

No. 6 of 1974

SMALL CLAIMS ORDINANCE 1974

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SCHEDULE

No. 6 of 1974

AN ORDINANCE

Relating to Small Claims.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this nineteenth day of March, 1974.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,
LIONEL MURPHY
Attorney-General.

SMALL CLAIMS ORDINANCE 1974

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Small Claims Ordinance* Short title. 1974.*
2. This Ordinance shall be administered by the Attorney-General. Administration.
3. (1) In this Ordinance, unless the contrary intention appears— Interpretation.
“action for nuisance” means action for nuisance caused by noise;
“Clerk” has the same meaning as in the Court of Petty Sessions Ordinance;
“Court” means the Court of Petty Sessions;
“Court of Petty Sessions Ordinance” means the *Court of Petty Sessions Ordinance 1930-1973*;
“investigator” means a person appointed under section 27 to inquire into, and report upon, a question of fact arising in proceedings;
“proceedings” means proceedings under this Ordinance.
(2) A reference in this Ordinance to a Form by number is a reference to the Form so numbered in the Schedule.

PART II—PROCEEDINGS IN THE COURT OF PETTY SESSIONS

4. (1) Subject to this section, a person may institute proceedings in the Court under this Ordinance with respect to a cause of action in which the Court has jurisdiction under section 20 or 20A of the Court of Petty Sessions Ordinance. Proceedings under this Ordinance.

* Notified in the *Australian Government Gazette* on 26 March 1974.

(2) This Ordinance does not confer jurisdiction on the Court in any case in which the title to any land is *bona fide* in question.

(3) A person may not institute proceedings under this Ordinance involving a claim to the property in, or possession of, goods.

Action for
nuisance
caused by
noise.

5. (1) In proceedings under this Ordinance, the Court, in an action for nuisance caused by noise, has power to grant the same relief as the Supreme Court has power to grant in a like action instituted in that Court.

(2) A person who contravenes or fails to comply with a requirement of an order, not being a requirement that money be paid, is guilty of an offence and is punishable, upon summary conviction, by a fine not exceeding \$100.

Institution
of
proceedings.

6. (1) Proceedings shall be instituted by filing with the Clerk a claim in writing—

(a) in the case of an action for nuisance—in accordance with Form 1; and

(b) in any other case—in accordance with Form 2.

(2) A person shall not divide a cause of action for the purpose of instituting proceedings in respect of two or more claims.

Actions by
infants, &c.

7. (1) Proceedings under this Ordinance may be instituted by an infant in all respects as if he were of full age.

(2) Sections 134A and 134B of the Court of Petty Sessions Ordinance apply to and in relation to proceedings as though a claim under this Ordinance were a complaint under the Court of Petty Sessions Ordinance.

Abandon-
ment of
excess.

8. A person who has a cause of action for an amount exceeding \$1,000 may, by his claim, abandon the excess and recover an amount not exceeding One thousand dollars.

Clerk to
serve copy
of claim.

9. (1) Subject to this section, upon the institution of proceedings, the Clerk shall—

(a) cause a copy of the claim to be served on the defendant together with notices in accordance with Forms 3, 5 and 6; and

(b) give to the claimant a notice in accordance with Form 4.

(2) Upon the institution of proceedings, being an action for nuisance, the Clerk shall—

(a) fix a date for the inquiry in the proceedings; and

(b) cause a copy of the claim to be served on the defendant together with a notice in accordance with Form 7 not less than 3 days before the date fixed for the inquiry.

(3) Subject to the directions of the Court, where the Clerk is unable to effect service of a copy of a claim under sub-section (2), he shall, not less than 24 hours before the time fixed for the inquiry, fix a new inquiry date and notify the claimant accordingly.

10. (1) Where proceedings, not being an action for nuisance, are instituted, the person upon whom a copy of the claim is served may, within 14 days after service of that document—

Notice of
defence,
&c.

- (a) file with the Clerk a notice in accordance with Form 5 and pay into court such sum of money as he considers to be a full satisfaction of the claim; or
- (b) file with the Clerk a notice in accordance with Form 6.

(2) Where a defendant files a notice in accordance with Form 5 and pays money into court—

- (a) the Clerk shall notify the claimant in writing of the amount paid into court; and
- (b) if the claimant, within 14 days after being so notified, files with the Clerk a notice in accordance with Form 8, the Clerk shall pay the money to the claimant.

