

No. 42 of 1976

AN ORDINANCE

To amend the *Court of Petty Sessions Ordinance 1930*.

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this ninth day of September 1976.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

R. ELLICOTT
Attorney-General.

COURT OF PETTY SESSIONS (AMENDMENT) ORDINANCE 1976

1. This Ordinance may be cited as the *Court of Petty Sessions (Amendment) Ordinance 1976*.^{*} Short title.
2. In this Ordinance, "Principal Ordinance" means the *Court of Petty Sessions Ordinance 1930*.[†] Principal Ordinance.
3. Section 5 of the Principal Ordinance is amended— Inter-pretation.
 - (a) by inserting in sub-section (1), after the definition of "Registrar", the following definition:—

" 'Remand Centre' means a remand centre or a temporary remand centre established under the *Remand Centres Ordinance 1976*"; and
 - (b) by inserting in that sub-section, after the definition of "Summary conviction", the following definition:—

" 'Superintendent' has the same meaning as in the *Remand Centres Ordinance 1976*";.
4. Section 65 of the Principal Ordinance is amended by omitting from sub-section (1) the words "or to a lock-up" and substituting the words, " , a lock-up or a remand centre ". Refusal of witness to be examined.

^{*} Notified in the *Australian Government Gazette* on 13 September 1976.
[†] Ordinance No. 21, 1930, as amended by No. 21, 1932; No. 17, 1934; No. 13, 1936; Nos. 5 and 28, 1937; Nos. 25 and 35, 1938; Nos. 20 and 22, 1940; No. 13, 1949; Nos. 7 and 12, 1951; No. 14, 1953; No. 12, 1958; No. 2, 1961; No. 2, 1966; No. 1, 1967; No. 25, 1968; No. 12, 1969; No. 15, 1970; No. 37, 1972; No. 48, 1973; and Nos. 14 and 47, 1974.

5. Section 75 of the Principal Ordinance is repealed and the following section substituted:—

Places
to which
committal
to be made.

“ 75. (1) Where the Court commits a witness, or a person sought to be made a witness, it shall commit the person to a gaol, lock-up or remand centre.

“ (2) Where the Court commits a defendant after the decision, it shall commit the person to a gaol or lock-up.”.

Recogni-
sances
taken out of
Court.

6. Section 79 of the Principal Ordinance is amended by omitting the words “ in gaol, before the keeper of the gaol ” and substituting the words “ in gaol or in a remand centre, before the keeper of the gaol or Superintendent of the remand centre, as the case requires ”.

Arrest of
principal
by sureties.

7. Section 81 of the Principal Ordinance is amended by inserting in sub-section (1), after the words “ keeper of the gaol ”, the words “, or Superintendent of the remand centre ”.

Conveying
prisoners to
gaol, &c.

8. Section 82 of the Principal Ordinance is amended—

- (a) by inserting after the words “ gaol or place ” the words “ or, in the case of a remand centre, to the Superintendent of the remand centre ”; and
- (b) by adding at the end thereof the words “ or Superintendent ”.

Discharge or
committal
for trial.

9. Section 94 of the Principal Ordinance is amended by omitting the words “ or a lock-up ” and substituting the words “, a lock-up or a remand centre ”.

Admission
to bail
of persons
committed
to trial.

10. Section 99 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (3), after the word “ prison ”, the words “ or remand centre ”;
- (b) by inserting in sub-section (4), after the words “ at the prison ”, the words “ or remand centre ”;
- (c) by inserting in that sub-section, after the words “ keeper of the prison ”, the words “ or the Superintendent of the remand centre ”; and
- (d) by omitting from that sub-section the words “ at the prison may ” and substituting the words “ at the prison or remand centre may ”.

Admission
to bail
of persons
committed
for trial
or sentence
who are
in prison
awaiting
trial or
sentence.

11. Section 100 of the Principal Ordinance is amended by inserting after the word “ prison ” the words “ or to a remand centre ”.

12. Section 101 of the Principal Ordinance is amended by inserting after the word "prison" the words "or in a remand centre".

Recognisances to be transmitted to Deputy Crown Solicitor.

13. Section 102 of the Principal Ordinance is amended—

Warrant of deliverance.

- (a) by inserting after the word "prison" (first occurring) the words "or in a remand centre";
- (b) by inserting after the words "keeper of the prison" the words "or Superintendent of the remand centre, as the case requires"; and
- (c) by inserting after the word "keeper" (twice occurring) the words "or Superintendent".

14. Section 105 of the Principal Ordinance is amended—

Court may commit refractory witness.

