

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

COURT OF PETTY SESSIONS (AMENDMENT) ORDINANCE 1982

No.2 of 1982

The purpose of this proposed Ordinance is to amend the Court of Petty Sessions Ordinance 1930 to give effect to a decision of the Standing Committee of Attorneys-General that States and Territories should introduce reciprocal legislation to enable a fine imposed on a company in one State or Territory to be enforced in another reciprocating State or Territory in which assets of the company may be found. Western Australia, Victoria and Queensland have already enacted legislation to give effect to this decision. In essence, the proposed Ordinance follows the State legislation.

The Ordinance will permit the registration, in the Court of Petty Sessions of the Australian Capital Territory, of a conviction or order imposing a fine on a body corporate made by a court of summary jurisdiction in a State or another Territory, and the enforcement of the fine by deeming the registered conviction or order to be a conviction or order of the Court of Petty Sessions.

The legislation will operate only in relation to convictions of courts of summary jurisdiction in States and other Territories declared under it to be reciprocating courts. A reciprocating court will be a court of summary jurisdiction in a State or Territory that has laws providing for the enforcement in that State or Territory of a fine imposed on a body corporate in the Australian Capital Territory by the Court of Petty Sessions.

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Under the legislation, the fine payable under a registered conviction or order of the reciprocating court will be recovered by the issue of a writ of execution against the goods and chattels of the body corporate that are within the Australian Capital Territory.

Clause 1 is the short title.

Clause 2 provides for the commencement of the Ordinance.

Clause 3 defines the 'Principal Ordinance' to be the Court of Petty Sessions Ordinance 1930.

Clause 4 inserts a new Division 2A (sections 166A to 166E) entitled 'Reciprocal Enforcement of Fines against Bodies Corporate' in Part IX of the Principal Ordinance. Part IX relates to enforcement of decisions of the Court. The sections contained in the new Division 2A are as follows:

- a) Section 166A contains definitions for the purposes of the Division.
- b) Section 166B enables the Attorney-General to declare a court or a class of courts of summary jurisdiction in a State or Territory to be a reciprocating court or a class of reciprocating courts, as the case may be, where that State or Territory has laws providing for enforcement of a Territory fine (as defined) against a body corporate.
- c) Section 166C provides for the registration by the Clerk (of the Court of Petty Sessions) of a certified copy of a conviction received from a reciprocating court. On registration of the conviction the Clerk is required to issue a warrant of execution under the Ordinance for the purpose of recovery of the fine by levying against the goods and chattels of the body corporate. Provision

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has also been made for amendment from time to time or withdrawal of the warrant upon notification from the reciprocating court of part payment, or payment in full, of the fine to it, as the case may be. Further, where money is paid to the Clerk in satisfaction in whole or in part of a fine, the Clerk is required to remit the money to the relevant officer of the reciprocating court.

- d) Section 166D provides for the application by the Clerk of moneys received from a reciprocating court in respect of a Territory fine.
  
- e) Section 166E requires the Clerk to notify a reciprocating court of the payment or part payment of a Territory fine where the conviction under which the fine is payable has been registered in the reciprocating court.