(3) Where the claimant does not accept money paid into court by the defendant, the money shall remain in court to abide the order of the Court.

(4) Where money is paid by the Clerk to the claimant in accordance with sub-section (2), the Court shall be deemed to have given judgment in the proceedings for the claimant for the amount so paid.

(5) Where—

- (a) the defendant in proceedings files a notice in accordance with Form 6; or
- (b) the defendant pays money into court but the money is not accepted by the claimant,

the Clerk shall fix a date for the inquiry in the proceedings and shall, not less than 10 days before the date so fixed, give notice of that date to the claimant and the defendant.

(6) Where the defendant in proceedings files a notice in accordance with Form 6, the Clerk shall cause a copy of the notice to be served on the claimant.

(7) Where the defendant in proceedings, not being an action for nuisance—

- (a) fails to file a notice in accordance with Form 5 or Form 6 within the time limited by sub-section (1); or
- (b) after filing a notice in accordance with Form 6, informs the Clerk in writing that he no longer intends to defend the claim,

the Clerk shall endorse on the claim a note of the defendant's failure or intention not to defend, and judgment shall be deemed to have been given in the proceedings for the claimant for the amount of his claim.

11. (1) Subject to this Ordinance, the procedure to be followed in proceedings shall be as directed by the Court. Procedure.

(2) In giving directions for the purpose of sub-section (1), the Court shall adopt such procedures as appear to the Court likely to enable the proceedings to be dealt with expeditiously and with as little formality as possible.

(3) The Court may exercise jurisdiction in proceedings under this Ordinance at any place within or outside the Territory.

Court not bound by rules of evidence.

12. In proceedings, the Court is not bound by the rules of evidence and may inform itself in any manner it thinks fit.

Evidence not to be on oath.

13. Evidence in proceedings shall not be given on oath nor shall a person make a declaration or affirmation for the purpose of giving evidence.

Court to inquire into claims.

14. The Court shall conduct an inquiry into the matters at issue in proceedings and, subject to sub-section 5(1), shall give judgment accordingly.

Adjournment of proceedings.

15. (1) The Court may adjourn an inquiry in proceedings from time to time and from place to place.

(2) If, at the time and place to which an inquiry in proceedings has been adjourned, a party to the proceedings does not appear, the Court may continue the inquiry in the absence of that party or, if that party is the claimant, may give judgment for the defendant.

Proceedings where defendant does not appear.

16. Where—

- (a) the defendant in proceedings does not appear at the time fixed for the inquiry or at the time to which the inquiry may have been adjourned or postponed; and
- (b) it appears to the Court that a notice under either paragraph 9(2)(b) or sub-section 10(5) was duly served on the defendant informing him of the date fixed for the inquiry or that an order for substituted or other service or for the substitution for service of notice by advertisement or otherwise was duly complied with,

the Court, if it thinks it would be proper so to do, may give judgment for the claimant or, in the case of an action for nuisance, make an order against the defendant, as the case may be.

Counterclaim and set-off.

17. (1) The Court shall, in giving judgment in proceedings, take into account any set-off or counterclaim for an amount not exceeding \$1,000 established by the defendant or admitted by the claimant and, if the set-off or counterclaim exceeds the amount for which the claimant would otherwise be entitled to judgment, the Court shall give judgment for the defendant for the amount of the excess.

(2) Sub-section 6 (2) applies in relation to a set-off or counterclaim as if the set-off or counterclaim were a claim.

(3) Where the defendant's set-off or counterclaim exceeds \$1,000, he may, for the purpose of sub-section (1), abandon the amount in excess of One thousand dollars.

18. (1) An inquiry in proceedings shall be conducted in public unless the Court orders to the contrary. Inquiries to be in public.

(2) Where the Court makes an order under sub-section (1), a person shall not publish, or cause to be published—

- (a) any report of the proceedings or of the evidence given in the proceedings; or
- (b) any matter that discloses the identity of a party to the proceedings or from which a party to the proceedings may reasonably be identified.

Penalty: \$1,000.

19. A judgment of the Court, or an order under section 5, is final and conclusive, and, subject to this Ordinance, a party to the proceedings is not thereafter entitled to institute or continue other proceedings in any court for the same cause or matter. Judgment final and conclusive.

20. (1) For the purposes of proceedings, a Magistrate or the Clerk may, by service on a person of a summons in accordance with Form 9, summon that person to attend— Summons to witness.

