

AUSTRALIAN CAPITAL TERRITORY

Court of Petty Sessions (Civil Jurisdiction) (Amendment) Ordinance 1984

No. 76 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 13 December 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARETH EVANS
Attorney-General

An Ordinance to amend the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982*

Short title

1. This Ordinance may be cited as the *Court of Petty Sessions (Civil Jurisdiction) (Amendment) Ordinance 1984*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982*.²

3. After Part XIX of the Principal Ordinance the following Part is inserted:

"PART XIXA—APPEALS TO SUPREME COURT

Interpretation

“282A. (1) In this Part, ‘appeal’ means an appeal to the Supreme Court from a judgment or order of the Court of Petty Sessions, whether final or interlocutory, given, entered or made in proceedings that the Court of Petty Sessions has jurisdiction to hear and determine under this Ordinance.

“(2) In this Part, a reference to the appellant shall, in the case of an appeal, in which there are 2 or more appellants, be read as a reference to any or all of those appellants, as the case requires.

Jurisdiction

“282B. (1) The jurisdiction of the Supreme Court to hear and determine appeals is subject to the exceptions and conditions prescribed in this Part.

“(2) Nothing in sub-section (1) shall be construed as affecting the operation of any other Ordinance that makes provision with respect to the appellate jurisdiction of the Supreme Court.

Cases in which appeal may be brought

“282C. (1) Subject to sub-section (2), an appeal shall not be brought unless the Supreme Court gives leave to appeal.

“(2) An appeal may be brought as of right from a judgment or order—

- (a) for, or for the payment of, an amount of \$2,000 or more; or
- (b) in proceedings—
 - (i) in which the matter in issue amounts to or is of the value of \$2,000 or more; or
 - (ii) which involve directly or indirectly a claim, demand or question to or in respect of any property or any civil right amounting to or of the value of \$2,000 or more.

Application for leave to appeal

“282D. Leave to appeal shall not be given in pursuance of sub-section 282C (1) unless application for that leave is made within 21 days after the date on which the judgment or order from which leave to appeal is sought took effect or within such further time as the Supreme Court allows.

Institution of appeal

“282E. (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—

- (a) 21 days after the date on which the judgment or order appealed from took effect; or
- (b) 7 days after the date on which leave to appeal is given by the Supreme Court,

as the case requires, or within such further time as the Supreme Court allows.

“(2) As soon as practicable after an appeal has been instituted, the appellant shall—

- (a) lodge a copy of the notice of appeal in the office of the Court of Petty Sessions for inclusion in the record of that court; and
- (b) subject to section 282F, serve a copy of the notice of appeal on each other party to the proceedings out of which the appeal arose.

Substituted service of notice of appeal

“282F. (1) On the application of the appellant, the Supreme Court may—

- (a) make such order for substituted or other service as the Supreme Court thinks just if it appears to the Supreme Court that personal service of a copy of the notice of appeal cannot be effected in accordance with sub-section 282E (2); or
- (b) by order, dispense with the requirement for service of a copy of the notice of appeal if the Supreme Court thinks it necessary or expedient to do so.

“(2) An order under paragraph (1) (b) may be made subject to such terms and conditions, if any, as the Supreme Court thinks just.

Evidence on appeal

“282G. In an appeal, 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 and, in its discretion, to receive further evidence.

Effect of appeal on execution of judgment

“282H. (1) The institution of an appeal does not operate as a stay of enforcement or execution of the judgment or order appealed from unless the Supreme Court otherwise orders.

“(2) Where, on an appeal, the Supreme Court orders that the enforcement or execution of the judgment or order appealed from be stayed, the Supreme Court may order that the appellant give, within such time as is specified in the

order, security, in such amount as is specified in the order, for the prosecution of the appeal.

“(3) If security for the prosecution of an appeal required to be given by an order under sub-section (2) is not given in the amount and within the time specified in the order, the appeal shall be deemed to have been abandoned.

Powers of Supreme Court on appeal

“282J. (1) On an appeal, the Supreme Court may—

- (a) affirm, reverse or vary the judgment or order appealed from;
- (b) give such judgment, or make such order, as, in all the circumstances, it thinks fit, or refuse to make an order;
- (c) set aside the judgment or order 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; or
- (d) award execution from the Supreme Court or remit the proceedings to the Court of Petty Sessions for the execution of the judgment or order of the Supreme Court.

“(2) A judgment or order of the Supreme Court made in proceedings remitted under paragraph (1) (d) shall have effect as if it were a judgment or order of the Court of Petty Sessions and may be enforced by the Court of Petty Sessions accordingly.”.

Application of former procedural provisions to new proceedings

4. Section 311 of the Principal Ordinance is amended by omitting from Column 1 of the table in sub-section (1) “Part XI”.

Application

5. Part XIXA of the Principal Ordinance as amended by this Ordinance applies in relation to appeals arising out of proceedings instituted on or after the commencement of this Ordinance.

Transitional

6. Notwithstanding the amendment effected by section 4 of this Ordinance, section 311 of the Principal Ordinance continues to apply in relation to appeals arising out of proceedings instituted before the commencement of this Ordinance.

Landlord and Tenant Ordinance 1949—amendment

7. Section 75 of the *Landlord and Tenant Ordinance 1949* is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Part XIXA of the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982* applies in relation to an appeal under sub-section (1) as if it were an appeal from a judgment or order of a kind specified in sub-section 282C (2) of that Ordinance.”.

Mental Health Ordinance 1983—amendment

8. Section 44 of the *Mental Health Ordinance 1983* is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Part XIXA of the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982* applies in relation to an appeal under sub-section (1) as if it were an appeal from a judgment or order of a kind specified in sub-section 282C (2) of that Ordinance.”.

Workmen’s Compensation Ordinance 1951—amendment

9. Section 26 of the *Workmen’s Compensation Ordinance 1951* is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Part XIXA of the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982* applies in relation to an appeal under sub-section (1)—

- (a) as if it were an appeal from a judgment or order of a kind specified in sub-section 282C (2) of that Ordinance; and
- (b) in the case of an appeal from a decision, order or award by a Committee—as if the decision, order or award was a decision, order or award of the Court.”.

Maintenance Ordinance 1968—amendment

10. Section 102 of the *Maintenance Ordinance 1968* is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) The provisions of Part XIXA of the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982*, other than section 282H, apply in relation to an appeal under sub-section (1) as if it were an appeal from a judgment or order of a kind specified in sub-section 282C (2) of that Ordinance.”.

Animal Nuisance Control Ordinance 1975—amendment

11. Section 13 of the *Animal Nuisance Control Ordinance 1975* is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) Subject to sub-section (2), Part XIXA of the *Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982* applies in relation to an order made under section 3 as if it were a judgment or order of a kind specified in section 282C (2) of that Ordinance.”.

Sections 7, 8, 9, 10 and 11—application

12. The amendments effected by sections 7, 8, 9, 10 and 11 apply only in relation to appeals instituted on or after the commencement of this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 19 December 1984.
2. No. 54, 1982.