imprisonment for a period not exceeding—

- (d) in the case of a first offence—2 years; or
- (e) in any other case—5 years;

or by both fine and imprisonment.

(2) In paragraph (1) (c), a reference to contravening an order shall be read as including a reference to engaging in conduct outside the Territory that, if it were engaged in within the Territory, would contravene the order.

206M. Service other than personal service

Where it appears to the Court that it is not practicable to serve a copy of an application personally, the Court may—

- (a) order that the copy be served by such other means as the Court thinks just; or
- (b) make an order for substituted service.

206N. Service by police officers

(1) Where the Court is satisfied that it is appropriate to do so, the Court may direct that a document be served by a police officer.

(2) Where the Court gives such a direction, the police officer for the time being in charge of a police station shall, when requested to do so by the Registrar, arrange for the document to be served by a police officer.

206P. Restrictions on publication of reports of proceedings

(1) A person shall not, otherwise than pursuant to a direction or order of a court, print or publish by any means a report or account of proceedings under this Part if the printing or publication identifies—

- (a) a party to the proceedings;
- (b) a person who is related to, or associated with, a party to the proceedings or is, or is alleged to be, in any other way concerned in the matter to which the proceedings relate; or
- (c) a witness in the proceedings.

(2) A person who contravenes subsection (1) is guilty of an offence punishable, on conviction—

- (a) in the case of a body corporate—by a fine not exceeding 250 penalty units; or
- (b) in the case of a natural person—by a fine not exceeding 50 penalty units or imprisonment for a period not exceeding 6 months, or both.

(3) Proceedings for an offence against this section shall not be commenced except by, or with the written consent of, the Attorney-General or the Director of Public Prosecutions.

206Q. Appeals

(1) Part XIXA of the *Magistrates Court (Civil Jurisdiction) Act 1982* applies in relation to an appeal from—

- (a) the making, variation or revocation of a restraining order; or
- (b) a refusal of the Court to make such an order;

as if the appeal were an appeal from a judgment or order of a kind specified in subsection 387 (2) of that Act.

(2) An appeal to the Supreme Court does not lie from—

- (a) the making, variation or revocation of an interim restraining order; or
- (b) the refusal of the Court to make such an order.

206R. Application of Crimes Act

Nothing in this Part shall be taken to affect the operation of subsection 547 (1) of the Crimes Act.

PART XI—APPEALS TO THE SUPREME COURT

Division 1—The Appellate Jurisdiction of the Supreme Court

207. Jurisdiction of Supreme Court

(1) The appellate jurisdiction of the Supreme Court with respect to decisions of the Magistrates Court under this Act (other than a decision under Part X) extends to the hearing and determination of the following appeals and to no others, namely:

- (a) appeals to which Division 2 applies; and
- (b) appeals from decisions of the Magistrates Court by way of orders to review made in accordance with Division 3.

(2) Nothing in this Part limits the operation of any other Act that makes provisions with respect to the appellate jurisdiction of the Supreme Court.

Division 2—Appeals

208. Appeals to which this Division applies

(1) Each of the following appeals is an appeal to which this Division applies:

- (a) an appeal, by the person convicted, from a conviction for an offence dealt with by the Magistrates Court under Part VII, Part VIIA or section 255 of this Act or under section 477 of the Crimes Act;
- (b) an appeal, by the person against whom the order is made, from an order made under section 113 or 114 of this Act in proceedings dealt with by the Magistrates Court under Part VII of this Act or under section 477 of the Crimes Act;
- (c) an appeal from a sentence or penalty imposed by the Magistrates Court by a person convicted of an offence dealt with by that Court under section 90A or 255, or Part VII or VIIA, of this Act, or under section 477 of the Crimes Act, whether or not that person appeals against the conviction in respect of which the sentence or penalty was imposed;
- (d) an appeal, by the person charged, from a decision of the Magistrates Court made under —
 - (i) subsection 556A (1) of the Crimes Act;
 - (ii) subsection 556A (3) of that Act;
 - (iii) subsection 556B (1) of that Act; or
 - (iv) paragraph 556C (7) (b) of that Act;
- (e) an appeal, by a person who has given a recognizance under section 556A or 556B of the Crimes Act or by his or her surety, from a decision of the Magistrates Court on an application made under section 556D of that Act to that Court.

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(3) Nothing in subsection (1) shall be taken to affect any power that the Supreme Court has, apart from this Act, to grant bail or to vary the conditions of bail.

209. Institution of appeal

(1) An appeal shall be instituted by the appellant filing a notice of appeal in the office of the Registrar of the Supreme Court within the period of 21 days after the conviction was entered, the order or decision was made or the sentence or penalty imposed, as the case requires, or within such further time as the Supreme Court allows.

(2) As soon as practicable after the appeal has been instituted, the appellant shall—

- (a) lodge a copy of the notice of appeal in the office of the Magistrates Court for inclusion in the records of that Court; and
- (b) serve a copy of the notice of appeal on the informant.

210. Substituted service of notice of appeal

(1) Where it appears to the Supreme Court, on an application made for an order under this section, that personal service of a notice of appeal under section 209 on a person on whom it is required to be served cannot be effected, the Supreme Court may make such order for substituted or other service as the Supreme Court thinks just.

(2) The Supreme Court may, on an application made for an order under this subsection, dispense with service of a notice of appeal if the Court thinks it necessary or expedient to do so.

(3) An order under subsection (2) may be made subject to such conditions (if any) as the Supreme Court thinks fit.

214. Appeals in cases other than civil cases

(1) This section applies to an appeal referred to in paragraph 208 (1) (a), (b), (c), (d), (e) or (g).

(2) In an appeal to which this section applies, the Supreme Court shall have regard to the evidence given in the proceedings out of which the appeal arose, and has power to draw inferences of fact.

(3) In an appeal to which this section applies, the Supreme Court shall—

- (a) if it thinks it necessary or expedient to do so in the interests of justice—
 - (i) order the production of any document or other thing that was an exhibit in, or was otherwise connected with, the proceedings out of which the appeal arose, being a document or thing the production of which appears to it to be necessary for the determination of the appeal;
 - (ii) order any person who was, or would have been if he or she had been called, a compellable witness in those proceedings to attend for examination before the Supreme Court; and
 - (iii) receive the evidence, if tendered, of any witness; and
- (b) receive evidence with the consent of the parties to the appeal.

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(4) Where evidence is tendered in an appeal to which this section applies, the Supreme Court shall, unless it is satisfied that the evidence would not afford any ground for allowing the appeal, receive the evidence if—

- (a) it appears to the Supreme Court that the evidence is likely to be credible and would have been admissible in the proceedings out of the which the appeal arose on an issue relevant to the appeal; and
- (b) the Supreme Court is satisfied that the evidence was not adduced in those proceedings and there is a reasonable explanation for the failure to adduce it.

216. Stay of execution pending appeal in certain cases

(1) Where an appeal to which this Division applies has been duly instituted, the enforcement or execution of the conviction, order, sentence or penalty appealed from shall be stayed until the appeal is concluded or is abandoned or discontinued and, if the appellant is in custody, he or she may, if not detained for any other cause, be granted bail in accordance with the provisions of the *Bail Act 1992*.

(2) If the appellant in custody in respect of whom the enforcement or execution of a conviction is stayed—

- (a) is not granted bail under the *Bail Act 1992*; or
- (b) is not detained for any other cause;

the court or a magistrate may, by warrant, commit the person to a remand centre.

218. Orders by Supreme Court on appeals

(1) On an appeal to which this Division applies, the Supreme Court may—

- (a) affirm, reverse or vary the conviction, order, sentence, penalty or decision appealed from;
- (b) give such judgment, or make such order, as, in all the circumstances, it thinks fit, or refuse to make an order; or
- (c) set aside the conviction, order, sentence, penalty or decision appealed from, in whole or in part, and remit the proceedings to the Magistrates Court for further hearing and determination, subject to such directions as the Supreme Court thinks fit.

(2) A judgment or order of the Supreme Court under paragraph (1) (a) or (b) shall have effect as if it were a decision of the Magistrates Court and may be enforced by the Magistrates Court accordingly.

219. Barring of right of appeal under this Division if order to review is granted

(1) Where an order *nisi* to review a decision of the Magistrates Court has been granted under Division 3 to a person entitled to appeal against that decision to the Supreme Court under this Division, that person ceases to be entitled to appeal to the Supreme Court under this Division.

(2) Where an order *nisi* to review a decision of the Magistrates Court is granted under Division 3 to a person after the person has instituted an appeal to the Supreme Court under this Division against that decision, the appeal shall be deemed to have been withdrawn.

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Division 3—Orders to Review

219B. Appeals by way of orders to review

(1) Each of the following is a decision of the Magistrates Court from which an appeal by way of order to review may be made in accordance with this Division:

- (a) an order of the Magistrates Court dismissing an information dealt with by that Court under Part VII or Part VIIA of this Act or under section 477 of the Crimes Act;
- (b) a conviction by the Magistrates Court for an offence dealt with by that Court under Part VII or Part VIIA of this Act or under section 477 of the Crimes Act;
- (c) an order made under section 113 or 114 of this Act in proceedings dealt with by the Magistrates Court under Part VII of this Act or under section 477 of the Crimes Act;
- (e) a decision of the Magistrates Court not to commit a person to the Supreme Court for sentence pursuant to section 92A;
- (f) a decision of the Magistrates Court to dispose of a case summarily pursuant to subsection 477 (6) or (7) of the Crimes Act;
- (g) a sentence or penalty imposed by the Magistrates Court for an offence dealt with by that Court under section 90A, Part VII or VIIA or section 255 of this Act or section 477 of the Crimes Act.

(2) For the purposes of paragraph (1) (g), a reference to a sentence or penalty shall be read as including a reference to a decision order made under subsection 556A (1) or (3), 556B (1), 556C (4) or (7) or 556D (1) or (3) of the Crimes Act, whether or not the person is convicted of the offence.

219C. Grant of order *nisi* to review

(1) Where—

- (a) within 21 days of the making of an order of a kind referred to in paragraph 219B (1) (a) or within such further time as the Supreme Court allows, an application is made by the informant in the proceedings before the Magistrates Court;
- (aa) within 21 days of the making of a decision of a kind referred to in paragraph 219B (1) (e), (f) or (g) an application is made by the informant in the proceedings before the Magistrates Court; or
- (b) within 21 days after—
 - (i) the entering of a conviction of a kind referred to in paragraph 219B (1) (b);
or
 - (ii) the making of an order of a kind referred to in paragraph 219B (1) (c);or within such further time as the Supreme Court allows, an application is made by the defendant in the proceedings before the Magistrates Court,

the Supreme Court may grant an order *nisi* calling on the other party to the proceedings to show cause, on a date specified in the order *nisi*, why the decision of the Magistrates Court should not be reviewed on any one or more of the following grounds, namely—

- (c) that there was a *prima facie* case of error or mistake on the part of the Magistrates Court;

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- (d) that the Magistrates Court did not have jurisdiction or authority to make the decision;
- (e) that the decision of the Magistrates Court should not in law have been made;
- (f) that, in the circumstances of the case, a decision of a kind referred to in paragraph 219B (1) (e) or (f) should not have been made; or
- (g) that a sentence or penalty of a kind referred to in paragraph 219B (1) (g) was manifestly inadequate or otherwise in error.

(2) On an application for an order to review a decision of the Magistrates Court or on an application made after the making of such an order, the Supreme Court may, if it thinks fit, make an order requiring the Magistrate by whom the Magistrates Court was constituted to furnish to the Supreme Court a report setting forth the reasons for the decision of the Magistrates Court and any facts or matters which in the view of the Magistrate were relevant to the decision of the Magistrates Court.

219D. Security for costs and stay of execution

- (1) The Supreme Court, in granting an order *nisi* under subsection 219C (1)—
- (a) may order that the person on whose application the order is made give, within such time as is specified in the order or within such further time as the Supreme Court allows, security in such amount as the Supreme Court thinks fit for the costs of the appeal; and
 - (b) may order that the enforcement or execution of the decision of the Magistrates Court be stayed pending the hearing of the appeal; and
 - (c) may, if the appellant is in custody and is not detained for any other cause, grant the appellant bail in accordance with the provisions of the *Bail Act 1992*; and
 - (d) where the order *nisi* is made in respect of a decision of a kind referred to in paragraph 219B (1) (e) or (f) where, after making that decision, the Magistrates Court has, pursuant to section 477 of the Crimes Act, heard and determined a case and sentenced or otherwise dealt with the defendant according to law—may order that the enforcement of any further decision made by the Magistrates Court in relation to the case be stayed.

(1A) Where the Supreme Court grants an order *nisi* in relation to an application by the informant in respect of a decision of the Magistrates Court of a kind referred to in paragraph 219B (1) (e) or (f), the proceedings in the Magistrates Court shall be stayed until the appeal is concluded, abandoned or discontinued.

(2) If security for the costs of the appeal is not given in accordance with the order of the Supreme Court, the Supreme Court may, on an application made by the person called upon to show cause by the order *nisi*, revoke the order *nisi*.

219E. Non-appearance of applicant

If the person on whose application the order *nisi* has been granted under subsection 219C (1) fails to appear on the date specified in the order or on any date to which the hearing is adjourned, the Supreme Court may discharge the order.

219F. Powers of Supreme Court

(1) On the return of an order *nisi* to review a decision of the Magistrates Court, the Supreme Court, on consideration of the evidence before the Magistrates Court, and any further evidence called by leave of the Supreme Court—

- (a) may, if satisfied that the decision of the Magistrates Court should be confirmed, discharge the order *nisi*; or
- (b) may set aside or quash, in whole or in part, or otherwise vary or amend, the decision of the Magistrates Court.

(1A) Where, pursuant to paragraph (1) (b), the Supreme Court sets aside, quashes or otherwise varies or amends a decision of the Magistrates Court, the Supreme Court may—

- (a) in the case of a decision specified in paragraph 219B (1) (e)—order that the Magistrates Court commit the person to whom the decision relates to the Supreme Court for sentence pursuant to section 92A;
- (b) in the case of a decision specified in paragraph 219B (1) (f)—order that the Magistrates Court continue the preliminary examination of the person to whom the decision relates in accordance with Part VI;
- (ba) in the case of a decision specified in paragraph 219B (1) (g)—
 - (i) impose such sentence or penalty as the Supreme Court thinks fit; or
 - (ii) by order, exercise any power which the Magistrates Court might have exercised; or
- (c) in any other case—
 - (i) remit the matter to the Magistrates Court for rehearing or for further hearing with or without directions of law; or
 - (ii) make such further order, including an order granting any relief that the Supreme Court is empowered to grant on certiorari, mandamus, prohibition or habeas corpus, as the Supreme Court thinks necessary to determine the matter finally.

(2) For the purpose of—

- (a) correcting any defect or error in the proceedings before the Magistrates Court; or
- (b) enabling the matter to be determined upon the merits,

the Supreme Court may make such amendments of the proceedings in the Magistrates Court as it thinks appropriate.

(2A) For the purposes of paragraphs (1) (b) and (1A) (ba), the Supreme Court shall not—

- (a) vary a sentence or penalty such that the sentence or penalty as varied could not have been imposed by the Magistrates Court; or
- (b) impose a sentence or penalty which could not have been imposed by the Magistrates Court.

(3) The Supreme Court may, notwithstanding the ground or any of the grounds on which the order *nisi* to review a decision of the Magistrates Court was granted has been established, discharge the order *nisi* if the Supreme Court is of the opinion that no substantial miscarriage of justice has occurred.

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(4) On the discharge of an order *nisi* to review a decision of the Magistrates Court, that decision may be enforced, executed or given effect to as if the order *nisi* had not been granted.

(4A) Where, in respect of a sentence or penalty referred to in paragraph 219B (1) (g), the Supreme Court—

- (a) varies a sentence or penalty under paragraph (1) (b); or
- (b) imposes a sentence or penalty or makes an order under paragraph (1A) (b);

the sentence or penalty as varied or imposed or the order made shall have effect as if it were a decision of the Magistrates Court and may be enforced by the Magistrates Court accordingly.

