

# AUSTRALIAN CAPITAL TERRITORY SUPREME COURT.

## No. 34 of 1957.

An Act to amend the *Australian Capital Territory Supreme Court Act 1933–1956*, and for other purposes.

[Assented to 7th June, 1957.]

[Date of commencement, 5th July, 1957.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation.

1.—(1.) This Act may be cited as the *Australian Capital Territory Supreme Court Act 1957*.

(2.) The *Australian Capital Territory Supreme Court Act 1933–1956*\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian Capital Territory Supreme Court Act 1933–1957*.

Definitions.

2. Section five of the Principal Act is amended by inserting after the definition of “the Judicature Act” the following definition:—

“ ‘the Registrar’ means the Registrar of the Supreme Court, and includes the Deputy Registrar of the Supreme Court; ”.

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\* Act No. 34, 1933, as amended by No. 27, 1935; No. 57, 1945; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 36, 1955; and No. 47, 1956.

3. Section eight A of the Principal Act is repealed and the following section inserted in its stead:—

“ 8A.—(1.) The person holding office as the Judge is capable of holding, in addition to that office, one or more of the following offices:—

Judge may hold other offices.

- (a) the office of Judge Advocate-General of a part of the Defence Force;
- (b) a judicial office in relation to a Territory of the Commonwealth other than the Australian Capital Territory;
- (c) any other office (not being an office of profit) if his appointment to that other office is made or approved by the Governor-General.

“(2.) Where the person holding office as the Judge also holds an office referred to in paragraph (a) or (b) of the last preceding sub-section, he shall be remunerated only by his salary under this Act.”.

4. Section eleven of the Principal Act is repealed and the following section inserted in its stead:—

“ 11. The Supreme Court—

- (a) has, subject to this or any other Act or to any Ordinance, in relation to the Territory, the same original jurisdiction, both civil and criminal, as the Supreme Court of the State of New South Wales had in relation to that State immediately before the first day of January, One thousand nine hundred and eleven;
- (b) has such jurisdiction, both civil and criminal, and whether original or otherwise, as is from time to time vested in the Supreme Court by Act or by Ordinance; and
- (c) has jurisdiction, with such exceptions and subject to such conditions as are provided by Act or by Ordinance, to hear and determine appeals from all judgments, convictions, orders and sentences of inferior courts having jurisdiction in the Territory.”.

Jurisdiction of Supreme Court.

5. Section twelve of the Principal Act is amended by inserting in paragraph (d) of sub-section (1.), after the word “ Act,” the words “ by or under an Ordinance ”.

Jurisdiction in Chambers.

6. Section fifteen of the Principal Act is amended by inserting in sub-section (2.), after the words “ Rules of Court ”, the words “, to any Ordinance ”.

Costs.

7. Section twenty of the Principal Act is amended by inserting in paragraph (b) of sub-section (1.), after the words “ Rules of Court ”, the words “, any Ordinance ”.

Counter claims and third parties.

8. Section twenty-seven of the Principal Act is repealed and the following section inserted in its stead:—

Practice and  
procedure.

“ 27. Where no provision in relation to a matter of practice and procedure of the Supreme Court is contained in this or any other Act, an Ordinance or Rules of Court, that matter shall be governed, as nearly as may be, by the practice and procedure of the High Court in similar matters and, if that practice and procedure is not applicable, that matter shall be governed, as nearly as may be, by the practice and procedure of the Supreme Court of New South Wales.”.

Rules of Court.

9. Section twenty-eight of the Principal Act is amended by omitting from sub-section (1.) the words “ this Act ” and inserting in their stead the words “ this or any other Act or any Ordinance ”.

Registrar,  
Deputy  
Registrar,  
Sheriff and  
officers of the  
Court.

