



Australian Capital Territory

# **Magistrates Court Act 1930**

**A1930-21**

**Republication No 6C**

**Effective: 10 May 2000 – 31 May 2000**

Republication date: 23 February 2006

Last amendment made by A2000-1  
(republication for amendments by A1999-64,  
A1999-79 and A2000-1)

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Magistrates Court Act 1930* effective from 10 May 2000 to 31 May 2000.

### **Kinds of republications**

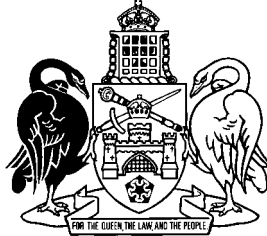
The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### **Editorial changes**

The *Legislation (Republication) Act 1996*, part 3, division 2 authorised the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation (Republication) Act 1996*, s 14 and s 16). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.



Australian Capital Territory

---

## **MAGISTRATES COURT ACT 1930**

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

Updated as at 10 May 2000

### **CONTENTS**

#### **PART 1—PRELIMINARY**

- 1 Short title
- 5 Interpretation
- 6 Application to Jervis Bay Territory

#### **PART 2—APPOINTMENT AND JURISDICTION OF MAGISTRATES**

##### *Division 1—Appointment of Chief Magistrate and magistrates*

- 6A Interpretation
- 7 Chief Magistrate and other magistrates
- 8 Eligibility for appointment as magistrate
- 9 Seniority of magistrates
- 10 Terms and conditions of appointment
- 10A Tenure of office
- 10B Resignation
- 10C Acting Chief Magistrate
- 10D Retirement
- 10E Magistrates not to undertake other work
- 10F Rights of public servants
- 10G Arrangement of business of courts

*Magistrates Court Act 1930*

**CONTENTS**—continued

*Division 2—Special magistrates*

- 10H Appointment of special magistrates
  - 10J Tenure of office
  - 10K Resignation
  - 10L Terms and conditions of appointment
- Division 3—Registrar and other officers of the Magistrates Court*
- 10M Appointment of registrar etc
  - 10MA Staff assisting the registrar
  - 10N Duties of the registrar

*Division 4—Jurisdiction of magistrates*

- 10P Oath etc of office
- 10Q Acts done beyond the Territory
- 11 Authentication of acts of magistrate or registrar
- 12 Acts by magistrate or registrar
- 13 Issue of warrant of commitment or writ of execution
- 15 Process not avoided by death of magistrate or registrar
- 16 Order in lieu of mandamus
- 17 Powers and functions of magistrates

**PART 3—MAGISTRATES COURT**

*Division 1—Establishment of Magistrates Court*

- 18 Constitution of the court

*Division 2—Jurisdiction of Magistrates Court*

- 19 Jurisdiction of the court
- 21 Jurisdiction of the court where defendant absent from the Territory
- 22 Proceedings of court where it considers offence should be dealt with on indictment
- 23 Ex parte order may be set aside
- 23AA Ex parte conviction may be set aside on application by informant
- 23A Requests under conventions regarding legal proceedings in civil and commercial matters
- 23B Rectification of certain orders etc

**PART 4—COMMENCEMENT OF PROCEEDINGS**

*Division 1—General*

- 25 Informations

*Division 2—Informations*

- 26 Laying of informations
- 27 Description of persons and property and of offences
- 28 Power of court to amend information

*Magistrates Court Act 1930*

**CONTENTS—continued**

29	Court may adjourn hearing where amendment made
30	Form of information
31	Limitation of proceedings
	<i>Division 4—Summonses</i>
37	When magistrate may issue summons
38	Form of summons
41	Service of summons
	<i>Division 5—Warrants of arrest</i>
42	Issue of warrant and summons
43	Procedure on filing of indictment
44	Direction of warrant
45	Any police officer may execute warrant
47	Form of arrest warrant
48	Warrant to be in force till executed
49	Sunday warrants
	<b>PART 5—HEARING</b>
	<i>Division 1—General</i>
51	Hearings to be in public except in special circumstances
53	Conduct of case
54	Where both parties present in court to hear case
54A	Recording of proceedings
	<i>Division 2—Evidence</i>
55	Examination to be on oath
58	Defendant and husband or wife, when competent in criminal proceedings
59	Proof of negative etc
60	Record of proceedings and transcript
60A	Informant may request witnesses to attend
61	Power of magistrate to summon witnesses
62	Service of summons on witness
62A	Witnesses entitled to claim expenses
63	Warrant to bring witness to court
64	Warrant in the first instance
66	Production of documents before magistrate
66A	Setting aside summons
67	Person about to leave Territory may be ordered to be examined or produce documents
67A	Examination of witnesses—application of Magistrates Court (Civil Jurisdiction) Act 1982

*Magistrates Court Act 1930*

**CONTENTS**—continued

67B	Affidavits—application of Magistrates Court (Civil Jurisdiction) Act 1982
68	Witnesses’ rights and liabilities
69	Depositions to be delivered to the registrar
	<i>Division 3—Remand</i>
70	Remand of defendant
72	Bringing up during remand
72A	Hearing of bail applications
72B	Defendant’s appearance in proceedings other than bail proceedings
73	Bail of defendant during examination
	<i>Division 4—Committal and recognisance</i>
73A	Application of Division
74	Committal or detention before decision
75	Committal of witness or of defendant after decision
76	Witnesses may be discharged on recognisance
77	Recognisances
78	Issue of warrant for non-appearance
79	Recognisances taken out of court
80	Forfeited recognisances—how enforced
82	Conveying persons to custody
	<i>Division 5—Adjournment of proceedings</i>
83	Magistrate may adjourn court generally
84	Particular cases may be adjourned
85	Proceedings when either party is not present at adjourned hearing
86	Proceedings when both parties are present at adjourned hearing
87	Witnesses to attend adjourned sittings
88	Postponement of hearing
	<b>PART 6—PROCEEDINGS IN CASE OF INDICTABLE OFFENCES</b>
	<i>Division 1A—Preliminary</i>
88A	Meaning of “jury”
	<i>Division 1—Institution of proceedings</i>
89	Disobedience of summons
89A	Accused person may be excused from attendance before court
90	Procedure where informant proposes to tender written statements to court
90AA	Written statements may be admitted in evidence
90AB	Preliminary examination where written statements not tendered

*Magistrates Court Act 1930*

**CONTENTS—continued**

90ABA	Attendance not required under section 90AA or 90AB where order made under subsection 89 (1)
90A	Plea of guilty in committal proceedings
91	Court may discharge accused
92	Proceedings where evidence sufficient to put accused on trial
92A	Committal for sentence for indictable offence tried summarily
92B	Depositions as evidence
93	Admissions and confessions <i>Division 2—Proceedings subsequent to hearing of evidence</i>
94	Discharge or committal for trial
95	Depositions of dead or absent persons
96	Evidence for defence <i>Division 2A—Costs</i>
97	Discontinued proceedings <i>Division 3—Recognisances of witnesses</i>
103	Recognisance of witnesses etc
104	Signature of magistrate—notice to witnesses
105	Court may commit refractory witness <i>Division 4—Miscellaneous</i>
106	Transmission of depositions etc to Director of Public Prosecutions
107	Delivery of documents to proper officer of court
108	Copies of depositions may be obtained by accused
	<b>PART 7—PROCEEDINGS IN CASE OF OFFENCES PUNISHABLE SUMMARILY</b>
108A	Indictable offences dealt with summarily
109	Dismissal or adjournment in absence of informant
110	Ex parte hearing in absence of defendant
111	Magistrate may adjourn the case
112	Both parties appearing
113	Proceedings at the hearing on defendant's confession
114	Where defendant does not admit the case
115	Court may proceed to hearing in absence of both or either of the parties
116	Conduct of summary proceedings regulated
	<b>PART 7A—SERVICE AND PLEADING BY POST WITH RESPECT TO CERTAIN OFFENCES</b>
116A	Interpretation
16AA	Meaning of <i>prescribed offence</i> for Pt 7A
116B	Service of summons

*Magistrates Court Act 1930*

**CONTENTS**—continued

116BA	Giving of notice
116C	Proof of service
116D	Pleas
116E	Procedure where plea of guilty entered
116F	Procedure where notice of intention to defend given
116FA	Procedure where defendant pleads not guilty
116G	Procedure where defendant does not plead
116H	Restricted penalties under this Part
116I	Consequences of conviction ex parte

**PART 9—ENFORCEMENT OF DECISIONS**

*Division 1—General*

141	Minute of decision and notice to defendant
142	Formal convictions and orders
143	Proceedings in case of dismissal
144	Copies of informations and other documents
145	Imprisonment in first instance

*Division 2—Enforcement of fines*

146	Interpretation
147	Payment of fine
147A	Notice of address etc
147B	Access to particulars of address
147C	Doubtful service
148	Court may allow time to pay
149	Penalty notice
150	Default
151	Default notice
152	Special arrangements
	53 Notice for suspension of driver licence etc
154	Access to personal information
154A	Ascertainment of capacity to pay fine
154B	Garnishee orders and writs of execution
154C	Application of Part 19, Magistrates Court (Civil Jurisdiction) Act
154D	Committal to prison—fine defaulters
155	Moneys to be paid to registrar
156	Execution to cease on payment of amount due
157	Payment of amount to keeper or superintendent
158	Fine satisfied by imprisonment
159	Remission
160	Conviction or order quashed or set aside



*Magistrates Court Act 1930*

**CONTENTS—continued**

161	Other enforcement provisions not affected <i>Division 2A—Reciprocal enforcement of fines against bodies corporate</i>
166A	Interpretation
166B	Declarations relating to reciprocating courts
166C	Enforcement of fine
166D	Effect of enforcement by reciprocating court
166E	Registrar to notify payment of Territory fine <i>Division 6—Miscellaneous</i>
184	Enforcement of costs against informant
185	Committal to prison—orders not involving payment of money
186	Warrant of commitment to prison
187	Warrant of commitment where defendant already in prison
188	Mitigation of payment by court
191	Accounts to be kept in the form in Schedule 3
193	Forfeited goods may be sold
194	Warrant of commitment or writ of execution not void for form only
195	Convictions etc to be transmitted to registrar of Supreme Court
<b>PART 10—RESTRAINING ORDERS</b>	
196	Interpretation
197	Power to make
198	Entitlement to apply
198A	Powers exercisable in care and protection proceedings
199	Hearing dates
200	Parties—applications by persons other than aggrieved persons
201	Parties—applications involving children
202	Representation of children
203	Hearing of applications
204	Matters to be taken into account
205	Restrictions in orders
206	Consent orders
206AA	Jurisdiction under section 206
206A	Service of applications
206B	Procedure in absence of respondent
206C	Interim restraining orders
206D	Seizure of firearms
206E	Explaining proposed orders
206F	Counselling
206G	Power of court to make orders where person charged

