

AUSTRALIAN CAPITAL TERRITORY
SMALL CLAIMS ORDINANCE (No. 2) 1974

EXPLANATORY MEMORANDUM

No. 42 of 1974

The purpose of this Ordinance is to clarify the procedure to be adopted by the Court of Petty Sessions when entering judgment in respect of undefended small claims involving unliquidated damages.

The Ordinance provides that where a small claim is made in respect of unliquidated damages and a defence to the action is not entered within the time specified for that purpose, an interlocutory judgment is to be entered against the defendant and the Court is then required to make an assessment of the actual damages to which the claimant is entitled (Section 2).

When this assessment has been made, final judgment is entered for the claimant and this judgment may be enforced in the usual manner (Section 2).

The other sections of the Ordinance deal with consequential amendments.

The effect of this Ordinance is to give rise to separate procedures for entering default judgment depending upon whether the amount claimed is liquidated or unliquidated. In the case of a liquidated claim, default judgment is entered automatically for the amount claimed without the need for an assessment.