



AUSTRALIAN CAPITAL TERRITORY

Magistrates Court (Amendment) Act (No. 2) 1996

No. 82 of 1996

An Act to amend the *Magistrates Court Act 1930*

[Notified in ACT Gazette S328: 20 December 1996]

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

Short title

1. This Act may be cited as the *Magistrates Court (Amendment) Act (No. 2) 1996*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day on which section 4 of the *Remand Centres (Amendment) Act (No. 2) 1996* commences.

Principal Act

3. In this Act, “Principal Act” means the *Magistrates Court Act 1930*.¹

Interpretation

4. Section 5 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘Administrator’ has the same meaning as in the *Remand Centres Act 1976*.”

Substitution

5. Sections 70 and 71 of the Principal Act are repealed and the following section is substituted:

Remand of defendant

“70. (1) If—

- (a) because of the absence of witnesses; or
- (b) for any other reasonable cause;

it becomes necessary or advisable to defer the hearing of proceedings for an indictable offence, the Court may adjourn the hearing and may by warrant or, if the period of remand is not to exceed 3 days, by order made orally, remand the defendant into the custody of the Administrator for such period (not exceeding 15 days at any one time) as the Court considers reasonable.

“(2) A warrant or order under subsection (1) shall direct the Administrator to—

- (a) keep the defendant in custody for the specified period; and
- (b) bring the defendant before the Court at the specified time and place for the hearing.”

Committal or detention before decision

6. Section 74 of the Principal Act is amended by omitting all the words after “may” and substituting “remand the defendant into the custody of the Administrator”.

Committal of witness or of defendant after decision

7. Section 75 of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words after “shall” and substituting “remand him or her into the custody of the Administrator”; and
- (b) by omitting from subsection (2) all the words after “shall” and substituting “remand the defendant into the custody of the Administrator”.

Substitution

8. Section 82 of the Principal Act is repealed and the following section substituted:

Conveying persons to custody

“82. (1) The person to whom a warrant of remand or commitment is directed shall convey and deliver the person named in the warrant into the custody of the Administrator, and shall also deliver the warrant to the Administrator.

“(2) Where a person is delivered to the Administrator in accordance with subsection (1), the Administrator shall give a written acknowledgment of the delivery stating the condition of the person at the time.”.

First Schedule

9. The First Schedule to the Principal Act is amended—

- (a) by omitting form 19 and substituting the form in the Schedule;
and
 - (b) by omitting forms 20, 63, 64, 65, 66, 68, 71, 72, 79 and 88.
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SCHEDULE
FORM 19

Paragraph 9 (a)

WARRANT OF REMAND OR COMMITMENT

Authority and directions

To the Commissioner of Police and all other police officers.

You must take, safely convey, and deliver the person named in this warrant to the custody of the Administrator.

To the Administrator and any other person into whose custody the person is transferred:

You must receive the person named in this warrant into custody and safely keep that person—

- (i) for the period specified, or in the circumstances described, in this warrant or such earlier day as may be lawfully ordered; or
- (ii) until the person is otherwise removed or discharged from custody by due course of law.

Personal details of person to be remanded or committed

Name:

Address:

Date of birth: [*day/month/year*]

Gender: male/female*

Charges

File number(s) of the charge(s):

Description of the charge(s):

Who filed the charge(s)?

History of defendant/witness*

The defendant /witness*—

- has been committed for trial/sentence* before the Supreme Court.*
- has been sentenced to a term of imprisonment.
- has been remanded in custody.
- has been committed for safe custody.
- is already in custody and has been charged with another offence.
- refused to enter into a recognizance to give evidence.
- has refused to take an oath or make an affirmation to testify as a witness.
- having sworn an oath or made an affirmation, refused to answer a question without offering any just excuse.
- has refused or disobeyed an order of the Court.

Reason for custody

- The proceeding has been adjourned and the defendant/ witness* is to be brought before the Magistrates Court/Supreme Court* at [location] at [hour] am/pm* on [date].
- The defendant/witness* has been committed for a period of [number] days.
- The defendant has been sentenced to imprisonment for [period of imprisonment] with a non-parole period of [non-parole period].
- The defendant is to be released on serving a term of imprisonment of [period of imprisonment] and entering into a recognizance the conditions of which are endorsed below.

Endorsement

- The accused did not apply for bail.
- The defendant's application for bail was refused. The reasons for refusal are:
 - Bail was granted and the defendant is to be released from custody when he or she signs an undertaking agreeing to the conditions which are endorsed below:
 - The defendant is to be released on serving a term of imprisonment of [period of imprisonment] and on entering into a recognizance on the following conditions:

This warrant is issued by the Court for the purposes of the *Removal of Prisoners Act 1968* and the *Prisons Act 1952* of New South Wales.

The accused was legally represented by [name of legal representative] whose phone number is [phone number].

SIGNED AT CANBERRA ON THE [day] DAY OF [month and year] BY

MAGISTRATE/REGISTRAR*

*Delete whichever is inapplicable.

NOTE

Principal Act

1. Reprinted as at 10 April 1995. See also Acts Nos. 41 and 46, 1995; No. 6, 1996.

[Presentation speech made in Assembly on 21 November 1996]