*Magistrates Court Act 1930*

**CONTENTS**—continued

206H	Duration of orders
206J	Variation and revocation of orders
206K	Service etc of orders
206L	Offence
206M	Service other than personal service
206N	Service by police officers
206P	Restriction on publication of reports of proceedings
206PA	Limits of restriction on publication
206PB	Application not invalid only because made under wrong Act
206Q	Appeals
206R	Application of Crimes Act
<b>PART 11—APPEALS TO THE SUPREME COURT</b>	
<i>Division 1—The appellate jurisdiction of the Supreme Court</i>	
207	Jurisdiction of Supreme Court
<i>Division 2—Appeals</i>	
208	Appeals to which this Division applies
209	Institution of appeal
210	Substituted service of notice of appeal
214	Appeals in cases other than civil cases
216	Stay of execution pending appeal in certain cases
218	Orders by Supreme Court on appeals
219	Barring of right of appeal under this Division if order to review is granted
<i>Division 3—Orders to review</i>	
219B	Appeals by way of orders to review
219C	Grant of order nisi to review
219D	Security for costs and stay of execution
219E	Non-appearance of applicant
219F	Powers of Supreme Court
<i>Division 4—General Provisions</i>	
222	Control of Supreme Court over summary convictions
223	Amendment
224	In cases of certiorari
225	Notice dispensed with
226	Power of court or judge to admit to bail
227	Respecting the amendment of convictions etc
228	Want of summons or information
229	Distribution of penalty
230	Provisions applicable in relation to security given for costs of appeal

*Magistrates Court Act 1930*

**CONTENTS—continued**

**PART 12—PROTECTION OF MAGISTRATES IN THE  
EXECUTION OF THEIR OFFICE**

- 231 Magistrate sued for act not within jurisdiction
- 232 No action against magistrate after order nisi to quash conviction  
has been granted
- 233 Warrant or writ by magistrate on order of court
- 234 No action for acts done under order of Supreme Court
- 235 No action where proceedings confirmed on appeal
- 236 Actions in cases prohibited
- 239 Payment of money into court
- 240 No action against magistrate for judicial acts in Magistrates Court
- 241 Magistrate sued for acts within his or her jurisdiction only liable  
in case of malice and absence of reasonable and probable cause
- 242 Verdict for defendant
- 243 Damages

**PART 13—COSTS**

- 244 Award of costs
- 247 Witnesses expenses

**PART 13A—FEES AND CHARGES<sup>3</sup>**

- 248 (Not in operation—see Note 3)
- 248A Determination of fees and charges
- 248B Fees and charges—payment
- 248C Fees and charges—remission, refund, deferral, waiver, exemption
- 248D Fees and charges (civil proceedings)—recovery where otherwise  
not payable
- 248E Fees and charges (criminal proceedings)—recovery where  
otherwise not payable
- 248F Fees and charges—review of decisions

**PART 14—SECURITIES**

- 249 Securities taken under Act
- 250 Recovery of sum due under security
- 252 Sums paid by surety may be recovered from principal
- 253 Payment enforced by security
- 254 Enforcement of recognisance
- 254A Directions as to procedure

**PART 15—MISCELLANEOUS**

- 254B Appearance by audio visual or audio links
- 255 Contempt in the face of the court
- 255AA Refusal or failure to give evidence—offence

*Magistrates Court Act 1930*

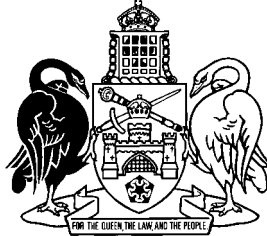
**CONTENTS**—continued

255AB	Refusal or failure to give evidence—committal
255A	Commitment to remand centre
255B	Registrar to give directions for preparation of transcript
255C	Applications for transcripts
256	Forms
258	Rules and regulations
PART 16—TRANSITIONAL	
259	Application of section 203 (as amended) and section 206AA

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3



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 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Magistrates Court Act 1930*.<sup>1</sup>

#### 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;

*Magistrates Court Act 1930*

“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;

“escort” means an escort under the *Custodial Escorts Act 1998*;

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

“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 on which an order may be made for the payment of money under a Territory law.

“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;

“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’;

“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.

*Magistrates Court Act 1930*

(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.

(3) A reference in this Act to appearance in proceedings, whether by a party or any other person, shall be taken to include, where section 254B applies, appearance in accordance with that section.

**6 Application to Jervis Bay Territory**

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

**PART 2—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 Magistrate and other 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—

- (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

*Magistrates Court Act 1930*

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—

- (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

*Magistrates Court Act 1930*

- (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**

(1) The Chief Magistrate is responsible for ensuring the orderly and prompt discharge of the business of the Magistrates Court and accordingly may, subject 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 that Court 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.
- (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 Schedule 2.
- (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.
- (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

*Magistrates Court Act 1930*

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.

*Magistrates Court Act 1930*

**(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.

**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 3—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 1 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) If a Territory law mentioned in column 2 of Schedule 1 to the *Interpretation Act 1967* gives jurisdiction 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 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.

(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;

*Magistrates Court Act 1930*

- (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
  - (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, reopen 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 reopen 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 reopen proceedings of its own motion under subsection (2) at least 3 business days before the proceedings are reopened; 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 reopens 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.

*Magistrates Court Act 1930*

- (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 reopened under subsection (2) in respect of a conviction or order that is the subject of an appeal.
- (10) Where proceedings reopened under this section have not been determined in respect of a conviction or order that, after the proceedings have been reopened but before they are determined, becomes the subject of an appeal, the reopened proceedings shall be stayed until the appeal is determined.
- (11) Where the court reopens 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 reopened 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.
- (13) For the purposes of Part 11, where the court, in determining proceedings that have been reopened 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 4—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**

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.

**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) Subject to subsections (1A) and (2), 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 6 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 6 months—at any time within 1 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 1 year after the commission of the offence.

(1A) If a coroner's inquest or inquiry, or an inquiry under the *Inquiries Act 1991* or the *Royal Commissions Act 1991*, is held into a matter that relates to an offence referred to in paragraph (1) (b) or (c), a prosecution in respect of the offence may be commenced within 1 year after the day on which—

- (a) the coroner's report is made; or
- (b) the report of the board of inquiry or the royal commission is submitted to the Chief Minister.

(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 summonses**

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

**38 Form of summonses**

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 summonses**

(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 16 years.

(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 summonses**

(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.

*Magistrates Court Act 1930*

(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
- (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

*Magistrates Court Act 1930*

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 arrest 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 cause him or her to be brought 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 5—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
  - (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 in 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) in proceedings concerning bail and where, in relation to proceedings or a part of proceedings, the Court has given a direction under subsection 85AE (1) or 85AQ (1) of the *Evidence Act 1971* that evidence be taken or a submission be made by audio visual link—by means of audio visual recording apparatus or sound recording apparatus;

(b) in any other case—

(i) by means of sound recording apparatus; or

(ii) 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 recording apparatus and the record of any other part of a proceeding made by means of recording apparatus after the expiration of 7 years after the date of completion of the proceedings in which the record was made.

**(5A)** Notwithstanding subsection (5), the sound-recording of any part of proceedings—

(ii) in which a person charged with an indictable offence is committed to take his or her trial before the Supreme Court;

*Magistrates Court Act 1930*

- (iii) in which evidence is taken in pursuance of a request referred to in section 23A;
- (iv) under the *Safety, 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 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.

**(2)** Where—

- (a) a recording is produced out of the custody of the registrar; and
- (b) the recording contains a record of comments that purport—
  - (i) to have been made at the same time as a 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 lastmentioned recording or any other matter or thing so recorded;

the firstmentioned 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.

**(5)** In this section—

“recording apparatus” means the recording apparatus, whether audio visual or sound, by means of which a record of depositions of witnesses has been made under subsection 54A (2).

**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—

*Magistrates Court Act 1930*

- (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.
- (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

*Magistrates Court Act 1930*

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.

*Magistrates Court Act 1930*

(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.

(3) A warrant or order under subsection (1) in which a transfer direction is given to all police officers or all escorts—

- (a) shall be taken in that respect to be directed to each police officer, or each escort, respectively; and
- (b) may be executed in that respect by any police officer, or any escort, respectively.

(4) In this section—

“transfer direction” means a direction to the effect that the remandee is to be taken, safely conveyed and delivered into the custody of the administrator.

**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.



**72A Hearing of bail applications**

- (1) Unless the Court otherwise directs, where—
- (a) a person who is in custody is required or entitled to appear, or is required to be brought, before the Court for the hearing of an application in relation to bail; and
  - (b) an audio visual link is available between the place where the Court is sitting and a place where the person is in custody;
- the proceeding shall be conducted by the audio visual link.

(2) The Court may at any time vary or revoke a direction made under subsection (1), either on its own motion or on the application of a party to the proceeding.

(3) In this section—

“audio visual link” has the same meaning as in Part XIIIAA of the *Evidence Act 1971*.

**72B Defendant’s appearance in proceedings other than bail proceedings**

For the purposes of sections 70 and 72, a person who is directed by warrant or order to bring a person before the Court shall ensure that, where section 254B applies, the person appears before the Court in accordance with that section.

**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 admit the defendant to bail in accordance with the provisions of the *Bail Act 1992*.

***Division 4—Committal and recognisance***

**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 recognisance**

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

**77 Recognisances**

Where the court is authorised to discharge the witness, or person sought to be made a witness, upon recognisance, it may order his or her discharge upon his or her entering into a recognisance, 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 recognisance.

**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 recognisance 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 4.

**79 Recognisances taken out of court**

Notwithstanding anything in this or any other Act, a recognisance 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 recognisances taken before the courts shall apply, as if the recognisance had been entered into before the court in accordance with section 77.

**80 Forfeited recognisances—how enforced**

Where the conditions, or any of them, in a recognisance 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 recognisance 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 recognisances, and that certificate shall be deemed sufficient prima facie evidence of the recognisance 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 6—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;
- (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.

*Magistrates Court Act 1930*

(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 informant 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;

*Magistrates Court Act 1930*

- (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;
  - (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.

(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



*Magistrates Court Act 1930*

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.

**(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.

*Magistrates Court Act 1930*

- (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 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 5 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 5 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—

*Magistrates Court Act 1930*

- (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.’