(5) On an appeal under this Division from an order, decision, sentence or penalty referred to in paragraph 219B (1) (a), (e), (f) or (g), the Supreme Court shall order that the costs of and incidental to the appeal shall be paid by the appellant.

(6) Subsection (5) applies whether the Supreme Court orders that the order *nisi* be discharged or exercises any of the other powers conferred on it by this section.

Division 4—General Provisions

222. Control of Supreme Court over summary convictions

(1) A person brought before the Supreme Court or the Judge, on habeas corpus, shall not be discharged from custody by reason of any defect or error in a warrant of commitment of the Magistrates Court, unless the Court, or the magistrate constituting the Court, and the prosecutor or other party interested in supporting the warrant have received reasonable and sufficient notice of the intention to apply for the discharge.

(2) The notice shall require them to transmit or cause to be transmitted to the Supreme Court or the Judge the conviction, judgment or order, if any, on which the commitment was founded, together with the depositions and information or claim, if any, intended to be relied on in support of the conviction, judgment or order, or certified copies thereof.

223. Amendment

If any such conviction, judgment or order, information or claim and depositions or certified copies, are so transmitted, and the offence charged or intended to be charged thereby or the cause of action mentioned therein appears to have been established, and the judgment of the Court thereupon to have been in substance warranted, and the defects or errors appear to be defects of form only, or mistakes not affecting the substantial merits of the proceedings before the Magistrates Court, the Supreme Court or the Judge shall allow the warrant of commitment, and may allow the conviction, judgment or order also, to be forthwith amended in all necessary particulars in accordance with the facts, and the person committed shall thereupon be remanded to his or her former custody.

224. In cases of certiorari

The like proceedings as mentioned in sections 223 and 224 shall be had, and the like amendments may and shall be allowed to be made, in respect of every order brought before the Supreme Court or the Judge by writ of certiorari, and after amendment in any such case the order may be enforced in the proper manner, and shall in all respects and for all purposes be regarded and dealt with as if it had been drawn up originally as amended.

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225. Notice dispensed with

(1) The notice prescribed by section 222 may be given either before or after the issue of the writ of habeas corpus, or certiorari.

(2) When at the time of applying for the writ—

- (a) copies of the conviction or order and depositions are produced; or
- (b) in cases of committal for trial or for sentence all informations, depositions, and statements have been transmitted, as provided in section 106, to the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions;

the Supreme Court or the Judge may dispense with the notice.

226. Power of Court or Judge to admit to bail

(1) Where any person committed to gaol by virtue of a summary conviction or order is brought up by writ of *habeas corpus*, and the Supreme Court or the Judge postpones the final decision of the case, the Supreme Court or the Judge may admit the person to bail in accordance with the provisions of the *Bail Act 1992*.

(2) If the judgment of the Supreme Court or the Judge is against any person so brought up, the Supreme Court or the Judge may remand him or her to his or her former custody, there to serve the rest of the term for which he or she was committed.

227. Respecting the amendment of convictions etc.

(1) Whenever the facts or evidence appearing by the depositions in substance support the decision of the Magistrates Court, if the decision does not extend beyond the information, and if the facts or evidence would have justified the Court in making any necessary allegation or finding omitted in the decision, or in the formal conviction or order, or any warrant issued in pursuance of the adjudication, the powers of amendment conferred by section 223 may be exercised, and where in a conviction there is some excess which may (consistently with the merits of the case) be corrected, the conviction shall be amended accordingly and shall stand good for the remainder.

(2) All amendments shall be subject to such order as to costs and otherwise as the Supreme Court or the Judge thinks fit.

228. Want of summons or information

Where the person convicted, or against whom an order has been made, or any person whose goods have been condemned or directed to be sold as forfeited, was present at the hearing of the case, the conviction or order shall be sustained, although there may not have been any information or summons or amendment thereof unless he or she objected at the hearing that there was no information or summons or amendment thereof.

229. Distribution of penalty

A conviction or an order shall not be defeated for the want of any distribution, or for a wrong distribution of the penalty or forfeiture.

230. Provisions applicable in relation to security given for costs of appeal

(1) Where security is given, in accordance with an order made under section 219D, by deposit of money with the Registrar, the Registrar shall—

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- (a) if, upon the determination of the appeal, the costs of and incidental to the appeal are not ordered to be paid by the appellant to the respondent—repay the amount deposited to the person by whom it was deposited; or
 - (b) if, upon determination of the appeal, the costs of and incidental to the appeal are ordered to be paid by the appellant to the respondent, the amount payable has been ascertained and the whole or any portion of that amount has not been paid to the respondent—apply the amount deposited in, or towards, satisfaction of the amount of costs unpaid and repay the balance (if any) to the person by whom it was deposited.
- (2) Where security is given by bond, the Registrar shall, if the costs of and incidental to the appeal are ordered to be paid by the appellant to the respondent, deliver the bond to the respondent who may enforce the bond according to its tenor.

PART XII—PROTECTION OF MAGISTRATES IN THE EXECUTION OF THEIR OFFICE

231. Magistrate sued for act not within jurisdiction

(1) Any person injured by an act done by a Magistrate in a matter in which by law he or she has no jurisdiction or in which he or she has exceeded his or her jurisdiction, or by an act done under any conviction or order made or warrant or writ issued by a Magistrate in any such matter, may maintain in the Supreme Court an action against the Magistrate without alleging in his or her statement of claim or plaint that the act complained of was done maliciously and without reasonable and probable cause.

(2) No such action shall be maintainable for anything done under any such conviction or order until after the conviction or order has been quashed or set aside upon appeal.

(3) No such action shall be maintainable for anything done under any such warrant which was issued by the Magistrate to procure the appearance of the person charged, and which has been followed by a conviction or order in the same matter, until after the conviction or order has been so quashed or set aside.

(4) If the last-mentioned warrant has not been followed by a conviction or order, or if it is a warrant upon an information of an alleged indictable offence, and if a summons was issued previously to the warrant being issued, and the summons was served upon the person charged either personally or by leaving it for him or her with some person at his or her last known or usual place of abode or business, and he or she did not appear according to the exigency of the summons, in that case no action shall be maintainable against the Magistrate for anything done under the warrant.

232. No action against Magistrate after order *nisi* to quash conviction has been granted

Where an order to show cause why a conviction or order should not be quashed has been granted an action shall not be maintainable against the Magistrate constituting the Court by which the conviction or order in question was made in respect of any proceeding taken under, or matter arising out of, the conviction or order.

233. Warrant or writ by Magistrate on order of Court

Where a conviction or order is made by the Court and a warrant of commitment or writ of execution is granted thereon by a Magistrate *bona fide* and without collusion, an action in respect of any defect in the conviction or order or any want of jurisdiction in the Court making the conviction or order shall be maintainable only against the Magistrate constituting the Court which made the conviction or order.

234. No action for acts done under order of Supreme Court

Where a Magistrate does an act in obedience to an order of the Supreme Court or the Judge, an action shall not be maintainable against him or her for obeying the order and doing the act thereby required.

235. No action where proceedings confirmed on appeal

Where a warrant of commitment or writ of execution is granted by a Magistrate upon a conviction or order which, either before or after the granting of the warrant or writ, is confirmed upon appeal, an action shall not be maintainable against the Magistrate who granted the warrant or writ for anything done under it by reason of any defect in the conviction or order.

236. Actions in cases prohibited

If any action, which by this Act is declared to be not maintainable, is brought against a Magistrate, the Judge, upon application of the defendant, and upon affidavit of the facts, may set aside or stay the proceedings in the action with or without costs.

239. Payment of money into court

(1) After an action under this Part has been commenced but before issue is joined, the defendant may pay into court such sum of money as he or she thinks fit.

(2) If the court at the trial is of opinion that the plaintiff is not entitled to damages beyond the sum so paid into court, judgment shall be given for the defendant; and the sum of money so paid into court, or so much thereof as is sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of court to him or her, and the residue (if any) shall be paid to the plaintiff.

(3) If when money is so paid into court the plaintiff elects to accept the same in satisfaction of his or her damages in the action, he or she may apply to the Judge for an order for the payment of the money out of court to him or her, with or without costs, and the Judge may make the order, and thereupon the action shall be determined and the order shall be a bar to any other action for the same cause.

240. No action against Magistrate for judicial acts in Magistrates Court

An action shall not be brought in the Magistrates Court against a Magistrate in respect of anything done by him or her in the execution of his or her office.

241. Magistrate sued for acts within his or her jurisdiction only liable in case of malice and absence of reasonable and probable cause

In an action against a Magistrate for any act done by him or her in the execution of his or her duty as a Magistrate with respect to any matter within his or her jurisdiction as a Magistrate, it must be expressly alleged in the statement of claim or plaint that the act was done

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maliciously and without reasonable and probable cause, and if the allegations are denied, and at the trial of the action the plaintiff fails to prove them, judgment shall be given for the defendant.

242. Verdict for defendant

If the plaintiff in an action against a Magistrate does not prove the cause of action at the trial, judgment shall be given for the defendant.

243. Damages

Where—

- (a) the plaintiff in an action against a Magistrate is entitled to recover, and seeks to recover a penalty or other sum paid or raised as a result of a conviction, judgment or order or to recover damages for imprisonment; and
- (b) it is proved that the plaintiff was guilty of the offence or liable to pay the sum or, in the case of imprisonment, did not undergo any greater punishment than could have been imposed for the offence of which he or she was convicted;

the plaintiff is not entitled to recover the penalty or other sum paid or raised or, in the case of imprisonment, damages greater than 1 cent, or any costs in the action.

PART XIII—COSTS

244. Award of costs

The power of the Court to award costs and the award of costs by the Court shall be subject to the following provisions:

- (a) Where the Court makes a conviction or order in favour of the informant, it may in its discretion award and order that the defendant shall pay to the informant such costs as it thinks just and reasonable;
- (b) Where the Court dismisses the information, or makes an order in favour of the defendant, it may in its discretion award and order that the informant shall pay to the defendant such costs as it thinks just and reasonable;
- (c) The sums so allowed for costs shall in all cases be specified in the conviction or order or order of dismissal;
- (d) Any sum awarded or ordered to be paid by an informant or to a defendant for costs, may be recovered under Part XVIII A of the *Magistrates Court (Civil Jurisdiction) Act 1982*;
- (e) Where any case is adjourned the Court may in its discretion order that the costs of and occasioned by the adjournment be paid by any party to any other party;
- (f) The costs of persons present to give evidence or produce documents, whether they have been examined or not, or have or have not produced documents shall, unless otherwise ordered by the Court, be allowed to them though they have not been summoned; but their allowance for attendance shall in no case exceed the highest rate of allowance prescribed; and
- (g) The amount of costs to be paid by one party to another whether for the attendance of those persons or otherwise shall in all cases be fixed by the Court.

247. Witnesses expenses

The amount of costs that may be awarded under section 244 in respect of the attendance of a person who attends for the purpose of giving evidence before the Court is such amount as the Court directs in accordance with the scale and conditions applicable in relation to persons who attend as witnesses before the Supreme Court.

PART XIII A—FEES AND CHARGES

248A. Determination of fees and charges

(1) The Minister may, by notice in writing published in the *Gazette*, determine fees and charges for any of the following purposes:

- (a) proceedings in the Court, and matters incidental to such proceedings, including—
 - (i) the service and execution of the process of the Court; and
 - (ii) the taxation of costs by officers of the Court;
- (b) facilities and services provided by the Court, including the service and execution of the process of any court of the Commonwealth, a State or another Territory, or of any court of a foreign country;
- (c) the general purposes of this Act, the *Magistrates Court (Civil Jurisdiction) Act 1982* and rules and regulations made under this Act and that Act.

(2) A determination under subsection (1) may provide for any of the following matters:

- (a) the exemption of persons from liability to pay filing fees or fees for the service and execution of process, in whole or in part;
- (b) exemptions from liability for the payment of filing fees or fees for the service and execution of process, in whole or in part, in particular circumstances;
- (c) the remission or refund of fees or charges by the Registrar, in whole or in part, in particular circumstances;
- (d) the deferral of liability by the Registrar for the payment of fees or charges, in whole or in part, in particular circumstances.

(3) A determination under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

248B. Fees and charges—payment

(1) A fee or charge determined under subsection 248A (1) is payable, in advance, in accordance with the determination, subject to this section.

(2) A fee or charge determined under subsection 248A (1) is payable on notification from the Registrar if it is calculated by reference to expenses actually incurred in performing the function, or in providing the facility or service, for which the fee or charge is payable.

(3) If a fee or charge determined under subsection 248A (1) and payable in advance is not paid when due, there is no obligation on the Registrar or the Court to perform the function, or provide the facility or service, for which the fee or charge is payable.

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248C. Fees and charges—remission, refund, deferral, waiver, exemption

- (1) A fee or charge determined under subsection 248A (1) may be remitted or refunded, or liability for its payment deferred, in accordance with the determination.
- (2) A fee or charge determined under subsection 248A (1) is not payable—
- (a) if the person otherwise liable to pay the fee or charge is—
 - (i) exempt from paying the fee or charge under subsection 93 (1) of the *Legal Aid Act 1977*; or
 - (ii) legally assisted under a scheme or service provided or approved by the Attorney-General;
 - (b) if the Registrar waives payment of the fee or charge in whole or in part because he or she considers that it would impose hardship on the person liable to pay the fee or charge—to the extent of the waiver;
 - (c) for filing a document, or for the service or execution of process, in relation to proceedings—
 - (i) under Part X;
 - (ii) on an application arising out of a conviction or order in respect of an offence;
 - (iii) under the *Children's Services Act 1986*;
 - (iv) under the *Domestic Violence Act 1986*;
 - (v) under the *Guardianship and Management of Property Act 1991*;
 - (vi) under the *Maintenance Act 1968*;
 - (vii) under the *Mental Health (Treatment and Care) Act 1994*; or
 - (viii) under the *Workers' Compensation Act 1951*;
 - (d) for the laying of an information—
 - (i) by the Director of Public Prosecutions acting in the performance of an official function;
 - (ii) by a police officer acting in the performance of an official function; or
 - (iii) for an offence under subsection 255 (1); or
 - (e) for inspection under section 419 of the *Magistrates Court (Civil Jurisdiction) Act 1982* of a record relating to a default judgment by—
 - (i) a party to the proceedings in which the judgment was given or entered; or
 - (ii) the legal practitioner representing such a party.

248D. Fees and charges (civil proceedings)—recovery where otherwise not payable

- (1) This section applies in civil proceedings in the Court between 2 parties (in this section called “the first party” and “the second party”), where—
- (a) a filing fee, or a fee for the service and execution of process, otherwise payable by the first party is—
 - (i) not payable (in whole or in part) due to the exemption of the first party as referred to in paragraph 248A (2) (a) or (b) or 248C (2) (a);

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- (ii) remitted or refunded (in whole or in part) under subsection 248C (1); or
 - (iii) the subject of waiver (in whole or in part) under paragraph 248C (2) (b);
 - (b) judgment is given or entered, or an order is made, in favour of the first party; and
 - (c) the first party's costs are payable by the second party.
- (2) Where this section applies, the second party shall pay to the Registrar an amount equal to the amount in relation to which the first party was exempted, or the amount of the remission, refund or waiver, as the case requires.
- (3) This section does not apply where the Court is sitting as the Small Claims Court.

248E. Fees and charges (criminal proceedings)—recovery where otherwise not payable

- (1) This section applies in criminal proceedings in the Court, where—
- (a) the fee that would otherwise be payable for the laying of an information is not payable, in whole or in part, due to the operation of paragraph 248C (2) (a), (b) or (d); and
 - (b) the defendant is convicted of the offence alleged in the information and ordered to pay a fine.
- (2) Where this section applies, the defendant shall pay to the Registrar, in addition to the amount of the fine, an amount equal to—
- (a) if payment of the fee is waived in part under paragraph 248C (2) (b)—the amount of the waiver; or
 - (b) in any other case—the fee for the laying of the information which would otherwise have been payable by the informant.

