

AUSTRALIAN CAPITAL TERRITORY

COURT OF PETTY SESSIONS (AMENDMENT) ORDINANCE (NO. 4) 1977

EXPLANATORY MEMORANDUM

The purpose of this Ordinance is to amend the Court of Petty Sessions Ordinance 1930 of the Australian Capital Territory so as to permit a Magistrate to excuse a person, against whom proceedings have been commenced by means of an information for an indictable offence, from personal attendance before the Court in connection with those proceedings. As the Court of Petty Sessions Ordinance would be amended, such an order might be made at any time after a summons has been issued and before the taking of evidence for the prosecution has been completed. Such an order might be made only if the person concerned is legally represented and is not otherwise required to attend the proceedings, either pursuant to a warrant or because he has been arrested, is in custody and has not been discharged upon recognizance. Provision is also made for a person who has been excused from attendance to be brought before the Court if the Court so directs or if the Court finds a prima facie case against him and decides to charge him with the offence.

Except as to the matters mentioned hereafter, the Ordinance is substantially identical with the Court of Petty Sessions (Amendment) Ordinance (No. 3) 1977 which was made on 4 October 1977. That Ordinance was not tabled in both Houses of the Parliament within the period of 15 sitting days from the date of making the Ordinance prescribed by section 12 of the Seat of Government (Administration) Act 1910 and, in accordance

with sub-section 12(3) of that Act, that Ordinance is void and of no effect.

The present Ordinance differs from that earlier Ordinance only in that it seeks to clarify the intention of the earlier Ordinance, having regard to views on the effect of that earlier Ordinance expressed by the Chief Magistrate of the Australian Capital Territory. The present Ordinance expressly provides that a Magistrate may excuse a person alleged by an information to have committed an indictable offence from attending before the Court to answer the information and that such an order may be made whether or not the person concerned has personally attended before the Court.

The substantive amendment is made by section 6 of the Ordinance, which inserts a new section 89A in the Court of Petty Sessions Ordinance 1930. The remaining sections of the Ordinance make consequential amendments and provide for a form of warrant for the apprehension of a defendant who disobeys a notice from the Court requiring him to attend after he has been excused.