(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

*Magistrates Court Act 1930*

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—

- (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

*Magistrates Court Act 1930*

- (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 lockup 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 1 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—

*Magistrates Court Act 1930*

- (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;

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

***Division 3—Recognisances of witnesses***

**103 Recognition of witnesses etc**

(1) The court may bind by recognisance 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 recognisance 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.

**104 Signature of magistrate—notice to witnesses**

Every such recognisance 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 recognisance, 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 recognisance 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 Supreme 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 Supreme 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 Magistrates 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 Supreme 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



*Magistrates Court Act 1930*

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 7—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.

**(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)—

*Magistrates Court Act 1930*

- (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 7A—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;

(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.

(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.

**116AA Meaning of *prescribed offence* for Pt 7A**

(1) For this Part, an offence against a law in force in the Territory is a ***prescribed offence*** in relation to a person if—

- (a) for an offence against the road transport legislation—the maximum fine that can be imposed on the person for the offence is—
  - (i) if the person is an individual—30 penalty units; or
  - (ii) if the person is a corporation—150 penalty units; or
- (b) for any other offence—the maximum fine that can be imposed on the person for the offence is—
  - (i) if the person is an individual—10 penalty units; or
  - (ii) if the person is a corporation—50 penalty units.

(2) In subsection (1)—

***road transport legislation*** means the following:

- (a) the *Road Transport (Dimensions and Mass) Act 1990*;
- (b) the *Road Transport (Driver Licensing) Act 1990*;
- (c) the *Road Transport (General) Act 1990*;
- (d) the *Road Transport (Safety and Traffic Management) Act 1999*;

*Magistrates Court Act 1930*

- (e) the *Road Transport (Vehicle Registration) Act 1999*;
- (f) any other Act or any regulations (or provision of an Act or regulations) prescribed under the regulations;
- (g) any regulations made under an Act mentioned in paragraphs (a) to (f) or any provisions of such an Act.

**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.

(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.

*Magistrates Court Act 1930*

(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.

(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 Restricted 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.

- (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 9—ENFORCEMENT OF DECISIONS**

### ***Division 1—General***

#### **141 Minute of decision and notice to defendant**

- (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.
- (1A) A minute or memorandum under paragraph (1) (a) shall specify the amount of any levy imposed under Part 5 of the *Victims of Crime (Financial Assistance) Act 1983*.
- (1AA) Failure to comply with subsection (1) does not invalidate a conviction or order or the enforcement of a conviction or order.
- (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.

*Magistrates Court Act 1930*

(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***

**146 Interpretation**

In this Division—

“chief police officer” means the police officer who is responsible for the day-to-day administration and control of police services in the Territory;

“default notice” means a notice in force under section 151 including any variation under section 152;

“fine” means—

- (a) a pecuniary penalty imposed by a court in respect of an offence;
- (b) a fee or charge payable to the Territory that is imposed by a court in proceedings for an offence;
- (c) costs payable to the Territory under a court order in proceedings for an offence;

*Magistrates Court Act 1930*

- (d) a levy imposed under the *Victims of Crime (Financial Assistance) Act 1983*; or
- (e) an amount payable to the Territory by virtue of an order for reparation under section 437 of the *Crimes Act 1900*;

“fine defaulter” means a person to whom a default notice has been given who subsequently defaults in payment of the relevant outstanding fine;

“government agency” means—

- (a) an administrative unit;
- (b) ACTEW Corporation Limited; or
- (c) a prescribed Territory entity;

“outstanding fine” means the sum of—

- (a) the whole or any part of a fine; and
- (b) the whole or any part of an administrative fee payable in relation to the fine;

that a person is liable to pay;

“penalty notice” means a notice in force under section 149 including any variation under section 152;

“Territory entity” has the same meaning as in the *Auditor-General Act 1996*.

#### **147 Payment of fine**

A fine is payable in accordance with this Division to the registrar.

#### **147A Notice of address etc**

(1) A person on whom a fine is imposed shall not, without reasonable excuse, fail to give to the registrar particulars of his or her address within 7 days after the day on which the fine is imposed.

(2) A person who is liable to pay a fine and who changes address before the fine and any relevant administrative fee are paid shall not, without reasonable excuse, fail to give to the registrar particulars of the new address within 7 days after changing address.

**(3)** A person who is liable to pay a fine, and any relevant administrative fee, shall not, without reasonable excuse, fail to give the registrar evidence of his or her address when required to do so by the registrar.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

#### **147B Access to particulars of address**

**(1)** For the purposes of this Division, the registrar may, in writing, require—

- (a) the Commissioner for Housing;
- (b) the chief police officer; or
- (c) the chief executive (however described) of a government agency;

to give the registrar any particulars held by that person concerning an address of a specified person who is liable to pay a fine.

**(2)** A person to whom such a requirement is given shall comply with it as far as practicable.

#### **147C Doubtful service**

**(1)** This section applies where—

- (a) a document has been served on a person for the purposes of this Division, other than by personal service; and
- (b) the registrar is satisfied that—
  - (i) the document has not come to the knowledge of the person; or
  - (ii) doubt exists whether the document has come to the knowledge of the person.

**(2)** Where this section applies, the registrar shall not take any further action under this Division in relation to the person unless—

- (a) the document has been served again on the person in such manner as the registrar thinks fit; and
- (b) the registrar is satisfied that the document has come to the knowledge of the person.

#### **148 Court may allow time to pay**

**(1)** Where the court imposes a fine on a person—

*Magistrates Court Act 1930*

- (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 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.

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

**149 Penalty notice**

**(1)** Where the registrar of the Supreme Court gives to the registrar a certificate of conviction which indicates that a person is liable to pay a fine as a result of a conviction or order made by the Supreme Court, the registrar shall give the person a penalty notice concerning the fine.

**(2)** Where a person is liable to pay a fine as a result of a conviction or order by the court, the notice of the conviction or order required by section 116I or paragraph 141 (1) (b) shall contain a penalty notice concerning the fine.

**(3)** A penalty notice concerning a fine shall—

- (a) specify the amount of the fine and the due date for payment;
- (b) if the fine is payable by instalments—specify the amount of each instalment and the due date for payment;
- (c) contain a statement to the effect that if the fine or any instalment is not paid by the due date the person shall be liable for the administrative fee under section 150 in addition to the fine;
- (d) contain a statement to the effect that, under section 152, the registrar may, on application, approve an arrangement concerning the payment of the fine; and
- (e) indicate the obligation to notify the registrar of any change of address under section 147A.

**(4)** Where a penalty notice is varied under section 152 the notice shall specify particulars of the approved arrangement for payment as so varied.

**150 Default**

- (1) Where a person defaults in payment of a fine to which a penalty notice relates—
- (a) the person is liable to pay to the Territory, in addition to the amount of the fine that remains unpaid, the administrative fee determined under subsection 248A (1) for the purposes of this paragraph; and
  - (b) the registrar shall give a default notice to the person.
- (2) If a person to whom a default notice has been given subsequently defaults in payment of the fine, the registrar must give notice of the default to the road transport authority under section 153.
- (3) For the purposes of this Division, a person defaults in payment of a fine or any relevant administrative fee if the person fails to pay any part of the amount payable by—
- (a) the due date specified in the relevant penalty notice; or
  - (b) if a default notice has been issued in relation to the amount—the due date specified in the default notice.

**151 Default notice**

- (1) A default notice under section 150 shall—
- (a) specify the default to which the notice relates;
  - (b) indicate that, subject to section 152, the amount of the fine remaining unpaid and the relevant administrative fee are due on the date or dates specified in the notice;
  - (c) contain a statement indicating the consequences under subsection 150 (2) of a default in payment of an amount to which the notice relates;
  - (d) contain a statement to the effect that, under section 152, the registrar may, on application, approve an arrangement concerning the payment of the fine; and
  - (e) indicate the obligation to notify the registrar of any change of address under section 147A.
- (2) The registrar may specify in a default notice matters concerning a person's property or financial circumstances which are to be set out in any application by the person for approval of a special arrangement under section 152.
- (3) Where a default notice is varied under section 152 the notice shall specify particulars of the approved arrangement for payment as so varied.



**152 Special arrangements**

- (1) The registrar may, on application, approve in writing an arrangement for—
- (a) further time for the payment of all or any part of a fine or administrative fee, or an instalment of such an amount; or
  - (b) payment of all or any part of a fine or administrative fee by instalments.
- (2) An arrangement under paragraph (1) (a) may also be made in respect of an amount that is overdue for payment under a previous approved arrangement.
- (3) To the extent to which an approval for time to pay all or any part of a fine or instalment is inconsistent with an order of a court, the order has no effect.
- (4) An application for an approval shall—
- (a) be made in writing;
  - (b) specify the grounds on which it is made;
  - (c) be lodged with the registrar by the date, or within the period, ascertained in accordance with the current penalty notice, or current default notice, concerning the fine; and
  - (d) in the case of an applicant to whom a default notice has been given— contain any particulars requested by the registrar in the notice.
- (5) A person committed to prison under section 154D is not entitled to make an application.
- (6) Where an approval concerns a fine for which a penalty notice or a default notice has been given to a person, the registrar shall vary the notice by—
- (a) altering the notice in accordance with the approval; or
  - (b) reissuing the notice, revised in accordance with the approval.

**153 Notice for suspension of driver licence etc**

- (1) The registrar must notify the road transport authority of the name, address and date of birth of each person who, after being given a default notice for a fine, defaults in payment of the outstanding fine.
- (2) If notice is given under subsection (1) and the registrar subsequently approves an arrangement under section 152, the registrar must notify the road transport authority of the approval.

*Magistrates Court Act 1930*

**(3)** If notice has been given under subsection (1) and no later notice has been given under subsection (2), the registrar must notify the road transport authority if—

- (a) the outstanding fine is paid; or
- (b) the outstanding fine is remitted under section 159; or
- (c) the person has completed serving a period of imprisonment under a committal under section 154D; or
- (d) the conviction or order that gave rise to the liability to pay the fine is quashed or set aside.

**154 Access to personal information**

**(1)** For the purpose of ensuring the payment of an outstanding fine, the registrar may, in writing, require any of the following persons to give the registrar specified particulars of personal information held by that person concerning the relevant fine defaulter:

- (a) the Commissioner for Housing;
- (b) the chief police officer;
- (c) the chief executive (however described) of a government agency.

**(2)** A person to whom such a requirement is given shall comply with it as far as practicable.

**(3)** In this section—

“personal information” means particulars concerning the financial circumstances or criminal record of a fine defaulter.

