



AUSTRALIAN CAPITAL TERRITORY

Magistrates Court (Amendment) Ordinance (No. 2) 1989

Ordinance No. 59 of 1989

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 12 October 1989.

BILL HAYDEN
Governor-General

By His Excellency's Command,

MICHAEL TATE
Minister of State for Justice

An Ordinance to amend the *Magistrates Court Ordinance 1930*

(Ord. 1/89)—Cat. No.

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

Short title

1. This Ordinance may be cited as the *Magistrates Court (Amendment) Ordinance (No. 2) 1989*.¹

Commencement

2. (1) This Ordinance, except sections 11, 12 and 14, commences on the day on which this Ordinance is notified in the *Gazette*.

(2) Sections 11, 12 and 14 commence on such date as is fixed by the Minister by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, “Principal Ordinance” means the *Magistrates Court Ordinance 1930*.²

Interpretation

4. Section 5 of the Principal Ordinance is amended by omitting from subsection (1) the definition of “Capital offence”.

Limitation of proceedings

5. Section 31 of the Principal Ordinance is amended by omitting from paragraph (1) (a) “the offence is a capital offence or”.

Depositions of dead or absent persons

6. Section 95 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (d) “sub-section (1) of section sixty of this Ordinance” and substituting “subsection 54A (3)”; and
- (b) by omitting from paragraph (e) “sub-section (2) of section sixty of this Ordinance” and substituting “subsection 54A (2)”.

Repeal

7. Section 98 of the Principal Ordinance is repealed.

Admission to bail of persons committed for trial

8. Section 99 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (a) “which is not a capital offence and”; and
- (b) by omitting from paragraph (1) (b) “which is not a capital offence”.

Admission to bail of persons committed for trial or sentence who are in prison awaiting trial or sentence

9. Section 100 of the Principal Ordinance is amended—

- (a) by omitting from paragraphs (a) and (b) “the offence charged is not a capital offence and when”; and
- (b) by omitting from paragraphs (a) and (b) “such offence” and substituting “the offence charged”.

Ex parte hearing in absence of defendant

10. Section 110 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (4) (d) “or”; and
- (b) by adding at the end of subsection (4) the following word and paragraph:
 - “; or (f) a police officer holding or acting in the rank of Superintendent authorised in writing by the Commissioner of Police for the purpose.”.

Insertion

11. After section 116F of the Principal Ordinance the following section is inserted:

Procedure where defendant pleads not guilty

“116FA. Where the defendant appears before the Court at the time and place at which he or she is required by the summons to appear and pleads not guilty, the Court shall adjourn the hearing, fix a time and place for the hearing of the proceedings and inform the defendant of the time and place so fixed.”.

Procedure where defendant does not plead

12. Section 116G of the Principal Ordinance is amended—

- (a) by inserting in subparagraph (b) (i) “, and does not appear before the Court at the time and place specified in the summons” after “Court”;
- (b) by omitting from subparagraph (b) (ii) “having so returned Form 86 to the Clerk,”; and
- (c) by inserting in subparagraph (b) (ii) “or fixed by the Court in accordance with section 116FA” after “section 116F”.

Insertion

13. Before section 255 of the Principal Ordinance the following section is inserted in Part XV:

Directions as to procedure

“254A. Where the procedure for taking any step in proceedings is not prescribed in this Ordinance or the law under which the step is to be taken, the Court may give directions with respect to the procedure to be followed as regards that step.”

First Schedule

14. The First Schedule to the Principal Ordinance is amended by omitting paragraph 2 of block D of Form 84 and substituting the following paragraphs:

“2. If you attend court on the date and at the time shown in the summons and plead not guilty, the court will, in your presence, fix another date and time for the hearing of the charge and inform you of the date and time fixed.

“3. If you return the form, you need not attend court on the date shown in the summons as the court will fix another date and time for the hearing of the charge and you will be notified by post of the date and time fixed.”

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 25 October 1989.
2. Ordinance No. 21, 1930 as amended to date. For previous amendments see Note 2 to Ordinance No. 55, 1989 and see also No. 55, 1989.