248F. Fees and charges—review of decisions

- (1) The following decisions of the Registrar are reviewable under this section:
- (a) a decision referred to in paragraph 248A (2) (c) in relation to the refusal to remit or refund a fee or charge (in whole or in part);
 - (b) a decision referred to in paragraph 248A (2) (d) in relation to the refusal to defer liability for the payment of a fee or charge (in whole or in part);
 - (c) a decision under paragraph 248C (2) (b) in relation to the refusal to waive payment of a fee or charge (in whole or in part).
- (2) After making a reviewable decision, the Registrar shall give a written notice of the decision to the eligible person including a statement to the effect that—
- (a) the person may apply to the Registrar for a statement of reasons for the decision; and
 - (b) the person may apply to a Magistrate for review of the decision within the review period.
- (3) On written application by the eligible person within 28 days after the person's receipt of a notice under subsection (2), the Registrar shall give the person a written statement of reasons for the relevant decision.
- (4) On written application by the eligible person within the review period, a Magistrate may review a reviewable decision.

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- (5) On review under subsection (4), the Magistrate may make such order as he or she considers appropriate.
- (6) No fee or charge is payable in relation to an application for review under subsection (4).
- (7) In this section—
- “eligible person”, in relation to a reviewable decision, means the person who claims to be entitled to the relevant remission, refund, deferral or waiver;
- “review period”, in relation to a reviewable decision, means—
- (a) the period of 28 days after receipt by the eligible person of notice of the decision under subsection (2); or
 - (b) if the eligible person applies under subsection (3) for a statement of reasons for the decision—the period of 28 days after he or she receives the statement of reasons.

PART XIV—SECURITIES

249. Securities taken under Act

- (1) A person shall give security under this Act, whether as principal or surety, either by the deposit of money with the Registrar, or by an oral or written acknowledgment of the undertaking or condition by which, and of the sum for which, he or she is bound, in such manner and form as are prescribed.
- (2) Record of the security having been made may be provided by entry thereof in the register under this Act or proceedings of the Court or as is prescribed.

250. Recovery of sum due under security

Any sum becoming due in pursuance of a security under this Act or the *Bail Act 1992* shall be recoverable on a claim by a member of the Police Force or by the Registrar or by some other person thereto authorised by the Court.

252. Sums paid by surety may be recovered from principal

Any sum paid by a surety on behalf of his or her principal in respect of a security under this Act or the *Bail Act 1992*, together with all costs, charges and expenses incurred by the surety in respect of the security, shall be deemed to be a debt due to him or her from the principal, and may be recovered on a claim by the surety.

253. Payment enforced by security

Where security is given under this Act or the *Bail Act 1992* for payment of a sum of money, the payment shall be enforced by means of the security in substitution for other means of enforcing the payment.

254. Enforcement of recognizance

- (1) Where—

Magistrates Court Act 1930

- (a) a witness or a person sought to be made a witness has entered into a recognizance for the purposes of this Act; and
- (b) the Court is satisfied that the witness or person sought to be made a witness has failed to comply with a condition of the recognizance;

the Court may declare the recognizance to be forfeited and may make an order that the witness or person sought to be made a witness pay the whole or a part of the sum in which he or she is bound under the recognizance.

(2) Where—

- (a) the Court has declared a recognizance to be forfeited under subsection (1); and
- (b) a person is bound by the recognizance as surety for the performance of that condition,

the Court may make an order that the person referred to in paragraph (b) pay the whole or a part of the sum in which he or she is bound under the recognizance.

(3) An order made under subsection (1) or (2) may be enforced as if it were a judgment entered on a claim by the Registrar.

(4) Subject to subsection (5), the Court may, on application by a person against whom an order has been made under subsection (1) or (2) or under subsection 36 (1) of the *Bail Act 1992*—

- (a) vary the order by reducing the amount payable under the order; or
- (b) revoke the order and, if the order was made under subsection (1), revoke the declaration that the recognizance is forfeited.

(5) Where—

- (a) the Court has made an order under subsection (1) or (2);
- (b) a writ of execution has been issued; and
- (c) property has been sold under the writ;

the Court shall not make an order under subsection (4).

(6) It is not necessary that, for the purpose of hearing an application under subsection (4), the Court be constituted by the Magistrate who made the order to which the application relates.

254A. Directions as to procedure

Where the procedure for taking any step in proceedings is not prescribed in this Act or the law under which the step is to be taken, the Court may give directions with respect to the procedure to be followed as regards that step.

PART XV—MISCELLANEOUS

255. Contempt in the face of the Court

(1) A person shall not—

- (a) wilfully threaten, disturb or insult the Court;
- (b) wilfully interrupt, interfere with or obstruct the proceedings of the Court; or

Magistrates Court Act 1930

- (c) commit any other act that is a wilful contempt of the Court.

Penalty: 50 penalty units or imprisonment for 6 months or both.

- (2) Subsection (1) only applies to acts in the face, or within the hearing, of the Court.
- (3) Without limiting the operation of any other provision of this Act, where a person commits an offence against subsection (1), a Magistrate may proceed to charge the person and hear and dispose of the matter immediately and for that purpose receive evidence including unsworn evidence.
- (4) Where—
- (a) a person has been charged under subsection (3) but the matter has not been disposed of;
 - (b) a Magistrate has reasonable grounds to believe that the person has committed an offence against subsection (1); and
 - (c) the Magistrate considers that it is reasonable in all the circumstances—
 - (i) to order that the person be taken into custody to appear before the Court;
 - (ii) to order that the person be remanded in custody from time to time for periods not exceeding 15 clear days at any one time;
 - (iii) to release the person on bail; or
 - (iv) to make an order in respect of the person under subsection (8) before the alleged offence has been heard;

the Magistrate may make such an order.

- (5) An order under subsection (4) need not be in writing but such an order shall be reduced to writing, and a copy served on the alleged offender, as soon as practicable.
- (6) Failure to comply with subsection (5) does not invalidate an order.
- (7) Where a person is convicted of an offence against subsection (1), the Court, in addition to any penalty provided for under that subsection that it imposes, may make an order in relation to the person under subsection (8).
- (8) An order under this subsection may provide for—
- (a) the exclusion of the person from any building in which the Court sits or the environs of such a building;
 - (b) prohibiting the person from approaching a Magistrate, an officer of the Court or a witness; or
 - (c) the imposition of any reasonable condition on the person.
- (9) In this section—
- “Court” includes—
- (a) a Magistrate when exercising the jurisdiction of the Court; or
 - (b) the Registrar in the performance of a judicial function.

255AA. Refusal or failure to give evidence—offence

- (1) This section applies to a person who—
- (a) appears as a witness in proceedings in the Court; or
 - (b) attends, or is brought, before the Registrar for examination under section 298 of the *Magistrates Court (Civil Jurisdiction) Act 1982*.
- (2) A person shall not, without reasonable excuse—
- (a) refuse or fail to take an oath;
 - (b) refuse or fail to answer a question that he or she is required to answer by the Court or Registrar; or
 - (c) refuse or fail to produce a document required by the Court or Registrar, or by a summons or warrant, to be produced.
- (3) A person shall not give false information.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

255AB. Refusal or failure to give evidence—committal

- (1) Where—
- (a) a person appearing as a witness in a proceeding in the Court contravenes section 255AA; or
 - (b) on hearing a matter referred to it under section 306 of the *Magistrates Court (Civil Jurisdiction) Act 1982*, the Court is satisfied that the person who is the subject of the referral has contravened section 255AA;

the Court may, subject to subsection (4)—

- (c) adjourn the proceedings or hearing for a period not exceeding 8 days; and
 - (d) issue a warrant for the committal of that person to a gaol, lock-up or remand centre until—
 - (i) the date to which the proceedings or hearing is adjourned; or
 - (ii) the person consents to comply with section 255AA;whichever occurs first.
- (2) Where—
- (a) the Court has adjourned proceedings or a hearing, and committed a person, pursuant to subsection (1) or this subsection;
 - (b) the person who was committed is brought before the Court; and
 - (c) the person does not consent to comply with section 255AA;

the Court may, subject to subsection (4), exercise the powers referred to in paragraphs (1) (c) and (d) in respect of that person.

- (3) The periods for which a person is committed under this section shall not, in the aggregate, exceed 1 month.
- (4) The Court shall not commit a person pursuant to subsection (1) or (2) if the person is punished for an offence against section 255AA.

255A. Commitment to remand centre

- (1) Where—
- (a) a warrant has been issued for the commitment of a person to prison under section 145, 150, 151, 206L or 206P of this Act or subsection 547 (2) of the *Crimes Act 1900*; and
 - (b) a warrant under section 5 of the *Removal of Prisoners Act 1968* is not in force in respect of that person on the day on which the person is taken into custody by virtue of the warrant referred to in paragraph (a),

the Court or a magistrate may, by warrant, commit the person to a remand centre.

- (2) Where a warrant is issued under subsection (1), the warrant referred to in paragraph (1) (a) ceases, by virtue of this section, to have any effect.

255B. Registrar to give directions for preparation of transcript

(1) Where an application has been made for a copy of a transcript of depositions of which a record was made in accordance with subsection 54A (2), the Registrar shall give such directions as he or she considers necessary for ensuring that a transcript of the record is prepared and, for the purpose of enabling the transcript to be prepared, the record shall be produced out of the custody of the Registrar.

(2) Where a transcript of a record is prepared in accordance with directions given under subsection (1), the person who prepared the transcript, or under whose supervision the transcript was prepared, shall certify on the transcript, by writing under his or her hand, that the transcript is a true transcript of a record produced out of the custody of the Registrar.

255C. Applications for transcripts

- (1) Subject to this section, where a record of any proceedings is constituted by:
- (a) a sound-recording made in accordance with subsection 54A (2);
 - (b) a shorthand or similar record made in accordance with subsection 54A (2);
 - (c) writing taken down in accordance with subsection 54A (3); or
 - (d) a written statement or statements in accordance with section 90AA or subsection 110 (2),

a person may make application to the Registrar for a copy or a transcript, as the case may be, of all or part of that record.

(2) The Registrar shall give the applicant a copy of the record or a transcript or a copy of the transcript of the record—

- (a) if the applicant is a party to the proceedings; or
- (b) if the applicant is not a party to the proceedings—if the Registrar or a Magistrate is satisfied that he or she has good reason for applying.

(4) Where a person applies for a transcript that has not been prepared, the Registrar may require the applicant to deposit with him or her in advance an amount which the Registrar considers will not exceed the amount of the fee determined under subsection 248A (1) for the preparation of the transcript.

Magistrates Court Act 1930

(5) Subject to subsections (6) and (7), where the Registrar receives an application in accordance with this section—

- (a) he or she shall, in the case of an application relating to depositions; and
- (b) he or she may, in any other case;

furnish to the applicant a copy of the record or a copy of a transcript of the record relating to those depositions or other matter, as the case may be.

(6) The Registrar shall not furnish a copy of the record or a copy of a transcript under paragraph (5) (a) unless there is written on the copy a certificate under the hand of the Registrar stating that the copy is a true copy of the record or a true copy of a transcript of the record, as the case may be, produced out of the custody of the Registrar.

(7) Nothing in this section requires the Registrar to furnish a copy of a transcript of any proceedings if—

- (a) the proceedings were recorded by means of a sound-recording made in accordance with subsection 54A (2);
- (b) the application for the copy was made after the expiration of 7 years after the date of completion of the proceedings to which the record relates; and
- (c) the Registrar does not have the record or a transcript of that record in his or her custody.

(8) If an amount deposited by a person under subsection (4) exceeds the fee determined under subsection 248A (1) for the preparation of the transcript, there is payable to the person an amount equal to the amount of the excess.

256. Forms

(1) Subject to subsection (1A), the forms—

- (a) in the First Schedule; or
- (b) approved under subsection (3);

or forms to the like effect, may be used for the purposes to which they are respectively applicable, and instruments in those forms shall be deemed sufficient in law; but those forms, or any of them, may be varied for the purpose of adapting them to circumstances.

(1A) Subsection (1) does not apply to or in relation to the Notice to Defendant form, the Notice of Intention to Defend form or the Plea of Guilty form.

(2) No conviction, order or judgment shall be vacated, quashed or set aside for want of form, or be impeached or affected by reason of any defect, mistake or omission therein, if the proceeding or matter to which the form relates is sufficient in substance and effect.

(3) The Minister may, by notice published in the *Gazette*, approve a form for the purposes of this Act.

(4) The notice referred to in subsection (3)—

- (a) shall include the text of the approved form; and

Magistrates Court Act 1930

- (b) may include a declaration by the Minister that that form supersedes a particular numbered form or forms in the First Schedule and the numbered form or forms shall be taken to be superseded accordingly.
- (5) Where a form in the First Schedule is superseded, it shall cease to have effect as if it had been repealed.
- (6) Where a form in the First Schedule is superseded by an approved form, the revocation of the approved form does not revive the form in the First Schedule.
- (7) A notice referred to in subsection (3) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

258. Rules and Regulations

(1) The Executive may make rules or regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act, and in particular prescribing matters providing for and in relation to—

- (a) the practice and procedure before Magistrates and in the Court;
- (c) the giving of security under this Act;
- (d) the forms to be used under this Act including the forms of any recognizance mentioned in this Act, and including the variation of any of the forms in the First Schedule to this Act on the substitution of other forms therefor;
- (e) the fees, costs and charges in respect of proceedings under any other law for the time being in force so far as the same relates to any matter or proceeding as to which the Court or any Magistrate has jurisdiction;
- (g) the regulating of the form of account to be rendered by Registrars of fines, fees and other sums received by them, and including the variation of the form in the Third Schedule to this Act; and
- (h) the service of documents, and the taking of evidence, in the Territory, in pursuance of any Request from the Consular or other proper authority of a foreign country under the terms of any Convention relating to Legal Proceedings in Civil and Commercial Matters to which the Commonwealth is a party.

Magistrates Court Act 1930

THE SCHEDULES

THE FIRST SCHEDULE

Form 1

Paragraph 206A (1) (a)

Magistrates Court Act 1930

NOTICE OF PROCEEDINGS

IN THE MAGISTRATES
COURT AT CANBERRA

No. of 19
(*applicant*)
(*respondent*)

Between
and

To the Respondent

An application in accordance with Part X of the *Magistrates Court Act 1930* for a restraining order has been made by [*name of applicant*] against you. A copy of the application is attached. The application has been set down for hearing on 19 at (time) at (place).

If you do not appear in person at the hearing of the application, the Court may—

- (a) deal with the application in your absence; or
- (b) issue a warrant for your apprehension to be brought before the Court.

Dated 19 .

[*Signature*]

Registrar of the Magistrates Court

Form 1A

Paragraph 206K (2) (a)

Magistrates Court Act 1930

**RESTRAINING ORDER *or*
INTERIM RESTRAINING ORDER**

(*Heading as in Form 1*)

The Court, having heard an application made by [*name of applicant*] under the *Magistrates Court Act 1930* in respect of the conduct [*or threatened conduct*] of [*name of respondent*] towards [*name of aggrieved person*]:

Now the Court this day orders that, for [*period*]:

- 1. [*name of respondent*] not engage in the following conduct:
- 2. [*name of respondent*] comply with the following prohibitions and conditions:

[*specify prohibitions and conditions and any other period or periods for which they are imposed*]

Dated 19 .

[*Signature*]

Registrar of the Magistrates Court

Note: If a State or another Territory has reciprocal legislation in force, this order may be registered, and enforced, in that State or other Territory without notice of registration being given to the respondent.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

Form 1B

Paragraph 206K (2) (b)

Magistrates Court Act 1930

**ORDER VARYING RESTRAINING ORDER *or*
INTERIM RESTRAINING ORDER**

(Heading as in Form 1)

The Court, having heard an application made by [*name of applicant*] under the *Magistrates Court Act 1930* in respect of the conduct [*or threatened conduct*] of [*name of respondent*] towards [*name of aggrieved person*], and having on [*date of original order*] ordered that, for [*period*]:

1. [*name of respondent*] not engage in the following conduct:
2. [*name of respondent*] comply with the following prohibitions and conditions:

[*specify prohibitions and conditions and any other period or periods for which they are imposed*]

Now the Court, on the application of [*name of applicant*], this day orders that the Restraining Order [*or Interim Restraining Order*] be varied as follows:

[*specify details of variation*]

Dated 19 .