**154A Ascertainment of capacity to pay fine**

**(1)** The registrar may orally examine a person who is liable to pay a fine—

- (a) as to the person’s property or other means of satisfying the fine; and
- (b) generally as to the person’s financial circumstances.

**(2)** An examination—

- (a) shall be taken on oath administered by the registrar; and
- (b) may be conducted in open court or in chambers, as the registrar directs.

**(3)** If at the time set down (whether originally or on an adjournment) for the examination of a person to whom an examination summons is directed—

- (a) the person fails to attend before the registrar; and

*Magistrates Court Act 1930*

- (b) the registrar is satisfied that—
  - (i) the person has been served with the summons in accordance with section 297 of the *Magistrates Court (Civil Jurisdiction) Act 1982* as applied by section 154C; or
  - (ii) if the examination has been adjourned—the person has been notified of the date, time and place fixed for the examination;

the registrar shall issue a warrant in accordance with section 303 of the *Magistrates Court (Civil Jurisdiction) Act 1982* as applied by section 154C for the apprehension of the person to whom the summons was directed.

(4) A person apprehended under such a warrant shall be brought before the registrar for the purposes of examination under subsection (1).

**154B Garnishee orders and writs of execution**

(1) Where the registrar is satisfied that a fine defaulter has the capacity to pay an outstanding fine, the registrar may—

- (a) make a garnishee order in accordance with section 319 of the *Magistrates Court (Civil Jurisdiction) Act 1982* as applied by section 154C in respect of the outstanding fine; or
- (b) issue a writ of execution in accordance with subsections 343 (2) and (3) of the *Magistrates Court (Civil Jurisdiction) Act 1982* as applied by section 154C against goods of the fine defaulter to enforce the outstanding fine.

(2) Where the registrar issues a writ of execution in respect of 2 or more outstanding fines payable by a person, the writ operates in respect of the amount of each outstanding fine separately.

**154C Application of Part 19, Magistrates Court (Civil Jurisdiction) Act**

- (1) The purpose of this section is to ensure, as far as practicable, that—
- (a) a fine defaulter may be examined under section 154A and dealt with in the same manner as a judgment debtor in respect of whom an examination summons has been issued;
  - (b) a garnishee order under section 154B has the same effect as a garnishee order in respect of a judgment debtor; and
  - (c) a writ of execution under section 154B has the same effect as a writ of execution against goods of a judgment debtor.

*Magistrates Court Act 1930*

**(2)** For the purposes of paragraph (1) (a), Division 3 of Part 19 of the *Magistrates Court (Civil Jurisdiction) Act 1982*, other than sections 294, 298, 300, 302, 305 and 306, applies so far as applicable, with the necessary changes.

**(3)** For the purposes of paragraph (1) (b), Division 5 of Part 19 of the *Magistrates Court (Civil Jurisdiction) Act 1982*, other than sections 317, 321 and 331, applies so far as applicable, with the necessary changes, and in particular, as if—

- (a) subparagraphs 319 (1) (c) (i) and (e) (i) and paragraph 340 (2) (a) were omitted;
- (b) a reference in section 320 and subsection 329 (1) to the judgment creditor were a reference to the registrar;
- (c) the words ‘may order the registrar to repay’ were omitted from subsection 325 (8) and ‘shall repay’ were substituted;
- (d) the reference in section 330 to an application in accordance with section 123 were a reference to an application to the registrar; and
- (e) section 332 and subsection 334 (1) did not refer to the judgment creditor.

**(4)** For the purposes of paragraph (1) (c), Division 6 of Part 19 of the *Magistrates Court (Civil Jurisdiction) Act 1982*, other than sections 344, 355, 357, 358, 359, 377 and 378, applies so far as applicable, with the necessary changes, and in particular, as if—

- (a) subsection 343 (1) were omitted;
- (b) the reference in paragraph 346 (3) to a writ which issues out of the Magistrates Court included a reference to a writ issued by the registrar;
- (c) paragraph 363 (2) (a) and subsection 363 (3) were omitted; and
- (d) subsection 376 (2) were omitted.

**(5)** The provisions applied by subsection (2), (3) and (4) have effect as if, in addition to any other necessary changes—

- (a) a reference in such a provision to an examination summons were a reference to an examination summons under applied section 295;
- (b) a reference in such a provision to a garnishee order were a reference to a garnishee order under paragraph 154B (1) (a);
- (c) a reference in such a provision to a writ of execution were a reference to a writ of execution under paragraph 154B (1) (b) or applied section 333;

*Magistrates Court Act 1930*

- (d) a reference in such a provision to a bailiff included a reference to the sheriff or a deputy sheriff under the *Supreme Court Act 1933*;
- (e) a reference in such a provision to a judgment debt were a reference to an outstanding fine;
- (f) a reference in such a provision to a judgment debtor were a reference to a fine defaulter;
- (g) a reference in such a provision to a judgment creditor, other than in applied section 320 or applied subsection 329 (1), were a reference to the Territory; and
- (h) a reference to the court in such a provision, other than in applied section 349, were a reference to the registrar.

(6) Where, but for this subsection, a power of the registrar under a provision applied by subsection (2), (3) or (4) would be dependent on action being taken by the judgment creditor, the registrar may act on his or her own initiative in the exercise of the power.

(7) The registrar shall not make an order under a provision applied by subsection (2), (3) or (4) for the payment of a fine or administrative fee by instalments.

(8) Where—

- (a) a provision of the *Magistrates Court (Civil Jurisdiction) Act 1982* applies in relation to a matter;
- (b) a regulation or determination under this Act or that Act also applies in relation to that matter; and
- (c) the provision of the *Magistrates Court (Civil Jurisdiction) Act 1982* is applied in relation to a corresponding matter by subsection (2), (3) or (4);

a reference in this section to the applied provision referred to in paragraph (c) shall be read as including a reference to the relevant regulation or determination.

(9) A reference in this section to an applied provision by number shall be read as a reference to the provision so numbered of the *Magistrates Court (Civil Jurisdiction) Act 1982*, as applied by subsection (2), (3) or (4).

**154D Committal to prison—fine defaulters**

(1) The registrar shall, by warrant, commit a fine defaulter to prison if—

*Magistrates Court Act 1930*

- (a) the registrar is satisfied that all reasonable action has been taken under this Division to secure payment and there is no reasonable likelihood of the outstanding fine being paid; and
  - (b) the outstanding fine has not been remitted under section 159.
- (2) The period for which the fine defaulter is to be committed to prison shall be the lesser of—
- (a) a period calculated at the rate of 1 day for each \$100, or part of \$100, of the outstanding fine; and
  - (b) 6 months.
- (3) Subsection (1) does not apply to a person whose liability to pay the fine is derived from an order under section 437 of the *Crimes Act 1900*.

**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.

**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 outstanding fine, 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 outstanding fine 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

*Magistrates Court Act 1930*

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.

**158 Fine satisfied by imprisonment**

A person who is committed to prison by virtue of a warrant issued under section 154D discharges his or her liability to pay the outstanding fine—

- (a) at the rate of \$100 for each day or part thereof for which the person is so imprisoned; or
- (b) if the person is so committed to prison for 6 months—on the completion of the 6 months.

**159 Remission**

The Executive may, in writing, remit all or any part of a fine.

**160 Conviction or order quashed or set aside**

Where the conviction or order which gave rise to a person's liability to pay a fine is quashed or set aside, the registrar shall, in addition to notifying the road transport authority under paragraph 153 (3) (d)—

- (a) refund to the person any amount paid in respect of the fine; and
- (b) refund to the person any amount paid in respect of a relevant administrative fee.

**161 Other enforcement provisions not affected**

This Division shall not be taken to affect the operation of any other law in force in the Territory which provides for the recovery or enforcement of a fine.

***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

*Magistrates Court Act 1930*

- (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;

“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.



*Magistrates Court Act 1930*

- (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;
- 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***

**184 Enforcement of costs against informant**

Where a court orders an informant in criminal proceedings to pay costs to a defendant, the order operates as a judgment given or entered in respect of a claim for the payment of money and is enforceable as such.

**185 Committal to prison—orders not involving payment of money**

(1) 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.

(2) A reference in paragraph (1) (b) to an order shall be read as not including a reference to an order under section 437 of the *Crimes Act 1900*.

**186 Warrant of commitment to prison**

(1) A warrant of commitment—

*Magistrates Court Act 1930*

- (a) shall require the police officer or escort 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.
- (1A)** A warrant of commitment in which the direction referred to in paragraph (1) (a) is given to all police officers or all escorts—
- (a) shall be taken in that respect to be directed to each police officer, or each escort, respectively; and
  - (b) may be executed in that respect by any police officer, or any escort, respectively.
- (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.

**187 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.

**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 recognisance 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.

**191 Accounts to be kept in the form in Schedule 3**

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 Schedule 3.

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 recognisances, 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 10—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;

“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.

*Magistrates Court Act 1930*

(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 community advocate;
  - (ca) where the aggrieved person is a person under a disability within the meaning of the *Magistrates Court (Civil Jurisdiction) Act 1982*—the community advocate; 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*.
- (3) The court shall not proceed with an application made by the community advocate unless it is satisfied that the community advocate is an appropriate person to make the application in the circumstances.
- (4) This section does not affect any right that a person would have, apart from this section, to make an application on behalf of an aggrieved person.
- (5) In this section—

“community advocate” means the Community Advocate appointed under the *Community Advocate Act 1991*.

**198A Powers exercisable in care and protection proceedings**

The court’s power to make an order under this Part may be exercised on an application for a care and protection order under the *Children and Young People Act 1999* (Chapter 7, Children and young people in need of care and protection) as if—

- (a) the applicant for the care and protection order were an applicant for the order under this Part; and
- (b) the applicant had properly applied for that order under this Part.

**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 persons other than aggrieved persons**

(1) Where the applicant is—

- (a) a relative;
- (b) a police officer; or
- (c) the community advocate;

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)** The *Magistrates Court (Civil Jurisdiction) Act 1982* applies (under section 4 of that Act) to a proceeding under this Part subject to—

- (a) this section; and
- (b) any other provision of this Part if, and to the extent that, the provision is inconsistent with that Act; and
- (c) any modification of that Act, in its application to such a proceeding, prescribed by the regulations.

**(2)** Paragraph 22 (4) (a), subsection 22 (5) and section 199 of the *Magistrates Court (Civil Jurisdiction) Act 1982* do 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;

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.

