

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY

Court of Petty Sessions (Amendment) Ordinance 1984 No. 9

The purpose of this Ordinance is to amend the Court of Petty Sessions Ordinance 1930 ('the Principal Ordinance') to give the Court, upon discharging an accused person in committal proceedings, a discretion to make an order that the informant pay the accused such costs as it thinks just and reasonable.

Under the Principal Ordinance the Court has a discretion to award costs in favour of a defendant where it dismisses an information or makes an order in favour of the defendant. This power relates to summary offences and to indictable offences which are dealt with summarily. The A.C.T. Supreme Court has held, however, that the provisions of the Principal Ordinance do not extend to empowering the Court to award costs to an accused in committal proceedings where the Court finds there is no case to answer.

It was anomalous that, where an indictable offence was dealt with summarily, costs could be awarded (in favour of a successful defendant) where the Court had found a prima facie case before proceeding to determine the matter, but not where the Court had not found a prima facie case.

Section 1 provides that the Ordinance may be cited as the Court of Petty Sessions (Amendment) Ordinance 1984.

Section 2 inserts new Division 2A in Part VI of the Court of Petty Sessions Ordinance 1930. New Division 2A consists of new section 97.

New section 97 provides that where in committal proceedings the Court considers that the evidence is not sufficient to put the accused upon his trial, or where such proceedings are discontinued for any other reason, the Court may make an order for costs against the informant in favour of the defendant.

Authorised by the Attorney-General

Ord. No. 83/83