



NORTHERN TERRITORY OF AUSTRALIA

No. 41 of 1991

AN ACT

to amend the *Justices Act*

[Assented to 26 September 1991]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Justices Amendment Act (No. 2) 1991*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. REPEAL AND SUBSTITUTION

(1) Section 77 of the *Justices Act* is repealed and the following substituted:

"77. POWER TO AWARD COSTS TO DEFENDANT

"(1) Subject to subsection (2) and section 77A, where the Court finds a defendant not guilty of any offence on a complaint or a complaint is withdrawn, it may order the complainant to pay to the defendant such costs as it thinks fit.

"(2) The Court shall not make an order for costs under subsection (1) if -

- (a) the defendant's actions or omissions in connection with the alleged offence were, in the opinion of the Court -

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- (i) unreasonable in the circumstances; and
 - (ii) contributed to the institution or continuation of the proceedings;
- (b) the defendant's actions or omissions during the course of the proceedings or in the conduct of the defence were, in the opinion of the Court, calculated to unnecessarily prolong the proceedings or cause unnecessary expense; or
- (c) in the opinion of the Court, there was sufficient evidence to support a finding of guilt but the defendant was entitled to an acquittal because of a minor procedural irregularity.

"77A. POWER TO AWARD COSTS AGAINST DEFENDANT

"Subject to section 77C, where the Court finds a defendant guilty of an offence, it may order the defendant to pay to the complainant such costs as it thinks fit.

"77B. COSTS OF ADJOURNMENT

"Where a proceeding is adjourned, the Court may, whether or not the defendant is subsequently found guilty of the offence with which he or she is charged, make an order for costs against the party who requested the adjournment.

"77C. LIMITATION ON AMOUNT OF COSTS

"The amount that the Court may order for costs under section 77, 77A or 77B shall not exceed the amount calculated in accordance with the prescribed scale."

(2) The amendments effected by this Act apply to and in relation to proceedings under the *Justices Act* as amended by this Act whether they were commenced before or after the commencement of this Act.