**206AA Jurisdiction under section 206**

- (1) Jurisdiction under section 206 may be exercised for making an order under any provision of this Part that confers power to make an order.
- (2) Jurisdiction under section 206 may be exercised—
  - (a) in court or by a magistrate in chambers; and
  - (b) whether or not the parties have attended, or any of the parties has attended, in court or before the magistrate in chambers.
- (3) For the exercise of jurisdiction under section 206, it is not necessary for the court or magistrate to be satisfied about anything mentioned in subsection 197 (1).

(4) An order under section 206 may be made without proof or admission of guilt.

#### **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 Schedule 1, 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.

*Magistrates Court Act 1930*

**(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—

- (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.

*Magistrates Court Act 1930*

(2) The registrar must cause a copy of the application to be served personally on—

- (a) each other party to the proceedings; and
- (b) if section 198A applies—the chief executive for Chapter 7 (Children and young people in need of care and protection) of the *Children and Young People Act 1999*.

(2A) The court must, on application by the chief executive served under paragraph (2) (b), make the chief executive a party to the 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 Firearms; 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 Schedule 1; and
- (b) in the case of the varying of a restraining order or interim restraining order—an order in accordance with form 1B in Schedule 1.

(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 Firearms.

**206L Offence**

(1) Where—

- (a) a restraining order or interim restraining order is in force;
- (b) the respondent—

*Magistrates Court Act 1930*

- (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 Restriction on publication of reports of proceedings**

(1) Subject to this Part, a person shall not disseminate to the public or to a section of the public, by any means, an account of any proceedings, or of a part of any proceedings, under this Part that 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 to the proceedings.

*Magistrates Court Act 1930*

(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.

**206PA Limits of restriction on publication**

(1) Section 206P does not prevent a party to proceedings under this Act from informing another person of the contents of an order made in those proceedings.

(2) Section 206P does not prevent—

- (a) any information from being disseminated with the permission of the court in writing, in accordance with any conditions imposed by the court;
- (b) any information from being communicated to a court or tribunal under subsection 68J (1) or (2) of the *Family Law Act 1975* of the Commonwealth;
- (c) any pleading, transcript of evidence or other document from being communicated to—
  - (i) persons concerned with other proceedings in a court or tribunal, for use in connection with those proceedings;
  - (ii) persons concerned with disciplinary proceedings of a legal practitioner, for use in connection with those proceedings; or
  - (iii) a body that grants legal aid, for the purpose of deciding whether to provide legal aid in a particular case;
- (d) any matter from being published in law reports or other technical or professional publications; or
- (e) any matter from being disseminated to a person in connection with the person's professional practice.

(3) The court shall not give permission to disseminate information that would identify a person referred to in subsection 206P (1) unless it is satisfied that—

- (a) it is in the public interest;



*Magistrates Court Act 1930*

- (b) it will promote compliance with the order; or
  - (c) it is necessary or desirable for the proper functioning of the Act.
- (4) In subsection (2)—
- “court” includes an officer of the court acting in the proceedings.

**206PB Application not invalid only because made under wrong Act**

- (1) This section applies where—
- (a) a person applied in good faith for an order under this Part;
  - (b) the person was entitled to apply for an order under the *Domestic Violence Act 1986* in respect of the alleged conduct of the respondent, so that subsection 198 (2) applied to the person; and
  - (c) proceedings have commenced on the basis of the application.
- (2) If the proceedings have not concluded at the time when it becomes apparent that this section applies, the court shall direct either—
- (a) that the proceedings be continued under this Part; or
  - (b) that the proceedings be continued under the *Domestic Violence Act 1986*.
- (3) If the proceedings have concluded before it becomes apparent that this section applies, any order purportedly made under this Part is as valid as if subsection 198 (2) had not applied.
- (4) Where the court makes a direction under paragraph (2) (a), the application shall be treated as if subsection 198 (2) did not apply.
- (5) Where the court makes a direction under paragraph (2) (b), the application and proceedings shall be treated as if the application had been made under the *Domestic Violence Act 1986*.

**206Q Appeals**

(1) Part 21 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.

*Magistrates Court Act 1930*

- (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 11—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 10) 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 7, Part 7A 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 7 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 7 or 7A, 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

*Magistrates Court Act 1930*

- (iv) paragraph 556C (7) (b) of that Act;
  - (e) an appeal, by a person who has given a recognisance 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.
- (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).

*Magistrates Court Act 1930*

- (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.
- (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 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;

*Magistrates Court Act 1930*

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.

*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 7 or 7A of this Act or under section 477 of the Crimes Act;

*Magistrates Court Act 1930*

- (b) a conviction by the Magistrates Court for an offence dealt with by that court under Part 7 or 7A 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 7 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 7 or 7A 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

*Magistrates Court Act 1930*

decision of the Magistrates Court should not be reviewed on any 1 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;
  - (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;
  - (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



*Magistrates Court Act 1930*

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 6;
- (ba) in the case of a decision specified in paragraph 219B (1) (g)—

*Magistrates Court Act 1930*

- (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.
- (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);

*Magistrates Court Act 1930*

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.

**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—

- (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 12—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 lastmentioned 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 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 13—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 19 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 13A—FEES AND CHARGES<sup>3</sup>**

**248<sup>3</sup>** \* \* \* \* \*

**248A<sup>3</sup> 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.

**(2A)** Paragraphs (2) (c) and (d) do not apply in relation to an administrative fee determined for the purposes of subparagraph 150 (1) (a) (i).

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

**248B<sup>3</sup> 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.

**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 10;
    - (ii) on an application arising out of a conviction or order in respect of an offence;
    - (iii) under the *Children and Young People Act 1999*;
    - (iv) under the *Domestic Violence Act 1986*;
    - (v) under the *Guardianship and Management of Property Act 1991*;
    - (vi) under the *Mental Health (Treatment and Care) Act 1994*; or
    - (vii) 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;

*Magistrates Court Act 1930*

- (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.

**(3)** A fee or charge determined under subsection 248A (1) is not payable for filing a document, or for the service or execution of process, in relation to proceedings under the *Children's Services Act 1986* after the commencement of the *Children and Young People Act 1999*.

**(4)** Subsection (3) and this subsection cease to have effect on the day that section 427 (Emergency action—s 75 and s 76 of repealed Act) of the *Children and Young People Act 1999* ceases to have effect.

**248D<sup>3</sup> 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);
  - (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<sup>3</sup> 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<sup>3</sup> 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.

*Magistrates Court Act 1930*

(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.

(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 14—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 recognisance**

(1) Where—

- (a) a witness or a person sought to be made a witness has entered into a recognisance 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 recognisance;

the court may declare the recognisance 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 recognisance.

*Magistrates Court Act 1930*

- (2) Where—
- (a) the court has declared a recognisance to be forfeited under subsection (1); and
  - (b) a person is bound by the recognisance 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 recognisance.

(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 recognisance 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 15—MISCELLANEOUS

### **254B Appearance by audio visual or audio links**

(1) This section applies where, in relation to a proceeding or a part of a proceeding (in this section referred to as the “relevant proceeding”), the Court has given a direction under subsection 85AE (1) or 85AQ (1) of the *Evidence Act 1971*.

(2) Where this section applies a person who, in a relevant proceeding—

- (a) is required or entitled to appear personally, whether as a party or as a witness; or
- (b) is entitled to appear for another person;

may appear in the relevant proceeding and participate or give evidence, as the case requires, in accordance with the direction.

(3) A person who appears in a relevant proceeding in accordance with this section shall be taken to be before the Court.

(4) In this section, a reference to a proceeding does not include a reference to a proceeding concerning bail.

### **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
- (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.

(2A) For the purposes of this section, where a person appears in proceedings in accordance with section 254B, the acts of that person and of any other person who is visible or audible to the Court by means of audio visual or audio link (as the case requires) shall be taken to be in the face 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;

*Magistrates Court Act 1930*

- (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 154A or 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;

*Magistrates Court Act 1930*

- (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 for contravention of paragraph (2) (a) or (b): 50 penalty units or imprisonment for 6 months, or both.

Penalty for contravention of paragraph (2) (c) or subsection (3):

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

**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, lockup 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, 154D or 185 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) an audio visual or 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);

*Magistrates Court Act 1930*

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.

(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 an audio visual or 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—

*Magistrates Court Act 1930*

- (a) in Schedule 1; 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
- (b) may include a declaration by the Minister that that form supersedes a particular numbered form or forms in Schedule 1 and the numbered form or forms shall be taken to be superseded accordingly.

**(5)** Where a form in Schedule 1 is superseded, it shall cease to have effect as if it had been repealed.

**(6)** Where a form in Schedule 1 is superseded by an approved form, the revocation of the approved form does not revive the form in Schedule 1.

**(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;

*Magistrates Court Act 1930*

- (d) the forms to be used under this Act including the forms of any recognisance mentioned in this Act, and including the variation of any of the forms in Schedule 1 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 Schedule 3; 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.

**PART 16—TRANSITIONAL**

**259 Application of section 203 (as amended) and section 206AA**

(1) Section 203 as amended by the *Magistrates Court (Amendment) Act 1999* is taken to apply in relation to any proceeding under Part 10 of this Act begun on or after 24 December 1990.

(2) Section 206AA is taken to apply in relation to—

- (a) any order made (or purportedly made) under section 206 on or after 24 December 1990; and
- (b) any proceeding (a *contravention proceeding*) begun, on or after that date, for the contravention of any such order.

[NOTE—24 December 1990 is when Part 10 commenced.]

(3) However, paragraph (2) (b) does not affect a judgment or decision given before the commencement of this section in any contravention proceeding.

(4) This section does not affect the validity of any order, proceeding, step or action that, apart from this section, is valid.

(5) This section lapses at the end of 5 years after the date it commences.

---



*Magistrates Court Act 1930*

**SCHEDULE 1**

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 10 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*

**SCHEDULE 1—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 CD, 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], CD, 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 CD situate at , in the Territory, and that he or she, CD, 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 AB, situate at , in the Territory.

[*Here state grounds of suspicion.*]

Sworn before me the day and year first abovementioned, at , in the Territory.

JS,  
Magistrate.

*Magistrates Court Act 1930*

**SCHEDULE 1—continued**

FORM 3

*Information in all other cases*

Australian Capital Territory,  
to wit.

The information of CD, 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 firstmentioned, at \_\_\_\_\_, in the Territory.

JS  
Magistrate

\_\_\_\_\_

The causes of complaint in civil cases may be stated as follows:

For that you assaulted AB by [*state nature of assault*].

For that certain goods of AB are detained by you.

For that you on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the \_\_\_\_\_, were indebted to AB in the sum of \_\_\_\_\_ (on balance of accounts).

