

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

SMALL CLAIMS (AMENDMENT) ORDINANCE 1987 No. 14

The main purpose of this Ordinance is to amend the Small Claims Ordinance 1974 ('the Principal Ordinance') to enable the award of pre-judgment interest in the ACT Magistrates Court in its small claims jurisdiction. The Ordinance is complementary to the Magistrates Court (Civil Jurisdiction) (Amendment) Ordinance 1987 which enables the award of pre-judgment interest in the general civil jurisdiction of the Court.

The opportunity has been taken to make several minor, unrelated amendments to the Principal Ordinance.

Details of the Ordinance are as follows:

Section 1 provides that the Ordinance may be cited as the Small Claims (Amendment) Ordinance 1987

Section 2 provides that the Ordinance shall come into force on a date to be specified by notice in the Gazette.

Section 3 defines the Principal Ordinance as the Small Claims Ordinance 1974.

Section 4 amends section 4 of the Principal Ordinance by inserting new sub-sections (2A) and (2B).

Sub-section 4(2A) provides that in determining whether the Court has jurisdiction to hear proceedings in its small claims jurisdiction, any amount claimed for pre-judgment interest may be disregarded.

Sub-section 4(2B) provides that the provisions of sections 6, 7, 9 and 10 of the Magistrates Court (Civil Jurisdiction) Ordinance 1982 (which relate to jurisdiction) apply to proceedings in the Court in its small claims jurisdiction. This removes doubts that have been expressed as to applicability of these provisions in small claims.

Section 5 amends section 4A of the Principal Ordinance to reflect the changes made by sub-section 4(2B).

Section 6 amends section 6 of the Principal Ordinance by adding sub-sections 6(3) and (4).

Sub-section 6(3) provides, in effect, that where a claimant claims interest (other than pursuant to section 227A of the Magistrates Court (Civil Jurisdiction) Ordinance 1982) the claimant is to specify in the claim the rate at which, the amount on which and the period for which interest is claimed. Where a claimant claims pre-judgment interest under section 227A of the Magistrates Court (Civil Jurisdiction) Ordinance 1982 in respect of a claim for a debt or liquidated damages, the claimant must include in the claim a statement that interest is claimed, to be calculated in accordance with sub-section 227B(2) of that Ordinance, and particulars of the period for which, the rate at which, and the amount on which interest is claimed, together with the amount of interest accrued to the date of filing. Where the claim is not for a debt or liquidated damages the claimant must state that interest is claimed, if this is the case.

Section 7 corrects an error in section 10D of the Principal Ordinance by substituting "claimant" for "plaintiff".

Section 8 provides that sections 227A, 227B, 227C and 227D of the Magistrates Court (Civil Jurisdiction) Ordinance 1982, which deal with interest up to judgment and its calculation, apply to proceedings in the Small Claims Court.

Section 9 corrects an error in the Principal Ordinance. It substitutes "claimant" for "plaintiff" in section 25A.

Section 10 corrects an incorrect section reference in section 25B of the Principal Ordinance.

Section 11 amends Forms 15 and 16 in the Principal Ordinance consequential upon the new procedures in the Principal Ordinance relating to interest.

Section 12 provides that the amendments effected by the amending Ordinance do not apply to proceedings instituted before the commencement of that Ordinance.