

# AUSTRALIAN CAPITAL TERRITORY

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## Magistrates Court (Amendment) Ordinance (No. 4) 1986

No. 83 of 1986

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 18 December 1986.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

LIONEL BOWEN  
Attorney-General

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An Ordinance to amend the *Magistrates Court Ordinance 1930*

### Short title

1. This Ordinance may be cited as the *Magistrates Court (Amendment) Ordinance (No. 4) 1986*.<sup>1</sup>

### Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Magistrates Court Ordinance 1930*.<sup>2</sup>

### Short title

3. Section 1 of the Principal Ordinance is amended by omitting "*Court of Petty Sessions*" and substituting "*Magistrates Court*".

**Recording of proceedings**

4. Section 54A of the Principal Ordinance is amended by adding at the end of sub-section (1) “or sub-section 110 (2)”.

***Ex parte* hearing in absence of defendant**

5. Section 110 of the Principal Ordinance is amended by adding at the end the following sub-sections:

“(2) Where the Court proceeds pursuant to paragraph (1) (a)—

- (a) the evidence of the informant or another person may be given orally;  
or
- (b) a written statement made by the informant or another person may be admitted as evidence of the matters contained in it.

“(3) A written statement admitted in evidence shall constitute the depositions of the person who made the statement.

“(4) A written statement shall not be admitted in evidence unless it is sworn before—

- (a) a person who is enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory;
- (b) a Justice of the Peace;
- (c) a Commissioner for Affidavits;
- (d) a Commissioner for Declarations; or
- (e) a Notary Public.

“(5) Where the Court admits a written statement in evidence it may, of its own motion, adjourn the hearing of the information and require the person who made the statement to attend before the Court to give evidence.

“(6) Although a part of a written statement tendered in evidence under this section is inadmissible according to the rules of evidence, that statement is nevertheless admissible under this section as evidence of the matters contained in the remainder of that statement, but if the Court admits such a statement, the Court shall identify the part that is inadmissible and shall, with reference to that part, write on the statement ‘ruled inadmissible’ or words to that effect.”.

6. Section 245A of the Principal Ordinance is repealed and the following section substituted:

**Remission of fees**

“245A. A fee that would, but for this section, be payable by a person under this Ordinance is not payable if the Clerk is satisfied that—

- (a) the person is, in relation to the relevant proceedings, a legally assisted person within the meaning of the *Legal Aid Ordinance 1977*;
- (b) legal aid in relation to the relevant proceedings has been granted to the person from a legal aid scheme or service approved by the Attorney-General; or
- (c) payment of the fee would impose hardship on the person.”.

**Clerk to furnish transcript or copy of certain records**

7. Section 255C of the Principal Ordinance is amended by inserting in paragraph (1) (d) “or sub-section 110 (2)” after “90AA”.

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**NOTES**

- 1. Notified in the *Commonwealth of Australia Gazette* on 22 December 1986.
- 2. No. 21, 1930 as amended to date. For previous amendments *see* Note 2 to No. 33, 1986 and *see also* Nos. 33, 53, 57 and 74, 1986.