

COURT OF PETTY SESSIONS

No. 1 of 1967

An Ordinance to amend the *Court of Petty Sessions Ordinance 1930-1966*.

1.—(1.) This Ordinance may be cited as the *Court of Petty Sessions Ordinance 1967*.^{*} Short title and citation.

(2.) The *Court of Petty Sessions Ordinance 1930-1966*† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Court of Petty Sessions Ordinance 1930-1967*.

2. Section 5 of the Principal Ordinance is amended— Interpretation.

(a) by inserting in sub-section (1.), after the definition of “Defendant”, the following definition:—

“ ‘Deputy Crown Solicitor’ means the Deputy Crown Solicitor, Australian Capital Territory;”;

(b) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) A reference in this Ordinance 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 paragraph (ii) of sub-section (1.) of section ninety-two of this Ordinance shall be read as a reference to—

(a) if a record of the depositions or statement was made in accordance with sub-section (1.) of section sixty of this Ordinance—a transcript of the record certified in accordance with sub-section (5.) of that section; or

(b) if the depositions were or the statement was taken down in writing and signed in accordance with sub-section (2.) of that section—the depositions or statement as so taken down and signed.”

^{*} Made on 2 February 1967; notified in the *Commonwealth Gazette* and commenced on 9 February 1967.

[†] Ordinance No. 21, 1930, as amended by No. 21, 1932; No. 17, 1934; No. 13, 1936; Nos. 5 and 28, 1937; Nos. 25 and 35, 1938; Nos. 20 and 22, 1940; No. 13, 1949; Nos. 7 and 12, 1951; No. 14, 1953; No. 12, 1958; No. 2, 1961; and No. 2, 1966.

3. Section 60 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Recording of
proceedings.

“ 60.—(1.) Subject to the next succeeding sub-section, a record of the depositions of a witness in any proceedings in the Court shall be made—

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

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

“ (3.) The Clerk shall have the custody of any record of depositions made in accordance with sub-section (1.) of this section.

“ (4.) The Clerk shall give such directions as he considers necessary for ensuring that, in any case where a transcript of the record of any depositions made in accordance with sub-section (1.) of this section is or may be required, a transcript is prepared, and, for the purpose of enabling the transcript to be prepared, the record shall be produced out of the custody of the Clerk.

“ (5.) Where a transcript of a record is prepared in accordance with the directions of the Clerk given under the last preceding sub-section, the person who prepared the transcript, or under whose supervision the transcript was prepared, shall certify on the transcript, by writing under his hand, that the transcript is a true transcript of a record produced out of the custody of the Clerk.

“ (6.) Subject to sub-section (15.) of this section, the Clerk shall, upon application made to him by a person and payment by that person of the prescribed fee, furnish to that person a copy of any transcript prepared in accordance with the directions of the Clerk of a record made in accordance with sub-section (1.) of this section of any depositions, or, where depositions were taken down in writing in accordance with sub-section (2.) of this section, a copy of the depositions as so taken down, and may, upon payment of such further fee as is prescribed, certify, by writing under his hand, that the copy is a true copy of the transcript or of the depositions as so taken down.

“ (7.) Where a record made by means of sound-recording apparatus, shorthand or similar means is produced out of the custody of the Clerk and the record purports to be a record made in accordance with sub-section (1.) of this section of the depositions of a witness in any proceedings, the record is evidence that that person made those depositions in those proceedings.

“ (8.) Where—

- (a) a sound-recording is produced out of the custody of the Clerk; and
- (b) the sound-recording contains a record of comments that purport—
 - (i) to have been made at the same time as a sound-recording made in accordance with sub-section (1.) of this section of the depositions of a person in any proceedings; and
 - (ii) to have been made for the purpose of identifying the proceedings, voices recorded on the last-mentioned sound-recording or any other matter or thing so recorded,

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

“ (9.) Where—

- (a) a document purports to be a transcript, or a copy of a transcript, of a record made in accordance with sub-section (1.) of this section 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 sub-section (5.) or (6.) of this section,

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

“ (10.) 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 sub-section (2.) of this section; 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 sub-section (6.) of this section,

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

“ (11.) This section applies in relation to the depositions of a person in proceedings before a Magistrate in the same manner as it applies in relation to the depositions of a person in proceedings in the Court and, in the application of this section for that purpose, any reference in this section to the Court or to the Magistrate constituting the Court shall be read as a reference to the Magistrate before whom the first-mentioned proceedings take place.

“ (12.) This section applies in relation to a statement made by an accused person in reply to the question referred to in paragraph (ii) of sub-section (1.) of section ninety-two of this Ordinance as if the statement were the depositions of the person.

“ (13.) Where a record of a part of any proceedings in the Court or before a Magistrate, not being a record of the depositions of a witness, has been made by means of sound-recording apparatus or by any other means, the Clerk may, upon application made to him by a person and payment by that person of the prescribed fee, but subject to sub-section (15.) of this section, furnish to that person a copy of a transcript of that record.