[*Signature*]

Registrar of the Magistrates Court

FORM 2

Information to Ground Search Warrant

Australian Capital Territory, }
to wit. }

The information of C.D., of , in the Territory , made this day of 19 , before the undersigned (*a Magistrate of or Registrar of Magistrates Court of the Territory*), who says that the following goods of [him or her], C.D., to wit [*describe them*], were on the day of [or have lately been] feloniously stolen, taken and carried away, from and out of the dwelling-house [*or as the case may be*] of C.D. situate at , in the Territory, and that he or she, C.D., has reasonable cause to suspect, and does suspect that the goods, or part thereof, are concealed in the dwelling-house or premises [*or as the case may be*] in the occupation of A.B., situate at , in the Territory.

[*Here state grounds of suspicion.*]

Sworn before me the day and year first above-mentioned, at , in the Territory.

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 3

Information in all other cases

Australian Capital Territory,
to wit.

The information of C.D., of _____, in the Territory _____, laid this day of _____, 19____, before the undersigned, a Magistrate of the Territory, who says that on the _____ day of _____, 19____, at _____ (etc. *stating the offence or subject matter*).

Sworn (*or laid*) before me on the day of the year first mentioned, at _____, in the Territory.

J.S.
Magistrate

-
- The causes of complaint in civil cases may be stated as follows:
- For that you assaulted A.B. by [*state nature of assault*].
 - For that certain goods of A.B. are detained by you.
 - For that you on the _____ day of _____, at _____, in the _____, were indebted to A.B. in the sum of _____ (on balance of accounts).
 - For goods then and there bargained and sold to you by A.B. and
 - For goods then and there sold and delivered to you by A.B.
 - For money then and there lent to you by A.B. and interest thereon.
 - For money paid by A.B. for you at your request.
 - For money received by you for the use of A.B.
 - For work and labour then and there done by A.B. for you at your request and
 - For the use and hire of divers chattels [*or beasts*] by A.B. then and there let to hire and delivered to you at your request and
 - For work and labour then and there done and materials for the same then and there provided by A.B. for you at your request and
 - For the use and occupation of certain land [*house or apartments*] of A.B. by you at your request and by the permission of A.B. then and there held and enjoyed and
 - For board and lodging then and there provided and supplied by A.B. for and to you at your request and
 - For feeding and taking care of horses [*sheep or cattle*] by A.B. then and there fed and taken care of for you at your request and
 - For warehouse room then and there found and provided by A.B. in and about the storing and keeping of goods and chattels by A.B. for you at your request and
 - For the carriage of goods and chattels by A.B. then and there carried for you at your request.
 - For the amount of a cheque drawn by you on the Bank of _____ dated _____ or for the amount of a bill of exchange dated the _____ day of _____, now overdue, and directed by the complainant to you, and requiring you to pay to the complainant (*Here insert amount*) _____ months after date, which was accepted by you, but was not paid, or for the amount of your promissory note dated _____, payable _____ months after date, and interest thereon.
 - For money due to A.B. on account stated.
 - For that certain of your cattle, to wit, (*11 cows*), trespassed on the land of A.B.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 4

Certificate of Indictment being found

I HEREBY certify that at the Sittings of the Supreme Court, held at _____ in the _____ on the _____ day of _____ 19____, an information was presented against A.B., therein described as A.B., late of _____, in the _____ Territory _____, for that he or she, on the _____ day of _____ 19____, at _____ [etc. stating shortly the offence], and that A.B. did not appear or plead to the information.

Dated this _____ day of _____, 19____. _____ Registrar.

SUMMONSES

FORM 5

Summons to the defendant upon information

In the Magistrates Court at Canberra.

To A.B., of _____, in the Australian Capital Territory.

WHEREAS an information has this day been laid before the undersigned (*a magistrate of or Registrar of the Magistrates Court of the Territory*), that you, on the _____ day of _____ 19____, at _____,

[*here state shortly the matter of the information*]. These are therefore to command you, in the Sovereign's name, to appear at _____ at _____ in the Territory, on the _____ day of _____ 19____, at _____ o'clock in the forenoon, before the court, to answer the information, and to be further dealt with according to law.

Given under my hand, at _____ day of _____ 19____ in the _____ Territory, this _____ J.S.,
Magistrate or Registrar of Magistrates Court.

Affidavit of service [to be endorsed on summons].

A.B. _____ of _____ being duly sworn saith as follows:

I am a _____ of Police stationed at _____

On the _____ day of _____ 19____, I personally served the within-named C.D. with the within summons by delivering a copy of it to him or her personally and at the same time showing him or her the original summons.

Sworn before me [*etc. as in information*].

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 7

Summons to a person to give evidence [and produce documents]

In the Magistrates Court at Canberra.

A.B., informant

C.D., defendant.

Date of information

19 .

Nature of information [*state shortly*].

To , of , in the Australian Capital Territory.

THESE are to require you to appear on the day of 19 , at o'clock in the noon, at in the Territory, before the Court to give such evidence as you know concerning the matter of the above-mentioned information. [*Where documents are required to be produced add* and also to bring with you and produce at the time and place aforesaid for examination at the hearing thereof the following accounts, papers, books, or other documents, that is to say: or such of them as are in your possession or control].

Dated at the day of , 19 .

J.S.,

Magistrate *or* Registrar of Magistrates Court.

FORM 8

Summons to a person to produce documents

In the Magistrates Court at Canberra.

A.B., informant.

C.D., defendant.

Date of information

19 .

Nature of information [*state shortly*].

To , of , in the Australian Capital Territory.

THESE are to require you to appear on the day of 19 , at o'clock in the noon, at in the Territory, before the Court and to bring with you and produce for examination at the hearing of the above-mentioned information the following accounts, papers, books, or other documents, that is to say: or such of them as are in your possession or control.

Dated at the day of , 19 .

J.S.,

Magistrate *or* Registrar of Magistrates Court.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 9

Paragraphs 60A (2) (b) and 62 (2) (a)

MAGISTRATES COURT

AUSTRALIAN CAPITAL TERRITORY

UNDERTAKING TO ATTEND AS A WITNESS

TO BE COMPLETED BY THE INFORMANT (SECTION 60A) OR BY THE COURT (SECTION 62) AND GIVEN TO A PERSON REQUIRED AS A WITNESS AT A HEARING IN THE MAGISTRATES COURT

Court Ref:

File No:

[name]

[address]

.....P/C..... Date of birth: / / 19..... M/F

is required to attend the Magistrates Court to give evidence in the matter

of

at

on [date] / / 19.... at [time] a.m.

[signed]

on [date] / / 19.....

Informant/Registrar

Do not detach

TO BE COMPLETED BY THE PERSON REQUESTED OR SUMMONED TO ATTEND AS A WITNESS AT A HEARING IN THE MAGISTRATES COURT AND TO BE RETURNED TO THE INFORMANT/THE MAGISTRATES COURT IN THE ATTACHED STAMPED AND ADDRESSED ENVELOPE BY

..... / / 19.....

FAILURE TO RETURN THIS UNDERTAKING BY THE ABOVE DATE MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST

I [name]

[address]

.....P/C.....

will attend the Magistrates Court to give evidence in the matter

of

at

on [date] / / 19..... at [time] a.m.

[signed] on [date] / / 19.....

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

- NB A form for the claim for reimbursement of the reasonable costs and expenses incurred by you in appearing as a witness is attached. Please complete the form and present it to the Court Registry counter following your appearance as a witness.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 10

Paragraphs 60A (2) (c) and 62 (2) (b)
Subsections 62A (1) and 67 (1A)

MAGISTRATES COURT

AUSTRALIAN CAPITAL TERRITORY

CLAIM FOR EXPENSES BY WITNESS

Court Ref:

File No:

I

travelled from to the Magistrates Court and from the Magistrates Court

to

by [*means of travel*]

[*number of journeys*]

and claim the reasonable expenses of travel to give evidence of

\$

Receipts /tickets attached

[*signed*].....

[*date*]..... /..... / 19.....

RECEIPT

I have received the sum of \$..... being the expenses of travel to give evidence.

[*signed*].....

[*date*] /..... / 19.....

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 14

Warrant to apprehend defendant where the summons is disobeyed

In the Magistrates Court at Canberra.

To the Commissioner of Police at Canberra, in the Australian Capital Territory, and to all other Police Officers in the Territory.

WHEREAS on the _____ day of _____, 19____, an information was laid that A.B. [*etc. as in the summons*], and a summons was then issued to A.B., commanding [him or her] to appear at _____ at _____ in the Territory, on the day of _____ 19____, at _____ o'clock in the forenoon, before the court, to answer the information: And whereas A.B. neglected to appear at the time and place appointed by the summons, and it has been proved upon oath that the summons was duly served upon A.B.: These are therefore to command you, in the Sovereign's name, forthwith to apprehend A.B. and to bring [him or her] before the court to answer the information, and to be further dealt with according to law.

Given under my hand, at Canberra, in the Territory, this day of _____, 19____.
J.S.,

Registrar of Magistrates Court *or* Magistrate.

FORM 14A

Warrant to apprehend defendant where a notice under section 89A is disobeyed

In the Magistrates Court at Canberra.

To the Commissioner of Police at Canberra, in the Australian Capital Territory, and to all other Police Officers in the Territory.

WHEREAS on the _____ day of _____, 19____, an information was laid that A.B., [*etc. as in the summons or warrant*]: and whereas A.B. was excused from attendance under subsection 89A (1): and whereas a notice under subsection 89A (4) [*or* 89A (5)] was served on A.B. requiring A.B. to attend on the _____ day of _____ 19____, at _____ o'clock in the _____ noon, before the Magistrates Court: and whereas it has been proved on oath that the notice was duly served on A.B.: and whereas A.B. neglected to attend at the time and place specified in the notice: These are therefore to command you, in the Sovereign's name, forthwith to apprehend A.B. and to bring [him or her] before the Magistrates Court to be dealt with according to law.

Given under my hand, at Canberra, in the Territory, this day of _____, 19____.
J.S.,

Registrar of Magistrates Court *or* Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 16

Warrant where a witness has not obeyed a summons to attend the examination of a person charged with an indictable offence or the hearing of a charge punishable on summary conviction

In the Magistrates Court at Canberra.

To the Commissioner of Police at Canberra, in the Australian Capital Territory, and to all other Police Officers in the Territory.

WHEREAS on the day of , 19 , an information was laid that A.B. [*etc. as in the summons or warrant*], and a summons was duly issued to E.F. of in the Territory , requiring [him or her] to appear on the day of 19 , at , in the Territory, before the court, to testify what [he or she] knew concerning the matter of the information: And whereas proof has this day been made upon oath that such summons was duly served upon E.F.: And whereas E.F. neglected to appear at the time and place appointed by the summons, and no just excuse has been offered for such neglect: These are therefore to command you, in the Sovereign's name, forthwith to apprehend E.F. and bring [him or her] before the court at Canberra, in the Territory, to testify what [he or she] knows concerning the matter of the information.

Given under my hand, at , in the Territory, this
day of 19 .

J.S.,

Registrar of Magistrates Court *or* Magistrate.

FORM 17

Warrant for a witness in the first instance

In the Magistrates Court at Canberra.

To the Commissioner of Police at Canberra, in the Australian Capital Territory, and to all other Police Officers in the Territory.

WHEREAS on the day of , 19 , at , an information was laid that A.B. [*etc. as in the summons or warrant*] and it being made to appear before me upon oath that E.F. of in the Territory [] is likely to give material evidence on behalf of the prosecution [*or as the case may be*] in the matter, and it is probable that E.F. will not attend to give evidence without being compelled so to do: These are therefore to command you, in the Sovereign's name, forthwith to apprehend E.F. and bring [him or her] before the court at Canberra, in the Territory, to testify what [he or she] knows concerning the matter of the information.

Given under my hand, at , in the Territory, this
day of 19 .

J.S.,

Registrar of Magistrates Court *or* Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 18

Warrant to apprehend person indicted

In the Magistrates Court at Canberra.

To the Commissioner of Police at Canberra, in the Australian Capital Territory, and to all other Police Officers in the Territory.

WHEREAS it has been certified by the Registrar of the Supreme Court that [*etc. stating the certificate (Form 4)*]: These are therefore to command you, in the Sovereign's name, forthwith to apprehend A.B. and to bring [him or her] before the Magistrates Court to be dealt with according to law.

Given under my hand, at Canberra, in the Territory, this
day of 19 .

J.S.,
Magistrate.

REMANDS

FORM 19

WARRANT OF REMAND OR COMMITMENT

Authority and directions

To the Commissioner of Police and all other police officers.

You must take, safely convey, and deliver the person named in this warrant to the custody of the Administrator.

To the Administrator and any other person into whose custody the person is transferred:

You must receive the person named in this warrant into custody and safely keep that person—

- (i) for the period specified, or in the circumstances described, in this warrant or such earlier day as may be lawfully ordered; or
- (ii) until the person is otherwise removed or discharged from custody by due course of law.

Personal details of person to be remanded or committed

Name:

Address:

Date of birth: [*day/month/year*]

Gender: male/female*

Charges

File number(s) of the charge(s):

Description of the charge(s):

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

Who filed the charge(s)?

History of defendant/witness*

The defendant /witness*—

- has been committed for trial/sentence* before the Supreme Court.*
- has been sentenced to a term of imprisonment.
- has been remanded in custody.
- has been committed for safe custody.
- is already in custody and has been charged with another offence.
- refused to enter into a recognizance to give evidence.
- has refused to take an oath or make an affirmation to testify as a witness.
- having sworn an oath or made an affirmation, refused to answer a question without offering any just excuse.
- has refused or disobeyed an order of the Court.

Reason for custody

- The proceeding has been adjourned and the defendant/ witness* is to be brought before the Magistrates Court/Supreme Court* at [location] at [hour] am/pm* on [date].
- The defendant/witness* has been committed for a period of [number] days.
- The defendant has been sentenced to imprisonment for [period of imprisonment] with a non-parole period of [non-parole period].
- The defendant is to be released on serving a term of imprisonment of [period of imprisonment] and entering into a recognizance the conditions of which are endorsed below.

Endorsement

- The accused did not apply for bail.
- The defendant's application for bail was refused. The reasons for refusal are:

 Bail was granted and the defendant is to be released from custody when he or she signs an undertaking agreeing to the conditions which are endorsed below:
- The defendant is to be released on serving a term of imprisonment of [period of imprisonment] and on entering into a recognizance on the following conditions:

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

This warrant is issued by the Court for the purposes of the *Removal of Prisoners Act 1968* and the Prisons Act 1952 of New South Wales.

The accused was legally represented by [*name of legal representative*] whose phone number is [*phone number*].

SIGNED AT CANBERRA ON THE [*day*] DAY OF [*month and year*] BY

MAGISTRATE/REGISTRAR*

*Delete whichever is inapplicable.

RECOGNIZANCES ETC.

FORM 21

Certificate of consent to bail by the committing Magistrate indorsed on the commitment

I hereby certify that I consent to the within-named A.B. being bailed by recognizance, himself or herself in the sum of _____ and [*two*] sureties in the sum of _____ [each] (*to be included where an order is made under section 248A*) And the within-named A.B. himself or herself in the sum of _____ to comply with (*here insert terms of order under section 248A*).

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 22

The like on a separate paper

WHEREAS A.B. was, on the day of , 19 , committed by [me] to the *gaol/remand centre at , in the , charged with [etc. naming the offence shortly]:

I hereby certify that I consent to A.B. being bailed by recognizance, himself or herself in the sum of and [two] sureties in the sum of [each] (to be included where an order is made under section 248A)

And the within-named A.B. himself or herself in the sum of to comply with (here insert terms of order under section 248A).

