

## AUSTRALIAN CAPITAL TERRITORY

### COURT OF PETTY SESSIONS ORDINANCE 1958 AND REGULATIONS.

#### EXPLANATORY MEMORANDUM

No. 9 of 1958

The purpose of this Ordinance and the Regulations is to amend the Court of Petty Sessions Ordinance and Rules, and the Court of Petty Sessions (Solicitors' Costs) Rules, so as to facilitate the working of the Court and expedite the administration of justice in the Territory.

#### COURT OF PETTY SESSIONS ORDINANCE.

2. The matters dealt with by the amendments to the Ordinance relate to the following four topics :-

- A. The taking of evidence;
- B. The expediting of procedure where an accused pleads guilty during preliminary committal proceedings;
- C. Appeals and procedure in relation to appeals; and
- D. Service of a default summons outside the Territory.

##### A. THE TAKING OF EVIDENCE.

3. Provision is made for the Court to order that depositions of witnesses may be recorded by shorthand or mechanical means, and to dispense with the taking down of depositions in cases where the amount sought to be recovered does not exceed £50 (sections 5 to 10).

B. EXPEDITING COMMITTAL PROCEEDINGS ON A PLEA OF GUILTY.

4. The present rule that an accused person cannot plead guilty, on committal proceedings, until the evidence for the prosecution has been given is replaced by provisions, modelled on more recent legislation in the States, to the effect that a person charged with an indictable offence not punishable with penal servitude for life can plead guilty at any stage during the committal proceedings, thus disposing of the necessity of hearing further prosecution evidence, and expediting the business of the Court.

5. The Court may, if it accepts the plea of guilty, commit the accused to be dealt with by the Supreme Court, which may either order the proceedings before the Court of Petty Sessions to be continued, or deal with the accused as if he had pleaded guilty before the Supreme Court (section 7).

C. APPEALS.

6. Provision is made for an appeal from a decision of the Court of Petty Sessions to be in the nature of a re-hearing. This will enable the Supreme Court to form a clearer idea of the facts than can be gained from the depositions taken in the lower Court.

7. It will be still possible for the depositions to be used in evidence at the appeal, provided the other party consents, or if prescribed conditions are fulfilled (section 15).

8. In the light of experience, and following the law of the States, appeal from the Court of Petty Sessions in a civil matter, other than a maintenance or affiliation case, involving £50 or less is abrogated, and leave to appeal, in other cases, is no longer required (section 14).

9. Provision is made for the Supreme Court to order some form of service of a notice of appeal other than personal service, where it is shown that personal service cannot be effected (section 14).

D. SERVICE OF DEFAULT SUMMONS OUTSIDE THE TERRITORY.

10. At present a default summons cannot be issued where the person to be served is outside the Territory. Provision is made for the repeal of sub-section (3.) of section 21 of the Ordinance, which imposes this restriction (section 4).

11. The time for filing a notice of defence to a default summons is increased so as to conform with the period allowed by the Service and Execution of Process Act, under which a summons will be served outside the Territory (sections 12 and 16). An order for leave to proceed to judgment in default of appearance will be granted on affidavit without the necessity of an appearance in Court (section 12).

**COURT OF PETTY SESSIONS RULES.**

12. The amendments to the Court of Petty Sessions Rules prescribe :-
- (a) increases in the solicitor's costs to be entered on a default summons and on entry of judgment on a default summons;
  - (b) procedure in relation to shorthand or mechanical recording of evidence, as provided for by the Ordinance; and
  - (c) an increased scale of witnesses' expenses.

**COURT OF PETTY SESSIONS (SOLICITORS' COSTS) RULES.**

13. The amendments to the Court of Petty Sessions (Solicitors' Costs) Rules prescribe increased scales of solicitors' costs, calculated by reference to the general increase in costs since 1950 and to the scales prevailing in other Courts of comparable jurisdiction.