

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (AMENDMENT) ORDINANCE (No 2) 1986

No 71, 1986

This Ordinance amends the Magistrates Court Ordinance 1930 ('the Principal Ordinance') to remove the requirement that transcripts be made automatically for certain categories of proceedings in the ACT Magistrates Court ('the Court') and to enable the prescription of a fee for provision of transcripts to parties.

Under the Principal Ordinance all proceedings in the Court are sound recorded. The Principal Ordinance allows erasure of tapes after 7 years (the ACT limitation period for most causes of action is 6 years). It required, however, a transcript to be made automatically (i.e. whether or not it is requested by a party) for certain specified categories of proceedings (for example, workmen's compensation, maintenance and committal proceedings) where a transcript may still be relevant after the 7 year period.

The Ordinance removes the requirement that transcripts be made automatically of such proceedings. The effect of the amendments is to require the tapes themselves to be kept indefinitely unless a transcript of a tape is requested in which case the usual provision as to erasure after 7 years applies.

The Ordinance also enables a fee to be prescribed for the provision of transcripts to parties. Previously, the Principal Ordinance only provided for the payment of fees by non-parties. The amendment brings the Court into line with other Courts and Tribunals in the Territory.



The Ordinance follows an examination of means to reduce the demand for transcripts of proceedings in the Court, thereby reducing the workload of the Commonwealth Reporting Service. The Service is responsible for the making of transcripts of sound recordings of proceedings in the Court. The examination resulted from difficulties being experienced by the Reporting Service in meeting increasing demands on its services with the limited resources available to it.

Details of the Ordinance are as follows:

Section 1 provides that the Ordinance may be cited as the Magistrates Court (Amendment) Ordinance (No 2) 1986

Section 2 provides that the Ordinance shall come into operation on a date to be fixed by notice in the Gazette.

Section 3 defines the Principal Ordinance to mean the Magistrates Court Ordinance 1930.

Section 4 inserts a new provision in section 54A of the Principal Ordinance which provides that sound recordings of maintenance proceedings, committal hearings, the obtaining of evidence for foreign tribunals and proceedings under the Compensation (Commonwealth Government Employees) Act 1971 and the Workmen's Compensation Ordinance 1951 shall not be erased unless a transcript of the record of the proceedings has been prepared.

Section 5 amends section 255B of the Principal Ordinance consequent upon the amendment in section 4.

Section 6 amends section 255C of the Principal Ordinance to, in effect, enable fees to be prescribed for the provision of transcript to parties to proceedings.