- (a) by inserting after the words "to gaol" the words "or to a remand centre";
- (b) by inserting after the words "keeper of the gaol" the words "or Superintendent of the remand centre, as the case requires"; and
- (c) by omitting the words "keeper shall" and substituting the words "keeper or Superintendent shall".

15. Section 157 of the Principal Ordinance is amended—

Payment of amount to keeper or Superintendent.

- (a) by inserting in sub-section (1), after the word "imprisoned", the words "or, in the case of a person in respect of whom a warrant under section 255A has been issued, the Superintendent of the remand centre,";
- (b) by inserting in that sub-section, after the word "keeper" (wherever occurring) the words "or Superintendent"; and
- (c) by inserting in sub-section (2), after the word "keeper", the words "or Superintendent".

16. The Principal Ordinance is amended by inserting after section 255 the following section:—

" 255A. (1) Where—

Commitment to remand centre.

- (a) a warrant has been issued for the commitment of a person to prison under section 145, 150, 151, 182 or 183, or to gaol under section 202; and
- (b) a warrant under section 5 of the *Removal of Prisoners (Australian Capital Territory) Act 1968* is not in force in respect of that person on the day on which the person is taken into custody by virtue of the warrant referred to in paragraph (a),

the Court or a magistrate may, by warrant, commit the person to a remand centre.

“ (2) Where a warrant is issued under sub-section (1), the warrant referred to in paragraph (1)(a) ceases, by virtue of this section, to have any effect.”.

First
Schedule,
Form 19.

17. Form 19 in the First Schedule is amended—

- (a) by omitting the words “ Keeper of the Gaol ” and substituting the words “ *Keeper of the Gaol/Superintendent of the Remand Centre ”;
- (b) by omitting the word “ gaol ” (twice occurring) and substituting the words “ *gaol/remand centre ”;
- (c) by omitting the word “ keeper ” (twice occurring) and substituting the words “ *keeper/Superintendent ”; and
- (d) by adding at the end thereof the following words:—
“ *Strike out whichever is inapplicable ”.

First
Schedule,
Form 20.

18. Form 20 in the First Schedule is amended—

- (a) by omitting the words “ Keeper of the Gaol ” and substituting the words “ *Keeper of the Gaol/Superintendent of the Remand Centre ”;
- (b) by omitting the word “ gaol ” (twice occurring) and substituting the words “ *gaol/remand centre ”;
- (c) by omitting the word “ keeper ” (twice occurring) and substituting the words “ *keeper/Superintendent ”; and
- (d) by adding at the end thereof the following words:—
“ *Strike out whichever is inapplicable ”.

First
Schedule,
Form 22.

19. Form 22 in the First Schedule is amended—

- (a) by omitting the word “ gaol ” and substituting the words “ *gaol/remand centre ”; and
- (b) by adding at the end thereof the following words:—
“ *Strike out whichever is inapplicable ”.

First
Schedule,
Form 63.

20. Form 63 in the First Schedule is amended—

- (a) by omitting the words “ Keeper of the Gaol ” and substituting the words “ *Keeper of the Gaol/Superintendent of the Remand Centre ”;
- (b) by omitting the words “ gaol at ” and substituting the words “ *gaol/remand centre at ”;
- (c) by omitting the words “ keeper thereof ” and substituting the words “ *keeper/Superintendent thereof ”;
- (d) by omitting the words “ keeper of the said gaol ” and substituting the words “ *keeper of the said gaol/Superintendent of the said remand centre ”;
- (e) by omitting the words “ in the said gaol ” and substituting the words “ in the said *gaol/remand centre ”; and
- (f) by adding at the end thereof the following words:—
“ *Strike out whichever is inapplicable ”.

