

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
MAGISTRATES COURT ORDINANCE 1985

No. 67, 1985

The purpose of this Ordinance is to amend the Court of Petty Sessions Ordinance 1930 ('the Principal Ordinance') to change the name of the Court of Petty Sessions of the A.C.T. to the Magistrates Court and to delete the word 'Stipendiary' from the title of Magistrates who sit in the Court.

The Court of Petty Sessions was established in 1930. In recent years the importance of its work, and the range of the jurisdiction vested in it, has increased significantly. The change in name reflects this increased status. The deletion of the word 'Stipendiary' from the title of Magistrates of the Court reflects a similar change made recently in N.S.W.

The name of the Court is changed by repealing sub-section 18(1) of the Principal Ordinance which established the Court of Petty Sessions and inserting a new sub-section establishing a Magistrates Court (see section 16). This enables all references to the Court of Petty Sessions in A.C.T. legislation to be changed to the Magistrates Court, including the reference in the title of the Principal Ordinance (see sections 3 and 4) and the Court of Petty Sessions (Civil Jurisdiction) Ordinance 1982.

The deletion of the word 'Stipendiary' is effected by the amendment of section 7 of the Principal Ordinance by section 8 of the Ordinance. Section 8 also amends section 7 of the Principal Ordinance by removing the reference to the specific number (currently 4) of offices of Stipendiary Magistrate. This will give greater flexibility in relation to future appointments to the Court.

Comprehensive transitional provisions are included in section 36 of the Ordinance to preserve past and present proceedings in the Court of Petty Sessions, decisions made by it and documents issued out of, or filed in, the Court. Current Magistrates' appointments to the Court of Petty Sessions are preserved as are current appointments of Court staff.

Apart from the amendments to change the name of the Court and delete the reference to 'Stipendiary ', the Ordinance contains no amendments of substance. There are, of course, a large number of references to the Court of Petty Sessions and a lesser number of references to 'Stipendiary' in the Principal Ordinance. Consequential amendments to change these references are to be found in the remaining sections of the Ordinance.

In addition, there were numerous references in other ACT legislation to the Court of Petty Sessions and 'Stipendiary' Magistrate. These references are changed to 'Magistrates Court' and 'Magistrate' by the consequential amendments to the legislation in the Schedule to the Ordinance.

Some A.C.T. Ordinances and Regulations made prior to 1930 referred to 'a Court of Petty Sessions' reflecting the fact that until 1930 N.S.W. Courts of Petty Sessions exercised jurisdiction in the Territory. On the establishment of the A.C.T. Court of Petty Sessions in 1930, section 19 of the Principal Ordinance transferred this jurisdiction to that Court. The references to 'a Court of Petty Sessions' have been changed to the Magistrates Court and a consequential amendment made to section 19 of the Principal Ordinance (which will no longer apply to pre 1930 A.C.T. Ordinances and Regulations) (section 18).

To enable the necessary administrative arrangements to be made, and consequential amendments to Commonwealth Acts and Rules of the A.C.T. Supreme Court to be brought into force on the same day, the Ordinance provides that it shall come into operation on a date to be fixed by notice in the Gazette (section 2).

11/85

Authorised by the
Attorney-General