Dated this day of , 19 .

J.S.,
Magistrate.

**Strike out whichever is inapplicable.*

FORM 30

Recognizance to give evidence

Australian Capital Territory, }
to wit. }

BE it remembered that on the day of , 19 , C.D., of , in the Territory, , came before [me] a magistrate of the Territory, and acknowledged [himself or herself] to owe to the Crown the sum of to be made and levied of [his or her] goods and chattels, lands, and tenements, to the use of the Crown if C.D. shall fail in the conditions endorsed.

Taken and acknowledged before [me] the day and year first abovementioned at Canberra, in the Territory.

J.S.,
Magistrate.

Condition

THE condition of the within-written recognizance is such that whereas A.B., was this day charged before the Magistrates Court at Canberra, for that [etc. as in the caption of the depositions]. If therefore C.D. shall appear at the next Sittings of the Supreme Court, to be holden at in the , on , the day of , 19 , and there give evidence upon an information to be then preferred against A.B. for the offence aforesaid, then the recognizance to be void, or else to stand in full force and effect.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 31

Notices of recognizance to be given to the witnesses

Australian Capital Territory, }
to wit. }

TAKE notice that you, C.D., of _____, in the Territory, are bound in the sum of _____, to appear at the next [*as in the Condition*], and then and there to give evidence against A.B., and unless you then appear and give evidence accordingly the recognizance entered into by you will be forthwith put in suit and enforced against you.

Dated this _____ day of _____, 19 ____.

J.S.,
Magistrate.

FORM 34

Statement of the Defendant

Australian Capital Territory, }
to wit. }

A.B. stands charged before the Magistrates Court, at Canberra, this _____ day of _____, 19 ____ , that [he or she] [*describe the offence as in a warrant of commitment*], and the charge being read to A.B. and the witnesses for the prosecution, C.D. and E.F., being severally examined A.B. is now addressed by the Court as follows:

“Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so but whatever you say may be given in evidence against you upon your trial. You are clearly to understand that you have nothing to hope from any promise or favour and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence against you upon your trial, notwithstanding any such promise or threat.”

Whereupon A.B. says as follows: [*Here state whatever the prisoner may say, and in his or her very words as nearly as possible; get him or her to sign it if he or she will.*]

A.B.

Taken before the Court at Canberra, in the Territory, the day and year first above-mentioned.

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 36

Conviction for a penalty to be levied by execution

Australian Capital Territory, }
to wit.

BE it remembered that on the _____ day of _____, 19____, at Canberra, in the Territory, A.B. of _____, in the Territory [_____, is convicted before the Magistrates Court at Canberra, that A.B. [*etc. stating the offence and the time and place when and where it was committed*], and A.B. was adjudged for [his or her] offence to forfeit and pay the sum of _____ [*stating the penalty and the compensation, if any*] to be paid and applied according to law, and also to pay to C.D. the sum of _____ for [his or her] costs, and if the several sums are not paid forthwith [*or on or before* _____ next] then it is hereby ordered that the sums be levied by execution against the goods and chattels of A.B.

Given under my hand, at Canberra, in the Territory, the day and year first above-mentioned.

J.S.
Magistrate.

FORM 38

Conviction when the punishment is imprisonment, and costs are awarded to be levied by execution

Australian Capital Territory, }
to wit.

BE it remembered that on the _____ day of _____, 19____, in the Territory, A.B. of _____, in the Territory, _____, is convicted before the Magistrates Court at Canberra, that A.B. [*etc. stating the offence and the time and place when and where it was committed*], and A.B. was adjudged for [his or her] offence to be imprisoned in the gaol at _____, in the _____, [there to be kept to hard labour] for the space of _____, and A.B. was also adjudged to pay to C.D. the sum of _____ for [his or her] costs; and if the sum for costs is not paid forthwith [*or on or before* _____ next] then it is hereby ordered that the sum be levied by execution against the goods and chattels of A.B.

Given under my hand, at Canberra, in the Territory, the day and year first above-mentioned.

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

CONVICTION FOR INDICTABLE OFFENCE

FORM 39

Summary conviction

Australian Capital Territory, }
to wit. }

BE it remembered that on the day of , 19 , at Canberra, in the Territory, A.B., being charged before the Magistrates Court, at Canberra, that A.B. [*etc. stating the offence and the time and place when and where committed*], and the age of A.B. on the [*date of offence*] having in the opinion of the Court not exceeded 16 [*or 12*] years [*or and the value of the goods not exceeding \$4 (or as the case may be)*] and A.B. [*or C.D., the parent (or guardian) of A.B.*] consenting to the Court deciding upon the charge summarily, A.B. is therefore convicted before the Court of the offence, and A.B. is adjudged for [his or her] offence to be imprisoned in the gaol at , in the , [there to be kept to hard labour] for the term of .

Given under my hand at Canberra, in the Territory, the day and year first above-mentioned.

J.S.,
Magistrate.

FORM 40

Summary conviction on confession

Australian Capital Territory, }
to wit. }

BE it remembered that on the day of , 19 , at Canberra, in the Territory, A.B. being charged before the Magistrates Court, at Canberra, that [he or she] A.B. [*etc. stating the offence and the time and place when and where committed*] and A.B., pleading guilty to such charge [he or she] is thereupon convicted before the Court of the offence, and A.B. is adjudged for [his or her] offence to be imprisoned in the gaol at , in the [there to be kept to hard labour] for the term of .

Given under my hand at Canberra, in the Territory, the day and year first above-mentioned.

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

ORDER AND CERTIFICATES OF DISMISSAL

FORM 41

Order of Dismissal of an information

In the Magistrates Court at Canberra.

A.B., informant.

C.D., defendant.

Date of information 19 .

Nature of information [*state shortly*].

BE it remembered that on the day of in the year of our Lord One thousand nine hundred and the above-mentioned information was laid before the Court for that [*etc. as in the summons to the defendant*] and now at this day, to wit, on the day of at in the Australian Capital Territory, both the parties having appeared in order that the information should be heard and determined [*or C.D. having appeared before the Court, but A.B., although duly called not having appeared*] whereupon the matter of the information being duly considered it appears to this Court that the information is not proved and the same is hereby dismissed and it is adjudged that A.B. do pay to C.D. the sum of for [*his or her*] costs incurred by [*him or her*] in [*his or her*] defence in this behalf, and if the sum for costs is not paid [*forthwith or on or before*] it is ordered that the same be levied by distress and the sale of the goods and chattels, money, Australian notes, bank notes, cheques, bills of exchange, promissory notes, bonds, specialties, or securities of money of A.B.

Dated at Canberra the day of , 19 .

J.S.,
Magistrate.

FORM 42

Certificate of dismissal

Australian Capital Territory, }
to wit.

I, the undersigned, a magistrate of the Territory, hereby certify that on the day of , 19 , at , in the Territory, A.B. was charged before the Magistrates Court, at Canberra, A.B., [*etc. stating the offences and the time and place when and where alleged to have been committed*] and that the Court thereupon dismissed the information.

Given under my hand, at Canberra, in the Territory, this day of , 19 .

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 43

Certificate of dismissal on summary hearing of indictable offence

Australian Capital Territory, }
to wit. }

I, the undersigned, a magistrate of the Territory, hereby certify that on the _____ day of _____, 19____, at Canberra, in the Territory, A.B., charged before the Magistrates Court, at Canberra, that [*stating the offence charged, and the time and place when and where committed, etc. as in Form 39 to the asterisk**], the information is thereupon dismissed.

Given under my hand, at Canberra, in the Territory, this _____ day of _____, 19____.

J.S.,
Magistrate.

ORDERS

FORM 47

Order for any matter where the disobeying of it is punishable with imprisonment

Australian Capital Territory, }
to wit. }

BE it remembered that on the _____ day of _____, 19____, information was laid before the Magistrates Court, at Canberra, that [*stating the facts entitling the complainant to the order, with the time and place when they occurred*], and on the _____ day of _____, at Canberra, in the Territory, having heard the information, the Court adjudged A.B. to [*here state the matter required to be done*], and if upon a copy of the minute of this order being served upon A.B., either personally or by leaving the same for [him or her] at [his or her] last known or usual place of abode [he or she] shall neglect or refuse to obey the same it is adjudged that A.B. be imprisoned in the gaol at _____, in the _____ [there to be kept to hard labour] for _____ the _____ term _____ of _____ [unless the order is sooner obeyed, *if the Act authorise this*], and it is also adjudged that A.B. pay to C.D. the sum of _____ for costs, and if the sum is not paid forthwith [*or on or before next*], it is ordered that the same be levied by execution against the goods and chattels of A.B.

Given under my hand, at Canberra, in the Territory, this _____ day of _____, 19____.

J.S.,
Magistrate.

MAGISTRATES COURT ACT 1930

THE FIRST SCHEDULE—continued

FORM 48

Order for payment of compensation and costs where information brought or made in the wrong Court

In the Magistrates Court, at Canberra.

A.B., informant.

C.D., defendant.

Date of information 19 .

Nature of information [*state shortly*].

BE it remembered that A.B. has now here vexatiously and oppressively brought C.D. before this Court to answer a certain information of A.B. there now being a place at which a Magistrates Court is held more easy of access than this place, not only from the place of abode of C.D. but also from the place where the subject-matter of the information arose, and now at this day [conclude as in ordinary cases].

J.S.,
Magistrate.

EXECUTION AND IMPRISONMENT

GAOLER'S RECEIPT

FORM 76

**Gaoler's/Superintendent's receipt for the prisoner*

I HEREBY certify that I have received from W.T., police officer, of Canberra, in the Australian Capital Territory, the body of A.B. in good health [*or as the case may be*], together with a warrant under the hand of J.S., Esquire, a magistrate of the Territory.

P.K.,
*Keeper of the Gaol/
Superintendent of the Remand Centre.

**Strike out whichever is inapplicable*

Magistrates Court Act 1930

SECOND SCHEDULE

Section 10P

OATH

I, [name], do swear that I will well and truly serve in the office of
and that I will do right to all manner of people according to law, without fear or favour,
affection or ill-will. So help me God!

AFFIRMATION

I, [name], do solemnly and sincerely affirm and declare that I will well and truly serve in the office of
and that I will do right to all manner of people, according to law, without fear or favour, affection or ill-
will.

THE THIRD SCHEDULE

*Account of Registrar of Magistrates Court, Keeper of the Gaol and Superintendent of the Remand
Centre*

RETURN to Magistrates Court assembled at _____, in the Australian Capital
Territory, on the _____ day of _____, 19____, of all fines, penalties, and sums of money
received by the *Registrar of the Court/Keeper of the Gaol/Superintendent of the Remand Centre at
_____, in the Territory, from the _____ day _____ of _____
, 19____, to the _____ day of _____, 19____, and how applied.

Name of person *convicted / detained	Date	Offenc e	Costs	Amount thereof paid	Fine	Amount thereof paid	Amount of fine, how applied	Punishment when fine not paid	Name of convicting magistrate	Reasons of non- payment or other observat ions
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(Signed _____)

*Registrar of Magistrates Court/Keeper of the above-named Gaol/Superintendent of the above-named
Remand Centre

*Strike out whichever is inapplicable.

Magistrates Court Act 1930

NOTES

1. The *Magistrates Court Act 1930* as shown in this reprint comprises Act No. 21, 1930 amended as indicated in the Tables below.

The Australian Capital Territory received Self-Government on 11 May 1989.

For details regarding the application of the *Magistrates Court Act 1930* from 11 May 1989 to 1 July 1990 see the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth (No. 106, 1988) and the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth (No. 109, 1988), in particular sections 3, 34 and Schedules 3 and 5 and section 12 respectively. The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) and the *Reserved Laws (Interpretation) Ordinance 1989* (No. 25, 1989) effect the citation change of Ordinance to Act and affect references to Commonwealth legislation.

2. The *Legislation (Republication) Act 1996* (No. 51, 1996) authorises the Parliamentary Counsel in preparing a law for republication, to make certain editorial and other formal amendments in accordance with current legislative drafting practice. Those amendments make no change in the law. Amendments made pursuant to that Act do not appear in the Table of Amendments but details may be obtained on request from the Parliamentary Counsel's Office.

Table of Laws

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Court of Petty Sessions Ordinance (No. 2) 1930</i>	21, 1930	21 Nov 1930	21 Nov 1930	
<i>Court of Petty Sessions Ordinance 1932</i>	21, 1932	17 Nov 1932	17 Nov 1932	—
<i>Court of Petty Sessions Ordinance 1934</i>	17, 1934	19 July 1934	19 July 1934	—
<i>Money Lenders Ordinance 1936</i>	13, 1936	9 Apr 1936	1 May 1936	S. 5 (2)
<i>Court of Petty Sessions Ordinance 1937</i>	5, 1937	27 May 1937	27 May 1937	S. 2 (2)
<i>Court of Petty Sessions Ordinance (No. 2) 1937</i>	28, 1937	23 Dec 1937	23 Dec 1937	—
<i>Seat of Government (Designation) Ordinance 1938</i> as amended by <i>Ordinances Revision Ordinance 1938</i>	25, 1938	8 Sept 1938	8 Sept 1938	S. 3
<i>Ordinances Revision Ordinance 1938</i>	35, 1938	15 Dec 1938	15 Dec 1938	—
<i>Ordinances Revision Ordinance 1938</i>	35, 1938	15 Dec 1938	15 Dec 1938	—
<i>Court of Petty Sessions Ordinance 1940</i>	20, 1940	7 Nov 1940	7 Nov 1940	—
<i>Court of Petty Sessions Ordinance (No. 2) 1940</i>	22, 1940	12 Dec 1940	12 Dec 1940	—
<i>Court of Petty Sessions Ordinance 1949</i>	13, 1949	1 Dec 1949	1 Dec 1949	S. 4

Magistrates Court Act 1930

NOTES—continued

Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Court of Petty Sessions Ordinance 1951</i>	7, 1951	26 July 1951	26 July 1951	S. 4
<i>Court of Petty Sessions Ordinance (No. 2) 1951</i>	12, 1951	14 Dec 1951	14 Dec 1951	—
<i>Court of Petty Sessions Ordinance 1953</i>	14, 1953	12 Nov 1953	3 Dec 1953	—
<i>Court of Petty Sessions Ordinance 1958</i>	12, 1958	24 July 1958	24 July 1958	—
<i>Court of Petty Sessions Ordinance 1961</i>	2, 1961	29 Mar 1961	29 Mar 1961	—
<i>Court of Petty Sessions Ordinance 1966</i>	2, 1966	10 Feb 1966	14 Feb 1966	—
<i>Court of Petty Sessions Ordinance 1967</i>	1, 1967	9 Feb 1967	9 Feb 1967	S. 23
<i>Court of Petty Sessions Ordinance 1968</i>	25, 1968	19 Dec 1968	1 Jan 1969 (see <i>Gazette</i> 1968, p. 7565)	Ss. 4 (2), 6 (2) and 13
<i>Court of Petty Sessions Ordinance 1969</i>	12, 1969	20 June 1969	20 June 1969	S. 5
<i>Court of Petty Sessions Ordinance 1970</i>	15, 1970	19 Mar 1970	19 Mar 1970	—
<i>Court of Petty Sessions Ordinance 1972</i>	37, 1972	16 Nov 1972	Ss. 1, 2, 6 and 14: 16 Nov 1972 Remainder: 1 Feb 1973 (see <i>Gazette</i> 1972, No. 118, p. 2)	S. 3
<i>Court of Petty Sessions Ordinance 1973</i>	48, 1973	17 Dec 1973	17 Dec 1973	—
<i>Court of Petty Sessions Ordinance 1974</i>	14, 1974	17 Apr 1974	17 Apr 1974	—
<i>Ordinances Revision (Age of Majority) Ordinance 1974</i>	47, 1974	24 Oct 1974	1 Nov 1974	—
<i>Court of Petty Sessions (Amendment) Ordinance 1976</i>	42, 1976	13 Sept 1976	13 Sept 1976	—
<i>Court of Petty Sessions (Amendment) Ordinance 1977</i>	4, 1977	24 Mar 1977	Ss. 1-3 and 10: 24 Mar 1977 Remainder: 28 Mar 1977 (see <i>Gazette</i> 1977, No. S52)	Ss. 10-12
<i>Court of Petty Sessions (Amendment) Ordinance (No. 2) 1977</i>	34, 1977	28 July 1977	28 July 1977	S. 24
<i>Court of Petty Sessions (Amendment) Ordinance (No. 3) 1977 (a)</i>	56, 1977	6 Oct 1977	6 Oct 1977 (a)	—

