

AUSTRALIAN CAPITAL TERRITORY

SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910

SMALL CLAIMS (AMENDMENT) ORDINANCE 1989

EXPLANATORY STATEMENT

No. 54 of 1989

The Small Claims (Amendment) Ordinance 1989 (the proposed Ordinance) makes amendments to the Small Claims Ordinance 1974 to enable the imposition of an application fee.

Subsection 12(1) of the Seat of Government (Administration) Act 1910 provides that the Governor-General may make Ordinances for the peace, order and good government of the Territory.

Previously there was no charge levied for lodging a Small Claims application in the ACT. The amendments provide for a prescribed fee on institution of proceedings. There is provision for the new application fee to be remitted in cases of hardship. In addition the fee will be recoverable from respondents by successful applicants.

Details of the sections in the proposed Ordinance are as follows:

Section 1 provides that the proposed Ordinance may be cited as the Small Claims (Amendment) Ordinance 1989.

Section 2 provides that the Ordinance commences on 1 July 1989.

Section 3 defines the Principal Ordinance to mean the Small Claims Ordinance 1974.

Section 4 amends section 22 of the Principal Ordinance. The amendments to subsection 22(1) are minor drafting corrections. The amendment to subsection 22(2) provides for the enforcement of an order made under section 29 of the Principal Ordinance which includes a requirement that the unsuccessful defendant pay the cost of the application fee.

Section 5 amends section 29 of the Principal Ordinance. The amendment provides that the application fee shall form part of the judgment debt and is recoverable from the defendant by a successful claimant.

Section 6 amends section 46 of the Principal Ordinance. Newsubsection 46(1) is to provide for the payment of a prescribed fee on the institution of proceedings. New subsection 46(3) allows the fee to be remitted in cases of hardship.

Section 7 provides for the insertion of a new section 51 in the Principal Ordinance. Section 51 is to allow the Attorney-General to make regulations to give effect to the provisions of the Ordinance. The application fee is to be prescribed by such a regulation.

Authorised by the
Attorney-General