

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Court Legislation Amendment Bill 2006

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Court Legislation Amendment Bill 2006

A Bill for

An Act to amend various legislation about courts

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Court Legislation Amendment Act 2006*.

4 **2 Commencement**

5 This Act (other than part 4) commences on the day after its
6 notification day.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* Part 4 commences on the commencement of the uncommenced law, the
10 *Justice and Community Safety Legislation Amendment Act 2006*, sch 2,
11 pt 2.23 (Magistrates Court Act 1930), which is 1 January 2007 (see
12 Legislation Act, s 79A (Commencement of amendment of
13 uncommenced law)).

Part 2 Coroners Act 1997

3 Legislation amended—pt 2

This part amends the *Coroners Act 1997*.

4 Contempt Section 88

omit

5 New section 99A

in part 10, insert

99A Contempt of Coroner's Court

- (1) A person is in contempt of the Coroner's Court if the person—
- (a) contravenes an order of the court or an undertaking given to the court; or
 - (b) commits a contempt in the face or in the hearing of the court; or
 - (c) commits any other contempt of court.

Examples—par (b)

- 1 insulting a coroner, the registrar or deputy registrar of the court, or any other court officer during the officer's sitting or attendance in court
- 2 interrupting a proceeding of the court or misbehaving in court
- 3 obstructing or assaulting someone in attendance in court
- 4 disobeying a direction of the court at the hearing of a proceeding

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- 1 (2) The Coroner's Court has the same power to deal with contempt of
2 the Coroner's Court as the Supreme Court has to deal with contempt
3 of the Supreme Court.
- 4 (3) However, a contempt mentioned in subsection (1) (a) may be dealt
5 with as a contempt of court only if there is no other effective way to
6 enforce the order or undertaking.
- 7 (4) To remove any doubt, this section does not limit the Supreme
8 Court's power to deal with contempt of the Coroner's Court.

1 **Part 3** **Court Procedures Act 2004**

2 **6** **Legislation amended—pt 3**

3 This part amends the *Court Procedures Act 2004*.

4 **7** **Remission, refund, deferral, waiver and exemption of fees** 5 **Section 15 (2) (d) (iii)**

6 *omit*

7 **8** **Schedule 1, item 24**

8 *substitute*

9 **24** **Contempt of court**

10 contempt of court, including, for example, the following:

- 11 (a) contempt of the court as constituted other than by a judge or
12 magistrate;
- 13 (b) proceedings for failure to comply with orders, other than orders
14 to pay an amount

1 **Part 4** **Justice and Community Safety**
2 **Legislation Amendment Act 2006**

3 **9** **Legislation amended—pt 4**

4 This part amends the *Justice and Community Safety Legislation*
5 *Amendment Act 2006*.

6 **10** **Schedule 2, part 2.23 (Magistrates Court Act 1930),**
7 **amendment 2.129, new section 9B (4)**

8 *omit*

1 Part 5 Magistrates Court Act 1930

2 11 Legislation amended—pt 5

3 This part amends the *Magistrates Court Act 1930*.

4 12 Offences against Act—application of Criminal Code etc 5 Section 3A

6 *omit*

7 13 Constitution of court 8 New section 4 (4) to (6)

9 *insert*

10 (4) The rules may provide for the jurisdiction of the court otherwise
11 exercisable by a magistrate to be exercised by the registrar, in the
12 cases and subject to the conditions prescribed under the rules.

13 (5) For the purposes of the exercise of jurisdiction given to the registrar
14 under the rules, this Act has effect, subject to this section, as if the
15 court consisted of the magistrates and the registrar.

16 (6) In this section:

17 *registrar* includes deputy registrar.

18 14 Appeals to which div 3.10.2 applies 19 Section 208 (1) (b)

20 *substitute*

21 (b) an appeal, by the person convicted, from a conviction for an
22 offence dealt with by the Magistrates Court under this Act,
23 part 3.6 (Proceedings for offences punishable summarily) or
24 part 3.7 (Service and pleading by post for certain offences) or
25 under the Crimes Act, section 375;

1 **15 Section 208 (1) (d)**

2 *omit*

3 section 290,

4 **16 Appeals by way of orders to review**
5 **Section 219B (1) (f)**

6 *substitute*

7 (f) a sentence or penalty imposed by the Magistrates Court for an
8 offence dealt with by that court under this Act, section 90A,
9 part 3.6 or part 3.7 or under the Crimes Act, section 375.

