



## AUSTRALIAN CAPITAL TERRITORY

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### **Magistrates Court (Amendment) Ordinance (No. 3) 1989**

**Ordinance No. 60 of 1989**

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 14 December 1989.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

MICHAEL TATE  
Minister of State for Justice

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An Ordinance to amend the *Magistrates Court Ordinance 1930*

(Ord. 4/89)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**Short title**

1. This Ordinance may be cited as the *Magistrates Court (Amendment) Ordinance (No. 3) 1989*.<sup>1</sup>

**Commencement**

2. This Ordinance commences on such date as is fixed by the Minister by notice in the *Gazette*.

**Principal Ordinance**

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

**Interpretation**

4. Section 5 of the Principal Ordinance is amended by inserting the following definition:

“ ‘Motor Traffic Act’ means the *Motor Traffic Act 1936* of the Territory;”.

**Ex-parte order may be set aside on terms**

5. Section 23 of the Principal Ordinance is amended by inserting after subsection (7) the following subsection:

“(7A) Where, pursuant to this section, the Court has set aside a conviction or order for a parking offence within the meaning of Division 2 of Part IX—

- (a) the Court shall set aside any further order made under section 150A or 150B, as the case requires, in consequence of that conviction or order; and
- (b) if, in consequence of that conviction or order or an order made under section 147A, a driving licence or the registration of a motor vehicle has been cancelled, or a person’s right to drive in the Territory or the right to drive a motor vehicle in the Territory has been suspended, under section 162E of the Motor Traffic Act, the Court shall make an order directing the Registrar of Motor Vehicles, pursuant to section 162H of that Act—
  - (i) to re-issue the licence;
  - (ii) to re-register the motor vehicle; or
  - (iii) cancel the suspension;

as the case requires.”.

**Insertion**

6. Before section 147 of the Principal Ordinance the following section is inserted in Division 2 of Part IX:

### **Interpretation**

“146. In this Division, ‘parking offence’ means the contravention, before the date of commencement of the *Motor Traffic (Amendment) Act (No. 3) 1989*, of a provision of Part X of the Motor Traffic Act, other than sections 150, 163G, 163H, 163J, 163K and 163MA.”.

### **Warrants of execution**

7. Section 147 of the Principal Ordinance is amended by inserting after subsection (3) the following subsection:

“(3AA) Subsections (2) and (3) do not apply in relation to a natural person or a body corporate, as the case requires, against whom a conviction or order in respect of a parking offence is made after the commencement of this subsection.”.

### **Insertion**

8. After section 147 of the Principal Ordinance the following section is inserted:

### **Parking offences**

“147A. (1) This section applies to a conviction or order in respect of a parking offence made after the commencement of this section.

“(2) Where, by a conviction or order in respect of a parking offence to which this section applies, it is adjudged that any penalty for the offence and costs (if any) shall be paid by a person, the Court shall order that, in default of payment in accordance with the terms of the conviction or order, a copy of the conviction or order shall be forwarded to the Registrar of Motor Vehicles—

- (a) for cancellation of the person’s driving licence or cancellation of the registration of the motor vehicle in respect of which the parking offence occurred; or
- (b) for suspension of the person’s right to drive in the Territory, suspension of the right to drive in the Territory the motor vehicle in respect of which the parking offence occurred, or suspension of the person’s right to drive in the Territory and the right to drive the motor vehicle in the Territory, as the case requires;

in accordance with section 162E of the Motor Traffic Act.

“(3) When a conviction or order to which this section applies is made—

- (a) if the defendant is before the Court, the Clerk shall cause a copy of section 162E of the Motor Traffic Act to be given to the defendant; or
- (b) if the defendant is not before the Court, the Clerk shall cause a copy of section 162E of the Motor Traffic Act to be attached to the notice of the conviction or order served on the defendant.”.

**Committal to prison where fine or costs not paid**

9. Section 150 of the Principal Ordinance is amended by inserting after subsection (1) the following subsection:

“(1A) Subsection (1) does not apply in relation to a person against whom a conviction or order has been made in respect of a parking offence before the commencement of this subsection if a warrant has not been issued under subsection (1).”.

