

No. 34 of 1977

AN ORDINANCE

To amend the *Court of Petty Sessions Ordinance 1930*.

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this twenty-fifth day of July, 1977.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

R. ELLICOTT
Attorney-General.

COURT OF PETTY SESSIONS (AMENDMENT) ORDINANCE (No. 2) 1977

1. This Ordinance may be cited as the *Court of Petty Sessions (Amendment) Ordinance (No. 2) 1977*.* Short title.
2. In this Ordinance, "Principal Ordinance" means the *Court of Petty Sessions Ordinance 1930*.† Principal Ordinance.
3. Section 147 of the Principal Ordinance is amended— Warrants of execution.
 - (a) by inserting in sub-section (1), after the words "an informant to a defendant", the words "or by a defendant to an informant,";
 - (b) by omitting from sub-section (2) the words "or an order that costs be paid by an informant to a defendant";
 - (c) by omitting from sub-section (2) the words "or costs" and substituting the words "other than costs,";
 - (d) by omitting from sub-section (2) the words "and, if to the Court it seems fit, the cost and charges of conveying him to prison"; and
 - (e) by inserting in sub-section (3), after the words "to a defendant", the words "or a defendant is ordered to pay costs to an informant".

* Notified in the *Commonwealth of Australia Gazette* on 28 July 1977.
 † Ordinance No. 21, 1930 as amended by No. 21, 1932; No. 17, 1934; No. 13, 1936; Nos. 5 and 28, 1937; Nos. 25 and 35, 1938; Nos. 20 and 22, 1940; No. 13, 1949; Nos. 7 and 12, 1951; No. 14, 1953; No. 12, 1958; No. 2, 1961; No. 2, 1966; No. 1, 1967; No. 25, 1968; No. 12, 1969; No. 15, 1970; No. 37, 1972; No. 48, 1973; Nos. 14 and 47, 1974; No. 42, 1976; and No. 4, 1977.

Committal to prison where fine not paid.

4. Section 150 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) the words “or an order that costs be paid by an informant to a defendant”;
- (b) by omitting from sub-section (1) the words “or costs” and substituting the words “, other than costs,”; and
- (c) by omitting from sub-section (1) all words from and including the words “together with such further sum”.

Committal to prison.

5. Section 151 of the Principal Ordinance is amended by omitting sub-sections (2) and (3).

Execution to cease on payment of amount due.

6. Section 156 of the Principal Ordinance is amended by omitting the words “together with charges and expenses for which he is liable,”.

Payment of amount to keeper or Superintendent.

7. Section 157 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) all words from and including the words “Where a person” to and including the words “shall receive” and substituting the words “Where a person is imprisoned for non-payment of an amount adjudged to be paid by a conviction or order of the Court or a Magistrate, the person may pay, or cause to be paid, to the keeper of the prison or, in the case of a person in respect of whom a warrant under section 255A has been issued, the Superintendent of the remand centre, and the keeper or Superintendent shall receive”;
- (b) by omitting from paragraph (1) (a) the words “together with any costs charges and expenses therein mentioned”; and
- (c) by omitting from paragraph (1) (b) the words “and of any charges for which he is liable”.

Scale of imprisonment for non-payment of money.

8. Section 189 of the Principal Ordinance is amended—

- (a) by omitting the words “or costs” and substituting the words “, other than costs”; and
- (b) by omitting the words “Two dollars, or part of Two dollars, included in the amount ordered to be paid or twelve months” and substituting the words “\$25, or part of \$25, included in the amount ordered to be paid or 6 months”.

First Schedule—Form 36.

9. Form 36 in the First Schedule to the Principal Ordinance is amended—

- (a) by omitting the words “, and in default of sufficient execution imprisonment”; and
- (b) by omitting all words from and including the words “then* it is hereby ordered” to the end of the footnote and substituting the following words:—

“then it is hereby ordered that the sums be levied by execution against the goods and chattels of the said A.B.

Given under my hand, at Canberra, in the said Territory, the day and year first above-mentioned.

J.S.,
Magistrate.”.

10. Form 37 in the First Schedule to the Principal Ordinance is amended by omitting all words from and including the words "and if the said several sums are not paid" and substituting the following words:—

First
Schedule—
Form 37.

"and—

- (a) if that sum of [stating the penalty and the compensation, if any] is not paid forthwith or on or before , the said A.B. is adjudged to be imprisoned in the gaol at , in the , [there to be kept to hard labour] for the term of unless that sum is sooner paid; and
- (b) if that sum of for costs is not paid forthwith or on or before , then it is hereby ordered that that sum be levied by execution against the goods and chattels of the said A.B.

Given under my hand, at Canberra, in the said Territory, the day and year first above-mentioned.

J.S.,
Magistrate."

11. Form 38 in the First Schedule to the Principal Ordinance is amended by omitting all words from and including the words "then* [I] order" to the end of the footnote and substituting the following words:—

First
Schedule—
Form 38.

"then it is hereby ordered that the said sum be levied by execution against the goods and chattels of the said A.B.

Given under my hand, at Canberra, in the said Territory, the day and year first above-mentioned.

J.S.,
Magistrate."

12. Form 45 in the First Schedule to the Principal Ordinance is amended—

First
Schedule—
Form 45.