“ (14.) Where a person makes application to the Clerk to furnish to him under this section a copy of any transcript and a copy of the transcript is not available, the Clerk may, before causing a copy of the transcript to be prepared, require the applicant to deposit with the Clerk on account of the fee that will become payable in respect of the furnishing of the copy to the applicant such amount as the Clerk determines, being an amount that does not, in the opinion of the Clerk, exceed the amount of the fee that will become so payable.

“ (15.) Nothing in sub-section (6.) or (13.) of this section requires the Clerk to furnish a copy of a transcript or of any depositions to a person, not being a party to the proceedings to which the transcript or depositions relate, unless the person applying for the copy satisfies the Clerk or a Magistrate that he has good reason for so applying.”

Depositions to be recorded and delivered to the Clerk.

4. Section 69 of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) Section sixty of this Ordinance applies in relation to the depositions made before a Magistrate by a person in respect of whom an order has been made in pursuance of section sixty-seven of this Ordinance as if the depositions were made in proceedings before the Magistrate, and there shall be delivered to the Clerk—

(a) the record of the depositions made in accordance with sub-section (1.) of section sixty of this Ordinance or the document containing the depositions as taken down in writing and signed in accordance with sub-section (2.) of that section; and

(b) any documents produced to the Magistrate.”

Depositions of witnesses to be taken in the presence of accused person.

5. Section 90 of the Principal Ordinance is amended by omitting sub-section (2.).

Proceedings where evidence sufficient to put accused on trial.

6. Section 92 of the Principal Ordinance is amended—

(a) by omitting from paragraph (ii) of sub-section (1.) the words “ will be taken down in writing, and”; and

(b) by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

“ (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 paragraph (ii) of the last preceding sub-section 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 paragraph (ii) of sub-section (1.) of this section, the Magistrate shall ask him if he desires to give evidence himself or to call any witnesses on his 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.”

7. Section 93 of the Principal Ordinance is amended by omitting sub-sections (1.), (2.) and (3.). Admissions and confessions.

8. Section 95 of the Principal Ordinance is amended— Depositions of dead or absent persons.

(a) by adding at the end of paragraph (a) the words “ or to give evidence, or is absent from the Commonwealth ”; and

(b) by omitting the words from and including the words “ the depositions may ” and inserting in their stead the words “ the depositions are admissible as evidence ”.

9. Section 101 of the Principal Ordinance is amended by omitting the words “ the depositions to the Commonwealth Crown Solicitor ” and inserting in their stead the words “ a certified copy of the depositions to the Deputy Crown Solicitor ”. Recognisances to be transmitted to Deputy Crown Solicitor.

10. Section 106 of the Principal Ordinance is amended— Transmission of depositions, etc., to Deputy Crown Solicitor.

(a) by omitting the word “ Commonwealth ” and inserting in its stead the word “ Deputy ”; and

(b) by adding at the end thereof the following sub-section:—

“ (2.) The reference in the last preceding sub-section to depositions shall be read as a reference to a certified copy of depositions and the reference in that sub-section 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 paragraph (ii) of sub-section (1.) of section ninety-two of this Ordinance.”

Delivery of documents to proper officer of Court.

11. Section 107 of the Principal Ordinance is amended by omitting the word "Commonwealth" (wherever occurring) and inserting in its stead the word "Deputy".

Copies of depositions may be obtained by accused.

12. Section 108 of the Principal Ordinance is amended by inserting in sub-section (1.), before the words "copies of the depositions", the word "certified".

Statement of defence, etc.

13. Section 129 of the Principal Ordinance is repealed and the following section inserted in its stead:—

" 129.—(1.) Where the defendant is required to give, and gives, a statement of his defence and the points on which he relies, section sixty of this Ordinance applies in relation to the statement and the points as if they were depositions of the defendant.

" (2.) The Court shall cause all exhibits put in evidence to be marked so as to be clearly identified as those exhibits and shall cause the Clerk to make and preserve a list of the exhibits so marked.

" (3.) The Court may, if it thinks fit, order the exhibits or any of them to be retained by the Clerk until the further order of the Court."

14. Section 144 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Copies of information, etc.

" 144.—(1.) Upon application made to him by a person and upon payment by that person of the prescribed fee, the Clerk shall furnish to that person a copy of—

- (a) an information;
- (b) a complaint;
- (c) a minute or memorandum of a conviction or order;
- or
- (d) a formal conviction or order.

" (2.) Nothing in the last preceding sub-section requires the Clerk to furnish a copy of a document referred to in that sub-section to a person, not being a party to the proceedings the subject of the information or complaint, unless the person applying for the copy satisfies the Clerk or a Magistrate that he has good reason for so applying."

15. Section 185 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Copies of depositions may be used on appeal.

" 185. On the hearing of an appeal from an order of commitment under this Division, the depositions made by the person in default on his examination and by any other witness examined in the matter are admissible in evidence."