- (a) before the Court; or
- (b) before an investigator,

at a time and place specified in the summons and then and there to give evidence, or to give evidence and produce to the Court or investigator such books, documents or writings in his custody or control as are referred to in the summons.

(2) A summons shall not be issued under sub-section (1) unless the Magistrate or the Clerk is satisfied that the issue of the summons is reasonably necessary to the proper determination of the proceedings.

(3) Books, documents or writings produced to the Court or to an investigator in accordance with a summons under this section may be retained by the Court until the expiration of a period of 21 days after the date on which judgment is given or, in the case of an action for nuisance, an order is made in the proceedings.

(4) Where, before the expiration of the period referred to in sub-section (3), an appeal is instituted against a judgment given or an order made under this Ordinance, books, documents or writings held by the Court shall be delivered to the Registrar of the Supreme Court who may retain them until the appeal has been determined.

(5) A person who attends for the purpose of giving evidence before the Court or an investigator is entitled to receive such fees and travelling expenses as the Court directs in accordance with the scale and conditions applicable in relation to persons who attend as witnesses before the Supreme Court.

(6) Fees and travelling expenses payable by virtue of sub-section (5) are payable—

- (a) by the party at whose request the summons was issued; or
- (b) where the summons was not issued at the request of a party—by Australia.

(7) Where, in pursuance of this section, a person is summoned to attend before the Court or an investigator and the inquiry or the taking of evidence, as the case may be, is adjourned, that person shall attend at such time and place to which the hearing or taking of evidence is adjourned unless he is excused from so attending by the Court or the investigator.

(8) Where a person who has been duly served with a summons under this section fails to comply with the summons or with sub-section (7), the Court has the same powers in respect of that person as it would have had if the proceedings had been instituted under the Court of Petty Sessions Ordinance and the summons had been issued under section 61 of that Ordinance.

Witness to answer questions.

21. A person appearing as a witness before the Court or an investigator shall not, without lawful excuse, refuse to answer a question relevant to the proceedings put to him by the Court or the investigator.

Penalty: \$500.

Enforcement of decisions.

22. (1) Judgment under this Ordinance is enforceable as if it were an order made by the Court on a complaint under the Court of Petty Sessions Ordinance.

(2) An order under section 5 that requires payment of money is enforceable in relation to that requirement as if it were an order made by the Court on a complaint under the Court of Petty Sessions Ordinance.

Court may order that proceedings be dealt with under Court of Petty Sessions Ordinance.

23. (1) Subject to sub-section (3), the Court may, at any stage of proceedings, order that a claim be heard as a complaint under the Court of Petty Sessions Ordinance.

(2) An order under this section may be made by the Court either of its own motion or on application.

(3) An order under this section shall not be made unless the Court is satisfied that in all the circumstances such an order would not be unfair to any of the parties to the proceedings.

(4) Upon an order being made under this section—

(a) the claim shall be deemed to be a complaint made under the Court of Petty Sessions Ordinance and a summons to answer to that complaint shall be deemed to have been served on the defendant on the day on which the order is made;

(b) the Clerk shall fix a time and place for the hearing of the complaint under that Ordinance and shall notify the parties in writing of the time and place so fixed; and

(c) that Ordinance shall apply as if the time and place so fixed were specified in a summons as the time and place at which the defendant was required to appear before the Court to answer to a complaint.

(5) Where the defendant has indicated either in his notice of defence or to the Court at the inquiry that he intends to rely upon

a counterclaim at the inquiry, the counterclaim shall, for the purpose of this section, be deemed to be a claim.

(6) Where the Court makes an order under sub-section (1) that a counterclaim be heard as a complaint under the Court of Petty Sessions Ordinance the defendant, if he has not already done so in his notice of defence, shall file with the Clerk written particulars of his counterclaim.

(7) The Clerk shall cause a copy of the particulars of a counterclaim filed in accordance with sub-section (6) to be given to the claimant.

24. (1) Subject to sub-section (3), the Court may at any stage of proceedings under the Court of Petty Sessions Ordinance, where it appears to the Court that the proceedings could have been instituted under this Ordinance, order that a complaint be heard as a claim under this Ordinance.

(2) An order under this section may be made by the Court either of its own motion or on application.

(3) An order under this section shall not be made unless the Court is satisfied that in all the circumstances such an order would not be unfair to any of the parties to the proceedings.

