

AUSTRALIAN CAPITAL TERRITORY
COURT OF PETTY SESSIONS ORDINANCE 1970
EXPLANATORY MEMORANDUM

Section 23 of the Court of Petty Sessions Ordinance 1930-1969 enables a conviction or order made when one party does not appear to be set aside on such terms as to costs or otherwise as the Court thinks just. The Court, however, has no power to set aside a judgment that has been entered in default of the defendant filing notice of the grounds of his defence to a claim for debt nor has it power to set aside any summons or warrant that may have been issued in respect of a conviction or order that has itself been set aside.

2. The purpose of this Ordinance is to cure these deficiencies in the present legislation. In detail, the Ordinance -

- empowers the Court of Petty Sessions to set aside any judgment entered for a claim in a default summons that was issued in respect of a complaint for debt or a liquidated demand, where the defendant has failed to file notice of his grounds of defence (new section 23(1.));
- empowers the Court, where it sets aside any default judgment, or any order made in respect of a complaint in a civil action, to also set aside any summons or warrant issued in consequence of the entry of the judgment or the making of the order (new section 23(2.));
- empowers the Court, where it sets aside a conviction, to also set aside any warrant issued in consequence of the conviction (new section 23(4.));

2.

- . ensures that an order of the Court setting aside a warrant of execution will not affect the title to any goods or chattels sold under the warrant before the warrant was set aside (new section 23(3.));
- . provides that a default judgment is to have the same effect and be enforceable as if it were an order made in respect of a complaint commenced by an ordinary summons (proposed section 139(5.));
- . makes minor drafting amendments to sections 77, 139(1.), 139(3.), 139(3A), 140(2.), 140(3.), and 173, and a consequential amendment to section 256(2.) of the Ordinance.