16. Section 189 of the Principal Ordinance is amended by omitting from sub-section (1.) the words “the maximum fixed by the following scale:—”, and the scale, and inserting in their stead the words “a period calculated at the rate of one day for each Two dollars, or part of Two dollars, included in the amount ordered to be paid or twelve months, whichever is the less.”

Scale of imprisonment for non-payment of money.

17. Section 212 of the Principal Ordinance is amended—

(a) by omitting from sub-section (2.) the words “may be read” and inserting in their stead the words “are admissible”;

Condition subject to which depositions may be read as evidence on appeal.

(b) by omitting sub-paragraph (i) of paragraph (b) of sub-section (2.) and inserting in its stead the following sub-paragraph:—

“ (i) the depositions were taken in the presence of the other party or his counsel or solicitor ”; and

(c) by inserting in sub-paragraph (iii) of paragraph (b) of sub-section (2.), after the word “travel”, the words “or give evidence, is absent from the Commonwealth”.

18. Section 225 of the Principal Ordinance is amended by omitting the word “Commonwealth” and inserting in its stead the word “Deputy”.

Notice dispensed with.

19. Section 247 of the Principal Ordinance is repealed and the following section inserted in its stead:—

“247. The amount of costs that may be awarded under section two hundred and forty-four of this Ordinance 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.”.

Witnesses expenses.

20. Section 256 of the Principal Ordinance is amended by omitting from sub-section (2.) the word “preceding” and inserting in its stead the word “proceeding”.

Forms.

21. The First Schedule to the Principal Ordinance is amended by omitting from Form 34 the words “will be taken down in writing, and”.

First Schedule—Form 34.

22.—(1.) The First Schedule to the Principal Ordinance is amended by omitting from Forms 32, 53, 67, 80 and 81 the symbol “£” (wherever occurring).

Amendments in relation to decimal currency.

(2.) The Principal Ordinance is amended as set out in the Schedule to this Ordinance.

Transitional provision.

23. Where, before the commencement of this Ordinance, the depositions of a witness were, or any statement or other matter was, in accordance with the *Court of Petty Sessions Ordinance (No. 2) 1930* or that Ordinance as amended and in force from time to time, taken down in writing and signed as provided in that Ordinance or that Ordinance as so amended, the depositions, statement or other matter as so taken down and signed shall, for the purposes of the Principal Ordinance as amended by this Ordinance, be deemed to have been taken down in writing and signed in accordance with sub-section (2.) of section 60 of the Principal Ordinance as so amended.

THE SCHEDULE.

Section 22.

AMENDMENTS IN RELATION TO DECIMAL CURRENCY

Provisions amended	Omit—	Insert—
Section 20 (1.) ..	Two hundred pounds	Four hundred dollars
Section 20 (1.) (a) ..	Two hundred pounds	Four hundred dollars
Section 20 (1.) (b) ..	Two hundred pounds	Four hundred dollars
Section 20 (1.) (b) (ii) ..	Two hundred pounds	Four hundred dollars
Section 20 (1.) (c) ..	Two hundred pounds	Four hundred dollars
Section 20 (1.) (c) (xiv) ..	Eight pounds	eight
Section 20 (1.) (c) (xvi) ..	Two hundred pounds	Four hundred dollars
Section 20A (2.) ..	Fifty pounds	One hundred dollars
Section 33 (1.) ..	Two hundred pounds	Four hundred dollars
Section 60 (4.) ..	Fifty pounds	One hundred dollars
Section 63 (1.) ..	Twenty pounds	Forty dollars
Section 132 ..	Two hundred pounds	Four hundred dollars
	exceeding Two hundred pounds	exceeding Four hundred dollars
Section 162 (1.) ..	Fifty pounds	One hundred dollars
Section 162 (4.) ..	Five pounds	Ten dollars
Section 162 (5.) ..	Twenty pounds	Forty dollars
Section 166 (2.) ..	Ten pounds	Twenty dollars
Section 188 (2.) ..	Twenty-five pounds	Fifty dollars
Section 191 ..	Two pounds	Four dollars
Section 207 (1.) (a) ..	Five pounds	Ten dollars
Section 208A (3.) (a) ..	Fifty pounds	One hundred dollars
Section 208A (3.) (b) ..	Fifty pounds	One hundred dollars
Section 209 ..	Twenty pounds	Forty dollars
Section 214 (3.) (a) ..	Twenty pounds	Forty dollars
Section 214 (3.) (b) ..	Twenty pounds or	Forty dollars or
	Twenty pounds	Forty dollars
Section 255 (1.) ..	Five pounds	Ten dollars
First Schedule—		
Form 9 ..	£ s. d.	\$
Form 23 ..	sterling, to be made	to be made
Form 30 ..	sterling, to be made	to be made
Form 52 ..	sum of £	sum of
Form 54 ..	amount of £	amount of
Form 68 ..	pounds, before	before