- 21.** Form 64 in the First Schedule is amended— First
Schedule,
Form 64.
- (a) by omitting the words “Keeper of the Gaol” and substituting the words “*Keeper of the Gaol/Superintendent of the Remand Centre”;
 - (b) by omitting the word “gaol” (twice occurring) and substituting the words “*gaol/remand centre”;
 - (c) by omitting the word “keeper” (twice occurring) and substituting the words “*keeper/Superintendent”; and
 - (d) by adding at the end thereof the following words:—
*“*Strike out whichever is inapplicable”.*
- 22.** Form 66 in the First Schedule is amended— First
Schedule,
Form 66.
- (a) by omitting the words “Keeper of the Gaol” and substituting the words “*Keeper of the Gaol/Superintendent of the Remand Centre”;
 - (b) by omitting the words “to the gaol” and substituting the words “to the *gaol/remand centre”;
 - (c) by omitting the words “keeper thereof” and substituting the words “*keeper/Superintendent thereof”;
 - (d) by omitting the words “keeper of the said gaol” and substituting the words “*keeper of the said gaol/Superintendent of the said remand centre”;
 - (e) by omitting the words “the said gaol” and substituting the words “the said *gaol/remand centre”; and
 - (f) by adding at the end thereof the following words:—
*“*Strike out whichever is inapplicable”.*
- 23.** Form 68 in the First Schedule is amended— First
Schedule,
Form 68.
- (a) by omitting the words “Keeper of the Gaol” and substituting the words “*Keeper of the Gaol/Superintendent of the Remand Centre”;
 - (b) by omitting the words “to the gaol” and substituting the words “to the *gaol/remand centre”;
 - (c) by omitting the words “keeper thereof” and substituting the words “*keeper/Superintendent thereof”;
 - (d) by omitting the words “keeper of the said gaol” and substituting the words “*keeper of the said gaol/Superintendent of the said remand centre”;
 - (e) by omitting the words “the said gaol” and substituting the words “the said *gaol/remand centre”; and
 - (f) by adding at the end thereof the following words:—
*“*Strike out whichever is inapplicable”.*

First
Schedule,
Form 76.

24. Form 76 in the First Schedule is amended—

- (a) by omitting the word “*Gaoler’s*” and substituting the words “**Gaoler’s/Superintendent’s**”;
- (b) by omitting the words “Keeper of the Gaol” and substituting the words “**Keeper of the Gaol/Superintendent of the Remand Centre**”; and
- (c) by adding at the end thereof the following words:—
“**Strike out whichever is inapplicable**”.

First
Schedule,
Form 77.

25. Form 77 in the First Schedule is amended—

- (a) by omitting the words “Keeper of the Gaol” and substituting the words “**Keeper of the Gaol/Superintendent of the Remand Centre**”;
- (b) by omitting the word “gaol” (twice occurring) and substituting the words “**gaol/remand centre**”; and
- (c) by adding at the end thereof the following words:—
“**Strike out whichever is inapplicable**”.

First
Schedule,
Form 79.

26. Form 79 in the First Schedule is amended—

- (a) by omitting the words “Keeper of the Gaol” and substituting the words “**Keeper of the Gaol/Superintendent of the Remand Centre**”; and
- (b) by adding at the end thereof the following words:—
“**Strike out whichever is inapplicable**”.

First
Schedule,
Form 88.

27. The First Schedule is further amended by adding at the end thereof the following form:—

“FORM 88

Warrant of Commitment to Remand Centre

To all Police Officers in the Australian Capital Territory, and to the keeper of the lock-up at _____ in the Australian Capital Territory and to the Superintendent of the Remand Centre at _____ in the Australian Capital Territory.

WHEREAS a warrant has been issued for the commitment of _____ A. B. _____ of _____ under section _____ of the *Court of Petty Sessions Ordinance* 1936; And whereas the said _____ A. B. _____ has been taken into custody by virtue of the said warrant; And whereas a warrant under section 5 of the *Removal of Prisoners (Australian Capital Territory) Act* 1968 is not in force in respect of the said _____ A. B. _____ : These are therefore to command you, the said police officers, to take the said _____ A. B. _____ and convey him to the said remand centre, and deliver him to the Superintendent thereof, together with this warrant, and to command you, the said keeper of the said lock-up, to deliver him to the said police officer, and to command you, the said Superintendent of the said remand centre, to receive the said _____ A. B. _____ into your custody in the said remand centre, there to detain him until he shall be removed or discharged out of your custody by due course of law.

Given under my hand, at Canberra, in the said Territory, this _____ day

of _____, 19 _____.

J. S.,
Magistrate.”

28. The Third Schedule to the Principal Ordinance is amended— Third
Schedule.
- (a) by omitting the words “ *and of the Keeper of the Gaol* ” and substituting the words “, *Keeper of the Gaol and Superintendent of the Remand Centre* ”;
 - (b) by omitting the words “ Clerk of the said Court [*or by the Keeper of the Gaol*] ” and substituting the words “ *Clerk of the said Court/*Keeper of the said Gaol/Superintendent of the said Remand Centre* ”;
 - (c) by omitting the words “ party convicted ” and substituting the words “ person *convicted/detained ”;
 - (d) by omitting the word “ convicting ”;
 - (e) by omitting the words “ Clerk of the Court of Petty Sessions, *or Keeper of the above-named Gaol* ” and substituting the words “ *Clerk of Court of Petty Sessions/*Keeper of the above-named Gaol/Superintendent of the above-named Remand Centre* ”; and
 - (f) by adding at the end thereof the following words:—
“ *Strike out whichever is inapplicable ”.