(4) Upon an order being made under this section—

(a) the complaint shall be deemed to be a claim under this Ordinance; and

(b) the Clerk shall fix a date for the hearing of the claim under this Ordinance and shall notify the parties in writing of the date fixed.

(5) Where, by virtue of sub-section (4), a complaint is to be deemed to be a claim under this Ordinance, the Court may, where a hearing of the complaint has commenced and evidence been given, have regard to that evidence at the hearing of the claim and it shall not be necessary for that evidence to be given again.

25. (1) The claimant may at any time discontinue proceedings, and, where he does so before the commencement of the inquiry, he shall notify the Clerk in writing of the discontinuance.

(2) Upon receiving notification under sub-section (1), the Clerk shall inform the defendant in writing of the discontinuance.

(3) Where a claimant discontinues proceedings, he is not entitled to institute further proceedings under this Ordinance for the same cause or matter.

26. Section 133 of the Court of Petty Sessions Ordinance applies to and in relation to proceedings as though a claim under this Ordinance were a complaint under the Court of Petty Sessions Ordinance.

27. (1) The Court may, if it thinks fit, appoint a person to inquire into, and report upon, any question of fact arising in proceedings.

Court may order proceedings under Court of Petty Sessions Ordinance to be dealt with under this Ordinance.

Discontinuation.

Persons jointly liable.

Court may appoint investigator.

(2) In exercising its power under sub-section (1), the Court shall, if a person is nominated by, or with the consent of, all the parties to the proceedings, appoint that person.

(3) The Court shall have regard to the report of the person so appointed and shall give to it such weight as the Court thinks fit.

(4) The Court shall furnish each of the parties to the proceedings with a copy of the report.

(5) A person who reports to the Court pursuant to this section is not liable to be called as a witness in the proceedings but shall furnish to the Court such information (if any) in addition to the report as the Court requests.

(6) A person appointed under this section is entitled to receive from Australia such remuneration as is fixed by the Court.

Record of proceedings.

28. At an inquiry under this Ordinance, the Magistrate shall keep a record of the proceedings sufficient to enable him, if required, to prepare a report for the Supreme Court.

Costs.

29. (1) Subject to this Ordinance, the Court shall not make any order in relation to the costs of proceedings.

(2) Where an order is made under section 24, the costs of and incidental to the proceedings under the Court of Petty Sessions Ordinance and of the application (if any) under section 24 shall be in the discretion of the Court.

Court may amend claim.

30. In proceedings under this Ordinance, the Court has power to make any amendment (including the addition or dismissal of a party) that appears to the Court to be necessary or conducive to the proper determination of the matter at issue in the proceedings.

Court may set aside judgment, &c., upon terms.

31. (1) The Court, on sufficient cause being shown, may by order set aside any judgment or order under this Ordinance.

(2) An order under sub-section (1) may be made upon such terms as the Court thinks fit.

(3) The terms that may be imposed under sub-section (2) include terms as to the payment of costs.

PART III—APPEALS

Definition

32. In this Part, "judgment" includes an order made under section 5.

Appeal to Supreme Court.

33. (1) Subject to this Ordinance, a party to proceedings may, with the leave of the Supreme Court, appeal to the Supreme Court against a judgment given under this Ordinance.

(2) The Supreme Court shall not grant leave for the purpose of sub-section (1) unless it is satisfied—

(a) that the decision of the Court of Petty Sessions on a question of law was wrong; or

(b) that the conduct of the proceedings in the Court of Petty Sessions was unfair to the applicant.

34. An application to the Supreme Court for leave for the purpose of section 33 shall be made by filing with the Registrar of the Supreme Court a notice which—

Notice of application for leave.

- (a) shall state the ground or grounds on which leave is sought; and
- (b) shall be filed before the expiration of the period of 21 days after the date on which the judgment of the Court of Petty Sessions was given.

35. (1) Where notice of an application for leave to appeal has been filed under this Part, the applicant shall serve a copy of the notice upon—

Service of notice.

- (a) the Clerk; and
- (b) each other person who was a party to the proceedings to which the application relates.

(2) Service of a copy of a notice of an application for leave to appeal shall be effected—

- (a) as required by sub-section 48(1); or
- (b) in such manner as the Supreme Court directs.

36. The Supreme Court may, on such terms and conditions (if any) as it thinks fit, grant leave to the applicant to amend a notice of an application for leave to appeal.

Amendment of notice.