- (a) by omitting the words "and in default of execution imprisonment"; and
- (b) by omitting all words from and including the words "if the said several sums are not paid" to the end of the footnote and substituting the following words:—

"if those sums are not paid in accordance with the adjudgment, it is ordered that the sums be levied by execution against the goods and chattels of the said A.B.

Given under my hand, at Canberra, in the said Territory, this day of , 19 .

J.S.,
Magistrate."

13. Form 46 in the First Schedule to the Principal Ordinance is amended by omitting all words from and including the words "and if the said several sums be not paid" and substituting the following words:—

First
Schedule—
Form 46.

"and—

- (a) if that sum of [stating the first-mentioned sum] is not paid in accordance with the adjudgment, it is adjudged that the said A.B. be imprisoned in the gaol at , in the , [there to be kept to hard labour] for the term of unless that sum is sooner paid; and

- (b) if that sum of _____ for costs is not paid in accordance with the judgment, it is ordered that that sum be levied by execution against the goods and chattels of the said A.B.

Given under my hand, at Canberra, in the said Territory, this
day of _____, 19 _____.

J.S.,
Magistrate."

First
Schedule—
Form 47.

14. Form 47 in the First Schedule to the Principal Ordinance is amended by omitting all words from and including the words "of the said A.B., and" to and including the words "are sooner paid." and substituting the words "of the said A.B."

First
Schedule—
Form 56.

15. Form 56 in the First Schedule to the Principal Ordinance is amended—

- (a) by omitting the words "of the said A.B.*" and substituting the words "of the said A.B."; and
- (b) by omitting the words "*See Form 73."

First
Schedule—
Form 57.

16. Form 57 in the First Schedule to the Principal Ordinance is amended—

- (a) by omitting the words "of the said A.B.*: And whereas the said C.D." and substituting the words "of the said A.B.: And whereas the said A.B."; and
- (b) by omitting the words "*See Form 74."

First
Schedule—
Form 58.

17. Form 58 in the First Schedule to the Principal Ordinance is amended—

- (a) by omitting the words "the said C.B." and substituting the words "the said C.D.";
- (b) by omitting the words "of the said C.D.*" and substituting the words "of the said C.D."; and
- (c) by omitting the words "*See Form 74."

First
Schedule—
Form 59.

18. Form 59 in the First Schedule to the Principal Ordinance is amended—

- (a) by omitting the words "of the said A.B.†" and substituting the words "of the said A.B."; and
- (b) by omitting the words "†See Form 75."

First
Schedule—
Form 60.

19. Form 60 in the First Schedule to the Principal Ordinance is amended—

- (a) by omitting all words from and including the words "the said A.B., and that" to and including the words "should be sooner paid*." and substituting the words "the said A.B.:"; and
- (b) by omitting the words "*See Form 75."

20. Form 61 in the First Schedule to the Principal Ordinance is amended—

First
Schedule—
Form 61.

- (a) by omitting the words "*Form 58 or 59 to**" and substituting the words "*Form 58, 59 or 60 to the end of the statement of the conviction or order*"; and
- (b) by omitting the words "the said C.D." (wherever occurring) and substituting the words "the said (C.D. or A.B., as the case may be)".

21. Form 69 in the First Schedule to the Principal Ordinance is amended—

First
Schedule—
Form 69.

- (a) by omitting the words ", and should pay to the said C.D. the sum of for costs";
- (b) by omitting the words "if the said several sums should" and substituting the words "if that sum should";
- (c) by omitting the words "the said several sums [and the costs and charges of conveying the said A.B. to the said gaol] should" and substituting the words "that sum should";
- (d) by omitting the words "of the said several sums has" and substituting the words "of that sum has"; and
- (e) by omitting the words "the said several sums [and the costs and charges of conveying (him) to the said gaol, amounting to the further sum of] are" and substituting the words "that sum is".

22. Form 70 in the First Schedule to the Principal Ordinance is amended—

First
Schedule—
Form 70.

- (a) by omitting the words "and also to pay to the said C.D. the sum of for costs,";
- (b) by omitting the words "if the said several sums should" and substituting the words "if that sum should";
- (c) by omitting the words "the said several sums [and the costs and charges of conveying A.B. to the said gaol] should" and substituting the words "that sum should";
- (d) by omitting the words "the same sums" and substituting the words "that sum"; and
- (e) by omitting the words "the said several sums [and the costs and charges of conveying [him] to the said gaol, amounting to the further sum of], are" and substituting the words "that sum is".

23. Forms 73, 74 and 75 in the First Schedule to the Principal Ordinance are repealed.

First
Schedule—
Repeal of
Forms 73, 74
and 75.

Transitional. **24. Where—**

- (a) an order for the payment of costs by a person was made under the Principal Ordinance as in force before the date of commencement of this Ordinance;
- (b) a warrant of commitment in respect of the whole or a part of those costs was not, before that date, executed; and
- (c) on that date, the whole or a part of those costs remained **unpaid,**

the Principal Ordinance, as amended by this Ordinance, applies as if the costs remaining unpaid were payable by virtue of an order made under the Principal Ordinance as amended by this Ordinance and a warrant of commitment in respect of the costs remaining unpaid may not, on or after that date, be executed unless the costs are costs in respect of which a warrant of commitment has been or may be issued in accordance with the provisions of Division 5 of Part IX of the Principal Ordinance as amended by this Ordinance.