

AUSTRALIAN CAPITAL TERRITORY

No. 41 of 1979

An Ordinance to amend the *Court of Petty Sessions Ordinance 1930*

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

Dated this twelfth day of December 1979.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

P. DURACK
Attorney-General

COURT OF PETTY SESSIONS (AMENDMENT) ORDINANCE (No. 2) 1979

1. This Ordinance may be cited as the *Court of Petty Sessions (Amendment) Ordinance (No. 2) 1979*.¹ Short title
2. In this Ordinance, "Principal Ordinance" means the *Court of Petty Sessions Ordinance 1930*.² Principal Ordinance
3. Section 219B of the Principal Ordinance is amended by inserting before paragraph (b) the following paragraph: Appeals by way of orders to review

"(a) an order of the Court of Petty Sessions dismissing an information dealt with by that Court under Part VII;"
4. Section 219C of the Principal Ordinance is amended by omitting sub-section (1) and substituting the following sub-section: 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 (a), an application is made by the informant in the proceedings before the Court of Petty Sessions; or
 - (b) within 21 days after—
 - (i) the entering of a conviction of a kind referred to in paragraph 219B(b); or

(ii) the making of an order of a kind referred to in paragraph 219B (c) or (d),

an application is made by the defendant in the proceedings before the Court of Petty Sessions,

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

- (c) that there was a *prima facie* case of error or mistake on the part of the Court of Petty Sessions;
- (d) that the Court of Petty Sessions did not have jurisdiction or authority to make the decision; or
- (e) that the decision of the Court of Petty Sessions should not in law have been made.”

Powers of
Supreme
Court

5. Section 219F of the Principal Ordinance is amended by adding at the end thereof the following sub-sections:

“(5) On an appeal under this Division from an order of the Court of Petty Sessions referred to in paragraph 219B (a), the Supreme Court shall order that the costs of and incidental to the appeal shall be paid by the appellant.

“(6) Sub-section (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.”

Application
of amend-
ments

6. (1) The amendments made by this Ordinance apply in relation to decisions of the Court of Petty Sessions made in proceedings instituted on or after the date of commencement of this Ordinance.

(2) The Principal Ordinance, as in force immediately before the date of commencement of this Ordinance, continues to apply in relation to decisions of the Court of Petty Sessions made in proceedings instituted before the date of commencement of this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 18 December 1979.
2. 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; No. 2, 1966; No. 1, 1967; No. 25, 1968; No. 12, 1969; No. 15, 1970; No. 37, 1972; No. 48, 1973; Nos. 14 and 47, 1974; No. 42, 1976; Nos. 4, 34 and 61, 1977; No. 46, 1978; and No. 33, 1979.