

AUSTRALIAN CAPITAL TERRITORY

Court of Petty Sessions (Amendment) Ordinance (No. 4) 1984

No. 61 of 1984

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 26 October 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARETH EVANS
Attorney-General

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

Short title

1. This Ordinance may be cited as the *Court of Petty Sessions (Amendment) Ordinance (No. 4) 1984*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Court of Petty Sessions Ordinance 1930*.²

Manner of making appeal

3. Section 209 of the Principal Ordinance is amended—

- (a) by inserting in paragraph (1) (a) "or within such further time as the Supreme Court allows" after "made"; and

- (b) by inserting in paragraph (1) (b) “or that further time, as the case requires” after “period”.

Appeals in cases other than civil cases

4. Section 214 of the Principal Ordinance is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(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 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.”.

5. Section 218 of the Principal Ordinance is repealed and the following section substituted:

Orders by Supreme Court on appeals

“218. (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 Court of Petty Sessions 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 Court of Petty Sessions and may be enforced by the Court of Petty Sessions accordingly.”.

Grant of order *nisi* to review

6. Section 219C of the Principal Ordinance is amended—

- (a) by inserting in paragraph (1) (a) “or within such further time as the Supreme Court allows” after “paragraph 219B (a)”; and
- (b) by omitting from paragraph (1) (b) “an application is made by the defendant” and substituting “or within such further time as the Supreme Court allows, an application is made by the defendant”.

Application

7. (1) The amendments effected by section 3 apply in relation to convictions, orders, sentences, penalties or decisions of the Court of Petty Sessions referred to in section 208 of the Principal Ordinance as amended by this Ordinance made on or after the date of commencement of this Ordinance.

(2) The amendments effected by sections 4 and 5 apply in relation to appeals arising out of proceedings instituted in the Court of Petty Sessions on or after the date of commencement of this Ordinance.

(3) The amendments effected by section 6 apply in relation to decisions of the Court of Petty Sessions referred to in section 219B of the Principal Ordinance as amended by this Ordinance made on or after the date of commencement of this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 2 November 1984.
2. No. 21, 1930 as amended to date. For previous amendments *see* Note 2 to No. 9, 1984 and *see also* Nos. 9, 10 and 16, 1984.