10. Section thirty-four of the Principal Act is amended—

(a) by inserting in paragraph (a), after the words “ Registrar of the Supreme Court ”, the words “, Deputy Registrar of the Supreme Court ”; and

(b) by adding at the end thereof the following sub-sections:—

“ (2.) Subject to the directions of the Registrar, the Deputy Registrar of the Supreme Court has, and may exercise and perform, all the powers and functions of the Registrar under this or any other Act, an Ordinance or Rules of Court.

“ (3.) The appointment of a person to be the Deputy Registrar of the Supreme Court does not affect the exercise or performance of a power or function by the Registrar.”.

11. Section thirty-five of the Principal Act is repealed and the following section inserted in its stead:—

Powers and  
duties of  
Registrar.

“ 35.—(1.) The Registrar has power to administer oaths, and shall perform such duties in respect of proceedings pending in the Supreme Court as are assigned to him by Act, by Ordinance, by Rules of Court or by a special order of the Court.

“ (2.) Where, under a law of the State of New South Wales which is continued in force in the Territory as a law of the Territory, a power is exercisable, or a duty is to be performed, or a thing is to be done, by the Master in Equity, the Prothonotary or a Registrar, it may be exercised, performed or done by the Registrar.”.

Manner of  
giving  
testimony  
at trial  
of causes.

12. Section thirty-nine of the Principal Act is amended by inserting after the word “ Act ” the words “ or in an Ordinance ”.

**13.** Section fifty of the Principal Act is amended—

Oaths and affirmations

- (a) by inserting in sub-section (1.), before the words “ Rules of Court ”, the words “ any Ordinance or to ”; and
- (b) by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“ (2.) Subject to any Ordinance or to Rules of Court, a person who, by or under a law of the State of New South Wales, is entitled to make an affirmation instead of taking an oath may do so in a cause or matter in the Supreme Court.

“ (3.) The form of affirmation shall, subject to any Ordinance or to Rules of Court, be in accordance with the law of that State.”.

**14.** Section fifty-one of the Principal Act is amended by omitting from sub-section (1.) all the words from and including the words “, and the provisions ” to the end of the sub-section.

Appeals from Supreme Court in civil cases.

**15.** Section fifty-three of the Principal Act is repealed and the following section inserted in its stead:—

“ 53.—(1.) Subject to the next succeeding sub-section, an indictable offence triable before the Supreme Court shall be prosecuted by information in the name of the Attorney-General or of such other person as the Governor-General appoints in that behalf.

Indictable offences.

“ (2.) The Attorney-General may file an information under the last preceding sub-section without examination or commitment for trial of the accused person.

“ (3.) Upon an information being filed without examination or commitment for trial, the Supreme Court or the Judge may—

- (a) cause a summons to be issued to the accused person to appear at the time and place specified in the summons and there to answer the charge specified in the information; or

- (b) issue a warrant for the arrest of the accused person and hold him in custody or admit him to bail.

“ (4.) Where a person has been committed for trial upon a charge for an indictable offence triable before the Supreme Court, the information against the person may include, either in substitution for, or in addition to, a count charging the offence for which he was committed, a count founded on a fact or evidence disclosed in the course of the committal proceedings.

“ (5.) The last preceding sub-section does not authorize the inclusion of more than one count in the same information unless those counts are such as may lawfully be joined in the one information.

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“(6.) Where a person is under commitment upon a charge of an indictable offence triable before the Supreme Court, the Attorney-General, or such other person as the Governor-General appoints in that behalf, may decline to proceed further in the prosecution and, if the accused person is in custody, may, by warrant under his hand, direct the discharge of the accused person from custody, and the accused person shall be discharged accordingly.”.

Validation  
of certain  
Ordinances.

**16.** An Ordinance purporting to be in force at the commencement of this Act and containing provisions relating to the jurisdiction or the practice and procedure of the Australian Capital Territory Supreme Court shall, notwithstanding anything contained in Rules of Court, be deemed to be, and at all times to have been, as valid and effectual as if the Ordinance were made after the commencement of this Act.

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