For goods then and there bargained and sold to you by AB and

For goods then and there sold and delivered to you by AB

For money then and there lent to you by AB and interest thereon.

For money paid by AB for you at your request.

For money received by you for the use of AB

For work and labour then and there done by AB for you at your request and

For the use and hire of divers chattels [*or beasts*] by AB 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 AB for you at your request and

For the use and occupation of certain land [*house or apartments*] of AB by you at your request and by the permission of AB then and there held and enjoyed and

For board and lodging then and there provided and supplied by AB for and to you at your request and

For feeding and taking care of horses [*sheep or cattle*] by AB then and there fed and taken care of for you at your request and

For warehouse room then and there found and provided by AB in and about the storing and keeping of goods and chattels by AB for you at your request and

For the carriage of goods and chattels by AB 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 AB on account stated.

For that certain of your cattle, to wit, (*11 cows*), trespassed on the land of AB

\_\_\_\_\_

*Magistrates Court Act 1930*

**SCHEDULE 1—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 AB, therein described as AB,  
late of \_\_\_\_\_, in the  
Territory \_\_\_\_\_, for that he or she, on the \_\_\_\_\_ day of 19\_\_\_\_, at \_\_\_\_\_ [etc stating shortly the offence],  
and that AB 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 AB, 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 \_\_\_\_\_ in \_\_\_\_\_ the \_\_\_\_\_ Territory, this  
day of 19\_\_\_\_.

Magistrate *or* registrar of Magistrates \_\_\_\_\_ JS,  
Court.

---

*Affidavit of service [to be endorsed on summons].*

AB \_\_\_\_\_ of \_\_\_\_\_ being duly sworn saith as follows:

I am a \_\_\_\_\_ of Police stationed at \_\_\_\_\_

On the \_\_\_\_\_ day of 19\_\_\_\_, I personally served the withinnamed CD 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

**SCHEDULE 1—continued**

FORM 7

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

In the Magistrates Court at Canberra.

AB, informant

CD, 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 abovementioned 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 .

JS,

Magistrate *or* registrar of Magistrates Court.

---

FORM 8

*Summons to a person to produce documents*

In the Magistrates Court at Canberra.

AB, informant.

CD, 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 abovementioned 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 .

JS,

Magistrate *or* registrar of Magistrates Court.

Magistrates Court Act 1930

**SCHEDULE 1—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] ..... am

[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*

**SCHEDULE 1—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*

**SCHEDULE 1—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*

**SCHEDULE 1—continued**

WARRANTS

---

FORM 12

*Warrant in the first instance to apprehend a person charged with an offence*

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 an information has this day been laid upon oath before the undersigned, *the registrar of Magistrates Court or a magistrate* of the Territory, for that AB on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at [here state shortly the offence]:

These are therefore to command you, in the Sovereign's name, forthwith to apprehend AB and cause [him or her] to be brought before a magistrate of the Territory to answer to the information, and be further dealt with according to law.

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

Registrar of Magistrates Court or Magistrate.

---

FORM 13

*Search warrant*

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 an information has this day been laid upon oath before the undersigned, *the registrar of Magistrates Court or a magistrate* of the Territory, for that AB, on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at [here state shortly the offence]:

These are therefore to command you, in the Sovereign's name, forthwith with proper assistance, to enter the dwelling house and premises [*or as the case may be*] of AB [in the day time], and there diligently search for the goods; and if the same, or any part thereof, are found upon search, that you attach the goods so found [and apprehend AB, and bring (him or her) before the court to give an account of how he or she came by the goods, and to be further dealt with according to law].

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

Registrar of Magistrates Court or Magistrate.

---

*Magistrates Court Act 1930*

**SCHEDULE 1—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 AB [*etc as in the summons*], and a summons was then issued to AB, 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 AB 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 AB: These are therefore to command you, in the Sovereign's name, forthwith to apprehend AB and cause [him or her] to be brought 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\_\_\_\_.

JS,

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 AB, [*etc as in the summons or warrant*]: and whereas AB was excused from attendance under subsection 89A (1): and whereas a notice under subsection 89A (4) [*or* 89A (5)] was served on AB requiring AB 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 AB: and whereas AB 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 AB and cause [him or her] to be brought before the Magistrates Court to be dealt with according to law.

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

JS,

Registrar of Magistrates Court *or* Magistrate.

*Magistrates Court Act 1930*

**SCHEDULE 1—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 AB [*etc as in the summons or warrant*], and a summons was duly issued to EF 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 EF: And whereas EF 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 EF and cause [him or her] to be brought 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                    .

JS,

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 AB [*etc as in the summons or warrant*] and it being made to appear before me upon oath that EF 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 EF 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 EF and cause [him or her] to be brought 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                    .

JS,

Registrar of Magistrates Court *or* Magistrate.

*Magistrates Court Act 1930*

**SCHEDULE 1—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 AB and cause [him or her] to be brought before the Magistrates Court to be dealt with according to law.

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

JS,  
Magistrate.

---

REMANDS

---

FORM 19

**WARRANT OF REMAND OR COMMITMENT**

Authority and directions

---

To [*all police officers/all escorts*]\*.

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):

**SCHEDULE 1—continued**

Description of the charge(s):

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 recognisance 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 nonparole period of [nonparole period].
- The defendant is to be released on serving a term of imprisonment of [period of imprisonment] and entering into a recognisance 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:

*Magistrates Court Act 1930*

**SCHEDULE 1—continued**

- The defendant is to be released on serving a term of imprisonment of [*period of imprisonment*] and on entering into a recognisance on the following conditions:

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.

\_\_\_\_\_  
\_\_\_\_\_  
RECOGNISANCES ETC.  
\_\_\_\_\_

FORM 21

*Certificate of consent to bail by the committing magistrate indorsed on the commitment*

I hereby certify that I consent to the withinnamed AB being bailed by recognisance, himself or herself in the sum of      and [2] sureties in the sum of      [each] (*to be included where an order is made under section 248A*) And the withinnamed AB himself or herself in the sum of      to comply with (*here insert terms of order under section 248A*).

JS,  
Magistrate.

\_\_\_\_\_

Magistrates Court Act 1930

**SCHEDULE 1—continued**

FORM 22

*The like on a separate paper*

WHEREAS AB 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 AB being bailed by recognisance, himself or herself in the sum of      and [2] sureties in the sum of      [each] (*to be included where an order is made under section 248A*)  
And the withinnamed AB himself or herself in the sum of      to comply with (*here insert terms of order under section 248A*).

Dated this      day of      , 19      .

JS,  
Magistrate.

*\*Strike out whichever is inapplicable.*

---

FORM 30

*Recognisance to give evidence*

Australian Capital Territory,      }  
to wit.      }

BE it remembered that on the      day of      , 19      , CD, 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 CD shall fail in the conditions endorsed.

Taken and acknowledged before [me] the day and year first abovementioned at Canberra, in the Territory.

JS,  
Magistrate.

---

*Condition*

THE condition of the withinwritten recognisance is such that whereas AB, was this day charged before the Magistrates Court at Canberra, for that [*etc as in the caption of the depositions*]. If therefore CD 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 AB for the offence aforesaid, then the recognisance to be void, or else to stand in full force and effect.

---

*Magistrates Court Act 1930*

**SCHEDULE 1—continued**

FORM 31

*Notices of recognisance to be given to the witnesses*

Australian Capital Territory, }  
to wit. }

TAKE notice that you, CD, 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 AB, and unless you then appear and give evidence accordingly the recognisance entered into by you will be forthwith put in suit and enforced against you.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

JS,  
Magistrate.

---

FORM 34

*Statement of the defendant*

Australian Capital Territory, }  
to wit. }

AB 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 AB and the witnesses for the prosecution, CD and EF, being severally examined AB 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 AB 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.]

AB

Taken before the court at Canberra, in the Territory, the day and year first abovementioned.

JS,  
Magistrate.

---



Magistrates Court Act 1930

**SCHEDULE 1—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, AB of , in the Territory [ ], is convicted before the Magistrates Court at Canberra, that AB [*etc stating the offence and the time and place when and where it was committed*], and AB 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 CD 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 AB

Given under my hand, at Canberra, in the Territory, the day and year first abovementioned.

JS  
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, AB of , in the Territory, is convicted before the Magistrates Court at Canberra, that AB [*etc stating the offence and the time and place when and where it was committed*], and AB 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 AB was also adjudged to pay to CD 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 AB

Given under my hand, at Canberra, in the Territory, the day and year first abovementioned.

JS,  
Magistrate.

*Magistrates Court Act 1930*

**SCHEDULE 1—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, AB, being charged before the Magistrates Court, at Canberra, that AB [*etc stating the offence and the time and place when and where committed*], and the age of AB 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 AB [*or CD, the parent (or guardian) of AB*] consenting to the court deciding upon the charge summarily, AB is therefore convicted before the court of the offence, and AB 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 abovementioned.

JS,  
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, AB being charged before the Magistrates Court, at Canberra, that [he or she] AB [*etc stating the offence and the time and place when and where committed*] and AB, pleading guilty to such charge [he or she] is thereupon convicted before the court of the offence, and AB 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 abovementioned.

JS,  
Magistrate.

*Magistrates Court Act 1930*

**SCHEDULE 1—continued**

**ORDER AND CERTIFICATES OF DISMISSAL**

---

**FORM 41**

*Order of dismissal of an information*

In the Magistrates Court at Canberra.

AB, informant.

CD, defendant.

Date of information 19 .

Nature of information [*state shortly*].

BE it remembered that on the day of 19, the abovementioned 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 CD having appeared before the court, but AB, 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 AB do pay to CD 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 AB

Dated at Canberra the day of , 19 .

JS,  
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, AB was charged before the Magistrates Court, at Canberra, AB, [*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 .

JS,  
Magistrate.

Magistrates Court Act 1930

**SCHEDULE 1—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, AB, 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\_\_\_\_.

JS,  
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 AB to [*here state the matter required to be done*], and if upon a copy of the minute of this order being served upon AB, 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 AB 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 AB pay to CD 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 AB

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

JS,  
Magistrate.

*Magistrates Court Act 1930*

**SCHEDULE 1—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.

AB, informant.

CD, defendant.

Date of information 19 .

Nature of information [*state shortly*].

BE it remembered that AB has now here vexatiously and oppressively brought CD before this court to answer a certain information of AB 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 CD but also from the place where the subject matter of the information arose, and now at this day [conclude as in ordinary cases].

JS,  
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 WT, [*police officer/escort*]\* of Canberra, in the Australian Capital Territory, the body of AB in good health [*or as the case may be*], together with a warrant under the hand of JS, a magistrate of the Territory.

