

# AUSTRALIAN CAPITAL TERRITORY

## MAGISTRATES COURT ACT 1930

### DETERMINATION OF FEES

NO. 18 OF 1993

#### EXPLANATORY STATEMENT

Section 257 of the *Magistrates Court Act 1930* (the Principal Act) provides that the Minister may determine fees for the purposes of the Principal Act.

**2(i) The fee payable for the purpose of section 26 of the Act.**

Section 8 of the *Magistrates Court (Amendment) Act 1993* amends the Principal Act to provide, among other things, that a fee for the laying of an information under section 26 is not payable where the information is laid by the Director of Public Prosecutions or a police officer, acting in the exercise of a power or the performance of a duty; or in respect of an offence of contempt of Court under subsection 255(1). Where no fee has been paid by the informant, a defendant who is convicted shall be ordered by the Court to pay by way of costs an amount equal to the fee which would have been payable for the laying of the information.

Section 9 of the amending Act removes from the Principal Act subsections 37(2) and (3) which provided for a fee for the issue of a summons and for the payment by a convicted person of an amount equal to that fee. Those provisions meant that only those brought before the Court as a result of the issue of a summons could be required to pay an amount equal to the fee.

The amendments will mean that persons brought before the Court, not only as a result of the issue of a summons, but also as a result of the laying of an information, an arrest or by a voluntary agreement under the VATAC scheme, will, where the fee for the information has not been paid by the informant and if convicted, become liable to pay an amount equal to that of the fee.

The Determination revokes Item 1 of Determination No 95 of 1992 which determined a fee for the issue of a summons under subsection 37(1) of the Principal Act. While

revocation may not be strictly necessary because of the repeal of the subsections providing for payment of the fee by section 9 of the *Magistrates Court (Amendment) Act 1993*, the revocation is made for reasons of clarity and to underline that the effect of the amending Act is to transfer liability for the fee from the issue of a summons under section 37 to the laying of an information under section 26.

Item 2(1) of this instrument Determines the fee payable to the Magistrates Court under section 26 of the Principal Act to be \$26 and is intended to come into effect on 8 March 1993.

**2(ii) The fee payable for the purpose of section 147 of the Act.**

Section 147 of the Principal Act provides for the issue of a warrant of execution to commit a person to prison in default of the payment of an amount of money under a conviction or order. Section 22 of the *Magistrates Court (Amendment) Act 1993* amended section 147 to provide that, where a person is ordered to pay an amount of money or to do a thing under a conviction or order, the conviction or order shall also provide that, in default of compliance, the person shall become liable to pay the determined fee.

The provision does not apply in respect of a judgement or an order in respect of a claim or relating to a payment under the *Maintenance Act 1968* or the *Lunacy Act 1898* (NSW).

The effect of the amendment is that, where a person is in default of an order or conviction and a warrant of commitment to prison is raised for that default, the person will become liable to pay an amount for the issue of the warrant. Liability for payment of the determined fee arises on execution of the warrant and the amount of the fee is added to the sum of any amount owing.

Item 2(ii) of this instrument Determines the fee payable to the Magistrates Court under section 147 of the Principal Act to be \$50 and is intended to come into effect on 8 March 1993.