37. (1) Where a copy of a notice of an application for leave to appeal is served upon the Clerk, the Magistrate who gave the judgment to which the notice relates shall, within 28 days after the date of service of the copy of the notice, furnish to the Supreme Court a report setting forth—

Report by Magistrate.

- (a) his findings of fact;
- (b) the reasons of law for his decision; and
- (c) where leave to appeal is sought on the ground referred to in paragraph 33(b), the nature of the procedure adopted and the reasons for its adoption.

(2) Where, for any reason, the Magistrate who gave the judgment to which the application relates is unavailable to make a report to the Supreme Court, the Chief Magistrate shall make the report.

38. (1) Subject to this section, the enforcement or execution of a judgment in relation to which an application is duly made for leave to appeal shall not be stayed by the making of the application.

Execution not stayed by application for leave.

(2) Where—

- (a) an application has been duly made for leave to appeal; and
- (b) either—
 - (i) the applicant has given security in the sum of \$40 for the costs of the application and of the appeal (if any); or
 - (ii) the Supreme Court is satisfied that, for any reason, the applicant ought not to be required to give security,

the Supreme Court may order that the enforcement or execution of the judgment to which the application relates be stayed until the determination of the application and, if leave is granted, until the determination of the appeal.

(3) Security may be given for the purpose of sub-section (2) either by the deposit of money with the Clerk or by a bond in accordance with a form, and with a surety, approved by the Clerk and left with the Clerk.

Hearing of application may be treated as hearing of appeal.

39. Where, on the hearing of an application for leave to appeal, the Supreme Court is of the opinion that leave ought to be granted, the Supreme Court may, if it thinks the circumstances so warrant, treat the hearing of the application for leave to appeal as the hearing of the appeal and make an order under section 41 accordingly.

Basis on which appeal determined.

40. (1) Subject to this section, the Supreme Court shall determine an appeal under this Part in accordance with the law as in force on the date on which the hearing of the appeal is concluded and on the basis of the report furnished to it in pursuance of section 37.

(2) The Supreme Court, on the hearing of an appeal under this Part, may, if it thinks fit, grant leave to a party to call any evidence and may conduct its own inquiry into the matters at issue between the parties in the proceedings from which the appeal is brought.

Orders by Supreme Court on appeals.

41. (1) Subject to this section, on an appeal under this Part, the Supreme Court may make such order as it thinks just, and the order shall have effect, and may be enforced, as if it were an order of the Court of Petty Sessions made upon a complaint.

(2) On an appeal under this Part, the Supreme Court shall not make an order relating to the costs of proceedings in the Court of Petty Sessions.

PART IV—MISCELLANEOUS

Representation of parties.

- 42.** (1) A party to proceedings, other than a body corporate—
- (a) may appear in person;
 - (b) may be represented by a barrister and solicitor; or
 - (c) with the leave of the Court, may be represented by an unpaid agent.

(2) A body corporate that is a party to proceedings may be represented by—

- (a) a barrister and solicitor; or
- (b) an officer or employee of the body corporate.

43. (1) An amount due under a judgment given, or an order made, under this Ordinance by the Court or the Supreme Court shall be paid to the Clerk. Judgments, &c., to be paid to Clerk.

(2) Payment to the Clerk of the whole of the amount due under a judgment or order discharges the liability under the judgment or order of the person making the payment to pay that amount.

(3) Money paid to the Clerk in accordance with sub-section (1) shall be paid out on proof to the satisfaction of the Clerk that the person applying for the money is entitled or authorized to receive it.

44. The Chief Magistrate shall ensure that a person subject to his direction is available to assist persons— Parties to be assisted in instituting proceedings, &c.

- (a) who request assistance with the institution of proceedings or the giving of any notice under this Ordinance; or
- (b) who request an explanation of the procedures of the Court.

45. All documents filed with, or issued by, the Clerk or the Court in relation to proceedings shall be intitled in accordance with Form 10. How documents intitled.

46. (1) Subject to sub-section (2), no fee is payable to the Clerk in respect of any steps taken in proceedings. Court fees.

(2) The same fees are payable in proceedings—

- (a) for possession under a warrant of execution;
- (b) for making levy under a warrant of execution; and
- (c) for collection under a warrant of execution where the amount is paid on demand,

as are payable under the Court of Petty Sessions Rules.