PK,  
\*Keeper of the gaol/  
superintendent of the Remand Centre.

*\*Strike out whichever is inapplicable*

*Magistrates Court Act 1930*

**SCHEDULE 2**

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.

---

*Magistrates Court Act 1930*

**SCHEDULE 3**

*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	Offence	Costs	Amount thereof paid	Fine	Amount thereof paid	Amount of fine, how applied	Punishment when fine not paid	Name of convicting magistrate	Reasons of nonpayment or other observations
--------------------------------------------	------	---------	-------	---------------------------	------	---------------------------	--------------------------------------	-------------------------------------	-------------------------------------	------------------------------------------------------

---

(Signed \_\_\_\_\_)

\*Registrar of Magistrates Court/keeper of the abovenamed gaol/superintendent of the abovenamed remand centre

\*Strike out whichever is inapplicable.

---

## Magistrates Court Act 1930

### NOTES

1. The *Magistrates Court Act 1930* in this reprint is 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.

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. The amendments do not change the law. Amendments made under the 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*

**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) 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: 1 July 1994 (see s. 2 (2))	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) (c)	Part VIII (ss. 88-97)
<i>Coroners (Amendment) Act (No. 2) 1994</i>	66, 1994	11 Oct 1994	11 Oct 1994	—

*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>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)	—
<b>(Reprinted as at 10 April 1995)</b>				
<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)	—
<b>(Reprinted as at 30 May 1997)</b>				

*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>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))	—
<b>(Reprinted as at 1 June 1998)</b>				
<i>Magistrates Court (Amendment) Act 1998</i>	25, 1998	10 July 1998	Ss. 1 and 2: 10 July 1998 Remainder: 1 Jan 1999 (see <i>Gazette</i> 1998, No. 50, p. 1095)	Part III (ss. 22-26)
<i>Magistrates Court (Amendment) Act (No. 2) 1998</i>	38, 1998	14 Oct 1998	Ss. 1-3: 14 Oct 1998 Remainder: 19 Oct 1998 (see <i>Gazette</i> 1998, No. 41, p. 926)	—
<i>Statute Law Revision (Penalties) Act 1998</i>	54, 1998	27 Nov 1998	Ss. 1 and 2: 27 Nov 1998 Remainder: 9 Dec 1998 (see <i>Gazette</i> 1998, No. 49, p. 1078)	—
<i>Custodial Escorts (Consequential Provisions) Act 1998</i>	67, 1998	23 Dec 1998	Ss. 1 and 2: 23 Dec 1998 Remainder: 23 Dec 1998 (see <i>Gazette</i> 1998, No. 51, p. 1118)	—
<i>Children's Services (Amendment) Act 1999</i>	12, 1999	23 Mar 1999	1 May 1999	—

**(Reprinted as at 31 March 1999)**

*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>Courts and Tribunals (Audio Visual and Audio Linking) Act 1999</i>	22, 1999	14 Apr 1999	Ss. 1 and 2: 14 Apr 1999 Remainder: 1 Sept 1999 (see Gaz 1999 No 35 p 447)	—
<i>Magistrates Court (Amendment) Act 1999</i>	34, 1999	2 July 1999	2 July 1999	—
<i>Magistrates Court Amendment Act (No 2) 1999</i>	1999 No 59	10 Nov 1999 (see Gaz 1999 No 45 p 569 and also 1999 No 47 p 586)	10 Nov 1999	—
<i>Children's Services Amendment Act (No 2) 1999</i>	1999 No 61	10 Nov 1999	ss 1 and 2: 10 Nov 1999 remainder: 1 Dec 1999	—
<i>Children and Young People (Consequential Amendments) Act 1999</i>	1999 No 64	10 Nov 1999	ss 1 and 2: 10 Nov 1999 remainder: 10 May 2000 (see s 2 (2))	—
<i>Law Reform (Miscellaneous Provisions) Act 1999</i>	1999 No 66	10 Nov 1999	10 Nov 1999	—
<i>Road Transport Legislation Amendment Act 1999</i>	1999 No 79	23 Dec 1999	1 Mar 2000 (see s 2 and Gaz 2000 No S5)	—
<i>Victims of Crime (Financial Assistance) (Amendment) Act 1999</i>	1999 No 91	23 Dec 1999	ss 1 and 2: 23 Dec 1999 remainder: 24 Dec 1999 (see Gaz 1999 No S69 p 2)	—
<i>Justice and Community Safety Legislation Amendment Act 2000</i>	2000 No 1	9 Mar 2000	ss 1, 2 and 3 (in part): 9 Mar 2000 remainder (s 3 (in part)): (see Note 3)	—

- (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:



*Magistrates Court Act 1930*

**NOTES—continued**

“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 53 (5) of the *Magistrates Court (Enforcement of Judgments) Act 1994* provides as follows:

“(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.

*Magistrates Court Act 1930*

**NOTES—continued**

**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; No. 67, 1998; 1999 No 22 s 18; 1999 No 66 s 6 sch 3; 1999 No 79 s 5 sch 3
S. 6 .....	rs. No. 12, 1951 am. No. 5, 1990
Heading to Div. 1 of Part 2	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 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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
	rs. Act No. 38, 1994
S. 10G.....	ad. No. 4, 1977 am. No. 67, 1985; No. 74, 1986; Act No. 66, 1994 rs. No. 12, 1999 am. 1999 No 61 s 6; 1999 No 64 s 4 sch 2
Div. 2 of Part 2 (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 2	ad. No. 4, 1977 am. No. 67, 1985; Act No. 44, 1991
Div. 3 of Part 2 (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 2 (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
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 3.....	rs. No. 67, 1985
Heading to Div. 1 of Part 3	am. No. 67, 1985
S. 18 .....	am No. 20, 1940; No. 67, 1985; No. 5, 1990
Heading to Div. 2 of Part 3	am. No. 67, 1985

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

---

Provision	How affected
S. 19 .....	am. No. 28, 1937; No. 67, 1985; No. 74, 1986; No. 5, 1990; 1999 No 66 s 6 sch 3
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; No. 25, 1998
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; 1999 No 59 s 3
Div. 3 of Part IV (ss. 32-36)	rep. No. 74, 1986
S. 32 .....	am. No. 2, 1961 rep. No. 74, 1986
S. 33 .....	am. No. 1, 1967; No. 12, 1969; No. 4, 1977 rep. No. 74, 1986
S. 34 .....	rep. No. 74, 1986
S. 35 .....	am. No. 47, 1974 rep. No. 74, 1986
S. 36 .....	rep. No. 74, 1986
S. 37 .....	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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
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. 47 .....	am. Act No. 67, 1998
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; 1999 No 22 s 19; 1999 No 66 s 6 sch 3
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; 1999 No 22 s 20
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
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
	am. No. 67, 1998

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 71 .....	am. Act No. 6, 1996 rep. No. 82, 1996
Ss. 72A, 72B .....	ins 1999 No 22 s 21
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 6 (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 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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
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 6 (s. 97) .....	ad. No. 9, 1984
S. 97 .....	ad. No. 9, 1984
	am. No. 56, 1987
Heading to Div. 3 of Part 6	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; 1999 No 66 s 6 sch 3
S. 108 .....	am. No. 1, 1967; 1999 No 66 s 6 sch 3
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
Part 7A (ss. 116A-116J) .....	ad. No. 14, 1974
	rep. No. 33, 1979
Part 7A (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; No. 54, 1998; 1999 No 79 s 5 sch 3
s 116AA .....	ad. 1999 No 79 s 5 sch 3
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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
	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; No. 25, 1998
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 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



*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
	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; No. 25, 1998; 1999 No 91 s 13 sch 2
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 9	rs. Act No. 61, 1994
	am. No. 25, 1998
S. 146 .....	rep. No. 57, 1986
	ad. No. 60, 1989
	rs. Act No. 112, 1991
	am. No. 4, 1993; No. 25, 1998; 1999 No 91 s 13 sch 2
S. 146A .....	ad. No. 1, 1990
	am. Act No. 6, 1996
	rep. No. 25, 1998
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
	rs. No. 25, 1998
S. 147A .....	ad. No. 60, 1989
	am. Acts Nos. 44 and 112, 1991; No. 48, 1993
	rs. No. 25, 1998
Ss. 147B, 147C .....	ad. Act No. 25, 1998
S. 148 .....	am. No. 14, 1974; No. 33, 1979; Act No. 44, 1991; No. 25, 1998
S. 149 .....	rep. No. 74, 1986
	ad. Act No. 25, 1998
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; 1999 No 79 s 5 sch 3
	rs. No. 25, 1998
S. 150A .....	ad. No. 60, 1989
	am. Acts Nos. 44 and 112, 1991; No. 48, 1993
	rep. No. 25, 1998
S. 150B .....	ad. No. 60, 1989
	am. Acts Nos. 44 and 112, 1991; No. 48, 1993; No. 61, 1994
	rep. No. 25, 1998
S. 150C .....	ad. No. 60, 1989
	am. Act No. 44, 1991
	rep. No. 25, 1998
Ss. 151-154, 154A-154D ...	ad. Act No. 25, 1998
S. 151 .....	am. No. 34, 1977; Act No. 6, 1996; No. 25, 1998 (relocated and renumbered s. 185 by No. 25, 1998)
S. 152 .....	rs. Act No. 6, 1996 (relocated and renumbered s. 186 by No. 25, 1998)
S. 153 .....	am. No. 28, 1937; No. 22, 1940; No. 60, 1989; Act No. 44, 1991
	rep. No. 25, 1998

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
	rs. 1999 No 79 s 5 sch 3
Ss. 153A-153C .....	ad. No. 60, 1989 am. Act No. 44, 1991 rep. No. 25, 1998
S. 154 .....	(relocated and renumbered s. 187 by No. 25, 1998)
S. 155 .....	am. Act No. 44, 1991
S. 155A .....	ad. No. 60, 1989 am. Acts Nos. 44 and 112, 1991 rep. No. 25, 1998
S. 156 .....	am. No. 34, 1977
S. 157 .....	am. No. 42, 1976; No. 34, 1977; Act No. 44, 1991; No. 25, 1998
S. 158 .....	am. No. 74, 1986; Act No. 44, 1991 rep. No. 61, 1994 ad. No. 25, 1998
S. 159 .....	am. Act No. 44, 1991 rep. No. 61, 1994 ad. No. 25, 1998
S. 160 .....	rep. Act No. 61, 1994 ad. No. 25, 1998 am. 1999 No 79 s 5 sch 3
S. 161 .....	am. No. 74, 1986 rep. Act No. 61, 1994 ad. No. 25, 1998
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 9 (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
Ss. 168, 169 .....	rep. No. 74, 1986