Magistrates Court Act 1930

NOTES—continued

Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Court of Petty Sessions (Amendment) Ordinance (No. 4) 1977</i>	61, 1977	21 Nov 1977	21 Nov 1977	S. 12
<i>Ordinances Revision Ordinance 1978</i>	46, 1978	28 Dec 1978	28 Dec 1978	—
<i>Court of Petty Sessions (Amendment) Ordinance 1979</i>	33, 1979	14 Nov 1979	14 Nov 1979	S. 13
<i>Court of Petty Sessions (Amendment) Ordinance (No. 2) 1979</i>	41, 1979	18 Dec 1979	18 Dec 1979	S. 6
<i>Court of Petty Sessions (Amendment) Ordinance 1980</i>	4, 1980	20 Mar 1980	1 Apr 1980 (see <i>Gazette</i> 1980, No. S66)	Ss. 11 and 12
<i>Court of Petty Sessions (Amendment) Ordinance (No. 2) 1980</i>	10, 1980	26 Mar 1980	26 Mar 1980	—
<i>Court of Petty Sessions (Amendment) Ordinance 1982</i>	2, 1982	26 Feb 1982	1 Sept 1982 (see <i>Gazette</i> 1982, No. S178)	—
<i>Court of Petty Sessions (Amendment) Ordinance (No. 2) 1982</i>	3, 1982	26 Feb 1982	26 Feb 1982	—
<i>Court of Petty Sessions (Amendment) Ordinance 1984</i>	9, 1984	11 Apr 1984	11 Apr 1984	—
<i>Court of Petty Sessions (Amendment) Ordinance (No. 2) 1984</i>	10, 1984	11 Apr 1984	11 Apr 1984	—
<i>Court of Petty Sessions (Amendment) Ordinance (No. 3) 1984</i>	16, 1984	1 June 1984	1 June 1984	—
<i>Court of Petty Sessions (Amendment) Ordinance (No. 4) 1984</i>	61, 1984	2 Nov 1984	2 Nov 1984	S. 7
<i>Court of Petty Sessions (Amendment) Ordinance (No. 5) 1984</i>	62, 1984	2 Nov 1984	2 Nov 1984	—
<i>Court of Petty Sessions (Amendment) Ordinance 1985</i>	17, 1985	17 Apr 1985	17 Apr 1985	—
<i>Court of Petty Sessions (Amendment) Ordinance (No. 2) 1985</i>	18, 1985	17 Apr 1985	17 Apr 1985	—
<i>Court of Petty Sessions (Amendment) Ordinance (No. 3) 1985</i>	41, 1985	5 Sept 1985	5 Sept 1985	—
<i>Limitation Ordinance 1985</i>	66, 1985	19 Dec 1985	19 Dec 1985	—
<i>Magistrates Court Ordinance 1985</i>	67, 1985	19 Dec 1985	1 Feb 1986 (see <i>Gazette</i> 1986, No. G3, p. 265)	Ss. 36 and 37

Magistrates Court Act 1930

NOTES—continued

Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Magistrates Court (Amendment) Ordinance 1986</i>	33, 1986	7 Aug 1986	7 Aug 1986	—
<i>Domestic Violence (Miscellaneous Amendments) Ordinance 1986</i>	53, 1986	4 Sept 1986	1 Oct 1986 (see <i>Gazette</i> 1986, No. S484)	—
<i>Crimes (Amendment) Ordinance (No. 4) 1986</i>	57, 1986	3 Oct 1986	3 Oct 1986	S. 15
<i>Magistrates Court (Amendment) Ordinance (No. 2) 1986</i>	71, 1986	30 Oct 1986	1 Apr 1987 (see <i>Gazette</i> 1987, No. S52)	—
<i>Magistrates Court (Amendment) Ordinance (No. 3) 1986</i>	74, 1986	14 Nov 1986	14 Nov 1986	S. 66
<i>Magistrates Court (Amendment) Ordinance (No. 4) 1986</i>	83, 1986	22 Dec 1986	22 Dec 1986	—
<i>Magistrates Court (Amendment) Ordinance 1987</i>	56, 1987	21 Oct 1987	21 Oct 1987	—
<i>Magistrates Court (Amendment) Ordinance 1988</i>	45, 1988	27 July 1988	27 July 1988	—
<i>Magistrates Court (Amendment) Ordinance 1989</i>	55, 1989	30 June 1989	1 July 1989	—
<i>Magistrates Court (Amendment) Ordinance (No. 2) 1989</i>	59, 1989	25 Oct 1989	Ss. 11, 12 and 14: 27 June 1990 (see <i>Gazette</i> 1990, No. GN25, p. 1687) Remainder: 25 Oct 1989	S. 2 (2)
<i>Magistrates Court (Amendment) Ordinance (No. 3) 1989</i>	60, 1989	20 Dec 1989	14 Feb 1990 (see <i>Gazette</i> 1990, No. GN5, p. 216)	—
<i>Crimes (Amendment) Ordinance 1990</i>	1, 1990	23 May 1990	23 May 1990	S. 6
<i>Self-Government (Consequential Amendments) Ordinance 1990 (b)</i>	5, 1990	27 June 1990	Ss. 1 and 2: 27 June 1990 Remainder: 1 July 1990	S. 6 (2)
<i>Magistrates Court (Appeals Against Sentence) Ordinance 1990</i>	9, 1990	29 June 1990	29 June 1990	S. 11
<i>Magistrates Court (Amendment) Act 1990</i>	65, 1990	24 Dec 1990	24 Dec 1990	—

Magistrates Court Act 1930

NOTES—continued

Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Weapons (Consequential Amendments) Act 1991</i>	9, 1991	3 Apr 1991	Ss. 1 and 2: 3 Apr 1991 Remainder: 3 Oct 1991 (see s. 2 (2))	—
<i>Magistrates Court (Amendment) Act 1991</i>	38, 1991	20 Sept 1991	Ss. 1-3: 20 Sept 1991 Remainder: 25 Sept 1991 (see <i>Gazette</i> 1991, No. S103, p. 3)	—
<i>Magistrates and Coroner's Courts (Registrar) Act 1991</i>	44, 1991	20 Sept 1991	Ss. 1 and 2: 20 Sept 1991 Remainder: 25 Sept 1991 (see <i>Gazette</i> 1991, No. S103, p. 2)	Ss. 3 and 4
<i>Magistrates Court (Amendment) Act (No. 2) 1991</i>	79, 1991	11 Dec 1991	Ss. 1-3: 11 Dec 1991 Remainder: 11 June 1992	—
<i>Workers' Compensation (Consequential Amendments) Act 1991</i>	106, 1991	15 Jan 1991	Ss. 1 and 2: 15 Jan 1992 Remainder: 22 Jan 1992 (see s. 2 (2) and <i>Gazette</i> 1992, No. S9)	—
<i>Magistrates Court (Amendment) Act (No. 3) 1991</i>	112, 1991	10 Jan 1992	Ss. 1 and 2: 10 Jan 1992 Remainder: 18 May 1992 (see <i>Gazette</i> 1992, No. S57, p. 2)	—
<i>Bail (Consequential Amendments) Act 1992</i>	9, 1992	28 May 1992	Ss. 1 and 2: 28 May 1992 Remainder: 28 Nov 1992	S. 3
<i>Statute Law Revision (Miscellaneous Provisions) Act 1992</i>	23, 1992	4 June 1992	4 June 1992	—
<i>Protection Orders (Reciprocal Arrangements) (Consequential Amendments) Act 1992</i>	37, 1992	8 July 1992	Ss. 7 and 12: 3 Aug 1992 (see <i>Gazette</i> 1992, No. S130) Remainder: 8 July 1992	—
<i>Evidence (Amendment) Act 1993</i>	2, 1993	1 Mar 1993	1 Mar 1993	—

Magistrates Court Act 1930

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Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Magistrates Court (Amendment) Act 1993</i>	4, 1993	1 Mar 1993	Ss. 1-3: 1 Mar 1993 Ss. 4-19, 21-24 and 26-32: 8 Mar 1993 (see <i>Gazette</i> 1993, No. 32) Remainder: 1 Sept 1993	Ss. 31 and 32
<i>Magistrates Court (Amendment) Act (No. 2) 1993</i>	48, 1993	27 Aug 1993	Ss. 1-3: 27 Aug 1993 Remainder: 27 Sept 1993 (see s. 2 (2) and <i>Gazette</i> 1993, No. S201, p. 2)	—
<i>Supreme Court (Amendment) Act (No. 2) 1993</i>	91, 1993	17 Dec 1993	17 Dec 1993	—
<i>Magistrates Court (Amendment) Act 1994</i>	4, 1994	14 Mar 1994	Ss. 1-4, 10, 12 and 13: 14 Mar 1994 Remainder: (c)	S. 13
<i>Judicial Commissions (Consequential Amendments) Act 1994</i>	10, 1994	14 Mar 1994	14 Mar 1994	—
<i>Public Sector Management (Consequential and Transitional Provisions) Act 1994</i>	38, 1994	30 June 1994	Ss. 1 and 2: 30 June 1994 Remainder: 1 July 1994 (see <i>Gazette</i> 1994, No. S142, p. 2)	Ss. 3, 5-12, 15 and 19
<i>Mental Health (Consequential Provisions) Act 1994</i>	45, 1994	7 Sept 1994	Ss. 1 and 2: 7 Sept 1994 Remainder: 6 Feb 1995 (see s. 2 (2) and <i>Gazette</i> 1995, No. S33, p. 2)	—
<i>Magistrates Court (Enforcement of Judgments) Act 1994</i>	61, 1994	11 Oct 1994	Ss. 1 and 2: 11 Oct 1994 Remainder: 10 Apr 1995 (see <i>Gazette</i> 1995, No. S75) (d)	Part VIII (ss. 88-97)
<i>Coroners (Amendment) Act (No. 2) 1994</i>	66, 1994	11 Oct 1994	11 Oct 1994	—

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Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Statute Law Revision (Penalties) Act 1994</i>	81, 1994	29 Nov 1994	Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2)	—
(Reprinted as at 10 April 1995)				
<i>Magistrates Court (Amendment) Act 1995</i>	41, 1995	7 Nov 1995	Ss. 1 and 2: 7 Nov 1995 Remainder: 7 May 1996	—
<i>Statute Law Revision Act 1995</i>	46, 1995	18 Dec 1995	18 Dec 1995	—
<i>Magistrates Court (Amendment) Act 1996</i>	6, 1996	12 Mar 1996	Ss. 1-3: 12 Mar 1996 S. 7 (b): 25 Sept 1991 Remainder: 12 Sept 1996	S. 5 (2)
<i>Criminal Injuries Compensation (Amendment) Act 1996</i>	68, 1996	20 Dec 1996	Ss. 1-3: 20 Dec 1996 Remainder: 1 Jan 1997 (see <i>Gazette</i> 1996, No. S352, p. 2)	—
<i>Firearms Act 1996</i>	74, 1996	20 Dec 1996	Ss. 1 and 2: 20 Dec 1996 Remainder: 17 May 1997 (see <i>Gazette</i> 1997, No. S135)	—
<i>Magistrates Court (Amendment) Act (No. 2) 1996</i>	82, 1996	20 Dec 1996	Ss. 1-3: 20 Dec 1996 Remainder: 1 Jan 1997 (see s. 2 (2) and <i>Gazette</i> 1996 No. S353, p. 2)	—
<i>Magistrates Court (Amendment) Act 1997</i>	25, 1997	29 May 1997	Ss. 1-3: 29 May 1997 Remainder: 30 May 1997 (see s. 2 (2) and <i>Gazette</i> 1997, No. S149)	—

(Reprinted as at 30 May 1997)

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NOTES—continued

Table of Laws—continued

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Remuneration Tribunal (Consequential Amendments) Act 1997</i>	41, 1997	19 Sept 1997	Ss. 1 and 2: 19 Sept 1997 Remainder: 23 Sept 1997 (see <i>Gazette</i> 1997, No. S280)	—
<i>Magistrates Court (Civil Jurisdiction) (Amendment) Act 1997</i>	94, 1997	1 Dec 1997	Ss. 1-3: 1 Dec 1997 Remainder: 25 May 1998 (see <i>Gazette</i> 1998, No. S140)	—
<i>Legal Practitioners (Consequential Amendments) Act 1997</i>	96, 1997	1 Dec 1997	Ss. 1 and 2: 1 Dec 1997 Remainder: 1 June 1998 (see s. 2 (2))	—

(a) The *Court of Petty Sessions (Amendment) Ordinance (No. 3) 1977* was not laid before each House of the Parliament within 15 sitting days after the day on which it was made and by virtue of subsection 12 (3) of the *Seat of Government (Administration) Act 1910* of the Commonwealth, is void and of no effect. The amendments made by that Ordinance are not incorporated in this reprint.

(b) Subsection 6 (1) of the *Self-Government (Consequential Amendments) Ordinance 1990* provides as follows:

“6. (1) The Ordinances specified in Schedule 1 (except the *Legal Practitioners Ordinance 1970*), the Crimes Act, 1900 of the State of New South Wales in its application in the Territory and the rules specified in Schedule 3 are amended—

- (a) by inserting ‘she or’ before ‘he’ (wherever occurring);
- (b) by inserting ‘her or’ before ‘him’ (wherever occurring);
- (c) by inserting ‘her or’ before ‘his’ (wherever occurring); and
- (d) by inserting ‘herself or’ before ‘himself’ (wherever occurring).”

The amendments have been incorporated in this reprint but do not appear in the Table of Amendments.

(c) Subsection 2 (2) of the *Magistrates Court (Amendment) Act 1994* provides as follows:

“(2) The remaining provisions commence on the day on which the first determination under subsection 248A (1) of the Principal Act as amended by this Act comes into effect.”

The date fixed in pursuance of subsection 2 (2) was 1 July 1994.

(d) Subsection 53 (5) of the *Magistrates Court (Enforcement of Judgments) Act 1994* provides as follows:

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“(5) The Principal Act is amended—

- (a) by omitting ‘her or him’ (wherever occurring) and substituting ‘him or her’;
- (b) by omitting ‘herself or himself’ (wherever occurring) and substituting ‘himself or herself’;
- (c) by omitting ‘her or his’ (wherever occurring) and substituting ‘his or her’; and
- (d) by omitting ‘she or he’ (wherever occurring) and substituting ‘he or she’.”

