

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
COURT OF PETTY SESSIONS (CIVIL JURISDICTION)(AMENDMENT)
ORDINANCE 1984. NO. 76 of 1984

The purpose of this Ordinance is to amend the Court of Petty Sessions (Civil Jurisdiction) Ordinance 1984 ('the Principal Ordinance') by inserting a new set of provisions relating to appeals in civil matters from the Court of Petty Sessions to the Supreme Court.

The Ordinance represents the second stage of a project to review the civil jurisdiction and procedure of the Court of Petty Sessions. The first stage, an increase in the monetary limit to the Court's jurisdiction and review of its procedure from the institution of proceedings up to the entry of judgment, was implemented by the Principal Ordinance.

The Principal Ordinance, as an interim measure, applied the civil appeal provisions in Part XI of the Court of Petty Sessions Ordinance 1930 to proceedings commenced under it. Upon the coming into force of the Ordinance, these latter provisions have been superseded.

The main features of the revised civil appeal provisions contained in the Ordinance are:

- . An appeal lies as of right to the Supreme Court where the claim, demand or question or the matter in issue amounts to or is of the value of \$2,000 or more with an appeal in matters involving a sum below that amount by leave of the Supreme Court (formerly there was a

right of appeal where the sum involved exceeded \$100 with no provision for appeal below that sum).

- . Power is given to the Supreme Court to remit a matter back to the Court of Petty Sessions for further hearing and determination.
- . The removal of the previous requirement that to institute an appeal the appellant must give security of \$40 for the costs of the appeal.

Details of the Ordinance are as follows:

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

Section 2 defines the Principal Ordinance to mean the Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982.

Section 3 inserts a new Part XIXA (APPEALS TO SUPREME COURT) in the Principal Ordinance. The Part contains sections 282A to 282J.

Section 282A contains interpretation provisions for the purposes of Part XIXA.

Section 282B provides that the jurisdiction of the Supreme Court to hear and determine civil appeals under the Principal Ordinance is subject to the exceptions and conditions prescribed in the new Part.

The provision is expressed not to affect the operation of any other Ordinance that makes provision with respect to the appellate jurisdiction of the Supreme Court in civil matters.

Section 282C requires leave to appeal to be obtained before an appeal can be brought in a matter involving an amount less than \$2,000. An appeal may be brought as of right where the amount involved is \$2,000 or more.

Section 282D requires an application for leave to appeal to be made within 21 days after the decision appealed from took effect or within such further time as the Supreme Court allows.

Section 282E makes provision for the institution of an appeal by filing a notice of appeal in the office of the Registrar of the Supreme Court within 21 days after the decision appealed from took effect or within 7 days after leave to appeal is given by the Supreme Court. The Supreme Court is empowered to extend these time limits.

Provision is also made for lodging a notice of appeal in the Court of Petty Sessions office and service of the notice on the other party to the proceedings.

Section 282F enables the Supreme Court to make an order for substituted service of the notice of appeal or to dispense with the requirement for service.

Section 282G provides that the Supreme Court in hearing an appeal is to have regard to the evidence given in the proceedings in the Court of Petty Sessions and has a discretion to receive further evidence. The Supreme Court is empowered to decide the appeal on questions of fact as well as on questions of law.

Section 282H enables the Supreme Court to order a stay of execution of the decision appealed from pending the determination of the appeal. If the Court does order a stay of execution it may order the appellant to give security for the prosecution of the appeal.

Section 282J contains the powers of the Supreme Court on appeal. The Court is given wide powers to affirm, reverse or

vary the decision appealed from. It may make any order it thinks fit or refuse to make an order. The Court is empowered to remit the proceedings to the Court of Petty Sessions for further hearing and determination. It may award execution from the Supreme Court or remit the proceedings to the Court of Petty Sessions for execution.

Section 4 amends section 311 of the Principal Ordinance (which applied, among other provisions, the civil appeal provisions in Part XI of the Court of Petty Sessions Ordinance 1930 to proceedings under the Principal Ordinance). The amendment deletes the reference to Part XI.

Section 5 applies the new appeal provisions in Part XIXA to proceedings instituted on or after the commencement of the Ordinance.

Section 6 preserves the application of the provisions in Part XI of the Court of Petty Sessions Ordinance 1930 to appeals arising out of proceedings instituted before the commencement of the Ordinance.

Clauses 7 to 11 amend section 75 of the Landlord and Tenant Ordinance 1949, section 44 of the Mental Health Ordinance 1983, section 26 of the Workmen's Compensation Ordinance 1951, section 102 of the Maintenance Ordinance 1968 and section 13 of the Animal Nuisance Control Ordinance 1975, respectively, to apply the new civil appeal provisions inserted as Part XIXA in the Principal Ordinance to proceedings under each of the Ordinances. These sections applied the civil appeal provisions in Part XI of the Court of Petty Sessions Ordinance 1930 to proceedings under the respective Ordinances.

Section 12 provides that the amendments effected by sections 7 to 11 apply in relation to appeals instituted after the commencement of the Ordinance.

Authorised by the Attorney-General

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