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
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. 184	ad. Act No. 25, 1998
S. 185	Renumbered by No. 25, 1998
S. 186	Renumbered by No. 25, 1998 am. No. 67, 1998
S. 187	Renumbered by No. 25, 1998
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 rep. No. 25, 1998
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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 194	am. Act No. 61, 1994
S. 195	am. No. 28, 1937; Act No. 23, 1992
Part X (ss. 196-206)	rep. Act No. 65, 1990
Part 10 (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
S. 197	rs. Act No. 65, 1990
S. 198	rs. Act No. 65, 1990 am. No. 38, 1998
s 198A	ad 1999 No 64 s 4 sch 2
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 am. No. 38, 1998
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; 1999 No 34
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. 206AA	ad. 1999 No 34
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
S. 206J	ad. Act No. 65, 1990 am. No. 44, 1991; 1999 No 64 s 4 sch 2
S. 206K	ad. Act No. 65, 1990 am. No. 44, 1991; No. 51, 1996
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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 206P .....	ad. Act No. 65, 1990 am. No. 81, 1994; No. 38, 1998
Ss. 206PA, 206PB .....	ad. Act No. 38, 1998
S. 206Q .....	ad. Act No. 65, 1990 am. No. 46, 1995
S. 206R .....	ad. Act No. 65, 1990
Heading to Part 11 .....	rs. No. 37, 1972
Div. 1 of Part 11 (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 11 (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

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
	rep. Act No. 9, 1992
S. 215 .....	rep. No. 28, 1937 ad. No. 37, 1972 am. No. 67, 1985 rep. No. 74, 1986
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 11 (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 11	ad. No. 37, 1972
S. 220 .....	am. No. 28, 1937; No. 37, 1972 rs. No. 62, 1984

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
	rep. Act No. 9, 1992
S. 221 .....	rep. No. 28, 1937
Ss. 222, 223 .....	am. No. 28, 1937; No. 67, 1985; No. 74, 1986
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 13 .....	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	ad. No. 14, 1974
-248D)	rep. Act No. 9, 1992
Part 13A (ss. 248A	ad. Act No. 4, 1994
-248F)	
S. 248A .....	ad. No. 14, 1974
	am. No. 53, 1986; No. 5, 1990
	rep. Act No. 9, 1992

*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

Provision	How affected
	ad. No. 4, 1994
S. 248B .....	am. No. 94, 1997; No. 25, 1998 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 ad. No. 4, 1994 am. No. 45, 1994; No. 46, 1995; No. 96, 1997; 1999 No 66 s 6 sch 3; 1999 No 64 s 4 sch 2
S. 248D .....	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. 254B .....	ins 1999 No 22 s 22
S. 255 .....	am. No. 1, 1967; No. 37, 1972; No. 5, 1990 rs. Act No. 4, 1993 am. Nos. 66 and 81, 1994; 1999 No 22 s 23
S. 255AA .....	ad. Act No. 61, 1994 am. No. 46, 1995; No. 6, 1996; Nos. 25 and 54, 1998
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; No. 25, 1998
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; 1999 No 22 s 24
S. 256 .....	am. No. 1, 1967; No. 15, 1970; No. 14, 1974; No. 33, 1979; Act No. 4, 1993
S. 257 .....	am. No. 28, 1937



*Magistrates Court Act 1930*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

---

Provision	How affected
	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
Part 16 (s. 259) .....	ad. 1999 No 34
S. 259 .....	ad. 1999 No 34
Schedule 1 .....	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; No. 67, 1998
The Second Schedule .....	am. No. 25, 1938 (as am. by No. 35, 1938) rep. No. 4, 1977
Schedule 2 .....	ad. No. 4, 1977
	am. Act No. 94, 1997
Schedule 3 .....	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

---

**3 Uncommenced amendments**

The following amendments have not been included in this republication because they were uncommenced at the republication date—

**Justice and Community Safety Legislation Amendment Act 2000, Act 2000 No 1, (s 3 sch)**

**Part 13A—**

Omit the Part, substitute the following Part:

**“PART 13A—COURT AND TRIBUNAL FEES**

**“248 Definitions for Pt 13A**

In this Part—

*court* means—

- (a) the Coroner’s Court; or

*Magistrates Court Act 1930*

**NOTES**—continued

- (b) the Magistrates Court.

***determined fee*** means a fee determined under this Part.

***fee*** includes a charge and a tax.

***relevant legislation*** means any of the following:

- (a) the *Administrative Appeals Tribunal Act 1989*;
- (b) the *Consumer Credit (Administration) Act 1996*;
- (c) the *Coroners Act 1997*;
- (d) the *Discrimination Act 1991*;
- (e) this Act;
- (f) the *Magistrates Court (Civil Jurisdiction) Act 1982*;
- (g) the *Residential Tenancies Act 1997*;
- (h) the *Tenancy Tribunal Act 1994*;
- (i) regulations or other subordinate legislation made or in force under an Act mentioned in paragraphs (a) to (h);
- (j) the code within the meaning of the *Tenancy Tribunal Act 1994*.

***tribunal*** means any of the following:

- (a) the administrative appeals tribunal;
- (b) the credit tribunal;
- (c) the discrimination tribunal;
- (d) the residential tenancies tribunal;
- (e) the tenancy tribunal.

**“248A Determination of fees**

“(1) The Minister may, in writing, determine fees for any of the following purposes:

- (a) proceedings in a court or tribunal, and matters incidental to such proceedings, including—

*Magistrates Court Act 1930*

**NOTES—continued**

- (i) the service and execution of the process of a court or tribunal;  
and
- (ii) the taxation of costs by the registrar or other officers of a court or tribunal;
- (b) facilities and services provided by a court or tribunal, including the service and execution of the process of a court of the Commonwealth, a State, another Territory or a foreign country;
- (c) the general purposes of relevant legislation.

“(2) A determination under subsection (1) may make provision for or with respect to—

- (a) exempting persons, in whole or part, from liability to pay determined fees in all or particular circumstances; or
- (b) remitting, refunding or waiving determined fees, in whole or part, by the registrar of a court or tribunal in particular circumstances; or
- (c) deferring by the registrar of a court or tribunal of liability, in whole or part, to pay determined fees in particular circumstances.

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

**“248B Payment of fees**

“(1) A determined fee is payable, in advance, in accordance with the determination that determined the fee, but subject to this section.

“(2) A determined fee is payable on notice from the registrar of the court or tribunal 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 is payable.

“(3) If a determined fee that is payable in advance has not been paid, the registrar of the court or tribunal (and the court or tribunal) is not obliged to perform the function, or provide the facility or service, for which the fee is payable.

**“248C Remission, refund, deferral, waiver and exemption of fees**

“(1) A determined fee may be remitted or refunded, or liability for its payment deferred, in accordance with the determination that determined the fee.

“(2) A determined fee is not payable—

*Magistrates Court Act 1930*

**NOTES**—continued

- (a) if the person otherwise liable to pay the fee is—
  - (i) exempt from liability to pay the fee under the determination that determined the fee; or
  - (ii) exempt from paying the fee under subsection 93 (1) of the *Legal Aid Act 1977*; or
  - (iii) legally assisted under a scheme or service provided or approved by the Attorney-General; or
- (b) if the registrar of the court or tribunal waives payment by a person of the fee in whole or part because the registrar considers that payment of the fee would impose hardship on the person—to the extent of the waiver; or
- (c) for the laying of an information—
  - (i) by the director of public prosecutions acting in the performance of an official function under a Territory law; or
  - (ii) by a police officer acting in the performance of an official function under a Territory law; or
  - (iii) for an offence against subsection 255 (1) (which is about contempt in the face of the court).

**“248D Recovery of fees in non-criminal proceedings if fees otherwise not payable**

“(1) This section applies in relation to a civil proceeding in the Magistrates Court, or a proceeding in a tribunal, between at least 2 parties (the *first party* and the *second party*) if—

- (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 part because of the exemption of the first party under this Part; or
  - (ii) remitted, refunded or waived in whole or part under this Part; and
- (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) If this section applies, the second party must pay to the registrar of the court or tribunal the amount of the exemption, remission, refund or waiver.

**NOTES**—continued

**“248E Recovery of fees in criminal proceedings if fees not otherwise payable**

“(1) This section applies in relation to a criminal proceeding in the Magistrates Court if—

- (a) the fee (the *information fee*) that would otherwise be payable by the informant for the laying of the information in the proceeding is not payable in whole or part under this Part; and
- (b) the defendant is convicted of the offence alleged in the information and ordered to pay a fine.

“(2) If this section applies, the defendant must pay to the registrar of the Magistrates Court, in addition to the fine—

- (a) if payment of the fee is waived in part under this Part—the amount of the waiver; or
- (b) in any other case—the information fee.

**“248F Review of decisions**

“(1) This section applies to any of the following decisions made under this Part by the registrar of a court or tribunal in relation to a person (the *eligible person*):

- (a) a decision refusing to remit, in whole or part, a determined fee payable by the person;
- (b) a decision refusing to refund, in whole or part, a determined fee paid by the person;
- (c) a decision refusing to defer, in whole or part, the person’s liability to pay a determined fee;
- (d) a decision refusing to waive, in whole or part, payment of a determined fee by the person;
- (e) a decision refusing to allow the person the benefit of an exemption to pay a determined fee.

“(2) If the registrar makes a decision to which this section applies, the registrar must give written notice of the decision to the eligible person.

“(3) The notice must tell the eligible person that the person may—

- (a) apply to the registrar for a statement of reasons for the decision; and
- (b) apply for review of the decision under this section.

*Magistrates Court Act 1930*

**NOTES**—continued

“(4) The eligible person may apply to the registrar for a statement of reasons for the decision within 28 days after the day when the person is given notice of the decision by the registrar.

“(5) The eligible person may apply to the court or tribunal for review of the decision within—

- (a) 28 days after the day when the person is given notice of the decision by the registrar; or
- (b) if the person applies within that 28 days for a statement of reasons for the decision—28 days after the day when the person is given the statement of reasons.

“(6) On the review, the court or tribunal—

- (a) must be constituted by—
  - (i) for a court—a magistrate; or
  - (ii) for a tribunal—a member of the tribunal; and
- (b) may make the orders the court or tribunal considers appropriate.

“(7) A fee is not payable for an application under this section.”.

© Australian Capital Territory 2006