10 **17 Contempt in face of court**
11 **Section 290**

12 *omit*

13 **18 New section 307**

14 *in part 5.2, insert*

15 **307 Contempt of court**

16 (1) A person is in contempt of the Magistrates Court if the person—

17 (a) contravenes an order of the court or an undertaking given to
18 the court; or

19 (b) commits a contempt in the face or in the hearing of the court;
20 or

1 (c) commits any other contempt of court.

2 **Examples—par (b)**

3 1 insulting a magistrate, the registrar, deputy registrar, bailiff or other court
4 officer during the officer's sitting or attendance in court

5 2 interrupting a proceeding of the court or misbehaving in court

6 3 obstructing or assaulting someone in attendance in court

7 4 disobeying a direction of the court at the hearing of a proceeding

8 *Note* An example is part of the Act, is not exhaustive and may extend, but
9 does not limit, the meaning of the provision in which it appears (see
10 Legislation Act, s 126 and s 132).

11 (2) The Magistrates Court has the same power to deal with contempt of
12 the Magistrates Court as the Supreme Court has to deal with
13 contempt of the Supreme Court.

14 (3) However, a contempt mentioned in subsection (1) (a) may be dealt
15 with as a contempt of court only if there is no other effective way to
16 enforce the order or undertaking.

17 (4) To remove any doubt, this section does not limit the Supreme
18 Court's power to deal with contempt of the Magistrates Court.

19 **19 Section 309**

20 *substitute*

21 **309 Directions about procedure etc**

22 (1) If the procedure for taking a step in a proceeding is not set out in
23 this Act or the law under which the step is to be taken, the court may
24 give a direction in relation to—

25 (a) the procedure to be followed in relation to the step; and

26 (b) any other relevant matter in relation to the step.

Section 19

- 1 (2) Without limiting subsection (1), the court may give a direction in
2 relation to the procedure to be followed in relation to circle
3 sentencing for certain Aboriginal or Torres Strait Islander offenders,
4 and any other relevant matter in relation to circle sentencing.
- 5 (3) To remove any doubt, a direction mentioned in subsection (2) is not
6 taken to—
- 7 (a) establish a court; or
- 8 (b) limit the Magistrates Court's discretion in sentencing an
9 offender.
- 10 (4) In this section:
- 11 ***Aboriginal or Torres Strait Islander offender*** means an offender
12 who—
- 13 (a) is a descendant of an Aboriginal person or Torres Strait
14 Islander; and
- 15 (b) identifies as an Aboriginal person or Torres Strait Islander; and
- 16 (c) is accepted as an Aboriginal person or Torres Strait Islander by
17 an Aboriginal or Torres Strait Islander community.
- 18 ***circle sentencing*** means the step in a sentencing proceeding for
19 involving members of the Aboriginal or Torres Strait Islander
20 community and others in relation to the sentencing by the court.

20 Section 311

substitute

311 Appearance by audiovisual or audio links etc

- (1) This section applies if, in relation to a proceeding or a part of a proceeding (the *relevant proceeding*), the court has—
- (a) given a direction under the *Evidence (Miscellaneous Provisions) Act 1991*, section 20 (1) (Territory courts may take evidence and submissions from outside ACT); or
- (b) made an order under the *Court Procedures Rules 2006*, rule 6703 (Evidence by telephone etc) about receiving evidence or submissions by telephone, video link or another form of communication in the proceeding.
- (2) If this section applies, a person who, in a relevant proceeding—
- (a) is required or entitled to appear personally, whether as a party or as a witness; or
- (b) is entitled to appear for another person;
- may appear in the relevant proceeding and participate or give evidence in accordance with the direction or order.
- (3) A person who appears in a relevant proceeding in accordance with this section is taken to be before the court.
- (4) In this Act:
- appearance*, in relation to a proceeding and whether by a party or anyone else, includes appearance in accordance with this section if this section applies.
- (5) In this section:
- proceeding* does not include a proceeding about bail.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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