

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (AMENDMENT) ORDINANCE 1986

ORD No 33, 1986

This Ordinance amends the Magistrates Court Ordinance 1930 (the 'Principal Ordinance') to permit an informant or a defendant to appeal to the A.C.T. Supreme Court from a decision of a Magistrate to grant bail to a person charged with a criminal offence.

The need for this amendment was brought to public attention recently following the release on bail of a person charged with a number of serious offences. Through error, bail was not opposed by the prosecution nor were the facts of the case brought to the attention of the Court at the time the decision to grant bail was made. When the error came to attention it was discovered that there was no avenue available, as there is in other jurisdictions, for the decision to grant bail to be reviewed. The A.C.T. Supreme Court has an inherent power to grant bail and has power to vary the terms under which bail is granted where those terms are excessive but not to revoke bail granted by the A.C.T. Magistrates Court.

Details of the Ordinance are as follows:

Section 1 provides that the Ordinance may be cited as the Magistrates Court (Amendment) Ordinance 1986.

Section 2 defines the Principal Ordinance to mean the Magistrates Court Ordinance 1930.

Section 3 amends section 208 of the Principal Ordinance to allow an appeal to the Supreme Court, by the informant or defendant, from a decision or order of the Magistrates Court or of a Magistrate that the defendant be admitted to bail or be discharged from custody upon recognizance.

The amendment also preserves the inherent power of the Supreme Court to grant bail and the Court's power to vary the conditions under which bail is granted.

Section 4 inserts a new section 214A in the Principal Ordinance which provides that any appeal from a decision to grant bail or release the defendant from custody upon recognizance is to be by way of rehearing de novo i.e. the Supreme Court is to re-examine the matter from the beginning on the evidence and information placed before that Court.

Authorised by the
Attorney-General

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