

JUSTICES ORDINANCE 1975

749

No. 20 of 1976

An Ordinance to amend the *Justices Ordinance* 1928 as amended

[Reserved 13 August 1975]
[Assented to 27 May 1976] *

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the *Justices Ordinance* 1975. Short title
2. The *Justices Ordinance* 1928 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
3. Section 122 of the Principal Ordinance is repealed and the following sections substituted: Offences that may be dealt with summarily with consent of accused

"121A.(1) Subject to section 121B and 122A, where—

 - (a) a person is charged before the Court with an indictable offence;
 - (b) in the opinion of the Court, the charge is not one that the Court has jurisdiction, apart from this section, to hear and determine in a summary manner;
 - (c) the evidence for the prosecution is, in the opinion of the Court, sufficient to put the defendant on his trial;
 - (d) the Court is of the opinion that the case can properly be disposed of summarily;
 - (e) the defendant consents to it being so disposed of;
 - (f) in the case of an offence relating to property—the value of the property does not, in the opinion of the Court, exceed 2,000 dollars;

(g) in the case of an offence relating to a vehicle—the value of the vehicle does not, in the opinion of the Court, exceed 10,000 dollars; and

(h) in the case of an offence relating to property and a vehicle—the value of the property does not, in the opinion of the Court, exceed 2,000 dollars and the combined value of the property and the vehicle does not, in the opinion of the Court, exceed 10,000 dollars,

the Court has jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged.

“(2) Where a person is convicted of an offence by virtue of this section, the Court shall not impose a penalty that is greater than imprisonment for 2 years or a fine of 2,000 dollars.

“(3) In this section—

“Court” means the Court constituted by the Chief Magistrate or a Stipendiary Magistrate;

“property” means money and personal property, but does not include a vehicle; and

“vehicle” means—

(a) any means of conveyance that runs on wheels; or

(b) a boat, launch, yacht, raft or barge.

Certain offences
not to be dealt
with summarily

“121B. Nothing in section 121A applies to or in relation to an offence punishable by imprisonment for life or for a term exceeding 10 years.

Defendant may
be sentenced by
Supreme Court

“121C. Where a Magistrate acting under section 121A finds a defendant guilty of an offence and the Magistrate is of the opinion that, having regard to the character or antecedents of the defendant, the defendant should be sentenced by the Supreme Court, the defendant shall be dealt with under Division 3 as if he had pleaded guilty to the charge and the Magistrate did not have cognizance of the matter under that section.

Offences that
may be dealt with
summarily without
consent of
accused

“122. Subject to section 122A, the jurisdiction conferred by section 120 may be exercised irrespective of the consent of the defendant.

Serious or
difficult matters
not to be dealt
with summarily

“122A. Justices or a Magistrate shall not have jurisdiction to hear and finally determine a charge under section 120, and the Chief Magistrate or a Stipendiary Magistrate shall not have jurisdiction to hear and finally determine a charge under section 121A, if it appears to them or him, as the case may be, that the offence, having regard to its seriousness or the intricacy of the facts or the difficulty of any question of law

likely to arise at the trial or any other relevant circumstances, ought to be tried by the Supreme Court.”.

4. Section 124 of the Principal Ordinance is amended by omitting “section 120” and substituting “sections 120 or 121A”.
Justice or Justices not having jurisdiction may remand for hearing by a competent Court
5. (1) Section 125(1) of the Principal Ordinance is amended—
 (a) by omitting “Special”; and
 (b) by inserting after “offence” the words “, or a Magistrate proceeds to dispose of a case under section 121A,”.
 (2) Section 125(2) of the Principal Ordinance is amended by omitting “Special”.
Charge to be reduced into writing and defendant required to plead
6. Section 127 of the Principal Ordinance is repealed.
Repeal of section 127
7. Section 129 of the Principal Ordinance is amended—
 (a) by omitting from sub-section (2) “Except” and substituting “Subject to section 121A(2) and except”;
 (b) by omitting from sub-section (2) all words after “in the case of imprisonment,” and substituting “imprisonment for 6 months, or, in the case of a fine, 500 dollars”; and
 (c) by omitting from sub-section (3) all words after “exceeds” and substituting “the maximum allowable sentence permitted by this section or by section 121A(2), as the case may be.”.
Powers of Court as to punishment of minor offences
8. Section 131B(2) of the Principal Ordinance is amended by omitting all words after “fine not exceeding” and substituting “500 dollars or imprisonment for a period not exceeding 6 months.”.
Summary jurisdiction in certain assault cases
9. Section 131c(2) of the Principal Ordinance is amended by omitting “400 dollars” and substituting “2,000 dollars.”.
Summary jurisdiction in assault cases of an aggravated nature
10. Section 163(1) of the Principal Ordinance is amended by omitting “There shall be an” and substituting “The prosecutor or the defendant may”.
Right of appeal to Supreme Court in every other case unless expressly taken away
11. Section 176 of the Principal Ordinance is amended by omitting “No evidence” and substituting “Subject to section 176A, no evidence”.
Evidence on appeal
12. The Principal Ordinance is amended by inserting after section 176 the following section:

Supreme Court
may order
production of
documents,
examination of
witnesses, etc.

“176A.(1) For the purpose of this Part, the Supreme Court may, if it thinks it necessary or expedient in the interest of justice—

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case;
- (b) order any witness who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be examined before the Supreme Court, whether or not he was called in those proceedings; and
- (c) subject to sub-section (3), receive the evidence, if tendered, of any witness.

“(2) Without prejudice to sub-section (1), where evidence is tendered to the Supreme Court that Court shall, unless it is satisfied that the evidence, if received, would not afford any ground for allowing the appeal, exercise its power of receiving it if—

- (a) it appears to it that the evidence is likely to be credible and would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and
- (b) it is satisfied that the evidence was not adduced in those proceedings and there is a reasonable explanation for the failure to adduce it.

“(3) Sub-section (1)(c) applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant’s husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given in the proceedings from which the appeal lies except on such an application.

“(4) For the purpose of this Part, the Supreme Court may, if it thinks it necessary or expedient in the interests of justice, order the examination of any witness whose attendance might be required under sub-section (1)(b) to be conducted, in manner provided by rules of the Supreme Court, before any judge or officer of the Court or other person appointed by the Supreme Court for that purpose, and allow the admission of any depositions so taken as evidence before the Supreme Court.”.

Procedure and
power of Supreme
Court on appeal

13. Section 177(2) of the Principal Ordinance is amended by inserting after “mitigate” in paragraph (b) “or increase”.

14 Section 180 of the Principal Ordinance is amended—

Supreme Court
may make rules
for proceedings

- (a) by omitting from sub-section (1) "*Supreme Court Ordinance 1911-1927*" and substituting "*Northern Territory Supreme Court Act 1961-1973*"; and
 - (b) by omitting from sub-section (2) "section 22 of the *Supreme Court Ordinance 1911-1927*" and substituting "section 55 of the *Northern Territory Supreme Court Act 1961-1973*".
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