

AUSTRALIAN CAPITAL TERRITORY

Magistrates Court (Amendment) Ordinance 1987

No. 56 of 1987

I, THE ADMINISTRATOR of the Government 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 8 October 1987.

J. A. ROWLAND
Administrator

By His Excellency's Command,

MICHAEL TATE
Minister of State for Justice
for and on behalf of the Attorney-General

An Ordinance to amend the *Magistrates Court Ordinance 1930*

Short title

1. This Ordinance may be cited as the *Magistrates Court (Amendment) Ordinance 1987*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Magistrates Court Ordinance 1930*.²

3. After section 66 of the Principal Ordinance the following section is inserted:

(Ord. 67/85)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Setting aside summons

“66A. (1) A summons issued under section 61 or 66 may be set aside, wholly or in part, by the Court on the application of the person to whom the summons is addressed.

“(2) An applicant shall serve a copy of the application on the party to the proceedings on whose request the summons was issued.”.

4. Before Division 1 of Part VI of the Principal Ordinance the following Division is inserted:

“Division 1A—Preliminary

Meaning of “jury”

“88A. In this Part, ‘jury’ means a reasonable jury properly instructed.”.

Accused may be excused from attendance before Court

5. Section 89A of the Principal Ordinance is amended by omitting from paragraph (5) (b) all the words after “opinion” and substituting “, having regard to all the evidence before it, that the evidence is capable of satisfying a jury beyond reasonable doubt that the person has committed an indictable offence;”.

Court may discharge accused

6. Section 91 of the Principal Ordinance is amended:

- (a) by omitting from paragraph (a) all the words from and including “of opinion” to and including “indictable offence,” and substituting “not of the opinion referred to in paragraph (b)—”; and
- (b) by omitting from paragraph (b) all the words from and including “that” to and including “offence,” and substituting “having regard to all the evidence before it, that the evidence is capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence—”.

Proceedings where evidence sufficient to put accused on trial

7. Section 92 of the Principal Ordinance is amended by omitting from subsection (1) all the words from and including “that the evidence” to and including “respect of” and substituting “, having regard to the evidence for the prosecution, that the evidence is capable of satisfying a jury beyond reasonable doubt that the accused person has committed”.

Discharge or committal for trial

8. Section 94 of the Principal Ordinance is amended:

- (a) by omitting from paragraph (a) all the words from and including “that” to and including “offence,” and substituting “, having regard to all the evidence before it, that a jury would not convict the defendant of an indictable offence—”; and
- (b) by omitting from paragraph (b) all the words before “it shall” and substituting “if the Court is not of the opinion referred to in paragraph (a)—”.

Discontinued proceedings

9. Section 97 of the Principal Ordinance is amended by omitting from paragraph (a) all the words after “prosecution” and substituting “is not capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence or is of the opinion, having regard to all the evidence before it, that a jury would not convict the defendant of an indictable offence; or”.

NOTES

- 1. Notified in the *Commonwealth of Australia Gazette* on 21 October 1987.
- 2. 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, 56 and 61, 1977; No. 46, 1978; Nos. 33 and 41, 1979; Nos. 4 and 10, 1980; Nos. 2 and 3, 1982; Nos. 9, 10, 16, 61 and 62, 1984; Nos. 17, 18, 41, 66 and 67, 1985; Nos. 33, 53, 57, 71, 74 and 83, 1986.