47. (1) An application to the Court in proceedings may, unless the Court directs otherwise, be made by filing with the Clerk an application in accordance with Form 11. Applications to the Court.

(2) Subject to the directions of the Court, the Clerk shall cause a copy of an application (not being an application for an order under sub-section 48 (2)) to be served upon the opposite party not later than 3 days before the time at which it is stated in the application will be made.

48. (1) Subject to this section, service of a document that is required by or under this Ordinance to be served on a person shall be effected— Service of claim, &c.

- (a) by delivering the document to the person;

- (b) by leaving the document at the last-known or usual place of residence or business of the person with some other person apparently living or employed at that place and apparently not less than 16 years of age;
- (c) in the case of a person other than a body corporate, by posting the document by certified mail to the person at his last-known or usual place of residence or business; or
- (d) where the person is a body corporate, by posting the document by certified mail addressed to the body corporate at its last-known address.

(2) Where the Court is satisfied that, for any reason, service of a document in accordance with sub-section (1) cannot be effected, the Court may order that the document be served in such a manner as it thinks fit or it may order the substitution for service of notice by advertisement or otherwise.

Proof of
service.

49. (1) Any person to whom a copy of a claim and notices in accordance with Forms 3, 5 and 6 or a notice in accordance with Form 7, as the case may be, have been delivered for service shall, within 3 days after the service file with the Clerk an affidavit of service or, if service has been attempted but not effected, shall, within 3 days after the attempted service, endorse on the copy of the claim the reason for the non-service, sign the endorsement and return the copy of the claim and the notices or notice to the Clerk.

(2) Where service of a document has been effected in accordance with paragraph 48(1)(c) or (d), the service may be proved by affidavit having annexed to it—

- (a) a duly completed certified mail posting receipt, issued in pursuance of regulation 176B of the Postal Regulations as in force under the *Post and Telegraph Act 1901-1973*; and
- (b) a form referred to in regulation 176E of those Regulations having on it the certified mail number that appears on the receipt referred to in paragraph (a) and bearing an acknowledgment of receipt of the postal article to which the receipt referred to in paragraph (a) relates.

(3) The date appearing on the acknowledgment referred to in paragraph (2)(b) shall be deemed to be the date on which the document was served.

SCHEDULE

FORM 1

Section 6

(Title)

CLAIM FOR NUISANCE CAUSED BY NOISE

To the Clerk of the Court of Petty Sessions.

I, (*name and address of claimant*), hereby claim against (*name and address of defendant*) the following relief:—

(*Here set out shortly the relief sought.*)

The grounds on which this claim is made are as follows:—

(*Here set out shortly the nature of the claim.*)

Dated this day of , 19 .

Claimant.

FORM 2

Section 6

(Title)

CLAIM

To the Clerk of the Court of Petty Sessions.

I, (*name and address of claimant*), hereby claim from (*name and address of defendant*) the sum of \$ on the following grounds:—

(*Here set out shortly the nature of the claim.*)

Dated this day of , 19 .

Claimant.

FORM 3

Section 9

(Title)

NOTICE TO DEFENDANT

To (*name and address of defendant*).

TAKE NOTICE that (*name of claimant*) has instituted proceedings to which you are a party in the Court of Petty Sessions at Canberra, in pursuance of the *Small Claims Ordinance 1974*.

2. A copy of the document by which the proceedings were instituted is attached. The amount claimed and the nature of the claim are set out in that document. A notice of payment into court and a notice of defence are also attached.

3. If you wish to contest this claim you should complete the notice of defence and file it in the Court Office within 14 days after service of this notice.

4. If you admit the claim, you may complete and file the notice of payment into court and pay into court the sum of money which, in your view, represents the amount to which the claimant is entitled. If the claimant accepts the payment, the proceedings will not be pursued further. If the claimant does not accept the payment, the Court will fix a date for the assessment of the amount to be paid and you will be notified of the date as fixed.

5. If you do not file either of the notices referred to in paragraphs 3 and 4, the Court will enter judgment against you for the amount claimed.

6. In the event of your contesting the claim, the Court will fix a date for an inquiry into the claim and you will be notified of the date so fixed.

7. Should you require any information regarding these proceedings or the procedure to be followed, you are invited to contact the Court office (telephone number).

Dated this day of , 19 .

Clerk of the Court of Petty Sessions.

