



AUSTRALIAN CAPITAL TERRITORY

## Supreme Court (Amendment) Act 1993

No. 59 of 1993

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### **An Act to amend the *Supreme Court Act 1933***

*[Notified in ACT Gazette S172: 6 September 1993]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Supreme Court (Amendment) Act 1993*.

#### **Commencement**

2. This Act commences on the day on which it is notified in the *Gazette*.

#### **Principal Act**

3. In this Act, “Principal Act” means the *Supreme Court Act 1933*.<sup>1</sup>

#### **Interpretation**

4. Section 2 of the Principal Act is amended by inserting the following definitions:

“ ‘criminal proceedings’ means proceedings in the Court for the prosecution of a person on indictment;

‘related summary offence’, in relation to an indictable offence, means an offence punishable on summary conviction that arises from substantially the same circumstances as those from which the indictable offence has arisen;”.

### **Substitution**

5. The heading to Part VII of the Principal Act is omitted and the following heading substituted:

### **“PART VII—TRIAL ON INDICTMENT”.**

### **Insertion**

6. After section 68 of the Principal Act the following sections, Part and Part heading are inserted:

#### **Trial by jury in criminal proceedings**

“68A. Criminal proceedings shall be tried by a jury, except as otherwise provided by this Part.

#### **Trial by Judge alone in criminal proceedings**

“68B. (1) An accused person in criminal proceedings shall be tried by a Judge alone if—

- (a) the accused person elects in writing to undergo such a trial;
- (b) the accused person produces a certificate signed by a barrister or solicitor stating that—
  - (i) he or she has advised the accused in relation to the election; and
  - (ii) the accused person has made the election freely;
- (c) the election is made before the Court first allocates a date for the person’s trial; and
- (d) where there is more than 1 accused person in the proceedings—
  - (i) each other accused person also elects to be tried by the Judge alone; and
  - (ii) each accused person’s election is made in respect of all offences with which he or she is charged.

“(2) An accused person who elects to be tried by a Judge alone may, at any time before he or she is arraigned, elect to be tried by a jury.

“(3) If an accused person makes and then withdraws an election, he or she shall not make another election.

### **Verdict of Judge in criminal proceedings**

“68C. (1) A Judge who tries criminal proceedings without a jury may make any finding that could have been made by a jury as to the guilt of the accused person and any such finding has, for all purposes, the same effect as a verdict of a jury.

“(2) The judgment in criminal proceedings tried by a Judge alone shall include the principles of law applied by the Judge and the findings of fact on which the Judge relied.

“(3) In criminal proceedings tried by a Judge alone, if a law of the Territory would otherwise require a warning to be given to a jury in such proceedings, the Judge shall take the warning into account in considering his or her verdict.

## **“PART VIII—SUMMARY OFFENCES RELATED TO INDICTABLE OFFENCES**

### **Related summary offences**

“68D. (1) The Court may, at the conclusion of the trial of an accused person for an indictable offence, deal with any related summary offence with which the accused person has been charged, if the Court considers that it is in the interests of justice.

“(2) The Court shall only deal with a related summary offence with the consent of the accused person.

“(3) The Court may deal with a related summary offence—

- (a) on its own motion;
- (b) on the application of the accused person; or
- (c) on the application of the prosecutor.

“(4) The Court may deal with a related summary offence with which an accused person has been charged even though it is not doing so in relation to a related summary offence with which another accused person in the same proceedings is charged.

**Procedure**

“68E. (1) The Court shall deal with a related summary offence under this Part—

- (a) without a jury; and
- (b) on the basis only—
  - (i) of evidence given during the trial of the accused person for any indictable offence in the same proceedings; and
  - (ii) of any additional evidence given under this section.

“(2) The prosecutor or the accused person may, with the leave of the Court, call additional evidence in relation to the related summary offence.

“(3) In sentencing or otherwise dealing with a person for a related summary offence, the Court has the same functions as the Magistrates Court.

**Remission of related offences to Magistrates Court**

“68F. The Court may, at any time, remit a related summary offence being dealt with under this Part to the Magistrates Court.

**“PART IX—MISCELLANEOUS”.****Transitional**

7. Sections 68A, 68B and 68C and Part VIII of the Principal Act as amended by this Act extend to proceedings commenced, but not concluded, before the commencement of this Act.

**NOTE**

1. Reprinted as at 1 July 1992. See also Self-Government (Transitional Provisions) Regulations as amended.

**NOTE ABOUT SECTION HEADINGS**

On the day on which the *Supreme Court Act 1933* is amended by this Act, in addition to any alteration of section headings indicated in the text of this Act, headings to sections of the Principal Act are altered as set out in the following table:

Section	Alteration
22	Omit the heading, substitute the following heading: <b>Trial by jury in civil proceedings</b>
68	Omit the heading, substitute the following heading: <b>Prosecution of indictable offences</b>

*[Presentation speech made in Assembly on 17 June 1993]*