The amendments have been incorporated in this reprint but do not appear in the Table of Amendments.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Title	am. No. 67, 1985
S. 1	am. No. 83, 1986
S. 2	rep. No. 46, 1978
S. 3	rep. Act No. 61, 1994
S. 4	am. No. 28, 1937; No. 14, 1953 rs. No. 12, 1958 am. No. 25, 1968; No. 37, 1972 rep. No. 14, 1974
S. 5	am. No. 28, 1937; No. 35, 1938; Nos. 7 and 12, 1951; No. 14, 1953; No. 12, 1958; No. 1, 1967; No. 25, 1968; No. 48, 1973; No. 42, 1976; No. 4, 1980; No. 62, 1984; Nos. 17, 41 and 67, 1985; No. 74, 1986; Nos. 59 and 60, 1989; No. 5, 1990; Acts Nos. 38 and 44, 1991; No. 9, 1992; Nos. 4 and 91, 1993; No. 4, 1994; Nos. 6 and 82, 1996; No. 96, 1997
S. 6	rs. No. 12, 1951 am. No. 5, 1990
Heading to Div. 1 of Part II	ad. No. 4, 1977 am. No. 67, 1985
S. 6A	ad. No. 4, 1977 am. No. 67, 1985
S. 7	rs. No. 13, 1949 am. Nos. 7 and 12, 1951; No. 48, 1973 rs. No. 4, 1977; No. 67, 1985 am. No. 5, 1990
S. 8	am. No. 13, 1949 rs. No. 4, 1977 am. Act No. 96, 1997
Ss. 8A, 8B	ad. No. 48, 1983 rep. No. 4, 1977
S. 9	rs. No. 4, 1977 am. No. 67, 1985
S. 10	am. No. 35, 1938; No. 48, 1973 rs. No. 4, 1977 am. No. 5, 1990

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Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
	rs. Act No. 41, 1997
S. 10A.....	ad. No. 4, 1977
S. 10B.....	ad. No. 4, 1977
	am. No. 5, 1990
S. 10C.....	ad. No. 4, 1977
	am. No. 67, 1985; No. 5, 1990
S. 10D.....	ad. No. 4, 1977
	rs. Act No. 10, 1994
S. 10E.....	ad. No. 4, 1977
	am. Act No. 4, 1993; No. 6, 1996
S. 10F.....	ad. No. 4, 1977
	rs. Act No. 38, 1994
S. 10G.....	ad. No. 4, 1977
	am. No. 67, 1985; No. 74, 1986; Act No. 66, 1994
Div. 2 of Part II (ss. 10H -10L)	ad. No. 4, 1977
S. 10H.....	ad. No. 4, 1977
	am. No. 5, 1990
S. 10J.....	ad. No. 4, 1977
	rs. Act No. 10, 1994
	am. No. 6, 1996
S. 10K.....	ad. No. 4, 1977
	am. No. 5, 1990
S. 10L.....	ad. No. 4, 1977
	am. No. 5, 1990
	rs. Act No. 41, 1997
Heading to Div. 3 of Part II	ad. No. 4, 1977
	am. No. 67, 1985; Act No. 44, 1991
Div. 3 of Part II (ss. 10M, 10N)	ad. No. 4, 1977
S. 10M.....	ad. No. 4, 1977
	am. No. 67, 1985; Act No. 44, 1991
	rs. No. 4, 1993
S. 10MA.....	ad. Act No. 38, 1994
S. 10N.....	ad. No. 4, 1977
	am. Act No. 44, 1991
Div. 4 of Part II (ss. 10P, 10Q)	ad. No. 4, 1977
S. 10P.....	ad. No. 4, 1977
	am. No. 5, 1990
S. 10Q.....	ad. No. 4, 1977
S. 11.....	am. Act No. 44, 1991; No. 61, 1994; No. 6, 1996

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 12	am. No. 28, 1937; No. 74, 1986; Act No. 44, 1991; No. 6, 1996
S. 13	am. Act No. 44, 1991; No. 61, 1994
S. 14	rep. No. 37, 1972
S. 15	am. Act No. 44, 1991; No. 61, 1994
S. 16	am. No. 28, 1937; No. 4, 1977; Act No. 44, 1991; No. 6, 1996
S. 17	am. No. 28, 1937; No. 5, 1990
Heading to Part III	rs. No. 67, 1985
Heading to Div. 1 of Part III	am. No. 67, 1985
S. 18	am. No. 20, 1940; No. 67, 1985; No. 5, 1990
Heading to Div. 2 of Part III	am. No. 67, 1985
S. 19	am. No. 28, 1937; No. 67, 1985; No. 74, 1986; No. 5, 1990
S. 20	am. No. 13, 1936; No. 1, 1967; No. 12, 1969; No. 4, 1977 rep. No. 74, 1986
S. 20A	ad. No. 2, 1961 am. No. 1, 1967 rep. No. 74, 1986
S. 21	am. No. 28, 1937; No. 12, 1958; No. 74, 1986; Act No. 6, 1996
S. 23	am. No. 15, 1970 rs. No. 14, 1974 am. No. 33, 1979; No. 74, 1986; No. 60, 1989; Acts Nos. 44 and 112, 1991; Nos. 4 and 48, 1993
S. 23AA	ad. No. 3, 1982
S. 23A	ad. No. 21, 1932
S. 23B	ad. No. 18, 1985 am. Act No. 44, 1991
S. 24	rep. No. 74, 1986
S. 24A	ad. No. 28, 1937 rep. No. 74, 1986
S. 24B	ad. No. 28, 1937 am. No. 14, 1953; No. 10, 1980; No. 67, 1985 rep. No. 74, 1986
S. 25	rs. No. 14, 1974 am. No. 74, 1986; Act No. 6, 1996
S. 26	am. Act No. 38, 1991; No. 4, 1993; No. 4, 1994
S. 27	am. No. 5, 1990
S. 27A	ad. No. 14, 1974 rep. No. 17, 1985
S. 31	am. No. 59, 1989; No. 5, 1990; Act No. 6, 1996
Div. 3 of Part IV (ss. 32 -36)	rep. No. 74, 1986
S. 32	am. No. 2, 1961

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 33	rep. No. 74, 1986 am. No. 1, 1967; No. 12, 1969; No. 4, 1977
S. 34	rep. No. 74, 1986
S. 35	rep. No. 74, 1986 am. No. 47, 1974
S. 36	rep. No. 74, 1986
S. 37	rep. No. 74, 1986 am. No. 74, 1986; No. 55, 1989; No. 5, 1990; Act No. 38, 1991; No. 4, 1993; No. 6, 1996
S. 38	am. No. 28, 1937; No. 33, 1979; No. 74, 1986; Act No. 6, 1996
S. 39	rep. No. 74, 1986
S. 40	am. No. 33, 1979 rep. Act No. 6, 1996
S. 41	rs. No. 28, 1937 am. No. 14, 1953; No. 74, 1986; Act No. 44, 1991
S. 42	am. No. 14, 1974, No. 33, 1979
S. 43	am. No. 28, 1937; No. 5, 1990; Act No. 9, 1992; No. 6, 1996
S. 46	rep. Act No. 6, 1996
S. 50	am. Act No. 44, 1991 rep. No. 9, 1992
S. 51	am. No. 74, 1986 rs. Act No. 6, 1996
S. 52	rep. Act No. 6, 1996
S. 53	am. No. 74, 1986; Act No. 6, 1996
S. 54	am. No. 74, 1986; Act No. 79, 1991; No. 2, 1993; No. 6, 1996
S. 54AA	ad. Act No. 79, 1991 rep. No. 2, 1993
S. 54A	ad. No. 4, 1980 am. No. 41, 1985; Nos. 71, 74 and 83, 1986; No. 5, 1990; Acts Nos. 44 and 106, 1991
S. 56	am. No. 74, 1986 rep. Act No. 6, 1996
S. 57	rep. No. 74, 1986
S. 59	am. No. 5, 1990
S. 60	rs. No. 12, 1958; No. 1, 1967 am. No. 37, 1972 rs. No. 14, 1974; No. 4, 1980 am. Act No. 44, 1991
S. 60A	ad. Act No. 6, 1996
S. 61	am. No. 74, 1986 rs. Act No. 6, 1996
S. 62	rs. No. 28, 1937; Act No. 6, 1996
S. 62A	ad. Act No. 6, 1996

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 63	am. No. 1, 1967 rs. Act No. 6, 1996
S. 65	am. No. 42, 1976; No. 74, 1986 rep. Act No. 61, 1994
S. 66	am. No. 28, 1937
S. 66A	ad. No. 56, 1987
S. 67	am. No. 4, 1980; No. 74, 1986; Act No. 6, 1996
Ss. 67A, 67B	ad. No. 74, 1986 am. No. 5, 1990; Act No. 46, 1995
S. 68	am. Act No. 6, 1996
S. 69	am. No. 12, 1958; No. 1, 1967; No. 4, 1980; Act No. 44, 1991
S. 70	am. No. 61, 1977; Act No. 6, 1996 rs. No. 82, 1996
S. 71	am. Act No. 6, 1996 rep. No. 82, 1996
S. 73	am. Act No. 9, 1992
S. 73A	ad. No. 74, 1986 am. Act No. 46, 1995
S. 74	am. Act Nos. 6 and 82, 1996
S. 75	rs. No. 42, 1976 am. No. 82, 1996
S. 76	am. No. 74, 1986; Act No. 61, 1994
S. 77	am. No. 15, 1970; Act No. 9, 1992
S. 78	am. Act No. 9, 1992
S. 79	am. No. 14, 1974; No. 42, 1976; Act No. 44, 1991; No. 9, 1992; No. 6, 1996
S. 80	am. No. 14, 1974; No. 62, 1984; No. 53, 1986; No. 5, 1990; Act No. 9, 1992; No. 6, 1996
S. 81	am. No. 28, 1937; No. 42, 1976 rep. Act No. 9, 1992
S. 82	am. No. 42, 1976; Act No. 82, 1996
S. 84	am. No. 74, 1986; Act No. 9, 1992; No. 6, 1996
S. 85	am. No. 74, 1986; Act No. 6, 1996
S. 86	am. Act No. 6, 1996
S. 87	am. No. 61, 1977
S. 88	am. No. 74, 1986; Act No. 44, 1991
Div. 1A of Part VI (s. 88A)	ad. No. 56, 1987
S. 88A	ad. No. 56, 1987
S. 89	am. No. 61, 1977
S. 89A	ad. No. 61, 1977 am. No. 56, 1987; Act No. 9, 1992; No. 6, 1996
S. 90	rs. No. 12, 1958 am. No. 1, 1967

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Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
	rs. No. 14, 1974
	am. No. 61, 1977; Act No. 44, 1991; No. 6, 1996
S. 90AA.....	ad. No. 14, 1974
	am. Act No. 44, 1991; No. 6, 1996
S. 90AB.....	ad. No. 14, 1974
	am. No. 61, 1977; Act No. 6, 1996
S. 90ABA.....	ad. No. 61, 1977
S. 90A.....	ad. No. 12, 1958
	am. No. 41, 1985; No. 5, 1990; Act No. 6, 1996
S. 91.....	am. No. 14, 1974; No. 56, 1987
S. 92.....	am. No. 12, 1951; No. 12, 1958; No. 1, 1967; No. 14, 1974; No. 61, 1977; No. 41, 1985; No. 74, 1986; No. 56, 1987
S. 92A.....	ad. No. 14, 1974
S. 92B.....	ad. No. 41, 1985
S. 93.....	am. No. 12, 1958; No. 1, 1967; Act No. 6, 1996
S. 94.....	am. No. 28, 1937; No. 42, 1976; No. 56, 1987; Act No. 6, 1996
S. 95.....	rs. No. 12, 1958
	am. No. 1, 1967; No. 59, 1989; Act No. 6, 1996
S. 97.....	am. No. 28, 1937
	rep. No. 12, 1958
Div. 2A of Part VI (s. 97)....	ad. No. 9, 1984
S. 97.....	ad. No. 9, 1984
	am. No. 56, 1987
Heading to Div. 3 of Part VI	am. Act No. 9, 1992
S. 98.....	am. No. 28, 1937
	rep. No. 59, 1989
Ss. 99, 100.....	am. No. 28, 1937; No. 42, 1976; No. 59, 1989
	rep. Act No. 9, 1992
S. 101.....	am. No. 1, 1967; No. 42, 1976; No. 17, 1985
	rep. Act No. 9, 1992
S. 102.....	am. No. 42, 1976
	rep. Act No. 9, 1992
S. 103.....	am. No. 14, 1974; Act No. 6, 1996
S. 105.....	am. No. 42, 1976
S. 106.....	am. No. 1, 1967; Nos. 17 and 41, 1985; Act No. 9, 1992
S. 107.....	am. No. 1, 1967; No. 17, 1985; Act No. 6, 1996
S. 108.....	am. No. 1, 1967
S. 108A.....	ad. No. 41, 1985
S. 109.....	rs. Act No. 6, 1996
S. 110.....	am. No. 14, 1974; No. 83, 1986; No. 59, 1989; Act No. 6, 1996
S. 112.....	am. Act No. 6, 1996
S. 114.....	am. No. 28, 1937
Ss. 115, 116.....	am. Act No. 6, 1996

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Part VIIA (ss. 116A-116J)	ad. No. 14, 1974 rep. No. 33, 1979
Part VIIA (ss. 116A-116I)	ad. No. 33, 1979
S. 116A	ad. No. 14, 1974 rs. No. 33, 1979 am. No. 10, 1984; No. 5, 1990; Act No. 4, 1993; No. 6, 1996
S. 116B	ad. No. 14, 1974 rs. No. 33, 1979 am. Act No. 4, 1993
S. 116BA	ad. Act No. 4, 1993
S. 116C	ad. No. 14, 1974 rs. No. 33, 1979 am. Act No. 44, 1991; No. 4, 1993; No. 6, 1996
Ss. 116D-116F	ad. No. 14, 1974 rs. No. 33, 1979 am. Act No. 44, 1991; No. 4, 1993
S. 116FA	ad. No. 59, 1989
S. 116G	ad. No. 14, 1974 rs. No. 33, 1979 am. No. 59, 1989; Act No. 44, 1991; No. 4, 1993
S. 116H	ad. No. 14, 1974 rs. No. 33, 1979; Act No. 4, 1993 am. No. 6, 1996
S. 116I	ad. No. 14, 1974 rs. No. 33, 1979 am. Act No. 44, 1991; No. 4, 1993; No. 6, 1996
S. 116J	ad. No. 14, 1974 rep. No. 33, 1979
Part VIII (ss. 117-134, 134A, 134B, 135-140)	rep. No. 74, 1986
Ss. 117-122	rep. No. 74, 1986
S. 123	rs. No. 28, 1937 rep. No. 74, 1986
S. 124	rep. No. 74, 1986
S. 125	am. No. 28, 1937 rep. No. 74, 1986
S. 126	rep. No. 74, 1986
S. 127	rs. No. 28, 1937 rep. No. 74, 1986
S. 128	am. No. 28, 1937 rep. No. 74, 1986
S. 129	rs. No. 1, 1967

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
	am. No. 4, 1980 rep. No. 74, 1986
Ss. 130, 131.....	rep. No. 74, 1986
S. 132	am. No. 1, 1967; No. 12, 1969; No. 4, 1977 rep. No. 74, 1986
S. 133	am. No. 28, 1937 rep. No. 74, 1986
S. 134A	ad. No. 25, 1968 rep. No. 74, 1986
S. 134B	ad. No. 25, 1968 am. No. 46, 1978 rep. No. 74, 1986
S. 135	am. No. 28, 1937 rep. No. 74, 1986
Ss. 136-138	rep. No. 74, 1986
S. 139	am. No. 28, 1937; No. 12, 1958; No. 15, 1970 rep. No. 74, 1986
S. 140	am. No. 12, 1958; No. 15, 1970 rep. No. 74, 1986
S. 141	am. No. 37, 1972; No. 5, 1990; Act No. 44, 1991; No. 4, 1993; Nos. 6 and 68, 1996
S. 142	am. No. 28, 1937; Act No. 44, 1991
S. 143	am. No. 74, 1986; Act No. 44, 1991
S. 144	rs. No. 1, 1967 am. No. 10, 1980; No. 74, 1986; Acts Nos. 38 and 44, 1991; No. 4, 1994
S. 145	am. Act No. 6, 1996
Heading to Div. 2 of Part IX	rs. Act No. 61, 1994
S. 146	rep. No. 57, 1986 ad. No. 60, 1989 rs. Act No. 112, 1991 am. No. 4, 1993
S. 146A	ad. No. 1, 1990 am. Act No. 6, 1996
S. 147	am. No. 25, 1968; No. 34, 1977; No. 74, 1986; No. 60, 1989; No. 5, 1990; Act No. 112, 1991; No. 23, 1992; No. 4, 1993; Nos. 4, 45 and 61, 1994; No. 46, 1995
S. 147A	ad. No. 60, 1989 am. Acts Nos. 44 and 112, 1991; No. 48, 1993
S. 148	am. No. 14, 1974; No. 33, 1979; Act No. 44, 1991
S. 149	rep. No. 74, 1986
S. 150	am. No. 14, 1974; No. 34, 1977; No. 33, 1979; No. 74, 1986; No. 60, 1989; Act No. 112, 1991; No. 4, 1993
S. 150A	ad. No. 60, 1989