FORM 4

Section 9

(Title)

NOTICE TO CLAIMANT

Arrangements will be made by the Clerk to have the claim that you have filed served on the defendant. You will not be called upon to bear the expense of service, nor will you be required to pay any other fees in respect of the proceedings unless you obtain a

SCHEDULE—continued

FORM 4—continued

judgment and seek to have the judgment enforced against the defendant. In the latter event, you will be required to pay certain of the fees payable under the Court of Petty Sessions Ordinance for the enforcement of judgments.

2. If the defendant files a notice that he admits your claim and pays into court an amount in satisfaction of your claim, you will be notified. If you accept the amount paid in, you will not need to take any further steps. The amount paid into court will be forwarded to you by the Court.

3. If you do not accept an amount paid into court or the defendant files a notice of defence, a date for an inquiry by a Magistrate will be fixed and you will be notified. You should attend on that date with your witnesses and bring with you all documents relating to your claim.

4. If the defendant neither pays money into court nor files a notice of defence within 14 days after service of the claim, judgment will be entered in your favour and you will be notified.

5. Should you wish to discuss any matter relating to the procedures of the Court, you are invited to contact the Court office (telephone number _____).

Dated this _____ day of _____, 19 _____.

Clerk of the Court of Petty Sessions.

FORM 5

Section 9

(Title)

NOTICE OF PAYMENT INTO COURT

To the Clerk of the Court of Petty Sessions.

TAKE NOTICE that I, (*name and address of defendant*), admit the claim made against me on the _____ day of _____, 19 _____, by (*name of claimant*) and I hereby pay into court a sum of \$ _____ in full satisfaction of that claim.

Dated this _____ day of _____, 19 _____.

Defendant.

FORM 6

Section 9

(Title)

NOTICE OF DEFENCE

To the Clerk of the Court of Petty Sessions.

TAKE NOTICE that I, (*name and address of defendant*), intend to defend the claim made against me in these proceedings on the following grounds:—

*Strike out if inappropriate.

*At the inquiry, I intend to reply upon a set-off or counterclaim, particulars of which are as follows:—

Dated this _____ day of _____, 19 _____.

Defendant.

FORM 7

Section 9

(Title)

NOTICE TO DEFENDANT

To (*name and address of defendant*).

TAKE NOTICE that (*name of claimant*) has instituted proceedings to which you are a party in the Court of Petty Sessions at Canberra, in pursuance of the *Small Claims Ordinance 1974*. A copy of the document by which the proceedings were instituted is attached.

2. An inquiry into this matter will be conducted by a Magistrate at _____ on the _____ day of _____, 19 _____, at _____ o'clock in the _____ . If you fail to attend at the inquiry, an order may be made against you.

3. Should you require any information regarding these proceedings or the procedure to be followed, you are invited to contact the Court office (telephone number _____).

Dated this _____ day of _____, 19 _____.

Clerk of the Court of Petty Sessions.

SCHEDULE—continued

FORM 8

Section 10

(Title)

NOTICE OF ACCEPTANCE OF SUM PAID INTO COURT

To the Clerk of the Court of Petty Sessions.

TAKE NOTICE that I, (*name and address of claimant*), accept the sum of \$ paid by the defendant into Court in full satisfaction of my claim.

Dated this day of , 19 .

Claimant.

FORM 9

Section 20

(Title)

SUMMONS TO WITNESS

TO (*Name and address of witness*).TAKE NOTICE that you are required to attend before the Court of Petty Sessions [or investigator] at on the day of , 19 , at o'clock in the , to give such evidence as you know concerning the matter of the above-mentioned claim. [*Where books, documents or writings are required to be produced add and also to bring with you and produce to the Court (or investigator) the following books, documents or writings: or such of them that are in your custody or control*].

Dated this day of , 19 .

Magistrate.*

Clerk of the Court of Petty Sessions.*

* Strike out if inappropriate.

FORM 10

Section 45

AUSTRALIAN CAPITAL TERRITORY

Small Claims Ordinance 1974

In the Court of Petty Sessions

Claim No. of 19 .

Between (*Here insert name of claimant*)
Claimant.

and

(*Here insert name of defendant*)
Defendant.

FORM 11

Section 47

(Title)

APPLICATION TO THE COURT

I, (*name and address of applicant*), hereby apply to the Court for the following order (*or orders*):—

This application has been set down for hearing by the Court at

on the day of , 19 ,
at o'clock in the , or so soon thereafter as
the course of business will permit.

Dated this day of , 19 .

Applicant.