**Insertion**

10. After section 150 of the Principal Ordinance the following sections are inserted:

**Parking offences—further orders in respect of natural persons**

“150A. (1) Where, but for subsection 150 (1A), a person would have been liable to be committed to prison pursuant to subsection 150 (1) in respect of a conviction or order in respect of a parking offence, the Court shall, on the matter being placed before the Court by the Clerk, make a further order that, unless the person pays the amount adjudged to be paid (including costs) in accordance with the conviction or order within 14 days after the date of service of a copy of the further order shall be forwarded to the Registrar of Motor Vehicles—

- (a) for cancellation of the person’s driving licence or cancellation of the registration of the motor vehicle in respect of which the parking offence occurred; or
- (b) for suspension of the person’s right to drive in the Territory, or suspension of the person’s right to drive in the Territory and the right to drive the motor vehicle in the Territory, as the case requires;

in accordance with section 162E of the Motor Traffic Act, and where a further order is made under this subsection, the defendant shall not be committed to prison in respect of that liability.

“(2) Where a further order is made under subsection (1), the Clerk shall cause a copy of the order and a copy of section 162E of the Motor Traffic Act to be served on the defendant.

**Parking offences—further orders in respect of bodies corporate**

“150B. (1) Where, but for this section, in default of payment of an amount adjudged to be paid (including costs) by a body corporate a warrant of execution could be issued against the body corporate in respect of a conviction or order in respect of a parking offence, the Court shall, on the matter being placed before the Court by the Clerk, make a further order that, unless the body corporate pays the amount adjudged to be paid (including costs) in accordance with the conviction or order within 14 days after the date of service of a copy of the further order on the defendant, a copy of the further order shall be forwarded to the Registrar of Motor Vehicles—

- (a) for cancellation of the registration of the motor vehicle in respect of which the parking offence occurred; or
- (b) for suspension of the right to drive in the Territory the motor vehicle in respect of which the parking offence occurred;

in accordance with section 162E of the Motor Traffic Act.

“(2) Where a further order is made under subsection (1), the Clerk shall cause a copy of the order and a copy of section 162E of the Motor Traffic Act to be served on the defendant.

“(3) Where a further order is made under subsection (1), a warrant of execution shall not be issued in respect of the parking offence to which the order relates.

**Further orders—service**

“150C. A copy of a further order required to be served under section 150A or 150B shall be served by sending it by pre-paid post to the address of the place of residence or business of the person last-known to the Clerk.”.

**Insertion**

**11.** After section 153 of the Principal Ordinance the following sections are inserted:

### **Parking offences—instalment payments**

“153A. (1) Where the Court makes a further order under subsection 150A (1) or 150B (1), the defendant may apply in writing to the Court, Magistrate or Clerk—

- (a) for further time for the payment of the whole or any part of the amount the subject of the order; or
- (b) for a direction that payment of the whole or any part of that amount be made by instalments.

“(2) The Court, Magistrate or Clerk, as the case requires, may, if satisfied that it is expedient to do so—

- (a) allow further time for the payment of the whole or any part of the amount the subject of the order; or
- (b) direct that payment of the whole or any part of that amount be made by instalments.

“(3) The Clerk shall not forward a copy of a further order to the Registrar of Motor Vehicles under section 153B unless default is made in the payment of an instalment or the further time allowed for payment has expired.

### **Consequence of non-compliance with certain orders**

“153B. In default of payment in accordance with—

- (a) a conviction or order to which section 147A applies;
- (b) a further order under subsection 150A (1) or 150B (1), as the case may be;

the Clerk shall cause a copy of the order or further order to be forwarded to the Registrar of Motor Vehicles.

### **Part payments**

“153C. Where the defendant pays part of an amount in accordance with an order to which section 147A applies, or a further order under subsection 150A (1) or 150B (1), the Clerk shall endorse on the order or further order the amount the subject of the order or further order remaining unpaid.”.

### **Insertion**

**12.** After section 155 of the Principal Ordinance the following section is inserted:

**Costs to be paid to Clerk by Registrar of Motor Vehicles**

“155A. Where a sum of money payable on account of costs pursuant to a conviction or order in respect of a parking offence is paid to the Registrar of Motor Vehicles, he or she shall pay an amount equal to that sum to the Clerk.”.

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 20 December 1989.
2. 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; Nos. 4, 34, 56 and 61, 1977; No. 46, 1978; Nos. 33 and 41, 1979; Nos. 4 and 10, 1980; Nos. 2 and 3, 1982; Nos. 9, 10, 16, 61 and 62, 1984; Nos. 17, 18, 41, 66 and 67, 1985; Nos. 33, 53, 57, 71, 74 and 83, 1986; No. 56, 1987; No. 45, 1988; Nos. 25, 55 and 59, 1989.