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
	am. Acts Nos. 44 and 112, 1991; No. 48, 1993
S. 150B	ad. No. 60, 1989
	am. Acts Nos. 44 and 112, 1991; No. 48, 1993; No. 61, 1994
S. 150C	ad. No. 60, 1989
	am. Act No. 44, 1991
S. 151	am. No. 34, 1977; Act No. 6, 1996
S. 152	rs. Act No. 6, 1996
S. 153	am. No. 28, 1937; No. 22, 1940; No. 60, 1989; Act No. 44, 1991
Ss. 153A-153C	ad. No. 60, 1989
	am. Act No. 44, 1991
S. 155	am. Act No. 44, 1991
S. 155A	ad. No. 60, 1989
	am. Acts Nos. 44 and 112, 1991
S. 156	am. No. 34, 1977
S. 157	am. No. 42, 1976; No. 34, 1977; Act No. 44, 1991
S. 158	am. No. 74, 1986; Act No. 44, 1991
	rep. No. 61, 1994
S. 159	am. Act No. 44, 1991
	rep. No. 61, 1994
S. 160	rep. Act No. 61, 1994
S. 161	am. No. 74, 1986
	rep. Act No. 61, 1994
S. 162	am. No. 14, 1953; No. 1, 1967; Act No. 44, 1991; No. 81, 1994
	rep. No. 61, 1994
S. 163	rep. No. 37, 1972
S. 164	am. No. 5, 1990
	rep. Act No. 61, 1994
S. 165	am. No. 14, 1953; Act No. 44, 1991
	rep. No. 61, 1994
S. 166	am. No. 1, 1967; Act No. 81, 1994
	rep. No. 61, 1994
Div. 2A of Part IX (ss. 166A-166E)	ad. No. 2, 1982
S. 166A	ad. No. 2, 1982
	am. Act No. 44, 1991
S. 166B	ad. No. 2, 1982
S. 166C	ad. No. 2, 1982
	am. Act No. 44, 1991; No. 61, 1994
Ss. 166D, 166E	ad. No. 2, 1982
	am. Act No. 44, 1991
Div. 3 of Part IX (ss. 167 -169)	rep. No. 74, 1986
S. 167	am. No. 14, 1953
	rep. No. 74, 1986

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Ss. 168, 169.....	rep. No. 74, 1986
Div. 4 of Part IX (ss. 170 -180)	rep. Act No. 61, 1994
S. 170	am. No. 25, 1968; Act No. 44, 1991 rep. No. 61, 1994
S. 171	am. No. 28, 1937; Act No. 44, 1991 rep. No. 61, 1994
S. 172	am. Act No. 4, 1993 rep. No. 61, 1994
S. 173	rs. No. 25, 1968 am. No. 15, 1970; Act No. 44, 1991 rep. No. 61, 1994
S. 174	am. No. 74, 1986 rep. Act No. 61, 1994
Ss. 175-177	rep. Act No. 61, 1994
S. 178	am. No. 28, 1937 rep. Act No. 61, 1994
S. 179	am. Act No. 44, 1991 rep. No. 61, 1994
S. 180	rep. Act No. 61, 1994
Div. 5 of Part IX (ss. 181 -184, 186, 187)	rep. Act No. 61, 1994
S. 181	am. No. 28, 1937; Act No. 44, 1991 rep. No. 61, 1994
Ss. 182-184	am. Act No. 44, 1991 rep. No. 61, 1994
S. 185	rs. No. 1, 1967 rep. No. 37, 1972
Ss. 186, 187.....	rep. Act No. 61, 1994
S. 188	am. No. 1, 1967; No. 3, 1982; No. 41, 1985; No. 5, 1990; Act No. 81, 1994
S. 189	am. No. 1, 1967; No. 34, 1977; No. 46, 1978 rs. Act No. 4, 1993 am. No. 61, 1994
S. 190	rs. No. 74, 1986 am. No. 5, 1990; Act No. 44, 1991 rep. No. 61, 1994
S. 191	am. No. 1, 1967; No. 33, 1979; Act No. 44, 1991; No. 81, 1994
S. 192	am. Act No. 44, 1991 rep. No. 61, 1994
S. 193	am. No. 5, 1990
S. 194	am. Act No. 61, 1994
S. 195	am. No. 28, 1937; Act No. 23, 1992

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Part X (ss. 196-206).....	rep. Act No. 65, 1990
Part X (ss. 196-206, 206A -206R)	ad. Act No. 65, 1990
S. 196	am. No. 28, 1937 rs. Act No. 65, 1990 am. No. 37, 1992
Ss. 197, 198.....	rs. Act No. 65, 1990
S. 199	am. No. 28, 1937 rs. Act No. 65, 1990 am. No. 44, 1991
S. 200	am. No. 28, 1937 rs. Act No. 65, 1990
S. 201	rs. Act No. 65, 1990 am. No. 44, 1991
S. 202	rs. Act No. 65, 1990
S. 203	rs. Act No. 65, 1990 am. No. 46, 1995
S. 204	rs. Act No. 65, 1990
S. 205	am. No. 74, 1986 rs. Act No. 65, 1990
S. 206	rs. Act No. 65, 1990
S. 206A.....	ad. Act No. 65, 1990 am. No. 44, 1991
Ss. 206B, 206C.....	ad. Act No. 65, 1990
S. 206D.....	ad. Act No. 65, 1990 am. No. 9, 1991; No. 74, 1996; No. 25, 1997
S. 206E.....	ad. Act No. 65, 1990 am. No. 37, 1992
Ss. 206F-206I.....	ad. Act No. 65, 1990
Ss. 206J, 206K.....	ad. Act No. 65, 1990 am. No. 44, 1991
S. 206L.....	ad. Act No. 65, 1990 am. No. 37, 1992; No. 81, 1994; No. 25, 1997
S. 206M.....	ad. Act No. 65, 1990
S. 206N.....	ad. Act No. 65, 1990 am. No. 44, 1991
S. 206P.....	ad. Act No. 65, 1990 am. No. 81, 1994
S. 206Q.....	ad. Act No. 65, 1990 am. No. 46, 1995
S. 206R.....	ad. Act No. 65, 1990
Heading to Part XI	rs. No. 37, 1972

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Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Div. 1 of Part XI (s. 207)	ad. No. 37, 1972
S. 207	rs. No. 28, 1937 am. No. 1, 1967; No. 25, 1968 rs. No. 37, 1972 am. No. 67, 1985; Act No. 65, 1990
Div. 2 of Part XI (ss. 208 -219)	ad. No. 37, 1972
S. 208	rs. No. 28, 1937 am. No. 14, 1953; No. 12, 1958; No. 25, 1968 rs. No. 37, 1972 am. No. 16, 1984; Nos. 41 and 67, 1985; Nos. 33 and 74, 1986; Act No. 65, 1990; No. 9, 1992; No. 61, 1994; No. 6, 1996
S. 208A	ad. No. 12, 1958 am. No. 1, 1967; No. 25, 1968 rep. No. 37, 1972
S. 208B	ad. No. 12, 1958 rep. No. 37, 1972
S. 209	am. No. 17, 1934 rs. No. 28, 1937 am. No. 1, 1967 rs. No. 37, 1972 am. No. 61, 1984; No. 67, 1985 rs. No. 74, 1986
S. 210	am. No. 17, 1934 rs. No. 28, 1937; No. 37, 1972
S. 211	rs. No. 28, 1937; No. 37, 1972; No. 18, 1985 rep. No. 74, 1986
S. 212	rs. No. 28, 1937; No. 12, 1958 am. No. 1, 1967 rs. No. 37, 1972 rep. No. 18, 1985
S. 213	rs. No. 28, 1937; No. 37, 1972 rep. No. 18, 1985
S. 214	rs. No. 28, 1937 am. No. 1, 1967 rs. No. 37, 1972 am. No. 61, 1984; Act No. 65, 1990
S. 214A	ad. No. 33, 1986 rep. Act No. 9, 1992
S. 215	rep. No. 28, 1937 ad. No. 37, 1972 am. No. 67, 1985 rep. No. 74, 1986

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Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 216	rep. No. 28, 1937 ad. No. 37, 1972 am. No. 62, 1984; No. 74, 1986; Act No. 9, 1992; No. 41, 1995
S. 217	rep. No. 28, 1937 ad. No. 37, 1972 rep. No. 74, 1986
S. 218	rep. No. 28, 1937 ad. No. 37, 1972 rs. No. 61, 1984 am. No. 67, 1985
S. 219	rep. No. 28, 1937 ad. No. 37, 1972 am. No. 67, 1985; No. 74, 1986
Div. 3 of Part XI (ss. 219A -219F)	ad. No. 37, 1972
S. 219A	ad. No. 37, 1972 rep. Act No. 61, 1994
S. 219B	ad. No. 37, 1972 am. No. 14, 1974; No. 41, 1979; No. 16, 1984; Nos. 41 and 67, 1985; No. 9, 1990; Act No. 61, 1994; No. 6, 1996
S. 219C	ad. No. 37, 1972 am. No. 14, 1974; No. 41, 1979; No. 61, 1984; Nos. 41 and 67, 1985; No. 9, 1990; Act No. 6, 1996
S. 219D	ad. No. 37, 1972 am. Nos. 41 and 67, 1985; No. 9, 1990; Act No. 9, 1992; No. 6, 1996
S. 219E	ad. No. 37, 1972 am. Act No. 6, 1996
S. 219F	ad. No. 37, 1972 am. No. 14, 1974; No. 41, 1979; Nos. 41 and 67, 1985; No. 9, 1990
Div. 3A of Part XI (ss. 219G-219L)	ad. No. 62, 1984 rep. Act No. 9, 1992
S. 219G	ad. No. 62, 1984 am. No. 74, 1986 rep. Act No. 9, 1992
Ss. 219H-219L	ad. No. 62, 1984 rep. Act No. 9, 1992
Heading to Div. 4 of Part XI	ad. No. 37, 1972
S. 220	am. No. 28, 1937; No. 37, 1972 rs. No. 62, 1984 rep. Act No. 9, 1992
S. 221	rep. No. 28, 1937
Ss. 222, 223	am. No. 28, 1937; No. 67, 1985; No. 74, 1986

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Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 224	am. No. 28, 1937
S. 225	am. No. 28, 1937; No. 1, 1967; No. 17, 1985
S. 226	am. No. 28, 1937; Act No. 9, 1992
S. 227	am. No. 28, 1937; No. 67, 1985; Act No. 6, 1996
S. 228	am. No. 74, 1986
S. 230	am. No. 28, 1937 rs. No. 37, 1972 am. No. 18, 1985; Act No. 44, 1991
S. 231	am. No. 28, 1937; No. 14, 1953; Act No. 61, 1994
S. 233	am. Act No. 61, 1994
S. 234	am. No. 28, 1937
S. 235	am. Act No. 61, 1994
S. 236	am. No. 28, 1937
Ss. 237, 238.....	rep. No. 66, 1985
S. 239	am. No. 28, 1937; No. 74, 1986
S. 240	am. No. 67, 1985
S. 242	am. No. 28, 1937; No. 74, 1986 rs. Act No. 6, 1996
S. 243	am. No. 2, 1966 rs. Act No. 61, 1994
Heading to Part XIII	rs. No. 14, 1953 am. Act No. 4, 1994
S. 244	am. No. 28, 1937; No. 14, 1953; No. 74, 1986; Act No. 61, 1994
S. 245	rs. No. 14, 1953; No. 10, 1980 am. Acts Nos. 38 and 44, 1991 rep. No. 4, 1994
S. 245A	ad. No. 28, 1937 rs. No. 83, 1986 am. No. 55, 1989; No. 5, 1990; Act No. 44, 1991; No. 4, 1993 rep. No. 4, 1994
S. 246	rs. No. 28, 1937 rep. No. 74, 1986
S. 247	rs. No. 14, 1953; No. 1, 1967 am. Act No. 6, 1996
S. 248	rep. Act No. 61, 1994
Part XIII A (ss. 248A -248D)	ad. No. 14, 1974 rep. Act No. 9, 1992
Part XIII A (ss. 248A -248F)	ad. Act No. 4, 1994
S. 248A	ad. No. 14, 1974 am. No. 53, 1986; No. 5, 1990 rep. Act No. 9, 1992

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Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 248B	ad. No. 4, 1994 am. No. 94, 1997 ad. No. 14, 1974 am. No. 53, 1986; No. 5, 1990 rep. Act No. 9, 1992
S. 248C	ad. No. 4, 1994 ad. No. 14, 1974 rep. Act No. 9, 1992
S. 248D	ad. No. 4, 1994 am. No. 45, 1994; No. 46, 1995; No. 96, 1997 ad. No. 14, 1974 am. No. 53, 1986 rep. Act No. 9, 1992 ad. No. 4, 1994
S. 248E	ad. Act No. 4, 1994
S. 248F	ad. Act No. 4, 1994 am. No. 6, 1996
S. 249	am. Act No. 44, 1991
S. 250	ad. No. 28, 1937 am. No. 74, 1986; Act No. 44, 1991; No. 9, 1992
S. 251	rep. No. 28, 1937
S. 252	am. No. 28, 1937; No. 74, 1986; Act No. 9, 1992
S. 253	am. Act No. 9, 1992
S. 254	rs. No. 14, 1974 am. Nos. 53 and 74, 1986; No. 5, 1990; Act No. 44, 1991; No. 9, 1992; No. 61, 1994
S. 254A	ad. No. 59, 1989
S. 255	am. No. 1, 1967; No. 37, 1972; No. 5, 1990 rs. Act No. 4, 1993 am. Nos. 66 and 81, 1994
S. 255AA	ad. Act No. 61, 1994 am. No. 46, 1995; No. 6, 1996
S. 255AB	ad. Act No. 61, 1994 am. No. 46, 1995
S. 255A	ad. No. 42, 1976 am. Act No. 41, 1995; No. 6, 1996
S. 255B	ad. No. 4, 1980 am. No. 71, 1986; Act No. 44, 1991
S. 255C	ad. No. 4, 1980 am. Nos. 71 and 83, 1986; No. 45, 1988; Acts Nos. 38 and 44, 1991; No. 4, 1993; No. 4, 1994
S. 256	am. No. 1, 1967; No. 15, 1970; No. 14, 1974; No. 33, 1979; Act No. 4, 1993

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NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 257	am. No. 28, 1937 rep. No. 74, 1986 ad. Act No. 38, 1991 rep. No. 4, 1994
S. 258	am. No. 21, 1932; No. 28, 1937; No. 14, 1953; No. 74, 1986; No. 5, 1990; Act No. 44, 1991
The First Schedule.....	am. No. 28, 1937; No. 25, 1938 (as am. by No. 35, 1938); No. 35, 1938; No. 14, 1953; No. 12, 1958; No. 2, 1966; No. 1, 1967; No. 25, 1968; No. 37, 1972; No. 14, 1974; No. 42, 1976; Nos. 34 and 61, 1977; No. 46, 1978; No. 33, 1979; No. 62, 1984; No. 67, 1985; No. 74, 1986; No. 59, 1989; Act No. 65, 1990; No. 44, 1991; Nos. 9 and 37, 1992; No. 4, 1993; No. 61, 1994; Nos. 6 and 82, 1996
The Second Schedule	am. No. 25, 1938 (as am. by No. 35, 1938) rep. No. 4, 1977
Second Schedule.....	ad. No. 4, 1977 am. Act No. 94, 1997
The Third Schedule	am. No. 25, 1938 (as am. by No. 35, 1938); No. 42, 1976; No. 67, 1985; Act No. 44, 1991
The Fourth Schedule	am. Nos. 5 and 28, 1937 rep. No. 14, 1953
The Fifth, Sixth Schedules	rep. No. 14, 1953

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